



City Council Memorandum

To: Mayor Fasbender and City Council
From: John Hinzman, Community Development Director
Date: May 6, 2024
Item: Authorize Signature: Professional Services Agreement – Codametrics – Zoning Code Revision

Council Action Requested:

Authorize signature of the attached professional services agreement between the City of Hastings and Codametrics to prepare a revision to the Zoning Code (City Code 155). A simple majority is necessary for action.

Need for Revision

The entire Zoning Code was last updated in 1996. Over the last 28 years municipal best practices and private market standards for development have changed. Comprehensive changes are needed to the code to ensure relevancy.

Request for Proposal

The City issued a Request for Proposals (RFP) to provide services. Six firms responded to the RFP with four firms interviewed by the City. Codametrics was chosen based on their comprehensive experience in preparing zoning codes and code preparation in similar cities.

Budget

The Agreement caps expenses at \$65,000 which is the allocated budget for the project.

Scope of Services

Exhibit A of the Agreement outlines the Scope of Services which includes various forms of public engagement, meetings with City Staff, and work with the Planning Commission in preparation of the plan.

Attachments:

- Professional Services Agreement

**CITY OF HASTINGS
PROFESSIONAL SERVICES AGREEMENT
WITH CODAMETRICS
FOR ZONING CODE UPDATE**

IX-02

THIS AGREEMENT is dated as of the ___ day of _____, 2024 (“**Agreement**”) and is by and between the **CITY OF HASTINGS**, Minnesota (“**City**”) and **CODAMETRICS** (“**Consultant**”). The parties agree as follows:

SECTION 1. CONSULTANT.

A. Engagement of Consultant. The City desires to engage the Consultant to provide all necessary professional consulting services and to perform the work in connection with the project identified below.

B. Project Description. The consultant will develop an update to the City’s zoning regulations as defined in the City’s Request for Proposals:

The Zoning Code should provide guidance on the varying type of development in Hastings including areas developed prior to the adoption of Zoning regulations, property redevelopment, and annexation and development of new land. The scope of services is limited to the Zoning Ordinance only and not other land use ordinances such as subdivision, shoreland management or flood plain.

C. Scope of Services. The Consultant has submitted to the City a description of the services to be provided by the Consultant, a copy of which is attached as **Exhibit A** to this Agreement (“**Services**”).

D. Commencement. The Consultant shall commence the Services immediately upon receipt of written notice from the City that this Agreement has been fully executed by the parties and shall conclude by May 2025, unless otherwise extended in a written mutual agreement by both parties.

SECTION 2. FEE AND METHOD OF PAYMENT.

A. Fee. The total amount billed by the Consultant for the Services under this Agreement shall not exceed **\$65,000**, as outlined in **Exhibit B**, unless otherwise amended per Section 6.A of this Agreement.

B. Invoices and Payment. The Consultant shall be paid as provided in Exhibit B. The Consultant shall submit invoices monthly to the City in an approved format for those portions of the Services performed and completed by the Consultant. The City shall pay to the Consultant the amount billed within 30 days after its receipt and approval of such invoice.

SECTION 3. PERSONNEL; SUBCONTRACTORS.

A. Key Project Personnel. The Key Project Personnel identified in Exhibit A shall be primarily responsible for carrying out the Services on behalf of the Consultant. No new Key Project Personnel shall be reassigned or added without the City’s prior written approval.

B. Approval and Use of Subcontractors. The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by the City in writing. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term “Consultant”

shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement. IX-02

SECTION 4. STANDARD OF CARE; INDEMNIFICATION; INSURANCE.

A. Standard of Care for Services. The Consultant represents and certifies that the Services shall be performed in accordance with the highest standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature.

B. Indemnification. The Consultant agrees to indemnify, defend, and hold harmless the City, its agents, elected officials, representatives, and employees from and against claims, demands, damages, losses, liability, expenses, and consequential damages, including attorneys' fees arising from the execution of Consultant's work performance or failure to perform under the terms of this Agreement to the extent caused by the negligent acts or omissions by Consultant, and except for those claims which arise from the sole negligence or willful misconduct of the City.

SECTION 5. CONSULTANT AGREEMENT GENERAL PROVISIONS.

A. Relationship of the Parties. The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (i) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the City and Consultant; or (ii) to create any relationship between the City and any subcontractor of the Consultant.

B. Compliance with Laws and Grants. Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations.

C. Data Practices Compliance. All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

D. Mutual Cooperation. The City agrees to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the City may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the City in the performance of the Services to complete the Work.

SECTION 6. GENERAL PROVISIONS.

A. Amendment. No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.

B. Notice. Notices and communications to the City shall be addressed to, and delivered at, the following address:

John Hinzman
City of Hastings
E-mail: jhinzman@hastingsmn.gov

Notices and communications to the Consultant shall be addressed to, and delivered at, the following address: IX-02

Leslie Oberholtzer
Codametrics
Email: leslie@codametrics.com

C. Provisions Severable. This Agreement is severable. To the extent that any provision or term is determined by a court of law to be unenforceable or otherwise invalid, then said provision(s) or term(s) shall be severed from the Agreement and all remaining terms, provisions, and conditions shall remain in full force and effect.

D. Termination.

1. Termination by Either Party. This Agreement may be terminated by either party upon 30 days' written notice delivered to the other party. Upon termination under this provision, if there is no default by the Consultant, Consultant shall be paid for Services rendered and reimbursable expenses until the effective date of termination.

2. Termination Due to Default. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure that is acceptable to the other party.

E. Insurance. During the performance of the Services under this Agreement, Consultant shall maintain the following insurance:

1. General Liability Insurance, with a limit of \$1,000,000 for any number of claims arising out of a single occurrence;

2. Professional Liability Insurance, with a limit of \$1,000,000 for any number of claims arising out of a single occurrence.

3. Workers' Compensation Insurance in accordance with statutory requirements.


F. Governing Laws. This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Minnesota.

G. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between the City and the Consultant with respect to the Proposal and the Services.

By: _____
Mary Fasbender
Mayor

By: _____
Kelly Murtaugh
City Clerk

CONSULTANT

By: 

Name and Title: Leslie Oberholtzer, Principal

Exhibit A: Scope of Services

With expertise in both the best practices of sustainable, context-sensitive, conventional zoning and form-based codes, our team will develop the zoning code rewrite for the City of Hastings from the ground up, collaboratively with staff and the Plan Commission, using the most appropriate methods determined for each area of the city.

COMMUNITY ENGAGEMENT

Our perspective on outreach is to seek out fun and easy ways to actively engage community members, working with staff to identify the best methods for their community. Whether through online methods, traditional meetings, or open house one-on-one conversations, graphics and images will be used to convey information and survey stakeholders on their preferences. Throughout all engagement efforts, we will connect how input in recent planning initiatives is being used to guide the current code work. A successful engagement process will result in new and strengthened relationships and promotes a sense of ownership in the implementation of the code.

SCOPE OF SERVICES

The work plan and timeline on the following pages includes a description of our tasks based upon the project scope outlined in the request for proposal. We will work closely with staff to adjust the tasks to meet the specific needs of the city and to ensure timely completion of all phases and delivery of all products.

STAFF COORDINATION

The draft schedule outlines each task and key project meetings, also to be coordinated with staff to meet the city's goals. We anticipate regular online meeting calls, determined by staff's availability and the need for coordination at different points in the project.

DELIVERABLES

Deliverables are outlined in the proposed schedule, anticipated to be digital PDFs sent via email. Hard paper copies of drafts may be requested, but will be billed separately at cost. Final deliverables will be provided in their root form to staff upon adoption, including any GIS layer data.

Hastings's new zoning code will, among other things, need to:

- Protect physical **HISTORIC CHARACTER** and ensure **NEW DEVELOPMENT** reinforces existing development, unifying the city's overall physical form;
- Be consistent with current **INDUSTRY STANDARDS** for commercial and residential development;
- Modernize and organize **USES** into simple categories to promote an appropriate level of flexibility;
- Support future development and **ECONOMIC GROWTH**, to the best of our ability;
- Promote **EQUITABLE** administration among all users;
- Be **LEGALLY DEFENSIBLE**, in compliance with all appropriate state regulations;
- Promote **CONNECTIVITY, MOBILITY, WALKABILITY, and BIKE-ABILITY** within the community;
- Address building and site design to result in **HIGH QUALITY**, durable, and sustainable buildings;
- Utilize **TABLES** and **GRAPHICS** to quickly illustrate the regulations, and
- Be organized to provide **EASE OF USE** with the aim to simplify the process of development.



PHASE 1: PROJECT KICK-OFF

1.1: PLAN REVIEW

- Conduct in-depth review of the City's recent 2040 Comprehensive Plan, the existing zoning code, the Heart of Hastings Plan, the Vermillion Street Corridor Plan, the People Movement Plan, and any other plans and documents recommended by staff.
- Review recent (approved and denied) development plans and proposals.
- Work with staff to identify and collect necessary GIS data.

1.2: KICK-OFF SESSION

- Hold kick-off meetings with staff and the Plan Commission at the start of the project to ensure clear direction.
- Discuss the project scope, work plan, schedule, deliverables, and logistics.
- Discuss the City's general policies and procedures and the goals of the code.
- Consult with the City attorney on format and content as directed by staff.

1.3: PUBLIC OUTREACH STRATEGY

- With assistance from staff, outline the public outreach strategy describing the proposed approach to engaging stakeholders and the general public on the project.
- In addition to working closely with key staff throughout the process, regularly collaborate with the Plan Commission to inform the code writing and review of code drafts.

1.4: LISTENING SESSIONS

- Conduct ordinance-user (developers, architects/designers, neighborhood leaders) listening sessions to gain insight into local issues and concerns.



PHASE 2: DIAGNOSIS & PROJECT DIRECTIONS

2.1: SURVEY PHYSICAL FORM

- Conduct field surveys and other research to gain a better understanding of built patterns and neighborhood character within the city.
- With staff's assistance, identify key areas within the city to receive focused design regulations, such as the downtown, commercial corridors, and established neighborhoods.

2.2: EVALUATION OF CURRENT ORDINANCE

- Work with staff to identify key issues and constraints with the current ordinance (Chapter 155).
- Assess the current ordinance in terms of comprehensive plan implementation/consistency, compliance with state and federal laws, sustainability, and other agreed-upon benchmarks.
- Review current development projects, approvals/disapprovals, and variance requests to understand how the current regulations are functioning.

2.3: PREPARE DIAGNOSIS & DIRECTIONS REPORT

- Develop **deliverable: diagnosis and directions report**, a concise report summarizing the findings from phases 1 & 2.
- With staff's assistance, identify substantive changes to be made, tied to the geographic evaluations conducted in Task 2.1.
- Draft an initial working outline and proposed format for the new code.
- Present draft diagnosis and directions report to staff and the Plan Commission for review and comment and to serve as basis for initial draft code.

2.4: INITIAL PUBLIC MEETING

Per approved public outreach strategy, anticipate an initial public meeting to introduce the project, discuss the proposed project direction, and gain input on any substantive changes proposed.



PHASE 3: INITIAL DRAFT OF ZONING CODE

The draft zoning code will replace Chapter 155 of the city’s current code.

We anticipate preparing the **deliverable: initial draft zoning code** in 2 modules for ease of review and understanding. This initial draft is recommended for internal review by staff prior to presentation to boards and commissions.

- Present each draft zoning code module to staff for review and discussion.
- Include changes and new provisions identified in the diagnosis and directions memo, as well as general editing and technical changes.
- Revise per staff’s review and present to Plan Commission at each module or at the end of phase 3. Provide briefings to other boards and commissions per staff’s direction.

3.1: INITIAL DRAFT ZONING CODE - MODULE 1

Prepare and present module 1 of the draft zoning code to include districts and any overlays, building/structure regulations, and uses. Module 1 will specifically address Group Homes and will include replacement of the Planned Residential Development ordinance with Planned Unit Development language.

3.2: INITIAL DRAFT ZONING CODE - MODULE 2

Prepare and present module 2 of the draft zoning code to include generally applied development standards, such as architectural standards, parking, landscape, sign regulations, and administration and procedures as well as measuring and definitions.

3.3: INITIAL DRAFT ZONING MAP REVISIONS

- Prepare initial (internal) review draft of proposed revisions to the zoning map with districts and overlays.
- Present initial draft zoning map revisions to staff with module 1 of the initial draft zoning code to discuss proposals and receive feedback.



PHASE 4: PUBLIC REVIEW DRAFT OF ZONING CODE

Once the initial draft zoning code and any mapping has been well vetted, the public review draft will be prepared and posted for review on the city’s website.

4.1: PUBLIC REVIEW DRAFT ORDINANCE & MAP

- Prepare **deliverable: public review draft** of the new zoning code reflecting the comments and direction received during phase 3 and consolidating the modules into one cohesive draft.
- Prepare public review draft of revised zoning map, reflecting the comments and direction received during phase 3.

4.2: PUBLIC OPEN HOUSE

Conduct public review open house and focused (small group) review sessions called for in public outreach strategy (Task 1.3) to solicit comments for further changes and refinements.



PHASE 5: HEARING DRAFT & ADOPTION

5.1: HEARING DRAFT ZONING CODE & MAP

Prepare **deliverable: public hearing draft** of the new zoning code and map reflecting the comments and direction received during phase 3.

5.2: PUBLIC HEARING & ADOPTION

Present as directed by staff for adoption hearings and proceedings.

5.3: FINAL ADOPTED ORDINANCE AND MAP

Prepare and deliver final version of zoning code and map. Provide documents in digital format, including an Internet-ready, hyper-linked version of the new zoning code.

5.4: FOLLOW-UP

Upon code adoption, Codametrics provides complimentary phone consultations with staff on development projects submitted during the first year. Project review documentation may be requested on an hourly basis.

PROJECT TIMELINE

The timeline below is based upon the project scope outlined in the request for proposal and our proposed work plan on the previous pages. Completion of the project with one year is shown as outlined in the RFP. The timeline for deliverables has been modified to allow for additional time for key deliverables and for a public review period prior to the adoption process. We will work closely with staff to adjust the schedule to meet the specific needs of the city and to ensure timely completion of all tasks and delivery of all products.






PHASES	Months from Project Start											
	1	2	3	4	5	6	7	8	9	10	11	12
	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
 1 Project Kick-Off	①											
 2 Diagnosis & Project Directions			②									
 3 Initial Draft					③		④					
 4 Public Review Draft									⑤	⑥		
 5 Hearing Draft											⑦	⑧
DELIVERABLES	Public Outreach Strategy Outline		Module 1: Initial Draft Zoning Code & Map			Public Review Draft of Zoning Code			Public Hearing Draft of Zoning Code Presentation			
	Diagnosis & Directions Report		Module 2: Initial Draft Zoning Code			Open House Materials						
	Initial Public Meeting Presentation											
KEY MEETINGS	Meeting ①: Kick-off meetings with Staff & Plan Commission, Listening Sessions (virtual &/or in person)		Meeting ③: Module 1 presentation to staff and PC			Virtual Meeting ⑤: Public Review Draft Presentation to staff and PC			Meetings ⑦ & ⑧: Adoption Meeting(s), as required			
	Meeting ②: Public Meeting		Meeting ④: Module 2 presentation to staff and PC			Meeting ⑥: Public Open House						

Exhibit B: FEE

Our all inclusive, not-to-exceed project cost is based upon the scope of services and the project scope outlined in the request for proposal. Work will be invoiced monthly.

All deliverables will be supplied in digital PDF format, except the public open house materials and the final map and code. Once adopted, the GIS layer for the final map and the native file format for the code will be provided. Any additional requested printing will be billed at cost.

Estimated reimbursable costs include travel and printing for public open house meeting. Reimbursables will be billed at cost, not to exceed the estimate provided.

Additional services requested by staff and not outlined in the scope of work must be approved by staff in advance and will be billed hourly at the rates indicated below unless a formal proposal is requested.

PHASES	FEES BY TASK	Estimated Hours by Task	
		Leslie Oberholtzer CODAMETRICS	Kirk Bishop DUNCAN ASSOCIATES
1 Project Kick-Off	\$ 5,020	16	12
2 Diagnosis & Project Directions	\$ 17,110	65	31
3 Initial Draft	\$ 29,080	126	38
4 Public Review Draft	\$ 8,170	34	12
5 Hearing Draft	\$ 3,850	26	4
Estimated Reimbursable Costs	\$ 1,750		
TOTAL PROPOSED PROJECT COST	\$ 65,000	271	97

CODAMETRICS	Hourly Rate
Leslie Oberholtzer, Principal	\$ 175
GIS Technician/Planner	\$ 90
Architect/Planner	\$ 120
DUNCAN ASSOCIATES	
Kirk Bishop, Principal	\$ 185