

## ARTIST AGREEMENT

This agreement is made and entered into this \_\_\_ of \_\_\_\_\_, 2011, by and between the City of Marshall and Marshall Mural Committee, hereinafter collectively referred to as the "Contractor" and Josh Sarantitis, hereinafter referred to as "Artist", as follows:

WHEREAS, Contractor has initiated discussions regarding the development of artistic murals to be placed upon downtown Marshall, Minnesota buildings as an enhancement and revitalization of the downtown core business district and

WHEREAS, Artist has submitted a proposal for creation of history themed mural to be placed on a downtown Marshall, Minnesota building and

WHEREAS, parties hereto propose to enter into contractual relationship as outlined below.

NOW, THEREFORE, inconsideration thereof, the parties hereto agree as follows:

1. Artist's History Mural Development. The Artist hereby agrees to use his best skill and talents to design, create, and paint a mural in substantial compliance with the specifications set forth below:
  - a. The mural shall be approximately one thousand five hundred to two thousand square feet in size. The mural shall reasonably reproduce the design approved and signed by the City in Exhibit B
  - b. The mural shall be painted and installed upon the west wall to be located at 256 West Main Street in Marshall, MN.
  - c. The Artist shall commence painting the mural on panels to be installed on the building at said location upon receipt of the first payment as outlined in section two below, tentatively June 20, 2011, with an estimated completion time of approximately 4 months. Artist shall complete the mural no later than 6 months after receipt of the first payment subject to severe weather constraints.
  - d. Artist shall be solely and exclusively responsible for mural design, creation and painting. Said responsibility shall include panel design preparation and installation of the mural. This shall include necessary priming of the panels prior to commencement of the mural and shall include a seal overcoat of the painting after completion. Contractor will provide scaffolding for installation of the mural.

- e. The Artist shall complete the mural painting as depicted in the detailed prior approved sketch of the mural in Exhibit B. This will include slight revisions as discussed with artist that include addition of two images.

2. Amount and Method. In consideration of his or her work on the Project, the Artist will be paid thirty one thousand and three hundred dollars (\$31,300.00). The Artist agrees to accept this sum (the "Compensation") as full compensation for the project. The Compensation will be paid in three installments as follows:

- i. Forty percent (40 %) of the Project Cost, within thirty business days of signing this Agreement and receipt of Artist's invoice to allow materials purchase and fabrication of the design to begin.
  - ii. Forty percent (40%) of the Compensation within thirty business days after the Artist invoices for Second Payment. The Request for Second Payment is to be submitted at the mid-point of fabrication.
  - iii. Twenty percent (20%) of the Compensation within thirty business days after the Artist completes and submits the invoice for Third Payment. The Request for Third Payment is to be submitted upon the completion of the Artwork.
- a. Artist shall provide to Contractor, a certificate of commercial general liability insurance with coverage in the amount of Five Hundred Thousand and no/100 (\$500,000.00) Dollars. Said insurance policy shall list the City of Marshall as loss payee and the Artist shall be solely and exclusively responsible for liability incurred by him during the term of the painting of said mural. Artist shall be solely and exclusively responsible for site clean up should paint or other materials be spilled or otherwise discharged onto the public sidewalk. Volunteers as provided by Contractor shall be covered separated under the City's liability insurance policy. Any injury or damage suffered by volunteers or any injuries or damage caused by said volunteers shall be exclusively covered under the City's insurance policy and shall not be the responsibility of artist.
  - b. Artist agrees to indemnify and hold Contractor harmless from any injuries resulting from Artist's actions during the completion of the mural.

### 3. Ownership, Care and Use of the Artwork

3.1 Associated Materials. All documents, plans, artwork, and other materials developed or prepared by the Artist in connection with the Project, other than the Artwork itself (the "Associated Materials") shall be the sole and absolute property of the Artist. So long as any of the Associated Materials remain in the possession of the Artist, the Artist shall permit the Contractor to display such items in any exhibition or other public forum, upon reasonable notice and at no charge.

3.2 Copyright. All copyrights are reserved to the Artist. In consideration of the compensation set forth in Exhibit A below, and for performance of its other obligations herein, receipt and sufficiency of which is hereby acknowledged, the Artist hereby:

- a. grants THE CONTRACTOR the right to reproduce and display the Mural in any and all media for the purposes of educating the public about and promoting its nonprofit programs and activities, but they may not sublicense the Artwork for commercial or editorial licensing.
- b. to cause the Artwork to bear the following designation: "© 2011 Joshua Sarantitis and Greta Mclain. All rights reserved. Sponsored by the City of Marshall and the Marshall Mural Committee. "

3.3 Use of Reproductions by THE CONTRACTOR. Subject to the restrictions in Sections 3.2 and 3.3 above, the Artist acknowledges THE CONTRACTOR may from time to time permit the reproduction of the Artwork in appropriate circumstances in order to help publicize city programs, enhance the public's awareness and appreciation of public art, and/or raise money to further THE CONTRACTOR's mission. THE CONTRACTOR will not have any obligation to consult with the Artist on such uses, or to pay the Artist any portion of proceeds therefrom. All such uses of the Artwork will include the copyright notice in the name of the Artist, and THE CONTRACTOR as described in paragraph 3.2 above.

3.4 Use of Reproductions by the Artist. Artist may exercise all copyrights under 17 U.S.C. 106 without restriction, including the right to reproduce, display, distribute, and create derivative works of the Artwork, except that Artist agrees not to create



any mural of the same or substantially similar size and design elsewhere. The Artist will not have any obligation to consult with THE CONTRACTOR on such uses, or to pay THE CONTRACTOR any portion of proceeds therefrom except as set out in Section 3.6 below. All such uses of the Artwork will include the copyright notice in the name of the Artist, with the sponsorship credit to THE CONTRACTOR as described in paragraph 3.2 above.

3.5 Commercial & Editorial Use of Reproductions.

- a. For the purposes of this Agreement, "Commercial Use" shall mean use of the Artwork or parts of it to advertise goods and services; in films, broadcast, cable or other audio-visual or transmission media; in wireless or digital media such as cell phones, ebooks, or other digital display devices' or offered for sale as retail merchandise; including, but not limited to, posters or prints, clothing and gift related items, or book covers. "Editorial Use" shall mean use of the Artwork or parts of it in an illustrative or informative manner or product (e.g. news story, book (but not book cover), magazine, editorial Web site, educational CD-ROM, educational DVD, or journal) on subjects other than THE CONTRACTOR or muralism, and not for commercial use.
- b. In the event that THE CONTRACTOR receives a request to reproduce the Artwork for a Commercial Use or an Editorial Use, THE CONTRACTOR agree to contact the artist immediately, and to provide artist with the material details concerning the request, including the requestor's name, company, and contact information, and use requested; and further agree to provide the requestor with the artist's name and contact information. Artist shall be entitled, but not obligated, to negotiate any and all Commercial Use and Editorial Use licenses.
- c. Artist agrees to pay THE CONTRACTOR fifty percent (50%) of any and all licensing fees or royalties he actually receives from Commercial Use and Editorial Use licensing of the Artwork, less reasonable attorneys' fees as well as compensation for time that Artist incurs in connection with negotiating such licenses.

3.6. Repair and Alteration.

- a. Maintenance. Contractor agrees to provide necessary and reasonable maintenance

regarding the refurbishing touch-up and/or restoration to said mural upon completion and for ten (10) consecutive years thereafter.

b. THE CONTRACTOR agrees that the Artist shall have the right of first refusal to perform repairs or alterations in the event that:

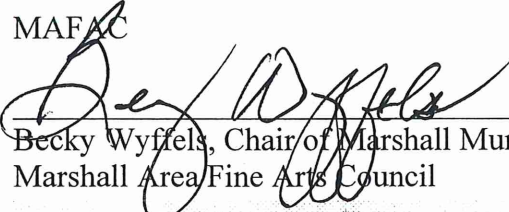
- i. the Artwork deteriorates, becomes mutilated, marred by graffiti, or is otherwise in need of repair; or
- ii. In the event the Artist agrees to make such repairs or alterations, THE CONTRACTOR shall pay the Artist whatever going-rate fees and materials costs for artists to make such repairs or alterations.
- iii. In the event that the Artist declines to perform requested repairs or the Artist has not made a good-faith effort to execute the design approved, THE CONTRACTOR shall have the right to alter, repair, or restore the Artwork, to the extent deemed necessary.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF MARSHALL

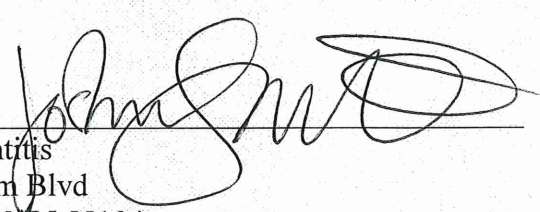
\_\_\_\_\_  
Robert Byrnes, Mayor

MAFAC

  
\_\_\_\_\_  
Becky Wyffels, Chair of Marshall Mural Committee  
Marshall Area Fine Arts Council

Dated this 1<sup>ST</sup> day of JUNE, 2011.

ARTIST

  
\_\_\_\_\_  
Josh Sarantitis  
375 Pelham Blvd  
Saint Paul MN 55104  
215-432-7148      josh.sarantitis@gmail.com

**Marshall Mural Project - History Mural**

**Exhibit A of Artist Agreement**

<u>Item</u>	<u>Description</u>	<u>Budgeted Amount</u>
1. Artist' Contract	mural artist stipend	\$5,000.00
2. Paint	primer and artist paint including top coat	\$3,900.00
3. Paint Supplies	brushes, cleaning supplies	\$2,000.00
4. Mosaic Text	glass mosaic	\$8,325.00
5. Paneling	supplies for construction of panels	\$6,325.00
6. Travel	\$.50 per mile IRS rates of \$0.50 per mile	\$1,500.00
7. Housing	10 days For artist \$70/day	\$ 700.00
8. Meal Allowance	average of \$35 dollars per day	\$ 350.00
9. Panel Transportation from St Paul to Marshall		\$ 850.00
10. Mural Installation		\$1,000.00
11. Insurance	artist liability insurance	\$ 700.00
12. Community Day		\$ 650.00

Statement for reimbursement to artist with receipt of invoice for payment will be processed as submitted for approval to Becky Wyffels, Chair, Marshall Mural Project.



**Marshall Mural Project - History Mural**  
**Exhibit B of Artist Agreement**

