



TOWN OF YOUNTVILLE PUBLIC ART DISPLAY AGREEMENT WITH A PRIVATELY OWNED ART GALLERY FOR LONG TERM LOANED ART

This Agreement is made between _____ (hereafter referred to as "Gallery") and the Town of Yountville, a municipal corporation, (hereafter referred to as "Town").

RECITALS

WHEREAS, Gallery wishes to provide a piece art (hereafter referred to as "Work") titled " _____" for display on the Yountville Art Walk for public view and enjoyment; and

WHEREAS, the Town wishes to provide a temporary location for the display of " _____" for public view and enjoyment.

THEREFORE, Gallery and Town agree as follows:

1. **The Work:** The Work to be displayed is entitled _____ and consists of _____ (materials).

The value of the Work is listed at \$ _____. (Documentation required)

The Work is depicted and described in detail in Attachment 1 to this Agreement, which is incorporated herein by this reference.

2. **Term:** The term of this agreement is for two years commencing on _____ and terminating on _____. If mutually agreed upon by the Artist and the Town, this agreement can be extended. The Work shall be displayed for the duration of the contract unless sold. Should the sculpture sell during the contract period, the artist is encouraged to replace the sculpture with another, subject to approval of the Yountville Arts Commission.

3. **Location:** The location for installation of the Work shall be _____.

4. **Art for Sale:** Gallery agrees that the Work is For Sale and the listed price of the work will be \$_____. Gallery agrees that the Yountville Arts Commission will receive a _____ % commission if the Work or duplications of the Work is sold for the duration of this contract and its extensions. (*Please write N/A and strike this section if the Work is not for sale.*)
5. **Installation:** A written plan for the installation of the Work (installation plan) is appended to and made a part of this Agreement. Gallery will manage and complete the installation, in coordination with Town.
7. **Maintenance:** Gallery warrants that the Work is intended to be displayed outdoors, and shall be responsible for any protective measures required for such display. Town shall reasonably clean the Work while on display. Gallery shall maintain the Work so that it does not deteriorate in an aesthetic or functional manner. Town reserves the right to inspect and review the Work periodically for safety and maintenance issues. Town reserves the right to maintain the Work at Gallery's expense if Gallery is given written notice of the need for maintenance and Gallery fails to provide maintenance by a reasonable deadline communicated to Gallery in writing.
8. **Insurance:** The Town will provide property insurance coverage for the value of the Work through the Town's coverage's as a part of its PARSAC membership.-Gallery to provide photographs, narrative of the art, and art valuation declaration to the Town for addition to property insurance carrier for coverage on Town program.
9. **Removal:** If the Work poses any threat to public safety, Town may remove the Work without first notifying Gallery. Town may notify Gallery requesting repair or removal if a piece is damaged or is not adequately enduring the exposure outdoors. Gallery will not remove the Work for any reason or for any length of time during exhibition period without a written request and agreement with the Town. If the Work is sold during the course of this term, the Artist will have the option to remove the piece and submit a new application for a replacement piece in that location with 30 days of its removal and under a new agreement. The Town is under no obligation to accept the replacement piece.
10. **Marketing and Promotion:** Gallery will provide a narrative about the sculpture, Artist bio, Artist contact information, and pricing that can be incorporated in a Town provided plaque adjacent to the art installation and/or on the website and for promotional purposes. Gallery hereby grants the Town a non-exclusive license to use this information for marketing of the Art Walk, Art Programs, the Work, and Gallery warrants that it has the legal right to grant the Town such license.
11. **Status of Gallery:** Any services performed by Gallery, its officers, agents, employees and/or volunteers, will be performed as an independent contractor and in pursuit of those persons' independent calling, and not as an employee of Town. Gallery, its officers, agents, employees and/or volunteers shall not be considered an employee of the Town for any purpose or under any circumstance.
12. **Indemnification:** Gallery will defend, indemnify and hold harmless Town, and its officers, agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of this Agreement including, but not limited to, the Town's use of information regarding the Work for promotional purposes, caused in whole or in part by the willful misconduct or any negligent an act or omission of Gallery, any subcontractor of

Gallery, anyone directly or indirectly employed by Gallery or anyone for whose acts Gallery may be liable, except where caused by and only to the extent of the active negligence, sole negligence, or willful misconduct of Town. Gallery will defend, indemnify and hold harmless the Town, and its officers, agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees brought by or on behalf of the artist of the Work. The Town will defend, indemnify and hold harmless Gallery, and Gallery's agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of this Agreement, caused in whole or in part by the willful misconduct or any negligent act or omission of the Town, any subcontractor of the Town, anyone directly or indirectly employed by the Town or anyone for whose acts the Town may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of Gallery. Town and Gallery expressly agree that any reasonable payment, attorney's fee, costs or expense Town incurs or makes to or on behalf of an injured employee under the Town's workers' compensation plan is included as a loss, expense or cost for the purposes of this section. This section will survive the expiration or early termination of the Agreement.

13. **Compliance with Laws:** Gallery will comply with all applicable local, state, and federal laws and regulations prohibiting discrimination and harassment.
14. Gallery must have and maintain a Town of Yountville **Business License** during the duration that the Work is displayed in the Town of Yountville.
15. **Termination:** Town or Gallery may terminate this Agreement ten days after written notice to the other party. Gallery will have 15 days after the termination date to remove the piece of art unless an alternative timeline is agreed upon in writing. If agreement is terminated by less than 2 years after installation, a pro-rated amount of the stipend, on per-month calculation, must be returned to the Town.
16. **Venue and Jurisdiction:** Gallery agrees and stipulates that the proper venue and jurisdiction for resolution of any disputes between the parties arising out of this Agreement is the Superior Court, Napa County, California.
17. **Assignment:** Gallery may not assign this Agreement or any part of it without the prior written consent of Town.
18. **Amendments:** This Agreement may be amended by mutual consent of Town and Gallery. Any amendment will be in writing, signed by both parties, with a statement of the changes.
19. **Entire Agreement:** This Agreement, together with the attached exhibits, embodies the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede any other attachment or exhibit. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties.
20. **Notice:** Any notices required by this Agreement shall be sent to the following addresses:

To Town:

Town of Yountville

Samantha Holland, Parks & Recreation Director

6550 Yount Street
Yountville CA 94599
Telephone: (707) 944-8712
sholland@yville.com

To Gallery:

18. **Waiver:** Gallery warrants that it has the legal right to, and hereby does, waive all rights under the Visual Artists Rights Act of 1990 (VARA) and California Civil Code section 987 (Art Preservation Act) regarding the Work for the term of this agreement. A copy of the agreement between Gallery and the artist of the Work, granting Gallery the rights contemplated by this paragraph, is attached hereto as Exhibit A and fully incorporated herein by this reference.
19. **Copyright and Use of the Work:** Gallery warrants that it has the legal right to grant the Town, and hereby grants the Town, a non-exclusive irrevocable license to photographically reproduce images of the Work, and to authorize third parties to photographically reproduce any and all of the same, as desired by the Town, without prior approval of or compensation to Gallery or the artist of the Work, for educational, public information, advertising or promotional purposes. On each such reproduction, Gallery and the artist of the Work shall be acknowledged. A copy of the agreement between Gallery and the artist of the Work, granting Gallery the rights contemplated by this paragraph, is attached hereto as Exhibit A and fully incorporated herein by this reference.

ON BEHALF OF GALLERY:

Signature: _____

Name: _____

Its: _____

Date: _____

ON BEHALF OF TOWN:

Signature: _____

Name: _____

Its: _____

Date: _____

ATTACHMENT 1

<i>Artist Name:</i>		
<i>Address:</i>		
<i>Phone:</i>	<i>Email:</i>	
<i>Title of Work:</i>		
<i>Size of Work:</i> (H)	(W)	(D)
<i>Materials:</i>		

NARRATIVE

Please describe the Work in detail for marketing and insurance purposes.

ARTIST BIO

INSTALLATION PLAN

Please explain in detail installation plan and needs.

CLEANING INSTRUCTIONS

ATTACH PHOTOGRAPH/S OF WORK

EXHIBIT A

(Agreement between Gallery and Artist of the Work for Display, Reproduction of Images, and Authority to Grant Copyright License Contemplated by Agreement)