



City of Laguna Hills City Council

Dave Wheeler
Mayor

Joshua Sweeney
Mayor Pro Tempore

Don Caskey
Council Member

Janine Heft
Council Member

Erica Pezold
Council Member

Special Meeting Agenda Tuesday, November 19, 2024 - 7:00 PM

City Council Chamber
24035 El Toro Road
Laguna Hills, CA 92653

In Person Public Comments: Any person wishing to address the City Council only on items listed on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber and submit the form to the City Clerk. The Request to Speak form assists the Mayor in ensuring that all persons wishing to address the City Council are recognized and ensures accurate identification of meeting participants in the City Council/Planning Agency Minutes. Completion of the form is voluntary. It is City policy to limit public testimony to up to three minutes per person, an overall time limit of twelve minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

Submission of Electronic Public Comments: Those wishing to make electronic public comments may submit their comments by [email to the City Clerk](#) by 5:00 p.m. on Tuesday, November 19, 2024. In the subject line of the email, please state your name and the item number you are commenting on. Any public comment received that does not specify a particular agenda item number will be announced during the general public comment portion of the agenda. All comments received by 5:00 p.m. on the date of the meeting will be provided to the City Council and will be provided for public inspection at the meeting. During the applicable agenda item, the City Clerk will announce the name of the sender and subject matter of all electronic comments received by 5:00 p.m. on Tuesday, November 19, 2024. Email comments will NOT be read by the City Clerk during the meeting. Electronic public comments may only be submitted via email and comments via text and social media (Facebook, X (formerly Twitter), etc.) will not be accepted.

For questions or assistance, please contact the City Clerk's Office at (949) 707-2635 or via [email](#).

Call to Order

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

Roll Call of City Council Members

Public Comments

Members of the public may address the City Council only on items listed on this Agenda. Public Comments are limited to three minutes per person, an overall time limit of twelve minutes for any one subject, and a total time limit of thirty minutes. Clarification questions from the City Council will not count against time limits. Speaker's responses are limited to one minute.

City Council Workshop Items

1 Consideration of Design Proposals for the 3rd Battalion, 5th Marines Darkhorse Memorial Bronze Sculpture

Recommendation: The 3/5 Battalion Memorial Ad Hoc Committee recommends that the City Council:

- 1) Approve the "Five Figures on Patrol Design,"
- 2) Authorize the Mayor to execute the Amended and Restated Agreement with the Artist; and
- 3) Authorize the Finance Director to amend the budget by allocating \$307,000 of Public Art Funds towards the 3/5 Memorial Sculpture project.

Adjournment

The next Regular Meeting of the City Council/Planning Agency will be December 10, 2024, at 7:00p.m., in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, JENNIFER LEE, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center by November 18, 2024, at 5:00p.m.



Jennifer Lee, CMC, City Clerk

It is the intention of the City of Laguna Hills to comply with the Americans with Disabilities Act in all respects. If as an attendee or a participant at this meeting you will need special assistance beyond what is normally provided, the City of Laguna Hills will attempt to accommodate you in every reasonable manner. Please contact the office of the City Clerk at (949) 707 2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours. In addition, such writings or documents will be made available for public review on the City's website at: <https://www.lagunahillsca.gov/supplementalagenda> and at the respective public meeting.



City of Laguna Hills City Council / Planning Agency Staff Report

Date: November 19, 2024
To: Mayor and Council Members
From: Don Caskey, Council Member
Janine Heft, Council Member
Issue: Consideration of Design Proposals for the 3rd Battalion, 5th Marines
Darkhorse Memorial Bronze Sculpture

Recommendation: The 3/5 Battalion Memorial Ad Hoc Committee recommends that the City Council:

- 1) Approve the “Five Figures on Patrol Design,”
 - 2) Authorize the Mayor to execute the Amended and Restated Agreement with the Artist; and
 - 3) Authorize the Finance Director to amend the budget by allocating \$307,000 of Public Art Funds towards the 3/5 Memorial Sculpture project.
-

Background:

In 2008, the City of Laguna Hills adopted the 3rd Battalion, 5th Marines (Darkhorse) to strengthen ongoing community support for the Marines, Sailors, and their families. This partnership led to the creation of Team Darkhorse, a non-profit organization dedicated to supporting the battalion, and sparked several initiatives, including renaming the annual Memorial Day Half Marathon in their honor and creating tribute banners for fallen Marines.

In 2022, the City Council established the 3/5 Battalion Memorial Ad Hoc Committee to design and develop a permanent monument at the Civic Center. After commissioning Brittany Ryan Studios in 2023, a conceptual design was approved, but the final 30-inch bronze sculpture was not authorized in July 2024. As a result, the City Council explored

two alternative design concepts: the Single Arch Wall Design and the Five Figures on Patrol Design.

Both designs, along with renderings and scale models, will be presented to the City Council on November 19, 2024. The Council is expected to review these proposals and select a preferred design to move forward. The 3/5 Battalion Memorial Ad Hoc Committee recommends that the City Council approve the “Five Figures on Patrol Design” and authorize the Mayor to execute the Amended and Restated Agreement with the Artist.

This ongoing effort demonstrates the City's dedication to creating a meaningful tribute to the 3/5 Battalion and the Armed Forces

Fiscal Impact:

Prior to designing a sculpture, the City Council allocated \$150,000 from the Special Revenue Public Art Funds for the sculpture project. To date, the City has expended \$30,000, resulting in a remaining allocation of \$120,000. The total fee for the Five Figures on Patrol bronze sculpture is \$457,000.

Currently, there is adequate cash in the Public Art Funds to afford this sculpture; no General Fund budget allocation is necessary. The cash balance in the Public Art Funds stands at approximately \$562,000. To fully cover the remaining costs of the bronze sculpture, it is recommended that the City Council allocate an additional \$307,000 from the Public Art Funds to the 3/5 Memorial Sculpture project.

In addition, the City will be responsible for all costs related to the transportation of the completed sculpture from the foundry to its installation site at the Laguna Hills Civic Center Plaza. This includes expenses for site preparation, landscaping, lighting, and any other installation-related requirements, all of which will be coordinated in consultation with the artist. The City Council will account for these additional costs in the FY25/26 – 26/27 Biennial Budget process.

Attachments:

1. Single Arch Rendering and Budget
2. Five Figures on Patrol Rendering and Budget
3. Amended and Restated Agreement



BRITTANY RYAN

ADDRESS



Laguna Hills, CA 92653

PHONE

619-417-3290

EMAIL

brittanyryanart@gmail.com

WEB

brittanyryanstudios.com

DATE: November 15, 2024

TO: The City of Laguna Hills % Jarad Hildenbrand

PROJECT DESCRIPTION: One arched 16'x5' bronze relief style sculptures depicting a landscape and figures of Marines in Afghanistan to be displayed outdoors in the plaza area at the Laguna Hills Civic Center to recognize the United States Marines of the 3rd Battalion, 5th Marines in celebration and honor of their bravery, heroism, victories, and many sacrifices.

DESCRIPTION	PRICE
Creation of Artwork	Included
Delivery to foundry	Included
Casting of sculpture in bronze	Included
Artist supervision of delivery, landscape design and installation of sculpture.	Included
Total:	482,000

Thank you for the purchase of my artwork, I hope it brings much enjoyment.

Brittany Ryan





BRITTANY RYAN

ADDRESS

[Redacted Address]

Laguna Hills, CA 92653

PHONE

619-417-3290

EMAIL

brittanyryanart@gmail.com

WEB

brittanyryanstudios.com

DATE: November 15, 2024

TO: The City of Laguna Hills % Jarad Hildenbrand

PROJECT DESCRIPTION: Five 50" figures sculptures depicting Marines on patrol in Afghanistan to be displayed outdoors in the plaza area at the Laguna Hills Civic Center to recognize the United States Marines of the 3rd Battalion, 5th Marines in celebration and honor of their bravery, heroism, victories, and many sacrifices.

DESCRIPTION	PRICE
Creation of Artwork	Included
Delivery to foundry	Included
Casting of sculpture in bronze	Included
Artist supervision of delivery, landscape design and installation of sculpture.	Included
Total:	457,000

Thank you for the purchase of my artwork, I hope it brings much enjoyment.

Brittany Ryan



**AMENDED AND RESTATED AGREEMENT TO
COMMISSION ORIGINAL WORK OF ART**
Laguna Hills Public Art Program
(3rd Battalion, 5th Marines Darkhorse Bronze Memorial Sculpture)

THIS AMENDED AND RESTATED AGREEMENT FOR CREATION, SALE, AND ASSIGNMENT OF ALL RIGHTS IN ARTISTIC WORK (the "Agreement") is made and entered into as of this 19th day of November 2024, by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California ("City"), and BRITTANY RYAN STUDIO, LLC, a Nevada Limited Liability Company ("Artist"). City and Artist are sometimes hereinafter referred to as "Party" and are hereinafter referred to collectively as the "Parties."

RECITALS

A. The City requires the services of an experienced and reputable artist with specialized expertise in designing, creating, and fabricating bronze memorial sculptures for the Laguna Hills Public Art Program.

B. The City wishes to commission the design, creation, and fabrication of a large-scale bronze memorial sculpture to be displayed outdoors in the plaza area at the Laguna Hills Civic Center to recognize the United States Marines of the 3rd Battalion, 5th Marines (3/5 Battalion) in celebration and honor of their bravery, heroism, victories, and many sacrifices and in recognition of our Nation's Armed Forces and the special relationship between this marine battalion unit and the City of Laguna Hills (the "Project").

C. The 3/5 Battalion, nicknamed "Darkhorse," is based in nearby Camp Pendleton, was formally adopted by the Laguna Hills City Council in 2008.

D. Artist is qualified by virtue of her experience, education, training, expertise, and reputation to design, create, and fabricate original works of art and to provide the necessary artistic services to City for the Project and has agreed to provide such services, and City desires to retain the services of Artist for the Project.

E. The purpose of this Agreement is to set forth the terms and conditions under which the City will commission and Artist will design, create, and fabricate, and supervise the installation of, an original work of art for the Project consisting of a large-scale bronze sculpture in honor of the 3/5 Battalion to be displayed outdoors in the Laguna Hills Civic Center Plaza, and transfer to City all of the rights in the commissioned artwork created by Artist as hereinafter provided.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Description of Commissioned Art.

A. Commissioned Art. Brittany Ryan is a locally known artist and sculptor (“Artist”). The Artist is hereby commissioned by the City to design, create, fabricate, and supervise the installation of “Five Figures of Marines on Patrol” memorial sculpture to be displayed outdoors in the plaza area at the Laguna Hills Civic Center to recognize the United States Marines of the 3rd Battalion, 5th Marines (3/5 Battalion) in celebration and honor of their bravery, heroism, victories, and many sacrifices and in recognition of our Nation’s Armed Forces and the special relationship between this marine battalion unit and the City of Laguna Hills (the “Work”). Artist shall perform all services described in the Scope of Services required under this Agreement to the highest professional standards and in a manner reasonably satisfactory to the City. All services rendered under this Agreement shall be provided by Artist in accordance with all applicable federal, state, and local laws, statutes, and ordinances and all lawful orders, rules, and regulations promulgated thereunder. The Work shall be a work for hire. The Scope of Services is attached hereto as Exhibit “A” and is incorporated herein by reference.

B. Familiarity with Work. By executing this Agreement, Artist warrants that Artist (a) has thoroughly investigated and considered the Scope of Services to be performed, (b) has carefully considered how the Work should be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the services and Work under this Agreement. If the services and Work involve work upon any site, Artist warrants that Artist has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any services hereunder. Should Artist discover any latent or unknown conditions that will materially affect the performance of the services and Work hereunder, Artist shall immediately inform the City Representative of such fact and shall not proceed except at Artist’s risk until written instructions are received from the City. Notwithstanding the foregoing, City understands and acknowledges that Artist is not an expert in construction or soil analysis, erosion, or ground settlement and therefore relies on City to select a suitable and appropriate outdoor site for displaying the Work.

Section 2. Artist’s Work Schedule.

The Artist shall complete the Work in accordance with the Schedule of Performance attached hereto as Exhibit “C” and incorporated herein by reference, along with any other work schedule and/or project timeline agreed upon in writing by the City and Artist.

Section 3. Compensation.

As full payment for Artist’s services for performing the Scope of Services, including the completed Work, and for all rights granted or waived by the Artist pursuant to this Agreement, and subject to the conditions set forth herein, the City shall pay the Artist a total amount not to exceed Four Hundred and Fifty-Seven Thousand Dollars (\$457,000.00) (“Artist’s Fee”). The Artist’s Fee is more particularly described in Payment and Payment Schedule, which is attached hereto as Exhibit “B” and is incorporated herein by reference. Payments shall be made by City in

accordance with the Payment Schedule set forth in Exhibit “B”. City shall not withhold applicable federal or state payroll or any other required taxes, or other authorized deduction from each payment made to Artist. Upon payment, Artist shall sign a written acknowledgement of receipt of said monies and such document shall be incorporated in this Agreement. No claims for additional services performed by Artist that are beyond the Scope of Services will be allowed unless such additional work is authorized by the City in writing prior to the performance of such additional services. Under no circumstances shall City be required to pay Artist for any services or Work that has not been completed to the reasonable satisfaction of the City.

Section 4. Personnel, Facilities, and Equipment.

Artist agrees that she will be responsible for completing all services described in the Scope of Services and for providing the personnel necessary for such services. Artist shall be solely responsible for the satisfactory work performance of the personnel engaged in performing the services required by this Agreement. Artist shall, at her sole cost and expense, furnish all facilities and equipment that may be required for creating the Work pursuant to this Agreement.

Section 5. Term and Timelines.

Artist shall commence performing the Scope of Services on the Commencement Date (See Exhibit “C”, Schedule of Performance) and shall perform all services and produce all Work in conformance with the Schedule of Performance set forth in Exhibit “C”, which is attached hereto and is incorporated herein by reference. City acknowledges that any material changes to the Work requested by City, or delays in granting approvals by City, may result in Artist being unable to meet the timelines set forth in Exhibit “C”, as such delays are beyond the control of Artist. In the event of such delay, Artist will not be held responsible for a failure to meet the Schedule of Performance set forth in Exhibit “C”. This Agreement shall be effective when fully executed by the Parties and shall terminate when the Scope of Services are completed, unless sooner terminated as provided in Section 18 herein.

Section 6. City Representative.

For purposes of this Agreement, the contract administrator and City representative shall be the City Manager (hereinafter the “City Representative”). It shall be the Artist’s responsibility to ensure that the City Representative is kept fully informed of the progress made in performance of the services and the production and delivery of the Work pursuant to this Agreement. Artist shall timely refer any decisions which must be made by the City to the City Representative. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the City Representative.

Section 7. Transfer of Rights of Reproduction.

Artist hereby transfers all rights of reproduction, as that term is defined in California Civil Code Section 982, in the fine art Work, including but not limited to the right to claim statutory copyright in the Work and the right to reproduce the Work in any manner whatsoever for

commercial and non-commercial purposes. Hereinafter, Artist shall not acquire or claim any rights in or to the Work, any uses, reproductions, or derivatives thereof or any proceeds therefrom.

Section 8. Waiver of Moral Rights.

Artist hereby waives, releases, and disclaims any rights, demands, or claims as may arise at any time and under any circumstances against City, its officers, employees, agents, successors, and assigns arising under the federal Visual Artists Rights Act (17 U.S.C. §§ 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code § 987 *et seq.*), and any other local, state, federal, or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. Section 106A, California Civil Code Section 987 *et seq.*, or any other type of moral right protecting the integrity of works of art. Artist acknowledges and agrees that City, in its sole and exclusive discretion, may, among other acts, temporarily or permanently modify, alter, change, or destroy the Work.

Section 9. Copyrights.

Artist hereby irrevocably assigns exclusively to City, and its successors and assigns, all right, title, and interest in the copyright of the Work, and all extensions and renewals thereof in the United States and in all foreign countries. Artist hereby waives all moral rights relating to each such Work including, but not limited to, any and all rights of identification of authorship and any and all rights of approval, restriction, or limitation on use or subsequent modifications. From time to time upon City's request, Artist shall confirm such assignment by execution and delivery of such assignments, confirmations of assignment, or other written instruments as City may request. City, and its successors and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for the Work.

Section 10. City's Sole and Exclusive Ownership Rights.

A. Ownership of Works. Artist shall not retain ownership of or any right, title, or interest in any of the Work, including, but not limited to, in any related trademarks, copyrights, or other proprietary rights. The Parties agree that the Work and all such rights, title, and interest in or to the Work shall belong to and are being sold and assigned in their entirety to the City for whatever use it desires, and that City does and shall at all times own, solely and exclusively, complete and unencumbered, all right, title, and interest in and to all of the Work worldwide, any modifications thereto and any derivative works based thereon (including, but not limited to, all patent, copyright, trademark, service mark, and trade secret rights). Nothing contained herein shall be deemed to constitute a mere license or franchise in City. The Parties further agree that City will be free to use, modify, distribute, sell, license, or otherwise exploit all such Work and any modifications to or derivative works based thereon without any restrictions or limitations or any obligations or payments to Artist and that Artist shall have no such rights.

Section 11. Originality of Work.

Artist hereby represents and warrants that (i) the Work is and will be original; (ii) at the time of transfer hereunder, Artist is the sole owner of the Work and of all rights therein including copyright, trademark, and other proprietary rights therein; (iii) Artist is and will be the sole creator of the Work; (iv) Artist has and will have full and sufficient right to assign all rights granted herein and to waive all rights relinquished herein; (v) Artist is not under any obligation to transfer or sell any of the Work to any third party; (vi) the Work has not been and will not be published under circumstances which have or will cause a loss of any copyright, trademark, or other proprietary rights therein; and (vii) the Work does not and will not infringe any patent, copyright, trademark, or other proprietary rights, privacy rights, or other rights of any third party, nor has any claim (whether or not embodied in a legal action, past or present) of such infringement been threatened or asserted, nor is such a claim pending, against Artist (or, insofar as Artist is aware, against any entity from which Artist has obtained any rights).

Section 12. Risk of Loss.

Artist bears the sole risk of damage to or loss of the Work to be produced by Artist pursuant to this Agreement until such Work is delivered to and received by the artworks foundry, anticipated to be located in Oxnard, California, and the City accepts such Work as satisfactorily completed pursuant to the Scope of Services set forth in Exhibit "A".

Section 13. Maintenance and Warranty of Works.

A. Artist shall provide City with a written description of a recommended routine maintenance program for the Work, if Artist determines that such routine maintenance of the Work may be required.

B. Artist hereby warrants that the Work will be free of defects in workmanship (due to faulty design, fabrication, and/or installation), materials and finish, including inherent vice, and that the Artists will, at the Artist's own expense, remedy, repair, or replace any such defects in workmanship, materials, and finish, including inherent vice, and if necessary replace the Work, which appear within a period of ten (10) years of the date the Work is delivered to and accepted by the City. The term "inherent vice," as used in this section, shall mean a quality within the material or materials which comprise the Work which, either alone or combination, results in the tendency of the Work, including without limitation the finish, to deteriorate.

Section 14. Artist's Credit.

Upon written request by the City, a public notice, approved in advance by the City Representative, including the Artist's name and website and mention of the City's sole ownership of the Work, shall be designed by the Artist and publicly displayed with the Work.

Section 15. Indemnification.

To the fullest extent permitted by law, Artist shall defend (at Artist's sole cost and expense), indemnify, protect, and hold harmless City, its elected officials, officers, employees, agents, and volunteers (collectively the "Indemnified Parties"), from and against any and all

liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (Artist's employees, agents, and volunteers included), for damage to property, including property owned by City, from any violation of any federal, state, or local law or ordinance, which Claims arise out of, pertain to, or are related to the negligence, recklessness, or willful misconduct of Artist, her agents, employees, volunteers, or subcontractors, or arise from Artists negligent, reckless, or willful performance of or failure to perform any term, provision, covenant, or condition of this Agreement, but excluding such Claims arising from the negligence, recklessness, or willful misconduct of the City, its elected officials, officers, employees, agents, and volunteers. Notwithstanding the foregoing, the indemnification under this section shall not include any personal injuries sustained by members of the public or third parties after the Work has been installed at its permanent location in the Laguna Hills Civic Center.

Section 16. Independent Contractor.

Neither City nor any of its employees shall have any control over the manner, mode, or means by which Artist, her agents, employees, or volunteers, perform the services required herein, except as otherwise set forth herein. Artist shall perform all services required herein as an independent contractor of the City and shall not be an employee of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role; however, City shall have the right to review Artist's final work product. Artist shall not at any time or in any manner represent that she or any of her agents or employees or volunteers are agents or employees of City.

Section 17. Addresses for Notices.

Any notice, bills, invoices, demand, or document which any Party is required or may desire to give or deliver to the other hereunder, shall be in writing and may be delivered personally or given by facsimile or overnight courier service, postage prepaid, addressed as follows:

To Artist: Brittany Ryan Studios, LLC
 Attention: Brittany Ryan, Artist
 [REDACTED]
 Laguna Hills, California 92653

To City: City of Laguna Hills
 Attention: City Manager
 24035 El Toro Road
 Laguna Hills, California 92653
 Telephone: (949) 707-2600
 Facsimile: (949) 707-2633

Either Party shall have the right to designate a different address by written notice similarly given. Any notice, demand, or documents shall be deemed received on: (a) the day of delivery if delivered by hand or overnight courier service during the party's regular business hours; or (b) the

day of delivery if delivered by facsimile during the parties' regular business hours. City assumes no responsibility to search for Artist if Artist cannot be reached at the address of record.

Section 18. Termination.

A. City shall have the right to terminate this Agreement, with or without cause, upon ten (10) calendar days written notice to Artist. If terminated, Artist agrees to cease all work under this Agreement on or before the effective date of such notice. All completed and uncompleted Work up to the date of receipt of written notice of termination shall become the property of City.

B. In the event of termination of this Agreement by City, due to no fault or failure of performance by Artist, Artist shall be compensated based on the percentage of services satisfactorily performed and/or the Work satisfactorily produced at the time of termination. In no event shall Artist be entitled to receive more than the amount that would be paid to Artist for the full performance of the services and the Work required by this Agreement.

Section 19. Attorneys' Fees.

In the event either Party shall commence any action against the other Party relating to this Agreement, or for the breach of any obligation contained herein, the prevailing Party shall be entitled to recover from the losing Party reasonable attorneys' fees, expenses, and court costs.

Section 20. Prohibition Against Assignment.

Artist shall not delegate, transfer, subcontract, or assign her duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Artist. The City understands and acknowledges that Artist anticipates to have the Work fabricated by a foundry located in Berkeley, California.

Section 21. Successors and Assigns.

The terms of this Agreement shall be binding upon and inure to the benefit of the respective heirs, successors in interest, and assigns of the Parties hereto.

Section 22. Entire Agreement.

This Agreement represents the entire integrated agreement between the City and the Artist, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both the City and the Artist.

Section 23. Severability.

Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court

of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

Section 24. Governing Law; Jurisdiction.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of litigation between the Parties, venue in State trial courts shall be exclusively in Orange County, California. In the event of litigation in a United States District Court, exclusive venue shall lie in the Central District of California.

Section 25. Execution.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

Section 26. Authority.

Each of the undersigned individuals represent and warrant that (i) the Party for which he or she is executing this Agreement is duly authorized and existing, (ii) he or she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he or she is signing, (iii) by so executing this Agreement, the Party for which he or she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he or she is signing is bound.

Section 27. Recitals.

The recitals above are hereby incorporated by reference in the Agreement as though fully set forth herein, and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

“CITY”
CITY OF LAGUNA HILLS, a California
municipal corporation

DAVE WHEELER,
Mayor

ATTEST:

(SEAL)

JENNIFER LEE,
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

GREGORY E. SIMONIAN,
City Attorney

JARAD L HILDENBRAND,
City Manager

“ARTIST”

BRITTANY RYAN STUDIO, LLC, a
Nevada Limited Liability Company

BRITTANY RYAN, Artist

EXHIBIT “A”

SCOPE OF SERVICES

COMMISSIONING OF ORIGINAL WORK OF ART: The Artist is hereby commissioned by the City to design, create, fabricate, and supervise the installation of “Five Figures of Marines on Patrol” memorial sculpture to be displayed outdoors in the plaza area at the Laguna Hills Civic Center to recognize the United States Marines of the 3rd Battalion, 5th Marines (3/5 Battalion) in celebration and honor of their bravery, heroism, victories, and many sacrifices and in recognition of our Nation’s Armed Forces and the special relationship between this marine battalion unit and the City of Laguna Hills (the “Work”).

MEDIUM: Bronze sculpture.

DISPLAY LOCATION: Laguna Hills Civic Center, Outdoor Plaza Area, 24035 El Toro Road, Laguna Hills, California 92653.

DESCRIPTION OF COMMISSIONED ARTWORK: Five 50” Figures of Marines on patrol in Afghanistan to be displayed outdoors in the plaza area at the Laguna Hills Civic Center to recognize the United States Marines of the 3rd Battalion, 5th Marines (3/5 Battalion) in celebration and honor of their bravery, heroism, victories, and many sacrifices and in recognition of our Nation’s Armed Forces.

COMMISSIONING PROCESS AND PROCEDURE:

- ▶ Upon approval of the 12” maquette by the City Council at the November 19, 2024 meeting, Artist shall begin the final version of the sculpture.
- ▶ Artist shall be responsible for transportation of the proposed sculpture mold to the artwork’s foundry.
- ▶ City shall be responsible for all costs related to the transportation of the finished bronze sculpture from the foundry to the installation site at the Laguna Hills Civic Center Plaza, including the procurement of insurance.
- ▶ City shall be responsible for all costs related to the installation of the finished bronze sculpture, including lighting, leveling, creation of wall/base structure the bronze will be mounted to, and surrounding landscape, in consultation with Artist. Artist shall supervise the installation of the finished bronze sculpture.
- ▶ Upon delivery and installation of the completed Work and acceptance of the by the City, City shall assume ownership and control of the Work.
- ▶ Upon completion of the Work, Artist shall provide City with a detailed written schedule and instructions for the routine care, maintenance, and preservation of the Work. All maintenance and routine care shall be the responsibility of the City in all respects.

- ▶ Artist shall participate as requested by the City in a ribbon-cutting ceremony and/or media outreach.

EXHIBIT “B”

PAYMENT AND PAYMENT SCHEDULE

As full payment for Artist’s services for performing the Scope of Services, including the completed Work, and for all rights granted or waived by the Artist pursuant to this Agreement, and subject to the conditions set forth in the Agreement, the City shall pay the Artist a total amount not to exceed Four Hundred and Fifty-Seven Thousand Dollars (\$457,000.00) (“Artist’s Fee”), which sum shall include all costs associated with Artist designing, creating, fabricating, and supervising the installation of the Work.

Artist will be paid by City the specified installment payments set forth below upon submitting an invoice and documentation substantiating satisfactory completion of each phase of the Work as described below. Each invoice from Artist to City shall include a written progress summary report with a detailed narrative discussion of all project activities and progress occurring during the reporting period, as well as photographic or schematic documentation substantiating completion of each work phase. Progress payments shall be made by City as follows:

Payment 1: Amount
\$15,000

Paid by City on June 29, 2023. Initial design services.

Payment 2: Amount
\$15,000

Paid by the City on August 29, 2024. Redesign services.

Payment 3: Amount
\$118,000

Progress payment due and payable upon approval of this Amended and Restated Agreement, which signifies the initiation of Creating/Sculpting Phase.

Payment 4: Amount
\$113,000

Progress payment due and payable upon the initiation of Molding Phase.

Payment 5: Amount
\$136,000

Progress payment due and payable upon the initiation of Casting Phase.

<u>Payment 6:</u>	<u>Amount</u>
	\$60,000

Final payment due upon the installation of sculpture and acceptance by City.

<u>Total Payments:</u>	\$457,000
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EXHIBIT “C”

SCHEDULE OF PERFORMANCE

TIMELINE	ACTIVITY	ARTIST WORK TIME
DESIGN PHASE	Contract Approval Signed	June 27, 2023
	Amendment No 1 Signed	August 27, 2024
	Sculptures presented to City for approval.	November 19, 2024
SCULPTING PHASE		
	Final size version of sculpture	Est. 9-12 Months
MOLDING & CASTING PHASE		
	Molding	Est. 2 Months
	Casting	Est. 6-9 Months
FINAL	Final installation of sculpture	1 Month
	(Overall anticipated timeline 18-24 months)	