



1335 Williams Street, Eureka, CA 95502 | [www.eurekastreetartfestival.com](http://www.eurekastreetartfestival.com) | [eurekastreetartfestival@gmail.com](mailto:eurekastreetartfestival@gmail.com)

## Property Owner Agreement

**Property Owner Name:** County of Humboldt, Thomas K. Mattson, Public Works Director

**Property Address:** 825 5<sup>th</sup> Street, Eureka CA 95501

**Phone:** (707) 268-2694

**E-mail:** [tmattson@co.humboldt.ca.us](mailto:tmattson@co.humboldt.ca.us)

This AGREEMENT is executed July 20, 2021, between The County of Humboldt, hereinafter referred to as OWNER and (Festival) Eureka Street Art Festival, hereinafter referred to as ESAF.

### The Parties agree to the following terms:

- Purpose:** The purpose of the Eureka Street Art Festival is to enhance the community and encourage tourism and commerce in the city.
- Location:** The Owner hereby agrees to allow the ESAF to have a mural painted on the I Street facing wall of the building located at 825 5th Street, specified in **Attachment A**.
- Dimensions:** The dimensions of the mural will be approximately thirty (30) feet by one hundred twenty (120) feet, totaling 3,600 square feet.
- Artwork:** The Subject matter for the mural and the selection of the Artist shall be agreed upon by both the Owner and the ESAF. The Owner will have the opportunity to approve the artwork rendering before it is finalized.

The following people should be included in the decision-making process for choosing the Artist and artwork:

☒ Property Owner Committee – Supervisor Chair Virginia Bass, a representative from the County Administrative Office to be determined by Owner, Public Works Deputy Director Sean Meehan

☐ Tenants (list full information for all tenants to be included in the decision-making process)

Name: _____	Business: _____	Phone: _____	Email: _____
Name: _____	Business: _____	Phone: _____	Email: _____
Name: _____	Business: _____	Phone: _____	Email: _____
Name: _____	Business: _____	Phone: _____	Email: _____

- Duration of Artwork:** The mural shall remain on the wall for a period of five (5) years. During the term if: 1) the property is being offered for sale or lease; 2) the building is being demolished or expanded where the mural is located; 3) the mural otherwise interferes with the Owners use, occupancy or control of the property, then at the Owner's sole discretion the Owner has the right to cancel this agreement upon six (6) months written notice to ESAF.
- Timeframe:** The Mural will be painted during the Festival time period: **August 5 - 16, 2021**. Access to the wall must be provided during this timeframe.
- ESAF will provide the following:**
  - Artist payment
  - Any required permits
  - Insurance as stated and agreed upon in item #17 below
  - Coordination with any other property owners and/or public agencies whose property may need to be accessed during the preparation, painting, or maintenance of the Mural.

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- e. Pressure washing of the wall
- f. Lifts and scaffolding to access the wall for painting
- g. A work plan that identifies work schedule/hours, equipment used, and safety measures for protection of pedestrians during the painting of the mural, subject to Owner approval
- h. Artist transportation and lodging
- i. The ESAF agrees to keep the Owner's property lien-free in connection with such work or project.
- j. Upon completion of the work, ESAF shall provide OWNER with a lien indemnification to ensure the removal of mechanic's liens and verification that all vendors have been fully paid and all lien rights expunged.

**8. The Owner will provide the following:**

- a. Access to the wall for the artist
- b. Access to the public during the festival
- c. Within thirty (30) days following the execution of this Agreement, a payment in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) to ESAF to help defray the costs of the mural installation and maintenance.

9. **Process:** The Owner understands that the status of their wall in the festival may change at any time. While the ESAF will do its best to ensure the Owner is paired with an Artist and a mural is painted on their wall, events may arise that require the removal of the Owner's wall from the ESAF, such as funding, Artist participation, and city regulations.

10. **Tenant Permission:** The Owner has spoken to the Tenants that will be affected by this mural, and they are aware of the process. The following tenants have been notified and agree to participate in the Festival:

<input type="checkbox"/> Name: _____	Business Name: _____
<input type="checkbox"/> Name: _____	Business Name: _____
<input type="checkbox"/> Name: _____	Business Name: _____
<input type="checkbox"/> Name: _____	Business Name: _____

11. **Artwork Ownership:** The Owner understands and agrees that the placement of the copyrighted artwork (mural) on the site must be properly represented as the assigned artist's work in any advertising, promotional, print/media. In other words, credit must be given to the Artist as it is their artwork.

**12. Liability & Indemnification:**

- a. Owner shall indemnify, defend and hold harmless ESAF and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with Owner's duties and obligations under this Agreement and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of ESAF.
- b. ESAF shall indemnify, defend and hold harmless Owner and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with ESAF'S duties and obligations under this Agreement and any amendments hereto, except such

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loss or damage which was caused by the sole negligence or willful misconduct of Owner.

13. **Hazardous Materials:** Owner represents that the existing wall finish contains hazardous materials (asbestos). ESAF and Artist hereby agree only to wash, prime and paint the wall surface and not to take any action that will disturb the existing wall finish material. Any disturbance of the existing wall finish material must be reported to Owner immediately. ESAF will be responsible for any costs associated with disturbance of hazardous materials.
14. **Mediation:** Any dispute hereunder between the parties shall be resolved by resort to non-binding mediation in accordance with the standards and procedures of the American Arbitration Association.
15. **Procedure for Modification:** Amendments to this Agreement must be signed by ESAF and the Artist. Once signed the amendment shall be attached to this agreement. All above mentioned parties must initial any deletions made on this form and any additional provisions written on it.
  - a. Three (3) original copies will be signed; each of which given to ESAF, Owner, and the Artist
16. **Notice:** Any and all notices required to be given pursuant to the terms and conditions of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

Owner: Humboldt County Public Works  
Attention: Thomas K. Mattson, Public Works Director  
1106 2<sup>nd</sup> Street  
Eureka, CA 95501

Eureka Street Art Festival: Eureka Street Art Festival  
Attention: \_\_\_\_\_  
1335 Williams Street  
Eureka, CA 95502

## 17. Insurance Requirements:

This Agreement shall not be executed by Owner, and ESAF is not entitled to any rights hereunder, unless certificates of insurance, or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

- A. General Insurance Requirements. Without limiting ESAF's indemnification obligations provided for herein, ESAF shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire period of this Agreement, and any extended term thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Bests rating of no less than A; VII or its equivalent, against personal injury, death and property damage which may arise from, or in connection with, the activities of ESAF, its agents, officers, directors, employees, licensees, invitees, assignees and subcontractors:



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1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG0001), in an amount of Two Million Dollars (\$2,000,000) per occurrence for any one incident, including, but not limited to, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
  2. Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000) combined single limit coverage. Such insurance shall include coverage of all owned, non-owned and hired vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).
  3. Workers' Compensation Insurance, as required by the California Labor Code, with statutory limits and Employers' Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against Owner, its agents, officers, officials, employees and volunteers. In the event ESAF is self-insured, a Certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations Administration of Self-Insurance shall be filed with the Clerk of the Humboldt County Board of Supervisors.
- B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:
1. The Comprehensive or Commercial General Liability Policy shall provide that Owner, its agents, officers, officials, employees and volunteers, are covered as additional insureds for liability arising out of the operations performed by or on behalf of ESAF. The coverage shall contain no special limitations on the scope of protection afforded to Owner, its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
    - a. Includes contractual liability.
    - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as "XCU Hazards."
    - c. Is the primary insurance with regard to Owner.
    - d. Does not contain a pro-rata, excess only and/or escape clause.
    - e. Contains a cross liability, severability of interest or separation of insureds clause.
  2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to Owner in accordance with the notice



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provisions set forth herein. It is further understood that ESAF shall not terminate such coverage until Owner receives adequate proof that equal or better insurance has been secured.

3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
  4. For claims related to this Agreement, ESAF's insurance is the primary coverage to Owner, and any insurance or self-insured programs maintained thereby are excess to ESAF's insurance and will not be used to contribute therewith.
  5. Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to Owner, its agents, officers, officials, employees and volunteers.
  6. ESAF shall furnish Owner with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000) shall be disclosed to, and approved by, Owner. If ESAF does not keep all required policies in full force and effect, Owner may, in addition to other remedies under this Agreement, take out the necessary insurance, and ESAF agrees to pay the cost thereof. Owner is also hereby authorized to deduct the cost of said insurance from the monies owed to ESAF under this Agreement.
  7. Owner is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and ESAF shall be required to purchase additional coverage to meet above-referenced aggregate limits.
- C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

Owner: County of Humboldt  
Risk Management  
825 Fifth Street, Room 131  
Eureka, CA 95501

County of Humboldt  
Department of Public Works  
Attn: Thomas K. Mattson, Public Works Director  
1106 2<sup>nd</sup> Street  
Eureka, California, 95501

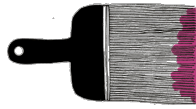
ESAF: Eureka Street Art Festival  
Attn: [\_\_\_\_\_] ]  
1335 Williams Street  
Eureka, CA 95502



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18. **Nuclear-Free Humboldt County Ordinance Compliance:** Neither the ESAF, artist, its subcontractors or their suppliers are Nuclear Weapons Contractors, and are not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components, as defined by the Nuclear Free Humboldt County Ordinance. ESAF, artist, its subcontractors and/or their suppliers agree to notify Owner immediately if they become a nuclear weapons contractor as defined above. Owner may immediately terminate this Agreement if it determines that the foregoing certification is false or if ESAF, artist, or its subcontractors subsequently becomes a Nuclear Weapons Contractor.
19. **Relationship of Parties:** It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agents, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that ESAF shall not be entitled to any benefits to which Owner's employees are entitled, including, without limitation, overtime, retirement, leave or workers' compensation benefits. ESAF shall be solely responsible for the acts and omissions of its agents, officers, employees, assignees and subcontractors.
20. **Provisions Required by Law:** This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the terms, conditions or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or incorrectly stated, the parties agree to amend the pertinent section to make such insertion or correction.
21. **Reference to Laws, Regulations and Standards:** In the event any law, regulation or standard referred to herein is amended during the term of this Agreement, the parties agree to comply with the amended provision as of the effective date thereof.
22. **Severability:** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.
23. **Non-Liability of County Officials and Employees:** No official or employee of Owner shall be personally liable for any default or liability under this Agreement.
24. **Jurisdiction and Venue:** This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.
25. **Survival of Provisions:** The duties and obligations of the parties relating to indemnification shall survive the expiration or termination of this Agreement.
26. **Force Majeure:** Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control, and without the fault or negligence, of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, pandemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.
27. **Entire Agreement:** This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in their entirety any and all prior agreements, promises, representations, understandings and negotiations between the parties, whether



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oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this Agreement are hereby ratified.

28. **Counterpart Execution:** This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. This Agreement, and any amendments hereto, may be signed by manual or electronic signatures in accordance with any and all applicable local, state and federal laws, regulations and standards, and such signatures shall constitute original signatures for all purposes. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement and any amendments hereto.
29. **Authority to Execute:** Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

## Signatures

ESAF Representative: \_\_\_\_\_ Date: \_\_\_\_\_

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

## INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Risk Management



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## Attachment A

Photograph of wall to be painted

