

DISCLOSURE AND WAIVER OF ARTIST'S PROPRIETARY RIGHTS

1. Disclosure of Artist's Rights:

In 2006, the City of Palm Desert (the "City") commissioned artist John Branstetter (the "Artist") to create a public artwork that would educate and encourage City residents to recycle and conserve. As a result, the Artist designed a work of visual art in the form of a sculpture, titled "Recycle" ("the Sculpture"). The Artist may have "moral rights" in the Sculpture, which include the right of attribution (authorship) and integrity (the right to prevent intentional distortion, mutilation, or other modification of the artwork).

1.1 The two most relevant laws with respect to proprietary rights in original artwork are:

- (a) The Visual Artists Rights Act of 1990, 17 U.S.C. §§106A and 113(d) ("VARA"); and
- (b) The California Art Preservation Act (Cal. Civ. Code §§987 - 989)("CAPA").

1.2 The laws listed above are not intended to be a complete list of all laws in this area or a complete recitation of the law in this area. The Artist is encouraged to read the laws above and to seek legal advice to better understand the Artist's rights in the Sculpture.

2. Waiver of Proprietary Rights

2.1 The Artist agrees to waive and does hereby waive voluntarily all rights to attribution and integrity with respect to the Sculpture and any and all claims as may arise under the Visual Artists Rights Act of 1990, 17 U.S.C. §§106A and 113(d) ("VARA"), the California Art Preservation Act (Cal. Civ. Code §§987 - 989) ("CAPA"), or any other local, state, foreign or international law, as currently drafted or as may be hereafter amended, that conveys the same or similar rights ("Moral Rights Laws"), with respect to the Sculpture, its display, removal from display, exhibition, installation, deaccession, conservation, storage, study, alteration and any other activities conducted by the City, its officers, employees, agents, contractors, licensees, successors or assigns.

2.2 The Artist agrees that if the Sculpture is removed, transported or reinstalled in such a way so as to sustain unintentional physical defacement, mutilation, alternation, distortion, destruction, or other modification (collectively, "Modification") of the Mural, Artist waives any and all such claims under any Moral Rights Laws arising out of or against the City its officers, employees, agents, contractors, licensees, successors or assigns for Modification of the Mural.

2.3 The Artist Agrees that the City has the absolute right to change, modify, destroy, remove, relocate, move, replace, transport, repair or restore the Sculpture, in whole or in part, in the City's sole and absolute discretion.

2.4 The Artist understands and agrees that the City has no obligation to pursue claims against third parties for modifications or damage to the Sculpture done without the City's



authorization. However, the City may pursue claims against third parties for modifications or damage or to restore the Sculpture if the work has been modified without the City's authorization. In the event that the City pursues such a claim, the City shall make a good faith effort to notify the Artist, and Artist shall cooperate with the City's efforts to prosecute such claims.

2.5 If the City modifies the Sculpture without the Artist's consent in a manner that is prejudicial to Artist's reputation, Artist retains the right to disclaim authorship of the Artwork in accordance with 17 U.S.C. § 106A (a) (2).

2.6 The Artist bears the sole responsibility for providing City with any changes to the Artist's address for notice.

2.7 Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the Party to be served as follows:


To the City:

Erica Powell, Management Analyst
73510 Fred Waring Drive
Palm Desert, CA 92260

To the Artist:

John Branstetter
44917 Golf Center Parkway #3,
Indio, CA 92201-7301

ARTIST

By:  Signed by:
321CADE86D39431...

Date: 7/31/2024

