



**City of San Benito
ARTWORK LOAN AGREEMENT**

This Artwork Loan Agreement is entered into by _____* _____ (Lender) and the City of San Benito as follows:

Exhibition Title:

CONJUNTO IN MY BACKYARD (April 23 – May 29, 2020)

Exhibition Commencement/Termination Dates and Location:

April 13, 2020 – June 5, 2020 (Opening Reception: April 23, 2020, 6pm – 8pm)

San Benito Cultural Heritage Museum, 250 E. Heywood St., San Benito, TX 78586

Lender and Address:

*

Home Telephone:

*

Office:

Lender Email Address: *

Credit line for label, marketing and promotion, and/ or catalog:

Artist:

How many pieces of Artwork are subject to the Agreement? _____* (Lender will provide by written attachment hereto the information requested in this Agreement with regard to each piece of Artwork.) ***(Please see attached list)***

Do you wish to carry your own insurance? (Please refer to conditions printed on reverse.) * ___ Yes ___ No

If you do not hold exclusive copyright, identify the current holder:

Lender/Artist credit:

Lender's special instructions:

TERMS AND CONDITIONS GOVERNING ARTWORK LOAN AGREEMENT

1. Unless permission is refused in writing, it is understood that the Lender authorizes the City of San Benito, to photograph and reproduce in any media the loans for catalogue publications and for archival, educational, and publicity purposes. Unless otherwise instructed in writing, City of San Benito will grant credit to the Lender as specified on the face of this agreement in any labels or publications. If there is more than one piece of Artwork subject to this Agreement, the information required on page one of this Agreement must be provided by Lender in writing attached hereto and incorporated herein for each piece of Artwork. City of San Benito shall have no obligation or liability hereunder for any piece of Artwork that is not identified and described in writing as required herein.
2. Unless the Lender elects to maintain its own insurance coverage for the loan period, the City of San Benito will insure this Artwork under an all risk property insurance policy, for the amount indicated on the face of this agreement, against all risks of physical loss or damage from any external cause while on location during the period of the loan. The policy referred to contains limitations for acts of God and the usual exclusions for loss or damage due to wear and tear, gradual deterioration, moths, vermin, inherent vice or damage sustained due to and resulting from any authorized repairing, restoration or retouching process, or due to such causes as hostile or warlike action in time of peace or war, atomic, nuclear or radioactive force, reaction or contamination, insurrection, rebellion, civil war, usurped power, action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulation, confiscation by order of any governmental or public authority, or risks of contraband or illegal transportation or trade. The party that makes the transportation arrangements for the Artwork to or from the Exhibit must provide for appropriate insurance coverage as specified herein.
3. If the Lender elects to maintain its own insurance, the Lender's insurance shall be primary. Lender agrees to request a waiver of subrogation from its insurer in writing in favor of the City of San Benito prior to the Exhibit. If the Lender fails to request the waiver of subrogation, the agreement shall constitute a release of the City of San Benito from all liability in connection with the loan.
4. The work shall remain in the possession of the City of San Benito in the Exhibition for which it has been borrowed, for the time specified in this agreement, but may be withdrawn from Exhibition at any time by the City of San Benito. The work will be returned only to the Lender at the address shown in this agreement unless the City of San Benito is notified in writing. If the legal ownership of the loan shall change during the period of the loan, the new owner may, prior to its return, be required to establish legal right to receive the loan by proof satisfactory to the City of San Benito. Lender may choose to make arrangements for the return of the loan at Lender's expense, including insurance, at the loan termination date by notifying City of San Benito in writing 15 calendar days prior to the termination of the Agreement.
5. Except in case of emergency to preserve the Artwork, the work of art will not be cleaned, restored, or otherwise altered without the written consent of the Lender except in an emergency, in which case the Lender will be notified by telephone and in writing.
6. If the work is for sale and is sold during the period of this loan, the Lender shall pay fifteen percent (15%) of the selling price to the City of San Benito.
7. Except as set forth by Lender above, Lender warrants that it has all right, title and ownership interest in the Artwork, and that the Artwork is not subject to any ownership, lien, encumbrance, copyright infringement or other claim by any other person or entity. Lender agrees that it shall not take any action to limit or affect this warranty during the term of this Agreement unless it obtains the advance written agreement of City of San Benito.
8. This Agreement shall be governed by and construed under the laws of the State of Texas, which shall also be the forum for any litigation arising from or incident to this Agreement. This Agreement may not be assigned by either party without the express written consent of the other, in advance.
9. This Agreement and attachments referenced herein, if any, constitute the entire understanding between the parties with respect to the subject matter hereof and may be amended at any time only upon mutual written agreement of the parties. Any notice to the either party shall be sent to the parties at the addresses set forth above by registered or certified mail, return receipt requested or overnight mail service, with proof of delivery.

10. THE CITY OF SAN BENITO AND THE LENDER AGREE THAT THE EXHIBITION OF LENDER'S WORKS IS FOR THE MUTUAL BENEFIT OF LENDER AND CITY. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED AS A WAIVER OF THE CITY OF SAN BENITO'S GOVERNMENTAL IMMUNITY, AND THE CITY SHALL ONLY BE LIABLE UNDER THIS AGREEMENT TO THE EXTENT AND TO THE DEGREE WAIVED BY THE TEXAS STATE LEGISLATURE IN THE TEXAS TORT CLAIMS ACT, SPECIFICALLY THOSE LIMITS OF LIABILITY IMPOSED BY TEXAS CIVIL PRACTICE AND REMEDIES CODE §101.023. LENDER FURTHER ACKNOWLEDGES AND AGREES THAT THE CITY WILL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, WHETHER IN WARRANTY, TORT, CONTRACT, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR LOSS OF GOOD WILL, WHETHER OR NOT THE CITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE.

11. The Lender shall defend, indemnify, and hold the City, and the City's officers, employees, and agents, harmless from and against any and all claims, suits, liabilities, losses and expenses (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement, including claims brought for copyright or trademark infringement arising from the acts or omission of Lender.

13. Lender acknowledges that he/she is familiar with the terms of Title 6(A) Texas Property Code, Chapter 80 *et seq*, which, in addition to its other provisions, provides that a person who deposits property with a museum is responsible for informing the museum promptly in writing of any change in that person's address or of any change in the ownership of the property on deposit. The Code also provides that a museum may give the lender notice of the museum's intent to terminate a loan that was made for an indefinite term or for a term in excess of seven years. A notice of intent to terminate a loan given under that section must comply with Section 80.003 and must include a statement containing substantially the following information: *"The records of (name of museum) indicate that you have property on loan to it. The museum wishes to terminate the loan. You must contact the museum, establish your ownership of the property, and make arrangements to collect the property. If you fail to do so within 65 days after the date of this notice, you will be deemed to have donated the property to the museum. See Chapter 80, Property Code."* The Code also provides that if, within 65 days after the date of the notice given under Subsection (a), the lender fails to contact the museum, establish ownership of the property, and make arrangements to collect the property, the property is considered to be donated to the museum. The Code also provides that for the purposes of this chapter, a loan for a specified term becomes a loan for an indefinite term if the property remains in the custody of the museum when the specified term expires.

14. Either party may terminate this Agreement by giving the other party 30 calendar days written notice.

I have read and agree to the attached Terms and Conditions Governing Artwork Loan Agreement printed on the reverse, and certify that I am the owner or the agent of the owner authorized to agree thereto. I understand that by signing this Agreement, I agree to be bound by all of the provisions set forth herein.

Signed, this 7th day of April 2020 in San Benito, Cameron County, Texas.

City of San Benito
Attn: Mayor
401 N. Sam Houston Blvd.
San Benito, TX 78586

Lender/Artist
Attn: _____
Address: _____

CITY OF SAN BENITO

Artist/Lender

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____