

**AMENDMENT NO. 1 TO AGREEMENT NO. C2017 007**

This Amendment No. 1 to Agreement No. C2017 007 (hereinafter "Amendment") is dated this \_\_\_\_ day March 2017, by and between the City of Napa, a municipal corporation (hereinafter "City"), and Ned Kahn Studios (hereinafter "Consultant").

**RECITALS**

A. City and Consultant entered into an Agreement on February 14, 2017 entitled "Agreement for Services for The Public Art Design, Fabrication and Installation for Dwight Murray Plaza" (hereinafter "Agreement") by which the Consultant agreed to perform services more particularly described in the Agreement to implement the City-approved conceptual design (also known as the "Veil of Water" concept) for public art in Dwight Murray Plaza.

B. City has determined that additional services are required, beyond those described in the Agreement, in order to continue the work commenced under the Agreement, generally including developing a technical design, prototype, fabrication of and installation of the City approved public art for Dwight Murray Plaza, as described in Exhibit "A" attached to this Agreement.

C. After negotiations between the parties, Consultant agrees to perform the additional services more particularly described in Exhibit "A," attached hereto and incorporated herein by reference, in return for the compensation set forth in this Amendment.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. INCORPORATION BY REFERENCE. This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.

2. SCOPE OF ADDITIONAL SERVICES. Consultant shall perform the additional services described in Exhibit "A" in accordance with the terms and conditions of the Agreement.

3. AMENDMENT. Exhibit "B" of the Agreement is hereby amended by deleting the original Exhibit "B," "Payment Schedule," in its entirety, and replacing it with a new Exhibit "B," "Payment Schedule," to read as set forth under Exhibit "B" to this Amendment.

4. PAYMENT. For additional services performed by Consultant in accordance

with this Amendment, City will compensate Consultant in accordance with the terms and conditions of the Agreement and Exhibit "B" in an amount not to exceed \$180,000. Thus, the total compensation payable to the Consultant in accordance with the Agreement as amended herein shall not exceed \$200,000 (\$20,000 for the original Agreement plus \$180,000 for this Amendment).

5. ENTIRE AGREEMENT. This Amendment (including the Agreement as amended herein and all documents incorporated herein by reference) comprises the entire integrated understanding between the parties concerning the services described in this Amendment. This Amendment supersedes all prior negotiations, agreements and understandings regarding the additional services described herein, whether written or oral. The documents incorporated by reference into this Amendment are complementary; what is called for in one is binding as if called for in all.

6. SIGNATURES. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the Consultant and the City. This Amendment shall insure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

*SIGNATURES ON NEXT PAGE*

IN WITNESS WHEREOF, the parties have duly executed this Agreement the day and year first above written.

**CITY OF NAPA:**

\_\_\_\_\_  
Mike Parness, City Manager

**CONSULTANT:**  
Ned Kahn Studios  
(*"Sole Proprietor"*)

By: \_\_\_\_\_  
Ned Kahn, Owner/CEO

**ATTEST:**

\_\_\_\_\_  
Dorothy Roberts, City Clerk

Address: Ned Kahn Studios  
1899 Mariner Drive  
Sebastopol, CA 95472  
Tel. 707-823-1760

**COUNTERSIGNED:**

\_\_\_\_\_  
Desiree Brun, City Auditor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Barrett, City Attorney

\*Corporation, partnership, limited liability corporation, sole proprietorship, etc.  
Unless corporate resolution delegates an individual to sign contracts, an agreement with a corporation shall be signed by the President or Vice President and the Secretary or Treasurer of the corporation. A general partner shall sign on behalf of a general partnership. The managing member, if authorized, may sign on behalf of a limited liability corporation.

Budget Code: 21701-53201

**EXHIBIT A****City of Napa Public Art Design, Fabrication, and Installation – Additional Services****Scope of Work and Fee Schedule are as follows:**

This Amendment #1 to City of Napa Agreement No. 2017-007 authorizes the Artist to take the City Council approved concept artwork into the “Technical Design Phase” (Phase I), the “Acquisition of Materials and Fabrication Phase” (Phase II), and the “Installation Phase (Phase III). Upon satisfactory delivery of each deliverable and phase, the Artist shall submit invoices based on actual hours and expenses in accordance with Exhibit “B.” The Artist shall meet the estimated timelines, which may be adjusted and agreed to by the City and the Artist. The “not-to-exceed” budget includes reimbursable expenses.

DELIVERABLE	ESTIMATED TIMELINE	ESTIMATED COST
<b><i>PHASE I. TECHNICAL DESIGN PHASE</i></b>		
<p><b>Technical Design Work:</b> The Artist shall perform work necessary to produce a technical design, including associated design drawings, images, specification documents, models, and/or prototypes that will be used in order to ultimately produce the artwork. Items that fall under this category include but are not limited to:</p> <ul style="list-style-type: none"> <li>a) Traveling to Napa to test artwork elements in specific environmental conditions and times of day;</li> <li>b) Conferencing and coordinating with City staff as needed;</li> <li>c) Presenting the technical design with response to previous analysis, input, project goals and budget;</li> <li>d) Developing a technical maintenance plan for the artwork;</li> <li>e) Providing or producing necessary documentation in electronic format;</li> <li>f) Directing and managing associated contractors to produce the design;</li> <li>g) Acquiring test materials to develop and test a physical model or prototype; and</li> <li>h) Meeting with City staff and/or the City’s construction contractor as needed to review the design, materials, schedule, and budget.</li> </ul>	April 2017	\$20,000
<b><i>PHASE II. ACQUISITION OF MATERIALS AND FABRICATION</i></b>		
<p><b>Acquisition of Materials Used to Fabricate the Artwork and the Physical Fabrication of the Artwork:</b> Utilizing the technical design and specifications produced in Phase IV, the Artist shall acquire all materials needed to fabricate the artwork and shall be responsible for fabricating the artwork through to final completion. Items that fall under this category include but are not limited to:</p> <ul style="list-style-type: none"> <li>a) Meeting with suppliers and acquiring all necessary materials;</li> <li>b) Fabricating artwork; and</li> <li>c) Making any and all arrangements necessary to transport finished artwork to project site for artwork installation.</li> </ul>	May – June 2017	\$100,000

**ATTACHMENT 2**

<b>PHASE III. INSTALLATION</b>		
<p><b>Installation:</b> The Artist and any associated contractors shall install the final artwork. Tasks include but are not limited to:</p> <ul style="list-style-type: none"><li>a) Conferencing and coordinating with the City and/or the City's construction contractor, if necessary, to arrange for the installation of the artwork;</li><li>b) Installing the artwork;</li><li>c) Testing and successfully unveiling the artwork to the satisfaction of the City's project manager.</li></ul>	July 2017	\$60,000
<b>TOTAL COST for PHASES I through III: NOT-TO-EXCEED</b>		<b>\$180,000</b>

**EXHIBIT B**  
**Payment Schedule**

INVOICING PHASES	PAYMENT AMOUNT NOT-TO EXCEED
PHASE I: TECHNICAL DESIGN	\$20,000
PHASE II: ACQUISITION OF MATERIALS AND FABRICATION	\$100,000
PHASE III: INSTALLATION	\$60,000
TOTAL NOT TO EXCEED	\$180,000