

SAMPLE ARTIST RESIDENCY AGREEMENT

This Artist Residency Agreement (“Agreement”), entered into as of _____, 20__ (“Execution Date”), by and between the City of Santa Monica (“City”) and _____, a _____ (“Artist”), is made with reference to the following:

RECITALS:

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City and Artist now desire to enter into an agreement for the Artist to provide services consisting of an Artist Residency in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

TERMS AND CONDITIONS

- 1. **Term.** This Agreement begins on the Execution Date and terminates at the conclusion of the of the last event listed in the Schedule of Services and Compensation attached hereto as Exhibit A, unless sooner terminated in accordance with Section 12 or extended by the parties in writing.
- 2. **Artist Services.** Artist shall provide artistic services (“Services”) for an Artist Residency at the Annenberg Community Beach House, 415 Pacific Coast Highway, Santa Monica ("Facility") in accordance with the Schedule of Services and Compensation attached as Exhibit A. Artist agrees to comply with the City's Facility Use Guidelines attached as Exhibit B for the use of the Facility.
- 3. **Compensation.** The City will provide compensation to the Artist in the form set forth in the Schedule of Services and Compensation attached as Exhibit A.
- 4. **Notices.** All notices, demands, requests or approvals to be given under this Agreement, must be in writing and will be deemed served when delivered personally, by email, or on the third business day after deposit in the United States mail, postage prepaid, registered or certified, addressed as follows:

4.1 All notices, demands, requests or approvals to the City:

Santa Monica Cultural Affairs City of Santa Monica
PO Box 2200, Santa Monica, CA 90407
Attention: Naomi Okuyama, Cultural Affairs Coordinator

4.2 All notices, demands, requests or approvals to Artist:

- 5. **Independent Parties.** Both parties to this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers of one another. Neither the City nor its

officers or employees will have any control over the conduct of Artist or any of Artist's agents or employees, except as otherwise provided in this Agreement.

6. **Integrated Contact.** This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties. Any preliminary negotiations and agreements of any kind or nature are merged into this Agreement. No oral agreement or implied covenant may be held to vary the provisions of this Agreement. This Agreement may be modified only by written agreement signed by City and Artist, and approved as to form by the City Attorney.
7. **Insurance.** Unless waived by the City's Risk Manager in writing, prior to commencing work, Artist must procure, maintain and pay for insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the Services by Artist or Artist's agents, representatives or employees for the duration of this Agreement. Artist must obtain insurance that, at a minimum, meets the requirements for insurance set forth in Exhibit C, Insurance Requirements and Verifications.
8. **Defense and Indemnification.** Artist agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, boards and commissions, and employees (collectively, "City") from and against any and all liability, claims, demands, damages, or costs, including but not limited to attorney's fees, or payments for injury to any person or property (collectively, "Losses") caused or claimed to be caused by the errors or omissions of Artist or Artist's employees, agents, or officers. Artist's responsibilities under this Section 10 include liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, which may be in combination with the acts or omissions of Artist, its employees, agents or officers; provided, however, that Artist's duty to defend, indemnify, protect and hold harmless shall not include any Losses arising from the sole negligence or willful misconduct of the City.
9. **Prohibition Against Transfers.** Artist may not assign, hypothecate, or transfer this Agreement or any interest therein directly or indirectly, by operation of law or otherwise without the prior written consent of City.
10. **Default and Termination.** If Artist fails or refuses to perform any of the provisions of this Agreement, and if the default is not cured within a period of five days after the City's written notice of default specifying the nature of the default, City may immediately terminate this Agreement by written notice to Artist. In addition, the City has the option, at its sole discretion and without cause, of terminating this Agreement by giving ten days' written notice to Artist. Upon termination of this Agreement, City will pay Artist any compensation earned and unpaid up to the effective date of termination.
11. **Compliance with Law.** Artist must comply with all laws of the State of California and the United States, and all ordinances, rules, and regulations enacted or issued by City.
12. **Discrimination.** Artist may not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, sexual orientation, marital status, AIDS or disability.
13. **Nuisance.** Artist may not maintain, commit, or permit the maintenance or commission of any nuisance in connection with the performance of services under this Agreement.
14. **Standard of Care.** Artist agrees to provide all Services in a manner consistent with the level of care and skill ordinarily exercised by members of Artist's profession currently practicing in the same locality under similar conditions.

15. **Governing Law.** The laws of the State of California, without regard to any choice of law provisions, will govern this Agreement.

16. **Venue and Jurisdiction.** The City and Artist agree that the Services will take place in Los Angeles County. Any litigation arising out of this Agreement may only be brought in either the United States District Court, Central District of California, or the Superior Court of California, County of Los Angeles, West District, as appropriate. The parties agree that venue exists in either court, and each party expressly waives any right to transfer to another venue. The parties further agree that either court will have personal jurisdiction over the parties to this Agreement.

17. **Exhibits.** The following exhibits are incorporated by reference into this Agreement as though fully set forth herein.

- Exhibit A Schedule of Services and Compensation
- Exhibit B Facility Use Guidelines
- Exhibit C Insurance Requirement

18. **Photo Release.** Artist hereby consents to photographs, sound recordings, and all reproductions in any other manner (including video and audiotapes) of the likeness, voice and activities of Artist at the Engagement and further authorizes City, its agents or assigns, to make unlimited use of such reproductions, including, but not limited to for advertising, publicizing, documenting, distributing, exhibiting, and broadcasting to the public over the radio, television, film, web, internet, social media or any other means, media, devices, processes and technology now or hereafter known.

19. **Publicity.** Artist agrees not to generate any written, audio or visual publicity regarding City sponsored activities without prior written approval from City. Artist agrees not to promote non-City activities at City facilities or with City equipment without prior written approval from City.

In witness whereof, the parties have caused this Agreement to be executed the day and year first above written.

ATTEST:

CITY OF SANTA MONICA,
a municipal corporation

DENISE ANDERSON-WARREN
City Clerk

By: _____
RICK COLE
City Manager

APPROVED AS TO FORM:

MARSHA JONES MOUTRIE
City Attorney

Artist

By: _____
XXXXX, Xxxxxxxx

CITY OF SANTA MONICA - ANNENBERG COMMUNITY BEACH HOUSE

EXHIBIT C: Insurance Requirements and Verifications

Minimum Scope/Limits of Insurance

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering GCL on an "occurrence" basis, including products-completed operations and personal & advertising injury, with limits of no less than \$1,000,000 per occurrence.
2. Workers' Compensation and Employer's Liability Insurance: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease (see footnote #1).

If the Instructor maintains higher limits than the minimums shown above, the City of Santa Monica requires and shall be entitled to coverage for the higher limits maintained by the Instructor.

Other Insurance Provisions

1. The insurance policies are to contain, or be endorsed to contain, the following provisions:
 - a. Additional Insured Status (CGL policy): The City of Santa Monica, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Instructor including materials, parts or equipment furnished in connection with such work or operations.
 - b. Primary Coverage (all policies): For any claims related to this contract, the Instructor's insurance shall be primary as respects the City of Santa Monica, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City of Santa Monica, its officers, officials, employees or volunteers shall be in excess of the Instructor's insurance and shall not contribute with it.
 - c. Notice of Cancellation (all policies): Each insurance policy required herein shall state that coverage shall not be cancelled except after notice has been given to the City of Santa Monica.
 - d. Waiver of Subrogation (all policies): Instructor hereby grants to the City of Santa Monica a waiver of any right of subrogation which any insurer of said Instructor may acquire against the City of Santa Monica by virtue of payment of any loss. Instructor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City of Santa Monica has received the a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers with a current a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the City of Santa Monica.

Verification of Coverage

Instructor shall furnish the City of Santa Monica with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required herein. All certificates and endorsements are to be received and approved by the City of Santa Monica before work commences. However, failure to obtain required documents prior to the work beginning shall not waive the Instructor's obligation to provide them. The City of Santa Monica reserves the right to require complete, certified copies of all required insurance policies, including the endorsements required herein, at any time.

Footnotes

1: Workers' Compensation insurance is not required if the Instructor does not have employees. The Instructor must, however, execute the City's Workers' Compensation Coverage Exemption Form.