

CITY CLERK ORIGINAL

C-7792
10/03/2011

USE AGREEMENT Glendale Media Center Studios

This USE AGREEMENT for the Glendale Media Center Studios ("Agreement"), is entered into this 3rd day of October, 2011, between the City of Glendale, an Arizona municipal corporation ("CITY"), and SMBBW Inc., a television production company ("USER").

1. **PURPOSE AND EVENT NAME:** USER has the nonexclusive right to occupy and use the Glendale Media Center, Studio B ("Studio"), for the following purposes and no other: **rental of Studio B, including cameras, teleprompter, control room use, green screen lighting, microphones and production control equipment one half day on October 14, 2011; for the purpose of shooting a television show tentatively entitled "Baseball Wives" (the "PROGRAM"). Any additional time after 5 hours would be billed at a cost of \$300 per hour.**

2. **GRANT OF USE:** CITY grants to USER the right to use the Studio and any authorized surrounding parking lots or equipment staging areas located in the vicinity of 9494 W. Maryland Avenue, Glendale, Arizona, for and in consideration of the rents and charges listed within this Agreement. The date(s) of use and rate along with a description of the rented space and use of the rented space are as follows:

a)	Date(s):	October 14 (half-day)
b)	Deposit:	\$0.00
c)	Rent:	\$2,000
d)	Costs:	\$0.00
e)	Total Due:	\$2,000
f)	Deposit:	\$0.00
g)	Balance:	\$2,000

3. **RESERVATION:** Return of this Agreement, properly signed on the last page, along with a deposit of 50% of the amounts listed above and proof of insurance as required under paragraph 17, constitutes a reservation for the planned date(s) of use. Payment in full of rent is due upon completion of the planned use. All payment instruments should be made payable to the City of Glendale. The CITY reserves the right to require further assurances of the method of payment.

4. **CANCELLATION OF RESERVATION:** Upon cancellation of the reservation by the USER with notice to the CITY of at least 24 hours prior to the planned use date(s), USER will receive a full refund of any deposit, rent or other costs paid to the CITY. Upon cancellation of the reservation by the USER with less than 24 hours notice, CITY retains the deposit but the USER will be refunded any rent or other costs paid to the CITY. Upon cancellation of the reservation by the CITY the USER will receive a full refund of any monies paid to the CITY in connection with the reservation. USER understands that CITY assumes no liability for cancellation of a reservation but that CITY will engage in reasonable efforts with the USER to secure a new reservation.

5. **TERMINATION OF AGREEMENT.** The CITY may eject User from STUDIO at its convenience after commencement of use. If the CITY ejects USER from STUDIO, it will prorate USER's rent or other services as the CITY deems appropriate in its sole reasonable discretion. If CITY ejects USER from STUDIO USER agrees to forego any and all claims for damages against CITY and further agrees to waive any and all rights which may arise by reason of the ejection (except if such ejection is due to the gross negligence or willful misconduct of CITY) and USER shall have no recourse of any kind against the CITY. USER may terminate this Agreement after commencement of use upon providing CITY as much notice as is reasonably practical. USER shall receive a refund of any rents paid for any full standard use or partial days not utilized. CITY's sole remedy for breach of this Agreement by USER shall be an action for money damages. In no event will CITY be entitled to injunctive or other equitable relief, and in no event will CITY be entitled to terminate this Agreement. USER has no obligation to include STUDIO in the PROGRAM or in any other production.

6. USE INTERRUPTION. CITY retains the right to cause the interruption of any activity in the reasonable interests of public safety, and to likewise cause the ejection of USER from STUDIO, when in the sole reasonable judgment of CITY, the acts are necessary in the interest of public safety. If the interruption is due to an evacuation order, USER may re-enter the Studio after release from the order for sufficient time to complete the planned use without additional rental charge so long as the time does not unreasonably interfere with other CITY uses. If it is not possible to complete the planned use, rental and costs shall be forfeited, prorated, or adjusted, based upon the situation, at the reasonable discretion of the CITY. USER waives any claim for damages or compensation from the CITY for use interruption, unless such interruption is due to the gross negligence or willful misconduct of CITY.

7. ARRANGEMENTS AND DETAILS: All Studio setups and production details should be finalized prior to the starting day of the use with Laurie Berg Sapp, General Manager, at (623) 930-4510. If required information is not provided, the CITY will determine needs based upon available information.

8. SERVICES PROVIDED: Including, but not limited to green room, green screen, all cameras, teleprompter, control room, make-up and bathroom areas, tables, chairs and all facility integrated equipment, including general house and studio lighting, heating, air conditioning and custodial service.

9. OTHER SERVICES AND EQUIPMENT: Other services and equipment may be available for additional charge(s). Requested services and equipment must be coordinated with the CITY point of contact listed in paragraph 7 above.

10. DAMAGE TO BUILDING, CONTENTS/EXTERIOR FACILITIES: USER is responsible for damage to Studio furnishings, fixtures, cyc wall or equipment as well as any damage to CITY facilities located on the exterior of the Studio caused by USER'S guests, agents or contractors, ordinary wear and tear exempted. USER shall take all reasonable precautions to maintain the Studio in good repair and restore and return the Studio back to the CITY upon the conclusion of USER'S use of STUDIO, ordinary wear and tear exempted. If USER does not maintain the Studio as required by this Agreement the CITY may enter the Studio and do all things necessary to restore the Studio to the prior condition, with all costs (ordinary wear and tear exempted) being charged to the USER. *Warning*: cyc wall repair or replacement is very expensive and by signing this Agreement USER agrees to all reasonable and applicable charges related to repair or replacement of the cyc wall that will be necessary as a result of USER'S occupancy of the Studio, ordinary wear and tear exempted.

11. ATTACHMENTS: No attachments are allowed on any surface in the Studio, including pins, staples, nails or similar fasteners nor shall any adhesive tapes be applied to flooring unless approved in advance by the CITY (approval not to be unreasonably withheld).

12. PUBLIC SAFETY. USER agrees that at all times it will conduct its authorized activities with full regard to public safety and will observe and abide by all applicable municipal, state and federal laws and regulations as well as reasonable requests by CITY and duly authorized governmental agencies responsible for public safety. CITY also reserves the right to eject or cause to be ejected from the Studio any person engaging in unreasonably objectionable conduct, including, but not limited to: unreasonable disruption of other Studio or Media Center operations; exposing property or persons to unreasonable risk of damage or injury; unreasonable noise; or any illegal conduct. Neither the CITY, nor any of its officers, agents or employees is liable to USER for any damages or injuries sustained by USER through CITY'S exercise of its right to eject, except if such ejection results from CITY'S gross negligence or willful misconduct.

13. PROPERTY LIABILITY: CITY assumes no responsibility whatsoever for any property placed by USER in the Studio. USER expressly releases and discharges CITY from any and all liabilities for any loss, injury or damages to property which directly arise out of USER'S use of the Studio under this Agreement, unless such loss, injury or damage is caused by the gross negligence or willful misconduct of CITY. Any additional security or other protective service desired by USER must be arranged for by special agreement with the CITY and USER is responsible for all costs connected with any additional services.

14. COMPETENCY OF PERSONNEL: USER certifies that all employees, agents or others working for or on behalf of USER in the Studio are reasonably knowledgeable in the operation of Studio equipment and procedures.

15. PROPERTY LEFT BEHIND: The CITY assumes no responsibility for personal items, equipment or other items that remain in the Studio after the expiration of this Agreement. Items left will be maintained for a period of 30 days. The CITY reserves the right to charge storage for items left in the Studio.

16. ACCESS: It is understood and agreed that the CITY reserves the right to control and manage the Studio and to enforce all reasonably necessary and proper rules for its management and operation. Authorized CITY employees will have free access at all reasonable times to all spaces occupied by USER.

17. PUBLIC LIABILITY INSURANCE REQUIRED: Comprehensive Liability Insurance is required for use of the Studio. USER'S insurance coverage must be primary insurance and non-contributory with respect to all other available sources. Insurance certificates must meet the following conditions: a) provide at least \$1 million combined single limit per occurrence of Comprehensive Liability Insurance from an insurance company with a Standard & Poor's rating of at least "BB"; b) if an Aggregate Policy, the combined limit must be at least \$2 million; c) name the City of Glendale as additional insured by endorsement; and d) specify the dates applicable inclusive of the use requested.

18. INDEMNIFICATION: USER shall indemnify, defend, save and hold harmless the CITY and its officers, agents, contractors, volunteers, and employees from and against any and all claims, actions, liabilities, damages, losses, or expenses including court costs, reasonable outside attorneys' fees, and costs of claim processing, investigation and litigation (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss of damage to tangible or intangible property directly caused by the grossly negligent or willful acts or omissions of USER or any of its owners, officers, directors, agents, employees, invitees or contractors, directly arising out of USER'S occupancy and use of the Studio. It is the specific intention of the Parties that the CITY shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the CITY, be indemnified by USER from and against any and all claims directly arising out of USER's occupancy and use of STUDIO. It is agreed that USER will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration for the use and occupancy of the Studio, USER agrees to waive all rights of subrogation against the CITY its officers, officials, agents and employees for losses arising from the use, occupancy or condition of the Studio unless the rights arise due to the negligent or willful acts or omissions of the CITY.

19. ASSIGNMENT: Except to USER's parent, subsidiaries, licensees, assigns and/or the applicable network, USER may not assign or sublet this Agreement without the written consent of the CITY.

20. COOPERATION: USER and CITY mutually agree to provide reasonable notice and opportunity to address or cure the performance of the terms or issues related to the use authorized under this Agreement. USER acknowledges that situations involving safety of personnel or imminent risk of damage to the Studio may provide little or no opportunity for notice or cure before CITY action is required.

21. PATENTS, TRADEMARKS, LICENSES: USER assumes all costs (if any) arising from the use of patented, trademarked, franchised or copyrighted music, materials, devices, processes or dramatic rights used on or incorporated in its use. USER agrees to indemnify, defend and hold harmless CITY from any claims or costs, including, but not limited to, reasonable outside legal fees, which arise from USER's use of any of the material described above. Without in any way limiting the foregoing, all rights of every kind in and to all photographs, film and recordings made on and of the STUDIO (including, without limitation, all copyrights) shall be and remain vested in USER, including, without limitation, the right to use and reuse all such photographs, film and recordings in and in connection with subsequent related and unrelated productions of any kind, as well as in and in connection with advertisements, promotions, publicity, clips, and other materials, etc. Neither CITY nor any tenant or any other party having an interest in the STUDIO shall have any claim or action against USER or its affiliates or any other party arising out of any use of the photographs, film and/or recordings.

22. SCHEDULING OF OTHER EVENTS: CITY may schedule and contract with other parties for uses that are adjacent to, in close proximity of or similar in nature to the use authorized under this Agreement. The CITY may schedule and contract for these events during USER'S planned use without notice to USER, unless otherwise specified in writing by the CITY.

23. JURISDICTION: The laws of the state of Arizona shall govern this Agreement.

24. NOTICES: Any notice permitted or required under this Agreement must be delivered personally or by United States Postal Service, certified mail with return receipt requested to the addresses as shown below. Notice is considered received upon date of delivery.

25. CONFLICTS: Except as herein provided, this Agreement is subject to the provisions of A.R.S. § 38-511.

26. ENTIRE AGREEMENT: The Parties agree that this Agreement, together with that certain Location Contract, dated as of October 3, 2011, is the entire agreement between CITY and USER, and that no oral statement or representations of any kind have been made upon which either party shall have the right to rely. In the event of a conflict between the terms and conditions contained in the Agreement and the terms and conditions of the Location Contract, the terms and conditions of the Location Contract shall control. This provision does not limit the CITY from imposing any reasonable additional rules or regulations that are necessary for the implementation of this Agreement or that would be in the reasonable, best interests of the operation of the Studio.

27. AUTHORITY. The individual signing below and on behalf of USER certifies that the individual is authorized to enter this Agreement and to bind USER to all of its term and conditions.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as shown below.

CITY: City of Glendale
Attention: Marketing
5850 West Glendale Avenue
Glendale, AZ 85301
with a copy to:
City Attorney
5850 West Glendale Avenue
Glendale, AZ 85301

USER: SMBBW Inc.
3800 Barham Blvd.
Suite 410
Los Angeles, California 90068

Title: Cable Media Administrator

Title: Associate Producer Jen Quinn


Signature

Signature

Date: 10/13/11

Date:

ATTEST:



City Clerk (SEAL)

APPROVED AS TO FORM:



City Attorney

27. **AUTHORITY.** The individual signing below and on behalf of USER certifies that the individual is authorized to enter this Agreement and to bind USER to all of its term and conditions.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as shown below.

CITY: City of Glendale
Attention: Marketing
5850 West Glendale Avenue
Glendale, AZ 85301
with a copy to:
City Attorney
5850 West Glendale Avenue
Glendale, AZ 85301

Title: Cable Media Administrator

Jaime Berg Japp
Signature

Date: 10/13/11

USER: SMBBW Inc.
3800 Barham Blvd.
Suite 410
Los Angeles, California 90068

Title: Associate Producer Jen Quinn

Signature

Date:

ATTEST: Ronnie Herrera
City Clerk (SEAL)

APPROVED AS TO FORM:
[Signature]
City Attorney

Shannon Perry
Line Producer
Shannon Perry