

**AGREEMENT BETWEEN THE CITY OF CUPERTINO AND CALLANDER ASSOCIATES  
LANDSCAPE ARCHITECTURE, INC. FOR PROFESSIONAL DESIGN SERVICES FOR  
THE I-280 CHANNEL TRAIL FEASIBILITY STUDY**

This Agreement for Professional Design Services ("Agreement"), dated \_\_\_\_\_, 2017, is entered into by and between City of Cupertino, a municipal corporation ("City"), and Callander Associates Landscape Architecture, Inc., a California corporation ("Design Professional").

**RECITALS**

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the Constitution and the statutes of the State of California and the Cupertino Municipal Code.

B. Design Professional represents that it is specially trained, experienced and competent to perform the feasibility study and design services ("Services") required for the City's I-280 Channel Trail Feasibility Study ("Project").

C. Design Professional represents that it is duly licensed in good standing by the State of California to perform such Services and has submitted a proposal, dated June 14, 2017, ("Proposal") in response to the City's request for proposals.

D. City is entering into this Agreement in reliance upon Design Professional's representations, set forth above, to provide the Services in accordance with the terms and conditions of this Agreement.

**TERMS AND CONDITIONS**

**1. TERM:**

The term of this Agreement ("Term") will begin on the date this Agreement is fully executed by both parties and, unless terminated earlier as set forth below or extended by a written amendment to this Agreement, will expire upon on June 30, 2019.

**2. SERVICES TO BE PERFORMED:**

**A. Basic Services.** Design Professional will provide Basic Services under this Agreement as further described the Scope of Services set forth in **Exhibit A, Scope of Services**, attached hereto and incorporated herein, and as further specified in the Proposal, except to the extent that any provision in the Proposal conflicts or is inconsistent with this Agreement and the Exhibits hereto, or as otherwise expressly rejected in writing by the City. Basic Services may be divided into separate sequential tasks ("Tasks") as further specified in Exhibit A.

**B. Additional Services.** City may request, at any time during the Term of this Agreement, that Design Professional provide additional services related to the Project, which are not already encompassed, expressly or implicitly, in this Agreement, Exhibit A or the Proposal ("Additional Services"). Any Additional Services must be authorized in writing by City. Design Professional will not be entitled to compensation for Additional Services provided without or prior to the City's written authorization. Duly authorized Additional Services are subject to all of the provisions that apply to Basic Services under this Agreement, except and only to the extent otherwise specified. All references to "Services" include Basic Services and any authorized Additional Services.

### **3. SCHEDULE:**

All Services must be provided within the times specified in **Exhibit B, Schedule of Performance**, attached hereto and incorporated herein. Design Professional must promptly notify the City of any actual or potential delay in providing the Services as scheduled to afford the City adequate opportunity to address or mitigate the delay if possible. Design Professional must begin each separate Task included in Basic Services upon receipt from City of a notice to proceed ("Notice to Proceed") for that Task, and must complete the Task within the time specified in Exhibit B.

### **4. COMPENSATION:**

**A. Maximum Compensation.** The cumulative total payment to Design Professional for Basic Services, Additional Services and expenses under this Agreement may not exceed \$299,935.00. Design Professional is not entitled to any payment for Services or expenses in excess of this maximum limit.

**B. Basic Services.** City will pay Design Professional \$264,325.00 ("Lump Sum Price"), for the complete and satisfactory performance of the Basic Services in accordance with this Section 4 and as may be further specified in **Exhibit C, Compensation**, attached hereto and incorporated herein. The Lump Sum Price is completely inclusive of all time and expenses to provide the Basic Services, including, but not limited to, subconsultant costs, materials, supplies, equipment, travel, taxes, overhead and profit. If, for any reason, Design Professional does not fully complete the Basic Services it will only be entitled to a percentage of the Lump Sum Price that is proportionate to the percentage of Basic Services that were completed to the City's reasonable satisfaction.

**C. Additional Services.** Additional Services that have been duly authorized by City as specified above, and provided to the City's reasonable satisfaction, may be compensated on a lump sum basis or based on time and expenses, subject to a not-to-exceed limit, using the Hourly Rates Schedule and Reimbursable Expenses Schedule included in **Exhibit C, Compensation**. An allowance of \$35,610.00 has been budgeted for Additional Services under this Agreement. The City has the discretion, but not the obligation, to authorize Additional Services up to this not-to-exceed amount, including the discretion to elect not to authorize any Additional Services. For Additional Services provided on an hourly basis, Design Professional will be entitled to compensation for costs other than direct labor, normal business expenses and overhead, based on the documented actual cost only, with no markup or surcharge ("Reimbursable Expenses"). Design Professional will not be entitled to reimbursement for in house copying, printing, faxes, telephone charges, employee overtime, or travel to City's offices

or to the Project site, unless or to the extent such expenses are specifically authorized in Exhibit C.

**D. Invoices and Payments.** City will pay Design Professional for Services provided to the City's reasonable satisfaction, within 30 days following receipt of a properly submitted invoice for Services provided during the preceding calendar month. 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 further specified in Exhibit C. City will notify Design Professional in writing if it disagrees with the stated percentage of completion, and if the disagreement is unresolved, City will pay Design Professional based on the portion of Services that City agrees have been satisfactorily completed at that point.

1. ***Time and Expenses:*** For Additional Services provided on an hourly basis, each invoice must also include, for each day Services were provided:
  - a. The name and title of each individual or subconsultant providing Services;
  - b. A succinct summary of the Services performed by each individual or subconsultant;
  - c. The time spent by each individual or subconsultant providing those Services, in 30 minute increments;
  - d. The applicable hourly billing rate or subconsultant charge and payment due;
  - e. An itemized list with amounts and explanation for all permitted reimbursable expenses.
2. ***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 Term of the Agreement. Each invoice must attach legible, dated receipts for all Reimbursable Expenses.

**5. TIME IS OF THE ESSENCE:**

Time is of the essence for the performance of all Services required under this Agreement and for all of Design Professional's duties under this Agreement. Design Professional must at all times have sufficient, qualified staff or subconsultants assigned to timely provide all Services under this Agreement. Design Professional must take appropriate measures to avoid delay of Project completion, including, but not limited to, prompt submission of deliverables and any required revisions, and prompt responses to City or contractor requests, including, but not limited to, requests for information, substitution requests and change order requests. Failure to comply with the schedule requirements or failure to timely submit deliverables or provided responses as specified under this Agreement may be deemed a material breach of this Agreement.

**6. STANDARD OF CARE:**

All Services must be provided in a manner that meets or exceeds the standard of care applicable to the same type of design professionals performing similar work in the San Francisco Bay Area. Services may only be performed by qualified and experienced personnel or subconsultants who are not employed by the City and who do not have any contractual

relationship with City, with the exception of this Agreement. All Services provided under this Agreement, including authorized Additional Services, must be performed as specified to the City's reasonable satisfaction.

## **7. ERRORS AND OMISSIONS:**

Design Professional is solely responsible for all of its or its subconsultants' errors and omissions and must promptly correct any and all such errors and omissions at its sole expense. Design Professional must also take appropriate measures to avoid or mitigate any delay, liability or costs resulting from any such errors or omissions. This provision survives expiration or termination of this Agreement.

## **8. PROJECT COORDINATION:**

**A. City Project Manager.** The City's authorized delegee, Jennifer Chu, will be the City's representative for all purposes under this Agreement ("City Project Manager") with authority to oversee the progress and performance of Services under this Agreement. The City reserves the right to replace or provide a substitute City Project Manager at any time, and without prior notice to the Design Professional.

**B. Design Professional Project Manager.** Design Professional will assign a single Project Manager (the "DP Project Manager"), subject to City approval, with authority to receive and act on directions from the City and responsibility for the progress and performance of Services under this Agreement. The designated DP Project Manager is Dave Rubin. If a substitute or replacement DP Project Manager is required for any reason, the City must be notified of the need as soon as possible, Design Professional's designation of the individual proposed to serve as the substitute or replacement will be subject to the City's prior written approval. Design Professional is not entitled to compensation for the time required for the substitute or replacement DP Project Manager to obtain sufficient knowledge of the required Services to fully assume the former DP Project Manager's responsibilities.

**C. Communication and Coordination.** Design Professional is responsible for coordinating the efforts of Design Professional's subconsultants or subcontractors providing Services for this Agreement. Design Professional must also coordinate its Services to the extent reasonably possible, with other City employees or consultants assigned to the Project. Design Professional is responsible for ensuring that the City Project Manager is regularly updated as to the progress or status of the Services, including, but not limited to, participation in meetings or compliance with reporting requirements specified in Exhibit A. Design Professional has an affirmative obligation to promptly notify the City Project Manager of any significant problems or concerns as they arise in order to enable timely resolution or mitigation of any such problems. Design Professional must promptly respond to the City Project Manager's inquiries regarding the Services.

## **9. HOLD HARMLESS:**

**A. Indemnity Obligations Subject to Civil Code Section 2782.8.** Design Professional will, to the fullest extent allowed by law, with respect to all Services performed in connection with the Agreement, indemnify, defend, and hold harmless the City and its officers, officials, agents, employees and volunteers (collectively, the "Indemnified Parties") from and against any and all liability, claims, actions, causes of action or demands whatsoever against

any of them, including any injury to or death of any person or damage to property or other liability of any nature (collectively, "Liability"), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional or Design Professional's employees, officers, officials, agents or subconsultants. Such costs and expenses shall include reasonable attorney fees for legal counsel of City's choice, expert fees and all other costs and fees of litigation. Design Professional is not obligated under this Agreement to indemnify City to the extent that any Liability is caused by the sole or active negligence or willful misconduct of any of the Indemnified Parties. In addition to its indemnity obligations, Design Professional will provide its immediate and active cooperation and assistance to the City, at no additional cost to the City, in analyzing, defending, and resolving such Liability.

**B. Claims For Other Liability.** For all liabilities other than those included within paragraph (A) above, Design Professional will, to the fullest extent allowed by law, indemnify, defend, and hold harmless the Indemnified Parties against any and all liability, claims, actions, causes of action or demands whatsoever from and against any of them, including any injury to or death of any person or damage to property or other liability of any nature, that arise out of, pertain to, or relate to the performance of this Agreement by Design Professional or Design Professional's employees, officers, officials, agents or subconsultants. Such costs and expenses shall include reasonable attorney fees for legal counsel of City's choice, expert fees and all other costs and fees of litigation. Design Professional will not be obligated under this Agreement to indemnify City to the extent that the damage is caused by the sole or active negligence or willful misconduct of the Indemnified Parties.

**C. Claims Involving Intellectual Property.** In addition to the obligations set forth in paragraphs (A) and (B) above, Design Professional will indemnify, defend, and hold the Indemnified Parties harmless from and against any claim in which an alleged violation of intellectual property rights, including but not limited to copyright or patent rights, arises out of, pertains to, or relates to Design Professional's negligence, recklessness or willful misconduct under this Agreement. 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.

**D. Survival.** The requirements of this section survive expiration or termination of this Agreement.

## **10. INSURANCE:**

On or before the commencement of the Term of this Agreement, Design Professional must furnish City with certificates showing the type, amount, effective dates and dates of expiration of insurance coverage required in this section. Such certificates, which do not limit Design Professional's indemnification obligations, must also contain substantially the following statement: "If any of the above insurance covered by this certificate is canceled before the expiration date thereof, the insurer affording coverage will provide 30 days advance written notice to the City of Cupertino, Attention: City Manager." Design Professional will maintain in force at all times during the performance of this Agreement all insurance coverage required by this Agreement with an insurance company that is acceptable to City and authorized to do insurance business in the State of California. Design Professional must also submit endorsements with the certificates naming the City as additional insured in relation to the commercial general liability and commercial automobile liability policies, as further specified below.

**A. Coverage.** Design Professional must maintain the following insurance coverage:

1. ***Workers' Compensation:***

Statutory coverage as required by the State of California. If Design Professional is self-insured, it must provide its duly authorized Certificate of Permission to Self-Insure.

2. ***Liability:***

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$500,000 each occurrence \$1,000,000 aggregate - all other
Property Damage:	\$100,000 each occurrence \$250,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

3. ***Automotive:***

Commercial automotive liability coverage for owned, non-owned and hired vehicles, in the following minimum limits:

Bodily Injury:	\$500,000 each occurrence
Property Damage:	\$100,000 each occurrence
	or
Combined Single Limit:	\$500,000 each accident

4. ***Professional Liability:***

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Design Professional in the amount of at least \$1,000,000 per claim and in the aggregate. The professional liability insurance must include prior acts coverage, which must remain in effect for four years following the earlier of expiration or termination of the Term of this Agreement.

**B. Subrogation Waiver.** Each required policy must include an endorsement that the insurer waives any right of subrogation it may have against the City or the City's insurers. Design Professional agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Design Professional will look solely to its insurance for recovery.

**C. Failure to Comply.** If Design Professional at any time during the Term of this Agreement fails to secure or maintain the required insurance, City may obtain or maintain the insurance in the Design Professional's name or on behalf of the Design Professional and will be compensated by the Design Professional for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

**D. Additional Insured Endorsements.** City, its City Council, boards and commissions, officers, officials, employees, agents and volunteers must be named as additional

insureds under all insurance coverages, except any worker's compensation and professional liability insurance, required by this Agreement. Any additional insured will not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured will not be required to contribute anything toward any loss or expense covered by the insurance required under this Agreement.

**E. Sufficiency of Insurance.** The insurance limits required by City are not represented as being sufficient to protect Design Professional. Design Professional is advised to confer with Design Professional's insurance broker to determine adequate coverage for Design Professional.

#### **11. INDEPENDENT CONTRACTOR:**

City and Design Professional intend that the relationship between them created by this Agreement is that of owner-independent contractor. The manner and means of providing the Services are under the control of Design Professional, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Design Professional's performance of the Services. None of the benefits provided by City to its employees, including, but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave, are available from City to Design Professional, its employees or agents. Deductions will not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any payments due to Design Professional. Payments for the above items, if required, are the responsibility of Design Professional.

#### **12. SUBCONSULTANTS:**

Unless prior written consent from City is obtained, only those individuals and subconsultants whose names are included in this Agreement, including the Exhibits hereto, may provide Services under this Agreement. Design Professional must require all of its subconsultants providing Services under this Agreement to comply with the terms and conditions of this Agreement. Any subconsultants employed by Design Professional must be required to furnish proof of workers' compensation insurance and must also be required to carry general, automobile and professional liability insurance in reasonable conformity to the insurance required for Design Professional.

#### **13. IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Design Professional assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing the Services, pursuant to all applicable IRCA or other federal, or state laws, rules or regulations. Design Professional will indemnify and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance with this section by Design Professional.

#### **14. NON-DISCRIMINATION:**

Consistent with City's policy that harassment and discrimination are unacceptable employer or employee conduct, Design Professional agrees that harassment or discrimination directed toward a job applicant, an employee, a City employee, or any other person, by Design

Professional or Design Professional's employees or subconsultants on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected classification will not be tolerated. Any violation of this provision by Design Professional, its employees, subconsultants or agents constitutes a material breach of this Agreement, and grounds for termination for cause.

**15. PROHIBITION AGAINST TRANSFERS:**

Design Professional will 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 without City's consent will be null and void, and any assignee, sublessee, hypothecate or transferee will acquire no right or interest by reason of any attempted assignment, hypothecation or transfer. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Design Professional, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Design Professional is a partnership or joint venture or syndicate or cotenancy, which results in changing the control of Design Professional as a legal entity, will be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the business entity.

**16. PERMITS AND LICENSES:**

Design Professional, at its sole expense, must obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License that may be required in connection with the performance of the Services.

**17. WORK PRODUCT:**

**A. Property Rights.** Any interest (including copyright interests) of Design Professional or its subconsultant(s) in any work product, document, report, draft, memoranda, map, record, plan, drawing, specification and other deliverable, in any medium (collectively, "Work Product"), which has been prepared or created by Design Professional or its subconsultant(s) pursuant to or in connection with this Agreement, will be the exclusive property of City. No Work Product, information or other data given to or prepared, created, or assembled by Design Professional or its subconsultant(s) pursuant to this Agreement may be made available to any individual or organization by Design Professional or its subconsultant(s) without prior written approval by City. All provisions of this section survive expiration or termination of this Agreement.

**B. Copyright.** To the extent permitted by Title 17 of U.S. Code, all Work Product prepared or created under this Agreement is deemed works for hire and all copyrights in such Work Product will be the property of City. In the event that it is ever determined that any Work Product prepared or created by Design Professional or any subconsultant under this Agreement are not works for hire under federal law, Design Professional hereby assigns to City all copyrights to such Work Product when and as created. Subject to City's prior written approval, Design Professional may retain and use copies of such Work Product for reference and as documentation of its experience and capabilities and in its promotional materials. With respect to Design Professional's standard details, Design Professional may retain the copyright, but grants to City a perpetual non-exclusive license to use such details in connection with the Services.



**C. Patents and Licenses.** Design Professional must pay any and all 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 that it selects for incorporation into the Services or Work Product provided under this Agreement.

**D. Re-Use of Work Product.** Without limiting any other City right to any of the Work Product prepared or created by Design Professional or its subconsultants, and subject to the limitations of law, all Work Product prepared under this Agreement may be used or modified by the City or its authorized agents in execution or implementation of:

1. The Services for which Design Professional was hired;
2. Completion of the Services by others;
3. Subsequent additions to the Services; and/or
4. Other City projects.

**E. Deliverables and Format.** Electronic and hard copies of Design Professional's Work Product will constitute the Project deliverables. Plans must be in CAD and PDF formats, and unless otherwise specified, other documents must be in Microsoft Office applications and PDF formats. All written Work Product required to be provided by this Agreement (other than large-scale architectural plans and similar items) must be printed on recycled paper and copied on both sides of the paper except for one original, which must be single-sided.

## **18. RECORDS:**

Design Professional must maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of Services under this Agreement. Design Professional must maintain adequate records of Services provided in sufficient detail to permit an evaluation of the Services. All such records must be maintained in accordance with generally accepted accounting principles and must be clearly identified and readily accessible. Design Professional must provide free access to such books and records to the City or its agents at all times during Design Professional's normal business hours. Design Professional must give the City or its agents the right to examine and audit those items, and to make transcripts or copies as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, must be kept separate from other documents and records which are unrelated to this Agreement and must be maintained for a period of three years after receipt of final payment from the City.

If supplemental examination or audit of the records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Design Professional must reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit. The requirements of this section survive expiration or termination of this Agreement.

## **19. NOTICES:**

All notices, demands, requests or approvals to be given under this Agreement must be given in writing and will be deemed served when delivered personally; or on the second business day

after the deposit thereof in the United States Mail, postage prepaid, registered or certified; or upon confirmation of delivery by a reputable overnight delivery service.

**A. To City.** All notices, demands, requests, or approvals from Design Professional to City must be addressed to City at:

City of Cupertino  
10300 Torre Ave.  
Cupertino CA 95014  
Attention: Jennifer Chu

**B. To Design Professional.** All notices, demands, requests, or approvals from City to Design Professional must be addressed to Design Professional at:

Callander Associates Landscape Architecture, Inc.  
300 South First Street, Suite 232  
San Jose, CA 95113  
Attention: Dave Rubin

## **20. TERMINATION:**

**A. Termination for Convenience.** City may, at any time, acting in its sole discretion and without cause, terminate this Agreement for convenience by giving written notice to Design Professional at least seven days before the effective date of the termination. If the Agreement is terminated pursuant to this paragraph, the City will compensate Design Professional for all Services satisfactorily performed prior to the effective date and time of the termination, in accordance with this Agreement.

**B. Termination for Cause.** If Design Professional fails or refuses to perform any of its duties under this Agreement at the time and in the manner required, Design Professional will be deemed in default of this Agreement. If the default is not cured or diligently attempted to be cured by Design Professional within the time specified in the City's written notice of default, or if the Design Professional has otherwise materially breached the Agreement, the City may terminate the Agreement for cause by giving written notice to Design Professional at least seven days before the effective date of the termination, unless otherwise specified in the written notice of default.

**C. Duties upon Termination.** If the Agreement is terminated, whether for convenience or cause, within seven days of the effective date of the termination, Design Professional must promptly deliver to City copies of all Work Product, deliverables, or documents prepared by Design Professional under this Agreement, including both print and electronic versions. Full compliance with this requirement is a condition precedent to final payment following termination. This paragraph survives termination of the Agreement.

## **21. LEGAL REQUIREMENTS:**

Design Professional must comply with all applicable local, state or federal laws, rules and regulations, and all ordinances, rules and regulations enacted or issued by City. In addition, if any of the Services provided under this Agreement are subject to prevailing wage requirements under Labor Code Section 1720 et seq., the following provisions apply to those Services:

**A. Prevailing Wages.** To the extent applicable, Design Professional must comply with the City's Labor Compliance Program and all other requirements set forth in Labor Code section 1770 et seq.

**B. Working Day.** To the extent applicable, Design Professional must comply with California Labor Code Section 1810, et seq. which provides that work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, must be compensated as overtime, at not less than 1 ½ times the basic rate of pay.

**C. Payroll Records.** To the extent applicable, Design Professional must comply with California Labor Code Section 1776 which requires certified payroll records be maintained with the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with this Agreement. The payroll records must be made available for inspection as provided in California Labor Code Section 1776.

**D. Apprentices.** To the extent applicable, Design Professional must comply with California Labor Code Section 1777.5 regarding apprentices.

## **22. DISPUTE RESOLUTION:**

This Agreement will be interpreted under and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. 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). Any suits brought pursuant to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California, and no other place. If the parties engage in arbitration to resolve a dispute relating to this Agreement, the arbitrator's award must be supported by law and substantial evidence, and must include detailed written findings of law and fact. This section survives expiration or termination of the Agreement.

## **23. ATTORNEY FEES:**

If the City initiates a legal action, including a complaint or cross-complaint, arising out of, relating to or seeking the interpretation or enforcement of the terms of this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs, including the attorney fees and costs for any arbitration, appeal, or enforcement of judgment. This attorney fee provision does not apply to legal actions initiated by the Design Professional. This section survives expiration or termination of the Agreement.

## **24. ADVERTISEMENT:**

Design Professional may not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, posters or cards of any kind on City property performed under this Agreement without prior written approval from the City.

**25. WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**26. THIRD PARTY BENEFICIARIES:**

There are no intended third party beneficiaries of this Agreement.

**27. RECITALS:**

The parties agree that the above recitals, which are made part of this Agreement, are true and correct.

**28. INTEGRATED AND AMENDMENT:**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant will be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written instrument signed by authorized representatives for both City and Design Professional. If any provision of this Agreement is determined to be illegal, invalid, or unenforceable by a court of competent jurisdiction, all remaining provisions will remain in full force and effect.

**29. CONFLICT OF INTEREST:**

Design Professional warrants that it is not a conflict of interest for Design Professional to perform the Services required by this Agreement. Design Professional may be required to fill out a conflict of interest form if the Services provided under this Agreement require Design Professional to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

**30. GIFTS:**

Design Professional is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee, as set forth in City Administrative Procedures. Design Professional agrees not to offer any City officer or designated employee any gift prohibited by the Administrative Procedures. Offering or giving a prohibited gift constitutes a material breach of this Agreement by Design Professional. In addition to any other remedies City may have in law or equity, City may terminate this Agreement for cause as provided in Section 20 of this Agreement.

**31. INSERTED PROVISIONS:**

Each provision and clause required by law to be inserted into the Agreement is deemed to be enacted herein, and the Agreement will be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement will be amended to make such insertion on application by either party.

**32. EXECUTION:**

The person executing this Agreement on behalf of the Design Professional represents and warrants that the Design Professional 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 Design Professional. 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.

**33. 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.

*[Signatures on following page.]*

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed.

**DESIGN PROFESSIONAL**

Callander Associates Landscape  
Architecture, Inc.

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Tax I.D. No.: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**CITY OF CUPERTINO**

A Municipal Corporation

By \_\_\_\_\_

Timm Borden, Director of Public Works

Date \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Randolph Stevenson Horn, City Attorney

ATTEST:

\_\_\_\_\_  
Grace Schmidt, City Clerk

Contract Amount: \_\_\_\_\_

Account No. : \_\_\_\_\_

# EXHIBIT A – SCOPE OF SERVICES

## Interstate 280 Channel Trail Feasibility Study

July 31, 2017

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The following scope of services is a suggested approach and is subject to modification to respond to specific requirements of the project. The scope incorporates three fundamental principles of public project development; (1) a carefully managed project vetting process, (2) keeping the client fully informed at all times, (3) opportunities for input on each plan iteration by all effected parties. Items shown in ***bold-face italics*** are deliverables.

### **TASK 1: BACKGROUND INFORMATION**

- 1.01 **Start-Up Meeting:** Prepare for and facilitate an initial meeting with city staff to review overall project objectives, team member roles, approach, project management and schedule, Technical Advisory Committee (TAC) formation, key concerns and other aspects of the project. In coordination with the city, we will prepare a ***meeting agenda*** and a ***meeting summary***.
- 1.02 **Phone Coordination:** Conduct bi-weekly phone conferences to discuss project status for the duration of the project. Task assumes one (1) hour for each call.
- 1.03 **Initial Site Investigation:** As part of the start-up meeting a cursory ***initial site visit*** will be critical to an understanding of the project and rapid identification of plausible alignments. We will visit select spots along the I-280 channel as well as parallel corridors to the south and note specific characteristics of each.
- 1.04 **Technical Advisory Committee Formation and Outreach Plan:** Formalize technical advisory committee and develop ***contact list*** and identify meeting dates and locations. The Committee shall consist of the underlying property owners and other key players and is anticipated to include representatives from Vallco, Apple, SCVWD, Caltrans, Cupertino Loc-N-Stor, SCVTA, the City of Sunnyvale, PG&E and others as warranted. In assembling this disparate group of stakeholders the attendees benefit from a broader project understanding and a spirit of cooperation emerges that is much more difficult to foster if each stakeholder was to be approached separately. Develop a ***public outreach plan*** including community events to be attended and by whom, committee and public meeting dates and locations, goals and objectives of each meeting, notification collateral and protocols, etc. Craft a ***Mission Statement*** that embodies the project's goals, 'spirit' and working relationships.
- 1.05 **Public Meeting Collateral:** As part of the above outreach plan identify and prepare all project outreach collateral items including ***project branding*** (to be

incorporated on all materials), **meeting newsletter (1), meeting postcard (1), on-line surveys (3), and information booth materials such as a banner project information board**. Callander to prepare designs and provide originals to city for printing and distribution. Task includes preparation of **artwork** for the above and preparation of content for posting to the City's website throughout the process. Translation and interpreter services to be provided by the City.

- 1.06 **Base Data Acquisition:** Obtain reference information for use in conceptual design. Existing mapping of the subject area (by SCVWD, City GIS, utility agencies, Google Earth aerials, shall be used in the development of base sheets. Other information to be obtained to include regulatory guidelines, prior planning documents, SCVWD shared use guidelines, and general policy statements issued by local jurisdictions that speak to the development of trails. This shall include Cupertino General Plan, 2016 Bicycle Transportation Plan, South Vallco Connectivity Plan, Joint Cities Coordinated Stevens Creek Trail Feasibility Study, Santa Clara Countywide Trails Master Plan Update, Countywide Trails Prioritization and Gaps Analysis, and VTA Bikeways Map D – Cupertino, Campbell, Saratoga, and Los Gatos. In addition, review available standards from Santa Clara County, Santa Clara Valley Water District, Caltrans, ADA, VTA and other that would apply to this planning effort. Prepare **summary memo** describing standards and guidelines and how this trail segment aligns with previous planning efforts and standards as well as any additional findings that would affect trail development.

- 1.07 **File Set-Up:** Create a Drop Box or equivalent file share for the project. Collect and catalog reference info.

## **TASK 2: OWNERSHIPS AND JURISDICTIONS**

- 2.01 **Mapping:** In order to better evaluate the feasibility of this trail alignment it will be necessary to understand property ownership issues, easements, right of ways, and other site conditions. The mapping task will occur over two phases.
- a. Phase One - Research and locate available documents (parcel maps, deeds, title reports, aerial, topo survey, etc.) available from the City and Santa Clara Valley Water District to initially define the available Right-of-Way for the project with an emphasis on the channel. Obtain a limited number of title reports for those parcels that present challenges such as easements or property constraints. (note: as part of this fee an allowance has been provided for obtaining title reports) Combine base data sources into a series of project **base maps** for use on the project.
  - b. Phase Two (Optional Services) – Once alignments are narrowed down and topographic needs and constraints identified then mapping can continue in earnest. A **mapping services proposal** will be prepared that will be limited to the more feasible alignments and will involve filling in the gaps in information provided by the City through GIS files and other documentation. For purposes of this proposal and allowance has been provided for this effort. With City's concurrence on the limits, scope and cost of the additional mapping to be performed, proceed to complete the **project mapping**.



### **TASK 3: SITE RECONNAISSANCE**

- 3.01 **Detailed Site Reconnaissance:** With base information in hand perform a detailed investigation. This field work will include more extensive field documentation of existing conditions and 'walking' the entire length of each reach to develop a higher level of understanding of the specific challenges associated with each. Photograph site for studio and presentation purposes.
- 3.02 **Site Analysis:** Document findings on an ***Existing Facilities Inventory and Analysis*** consisting of graphics, photographs, and supporting imagery superimposed on the project base map to educate stakeholders and the public about the existing site conditions and to summarize key opportunities and constraints. Items to map include property ownership, zoning & land use, channel conditions, on-street bicycle/ped facilities, multi-modal connections, crossings (road, rail, water, bridges), major vegetation, utilities (critical above and below ground items), grading issues, easements, and geological and biological concerns.
- 3.03 **City Staff Meeting:** Review the above information with city staff. Capture the decisions made and the follow up action items in a ***meeting summary***.
- 3.04 **Community Events:** Participate in up to (2) community event booths, such as farmer's markets to get the word out about the project and highlight opportunities for input.
- 3.05 **TAC Meeting #1:** Review overall project goals and objectives and discuss specific site issues utilizing the existing facilities inventory and analysis. Obtain feedback and prepare written ***meeting summary***.
- 3.06 **Public Meeting #1 (Single Meeting):** The purpose of the first public meeting will be to introduce the project goals and objectives, related planning efforts, review opportunities and constraints, and to obtain initial thoughts and concerns from the public. Our expectation is that a large community hall type venue would be available and we would facilitate individual stations that participants can navigate and obtain project information and provide input. Prepare ***written meeting summary***.

### **TASK 4: DEVELOPMENT OF ALTERNATIVES**

- 4.01 **Trail Alignment Alternatives:** Based on the initial site investigations, and public input, suggest potential trail alignments. Review the route as identified in the Citywide study and provide additional alternate routes where constraints suggest that alternates should be evaluated. These will be documented on a 200 scale ***trail alternative alignments plan***. Each alignment route will be catalogued with photos showing typical condition and potential obstacles (crossings, etc.). Detailed areas such as crossings will be the subject of ***plan enlargements*** (up to five total) to better depict the specifics of the plan.

- 4.02 **Route Evaluation:** Prepare a *preliminary assessment of alignments* of the pro's and con's associated with each alternate route. Utilize goals and objectives developed during city staff meetings and public input and develop a graphic evaluation matrix to compare alignments and how they meet these goals.
- 4.03 **Traffic Analysis:** Fehr & Peers will assist with the development of the trail alignments and perform associated operational analyses, preliminarily including the following tasks:
- Identify and document potential affects to traffic operations resulting from the introduction of at-grade trail crossings at up to three locations.
  - AM and PM peak hour traffic operational analysis for existing conditions and one future traffic volume scenario.
  - All analyses will be conducted using Synchro 9.0 software and do not include microsimulation.
  - It is assumed that existing traffic signal timing, traffic count data, and future volume forecasts will be provided to Fehr & Peers by others and/or taken from available sources.
- 4.04 **City Staff Meeting:** Present the above in a meeting with City staff. Discuss refinements and make minor revisions to plans and matrix where prudent. Prepare *written meeting summary*.
- 4.05 **TAC Meeting #2:** TAC members are reconvened to provide input on the alternative alignment plans and assessments. Facilitate input and prepare written *meeting summary*.
- 4.06 **Public Meeting #2 (Two Separate Meetings):** Public meeting #2 is anticipated to follow the format of the first meeting, with the addition of a recap of all the project activities that transpired since the first meeting. Participants will have the opportunity to evaluate the alternative alignments and assessments and then provide feedback. The same meeting will be held at two different locations and days to provide additional opportunities for public input. Prepare *written meeting summary*.
- 4.07 **Bike and Pedestrian Commission Meeting #1:** Present the project at a single Bike and Pedestrian Commission Meeting. Presentation to include a summary of the pro's and con's of each route, a summary of the work performed to date and the items of significance as identified by the public. Provide clarifications and responses to Commission members' questions. Provide the Commission with a recommendation on a preferred alignment and solicit the commissions' support or recommendation of an ultimate alignment.
- 4.08 **Council Meeting #1:** Present the project at a single City Council Study Session. Presentation to essentially match the format of the presentation to the Commission with the exception that the Commission meeting input will be discussed. Share the Commissions' recommendations on a preferred alignment

and solicit the Council's support or their recommendation of an alternate alignment.

#### **TASK 5: COMMUNITY OUTREACH / PREFERRED ALIGNMENT**

- 5.01 **Draft Alignment Plan Preparation:** Prepare a ***Draft Alignment Plan***. This single alignment plan will indicate the most desirable of the options pursued to this point. The Alignment plan will consist of a combination of documents including an overall plan prepared at 200 scale, ***detail enlargements*** of up to five key areas along the trail (crossings, pinch points. etc.), and up to three SketchUp ***visual simulations*** of key elements such as bridges and other elements more easily understood with 3-D modeling. Additional documentation to include a ***traffic considerations memo*** summarizing the results of operational analyses for up to five proposed at-grade trail crossings, ***ROW acquisitions required, and an overall estimate of project costs*** (design + construction + administration).
- 5.02 **City Staff Meeting:** Meet to present all of the aforementioned materials to City Staff. Facilitate comments and discuss direction for proceeding with refinements. Allow for minor modifications to documents prior to the next tasks. Prepare ***written meeting summary***.
- 5.03 **TAC Feedback:** Issue the above information to the technical advisory committee via email to allow for members to provide feedback. Prepare ***written summary of feedback*** received.
- 5.04 **Public Meeting #3 (Single Meeting):** Public meeting #3 is anticipated to follow the format of the first two meetings, with the addition of a recap of all the project activities that transpired since the first meeting. Prepare ***written meeting summary***.
- 5.05 **City Staff Meeting:** Meet to go over the input received in the public meeting and identify any course corrections and necessary refinements to the plan to be incorporated as part of the draft feasibility study report below. Prepare ***written meeting summary***.
- 5.06 **Draft Feasibility Study Report Preparation:** Prepare an ***executive summary, process description, summary of key considerations, and timeline*** and compile the work products developed over the course of the project into a cohesive, easy-to-read report (***Feasibility Study***) with the intention that this plan will serve as the blueprint for the next phase of the I-280 Channel Trail.
- 5.07 **City Staff Meeting:** Present the revised materials and strategize the upcoming commission meeting. Prepare ***written meeting summary***.
- 5.08 **Bike and Pedestrian Commission Meeting #2:** Present the project at a single Bike and Pedestrian Commission Meeting, reporting on input received and the

selection of an alignment. Soliciting their input and endorsement (conditioned as needed).

- 5.09 **Park and Recreation Commission & Planning Commission:** Present the project at separate Park and Recreation Commission & Planning Commission Meetings, reporting on input received and the selection of an alignment. Soliciting their input and endorsement (conditioned as needed).

#### **TASK 6: FEASIBILITY STUDY**

- 6.01 **Final Feasibility Study Report Preparation:** Based upon input from above, proceed to refine the draft report and supporting materials and submit the ***Final Feasibility Study*** to the City.
- 6.02 **City Staff Meeting:** Present the Feasibility Study in draft form and discuss the format and content. Prepare ***written meeting summary***.
- 6.03 **Council Meeting #2:** Present the revised plan, respond to Council member questions and concerns and seek the Council's endorsement of the plan. Make minor modifications to the report and supporting materials based upon input. Submit the ***Final Feasibility Study Report*** to the City in electronic format for their use.

#### **OPTIONAL SERVICES**

It is understood that periodically throughout the feasibility study process the design team and city staff will be evaluating the need for additional information and meetings to ensure holes in background information are filled and that the community engagement program is producing the input required. For this reason, several optional tasks have been provided for the city to authorize if the need is identified. These tasks include obtaining a limited amount of topographic survey information to further analyze a specific crossing or conflict area, that cannot be fully analyzed through available information, and budgets for additional meetings if they are needed. These tasks must be authorized by the city in writing prior to beginning the work.

#### **ADDITIONAL SERVICES**

All tasks not specifically noted above could be performed as additional services. These tasks would include, but not be limited to, all revisions or additional submittals required by the City or any other agency's review, other meetings, additional design studies, or other tasks not specifically noted in the foregoing. These services would be billed hourly or on a lump sum fee basis to be documented in a written amendment to this agreement.

#### **REIMBURSABLE EXPENSES**

In addition to the above fees, we would bill for all printing and reproduction, delivery, horticultural soils samples, the communication and insurance surcharge, and other reimbursable expenses as noted in the attached Standard Schedule of Compensation.

You should establish a tentative budget for these expenses (see 7.0 Summary below). These costs will be itemized on our invoice and compared monthly with the total allowances to assist you in monitoring these costs.

EXHIBIT B - SCHEDULE OF PERFORMANCE  
I-280 Channel Trail Feasibility Study

ID	Task Name	Duration	Start	Finish	Predecessors	Jul 30, '17							Sep 24, '17		Nov 19, '17		Jan 14, '18		Mar 11, '18		May 6, '18		Jul 1, '18		Aug 26, '18		Oct 21, '18	
						S	T	M	F	T	S	W	S	T	S	T	M	F	T	S	W	S	T	M	F	T	S	W
1	Contract Approval	0 days	Tue 8/15/17	Tue 8/15/17		8/15																						
2	TASK 1: BACKGROUND INFORMATION	321 days	Tue 8/15/17	Tue 11/6/18																								
3	1.01 start-up meeting	5 days	Mon 8/21/17	Fri 8/25/17	1FS+4 days																							
4	1.02 phone coordination	321 days	Tue 8/15/17	Tue 11/6/18																								
5	1.03 initial site investigation	5 days	Mon 8/21/17	Fri 8/25/17	3FF																							
6	1.04 outreach plan	10 days	Mon 8/28/17	Fri 9/8/17	5																							
7	1.05 public meeting collateral	15 days	Mon 8/28/17	Fri 9/15/17	3																							
8	1.06 base data acquisition	15 days	Mon 8/28/17	Fri 9/15/17	3																							
9	1.07 file set-up	5 days	Mon 8/28/17	Fri 9/1/17	3																							
10	TASK 2: OWNERSHIPS AND JURISDICTIONS	25 days	Mon 8/28/17	Fri 9/29/17																								
11	2.01 mapping (phase one)	25 days	Mon 8/28/17	Fri 9/29/17	3																							
12	TASK 3: SITE RECONNAISSANCE	65 days	Mon 9/11/17	Fri 12/8/17																								
13	3.01 detailed site reconnaissance	5 days	Mon 10/2/17	Fri 10/6/17	11																							
14	3.02 site analysis	10 days	Mon 10/9/17	Fri 10/20/17	13																							
15	3.03 city staff meeting	5 days	Mon 11/6/17	Fri 11/10/17	14FS+10 days																							
16	3.04 community events	45 days	Mon 9/11/17	Fri 11/10/17	6																							
17	3.05 tac meeting #1	5 days	Mon 11/27/17	Fri 12/1/17	15FS+10 days																							
18	3.06 public meeting #1	5 days	Mon 12/4/17	Fri 12/8/17	17																							
19	PHASE 4: DEVELOPMENT OF ALTERNATIVES	81 days	Mon 12/11/17	Tue 4/3/18																								
20	4.01 trail alignment alternatives	25 days	Mon 12/11/17	Fri 1/12/18	18																							
21	4.02 route evaluation	10 days	Mon 1/1/18	Fri 1/12/18	20FF																							
22	4.03 traffic analysis	15 days	Mon 12/25/17	Fri 1/12/18	20FF																							
23	4.04 city staff meeting	5 days	Mon 1/29/18	Fri 2/2/18	20FS+10 days																							
24	4.05 tac meeting #2	5 days	Mon 2/12/18	Fri 2/16/18	23FS+5 days																							
25	4.06 public meeting #2a	5 days	Mon 2/19/18	Fri 2/23/18	24																							
26	4.06 public meeting #2b	5 days	Mon 2/26/18	Fri 3/2/18	25																							
27	4.07 bike and pedestrian commission meeting #1 (third Wednesday)	0 days	Wed 3/21/18	Wed 3/21/18																								
28	4.08 Council meeting #1 (first and third Tuesday)	0 days	Tue 4/3/18	Tue 4/3/18																								
29	TASK 5: COMMUNITY OUTREACH / PREFERRED ALIGNMENT	115 days	Tue 4/3/18	Tue 9/11/18																								
30	5.01 draft alignment plan preparation	25 days	Tue 4/3/18	Mon 5/7/18	28																							
31	5.02 city staff meeting	5 days	Tue 5/22/18	Mon 5/28/18	30FS+10 days																							
32	5.03 tac feedback	15 days	Tue 5/29/18	Mon 6/18/18	31																							
33	5.04 public meeting #3	5 days	Tue 6/5/18	Mon 6/11/18	31FS+5 days																							
34	5.05 city staff meeting	5 days	Tue 6/19/18	Mon 6/25/18	33FS+5 days																							
35	5.06 draft feasibility study report	15 days	Tue 6/26/18	Mon 7/16/18	34																							
36	5.07 city staff meeting	5 days	Tue 7/31/18	Mon 8/6/18	35FS+10 days																							
37	5.08 bike and pedestrian commission meeting #2 (third Wednesday)	0 days	Wed 8/15/18	Wed 8/15/18																								
38	5.09 park and recreation commission (first Thursday)	0 days	Thu 9/6/18	Thu 9/6/18																								
39	5.09 planning commission (second and fourth Tuesday)	0 days	Tue 9/11/18	Tue 9/11/18																								
40	TASK 6: FEASIBILITY STUDY	40 days	Tue 9/11/18	Tue 11/6/18																								
41	6.01 final feasibility study report	15 days	Tue 9/11/18	Mon 10/1/18	39																							
42	6.02 city staff meeting	5 days	Tue 10/16/18	Mon 10/22/18	41FS+10 days																							
43	6.03 Council meeting #2 (first and third Tuesday)	0 days	Tue 11/6/18	Tue 11/6/18																								

**Overall**

Based on the Scope of Services prepared by Callander Associates and subconsultants and the "Task Matrix" dated June 31, 2017, we have prepared the following summary of compensation. Callander Associates Landscape Architecture, Inc. will be the prime consultant on the project with the following subconsultants:

Fehr & Peers (FP) *traffic engineering*

Sandis (SAN) *topographic/boundary survey, civil engineering*

**Fees, Basic Services**

task		CA	FP	SAN	Totals
1.0	background information	\$28,943	\$1,500	\$1,750	\$32,193
2.0	ownerships and jurisdiction	\$0	\$0	\$12,500	\$12,500
	a. title report allowance	\$1,890	\$0	\$5,000	\$6,890
3.0	site reconnaissance	\$21,794	\$5,000	\$2,000	\$28,794
4.0	development of alternatives	\$41,298	\$28,000	\$2,000	\$71,298
5.0	community outreach/preferred alignment	\$65,821	\$12,000	\$0	\$77,821
6.0	feasibility study	\$12,609	\$7,500	\$2,000	\$22,109
	reimbursable expenses (allowance)	\$10,340	\$1,620	\$760	\$12,720
	Subtotal (fees and expenses)	\$182,695	\$55,620	\$26,010	\$264,325

**Total Basic Services**

Not to Exceed Compensation (for tasks 1.0 through 6.0 and reimbursable expenses)

**\$264,325**

**Additional boundary/topographic survey and meetings (allowance)**

**\$35,610**

**Total with Additional Services**

**\$299,935**

All reimbursable expenses, including the communication and insurance surcharge noted on the attached Standard Schedule of Compensation dated 2017 (San Jose), would be invoiced as a separate line item. These costs will be itemized on our invoice and compared monthly with the total allowance to assist you in monitoring these costs.



## **Standard Schedule of Compensation 2017 San Jose**

### **General**

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

### **Hourly Rates**

Principal	\$190/hour
Senior Associate	\$178/hour
Associate	\$168/hour
Senior Project Manager	\$152/hour
Project Manager 1	\$146/hour
Project Manager 2	\$138/hour
Construction Manager	\$149/hour
Job Captain	\$127/hour
Designer 1	\$117/hour
Designer 2	\$108/hour
Assistant Designer	\$95/hour
Project Administrator	\$105/hour
Accounting	\$122/hour

### **Reimbursable Expenses**

All costs for photography, printing and plotting, special delivery, insurance certificate charges, charges for waivers of subrogation, local business licenses, sales taxes, assessments, fees, mileage, all CADD and visual simulation ancillary costs, such as data transfers, tapes and outside services, and all other costs directly related to the project will be billed as a reimbursable expense at our cost plus a fifteen percent (15%) administration charge. The cost of professional liability insurance and all costs associated with cell phones, electronic mail, faxes, long distance phone charges and related telecommunications shall be charged as a combined surcharge of 2.5% on the total fees.

### **Payments**

Payments are due within ten days after monthly billing with amounts more than thirty days past due 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.