

**CONTINUATION AND FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
LAURA KIMPTON
TO PURCHASE, DESIGN AND INSTALL A WORK OF ART
AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT**

This Continuation and First Amendment to AGREEMENT is made and entered into this 13th day of April, 2022, by and between the CITY OF SAN JOSE, a municipal corporation of the State of California (“City”), and Laura Kimpton, an individual (“Artist”).

RECITALS

WHEREAS, on May 4, 2021, City and Artist entered into an agreement entitled “AGREEMENT BETWEEN THE CITY OF SAN JOSE AND LAURA KIMPTON TO PURCHASE, DESIGN AND INSTALL A WORK OF ART AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT” (“AGREEMENT”); and

WHEREAS, City and Artist desire to amend the AGREEMENT to continue and extend the term of the AGREEMENT and revise the Schedule of Performance;

NOW, THEREFORE, the parties agree to continue and amend the AGREEMENT as follows:

SECTION 1. The term of the AGREEMENT, originally May 4, 2021 through December 31, 2021, is continued and retroactive for the period of January 1, 2022 through December 31, 2023.

SECTION 2. EXHIBIT B, “SCHEDULE OF PERFORMANCE,” is amended to read as shown in REVISED EXHIBIT B, attached and incorporated into this Continuation and First Amendment.

SECTION 3. All of the terms and conditions of the AGREEMENT not specifically modified by this Continuation and First Amendment shall remain in full force and effect.

SECTION 4: Unless otherwise prohibited by law or City policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a writing as set forth in Evidence Code Section 1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the City.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

City Attorney's Signature Block:

“City”

Approved as to Form:

CITY OF SAN JOSE, a municipal corporation

Attorney
Arlene Silva

Arlene Silva

Email: arlene.silva@sanjoseca.gov

Sarah Zarate

Email: sarah.zarate@sanjoseca.gov

NVF:AFS:CLS
2/2/2022

"Artist"

A handwritten signature in black ink is centered within a light blue rectangular box. The signature is stylized and appears to be the initials 'LR'.

Email: laurakimpton@aol.com

By: _____

REVISED EXHIBIT B
SCHEDULE OF PERFORMANCE

1. **Commencement of Work.** Artist shall commence work upon receipt of City’s Notice to Proceed (“NTP”) for the Artwork Design Development Proposal described in Part 7 of **EXHIBIT A**. The following are milestone dates that must be met in accordance with this Agreement.

DESIGN DEVELOPMENT	
Complete and submit Artwork Design Development Proposal to staff for required reviews (Part 7 of EXHIBIT A)	May 24, 2021
Complete all review of Artwork Design Development Proposal including Public Art Committee Review (Part 8 of EXHIBIT A)	June 1, 2021
City to provide Notice of Artwork Design Development Proposal Acceptance (Part 9 of EXHIBIT A)	June 4, 2021
CONSTRUCTION DOCUMENTS	
Complete Construction Documents, Calculations & Final Budget (Part 10 of EXHIBIT A)	May 6, 2022
City to provide Notice to Proceed with Installation (Part 11 of EXHIBIT A)	June 17, 2022
INSTALLATION	
Artist provides City the Inspection Notice (Part 12 of EXHIBIT A)	June 24, 2022
City provides Artist the Transportation Notice to Proceed (Part 12 of EXHIBIT A)	July 11, 2022
COMPLETION	
City provides Completion Notice (Part 13 of EXHIBIT A)	In no event later than June 31, 2023

2. **Modification of Schedule.** Consistent with **EXHIBIT A** Part 9.B “Delegation of Authority”, the parties agree that the Schedule set forth above, and the term of the Agreement, through the City’s Completion Notice, may, upon mutual agreement, be modified upon prior written authorization of the City’s Director of Economic Development, Public Art Director, or Program Officer, in a form substantially similar to the following Notice of Amended Schedule of Performance and Term in this Exhibit.

NOTICE OF AMENDED SCHEDULE OF PERFORMANCE AND TERM

AGREEMENT TITLE and DATE:	AGREEMENT BETWEEN THE CITY OF SAN JOSE AND [] TO PURCHASE, DESIGN AND INSTALL A WORK OF ART AT [], dated []
ARTIST Name and Address:	
DATE OF OPTION:	

Pursuant to **EXHIBIT A** Part 7.A, of the Agreement referenced above, the City and Artist hereby agree to amend the Schedule of Performance and/or extend the term as follows:

EXHIBIT B-AMENDMENT NUMBER (e.g. 1, 2, etc)

AMENDMENT NUMBER (e.g. FIRST, SECOND, ETC.) AMENDED SCHEDULE OF PERFORMANCE

DESIGN DEVELOPMENT	
Complete and submit Artwork Design Development Proposal to staff for required reviews (Part 7 of EXHIBIT A)	
Complete all review of Artwork Design Development Proposal including Public Art Committee Review (Part 8 of EXHIBIT A)	
City to provide Notice of Artwork Design Development Proposal Acceptance (Part 9 of EXHIBIT A)	
CONSTRUCTION DOCUMENTS	
Complete Construction Documents, Calculations & Final Budget (Part 10 of EXHIBIT A)	
City to provide Notice to Proceed with Installation (Part 11 of EXHIBIT A)	
INSTALLATION	
Artist provides City the Inspection Notice (Part 12 of EXHIBIT A)	
City provides Artist the Transportation Notice to Proceed (Part 12 of EXHIBIT A)	
COMPLETION	
City provides Completion Notice (Part 13 of EXHIBIT A)	In no event later than [date]

CITY OF SAN JOSE

NVF:AFS:CLS

2/2/2022

a municipal corporation

By _____

Name:

Title:

“Artist”

By: _____

Its: