

**PROFESSIONAL SERVICES  
AGREEMENT BETWEEN  
WADE TRIM ASSOCIATES  
AND THE ANN ARBOR DOWNTOWN DEVELOPMENT AUTHORITY FOR  
CIVIL ENGINEERING AND AS-NEEDED SERVICES**

This agreement ("Agreement") is between the Ann Arbor Downtown Development Authority a municipal corporation, 150 S.5th Ave Suite 301, Ann Arbor, Michigan 48104 ("DDA"), and Wade Trim Associates, a Michigan-based Corporation, with its address at 25251 Northline Road, Taylor, Michigan 48180 ("Contractor"). DDA and Contractor agree as follows:

**1. DEFINITIONS**

**Contract Administrator** means Amber Miller, acting personally or through an authorized Staff Member.

**Deliverables** means all documents, plans, specifications, reports, recommendations, and other materials developed for and delivered to DDA by Contractor under this Agreement.

**Effective Date** means the date this Agreement is signed by the last party to sign it.

**Project** means Civil Engineering Support Services.

**Services** means Civil Engineering Support Services as further described in Exhibit A.

**2. DURATION**

Wade Trim was selected by the City of Ann Arbor through a competitive RFP process to provide project management and civil engineering support services from July, 1 2022-December 31, 2027 (RFP 22-17).

- A. The obligations of this Agreement shall apply beginning July 1<sup>st</sup>, 2024, and this Agreement shall remain in effect until December 31<sup>st</sup>, 2024, with the option of annual renewals through December 31<sup>st</sup>, 2027, unless terminated as provided for in this Agreement.

**3. SERVICES**

- A. Contractor shall perform all Services in compliance with this Agreement. The DDA retains the right to make changes to the quantities of Services within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the Services, the compensation shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.
- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. Contractor shall perform Services in compliance with all applicable statutory, regulatory, and contractual requirements now or hereafter in effect. Contractor shall also comply with and be subject to DDA policies applicable to independent contractors.

- D. Contractor may rely upon the accuracy of reports and surveys provided by the DDA, except when a defect should have been apparent to a reasonably competent professional or when Contractor has actual notice of a defect.

#### **4. INDEPENDENT CONTRACTOR**

- A. The parties agree that at all times and for all purposes under the terms of this Agreement each party's relationship to any other party shall be that of an independent contractor. Each party is solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer-employee relationship, either express or implied, shall arise or accrue to any party as a result of this Agreement.
- B. Contractor does not have any authority to execute any contract or agreement on behalf of the DDA, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the DDA in any way.

#### **5. COMPENSATION OF CONTRACTOR**

- A. The total amount of compensation paid to Contractor under this Agreement shall not exceed \$200,000 (annually), which shall be paid upon invoice by Contractor to the DDA for services rendered according to the schedule in Exhibit B. Compensation of Contractor includes all reimbursable expenses unless a schedule of reimbursable expenses is included in an attached Exhibit B. Expenses outside those identified in the attached schedule must be approved in advance by the Contract Administrator.
- B. Payment shall be made monthly following receipt of invoices submitted by Contractor and approved by the Contract Administrator, unless a different payment schedule is specified in Exhibit B.
- C. Contractor shall be compensated for additional work or Services beyond those specified in this Agreement only when the scope of and compensation for the additional work or Services have received prior written approval of the Contract Administrator.
- D. Contractor shall keep complete records of work performed (e.g. tasks performed, hours allocated, etc.) so that the DDA may verify invoices submitted by Contractor. Such records shall be made available to the DDA upon request and submitted in summary form with each invoice.

#### **6. INSURANCE/INDEMNIFICATION**

- A. Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those required by this Agreement, as will protect itself and the DDA from all claims for bodily injury, death, or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by Contractor, Contractor's subcontractor, or anyone employed by Contractor

or Contractor's subcontractor directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide documentation to the DDA demonstrating Contractor has obtained the policies and endorsements required by this Agreement. Contractor shall provide such documentation in a form and manner satisfactory to the DDA. When requested, Contractor shall provide the same documentation for its subcontractors.

B. All insurance providers of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the DDA.

C. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold the DDA and its officers, employees, and agents harmless from all suits, claims, judgments, and expenses, including attorney's fees, resulting or alleged to result, from an act or omission by Contractor or Contractor's employees or agents occurring in the performance or breach of this Agreement, except to the extent that any suit, claim, judgment, or expense are finally judicially determined to have resulted from the City's negligence, willful misconduct, or failure to comply with a material obligation of this Agreement. The obligations of this paragraph shall survive the expiration or termination of this Agreement.

D. Contractor is required to have the following minimum insurance coverage:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting Contractor and its employees - \$1,000,000.
2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The Ann Arbor Downtown Development Authority shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy.

\$1,000,000	Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
\$2,000,000	Per project General Aggregate
\$1,000,000	Personal and Advertising Injury

3. Worker's Compensation Insurance in accordance with all applicable state and federal statutes; also, Employers Liability Coverage for:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. The

Ann Arbor Downtown Development Authority shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the DDA's protections as an additional insured under the policy. The limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.
- E. Commercial General Liability Insurance and Motor Vehicle Liability Insurance shall be considered primary as respects any other valid or collectible insurance that the DDA may possess, including any self-insured retentions the DDA may have; and any other insurance the DDA does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Contractor agrees to waive any right of recovery by its insurer against the DDA for any insurance listed herein.
- F. Insurance companies and policy forms are subject to approval of the DDA Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the DDA. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the DDA in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the DDA with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Agreement, Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.

## **7. WAGE AND NONDISCRIMINATION REQUIREMENTS**

- A. Nondiscrimination. Contractor shall comply, and require its subcontractors to comply, with the nondiscrimination provisions of MCL 37.2209. Contractor shall comply with the provisions of Section 9:158 of Chapter 112 of Ann Arbor City Code and assure that Contractor's applicants for employment and employees are treated in a manner which provides equal employment opportunity.
- B. Living Wage. If Contractor is a "covered employer" as defined in Chapter 23 of Ann Arbor City Code, Contractor must comply with the living wage provisions of Chapter 23 of Ann Arbor City Code, which requires Contractor to pay those employees providing Services to the DDA under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the DDA of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the DDA, to provide documentation to verify compliance; to take no action that would reduce the

compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

## **8. REPRESENTATIONS AND WARRANTIES BY CONTRACTOR**

- A. Contractor warrants that the quality of Services shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. Contractor warrants that it has all the skills, experience, and professional and other licenses necessary to perform the Services.
- C. Contractor warrants that it has available, or will engage at its own expense, sufficient trained employees to provide the Services.
- D. Contractor warrants that it has no personal or financial interest in this Agreement other than the fee it is to receive under this Agreement. Contractor certifies that it will not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services. Contractor certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. Contractor warrants that it is not, and shall not become overdue or in default to the DDA for any contract, debt, or any other obligation to the DDA, including real and personal property taxes. Further Contractor agrees that the DDA shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- F. Contractor warrants that its bid or proposal for services under this Agreement was made in good faith, that it arrived at the costs of its proposal independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such costs with any competitor for these services; and no attempt has been made or will be made by Contractor to induce any other person or entity to submit or not to submit a bid or proposal for the purpose of restricting competition.
- G. The person signing this Agreement on behalf of Contractor represents and warrants that they have express authority to sign this Agreement for Contractor and agrees to hold the DDA harmless for any costs or consequences of the absence of actual authority to sign.
- H. The obligations, representations, and warranties of this section 8 shall survive the expiration or termination of this Agreement.

## **9. OBLIGATIONS OF THE DDA**

- A. The DDA shall give Contractor access to DDA/City properties and project areas as required to perform the Services.
- B. The DDA shall notify Contractor of any defect in the Services of which the Contract Administrator has actual notice.

## **10. ASSIGNMENT**

- A. Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the DDA. Notwithstanding any consent by the DDA to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises, and performances required of Contractor under the Agreement unless specifically released from the requirement in writing by the DDA.
- B. Contractor shall retain the right to pledge payments due and payable under this Agreement to third parties.

## **11. TERMINATION OF AGREEMENT**

- A. If either party is in breach of this Agreement for a period of 15 days following receipt of notice from the non-breaching party with respect to the breach, the non-breaching party may pursue any remedies available against the breaching party under applicable law, including the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The DDA may terminate this Agreement, on at least 30 days' advance notice, for any reason, including convenience, without incurring any penalty, expense, or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds through the DDA budget process. If funds are not appropriated or otherwise made available, the DDA shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within 30 days after the Contract Administrator has received notice of such non-appropriation.
- D. The expiration or termination of this Agreement shall not release either party from any obligation or liability to the other party that has accrued at the time of expiration or termination, including a payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

## **12. REMEDIES**

- A. This Agreement does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise

of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.

- C. Absent a written waiver, no act, failure, or delay by a party to pursue or enforce any right or remedy under this Agreement shall constitute a waiver of that right with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either party shall subsequently affect the waiving party's right to require strict performance of this Agreement.

### **13. NOTICE**

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated below or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to Contractor:

Wade Trim Associates, Inc  
25251 Northline Road  
Taylor, Michigan 48180

If Notice is sent to the DDA

ANN ARBOR DDA  
150 S. 5th Ave Suite 301  
Ann Arbor, Michigan 48104

### **14. CHOICE OF LAW AND FORUM**

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

## **15. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this Agreement, all Deliverables prepared by or obtained by Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the DDA. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities, and other data shall remain in the possession of Contractor as instruments of service unless specifically incorporated in a Deliverable, but shall be made available, upon request, to the DDA without restriction or limitation on their use. The DDA acknowledges that the documents are prepared only for the Services. Prior to completion of the Services the DDA shall have a recognized proprietary interest in the work product of Contractor.

## **16. CONFLICTS OF INTEREST OR REPRESENTATION**

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the DDA if Contractor has been or is retained to handle any matter in which its representation is adverse to the DDA and to obtain the City's consent therefor. The City's prospective consent to Contractor's representation of a client in matters adverse to the DDA, as identified above, will not apply in any instance where, as the result of Contractor's representation, Contractor has obtained sensitive, proprietary, or otherwise confidential information of a non-public nature that, if known to another client of Contractor, could be used in any such other matter by the other client to the material disadvantage of the DDA. Each matter will be reviewed on a case by case basis.

## **17. SEVERABILITY OF PROVISIONS**

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance is prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

## **18. EXTENT OF AGREEMENT**

This Agreement, together with all Exhibits constitutes the entire understanding between the DDA and Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements, or understandings, whether written or oral. Neither party has relied on any prior representations in entering into this Agreement. No terms or conditions of either party's invoice, purchase order, or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such terms or conditions. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted



successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended, or modified by written amendment signed by Contractor and the DDA. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

#### **19. ELECTRONIC TRANSACTION**

The parties agree that signatures on this Agreement may be delivered electronically or by facsimile in lieu of an physical signature and agree to treat electronic or facsimile signatures as binding.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]**

**FOR**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FOR ANN ARBOR DDA**

By \_\_\_\_\_

Maura Thomson, DDA Executive Director

By \_\_\_\_\_

Amber Miller- Capital Projects & Planning  
Manager

Date: \_\_\_\_\_

**EXHIBIT A**  
**Scope of Services**

**CIVIL ENGINEERING AND AS NEEDED SUPPORT SERVICES**

The Contractor shall provide as-needed professional Civil Engineering services for various DDA projects

**Exhibit B:** The contractor shall be paid for those Services performed pursuant to this agreement in accordance with the terms and conditions herein. The total compensation payable for all Services performed during the term of this Agreement shall not exceed **\$200,000**. The compensation scheduled below/attached states the nature and amount of compensation the Contractor may charge the DDA.



**EXHIBIT B  
Compensation**

Wade Trim Associates, Inc.  
25251 Northline Road • Taylor, MI 48180  
734.947.9700 • www.wadetrim.com

**Fee Proposal  
City of Ann Arbor  
Project Management & Civil Engineering Services RFP No. 22-17  
Effective December 1, 2022**

Please note the previously City-approved rates on Wade Trim's Project Management Services contract will be apply on this contract and remain in effect until November 30, 2022. This new rate schedule will become effective on December 1, 2022.

The rates in this schedule include overhead and profit and are charged on an hourly basis and include classifications representing a wide range of technical specializations. The individuals listed below may move between categories as they advance in their careers.

Wade Trim proposes to hold rates for two years. Per the RFP, after two years, the fees will be increased based on the Consumer Price Index. As well, as a good-faith gesture, our City Project Manager's rate has also been placed at a reduced rate.

Senior Professional – Rate = \$209.38  
Christopher Brinks, PE  
Mark Pribak, PE  
Gregory Stanley, PE

Engineer I – Rate = \$96.21  
Courtney Bagnall  
Nolan Mullett  
Ryan Brown

Engineer II – Rate = \$113.18  
Matt L. Clark, EIT  
Martin Hoemke  
Steven Meyer

Engineer III – Rate = \$130.16  
Mike Bywalec  
John Hopp

Engineer IV – Rate = \$141.47  
Jill Bosserd  
Johnny Leverette

Professional Engineer I – Rate = \$135.82

Professional Engineer II – Rate = \$152.79  
Breanna Anderson, PE  
Bridget Bienkowski, PE  
Brian Frisk, PE  
Thomas Wheeler, PE  
Carmelle Tremblay, PE  
Brian O'Hara, PE  
Michael Nicholls, PE

Professional Engineer III – Rate = \$175.43  
Felipe Uribe, PE

Professional Engineer IV – Rate = \$198.06  
Brad Lund, PE  
Vaughn Martin, PE  
Leon Solowjow, PE  
Chris Wall, PE, PTOE  
Aimee Giacherio, PE

Professional Engineer V – Rate = \$215.03  
Tiffany Harrison, PE  
Lori Pawlik, PE  
Martin Parker, PE  
Robert Breen, PE

Principal – Rate = \$237.67  
Shawn Keough, PE  
Rebecca Smith, PE

Senior Principal – Rate = \$248.99

Landscape Architect I – Rate = \$79.22

Landscape Architect II – Rate = \$96.21

Landscape Architect III – Rate = \$101.86

CADD Tech I – Rate = \$56.59

CADD Tech II – Rate = \$79.22

CADD Tech III – Rate = \$90.55

CADD Tech IV – Rate = \$101.86

CADD Tech V – Rate = \$113.18  
Amanda Spence

CADD Tech VI – Rate = \$124.50  
Jason Caruso  
Martin Flanagan  
Robert Taylor

Survey Technician I – Rate = \$62.24

Survey Technician II – Rate = \$73.56

Survey Technician III – Rate = \$84.88  
James Holt  
Jeff Emery

Survey Technician IV – Rate = \$107.52

Survey Technician V – Rate = \$124.50  
Matthew Dudzik

Survey Technician VI – Rate = \$135.82  
Ian Campbell

Professional Surveyor II – Rate = \$124.50  
Scott Bliss, PS

Professional Surveyor III – Rate = \$152.79

Professional Surveyor IV – Rate = \$177.50

Construction Tech I – Rate = \$73.56

Construction Tech II – Rate = \$84.88

Construction Tech III – Rate = \$101.86

Construction Tech IV – Rate = \$113.18

Construction Tech V – Rate = \$118.84

Construction Tech VI – Rate = \$147.13  
Brian Scherdt  
Patrick Shupert  
Jason Yoscovits

Prof Landscape Architect I – Rate = \$107.52  
Catherine Dennis, PLA  
David Richards, PLA

Prof Landscape Architect II – Rate = \$124.50

Prof Landscape Architect III – Rate = \$158.45  
Matthew D Clark, PLA  
Scot Lautzenheiser, PLA

Engineering Technician I – Rate = \$56.59

Engineering Technician II – Rate = \$84.88

Engineering Technician III – Rate = \$107.52

Engineering Technician IV – Rate = \$124.50

Engineering Specialist I – Rate = \$152.79

Engineering Specialist II – Rate = \$169.77  
Robert Marker, CCS

Project Specialist I – Rate = \$113.18

Project Specialist II – Rate = \$130.16  
Wendy Sherrill  
Kimberly Addison

Project Specialist III - Rate = \$186.74  
Trude Noble  
Wayne Hofmann

Project Aide II – Rate = \$96.21

Project Aide III – Rate = \$124.50

Professional Planner I – Rate = \$113.18

Professional Planner II – Rate = \$124.50

Professional Planner III – Rate = \$141.47  
Arthur Mullen

Professional Planner IV – Rate = \$175.43  
Adam Young, AICP

Notes:

1. Inspection time starts when the Project Inspector arrives at the project each day.
2. Mileage will only be charged by Project Inspectors for mileage on the project.
3. Expenses such as surveying equipment and vehicles may be added as negotiated with City.