

CITY OF NEWPORT, OREGON PERSONAL SERVICES CONTRACT

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation (City), and Ground FX Landscape Management (Contractor). This agreement shall be effective when signed by both parties.

RECITALS

- A. Contractor has the training, ability, knowledge, and experience to provide services desired by the City.
- B. City selected Contractor to provide services pursuant to a request for multiple proposals from various vendors, and consistent with its public contracting rules.

TERMS OF AGREEMENT

1. SERVICES TO BE PROVIDED

Contractor shall begin services as soon as possible. Payment shall not be made for any other services without the written agreement by the City.

Contractor shall provide landscaping services at the Newport Performing Arts Center, 777 West Olive Street, Newport, Oregon, pursuant to a Request for Proposals, attached to this agreement as Exhibit D, and the proposal submitted by Contractor, attached to this agreement as Exhibit E.

Contractor may have contact with the public in the course of performing this contract and shall maintain good relations with the public. Failure to maintain good relations with the public shall constitute a breach of the contract. The City may treat the failure to maintain good relations as a non-curable breach allowing the City to terminate the contract and to disqualify Contractor from future work for the City.

2. TERM

This contract shall expire on completion of the services.

3. COMPENSATION

Contractor shall be compensated as described in Exhibit B 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 670.700 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 to a 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's 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 contract, 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 contract. 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 contract, 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 contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
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 the contract, 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 Contract that are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers or employers that are 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 contract.

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 the City

F. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above 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 contract.

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 contract.

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:

Spencer R. Nebel, City Manager
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
Business Phone: 541.574.0603

Contractor:

Ryan Bancroft, Owner
Ground FX Landscape Management
P.O. Box 538
Newport, Oregon 97365
Business Phone: 541.921.5078

Notices mailed to the address provided for notice in this section shall be deemed given upon deposit in the 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 the 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 contract 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.

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, or
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 and necessary 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 the 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 659.425, 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'S FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the prevailing party shall be entitled to such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

19. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State 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 Exhibit C.)

CITY OF NEWPORT



Spencer R. Nebel, City Manager

Date 02-18-20

CONTRACTOR



Ryan Baneroff, Owner, Ground FX Landscape Management

Date 2-18-20

EXHIBIT A

SERVICES TO BE PROVIDED

Implementation of landscaping plan for the Performing Arts Center as fully described in the Request for Proposals, issued on December 15, 2019, and more specifically, as follows:

1. Install Landscape Irrigation

Tie-in to existing plumbing - located in building wall connected to hose spigot.

Tested at 35 gpm. Requires cutting through existing sidewalk, and repairing sidewalk, trench in undeveloped landscape. Pipe size from source to Double Check/Backflow Valve - Minimum 1".

Trench approximately 40' to NW corner of building. Minimum depth of trench 18".

Tunnel pipe under sidewalk, or cut through and repair sidewalk, to install Backflow Prevention Valve - 1" Brass Double Check Valve. Connect Backflow valve to 6 Station Valve Manifold, or (2) - 3 Station Valve Manifolds. Install shut off valve between Backflow Prevention Valve and Irrigation Valves All Valves to be located in ground in approved Valve boxes. Station Valves - Rainbird 100-PEB Electric Valves

Trench and pipe valves to landscape as per irrigation plan:

2 - Turf zones - Pop-up Sprinklers Rainbird 1800 Series

4 - Planting Areas - Hunter MP Rotor Sprinklers

Install Irrigation Controller to Valves. Controller/Timer - Hunter I-Core 6 Station Controller - Plastic Cabinet for Outdoor Installation. Controller able to accept expansion modules.

Electrical connection to existing indoor wiring. Coordinate with Performing Arts Facility.

Connect Controller/Timer to 6 Station Valves.

Wiring to be installed in conduit

All PVC to be Schedule 40, Minimum size for pipe to sprinklers - ¾".

Minimum Depth for irrigation pipe - 16".

Pop-up Sprinklers - Rainbird 1800 Series.

Rotor Sprinklers - Hunter MP Rotor.

2. Install Gravel and Landscape Rock, per Landscape Plan:

Relocate 6 Rock Boulders - currently on site, move to locations specified on plan .

Grade area - Approximately 1,200 square feet total area.

Define border between gravel area and landscape with Landscape Stone - sourced at Pacific Stonescape in Corvallis - City of Newport to approve.

Between Landscape Stones - install either a Bender Board product or 2" by 4" pressure treated wood product as edging.

Landscape Stone and edging to be set to be flush and equal to the final grade of Gravel and existing landscape.

Compact and install 2 ½" - 3" layer of Baserock - ¾" Minus.

Install 2 ½" - 3" finish layer of 10 minus gravel with Stabilizer product added for durability see Plan Details.

EXHIBIT B

RATES/COSTS

Landscaping of city-owned property located at the Newport Performing Arts Center, 777 West Olive Street, Newport, Oregon 97365.

\$17,900

EXHIBIT C

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. [2003 c.794 §76c]

279B.235 Condition concerning hours of labor.

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.

REQUEST FOR PROPOSALS
PERFORMING ARTS CENTER LANDSCAPING



SUBMIT PROPOSAL TO:

Peggy Hawker, City Recorder/Special Projects Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
541.574.0613
p.hawker@newportoregon.gov

Due Date: Wednesday, January 15, 2020 by 3:00 P.M., PST

CITY OF NEWPORT, OREGON
REQUEST FOR PROPOSALS
PERFORMING ARTS CENTER LANDSCAPING

SECTION I. INTRODUCTION AND BACKGROUND

A. Proposer Entity

The City of Newport ("City") is seeking well-qualified individuals, firms, or teams (Proposer) to assist the City in landscaping the Performing Arts Center, based on plans and scope of work developed by City staff.

B. Overview

The City of Newport is:

- a prime tourist destination on the Central Oregon Coast
- the county seat of Lincoln County
- a hub for arts, culture, and cultural tourism
- a major commercial and recreational fishing port
- a nationally-recognized working waterfront that successfully incorporates commercial fishing, seafood processing, and tourism
- one of the nation's largest marine science education and research centers
- the site of Oregon State University's Hatfield Marine Science Center
- NOAA's National Marine Operations Center
- the site of the Oregon Coast Aquarium
- a major United States Coast Guard station and USCG Air Facility
- still active in the forest industry with a large logging and paper processing presence.

The Yaquina River and Port of Newport is a gateway to the Pacific Ocean. The City has a strong tourism base due to its moderate temperature and remarkable weather in all seasons.

C. Goal, Source of Funds, and Budget

The goal of this project is to implement the landscaping plan developed by City staff for the Performing Arts Center.

D. Scope of Work:

1. Install Landscape Irrigation

Tie-in to existing plumbing - located in building wall connected to hose spigot.

Tested at 35 gpm. Requires cutting through existing sidewalk, and repairing sidewalk, trench in undeveloped landscape. Pipe size from source to Double Check/Backflow Valve - Minimum 1".

Trench approximately 40' to NW corner of building. Minimum depth of trench 18".

Tunnel pipe under sidewalk, or cut through and repair sidewalk, to install Backflow Prevention Valve - 1" Brass Double Check Valve. Connect Backflow valve to 6 Station Valve Manifold, or (2) - 3 Station Valve Manifolds. Install shut off valve between Backflow Prevention Valve and Irrigation Valves All Valves to be located in ground in approved Valve boxes. Station Valves - Rainbird 100-PEB Electric Valves

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Relocate 6 Rock Boulders - currently on site, move to locations specified on plan .

Grade area - Approximately 1,200 square feet total area.

Define border between gravel area and landscape with Landscape Stone - sourced at Pacific Stonescape in Corvallis - City of Newport to approve.

Between Landscape Stones - install either a Bender Board product or 2" by 4" pressure treated wood product as edging.

Landscape Stone and edging to be set to be flush and equal to the final grade of Gravel and existing landscape.

Compact and install 2 ½" - 3" layer of Baserock - ¾" Minus.

Install 2 ½" - 3" finish layer of 10 minus gravel with Stabilizer product added for durability see Plan Details.

See attachments 1 and 2 for greater detail. Hardcopies of the attachments are available at City Hall. Please contact Peggy Hawker, at 541.574.0613 or p.hawker@newportoregon.gov, to obtain hardcopies of these documents.

E. Timetable

This process is anticipated to take approximately three months from the date of award of contract. The timetable is:

Release of Request for Proposals	December 15, 2019
Proposals Due	January 15, 2020 by 3:00 P.M. PST
Proposal Award Date	February 3, 2020
Vendor Begins Work	As Mutually Agreed Upon by Successful Proposer and the City

E. Deadline for Submission of Proposals

The proposal must be received, via e-mail to Peggy Hawker, at p.hawker@newportoregon.gov, by 3:00 P.M., PST, on **Wednesday, January 15, 2020**. Hardcopy proposals may be mailed or delivered to the City Manager's Office, 169 SW Coast Highway, Newport, Oregon 97365, but must be received by 3:00 P.M., PST, on Wednesday, January 15, 2020.

Timely submission of proposals is the sole responsibility of the Proposer. A proposal received after the deadline will not be considered.

F. Proposal Requirements

The RFP will be incorporated into any resulting Contract with the successful Proposer, along with any terms of the accepted proposal which are not in conflict therewith, as well as provisions which are permissible matters for negotiation, as set forth herein. The contents of the proposal submitted by the successful Proposer will become contractual obligations if a Contract is awarded.

All proposals submitted in response to the RFP become the property of the City and will be a public record after the selection process is completed. Each proposal must contain

the following:

1. A cover letter. The cover letter should be limited to one page and must include the company name, company address, and the name, telephone number, fax number, and e-mail address of the person(s) authorized to represent the firm on all matters relating to the RFP and any contract awarded pursuant to this RFP. A person authorized to bind the Proposer to all commitments made in the proposal must sign the letter.
2. The name and contact information of the Proposer's primary contact person.
3. Narrative response describing the timeline and plan to complete the project.
4. Description of related experience in aspects of landscape installation.
5. Proposed costs to perform the scope of work.
6. Other information that may assist the City in making its selection.
7. Each Proposer shall also furnish references from individuals or organizations for which similar work was performed. The results of the reference checks will be considered by the City in its evaluation of proposals.

G. CONTRACT AWARD

1. The successful Proposer selected to provide the services outlined in this RFP shall enter into a contract directly with the City of Newport within thirty (30) days of the Notice of Intent to Award Contract, or such later date as determined by the City Manager.

The City reserves the right to verify the information received in the proposal. If the Proposer knowingly and willfully submits false information or data, the City reserves the right to reject that proposal. If it is determined that a contract was awarded or entered into because of false statements, or other incorrect data submitted in response to this RFP, the City reserves the right to terminate the contract, without penalty therefore, and with all rights reserved.

2. Proposal Evaluation and Selection Process

Proposals will be evaluated based on the following categories, including references and information from entities or persons with whom Proposer has entered into contracts within the last five years. The successful proposal may be eligible for negotiation as to the matters, if any, identified as suitable for negotiation in this RFP.

Proposer qualifications, local knowledge, experience, and demonstrated ability	35 points
References and contacts from previous clients	10 points
Project understanding and approach for accomplishing City objectives	25 points
Thoroughness, quality, and responsiveness of proposal to questions to be answered by Proposer as detailed in this RFP	20 points
Cost reasonableness and appropriateness as compared to all other proposals	10 points

III. GENERAL RFP AND CITY CONTRACT INFORMATION

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

A. Budget

Total expenditures under this contract shall not exceed the amount budgeted by the City. In the event City requires additional services beyond those agreed to by the parties in the contract, such services will be documented in writing as an amendment to the contract.

B. Laws and Policies

In the performance of the work, the selected successful Proposer shall abide by and conform to all applicable laws and rules of the United States and the State of Oregon.

C. Contract

The contract with the successful Proposer will be reviewed for legal sufficiency by the City Attorney of the City of Newport, and approved by the City Council.

D. Costs Incurred by Proposers

All costs of proposal preparation shall be the responsibility of the Proposer. The City shall not 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.

E. General City Reservations

The City of Newport 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. If, in the 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 execute a contract with the next highest ranked Proposer. The City may also cancel this solicitation entirely, subject to compliance with applicable laws and the City's public contracting rules.

F. Addenda to the RFP

Addenda to the RFP will be posted on the City's website at www.newportoregon.gov.

G. 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 the City to the successful Proposer.

H. Proposer's Validity Period

Proposals shall be valid for a period of 70 days from the proposal deadline.

I. Proposer's Contact for Information

Proposers may contact Peggy Hawker, City Recorder/Special Projects Director, with any questions regarding this RFP at:

Peggy Hawker, City Recorder/Special Projects Director
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
541.574.0613
p.hawker@newportoregon.gov

J. Deadline for Submission of Proposals

All proposals, either electronic or hardcopy, must be received by 3:00 P.M., PST, on **Wednesday, January 15, 2020**.

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.



P.O. Box 538 Newport, Oregon 97365

LCB#9090

541-921-5078

info@fxoregon.com

January 15, 2020

RE: The City of Newport, Performing Arts Center

To Whom it May Concern,

Ground FX Landscape Management would like to submit the following proposal for your consideration for the landscape work at the Performing Arts Center in Newport.

We propose to remove all the existing landscape, install all specified landscape items per the RFP section D and perform a cleanup for a finalized presentation. All disposal will be done off site at an approved facility. All phases of the landscape work will be completed within in one month of the initial start date. All city ordinances regarding storm water runoff and construction site protect regulations will be followed during all work phases.

Ground FX Landscape has over 18 years of experience with commercial and residential landscape throughout the Oregon Coast. Each year we install about ten irrigation systems of varying sizes and complexities. We have over 40 years of combined knowledge of landscape and irrigation systems. We would be happy to provide a plan for a low maintenance landscape for this area in the future. We can offer suggestions for landscape options, plant material that will be the most successful on the coast and for any landscape needs you may have. Ground FX Landscape is also licensed, bonded and insured.

The proposed cost for this project is \$17,900.00.

If there are any questions regarding the attached proposal, please contact us directly through the information provided below.

Thank you for your consideration.

Sincerely,

Ryan Bancroft
Owner
541-921-5078
ryan@fxoregon.com

Corey Rivera
Construction Account Manager
541-921-5078
corey@fxoregon.com



P.O. Box 538 Newport, Oregon 97365

LCB#9090

541-921-5078

info@fxoregon.com**Proposal for Landscape Construction****January 15, 2020**

Submitted To:		Work to Be Performed At:	
Name	<u>Knottworks Construction</u>	Name	<u>Same</u>
Street	<u>4070 US Hwy. 101</u>	Location	<u>Same</u>
City	<u>Lincoln City, OR 97367</u>	Phone	<u>Same</u>
Phone	<u>503-519-8789</u>	Frequency of work:	<u>One time</u>

Ground FX Landscape Management consists of professionals who specialize in maintenance and outdoor construction for residential and commercial landscapes. We focus on the details and take great pride in our work to ensure excellent quality. Customer service is always our primary objective. Ground FX is licensed, bonded, and insured to the requirements established by the State of Oregon.

We hereby propose to furnish materials and perform the following services:

Landscape Installation

- Remove all soil, bark and debris onsite and haul it away
- Remove the existing boulders and store them on site to be placed back into landscape at a later phase
- Install a complete irrigation system into the north landscape area of the PAC per the provided plan and specifications in the RFP Letter D scope of work, substitutions for Hunter products will be the only change
- Install rock boulders and plastic bender board edging per the plan to separate the rock area from the future landscape area, the bender board is to be plastic redwood 1 x 6 edging
- Install a 3/4" minus base and a #10 minus top cover of rock into the rock landscape area as per the plan and RFP specifications Letter D scope of work
- Reinstall the previously removed boulders into the landscape per the plan provided
- Cleanup the entire site from any Ground FX generated debris
- Test and ensure the entire system is in working order and condition, this includes performing a backflow test and providing a backflow certificate that will be valid for one year

Total Project Cost: \$17,900.00*

*A utility locate must be performed before any work can commence. The location of these utilities may change the price of the bid. The irrigation system was designed according to the provided water source specifications from the City of Newport. Actual variations verified in the field may be cause for changes to the bid price.

Initial in Agreement _____

CONTRACT FOR LANDSCAPE SERVICES ACCEPTANCE OF PROPOSAL

Ground FX Landscape Management, has presented a proposal for landscape services to be provided for the customer at the specified address on page one of this contract. Goods and services to be provided are specified on the proposal attached hereto and incorporated herein. Ground FX is licensed and insured to apply herbicides, insecticides and herbicides which are required by the State on commercial and residential properties.

THE PARTIES AGREE AS FOLLOWS:

Payment terms: Landscape construction/cleanup - 40% of the total payment is due prior to the start of the project. Any remaining balance is **due upon completion** of the project. When the down payment is received the project will be scheduled.

- Finance Charge:** All accounts are due and payable as stated. A finance charge of 1.5% per month (18% per annum) will be assessed on all unpaid balances.
- Attorney Fees:** Customer agrees to pay attorney fees and reasonable court costs incurred to enforce payment of unpaid balances.
- Guarantee:** Contractor shall guarantee that all materials used are as specified. Work shall occur as contracted unless delayed by unforeseen circumstances outside the control of the Contractor. Contractor is not responsible for damage done to property by acts of nature or vandalism and customer agrees to pay for any costs attributed to repair of landscape as a result of these acts.
- Warranty:** Contractor shall complete all work in a professional manner in accordance with the standards in the industry. All workers shall be fully covered by Workmen's Compensation Insurance. We warranty our construction workmanship for one year from completion of project. We warranty plants for one year from date of installation. Contractor is not responsible for wilting or desiccation of any plants, sod or seeds if there is no adequate automatic watering system onsite that has been verified to be working correctly by our staff. If the automatic timer is changed without our knowledge or permission all warranties are void. We take no responsibility for inclement weather, Acts of God or damage caused by others for newly seeded, sodded, planted plants or ground finishes, such as bark dust, rock, etc. that may be washed away or damaged.
- Additional Warranty exclusion written below that may pertain on a per job basis:
-
- Change Orders:** Out of scope work may occur as a result of unforeseen circumstances or requests from the property owner/manager. Therefore, additional charges will be added to the balance at the end of the project.
- Terms:** This proposal is valid for a period of 70 days. The dates of this contract are to be determined by both parties.
- Termination:** 48-hour notice is required by either party for termination of the project.
- Insurance:** The Customer shall carry fire and other necessary insurance for the premises. The Contractor shall carry all necessary professional insurances and bond.
- Permits:** Any necessary permits shall be provided by the Contractor with reimbursement by the Customer.
- Property Lines:** Prior to the commencement of the Work the Customer will provide Contractor with information as to the location of property lines and all subsurface utility and service lines, including but not limited to electrical, telephone and gas lines and water and irrigation pipelines and conduits. Contractor may rely on the accuracy and completeness of all such information and shall not be liable for damages or costs resulting from any errors or omissions in that regard. Unless otherwise provided for herein, Contractor will be responsible for obtaining any municipal building permits required in relation to the performance of the Work.
- Indemnification:** Customer shall indemnify, defend, and hold Contractor, its employees, officers, directors, and affiliates harmless from any loss, cost, expense, or damage claimed by third parties for property damage and/or bodily injury, including death, to the proportionate extent such loss, cost, expense, or damage arises from Customer misidentifying property lines, or from the negligence or willful misconduct of Customer in connection with the project.

ACCEPTANCE OF PROPOSAL

The terms and conditions outlined above are hereby accepted: Customer hereby accepts and authorizes the contract as specified and the Contractor hereby agrees to perform as outlined herein.

Customer Signature

Date

Contractor Signature

Date

Thank you for using Ground FX Landscape Management for your landscape project!



P.O. Box 538 Newport, Oregon 97365

LCB#9090

541-921-5078

info@fxoregon.com

Ground FX Landscape Management, LCC References:

1. Samaritan Health Services Health Center for Education

Jon Conner

930 SW Abbey St.

Newport, OR 97365

(541) 921-4742

2. TLC Federal Credit Union

Amy Petersen

2004 NW 36th St.

Lincoln City, OR 97367

(541) 994-9889

3. North Lincoln Sanitary

Tina French

1726 SE Hwy. 101

Lincoln City, OR 97367

(541) 994-5555

4. The Resort at Whale Pointe

Amie Marshall, Resort Manager

939 NW Hwy. 101

Depoe Bay, OR 97341

(541) 765-7600