

RESOLUTION NO. 2025-34

A Resolution authorizing the City Manager to sign a contract with Sally Swanson Architects in the not to exceed amount of \$300,000 for the Americans with Disabilities Act (ADA) Transition Plan project.

RECITALS:

Whereas, the implementation of an American with Disabilities Act (ADA) Transition Plan is an adopted strategic action in the City's MAC Town 2032 Strategic Plan under Engagement and Inclusion; and

Whereas, the City of McMinnville decided to support the development of an ADA Transition Plan; and

Whereas, a Request for Qualifications was released on May 2, 2025, and was closed on June 5, 2024; and

Whereas, all of the responses were reviewed and scored, and the top proposer was determined with the highest scoring proposal; and

Whereas, the proposal from Sally Swanson Architects, met all of the proposal requirements and should be considered the responsible and responsive proposal; and

Whereas, the funding for this project is allocated in the FY 26 City of McMinnville adopted budget.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. That the City of McMinnville will enter into a contract with Sally Swanson Architects in an amount not to exceed \$300,000.
2. The Interim City Manager is hereby authorized and directed to sign the contract per Exhibit A.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.


Adopted by the Common Council of the City of McMinnville at a regular meeting held the 26th day of August 2025, by the following votes:

Ayes: Cunningham, Chenoweth, Geary, Peralta

Nays: Tucholsky

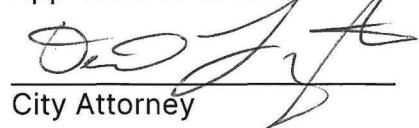
Abstain: Payne

Approved this 26th day of August 2025.



MAYOR

Approved as to form:


City Attorney

Attest:

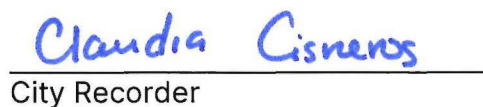

City Recorder

EXHIBIT:

- A. Professional Services Contract with Sally Swanson Architects, Inc. for the ADA Transition Plan project.

CITY OF McMinnville

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) for the Americans with Disabilities Act (ADA) Transition Plan Project (“Project”) is made and entered into on this ____ day of _____ 2025 (“Effective Date”) by and between the **City of McMinnville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and Sally Swanson Architects, Inc. a(n) _____ [state] _____ [corporation/limited liability company, etc.] (hereinafter referred to as “Consultant”).

RECITALS

WHEREAS, the City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that Consultant is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Consultant is prepared to provide such services as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

AGREEMENT

Section 1. Scope of Work

Consultant shall diligently perform the ADA Transition Plan services according to the requirements identified in the Scope of Work for the Project, attached hereto as **Exhibit A** and incorporated by reference herein (the “Services”).

Section 2. Term

The term of this Agreement shall be from the Effective Date until all Services required to be performed hereunder are completed and accepted, or no later than December 31, 2026, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City.

Section 3. Consultant’s Services

3.1. All written documents prepared by Consultant in conjunction with the Services shall bear the signature, name, or logo of, or otherwise be identified as coming from, Consultant’s authorized Project Manager.

3.2. Consultant will not be deemed to be in default by reason of delays in performance due to circumstances beyond Consultant’s reasonable control, including but not limited to strikes, lockouts, severe acts of nature, or other unavoidable delays or acts of third parties not under

Consultant's direction and control ("Force Majeure"). In the case of the happening of any Force Majeure event, the time for completion of the Services will be extended accordingly and proportionately by the City, in writing. Lack of labor, supplies, materials, or the cost of any of the foregoing shall not be deemed a Force Majeure event.

3.3. The existence of this Agreement between the City and Consultant shall not be construed as the City's promise or assurance that Consultant will be retained for future services beyond the Scope of Work described herein.

3.4. Consultant shall maintain the confidentiality of any confidential information that is exempt from disclosure under state or federal law to which Consultant may have access by reason of this Agreement. Consultant warrants that Consultant's employees assigned to the Services provided in this Agreement shall be clearly instructed to maintain this confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.

Section 4. Compensation

4.1. Except as otherwise set forth in this **Section 4**, the City agrees to pay Consultant a not-to-exceed amount of three hundred thousand DOLLARS (\$300,000) for performance of the Services ("Compensation Amount"). Any compensation in excess of the Compensation Amount will require an express written Addendum to be executed between the City and Consultant.

4.2. During the course of Consultant's performance, if the City, through its Project Manager, specifically requests Consultant to provide additional services that are beyond the Scope of Work described on **Exhibit A**, a written Addendum to this Agreement must be executed in compliance with the provisions of **Section 16**.

4.3. Except for amounts withheld by the City pursuant to this Agreement, Consultant will be paid for Services for which an itemized invoice is received by the City within thirty (30) days of receipt, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Consultant as promptly as is reasonably possible.

4.4. The City will be responsible for the direct payment of required fees payable to governmental agencies, including but not limited to plan checking, land use, zoning, permitting, and all other similar fees resulting from this Project, that are not specifically covered by **Exhibit A**.

4.5. Consultant's Compensation Amount and Rate Schedule are all inclusive and include, but are not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits and similar contributions and benefits, technology and/or software charges, licensing, trademark, and/or copyright costs, office expenses, travel expenses, mileage, and all other indirect and overhead charges.

Section 5. City's Rights and Responsibilities

5.1. The City will designate a Project Manager to facilitate day-to-day communication between Consultant and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

Section 6. City's Project Manager

The City's Project Manager is Jody Christensen. The City shall give Consultant prompt written notice of any re-designation of its Project Manager.

Section 7. Consultant's Project Manager

Consultant's Project Manager is Sally Swanson. In the event that Consultant's designated Project Manager is changed, Consultant shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Consultant's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Consultant that is not from Consultant's designated Project Manager, the City may request verification by Consultant's Project Manager, which verification must be promptly furnished.

Section 8. Project Information

Except for confidential information designated by the City as information not to be shared, Consultant agrees to share Project information with, and to fully cooperate with, those corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the Project. No information, news, or press releases related to the Project, whether made to representatives of newspapers, magazines, or television and radio stations, shall be made without the written authorization of the City's Project Manager.

Section 9. Subcontractors and Assignments

9.1. Unless expressly authorized in **Exhibit A** or **Section 10** of this Agreement, Consultant shall not subcontract with others for any of the Services prescribed herein. Consultant shall not assign any of Consultant's rights acquired hereunder without obtaining prior written approval from the City, which approval may be granted or denied in the City's sole discretion.

9.2. The City shall have the right to enter into other agreements for the Project, to be coordinated with this Agreement. Consultant shall cooperate with the City and other firms, engineers or subcontractors on the Project so that all portions of the Project may be completed in the least possible time and within normal working hours. Consultant shall furnish other engineers, subcontractors and affected public utilities, whose designs are fitted into Consultant's design, detail drawings giving full information so that conflicts can be avoided.

9.3. Consultant shall include this Agreement by reference in any subcontract and require subcontractors to perform in strict compliance with this Agreement.

Section 10. Consultant Is Independent Contractor

10.1. Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the Compensation Amount provided for under **Section 4** of this Agreement. Consultant will be solely responsible for determining the manner and means of accomplishing the end result of Consultant's Services. The City does not have the right to control or interfere with the manner or method of accomplishing said Services. The City, however, will have the right to specify and control the results of Consultant's Services so such Services meet the requirements of the Project.

10.2. Consultant may request that some consulting services be performed on the Project by persons or firms other than Consultant, through a subcontract with Consultant. Consultant acknowledges that if such services are provided to the City pursuant to a subcontract(s) between Consultant and those who provide such services, Consultant may not utilize any subcontractor(s), or in any way assign its responsibility under this Agreement, without first obtaining the express written consent of the City, which consent may be given or denied in the City's sole discretion. In all cases, processing and payment of billings from subcontractors is solely the responsibility of Consultant.

10.3. Consultant shall be responsible for, and defend, indemnify, and hold the City harmless against, any liability, cost, or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, errors, or omissions. Unless otherwise agreed to, in writing, by the City, Consultant shall require that all of Consultant's subcontractors also comply with, and be subject to, the provisions of this **Section 10** and meet the same insurance requirements of Consultant under this Agreement.

Section 11. Consultant Responsibilities

11.1. Consultant must make prompt payment for any claims for labor, materials, or services furnished to Consultant by any person in connection with this Agreement as such claims become due. Consultant shall not permit any liens or claims to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of Consultant. If Consultant fails, neglects, or refuses to make prompt payment of any such claim, the City may, but shall not be obligated to, pay such claim to the person furnishing the labor, materials, or services and offset the amount of the payment against funds due or to become due to Consultant under this Agreement. The City may also recover any such amounts directly from Consultant.

11.2. Consultant must comply with all applicable Oregon and federal wage and hour laws, including BOLI wage requirements, if applicable. Consultant shall make all required workers compensation and medical care payments on time. Consultant shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses.

11.3. No person shall be discriminated against by Consultant or any subcontractor in the performance of this Agreement on the basis of sex, gender, race, color, creed, religion, marital

status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Agreement, in whole or in part, by the City.

Section 12. Indemnity

12.1. Indemnification. Consultant acknowledges responsibility for liability arising out of the performance of this Agreement, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Consultant's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Agreement, or from Consultant's failure to perform its responsibilities as set forth in this Agreement. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Consultant shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Consultant of its responsibility to perform in full conformity with the City's requirements, as set forth in this Agreement, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Consultant's negligent performance of this Agreement, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 12.2**. Consultant shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Consultant. As used herein, the term "Consultant" applies to Consultant and its own agents, employees, and suppliers-

12.2. Standard of Care. In the performance of the Services, Consultant agrees to use at least that degree of care and skill exercised under similar circumstances by reputable members of Consultant's profession practicing in the Portland metropolitan area. Consultant will re-perform any Services not meeting this standard without additional compensation. Consultant's re-performance of any Services, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Consultant's failure to perform in accordance with the applicable standard of care of this Agreement and within the prescribed timeframe.

12.3 Indemnification for Claims for Professional Liability. Notwithstanding any contrary provision herein, with regard to claims for professional liability (as opposed to general liability or automobile liability), it is hereby agreed that the Consultant's obligation to defend or to pay the defense costs of the indemnitees shall only apply if and when and to the extent that a court or other forum of competent jurisdiction has determined the percentage of Consultant's fault for the liability alleged, in which case Consultant shall be obligated to pay the amount equal to the percentage of its fault that has been actually determined.

Section 13. Insurance

13.1. Insurance Requirements. Consultant shall maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Agreement. Such insurance shall cover all risks arising directly or indirectly out of Consultant's activities or work hereunder. Any and all agents, contractors, or subcontractors with which Consultant contracts to work on the Services must have insurance that conforms to the insurance requirements in this Agreement. Additionally, if a subcontractor is an engineer, architect, or other professional, Consultant must

require the subcontractor to carry Professional Errors and Omissions insurance and must provide to the City proof of such coverage. The amount of insurance carried is in no way a limitation on Consultant's liability hereunder. The policy or policies maintained by Consultant shall provide at least the following minimum limits and coverages at all times during performance under this Agreement:

13.1.1. Commercial General Liability Insurance. Consultant and all subcontractors shall obtain, at each of their own expense, and keep in effect during the term of this Agreement, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Agreement and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Agreement.

13.1.2. Professional Errors and Omissions Coverage. Consultant agrees to carry Professional Errors and Omissions Liability insurance on a policy form appropriate to the professionals providing the Services hereunder with a limit of no less than **\$2,000,000** per claim. Consultant shall maintain this insurance for damages alleged to be as a result of errors, omissions, or negligent acts of Consultant. Such policy shall have a retroactive date effective before the commencement of any work by Consultant on the Services covered by this Agreement, and coverage will remain in force for a period of at least three (3) years after termination of this Agreement.

13.1.3. Business Automobile Liability Insurance. If Consultant or any subcontractors will be using a motor vehicle in the performance of the Services herein, Consultant shall provide the City a certificate indicating that Consultant and its subcontractors have business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

13.1.4. Workers Compensation Insurance. Consultant, its subcontractors, and all employers providing work, labor, or materials under this Agreement that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Consultants who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

13.1.5. Insurance Carrier Rating. Coverages provided by Consultant and its subcontractors must be underwritten by an insurance company deemed acceptable by the

City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

13.1.6. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Consultant's liabilities hereunder in insurance coverages. Additional Insured coverage under Consultant's Commercial General Liability, Automobile Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of McMinnville, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder. Consultant must be an additional insured on the insurance policies obtained by its subcontractors performing work on the Services contemplated under this Agreement.

13.1.7. Certificates of Insurance. As evidence of the insurance coverage required by this Agreement, Consultant shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Consultant agrees that it will not terminate or change its coverage during the term of this Agreement without giving the City at least thirty (30) days' prior advance notice and Consultant will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

13.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are "Claims Made" policies, Consultant will be required to maintain such policies in full force and effect throughout any warranty period.

Section 14. Early Termination; Default

14.1. This Agreement may be terminated prior to the expiration of the agreed upon terms:

14.1.1. By mutual written consent of the parties;

14.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person; or

14.1.3. By Consultant, effective upon seven (7) days' prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of Consultant, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.

14.2. If the City terminates this Agreement, in whole or in part, due to default or failure of Consultant to perform Services in accordance with the Agreement, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Consultant shall be liable for all costs and damages incurred by the City as a result of the default by Consultant, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Agreement. This Agreement shall be in full force to the extent not terminated by written notice from the City to Consultant. In the event of a default, the City will provide Consultant with written notice of the default and a period of ten (10) days to cure the default. If Consultant notifies the City that it wishes to cure the default but cannot, in good faith, do so within the ten (10) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Agreement and seek remedies for the default, as provided above.

14.3. If the City terminates this Agreement for its own convenience not due to any default by Consultant, payment of Consultant shall be prorated to, and include the day of, termination and shall be in full satisfaction of all claims by Consultant against the City under this Agreement.

14.4. Termination under any provision of this Section shall not affect any right, obligation, or liability of Consultant or the City that accrued prior to such termination. Consultant shall surrender to the City items of work or portions thereof, referred to in **Section 18**, for which Consultant has received payment or the City has made payment.

Section 15. Suspension of Services

The City may suspend, delay, or interrupt all or any part of the Services for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within Consultant's control. The City shall not be responsible for Services performed by any subcontractors after notice of suspension is given by the City to Consultant. Should the City suspend, delay, or interrupt the Services and the suspension is not within Consultant's control, then the City shall extend the time of completion by the length of the delay.

Section 16. Modification/Addendum

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both the City and Consultant. A modification is a written document, contemporaneously executed by the City and Consultant, which increases or decreases the cost to the City over the agreed Compensation Amount in **Section 4** of this Agreement, or changes or modifies the Scope of Work or the time for performance. No modification shall be binding or effective until executed, in writing, by both Consultant and the City. In the event Consultant receives any communication of whatsoever nature from the City, which communication Consultant contends gives rise to any modification of this Agreement, Consultant shall, within five (5) days after receipt, make a written request for modification to the City's Project Manager in the form of an Addendum. Consultant's failure to submit such written request for modification in the form of an Addendum shall be the basis for refusal by the City to treat said communication as a basis for modification or to allow such modification. In connection with any modification to this

Agreement affecting any change in price, Consultant shall submit a complete breakdown of labor, material, equipment, and other costs. If Consultant incurs additional costs or devotes additional time on Project tasks, the City shall be responsible for payment of only those additional costs for which it has agreed to pay under a signed Addendum. To be enforceable, the Addendum must describe with particularity the nature of the change, any delay in time the Addendum will cause, or any increase or decrease in the Compensation Amount. The Addendum must be signed and dated by both Consultant and the City before the Addendum may be implemented.

Section 17. Access to Records

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Consultant as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts during the term of this Agreement and for a period of four (4) years after termination of the Agreement, unless the City specifically requests an extension. This clause shall survive the expiration, completion, or termination of this Agreement.

Section 18. Property of the City

18.1. All documents, reports, and research gathered or prepared by Consultant under this Agreement, including but not limited to spreadsheets, charts, graphs, drawings, modeling, maps, data generation, papers, diaries, and inspection reports, shall be the exclusive property of the City and shall be delivered to the City prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to the City upon request without additional compensation.

18.2. Consultant shall not be held liable for any damage, loss, increased expenses, or otherwise, caused by or attributed to the reuse by the City or its designees of all work performed by Consultant pursuant to this Agreement without the express written permission of Consultant.

Section 19. Notices

Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of McMinnville
Attn: Jody Christensen
231 5th Street
McMinnville, OR 97128

To Consultant:

Sally Swanson Architects, Inc.
Attn: Sally Swanson

Section 20. Miscellaneous Provisions

20.1. Integration. This Agreement, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Agreement shall control.

20.2. Legal Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Agreement may be enforced by an action at law or in equity.

20.3. No Assignment. Consultant may not assign this Agreement, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

20.4. Adherence to Law. In the performance of this Agreement, Consultant shall adhere to all applicable federal, state, and local laws (including the McMinnville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Consultant is required by law to obtain or maintain in order to perform the Services described on **Exhibit A**, shall be obtained and maintained throughout the term of this Agreement.

20.5. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

20.6. Jurisdiction. Venue for any dispute will be in Yamhill County Circuit Court.

20.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Agreement, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

20.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Agreement shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

20.9. Severability. If any provision of this Agreement is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Agreement shall remain in full force and effect, to the greatest extent allowed by law.

20.10. Modification. This Agreement may not be modified except by written instrument executed by Consultant and the City.

20.11. Time of the Essence. Time is expressly made of the essence in the performance of this Agreement.

20.12. Calculation of Time. Except where the reference is to business days, 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 observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included.

20.13. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

20.14. Number, Gender and Captions. In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

20.15. Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Agreement gives the City “sole discretion” or the City is allowed to make a decision in its “sole judgment.”

20.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

20.17. Interpretation. As a further condition of this Agreement, the City and Consultant acknowledge that this Agreement shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the Agreement, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in

taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

20.18. Entire Agreement. This Agreement and all documents attached to this Agreement represent the entire agreement between the parties.

20.19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

20.20. Authority. Each party signing on behalf of Consultant and the City hereby warrants actual authority to bind their respective party.

The Consultant and the City hereby agree to all provisions of this Agreement.

CONSULTANT:

CITY:

CITY OF McMinnville

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

Employer I.D. No. 01-0600856

APPROVED AS TO FORM:

David Ligtenberg, City Attorney
City of McMinnville, Oregon

Sally Swanson Architects
City of McMinnville ADA TRANSITION PLAN
Scope of Work

Task #	Task Description
1	<p>Project Start-Up and Public Engagement</p> <ul style="list-style-type: none"> a. Thorough Review of the Existing ADA Reports and Documentation b. Develop a proposal and implementation timeline to engage the community in the ADA Transition Plan process. c. Specify and manage the proposed number of meetings, committees, workshops, etc. necessary to achieve a suitable engagement Plan. d. Incorporate opportunities for public comment into phases of the planning process. e. Develop public engagement materials including, but not limited to, surveys, informational materials, and presentations.
2	<p>Data Collection</p> <ul style="list-style-type: none"> a. Public buildings and facilities* b. Public Parks ** c. Public Rights-of-Way ***
3	<p>Draft and Refine Transition Plan Sections</p> <ul style="list-style-type: none"> a. A prioritized list of physical and programmatic modifications needed to achieve compliance. b. A timeline for implementation of the modifications. c. Identification of the official(s) responsible for the implementation of the Plan. d. Cost estimates or remediation measures to remove each identified barrier. e. A methodology for ongoing evaluation and updates to the Plan. f. Develop draft and final report incorporating comments from the City and Stakeholders.
4	<p>Project Database and Mapping Setup</p> <ul style="list-style-type: none"> a. Develop a database of the Transition Plan in Excel or other City approved software. b. Develop a GIS map for PROW barriers. c. Develop plans/diagrams of ADA barriers in surveyed facilities.
5	<p>Adoption of Final Transition Plan</p> <ul style="list-style-type: none"> a. Submit a final report that includes the ADA Transition Plan, and documentation of the community engagement process. b. Provide the final report and all related documents in both print and electronic formats that are accessible to individuals with disabilities. c. Present the final ADA Transition Plan to the City Council with City Staff. d. Review and incorporate public comment and feedback into the final Transition Plan.
6	<p>ADA Self-Evaluation</p> <ul style="list-style-type: none"> a. Identify Programs & Services and Associated Policies, Practices & Procedures b. Evaluate Policies, Procedures, and Practices for Compliance with ADA Title II, including but not limited to, communication methods, employment practices and policies, and emergency preparedness. c. Selecting Key Personnel Including Orientation Meeting d. Staff Surveys Including Questionnaires e. Draft Self-Evaluation Report f. Final Self-Evaluation Report

Sally Swanson Architects
City of McMinnville ADA TRANSITION PLAN
Scope of Work

*Public Buildings and Facilities: The chart below is from the City of McMinnville's Facility Condition Assessment Report dated 12.02.19. The information will need to be evaluated as part of the ADA Transition Plan project.

City of McMinnville

Facility Condition Assessment Report 12.02.19 **shared tax lot*

Facility List (year built)	Address	Square Footage
Airport Hangers	4000 NE Cirrus Ave, 97128	32,075
Aquatic Center (1983)	138 NW Park Dr., 97128	28,052
Nelson House (former Chamber building)	417 NW Adams, 97128	1730
Chegwyn Farms Restroom and Shelter (2011)	3200 NE Hembree St., 97128	1176
City Park Restrooms & Shelter (1968)	140 NW Park Dr., 97128	1516
Civic and City Hall/Garage	200 & 230 NE 2nd Street, 97128	60,252
Community Center (1924)	600 NE Evans Street, 97128	54,592
Community Development Center	231 NE Fifth Street, 97128	9022
Discovery Restrooms & Shelter (2005)	1300 SW Cypress Ln., 97128	3644
FAA/Oregon State Police (OSP) Building	3975 SE Cirrus Ave., 97128	12,250
Library & Carnegie Building	225 NW Adams St., 97128	19,781
Parking Structure (1981)	500 NE Davis St., 97128	43,833
Public Safety (2008) – Police Department	121 SW Adams St., 97128	35,462
Public Works/Riverside Drive (1971)*	1900 NE Riverside Dr., 97128	29,651
Senior Center	2250 NE McDaniel Ln., 97128	10,242
Thompson Park Restroom (2002)	1525 SE Morgan Lane, 97128	952
Tice Park Restrooms (2004)	2761 NE Baker St., 97128	560
Wastewater & Police Evidence	3500 NE Clearwater Dr., 97128	33,254
Wastewater Riverside Drive *	1900/1920 NE Riverside Dr., 97128	8,300
Wortman Park Restrooms & Shelters (2005)	2051 NE Lafayette Ave., 97128	4,143

Sally Swanson Architects
City of McMinnville ADA TRANSITION PLAN
Scope of Work

****Public Parks:** The chart below shows the list of developed public parks from the Parks, Recreation, and Open Space Final Plan adopted by Resolution on June 25, 2024.

Parks	Acres
Neighborhood Parks	
Chegwyn Farms	3.9
Jay Pearson Park	2.9
Thompson Park	2.3
West Hills Park	7.8
Subtotal	16.9
Parklettes	
Bend-o-River	0.3
Greenbriar	0.2
Kingwood	0.6
North Evans	0.3
Taylor	0.3
Village Mill	0.5
Subtotal	2.3
Community Parks	
City Park	16.2
Joe Dancer Park	104.7
Discovery Meadows	21.4
Wortman Park	21.5
Subtotal	163.7
Special Use Parks	
Riverside Drive Dog Park	3.6
Subtotal	3.6
Linear/Trail Parks	
West McMinnville Linear Path	
Ash Meadows	1.3
Goucher St. Pathway	1.7
James Addition	1.3
Jandina	2.6
Jandina III	2.1
West McMinnville Linear Park	0.2
Westvale	4.5
BPA Path (paved)	
BPA Pathway I (2nd Street to Wallace)	2.8
BPA Pathway II (Wallace to 23rd)	4.1
Roma Sitton (23rd to Baker Creek Road)	1.7
BPA North (Baker Creek Road to chip path)	1.3
North McMinnville Trail	
Baker Creek North - Parcel D	14.9
Oak Ridge Meadows	5.4
Subtotal	43.8
Total Developed	230.3

***** Public Right of Way:** The City has 119.5 center line street miles. In approximate numbers, the City may have 4147 curb ramps and 16 signalized intersections.

SSA ADA Transition Plan Fee Schedule

Task #	Task Description	Total Labor Costs
1	Project Start-Up and Public Engagement	
	a. Thorough Review of the Existing ADA Reports and Documentation	\$3,400.00
	b. Develop a proposal and implementation timeline to engage the community in the ADA Transition Plan process.	\$3,400.00
	c. Specify and manage the proposed number of meetings, committees, workshops, etc. necessary to achieve a suitable engagement Plan.	\$6,600.00
	d. Incorporate opportunities for public comment into phases of the planning process.	\$5,000.00
	e. Develop public engagement materials including, but not limited to, surveys, informational materials, and presentations.	\$5,000.00
	Subtotal:	\$23,400.00
2	Data Collection	
	a. Public buildings and facilities (19 facilities per the RFP).	\$28,900.00
	b. Public Parks (28 parks with 230 acres per the RFP)	\$37,400.00
	c. Public Rights-of-Way (119.5 centerline street miles, 4147 curb ramps, and an estimated 64 of pedestrian signals per the RFP and Q&A Response #1)	\$101,000.00
	Subtotal:	\$167,300.00
3	Draft and Refine Transition Plan Sections	
	a. A prioritized list of physical and programmatic modifications needed to achieve compliance.	\$4,600.00
	b. A timeline for implementation of the modifications.	\$1,600.00
	c. Identification of the official(s) responsible for the implementation of the Plan.	\$2,500.00
	d. Cost estimates or remediation measures to remove each identified barrier.	\$1,600.00
	e. A methodology for ongoing evaluation and updates to the Plan.	\$2,200.00
	f. Develop draft and final report incorporating comments from the City and Stakeholders.	\$5,000.00
	Subtotal:	\$17,500.00
4	Project Database and Mapping Setup	
	a. Develop a database of the Transition Plan in Excel or other City approved software.	\$11,600.00
	b. Develop a GIS map for PROW barriers.	\$19,000.00
	c. Develop plans/diagrams of ADA barriers in surveyed facilities.	\$5,200.00
	Subtotal:	\$35,800.00
5	Adoption of Final Transition Plan	
	a. Submit a final report that includes the ADA Transition Plan, and documentation of the community engagement process.	\$4,000.00
	b. Provide the final report and all related documents in both print and electronic formats that are accessible to individuals with disabilities.	\$4,000.00
	c. Present the final ADA Transition Plan to the City Council with City Staff.	\$6,800.00
	d. Review and incorporate public comment and feedback into the final Transition Plan.	\$5,200.00
	Subtotal:	\$20,000.00
6	ADA Self-Evaluation	
	a. Identify Programs & Services and Associated Policies, Practices & Procedures	\$3,000.00
	b. Evaluate Policies, Procedures, and Practices for Compliance with ADA Title II, including but not limited to, communication methods, employment practices and policies, and emergency preparedness.	\$12,000.00
	c. Selecting Key Personnel Including Orientation Meeting	\$6,000.00
	d. Staff Surveys Including Questionnaires	\$3,000.00
	e. Draft Self-Evaluation Report	\$7,000.00
	f. Final Self-Evaluation Report	\$4,000.00
	Subtotal:	\$35,000.00
	Grand Total Services	\$299,000.00
Notes: 1. If there is a significant increase to the scope of work outlined above, SSA reserves the right to renegotiate the services fee with the City. 2. Sally Swanson Architects, Inc. (SSA) guarantees that no additional fees will be charged prior written consent by the City. 3. All expenses are included, including reimbursable, if applicable. 4. All reports will be submitted in PDF format.		