



DESIGN PROFESSIONAL SERVICES AGREEMENT (MASTER) WITH

1. PARTIES

This Master Agreement is made by and between the City of Cupertino, a municipal corporation (“City”), and _____ (“Consultant”),
a _____ for _____ (“Project”),
_____ (“Project”),
and is effective on the last date signed below (“Effective Date”).

2. SERVICES

2.1 Scope of Services. Consultant agrees to provide the Services “as needed” and as set forth in the Scope of Services, attached and incorporated here as Exhibit A. The Services must comply with this Agreement and with each Service Order issued under the authority of the City Director of Public Works or his designee, in accordance with the following procedures. Consultant further agrees to carry out its work in compliance with the City’s Shelter In Place and Social Distancing Requirements, attached here and incorporated as **Exhibit A-A**.

2.2 Service Orders. Before issuing a Service Order the City Director of Public Works/Designee will request Services in writing and hold a meeting with Consultant to discuss it. Consultant will submit a written proposal that includes a specific Scope of Services, Schedule of Performance, and Compensation, which the Parties will discuss. Thereafter City Director of Public Works/Designee will execute a Service Order using the Service Order Form attached and incorporated here as **Exhibit B**. Each Service Order will specify its scope of services, deliverables, schedule of performance, compensation, and any other applicable terms. Issuance of a Purchase Order is discretionary and the Director of Public Works/Designee may streamline these procedures, e.g., conferring by telephone instead of a meeting, if it is in the City’s best interests. Consultant will not be compensated for Services performed without a duly executed Service Order.

3. TIME OF PERFORMANCE

3.1 Term. This Agreement begins on the Effective Date and ends on _____ (“Contract Time”), unless terminated earlier as provided herein. The City’s Director of Public Works 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 each Service Order, and under no circumstances should the Services go beyond the Contract Time. 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 each Service Order.

3.3 Time is of the essence for the performance of all the Services required in this Agreement and in each Service Order. Consultant must have sufficient time, resources and qualified staff to deliver the Services on time. Consultant must respond promptly to the City's Service Orders and any change orders that may be issued

4. COMPENSATION

4.1 Maximum Compensation. City will pay Consultant for satisfactory performance of the Services a total amount that will be based upon actual costs but that will be capped so as not to exceed \$_____ ("Contract Price"), based on the budget and rates set forth 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 Invoices and Payments. City will pay Consultant for Services satisfactorily provided under a Service Order, within thirty (30) days following receipt of a properly submitted invoice for Services provided during the preceding calendar month. Unless otherwise provided by a Service Order, each invoice must include for each day of Services:

- a. The name of each individual providing Services;
- b. A succinct summary of the Services performed by each such individual;
- c. The time spent by each individual providing those Services;
- d. The applicable hourly billing rate and payment due; and
- e. A detailed breakdown of all allowable expenses.

All hourly rates and allowable expenses must conform to City-approved rates set forth in **Exhibit C**.

4.3 Final Payment. At least thirty (30) days prior to end of the Agreement, Consultant must submit a requisition for final and complete payment of costs and any pending claims for City approval. Noncompliance with this requirement relieves City of further payments/obligations under the Agreement.

5. INDEPENDENT CONSULTANT

5.1 Status. Consultant is an independent Consultant and not an employee, partner, or joint venture of City. Consultant is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's performance of the Services. Consultant is not entitled to health, workers' compensation, or other benefits from City.

5.2 Consultant Qualifications. Consultant warrants on behalf of itself and its Subconsultants that they have the qualifications and skills to perform the Services in a competent and professional manner

and according to the highest standards and best industry practices for similar services performed in the San Francisco Bay Area.

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

5.4 Subconsultants. Unless prior written approval from City is obtained, only Consultant's employees and Subconsultants whose names are included in this Agreement and incorporated Exhibits may provide Services under this Agreement. Consultant must require all Subconsultants 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 Subconsultants relative to the portion of their work.

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

5.6 Payment of Benefits and Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Consultant 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. Consultant shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Consultant'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 Consultant. Should any court, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS), the Internal Revenue Service or the State Employment Development Division, determine that Consultant, or any of its employees, agents, or subcontractors, is an employee for any purpose, then Consultant agrees to a reduction in amounts payable under this Agreement, or to promptly remit to City any payments due by the City as a result of such determination, so that the City's total expenses under this Agreement are not greater than they would have been had the determination not been made.

5.7 Errors and Omissions. Consultant is solely responsible for its errors and omissions and those of its Subconsultants, 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 or its Subconsultants in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document, or other information or work, in any medium (collectively, “Work Product”), prepared by Consultant in connection with this Agreement 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 any third-party without prior written approval of City.

7.2 Copyright. To the extent permitted by Title 17 of the U.S. Code, all Work Product prepared/created by Consultant and its Subconsultants 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 Subconsultants 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 Subconsultants 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 4 (four) years from the date of City’s final payment.

82 City will have free and 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. This Section 8 survives the expiration/termination of this Agreement.

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 in connection with the Project and Services during the Contract Time and for one (1) year thereafter will reference City contributions in making the Project possible. The words "City of Cupertino" shall 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 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 it has 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

131 General Laws. Consultant shall comply with all local, state, and federal 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.

132 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.

133 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 Sections 12900 and 11135, and Labor Code Sections 1735, 1777 and 3077.5. Consistent with City policy prohibiting harassment and discrimination, Consultant understands that harassment and discrimination directed toward a job applicant, an employee, a City employee, or any other person is strictly prohibited.

134 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 agrees to abide by City policies and administrative rules prohibiting gifts to City 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 _____, 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 approval, the Consultant's Project Manager for all purposes under this Agreement will be _____, 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. 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 files a complaint or cross-complaint, or pursues arbitration, appeal, or other proceeding 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 attorney fee provision does not apply to legal actions initiated by Consultant or Subconsultant. This Section 18 survives 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 every kind or nature between the Parties, and supersedes any other agreements and understandings, either oral or written, between the Parties. 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 in writing to the persons below, which will be considered effective on the date of personal delivery or the 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:

To City of Cupertino:	To Consultant:
Attention:	Attention:
Email:	Email:

27. VALIDITY OF CONTRACT

This Agreement is valid and enforceable only if it complies with the contract provisions of Cupertino Municipal Code Chapters 3.22 and 3.23, is signed by the City Manager or authorized designee, and is approved for form by the City Attorney's Office.

28. EXECUTION

The person executing this Agreement on behalf of Consultant represents and warrants that Consultant has full right, power, and authority to enter into and carry out all actions contemplated by this Agreement 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.

CITY OF CUPERTINO

A Municipal Corporation

By _____

Name _____

Title _____

Date _____

CONSULTANT

By _____

Name _____

Title _____

Date _____

Tax I.D. No.:

APPROVED AS TO FORM:

HEATHER M. MINNER
Cupertino City Attorney

ATTEST:

KIRSTEN SQUARCIA
City Clerk

Date: _____

Exhibit A-A – SHELTER IN PLACE AND SOCIAL DISTANCING REQUIREMENTS

A. Health Laws Acknowledged. It is acknowledged that Consultant's/Contractor's ("Contractor") duty to comply with Laws, as defined in Section 13 of the Contract/Agreement ("Contract"), includes immediate compliance by Contractor and its subcontractors with the restrictions on travel and the Social Distancing Requirements set forth in Section 13.k of the health order issued by the County of Santa Clara Health Department on March 31, 2020, in response to the COVID-19 pandemic, and any subsequent amendments or superseding orders thereto (the "Health Order"), and any other local, state, or federal laws that have been or may be enacted in response to the COVID-19 pandemic (collectively, "Health Laws").

B. Health Order Compliance. Pursuant to Section 13.c of the Health Order, individuals may leave their residence only to perform specified "Essential Activities." Contractor shall comply with these restrictions on travel when performing work under this Contract. If a scope of work item, notice to proceed, or work order under this Contract specifies work that cannot be performed in compliance with the Health Order or other Health Laws, Contractor shall refrain from conducting the work and immediately inform the City. For Essential Activities, as defined in the Health Order, pursuant to Section 13.k of the Health Order, "[a]ll individuals must strictly comply with Social Distancing Requirements. . . as necessary to carry out the work of" Essential Activities.

C. Individuals at High Risk of Severe Illness. Section 13.a of the Health Order advises that "people at high risk of severe illness from COVID-19 and people who are sick are strongly urged to stay in their residence to the extent possible, except as necessary to seek medical care or provide medical care or Essential Governmental Functions." Information from the Center for Disease Control ("CDC") on "high risk" categories is available at the CDC's website at: <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/people-at-higher-risk.html>. Nothing in this Contract shall be interpreted to require any person at high risk of severe illness from COVID-19 to leave their residence to perform work under the Contract. Contractor will inform the City if other arrangements for the work must be made, and City will do so, with no penalty to Contractor, although Contractor will not be compensated for work performed by the City or third parties.

D. Health Order Requirements and Best Practices. Contractor will immediately undertake all appropriate measures to ensure compliance with the Social Distancing Requirements in the Health Order by all individuals performing work under this Contract, including Contractor's or any subcontractor's workers, employees, representatives, vendors, or suppliers (collectively, "workers"), and shall maintain these measures for as long as required by the Health Order or other Health Laws. These measures shall include, but are not limited to, the following:

- 1. Meetings/Site Access.** Use electronic alternatives to in person meetings, e.g., conference calls, video-conferencing, etc., to the greatest extent possible. Limit access to any project site or any work area to workers who are necessary to perform in-person

work. Require non-essential personnel to work from home to the extent possible. Avoid all non-essential travel.

2. Distancing. Where workers perform in-person work at a project site or a work area, prohibit workers from being less than six feet apart, unless and only to the extent that would compromise worker safety or violate safety Laws for specific operations. Prohibit handshaking or any physical contact among workers, with the sole and limited exception of any physical contact required for worker safety or to comply with safety Laws. Prohibit workers from sharing a vehicle.

E. Changed Requirements. It is understood and acknowledged that circumstances pertaining to the COVID-19 pandemic are evolving rapidly and that new local, state, or federal requirements may modify the terms of this Exhibit. Contractor agrees to work cooperatively with the City to implement new or changed requirements as quickly as possible.

F. Subcontracts. Contractor shall include the terms of this Exhibit in all subcontracts and require any agents, subcontractors, or subconsultants to comply with its provisions.

Exhibit A

Scope of Services

Actual Exhibits will be negotiated at the time of the Agreement and Service Orders issued. This is a sample to show format and basic structure of Exhibits.

Design Professional shall provide certain Architectural services as required and requested by City.

Design Professional shall provide services under this Master Agreement on an “as needed” basis and only (1) upon written request from City’s Director of Public Works or authorized Agent as defined in Section 8, Project Coordination and (2) as defined in a fully executed Service Order.

Section 1- General Provisions

- A. Design Professional shall perform all services to the satisfaction of City’s Public Works Director or authorized Agent.
- B. Design Professional shall perform all services under this agreement to the currently prevailing professional standards and quality found among Architecture Design Professionals with similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.
- C. Design Professional shall perform services under this Master Agreement only by authorization of a fully executed Service Order which shall clearly provide the nature of the specific services, the time limit within which such services must be completed, and the compensation for such services. City shall incorporate each authorized and fully executed Service Order into the terms and conditions of this Master Agreement.
- D. Design Professional shall begin work only after receipt of a fully authorized and executed Service Order and shall execute the Project work as detailed in the Service Order. Unauthorized services performed by Design Professional shall be at no cost to City.
- E. City shall designate a Project Manager for each fully executed Service Order under this Agreement. Design Professional shall coordinate the Service Order performance with City’s designated Project Manager.

Section 2. Basic Services **These are samples of Tasks. Actual Tasks will be negotiated at the time of the Master Agreement and Service Orders issued.**

As authorized by a fully executed Service Order, Design Professional shall provide Architectural services for various City Public Works Projects in accordance with the following:

A. General Performance Requirements

For each assigned Project:

City of Cupertino

Design Professional Name

Project Specific Master Agreement

SAMPLE

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1. Design Professional shall designate a Project manager and provide to City the names of their team members for the Project. The team members shall be satisfactory to City. Design Professional shall not substitute any team members without the prior approval of City. City retains the right to reject team members assigned by Design Professional or require replacement of team members.
2. Design Professional shall effectively manage and administer the Project for the efficient, progressive, and proactive delivery of the Project.
3. Design Professional shall be responsible for managing and coordinating the work of all sub-Design Professionals and subcontractors.
4. Design Professional shall consult and coordinate with the City and communicate with members of the Project team.
5. Design Professional shall schedule meetings and prepare meeting agendas and minutes for all Project meetings. All minutes of meetings are due to the City within ten (10) calendar days after the meeting in a digital format and shall also be provided to other appropriate agencies and entities, as directed by City.
6. Design Professional shall communicate weekly with City's assigned Project Manager to provide an update on the current status of the Project and provide a brief written summary report.

B. Specific Performance Requirements

For each assigned Project, Design Professional may provide any or all of the following tasks and subtasks, as is required for the specific Project:

Task 1.0 Feasibility and Programming Study

- 1.01** For budget programming purposes, analyze a Project proposal to identify and describe initial Project goals and objectives, develop a scenario to address Project goals and objectives, Project delivery process, and cost estimate to deliver the proposed Project.

Task 2.0 Predesign and Conceptual Design

- 2.01 Background Data Assembly:** Design Professional shall review Project data provided by the City including, but not limited to: topographic survey, geotechnical reports, traffic studies, CEQA documents, other environmental studies, tree surveys, arborist's reports, approved Master Plan, or other such data. The Design Professional shall be entitled to reasonably rely upon the accuracy and sufficiency of any information provided to the Design Professional by the City or the City's agents.
- 2.02** The Design Professional shall identify discrepancies or shortcomings among the existing data, and identify solutions for resolution, and propose generation of additional site information necessary to provide an accurate Project base map.

- 2.03 The Design Professional shall utilize existing data to the extent possible and inform the City immediately of problems associated with using existing data for Project base information.
- 2.04 **Base Sheet Preparation:** The Design Professional shall compile survey and other data as made available into a base sheet create Project base information in AutoCAD 2015 for use in subsequent Project design tasks and submit to the City for review and comment. The base information shall utilize topographic survey as furnished by the City or by the Design Professional, according to the agreement.
- 2.04 **Outreach:** Design Professional shall conduct outreach with groups as identified by the City to establish design program.
- 2.05 **Conceptual Alternative Development:** Design Professional shall prepare three (3) hand drawn, color rendered conceptual solutions for the Project, each which address the primary Project issues and budget.
- 2.06 **Staff Review:** Design Professional shall present each concept to the City with analysis for evaluation. The City shall select one concept as the preferred solution and provide the Design Professional with written direction to proceed with that concept.
- 2.0 **Deliverables:** (all deliverables digital unless otherwise noted)
 - 2.01 Source Document Listing
 - 2.02 Base sheet
 - 2.03 Meeting Summary
 - 2.04 Scanned pdf's and one (1) hardcopy of each
 - 2.05 Meeting Summary

Task 3.0: Schematic Design

- 3.01 **Meetings:** The Design Professional shall participate in two (2) design team meetings with representatives of the City during the Schematic Design phase and provide written meeting minutes to the City within two (2) business days.
- 3.02 **Schematic Plan:** The Design Professional shall prepare a hand drawn color rendered schematic design, incorporating input from City on the previous conceptual designs. Plans shall be submitted to City with other Design Development Documents as noted below.
- 3.03 **Costs, Schedule and Code Compliance:** Design Professional shall prepare a Schematic cost estimate for the schematic plan presented, a design and construction schedule, and a written preliminary code requirement summary.

3.04 Parks and Recreation Commission Presentation: Design Professional shall prepare for and present the recommended design and the previous concepts to the Parks and Recreation Commission.

3.05 Council Presentation: Design Professional shall revise the Conceptual design per the P&R Commission input and prepare for and present the recommended Conceptual Design to City Council.

3.0 Deliverables: (all deliverables digital unless otherwise noted)

3.01 Meeting Summaries

3.02 Scanned pdf and one (1) hardcopy

3.03 Estimate, schedule and code compliance summary

3.04 PowerPoint, large format presentation materials

3.05 PowerPoint, large format presentation materials

Task 4.0 Design Development

4.01 Meeting: The Design Professional shall participate in one (1) design team meeting with representatives of the City during the Design Development phase and provide written meeting minutes to the City within two (2) business days.

4.02 Design Development Plan (35% Submittal): Using the City approved schematic plan as a starting point, The Design Professional shall prepare Design Development Plans and submit them to the City for approval. The plans shall be prepared digitally (CAD files) and shall be a refinement of the schematic plan. The plans shall be formatted per City standards and draft plan view sheets for all items of work (demolition, earthwork, site construction irrigation, planting, details) shall be included. Plans shall be submitted to City with other Design Development Documents as noted below.

4.03 Design Development Specifications: The Design Professional shall prepare Design Development specifications for the design development drawings. The specifications shall indicate proposed organization and sections anticipated based on the Design Development drawings.

4.04 Costs, Schedule and Code Compliance: Design Professional shall prepare a Design Development cost estimate for the submitted plans and specifications, an updated design and construction schedule, and an updated code compliance review.

4.05 Furnishings and Materials Booklet: Design Professional shall assemble images, details, catalog cuts, etc. that further convey design intent. Booklet to be in 8-1/2 X 1 format, bound, with document name, Project name and date clearly indicated.

4.0 Deliverables: (all deliverables digital unless otherwise noted)

- 4.01 Meeting Summary
- 4.02 pdf files and three (3) full size plan sets
- 4.03 Specification outline
- 4.04 Updated estimate, schedule and code compliance summary in pdf and three (3) hardcopies of each
- 4.05 pdf files and three (3) 8-1/2 X 11 bound hardcopies

Task 5.0 Construction Documents

- 5.01 Meetings:** The Design Professional shall participate in three (3) design team meetings with representatives of the City during the Construction Document phase and provide written meeting minutes to the City within two (2) business days.
- 5.02 60% Plan Preparation:** The Design Professional shall prepare 60% Construction Documents and submit them to the City for approval. The 60% Construction Documents shall be a refinement of the Design Development drawings and shall include any sheets not previously submitted (erosion control, draft details, water use calculations, etc.). Plans shall be submitted to City with other 60% submittal documents as noted below.
- 5.03 60% Specifications:** The Design Professional shall prepare 60% Construction specifications for the design development drawings. The specifications shall reflect the detail of the 60% Construction drawings. The Design Professional shall format its specifications to City's Standard Specification provided by the City at the beginning of the Project. The Design Professional shall assist the City in the development and preparation of the Project Manual that includes the Conditions of the Contract for Construction, Specifications, qualifications for prime and designated sub-contractors, bidding requirements and sample forms.
- 5.04 60% Costs, Schedule and Code Compliance:** The Design Professional shall prepare a 60% Construction Document cost estimate for the submitted plans and specifications, and an updated code compliance review and schedule based on the submitted documents.
- 5.05 95% Plan Preparation:** Design Professional shall prepare 95% plans, incorporating the CITY comments from the 60% Construction Document submission into the 95% Construction Document plans. Plans shall be submitted to City with other 95% Submittal Documents as noted below.
- 5.06 95% Specifications:** Design Professional shall assist the City in the development and preparation of the Project Manual that includes the Conditions of the Contract for

Construction, Specifications, qualifications for prime and designated sub-contractors, bidding requirements, add alternatives, and sample forms. Design Professional shall format its specifications to City's Standard Specification sections.

- 5.07 95% Costs, Schedule and Code Compliance:** Design Professional shall prepare a 95% cost estimate for the 95% plans, shall update the Project schedule and shall update the code compliance determination.
- 5.08 Permit Application:** Design Professional shall submit 95% Construction Document Package to the City of Cupertino Building Department for building permit review. The Building Department submittal shall include all applicable reports and calculations required to obtain a City building permit for the Project.
- 5.09 100% Plan Preparation:** The City shall provide written comments on the 95% Construction Documents and the Design Professional shall incorporate comments into the 100% plans, specifications, and cost estimate.
- 5.10 100% Costs, Schedule and Code Compliance:** The Design Professional shall submit a 100% Construction Document Estimate of Probable Cost to the City according to the Appendix D minimum requirements.
- 5.10 100% Submittal:** The Design Professional shall submit the 100% Construction Document drawings, specifications, and code compliance review to the City along with all other City requirements to the City of Cupertino Building Department and obtain a building permit for the Project.

5.0 Deliverables: (all deliverables digital unless otherwise noted)

- 5.01 Meeting Summaries
- 5.02 pdf files and three (3) full size plan sets
- 5.03 Technical Specifications in Word and three (3) bound 8-1/2 X 11 sets
- 5.04 Updated estimate, schedule and code compliance summary in pdf and three (3) hardcopies of each
- 5.05 pdf files and three (3) full size plan sets
- 5.06 Technical Specifications in Word and three (3) bound 8-1/2 X 11 sets
- 5.07 Updated estimate, schedule and code compliance summary in pdf and three (3) hardcopies of each
- 5.08 permit application as pdf and hardcopies as required for processing
- 5.09 pdf files and three (3) full size hardcopies of listed items + one stamped signed record set of plans and specifications
- 5.10 pdf files and hardcopies as requested by City

Task 6.0: Bid and Award

6.01 Bid Period Assistance: Design Professional shall provide the following bid phase services, at the City's request, through award of the construction contract:

- a. Attend the general contractor pre-bid meeting.
- b. Respond to bidders' questions until the question cutoff period identified in the bid documents package.
- c. Assist in the evaluation of bids as requested by the City.

6.02 Addenda Preparation: Design Professional shall update the Construction Document package to include all addenda issued during the Bid process and submit a Conformed Set of drawings and specifications to the City within ten (10) days of the contract award by the City Council.

6.0 Deliverables: (all deliverables digital unless otherwise noted)

- A. The Design Professional shall provide two (2) complete wet signed, stamped Conform Sets of Construction Documents and Technical Specifications that includes the 100% Construction Documents Package and all bid addenda. The submitted documents shall be in reproducible, hard copy format.
- B. The Design Professional shall provide two (2) complete electronic format Conform Set Construction Documents and Technical Specifications in both native file formats (AutoCAD, MS Word) and pdf on a City compatible CD/DVD ROM disk media. Compatibility with the City hardware shall be verified by the Design Professional prior to final submission.

Task 7.0: Construction Administration

Design Professional's responsibility to provide the Construction Administration Services commences with the construction contract award and ends with submission of the final Project Punch List. Design Professional shall advise the City, in writing, of any construction items that are not in conformance with the Contract Documents. Design Professional shall have reasonable access to the construction of the Project wherever it is in preparation or progress as appropriate to meet its obligations under this Agreement. Duties, responsibilities and limitations of authority of Design Professional under this Task shall not be restricted, modified or extended except by advance, written agreement between City and Design Professional.

7.01 Submittal Review: The Design Professional shall review and approve or reject the Contractor's submittals within five (5) working days of receipt. The Consultant may request additional review time for particularly complex or unusual submittals. The City

shall not grant additional review time for standard construction item submittals. The Design Professional shall maintain a detailed record of all submittals and content supplied by the Contractor.

- 7.02 Requests for Information:** The Design Professional shall review Contractor Requests for Information and provide a written response to the Contractor with a copy to the City, within five (5) working days of receipt. The Design Professional's response shall provide, with advance City approval, supplemental drawings and/or specifications necessary to clarify the RFI.
- 7.03 Change Orders:** Design Professional shall review and advise the City on requests by the City or Contractor for changes in the construction of the Project. The Design Professional shall review City prepared Contract Change Orders shall, where necessary, prepare Drawings and Specifications to describe Work to be added, deleted or modified. The Design Professional shall maintain all records relative to changes in the construction.
- 7.04 Construction Meetings:** The Design Professional shall attend bi-weekly construction meetings, provide site observation and provide a summary report of the visit. The goal of these site visits is to become familiar with the progress and quality of construction, observe defects and deficiencies.
- 7.05 Performance Evaluations:** The Design Professional shall prepare bi-monthly Contractor Performance Evaluations at the City's request and submit to the City for review and comment prior to distribution to the Contractor. The Design Professional shall deliver the City approved performance evaluation to the Contractor.
- 7.06 Claims and Disputes:** The Design Professional shall advise the City on claims, disputes or other matters in question between the City and Contractor. The City shall be the final arbiter in all such matters.
- 7.07 Site Meetings:** The Design Professional shall attend up to two (2) additional site meetings in the Construction Administration phase and provide meeting minutes to the City within two (2) business days.
- 7.08 Filing Warranties:** Design Professional shall obtain from the Contractor and forward to the City, for the City's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a Punch List which denotes the portion of the work of the Project that needs to be completed by the Contractor based upon a final observation indicating the construction of the Project is in general accordance with the requirements of the Contract Documents.

7.09 Substantial Completion: When the construction of the Project is found to be substantially completed by Design Professional, Design Professional shall advise the City about the balance of the Project construction to be completed and recommend the amount to be paid the Contractor, including any amounts estimated needed to pay for Final Completion or correction of the construction work.

7.10 Final Completion: Design Professional's observations for Final Completion shall be conducted with the City's designated representative to check conformance of the construction of the Project with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of work to be completed or corrected.

7.11 Record Document Preparation and Project Close-Out:

- a. Design Professional shall review the Contractor's checklist for completion of all required Contractor submittals and shop drawings as indicated in the Contract Documents.
- b. Design Professional shall review Contractor-supplied operation and maintenance manuals for completeness as noted in the Contract Documents.
- c. Design Professional shall review contractor warranties as noted in the Contract Documents.
- d. Design Professional shall review final pay request from Contractor for accuracy as noted in the Contract Documents.
- e. Design Professional to complete all work necessary to achieve LEED Silver Certification.

7.0 Deliverables: (all deliverables digital unless otherwise noted)

- 7.01 Submittal package containing all original submittals, responses, and final approved submittals
- 7.02 Original RFI and Design Professional response
- 7.03 Change order review, drawings, and specifications produced to accompany change order
- 7.04 Weekly site visit report
- 7.05 Performance evaluation
- 7.06 Claim/Dispute Report
- 7.07 Meeting minutes

Task 8.0: Additional Services

Design Professional services not specifically identified in the Scope of Services shall be considered Additional Services. At the City's request, the Design Professional shall provide a

fee proposal for specific additional services consistent with the professional rate schedule in Exhibit B.

SAMPLE

Exhibit B
Service Order Form

Each Service Order for work under this Master Agreement shall be initiated and executed as provided for in the Master Agreement, Section 2.A, Service Order Development. An exemplar of the Service Order form follows.

City of Cupertino
MASTER AGREEMENT FOR CONSULTANT SERVICES
SERVICE ORDER

MASTER AGREEMENT

P O #: _____

Service Order No.: _____

Maximum Compensation: \$ _____

Term: NTP: _____

End Date: _____

Approval by: City Manager

Director

Date:

City Council

Item Number:

Date:

Consultant:

(name)

(street address)

(city, state, zip)

Contact Name: _____

Phone: _____

PROJECT DESCRIPTION

Project Name: _____

Description: *(simple project description if appropriate)*

Attachment A: Includes Description of Project, Scope of Service, Schedule of Performance and Compensation

CITY PROJECT MANAGEMENT

Managing

Department: Public Works

Project Manager: _____

City of Cupertino
MASTER AGREEMENT FOR CONSULTANT SERVICES
SERVICE ORDER

BUDGET / FISCAL

	Amount
Master Agreement Maximum Compensation:	\$0
Previously Encumbered on MA:	
S.O. # - (charge acct no.) - (project name)	\$0
S.O. # - (charge acct no.) - (project name)	\$0
Total Previously Encumbered to Date:	\$0
Current Unencumbered amount in MA:	\$0

Encumbrance:

S.O. # - (charge acct no.) - (project name)	\$0
Total Encumbered to Date including this S.O.:	\$0
Master Agreement Balance:	\$0

Contract _____ Date: _____

APPROVALS

Consultant: _____ Date: _____

Director of Public Works: _____ Date: _____

Appropriation Certification: I hereby certify that an unexpended appropriation is available in the above fund for the above contract as estimated and that funds are available as of this date of signature.

City Finance: _____ Date: _____
Management Analyst

EXHIBIT C
COMPENSATION

Capitalized terms which are defined in the Agreement have the same meaning in this Exhibit C.

The City will compensate the Design Professional for satisfactory performance of duly authorized Services, based on the hourly rate(s) set forth below. The hourly rates are deemed to include all costs including, salary, wages, benefits, taxes, insurance, and the like paid to or on behalf of each individual providing the Services, and are also deemed to include profit, overhead, vehicle, equipment and supply costs and the like. The hourly rates do not include reimbursable expenses, which are addressed below. These hourly rates will remain in effect for the Term of the Agreement unless changed by written amendment to the Agreement. Total compensation for Services provided pursuant to a Service Order, including reimbursable expenses, may not exceed the maximum compensation authorized under the Service Order.

Design Professional Hourly Rates:

Principal	\$
Senior Associate	\$
Associate	\$
Senior Project Manager	\$
Project Manager 1	\$
Project Manager 2	\$
Construction Manager	\$
Job Captain	\$
Designer 1	\$
Designer 2	\$
Assistant Designer	\$
Project Administrator	\$
Accounting	\$

Reimbursable Expenses:

Reimbursable expenses include the cost of items, other than direct labor, specifically required to perform the Services, excluding normal business operating expenses and overhead, which are included in the direct hourly rates set forth above. City will compensate Design Professional for such reimbursable expenses only with prior written authorization by the individual designated as the City Representative in Section 8, Project Coordination, of the Agreement. The City will

reimburse the Design Professional for allowable reimbursable expenses for the documented actual cost only, with no surcharge or markup for Design Professional administration. Reimbursable expenses must be separately identified on the Design Professional invoice and documentation of each reimbursable expense must be submitted to the City upon request and maintained as required under Section 18, Records, of the Agreement. Allowed reimbursable expenses include, but are not limited to:

- Individual or multiple document reproductions that exceed 50 pages;
- Drawing or bid set reproductions;
- Special software required by City specifically for a project, excluding standard software programs such as Microsoft Office suite applications (i.e. Word, Excel, PowerPoint, Project, etc.); Adobe Acrobat; or standard photo editing programs.
- Travel expenses to the extent allowed by City policy, and subject to any limitation on allowable travel expenses under a Service Order, with mileage reimbursed per the current IRS standard mileage rate at the time of travel;
- Subconsultants required by project scope of services;
- Safety equipment required by City policy or the project scope of services;
- Mass mailing notifications;

Special expenses for public meetings, such as refreshments, interpreters, security, valet parking, facility rental, tents or booths, easels, markers, paper, presentation equipment.

**BKF ENGINEERS
PROFESSIONAL SERVICES RATE SCHEDULE**

JANUARY 1, 2020 – DECEMBER 31, 2020

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
PROJECT MANAGEMENT	
Principal/Vice President	\$251.00
Senior Associate/Vice President	\$225.00
Associate	\$219.00
Senior Project Manager Senior Technical Manager	\$214.00
Project Manager Technical Manager	\$209.00
Engineering Manager Surveying Manager Planning Manager	\$193.00
TECHNICAL STAFF	
Senior Project Engineer Senior Project Surveyor Senior Project Planner	\$179.00
Project Engineer Project Surveyor Project Planner	\$157.00
Design Engineer Staff Surveyor Staff Planner	\$137.00
BIM Specialist I, II, III	\$137.00 - \$157.00 - \$179.00
Technician I, II, III, IV	\$130.00 - \$139.00 - \$152.00 - \$164.00
Drafter I, II, III, IV	\$102.00 - \$112.00 - \$121.00 - \$135.00
FIELD SURVEYING	
Survey Party Chief	\$179.00
Instrumentman	\$154.00
Survey Chainman	\$116.00
Utility Locator I, II, III, IV	\$93.00 - \$132.00 - \$158.00 - \$180.00
Apprentice I, II, III, IV	\$71.00 - \$95.00 - \$105.00 - \$111.00
CONSTRUCTION ADMINISTRATION	
Senior Consultant	\$234.00
Senior Construction Administrator	\$203.00
Resident Engineer	\$151.00
Field Engineer I, II, III	\$137.00 - \$157.00 - \$179.00
ASSISTANTS	
Project Assistant	\$84.00
Engineering Assistant Surveying Assistant Planning Assistant	\$82.00
Clerical Administrative Assistant	\$70.00

Expert witness rates are available upon request.

Subject to the terms of a services agreement:

- Charges for outside services, equipment, materials, and facilities not furnished directly by BKF Engineers will be billed as reimbursable expenses at cost plus 10%. Such charges may include, but shall not be limited to: printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; agency fees; insurance; transportation on public carriers; meals and lodging; and consumable materials.
- Allowable mileage will be charged at the prevailing IRS rate per mile.
- Monthly invoices are due within 30 days from invoice date. Interest will be charged at 1.5% per month on past due accounts.



www.callanderassociates.com

Recreate
Educate
Live+Work
Connect
Sustain

Standard Schedule of Compensation 2020 San Jose & Burlingame

General

The following list of fees and reimbursable expense items shall be used in the provision of services described in the agreement. These amounts shall be adjusted in January, upon issuance of an updated Standard Schedule of Compensation:

Hourly Rates

Principal	\$210/hour
Senior Associate	\$192/hour
Associate	\$182/hour
Senior Project Manager	\$165/hour
Construction Manager	\$161/hour
Project Manager 1	\$158/hour
Project Manager 2	\$149/hour
Job Captain	\$138/hour
Designer 1	\$130/hour
Designer 2	\$118/hour
Assistant Designer	\$105/hour
Accounting	\$160/hour
Senior Project Administrator	\$121/hour
Project Administrator	\$108/hour

Reimbursable Expenses Rates

Expenses <i>printing and reproductions, postage and delivery, mileage, travel expenses (hotel / food), testing and outside services, and other project related expenses</i>	cost + 15%
Subconsultant Administration	cost + 10%
Communications and Insurance Surcharge	2.5% of total fees

Payments

Payments are due within ten days after monthly billing. Callander Associates reserves the right to suspend services for non-payment if payment is not received within a period of 60 days after invoice date. Additionally invoices 60 days past due are subject to a 1.5% per month interest charge. Retainer amounts, if indicated, are due upon signing the agreement and shall be applied to the final invoice for the project.

BURLINGAME
1633 Bayshore Highway, Suite 133
Burlingame, CA 94010
T 650.375.1313

GOLD RIVER
12150 Tributary Point Drive, Suite 140
Gold River, CA 95670
T 916.985.4366

SAN JOSE
2025 Gateway Place, Suite 285
San Jose, CA 95113
T 408.275.0565

**BIGGS CARDOSA
ASSOCIATES INC**
STRUCTURAL ENGINEERS

865 The Alameda
San Jose, CA 95126-3133
Telephone 408-296-5515
Facsimile 408-296-8114

CHARGE RATE SCHEDULE

Principal	\$260.00 - \$325.00
Associate	\$237.00
Engineering Manager	\$207.00
Senior Engineer	\$185.00
Project Engineer	\$170.00
Staff Engineer	\$156.00
Assistant Engineer	\$142.00
Junior Engineer	\$132.00
Senior Computer Drafter	\$149.00
Computer Drafter	\$132.00
Junior Computer Drafter	\$119.00
BIM/Visualization Specialist	\$149.00
Project Administrator	\$167.00
Project Coordinator	\$138.00
Secretarial Services	\$108.00
Construction Manager	\$248.00
Senior Structural Representative	\$215.00
Structural Representative	\$194.00
Assistant Structures Representative	\$155.00
Senior Bridge Inspector	\$194.00
Subconsultants	Cost Plus 10%
Expenses	Cost Plus 15%
In-House CADD Plots	
Prints	\$0.32/ sq. ft.
Plots	\$1.60/ sq. ft.
Mylar Plots	\$3.20/ sq. ft.

Charge Rates Applicable thru September 30, 2022



Prevailing Wage Hourly Fee Rates and Equipment Charges

Through August 31, 2021

Administrative Assistant	\$95
Construction Services Administrator	\$130
Technical Illustrator/CAD Operator	\$145
Engineering Technician	\$175
Supervisory Technician	\$175
Staff Engineer or Geologist	\$175
Senior Supervisory Technician	\$185
Senior Staff Engineer or Geologist	\$185
Project Engineer or Geologist	\$200
Principal Construction Services	\$200
Senior Project Engineer or Geologist	\$225
Principal Engineer or Geologist	\$250
Senior Principal Engineer or Geologist	\$275

Charges for personnel will be made in accordance with the above rates. For field engineers, geologists and technicians, regular rates are normal workday construction hours (Monday through Friday). For time spent over 8 hours in a day, time spent after 5 p.m., time spent on swing shifts, and time spent on Saturdays by field personnel, overtime rates will be charged at 1.5 times the hourly rate. Work on Sundays and holidays and work in excess of 12 hours in one day will be charged at 2.0 times the hourly rate. Field rates are based on a 48-hour notice. For less than a 48-hour notice, a 10 percent surcharge will be added. All field personnel, vehicle and equipment charges are portal to portal. Reproduction of project documents will be charged as a project expense. The hourly rate for professional staff to attend legal proceedings will be 2.0 times the hourly rate specified above.

Equipment Charges		Geotechnical Laboratory Tests		
Vehicle	\$17 per hour	Compaction Curve Compaction Check Point Plasticity Index Sieve/Hydrometer Moisture Content Moisture/Density -#200 Wash Sieve < ¼ inch Liner (small) Sieve > ¼ inch Bucket (Large) Lime Stability Consolidation	Tests Run During Normal Workday Hours	Tests Run Outside Workday Hours
Nuclear Density Gauge	\$10 per test		\$310 each	\$465 each
55-Gallon Drum	\$95 per drum		\$155 each	\$235 each
GPS Unit	\$30 per day		\$220 each	\$330 each
Hand Auger Equipment	\$45 per day		\$220 each	\$330 each
Power Auger	\$100 per day		\$6 each	\$9 each
PDR-1000 Dust Meter (3)	\$300 per day, \$1000 per week, \$3500 per month		\$25 each	\$38 each
PID ppm, or PID ppb,	\$125 per day, \$550 per week, \$1750 per month		\$50 each	\$75 each
Air Pump	\$75 per day, \$350 per week, \$1000 per month		\$115 each	\$170 each
Weather Station	\$75 per day, \$350 per week, \$1000 per month		\$200 each	\$300 each
Benkelman Beam	\$150 per day, \$700 per week, \$2500 per month		\$330 each	\$495 each
Double Ring Infiltrometer	\$100 per day		\$400 each	\$600
Dynamic Cone	\$100 per day			
Differential Pressure Gauge	\$45 per day			
Air Flow Sensors	\$45 per day			
Pressure Control Testing	\$250 per day			
Depth Sounder	\$40 per day			
Liner and Two Caps	\$10 each			
Core N One Sampler	\$45 each triplicate sample			
Core N One Handle	\$50 each			
Modeling Software	\$25 per hour			
Plotter	\$5 per plot			

Direct Expenses

Reimbursement for the direct expenses listed below incurred in connection with the Work will be billed at cost plus 18 percent.

- 1) Drillers, utility locators, laboratories, contractors, hygienists, and consultants
- 2) Rented vehicles, public transportation, tolls, and air flights
- 3) Permits and special fees, insurances and licenses required to perform Work
- 4) Computer programs and rented field equipment
- 5) Large volume copying of project documents
- 6) Maps, photographs, and environmental databases
- 7) Overnight or same day delivery charges
- 8) Copying or production of over-sized figures and plans

If personnel are assigned to a project 100 miles or more from an office, \$125 per diem per person allowance will be charged. Unless mutually agreed in writing, Cornerstone will hold samples collected during the performance of the Work no longer than thirty (30) calendar days after their date of collection; project samples requested to be held greater than thirty (30) calendar days will be billed at \$100 per every ninety (90) calendar days. If payment is not received within 30 days of invoice date, the samples will be discarded.

Payment

Payment for Work completed is due upon receipt of Cornerstone's statement. Fixed fee or lump sum services will be billed for the agreed fixed fee. A service charge of 1.5 percent per month will be charged on accounts not paid within 30 days.

Prevailing Wage

Client must notify Cornerstone in writing if the Work is subject to "prevailing wage" under local, state or federal laws.

FEHR & PEERS

2019-2020

(July 2019 through June 2020)

Hourly Billing Rates

Classification	Hourly Rate
Principal	\$215.00 - \$350.00
Senior Associate	\$180.00 - \$340.00
Associate	\$155.00 - \$250.00
Senior Engineer/Planner	\$130.00 - \$210.00
Engineer/Planner	\$120.00 - \$170.00
Senior Engineering Technician	\$145.00 - \$195.00
Senior Project Accountant	\$160.00 - \$165.00
Senior Project Coordinator	\$120.00 - \$165.00
Project Coordinator	\$110.00 - \$155.00
Technician	\$125.00 - \$165.00
Intern	\$90.00 - \$105.00

- *Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling.*
- *Personal auto mileage is reimbursed at the then current IRS approved rate (58 cents per mile as of Jan 2019).*
- *Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.*

EXHIBIT D
Insurance Requirements
Design Professionals & Consultants Contracts

Consultant shall procure prior to commencement of Services and maintain for the duration of the contract, at its own cost and expense, the following insurance policies and coverage with companies doing business in California and acceptable to City.

INSURANCE POLICIES AND MINIMUMS REQUIRED

1. ***Commercial General Liability*** (CGL) for bodily injury, property damage, personal injury liability for premises operations, products and completed operations, contractual liability, and personal and advertising injury with limits no less than **\$2,000,000** per occurrence (ISO Form CG 00 01). If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO Form CG 25 03 or 25 04) or it shall be twice the required occurrence limit.
 - a. It shall be a requirement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (i) the minimum coverage/limits specified in this agreement; or (ii) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
 - b. Additional Insured coverage under Consultant's policy shall be "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as ISO Form CG 20 01 (04/13).
 - c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy complies with the requirements set forth in this Contract. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect City as a named insured.
2. ***Automobile Liability***: ISO CA 00 01 covering any auto (including owned, hired, and non-owned autos) with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. ***Workers' Compensation***: As required by the State of California, with Statutory Limits and Employer's Liability Insurance of no less than **\$1,000,000** per occurrence for bodily injury or disease.
✓ Not required. Consultant has provided written verification of no employees.
4. ***Professional Liability*** for professional acts, errors and omissions, as appropriate to Consultant's profession, with limits no less than **\$2,000,000** per occurrence or **\$2,000,000** aggregate. If written on a claims made form:
 - a. The Retroactive Date must be shown and must be before the Effective Date of the Contract.
 - b. Insurance must be maintained for at least five (5) years after completion of the Services.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract Effective Date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

OTHER INSURANCE PROVISIONS

The aforementioned insurance shall be endorsed and have all the following conditions and provisions:

Additional Insured Status

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers (“Additional Insureds”) are to be covered as additional insureds on Consultant’s CGL and automobile liability policies. General Liability coverage can be provided in the form of an endorsement to Consultant’s insurance (at least as broad as ISO Form CG 20 10 (11/ 85) or both CG 20 10 and CG 20 37 forms, if later editions are used).

Primary Coverage

Coverage afforded to City/Additional Insureds shall be primary insurance. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Consultant’s insurance and shall not contribute to it.

Notice of Cancellation

Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums.

Waiver of Subrogation

Consultant waives any right to subrogation against City/Additional Insureds for recovery of damages to the extent said losses are covered by the insurance policies required herein. Specifically, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all work performed by Consultant, its employees, agents and subconsultants. This provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At City’s option, either: the insurer must reduce or eliminate the deductible or self-insured retentions as respects the City/Additional Insureds; or Consultant must show proof of ability to pay losses and costs related investigations, claim administration and defense expenses. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the insured or the City.

Acceptability of Insurers

Insurers must be licensed to do business in California with an A.M. Best Rating of A-VII, or better.

Verification of Coverage

Consultant must furnish acceptable insurance certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements prior to commencement of the Contract. City retains the right to demand verification of compliance at any time during the Contract term.

Subconsultants

Consultant shall require and verify that all subconsultants maintain insurance that meet the requirements of this Contract, including naming the City as an additional insured on subconsultant’s insurance policies.

Higher Insurance Limits

If Consultant maintains broader coverage and/or higher limits than the minimums shown above, City shall be entitled to coverage for the higher insurance limits maintained by Consultant.

Adequacy of Coverage

City reserves the right to modify these insurance requirements/coverage based on the nature of the risk, prior experience, insurer or other special circumstances, with not less than ninety (90) days prior written notice.