

LOCATIONS: Various on State Street
CITY AGREEMENT NO: _____
COUNTY AGREEMENT NO. _____

**LICENSE AGREEMENT REGARDING INSTALLATION, USE,
MAINTENANCE AND REMOVAL OF ART ON STATE STREET**

THIS LICENSE AGREEMENT, for encroachments in the public right of way is made and entered into this _____ day of _____, 2008,

by and between

The **CITY OF SANTA BARBARA**, a municipal corporation, hereinafter referred to as "City",

and

The **COUNTY OF SANTA BARBARA**, a subdivision of the State of California, acting by and through the **SANTA BARBARA COUNTY ARTS COMMISSION**, hereinafter referred to as "Arts Commission".

WITNESS

A. The Redevelopment Agency of the City of Santa Barbara and the Arts Commission have entered into one or more separate Agreements to provide and maintain works of art on State Street, which agreement(s) shall be reviewed separately from this license;

B. The parties to this license desire to implement a program for temporary (less than 12 months) display of borrowed art pieces at certain locations along State Street, City of Santa Barbara, California (hereinafter referred to as "Art Program");

C. City is willing to permit Art Commission to use certain locations along State Street (hereinafter "License Areas") for the installation, maintenance, and removal of art pieces related to said Art Program.

NOW, THEREFORE, in consideration of City allowing the Arts Commission to use said License Areas for installation, maintenance, and removal of art pieces related to said Art Program, the Arts Commission accepts and agrees to the terms, conditions, limitations and provisions of this license, as follows:

1. LIMITS OF LICENSE AREAS. Arts Commission is permitted to install, display and maintain art only in those certain areas that are shown on Exhibits "A-J" as License Areas. City shall provide a foundation and an electrical conduit for each License Area.

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2. COSTS. Arts Commission shall install, maintain, and remove art pieces in said License Areas at no cost to City, except as provided herein. Any lighting installed and energy provided shall be at no cost to City.

3. CONSTRUCTION. All work relating to installation and display of the art pieces in said License Areas shall conform to recognized standards of construction. For the installation of art pieces, Arts Commission shall adhere to the Size and Weight Requirements attached as Exhibit K.

4. MAINTENANCE. Arts Commission shall maintain all art pieces and License Areas in a clean, safe, and orderly manner. Except as may be approved in writing by the City Administrator, the License Areas shall be maintained as a clean and flat brick surface, matching the adjacent paved sidewalk in all respects of pattern, condition, level and subsurface support, at all times when art is not being displayed. The surface of the License Areas shall be restored to that condition on removal of any display and upon termination of this license agreement, for any reason. All utilities and other installations and appurtenances shall be restored to their former condition immediately upon any disruption by reason of any use pursuant to this license agreement.

5. SAFETY. City reserves the right to require the immediate removal of any art display that presents an unacceptable risk of harm to the public.

6. PERMITS. Arts Commission shall obtain all other required approvals and permits prior to installation of art pieces, including, but not limited to, a Public Works Construction Permit and approval for design in accord with City Council direction.

7. REVOCATION FOR CAUSE. Arts Commission agrees that this Agreement may be revoked by City for failure of Arts Commission to comply with any condition contained herein if Arts Commission has not eliminated such noncompliance within thirty (30) days after City gives Arts Commission written notice of noncompliance.

8. REVOCATION UPON NOTICE. City may revoke this Agreement or any part hereof, with or without cause, at the sole discretion of the City, by giving written notice to Arts Commission at least one hundred eighty (180) days prior to the effective date of termination. In such event, Arts Commission shall, at Arts Commission's sole expense, remove any art pieces located in the area to which the revocation applies, and restore the License Areas as shall be required by City. For the purpose of terminating this agreement, the City Administrator is authorized to act on behalf of the City. Notice may be given to the City under any terms of this license agreement by personal delivery to the City Clerk at the Santa Barbara City Hall or by mailing by U.S. mail, first class postage prepaid, to the address of the City identified below. Notice may be given to the Arts Commission under any terms of this license agreement by personal delivery to the Clerk of the Board of Supervisors at the Santa Barbara County Administration Building or by mailing by U.S. mail, first class postage prepaid, to the address of the Arts Commission identified below.

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9. FAILURE TO REMOVE. If Arts Commission fails to remove the art pieces and restore the License Areas where the art pieces were located upon proper request, Arts Commission agrees to allow City to remove the art pieces, restore said License Areas, and charge Arts Commission for costs of removal and restoration.

10. HOLD HARMLESS. Arts Commission hereby agrees to investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss damage, liability, claims, demands, detriments, costs, charges, expense (including attorney's fees) and causes of action of any character which the City may incur, sustain, or be subjected to on account of loss or damage to property or the loss or use thereof and for bodily injury to or death of any persons (including but not limited to the property, employees, subcontractors, agents, and invitees of each party hereto) arising out of or in any way connected with the Arts Commission activities under this Agreement except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the negligence or willful misconduct of the City.

11. INSURANCE.

A. Arts Commission shall carry, during the term of use under this license, Comprehensive Automobile and General Liability Insurance with insurer(s) acceptable to the City with bodily injury and property damage limits of not less than \$1,000,000.00 combined single limit. Such insurance shall include:

1. Extension of coverage to the City, its officers, employees and agents as named or additional insured;
2. A provision that coverage will not be canceled, or subject to material reduction, until at least thirty (30) days' prior written notice has been given to the City Clerk, addressed to P.O. Box 1990, Santa Barbara, CA 93102-1990;
3. A provision that Arts Commission's insurance shall apply as primary, and not in excess of or contributing with, the City;
4. Contractual liability coverage sufficiently broad so as to include the liability assumed by Arts Commission in the indemnity of Hold Harmless agreement included in this Agreement;
5. A Cross Liability Clause, or equivalent wording, stating that coverage will apply separately to each named, or additional insurance, as if separate policies had been issued to each.

B. Arts Commission shall carry, during the term of use under this license, Theft and Vandalism insurance for the Art Program at no additional cost to City.

C. A certificate of insurance supplied by the Arts Commission will be on file in the Public Works Department office. The Arts Commission may substitute a

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comparable program of self insurance for all or part of the above coverage, upon approval of the City Risk Manager.

12. INDEPENDENT CONTRACTOR. The parties intend that no independent contractor or employee relationship is or will be created by this agreement. The conduct and control of the display of art work will lie solely with Arts Commission. Arts Commission is not considered an agent or employee of City for any purpose, and the officers, employees and agents of Arts Commission are not City agents, nor are they entitled to any of the benefits that City provides for City employees.

13. NOTICES TO ARTIST. The Arts Commission shall provide the assurance or waiver of the artist and other owners of copyrights and other artistic and intellectual property rights, as may be required, at the discretion of the City, providing for the removal and or replacement of the work of art at the request of the City, with or without cause, and including assurance that any placement of any work of art pursuant to this license shall not constitute a permanent or long term right or commitment for display or maintenance of the work of art within the City. Such assurance or waiver, as required for the individual work of art, shall be submitted in a form that may be approved by the City Attorney in the best interests of the City and shall be modified and extended as directed by the City Attorney as may be required for such approval.

14. NON-DISCRIMINATION CERTIFICATE. Arts Commission shall comply with the obligations prohibiting discrimination pursuant to all City, County, State and federal law, rules, regulations and ordinances, with performance by the Arts Commission as a contractor with the City of Santa Barbara.

15. INITIAL TERM. The initial term of this agreement shall terminate on June 30, 2013.

16. POSSESSORY INTEREST. Licensee is hereby notified that this license may create an interest in real property that may be subject to a possessory interest tax. Licensee shall be responsible for payment of any possessory interest tax due.

17. EFFECTIVE DATE. This Agreement shall be effective upon execution by the City Administrator.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

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CITY OF SANTA BARBARA, a
municipal corporation

COUNTY OF SANTA BARBARA

James Armstrong,
City Administrator
P.O. Box 1990
Santa Barbara, California 93102

Chair
Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

ATTEST:

ATTEST:

By _____
City Clerk Services Manager

By _____
Clerk of the Board

APPROVED AS TO CONTENT:

APPROVED:
SANTA BARBARA COUNTY ARTS
COMMISSION

Christine Andersen
Public Works Director

Ginny Brush, Director
P.O. Box 2369
Santa Barbara, CA 93120

APPROVED AS TO FORM:
Sarah Knecht
Assistant City Attorney

APPROVED:

Auditor-Controller

APPROVED AS TO INSURANCE:
Brad Landreth
Risk Management

APPROVED AS TO FORM

County Council

APPROVED AS TO INSURANCE
Bobbie Overgaard
Risk Manager