

**AUTHORIZATION FOR  
AGREEMENTS, MOUs, OR  
OTHER DOCUMENTS OBLIGATING  
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Personal Services Agreement Accuscript Date: 6-29-2023  
Transcription and Typing Services

Statement of Purpose: \_\_\_\_\_

Minute-taking / production  
Department Head Signature: \_\_\_\_\_

Remarks, if any: \_\_\_\_\_

City Attorney Review and Signature: See Email Date: 6-28-2023

Other Signatures as Requested by the City Attorney: \_\_\_\_\_

Signature \_\_\_\_\_ Name/Position \_\_\_\_\_  
Date: \_\_\_\_\_

Budget Confirmed: Yes ☒ No ☐ N/A ☐

Certificate of Insurance Attached: Yes ☐ No ☐ N/A ☒

City Council Approval Needed: Yes ☐ No ☒ Date: \_\_\_\_\_

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: \_\_\_\_\_ Date: 6-29-23

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date posted on website: \_\_\_\_\_

## **CITY OF NEWPORT, OREGON PERSONAL SERVICES AGREEMENT**

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation (City), and AccuScript Transcription and Typing Services (Wendy Fry) (Contractor). This Agreement shall be effective when signed and dated by an authorized representative of each party.

### **RECITALS**

- A. Contractor has the training, ability, knowledge, and experience to provide services desired by the City.
- B. City has selected Contractor to provide services under its public contracting rules.

### **TERMS OF AGREEMENT**

#### **1. SERVICES TO BE PROVIDED**

Contractor shall provide the services described in attached Exhibit A to this Agreement. To the extent there are any inconsistencies or conflicts between this Agreement and the attached Exhibit A, this Agreement shall control and prevail.

#### **2. TERM**

The term of this Agreement shall be for one year with an option to extend for additional terms (i.e., year/s or month/s) if mutually agreed to by the City and Contractor. This Agreement shall expire, unless otherwise terminated or extended, on July 1, 2024.

#### **3. COMPENSATION**

Contractor shall be compensated as described in attached Exhibit A to this Agreement.

#### **4. ASSIGNMENT / DELEGATION**

Neither party shall assign or transfer any interest in or duty under this Agreement without the written consent of the other.

#### **5. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR**

Contractor certifies that:

- A. Contractor acknowledges that Contractor is an independent contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind

to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of the finding and to the full extent of any payments that City is required to make (to Contractor or third party) as a result of the finding.

- B. Contractor represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with this Agreement, except as specifically declared in writing.
- C. Contractor certifies that Contractor currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

## **6. INDEMNIFICATION**

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws. Acceptance of contractor's work by City shall not operate as a waiver or release. Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this Agreement, except to the extent that the liability arises out of the negligence of the City and its employees. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

## **7. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery or mail. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices and other information:

City: City Recorder  
City of Newport  
169 SW Coast Hwy.  
Newport, OR 97365  
Phone: 541.574.0614

Contractor: AccuScript Transcription and Typing Services  
Wendy Fry - [type@sendit2accuscript.com](mailto:type@sendit2accuscript.com)  
Phone: (503) 890-6266

Notices mailed to the address provided for notice in this section shall be deemed given upon deposit in United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery.

## **8. MERGER**

This writing is intended both as a final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of this Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

## **9. TERMINATION WITHOUT CAUSE**

At any time and without cause, City shall have the right in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the Agreement pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

## **10. TERMINATION WITH CAUSE**

- A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:
1. If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified, or terminated, to accommodate a reduction in funds.
  2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
  3. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.



4. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.
5. If City determines that termination of this Agreement is in the best interest of the City.

Any such termination of this Agreement under paragraph (A) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

1. If Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
2. If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.
3. If Contractor fails to eliminate a conflict as described in Section 11 of this Agreement.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable attorney fees, and other costs of litigation at trial and upon appeal.

## **11. ACCESS TO RECORDS**

City shall have access to books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

## **12. FORCE MAJEURE**

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disenabled, including but not restricted to, an act of nature or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disenabled shall within 10 days from the beginning of the delay, notify the other party in writing of the cause of delay and its probable extent. The notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under this Agreement.

## **13. NON-WAIVER**

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 should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

## **14. NON-DISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

## **15. ERRORS**

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.

## **16. EXTRA WORK**

Only the City Manager may authorize additional work not described in Exhibit A. Failure of Contractor to secure written authorization for work not described in Exhibit A shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

## **17. ATTORNEY FEES**

In any action arising under this Agreement, the prevailing party shall be entitled to such sum as the court may award as reasonable attorney fees and court costs, including attorney fees and court costs on appeal.

#### **18. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

#### **19. COMPLIANCE WITH STATE AND FEDERAL LAWS / RULES**

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers' compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this Agreement. (See attached Exhibit B.)

#### **20. SEVERABILITY / COUNTERPARTS**

In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

#### **CITY OF NEWPORT**

  
\_\_\_\_\_  
City Manager

06-29-23

\_\_\_\_\_  
Date

#### **CONTRACTOR**

\_\_\_\_\_  
Date

**EXHIBIT A**  
**TO PERSONAL SERVICES AGREEMENT**

**CONTRACTOR'S PROPOSAL**

**EXHIBIT B**  
**TO PERSONAL SERVICES AGREEMENT**

**RELEVANT PROVISIONS OF ORS CHAPTER 279B**

**279B.220 Conditions concerning payment, contributions, liens, withholding.** Every public contract shall contain a condition that the contractor shall:

1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

**279B.230 Condition concerning payment for medical care and providing workers' compensation.**

1. Every public contract shall contain a condition that the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
2. Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

**279B.235 Condition concerning hours of labor; compliance with pay equity provisions; employee discussions of rate of pay or benefits.**

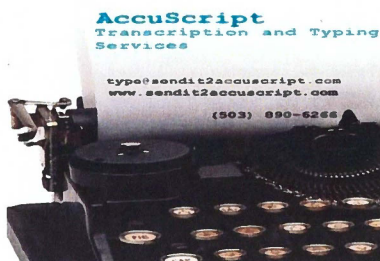
1. An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
2. In the case of contracts for personal services as described in ORS 279A.055, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for



individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

3. (a) Except as provided in subsection (4) of this section, contracts for services must contain a provision that requires that persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.

(b) An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.



AccuScript Transcription and Typing  
[www.sendit2accuscript.com](http://www.sendit2accuscript.com)  
[type@sendit2accuscript.com](mailto:type@sendit2accuscript.com)  
(503) 890-6266

June 14, 2023

Exhibit A

Erik Glover  
Assistant City Manager/City Recorder  
169 SW Coast Hwy  
Newport, Oregon 97365

Mr. Glover:

Thank you for reaching out to AccuScript. I am excited about working out a business agreement with the City of Newport. We offer experience and expertise in preparing your meeting minutes.

Proposal:

- We charge 60 dollars an hour for the length of the audio/video that you provide. There are no additional costs to you.
- You will be provided an Outlook secure email address for more efficient and effective communication at no cost to you if you choose to take advantage of this offer.
- We offer access to our private server, which allows us to access downloaded audios or videos and allows you easy access to documents and storage for your minutes if you choose to take advantage of this offer. Setup and use are at no additional cost to you.
- Minutes that do not require HIPAA compliance can be returned by email.
- To comply with turnaround times requested by the City of Newport, City Council and Urban Renewal Agency Minutes shall be returned to the Newport City Recorder office contact within one week (7 calendar days), and other Committee minutes shall be returned to Newport City Recorder office contact within 2 weeks (14 calendar days). If there is a necessary deviation, it will be first discussed with and agreed upon by the Newport City Recorder office contact.
- I can come to your location for a presentation, occasional meeting participation, and/or customer service needs at no additional cost to you.
- It is your responsibility to provide meeting schedules, video and/or audio recordings, agendas and packets when available.
- To be in compliance with City of Newport's ordinances, AccuScript will obtain a business license from the City of Newport. The City of Newport will make a fixed payment to AccuScript for the cost of the business license as an expense.

AccuScript offers many services that might benefit your city. Please check us out at [www.sendit2accuscript.com](http://www.sendit2accuscript.com) for further information on transcription services for interdepartmental interviews, police investigations, policy manual updates, legal hearings, etc.

I hope to hear back from you soon,

A handwritten signature in black ink, appearing to read "Wendy Fry", written in a cursive style.

Wendy Fry  
(503)890-6266  
[type@sendit2accuscript.com](mailto:type@sendit2accuscript.com)

## Erik Glover

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**From:** David Allen  
**Sent:** Wednesday, June 28, 2023 3:42 PM  
**To:** Erik Glover  
**Cc:** Spencer Nebel  
**Subject:** Re: Meeting minutes  
**Attachments:** Newport proposal 061423 Revised.docx; Personal Services Agreement - AccuScript - Minutes Preparation - edits.docx

Attached is draft agreement with a couple of minor edits in track changes (sections 2 and 7) along with the proposal (Ex. A to agreement). Also, below is a link to the 2021 agreement with Gabriel Shepherd. Contractor would need to obtain a business license as required under section 5.(C) of the agreement ... refer to NMC section below. --David

[https://www.newportoregon.gov/dept/adm/agreements/3224/agreement\\_3224.pdf](https://www.newportoregon.gov/dept/adm/agreements/3224/agreement_3224.pdf)

### NMC 4.05.015 - Definitions:

Business - Any for-profit or not-for-profit enterprise, establishment, store, shop, activity, profession, or undertaking of any nature operating within the city, whether conducted directly, indirectly, or cooperatively, including the rental of real property as defined in this ordinance, carried on for the purpose of generating income. As used in this Chapter, the phrase "doing business" means an act or series of acts performed in the course or pursuit of a business activity for more than twenty (20) hours in one calendar year.

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From: Erik Glover  
Sent: Wednesday, June 28, 2023 11:14 AM  
To: Spencer Nebel  
Cc: David Allen  
Subject: RE: Meeting minutes

Prepared a draft agreement for minutes preparation services, based upon Gabe Shephard previous agreement.

Erik

Erik Glover  
Assistant City Manager/City Recorder  
City of Newport, Oregon 97365  
541-574-0613  
[e.glover@newportoregon.gov](mailto:e.glover@newportoregon.gov)

From: Erik Glover  
Sent: Wednesday, June 14, 2023 1:49 PM  
To: Spencer Nebel <[S.Nebel@NewportOregon.gov](mailto:S.Nebel@NewportOregon.gov)>  
Cc: David Allen <[d.allen@newportoregon.gov](mailto:d.allen@newportoregon.gov)>  
Subject: FW: Meeting minutes

Hi David,

In any action arising under this Agreement, the prevailing party shall be entitled to such sum as the court may award as reasonable attorney fees and court costs, including attorney fees and court costs on appeal.

#### **18. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

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Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers' compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this Agreement. (See attached Exhibit B.)

#### **20. SEVERABILITY / COUNTERPARTS**

In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

#### **CITY OF NEWPORT**

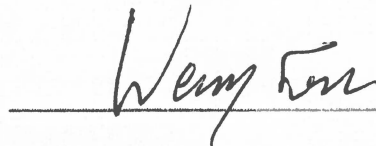


City Manager

06-29-23

Date

#### **CONTRACTOR**



07-03-23

Date