

**Attachment D**

**SECOND AMENDMENT TO AGREEMENT 2023-015**  
**BETWEEN THE CITY OF CUPERTINO AND M-GROUP**  
**FOR PLANNING STAFFING SUPPORT**

This Second Amendment to Agreement 2023-015 is by and between the City of Cupertino, a municipal corporation (hereinafter "City") and M-GROUP, a Corporation ("Contractor") whose address is 51 E Campbell Ave #1247, Campbell, CA 95009, and is made with reference to the following:

RECITALS:

- A. On March 2, 2023, Agreement 2023-015 ("Agreement") was entered into by and between City and Contractor for Provide 2 Assistant Planner staffing to assist the Planning Division.
- B. On October 05, 2023, City and Contractor entered into a First Amendment to the Agreement.
- C. The Agreement and First Amendment are collectively referred to as the "Agreement" unless otherwise indicated.
- D. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

- 1. Paragraph 4 of the Agreement is modified to read as follows:

**COMPENSATION**

**4.1 Maximum Compensation.** City will pay Contractor for satisfactory performance of the Services an amount that will be based on actual costs but that will be capped so as not to exceed \$199,200 ("Contract Price"), based upon the scope of services in Exhibit A and the budget and rates included in Exhibit C-2, Compensation attached and incorporated here. The maximum compensation includes all expenses and reimbursements and will remain in place even if Contractor's actual cost exceed the capped amount. No extra work or payment is permitted without prior written approval of the City.

**4.2 Invoices and Payments.** Monthly invoices must state a description of the deliverable completed and the amount due for the preceding month. Within thirty (30) days of completion of Services, Contractor must submit a requisition for final and complete payment of costs and pending claims for City approval. Failure to timely submit a complete and accurate payment requisition relieve City of any further payment or other obligations under the Agreement.

Exhibit C-1 of the Agreement is replaced with a new Exhibit C-2 attached hereto.

2. Paragraph 5 of the Agreement is modified to read as follows:

**5.6 Payment of Benefits and Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Contractor's business including, but not limited to, federal and state income taxes. City shall have no obligation whatsoever to pay or withhold any taxes or benefits on behalf of Contractor. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City, and actual attorney's fees incurred by City in connection with the above.


3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.


SIGNATURES CONTINUE ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CITY OF CUPERTINO

M-GROUP

By   
Title Director of Community Development  
Date Apr 17, 2024

By   
Title President  
Date Apr 17, 2024

APPROVED AS TO FORM

*Christopher D. Jensen*  
\_\_\_\_\_  
City Attorney

ATTEST:

*Kristen Squarcia*  
\_\_\_\_\_  
City Clerk

Date Apr 17, 2024  
\_\_\_\_\_

**EXPENDITURE DISTRIBUTION**

Item	PO Number	Amount
Base	2023-459	\$109,200
1 <sup>st</sup> Amendment	2023-459	\$50,000
2 <sup>nd</sup> Amendment		\$40,000
Total		\$199,200



March 20, 2024

Piu Ghosh  
Community Development Department  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014-3202  
Via email [piug@cupertino.org](mailto:piug@cupertino.org)

**RE: Budget amendment #2: Assistant Planner, Temporary Staffing Assignment**

Dear Piu Ghosh:

Thank you for the opportunity to present this budget amendment for continued planning assistance. We understand the City of Cupertino seeks the continued support of Assistant Planners.

The total budget for this assignment was originally not to exceed \$109,200 for an Assistant Planner 40 hours per week. This amendment #2 would amend the total budget not to exceed \$199,200 under the existing contract which expires June 30, 2024.

If you have any questions or need additional information, please do not hesitate to contact me. Upon your approval, please provide your contract for my signature.

Sincerely,

**GEOFF I. BRADLEY, AICP**

*President + Principal*  
gbradley@m-group.us  
408.340.5642 x102

Attachments:

Scope & Budget



## SCOPE

M-Group will provide the City of Cupertino with two Assistant Planners to serve the Planning Division with the following tasks.

- Provide public counter staffing
- Respond to zoning and general plan inquiries from the public, developers and applicants
- Review development plans for additions and remodels for zoning clearance as assigned
- Process applications for tree removal, business license, home occupation permit and temporary signs as assigned
- Review Administrative & non-Administrative Design Review applications as assigned
- Review Use Permit and Variance applications as assigned
- Attend and present projects at Planning Commission meetings as assigned

## ORIGINAL BUDGET & AMENDMENTS

M-Group will provide staffing services in accordance with the Scope outlined above with the following terms.

<b>Original Proposal</b>	<b>Jelani Mora Assistant Planner</b>	<b>Samuel Flumann Assistant Planner</b>
Hours Per Week	24	16
Rate Per Hour	\$105	\$105
Contract Duration: Not to exceed 6 months	26 weeks	26 weeks
Subtotal	\$65,520	\$43,680
<b>Total Contract Not To Exceed: \$109,200</b>		
Amendment #1 (Sept. 2023): <b>\$50,000</b>		
Amendment #2 (Mar. 2024): <b>\$40,000</b>		
<b>New Total Contract Not To Exceed: \$199,200</b>		