

PROFESSIONAL CONSULTATION AGREEMENT

THIS AGREEMENT is made and entered into this 12th day of February, 2019, by and between Crossing the Chasm, LLC, hereinafter referred to as “Consultant,” and the City of Norman, Oklahoma, a municipal corporation, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the City is committed to improving accessibility for all residents and visitors in the community by reducing barriers, expanding opportunities, and increasing full participation in community life; and

WHEREAS, the City adopted an Americans with Disabilities Act (“ADA”) Self-Evaluation and Transition Plan on June 26, 2018, that updated the City’s 1993 ADA Transition Plan in order to improve accessibility for City programs, services, activities, facilities, project decisions, and improvements that are planned and guided by the current ADA requirements; and

WHEREAS, one of the “Next Steps” identified in § 5.0 of the 2018 ADA Transition Plan included a recommendation to consider hiring a full-time ADA Coordinator; and

WHEREAS, the City sought applications for an ADA Technician whose duties would include planning, recommending, monitoring, and coordinating the City’s response to the provisions of the Rehabilitation Act of 1973 and Title II of the ADA to ensure that individuals with disabilities are not excluded from City programs, services, and activities; coordinating the efforts of the City’s ADA involvement in various committees; conducting meetings as assigned; providing staff support; participating in the development and implementation of goals, policies, and procedures related to the City’s compliance with the ADA; coordinating implementation of the City’s ADA Transition Plan; providing technical assistance of policies with City staff; conducting building and park assessments to document existing conditions, including programs and service accessibility needs for future improvement projects; assisting City departments to ensure ADA requirements are included in the design of new and renovated facilities and programs, designs, plans, work in progress, etc., for compliance with the ADA; meeting with project managers, contractors, and sub-contractors, and others to monitor the progress of barrier removal during construction; assisting with budget recommendations for physical and/or program access requirements of the ADA for the impacted departments, which may include modifications and/or equipment purchases; receiving, reviewing, evaluating, and determining citizen requests for ADA accommodations in conjunction with either the ADA Compliance Committee and/or legal counsel; developing, updating, and maintaining a master database of items in progress or completed related to ADA projects; making appropriate referrals to county, state, federal, or outside agencies on complaints outside City jurisdiction; and compiling, preparing, and maintaining data and statistics for City, State and/or Federally required reports; and

WHEREAS, City desires to retain Consultant as an independent contractor to provide professional consultation services as an ADA Technician.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and promises herein set forth, Consultant and City agree as follows:

1. **Term and Scope of Work.** Consultant shall serve as an ADA Technician for the term of March 1, 2019, through June 30, 2020, subject to annual appropriation of sufficient funding by the Norman City Council, and provide professional consultation services pertaining to the general job duties outlined above, focusing specifically on the Project Goals outlined in Addendum 1. Consultant shall dedicate, on average, approximately thirty-two (32) hours per week to the City toward fulfillment of this Agreement. Both Consultant and the City acknowledge that due to the nature of the services provided, sometimes more or less hours per week may be required from month to month. City also acknowledges that Consultant also provides services to other clients whose needs may vary from week to week and month to month. The City shall not deduct from the monthly fee noted in paragraph 2 for fewer hours actually worked, nor shall Consultant bill for additional hours actually worked.
2. **Consultation Fee.** The total consultation fee paid to Consultant for the completion of the Agreement term shall be one hundred thirteen thousand four hundred dollars (\$113,400.00), to be paid monthly in sixteen (16) equal installments of seven thousand eighty-seven dollars and fifty cents (\$7,087.50), subject to annual appropriation of sufficient funding by the Norman City Council. In the event either party terminates the Agreement in accordance with the notice provisions outlined in paragraph 6, City shall not be liable to pay for the remaining pro-rated consultation fee for any months where no consultation services are provided.
3. **Insurance.** Consultant shall provide City with proof of minimum insurance coverage as outlined below.

a. **Commercial General Liability** (including non-owned auto)

Bodily Injury/Property Damage	\$1,000,000.00	each occurrence
Personal Injury/Advertising injury	\$1,000,000.00	each occurrence
General Aggregate	\$2,000,000.00	each occurrence
Employment Practices Liability Insurance	\$10,000.00	

b. Professional Liability

\$1,000,000.00	per claim
\$1,000,000.00	annual aggregate

c. Excess Liability

\$1,000,000.00	per claim
\$1,000,000.00	annual aggregate

4. Support Services.

- a. **Personal Care.** Consultant shall be responsible for privately obtaining personal care support at Consultant's expense, including any such personal care support provided by a contracted caregiver, for personal care support services, including, but not limited to, assistance with meals, restroom assistance, and other personal care items.
 - b. **Administrative Support.** City shall provide Consultant access to City administrative support personnel for assistance with tasks requiring physical dexterity, such as, but not limited to, operating an office copy or fax machine, carrying documents or books, taking notes at a remote location, physical assistance with technical site evaluations, and installing or moving equipment.
 - c. **Communication Support.** City shall provide Consultant an office located at the municipal complex, which shall include, but not be limited to, a desk telephone, desktop computer, access to a local network, and an email address. City shall also provide installed voice recognition software Dragon NaturallySpeaking Pro for individual version 15 with headset and microphone. Such software shall be integrated with City applications and have access to the Internet.
5. **Early Termination.** This Agreement may be terminated by Consultant or City with thirty (30) days written notice.
6. **Assignment.** This Agreement shall not be assigned in whole or in part by any party hereto without written consent of the other party.

7. **Indemnification.** Consultant and City each hereby agree to defend, indemnify, and hold harmless the other party, its officers, servants, and employees, from and against any and all liability, loss, damage, cost, and expense (including attorneys' fees and accountants' fees) caused by an error, omission, or negligent act of the indemnifying party in the performance of services under this Agreement. Consultant and City each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims. In any and all claims asserted by any employee of Consultant against any indemnified party, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Consultant or any of Consultant's employees under workers' compensation acts, disability benefit acts, or other employee benefit acts. The acceptance by the City or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by Consultant shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the City of any action, right, or remedy otherwise available to the City at common law.
8. **Governing Law and Forum; Attorneys' Fees and Court Costs.** This Agreement and any claim or dispute related to this Agreement shall be governed and construed in accordance with the laws of the State of Oklahoma and shall be heard in the District Court of Cleveland County, State of Oklahoma, or the United States District Court for the Western District of Oklahoma. This provision does not restrict the parties from attempting to seek a resolution through mediation, arbitration, or any other means of formal or informal alternative dispute resolution upon the written consent of both parties. The prevailing party in any action to construe or enforce this Agreement, or for breach of this Agreement, shall be entitled to that party's reasonable attorneys' fees and court costs.
9. **Entire Agreement.** This Agreement, including Addendum 1, constitutes the entire agreement between the parties with respect to the subject matter hereof and terminates and supersedes all previous agreements, whether oral or written, relating to the same subject matter.
10. **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, this Agreement is entered into the 12th day of February, 2019.

Crossing the Chasm, LLC

City of Norman, Oklahoma

Jack McMahan, President

Mayor Lynne Miller

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

Attest: _____
Brenda Hall, City Clerk

On this ____ day of _____, before me personally appeared Jack McMahan to me known to be the identical person who subscribed the above and foregoing instrument and acknowledged to me that he executed the same as his free voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and official seal the day and year last above written.

Notary Public

My Commission Expires:

APPROVED as to form and legality this 12th day of February, 2019.

Kristina L. Bell, Assistant City Attorney

Addendum 1: Attachment to general contract between Crossing the Chasm, LLC and the City of Norman.

CTC Project Goals

- **Initiate the implementation of the 2018 Self Inspection and Transition Plan.**
 - Establish a Council-appointed permanent ADA Citizen Advisory Committee (FYE 2019)
 - Establish a Data management protocol for deficiencies identified under the 2018 SI & TP.
 - Using the ADA Citizen Advisory Committee, representatives from the Parks and Recreation Department, the Public Works department, and others, allocate a priority ranking of deficiency identified in the 2018 Self Inspection and Transition Plan.
 - Generate a 2019 plan to broadly communicate and implement deficiency corrections.
 - Develop a plan to identify selected personnel from city departments to serve as members of an ADA Staff Liaison Committee.
 - Together with the ADA Staff Liaison Committee develop high priority municipal evaluation targets for FYE 2019.
 - Initiate the evaluation of remaining public buildings (Approximately 20), parks (approximately 20), sidewalks, street crossings as well as the evaluation of programs, services and activities s located therein.
 - Establish Internal Procedures to Monitor and Track Progress.
 - Use input data to update the cities ADA Self Inspection and Transition Plan.

- **Staff Training**
 - Survey city departments, beginning with the HR department, to determine the need for ADA training for FYE 2019.
 - Based on the survey, develop a plan to initiate coordinated training within city departments.
 - Depending on the type of training being demanded and resources available, work with the Director of Public Works to identify and recruit professional service provider contractors.
 - Execute training plan.

- **Policies and Practices Review**
 - Coordinate with representatives from each department to initiate a policies and practices Title I audit.
 - Document findings.
 - Prepare and distribute a summary of recommendations for each department manager aimed at correcting or improving audited policies and practices.

- **General Professional Services**

- Provide on-demand technical assistance to city departments whenever possible.
- Be prepared to present and discuss the scope and status of planned accessibility projects to representatives of the city and the public at large.
- Serve as a roving ambassador for accessibility throughout the Norman community.