

**AGREEMENT FOR PROFESSIONAL AND
TECHNICAL PLANNING ADVISORY SERVICES**

THIS AGREEMENT, entered into this ^{23rd} day of March, 2022, by and between the CITY OF EASTPOINTE, State of Michigan, referred to as "City" and MCKENNA ASSOCIATES, INC., a Michigan corporation of Northville, Michigan, referred to as "Consultant."

WITNESS:

SECTION 1. AGREEMENT

For and in consideration of the faithful and workmanlike performance of the services described, the City hereby hires the Consultant and shall pay the Consultant as described in Section 8. This agreement shall continue from July 1, 2022 through June 30, 2025.

SECTION 2. RETAINER SERVICES

The Consultant for its part, hereby agrees to provide the following technical and planning advisory services:

- A. The Consultant shall attend up to one regularly-scheduled Planning Commission, Zoning Board of Appeals, or City Council meeting each month. Additional meetings shall be invoiced hourly, per Section 3 – Hourly Rated Services.
- B. On a day-to-day basis the Consultant shall provide telephone advice, assistance and coordination with City officials, including the City Manager, the Economic Development Director, and the Planning Commission Chair, and others doing business with the City in all matters pertaining to administrative, advisory and legislative responsibilities, as applied to zoning, commercial/industrial/multiple-family and other developmental issues, as requested by the City.
- C. The Consultant shall make available its professional library of planning, design, development, housing, zoning and census information.
- D. Coordination of City planning activities with other local, county, state, and regional agencies and authorities with jurisdiction, including but not limited to the Michigan Department of Natural Resources, and Michigan Department of Transportation, the Michigan State Housing Development Authority, when requested by the City.
- E. The Consultant shall make the City officials generally aware of the availability of sources of various funds and economic development mechanisms.
- F. Identification of potential grant opportunities and partnerships for the City.
- G. Monthly training with the Planning Commission (at the regular scheduled meeting, if held).

SECTION 3. HOURLY RATED SERVICES

For services rendered pursuant to Section 3, the City shall pay the Consultant at the hourly rate specified in Section 8.B:

- A. Preparation for and attendance at other meetings of a planning or coordinating nature, with other agencies or groups, as requested the City beyond those identified above in Section 2.
- B. Professional planning and related work in the maintenance of the Master Plan and interpretation and revision of the plan as required.
- C. Provision of verbal and/or written reports, reviews and recommendations or other services (e.g., revisions of zoning ordinance, map, and text) to the City as requested by authorized City officials.
- D. Review of proposed developments which require extensive economic development assistance, environmental assessments, extensive traffic studies or environmental impact statements beyond usual site plan review.

- E. Provision of other technical services related to planning, land use and spatial concerns, as may be requested by authorized City officials.
- F. Preparation of grant applications and programs for submission to federal, state, county, or other agencies.
- G. Provision of other professional, technical and design services as may be requested by authorized City officials.
- H. Review of legal documents, bylaws, and the like.
- I. Preparation of the Planning Commission Annual Planning Report to City Council.
- J. Preparation of meeting minutes and agenda packets (Planning Commission, Zoning Board of Appeals, etc.).
- K. The Consultant shall provide a planning and zoning professional to be on location at City offices to perform on-site planning services on an hourly basis. While on-site, McKenna will work with the City on the following tasks, including but not limited to:
 - i. Meet with investors and potential applicants regarding site development, rezoning, variances, site plan approval procedures, timelines, and requirements, either with a prior fixed time appointment or through walk-ins.
 - ii. Assist citizens, representatives from various professional organizations, council members and commission members, and other interested parties regarding planning and zoning related matters.
 - iii. Provide a positive first impression to the public and applicants.
 - iv. Coordination and development of tasks related to the Redevelopment Ready Communities (RRC) certification.
 - v. Keep City officials up to date on ongoing projects and opportunities.

SECTION 4. REVIEW SERVICES

The Consultant shall provide written technical recommendations on site plans, special approvals, rezonings, variances, and land combinations/splits in accordance with the City Zoning Ordinance and all applicable code of ordinance. All such work shall be paid by the City in accordance with the schedule of fees included in Section 8.C., herein.

For each review, the Consultant shall undertake the following activities:

- A. Initially review the site using aerial photos.
- B. Discuss the case by telephone or in person with the applicant and City officials regarding review issues.
- C. Review all relevant planning issues (not including specific technical engineering issues).
- D. Prior to scheduled review by the City (in time for inclusion with agenda packages), submission of a written review and recommendation to the City.

SECTION 5. COOPERATION

The Consultant shall have the cooperation of City officials, including the City Manager, Clerk/Treasurer, Attorney, Engineer, and other staff and consultants in the collection of data and other information for the agreed upon services.

SECTION 6. CONSULTANT PROVISIONS

The Consultant agrees to furnish all materials and services including salaries of employees engaged by the Consultant and other overhead expenses necessary to undertake the above services for the City and to assume all cost, except as otherwise provided in this agreement.

SECTION 7. CITY PROVISIONS

If requested by the Consultant and if available, the City shall furnish the following in digital format, or paper format if no digital version is available, without charge to the Consultant:

- A. Up-to-date copies of City code of ordinances, including zoning and land division ordinances, forms, guidelines and policies.
- B. Copies of previously prepared studies, plans, census and other available data.
- C. Aerial photographs with property lines as available from the County; reproducible GIS or CAD maps of the City, as available.
- D. Copies of the agenda and minutes for each Planning Commission meeting, and copies of site plans, documents, applications and related information for items on each Planning Commission agenda.

SECTION 8. COMPENSATION

For and in consideration of the faithful and professional performance and delivery of the above services as set forth herein, the City shall pay the Consultant monthly for services pursuant to this agreement within a period of thirty (30) days after receipt from the Consultant of an itemized voucher describing services performed, and when applicable, the time spent in rendering such services at the agreed upon hourly rate, per the schedule below:

- A. Retainer under Section 2.
For services rendered pursuant to Section 2, the City shall pay the Consultant a retainer of Six Hundred and Fifty Dollars (\$650.00) per month.
- B. Hourly Rated Services under Section 3.
For services rendered pursuant to Section 3 above, the City shall pay the Consultant at the hourly rate specified in the following schedule:

Professional Classification	Rate Per Hour*
President	\$150
Executive or Senior Vice President	\$140
Vice President	\$135
Director	\$125
Senior Principal or Manager	\$120
Principal	\$115
Senior	\$100
Associate	\$90
GIS Specialist	\$85
Assistant	\$85
Intern	\$75
Administrative Assistant	\$75
Consultation, preparation for, and sitting as expert witness in legal matters.	\$200

* Rates include the following overhead: Accounting, Advertising and Promotion, Books, Publications and Maps, Business Entertainment, Charitable Contributions, Computers, Furniture and Fixtures, Graphics Supplies and General Insurance, Interest, Legal, Licenses, Meals, Memberships and Subscriptions, Office Equipment, Office Space and Parking, Office Supplies, Postage (Except Overnight), Professional Dues, Software, Taxes and Telephone.

These rates do not include photography, outside reproduction, document or materials purchases, which are invoiced additionally. Rates also do not include reimbursable costs for travel, courier, overnight mail, etc. Mileage will be invoiced at the Federal mileage rate.

These hourly rates are valid through December 31, 2022, after which they may change per classification by a percentage equal to the increase in the Consumer Price Index for the prior 12 months per U.S. Department of Labor, Bureau of Labor Statistics.

C. Compensation For Services Under Section 4.

For the following reviews, fees shall be paid by the City to the Consultant for services rendered per Section 4. of this Agreement, in accordance with the following schedule. Payment of the following fees shall not be contingent upon City's receipt of payment from the applicants.

REVIEW TYPE	FEE TYPE	
	Lump Sum	Fixed Base Fee + Additional Fee
Site Plan		
Detached single family condominium (site condos), multiple family or manufactured home park developments		\$800 + \$10 per dwelling unit / lot
Commercial / office development		\$600 + \$75 per acre
Industrial development		\$800 + \$75 per acre
Public / semipublic uses		\$600 + \$75 per acre
Planned unit development (PUD), residential neighborhood or mixed-use projects		\$1,000 + \$75 per acre
Special Land Use		\$700 + \$50 per acre
Rezoning or Conditional Rezoning		\$700 + \$50 per acre
Land Division / Combination		\$300 + \$75 per new parcel
Dimensional Variance		
• Commercial	\$500	
• Residential	\$200	
Use Variance Review	\$1,000	
Street / Alley Vacation	\$400	
Pre-Application or Other Applicant Meetings	\$175	
Revisions		
For each written technical review and recommendation provided by the Consultant because of resubmission of a revised plan	50% of original fee	
Resubmission after 90 days or major revisions	100% of original fee	

SECTION 9. ADDITIONAL SERVICES

For services requiring additional time or meetings beyond the scope identified in this agreement and as requested by the City, the Consultant shall be compensated by the City at the rate set forth in Section 8.B., herein. It is expressly understood and agreed that the compensation provided herein shall not cover the following services:

- A. Preparation of applications for submission to federal, State or County agencies.
- B. Traveling expenses outside the Tri-Counties.
- C. Preparation of area plans, tax increment financing and development plans, project management, capital improvement programs, building inspections, corridor studies, recreation plans, public relations, environmental studies, market studies, municipal department administration, program development and similar plans, programs and studies.
- D. Outside reproduction.

The Consultant shall provide the above services for a separately negotiated fee.

SECTION 10. EQUAL EMPLOYMENT OPPORTUNITY

There shall be no discrimination against any employee who is employed in the work covered by this Agreement or against any applicant for such employment because of race, color, religion, sex or nation origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion or transfer,

recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

SECTION 11. OWNERSHIP OF DATA.

All reports, charts, maps, and graphics shall become the property of the City, and shall not be furnished to any other party without written permission of the City.

SECTION 12. COMPLIANCE WITH ALL LAWS

In performance of this agreement, the Consultant agrees to comply with all applicable federal, State and local statutes, ordinances and regulations, when applicable, including minimum wages, Social Security, unemployment compensation insurance, and Worker’s Compensation, and to obtain any and all permits applicable to the performance of this agreement.

SECTION 13. NO CONFLICT OF INTEREST.

During the term of this Agreement, the Consultant agrees that it shall not accept employment, nor shall it perform services for or on behalf of any client whose interests are adverse to that of the City, or for which a conflict between the City and Consultant would be created, without the prior written consent of the City.

SECTION 14. COMPLIANCE WITH CODE OF ETHICS.

The consultant agrees it shall be bound by the American Planning Association Code of Professional Ethics.

SECTION 15. OTHER

A. Insurance Requirements

Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the City from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's negligent performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the City; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

The Contractor shall provide proof of insurance to meet these requirements and in a form acceptable to the City of Eastpointe and the City’s Risk Manager (see Attachment I for list of requirements).

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the City of Eastpointe, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds.
Automobile Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the City of Eastpointe, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.

Employers Liability Insurance	
<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

If any of the required policies provide claims-made coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the City for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the City).

B. Staffing

The City's Contract Administrator may require Contractor to remove or reassign personnel by providing written notice to Contractor.

C. Subcontracting

Contractor may not delegate any of its obligations under the Contract without the prior written approval of the City. Contractor must notify the City at least 90 calendar days before the proposed delegation and provide the City any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The City, in its sole discretion, may require the replacement of any subcontractor.

D. Termination for Cause

The City may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the City: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the City to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the City terminates this Contract under this Section, the City will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The City will only pay for amounts due to Contractor for Contract Activities accepted by the City on or before the date of termination, subject to the City's right to set off any amounts owed by the Contractor for the City's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the City in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the City incurs to procure the Contract Activities from other sources.

E. Termination for Convenience

The City or Contractor may terminate this Contract with a written 90-day notice, in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 10, Transition Responsibilities. If the City terminates this Contract for convenience, the City will pay all reasonable costs, as determined by the City, for City approved Transition Responsibilities.

F. Living Wage

Contractor agrees to comply with the Living Wage as defined in the Codified Ordinances of the City of Eastpointe Chapter 213, Ordinance No. 901.

IN WITNESS WHEREOF, the City and Consultant have executed this Agreement the day and year first above written.

WITNESS:

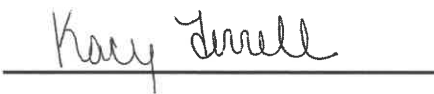


CITY OF EASTPOINTE, MICHIGAN

By: 

By: Acting city manager

McKENNA ASSOCIATES, INC.



By: 
John R. Jackson, AICP, President