



TO : Nicholas C. Mimms, P.E., City Manager  
FROM : James M. Messer, City Attorney  
RE : Mural Property Owner Agreement – 415 Georgia Avenue, Hoyt C. Murphy  
DATE : November 16, 2016

This memorandum contains the above referenced Agreement for a mural to be completed on property owned by Hoyt C. Murphy located at 415 Georgia Avenue. It has been Approved as to Form and Correctness.

Please feel free to contact this office if you have comments or inquiries concerning this matter.

JM:aw

Attachment

C: Rebecca Grohall, Planning Director  
Libby Woodruff, Urban Redevelopment Manager



THE SUNRISE CITY  
**FORT PIERCE**  
CITY ATTORNEY'S OFFICE Florida

**RECEIVED**  
NOV 15 2016

RECEIVED  
TIME By AW  
NOV 16 2016  
CITY OF FT. PIERCE  
CITY MANAGER'S OFFICE

CITY ATTORNEY USE ONLY

Date Received:	11/16/16
Assigned To:	MOSELY
File:	
Due Date:	
Hours:	1.0

**REQUEST FOR LEGAL SERVICES**

**To:** CITY ATTORNEY

**SUBMITTED BY:** LIBBY WOODRUFF, URBAN REDEVELOPMENT MANAGER

**THROUGH:** REBECCA GROHALL, PLANNING DEPARTMENT DIRECTOR

**CITY MANAGER AUTHORIZATION:** NICHOLAS C. MIMMS, P.E., CITY MANAGER

**RE:** MURAL PROPERTY OWNER AGREEMENT FOR 415 GEORGIA AVENUE – REVIEW FOR FORM AND CORRECTNESS

**DATE:** NOVEMBER 15, 2016

*Handwritten signatures and initials in blue ink, including a large signature and initials 'LW' and 'RG'.*

**Service Required:** (please circle or underline)

Review Documents

Draft Document

Written Opinion Requested

Attend Meetings

Advise

Other: \_\_\_\_\_

Upon review and/or "Approval as to Form and Correctness," the Department submitting the RLS is responsible for placement of any related item on a Commission or Board Agenda.

- Brief statement of the nature of the request or problem:** Seeking Legal Dept. approval of 'form and correctness' Community Mural Project Property Owner Agreement for 415 Georgia Avenue.
- Discussion of the implications and the possible impact if not apparent from preceding information:** Form and Correctness approval from Legal is required before contractual agreements can be processed.
- Time considerations and their significance:** Timely consideration is requested as we would like to go forward with soliciting ideas for the mural from participants of our Mural Artist Registry.
- Are City funds required? If so, list approvals obtained for expenditure of funds:** Yes, City funds are required. This contractual agreement is scheduled for the City Commission's review and approval at their 11/21/16 meeting.

**5. Factual background:** (Outline the facts related to the underlying matter to provide context for the request.)

- Location – 415 Georgia Avenue
- Phase of Construction – Mural painting on south side of building
- Parties Involved – Hoyt C. Murphy (property owner) and City of Fort Pierce

**6. List and/or attach all related documents and known authorities (e.g., statute, ordinance, resolution, administrative code, legal case, RFP, bidder’s response, contract, lease, letter, memorandum, prior legal opinion, deed, etc.):**

- FL State Statute
- Ordinance Number
- **Contract**

**7. Identify prior legal assistance on this or a related matter and the attorney who handled it:**

This contractual agreement has been personalized for 415 Georgia Avenue using a template that has been approved by our Legal Department, utilized for a mural project at 464 North 9<sup>th</sup> Street and approved by the City Commission.

**8. If this is a request for review of a contract, provide the following:**

- List of individuals who have read and approved the business terms and conditions of the contract and confirmed the ability to carry out the terms of the contract as they apply to the City:** Attorneys James Messer and Iola Mosely were both instrumental in the creation of this document. This is the same contractual agreement template that was used by the City of Fort Pierce for the mural project for 464 North 9<sup>th</sup> Street (Save Our Children). The business terms and conditions in this document were approved by our Legal Department.
- Insurance requirements that differ from the City’s template insurance terms:** (The department should consult with the Risk Manager for each contract to determine whether there are any special insurance requirements.) Per our Risk Manager, no insurance requirements are required to enter in to this agreement.

CITY ATTORNEY USE ONLY			
Routed for Review	Date	Response Deadline	Response



City of Fort Pierce  
Community Mural Project  
Property Owner Agreement

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_\_, by and between the City of Fort Pierce, Florida (hereinafter collectively referred to as "City") and Hoyt C. Murphy, Jr. (hereinafter referred to as "Property Owner"), owner of property/building located at 415 Georgia Avenue in the City of Fort Pierce, Florida.

WHEREAS, the City, through the Department of Urban Redevelopment, has developed the Community Mural Project, the purpose of which is to promote and commemorate Fort Pierce's rich cultural heritage, reinforce the growth of arts and culture within the City and increase tourism to the area. The project shall strive for diversity of style, scale, and media represented in a series of murals on buildings in the City of Fort Pierce; and

WHEREAS, the Property Owner recognizes that the purpose of the project, which is to enhance the community and encourage tourism and commerce in the City, is mutually beneficial to the City and the Property Owner and therefore desires to have a mural painted on the side of his or her building; and

WHEREAS, the nature of the Community Mural Project is such that it is necessary and desirable to enter into an Agreement expressly setting forth the respective rights, duties, and obligations of the parties;

NOW, THEREFORE, in consideration of the mural covenants hereinafter contained, it is mutually agreed between the parties as follows:

1. The Property Owner hereby agrees to allow the City to have a mural mounted or painted on the east wall of the building located at 415 Georgia Avenue.

The dimensions of the mural will be dependent upon the subject and project. The mural shall be allowed to remain on the wall for a period of five (5) years. This Agreement may be extended for successive five (5) year periods upon the written extension between the Property Owner and the City prior to the end of the initial five-year period. During the term, or any extension thereof, at such time as property is being offered for sale or lease, or the building on such property is being demolished or expanded where the mural is located, or the mural otherwise interferes with the Property Owners' use, occupancy, or control of the property, then at the Property Owner's sole discretion, the Property Owner has the right to cancel this Agreement upon six (6) months written notice to the City.

2. The City agrees that it shall provide a stipend to each of the selected artists to pay for materials necessary for the execution and completion of the mural. The murals will be applied directly to the wall on a pre-primed surface provided for the artist. The Property Owner agrees to provide the City with reasonable access to the site for such work so as not to interfere with the Property Owner's business operations. The mural shall at all times be properly maintained in appropriate condition by the City at its cost and the mural's condition shall not be allowed to deteriorate. The City agrees to keep Owner's property lien-free in connection with such work or project.

3. The Property Owner understands and agrees that the placement of the copyrighted artwork (mural) on the site in no way entitles the Property Owner to use, at its discretion, the artwork for advertising/profit making purposes, or any other publicity, except under conditions in which the artwork has been released by both the City and the artist.

4. The Owner agrees to indemnify and hold the City and its commissions, departments, boards, officers, agents, employees, representatives, contractors or subcontractors, or their employees harmless from all liabilities, third party claims, causes of action, judgments, damages, losses and expenses (including reasonable attorney's fees) arising out of any breach of Property Owner's representations and promises and performance of obligations under the Agreement.

5. The subject matter for the mural and the selection of the artist shall be the sole responsibility of the City of Fort Pierce's Community Mural Project Committee, with recommendations from the Property Owner.

6. The parties shall collaborate and input shall be received from the property owner; however, the final choice of the artist and the mural will be determined by the Community Mural Project Committee, under the direction of the City of Fort Pierce Department of Urban Redevelopment.

7. 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.

8. This Agreement shall be subject to and governed by the laws of the State of Florida.

9. Any notices required pursuant to this Agreement shall be served at the following addresses:

**City of Fort Pierce  
Community Mural Project**

c/o Department of Urban Redevelopment  
City of Fort Pierce, Florida  
100 North U.S. Hwy. 1  
Fort Pierce, FL 34950

**Property Owner:**

Hoyt C. Murphy, Jr.  
411 North U.S. Hwy. 1  
Fort Pierce, FL 34950

10. This Agreement represents the complete understanding between the parties with respect to the matters set forth herein. No amendment or modification of the Agreement shall be valid unless evidenced in writing and executed by the parties thereto. In witness whereof, the City and the Owner have executed this Agreement on the date and year first hereinabove set forth.

**IN WITNESS THEREOF**, the Grantor and the Subrecipient have executed this Agreement as of the date first above written.

ATTEST:

CITY OF FORT PIERCE:

\_\_\_\_\_  
Linda Cox, City Clerk

\_\_\_\_\_  
Linda Hudson, Mayor

APPROVED AS TO FORM CORRECTNESS:

By:  \_\_\_\_\_  
James Messer, City Attorney

PROPERTY OWNER:

By: \_\_\_\_\_  
Hoyt C. Murphy, Jr.

Print: \_\_\_\_\_

Title: OWNER

Today's Date: \_\_\_\_\_