

OREGON CITY PUBLIC WORKS PERSONAL SERVICES AGREEMENT

RELOCATION OF COMMUNITY DEVELOPMENT

This PERSONAL SERVICES AGREEMENT ("Agreement") is entered into between:

CITY OF OREGON CITY ("City")

City of Oregon City
PO Box 3040
221 Molalla Avenue, Suite 200
Oregon City, OR 97045
Attention: Laura Terway, AICP

and

ZCS ENGINEERING, INC. ("Consultant")

ZCS Engineering, Inc.
524 Main Street, Suite 2
Oregon City, OR 97045
Attention: Zachary A. Stokes, PE

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 **June 3, 2018**, 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 **ninety eight thousand nine hundred ninety dollars (\$98,990)**.

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. **Schedule.** The components of the project described in the Scope of Services shall be completed according Term, above.

6. **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.

7. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, by hand delivery or by electronic means. 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.

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

8. 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 _____, 2017.

CITY OF OREGON CITY

ZCS ENGINEERING, INC.

By: _____
Laura Terway
Title: Community Development Director

By: _____
Title: _____

DATED: _____, 2017.

DATED: _____, 2017.

By: _____
Anthony J. Konkol III
Title: City Manager

ORIGINAL CITY COMMISSION APPROVAL (IF APPLICABLE):

DATED: _____, 2017.

DATE: _____

APPROVED AS TO LEGAL SUFFICIENCY:

By: _____
City Attorney

Exhibit A: Scope of Services

Dear Laura,

We are pleased to present this proposal for the scope of services for relocation of the Oregon City Community Development Department to the Mt Pleasant School Annex. ZCS is providing planning, architectural, landscape design, structural, and civil engineering services from schematic design thru construction administration. ZCS will consult with a transportation engineer and MEP engineer to complete the services need to accomplish this project

This project is comprised of the relocation of the Community Development Department into an approximate 7,000 sf existing building, formerly the Mt Pleasant School Annex. This parcel is on a prominent corner of the intersection of several streets; Linn Avenue, Warner Parrott Road, Central Point Road, Leland Road, and Warner Milne Road. It is also part of a larger complex of buildings and land that was formerly the Mt Pleasant School and is planned to be the future site of the Oregon City Public Safety Facility.

We understand the scope of the project includes remodeling the interior of the building to accommodate the Community Development Department including but not limited to, renovate the exterior including additional windows and reconfiguring the entry, bring the parking areas and paved walks into compliance with ADA, propose modifications to ensure proper drainage, bicycle parking, nonconforming upgrades to the site, and minor landscaping. We also understand that this project will require a land use application for a Comprehensive Plan Amendment and a change to the zoning as well as a Minor Site Plan and Design Review.

We will participate in selection of a Construction Manager/General Contractor which will be selected during the design phase to assist with constructability and pricing. We are also anticipating that the MEP scope will be determined with a basis of design package which will include a performance specification, design narrative, and/or preliminary drawings by engineers under our contract. This basis of design will be the bid package for a design build MEP contractor who will then develop shop drawings which we will coordinate with our final drawings. We assume the fire protection design is fully design build.

We have received a preliminary space plan generated by the Community Development Department that identifies program and adjacencies and will work with the City to finalize the programming. We also are familiar with the existing building's deficiencies that will require attention. The following describes the scope of work in more detail:

- The tenant improvement program includes 14 offices, copy area, 2 conference rooms, a public counter and waiting area, new shower, break room, storage, and remodeling of existing toilet rooms.
- The existing police gym will remain but will be reduced in space.
- The space plan calls for the elimination of the center bearing wall and several new windows which disrupts shear capacity. Both alterations will require structural engineering. Additional analysis and review will be performed to determine if additional permitting is required for the wall that appears to have been removed in the gym.
- MEP distribution will be removed and replaced as required for the new space plan. New equipment is not anticipated with the exception of new air conditioning unit.
- The project will require a new roof
- The existing T1-11 plywood siding is to be replaced with a different material, additional windows are to be provided, and secondary door locations are to be reconfigured. All windows to be replaced if the project budget can support the cost.
- The exterior design of the Mt Pleasant Annex to be complimentary to the concepts shown of the future Oregon City Public Safety Facility
- A new front canopy will be installed to accentuate the front entrance of the building.
- New landscape design will be performed within existing planter beds at the front of the building
- The site will be upgraded as required with code compliant ADA parking and bicycle parking

Scope of Work:

As-Built Verification

We will measure and document the existing conditions of the building for accurate base plans, elevations, and sections. We will utilize the site survey provided by the Owner for documentation of the surrounding site. Additionally we will measure and catalogue the existing furniture for space planning of the new location.

Architectural Design Services

- Set up a kick off meeting to discuss project schedule, confirm space layout and programming, and review key milestone dates.
- Provide a space plan based upon the space layout and program documented in the RFP. Identify any cost saving measures with alternates to program layout.
- Identify and confirm structural engineering scope
- Once we have received review comments, we will prepare a revised space plan of the preferred option for your final review and approval. Upon approval of the space plan, we will continue to develop the design, details, and material finishes for the project.
- Perform a code review to ensure compliance with ADA, OSSC, and Oregon City Municipal Code.
- Provide a basic furniture layout for coordination with existing furniture.

- Attend meetings and provide meeting minutes to review the refinement of the design, materiality, and details with you and other stakeholders.
- Create a finish materials board for review and approval.
- Provide a project manual.
- Provide floor plans, exterior and interior elevations, reflected ceiling plans, furniture/equipment and power plans, schedules, details as necessary to provide permit and construction drawing sets.
- Attempt to incorporate green products and practices into the project as budget allows.

Structural Engineering Services

- Provide analysis of shear capacity of exterior bearing walls with proposed location of new windows.
- Provide structural engineering of new Community Development Department space with central bearing wall removed or partially removed as well as analysis and permitting of an existing central bearing wall which may have been removed.
- Provide structural detailing assistance to architectural design elements.
- Provide structural drawings including foundation plan if necessary, roof framing plan, sections, schedules, and details as necessary to provide a permit and construction drawing set.

Civil Engineering Services and Landscape Design

- Analyze existing site parking, entry, and hardscape to building entries for compliance with ADA and City of Oregon City requirements.
- Provide parking layout based upon existing orientation that satisfies requirements listed above.
- Recommend improvements for improved parking drainage.
- Provide planting plan and landscape design for parking lot area and Mt Pleasant Annex building.

MEP Engineering Services

- Confirm existing MEP services equipment capacity with new uses in building.
- Perform a mechanical feasibility study with respect to the best options for cooling based on allowable budget and intended outcomes.
- Provide formal recommendations to City for best value mechanical alterations to accomplish project goals
- Provide scope plan for electrical and plumbing for bidding
- Under a Phase 2 services provide the following:
 - Provide a narrative basis of design or performance specification that describes new work required for each system
 - Provide one review of design build engineering documents before being submitted for permit review.

Land Use Approval and Transportation Engineering

- Determine entitlement process and milestones per City of Oregon City planning code for project team
- Prepare preliminary summary of development standards and other zoning requirements that apply to the site.
- Prepare for and facilitate one pre-application meeting with City of Oregon City and prepare written summary of meeting for all attendees.
- Prepare a letter (TAL) documenting the trip generation and other evaluation criteria that will be used to determine the level of transportation generated and provide justification for a trip cap in support of the site's rezoning application as needed
- Prepare Land Use Application package for submission to Oregon City Planning and include attendance to up to three Commission meetings for review and coordination of package with the City of Oregon City:
- Provide assistance, coordination, and additional documentation if required during Land Use Application review.

Permitting, Bid and Construction Administration Services:

- Assist with planning and building permit acquisition.
- Respond to comments during permit review process.
- Assist with CMGC solicitation and selection
- Attend pre-bid meeting
- Coordinate bid documents and provide response to Request For Information (RFI) received during the bidding period as needed
- Respond to bidder questions, prepare addenda as required, and review substitution requests during the bid process.
- Perform review of shop drawings, material testing reports, inspection reports, and other submittals
- Attend construction observation project meetings:
 - Architect to attend up to four (4) job site visits
 - Structural engineer to attend one (1) job site visit
 - Civil engineer to attend one (1) job site visit
 - Technician to attend up to twelve (12) job site visits
- Perform necessary structural inspections and provide inspection reports.
- Provide response to Request for Information (RFI) issued by the General Contractor.
- Prepare a punchlist when project is deemed ready and perform back punch review when notified that punchlist items have been corrected.
- Provide record documents at completion of project.

Assumptions

In addition to the scope of work outlined above, we have assumed the following:

- The site and project is assumed to be the +/-7,000 sf Mt Pleasant Annex and adjacent parking lot. Architectural and engineering services for the remaining parcels of Mt Pleasant School are not included in this proposal.
- The Zone Change and Comprehensive Plan amendment is for all of the Mt Pleasant school parcels including the future Oregon City Public Safety Facility. This will likely include a trip cap condition that will limit the transportation impact to that of the existing school and annex. We assume there are no public improvements aside from those required by the alterations.
- The Owner shall provide an electronic file of the site survey information.
- The Owner shall provide geotechnical information on the site as required.
- This project is not seeking sustainability certification such as LEED.
- This project is not being evaluated for seismic design or upgrades.
- No site utility work is anticipated.
- We assume this is will be a Guaranteed Maximum Price bid process.
- We assume the CM/GC will perform at least one round of estimating during the design phase to confirm the budget and project scope and one round of pricing from subcontractors to finalize budget and scope before preparing bid packages.

Exclusions

The following services are not included in the above fee proposal but can be provided upon your request

- Special inspection services (to be provided by others if necessary).
- Destructive testing services (not anticipated).
- Site visits by the landscape designer or MEP design engineers beyond initial evaluation.
- Meetings or presentations to the city or state above and beyond what is described in this proposal.
- Furniture selection, design, and other furniture support services are not included.
- Acoustical engineering design services.
- Value engineering and changes made by the client that occur after the estimating services during the design phase will be evaluated as potential additional services.

Fees

We have attached a fee schedule for your reference. Our fee schedule shows our estimation of effort for each deliverable listed above for the design and engineering work that will be the basis for our time and materials allowance.

We are thrilled to work with you on this project and look forward to creating a beautiful design for your new Community Development Department facility. Please do not hesitate to call us with any questions or comments. Thank you again for the opportunity to propose our services on this project.

Sincerely,



Zachary A. Stokes, PE
Branch Manager

Enclosure:
ZCS 2017 Billing Rates
ZCS Architectural & Engineering Fee Schedule

2017 Fee Schedule

Hourly Rates:

Principal in Charge	\$200 ⁰⁰ / hr
Senior Engineer 1	\$150 ⁰⁰ / hr
Senior Engineer 2	\$125 ⁰⁰ / hr
Project Administrator	\$150 ⁰⁰ / hr
Structural Engineer	\$115 ⁰⁰ / hr
Project Architect 1	\$120 ⁰⁰ / hr
Project Architect 2	\$110 ⁰⁰ / hr
Construction Administrator	\$110 ⁰⁰ / hr
Architectural Designer 1	\$100 ⁰⁰ / hr
Architectural Designer 2	\$90 ⁰⁰ / hr
Architectural Designer 3	\$80 ⁰⁰ / hr
Drafting & Modeling Staff 1	\$80 ⁰⁰ / hr
Drafting & Modeling Staff 2	\$70 ⁰⁰ / hr
Drafting & Modeling Staff 3	\$60 ⁰⁰ / hr
Drafting & Modeling Staff 4	\$50 ⁰⁰ / hr
Project Manager	\$100 ⁰⁰ / hr
Engineering Staff 1	\$90 ⁰⁰ / hr
Engineering Staff 2	\$80 ⁰⁰ / hr
Engineering Staff 3	\$70 ⁰⁰ / hr
Engineering Staff 4	\$60 ⁰⁰ / hr
Technical Staff 1	\$50 ⁰⁰ / hr
Technical Staff 2	\$40 ⁰⁰ / hr
Technical Staff 3	\$30 ⁰⁰ / hr
Administrative Assistant 1	\$70 ⁰⁰ / hr
Administrative Assistant 2	\$55 ⁰⁰ / hr

- Subconsultant Fees and Other Client Costs Advanced = Cost +10%
- All long distance phone & fax services are considered incidental to the above hourly rates. No additional fees are billed for these services.
- All reproductions and deliveries will be billed as additional services on a time and materials rate. Travel (transportation, lodging, and meals) will be billed at cost. Cost of travel in company automobiles will be the IRS standard auto mileage rate for 2017, \$0.535 per mile.

Oregon City Community Development Department Relocation
ZCS Engineering
Architectural & Engineering Fee Schedule

	hrs	rate		
Architecture				
Architect	100	\$110	\$11,000	
Drafting 2	200	\$70	\$14,000	
Sr. Engineer 1	20	\$150	\$3,000	
Principal	5	\$200	\$1,000	
Admin Staff	20	\$55	\$1,100	\$30,100
	345			
CM/GC Procurement				
Sr. Engineer 1	20	\$150	\$3,000	
Admin Staff	40	\$55	\$2,200	\$5,200
	60			
CA				
Architect	24	\$110	\$2,640	
Sr. Engineer 1	6	\$150	\$900	
Drafting 2	120	\$70	\$8,400	\$11,940
	150			
Structural				
Sr. Engineer 1	10	\$150	\$1,500	
Structural Engineer	20	\$115	\$2,300	
Eng. Staff 2	20	\$80	\$1,600	
Principal	2	\$200	\$400	\$5,800
	52			
Mechanical				
Subconsultant - Phase 1			\$4,500	
Subconsultant - Phase 2			\$15,000	\$19,500
Planning				
Planner	80	\$100	\$8,000	
Drafting 2	20	\$70	\$1,400	\$9,400
	100			
Landscape Arch/Civil				
Landscape Design	40	\$60	\$2,400	
Eng. Staff 2	60	\$80	\$4,800	
Landscape Arch (Sub)	15	\$150	\$2,250	\$9,450
	115			
Transportation				
Subconsultant			\$7,600	\$7,600

Total	\$98,990.00
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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 Contractor Status.

(a) Consultant is an independent contractor 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.

(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 without cause prior to the expiration of the agreed-upon term by mutual written consent of the parties or by the City upon ten (10) days written notice to the Consultant, 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 Work Product; License. All work products of Consultant that result from this Agreement (the "Work Products") are the exclusive property of City. In addition, if any of the Work Products contain intellectual property of Consultant that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Consultant hereby grants City a perpetual, royalty-free, fully paid, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part (and to authorize others to do so), all such Work Products and any other information, designs, plans, or works provided or delivered to City or produced by Consultant under this Agreement. The parties expressly agree that all works produced (including, but not limited to, any taped or recorded items) pursuant to this Agreement are works specially commissioned by City, and that any and all such works shall be works made for hire in which all rights and copyrights belong exclusively to City. Consultant shall not publish, republish, display or otherwise use any work or Work Products resulting from this Agreement without the prior written agreement of City.

10. Compliance With Applicable Law.

Consultant shall comply with all federal, state, and

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

local laws and ordinances applicable to the services 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.

(d) Errors and Omissions Insurance. Consultant shall provide City with evidence of professional errors and omissions liability insurance for the protection of Consultant and its employees, insuring against bodily injury and property damage arising out of Consultant's negligent acts, omissions, activities or services in an amount not less than \$500,000 combined, single limit. Consultant shall maintain in force such coverage for not less than three (3) years following completion of the project. Such insurance shall include contractual liability.

Within ten (10) days after the execution of this Agreement, Consultant shall furnish City a certificate evidencing the dates, amounts, and types of insurance that have been procured pursuant to this Agreement. Consultant will provide for not less than thirty (30) days' written notice to City before the policies may be revised, canceled, or allowed to expire. Consultant shall not alter the terms of any policy without prior written authorization from City. The provisions of this subsection apply fully to Consultant and its Consultants and agents.

14. Legal Expenses. In the event legal action is brought by City or Consultant against the other to

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

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 Services Agreement entered into by the City of Oregon City in the absence of contrary provisions. Should contrary provisions be included in a Personal Services Agreement, those contrary provisions shall control over these conditions.

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

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

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.

(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.