

**CITY OF OREGON CITY  
PERSONAL SERVICES AGREEMENT**

This PERSONAL SERVICES AGREEMENT ("Agreement") is entered into between the CITY OF OREGON CITY ("City") and McClaren, Wilson, & Lawrie, Inc. ("Consultant").

**RECITALS**

A. City requires services that Consultant is capable of providing under the terms and conditions hereinafter described.

B. Consultant is able and prepared to provide such services as City requires under the terms and conditions hereinafter described.

The parties agree as follows:

**AGREEMENT**

1. Term. The term of this Agreement shall be from the date the contract is fully executed until December 31, 2021, unless sooner terminated pursuant to provisions set forth below. However, such expiration shall not extinguish or prejudice City's right to enforce this Agreement with respect to (i) breach of any warranty; or (ii) any default or defect in Consultant's performance that has not been cured.

2. Compensation. City agrees to pay Consultant on a time-and-materials basis for the services required. Total compensation, including reimbursement for expenses incurred, shall not exceed \$145,610.

3. Scope of Services. Consultant's services under this Agreement shall consist of services as detailed in Exhibit A, attached hereto and by this reference incorporated herein.

4. Standard Conditions. This Agreement shall include all of the standard conditions as detailed in Exhibit B, attached hereto and by this reference incorporated herein.

5. Integration. This Agreement, along with the description of services to be performed attached as Exhibit A and the Standard Conditions to Oregon City Personal Services Agreement attached as Exhibit B, contain the entire agreement between and among the parties, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all prior written or oral discussions or agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

6. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

To the City:

City of Oregon City  
PO Box 3040  
625 Center Street  
Oregon City, OR 97045  
Attention: City Manager

To Consultant:

**McClaren, Wilson & Lawrie, Inc.**  
**8705 North Central Avenue**  
**Phoenix, Arizona 85020**  
**Attn: Jim McClaren**

Consultant shall be responsible for providing the City with a current address. Either party may change the address set forth above for purposes of notices under this Agreement by providing notice to the other party in the manner set forth above.

7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on this \_\_\_\_\_ day of February 2018.

CITY OF OREGON CITY

Jim McClaren, Senior Principal

By: \_\_\_\_\_  
Anthony J. Konkol, III  
Title: City Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

DATED: \_\_\_\_\_, 2018.

DATED: \_\_\_\_\_, 2018.

By: \_\_\_\_\_  
James H. Band  
Title: Chief of Police

APPROVED AS TO LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
City Attorney

Exhibit A

January 8, 2018

Mr. James Band  
Chief of Police  
Oregon City Police Department  
320 Warner Milne Road  
Oregon City, OR 97045

Re Scope: Oregon City Public Safety Building Project  
Consulting as Technical Advisor

Dear Chief Band:

Thank you for this opportunity to provide Technical Advisor Design Assist consulting services for the new Oregon City Public Safety Building Project.

In the following scope of services McClaren, Wilson and Lawrie, Inc. (referred to as MWL and McClaren, Wilson, and Lawrie interchangeably) will work as an integral part of the City of Oregon City's Owner team. We understand the Owner's team will be composed of key staff from City Administration, Finance, Public Works, Police Department, City Courts and other key City agencies.

Our general suggested scope is described in detail below, but in general terms this scope allows MWL to commence initial planning phases for the new facility as early as the City is prepared to move forward.

The first step we recommend is for the City to confirm the method of building delivery that it will utilize. The three methods are the Traditional Method (Design-Bid-Build), Architect and Construction Manager (CM) or Construction Manager / General Contractor (CM/GC). We are assuming that Oregon City does not wish to pursue Traditional Design Build (where the Developer / Constructor hires the architect).

If the Traditional Method is selected we suggest immediately moving forward with the selection of a local architect / engineer team (who will become the architects/engineers of record preparing the final design, and bid / construction documents.

We stress that with MWL on the City Team the local A/E teams to be considered need not be limited to firms with extensive police / courts facility, rather we stress Oregon City give full consideration to



McClaren, Wilson & Lawrie, Inc.

8705 North Central Avenue

Phoenix, Arizona 85020

602.331.4141

*Architects and Planners*

[www.mwlarchitects.com](http://www.mwlarchitects.com)

Arizona Illinois Virginia

firms with proven track records providing excellent service to municipal clients. To underscore this, the A/E firm selected for in our Kirkland project had never designed a police station or courts prior to undertaking that project.

If the CM or CM/GC Method is selected, we suggest immediately moving forward with both the local architect / engineer selection and the CM selection.

Depending upon the resources available within the City, you may also find value in retaining a Program Management firm to run the day-to-day project for the City.

With any of the methods selected MWL would assist the City by working with / providing the local A/E team (either hired by the City or the developer team) with specialty design data details and specifications and considerations to be incorporated into their documents.

The fee breakdown that supports this scope and itemizes prospective services assuming the City may elect to take some services and opt out of others.

Our detailed Scope of Services is as follows:

Technical Advisor Design-Assist Services:

**Pre-Design Phase**

During pre-design MWL will:

- Update the space needs program for turnover to the a/e
- Conduct a workshop on building delivery options
- Assist w/developing the A/E RFQ, submittal reviews & interview
- Assist Oregon City with A/E scope and fee review
- Assist w/ developing the CM/GC RFQ submittal reviews & Interview
- Assist Oregon City with CM/GC scope and fee review
- Participate in tours of comparable / benchmarked facilities
- Conduct MWL's 2-day planning design and construction of police facilities class.

MWL pre-design labor fee: \$48,860

### **Schematic Design (SD)**

During schematic design MWL will:

- Assist Oregon City & A/E team in conducting a community goal setting workshop
- Assist Oregon City & A/E team in conducting a community design visioning workshop
- Assist Oregon City / A/E team in the development of schematic floor and site plans
- Assist Oregon City in selecting of technical systems: ballistic glazing, custody, evidence etc.
- Serve as a technical resource to cost consultant (help them find sources for pricing)
- Prepare detailed room data sheets for use by the a/e team and cost consultant
- Assist Oregon City with periodic reviews of a/e progress submissions
- Assist Oregon City with evaluation of value engineering options
- Participate in final SD presentation

MWL SD labor Fee \$46,005

### **Design Phase**

#### **Design Development (DD)**

During design development MWL will:

- Prepare an initial Owner's project security plan (define location & quantity: cameras, duress alarms, door access devices etc.)
- Finalize room data sheets to conform with evolving floor plan
- Assist Oregon City in response to a/e team questions
- Assist Oregon City / a/e team with selection of specialty products / equipment (ballistic specialties, evidence and lab equipment etc.)
- Participate in design coordination meetings
- Assist Oregon City with review of a/e team progress submissions (red-line reviews)
- Assist Oregon City selecting technical systems (ballistic glazing, bollards etc.)
- Assist Oregon City selecting special equipment (evidence & officer lockers, weapons clearing ports, custody items etc.)
- Assist Oregon City with design progress reviews (red-line review)
- Assist Oregon City in the evaluation of value engineering options
- Participate in DD phase end presentation

MWL DD labor fee: \$50,745

Total proposed MWL lump sum fixed labor fee through Design Development: \$145,610

### **End of Basic Services**

## **Optional Services:**

### **Design Phase Services Beyond Design Development / Answer General Questions**

#### **Construction Documents (CD)**

During the construction documents phase possible MWL services could include:

- Assist Oregon City in final review of specialized details and specifications
- Participate in two internet coordination meetings
- Attend one on-site progress review meeting
- Assist Oregon City with review of a/e team progress submissions (red-line review)

MWL CD labor fee: lump sum or T&M as req'd

Suggested NTE Budget: \$18,635

#### **Bidding and Construction Phase**

#### **Bidding & Construction Services (CA)**

During bidding and construction phases possible MWL services could include:

- Assistance to Oregon City in review of field information requests on specialty items
- Assist to Oregon City in review of shop drawing submittals on specialty items
- Participation in observation inspections (during an anticipated 14-month construction)
- Assistance to Oregon City in punchlisting and punchlist back checks

MWL CA labor fee: lump sum or T&M as req'd

Suggested NTE Budget: \$67,275

#### **Other Additional Services**

If the City requests additional services MWL will prepare a written scope and fee for the added services. Work will commence only upon written approval from Oregon City.

#### **Reimbursable Travel Expenses:**

In addition to labor fees listed above, MWL will invoice for all travel related costs associated with the project at direct cost plus a 10% administrative fee.

All travel will be purchased on regularly scheduled airlines in coach. Limited services hotels (Hampton Inn or Equivalent) will be selected based on the best available rate.

We charge a flat \$55 / day rate for food without receipts. We charge a flat \$30 / rate for parking and incidentals also without receipts.

Invoices:

We will invoice monthly for services performed.

Payments:

If payments for completed work are not received within 60 days from the date of invoice, MWL may exercise the option to cease work on the project.

Once payment is received, MWL will evaluate any schedule impacts and commence work.

I lead MWL's efforts personally.

Thank you for this opportunity to provide service to the City of Oregon City.

Sincerely,

A handwritten signature in black ink, appearing to read 'James McClaren', with a long horizontal flourish extending to the right.

James Lewis McClaren, AIA, NCARB  
Senior Principal: McClaren, Wilson and Lawrie, Inc.

## STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

1. Consultant Identification. Consultant shall furnish to City its taxpayer identification number, as designated by the Internal Revenue Service, or Consultant's social security number, as City deems applicable.

2. Payment.

(a) Invoices submitted in connection with this Agreement shall be properly documented and shall identify the pertinent agreement and/or purchase order numbers.

(b) City agrees to pay Consultant within thirty (30) days after receipt of Consultant's itemized statement. Amounts disputed by City may be withheld pending settlement.

(c) City certifies that sufficient funds are available and authorized for expenditure to finance the cost of the services to be provided pursuant to this Agreement.

(d) City shall not pay any amount in excess of the compensation amounts set forth above, nor shall City pay Consultant any fees or costs that City reasonably disputes.

3. Independent Consultant Status.

(a) Consultant is an independent Consultant and is free from direction and control over the means and manner of providing labor or services, subject only to the specifications of the desired results.

(b) Consultant represents that it is customarily engaged in an independently established business and is licensed under ORS chapter 671 or 701, if the services provided require such a license. Consultant maintains a business location that is separate from the offices of the City and bears the risk of loss related to the business as demonstrated by the fixed price nature of the contract, requirement to fix defective work, warranties provided and indemnification and insurance provisions of this Agreement. Consultant provides services for two or more persons within a 12 month period or routinely engages in advertising, solicitation or other marketing efforts. Consultant makes a significant investment in the business by purchasing tools or equipment, premises or licenses, certificates or specialized training and

Consultant has the authority to hire or fire persons to provide or assist in providing the services required under this Agreement.

(c) Consultant is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law (including applicable City or Metro business licenses as per Oregon City Municipal Code Chapter 5.04). Consultant shall furnish the tools or equipment necessary for the contracted labor or services. Consultant agrees and certifies that:

(d) Consultant is not eligible for any federal social security or unemployment insurance payments. Consultant is not eligible for any PERS or workers' compensation benefits from compensation or payments made to Consultant under this Agreement.

(e) Consultant agrees and certifies that it is licensed to do business in the state of Oregon and that, if Consultant is a corporation, it is in good standing within the state of Oregon.

4. Early Termination.

(a) This Agreement may be terminated by either party without cause prior to the expiration of the agreed upon term by ten (10) days written notice to the other party, delivered by certified mail or in person.

(b) Upon receipt of notice of early termination, Consultant shall immediately cease work and submit a final statement of services for all services performed and expenses incurred since the date of the last statement of services.

(c) Any early termination of this Agreement shall be without prejudice to any obligation or liabilities of either party already accrued prior to such termination.

(d) The rights and remedies of City provided in this Agreement and relating to defaults by Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

5. No Third-Party Beneficiaries. City and Consultant are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

6. Payment of Laborers; Payment of Taxes.

(a) Consultant shall:

(i) Make payment promptly, as due, to all persons supplying to Consultant labor and materials for the prosecution of the services to be provided pursuant to this Agreement.

(ii) Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Agreement.

(iii) Not permit any lien or claim to be filed or prosecuted against City on account of any labor or materials furnished.

(iv) Be responsible for all federal, state, and local taxes applicable to any compensation or payments paid to Consultant under this Agreement and, unless Consultant is subject to back-up withholding, City will not withhold from such compensation or payments any amount(s) to cover Consultant's federal or state tax obligation.

(v) Pay all employees at least time and one-half for all overtime worked in excess of forty (40) hours in any one week, except for individuals excluded under ORS 653.100 to 653.261 or under 29 U.S.C. §§ 201 to 209 from receiving overtime.

(b) If Consultant fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Agreement as such claim becomes due, City may pay such claim to the person furnishing the labor or services and shall charge the amount of the payment against funds due or to become due Consultant by reason of this Agreement.

(c) The payment of a claim in this manner shall not relieve Consultant or Consultant's surety

from obligation with respect to any unpaid claims.

(d) Consultant and subConsultants, if any, are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires provision of workers' compensation coverage for all workers.

7. SubConsultants and Assignment.

Consultant shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Consultant.

8. Access to Records. City shall have access to all books, documents, papers and records of Consultant that are pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcripts.

9. Ownership of Services; License.

(a) Oregon City acknowledges that the Consultant's work will be instruments of service and will become the property of Oregon City upon completion of the Consultant's work and payment in full.

(b) Oregon City shall not reuse, transfer or make any modification to Consultant's instruments, details and specifications for anything but the application for which they were specifically prepared. Oregon City agrees to indemnify and hold the Consultant harmless from any claim, liability or cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of the unauthorized reuse and/or modification of Consultant's instruments of service by Oregon City and/or any person or entity that acquires or obtains these instruments from or through Oregon City. Consultant shall not publish, republish, display or otherwise use any instruments of service resulting from this Agreement in commercially-produced publications without the prior written agreement of City.

10. Compliance With Applicable Law.

Consultant shall comply with federal, state, and local laws and ordinances applicable to the services

## STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

to be performed pursuant to this Agreement, including, without limitation, the provisions of ORS 279B.220, 279C.515, 279B.235, 279B.230 and 279B.270. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990 (Pub. L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation and other applicable statutes, rules and regulations.

11. Professional Standards. Consultant shall be responsible, to the level of competency presently maintained by others practicing in the same type of services in City's community, for the professional and technical soundness, accuracy and adequacy of all services and materials furnished under this authorization.

12. Modification, Supplements or Amendments. No modification, change, supplement or amendment of the provisions of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

13. Indemnity and Insurance.

(a) Indemnity. Consultant acknowledges responsibility for liability arising out of Consultant's negligent performance of this Agreement and shall hold City, its officers, agents, Consultants, and employees harmless from, and indemnify them for, any and all liability, settlements, loss, costs, and expenses, including attorney fees, in connection with any action, suit, or claim caused or alleged to be caused by the negligent acts, omissions, activities or services by Consultant, or the agents, Consultants or employees of Consultant provided pursuant to this Agreement.

(b) Workers' Compensation Coverage. Consultant certifies that Consultant has qualified for workers' compensation as required by the state of Oregon. Consultant shall provide the Owner, within ten (10) days after execution of this Agreement, a certificate of insurance evidencing coverage of all subject workers under Oregon's workers' compensation statutes. The insurance certificate and policy shall indicate that the policy

shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to City. All agents or Consultants of Consultant shall maintain such insurance.

(c) Comprehensive, General, and Automobile Insurance. Consultant shall maintain comprehensive general and automobile liability insurance for protection of Consultant and City and for their directors, officers, agents, and employees, insuring against liability for damages because of personal injury, bodily injury, death, and broad-form property damage, including loss of use, and occurring as a result of, or in any way related to, Consultant's operation, each in an amount not less than \$1,000,000 combined, single-limit, per-occurrence/annual aggregate. Such insurance shall name City as an additional insured, with the stipulation that this insurance, as to the interest of City, shall not be invalidated by any act or neglect or breach of this Agreement by Consultant.

14. Legal Expenses. In the event legal action is brought by City or Consultant against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorney fees, costs, and expenses as may be set by a court. "Legal action" shall include matters subject to arbitration and appeals.

15. Severability. The parties agree that, if any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

16. Number and Gender. In this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others or other whenever the context so requires.

17. Captions and Headings. The captions and headings of this Agreement are for convenience only and shall not be construed or referred to in resolving questions of interpretation or construction.

18. Hierarchy. The conditions contained in this document are applicable to every Personal

## STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Services Agreement entered into by the City of Oregon City in the absence of contrary provisions. To the extent there is a conflict, the terms of the Personal Services Agreement will control over the terms of the standard conditions. To the extent there is a conflict between the terms of the standard conditions and any other document, including the scope of services, the terms of the standard conditions shall control those other terms.

19. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the state of Oregon, except that, if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day that is not a Saturday, Sunday or legal holiday.

20. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses listed in the Agreement attached hereto. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

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

22. Information and Reports. Consultant shall, at such time and in such form as City may require, furnish such periodic reports concerning the status of the project, such statements, certificates, approvals, and copies of proposed and executed plans and claims, and other information relative to the project as may be requested by City. Consultant shall furnish City, upon request, with copies of all documents and other materials prepared or developed in relation with or as a part of the project. Working papers prepared in conjunction with the project are the property of City, but shall remain with Consultant. Copies as requested shall be provided free of cost to City.

23. City's Responsibilities. City shall furnish Consultant with all available necessary information, data, and materials pertinent to the execution of this Agreement. City shall cooperate with Consultant in carrying out the work herein and shall provide adequate staff for liaison with Consultant.

24. Arbitration.

All disputes arising out of or under this Agreement shall be timely submitted to nonbinding mediation prior to commencement of any other legal proceedings. The subsequent measures apply if disputes cannot be settled in this manner.

(a) Any dispute arising out of or under this Agreement shall be determined by binding arbitration.

(b) The party desiring such arbitration shall give written notice to that effect to the other party and shall in such notice appoint a disinterested person of recognized competence in the field as arbitrator on its behalf. Within fifteen (15) days thereafter, the other party may, by written notice to the original party, appoint a second disinterested person of recognized competence as arbitrator on its behalf. The arbitrators thus appointed shall appoint a third disinterested person of recognized competence, and the three arbitrators shall, as promptly as possible, determine such matter, provided, however, that:

(i) If the second arbitrator is not appointed as described above, then the first arbitrator shall proceed to determine such matter; and

(ii) If the two arbitrators appointed by the parties are unable to agree, within fifteen (15) days after the second arbitrator is appointed, on the appointment of a third arbitrator, they shall give written notice of such failure to agree to the parties and, if the parties fail to agree on the selection of the third arbitrator within fifteen (15) days after the arbitrators appointed by the parties give notice, then, within ten (10) days thereafter, either of the parties, on written notice to the other party, may request such appointment by the presiding judge of the Clackamas County Circuit Court.

**STANDARD CONDITIONS TO OREGON CITY  
PERSONAL SERVICES AGREEMENT**

(c) Each party shall each be entitled to present evidence and argument to the arbitrators. The determination of the majority of the arbitrators or the sole arbitrator, as the case may be, shall be conclusive on the parties, and judgment on the same may be entered in any court having jurisdiction over the parties. The arbitrators or the sole arbitrator, as the case may be, shall give written notice to the parties, stating the arbitration determination, and shall furnish to each party a signed copy of such determination.

Arbitration proceedings shall be conducted pursuant to ORS 33.210 et seq. and the rules of the American Arbitration Association, except as provided otherwise.

(d) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the fees and expenses of the third arbitrator, if any.

25. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

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