

**CITY OF NEWPORT, OREGON**

**REQUEST FOR PROPOSALS**

**LEASE OF ABBEY STREET PIER BUILDING  
669 SW BAY BOULEVARD**

**SUBMIT PROPOSAL TO:**

**Jim Voetberg, City Manager  
City of Newport  
169 SW Coast Highway  
Newport, Oregon 97365**

**REVISED DEADLINE – MARCH 12, 2010**

## CITY OF NEWPORT, OREGON

### Request for Proposal Lease of Abbey Street Pier Building

The City of Newport is seeking proposals from interested parties for a lease of all, or a portion of, the Abbey Street Pier Building, located at 669 SW Bay Boulevard, Newport, Oregon.

Proposals must be received by the City of Newport, Attention: Jim Voetberg, City Manager, 169 SW Coast Highway, Newport, Oregon 97365, no later than 5:00 P.M., February 26, 2010. The envelope must be marked: "Abbey Street Pier Building."

**Proposals must be submitted in a sealed envelope.** All proposals must be completed in ink or typewritten. Facsimile proposals will not be accepted. Questions may be addressed to Jim Voetberg, City Manager, (541) 574-0603, [j.voetberg@thecityofnewport.net](mailto:j.voetberg@thecityofnewport.net).

**NEWPORT, OREGON.** 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, 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. 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, and NOAA plans to home port its west coast research fleet in Newport. There are also a large number of private boats docked in marinas around the Bayfront. Newport is one of three deep-water ports on the Oregon Coast, with tonnage of shipping second to 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.

**SUBJECT PROPERTY.** The subject property is located at 669 SW Bay Boulevard, Newport, Oregon. It consists of two floors (no elevator), and proposals may be made for the use of one or both floors. The space currently occupied by Bay Latte must be excluded from any proposal.

The legal description is as follows:

Beginning at a point on the southeast line of Bay Boulevard that is duly opposite the southeast corner of Lot 1 in Block 3 in the original town of Newport, Oregon; thence along the southeast line of Bay Boulevard in a southwesterly direction a distance of 80 feet; thence in a southeasterly direction and at right angles with said Bay Boulevard to the United States Harbor line; thence northeasterly along said United States Harbor line 80 feet; thence at right angles to the point of beginning, in the City of Newport, County of Lincoln, State of Oregon.

**ZONING.** The property is zoned W-2 Water-Related. General commercial activities may be allowed through a conditional use permit. In considering conditional uses for this property, the city will require that they be established in a manner that maintains or enhances the historic, unique, or scenic quality of the area. Depending on the services provided or products sold, land use review and approval may be required.

**SQUARE FOOTAGE.** The lower floor, excluding Bay Latte, is approximately 1,600 square feet; the upper floor is approximately 2,135 square feet. There are public restrooms located on the lower floor which accounts for the difference between the available square footage of the first and second floors.

**BUILDING AND SITE DESCRIPTION.** The property has Bay Boulevard frontage, and is located in a very visible and highly trafficked tourist area. It is of site built construction in good condition. It has approximately 1,600 square feet of finished area on the ground floor level, 2,135 square feet of finished area on the upper level. The building fronts the sidewalk on SW Bay Boulevard and is across the street from a public parking lot. The south side of the property abuts Yaquina Bay, providing stunning bay and bridge views. Utility services include water, sewer, electricity, telephone, and natural gas.

The property is located in a neighborhood with water-related businesses, including tourism, retail, and commercial properties, with good access to all local services and the Pacific Ocean. It is within the boundaries of the Bayfront Business Association, which is actively engaged in an effort to maintain the character of Newport's historic Bayfront.

Newport has a contagious and engaging spirit that would perfectly suit aggressive, energetic, and lively personalities. The Abbey Street Pier building is an ideal location for any number of businesses that would benefit from this prime water-front location.

## **I. SCOPE.**

The City of Newport is actively seeking a tenant(s) for the previously described parcel of real property owned by the city.

The city will entertain lease terms of up to ten years, and possibly longer.

The city is open to leasing the available area to more than one tenant, and may accept more than one proposal.

Tenants will be required to perform upgrades, maintenance, and improvements at their expense.

Walk-throughs will be scheduled for Wednesday, February 17, 2010, beginning at 9:00 A.M. Please call Peggy Hawker, at 541-574-0613, for an appointment.

## **II. PROPOSAL.**

Proposals should include a detailed development plan with the **proposed use, term of lease,** and **remuneration to the city.** Also include the project timeline and milestones, along with processes for development and progress review.

Proposals shall state relevant qualifications of the proposer, including:

- A. Experience in development/operation of the proposed use.
- B. Financial resources.
- C. Key personnel (development and operational).
- D. Proposed Lease Area
- E. Proposed Lease Rate
- F. Proposed Term of Lease
- G. Detailed description for how the Lease Area will be used including the identification of services to be provided or products sold, hours of operation, etc.
- H. Any other information including but not limited to proposed tenant improvements, request landlord improvements, or any other information that will assist the city in determining the best use of the building.

All proposals must be clearly and distinctly typed or written in ink. Proposers shall put their name and address on the outside of the envelope and ensure that it is received prior to 5:00 P.M., on Friday, February 26, 2010.

Proposals should be sent to:

Jim Voetberg, City Manager  
City of Newport  
169 SW Coast Highway  
Newport, Oregon 97365

### **III. REVIEW OF PROPOSALS.**

The city will review proposals as soon as practicable after the closing date, but no later than March 12, 2010. Proposers may be required to respond to questions and submit additional information at the request of the city.

It is anticipated that a proposal(s) will be accepted by the city no later than April 5, 2010.

### **IV. SELECTION OF PROPOSALS.**

The city may select more than one proposal, and will select the proposal(s) determined to be in the best interest of the city, taking into account the lease rate, term, and services provided or product sold within the leased area. In determining what is in the city's best interest, the city will also take into account the compatibility of the services provided or product sold with other businesses in the area, the financial strength of the business and any other information as becomes available.

### **V. Agreement.**

The successful Proposer(s) will be required to execute a lease agreement similar to the agreement (Attachment A) provided with this RFP. Proposers should carefully review the agreement, including the required limits of insurance, prior to submitting a proposal.

## ATTACHMENT A.

### SAMPLE AGREEMENT FOR LEASE OF BUSINESS PREMISES

Date:

Between: City of Newport (City), Lessor  
169 SW Coast Highway, Newport, Oregon

And:

**City of Newport** leases to \_\_\_\_\_ and \_\_\_\_\_  
leases from the City of Newport the following described property (the "Premises"):

on the terms and conditions stated below:

#### **Section 1. Term; Occupancy; Option to Extend**

**1.1 Original Term.** The original term of this Lease shall be for a period of \_\_\_\_\_ years commencing on \_\_\_\_\_, and continuing through \_\_\_\_\_.

**1.2 Possession.** Lessee's right to possession and obligations under the lease shall commence on \_\_\_\_\_ and the Premises shall be available for possession by \_\_\_\_\_ if possession is not given on the opening day of the term. Newport shall have no liability for delays in delivery of possession and \_\_\_\_\_ will not have the right to terminate this lease because of delay in delivery of possession except as hereinafter provided.

**1.3 Option to Extend.** If Lessee is not in default, Lessee shall have the option to extend this Lease for \_\_\_\_\_ additional extension terms of \_\_\_\_\_ year(s) each. Notice exercising the extension option shall be delivered to Lessor in writing not less than ninety (90) days prior to the expiration of the then current term. Unless otherwise agreed in writing, if such notice is given, all terms and conditions of this Lease, other than the rent, shall apply during the extension term. Rent for the extension terms shall be negotiated with the goal of establishing a mutually agreed fair market rate. In the event the parties are unable to agree on a fair market rental rate for the extension term this Lease may be cancelled with no further obligation to the other. In the event the Lease is cancelled pursuant to the provisions of the previous sentence, the termination date for the then current term shall be the later of i) the natural expiration of such term or ii) a date six (6) months after written notice is given by either party to the other that a fair market rental rate for the option term cannot be agreed upon. If the natural expiration of the then current term is extended pursuant to subclause (ii) of the previous sentence, the rental rate for the extended term period shall not be increased during such extended period.

## **Section 2. Rent**

**2.1 Base Rent.** The base rent shall be \_\_\_\_\_ per month.

**2.2 Annual Rent Increases.** Rent will increase annually by an amount equal to the adjustment for inflation using the Bureau of Labor Statistics Consumer Price Index for Urban Consumers (CPI-U).

**2.3 Additional Rent.** All taxes, insurance costs, utility charges that \_\_\_\_\_ is required to pay by this lease, if any, and any other sum that \_\_\_\_\_ is required to pay to Newport or third parties shall be additional rent.

**2.4 No Partnership.** Newport is not by virtue of this section a partner or joint venturer with \_\_\_\_\_ in connection with the business carried on under this lease, and shall have no obligation with respect to Lessee's debts or other liabilities, and no interest in Lessee's profits.

## **Section 3. Use of the Premises**

**3.1 Permitted Use.** The Premises shall be used for business purposes, consistent with the W-2 zoning designation, and for no other purpose without the consent of City, which consent shall not be unreasonably withheld. The use and installation of business related equipment shall be contracted for by Lessee and installed and used at Lessee's cost.

**3.2 Restrictions on Use.** In connection with the use of the Premises, \_\_\_\_\_ shall:

(1) Conform to all applicable laws and regulations of any public authority affecting the premises and the use, and correct at Lessee's own expense any failure of compliance created through Lessee's fault or by reason of Lessee's use, but \_\_\_\_\_ shall not be required to make any structural changes to effect such compliance.

(2) Refrain from any activity that would make it impossible to insure the Premises against casualty, would increase the insurance rate, or would prevent Newport from taking advantage of any ruling of the Oregon Insurance Rating Bureau, or its successor, allowing Newport to obtain reduced premium rates for long-term fire insurance policies, unless \_\_\_\_\_ pays the additional cost of the insurance.

(3) Refrain from any use that would be reasonably offensive to other lessees or owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the premises.

(4) Refrain from loading the electrical system or floors beyond the point considered safe by a competent engineer or architect selected by Newport.

(5) Refrain from making any marks on or attaching any sign, insignia, antenna, aerial, or other device to the exterior or interior walls, windows, or roof of the premises without the written consent and appropriate permits issued by Newport.

**3.3. Hazardous Substances.** \_\_\_\_\_ shall not cause or permit any hazardous substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. \_\_\_\_\_ may use or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the business specified in Section 4.1. \_\_\_\_\_ may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Lessee's reasonably anticipated needs. \_\_\_\_\_ shall comply with all environmental laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. Upon the expiration or termination of this Lease, \_\_\_\_\_ shall remove all Hazardous Substances from the Premises. The term environmental law shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any environmental law and shall include, without limitation, petroleum oil and its fractions.

#### **Section 4. Repairs and Maintenance**

**4.1 Newport's Obligations.** The following shall be the responsibility of Newport:

(1) Repairs and maintenance of the roof and gutters, exterior walls (including painting), bearing walls, interior walls, structural members, floor slabs, and foundation.

(2) Repair of sidewalks, driveways, curbs, parking areas, and areas used in common by \_\_\_\_\_ and Newport.

(3) Repair and maintenance of exterior water, sewage, gas, and exterior electrical services to the Premises.

**4.2 Lessee's Obligations.** \_\_\_\_\_ is responsible for keeping the Premises in good condition.

**4.3 Inspection of Premises.** Newport shall have the right to inspect the Premises at any reasonable time.

#### **Section 5. Alterations**

**5.1 Alterations Prohibited.** \_\_\_\_\_ shall make no improvements or alterations on the Premises of any kind without first obtaining Newport's written consent. All alterations shall be made in a good and workmanlike manner, and in compliance with applicable laws and building codes.

**5.2 Ownership and Removal of Alterations.** All improvements and alterations performed on the Premises by either Newport or \_\_\_\_\_ shall be the property of Newport when installed unless the parties agree otherwise. At any time \_\_\_\_\_ relinquishes occupancy or the Lease is otherwise terminated, improvements and alterations installed by \_\_\_\_\_ shall, at Newport's option, be removed by \_\_\_\_\_ and the premises restored unless Newport specifically provides otherwise.

## **Section 6. Property Insurance**

**6.1 Casualty/Loss Insurance Required.** Newport shall keep the Premises insured at Newport's expense against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage. Lessee shall bear the expense of any renter's insurance insuring its property on the Premises against such risks.

**6.2 Waiver of Subrogation.** Neither party shall be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, and in the event of insured loss, neither party's insurance company shall have a subrogated claim against the other. This waiver shall be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each party agrees to use best efforts to obtain such an agreement from its insurer if the policy does not expressly permit a waiver of subrogation.

## **Section 7. Taxes; Utilities**

**7.1 Property Taxes.** \_\_\_\_\_ shall pay all taxes on its personal property located on the Premises and any real property taxes that may be assessed on the Premises due solely to Lessee's use.

**7.2 New Charges or Fees.** If a new charge or fee relating to the ownership or use of the Premises or the receipt of rental therefrom, or in lieu of property taxes is assessed or imposed, then, to the extent permitted by law, \_\_\_\_\_ shall pay such charge or fee.

**7.3 Payment of Utilities Charges.** Lessee shall pay for utilities consisting of natural gas, electric, water, sewer, and any telephone or telecommunication equipment.

## **Section 8. Damage and Destruction**

**8.1 Partial Damage.** If the Premises are partly damaged and Section 9.2 does not apply, the Premises shall be repaired by Newport at its' expense. Repairs shall be accomplished with all reasonable dispatch subject to interruptions and delays from labor disputes and matters beyond the control of Newport and shall be performed in accordance with the provisions of Section 5.3.

**8.2 Destruction.** If the Premises are destroyed or damaged such that the cost of repair exceeds 25% of the value of the structure before the damage, either party may elect to terminate the lease as of the date of the damage or destruction by notice given to the other in writing not more than 45 days following the date of damage. In such event, all rights and obligations of the parties shall cease as of the date of termination, and \_\_\_\_\_ shall be entitled to reimbursement of any prepaid amounts paid by \_\_\_\_\_ and attributable to the anticipated term. If neither party elects to terminate, Newport shall proceed to restore the Premises to substantially the same form as prior to the damage or destruction. Work shall be commenced as soon as reasonably possible and thereafter shall proceed without interruption except for work stoppages on account of labor disputes and matters beyond Newport's reasonable control.

**8.3 Damage Late in Term.** If damage or destruction to which Section 8.2 would apply occurs within four months before the end of the then-current lease term, \_\_\_\_\_ may elect to terminate the lease by giving written notice to Newport given within 30 days after the date of the damage. Such termination shall have the same effect as termination by Newport under Section 8.2.

## **Section 9. Liability Insurance and Indemnity**

### **9.1 Liens**

(1) Except with respect to activities for which Newport is responsible, \_\_\_\_\_ shall pay as due all claims for work contracted by \_\_\_\_\_ for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens. If \_\_\_\_\_ fails to pay any such claims or to discharge any lien, Newport may do so and collect the cost as additional rent. Any amount so added shall bear interest at the then-current rate allowed by law from the date expended by Newport and shall be payable on demand. Such action by Newport shall not constitute a waiver of any right or remedy which Newport may have on account of \_\_\_\_\_ default.

(2) \_\_\_\_\_ may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as Newport's property interests are not jeopardized.

**9.2 Indemnification.** \_\_\_\_\_ shall indemnify and defend Newport from any claim, loss, or liability arising out of or related to any activity of \_\_\_\_\_ on the Premises or any condition of the Premises in the possession or under the control of \_\_\_\_\_ including any such claim, loss, or liability that may be caused or contributed to in whole or in part by Newport's own negligence or failure to effect any repair or maintenance required by this lease. Newport shall have no liability to \_\_\_\_\_ for any injury, loss, or damage caused by third parties, or by any condition of the Premises except to the extent caused by Newport's negligence or breach of duty under this lease.

**9.3 Liability Insurance.** Before entering into possession of the Premises, \_\_\_\_\_ shall procure and during the term of the lease shall continue to carry at Lessee's cost commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of \_\_\_\_\_ or of any of its employees, agents or assigns, with \$1,000,000 per occurrence and in the aggregate. Such insurance shall protect Newport on account of the obligations assumed by \_\_\_\_\_ under this lease, and shall name Newport as an additional insured. A copy of the policy, issued by a company currently licensed in the State of Oregon and certified as a true copy by an authorized representative of the issuing company, or, at the discretion of the City, a certificate in a form satisfactory to City certifying to the issuance of such insurance, shall be furnished to City prior to Lessee's occupancy of the Premises.

## **Section 10. Quiet Enjoyment; Warranty**

Newport warrants that it is the owner of the Premises and has the right to lease them. Newport will defend Lessee's right to quiet enjoyment of the Premises from the lawful claims of all persons during the lease term.

## **Section 11. Assignment and Subletting**

No part of the Premises may be assigned or subleased, nor may a right of use of any portion of the property be conferred on any third person by any other means, without the prior written consent of Newport.

## **Section 12. Default**

The following shall be events of default:

**12.1 Default in Rent.** Failure of \_\_\_\_\_ to pay any rent or other charge within 10 days after written notice that it is due.

**12.2 Default in Other Covenants.** Failure of \_\_\_\_\_ to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within 20 days after written notice by Newport specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 20-day period, this provision shall be complied with if \_\_\_\_\_ begins correction of the default within the 20-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

## **Section 13. Remedy on Default**

**13.1 Termination.** In the event of a default the lease may be terminated at the option of Newport by ten days' written notice to \_\_\_\_\_. Newport may reenter and take possession of the premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

**13.2 Remedies Cumulative.** The foregoing remedy shall be in addition to and shall not exclude any other remedy available to Newport under applicable law.

## **Section 14. Surrender at Expiration**

Upon expiration of the lease term or earlier termination, lessee shall pay any amount owed for utility service provided under Section 7.3. on a pro-rata basis for any partial month.

**14.1 Condition of Premises.** Upon expiration of the lease term or earlier termination, \_\_\_\_\_ shall deliver all keys to Newport and surrender the Premises in first-class condition and broom clean. Alterations constructed by \_\_\_\_\_ with permission from Newport shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purpose for which the Premises are leased shall be excepted but repairs for which \_\_\_\_\_ is responsible shall be completed to the latest

practical date prior to such surrender. Lessee's obligations under this section shall be subordinate to the provisions of Section 8 relating to destruction.

#### **14.2 Removal; Fixtures; Repair**

(1) All fixtures placed upon the Premises during the term, other than Lessee's trade fixtures, shall, at Newport's option, become the property of Newport. If Newport so elects, \_\_\_\_\_ shall remove any or all fixtures that would otherwise remain the property of Newport, and shall repair any physical damage resulting from the removal. If \_\_\_\_\_ fails to remove such fixtures, Newport may do so and charge the cost to \_\_\_\_\_ with interest at the legal rate from the date of expenditure.

(2) Prior to expiration or other termination of the lease term \_\_\_\_\_ shall remove all furnishings, furniture, and trade fixtures that remain its property. If \_\_\_\_\_ fails to do so, this shall be an abandonment of the property, and Newport may retain the property and all rights of \_\_\_\_\_ with respect to the property shall cease or, by notice in writing given to \_\_\_\_\_ within 20 days after removal was required, Newport may elect to hold \_\_\_\_\_ to its obligation to remove the property. If Newport elects to require \_\_\_\_\_ to remove the property, Newport may effect a removal and place the property in public storage for Lessee's account. \_\_\_\_\_ shall be liable to Newport for the costs of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Newport.

#### **14.3 Holdover**

(1) If \_\_\_\_\_ does not vacate the Premises at the time required, Newport shall have the option to treat \_\_\_\_\_ as a lessee from month to month, subject to all of the provisions of this lease except the provisions for term and renewal or to eject \_\_\_\_\_ from the Premises and recover damages caused by wrongful holdover. Failure of \_\_\_\_\_ to remove fixtures, furniture, furnishings, or trade fixtures that \_\_\_\_\_ is required to remove under this lease shall constitute a failure to vacate to which this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another lessee or with occupancy by Newport for any purpose including preparation for a new lessee.

(2) If a month-to-month tenancy results from a holdover by \_\_\_\_\_ under this Section 16.3, the tenancy shall be terminable at the end of any monthly rental period on written notice from Newport given not less than 10 days prior to the termination date which shall be specified in the notice. \_\_\_\_\_ waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

### **Section 15. Miscellaneous**

**15.1 Nonwaiver.** Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

**15.2 Notices.** Any notice required or permitted under this lease shall be given when actually delivered or 48 hours after deposited in United States mail as certified mail addressed to the address first given in this lease or to such other address as may be specified from time to time by either of the parties in writing.

**15.3 Succession.** Subject to the above-stated limitations on transfer of Lessee's interest, this lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

**15.4 Recordation.** This lease shall not be recorded without the written consent of Newport. [Newport shall execute and acknowledge a memorandum of this lease in a form suitable for recording, and \_\_\_\_\_ may record the memorandum.]

**15.5 Entry for Inspection.** Newport shall have the right to enter upon the Premises at any time to determine Lessee's compliance with this lease, to make necessary repairs to the building or to the Premises, or to show the Premises to any prospective lessee or purchaser, and in addition shall have the right, at any time during the last two months of the term of this lease, to place and maintain upon the Premises notices for leasing or selling of the Premises.

**I. CITY OF NEWPORT**

\_\_\_\_\_  
Jim Voetberg, City Manager

\_\_\_\_\_  
Date

**Approved as to Form:**

\_\_\_\_\_  
Penelope McCarthy, City Attorney

\_\_\_\_\_  
Lessee

\_\_\_\_\_  
Date