

## **CTDOT Office of Rail**

### **Artwork Guidelines & Application Process**

#### **I. Purpose & Definitions:**

This Artwork Guidelines and Application Process applies to requests by Connecticut municipalities and State of Connecticut (“State”) executive branch agencies or offices to display Artwork by attaching, affixing or otherwise applying Artwork onto CTDOT-owned, operated or maintained structures or surfaces located within the CTDOT-owned rail right-of-way or property supporting rail operations (“Rail Property”) taking into consideration the need to maintain the safety of rail operations and integrity of infrastructure on Rail Property. “Artwork” is defined as any artistic and aesthetic objects or treatments, including murals, banners, statues, sculptures, decorative lighting, and the like, and upon installation, any materials used to attach or affix the Artwork that remain with the Artwork installed within the Rail Property.

#### **II. Application Process:**

1. The Artwork Application process is available only to State agencies or offices or the governing body of the Municipality in which the Artwork will be located (“Applicant”).
2. Applicants must obtain the most up-to-date Application from CTDOT’s Office of Rail Properties Management Unit website at <https://portal.ct.gov/DOT/Publictrans/Office-of-Rail/RailPropUtilities-Forms>.
3. An Applicant must complete an Application for each proposed location for installation of Artwork.
4. The Applicant’s Commissioner (if State agency) or official authorized by its governing body (if Municipality) shall sign the completed Application representing that the proposed Artwork is in compliance with these Guidelines and the information submitted in and with the Application is accurate.
5. The signed Application shall be submitted to CTDOT in accordance with the instructions on the Application. In the case of submission of an incomplete Application, CTDOT will reply by email to Applicant that the Application will not proceed to review and reasons therefore.
6. CTDOT’s review of the completed Application shall include, but may not necessarily be limited to, the following:
  - a. Confirmation of compliance with these Guidelines as determined by CTDOT at its sole discretion, excluding representations and warranties made by Applicant in Section IV, subsection 9;
  - b. Performance of an engineering analysis addressing safety, infrastructure integrity and maintenance concerns, and potential impacts to rail operations, as determined by CTDOT at its sole discretion;

- c. Performance of an analysis by its Office of Environmental Planning, as may be required for Applications involving or impacting historic sites or structures;
  - d. Coordination of a review by its rail operator to determine if installation work requires an entry permit to the rail operating envelope and/or support services to be provided by the rail operator, at its sole discretion. If such entry permit and/or services are required, Applicant, or its contractor(s) performing the installation work, at its sole expense shall comply with all requirements of the rail operator.
7. Upon approval of the Application, CTDOT shall notify Applicant of applicable terms and conditions, such as duration and any rail operator requirements.
  8. Prior to Applicant accessing Rail Property or performing any activities in connection with the approved Application, Applicant shall execute a Memorandum of Understanding (for a State agency or office) or an Artwork license agreement (for a Municipality) with CTDOT and obtain all required approvals, and, as applicable, any required rail operator entry permit.

### III. **Safety Restrictions and Prohibitions**

Proposed Artwork shall not impact the safe and efficient movement of people and goods within or along Rail Property. To effectuate this purpose, the proposed Artwork, and/or the effects of its installation, shall be appropriate to its proposed setting and in proper scale with its surroundings, and **subject to all of the following prohibitions and exclusions:**

- a. Shall not physically modify any structure or structural component within the Rail Property in a manner that will impact its structural adequacy or integrity;
- b. Shall not interfere with, limit, or negatively impact:
  - i. inspection and maintenance activities for infrastructure and facilities within or along Rail Property;
  - ii. the safety of rail passengers and workers;
  - iii. visibility of safety-critical information and markings (e.g., signs and signals), nor reduce sight lines;
  - iv. pedestrian paths of travel;
  - v. compliance of Rail Property and its associated facilities with the Americans with Disabilities Act, regulations promulgated thereunder, and/or any Public Right of Way Accessibility Guidelines as set forth in 36 C.F.R. § Pt. 1190, App., and any other applicable federal guidelines or requirements;
  - vi. traffic flow;
- c. Shall not be installed or placed on or within:
  - i. traffic control cabinets, signal control cabinets, or any other safety-related structure or device;
  - ii. noise barriers;

- iii. any surface that is treated and/or requires maintenance, such as concrete surfaces treated with penetrating sealant and the like. Note, this prohibition may not apply to removable banners and panels;
- d. Shall not distract drivers or operators;
- e. Shall not resemble, make use of, or simulate the design, colors or combinations of shapes and colors reserved for traffic control devices;
- f. Shall not include:
  - i. bright or flashing lights;
  - ii. reflective or glaring surface finishes;
  - iii. moving elements (kinetic art) or simulate movement;
- g. Shall not create or cause:
  - i. a roadside hazard as identified in a non-exhaustive list in CTDOT's *Highway Design Manual*, December 2003, as may be revised, at Section.13-3.02 or other prohibitions set forth in the manual;
  - ii. a violation of federal and state law, regulations, rules, or requirements.
- h. Shall exclude:
  - i. any form of advertisement, promotion, or endorsement of, or affiliation with, a commercial product or service, or its/their sale or use; obscene material or nude images;
  - ii. display or depiction of any unlawful conduct, such as the possession of illegal goods;
  - iii. suggestive or expressive messaging of a political, religious, or social nature;
  - iv. images or messaging with potential to incite violence;
  - v. any display of CTDOT logos, tradenames, trademarks, and the like or other material that suggests endorsement by or association with CTDOT, without the explicit written consent of CTDOT;
  - vi. third party names, likenesses, trademarks, logos, designs, or works of art or authorship, without the express written permission of the third party and/or the license of required rights. CTDOT shall rely on Applicant's representation and warranty as to compliance with this section and shall have no obligation to independently confirm; and
  - vii. images, likenesses or caricatures of actual people without the written permission of the person(s) or, in the case of minors, the person's guardian. CTDOT shall rely on Applicant's representation and warranty as to compliance with this section and shall have no obligation to independently confirm.

IV. **Terms and Conditions:**

The following conditions, at a minimum, shall be included in the Artwork license agreement or MOU as executed between CTDOT and the approved Applicant (hereinafter referred to as "Licensee"):

1. Licensee shall be responsible for any and all costs associated with the installation, maintenance (including but not limited to graffiti treatment), repair, and removal of the Artwork, as well as any resulting damage caused to real and personal property, structures or facilities located within the Rail Property or, as applicable, to adjacent property. Notwithstanding subsection 2 of this Section, CTDOT reserves the right to remove, cover, paint over or take any action at any time affecting the Artwork if deemed necessary in its sole discretion. Licensee shall promptly reimburse CTDOT for any and all costs associated with the same.
2. If CTDOT, in its sole discretion, determines that Artwork requires repair, maintenance, or removal (including removal to facilitate CTDOT activities related to the Rail Property and associated structures or facilities, such as inspection, maintenance, repair, replacement, and the like), it will issue written notification directing Licensee to perform such repair or maintenance work (“Work”) or removal at no cost to CTDOT. In the event that Licensee fails to complete the required Work or removal within ten (10) days or other period of time stated in such written notice, CTDOT reserves the right to (a) perform, or have its contractor perform, the Work or removal, and in such case Licensee shall reimburse CTDOT for any and all costs associated with the same; (b) terminate the license agreement; and/or (c) prohibit Licensee from submitting Artwork Applications in the future, in addition to other remedies CTDOT may have under the License Agreement or MOU. CTDOT shall not be responsible for any damage to Artwork resulting from CTDOT’s employees’ or contractor’s Work or removal of the Artwork.
3. In the event the Artwork, or the structure to which the Artwork is affixed, poses an imminent safety risk or hazard, as determined by CTDOT in its sole discretion, CTDOT shall have the right to modify or remove the Artwork without prior notice to Licensee. Licensee shall promptly reimburse CTDOT for any and all costs associated with modification and/or removal of any Artwork performed by CTDOT in order to remove the safety risk or hazard.
4. CTDOT shall not be responsible for damage to Artwork, whether caused by vandals, natural causes, or CTDOT’s personnel, operators, and/or contractors in the course of their general duties and responsibilities.
5. If Licensee removes Artwork pursuant to CTDOT directive, Licensee may request permission to reinstall, at its own expense, the Artwork at the same location, provided there is no safety, maintenance or operational impact requiring CTDOT to terminate the license agreement or MOU.
6. Municipal Licensees shall indemnify, defend and hold harmless the State of Connecticut against all Claims related to the Artwork and the license agreement. If a MOU is executed, such State agency shall be the lead agency with respect to any Claims against the State of Connecticut related to the Artwork.
7. Any Municipal Licensee shall obtain a commercial general liability policy with minimum limit of one million dollars (\$1,000,000) for the duration of the license agreement, with CTDOT listed as an additional insured. A Municipal Licensee

- may request to meet this insurance requirement by way of a self-insurance program subject to review by CTDOT and approval by the Director of State Insurance and Risk Management Board. Licensee or its contractor(s) may be subject to additional insurance requirements from CTDOT when coming on site for the duration of performance of installation, or maintenance/repair work or removal and from the rail operator if a permit to enter is required for the same.
8. Licensee shall not receive a monetary benefit from Artwork on Rail Property.
  9. Licensee represents and warrants to CTDOT that the proposed Artwork shall not contain or include any:
    - a. display of CTDOT logos, tradenames, trademarks, and the like or other material that suggests endorsement by or association with CTDOT, without the explicit written permission of CTDOT;
    - b. third party names, likenesses, trademarks, logos, designs, or works of art or authorship, without the explicit written permission of the third party and/or the license of required rights. CTDOT shall have no obligation to independently confirm the same. It is Licensee's sole responsibility to determine whether the Artwork requires permission of any other party and/or the license of any required rights, and to obtain such permission at its sole expense;
    - c. images, likenesses or caricatures of actual people without the explicit written permission of the person(s) or, in the case of minors, the person's guardian. CTDOT shall have no obligation to independently confirm the same. It is Licensee's sole responsibility to determine whether the Artwork requires permission of any other party, and to obtain such permission at its sole expense.
  10. Licensee shall be responsible for securing any additional permissions from the rail operator, meeting rail operator requirements, and engaging rail operator support services such as flagging, at its sole expense.
  11. In event of a conflict between these Guidelines and the executed license agreement or MOU, the license agreement or MOU shall control and supersede.