First Amendment to

Agreement to Commission an Artwork

This amended personal services agreement ("Amended Agreement") effective the 20th day of July, 2015, is between Edward Hlavka ("Artist"), and Ivins City ("Purchaser"), collectively the "Parties".

WHEREAS, Artist has revoked all authority of Rick Hughes to act as Artist's Authorized Agent ; and

WHEREAS, Artist and Purchaser desire to amend the Agreement to Commission an Artwork ("Original Agreement") previously entered into: and

WHEREAS, the artwork that was the subject of the Original Agreement is now in the final stages of being completed and Artist acknowledges and agrees that Purchaser has timely made all payments for Phases 1 through 4 listed in the Original Agreement, leaving only the final payment of $57,200.00 owing, which amount is not due until the artwork has been completed;

NOW THERFORE, Artist and Purchaser hereby amend the Original Agreement as follows:

1. Rick Hughes will no longer be involved in administering funds and managing the timeline as set forth in the Original Agreement and will have no further involvement with this matter in any way.

2. Although the artwork was originally scheduled to be completed on or before July 1, 2014 constituting a default under the terms of the Original Agreement, Purchaser agrees not to seek any penalties or adjustment in the final payment, so long as the artwork is completed and fully installed prior to September 11, 2015. In order to assure the foundry completes its bronzing of the artwork in a timely manner, Purchaser reserves the right to pay the foundry directly, if necessary, and to have the full amounts of any such payments credited against the final payment owed by Purchaser to Artist. The Parties agree that the final payment of $57,200.00 shall be made payable to both Artist and the foundry (Adonis Bronze).

3. Purchaser also agrees to pay/reimburse costs incurred for the delivery and installation of the artwork at the Snow Canyon roundabout.

4. In the event the artwork is not completed and installed prior to September 11, 2015, Artist shall be in default of this Agreement. The Parties agree that damages for such breach would be difficult to calculate or ascertain. Artist, therefore, agrees to liquidated damages in the amount of $250.00 per day until such time as the artwork is completed and installed; such liquidated damages shall first be used to reduce the amount of Purchaser's final payment.

5. Artist continues his agreement to keep the artwork fully insured against fire and theft and bears any other risk of loss until the Purchaser accepts ownership of the artwork following its completion, installation and acceptance of same by Purchaser. In the event of loss caused by fire or theft, the Artist shall use any and all insurance proceeds to recommence the making of the work.

6. The Parties acknowledge that Purchaser, at its cost, has already prepared the site for installation of the artwork.

7. The Artist retains the right of reproduction and all copyrights of the Work, the preliminary design and any incidental works made in the creation of the Work.

8. All repairs and restoration, which are made during the lifetime of the Artist, shall have the Artist's approval. To the extent practical, the Artist shall be given the opportunity to accomplish said repairs and restorations at a reasonable fee.

9. This Agreement contains the entire agreement between the Parties and supersedes any prior or concurrent agreements. This Agreement may not be amended except by written agreement of the Parties.

10. In any action brought to enforce the terms of this Agreement, the prevailing Party shall be entitled to the recovery of reasonable attorney's fees and reasonably-incurred costs and expenses of litigation.

11. This Agreement has been made under the laws of the State of Utah and such laws shall control its enforceability. Any action to interpret or enforce this Agreement shall be brought in the Fifth District Court in and for Washington County, State of Utah.

12. If a court of competent jurisdiction finds any provision of this Agreement unenforceable, the remaining portions of the Agreement shall remain in full force and effect as though the offending portion were not included.

13. This Agreement is for the personal artistic services of Artist and may not be assigned to any other person or artist without the express written consent of the Purchaser. The terms and conditions of this Agreement shall be binding upon the heirs, successors and assigns of the Parties hereto.

Artist: _____
Edward E. Hlavka

Purchaser: _____
Chris Hart, Ivins City Mayor

Consent: _____
Richard J. Hughes

Attest: _____
Kari Jimenez, Ivins City Recorder