CITY CLERK
ORIGINAL

C-10382
10/02/2015

City of Glendale
Public Art Program
5959 West Brown Street
Glendale, AZ 85302
www.glendaleaz.com/arts

Gallery Program Exhibition Agreement
(Individual Artists Only)

Artist: Emily Costello

Contact Person: Emily Costello

Address: **1214 E. Pedro Road**
Phoenix, AZ 85042

Phone: **602-694-5188**

E-mail: **emcostello1@cox.net**

Exhibition Period: 10/02/15 **to** 10/31/15

Exhibition Location: **Gallery Glendale at Westgate**
9380 W. Westgate Blvd. - Suite D-102
Glendale, AZ 85305

1. **General.** Emily Costello ("Artist") agrees to lend to the City of Glendale ("City") certain artwork ("Artwork") for exhibit at the Westgate Entertainment District located in Glendale, Arizona, further identified in Exhibit A ("Exhibit Location"). Artist shall not terminate the loan of the Artwork during the exhibition period stated above. Artist and the City may extend the exhibition period under the same terms and conditions of this Gallery Program Exhibition Agreement ("Agreement") and any extension shall be in writing.

2. **Location.** Artist understands that the Artwork loaned will be displayed in a public place and not a fully secured or environmentally controlled facility. Artist warrants that it has inspected the Exhibition Location and that the Exhibit Location is suitable for display of all Artwork.

3. **Insurance Requirements. As a general policy, the City requires artist guilds and other artist co-operatives and non-profit associations to provide specific proof of insurance as outlined in Insurance Option A below.**

   In order to allow individual artists not affiliated with any artist co-operative, group, or association the opportunity to display their Artwork to a wider audience, the artist may desire to forego Insurance Option A, and elect Non-Insurance Option B. Without question, the City encourages all artists to properly insure their Artwork as outlined in Insurance Option A.

   ☐ **Option A.**

   3.1 Artist shall maintain, at his or her sole expense, the following types of insurance coverage or programs of self-insurance coverage as required by statute and attached as Exhibit B:

   3.2 Workers' Compensation Insurance as required by law.

   3.3 Commercial General liability Insurance or statutory self-insurance as authorized for Arizona municipalities against any and all damages and liability, including attorneys' fees on account

of or arising out of, injuries to, or the death of, any person, or damages to the property, however occasioned in, on, or about the Exhibit Location (with the Artist's insurance to cover the Exhibit Location) with at least a single combined liability, liquor liability, and property damage limit of One Million and No/100 Dollars ($1,000,000.00), which policy maintained by Artist shall name the City of Glendale as an additional insured.

3.4 Each policy shall (a) be issued by insurance companies licensed to do business in the State of Arizona, and acceptable to the City, (b) name the parties listed below and their respective affiliates, officers, directors, employees, agents and assigns as additional insured's, (c) be primary and noncontributing with respect to any coverage that the Artist may carry and the Certificate of Insurance must contain the following statement (by attachment, if necessary): 'This insurance shall be primary and non-contributing with respect to any coverage that Artist may carry for losses arising out of the Named Insured's operations.", (d) provide that it shall not be canceled or materially changed without thirty (30) days prior written notice to the other party, and (e) be endorsed to provide that the City's and Artist's underwriters and insurance companies shall not have any right of subrogation against the other party. An original copy of the insurance certificate shall be given to the City prior to the commencement of the exhibition. The obligations contained herein are separate and distinct from all other obligations set forth in this Agreement, and are in no way intended to merely support the Artist's duty to indemnify set forth in this Agreement.

☐ **Option B.**

3.5 Artist has declined Insurance Option A. Under this Option B, artist declares; 1) that he or she has already personally insured the Artwork; 2) that he or she has reviewed all of the terms of this Agreement including Insurance Option A; and 3) having understood Option A, has elected Non-Insurance Option B. By electing this Non-Insurance Option B, Artist acknowledges and affirms that, as consideration for the City granting the opportunity to display the artist's Artwork, Artist waives any right to hold the City responsible for any and all damages, liability, fault, expenses, or compensation in connection with any claim, loss, damage, theft, or vandalism of the Artwork from any cause whatsoever, whether caused by any person, entity, or chain of events. The full force of the Indemnity provision of this Agreement is incorporated herein as if fully set forth in this sub-section for Artist's definitive acknowledgement and agreement.

4. **Inventory of Artwork.** An inventory that lists each Artwork to be exhibited ("Inventory") shall be provided to the City at the beginning of the exhibition period and shall be attached to this Agreement as Exhibit C. This Inventory shall include for each piece the full appraised value, or Artist's estimated value for purposes of insurance, the name of the legal owner ("Owner") of the piece (if other than the Artist), the year the piece was created, the medium of the piece and its dimensions (from furthest point to furthest point).

5. **Artist Responsibilities.**

5.1 Artist must have the legal authority to permit the display of the Artwork listed in the Inventory.

5.2 Artist must have all exhibit and signage items delivered to the gallery or to a designated city facility on an agreed upon date and time set by the City Arts Coordinator.

5.3 Artist must hang an identification tag next to the Artwork describing the title, artist and creation date. A depiction of an acceptable identification tag is attached as Exhibit D.

5.4 Unless Artist has elected Non-Insurance Option B, prior to the installation of the Artwork, Artist must provide proof of property coverage on a replacement-cost basis including coverage for fine arts to cover property damage. "Fine arts" is defined as paintings, etchings, pictures, tapestries, art-glass windows, and other bona fide works of rarity, historical value, or artistic merit. The City is not responsible for any loss, injury or damage to Artist's or Owner's Artwork, whether it is insured or not, personal property (including fine

arts), or equipment. The Artist agrees to waive all rights of subrogation against the City and all of its officers, officials, agents and employees.

5.5 Artist may sell Artwork from the Exhibition Location, but will be required to pay the City 30% of the final sales price. The fee and a receipt for the sale must be submitted the last day of the exhibition. Artist is responsible for acquiring the necessary business license(s) authorizing the sale. Artist will provide an accounting of sales generated from the sale of Artwork at the end of the Exhibition.

5.6 Artist may be present at the gallery at any time during the period of this agreement. The artist may display its own business information and the business information of its sponsors with prior written approval from the City Arts Coordinator.

5.7 Artist is required to obtain the appropriate wine/beer permit in the event that wine or beer is served during the exhibition period.

5.8 Artist may not display any Artwork beyond the indoor boundaries of the Event Location.

5.9 Artist or its authorized agent must be present to retrieve the Artwork at a previously agreed upon date and time set by the City Arts Coordinator after the final day of the exhibition.

5.10 If Artist fails to pick up the Artwork from the Exhibit Location pursuant to Section 5.11, City shall have the right to place the Artwork in storage. Artist shall bear the risk of loss or damage while the Artwork is in storage. City shall charge Artist reasonable storage fees and costs. Furthermore, City may seek any and all legal remedies at its disposal to collect the reasonable storage fees and costs. Any Artwork not reclaimed within seven (7) years after the expiration of the exhibition period shall be deemed an irrevocable gift to the City in consideration for all unpaid fees and costs under A.R.S. § 44-351 *et seq.* as may be amended.

5.11 Artist shall notify the City of any change of address during the loan period.

6. **City Responsibility.**

6.1 City personnel will be available to co-ordinate the set-up and take-down of the Artist's Artwork during normal business hours of 8:00 a.m. – 5:00 p.m.

6.2 The City will provide cleaning services at no cost to the Artist one time per week. Artist must maintain the Exhibit Location in a clean and orderly condition.

6.3 The City reserves the right to remove Artwork at its discretion and the right to limit the number of pieces on exhibit.

6.4 The City is required to keep the Exhibition Location open from 6:00 p.m. to 9:00 p.m. on Fridays and Saturdays throughout the exhibition period. At its sole discretion, the City may keep the Exhibit Location open beyond those hours.

7. **Indemnity.** Artist agrees to hold harmless, indemnify, and defend the City and all of its officers, agents and employees from and against all claims, damages, losses, and expenses asserted against or suffered by the City in connection with, or arising out of, the installation and display of the Artwork.

8. **Miscellaneous.** This Agreement shall be interpreted in accordance with the laws of the State of Arizona. Should any dispute arise, the parties shall submit to the jurisdiction of the Maricopa County Superior Court. The party prevailing in any litigation based upon this Agreement shall be entitled to costs. All parties shall, however, bear their own attorneys' fees regardless of the outcome of any dispute. This Agreement shall be binding upon and shall inure to the benefit of Artist's heirs, successors, and assigns.

"Artist":

Emily Costello

"City":

CITY OF GLENDALE

10.2.15

Erik Strunk, Director
Community Services Department

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

EXHIBIT A

Site Plan of Gallery License Area

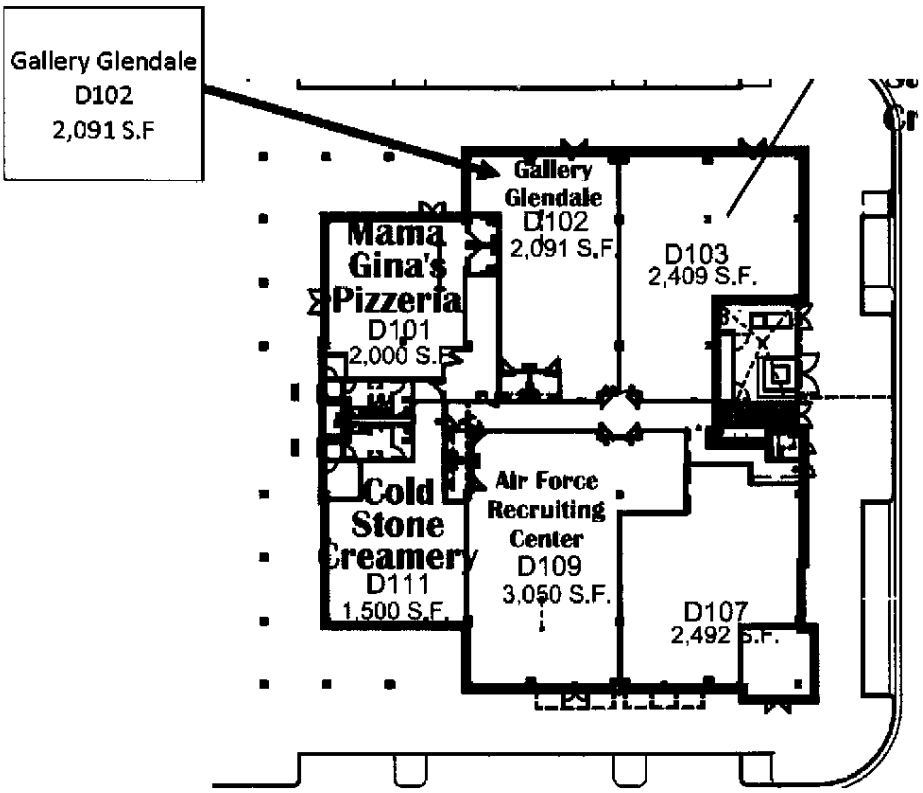

EXHIBIT B

Insurance Certificate

See Attached

EXHIBIT C

Inventory of Artwork

See Attached

EXHIBIT D

Art Identification Tag

Sample: 3 x 5 artwork tag/sign

Jane Smith

Favorite Spot in the Park

2011 • Pastel • 24 x 32

$200.00