



## **DESIGN PROFESSIONAL SERVICES AGREEMENT (SINGLE)** **WITH DIALOG DESIGN, L.P.**

### **1. PARTIES**

This Agreement is made by and between the City of Cupertino, a municipal corporation (“City”), and DIALOG Design, L.P. (“Consultant”), a Limited Partnership for City Hall Annex Improvements Project (10455 Torre Ave.) (“Project”), and is effective on the last date signed below (“Effective Date”).

### **2. SERVICES**

**2.1 Basic Services.** Consultant agrees to provide the Basic Services for the Project, which are set forth in detail in the Scope of Services, attached here and incorporated as **Exhibit A**, and as further specified in Consultant’s written Proposal as approved by City, except for any provision in the Proposal which conflicts or is inconsistent with this Agreement and the Exhibits hereto, or as otherwise expressly rejected by City. Consultant further agrees to carry out its work in compliance with any applicable local, State, or Federal order regarding COVID-19.

**2.2 Additional Services.** City may request at any time during the Contract Time that Consultant provide additional services for the Project, which are not already encompassed, expressly or implicitly, in the Agreement, the Scope of Services, or the Proposal (“Additional Services”). Additional Services must be authorized in writing by City and Consultant will not be paid for unauthorized Additional Services rendered. Additional Services are subject to all the provisions applicable to Basic Services, except and only to the extent otherwise specified by City in writing.

All references to “Services” in the Agreement include Basic Services and Additional Services, unless otherwise stated in writing. The Services may be divided into separate sequential tasks, as further specified in this Agreement, the Scope of Services, and Consultant’s Proposal.

Consultant is solely responsible for its errors and omissions and those of its subconsultants, and must promptly correct them at its sole expense. Consultant must take appropriate measures to avoid or mitigate any delay, liability, and costs resulting from its errors or omissions.

**2.3** Consultant’s duties and services under this agreement shall not include preparing or assisting the City with any portion of the City’s preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the City. The City shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Consultant’s participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Consultant shall cooperate with the City to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by consultant pursuant to this agreement.

### **3. TIME OF PERFORMANCE**

**3.1 Term.** This Agreement begins on the Effective Date and ends on December 31, 2028, unless terminated earlier as provided herein (“Contract Time”). The City’s appropriate department head or City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City’s purchasing policy.

**3.2 Schedule of Performance.** All Services must be provided within the times specified in **Exhibit B**, Schedule of Performance, attached and incorporated here. Consultant must promptly notify City of any actual or potential delay in providing the Services as scheduled to afford the Parties adequate opportunity to address or mitigate delays. If the Services are divided by tasks, Consultant must begin work on each separate task upon receiving City’s Notice to Proceed (“NTP”), and must complete each task within the time specified in **Exhibit B**.

**3.3 Time is of the essence** for the performance of all the Services. Consultant must have sufficient time, resources, and qualified staff to deliver the Services on time.

### **4. COMPENSATION**

**4.1 Maximum Compensation.** City will pay Consultant for satisfactory performance of the Basic Services and Additional Services, if approved, a cumulative total amount that will be capped so as not to exceed \$493,243.00 (“Contract Price”), as specified in **Exhibit C, Compensation**, attached and incorporated here. The Contract Price includes all expenses and reimbursements and will remain in place even if Consultant’s actual costs exceed the capped amount. No extra work or payment is permitted in excess of the Contract Price.

**4.2 Basic Services.** City will pay Consultant \$448,243.00 (“Price”) for the complete and satisfactory performance of the Basic Services in accordance with Exhibit C. The Price is inclusive of all time and expenses, including, but not limited to, sub-Consultants’ costs, materials, supplies, equipment, travel, taxes, overhead, and profit. Consultant will be compensated for actual costs only of normal business expenses and overhead, with no markup or surcharge (“Reimbursable Expenses”). Consultant will not be entitled to reimbursement for copying, printing, faxes, telephone charges, employee overtime, or travel to City offices or to the Project site.

**4.3 Additional Services.** City has the discretion, but not the obligation, to authorize Additional Services up to an amount not to exceed \$45,000.00 Additional Services provided to City’s reasonable satisfaction will be compensated on a lump sum basis or based on time and expenses, in accordance with the Hourly Rates and Reimbursable Expenses Schedules included in **Exhibit C**. If paid on an hourly basis, Consultant will be compensated for Reimbursable Expenses only. Consultant will not be entitled to reimbursement for copying, printing, faxes, telephone charges, employee overtime, or travel to City offices or to the Project site.

**4.4 Invoices and Payments.** Monthly invoices must describe the Services completed and the Amount due for the preceding month. City will pay Consultant within thirty (30) days following receipt of a properly submitted and approved invoice for Services. The invoice must separately itemize and provide subtotals for Basic Services and Additional Services, and must state the percentage of

completion for each task, as specified in **Exhibit C**. City will notify Consultant in writing of any disagreements with the invoice or the stated percentage of completion of tasks. If the disagreement is unresolved, City will pay Consultant only for the undisputed portion of the Services. Disputed amounts shall be subject to the Dispute Resolution provision of this Agreement.

- a. Time and Expenses.** For Additional Services provided on an hourly basis, each invoice must also include, for each day of Services provided: (i) name and title of each person providing Services; (ii) a succinct summary of the Services performed by each person; (iii) the time spent per person, in thirty (30) minute increments; (iv) the hourly billing rate or Sub- Consultant charge and payment due; and (v) an itemized list with amounts and explanation for all permitted reimbursable expenses.
- b. Rates and Receipts.** All hourly rates and reimbursable expenses must conform to the City- approved rates set forth in **Exhibit C**, which will be in effect for the entire Contract Time. Each invoice must attach legible, dated receipts for Reimbursable Expenses.

## **5. INDEPENDENT CONTRACTOR**

**5.1 Status.** Consultant is an independent Consultant and not an employee, partner, or joint venture of the City. Consultant is solely responsible for the means and methods of performing the Services and shall exercise full control over the employment, direction, compensation and discharge of all persons assisting Consultant in performing the Services. Consultant is not entitled to health benefits, worker's compensation, retirement, or any City benefit.

**5.2 Qualifications and Standard of Care.** Consultant represents on behalf of itself and its sub-Consultants that they have the qualifications and skills to perform the Services in a competent and professional manner, as exercised by design professionals performing similar services in the San Francisco Bay Area. Services may only be performed by qualified and experienced personnel or subconsultants who are not employed by City and do not have any contractual relationship with City excepting this Agreement. All Services must be performed as specified to City's reasonable satisfaction.

**5.3 Permits and Licenses.** Consultant warrants on behalf of itself and any sub-Consultants that they are properly licensed, registered, and/or certified to perform the Services, as required by law, and that they have procured a valid City Business License, if required by the Cupertino Municipal Code.

**5.4 Sub-Consultants.** Unless prior written approval from City is obtained, only Consultant's employees and sub-Consultants whose names are included in this Agreement and incorporated Exhibits may provide Services under this Agreement. Consultant must require all sub-Consultants to furnish proof of insurance for workers' compensation, commercial liability, auto, and professional liability in reasonable conformity to the insurance required of Consultant. The terms and conditions of this Agreement shall be binding on all sub-Consultants relative to the portion of their work.

**5.5 Tools, Materials, and Equipment.** Consultant will supply and shall be responsible for all tools, materials, and equipment required to perform the Services under this Agreement.

**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.

**5.7 Errors and Omissions.** Consultant is solely responsible for its errors and omissions and those of its sub-Consultants, and must take prompt measures to avoid, mitigate, and correct them at its sole expense.

## **6. PROPRIETARY/CONFIDENTIAL INFORMATION**

During the Contract Time, Consultant may have access to private or confidential information owned or controlled by the City, which may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant shall hold in confidence all City information and use it only to perform this Agreement. Consultant shall exercise the same standard of care to protect City information as a reasonably prudent Consultant would use to protect its own proprietary data.

## **7. OWNERSHIP OF MATERIALS**

**7.1 Property Rights.** Subject to City meeting its payment obligations for the Services, any interest (including copyright interests) of Consultant in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document, or other information or work, in any medium, prepared by Consultant under this Agreement ("Work Product"), will be the exclusive property of the City upon completion of the work to be performed hereunder or upon termination of this Agreement, to the extent requested by City. In any case, no Work Product shall be shown to a third-party without prior written approval by City.

**7.2 Copyright.** To the extent permitted by Title 17 of the U.S. Code, all copyrights to the Work Product prepared/created by Consultant and its sub-Consultants and all copyrights in such Work Product shall constitute City property. If it is determined under federal law that the Work Product is not "works for hire," Consultant hereby assigns to City all copyrights to the Work Product when and as created, and shall require sub-Consultants to do the same. Consultant may retain copyrights to its standard details, but hereby grants City a perpetual, non-exclusive license to use such details.

**7.3 Patents and Licenses.** Consultant must pay royalties or license fees required for authorized use of any third party intellectual property, including but not limited to patented, trademarked, or copyrighted intellectual property if incorporated into the Services or Work Product of this Agreement.

**7.4 Re-Use of Work Product.** Unless prohibited by law and without waiving any rights, City may use or modify the Work Product of Consultant and its sub-Consultants to execute or implement any of the following, but Consultant shall not be responsible or liable for City's re-use of Work Product:

- (a) For work related to the original Services for which Consultant was hired;
- (b) To complete the original Services with City personnel, agents or other Consultants;
- (c) To make subsequent additions to the original Services; and/or
- (d) For other City projects.

**7.5 Deliverables and Format.** Electronic and hard copies of the Work Product constitute part of the Deliverables required under this Agreement, which shall be provided to City on recycled paper and copied on both sides, except for one single-sided original. Large-scale architectural plans and similar items must be in CAD and PDF formats, and unless otherwise specified, other documents must be in Microsoft Office applications and PDF formats.

## **8. RECORDS**

**8.1** Consultant must maintain complete, accurate, and detailed accounting records relating to the Services and Compensation, in accordance with generally accepted accounting principles and procedures. The records must include detailed information about Consultant's performance, benchmarks, and deliverables. The records and supporting documents must be kept separate from other files and maintained for a period of four (4) years from the date of City's final payment.

**8.2** Consultant will provide City full access to Consultant's books and records for review and audit, to make transcripts or copies, and to conduct a preliminary examination of all the work, data, documents, proceedings, and activities related to this Agreement. If a supplemental examination or audit of Consultant's records discloses non-compliance with appropriate internal financial controls, a contract breach, or a failure to act in good faith, City will be entitled to recover from Consultant the costs of the supplemental examination. If this is a lump sum fee Agreement, City will be provided access to records of reimbursable expenses and the instruments of service/deliverables for review and audit. This Section 8 survives the expiration/termination of this Agreement.

**8.3** Consultant acknowledges that certain documents generated or received by Consultant in connection with the performance of this Agreement, including but not limited to correspondence between Consultant and any third party, are public records under the California Public Records Act, California Government Code section 6250 et seq. Consultant shall comply with all laws regarding the retention of public records and shall make such records available to the City upon request by the City, or in such manner as the City reasonably directs that such records be provided.

## **9. ASSIGNMENT**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so will be null and void. Any changes related to the financial control or business nature of Consultant as a legal entity will be considered an Assignment subject to City approval, which shall not be unreasonably withheld. For purposes of this provision, control means fifty percent (50%) or more of the voting power of the business entity. This Agreement binds Consultant, its heirs, successors and assignees.

## **10. PUBLICITY / SIGNS**

Any publicity generated by Consultant for the project under this Agreement, during the term of this Agreement and for one (1) year thereafter, will reference the City's contributions in making the project possible. The words "City of Cupertino" will be displayed in all pieces of publicity, including flyers, press releases, posters, brochures, public service announcements, interviews, and newspaper articles. No signs may be posted, exhibited, or displayed on or about City property, except signage required by law or this Agreement, without prior written approval from the City.

## **11. INDEMNIFICATION**

**11.1** To the fullest extent allowed by law and except for losses caused by the sole or active negligence or willful misconduct of City personnel, Consultant agrees to indemnify, defend, and hold harmless the City as follows:

**a. Indemnity for Design Professional Liability:** With respect to the performance of design professional services by a design professional as defined in California Civil Code Section 2782.8, to the fullest extent permitted by law, Consultant shall indemnify and hold harmless City, its officers, officials, agents, employees, and volunteers (collectively and/or individually "City") from and against any and all liabilities, claims, damages, losses, costs, or expenses (including, without limitation, costs, attorneys' fees, and expert fees of litigation and alternative dispute resolution) of every nature to the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant or any of its officers, employees, servants, agents, or subcontractors (collectively and/or individually "Consultant"), in the performance of this Agreement or failure to comply with any obligations of the Agreement. If it is finally determined (through a non-appealable judgment or an agreement between City and Consultant) that liability is caused by the comparative negligence or willful misconduct of City, then Consultant's indemnification and hold harmless obligation shall not exceed Consultant's finally determined percentage of liability based upon the comparative fault of Consultant.

Irrespective of any language to the contrary in this Agreement, the Consultant has no duty to provide or to immediately pay for an up-front defense of City against unproven claims or allegations, but shall reimburse those litigation costs and expenses (including, without limitation, attorneys' fees, and expert fees) incurred by the City to the extent caused by the negligence, recklessness, or willful misconduct of Consultant. In no event shall the cost to defend charged to Consultant exceed Consultant's proportional percentage of fault, except as described in Section 2782.8(a) and (e) of the California Civil Code.

**b. Claims Involving Intellectual Property.** Consultant shall indemnify, defend, and hold harmless Indemnitees from and against any claim involving intellectual property, infringement, or violation of a United States patent right or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights, which arises out of, pertains to, or relates to Consultant's negligence, recklessness, or willful misconduct. Such costs and expenses will include reasonable attorney fees for legal counsel of City's choice, expert fees, and all other costs and fees of litigation.

**c. Claims for Other Liability.** Except as provided in subsections 11.1(a) and (b), to the fullest extent permitted by law, Consultant shall hold harmless, defend (with counsel agreed to by City), and indemnify City and its officers, officials, agents, employees, and volunteers

(collectively and/or individually “City”) from and against any and all liability, claim, loss, damage, expense, costs (including, without limitation, costs, attorneys’ fees, and expert fees of litigation) of every nature arising out of, related to, or in connection with the performance of work hereunder by Consultant or any of its officers, employees, servants, agents, or subcontractors, or the failure of the same to comply with any of the obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or sole willful misconduct of the City.

Consultant’s duty to defend applies immediately, whether or not liability is established. An allegation or determination that persons other than Contractor are responsible for the claim does not relieve Contractor from its separate and distinct obligation to defend as stated herein.

**11.2** Consultant will assist City, at no additional cost, in the defense of any claim, dispute, or lawsuit arising out of this Agreement. Consultant’s duties herein are not limited to or subject to the Contract Price, to Workers’ Compensation claims, or to the Insurance or Bond limits and provisions. Nothing in this Agreement shall be construed to give rise to an implied right of indemnity in favor of Consultant against any Indemnitee.

**11.3** Consultant agrees to pay the reasonable costs City may incur in enforcing this provision related to Consultant’s indemnification duties, including reasonable attorney fees, fees for legal counsel acceptable to City, expert fees, and all other costs and expenses related to a claim or counterclaim, a purchase order, another transaction, litigation, or dispute resolution. Without waiving any rights, City may deduct money from Consultant’s payments to cover moneys due to City.

**11.4** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor, or any other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

**11.5** This Section 11 shall survive expiration or termination of this Agreement.

## **12. INSURANCE**

On or before the Contract Time commences, Consultant shall furnish City with proof of compliance with City Insurance Requirements, attached and incorporated here as **Exhibit D**. City will not execute the Agreement until Consultant has submitted and City has reasonably approved receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Alternatively, City may terminate this Agreement or in its sole discretion purchase insurance at Consultant’s expense and deduct costs from payments to Consultant.

## **13. COMPLIANCE WITH LAWS**

**13.1 General Laws.** Consultant shall comply with all laws and regulations applicable to this Agreement. Consultant will promptly notify City of changes in the law or other conditions that may affect the Project or Consultant’s ability to perform. Consultant is responsible for verifying the employment authorization of employees performing the Services, as required by the Immigration Reform and Control Act, or other federal or state law, rule or regulation.

**13.2 Labor Laws.** Consultant shall comply with all labor laws applicable to this Agreement. If the Services include a “public works” component, Consultant must comply with prevailing wage laws under Labor Code Section 1720 and other labor laws. To the extent applicable, Consultant must comply with City’s Labor Compliance Program and with state labor laws pertaining to working days, overtime, payroll records and DIR Registration and Oversight. If the Contract Price is \$30,000 or more, Consultant must comply with the apprenticeship requirement in Labor Code Section 1777.5.

**13.3 Discrimination Laws.** Consultant shall not discriminate on the basis of race, religious creed, color, ancestry, national origin, ethnicity, handicap, disability, marital status, pregnancy, age, sex, gender, sexual orientation, gender identity, Acquired-Immune Deficiency Syndrome (AIDS), or any other protected classification. Consultant shall comply with all anti-discrimination laws, including Government Code Section 12900 and 11135, and Labor Code Section. 1735, 1777, and 3077.5. Consistent with City policy prohibiting it, Consultant understands that harassment and discrimination by Consultant or any of its sub-Consultants toward a job applicant, an employee, a City employee, or any other person is strictly prohibited. Consultant agrees to provide records and documentation to the City on request necessary to monitor compliance with this provision.

**13.4 Conflicts of Interest.** Consultant shall comply with all conflict of interest laws and regulations applicable to this Agreement and must avoid any conflict of interest. Consultant warrants that no public official, employee, or member of a City board or commission who might have been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement in violation of California Government Code Section 1090 et seq. Consultant may be required to file a conflict of interest form if Consultant makes certain governmental decisions or serves in a staff capacity, as provided in Section 18700 of Title 2 of the California Code of Regulations and other laws. Services may only be performed by persons who are not employed by City and who do not have any contractual relationship with City, with the exception of this Agreement. Consultant is familiar with and agrees to abide by the City’s rules governing gifts to public officials and employees.

**13.5 Remedies.** A violation of this Section 13 constitutes a material breach and may result in City suspending payments, requiring reimbursement, or terminating this Agreement. City reserves all its rights and remedies under law and this Agreement, including the right to seek indemnification under Section 11. Consultant agrees to indemnify, defend, and hold City harmless from and against any loss, liability, and expenses arising from noncompliance with this Section.

## **14. PROJECT COORDINATION**

**14.1 City Project Manager.** The City’s Project Manager for all purposes under this Agreement will be Susan Michael, who shall have the authority to manage this Agreement and oversee the progress and performance of the Services. City in its sole discretion may substitute another Project Manager at any time and will advise Consultant of the new representative.

**14.2 Consultant Project Manager.** Subject to City’s reasonable approval, Consultant’s Project Manager for all purposes under this Agreement will be Dong Kim, who shall be the single representative for Consultant with the authority to manage compliance with this Agreement and oversee the progress and performance of the Services. This includes responsibility for coordinating and scheduling the Services in accordance with City instructions, service orders, and the Schedule of Performance, and providing regular updates to the City’s Project Manager on the Project status, progress, and any delays. City written approval is required prior to Consultant substituting a new Project Manager, which shall result in no additional costs to City or Project delays.

## **15. ABANDONMENT OF PROJECT**

City may abandon or postpone the Project with thirty (30) calendar days written notice to Consultant. Consultant will be compensated for satisfactory Services performed through the date of abandonment and will be given reasonable time to assemble the work and close out the Services. No close out work shall be conducted without City reasonable approval of closure costs, which may not exceed ten percent (10%) of the total time expended to the date of abandonment. All charges including job closure costs will be paid in accordance with the provisions of this Agreement and within thirty (30) days of Consultant's final invoice reasonably approved by the City.

## **16. TERMINATION**

City may terminate this Agreement for cause or without cause at any time, following reasonable written notice to Consultant at least thirty (30) calendar days prior to the termination date. Consultant will be paid for satisfactory Services rendered through the date of termination, but final payment will not be made until Consultant closes out the Services and delivers all Work Product to City. All charges approved by City including job closure costs will be paid within thirty (30) days of Consultant's final invoice.

## **17. GOVERNING LAW, VENUE, AND DISPUTE RESOLUTION**

This Agreement is governed by the laws of the State of California, excepting any choice of law rules which may direct the application of laws of another jurisdiction. Any lawsuits filed related to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California. Consultant must comply with the claims filing requirements under the Government Code prior to filing a civil action in court against City. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). If a dispute arises, Consultant must continue to provide the Services pending resolution of the dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

## **18. ATTORNEY FEES**

If City initiates legal action, files a complaint or cross-complaint, or pursues arbitration, appeal or other proceedings to enforce its rights or a judgment in connection with this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs. This Section 18 survives the expiration/termination of this Agreement.

## **19. THIRD PARTY BENEFICIARIES**

There are no intended third party beneficiaries of this Agreement.

## **20. WAIVER**

Neither acceptance of the Services nor payment thereof shall constitute a waiver of any contract provision. City's waiver of any breach shall not be deemed to constitute waiver of another term, provision, covenant, or condition or a subsequent breach, whether of the same or a different character.

## **21. ENTIRE AGREEMENT**

This Agreement represents the full and complete understanding of the Parties, of every kind or nature, and supersedes any and all other agreements and understandings, either oral or written, between them. Any modification of this Agreement will be effective only if in writing and signed by each Party's authorized representative. No verbal agreement or implied covenant will be valid to amend or abridge this Agreement. If there is any inconsistency between any term, clause, or provision of this main Agreement and any term, clause, or provision of the attachments or exhibits thereto, the terms of the main Agreement shall prevail and be controlling.

## **22. INSERTED PROVISIONS**

Each contractual provision or clause that may be required by law is deemed to be included and will be inferred in this Agreement. Either party may request an amendment to cure any mistaken insertion or omission of a required provision.

## **23. HEADINGS**

The headings in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit, or amplify the terms or provisions of this Agreement.

## **24. SEVERABILITY/PARTIAL INVALIDITY**

If any term or provision of this Agreement, or their application to a particular situation, is found by the court to be void, invalid, illegal or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other terms and provisions of this Agreement or their application to specific situations shall remain in full force and effect.

## **25. SURVIVAL**

All provisions which by their nature must continue after the Agreement ends, including without limitation those referenced in specific Sections herein, survive this Agreement and shall remain in full force and effect.

## **26. NOTICES**

All notices, requests, and approvals must be sent to the persons below in writing to the persons below, and will be considered effective on the date of personal delivery, the delivery date confirmed by a reputable overnight delivery service, on the fifth calendar day after deposit in the United States Mail, postage prepaid, registered or certified, or the next business day following electronic submission:

<b>To City of Cupertino:</b> Office of the City Manager 10300 Torre Ave., Cupertino CA 95014 Attention: Susan Michael Email: SusanM@cupertino.org	<b>To Consultant:</b> DIALOG Design, L.P. 126 Post Street, Suite 500 San Francisco, CA 94108 Attention: Dong Kim Email: DKim@dialogdesign.ca
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**27. EXECUTION**

The person executing this Agreement on behalf of Consultant represents and warrants that Consultant has the right, power, and authority to enter into this Agreement and carry out all actions herein, and that he or she is authorized to execute this Agreement, which constitutes a legally binding obligation of Consultant. This Agreement may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

**IN WITNESS WHEREOF**, the parties have caused the Agreement to be executed on the Effective Date stated earlier in this Agreement.

**CITY OF CUPERTINO**

A Municipal Corporation

By \_\_\_\_\_

Name Tina Kapoor

Title Interim City Manager

Date \_\_\_\_\_

**CONSULTANT**

DIALOG Design L.P. per its General  
Partner DIALOG Holdings USA, Inc.

By \_\_\_\_\_

Name Dong Kim

Title Authorized Signing Officer

Date \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
MICHAEL K. WOO  
Senior Assistant City Attorney

**ATTEST:**

\_\_\_\_\_  
KIRSTEN SQUARCIA  
City Clerk

Date \_\_\_\_\_



June 2, 2025

Susan Michael  
Capital Improvement Programs Manager  
Public Works, City of Cupertino  
10350 Torre Ave  
Cupertino, CA 95014

Dear Susan,

**Re: City of Cupertino City Hall Annex Design Continuation  
Fee Proposal  
Our File: TBD (Previous Project No. 2005958)**

We are pleased to present this Fee Proposal for the City of Cupertino City Hall Annex Design Continuation on behalf of DIALOG Design LP (referred to as DIALOG in this document and in project documentation).

We have previously contracted with the City to provide a design of temporary City Hall Annex in 2022 and have completed the Design Development phase of the project. Based on the funding availability, the project was cancelled. We understand the city would like to continue the project design. This proposal based on you feedback on 5/25/2025.

## 1. SCOPE OF THE PROJECT

We understand the Scope of the Project to be generally as follows:

Project Name: City of Cupertino City Hall Annex Design  
Project Location: 10455 Torre Ave, Cupertino, CA 95014  
Owner Name: City of Cupertino  
Major Building Functions: City Hall Annex Office and Public Service Building  
Approximate Building Area: ±\$5,800 SF  
Construction Cost Budget: ±\$6.5 million TBD  
Project Delivery Methodology: Design Bid Build, Stipulated Sum  
Anticipated LEED or alternative body's Certification target: California Building Code  
Reference Information or Documents: DIALOG's Design Development Project Documents dated 1/23/2023

## 2. PROJECT SCHEDULE

We understand the intent of the project schedule to be generally as follows:

- Value Engineering: within 1 month of the project authorization
- Planning Department Review and Approval: within 3 months of the Planning Submittal
- Construction Documents: within 3 months of the Planning Submittal Approval
- Permitting: 3 months anticipated
- Bidding and Contracting: 2 months anticipated
- Construction Administration: 6 months anticipated

## 3. SCOPE OF BASIC SERVICES

**3.1. Basic Service Disciplines.** We will provide Basic Services in the following disciplines:

- Architecture: DIALOG
- Interior Design: DIALOG
- Structural Engineering: ZFA
- Mechanical Engineering: Litzenberger Engineering
- Electrical Engineering: WKM, Inc.
- Landscape Architecture: Dillingham and Associates
- EOC Low Voltage/Data: Interface Engineering

**3.2. Scope of Basic Services.** Our Basic Services in these disciplines will consist of the following phases:

- **Project Initiation/Schematic Design/Design Development for Low Voltage/Data Scope only**
- **Value Engineering/Project Restart**
- **Construction documents**
- **Permit**
- **Bidding**
- **Construction Administration**

**3.3. Scope of Service Definitions.** The areas and scopes of work for our Basic Services listed above in 3.1 and 3.2 are defined as:

- DIALOG's Standard Terms and Conditions (Schedule 1)

**3.4. Bid Packages and Deliverables.** Our Basic Services include the following bid packages and deliverables:

- Value Engineering Confirmation Report in PDF format
- 95% Construction Documents Drawings and Specifications in PDF format
- Permit Submittal Drawings and Specifications in PDF format

**3.5. Construction Cost.**

- Construction Cost Estimates will be prepared by:
  - The construction manager, engaged by others.
- The Owner's Construction Cost Budget and the Construction Cost Estimates shall include:
  - A design and pricing contingency to provide for the evolution of the design and refinement of the Construction Cost Estimate
  - An escalation contingency to cover price escalation from the time a Construction Cost estimate is prepared to the time when bids are received
  - A Construction Contingency to cover necessary design and construction changes

**3.6. Owner Responsibilities.** Responsibilities of the Owner are defined by the following documents:

- DIALOG's Standard Terms and Conditions.
- All geotechnical (soils), survey, hazardous material and environmental services and consultants are to be provided by the Owner; DIALOG does not provide these services.

And as listed below:

- Provision of existing conditions drawings and reports fully documenting the site, existing building and existing building systems in a usable digital format
- Payment of LEED or a similar body's registration and certification fees, and Third Party fees including model review fees.
- Engagement of Commissioning Agent as required by the Agency Having Jurisdiction
- Engagement of Civil Engineer if the Fiber Infrastructure Connection between the City Hall and the Annex requires site work.

**4. PROJECT SPECIFIC UNDERSTANDING**

- a. Planning Department Review submittal package generation, based on our previous submittal, is included.
- b. Design services outlined in this proposal account for the structural design requirement for essential services structural requirement.
- c. The electrical system design include provisions for portable generator connection, and UPS battery backup system.
- d. Photovoltaic (PV) system design requirement will be included as design criteria document for deferred submittal document by a design-build PV contractor.
- e. We will provide requirement documents and provide engagement related to the PG&E power service application. We request the City provides all applications and related fees.
- f. CMO/Council presentation and Construction Documents 3D renderings are excluded in this proposal.
- g. Emergency Operational Center Low voltage system designer proposal is included in this proposal. The design elements include:
  - i. Low voltage and Audio Visual System design to work with the City's existing equipment to design an Emergency Operation Center (EOC)
  - ii. Design of Fiber Infrastructure connection between the City Hall and the Annex. (This scope may require engagement of a civil engineer. The civil engineering is not included in this proposal.)

**5. FORM OF AGREEMENT**

We understand that the City will provide City's Standard Contract. We request that terms outlined in the proposal, including the Standard Terms and Conditions are considered by the City. We propose to work with the City to enter a mutually agreed contract.

**6. FEE FOR BASIC SERVICES**

Our Base Fee for the Basic Services set out in this Letter is as follows:

	<b>BASE DESIGN DISCIPLINES</b>	<b>EOC LOW VOLTAGE</b>	<b>SUBTOTAL</b>
Predesign/Investigation	\$1,640.00	\$5,100.00	\$6,740.00
Schematic Design	\$1,640.00	\$12,700.00	\$14,340.00
Design Development	\$2,090.00	\$31,500.00	\$33,590.00
Value Engineering/ Restart	\$46,303.00	n/a	\$46,303.00
Construction Documents	\$142,705.00	\$42,450.00	\$185,155.00
Permitting	\$21,945.00	\$4,000.00	\$25,945.00
Bidding	\$16,513.00	\$3,100.00	\$19,613.00
Construction Contract Admin	\$97,057.00	\$19,500.00	\$116,557.00
<b>TOTAL</b>	<b>\$329,893.00</b>	<b>\$118,350.00</b>	<b>\$448,243.00</b>

Reimbursable Expenses \$10,000.00 NTE

## 7. FEE FOR ADDITIONAL SERVICES

Our fee for Additional Services will be calculated based DIALOG's current Schedule of Hourly Rates, or will be based on a mutually agreed-upon fixed fee. The Schedule of Hourly Rates will be updated from time to time to reflect payroll costs.

## 8. REIMBURSABLE EXPENSES

Expenses incurred in the provision of our Basic, Additional, and Specialty Consultant Services shall be reimbursed in addition to our fees and as outlined below:

- Billed at our cost plus 10% for administration.

## 9. ATTACHMENTS AND REFERENCES

Please find the following documents attached:

- DIALOG's US Standard Terms and Conditions bound into this agreement as Schedule 1
- DIALOG's Schedule of Hourly Rates
- DIALOG's Project Budget Worksheet

## 10. NOTICES

Any notice related with the present Agreement shall be in writing and in English and shall be delivered by hand or sent by registered post or email (in any case with a read receipt or written acknowledgement) to the following addresses:

If to DIALOG:

Dong Kim  
Partner  
126 Post St Fl 5  
San Francisco, CA 94108  
[dkim@dialogdesign.ca](mailto:dkim@dialogdesign.ca)

If to Client

Susan Michael  
Capital Improvement Programs Manager  
Public Works, City of Cupertino  
10350 Torre Ave  
Cupertino, CA 95014  
[susanm@cupertino.gov](mailto:susanm@cupertino.gov)

With a copy to:

Attention: Michael Markowski, Director of Risk  
and Commercial Management  
[mmarkowski@dialogdesign.ca](mailto:mmarkowski@dialogdesign.ca)

Please do not hesitate to call if you wish to review this letter in detail.

Respectfully,

**DIALOG Design Limited Partnership**

By its General Partner  
DIALOG Holdings USA Inc.

Per



Dong Kim, Authorized Signing Officer

6/2/2025

Date

## SCHEDULE 1: DIALOG STANDARD TERMS AND CONDITIONS

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These Standard Terms and Conditions shall form part of the Agreement to which they are attached.

### Definitions

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**Additional Services.** *Additional Services* are any services that are not set forth in the Basic Services. Additional Services include, but are not limited to (1) changes in the Basic scope of work, (2) services due to latent and/or subsurface conditions, (3) services due to changed conditions, (4) services due to unforeseen conditions or circumstances during the construction phase of the project, (5) any service not reasonably within the Basic Services envisioned, at the time the parties enter into the Agreement.

**Agreement.** The *Agreement* is defined to be the Fee Proposal/Letter of Agreement between DIALOG and the Owner, these Terms and Conditions, and the other documents that are referenced and included as part of the Agreement in the Fee Proposal/Letter of Agreement (and any subsequent amendments, addenda to or revision to the Fee Proposal/Letter of Agreement). The *Agreement* incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all prior agreements, covenants, and understandings, whether oral or written, are superseded and merged in this *Agreement*.

**Basic Services.** The basic scope of services set forth in the Fee Proposal/Letter of Agreement (hereinafter referred to as the "*Basic Services*") by DIALOG for the Owner for the Project.

**Contract Documents.** The *Contract Documents* consist of the drawings, specifications, and any subsequent revisions, addenda, to such drawings and specifications, produced and issued by DIALOG.

**Contractor or Contractors.** The contractor or contractors, (hereinafter referred to as the "*Contractor*"), retained by the Owner to construct the Project. There may be multiple *Contractors* (more than one) retained by the Owner to construct the Project.

**DIALOG.** The entity, *DIALOG* entering into the Agreement to provide professional services.

**Instruments of Service.** The *Instruments of Service* are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by DIALOG and DIALOG's consultants under the Agreement and their respective professional services agreements. *Instruments of Service* may include, without limitation, studies, surveys, models, sketches, drawings, specifications, calculations, and reports, written communications including correspondence, letters, memorandums, emails, faxes, notes, and other similar material. These *Instruments of Service* may be in the form of hardcopies, electronic files, or both.

**Owner.** The person(s) or entity (hereinafter referred to as the "*Owner*") entering into the Agreement with DIALOG.

**Party or Parties.** *Party* refers to DIALOG or the Owner, and *Parties* refers to DIALOG and the Owner.

**Project.** The specific project (hereinafter referred to as the "*Project*") for which DIALOG has entered into the Agreement to provide professional services to the Owner.

**Terms and Conditions.** "*Terms and Conditions*" refers to this Schedule 1: DIALOG Standard Terms and Conditions that outline the specific terms and conditions of the Agreement for services offered by DIALOG to the Owner for the Project.

### Responsibilities of DIALOG DESIGN LP

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The responsibilities of DIALOG are expressly limited to those services as described in this Agreement.

Where services involve:

- The provision of documents using Building Information Modelling, DIALOG does not give any express or implied warranty relating to the accuracy of quantities of construction materials, building systems, furnishings or equipment indicated, whether extracted from the model by DIALOG or by others. It is understood that the information provided in self-extracting files is provided for the convenience of the user and does not form part of the Contract Documents and further that DIALOG is in no way responsible for any unauthorized use of such information and will not be responsible of any loss or damages caused by errors or omissions in these files. Where DIALOG provides such information, it will be subject to a detailed disclaimer documenting the terms of use under which the information is provided. Because data stored in electronic media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that the Owner shall indemnify, defend and hold harmless DIALOG and DIALOG's Consultants, and the officers and employees of any of them from and against any and all claims, liabilities, damages, losses and

costs, including but not limited to costs of defense arising out of the use by the Owner or others of Instruments of Service or data in electronic media form, except to the extent the indemnified party is found to be solely liable.

- The provision of Construction Cost Estimates, DIALOG does not give any express or implied warranty relating to the accuracy of these estimates
- Energy modeling, DIALOG does not give any express or implied warranty that energy modeling is an accurate representation of utility charges
- Zoning or Land Use Interpretation, including representation or review with, or in consideration of, Authorities Having Jurisdiction, DIALOG does not give any express or implied warranty relating to the achievement of any specific goals, targets or undertakings in this regard
- Renovations or additions to existing facilities or property, DIALOG will review as-built information or documentation specifically made available to DIALOG as part of this project and field observations of existing conditions clearly visible at the time of review of the existing facilities or property for this project. DIALOG is not responsible for the accuracy of any information supplied to DIALOG and will rely on such documentation and field observations. DIALOG's scope of work includes only the specific scope of the project stated in the Agreement, and DIALOG is in no way responsible for other portions of existing buildings, facilities or property and will be indemnified and held harmless in this regard.
- Shop Drawing Review. DIALOG shall review Contractor's submittals, such as shop drawings, product data, samples, and other data, which the Contractor is required to submit, but only for the purpose of checking for general conformance with the design concept and the information shown in the Contract Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights, or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. DIALOG's review shall be conducted with reasonable promptness while allowing sufficient time in DIALOG's judgment to permit adequate review. Review of a specific item shall not indicate that DIALOG has reviewed the entire assembly of which the item is a component. DIALOG shall not be responsible for any deviations from the Contract Documents not brought to the attention of DIALOG in writing by the Contractor. DIALOG shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

Where the project will be subject to the LEED or similar Certification processes, the Owner understands that processes and procedures are determined by the reviewing body, are outside the control of DIALOG, may not be uniformly implemented and may be subject to change. Further, LEED certification will require input and effort from the Owner, as well as from other consultants, contractors and other parties associated with the project that are not party to this Agreement. DIALOG does not give any express or implied warranty or assurance that LEED certification will be attained for or by the Project, and the Owner releases DIALOG and DIALOG's Consultants from any claims or liabilities arising out of or relating to the failure of the Project to attain or retain any expected LEED certification.

Owner acknowledges that building, fire, mechanical, electrical and federal, state, and local codes are less than precise and are subject to varying interpretations by authorities having jurisdiction over the Project. The Owner acknowledges that DIALOG is obligated to prepare drawings and specifications such that the Project, if properly constructed in accordance therewith, will comply with applicable legal requirements only to the extent such legal requirements are actually established when the drawings and specifications are prepared. Codes applicable to the project are those enforced at the time of building permit submittal to the applicable jurisdiction. DIALOG shall have no obligation to anticipate any interpretations of such legal requirements and shall have no liability to any person based upon such interpretations. The Owner also acknowledges that many small community or large institutional jurisdictions regularly sub-contract plan-checking and approval services to other jurisdictions without the knowledge of DIALOG or Owner. The Owner acknowledges therefore, that extra construction costs may accrue as a result of accommodating specific, but unpredictable, partial interpretations of the codes; and differences in these partial interpretations between the various governing authorities, subsequent to initiation of Project construction. DIALOG shall in no way be held liable for increased construction costs associated with these partial or overlapping interpretations.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Owner acknowledges that the requirements of the ADA will be subject to various and possibly contradictory interpretations, and may require expert interpretation. In such cases and when requested by DIALOG, the Owner shall consult with its attorney or other qualified expert to review the design and make appropriate recommendations. DIALOG will use its professional efforts to interpret applicable ADA and other federal, state and local applicable codes, and code amendments as they apply to new work. DIALOG however, cannot and does not warranty or guarantee that the Owner's Project will fully comply with all interpretations of the ADA requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations or court decisions as they apply to the Project. ADA site surveys when requested by the Owner will be billed as an Additional Service on a time and materials basis unless otherwise noted.

Where services involve Construction Phase-Contract Administration:

- DIALOG shall not be required to make exhaustive or continuous reviews of the Work beyond General Review at intervals appropriate to the stage of the construction that DIALOG, in its professional discretion, considers necessary to become familiar with the progress and quality of the Work and to determine that the Work is in general conformity with the construction contract documents; nor shall the Construction Phase Contract Administration services be reduced beneath this scope of service
- DIALOG shall not supervise, direct, or have control over the Contractor's work. DIALOG shall not be responsible for the acts or omissions of the Contractor or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in Accordance with the Contract Documents
- DIALOG shall not have control or responsibility for construction ways, means, methods, techniques, sequences or procedures selected by the contractor nor for the contractor's safety precautions or programs in connection with the work
- The Owner acknowledges that the need for Additional Services may arise for reasons that include acceptance of Contractor-proposed substitutions that require revisions to the Construction Documents, the use of other software in addition to Onware for Construction Contract Administration, an extensive or unreasonable number or complexity of Constructor claims, requests for information (RFIs) or proposed substitutions, major defects or deficiencies in the Work or default by either the Owner or the Constructor under a Construction Contract, and dispute resolution proceedings arising out of the Construction Contract
- Certificates for payment issued by DIALOG will constitute a representation to the Owner, based on such observation and review that, to the best of DIALOG's knowledge, information and belief, the Contractor's Work has progressed to the point indicated and the Work is generally in accordance with the design intent of the Contract Documents.
- Certificates for Payment issued by DIALOG shall not be a representation that DIALOG has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the Contract Price, or that the Contractor has discharged the obligations imposed on him by law.

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***Responsibilities of the Owner***

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The Owner shall provide full information required for DIALOG to provide their services including:

- A program setting forth complete, accurate, and reliable information regarding Project objectives, constraints, schedules, and criteria
- A Construction Budget, including reasonable design, escalation and construction contingencies
- All necessary existing building or property information, including but not limited to surveys, subsurface, geotechnical, environmental or hazardous materials investigations, specialists' reports, and tests, and all available existing building information and documentation.

The Owner shall:

- Examine all documents and requests presented by DIALOG and promptly provide, in writing, decisions, approvals, and instructions
- Obtain and pay the cost of all required consents, approvals, licenses, and permits from authorities having jurisdiction
- Obtain and pay the cost of all specialty consultants
- Authorize a person to act on the Owner's behalf
- Promptly fulfill the Owner's responsibilities for the orderly progress of the services of DIALOG
- Immediately notify DIALOG in writing if the Owner observes or otherwise becomes aware of a fault or defect in the Project or any nonconformity with the requirements of the Construction Contract.

It is understood and agreed that the Owner shall contract directly with other consultants providing other design professional services for other disciplines other than that of DIALOG. The Owner agrees that DIALOG shall have no responsibility for any portion of the Project designed by other consultants engaged by the Owner. DIALOG shall not be required to coordinate, check or verify other consultants' construction documents or reports and shall be entitled to rely on the accuracy and completeness thereof, as well as the compliance of such documents or reports with applicable laws, codes, statutes, ordinances and regulations. The Owner agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless DIALOG from any damages, liabilities or costs, including without limitation reasonable attorneys' fees and costs and costs of defense, arising out of or connected in any way with the services performed by other consultants engaged by the Owner. The Owner further agrees to require all other consultants engaged by the Owner to coordinate their construction documents or reports with those of DIALOG, to promptly report any conflicts or inconsistencies to DIALOG and to cooperate fully with DIALOG in the resolution of those conflicts or inconsistencies.

Neither DIALOG nor its consultants shall assume any responsibility for the design or performance of any Design-Build systems and they shall be entitled to rely on the services provided by the Design-Build subcontractors or consultants for the Project. If a Design-Build subcontract is authorized by the Owner, the Design-Build

subcontractor and general contractor shall assume 100% liability for all professional design services provided, irrespective of performance specifications or drawings that may be provided by DIALOG or its consultants. Such full liability shall be incorporated into the agreements between the general contractor and its design-build subcontractor(s). If a Design-Build subcontractor is substituted after DIALOG's drawings have been coordinated with the drawing set, DIALOG's time required to review and re-coordinate the Design-Build design shall become Additional Services pursuant to this Agreement.

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**Payment**

The Owner shall pay DIALOG the fees as described in the attached Agreement, plus reimbursable expenses and all applicable taxes, and duties. Reimbursable expenses shall include all expenses reasonably incurred in the provision of their services such as plotting, photocopying, printing, courier, long distance telephone charges, travel, fax charges, postage, photography, renderings, models and consents, approvals, licenses, and permits applied for on behalf of the Owner.

The Owner shall pay for any additional services agreed to that are not included in services described in the attached Agreement. If the scope, size, budget, or schedule of the Project, or the scope of the services provided by DIALOG are changed, then the fees shall be equitably adjusted.

Payment shall follow the standard payment procedures of DIALOG unless provided otherwise in the attached Agreement. DIALOG will submit monthly invoices to the Owner for services rendered to the date of invoice. The Owner shall pay the full amount within 30 days of the date of invoice. Overdue accounts shall incur interest at 3% above prime rate. DIALOG may, at its discretion, suspend services for non-payment of accounts overdue by more than 60 days of the date of the invoice. DIALOG shall have no liability whatsoever to the Owner for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Owner.

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**Copyright & Use of Documents**

DIALOG and DIALOG's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Construction Documents, and shall retain all common law, statutory and other reserved rights, including copyrights.

Upon execution of the attached Agreement, DIALOG grants to the Owner a nonexclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, managing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement.

In the event the Owner uses the Instruments of Service without retaining DIALOG, the Owner releases DIALOG and DIALOG's consultants from all claims and causes of action arising from such uses and agrees to defend, indemnify and hold harmless DIALOG and DIALOG's consultants from all claims, damages, costs and expenses, including the attorneys' fees and the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service.

DIALOG will prepare the Instruments of Service solely for the use of the Owner. They may not be used, modified, or relied upon by any other party unless that party is specifically named by DIALOG in this Agreement as a beneficiary of the Instruments of Service. The Owner releases DIALOG and DIALOG's consultants from all claims and causes of action arising from such uses and agrees to defend, indemnify and hold harmless DIALOG and DIALOG's consultants from all claims, damages, costs and expenses, including attorneys' fees and the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the unauthorized use of or modifications to the Instruments of Service. If DIALOG terminates this Agreement as provided herein, the license granted in this section shall terminate.

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**Insurance**

**Professional Liability:** Throughout the term of this Agreement, DIALOG shall maintain in full force and effect professional liability insurance with a minimum limit of Two Million Dollars (\$2,000,000) per claim and Four Million Dollars (\$4,000,000) in the annual aggregate.

**Commercial General Liability:** Throughout the term of this Agreement, DIALOG shall maintain in full force and effect comprehensive general liability insurance. The amount of the insurance shall not be less than a combined single limit of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the annual aggregate, including completed operations and property damage coverage.

**Workers Compensation:** Throughout the term of this Agreement, DIALOG shall maintain in full force and effect Workers Compensation insurance. The amount of the insurance shall be no less than the statutory state limits.

**Certificates of Insurance:** Certificates of Insurance reasonably acceptable to the Owner shall be maintained throughout the duration of the Project.

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### ***Limitation of Liability***

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In recognition of the relative risks, rewards, and benefits of the Project to both the Owner and DIALOG, the risks have been allocated so that to the fullest extent permitted by law, the total liability, in the aggregate, of DIALOG and its employees, officers, directors, members, partners, agents, and consultants, to Owner, its subsidiaries and/or affiliated companies and its respective employees, officers, directors, members, partners, agents, and anyone claiming by, through, or under Owner, for any and all injuries, claims, losses, expenses, or damages, whatsoever arising out of, resulting from or in any way related to DIALOG's services, the Project or this Agreement, or any Addenda, from any cause or causes whatsoever, including but not limited to negligence, breach of contract, negligent misrepresentation, breach of statutory duty, breach of express or implied contract or warranty shall be limited to the greater of fees paid for Basic Services under this Agreement or \$100,000, and in no event greater than DIALOG's available proceeds of professional liability insurance coverage. The Owner shall include provisions in the Owner/General Contractor Agreement requiring that the Contractor defend, indemnify and hold harmless DIALOG for claims by the Contractor's employees. The Contractor shall name Owner and DIALOG as additional insureds on the Contractor's general liability policy. The Contractor shall also procure contractual liability coverage sufficient to cover the defense and indemnity obligations being assumed and provide evidence of this coverage to all indemnified parties. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

The Owner acknowledges that either DIALOG or the Owner may engage consultants on behalf of and for the benefit and convenience of the Owner; and agrees that DIALOG shall not be liable to the Owner, in contract or in tort, for the acts, omissions or errors of such consultants whether retained by DIALOG or the Owner.

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### ***Indemnity***

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DIALOG and the Owner shall each indemnify (but not defend) and hold harmless the other from and against all claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this contract, but only the extent that such claims are caused by negligent errors, or negligent omissions of the party from whom indemnification is sought or a negligent breach of this contract by the party from whom indemnification is sought. Each party's indemnification responsibility to the other party shall be limited in accordance with that party's respective share of contributory fault as determined in a binding dispute proceeding. This indemnification shall survive this contract. In any event, DIALOG shall not, in any circumstances, be liable for any consequential loss or damage including but not limited to loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damage, howsoever caused. DIALOG shall not be responsible for the actions of others that are contrary to or inconsistent with DIALOG's directions or documentation.

In no event shall the officers, directors, owners or employees of DIALOG be personally liable for any obligation under this Agreement, for any alleged breach of this Agreement, for any direct, indirect, incidental or consequential losses or damage of any kind or nature whatsoever. The Parties agree that the sole and exclusive remedy by all Parties for any and all obligations and claims shall be against the contracting entities and not against any owner, shareholder, officer, director or employee. Owner expressly waives any applicable statute or regulation to the contrary. The Owner shall not commence any claim or proceeding in contract, tort, breach of statutory duty or otherwise against any current or former employee, shareholder, owner, officer or director of DIALOG arising out of acts, omissions or errors of such person pursuant to this contract.

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### ***Mutual Waiver of Consequential Damages***

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Neither Party shall be liable to the other Party for any indirect, punitive or consequential losses, including but not limited to loss of revenue, loss of profit or loss of opportunity allegedly suffered by the claiming Party, whether arising in contract, tort (including negligence) or under any other theory of law.

Nothing in this agreement shall be construed as limiting, in any way, the ability of either party to maintain claims for contribution and indemnity against the other party for claims or actions advanced by others.

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### ***Standard of Care***

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DIALOG will perform the services to the Standard of Care ordinarily exercised by other members of the profession under similar circumstances, at the same time and in the same or a similar locale.

DIALOG shall be entitled to rely upon product information published by manufacturers and shall not be held liable for relying on information or representation which it reasonably believes to be accurate.

DIALOG shall not:

- i. be required to make exhaustive or continuous on-site reviews
- ii. be responsible for acts or omissions of the contractor, subcontractors, suppliers or any other persons performing any of the Work, or for failure of any of them to carry out the Work in accordance with the contract

- documents
- iii. have control, charge, or supervision over, or responsibility for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the Work
  - iv. be responsible for design work shown on documents prepared by others unless specifically identified and certified by DIALOG
  - v. be responsible for any and all matters arising from mold, mildew or other fungus substances
  - vi. be responsible for existing facilities and property other than as specifically included in the specific scope of the project stated in the Agreement
  - vii. be responsible for technology failures beyond its control.
  - viii. be responsible for breach of express or implied warranties, and DIALOG offers no such warranties in the performance of its services pursuant to this Agreement.

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#### ***Toxic or Hazardous Substances***

DIALOG is not responsible for the identification, reporting, analysis, evaluation, presence, handling, removal or disposal of Toxic or Hazardous Substances at or adjacent to the place of work; or for the exposure of persons, property or the environment to Toxic or Hazardous Substances at or adjacent to the place of work. The Owner will have the duty to inform DIALOG of the presence, or suspected presence, of asbestos, mold or any other Toxic or Hazardous Substances associated with the work at such time as the Owner becomes aware of any such actual or suspected presence. DIALOG does not prepare Toxic or Hazardous Material Abatement specifications. Both Parties acknowledge that DIALOG's scope of services does not include any services related to the presence of any Toxic or Hazardous Substances. In the event DIALOG or any other party encounters any Toxic or Hazardous Substances, or should it become known to DIALOG that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of DIALOG's services, DIALOG may, at its option and without liability for direct, consequential or any other damages, suspend performance of its services under this Agreement until the Owner retains appropriate consultants or contractors to identify and abate or remove the Toxic or Hazardous Substances and warrants that the jobsite is in full compliance with all applicable laws and regulations. The Owner shall have the duty to promptly retain a qualified expert to safely remove, encapsulate or satisfy any and all regulatory agency's requirements for the resolution of such asbestos or other Toxic or Hazardous Substances. To the fullest extent permitted by law, the Owner shall defend, indemnify and hold harmless DIALOG and its consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees and defense costs, arising out of, or resulting from, or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any Toxic or Hazardous Substances that exist on, about or adjacent to the Project site, including without limitation the performance of the work in an area affected by asbestos, mold or another Toxic or Hazardous Substances that have not been rendered harmless, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a Party or person.

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#### ***Termination***

Unless otherwise stated in the attached Agreement, the services of DIALOG terminate one year after certification of Substantial Performance of the Work. This Agreement may be cancelled at any time, by either party, upon one week's written notice. All fees and reimbursable expenses for work completed to the date of termination, as well as termination expenses incurred by DIALOG, shall be paid by the Owner.

If the Owner fails to make payment to DIALOG in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for suspension or termination of this Agreement by DIALOG. If DIALOG'S services are suspended for more than ninety (90) days, consecutive or in aggregate, DIALOG may terminate this Agreement.

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#### ***Dispute Resolution***

In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Owner and DIALOG agree to use all reasonable efforts to resolve such disputes between themselves.

The Owner and DIALOG further agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Party seeking to initiate mediation shall do so by submitting a formal, written request to the other Party to this Agreement. The Parties shall share equally in the mediator's fees and costs and bear their own attorneys' fees, expert fees, and costs. This section shall survive completion or termination of this Agreement, but under no circumstances shall either Party call for mediation of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceedings to litigate such claim or dispute under the applicable law. The Parties further agree that either Party may, at their discretion, attend the mediation remotely by videoconference

or other reasonable means, regardless of whether there is a health pandemic, epidemic or a stay-at-home order or recommendation in place.

If the Parties do not resolve a claim, dispute or matter in question through mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction in the county in which the Project is located. Each Party will bear its own attorneys' fees, expert fees, and costs incurred in any such binding dispute proceeding.

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### **Governing Laws and Assignment**

This Agreement shall be governed by the laws of the State of California. Neither the Owner nor DIALOG shall assign their obligations without the written consent of the other. Such consent shall not be unreasonably withheld.

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### **General Provisions**

Architects are licensed and regulated by the California Architects Board located at 2420 Del Paso Rd, Suite 105, Sacramento, CA 95834.

**Advertising.** The Owner grants permission to DIALOG to obtain photographs of the completed Project for DIALOG's marketing needs, and DIALOG may include reference to and photographs from the Project on its website and in its marketing materials and place DIALOG's signage upon the Project site during construction.

**Delay.** The Owner agrees that DIALOG is not responsible for any claims, damages, fees or costs arising directly or indirectly from any delays for causes beyond DIALOG's control. For purposes of this Agreement, such causes include but are not limited to, strikes or other disputes; severe weather disruptions or other natural disasters; fires, riots, wars, armed conflicts, or other emergencies or acts of God; failure of any government agency to act in a timely manner; failure of performances by the Owner or the Owner's contractors or consultants; discovery of any hazardous substances or differing site conditions; or health pandemics or epidemics such as COVID-19 or later waves or variants of COVID-19. In addition, if the delays resulting from any such causes increase the cost or time required by DIALOG to perform its services in an orderly and efficient manner, DIALOG shall be entitled to an equitable adjustment of schedule and additional compensation.

**Certifications.** DIALOG shall not be required to issue certificates which extend its liability beyond that undertaken under this Agreement. Legal Certificates requested of DIALOG which are not part of the building permit will become an Additional Service. All such certifications shall be considered as "Declarations," not Certifications. DIALOG reserves the right to change or negotiate any language that would alter DIALOG's risks, or cost or availability of professional liability insurance.

**Independent Contractor.** DIALOG shall have the status of an independent contractor, not that of an agent or employee. DIALOG shall be solely responsible for the compensation, benefits, contributions and taxes, if any, of its employees, and agents.

**Headings/Titles.** The section headings used in this Agreement are intended principally for convenience and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the parties to this Agreement.

**Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of DIALOG and Owner and their successors and assigns, but neither DIALOG nor Owner may assign its obligations or delegate its duties under this Agreement (including, but not limited to, monies that are due or monies that may be due) without the written consent of the other, which consent shall not be unreasonably withheld.

**No Third-Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or DIALOG. DIALOG's services under this Agreement are being performed solely for the Owner's benefit, and no other party or entity shall have any claim against DIALOG because of this Agreement or the performance or nonperformance of services hereunder. The Owner and DIALOG agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

**Severability.** In the event any of the provisions of these Terms and Conditions should be found to be unenforceable or invalidated, it shall be stricken and the remaining provisions shall be enforceable.

**Entire Agreement.** The signing of this Agreement by the Owner constitutes acceptance of the terms and conditions of this Agreement. This Agreement constitutes the entire understanding of the Parties, supersede all prior negotiations, representations, or written or oral agreements, there are no representations made other than as set forth herein. This Agreement may be modified or amended only in writing and where such written modifications or amendments are signed by both Owner and DIALOG.

**Approval Authority.** Neither party will be bound by this Agreement unless signed by an authorized representative of the party.

**DIALOG® HOURLY RATES****Effective January 1, 2025**

Partner / Senior Management Team	\$355.00/hour
Principal Associate	\$325.00/hour
Associate	\$295.00/hour
Project Manager Senior	\$295.00/hour
Project Manager Senior Intermediate	\$265.00/hour
Project Manager Intermediate	\$225.00/hour
<b>ARCHITECTURAL</b>	
Senior	\$265.00/hour
Senior Intermediate	\$225.00/hour
Intermediate	\$185.00/hour
Junior	\$160.00/hour
<b>INTERIOR DESIGN</b>	
Interior Design Lead	\$345.00/hour
Senior	\$210.00/hour
Senior Intermediate	\$180.00/hour
Intermediate	\$170.00/hour
Junior	\$145.00/hour
<b>SUSTAINABLE DESIGN</b>	
Senior	\$265.00/hour
Senior Intermediate	\$215.00/hour
Intermediate	\$195.00/hour
Junior	\$160.00/hour
<b>PLANNING / URBAN DESIGN</b>	
Senior Planner / Urban Designer	\$230.00/hour
Senior Intermediate Planner / Urban Designer	\$200.00/hour
Intermediate Planner / Urban Designer	\$180.00/hour
Junior Planner / Urban Designer	\$145.00/hour
<b>TECHNOLOGIST (all categories)</b>	
Senior	\$225.00/hour
Senior Intermediate	\$195.00/hour
Intermediate	\$180.00/hour
Junior	\$145.00/hour
<b>CONTRACT ADMINISTRATION</b>	
Senior	\$255.00/hour
Senior Intermediate	\$215.00/hour
Intermediate	\$195.00/hour
Junior	\$140.00/hour
<b>SPECIFICATIONS</b>	
Senior Specification Writer	\$255.00/hour
Senior Intermediate Specification Writer	\$195.00/hour
Intermediate Specification Writer	\$180.00/hour
Junior Specification Writer	\$145.00/hour
<b>ADMINISTRATION</b>	
Senior Administration	\$175.00/hour
Senior Intermediate Administration	\$155.00/hour
Intermediate Administration	\$135.00/hour
Junior Administration	\$115.00/hour
<b>STUDENT (all categories)</b>	\$135.00/hour

*The Schedule of Hourly Rates will be updated from time to time. Unless otherwise stipulated, year-over-year increases for multi-year agreements will be calculated on a Cost Price Index (CPI) basis.*

DIALOG®  PROJECT BUDGET WORKSHEET		CITY OF CUPERTINO CITY HALL ANNEX DESIGN CONTINUATION											6/2/2025	
		Architectural				Landscape	Structural	Mechanical	Fire Sprinkler Criteria	Electrical	Telecom/AV		TOTAL	NOTES
		DIALOG				DILLINGHAM & ASSOCIATES	ZFA	LITZENBERGER	LITZENBERGER	WKM Inc.	Interface			
		Principal in Charge	Interior Design Lead	Project Manager	Job Captain						Base Scope	Fiber Backbone Interconnect		
Hourly Rate		\$ 355	\$ 315	\$ 225	\$ 185									
Task	Activities													
Design Documentation														
June 2025 to August 2026														
1.0 PREDESIGN AND INVESTIGATION														
- Project coordination				4	4							\$ 3,900.00	\$ 1,200.00	
2.0 SCHEMATIC DESIGN														
- Project coordination				4	4							\$ 10,700.00	\$ 2,000.00	
3.0 DESIGN DEVELOPMENT														
- Project coordination				6	4							\$ 25,000.00	\$ 6,500.00	
Sub-Total Effort		0	0	14	12									
Sub-Total Cost		\$ -	\$ -	\$ 3,150	\$ 2,220									
Sub-Total Cost By Discipline		\$ 5,370				\$ -	\$ -	\$ -	\$ -	\$ -	\$ 39,600	\$ 9,700		
		\$ 54,670												
4.0 DESIGN RESTART/VALUE ENGINEERING						\$ 2,640.00	\$ 3,000.00	\$ 800.00	\$ 500.00	\$ 3,000.00				
Restart DD document review and project restart		2	2	8	4									
Value Engineering														
- Kick off meeting		2	2	2	2									
- VE design list generation and scope itemization		2	1	6	12									
- Cost Estimator coordination		2	0	2	0									
VE scope meeting and summary		2	1	4	4									
Generate confirmed DD package		1	1	4	16									
Update project schedule		0.5	0	2	0									
Plannin Review Preparation, Submittal, and Comment coordination (Submittal by the City)		0.5	0	4	16	\$ 2,880.00								
Coordinate Utility Applications														
- Electrical Service Upgrade		0	0	2	0					\$ 4,500.00				
- Sanitary Sewer (N/A, existing assumed to be ok)		0	0	0	0									
- Storm Water (N/A, existing assumed to be ok)		0	0	0	0									
- Gas (N/A due to electrification goal)		0	0	0	0									
- Domestic Water (N/A, existing assume to be ok)		0	0	0	0									
- Irrigation (N/A, existing assume to be ok)		0	0	0	0									
- Fire Water (Application by the city. Info to be furnished by the Design team)		0	0	2	0									
- Data (City to lead based on info furnished by the team)		0	0	1	0									
- Telephone (City to lead based on info furnished by the team)		0	0	1	0									
Coordinate and integrate wayfinding and art strategies		0.5	2	4	6									
Coordinate probable construction cost estimates with an estimator		2	0	2	0									
CMO/Council Presentation material - not included		0	0	0	0									
Attend CMO/Council meeting in person		0	0	0	0									
Sub-Total Effort		14.5	9	44	60									
Sub-Total Cost		\$ 5,148	\$ 2,835	\$ 9,900	\$ 11,100									
Sub-Total Cost By Discipline		\$ 28,983				\$ 5,520	\$ 3,000	\$ 800	\$ 500	\$ 7,500	\$ -	\$ -		
		\$ 46,303												

PROJECT BUDGET WORKSHEET	CITY OF CUPERTINO CITY HALL ANNEX DESIGN CONTINUATION											6/2/2025	
	Architectural				Landscape	Structural	Mechanical	Fire Sprinkler Criteria	Electrical	Telecom/AV		TOTAL	NOTES
	DIALOG				DILLINGHAM & ASSOCIATES	ZFA	LITZENBERGER	LITZENBERGER	WKM Inc.	Interface			
	Principal in Charge	Interior Design Lead	Project Manager	Job Captain						Base Scope	Fiber Backbone Interconnect		
Hourly Rate	\$ 355	\$ 315	\$ 225	\$ 185									
5.0 CONSTRUCTION DOCUMENTS					\$ 13,230	\$ 25,000	\$ 10,000	\$ -	\$ 11,800	\$ 34,000	\$ 8,450		
Prepare and Submit 95% Design Plans and Specifications													
- Code Plans	0	0	0.5	1									
- Site Plan including path of travel diagram	0	0	1	2									
- Plans	0	0	8	8									
- Reflected ceiling plans	0	0	4	4									
- Sections	0	0	8	8									
- Exterior Elevations	1	0	4	4									
- Interior Elevations	1	2	8	8									
- Schedules	8	2	16	10									
- Prepare 3D Color Rendering of the Building, including significant site elements - 2 views	0	0	0	0									Original proposal included 4 views. Updated to 2 per discussions.
- Complete details	4	2	16	28									
Incorporate agreed Sustainability and Energy Efficiency System Design Implementation. Energy modeling is excluded.	1	4	4	8									
FF&E Bid Package and Coordination	0.5	8	2	8									
Final Specification	4	0.5	14	0									
Coordinate probable construction cost estimates with an estimator	2	0	2	0									
QA/QC	16	2	8	0									
Consultant coordination	0.5	0	6	4									
Prepare and submit 95% CD	0.5	0.5	4	6									
Follow up with utility application													
- Electrical Service Upgrade	0	0	1	0									Utility application follow up as additional line item.
- Fire Water	0	0	0	0									
- Data (City to lead based on info furnished by the team)	0	0	1	0									
- Telephone (City to lead based on info furnished by the team)	0	0	0	0									
Solar design criteria									\$ 4,000				
Respond to all comments including constructability review and integrate where appropriate.	1	0	8	16									
Prepare and submit 100% CD	1	1	4	8									
Final LEED Scorecard (not anticipated)	0	0	0	0									Excluded per discussion.
Update Sustainability Strategy Implementation Plan (Basic Code Commissioning only. No enhanced commissioning anticipated)	0	0	8	8									Commissioning plan by the commissioning agent.
Attend and participate in the review meetings with City Staff and Stake holders. Document design review and decisions. (3 meetings)	4	2	9	2									
Sub-Total Effort	44.5	24	136.5	133									
Sub-Total Cost	\$ 15,798	\$ 7,560	\$ 30,713	\$ 24,605									
Sub-Total Cost By Discipline	\$ 78,675				\$ 13,230	\$ 25,000	\$ 10,000	\$ -	\$ 15,800	\$ 34,000	\$ 8,450	\$ 185,155	



PROJECT BUDGET WORKSHEET

CITY OF CUPERTINO CITY HALL ANNEX DESIGN CONTINUATION

6/2/2025

PROJECT BUDGET WORKSHEET	CITY OF CUPERTINO CITY HALL ANNEX DESIGN CONTINUATION											6/2/2025	
	Architectural				Landscape	Structural	Mechanical	Fire Sprinkler Criteria	Electrical	Telecom/AV		TOTAL	NOTES
	DIALOG				DILLINGHAM & ASSOCIATES	ZFA	LITZENBERGER	LITZENBERGER	WKM Inc.	Interface Base ScopeFiber Backbone Interconnect			
	Principal in Charge	Interior Design Lead	Project Manager	Job Captain									
Hourly Rate	\$ 355	\$ 315	\$ 225	\$ 185									
6.0 PERMITTING					2160	\$ 8,000	\$ 1,200			\$ 3,000	\$ 1,000	\$ 25,945	
Coordinate Building Permit Submittal by the team	1	0	4	8									
Update documents per city comments	2	0	12	24									
Sub-Total Effort	3	0	16	32									
Sub-Total Cost	\$ 1,065	\$ -	\$ 3,600	\$ 5,920									
Sub-Total Cost By Discipline	\$ 10,585				\$ 2,160	\$ 8,000	\$ 1,200	\$ -	\$ -	\$ 3,000	\$ 1,000		
7.0 BIDDING						\$ 1,000				\$ 2,500	\$ 600	\$ 19,613	
Prepare final approved bid package for the City's use in obtaining bid	1	0	4	8									
Prepare FF&E bid package for City's use in obtaining bid	0	2	6	6									
Provide prompt clarifications and responses to bidders on construction documents.	2	1	8	6									
Prepare addenda and drawing revisions	1	1	4	8									
Attend Pre-bid walks (one each for construction and furniture)	3	0	3	0									
Review Bids	1	0.5	2	0									
Sub-Total Effort	8	4.5	27	28									
Sub-Total Cost	\$ 2,840	\$ 1,418	\$ 6,075	\$ 5,180									
Sub-Total Cost By Discipline	\$ 15,513				\$ -	\$ 1,000	\$ -	\$ -	\$ -	\$ 2,500	\$ 600		
Construction Administration												\$ 116,558	
Six months anticipated													
8.0 CONSTRUCTION ADMINISTRATION (6 months anticipated)					\$ 6,280	\$ 16,000	\$ 2,000	\$ -	\$ 5,000	\$ 14,000	\$ 5,500		
Preparation of Proposal Request and Change Order Documents	2	0	10	14									
Evaluation of Change Order Proposals	4	0	10	0									
Prepare Clarifications to Construction Documents via RFIs	2	2	8	16									
Prepare Architect's Supplemental Instruction (ASI) if necessary	4	1	8	16									
Review and approve submittals	2	0.5	16	12									
Maintain submittal, RFI, Proposal Request, and Construction Change Logs	0	0	8	8									
Attend and particiapte OAC meetings, document observations, and provide meeting notes (Weekly OAC)	10	0	80	12									
Attend final walk through inspections and develop/prepare punch lists	2	0	6	2									
Participate in back punch walk (1 time)	0	0	4	2									
Review of closeout documents such as as-built, O&M Manuals, final reports, commissioning results, & ETC	0	0	4	4									
Coordinate with contractor and complete Sustainability/commissioning certification	0.5	0	4	0									
Prepare as-built drawings from contractor's redlines and provide pdf files	0.5	0	4	8									
Coordinate with other consultants and contractors	2	0	8	4									
Sub-Total Effort	29	3.5	170	98									
Sub-Total Cost	\$ 10,295	\$ 1,103	\$ 38,250	\$ 18,130	\$ 6,280	\$ 16,000	\$ 2,000	\$ -	\$ 5,000	\$ 14,000	\$ 5,500		
Sub-Total Cost By Discipline	\$ 67,778				\$ 6,280	\$ 16,000	\$ 2,000	\$ -	\$ 5,000	\$ 14,000	\$ 5,500		

DIALOG®  PROJECT BUDGET WORKSHEET	CITY OF CUPERTINO CITY HALL ANNEX DESIGN CONTINUATION											6/2/2025											
	Architectural				Landscape	Structural	Mechanical	Fire Sprinkler Criteria	Electrical	Telecom/AV		TOTAL	NOTES										
	DIALOG				DILLINGHAM & ASSOCIATES	ZFA	LITZENBERGER	LITZENBERGER	WKM Inc.	Interface													
	Principal in Charge	Interior Design Lead	Project Manager	Job Captain						Base Scope	Fiber Backbone Interconnect												
Hourly Rate	\$	355	\$	315	\$	225	\$	185															
Total Cost By Discipline	\$				206,903	\$	27,190	\$	53,000	\$	14,000	\$	500	\$	28,300	\$	93,100	\$	25,250		\$	448,243	\$448,243
TOTAL FEE													\$	448,243									
Reimbursement Costs													NTE Cost plus 10%					\$10,000					