

County of Santa Barbara Agreement # _____
Redevelopment Agency of the City of Santa Barbara Agreement # _____

**REDEVELOPMENT AGENCY AGREEMENT
FOR STATE STREET ART PROJECTS**

THIS AGREEMENT dated and entered into as of _____ 2006, by and between

the **COUNTY OF SANTA BARBARA**, hereinafter referred to as the "County" acting through the **SANTA BARBARA ARTS COMMISSION**, hereinafter referred to as the "Arts Commission";

and

the **REDEVELOPMENT AGENCY OF THE CITY OF SANTA BARBARA**, a public body, corporate and politic, hereinafter referred to as the "Agency";

WHEREAS, the Arts Commission is a commission providing services and advice regarding art to the County of Santa Barbara, a subdivision of the State of California;

WHEREAS, the Agency has undertaken redevelopment activities including the redevelopment of sidewalks along State Street south of Victoria Street within the City of Santa Barbara, County of Santa Barbara; and,

WHEREAS, the City Council of the City of Santa Barbara, referred to herein as the "City", the Agency, the County and the Arts Commission wish to provide the temporary display of works of art along State Street; and,

WHEREAS, the Agency and the Arts Commission intend to work together to obtain and introduce the display of works of art on a temporary basis along State Street, and in certain other locations upon mutual agreement, in accordance with the terms, provisions and limitations of this agreement,

NOW, THEREFORE, the parties agree to coordinate, manage and implement the elements of this agreement in accordance with the following terms, provisions, limitations and conditions:

1. DESCRIPTION OF PROJECT The Arts Commission shall obtain for display, install and maintain no less than eight works of art on sites selected along State Street, and at such additional locations as the parties may choose within the City of Santa Barbara, which sites shall be selected in conformity with a process approved by the City Council of the City of Santa Barbara and specified in one or more license agreements that the Arts Commission shall obtain from the City. Possession of an approved license agreement from the City and other evidence of consent to use the site selected for display, shall be a prerequisite to the installation of any piece of art pursuant to this agreement. The Arts Commission shall be responsible for finding, selecting and proposing to City the

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works of art that are suitable for display. Particular works to be displayed shall be approved in accordance with a process established by the Santa Barbara City Council. The Arts Commission shall be responsible to remove such works of art and to restore the sidewalk to the condition required in the license agreement issued for the work. The Arts Commission shall be responsible to remove such works of art and to restore the premises of other property not covered by the license from the City, as may be required in the consent to use such property. It is understood that displays pursuant to this agreement are intended to be temporary in nature and that displays of particular works of art may be replaced with other works of art from time to time. It is also understood that City has the absolute discretion, with or without cause, to require the Arts Commission to remove any work of art displayed pursuant to this agreement at any time.

2. TERM The term of this agreement shall commence on the date of approval by the County and shall end on June 30, 2008 unless sooner terminated by the terms of this agreement or extended by the mutual written agreement of the parties. This Agreement may be extended by one or more years upon the written approval of the Santa Barbara County Board of Supervisors and the Board of Directors of the Redevelopment Agency of the City of Santa Barbara.

3. RELATIONS WITH OWNERS OF ART The Arts Commission, and not the Agency or City, shall be responsible for entering into agreements and other arrangements with the artists, brokers, or owners of the works of art displayed under this agreement in order to secure the rights to display the same. All such agreements shall provide that the display of the work is to be temporary in nature and shall acknowledge the absolute discretion of the City to require its removal at any time. The Arts Commission shall maintain with the Agency, a current copy of all agreements regarding placement of art work, including, without limitation, all agreements with the Downtown Organization, the artist(s), the brokers for art, the galleries, the liaison and other agreements regarding the art to be displayed pursuant to this agreement. As a condition to the display of any work, the Arts Commission shall obtain from the artist or owner thereof a waiver, in a form satisfactory to the City Attorney, of the provisions of 17 U.S.C. §106A, of California Civil Code §§987 and 989, and of all similar provisions of law.

4. COMPENSATION In consideration of satisfactory performance of services, the Agency shall reimburse the Arts Commission for costs, expenses and charges incurred for performance and administration of this program, in an amount to be agreed upon through the execution of specific grant agreements as approved by the Agency Board. Redevelopment Agency funding for this program, or similar programs, is in no way implied or guaranteed. The Arts Commission will be compensated for the reasonable and necessary costs incurred to obtain, display, clean, remove, restore, insure, transport, and remediate for, such art work in an amount that shall not exceed the approved budget, for all purposes for the art program. Claims for reimbursement shall be submitted pursuant to a budget approved, in advance, by the Agency and approved through a specific grant agreement. Such claims shall be submitted in regular monthly intervals to Agency and shall be accompanied by such information as Agency reasonably may require verification

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that the expenses have been incurred in order to implement the terms of this agreement. All claims must be consistent with the Agency approval given for the project budget.

5. COST RECORDS The Arts Commission shall keep records concerning payment items on a generally recognized accounting basis and such records shall be maintained for a period of five years following payment. Such records shall be made available for copying, inspection, or audit by Agency and/or Santa Barbara City employees or independent agents or auditors during reasonable business hours.

6. SAFETY, PROPER INSTALLATION OF WORK The installed works shall be exposed to the direct effects of the sun and weather, and shall be located in public areas subject to heavy pedestrian traffic. The works shall be fit for display in such a location and shall be installed in conformity with all applicable standards, permits and regulations and in a manner to protect the safety of the public.

7. TERMINATION This agreement may be terminated with or without cause by either the Agency or the Arts Commission, at any time by giving the other no less than thirty (30) days notice in writing. In the event of such termination, Arts Commission shall be compensated for such percentage of the approved budget as the public display of art, to the point of termination, bears to the proposed six-month display of the pieces of sculpture.

8. CHANGES The Agency or the Arts Commission may, from time to time request changes in the services to be performed hereunder. Such changes including any increase or decrease in the amount of compensation, which are mutually agreed upon in writing by and between the Agency and the Arts Commission, shall be incorporated into this agreement. Neither party shall be under any obligation to agree to such a request.

9. INDEPENDENT CONTRACTOR The parties agree that the Arts Commission is an independent contractor to the Agency, not its employee, and therefore neither the Arts Commission, the artist, broker, the owner of the art, nor any of their agents or employees are entitled to salary, benefits, privileges or other rights of an employee of the Agency.

10. DEFENSE, INDEMNITY AND HOLD HARMLESS Arts Commission shall not be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Agency under or in connection with any work, authority or jurisdiction delegated to Agency under this agreement. It is also agreed that Agency shall indemnify and hold Arts Commission harmless from any liability imposed for injury (as defined by California Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Agency under or in connection with any work, authority or jurisdiction delegated to Agency under this agreement.

Neither Agency nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Arts Commission under or in connection with any work, authority or jurisdiction delegated to Arts Commission under this agreement. It is also agreed that Arts Commission shall

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indemnify and hold Agency harmless from any liability imposed for injury (as defined by California Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Arts Commission under or in connection with any work, authority or jurisdiction delegated to Arts Commission under this agreement.

11. INSURANCE As part of the consideration for this agreement, Arts Commission agrees to purchase and maintain at its sole cost and expense during the term of the agreement the following insurance with an insurer or insurers satisfactory to the City Risk Manager:

a. Combined single limits of not less than one million (\$1,000,000) dollars of Comprehensive General Liability Insurance, including Bodily Injury and Property Damage and one million (\$1,000,000) dollars of Comprehensive Automobile Liability Insurance, including Bodily Injury and Property Damage. This insurance shall include:

1) Extension of coverage to the Agency, the City, their officers, agents and employees, as additional insureds, with respect to Arts Commission liabilities hereunder in insurance coverages identified above;

2) A provision that coverage will not be canceled or subject to 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, Calif. 93102-1990;

3) A provision that Arts Commission insurance shall apply as primary, and not excess of, or contributing with, the Agency or the City;

4) Contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the Arts Commission in the indemnity and hold harmless provisions of this agreement;

5) A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each;

6) A broad form property damage endorsement; and,

7) A provision that the policies be provided on an "occurrence" basis.

b. Statutory Workers' Compensation and Employer's Liability Insurance, with an insurance company acceptable to City Risk Manager, which shall cover all employees while performing any work incidental to the performance of this agreement;

c. The provisions of this section may be satisfied by application of a self-insurance program consistent with the terms hereof and approved by the Santa Barbara City Risk Manager.

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d. Approval of insurance by the Agency or City or acceptance of the certificate of insurance by Agency or City shall not relieve or decrease the extent to which the Arts Commission may be held responsible for payment of damages resulting from Arts Commission services or operation pursuant to the agreement, nor shall it be deemed a waiver of Agency's rights to insurance coverage hereunder.

e. Current Certificates of Insurance on forms supplied by the City and evidencing the above coverage, shall be completed by the Arts Commission insurer or its agent and submitted to City prior to execution of this agreement by Agency.

12. INTERPRETATION The provisions of this agreement should be liberally construed to effect its purposes. The language of all parts of this agreement shall be construed simply according to its plain meaning and drafting shall not be construed for or against any party, as each party participated in the drafting of this document and has had the opportunity to have legal counsel review it.

13. VOID PROVISIONS If any term, provision, covenant or condition of this agreement shall be or become illegal, null, void or against public policy, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining provisions of this agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. The term, provision, covenant or condition that is so invalidated, voided or held to be unenforceable shall be modified or changed by the parties to the extent necessary to carry out the intentions of this agreement.

14. NOTICE All notices, approvals, acceptances, demands and other communications required or permitted hereunder, to be effective shall be in writing and shall be delivered either in person or by mailing the same by United States mail, first class postage prepaid, or by Federal Express or other similar overnight delivery service, prepaid, to the party to whom the notice is directed at the address of such party as follows:

To: City of Santa Barbara, Community Development Department
Division of Housing and Redevelopment
Attention: Housing and Redevelopment Manager
630 Garden St., P.O. Box 1990
Santa Barbara, California 93102-1990

With a copy to:

Santa Barbara City Clerk at City Hall
P.O. Box 1990
Santa Barbara, California 93102-1990

To: The County Arts Commission
Executive Director
P.O. Box 2369
Santa Barbara, California 93120-2369

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With a copy to:

Clerk of the Santa Barbara Board of Supervisors
105 East Anapamu Street
Santa Barbara, California 93101

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date and any written communication given by overnight delivery service shall be deemed delivered one (1) business day after the dispatch date. Any party may change its address by giving the other party written notice of its new address as provided above.

15. NONDISCRIMINATION Parties shall observe restrictions against discrimination as provided by City ordinance, County ordinance, U.S. and California law.

16. NO RIGHTS CREATED FOR THIRD PARTIES Nothing in this agreement whether express or implied, is intended to confer any rights or remedies under or by reason of this agreement on any persons other than the City, Agency and the Arts Commission and their respective successors and assigns, nor is anything in this agreement intended to relieve or discharge the obligations or liability of any third persons to any party to this agreement, nor shall any provision give any third persons any right or subrogation or action over or against any party to this agreement.

17. AMENDMENTS This agreement may be amended at any time by one or more supplemental agreements in writing, executed by the Agency and the Arts Commission.

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

REDEVELOPMENT AGENCY OF THE CITY
OF SANTA BARBARA

COUNTY OF SANTA BARBARA

By _____
James L. Armstrong, Executive Director

By _____
Joni Gray
Chair, Board of Supervisors

ATTEST:

ATTEST:

By _____
Paul Casey
Assistant Agency Secretary

By _____
Michael Brown
Clerk of the Board of Supervisors

APPROVED AS TO CONTENT:

APPROVED AS TO CONTENT:

By _____
David Gustafson
Housing and Redevelopment Manager

By _____
Ginny Brush, Executive Director
Santa Barbara County Arts Commission

APPROVED AS TO FORM:

APPROVED:

By _____
Stephen P. Wiley
Agency Counsel

By _____
Robert W. Geis, Auditor-Controller

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By _____
Brad Landreth
Risk Management Manager

By _____
Stephen Shane Stark, County Counsel

APPROVED AS TO FORM:

By _____
Bobbie Overgaard
Risk Manager

Fund: 1001
Dept: 052
Acct: 4925