

RESOLUTION NO. R-9-2026

A RESOLUTION OF EAGLE MOUNTAIN CITY, UTAH,
APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH
ECONOMIC & PLANNING SYSTEMS, INC. FOR CONSULTING SERVICES

PREAMBLE

The City Council of Eagle Mountain City, Utah, finds that it is in the public interest to approve a professional services agreement with Economic & Planning Systems, Inc. for Consulting Services as set forth in Exhibit A.

NOW THEREFORE, BE IT RESOLVED by the City Council of Eagle Mountain City, Utah for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. The professional services agreement with Economic & Planning Systems Inc. approved, as set forth in Exhibit A.
2. This Resolution shall become effective immediately upon its passing.

ADOPTED by the City Council of Eagle Mountain City, Utah, this 3rd day of March, 2026.

EAGLE MOUNTAIN CITY, UTAH



Jared Gray, Mayor

ATTEST:



Lacie A. Messerly
City Recorder



CERTIFICATION

The above Resolution was adopted by the City Council of Eagle Mountain City, Utah on the 3rd day of March, 2026.

Those voting yes:	Those voting no:	Those excused:	Those abstaining:
<input checked="" type="checkbox"/> Melissa Clark	<input type="checkbox"/> Melissa Clark	<input type="checkbox"/> Melissa Clark	<input type="checkbox"/> Melissa Clark
<input checked="" type="checkbox"/> Zachory Huish	<input type="checkbox"/> Zachory Huish	<input type="checkbox"/> Zachory Huish	<input type="checkbox"/> Zachory Huish
<input checked="" type="checkbox"/> Craig Whiting	<input type="checkbox"/> Craig Whiting	<input type="checkbox"/> Craig Whiting	<input type="checkbox"/> Craig Whiting
<input checked="" type="checkbox"/> Rich Wood	<input type="checkbox"/> Rich Wood	<input type="checkbox"/> Rich Wood	<input type="checkbox"/> Rich Wood
<input checked="" type="checkbox"/> Brett Wright	<input type="checkbox"/> Brett Wright	<input type="checkbox"/> Brett Wright	<input type="checkbox"/> Brett Wright



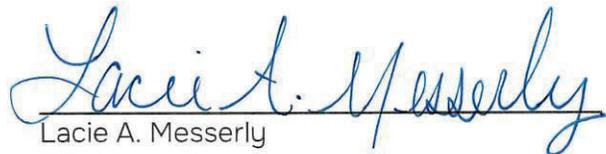

Lacie A. Messerly
City Recorder

Exhibit A



AGREEMENT FOR CONSULTING SERVICES
EPS #263014

1. Parties

The parties to this Agreement are:

CLIENT: City of Eagle Mountain, Utah
CONSULTANT: Economic & Planning Systems, Inc.

2. Scope of Service

CONSULTANT shall prepare a **Retail Incentives Study** for CLIENT in conformance with the Scope of Services attached as **Attachment A**.

3. Budget

CONSULTANT shall be entitled to fees and expenses set forth in **Attachment A** provided that CONSULTANT shall complete its work for an amount not to exceed \$40,180. EPS agrees to be compensated with 50 percent upon project signing and the remainder at project completion. CLIENT agrees that in the event of a delay or work stoppage of 90 days or more, EPS, in its sole discretion, may submit a revised budget to CLIENT for its approval and that the parties shall negotiate the terms of any such revised budget in good faith.

4. Payment

CONSULTANT shall be compensated in the manner indicated in **Attachment A**. Invoices are due and payable upon receipt.

5. Time for Performance

CONSULTANT shall commence work upon mutual approval of this agreement. Thereafter the work shall be completed as specified in **Attachment A** unless the time is extended by mutual agreement.

6. Standard Terms and Conditions

Attachment B is the Standard Terms and Conditions that are incorporated by reference as though set out in full.

7. Approved: Dated this 3 day of March, 2026.

Executed as of the day stated above.

Accepted:

City of Eagle Mountain, Utah

Client Name
Client Title

Economic & Planning Systems, Inc.
A California Corporation

Daniel R. Guimond, Senior Principal

Andrew Knudtsen, Managing Principal

Attachment A
Scope of Services
Economic & Planning Systems, Inc.

Background

A major new retail is planned for development in the City Center area of Eagle Mountain, Utah. The 60-acre project is expected to be anchored by an approximately 125,000 square foot Smith's Marketplace and 120,000 square foot Lowe's Home Improvement Center. The remainder of the site is planned for up to 40 pad sites that are being marketed to other national chains found in other power centers in the Utah market, as well as fast-food and quick casual restaurants.

The Developer is seeking economic incentives from the Town to address the costs of development and the major trunk infrastructure needed to develop the property under a proposed P3 agreement. The City is in discussions with the Developer regarding an incentive agreement that would commit a portion of the City and County sales tax generated by the project through a tax increment agreement. The proposed development has the potential to be a major shopping destination for City residents, and a major fiscal generator for the City in the form of additional sales and property taxes, as well as other economic development spinoffs.

The City is seeking an independent third-party analysis of the expected development program and mix of uses, estimated absorption, and estimated sales tax generation before entering into an agreement. This review would include determination of supportable land and market values, associated property and sales tax values, and absorption estimates. EPS agrees to complete the tasks outlined below to meet the City's requirements.

Scope of Services

Task 1: Project Initiation and Data Collection

EPS will first meet with the Developer (virtually) to obtain the Developer's program including uses and square footage, estimated construction schedule, market and absorption assumptions, and any signed contracts and LOIs. After an initial review, we will meet with City staff to discuss the specific market and financial issues to be evaluated, as well as to collect development and budget and sales tax data relevant to the project. Based on these initial meetings, EPS will transmit written requests for any additional development data needed to complete our review.

Task 2: Retail Development Market Conditions

EPS will conduct a high-level review of retail development trends and conditions in Utah County in Eagle Mountain as well as a regional trade area, and for the County as a whole. We will compile data over the 2010-2025 time period including total inventory, annual construction and average vacancy and lease rates. We will then develop a market forecast of supportable retail space over the 2025 to 2035 time period based on population and household forecasts for the applicable trade areas using our retail expenditure model.

Task 3: Development Program and Market Assumptions

EPS will evaluate the reasonableness of the proposed development program, market and absorption values and development cost estimates based on the above data on Utah County market conditions, retail space forecasts, data from similar projects, and additional targeted market research as needed. EPS will make adjustments in the development program and absorption schedule as needed to be consistent with the market analysis findings. This includes assumptions about the mix of uses assumed for unleased space.

Task 4: Retail Sales Forecasts

EPS will estimate the average annual sales per square foot for signed leased, LOIs, and for categories of uses for unleased space. We will rely on industry averages as derived from SEC 10-K reports and other industry sources, as well as internal data compiled by EPS from other projects in Utah and Colorado. To the extent that actual historical data can be provided by store category by Utah County (under a confidentiality agreement), we will incorporate this information into our sales forecasts. Annual retail sales will be compiled over a forecast period to be determined based on the expectation that revenues will be used to support a bond issuance.

Task 5: Sales Tax Revenues Forecasts

EPS will translate the annual retail sales forecasts into estimated sales tax revenues by store type and category over the forecast period. We will make appropriate adjustments for retail space leased to service and office uses not subject to sales tax as well as to the amount of nontaxable sales by store type/category. Total annual available sales tax increment will be estimated for the City and County. Under defined scenarios, we will determine the amount of sales tax retained by the City and the amount invested in the project on an annual basis over a proposed revenue bond time period, or other agreed upon period of revenue sharing.

Task 6: Applicant Meeting

EPS will meet with the Developer and City staff to review the draft revenue forecasts, identify any corrections needed, and to discuss any outstanding issues. If needed, the forecast model will be revised and any additional sensitivity analyses will be performed.

Task 7: Report and Presentation

EPS will prepare a draft report to summarize its analysis and revenue forecasts. A final report will be completed within one week's receipt of comments. EPS would also attend a City Council meeting to present our conclusions and respond to Council questions if requested as an additional cost item.

Optional Task: Financial Analysis

EPS will obtain and review the Developer’s TIF request and supportive financial analysis with and without the requested public financial investments. (EPS will sign a confidentiality statement agreeing to keep the project proprietary financial information confidential and will provide the City summary information regarding the project’s estimated performance on an unleveraged basis.) EPS will then construct its own financial model to evaluate the project against acceptable measures of return for public investment in a real estate development project. The analysis will calculate the Developer’s returns without public investment to determine 1) “but for” the public investment the project is financially infeasible, and 2) with the public investment the project is feasible with a reasonable rate of return given current financial conditions and the associated level of Developer risk.

The EPS financial analysis will provide the City with a recommendation of the amount of economic incentives needed under alternative financing scenarios. The analysis will be transmitted to City staff and Developer in draft form for review and discussion. The project report will be modified to include the analysis of financial returns not disclosing confidential pro forma detail as allowed for by State statute guidelines for confidential real estate negotiations. This item is optional and not budgeted.

Budget and Schedule

EPS agrees to complete Tasks 1-7 in the above work plan within three months for an amount not to exceed \$40,180 without the prior approval of the City. The approximate allocation of time by task and staff level is shown in **Table 1**. EPS agrees to be compensated with 50 percent upon project signing and the remainder at project completion.

Table 1. Proposed Budget by Task and Staff

Description	Principal	Analyst	Research/ Production	Total
Billing Rate	\$280	\$165	\$125	
Task 1: Project Initiation and data collection	8	8	4	\$4,060
Task 2: Retail Development Market Conditions	8	24	8	\$7,200
Task 3: Development Program and Market Assumptions	8	16	4	\$5,380
Task 4: Retail Sales Forecasts	8	24	8	\$7,200
Task 5: Sales Tax Revenue Forecasts	8	24	4	\$6,700
Task 6: Applicant Meeting	2	2	0	\$890
Task 7: Report and Presentation	<u>12</u>	<u>16</u>	<u>8</u>	<u>\$7,000</u>
Staff Time and Costs	54	114	36	\$38,430
Expenses				
Travel (two persons two day trip)				\$1,500
Miscellaneous				\$250
Total Expenses				\$1,750
Total Project Budget				\$40,180

Source: Economic & Planning Systems

Economic & Planning Systems, Inc.
Attachment B Standard Terms and Conditions for Consulting Services

1. Authority

Each party has full power and authority to enter into and perform this contract, and the person signing this contract on behalf of each has been properly authorized and empowered to enter into this contract. Each party further acknowledges that it has read this agreement, understands it, and agrees to be bound by it.

2. Independent Contractor

It is specifically understood and agreed that in the creation and performance of this Agreement, EPS is an independent contractor, and is not and shall not be construed to be an employee or agent of the CLIENT.

3. Insurance

EPS shall maintain the following insurance:

- 3.1. Workers Compensation as required by law.
- 3.2. General Liability insurance of \$2,000,000 each occurrence, \$4,000,000 general aggregate.
- 3.3. Auto Liability insurance of \$2,000,000, combined single limit for bodily injury and property damage, covering non-owned and hired autos only.
- 3.4. Errors and Omissions/Professional Services Liability insurance in the amount of \$2,000,000 per claim/aggregate.
- 3.5. Excess/Umbrella Liability insurance of \$3,000,000.

4. Personnel

EPS represents that it is an equal opportunity employer and has, or will secure at its expense, all personnel required in performing the services under this Agreement. All personnel engaged in the work shall be authorized or permitted under State and Local law to perform such services.

5. Interest of EPS

EPS covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

6. Publication, Reproduction, and Use of Material

CLIENT may publish, distribute, or otherwise use any data, information, reports, or other materials prepared under this Agreement by EPS (EPS Work Product), in whole or in part, for purposes of this project. This authority does not apply to any computer models or software used or developed as a result of this contract, unless a separate agreement is signed concerning the disposition of such materials. CLIENT acknowledges that EPS

Work Product was prepared by EPS solely for contemporaneous use by CLIENT for this Project and that it is not intended for use at any other time, location, purpose or by any other party. Accordingly, CLIENT shall not, without the prior written consent of EPS (which EPS may withhold in its sole discretion), (i) use EPS Work Product for purposes unrelated to the Project, (ii) modify EPS Work Product, or (iii) disclose or distribute any EPS Work Product to any other person, firm, or entity. EPS shall be entitled to indemnification by CLIENT, pursuant to paragraph 13 hereof, if CLIENT breaches this provision, in addition to all other available remedies at law or in equity.

7. Confidentiality

Any reports, information, or data given to or prepared or assembled by EPS under this Agreement shall not be made available to any individual or organization by EPS without the prior written approval of the CLIENT. EPS is entitled to retain copies of all data, working papers, interim documents, memoranda, and reports produced under this Agreement. However, nothing contained herein shall prevent the disclosure of such information if compelled by legal process, and in the event thereof, only after notice to CLIENT.

8. Amendments to the Contract

No amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

9. Disputed Invoices

In the event that CLIENT disputes any item on an invoice, CLIENT shall notify EPS of this disputed item within five working days of receipt of the invoice. CLIENT will approve payment of items on an invoice that are not in dispute and CLIENT and EPS will proceed to negotiate or arbitrate the disputed items as specified elsewhere in this Agreement.

10. Audits and Inspections

On reasonable notice, CLIENT may inspect any books, records, or other materials that pertain directly to this Agreement.

11. Compensation for Testimony and Preparation Thereof

If any legal action is brought in connection with the Agreement, other than an action that is solely the result of the incompetence or malfeasance by EPS, by or against a third party, and CLIENT requests that EPS or a SUBCONSULTANT, (or if EPS or a SUBCONSULTANT is otherwise required) to testify, provide information, produce materials, or otherwise spend time on such action, then CLIENT shall pay EPS or SUBCONSULTANT for time expended at their standard rates then in effect, plus advance all related expenses and costs, including, but not limited to, reasonable attorneys' fees. Such compensation shall be in addition to the maximum charge for services defined in the Agreement.

12. Termination of Agreement

The CLIENT may, at its option, elect to cancel the contract at any time, by notice to EPS, on completion of any task described in the scope of services. In such event the CLIENT will pay to EPS the amount due by virtue of completion of the products therefore delivered. If such cancellation is not based on any claim of EPS default, such payment shall include any sums withheld pursuant to this Agreement. In addition, EPS shall be reimbursed (in addition to the payment) for that portion of the actual out-of-pocket costs not otherwise reimbursed under this Agreement previously incurred by EPS during the period of the Agreement, which are directly attributable to the incomplete portion of the services covered by this Agreement.

13. Indemnification/Limitation of Liability

- 13.1. CLIENT agrees to release, indemnify, hold harmless, and defend EPS and all of its partners, employees, agents, and representatives of all types from and against all claims, liability, loss, cost, damage, expense, or obligation, including, but not limited to reasonable attorneys' and experts' fees and costs, which any of them may hereafter incur, suffer, or be required to pay by reason of any actions in connection with this Agreement or the performance thereof except as to claims which are finally adjudicated or arbitrated to have resulted from the sole negligence or willful misconduct of EPS.
- 13.2. CLIENT agrees that EPS is not responsible for the identification of hazardous or toxic substances, waste or materials, or petroleum products and/or petroleum components or constituents and is not liable for any conditions that stem from contamination from hazardous or toxic substances, waste or materials, or petroleum products and/or petroleum components or constituents.

14. Nondiscrimination and Equal Opportunity

EPS and its SUBCONSULTANTS shall not unlawfully discriminate against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by EPS under this Agreement because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age (over 40), gender, or gender orientation. EPS shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of EPS thereby.

15. Standard of Performance

All work performed by EPS for CLIENT pursuant to this Agreement shall be performed by qualified persons and shall be performed in accordance with standards of performance generally applicable to the work in the community in which the work is performed.

As in all projects of this type, the estimated results are based on the continued competent and efficient management by CLIENT. In addition, the conclusions reached by EPS are based on the assumption that no significant changes in project conditions will occur beyond those expressly discussed in EPS Work Product. EPS shall be able to rely on information provided to it by the CLIENT, and EPS shall have no responsibility to audit or otherwise verify such information.

16. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, power failures, earthquakes, or other disasters.

17. Arbitration and Attorneys' Fees

In the event of a dispute in any manner relating to or arising out of this Agreement, the parties shall meet, confer, and negotiate in good faith in an attempt to resolve the dispute. In the event the parties are unable to resolve the dispute themselves, the dispute shall be resolved through binding arbitration in Sacramento County, State of California, under the Construction Industry Arbitration Rules of the Judicial Arbitration and Mediation Services, Inc., (JAMS).

In arbitrating any issue arising under this Agreement, the power and authority of the arbitrator shall include the power and authority to grant such equitable relief (including injunctive relief) as may be appropriate under the circumstances, in accordance with applicable law. The decision award of the arbitrator shall be binding on the parties and shall be enforceable by judgment entered in a court having jurisdiction. In the event the arbitrator determines there is a prevailing party in the arbitration, the prevailing party shall recover from the losing party all costs of arbitration, including all fees of the arbitrator and all attorneys' fees reasonably incurred by the prevailing party. The arbitrator shall have authority to order such limited discovery as the arbitrator shall deem relevant and appropriate.

18. Governing Law

This contract will be governed by and construed in accordance with the laws of the State of California.

19. Notice

Notice given under the terms of this Agreement shall be in writing and shall be effective the day it is mailed, properly addressed, to the party to receive such notice. Notice delivered other than by mail shall be effective when received. Any change of address of either of the parties shall be effective on receipt of notice of such change by the opposite party.