



Community Services Department Art in Public Places



Community Services Superintendent
41000 Main Street
Temecula, CA 92590
951-694-6480

Community Services Department Art in Public Places Guidelines



The City of Temecula seeks to enhance the quality of life for city residents, workers and visitors by providing for the acquisition and maintenance for public artwork. The mission of the City of Temecula's Community Services Department is to promote, encourage, and support the regions artistic and cultural assets; integrating arts and culture into the community and highlighting Temecula as a premier artistic tourism destination.

The City, through its Arts, Culture & Entertainment TEAM (Temecula Entertainment, Art, and Museums), works to support the arts through museums, various events, programs, and by displaying art at City facilities and parks. Additionally, the City encourages developers to enhance their projects with art through reduced fees.

The City also encourages artists to take advantage of the opportunities available, including partnering with developers, showcasing their work at City events and galleries, and through donation of artwork for the public good.

The City will consider loans and donations of artwork (either as a gift or to satisfy a development requirement) as specified by City of Temecula, Art in Public Places Ordinance 5.08.010 through 5.08.100. (attached)

There are two categories of public art applications:

CULTURAL ART PROJECTS/EXHIBITS/EVENTS

There is one type of application for this category -

Individual Artists – Art exhibits and events at City facilities, both temporary loans and permanent gifts.

- If the proposed work is a **Cultural Art Project**, then the Community Services Director is the decision maker.
- The application shall be submitted to the **Community Services Manager, Museums/ACE**
- Upon acceptance, a loan or donation agreement is required (see sample, section __)
- For instances where an agreement is not practical (event with multiple artists) a liability waiver will be required. (see sample, section __)
- Donations will be accessioned as part of the City of Temecula's Cultural Arts Collections

PRIVATE DEVELOPMENT PROJECTS

There are two types of applications for this category -

Donations – Public Art on Public Property.

- If the proposed work is for **Donations**, then the Community Services Commission shall be an advisory body and the City Council shall be the decision maker. The City Council's decision shall be final.
- The application shall be submitted to the **Community Services Superintendent**

Installations – Installation of Public Art on Private Property.

- If the proposed work is for **Installations**, then the Community Services Commission shall be the decision maker and its decision shall be final unless appealed to the City Council.
- The application shall be submitted to the **Community Services Superintendent**

In the case of **Donation** or **Installation** to satisfy a development requirement, the complete application shall be filed and approved prior to the issuance of grading or building permits. Review and approval of public artwork for development shall be conducted concurrently with review and approval of development permits.

Community Services Department Art in Public Places Application Process



Please see attached for application form.

The application is submitted to the Community Services Department for processing. Please allow sufficient time for processing based on scope/timeline of proposed project. In the case of **Donation** or **Installation** to satisfy a development requirement, the complete application shall be filed and approved prior to the issuance of grading or building permits. Review and approval of public artwork for development shall be conducted concurrently with review and approval of development permits.

FOR CULTURAL ART PROJECTS/EXHIBITS/EVENTS

Submit to :

Community Services Manager, Museums/ACE
28314 Mercedes Street
Temecula, CA 92590
951-694-6450

Community Services Manager will evaluate for completeness and submit to Community Services Director for approval. Upon Approval, Loan, Donation, or Purchase agreement will be facilitated.

FOR PRIVATE DEVELOPMENT PROJECTS

If the proposed work is for **Donations**, then the Community Services Commission shall be an advisory body and the City Council shall be the decision maker. The City Council's decision shall be final.

If the proposed work is for **Installations**, then the Community Services Commission shall be the decision maker and its decision shall be final unless appealed to the City Council.

Submit to :

Community Services Superintendent
41000 Main Street
Temecula, CA 92590
951-694-6480

Community Services Superintendent will evaluate for completeness and submit to Community Services Director for approval and submittal to Community Services Commission or City Council. Upon Approval, ??? agreement will be facilitated.

Entries not adhering to these guidelines will not be considered. Incomplete applications will be returned.

Community Services Department Art in Public Places Application



The City of Temecula will consider loans and donations of artwork (either as a gift or to satisfy a development requirement) as specified by City of Temecula, Art in Public Places Ordinance 5.08.010 through 5.08.100.

Applicant Name	
Artist Name (If Different from above)	
Company	
Address	
City/State/Zip	
Phone	
Email	
Website	

There are two categories of public art applications – Check Applicable Box:

☐ CULTURAL ART PROJECTS/EXHIBITS/EVENTS

Individual Artists – Art exhibits and events at City facilities, both temporary loans and permanent gifts.

- The application shall be submitted to the **Community Services Manager, Museums/ACE**

Description of Event or Exhibit Attach additional pages and samples of Art Where Appropriate	

☐ PRIVATE DEVELOPMENT PROJECTS

There are two types of applications for this category – Check Applicable Box:

☐ **Donations** – Public Art on Public Property.

☐ **Installations** – Installation of Public Art on Private Property.

- The application shall be submitted to the **Community Services Superintendent**

Proposed Work Application Checklist Attach the following documents	
☐	Development Project Summary
☐	Preliminary plans of sufficient descriptive clarity to indicate the compatibility of the proposed public artwork with the development project, adjacent parcels and the surrounding neighborhood.
☐	A written statement explaining how the proposed artwork will be publically accessible
☐	A written statement that the work is original and wholly created by the artist; is appropriate for all ages; that no copyrights or trademarks have been violated; that nothing about or within the work has been plagiarized, stolen or copied; and that the work will not defame or invade the rights of a person, living or dead.
☐	Appraisal of work
☐	Artists Resume
☐	Visual Arts Rights Waiver
☐	Additional information requested by the Community Services Department (if any)

Temecula Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[Title 5 BUSINESS LICENSES AND REGULATIONS](#)**Chapter 5.08 ART IN PUBLIC PLACES**

5.08.010 Purpose.

The purpose of this chapter is to enhance the quality of life for city residents, workers and visitors by providing for the acquisition and maintenance of public artwork. (Ord. 04-06 § 2)

5.08.020 Implementation of chapter.

A. The procedures prescribed by this chapter for review and approval of public artwork shall be conducted concurrently with any applicable procedures prescribed by Title 17 of this code for review and approval of development permits.

B. The community services department shall establish guidelines that specify maintenance requirements for public artwork installed on private property to satisfy the public artwork requirement. (Ord. 04-06 § 2)

5.08.030 Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

“Appropriately maintained” means maintained in conformance with the city’s public artwork guidelines.

“Artwork” means an original creation of physical art including without limitation a fountain, mobile, mosaic, mural, painting, sculpture and tapestry. An artwork may be realized through such mediums as bronze, ceramic tile, concrete stained glass, steel or wood. An artwork may be an integral part of a building or public space, whether attached to, interior of or external to the building.

“Development project” means construction or modification of a building.

“In lieu art fee” means a fee in the amount of one-tenth of one percent of the project cost in excess of one hundred thousand dollars.

“Project cost” means the total value of a development project, excluding the land value, as indicated on the building permit issued by the city for the project.

“Public artwork” means an artwork that is either (a) donated to the city for installation on city property; or (b) installed on private property in a publicly accessible location.

“Public artwork requirement” means the requirement, imposed by this chapter, of providing a public artwork or paying the in lieu art fee.

“Publicly accessible” means accessible to the public for viewing in a direct line of sight for a minimum period of ten hours per day, seven days per week.

“Value of a public artwork” means the cost of designing, acquiring, constructing and installing an artwork, as applicable. (Ord. 04-06 § 2)

5.08.040 Art in public places fund.

A. There is established in the city a fund known as the “Art in Public Places Fund,” which shall be a depository for fees paid pursuant to this chapter and for public art-related monetary donations to the city.

B. The art in public places fund shall be maintained by the finance director and shall be utilized for the following purposes:

1. Administration of this chapter;

2. Design, acquisition, installation, improvement, maintenance and insurance of public artwork displayed on city property;
3. Offering of performing arts programs on city property for the community;
4. Art education programs on city property for the community; provided, however, that not more than five percent of the fund's annual budget shall be used for this purpose. (Ord. 04-06 § 2)

5.08.050 Applicability of public artwork requirement.

A. Except as provided in subsection B below, the public artwork requirement shall apply to the following development projects:

1. Single-family residential unit on a lot within an approved subdivision and having a project cost in excess of one hundred thousand dollars;
2. Multi-family residential units having a project cost in excess of one hundred thousand dollars per unit;
3. Commercial, industrial, office and other non-residential units in excess of one hundred thousand dollars.

B. The following development projects shall be exempt from the public artwork requirement:

1. Government agency development projects;
2. Reconstruction of structures that have been damaged by fire, flood, wind, earthquake or other calamity. (Ord. 04-06 § 2)

5.08.060 Satisfaction of public artwork requirement.

A. The public art requirement shall be satisfied by completing one of the following actions in accordance with this chapter:

1. Donating a public artwork to the city;
2. Installing a public artwork on private property;
3. Paying an in lieu art fee.

B. If the value of a public artwork used to satisfy the public artwork requirement is less than the amount of the in lieu art fee that otherwise would be applicable to the development project, then the difference shall be paid to the city and deposited in the Art in Public Places Fund. (Ord. 04-06 § 2)

5.08.070 Procedure for donation or installation of public artwork.

A. An application for donation of a public artwork to the city, or for installation of a public artwork on private property, shall be filed with the community services department prior to the issuance of grading or building permits for a development project. The application shall include:

1. Preliminary sketches, photographs, models or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork;

2. An appraisal or other evidence of the value of the proposed artwork;

3. The resume of the creator of the proposed artwork;

4. If the application is for donation, then the application shall also include the following:

a. A city attorney-approved written statement executed by the artwork's creator waiving such person's rights under the Visual Artists Rights Act of 1990 (17 U.S.C. 101 et seq.), California Civil Code Section 1542 and equivalent laws;

5. If the application is for installation, then the application shall also include the following:

a. Preliminary plans of sufficient descriptive clarity to indicate the compatibility of the proposed public artwork with the development project, adjacent parcels and the surrounding neighborhood,

b. A written statement explaining how the proposed artwork will be publicly accessible;

6. Any other information requested by the community services department to enable reasonable evaluation of the application.

B. Each application shall be reviewed initially by the community services department, which shall make a recommendation thereon. If the application is for donation, then the community services commission shall be an advisory body and the city council shall be the decisionmaker. The city council's decision on an application for donation shall be final. If the application is for installation, then the community services commission shall be the decisionmaker and its decision shall be final unless appealed to the city council in accordance with Chapter 2.36 of this code.

C. Prior to installing a public artwork on private property to satisfy the public artwork requirement, the property owner shall execute and record with the county recorder a city attorney-approved covenant. Such covenant shall require the property owner and successors thereof to do the following:

1. Maintain the public artwork in good condition;
2. Allow city representatives to enter upon the property upon reasonable written notice to perform necessary repairs to the public artwork at the property owner's expense when it is not maintained in good condition;
3. Indemnify, defend and hold harmless the city, its officers, employees and agents from any claim, demand, damage, liability, loss, cost or expense attributable to the public artwork. (Ord. 04-06 § 2)

5.08.080 Procedure for payment of in lieu art fee.

Payment of the in lieu art fee shall be made prior to the issuance of grading or building permits unless an alternative deadline is approved by the city council. (Ord. 04-06 § 2)

5.08.090 Maintenance of public artwork on private property.

Public artwork installed on private property to satisfy the public artwork requirement shall be appropriately maintained and insured by the property owner. The insurance shall be in an amount determined by the city manager and shall provide coverage in the event of fire damage to or vandalism of the public work. (Ord. 04-06 § 2)

5.08.100 Removal or alteration of public artwork on private property.

Artwork installed on private property to satisfy the public artwork requirement shall not be removed or altered without the prior approval of the city council. In addition to any other applicable penalty, violation of this section may render the property owner liable for payment of the in lieu art fee that would have been applicable to the development project, and may result in revocation of the occupancy permit issued for the development project. Prior to any imposition of in lieu art fee liability or occupancy permit revocation pursuant to this section, the city shall afford the property owner notice and an opportunity for a hearing. (Ord. 04-06 § 2)

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City of Temecula

ART IN PUBLIC PLACES DEVELOPER GUIDELINES

2017

I. PROGRAM OVERVIEW

Temecula is an extraordinary city. It has a stunningly beautiful environment and is located close to desert, mountain, and beach resorts. It has an agreeable climate and a youthful, well-educated, and creative citizenry. Incorporated in 1989, Temecula is a new and contemporary city. It is a community with a firm commitment to preserve the area's unique character and to balance development with artistic and cultural enhancements.

In 2004 the City Council adopted an ordinance requiring Developers to place art or pay a fee to the Art in Public Places Fund for each new construction project. These funds are used to purchase art and develop art programs for our community. The goals of the Public Art Program are to create an aesthetic relationship between the buildings, landscaping, and open spaces as well as to serve the people of the community and visitors by bringing art into daily life.

Public art is a critical component to ensure that the visual aesthetics of the City are enriching and engaging. The development of civic pride can also be a factor as part of an overall community-building effort. The vision for Temecula's public art program is to enhance the quality of life for city residents, workers and visitors by providing for the acquisition and maintenance of public artwork.

II. ART IN PUBLIC PLACES REQUIREMENTS

Through its public art ordinance, the City of Temecula requires that private development projects contribute a percentage of the overall project construction budget (excluding land costs) to enhance the visual appeal of the project and consequently the City.

An Art in Public Places Fund was established as a depository for public art fees paid by private developers to secure a building permit from the City of Temecula. For the private sector, this fee may be refunded if an artwork has been either placed on the development site or donated to the City. The fee remains in the Art in Public Places Fund for the discretionary use of the city should the Developer elect not to participate in the program.

A. Program Requirements

No permanent or temporary Certificate of Occupancy shall be issued for any structure in the City unless the Art in Public Places requirements have been satisfied. Artwork located on private property shall remain the property of the owner for the life of the Certificate of Occupancy. Ownership of the work will transfer to any successive owner of the property. Once the artwork has been accepted by the City and installed it cannot be removed or altered without specific written approval by the City of Temecula. Private sector projects subject to compliance are:

- All individual residential units whose building valuation permit is in excess of one hundred thousand dollars (\$100,000) which is assessed an amount equal to one tenth of one percent (1/10%) for that portion in excess of one hundred thousand dollars.
- All other residential development, including two or more single-family dwellings being built concurrently in the same tract by the same owner or contractor in excess of one hundred thousand dollars per unit, which is assessed an amount equal to one tenth of one percent (1/10%) of the total building valuation.
- All commercial, industrial, office, or other non-residential units in excess of one hundred thousand dollars (100,000) which is assessed an amount equal to one tenth of one percent (1/10%) of the total building valuation, excluding land acquisition and off-site improvement costs.

Government agency development projects and structures damaged by fire, flood, wind, earthquake and other natural disasters are exempt from the Art in Public Places requirement.

The total building valuation is computed by the Building and Safety Department.



Town Square Plaza, Temecula, CA

B. Developer Options

Several options are available to the private developer to fulfill the City's art requirement. They are:

1. Artwork on Site

The Developer may elect to include a permanent public artwork as part of the development project. Using this option allows the developer to select the artist directly or hire a professional consultant to select artists for commission of artworks. He may also purchase artworks for permanent installation.

Artworks must be:

Singular, discrete objects (sculpture)

- a. Artist designed amenities (streetscapes, paving treatments, lighting standards and treatments, benches, way finders, architecturally integrated water features, artist designed landscape treatments or other artist designed amenities or aesthetic treatments).
- b. Located in publicly accessible locations.

2. Art Donated to the City of Temecula

Upon assessment of the public art fee, the Developer may choose to purchase an existing artwork or commission an original artwork for donation as a gift to the City of Temecula. Donations to the City are reviewed by the Community Services Commission and subsequently the City Council to determine the aesthetic quality of the donation.

3. Fees In Lieu of placing Artwork

Upon assessment of the public art fee, the Developer may elect to pay the fee to the Art in Public Places Fund with no intention of placing artwork on site or donating a work of art to the City. These funds are subsequently used by the City of Temecula on publicly sited projects or programs at its discretion.

IV. SITE CRITERIA FOR DEVELOPERS

A. Eligible Public Art Locations

Facilities include commercial or residential buildings and adjoining plazas, parks, sidewalks, traffic islands, public buildings, power stations, etc.

Locations can include surface treatments of buildings, retaining walls, and bridges.

Projects can also include artist-designed features that are typically prefabricated such as: gates, water features, tile and surface materials, doors, furniture, clocks, lighting fixtures, railings, signage, etc.

B. Eligible Public Art Components

The Art in Public Places Program embraces the broadest definitions of art and encourages creative interpretations of media. The possible media and materials which might be used for a public art work are as follows:

1. Sculpture: Free standing, wall supported or suspended; kinetic, electronic, etc., in any material or combination of materials.
2. Earthworks, fiber works, neon, glass, mosaics, photographs, prints, any combination of forms of media including sound, film, holographic and video systems, hybrids of any media and new genres. Standardized fixtures such as gates, streetlights, signage, etc., may be contracted to artists for unique or limited editions.



BRAD HOWE. *The Voice of Water*, 2002, Stainless Steel, Polyurethane, 72 x 48 x 36 inches

V. BUDGETARY GUIDELINES FOR DEVELOPERS

A. Eligible Costs

All artworks created by artists are considered eligible expenses for the Art in Public Places Program as well as the following:

Artists' budgets for projects, which will be expected to cover:

1. Professional fees for the artist(s).
2. Labor of assistants, materials, and contracted services required of the production and installation of the work of art.
3. Any required permit or certificate fees.
4. Business and legal costs directly related to the project.
5. Studio and operating costs.
6. Communication and other indirect costs (insurance, utilities).
7. Travel expenses of the artist for site visitation and research.
8. Transportation of the work of art to the site.
9. Preparation of site to receive artwork.
10. Installation of the completed work of art.
11. Documentation (color slides and black and white photographs) of the artwork.

B. Ineligible Costs

1. Directional elements such as supergraphics, signage, or color-coding except where these elements are integral parts of the original work of art.
2. "Art objects" which are mass-produced such as playground equipment, fountains, or statuary objects.
3. Reproductions of original works of art, except in cases of film, video, photography, printmaking or other media arts.
4. Decorative, ornamental, or functional elements that are designed by the building architect, as opposed to an artist commissioned for this purpose.
5. Landscape architecture and landscape gardening except where these elements are designed by the artist and/or are an integral part of the work of art by the artist.
6. Services or utilities necessary to operate or maintain the artwork over time.

VI. ART IN PUBLIC PLACES ART SELECTION GUIDELINES

A. An application for donation of a public artwork to the city, or for installation of a public artwork on private property, shall be filed with the Community Services Department prior to the issuance of grading or building permits for a development project. The application shall include:

1. Preliminary sketches, photographs, models or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork;
2. An appraisal or other evidence of the value of the proposed artwork;
3. The resume of the creator of the proposed artwork;
4. If the application is for donation, then the application shall also include the following:
 - a. A City Attorney-approved written statement executed by the artwork's creator waiving such person's rights under the Visual Artists Rights Act of 1990 (17 U.S.C. 101 et seq.), California Civil Code Section 1542 and equivalent laws;
5. If the application is for installation, then the application shall also include the following:
 - a. Preliminary plans of sufficient descriptive clarity to indicate the compatibility of the proposed public artwork with the development project, adjacent parcels, and the surrounding neighborhood;
 - b. A written statement explaining how the proposed artwork will be publicly accessible.

6. Any other information requested by the Community Services Department to enable reasonable evaluation of the application.

- a. Each application shall be reviewed initially by the Community Services Department, which shall make a recommendation thereon. If the application is for donation, then the Community Services Commission shall be an advisory body and the City Council shall be the decision maker. The City Council's decision on an application for donation shall be final. If the application is for installation, then the Community Services Commission shall be the decision maker and its decision shall be final unless appealed to the City Council.
- b. Prior to installing a public artwork on private property to satisfy the public artwork requirement, the property owner shall execute and record with the county recorder a City Attorney-approved covenant. Such covenant shall require the property owner and successors thereof to do the following:
 1. Maintain the public artwork in good condition.
 2. Allow city representatives to enter the property upon reasonable written notice to perform necessary repairs to the public artwork at the property owner's expense when it is not maintained in good condition.
 3. Indemnify, defend and hold harmless the city, its officers, employees and agents from any claim, demand, damage, liability, loss, cost or expense attributable to the public artwork.



I see what you're saying (train of thought), Installed 2001
Eileen Cowin, artist

VII. PRIVATE OWNERSHIP AND MAINTENANCE REQUIREMENTS

A. Maintenance

All privately sited artworks shall remain the property of the owner for the life of the Certificate of Occupancy. Title and ownership of the artwork shall transfer in whole or in part to any successor in interest of the structure. The owner of the artwork shall provide all maintenance necessary to preserve the work in good condition. In addition, the owner of artwork shall maintain in full force and effect fire and extended insurance coverage.

B. Removal or Alteration of the Work

Artwork installed on private property to satisfy the public artwork requirement shall not be removed or altered without the prior approval of the City Council. In addition to any other applicable penalty, violation of this section may render the property owner liable for payment of the in lieu art fee that would have been applicable to the development project, and may result in revocation of the occupancy permit issued for the development project. Prior to any imposition of in lieu art fee liability or occupancy permit revocation pursuant to this section, the city shall afford the property owner notice and an opportunity for a hearing.

VIII. SITE SELECTION

General criteria for the selection of an art site include:

A. Location, Installation and Identification

1. Artworks for public and private projects must be located in an exterior area, which is accessible to the public at all times.
2. Installation of the artwork should be planned to complement the work and allow for unrestrained viewing from a variety of vantage points.
3. Potential obstruction of growing trees, shrubbery, or future construction should be taken into account.
4. The artwork shall be a permanent, fixed asset to the property.

Each artwork shall be identified by a plaque stating the artist's name, artwork title, and date the artwork was dedicated. The plaque will be placed in an appropriate location near the artwork that can be easily accessed by pedestrians.

B. Public Placement

1. Artwork sites for public projects are selected for their aesthetic possibilities as recommended by the Community Services Department to the Commission or City Council.
2. Sites may include urban gateways, vistas, public spaces and plazas, or other exterior, publicly accessible places.
3. Artwork sites for City Capital Improvement Projects including RDA or private donations may include public facilities such as the Civic Center, Senior Center, schools, parks and recreation buildings or other sites as appropriate.

C. Private Placement

1. On-Site: The artwork shall be displayed in one or more of the following locations on the site of the commercial structure:
 - a. Architecturally integrated into the structure or hardscape.
 - b. Placed as a discrete object in any exterior location open and available to the general public, in a manner, which complements the artwork and site.
2. Off-Site: At the request of the applicant for a Certificate of Occupancy, the artwork may be located on a site other than that of the development provided, however, that the site is selected by the Community Services Commission and approved by the City Council.

IX. ARTWORK SELECTION

A. Selection Criteria for Artists

General criteria for the Community Services Commission or developer to consider in selecting artists for public or private projects should include:

1. The aesthetic and technical quality and originality of the artist's previous work as evidenced by slides and other supporting materials;
2. The artist's previous experience with public art projects of a similar scale and scope;
3. The artist's demonstrated ability to execute and complete a project in a timely and professional manner;
4. The artist's ability to communicate ideas verbally and visually, and work effectively in a team environment;
5. The appropriateness of the artist's proposal to the particular project and its probability of successful completion;
6. A wide variety of nationally known artists as well as local artists.

B. Selection Criteria for Artwork

General criteria for the Community Services Commission or developer to consider in selecting artwork for public or private projects should include:

1. Quality: artwork demonstrates originality, artistic excellence, and quality;
2. Media: all visual forms and media may be considered;
3. Response to Site: artworks and art places should be appropriate in scale, material, form, content, and value for the immediate, general, social, and physical environments with which they are to relate;
4. Team Approach: encourage the early involvement of the artist as a member of the project design team of architect, engineer, landscape architect, etc.;
5. Durability: consideration should be given to structural and surface integrity, permanence, and protection against theft, vandalism, weathering, and excessive maintenance and repair costs;
6. Elements of Design: consider that public art, in addition to meeting aesthetic requirements, may also serve to establish focal points, modify, enhance, or define specific spaces or establish identity;
7. Public Liability: artworks and art places should be examined for unsafe conditions or factors that may bear on public liability;
8. Diversity: strive for diversity of style, scale, media, artists, community values, forms of expression, and equitable distribution of artworks throughout the City.

C. Selection Methods

Artworks for public and private projects may be selected in a variety of methods. In addition to advertising of projects, selection methods may include but are not limited to:

1. Open Competition: The project is advertised locally, regionally, nationally or internationally. Interested artists may submit materials for review, which include slides, letter of interest, resume and supplementary materials such as reviews, articles, books or brochures.
2. Limited Invitational: A selected number of artists are invited to submit materials for review. Artists finalists may be selected to submit detailed models for the project for which they will be paid a fee.
3. Invitation: One artist is invited to submit materials for review, and may be commissioned to create a detailed proposal.
4. Direct Purchase: An existing work is purchased for a specific project.



Guardians of the Track, 1996
Michael Amescua, artist

X. REVIEW AND APPROVAL PROCESS

A. Community Services Commission

The Community Services Commission serves in an advisory capacity providing recommendations for art placement to the City Council.

XI. ARTIST SELECTION METHODS

A. Cultural Arts Division

1. Artists solicited
2. Materials reviewed by Community Services Department, finalists short listed (as appropriate) with selection forwarded as recommendation for commission or purchase to the City Council;
3. Review by City Council with direction to staff to proceed with commission contract if approved;
4. City Council determination of final acceptance upon project completion.

B. Private Development Process

1. Public Art Developers guide received upon contact with Planning Department.
2. Art In Public Places Program contacted.
3. Public Art fees paid to receive building permit.
4. Pre-Design consultation with Community Services Director/Superintendent.
5. Artwork site/artwork selected.
6. Art In Public Places application submitted.
7. City review/approvals of artwork site and artwork.
8. Artist/artwork commissioned/donated/purchased.
9. Artwork installed.
10. City notified of completion/Certificate of Occupancy application.
11. Application for refund of fee.

XII CONTACTS

Community Services Superintendent
Community Services Department
41000 Main Street
Temecula, CA 92590
951-694-6480

XIII ADDITIONAL INFORMATION ON PUBLIC ART

Americans for the Arts through the Public Art Network

Americans for the Arts
1000 Vermont Ave 12 floor
Washington DC 20005
www.artusa.org

Forecast: Public Art Works
2324 University Ave W. #102
St Paul, MN 55114
www.forecastart.org

International Sculpture Center
14 Fairgrounds Rd Suite B
Hamilton NJ 08619
www.sculpture.org

City of Palm Desert
Public Art Registry
www.palmdesertart.org

Metropolitan Transit Authority
Los Angeles
www.mta.net

CHOOSE AN ITEM
ART LOAN AGREEMENT WITH
INDIVIDUAL ARTIST, CORPORATION OR NON-PROFIT ORGANIZATION

THIS ART LOAN AGREEMENT is made and entered into as of **[Enter Date – i.e. City Council date, or today's date]** by and between the **CHOOSE AN ITEM**, a **CHOOSE AN ITEM** (hereinafter referred to as "City") and **[Enter Name of Consultant and d/b/a if applicable]** (the "Lender"). In consideration of the mutual covenants, conditions and undertaking set forth herein, the parties agree as follows:

TERMS OF LOAN OF WORK

EXHIBITION:

LOAN TERM:

ADDRESS OF LENDER:

BUSINESS, HOME AND CELL
TELEPHONE NUMBERS OF LENDER:

DESCRIPTION OF WORK

TITLE and TYPE OF WORK (painting, drawing, sculpture, etc.):

MEDIUM OF MATERIALS and SUPPORT:

LOCATION OF DISPLAY OF WORK

DISPLAY LOCATION:

SIZE (use additional pages if required):

HEIGHT and WIDTH OF WORK:

OUTER DIMENSIONS OF FRAME (height and width):

DIMENSIONS and WEIGHT OF SCULPTURE only:

DIMENSIONS and WEIGHT OF PEDESTAL, if applicable:

IS PEDESTAL DETACHABLE?:

INSURANCE VALUE (U.S. Currency per item):

INSURANCE VALUE DETERMINED BY:

DOES LENDER PREFER TO MAINTAIN OWN INSURANCE?:

REMARKS ON CONDITIONS OF THE WORK:

CONDITIONS:

1. Lender agrees to lend Work to the City and City agrees to display and maintain such Work as provided in this Agreement, including the Terms of Loan of Work set forth above.
2. As used in this Agreement "Work" means a painting, drawing, sculpture or other work of art.
3. The City is responsible for the installation and removal of the Work at City facilities, parks and right-of-ways as determined by the City in accordance with the City's requirements. At the City's discretion, the City may require that installation and removal of the Work be performed by a professional contractor acceptable to the City. The City reserves the right to refuse display of any Work or require the removal of any Work if the City determines, in its sole discretion, that the Work may be a safety hazard.
4. The Work shall remain in the possession of the City for the time specified herein, **but may be withdrawn from such exhibition at any time by the CHOOSE AN ITEM**. The Work will be returned only to the Lender at the address stated unless the City is notified in writing to the contrary. If the legal ownership of the Work shall change during the pendency of this loan, whether by reason of death, sale, insolvency, gift, or otherwise, the new owner may, prior to its return, be required to establish his legal right to receive the Work upon proof satisfactory to the City.
5. The City will establish the same care with respect to the Work as it does in the safekeeping of comparable property of its own and use all American Association of Museums (AAM) standard best practices in the care for the Work while handling and displaying them during the scheduled exhibition of the Work. The City is not liable for damage or loss of any objects stored or displayed. No work will be altered, cleaned, or repaired without the permission of the Lender. Works will be protected from unusual temperatures and humidity, excessive light, insects, vermin and dirt. Only experienced personnel will handle objects. Works loaned to the City may not be loaned to other institutions without prior approval of the Lender. In the event of any damage to the Work, which requires its immediate repair or removal in order to prevent injury to persons or property, Lender shall at its own cost either immediately repair or remove the Work following receipt of notification from the City of the need for such repair or removal. In the event that the Lender fails to perform the repairs or removal within a reasonable time, or if the damage to the Work is such that immediate action is required in order to prevent injury to persons or property, the City may take action to remove, repair and/or secure the Work and the Lender shall reimburse the City for all costs and expenses incurred in connection therewith promptly following receipt of a written statement therefore.
6. If the Lender chooses to maintain his own insurance, the City must be supplied with a certificate of insurance naming the City of Temecula, Successor Agency to the Temecula Redevelopment Agency, and the Temecula Community Services District, its elected

officials, officers, employees, agents, and volunteers (collectively referred to as the "City and its Agencies") as additional insured and waiving subrogation against the City and its Agencies.

7. The Lender hereby warrants that Lender has inspected the Work, and, to its knowledge, the Work is structurally sound and properly constructed.
8. The Lender authorizes the City to photograph, telecast, videotape, reproduce and publish the work in any medium for any purpose including but not limited to archival, educational, and publicity purposes. It is understood that during the exhibition there will be no prohibition against patrons or the media from photographing or videotaping any or all Works contained in the exhibition, this provision shall survive the termination of this Agreement.
9. The Lender represents and warrants to the City that it has the proper legal authority to loan the Work to the City on the terms and conditions set forth herein
10. Lender hereby agrees to defend, indemnify, protect, and hold harmless the City, the Successor Agency to the Temecula Redevelopment Agency, the Temecula Community Services District and its elected official, officers, agents, employees, and volunteers (collectively referred to as the "City and its Agencies") from and against: a) any and all losses, liability, costs, or expenses (including attorneys' fees and costs) arising from any intentional, reckless, negligence, or otherwise wrongful acts, errors, or omissions of Lender, its agents, employees, subcontractors or other personnel; b) any copyright or ownership issues relating to the Works; c) any safety issues relating to the Works; d) any issues arising out of any representations or warranties made by Lender in this Agreement ; and e) any other liabilities arising from the Works.
11. Lender hereby releases and holds the City and its Agencies harmless from any liability for damage or loss of the Work not covered by City's insurance. The City and its Agencies shall not be responsible for the preservation and safekeeping of the Work, nor shall the City and its Agencies have any liability for theft, loss, or damage to the Work. In the event that the Lender's insurance is not adequate to cover losses which arise in connection with this Agreement, Lender shall be responsible for all such losses not covered by insurance and shall hereby releases the City and its Agencies from and all liability for any and all claims arising out of such loss or damage. If the Lender fails to supply the City and its Agencies with the required insurance certificates, this loan agreement shall constitute a release of the City and its Agencies from any liability in connection with the Work.
12. All Work shall be delivered to and picked up by Lender at the Temecula Valley Museum. Unless otherwise agreed to by **CHOOSE AN ITEM** in writing, if the Lender fails to retrieve the Work within fifteen (15) business days after the close of the exhibition, Lender shall be charged a storage fee of \$50 per day while the Work(s) are stored in City facilities. If the City is required to remove the Work from the City facilities for storage at another location, Lender shall reimburse the City for all cost and expenses incurred for the removal and storage of the Work, including staff time, promptly following receipt of a written statement therefore, If, after three (3) years, the Work shall not have been reclaimed, then, and in consideration for its storage, insurance, and safeguarding during such period, the Work shall be considered an unrestricted gift to the City.

13. The City reserves the right to cancel any loan agreement and return the Work upon thirty (30) days' written notice to the Lender, unless said work is in danger of loss or extreme damage, at which time they will be removed immediately. This loan agreement may be extended if approved in writing by the Lender and the **CHOOSE AN ITEM**.
14. For purposes of this Agreement, the term **CHOOSE AN ITEM** shall constitute the **CHOOSE AN ITEM** or any of his or her designees.
15. For purposes of this Agreement the term "City" shall include the City of Temecula, the Successor Agency To The Temecula Redevelopment Agency, the Temecula Community Services District and its elected officials, officers, agents, employees, and volunteers.
16. This Agreement represents the entire integrated agreement between the City and Lender and supersedes all prior negotiations, representations, or agreements, either written or oral. Except as otherwise provided herein, this Agreement may be amended only by a written instrument signed by both the City Council and Lender. The interpretation and implementation of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect. In the event that either party shall commence any action against the other party relating to this Agreement or for the breach of any obligation contained herein, the prevailing party shall be entitled to recover from the losing party reasonable attorneys' fees, expenses, and court costs.
17. The **CHOOSE AN ITEM** is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.
18. **[Delete this section if no Special Conditions are required]** Special Conditions concerning the display and maintenance of the Work are attached hereto as Exhibit A and incorporated herein as though set forth in full. In the event of a conflict between the Special Conditions and the terms of this Agreement, the terms of this Agreement shall prevail

Executed by the parties on the date first written above at Temecula, California

[Information Only Delete Prior To
Printing: Consultant/Lender Signature(s) &
Insurance Approval Required Before Routing
Contract for Internal City Signature Approval)

CHOOSE AN ITEM

LENDER

(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

By: _____

CHOOSE AN ITEM

By: _____

[Enter Name]

[Information Only - Delete prior to printing]:

- *Agreements exceeding \$30,000 require City Council Approval. In such cases, choose the Mayor*

ATTEST:

By: _____

CHOOSE AN ITEM

APPROVED AS TO FORM:

By: _____

CHOOSE AN ITEM

[Information Only – Delete prior to printing]

- *If this Agreement is \$5,000 or less select the Purchasing Manager*

PM Initials:

Date:

Please complete, sign, and return.

Retain a copy for your records.

EXHIBIT A

SPECIAL CONDITIONS

[Delete this section if no Special Conditions]

**ART PURCHASE AGREEMENT BETWEEN
THE CHOOSE AN ITEM AND [ENTER NAME OF
INDIVIDUAL]**

THIS AGREEMENT is made and effective as of this [Enter Date – “Today’s Date” or Council Date.] day of [Enter Month], [Enter Year], by and between the CHOOSE AN ITEM, a CHOOSE AN ITEM (hereinafter referred to as “City”), and [Enter Name of Individual], , hereinafter referred to as the “Artist”). In consideration of the mutual covenants, conditions and undertakings set forth herein, the parties agree as follows:

1. RECITALS

This Agreement is made with respect to the following facts and purposes which each of the parties acknowledge and agree are true and correct:

a. The Artist created and has ownership of Artwork they are selling to the City of Temecula. The Artwork is described and depicted on Exhibit A.

b. The Artist intends by sale of this Artwork to the City to relinquish all legal claim of right to title, royalties, copyright or trademark of the Artwork.

2. SALE AND ACCEPTANCE

a. The Artist hereby agrees to sell to the City all right, title and interest in the artwork to the City, and the City hereby agrees to purchase the Artwork each subject to and under the terms, qualifications and conditions set forth in this Agreement.

b. The purchase price for the Artwork shall be _____ Dollars and No Cents (\$_____.)

c. The sale of the Artwork shall be documented by the execution and delivery of the bill of sale in the form of Exhibit B (the “Bill of Sale”).

d. City shall have the right to terminate this Agreement at any time prior to the payment of the purchase price for any reason, with or without cause.

e. The sale and delivery of the Artwork shall be completed as soon as possible after the date of this Agreement but in no event later than thirty (30) days after the date of this Agreement.

f. As of the date the Artwork is received by City in accordance with this Agreement, the Artist will transfer to the City good, valid and marketable title and exclusive and unrestricted right to possession of the Artwork free and clear of any and all rights or interests of others, claims, liens, mortgages, security interests, restrictions, conditions, assessments, exceptions, options, equities or other encumbrances of any kind held or claimed by any person (collectively, “Claims”). The Artist has no knowledge of any Claims threatened or pending, nor any knowledge of any facts or circumstances likely to give rise to any Claims.

3. REMOVAL, RELOCATION AND NON-USE OF ARTWORK

Upon delivery of the Artwork to the City, the City may display the purchased Artwork in any public building or facility and may replicate the Artwork to be utilized in any way, including, but not limited to, any media, City events, documentation, brochures, programs, community service campaigns, and promotional products. Upon delivery of the Artwork to the City, the City

shall have the right at its sole discretion to relocate or permanently remove the Artwork from public display or not utilize the Artwork in any manner or to destroy the Artwork or to take any other action with respect to the Artwork. City shall have no obligation to maintain the Artwork. Artist hereby releases, relinquishes, and waives any and all rights it may have to the Artwork or its display in public places as may be established by state or federal law.

4. INDEMNIFICATION

The Artist shall indemnify, protect, defend and hold harmless the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its elected officials, officers, employees, volunteers, and representatives from any and all suits, claims, demands, losses, defense costs or expenses, actions, liability or damages of whatsoever kind and nature which the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, agents and employees may sustain or incur or which may be imposed upon them for damage to property or property rights, including, without limitation, Claims as described in Paragraph 2 hereof, arising out of or in any way related to the Artists performance or non-performance of this Agreement.

5. GOVERNING LAW

The City and the Artist understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

6. LEGAL RESPONSIBILITIES

The Artist shall keep itself informed of all local, State and Federal ordinances, laws 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. The Artist shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Artist to comply with this section.

7. ASSIGNMENT

The Artist shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

8. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice:

Mailing Address: City of Temecula
Attn: **Choose an item**

41000 Main Street
Temecula, CA 92590

To Recipient: [Enter Artist Name]
[Enter: Attn: Name of Contact Person]
[Enter Artist Address]

8. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

9. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of the Nonprofit warrants and represents that he or she has the authority to execute this Agreement on behalf of the Nonprofit and has the authority to bind the Nonprofit to the performance of its obligations hereunder. The **CHOOSE AN ITEM** is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes; (d) agreement termination.

10. INCORPORATION OF EXHIBITS. The following Exhibits are attached hereto and incorporated herein as though set forth in full:

EXHIBIT A Description and Depiction of Artwork

EXHIBIT B Bill of Sale

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

**[Information Only Delete Prior To Printing:
Consultant/Artist Signature(s) & Insurance
Approval Required Before Routing
Contract for Internal City Signature
Approval)**

Choose an item

[INSERT NAME]

(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

By:

Choose an item

By:

[Enter Name], [Owner]

[Information Only - Delete prior to printing]:

- *All Sponsorship Agreements require City Council Approval. In such cases, choose the Mayor*

ATTEST:

By:

Choose an item

By:

[Enter Name], [Enter Title]

APPROVED AS TO FORM:

By:

Choose an item

Artist

Information Only - Delete prior to printing]:

- *If this Agreement is \$5,000 or less, choose the Purchasing Manager (PM)*

[Insert Business Name]

[Insert Contact Person]

[Insert Mailing Address]

[Insert Phone Number]

[Insert Fax Number]

[Insert E-Mail]

PM Initials:

Date:

EXHIBIT A

DESCRIPTION AND DEPICTION OF ARTWORK

EXHIBIT B

BILL OF SALE FOR PURCHASE

Dated: _____ 2015

Sold by: _____, Artist

Sold to: City of Temecula ("City")

Artwork: Title: _____ (the "Artwork")
Artist: _____
Medium: _____
Size: _____
Date: _____

Purchase Price: \$ _____ .00 U.S. Dollars

Payment Terms: In full on: _____, 2015.

The Artist in consideration of the terms of the Art Purchase Agreement between Artist and City dated as of _____ 2015 ("Agreement") and receipt of the Purchase Price, hereby irrevocably and without condition or reservation of any kind transfer to the City good, valid and marketable title and exclusive and unrestricted right to possession of the Artwork free and clear of any and all rights or interests of others, claims, liens, mortgages, security interests, restrictions, conditions, assessments, exceptions, options, equities or other encumbrances of any kind held or claimed by any person.

Upon receipt of the Artwork by the City, the City may display the donated Artwork in any public building or facility and may replicate the Artwork to be utilized in any way, including, but not limited to, any media, City events, documentation, brochures, programs, community service campaigns, and promotional products. Upon delivery of the Artwork to the City, the City shall have the right at its sole discretion to relocate or permanently remove the Artwork from public display or not utilize the Artwork in any manner or to destroy the Artwork or to take any other action with respect to the Artwork. City shall have no obligation to maintain the Artwork. Artist hereby releases, relinquishes, and waives any and all rights it may have to the Artwork or its display in public places as may be established by state or federal law.

The Artwork is sold subject to each and all of the terms, conditions, representations and warranties contained in the Agreement, and all such terms, conditions, representations and covenants of the parties thereunder are incorporated herein by this reference as if fully set forth herein in their entirety. All capitalized terms not defined in this Bill of Sale shall have the same meaning as set forth in the Agreement.

The Artist agrees to execute and deliver such additional documents and to take such other further actions from time to time after the date hereof as the City may reasonably request, to assure and confirm this transaction.

The terms and provisions of this Bill of Sale shall be binding upon the Artist and its successors, assigns and legal representatives and shall inure to the benefit of the City and his successors, assigns and legal representatives.

The benefits of the representations, warranties and indemnities contained in the Agreement and this Bill of Sale shall survive completion of the transaction contemplated by the Agreement and this Bill of Sale, including without limitation the transfer of the Artwork to the Buyer.

This Bill of Sale shall be governed by and shall be construed and enforced in accordance with the internal laws of the State of California, without regard to conflict of laws principles.

_____("Artist")

**ART DONATION AGREEMENT BETWEEN
THE CHOOSE AN ITEM AND [ENTER NAME OF
INDIVIDUAL]**

THIS AGREEMENT is made and effective as of this [Enter Date – Todays Date or Council Date] day of [Enter Month], [Enter Year], by and between the CHOOSE AN ITEM, a CHOOSE AN ITEM (hereinafter referred to as "City"), and [Enter Name of Individual], , hereinafter referred to as the "Artist"). In consideration of the mutual covenants, conditions and undertakings set forth herein, the parties agree as follows:

1. RECITALS

This Agreement is made with respect to the following facts and purposes which each of the parties acknowledge and agree are true and correct:

a. The Artist created and has ownership of all right, title, interest and ownership in the Artwork and all legal claim of right of title, royalties, copyright or trademark of the artwork, to the Association, including but not limited to the artistic rights described in Section 2 of this Agreement ("Ownership and Artistic Rights in the Artwork"). The Artwork is described and depicted on Exhibit A.

b. The Artist intends by this donation to the City to relinquish all Ownership and Artistic Rights in the Artwork.

2. DONATION AND ACCEPTANCE

a. The Artist hereby conveys to the City by donation the Ownership and Artistic Rights in the Artwork, each subject to and under the terms, qualifications and conditions set forth in this Agreement.

b. The conveyance and delivery of the Artwork shall be completed as soon as possible after the date of this Agreement but in no event later than thirty (30) days after the date of this Agreement.

c. City shall have the right to terminate this Agreement at any time prior to the payment of the delivery of the Artwork to the City for any reason, with or without cause.

d. The conveyance of the Artwork shall be documented by the execution and deliver of the bill of sale in the form of Exhibit B (the "Bill of Sale").

e. As of the date the Artwork is received by City in accordance with this Agreement, the Artist shall transfer to the City good, valid and marketable title and exclusive and unrestricted right to possession of the Artwork free and clear of any and all rights or interests of others, claims, liens, mortgages, security interests, restrictions, conditions, assessments, exceptions, options, equities or other encumbrances of any kind held or claimed by any person (collectively, "Claims"). The Artist has no knowledge of, nor any reason to suspect, any Claims threatened or pending, nor any knowledge of any facts or circumstances likely to give rise to any Claims. Artist hereby indemnifies the City its employees, officials, agents, attorneys and assigns from any all claims relating to ownership of the Artwork, including, but not limited to, all claims or actions by creditors of Artist or others claiming any right title or interest in the donated Artwork. Said indemnification shall include but not be limited to all costs and expenses required to perfect title to the donated Artwork including attorney fees and costs.

f. Artist hereby waives, releases and disclaims any rights, demands or claims as may arise at any time and under any circumstances against the City, its City Council, Arts Commission, officers, employees, agents, successors and assigns arising under the federal Visual Artists Rights Act (17 U.S.C. §§ 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code § 987 *et seq.*), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. section 106A, California Civil Code section 987 *et seq.*, or any other type of moral right protecting the integrity of works of art. Artist acknowledges and agrees that the City, in its sole and exclusive discretion, may, among other acts, temporarily or permanently modify, alter, change, relocate or destroy the donated Artwork. The City agrees that prior to any proposed destruction of the Artwork, Artist shall be provided with a reasonable opportunity to reclaim possession of the Artwork.

3. REMOVAL, RELOCATION AND NON-USE OF ARTWORK

Upon receipt of the Artwork by the City, the City may display the donated Artwork in any public building or facility and may replicate the Artwork to be utilized in any way, including, but not limited to, any media, City events, documentation, brochures, programs, community service campaigns, and promotional products. Upon delivery of the Artwork to the City, the City shall have the right at its sole discretion to relocate or permanently remove the Artwork from public display or not utilize the Artwork in any manner or to destroy the Artwork or to take any other action with respect to the Artwork. City shall have no obligation to maintain the Artwork. Artist hereby releases, relinquishes, and waives any and all rights it may have to the Artwork or its display in public places as may be established by state or federal law.

4. INDEMNIFICATION

The Artist shall indemnify, protect, defend and hold harmless the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its elected officials, officers, employees, volunteers, and representatives from any and all suits, claims, demands, losses, defense costs or expenses, actions, liability or damages of whatsoever kind and nature which the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, agents and employees may sustain or incur or which may be imposed upon them for damage to property or property rights, including, without limitation, Claims as described in Paragraph 2 hereof, arising out of or in any way related to the Artists performance or non-performance of this Agreement.

5. GOVERNING LAW

The City and the Artist understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

6. LEGAL RESPONSIBILITIES

The Artist shall keep itself informed of all local, State and Federal ordinances, laws 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. The Artist shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Artist to comply with this section.

7. ASSIGNMENT

The Artist shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

8. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice:

To City of Temecula:

City of Temecula
Attn: **Choose an item**
41000 Main Street
Temecula, CA 92590

To Artist:

[Enter Artist Name]
[Enter: Attn: Name of Contact Person]
[Enter Artist Address]

8. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

9. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of the City or the Artist warrants and represents that he or she has the authority to execute this Agreement on behalf of the Nonprofit and has the authority to bind the party to the performance of its obligations hereunder. The **CHOOSE AN ITEM** is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes; (d) agreement termination.

10. INCORPORATION OF EXHIBITS.

The following Exhibits are attached hereto and incorporated herein as though set forth in full:

EXHIBIT A Description and Depiction of Artwork

EXHIBIT B Bill of Sale

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

Choose an item

[INSERT NAME]

(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

By: _____
Choose an item

By: _____
[Enter Name], [Owner]

[Information Only - Delete prior to printing]:

- All Sponsorship Agreements require City Council Approval. In such cases, choose the Mayor

ATTEST:

By: _____
Choose an item

By: _____
[Enter Name], [Enter Title]

APPROVED AS TO FORM:

By: _____
Choose an item

Artist

Information Only - Delete prior to printing]:

- If this Agreement is \$5,000 or less, choose the Purchasing Manager (PM)

[Insert Business Name]

[Insert Contact Person]

[Insert Mailing Address]

[Insert Phone Number]

[Insert Fax Number]

[Insert E-Mail]

PM Initials: Date:

EXHIBIT A

DESCRIPTION AND DEPICTION OF ARTWORK

EXHIBIT B

BILL OF SALE FOR DONATION

Dated: _____ 2018

Donated by: _____ Artist

Conveyed to: City of Temecula ("City")

Artwork: Title: _____ (the "Artwork")
Artist:
Medium:
Size:
Date:

The Artist in consideration of the terms of the Art Donation Agreement between Artist and City dated as of _____ 2018 ("Agreement"), hereby irrevocably and without condition or reservation of any kind transfer to the City all right, title, interest and ownership in the Artwork and all legal claim of right of title, royalties, copyright or trademark of the artwork, to the Association, including but not limited to the artistic rights described in Section 2 of the Agreement paragraph 4 of this Bill of Sale ("Ownership and Artistic Rights in the Artwork").

Upon receipt of the Artwork by the City, the City may display the donated Artwork in any public building or facility and may replicate the Artwork to be utilized in any way, including, but not limited to, any media, City events, documentation, brochures, programs, community service campaigns, and promotional products. Upon delivery of the Artwork to the City, the City shall have the right at its sole discretion to relocate or permanently remove the Artwork from public display or not utilize the Artwork in any manner or to destroy the Artwork or to take any other action with respect to the Artwork. City shall have no obligation to maintain the Artwork. Artist hereby releases, relinquishes, and waives any and all rights it may have to the Artwork or its display in public places as may be established by state or federal law.

The Artist represents and warrants to the City that as of the date the Artwork is received by City in accordance with this Agreement, the Artist shall transfer to the City good, valid and marketable title and exclusive and unrestricted right to possession of the Artwork free and clear of any and all rights or interests of others, claims, liens, mortgages, security interests, restrictions, conditions, assessments, exceptions, options, equities or other encumbrances of any kind held or claimed by any person (collectively, "Claims"). The Artist has no knowledge of any Claims threatened or pending, nor any knowledge of any facts or circumstances likely to give rise to any Claims. Artist hereby indemnifies the City its employees, officials, agents, attorneys and assigns from any all claims relating to ownership of the Artwork, including, but not limited to, all claims or actions by creditors of Artist or others claiming any right title or interest in the donated Artwork. Said indemnification shall include but not be limited to all costs and expenses required to perfect title to the donated Artwork including attorney fees and costs.

Artist hereby waives, releases and disclaims any rights, demands or claims as may arise at any time and under any circumstances against the City, its City Council, Arts Commission, officers, employees, agents, successors and assigns arising under the federal Visual Artists Rights Act (17 U.S.C. §§ 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code § 987 *et seq.*), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. section 106A, California Civil Code section 987 *et seq.*, or any other type of moral right protecting the integrity of works of art. Artist acknowledges and agrees that the City, in its sole and exclusive discretion, may, among other acts, temporarily or permanently modify, alter, change, relocate or destroy the donated Artwork. The City agrees that prior to any proposed destruction of the Artwork, Artist shall be provided with a reasonable opportunity to reclaim possession of the Artwork.

The Artwork is sold subject to each and all of the terms, conditions, representations and warranties contained in the Agreement, and all such terms, conditions, representations and covenants of the parties thereunder are incorporated herein by this reference as if fully set forth herein in their entirety. All capitalized terms not defined in this Bill of Sale shall have the same meaning as set forth in the Agreement.

The Artist agrees to execute and deliver such additional documents and to take such other further actions from time to time after the date hereof as the City may reasonably request, to assure and confirm this transaction.

The terms and provisions of this Bill of Sale shall be binding upon the Artist and its successors, assigns and legal representatives and shall inure to the benefit of the City and his successors, assigns and legal representatives.

The benefits of the representations, warranties and indemnities contained in the Agreement and this Bill of Sale shall survive completion of the transaction contemplated by the Agreement and this Bill of Sale, including without limitation the transfer of the Artwork to the Buyer.

This Bill of Sale shall be governed by and shall be construed and enforced in accordance with the internal laws of the State of California, without regard to conflict of laws principles.

_____("Artist")
Name:
Date:

City of Temecula
Community Services Department



Liability Waiver
(Please Print)

First Name Initial Last Name

Address

City State Zip

Phone (Day) Phone (Evening) Phone Emergency)

Name of Program: Night Of The Luminaries Date of Program: Saturday, June 24, 2017

I, _____, realize reasonable precautions are taken to reduce any injuries or hazard from this activity; however, in the event of an injury, I hereby waive, release and hold harmless from any liability for damages of personal injury including accidental death, as well as from claims for property damage which may arise in connection with the above named activity, against the City of Temecula, its elected and appointed officials, agents, employees and volunteers. The City of Temecula, Temecula Redevelopment Agency, and any all otherwise officially named sponsors shall not be responsible to compensate, indemnify, or pay damages to an applicant for any reason whatsoever.

I HAVE CAREFULLY READ THIS RELEASE, HOLD HARMLESS AND AGREE NOT TO FILE A CLAIM OR TAKE OTHER LEGAL ACTION AGAINST THE CITY OF TEMECULA. THE REDEVELOPMENT AGENCY OR ITS EMPLOYEES, AND FULLY UNDERSTAND ITS CONTENT. I AM AWARE THAT IT IS A FULL RELEASE OF ALL LIABILITY, AND SIGN IT OF OWN FREE WILL.

Signature Date

Signature Date

(If under 18 must be signed by parent/guardian)

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Temecula
P.O. Box 9033
43200 Business Park Drive
Temecula CA 92589-9033

[Space Above Line For Recorder's Use]

Recording Fee: Exempt pursuant to California
Government Code Section 27383

COVENANT AND AGREEMENT
(To Install and Maintain Public Artwork)

This Covenant and Agreement is made and entered into as of the ____ day of
_____, 200__, by and among the undersigned,

_____, *[insert names of all
record owners]* a _____ *[properly describe
the record owner's legal status (e.g., a corporation, a partnership, a trust, etc.)]* (the "Owner"),
and the City of Temecula, a municipal corporation (the "City"), with respect to the following
facts:

RECITALS:

A. The Owner hereby represents and warrants that Owner is the record owner of the
following described real property (the "Property") generally located at _____
_____ *[street address of the Property]* in the City of
Temecula, County of Riverside, State of California, identified by Riverside County Assessor's
Parcel Number(s) _____ *[fill in APN(s) for the
Property]* and more particularly and legally described as follows:

[fill in legal description]

B. Owner desires to *[briefly describe proposed development (e.g., construct,
reconstruct, construct and addition or constructing an addition to a commercial or industrial
building within the City)]* _____
_____ (herein called the "Project").

Artwork at the Owner's expense if and when the Public Artwork is not maintained in good condition;

3. It is the intention hereof that this Covenant and Agreement shall constitute a covenant running with the land owned by the Owner. This Covenant and Agreement shall be enforceable by and shall inure to the benefit of the City and the City's successors and assigns, and shall be jointly and severally binding upon the Owner, and each of the Successors.

4. The Owner shall indemnify, hold harmless and defend City, and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from any claim, demand, damage, liability, financial loss, cost or expense (including, without limitation, attorneys fees and costs) arising, either directly or indirectly, from any City permit authorizing the installation of the Public Artwork at the Property, including, without limitation, the agreement to install and maintain the Public Artwork (including, without limitation, this Covenant and Agreement to install and maintain the Public Artwork, and the conditions contained herein).

5. This Covenant and Agreement shall remain in effect until released in writing by the order of the City Council upon a determination that this Covenant and Agreement is no longer required.

6. This Covenant and Agreement shall not be amended without City's written consent.

7. Should any provision, section, paragraph, sentence, clause or word of this Covenant and Agreement be rendered or declared invalid or ineffective by any final action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, clauses and words of this Covenant and Agreement shall remain in full force and effect.

8. This Covenant and Agreement shall be recorded in the office of the County Recorder for the County of Riverside.

– Signatures Begin on Next Page –

Executed this _____ day of _____, 200 ____.

CITY OF TEMECULA:

OWNER:

Approved as to content:

_____*
[Name of Owner]

Herman Parker
Director of Community Services

By: _____*
Name:
Title:

By: _____*
Name:
Title:

Attest:

Susan W. Jones, MMC
City Clerk

Approved as to form:

Peter M. Thorson
City Attorney

*Note: If any Owner is a corporate entity, signatures from two corporate officers are required.
One signature must be from any officer in Group A, and one signature must be from any officer in Group B as follows:

Group A: the chairman of the board, the president, or any vice president
Group B: the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer of the corporation.

ALL-PURPOSE ACKNOWLEDGMENT

State of California)
County of)

On appeared _____, 2007, before me, _____,
appeared _____

- ☐ personally known to me -OR-
☐ 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.

Witness my hand and official seal.

SIGNATURE OF NOTARY

CAPACITY CLAIMED
BY SIGNER

- ☐ INDIVIDUAL(S)
☐ OFFICER(S) (TITLE[S]):

- _____

☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ SUBSCRIBING WITNESS
☐ GUARDIAN/CONSERVATOR
☐ CHAIRPERSON/MAYOR _____
☐ OTHER: _____

SIGNER IS REPRESENTING:

ALL-PURPOSE ACKNOWLEDGMENT

State of California)
County of)

On appeared _____, 2007, before me, _____,
appeared _____

- ☐ personally known to me -OR-
☐ 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.

Witness my hand and official seal.

SIGNATURE OF NOTARY

CAPACITY CLAIMED
BY SIGNER

- ☐ INDIVIDUAL(S)
☐ OFFICER(S) (TITLE[S]):

- _____

☐ PARTNER(S)
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ SUBSCRIBING WITNESS
☐ GUARDIAN/CONSERVATOR
☐ CHAIRPERSON/MAYOR _____
☐ OTHER: _____

SIGNER IS REPRESENTING:

EXHIBIT “A”
PUBLIC ARTWORK LOCATION PLAN

Exhibit “A” consists of ____ pages, excluding this cover page.