

**CITY OF OREGON CITY
PERSONAL SERVICES AGREEMENT**

DEI INITIATIVES

This PERSONAL SERVICES AGREEMENT (“Agreement”) is entered into between the CITY OF OREGON CITY (“City”) and **MGT OF AMERICA CONSULTING, LLC** (“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 **September 30, 2023**, 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 a total compensation, including reimbursement for expenses incurred, for the Original Scope plus Community Engagement as identified in Exhibit A for an amount not to exceed **One hundred fifty-three thousand four hundred twenty-seven and 22/100 dollars (\$153,427.22)**.

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 to 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.

To the City:

City of Oregon City
625 Center Street
Oregon City, OR 97045
Attention: Patrick Foiles

To Consultant:

MGT of America Consulting, LLC
4320 West Kennedy Blvd.
Tampa, FL 33609
Attention: Lamont W. Browne

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 _____, 2022.

CITY OF OREGON CITY

MGT CONSULTING

By: _____
Patrick Foiles
Title: Human Resources Director

By: _____
Name: _____

DATED: _____, 2022.

Title: _____

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

DATED: _____, 2022.

DATED: _____, 2022.

ORIGINAL CITY COMMISSION APPROVAL (IF APPLICABLE):

DATE: _____

APPROVED AS TO LEGAL SUFFICIENCY:

By: _____
City Attorney

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Scope of Work (Revised)

MARCH 1, 2022



Prepared for:

PATRICK FOILES

HUMAN RESOURCES DIRECTOR

625 Center Street
Oregon City, OR 97045

503-496-1528
pfoiles@orcity.org

Consultant Services for Diversity, Equity, and Inclusion Initiatives

CITY OF OREGON CITY



Detailed Work Plan

Task 1.0: PROJECT MANAGEMENT & BEST PRACTICES REVIEW

1.1 Project Kickoff

OBJECTIVE

MGT will facilitate an initial meeting for key members of the project team to meet each other, identify desired communication strategy, ensure mutual understanding of the project goals and outcomes, identify potential barriers, and establish consensus regarding activities, timelines, deliverables, and mutual expectations.

DELIVERABLES

- ◆ Finalized work plan and project schedule
- ◆ Description of deliverables
- ◆ Identification of key stakeholders, engagement expectations, responsibilities, and project roles
- ◆ Logistics for project management meeting schedule, agenda, and reporting protocols
- ◆ List of potential stakeholders who might advise the project and provide valuable insight

1.2 Client Engagement

OBJECTIVE

MGT prioritizes effective communication with our clients to maximize trust, clarity of project progress and action steps, and ensure timely and successful execution of all components of the project. Regular collaborative engagement in a manner that meets our clients' availability and interest allows mutual certainty that all aspects of our work align with the organization's mission and ultimate goals.

DELIVERABLES

- ◆ Facilitation of regular (weekly, bi-weekly, or monthly) meeting agendas and minutes
- ◆ Meeting documents including PowerPoint presentations and related materials
- ◆ Documentation of decisions made, action steps, responsibility matrix, and deadlines

1.3 Best Practices and Peer Review

OBJECTIVES

MGT will conduct thorough research and review of industry-leading best practices and successes and lessons learned regarding DEI initiatives that have been implemented by similar sized organizations and their related strategic plans. This work will help inform the DEI audit and the potential recommendations that will follow.

DELIVERABLE(S)

- ◆ Written draft chapter of peer review and industry-leading best practices in DEI initiatives
- ◆ Graphic presentation of DEI best practices

2.1 External Stakeholder Outreach Plan

OBJECTIVE

To maximize awareness of the City's commitment to DEI, build interest and motivation to engage in the City's DEI-related vision and this audit, we will create an external outreach plan to boost meaningful engagement in the audit process. This Stakeholder Outreach Plan will provide a strategic road map for informing the people of Oregon City of the importance of their participation. We will bring a unique perspective and a set of strategies to increase participation and receptivity to this important work.

DELIVERABLE

- ◆ Stakeholder Outreach Plan to maximize awareness and motivation for external stakeholders to engage in the feedback portion of the equity audit

2.2 External Stakeholder Engagement

OBJECTIVE

MGT will design and administer a set of protocols aimed at maximizing participation of Oregon City stakeholders to allow us to gain comprehensive and accurate insight of the resident perspective of equity in the City. We will establish no less than 4 engagement channels that participants will be invited to use:

- 1) A phone-accessible voicemail
- 2) An e-mail inbox system (ex. OregonCity_DEI@mgtconsulting.com)
- 3) Facilitation of four (4) community meetings
 - a. Two (2) in-person session
 - b. Two (2) remote sessions
- 4) Facilitation of two (2) targeted focus group conversations (remote)

Upon completion, we will evaluate all insight collected to ensure representative participation from all stakeholder groups and re-administer with targeted outreach if necessary.

DELIVERABLES

- ◆ Community Equity Survey
- ◆ Focus Group Interview Guide
- ◆ Demographic data summary of resident participation
- ◆ Quantitative and Qualitative analysis of feedback results

2.3 External DEI Analysis and Summary Report

OBJECTIVE

Our DEI consultants will analyze all feedback and data to determine strengths, weaknesses, improvement opportunities, and performance trends. We will craft a comprehensive and succinct reader-friendly report that informs the organization of the state of equity with suggested action steps for improvement.

DELIVERABLES

- ◆ External Equity Report Summary
- ◆ Initial list of actionable recommendations on how to elevate equity throughout the City of Oregon City

Task 3.0: **COMMUNITY DEI TASK FORCE**

3.1 Community DEI Task Force Development

OBJECTIVE

MGT will consult with organization's leadership to develop a charter and participant list for the DEI Task Force. It is anticipated the scope of Task Force activities will include (at a minimum) education of and discussion amongst Task Force members of DEI concepts, discussion about the impacts of bias and marginalization and crafting recommendations on making the organization a more welcoming and inclusive environment. We will support the design and administration of a recruitment process to ensure that Task Force membership represents the diversity of the organization and its entire community.

DELIVERABLES

- ◆ Comprehensive DEI taskforce membership list and signed commitment letters
- ◆ Long-term set of DEI taskforce goals
- ◆ DEI taskforce meeting schedule

3.2 Community DEI Task Force Facilitation

OBJECTIVE

MGT will facilitate Task Force meetings, including meeting planning and logistics, preparation of meeting minutes, and preparation of reports/presentations as needed.

DELIVERABLES

- ◆ Task Force meeting materials (e.g., agenda, PPT presentations, minutes, etc.)
- ◆ Coherent set of decisions made, action steps and owners, deadlines, and accountability measures for meetings and action steps

Task 4.0: **ORGANIZATIONAL ASSESSMENT**

4.1 Prioritized Policy and Practice Analysis

OBJECTIVE

MGT will work with the City's project leadership to establish a comprehensive list of data, documents, policies, and practices to be included in the DEI audit. An equity lens will be applied to our analysis of prioritized topics such as

- ◆ Organizational chart
- ◆ Employee and leadership demographics
- ◆ Organization hiring and promotion practices
- ◆ Barriers to recruiting, hiring, and retaining a diverse workforce
- ◆ Internal communications regarding DEI
- ◆ Annual spending and prioritization of DEI initiatives
- ◆ Aspects of the organizational culture where inequities have been unintentionally perpetuated
- ◆ Impact of staff and leadership self-awareness and implicit bias on organizational culture and the employee experience

DELIVERABLE(S)

- ◆ Comprehensive set of documents and data points for review and analysis
- ◆ An analysis of existing organizational strengths and gaps with clear recommendations on how to best build upon strengths that will encourage DEI in all areas of the City and community.

4.2 Staff Engagement

OBJECTIVE

MGT will design and administer a set of protocols to garner insight of staff and leadership perspective regarding organizational culture, equity in the workplace, and the employee experience. Upon completion, we will evaluate all insight collected to ensure representative participation from all stakeholder groups and re-administer with targeted outreach if necessary.

DELIVERABLES

- ◆ Stakeholder Outreach Plan to maximize awareness and motivation for internal stakeholders to engage in the feedback portion of the equity audit
- ◆ Key Leader Interview Guide (contingent on project need)
- ◆ Focus Group Interview Guide and Protocol (contingent on project need)
- ◆ Organizational Assessment Equity Survey
- ◆ Quantitative and Qualitative analysis of survey results

4.3 DEI Readiness Analysis and Organizational Culture Summary Report

OBJECTIVE

Our DEI consultants will analyze all feedback and data to determine strengths, weaknesses, improvement opportunities, and performance trends. We will craft a comprehensive and succinct reader-friendly report that informs the organization of the state of equity with suggested action steps for improvement.

DELIVERABLES

- ◆ DEI Readiness Summary
- ◆ Organizational DEI Report: *The Current State of DEI at Oregon City*
- ◆ Final list of actionable recommendations on how to elevate DEI within the organization

Task 5.0: DEI FRAMEWORK DEVELOPMENT

5.1 Future Envisioning Analysis

OBJECTIVE

MGT will design and facilitate a workshop with the DEI Task Force and other members of the City's leaders to conduct future envisioning focused on building themes and initiatives around the specific collaborative desire for the state of DEI across the organization and the city. This work will result in the identification of a "North Star" for the organization to strive to become. This North Star will drive the work of the DEI Action Plan.

DELIVERABLES

- ◆ Facilitate review of DEI Audit Report and readiness assessment
- ◆ Facilitate Future Envisioning Workshop (in-person or remote)
- ◆ North Star Analysis Report
- ◆ Development of a shared organizational goal on DEI

5.2 Development of DEI Action Plan

OBJECTIVE

The North Star established during the future envisioning analysis and the data and feedback from the DEI audit will help inform the development of a set of strategies to advance DEI within the organization. MGT will facilitate a series of workshops with the DEI Task Force to collaboratively build the DEI Action Plan that includes a set of goals, actions, deliverables, and performance metrics.

DELIVERABLES

- ◆ Develop a public statement of principle regarding DEI for the City that serves as the guidepost for how it operates and makes decisions that impact budgeting, policies and procedures, operations, programming, outreach, and management practices
- ◆ Multi-Year strategic plan for all policies, actions, and changes needed to meet the City's DEI goals

5.3 DEI Implementation Roadmap

OBJECTIVE

MGT believes that the quality of a plan (DEI Action Plan) is inextricably tied to the quality of its delivery (Implementation Strategy). With this as our guide, we are committed to supporting the DEI Task Force in ensuring deep understanding and shared accountability of the DEI Action Plan to ensure quality implementation of all facets of the framework. The roadmap will include specific outcomes and deliverables, owners, dates, and accountability metrics.

DELIVERABLES

- ◆ Detailed Implementation Plan inclusive of the DEI Action Plan Timeline
- ◆ Implementation framework that assigns responsibility, accountability, resource allocation, key milestones, and dates for each strategic action
- ◆ Internal communication plan that ensures shared ownership and accountability
- ◆ City-Wide communication plan that promotes broad understanding and buy-in to the City's DEI goals

Cost Plan

After discussion with representatives from Oregon City’s project team, we are happy to propose a revised cost plan based on the desire to add External Community Engagement (Milestone #5) and/or DEI Progress Monitoring (Milestone #6) as core components to our work plan. Below, we provide four options for your consideration including the original work a cost proposal that was reviewed in the 3/10 meeting.

Please note that the cost proposal includes professional fees, travel expenses, and other costs (printing, surveys, etc.). The table below illustrates the cost associated with each task in our proposed work plan.

MILESTONES		HOURS	COST PER TASK
1.0	Project Initiation	142	\$4,305.00
	1.1 Project Initiation	9	\$2,210.00
	1.2 Client Engagement	120	Included
	1.3 Best Practices Review	13	\$2,095.00
2.0	Community Engagement	171	\$31,344.38
	2.1 External Stakeholder Outreach Plan	6	\$1,050.00
	2.2 External Stakeholder Engagement	110	\$19,693.75
	2.3 External DEI Analysis and Summary Report	55	\$10,600.63
3.0	Community DEI Task Force	279	\$68,874.08
	3.1 Community DEI Task Force Development and Outreach Plan	39	\$10,707.08
	3.2 Community DEI Task Force Facilitation	240	\$58,167.00
4.0	Organizational Assessment	212	\$42,150.38
	4.1 Prioritized Policy, and Practice Analysis	80	\$16,352.00
	4.2 Internal Stakeholder Engagement	110	\$21,580.25
	4.3 DEI Readiness Analysis and Organizational Culture Report	22	\$4,217.63
5.0	DEI Action Plan	42	\$6,753.38
	5.1 Future Envisioning Analysis	6	\$1,013.01
	5.2 Development of DEI Action Plan	26	\$4,052.03
	5.3 Implementation Strategy for DEI Action Plan	10	\$1,688.34
Proposed Option	Original Scope of Work plus Community Engagement	846	\$153,427.22
	Original Scope of Work	675	\$122,082.83

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 in this Agreement, 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 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, email, 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 the 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.

5. No Third-Party Beneficiaries. City and

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

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 the 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 the Consultant under this Agreement and, unless Consultant is subject to back-up withholding, the 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 the 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, the 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 to the 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 the City. The City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to the 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.

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Consultant shall comply with all federal, state, and 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 \$2,000,000 combined, single-limit, per-occurrence/\$4,000,000 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.

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

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 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

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

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 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.