



**AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY**

3454

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Personal Services Agreement Date: 3-7-2023

Statement of Purpose: Public ART AMBASSADORS
Portal

Department Head Signature: [Signature]

Remarks, if any: _____

City Attorney Review and Signature: SEE ATTACHED EMAIL Date: 3-8-2023

Other Signatures as Requested by the City Attorney: _____

	Signature	Name/Position
Budget Confirmed:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Date: _____
Certificate of Insurance Attached:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
City Council Approval Needed:	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date: _____

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 3-9-23

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

Erik Glover

From: David Allen
Sent: Wednesday, March 8, 2023 12:07 PM
To: Erik Glover
Subject: Re: Contract for Public Art
Attachments: Final Ambassadors Portal Public Art Contract with Signoff Form 3-2023.pdf

I would change June 29 to June 30, 2023 in section 2. You can include this e-mail with the sign-off form to confirm review ... and go ahead and put the attached agreement (with the change to section 2) in Spencer's review/to-sign folder. --David

From: Erik Glover
Sent: Tuesday, March 7, 2023 1:23 PM
To: David Allen
Subject: RE: Contract for Public Art

Hi David,

Please find attached the final contract with sign off form. The milestones added appear acceptable.

Erik

Erik Glover
Assistant City Manager/City Recorder
City of Newport, Oregon 97365
541-574-0613
e.glover@newportoregon.gov

* * * * *

**CITY OF NEWPORT, OREGON
PERSONAL SERVICES AGREEMENT
(Public Art-Ambassador's Portal)**

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation (City), and Ken McCall/McCall Studios (Contractor). This Agreement shall be effective when signed and dated by an authorized representative of each party.

RECITALS

- A. Contractor has the training, ability, knowledge, and experience to provide services desired by the City.
- B. City has selected Contractor to provide services pursuant to a request for proposal, attached as Exhibit C, consistent with its public contracting rules.

TERMS OF AGREEMENT

1. SERVICES TO BE PROVIDED

Contractor shall provide the services described in attached Exhibit A to this Agreement. To the extent there are any inconsistencies or conflicts between this Agreement and the attached Exhibit A, this Agreement shall control and prevail.

2. TERM

This contract shall expire, unless otherwise terminated or extended, when the work is completed and installed, but no later than June 30, 2023 without express written agreement of the City.

3. COMPENSATION

Contractor shall be compensated as described in attached Exhibit A to this Agreement.

4. ASSIGNMENT / DELEGATION

Neither party shall assign or transfer any interest in or duty under this Agreement without the written consent of the other.

5. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR

Contractor certifies that:

- A. Contractor acknowledges that Contractor is an independent contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that

Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of the finding and to the full extent of any payments that City is required to make (to Contractor or third party) as a result of the finding.

- B. Contractor represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with this Agreement, except as specifically declared in writing.
- C. Contractor certifies that Contractor currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

6. INDEMNIFICATION

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws. Acceptance of contractor's work by City shall not operate as a waiver or release. Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this Agreement, except to the extent that the liability arises out of the negligence of the City and its employees. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

7. INSURANCE

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement. The insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this Agreement, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. The following insurance will be carried:

Coverage	Limit
General Aggregate	2,000,000
Products-Completed Operations Aggregate	1,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (Any one fire)	50,000
Medical Expense (Any one person)	5,000

B. Commercial Automobile Insurance

Contractor shall also obtain, at contractor's expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000.

C. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Agreement that are either subject employers that will comply with ORS 656.017 or employers exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

D. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this Agreement.

E. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage

provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days' notice of cancellation to City.

F. Certificates of Insurance

As evidence of the insurance coverage required by this Agreement, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within the Agreement. A renewal certificate will be sent to the City's address 10 days prior to coverage expiration.

G. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

H. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution, and errors and omissions policies required by this Agreement.

The procuring of required insurance shall not be construed to limit contractor's liability under this Agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

8. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS

All notices, bills and payments shall be made in writing and may be given by personal delivery or mail. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices and other information:

City: City of Newport
169 SW Coast Highway
Newport, Oregon 97365
Phone: 541.574.0603
s.nebel@newportoregon.gov

Contractor: Ken McCall
McCall Studios
483 N. Quarry View Pl.

Boise, Idaho 83712
Phone: 208-850-7579
kmccall335@gmail.com

Notices mailed to the address provided for notice in this section shall be deemed given upon deposit in United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery.

9. MERGER

This writing is intended both as a final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of this Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

10. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the Agreement pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

11. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

1. If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified, or terminated, to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
3. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
4. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

5. If City determines that termination of this Agreement is in the best interest of the City, including if Contractor fails to maintain good relations with the public in the course of providing services under this Agreement.

Any such termination of this Agreement under paragraph (A) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

1. If Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
2. If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.
3. If Contractor fails to eliminate a conflict as described in Section 11 of this Agreement.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable attorney fees, and other costs of litigation at trial and upon appeal.

12. ACCESS TO RECORDS

City shall have access to books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

13. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disenabled, including but not restricted to, an act of nature or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disenabled shall within 10 days from the beginning of the delay, notify the other party in writing of the cause of delay and its probable extent. The notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under this Agreement.

14. NON-WAIVER

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

15. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

16. ERRORS

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.

17. EXTRA WORK

Only the City Manager may authorize additional work not described in Exhibit A. Failure of Contractor to secure written authorization for work not described in Exhibit A shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

18. ATTORNEY FEES

In any action arising under this Agreement, the prevailing party shall be entitled to such sum as the court may award as reasonable attorney fees and court costs, including attorney fees and court costs on appeal.

19. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.


20. COMPLIANCE WITH STATE AND FEDERAL LAWS / RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers' compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this Agreement. (See attached Exhibit B.)

21. SEVERABILITY / COUNTERPARTS

In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

CITY OF NEWPORT



City Manager

March 9, 2023

Date

CONTRACTOR

Ken McCall/McCall Studios

Date

EXHIBIT A
TO PERSONAL SERVICES AGREEMENT

See Attachment

EXHIBIT B
TO PERSONAL SERVICES AGREEMENT

RELEVANT PROVISIONS OF ORS CHAPTER 279B

279B.220 Conditions concerning payment, contributions, liens, withholding. Every public contract shall contain a condition that the contractor shall:

1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

279B.230 Condition concerning payment for medical care and providing workers' compensation.

1. Every public contract shall contain a condition that the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
2. Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

279B.235 Condition concerning hours of labor; compliance with pay equity provisions; employee discussions of rate of pay or benefits.

1. An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
2. In the case of contracts for personal services as described in ORS 279A.055, the contract shall contain a provision that the employee shall be paid at least time

and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

3. (a) Except as provided in subsection (4) of this section, contracts for services must contain a provision that requires that persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.

(b) An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

EXHIBIT C
TO PERSONAL SERVICES AGREEMENT
REQUEST FOR PROPOSALS

Exhibit A

Artwork for the Ambassador Replacement Newport, OR

Design Proposal
Ken McCall

AMBASSADOR'S PORTAL

NEWPORT, OREGON



A tribute to The Ambassador, this free-standing sculpture represents the borderline between land and water. *Ambassador's Portal* was inspired by the idea of carrying on The Ambassador's legacy with the perception that the ambassador is in a different dimension and the sculpture is the portal allowing travel back home; although no longer with us physically, the memory remains. As opposed to starting over with a new concept for the artwork, this piece will tell a story commemorating The Ambassador and igniting interaction with the art as it creates a form of local folklore while also mirroring our own existence. Embodied with the entity of life affirmation, *Ambassador's Portal* signifies the temporal and spiritual dimensions of the journey we are all embarking on and creates a space to reflect, remember, realize and transform.

At the pinnacle of the portal there are phases of the moon representing the driver for where land and water meet through tides, creating a spiritual and magical crux encapsulating the idea of transcendence and journey. The Ambassador's presence is signified through the engraving in the central moon.

AMBASSADOR'S PORTAL

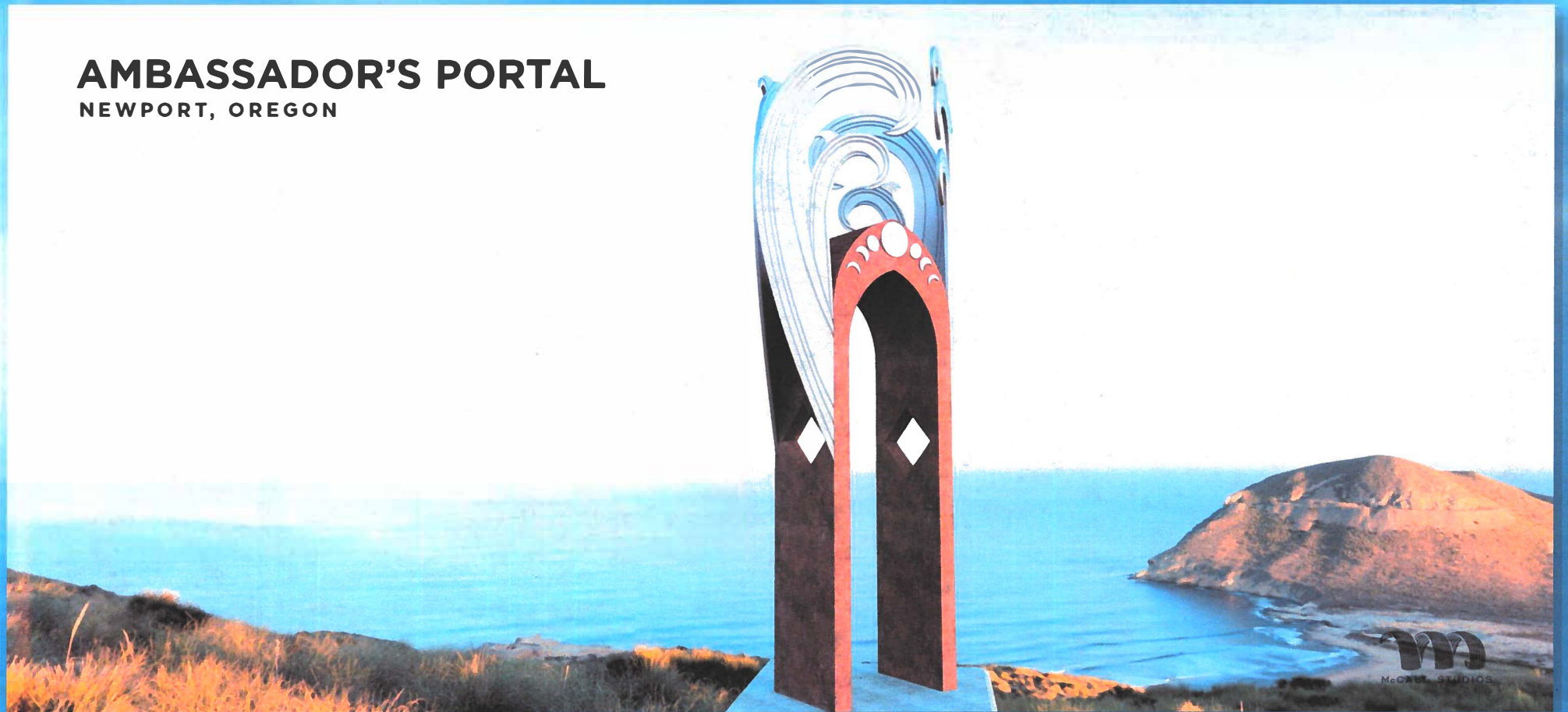
NEWPORT, OREGON



m
McCALL STUDIOS

AMBASSADOR'S PORTAL

NEWPORT, OREGON



Diamond shapes are indicative of the core of The Ambassador

AMBASSADOR'S PORTAL

NEWPORT, OREGON

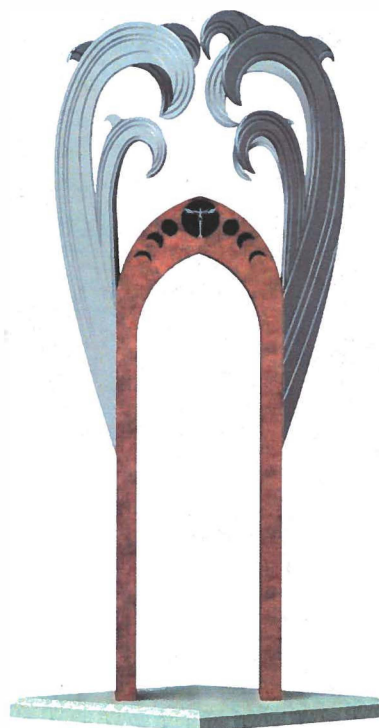


McGALL
McGALL STUDIOS

Ambassador's Portal will be fabricated out of Corten steel and aluminum. These materials were selected for their longevity properties in a marine environment and will require little maintenance. It is anticipated the sculpture will last 50+ years. Hardware should be checked annually and the aluminum could be washed with mild detergent if desired. I have used similar products and techniques for other outdoor public art sculptures and they have proven to be safe, durable, long-lasting and aesthetically pleasing.

AMBASSADOR'S PORTAL

NEWPORT, OREGON



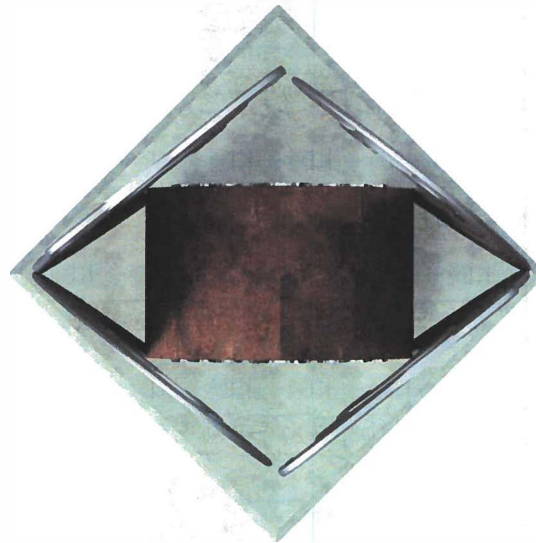
16'

*APPROXIMATE DIMENSIONS

AMBASSADOR'S PORTAL

NEWPORT, OREGON

30"



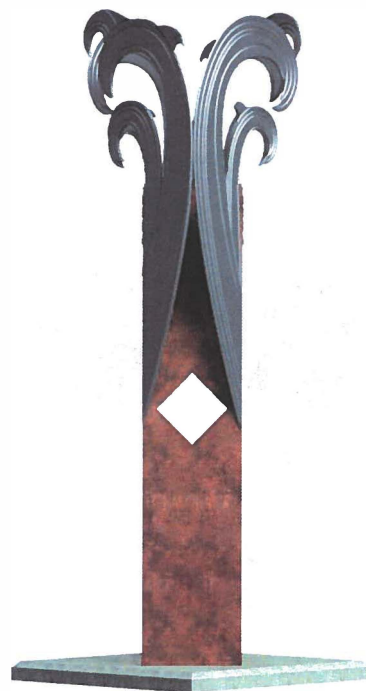
60"

*APPROXIMATE DIMENSIONS

m
McCALL STUDIOS

AMBASSADOR'S PORTAL

NEWPORT, OREGON



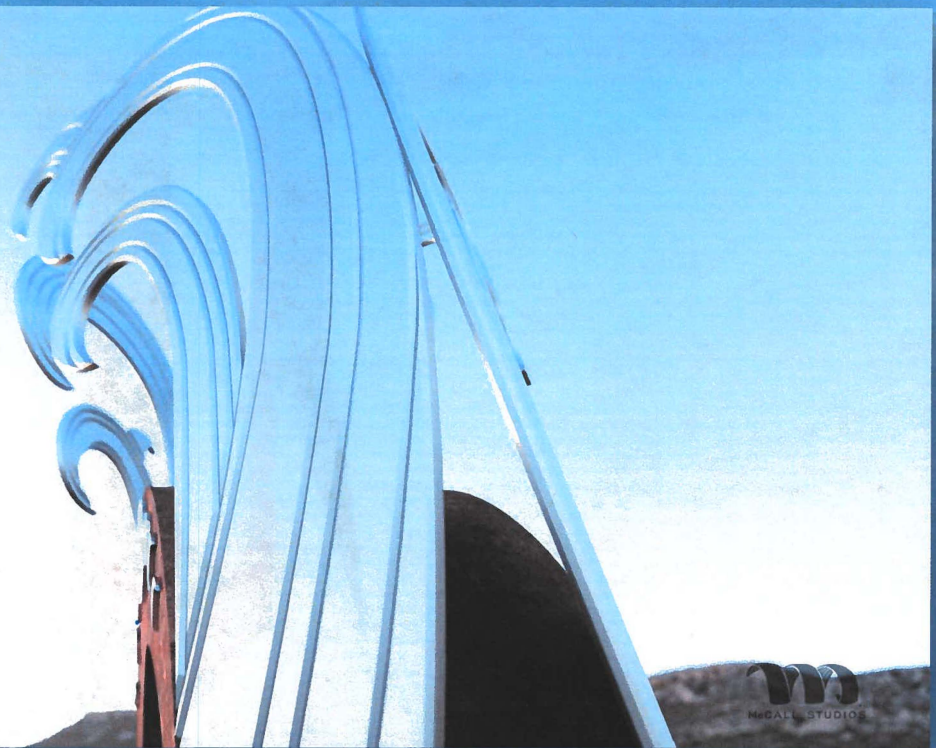
16'

*APPROXIMATE DIMENSIONS



AMBASSADOR'S PORTAL

NEWPORT, OREGON



Budget

Insurance	\$500
Engineering	\$2,000
Materials/Fabrication	\$29,500
Transportation	\$1,000
Concrete/Installation	\$5,000
Contingency	\$3,000
Artist/Design Fee	\$4,000
Total	\$45,000

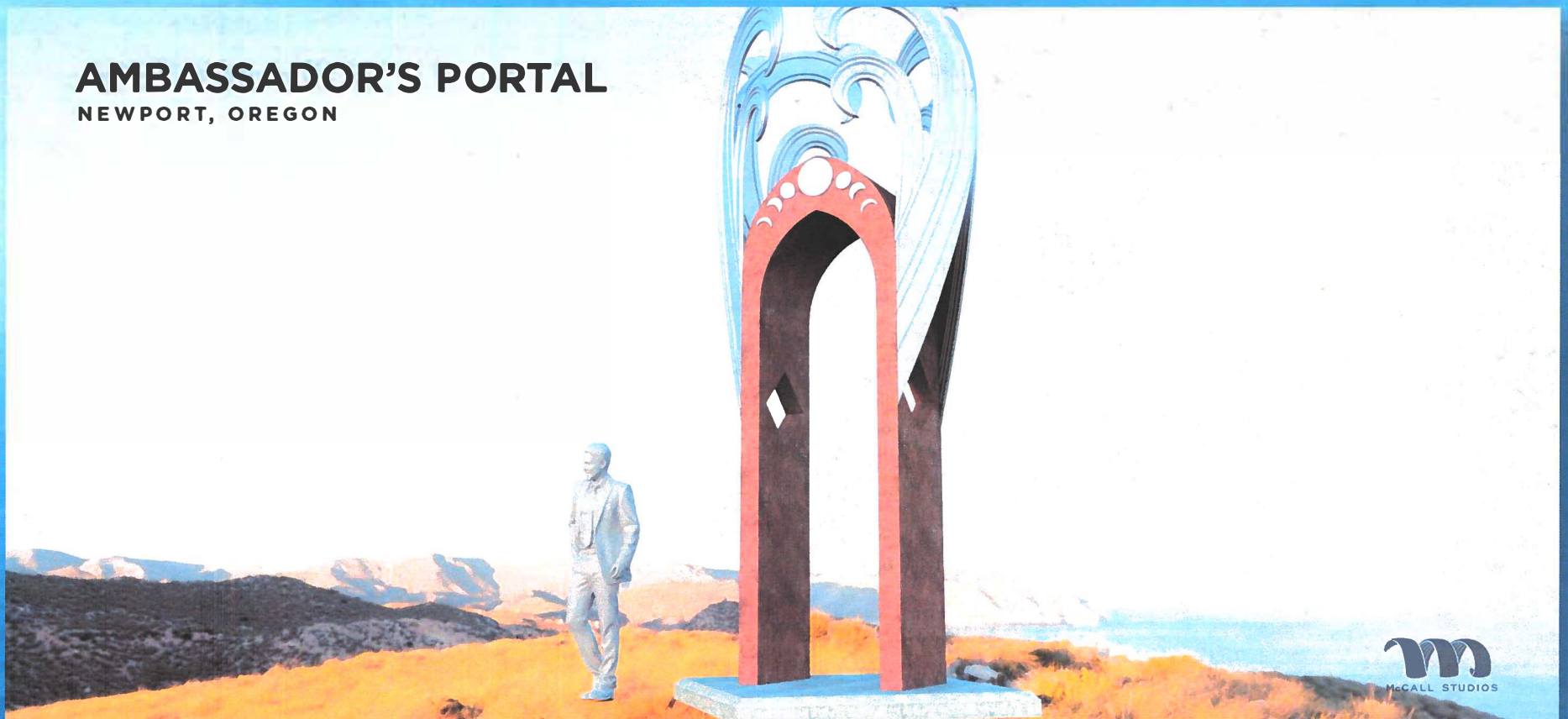
Ambassador's portal will take approximately 4 months to complete after the contract is signed:

Purchase/delivery of materials
Fabrication
Installation

1 month
3 months
1 week

AMBASSADOR'S PORTAL

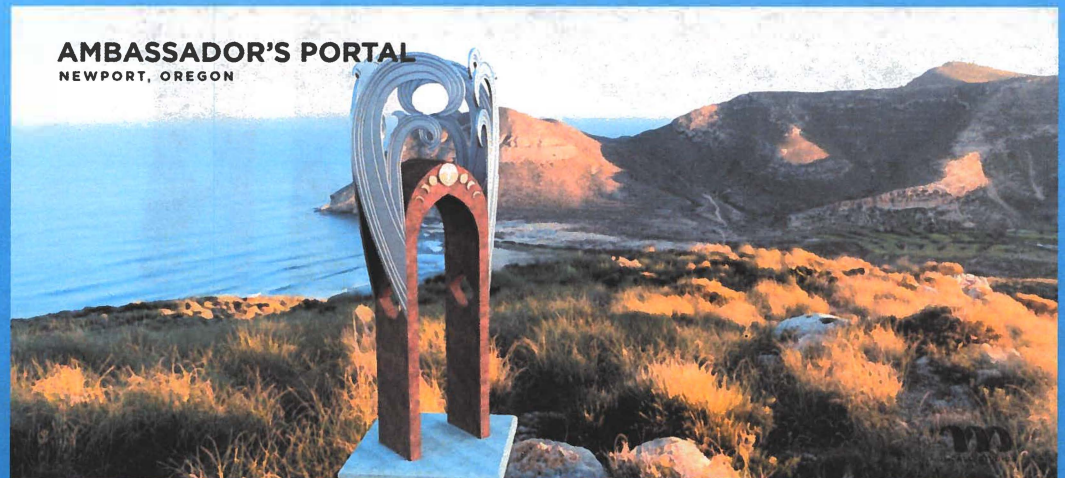
NEWPORT, OREGON



m
McCALL STUDIOS

Milestones and Payment Schedule

- ❖ Contract Signing
25% payment (\$11,250)
- ❖ 50% completion
25% (\$11,250)
- ❖ 100% completion
25% (\$11,250)
- ❖ Installation
25% (\$11,250)
*closeout no longer than 30 days
after installation



AMBASSADOR'S PORTAL

NEWPORT, OREGON



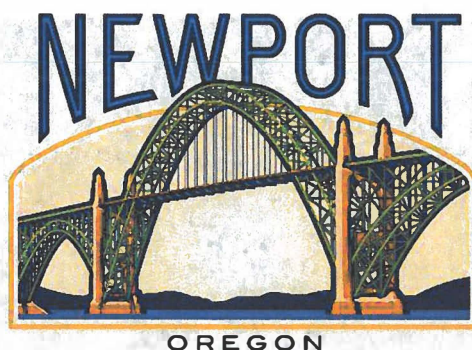
Thank you so much for the opportunity to create a design proposal for Artwork for the Ambassador Replacement

Exhibit C

CITY OF NEWPORT, OREGON

REQUEST FOR PROPOSALS

**ARTWORK FOR
DON AND ANN DAVIS PARK**



SUBMIT PROPOSAL TO:

**Erik Glover
Assistant City Manager/City Recorder
City of Newport
169 SW Coast Highway
Newport, Oregon 97365**

**Due Date: November 30, 2022 by 3:00 P.M.,
PDT**

CITY OF NEWPORT, OREGON

Request for Proposals Artwork for Replacement of the Ambassador Sculpture

The City of Newport ("City") is seeking an artist, or artist team, to develop a site specific, permanent, freestanding outdoor sculpture for display at Don and Ann Davis Park. This opportunity is open to artists with public art experience, with preference given to local artists, or those who have a significant body of work in the greater Northwest.

The artwork will replace an iconic sculpture, The Ambassador, which welcomed locals and visitors to Newport for nearly two decades.



A. Background

The Ambassador, a metal and glass sculpture, created by metal artist, Sam Briseno, and glass artist, Theresa Kowalski, has graced Don and Ann Davis Park for almost 20 years. Its title is reflective of the outstretched and welcoming arms of this incredible piece of art. Unfortunately, the harsh weather environment of the central Oregon coast has taken the ultimate toll on The Ambassador.

The city is seeking a replacement to The Ambassador.

The design of the artwork will include iconic elements representative of the natural beauty of Newport, Lincoln County, and in particular, the ocean.

B. Overview

The City of Newport is a prime tourist destination and the population center of the Central Oregon Coast. Newport is the county seat of Lincoln County, and houses the offices of several federal and state agencies, including a major Coast Guard station, Oregon State University's Hatfield Marine Science Center, NOAA's Pacific Marine Operations Center, the Oregon State Police, Oregon DMV, and Oregon Employment Division offices. The city is home to the Samaritan Pacific Communities Hospital, and the main campus of the Oregon Coast Community College. OCCC is a premier educational institution and unique in its aquarist program. Its aquarist graduates are working in aquarium and research facilities throughout the country. Newport has a population of more than 10,000.

The Yaquina River flows into the Pacific Ocean through Newport's Yaquina Bay. Newport is home to the Oregon Coast Aquarium, one of the country's premier aquariums. A substantial commercial fishing fleet calls Newport home, as do several marine research vessels and a large number of private boats docked in marinas around the Bayfront. Newport is one of three deep-water ports on the Oregon Coast. Tonnage of shipping is second behind Coos Bay.

Newport has often been described as the most authentic city on the entire Oregon Coast. The city boasts numerous fine shops, restaurants, galleries, lodging establishments, and endless outdoor recreational opportunities.

Proximity to Portland and the Willamette Valley provides a strong tourism base, and the mid-latitude of Oregon provides

moderate rainfall during the winter and spring months, and mild temperatures.

C. Source of Funds and Budget

The City of Newport Public Arts Committee, in its 2022/2023 funding allocation, of approximately \$45,000 for this project. The award amount for all the artwork shall not exceed a total of \$45,000, and will include artist fees, travel, and all costs associated with the fabrication of the artwork, all aspects of installation (e.g., base, mounting mechanisms, contrivances or apparatuses), lighting considerations, delivery and installation. The City of Newport reserves the right to make more than one award. Multiple awards may be made, but the total amount of funding allocated for all artwork shall not exceed \$45,000.

D. Scope of Work

This is a design-build project, meaning the artist or artist team is expected to design, fabricate, and install the piece within the project budget. Other considerations:

1. If the artwork will include lighting, or other mechanical necessities, these details must be addressed in the proposal;
2. The artisanship should include high construction quality with structural and surface soundness; resistance to theft, vandalism, weathering, and excessive maintenance or repair costs; and no hazard to public health or safety. Please note that the installation location will be exposed to coastal weather and the implication should be considered for proper wear and maintainability.

E. Application Process

1. Phase One: Application

The Public Arts Committee will review the submissions and select up to 10 artists from the initial applications to create artwork concept drawings and to develop formal proposals for the original site-specific pieces. The artists will be selected on the selection criteria delineated in Section G. of this document. Artists or artist teams selected to continue the process would be notified by e-mail.

2. Phase Two: Presentation of Artwork Concept Proposals

The artist, or artist team, will present formal concept proposals, including the proposed budget, for the artwork, to the Public Arts Committee in Newport, Oregon on a date to be determined. The artist or artist team is required to present their proposal virtually or in person.

3. Phase Three: Final Notification of Selection

The Newport City Council will commission one artist, or artist team, to create the artwork based on the formal artwork concept proposal meeting the selection criteria delineated in Section G. of this document. The selected artist, or artist team, will receive a contract commission for all remaining elements of the project including final design, engineering, fabrication, mounting infrastructure, shipping, and installation. Installation of the artwork is required to be completed by June 30, 2023.

F. Eligibility

The competition is open to all artists. Geographic preference will be given according to the selection criteria below. The following artists, and artist teams, will not be considered: members of the Public Arts Committee, employees of the City of Newport, and art students.

The selected artist, or artist team, will work with the Public Arts Committee and city staff to create a site-specific, durable piece of artwork for this outdoor site.

It is preferred that artists have experience working within the public process in public settings, as well as a proven ability to fabricate their own works or to work with fabricators and installers. The piece for this site should be original, reflect artistic excellence, and be able to be adequately and safely installed, displayed, maintained, and secured.

The selected artist, or artist team, will be required to provide general liability, property damage, and, if applicable, workers compensation insurance while working on the site.

The selected artist, or artist team, will be required to obtain a City of Newport business license. If the selected artist, or artist team, does business, provides services, or operates as a corporation, limited partnership, limited liability company, or under an assumed business name, satisfactory evidence of such status must be supplied to the City of Newport.

G. Selection Criteria

Proposals will be evaluated based on the following categories. Proposals will be scored, and ranked. The proposal selected as the successful proposal will be determined by the highest point total, based on the categories below. The successful proposal may be eligible for negotiation as to the matters, if any, identified as suitable for negotiation in this RFP.

Proposer qualifications, experience, and demonstrated artistic merit/ability.	20 points
Cost reasonableness and appropriateness as compared to all other proposals.	10 points
Experience working within the public process.	10 points
Demonstrated skill fabricating and installing permanent artwork suitable for the outdoor environment.	20 points
Artistic excellence with the proven ability to create a high quality, easily maintained, durable large-scale artwork.	20 points
Proven capacity to deliver the project requirements on time and within budget.	10 points
Maintenance costs estimate for 5 year period.	5 points
Geographic preference, in this order: Lincoln County in Oregon, State of Oregon, the NW Coastal area (including Oregon, Washington and Northern California). The artist, or artist team, reside, have artwork in, or use fabricators from these areas.	5 points

H. Information about the Site

This site-specific artwork will be installed in Don and Ann Davis Park, in the open area near the restrooms and Gazebo, unless the artist or artist team has another recommendation within the Park. See Exhibits A and B attached for specific location of artwork.

I. Additional Information

Questions and requests for additional information should be directed to Erik Glover, Assistant City Manager/City Recorder, City of Newport, 541.574.0613 or e.glover@newportoregon.gov.

1. The Public Arts Committee reserves the right to accept or reject any and all applications or re-open the selection process or commission an artist, or artist team, through another process.
2. Artists submitting qualifications and subsequent concept proposals for review will receive electronic notification of the results of the selection process.
3. Submitting an application does not constitute an expressed or implied contract.
4. Materials submitted will not be returned to the artist/s.
5. The final approval of the commission for art will be made by the Newport City Council.

J. How to Apply

All submittal requirements must contain page numbers and include the following items in the order listed below. The qualifications package will not be considered if incomplete.

1. Letter of interest: no more than one page in length, which explains your interest in the project. Include your name, address, phone number(s) and web site, if available.
2. Artist's Statement: no more than one page in length, describing your work.
3. Current Resume: if submitting as a team, an individual resume must be submitted for each team member. Resume/s should reflect artist/s' experience in designing, fabricating, and installing artwork in outdoor and public settings.
4. References: at least three professional references with a familiar knowledge of your work and working methods in public settings. The list must include the reference's name, title, agency/business, complete address, e-mail address, and phone numbers. Also, include the title and location of the artwork created for the reference. References provided as part of this application will be contacted prior to final selection.
5. Images of work: no more than ten images of relevant work samples must be included in the pdf document (no separate jpeg images). The images should be

numbered, minimum size of 3" x 4", and labeled with the title of the piece, the medium, the date, the dimensions, and location of the artwork. Artists applying as a team must submit work samples from each individual artist's work.

6. The artist may include up to three selections of supportive materials such as reviews, news articles, and other related information.
7. Submit one copy of the proposal via e-mail to Erik Glover, at e.glover@newportoregon.gov, by 3:00 P.M., PDT, on November 30, 2022. The subject line of the e-mail should read, "Artwork for The Ambassador Replacement" All submitters will receive an e-mail confirmation of the receipt. Late applications will not be considered.

K. Contract Term

The term of the contract with the successful proposer shall be negotiated based upon the amount of time that the artist/artist team believes is needed for completion of the proposed artwork with the understanding that the project completion is on or before June 30, 2023

L. Deadline for Submission of Proposals

The proposals must be **received** by 3:00 P.M., PDT, November 30, 2022. Proposals must be e-mailed to Erik Glover, at e.glover@newportoregon.gov.

Timely submission of proposals is the sole responsibility of the proposer. The city reserves the right to determine the timeliness of all submissions. Late proposals will not be accepted. All proposals received after the deadline will not be considered.

M. General RFP and City Contract Information

The following terms and conditions apply to the agreement entered into between the successful artist/artist team and the City of Newport:

1. Budget

The award amount for all the artwork shall not exceed \$45,000, and will include artist fees, travel, and all costs associated with the fabrication of the artwork, all aspects

of installation (e.g., mounting mechanisms, contrivances or apparatuses), lighting considerations, and delivery.

2. Laws and Policies

In the performance of the creation of the artwork, the selected successful proposer shall abide by and conform to all applicable laws and rules of the United States, State of Oregon, and the City of Newport.

3. Costs Incurred by Proposers

All costs of proposal preparation shall be the responsibility of the proposer. The city shall not, in any event, be liable for any pre-contractual expenses incurred by proposers in the preparation and/or submission of the proposals. Proposals shall not include any such expenses as part of the proposed budget.

4. General City Reservations

City reserves the right to extend the submission deadline should this be in the best interest of the city. Proposers have the right to revise their proposals in the event that the deadline is extended.

The city reserves the right to withdraw this RFP at any time, and will notify proposers that the solicitation has been canceled. The city makes no representation that any contract will be awarded to any proposer responding to the RFP. The city reserves the right to reject any or all submissions.

If in city's judgment, an inadequate number of proposals are received or the proposals received are deemed non-responsive, not qualified, or not cost effective, the city may, at its sole discretion, reissue the RFP, or cancel this solicitation.

City reserves the right, subject to city's public contracting rules and applicable statutes, to reject any and all proposals and to waive any minor informality when to do so would be advantageous to the city.

5. Termination

Any contract awarded pursuant to this RFP may be terminated by the city, with or without cause, upon 30 days prior written notification by city to the successful proposer.

6. Proposer's Contact for Information

Proposers may contact Erik Glover, Assistant City Manager/City Recorder, with any questions regarding this RFP at:

**Erik Glover, Assistant City Manager/City Recorder
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
541.574.0613
e.glover@newportoregon.gov**

Exhibit A

Don and Ann Davis Park

Vicinity Location

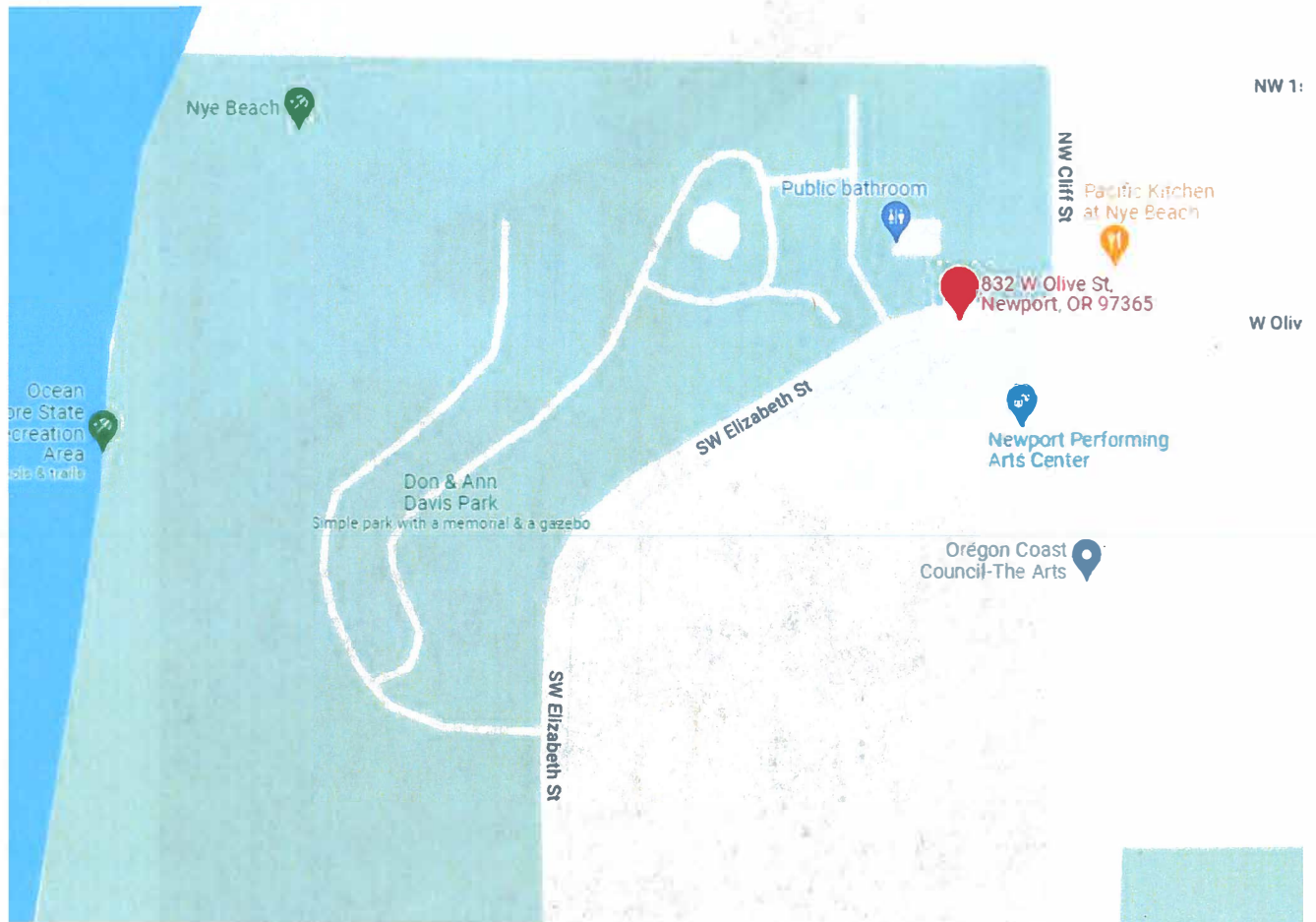


Exhibit B

Location of Ambassador, Prior to Removal/Dismantling





Approximately 30', and 6.6' from Curb.

In any action arising under this Agreement, the prevailing party shall be entitled to such sum as the court may award as reasonable attorney fees and court costs, including attorney fees and court costs on appeal.

19. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

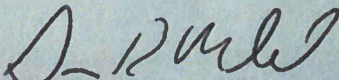
20. COMPLIANCE WITH STATE AND FEDERAL LAWS / RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers' compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this Agreement. (See attached Exhibit B.)

21. SEVERABILITY / COUNTERPARTS

In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

CITY OF NEWPORT



City Manager

March 9, 2023

Date

CONTRACTOR



Ken McCall/McCall Studios

March 14, 2023

Date