

CITY OF OREGON CITY PERSONAL SERVICES AGREEMENT

This PERSONAL SERVICES AGREEMENT ("Agreement") is entered into between the CITY OF OREGON CITY ("City") and Rick Williams Consulting ("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, 2017 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 \$62,000

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 and amended 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: Christina Robertson-Gardiner

To Consultant:

Rick Williams Consulting
PO Box 12546
Portland, OR 97212
Attention: Rick Williams

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 _____, 20____.

CITY OF OREGON CITY

(CONSULTANT)

By: *Wyatt Parno* *Acting City Manager*
Tony Konkol
Title: City Manager

By: *[Signature]*
Title: PRESIDENT

DATED: MARCH 26, 2016

Project Approach and Outline of Services

Rick Williams Consulting's approach is grounded in a "Main Street" philosophy and a clear understanding of the economics of demand and access in emerging and revitalizing downtowns. From that foundation, we recognize and understand that the Willamette Falls Legacy Project's anticipated system of access must be developed in a manner that serves the unique future demand variations affecting this area of Oregon City. While the Transportation Demand Management & parking industry maintains a large tool box of "best practices," the tool box for this plan needs to be tailored to this project and City's place in time (current environment) and future vision (growth and changing conditions).

❖ TASKS

Tasks outlined below are estimated to occur over an 18-month period; strategically coordinated with the broader Development Strategy team and Riverwalk design processes. Schedule/timelines provided below are only estimates that attempt to place work within the context of the project milestones described on page 7 of the RFP. RWC is committed to delivering tasks on time and on budget and also recognizes that the collaborative nature of this assignment will require flexibility to adjust schedules to the benefit of the project and other integrated project work conducted by other partners.

The overall project budget is \$61,175. This budget is grouped into two categories based on funding sources. These include:

- | | |
|---|----------|
| A. Development Strategy TDM and Parking Study - Tasks 1 – 5: | \$49,190 |
| B. Urban Renewal 2009 Parking Study data update – Task 6 – 8: | \$11,985 |

Task 1: Project Kick-Off and Background Review

We will commence the study with a visit to Oregon City to meet with City staff, the Development Strategy Team, the Riverwalk Design Team, the Downtown Oregon City Association, Falls Legacy LLC and other interested stakeholders. During this trip we will finalize a work scope, schedule of deliverables, and data collection study area. We will also use this opportunity to tour the study area and collect any pertinent background materials needed to familiarize ourselves with relevant active transportation, parking and land use development plans.

Task 1 will complete the following work elements:

- a. Review background materials, plans (2009 Parking Study, TDM proposals), redevelopment plans, city code, statistical data, demographic patterns, social events, land use plans, and other information sources.
- b. Finalize work scope, deliverables and schedules.

Personnel Assigned:	Williams, Ronchelli, Collins and Doherty-Chapman
Timeframe:	3 weeks from notice to proceed (final scope and schedule)
Work Products:	Updated work scope and project schedule for deliverables.
Task 1 Budget:	\$2,900

Tasks 2: TDM Plan

The TDM Plan will become a critical element within the broader Development Strategy. Ideally, the WFLP will result in a vital package of new uses, synergizing the riverfront site and the downtown with new development and visitor growth. The TDM Plan will ensure that trip growth is efficient, with parking “right sized” and shared to maximize this asset and integrally supported by reasonable, attractive and effective alternative mode options. The TDM Plan must truly “connect” the development site with downtown, promoting a park once approach for those that might drive; and linking users to the area externally (local and regional access to the site and downtown) and internally (moving users within and between the site and downtown). The TDM Plan will need to be developed as a multi-strategy tool kit that can be deployed over time; addressing rather than reacting to growth triggers that are pre-defined through the stakeholder input process. This allows for flexibility, phasing, strategic decision-making and integration of resources between areas (e.g., downtown, the McLoughlin Neighborhood).

Success in developing the TDM Plan will require strong input from affected stakeholders who are committed to establishing consensus goals, priorities and desired outcomes for a new multi-modal vision for the greater Oregon City downtown. The following tasks are recommended to provide this framework.

Task 2 will complete the following work elements:

- a. Develop a summary memo outlining TDM and Parking best practices as may be pertinent to this project and more fully developed through the TDM Plan development process. This technical memorandum is intended to initiate the TDM Plan conversation, briefly identify opportunities and challenges for TDM and Parking management, and to serve the design team to inform the Milestone 2 Deliverable of the Development Strategy. The Task 2A memo is a Development Strategy Milestone 2 deliverable.
- b. Public education and input: Up to 5 meetings to discuss TDM opportunities and establish a sense of existing conditions, opportunities/challenges, priorities and desired outcomes and initial strategy concepts. Meetings will be scheduled/coordinated through the City of Oregon City. Meetings would be intended to include (at minimum) the project partners and stakeholder groups and associations.
- c. Draft TDM Plan: First draft of TDM Plan and Framework. The draft Plan will incorporate input from public education/outreach efforts, TDM best practices refined to local need, parking demand estimations derived from Development Strategy and Riverwalk design processes, shared parking opportunities and implementation triggers. The Plan will be formatted to express near, mid and long term strategy implementation. It is assumed that the Draft TDM Plan will be incorporated into public outreach efforts described in Tasks 4 and 5 below. Through this process, reaction, comment and recommendations for improvement and revision will be derived. This will inform Task 2 d, below.
- d. Final TDM Plan: Based on input received from partner and public input, the draft TDM Plan will be refined/revised for submittal as a Final TDM Plan report. The Final Report will address all applicable conditions of approval form CP 14-02 (Framework Master Plan).

Personnel Assigned:

Williams, Collins and Doherty-Chapman

Timeframe:

- May 23, 2016 (Task 2 A Memorandum: TDM/Parking Best Practices)

	- July 15, 2016 (up to five workshops/outreach meetings as scheduled per City of Oregon City)
	- July 31, 2016 (Draft TDM Plan Report)
	- November 30, 2015 (Final TDM Plan Report)
Work Products:	Summary notes from stakeholder outreach sessions Draft TDM Plan Report
Task 2 Budget:	\$19,070

Task 3: Parking Structure Evaluation

RWC will evaluate both siting and costing for the development of a potential public/private parking structure that can best serve the development site and the downtown. RWC has conducted numerous such studies and will provide both technical support information related to location, operational format, sharing opportunities and cost to develop and operate. RWC can also provide technical information related to funding options. RWC will serve in a support role to the design team.

Task 3 will complete the following work elements:

- a. Prepare technical findings and up to 3 revenue/expense proforma for development of structured parking. Findings will be prepared in coordination with the design team and include feasibility assessment, cost to develop/operate and funding options. This will be summarized into a Technical Memorandum for inclusion in overall project findings.

Personnel Assigned:	Williams, Roncheilli
Timeframe:	- August 15, 2016 or as necessary to design team schedule (Technical Memorandum: Parking Structure Feasibility)
Work Products:	Technical Memorandum: Parking Structure Feasibility
Task 3 Budget:	\$5,620

Task 4: Stakeholder Outreach Coordination

RWC will be available to participate and assist in outreach efforts scheduled to be conducted by the project's Public Outreach Consultants. The RFP anticipates up to 10 meetings (3 stakeholder workshops, 5 work sessions/public hearings with City Commissions and 3 public Riverwalk events).

Task 4 will complete the following work elements:

- a. Attendance at up to 10 meetings as coordinated by the project's Public Outreach Consultants. RWC will be in attendance and prepared to present information related to both the parking and TDM elements of the larger development strategy.

Personnel Assigned:	Williams, Collins, Doherty-Chapman
Timeframe:	- As determined by Public Outreach Consultants
Work Products:	Materials preparation and presentation necessary to specific meetings.
Task 4 Budget:	\$11,000

Task 5: Additional Technical Support to Development Strategy Team (Contingency Hours)

Task 5 provides for additional technical support to the Development Strategy Team as regards addressing issues related to access and demand that evolve over the course of the project. This task is adhoc, but allows for flexibility in additional task assignments, research, model refinements, expanded parking data collection (e.g., McLoughlin neighborhood and Promenade parking lot), etc. that would adjust either TDM or parking findings/recommendations derived from other more specific tasks. Task 5 also provides for a detailed parking demand analysis that will support discussion and decision-making regarding potential code and regulatory changes for new development to ensure right sized parking for the development site (as well as downtown).

Task 5 will complete the following work elements:

- a. Up to 45 hours of RWC staff time for additional technical support as requested by the Development Strategy Team.
- b. Parking Demand Analysis
- c. Code related recommendations

Personnel Assigned:	Williams, Ronchelli Collins, Doherty-Chapman
Timeframe:	- As determined by Public Outreach Consultants
Work Products:	Materials preparation, research and presentation necessary to specific requests. Technical Memorandum: Parking Demand and Implications Related to Requirements for Development.
Task 5 Budget:	\$10,600

Tasks 6 & 7: Parking Inventories & Data Collection (Downtown Parking Update)

During Tasks 6 & 7, RWC will conduct a detailed inventory of the automobile parking supply in the Downtown Urban Renewal boundary, inventorying both on and off-street facilities. The inventory will be followed by a comprehensive occupancy and utilization survey, the timing of which will be coordinated with City staff, and applicable stakeholders. The Downtown Oregon City Association will be providing an additional \$3,445 in in-kind contributions to assist in compiling the parking inventory and in two days of data collection. It is assumed that these Tasks will be scheduled to occur between Milestones 3 and 4.

Tasks 6 & 7 will involve the following work elements:

- A thorough inventory of the on and off-street parking supply by stall type, time designation, and ownership/ management (public/private).
- Development of a detailed inventory data base that provides information by block face, number and type of parking stall.
- Two survey days (weekday/Saturday) - 10 hour survey days to include a 100% sample of all on-street parking and a selected representative sample of off-street parking in the proposed study zone.
- Hourly occupancy survey conducted concurrently with on-street system targeting a representative sample of surface and structured parking facilities. Off-street occupancies will be broken out by type of facility (e.g., garage/surface, public/private) and the study area will ensure size, type and geographic representation.

- Data entry.
 - Personnel Assigned: Ronchelli Collins, Vasbinder, J. Williams, Survey Crew
 - Timeframe: - No later than September 30, 2016
 - Work Products: Inventory Summary
Utilization/Occupancy/Demand Summary
 - Task 6 Budget: Inventory: \$1,450 (RWC), \$1,890 in-kind (DOCA)
 - Task 7 Budget: Data Collection: \$5,345 (RWC), \$1,555 (DOCA)

Task 8: Data Analysis and Summary Report

Data analysis will look at all aspects of how the parking system is being utilized and will highlight indicators that illustrate where efficiencies can be made and help to demystify misperceptions of how the parking system operates.

Results from the data analyses and inventories will be presented in graphical (charts) and tabular form as well as being summarized into a written report. Comparative analysis will also be conducted to illustrate changes between the 2009 and 2016 studies. The report will provide an accurate and thorough quantification of all of these factors. These measurements will be used to evaluate and calibrate parking impacts associated with the Falls' parking needs. RWC prides itself in its ability to work with jurisdictions to develop parking management strategies that are grounded in sound, accurate data.

Task 8 elements include:

- RWC's proprietary models generate valuable information such as occupancies by hour of day, occupancies by stall type, average duration, total vehicle hours parked, etc. These indicators and others can be used to evaluate how the system is being used.
- Summarize, display and explain data findings that are straightforward and easy to understand. These findings will telegraph what strategies and/or management practices should be used to make the highest and best use of the existing parking supply, as well as to inform next steps (future parking demand) and how to integrate with innovative TDM programs/practices.
- Work with City to update land use square footages for commercial properties in the downtown study area to provide a means to derive parking demand based on the findings of the data collection effort.
- Creation of GIS occupancy 'heat' maps that illustrate use by hour of day, by block face and by off-street facility as well as identification of areas of deficiencies and/or surpluses.
- Draft Summary Report of all findings and comparative analysis between 2009 and 2016 study years. Submitted for review by City and appropriate stakeholders.
- Final Summary Report, revised and refined based on input from review of draft report by City and appropriate stakeholders.

- Personnel Assigned: Ronchelli Collins, Vasbinder, J. Williams, J. Taylor, Survey Crew
- Timeframe: - No later than September 30, 2016
- Work Products: Draft Summary Report – Parking Occupancy/Utilization and Demand
Final Report – Parking Occupancy/Utilization and Demand
Utilization/Occupancy/Demand Summary
- Task 8 Budget: \$5,190

E. Estimated Budget

We propose a not to exceed budget of \$61,175 to cover all tasks associated with the task list provided above. The table below provides a detailed break-out of costs associated with each work task item.

	Williams	Ronchelli	Collins	Doherty-Chapman	Taylor	Vasbinder/Williams	Field Surveyors / Data Entry	Total HRS	
	Project Lead	Senior Associate	Associate	Technical & Program Specialist	Editing & Report QC	Field Foremen	Data Collection		Amount per Deliverable
Rate	\$170	\$140	\$110	\$100	\$60	\$35	\$25		Total Task Cost
Task 1: Project Kick-Off and Background Review	8	5	4	4	-	-	-	21	\$ 2,900.00
Task 2: TDM Plan	50	8	41	41	14	0	0	154	\$ 19,070.00
Task 3: Parking Structure Evaluation	20	15	0	0	2	0	0	37	\$ 5,620.00
Task 4: Stakeholder Outreach Coordination	40	15	10	10	0	0	0	75	\$ 11,000.00
Task 5: Additional Technical Support to Development Strategy Team (Contingency)	23	21	20	12	0	10	0	86	\$ 10,600.00
Task 6: Parking Inventory	0	6	3	0	0	8	0	17	\$ 1,450.00
Task 7: Data Collection	0	12	12	0	0	32	49	105	\$ 5,345.00
Task 8: Data Analysis and Summary Report	6	18	4	2	4	22	0	56	\$ 5,190.00
Total Hours	147	100	94	69	20	72	49	551	
Total Cost	\$24,990.00	\$14,000.00	\$10,340.00	\$6,900.00	\$1,200.00	\$2,520.00	\$1,225.00		\$ 61,175.00
Task 1: Project Kick-Off and Background Review									
1.a Review background materials provided by City and Project Partners	2	2	2	2	0	0	0	8	\$ 1,040.00
1.b Hold Kick-Off Meeting with City staff and applicable stakeholders	4	2	2	2	0	0	0	10	\$ 1,380.00
1.c Finalize work scope and initial project schedule	2	1	0	0	0	0	0	3	\$ 480.00
Subtotal Hours & Costs	8	5	4	4	-	-	-	21	\$ 2,900.00
Task 2: TDM Plan									
2.a Technical Memorandum: TDM best practices (Milestone 2)	1	0	4	8	0	0	0	13	\$ 1,410.00
2.b Stakeholder outreach and TDM education	15	0	10	10	0	0	0	35	\$ 4,650.00
2.c Draft TDM Plan	10	5	16	15	6	0	0	52	\$ 6,020.00
2.d Final TDM Plan	24	3	11	8	8	0	0	54	\$ 6,990.00
Subtotal Hours & Cost	50	8	41	41	14	0	0	154	\$ 19,070.00
Task 3: Parking Structure Evaluation									
3.a Technical Memorandum: Parking Structure Feasibility (up to 3 scenarios)	20	15	0	0	2	0	0	37	\$ 5,620.00
Subtotal Hours & Cost	20	15	0	0	2	0	0	37	\$ 5,620.00
Task 4: Stakeholder Outreach Coordination									
4.a Up to 10 meetings/events/work sessions	40	15	10	10	0	0	0	75	\$ 11,000.00
Subtotal Hours & Cost	40	15	10	10	0	0	0	75	\$ 11,000.00
Task 5: Additional Technical Support to Development Strategy Team (Contingency)									
5.a Contingency hours for technical support - adhoc	20	5	10	10	0	0	0	45	\$ 6,200.00
5.b Determine Parking Demand	0	8	8	0	0	0	0	16	\$ 2,000.00
5.c Present data analysis findings along with plan/code barriers and projections	3	8	2	2	0	10	0	25	\$ 2,400.00
Subtotal Hours & Cost	23	21	20	12	0	10	0	86	\$ 10,600.00
Task 6: Parking Inventory									
6.a Finalize Study Area Boundary w/ client	0	1	0	0	0	0	0	1	\$ 140.00
6.b Assemble pre-inventory	0	0	0	0	0	0	0	0	\$ -
6.c Conduct on-site inventory (all on and off-street in study zone)	0	3	3	0	0	2	0	8	\$ 820.00
6.d Create inventory database	0	0	0	0	0	2	0	2	\$ 70.00
6.e Develop route templates for Task 7.	0	0	0	0	0	4	0	4	\$ 140.00
6.f Inventory Summary	0	2	0	0	0	0	0	2	\$ 280.00
Subtotal Hours & Cost	0	6	3	0	0	8	0	17	\$ 1,450.00
Task 7: Data Collection									
7.a Conduct Parking Usage Study (2 days/10 hour survey day)	0	12	12	0	0	24	34	82	\$ 4,690.00
7.b Data entry (on/off-street)	0	0	0	0	0	8	15	23	\$ 655.00
7.c Occupancy/Utilization Summary	2	4	0	0	0	8	0	14	\$ 1,180.00
Subtotal Hours & Cost	0	12	12	0	0	32	49	105	\$ 5,345.00
Task 8: Data Analysis and Summary Report									
8.a Data Analysis	0	7	2	2	0	10	0	21	\$ 1,750.00
8.b. Parking Demand Analysis	0	0	0	0	0	0	0	0	\$ -
8.c. GIS Heat maps	0	4	0	0	0	12	0	16	\$ 980.00
8.d. Draft Report: Occupancy, Utilization and Demand	2	5	1	0	2	0	0	10	\$ 1,270.00
8.e Final Report: Occupancy, Utilization and Demand	4	2	1	0	2	0	0	9	\$ 1,190.00
Subtotal Hours & Cost	6	18	4	2	4	22	0	21	\$ 5,190.00

F. Additional Requests

If the City requests services outside the agreed-upon scope of work during the project RWC would bill using the following standard rates for professional services:

- Rick Williams, \$170/hr.
- Owen Ronchelli, \$140/hr.
- Pete Collins, \$110/hr.
- Kathryn Doherty-Chapman, \$100/hr.
- Jennifer Taylor, \$60/hr.
- Survey Supervisor, \$35/hr.
- Surveyor/Data Entry, \$25/hr.

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

1. Contractor Identification. Contractor shall furnish to City its taxpayer identification number, as designated by the Internal Revenue Service, or Contractor'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 Contractor within thirty (30) days after receipt of Contractor'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 Contractor any fees or costs that City reasonably disputes.

3. Independent Contractor Status.

(a) Contractor 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) Contractor 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. Contractor 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. Contractor provides services for two or more persons within a 12 month period or routinely engages in advertising, solicitation or other marketing efforts. Contractor makes a significant investment in the business by purchasing tools or equipment, premises or licenses, certificates or specialized training and

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

(c) Contractor 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). Contractor shall furnish the tools or equipment necessary for the contracted labor or services. Contractor agrees and certifies that:

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

(e) Contractor agrees and certifies that it is licensed to do business in the state of Oregon and that, if Contractor 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 Contractor, delivered by certified mail or in person.

(b) Upon receipt of notice of early termination, Contractor 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 Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. No Third-Party Beneficiaries. City and

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Contractor 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) Contractor shall:

- (i) Make payment promptly, as due, to all persons supplying to Contractor 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 Contractor under this Agreement and, unless Contractor is subject to back-up withholding, City will not withhold from such compensation or payments any amount(s) to cover Contractor'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 Contractor 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 Contractor by reason of this Agreement.
- (c) The payment of a claim in this manner shall not relieve Contractor or Contractor's surety

from obligation with respect to any unpaid claims.

(d) Contractor and subcontractors, 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. SubContractors and Assignment.

Contractor 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 Contractor.

8. Access to Records. City shall have access to all books, documents, papers and records of Contractor 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 Contractor 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 Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor 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 Contractor 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. Contractor 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.

Contractor shall comply with all 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, Contractor 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. Contractor 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. Contractor acknowledges responsibility for liability arising out of Contractor's negligent performance of this Agreement and shall hold City, its officers, agents, Contractors, 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 Contractor, or the agents, Contractors or employees of Contractor provided pursuant to this Agreement.

(b) Workers' Compensation Coverage. Contractor certifies that Contractor has qualified for workers' compensation as required by the state of Oregon. Contractor 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 Contractors of Contractor shall maintain such insurance.

(c) Comprehensive, General, and Automobile Insurance. Contractor shall maintain comprehensive general and automobile liability insurance for protection of Contractor 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, Contractor'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 Contractor.

14. Legal Expenses. In the event legal action is brought by City or Contractor 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 Contractor 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. Contractor 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. Contractor 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 Contractor. Copies as requested shall be provided free of cost to City.

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

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.

(c) Each party shall each be entitled to present

**STANDARD CONDITIONS TO OREGON CITY
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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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