Professional Services Agreement
(Short Form)

Agreement

To engage the Services of Wade Trim Associates, Inc., as a Design, Planning, Testing and/or Land Survey Professional.

This Agreement, entitled Village Zoning Ordinance Amendments between the Village of Northport of 116 W. Nagonaba Street, Northport, Michigan 49670, hereinafter called "Owner," and Wade Trim Associates, Inc., 500 Griswold Street, Suite 2500, Detroit, Michigan 48226-4481, hereinafter called "Professional," is as follows:

The Owner and Professional, for mutual consideration hereinafter set forth, agree as follows:

A. Professional agrees to perform certain professional services for Owner as follows:

Scope of Work as outlined in the Wade Trim October 19, 2021, proposal letter attached and made part of this agreement.
Phase 1 – Includes Task Items #1 and #2
Phase 2 – Includes Task Items #3 through #6

Professional is to begin Phase 1 activities upon execution of this contract. Owner shall notify the Professional when Phase 2 work is to begin.

B. Owner agrees to pay Professional as compensation for his services as follows:

Lump sum fee of **$31,950** for the Village Zoning Ordinance Amendments. Professional will invoice monthly for work performed that month, in accordance with Section 2.01 of the General Provisions of this Agreement.
Phase 1 - $8,750
Phase 2 - $23,200

C Owner agrees to establish an allowance of $N/A for additional services on this Project (not less than 10% of the compensation amount specified in Item B.)

D. The Owner and Professional agree to conditions as set forth on the reverse side in the General Provisions of this Agreement.

E. The Owner and Professional agree to the following schedule:

The Village Zoning Ordinance Amendments will meet the schedule as defined in the October 19, 2021, proposal letterl

F. Professional has the option to render this Agreement null and void, if it is not executed within 60 days.

Owner:	Professional:
By: _____ (Print Name)	By: Adam C. Young, AICP (Print Name)
Title: _____	Title: Vice President
Date Signed: _____	Date Signed: December 14, 2021
Witness: _____	Witness: _____

General Provisions

1.01 Basic Agreement

A. Professional shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Professional for such Services as set forth herein.

2.01 Payment Procedures

A. *Preparation of Invoices*. Professional will prepare a monthly invoice in accordance with Professional's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices*. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Professional for services and expenses within 30 days after receipt of Professional's invoice, the amounts due Professional will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Professional may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Professional has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Professional shall furnish services in addition to those set forth above.

B. Owner shall pay Professional for such additional services as follows: For additional services of Professional's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Professional's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Professional's consultants' charges with a 15% mark-up, if any.

4.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,
   a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
   b. By Professional:
      1) upon seven days written notice if Professional believes that Professional is being requested by Owner to furnish or perform services which are outside of the agreed upon scope of services without compensation, which are contrary to Professional's responsibilities as a licensed professional; or
      2) upon seven days written notice if the Professional's services for the Project are delayed or suspended for more than 90 days for reasons beyond Professional's control.
      3) Professional shall have no liability to Owner on account of such termination.
   c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon the receipt of notice by Professional.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Professional to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Professional shall be compensated for Basic Services performed through the date of termination as set forth herein and for work performed per 4.01.B in the manner set forth in 3.01.

5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.01 Successors, Assigns, and Beneficiaries

A. Owner and Professional each is hereby bound and the partners, successors, executors, administrators, employees and legal representatives of Owner and Professional (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Professional) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Professional may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Professional under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Professional makes no warranties, express or implied, under this Agreement or otherwise, in connection with Professional's services. Professional and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers and Professional shall not be responsible for design services provided by others.

B. Professional shall not at any time supervise, direct, or have control over any contractor's work, nor shall Professional have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Professional neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Professional shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Professional's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Professional.

E. The provisions in this Agreement supersede and render null and void any contrary provisions in the contract documents between Owner and Contractor.

F. All design documents prepared or furnished by Professional are instruments of service, and Professional retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

G. To the fullest extent permitted by law, Owner and Professional (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Professional's total liability to Owner under this Agreement shall be limited to $50,000 or the total amount of compensation received by Professional, whichever is less.

H. The parties acknowledge that Professional's scope of services does not include any services related to a Hazardous Environmental Condition (including but not limited to the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Professional or any other party encounters a Hazardous Environmental Condition, Professional may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

8.01 Dispute Resolution

Except for debt collection cases for less than $25,000, and except as otherwise provided herein, all claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or the breach thereof will be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations and restrictions stated below. This agreement to arbitrate and any other agreement or consent to arbitrate entered into in accordance herewith as provided in this paragraph will be specifically enforceable under the prevailing arbitration law of any court having jurisdiction.

Notice of demand for arbitration must be filed in writing with the other parties to this Agreement and with the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute, or other matter in question has arisen. In no event may the demand for arbitration be made after the expiration of one year from the date the cause of action accrued. The cause of action whether based in tort, contract, indemnity, contribution, or any other form of action, legal or equitable, shall be deemed to have accrued at the time the party asserting the claim either knew or, by the exercise of reasonable diligence, should have known of the existence of the facts underlying such claim, dispute or other matter in question regardless of when damages occur. After the expiration of said one year, any claim between the parties hereto shall be barred.

No arbitration arising out of, or relating to this Agreement may include, by consolidation, joinder or in any other manner, any person or entity who is not a party to this Agreement.

The award rendered by the arbitrators will be final, not subject to appeal and judgment may be entered upon it in any court having jurisdiction thereof.

9.01 Total Agreement

A. This Agreement (together with any expressly incorporated appendix), constitutes the entire agreement between Owner and Professional, supersedes all prior written or oral understandings, and becomes binding as if fully executed at the time Professional commences work. To the extent that the terms of any appendices or documents referenced in this Agreement conflict with the terms of this Agreement, the terms of this Agreement shall govern. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

Wade Trim Associates, Inc.
500 Griswold Street, Suite 2500 • Detroit, MI 48226
313.961.3650 • www.wadetrim.com

October 19, 2021

Village of Northport
116 W. Nagonaba Street
Northport, MI 48670

Attention: Ms. Joni Scott
Clerk and Acting Zoning Administrator

Re: Proposal for Drafting Amendments to the Village Zoning Ordinance

Dear Ms. Scott:

Thank you for the opportunity to submit this cost estimate and scope of work for assisting Northport in the drafting of amendments to the Village's Zoning Ordinance. We have used our recently completed Zoning Ordinance Audit, presented at the August 2021 Planning Commission meeting, as the basis for developing our scope of work.

During our first phase of work, the Zoning Ordinance Audit identified numerous complex issues that will require some significant discussion amongst the Planning Commission to identify the best approach and resulting zoning language.

We are proposing an intensive and compressed process to evaluate and prepare prospective language to concentrate on concerns identified within the Master Plan and Zoning Ordinance Audit. We suggest that this process be led directly by the Planning Commission, who can provide direction on appropriate zoning amendment language and ensure that the recommendations of both the Master Plan and Zoning Ordinance Audit will be completed.

Through our work with Northport over the last several months, we are confident that Wade Trim has developed an understanding of the community to efficiently complete the work and provide the community with the regulatory tools necessary to guide the future development of the Village.

Scope of Work – Substantive Zoning Ordinance Revisions

We propose to perform the following services:

Task 1: Preliminary Draft of Amendments

Based on the findings of the Zoning Ordinance Audit and discussion during our recent presentation, we will research appropriate options and draft preliminary language for review. This draft will cover a majority of the administrative and simple substantive changes to the existing Zoning Ordinance.

Task 2: Presentation of Materials to Planning Commission

We propose having a 2.5 hour working meeting with the Planning Commission to present our initial language, discuss options, and obtain feedback from the Commission on how to modify the draft language. Certain topics may require additional input from the Planning Commission, including Bayshore residential, minimum lot size changes/zoning district densities, green energy production,

accessory dwelling units, and other land use topics. We will prepare zoning language to address these topics, based on feedback received during the working meeting.

Task 3: Drafting of Form-based Code for the C-1 Core Commercial and CR-1 Commercial Residential Districts

To achieve the goals of the Master Plan to enhance the Village character and support the development of a mixture of housing options and new residential and commercial patterns, we propose the creation of a new formed-based code for the C-1 and CR-1 districts.

Standard "Euclidean" zoning has been shown as an impediment to the development of traditional mixed use downtown districts, like those found in most American cities, towns, and villages predating 1940. Standard zoning is based upon the separation of uses and is geared towards the protection of less intensive uses. This separation of uses approach has been shown to be unable to permit a mixture of uses and structures that form street walls that enclose the street in downtown districts and support urban vibrancy. The Village's master plan, Zoning Ordinance, and Architectural Design Standards all are desirous of this type of downtown development, but by the nature of ordinary zoning, the Village's ordinance acts as an impediment to supporting its creation.

Since the turn of the Millennium, the use of form-based codes, especially in downtown districts, has grown exponentially. Instead of regulating land uses, form-based codes focus on the regulating the urban form of the structures by controlling the relationship between the building facades and the public realm, the form and mass of the buildings, and the scale of the buildings. This new land use approach is much better suited to support the development of districts that have the same characteristics that are found in traditional urban settings like downtown Northport.

We propose drafting form-based codes for the C-1 and CR-1 districts that would create the framework that will ensure that the Village's Architectural Design Standards are achieved. As a part of this effort, we will draft a regulating plan, public space standards, and building form standards that are the basis of form-based codes. Various graphics will be created for the C-1 and CR-1 districts that supplement the new text and illustrate the types of structures that would comply with these regulations.

Task 4: Joint Work Session with Planning Commission and Village Council

To assist the Planning Commission and Village Council with fully understanding the rationale and this new framework, we propose having a joint working session to present the draft form-based code language and demonstrate how the new language will function. We will illustrate how these new requirements will lead to new developments that meet the intent of the Village's Master Plan and intent and purpose statements found in the current C-1 and CR-1 zoning language.

Task 5: Public Zoning Workshop, Planning Commission Review Meeting, and Final Draft of Proposed Language

To garner public input on the proposed revisions, including the new form-based districts, a public zoning workshop is proposed where Wade Trim will present the proposed changes to the public for their consideration. Based on the results of the workshop, we will prepare necessary revisions to the language. At this stage, we will attend one final meeting with the Planning Commission to review the draft. We will prepare the final draft zoning amendment language based on final feedback received from the Planning Commission.

Task 6: Adoption Process

After completion of the above tasks, we will assist the Village throughout the state-required adoption process (per the Michigan Zoning Enabling Act). This will include preparing the public hearing notice language and notice of adoption language. After adoption, we will merge the adopted zoning amendments into the existing Zoning Ordinance to create a clean version of the Ordinance. We will provide one (1) copy of the final adopted Zoning Ordinance in Adobe PDF format which the Village can post to the Village website and utilize for printing copies for the Planning Commission, Village Council, and other staff (this task does not include the printing of hard copies of the Ordinance).

Cost Estimate

Wade Trim proposes to complete the above-described scope of work for a lump-sum fee of $31,950.

These fees are broken down below and are inclusive of all project related expenses, including project management, travel expenses, shipping, etc.

Master Plan Update Task	*Cost*
Task 1: Drafting of General Zoning Ordinance Revision Language	$7,500
Task 2: Presentation of Materials to Planning Commission	$1,250
Task 3: Drafting of Form-based Code for the C-1 and CR-1 districts	$18,500
Task 4: Joint Planning Commission - Village Council Meeting	$1,500
Task 5: Public Zoning Workshop and Final Draft of Proposed Language and presentation to Planning Commission	$2,250
Task 6: Drafting of Final Zoning Ordinance Revisions and Adoption Process	$950
Total:	*$31,950*

Included in the above zoning ordinance update tasks is the team's attendance at two Planning Commission meetings, one public zoning workshop, and the Planning Commission public hearing. Additional meetings requested by the Village would be billed at a flat rate of $450 per meeting.

Project Schedule

We can begin work upon receiving a notice to proceed from the Village. We anticipate the zoning ordinance amendment process taking approximately seven months to complete.

Event	Timeframe
Drafting of Proposed Zoning Ordinance Language	Jan. – Feb. 2022
Planning Commission Review Meeting #1	Mar. 2022
Drafting of Form-based Code for C-1 & CR-1 Districts	Jan. – May 2022
Joint Planning Commission – Village Council Meeting	Apr. 2022
Public Workshop and Planning Commission Review Meeting #2	June 2022
Final Draft and Public Hearing	July 2022
Final Deliverables	Aug. 2022

We look forward to working with the Village on this important project. If you have any questions, or need additional information, please feel free to reach out to us.

Very truly yours,

Wade Trim Associates, Inc.

Arthur F. Mullen, AICP
Professional Planner/ Project Manager

Adam C. Young, AICP
Senior Project Manager

AFM:ACY:lkf
AAA 8140-21
20211019_Scott-Ltr.docx