

AGREEMENT BETWEEN THE CITY OF CUPERTINO AND PERKINS+WILL FOR
CONSULTANT SERVICES FOR URBAN PLANNING & ARCHITECTURAL SERVICES
FOR THE CIVIC CENTER MASTER PLAN & PARKING GARAGE CONCEPTUAL
PLANNING

THIS AGREEMENT, for reference dated March 4, 2014, is by and between CITY OF CUPERTINO, a municipal corporation (hereinafter referred to as "City"), and PERKINS+WILL, a (California corporation) whose address is 185 Berry Street, Lobby One, Suite 5100, San Francisco, CA 94107 (hereinafter referred to as "Consultant"), and is made with reference to the following:

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. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

D. City and Consultant desire to enter into an agreement for urban planning and architectural services upon the terms and conditions herein.

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

1. TERM:

The term of this Agreement shall commence on the date this agreement is executed and shall terminate on March 31, 2015, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED:

Consultant shall perform each and every service set forth in Exhibit A, titled "Scope of Services" which is attached hereto and incorporated herein by this reference.

3. SCHEDULE OF PERFORMANCE:

The Services of Consultant are to be completed according to the schedule set out in Exhibit B, titled "Schedule of Performance", which is attached hereto and incorporated herein by this reference.

4. COMPENSATION TO CONSULTANT:

The maximum compensation to be paid to Consultant under this agreement shall not exceed Five Hundred Seventy-One Thousand Dollars (\$ 571,000). The rate of payment is set out in Exhibit C, titled "Compensation", which is attached hereto and incorporated herein.

Consultant shall furnish to City a detailed statement of the work performed for compensation during the term of this Agreement. Consultant may submit monthly invoices for interim progress payments during the course of each phase, clearly stating as a minimum the total Contract amount, amount paid to date, percent complete and amount due.

5. TIME IS OF THE ESSENCE:

Consultant and City agree that time is of the essence regarding the performance of this Agreement.

6. STANDARD OF CARE:

Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with City.

7. INDEPENDENT PARTIES:

City and Consultant intend that the relationship between them created by this Agreement is that of employer-independent contractor. The manner and means of conducting the work are under the control of Consultant, 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 Consultant's 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 Consultant, its employees or agents. Deductions shall 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 fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

8. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Consultant assumes any and all responsibility for verifying the identity and employment authorization of all of his/her employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Consultant shall indemnify and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Consultant.

9. NON-DISCRIMINATION:

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Consultant agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Consultant or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

10. PROJECT COORDINATION

CITY: Director of Public Works shall be representative of City for all purposes under this Agreement. Katy Jensen, is hereby designated as the Director of Public Works' designee and Project Manager, and shall supervise the progress and execution of this Agreement.

CONSULTANT: Consultant shall assign a single Consultant Project Manager to have overall responsibility for the progress and execution of this Agreement for Consultant. Should circumstances or conditions subsequent to the execution of the Agreement require a substitute Consultant Project Manager for any reason, the Consultant Project Manager designee shall be subject to the prior written acceptance and approval of the City Project Manager. The designated Consultant Project Manager shall be Geeti Silwal.

11. **HOLD HARMLESS:**

A. Indemnity Obligations Subject to Civil Code Section 2782.8.

1. Where the law establishes a standard of care for Consultant's professional services, and to the extent the Consultant breaches or fails to meet such established standard of care, or is alleged to have breached or failed to meet such standard of care, Consultant shall, 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 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, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of City's choice, expert fees and all other costs and fees of litigation. Consultant shall 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 City, its agents or employees.

2. Notwithstanding the foregoing, the Consultant has no duty to provide or to pay for an up-front defense against unproven claims or allegations, but shall pay or reimburse the City for its reasonable attorneys' fees of counsel of City's choice, expert fees and all other costs and fees of litigation to the extent caused by the negligence, recklessness, or willful misconduct of Consultant or its employees, officers, officials, agents or independent contractors. However, the Consultant shall provide its immediate and active cooperation and assistance to the City, at no additional cost to the City, in analyzing, defending, and resolving such claims.

B. Claims for Other Liability. For all liabilities other than those included within paragraph A. above, Consultant shall, to the fullest extent allowed by law, indemnify, defend, and hold harmless the City and its officers, officials, agents, employees and volunteers 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 Consultant or Consultant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of City's choice,

expert fees and all other costs and fees of litigation. Consultant shall 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 City, its agents or employees.

C. Claims involving intellectual property. In addition to the obligations set forth in (A) and (B) above, Consultant shall indemnify, defend, and hold the City, its elected and appointed officers, employees, and volunteers, harmless from and against any Claim in which a violation of intellectual property rights, including but not limited to copyright or patent rights, is alleged that arises out of, pertains to, or relates to Consultant's negligence, recklessness or willful misconduct under this Agreement. Such costs and expenses shall include reasonable attorneys' fees of counsel of City's choice, expert fees and all other costs and fees of litigation.

12. INSURANCE:

On or before the commencement of the term of this Agreement, Consultant shall furnish City with certificates showing the type, amount, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 12A, B, C, D and E. Such certificates, which do not limit Consultant's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Cupertino, Attention: City Manager." It is agreed that Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and authorized to do insurance business in the State of California. Endorsements naming the City as additional insured in relation to the commercial general liability and commercial automobile liability policies shall be submitted with the insurance certificates.

A. COVERAGE:

Consultant shall maintain the following insurance coverage:

- (1) Workers' Compensation:
Statutory coverage as required by the State of California.
- (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 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 Consultant in the amount of at least \$1,000,000 per claim and in the aggregate.

B. **SUBROGATION WAIVER:**

Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide commercial general and automotive liability insurance, Consultant shall look solely to his/her insurance for recovery. Consultant hereby grants to City, on behalf of any insurer providing commercial general and automotive liability insurance to either Consultant or City with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of said Consultant may acquire against City by virtue of the payment of any loss under such insurance.

C. **FAILURE TO SECURE:**

If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant 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:**

City, its City Council, boards and commissions, officers, employees and volunteers shall be named as an additional insured under all insurance coverages, except any worker's compensation and professional liability insurance, required by this Agreement. An additional insured named herein shall 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 shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. **SUFFICIENCY OF INSURANCE:**

The insurance limits required by City are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

13. CONFLICT OF INTEREST:

Consultant warrants that it is not a conflict of interest for Consultant to perform the services required by this Agreement. Consultant may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant 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.

14. PROHIBITION AGAINST TRANSFERS:

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 without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to City by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or

cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

15. SUBCONTRACTOR APPROVAL:

Unless prior written consent from City is obtained, only those people and subcontractors whose names are included in this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in reasonable conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

16. PERMITS AND LICENSES:

Consultant, at his/her sole expense, shall 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 services hereunder.

17. OWNERSHIP OF WORK:

A. Any interest (including copyright interests) of Consultant and its subconsultants in each and every study, document, report, draft, memoranda, work product, map, record, plan, drawing, specification and other deliverable, in any medium prepared or created by Consultant or its subconsultants pursuant to or in connection with this Agreement, shall be the exclusive property of City. To the extent permitted by Title 17 of U.S. Code, all work product prepared or created under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of City. In the event that it is ever determined that any works prepared or created by Consultant or any subconsultant under this Agreement are not works for hire under U.S. law, Consultant hereby assigns to City all copyrights to such works when and as created. With Owner's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of its experience and capabilities and in its promotional materials. With respect to Consultant's standard details, Consultant may retain the copyright, but grants to City a perpetual non-exclusive license to use such details in connection with the Project.

B. Without limiting any other City right to any of the works prepared or created by Consultant or its subconsultants, all works may be used by City in execution or implementation of:

- (1) The original Project for which Consultant was hired;
- (2) Completion of the original Project by others;
- (3) Subsequent additions to the original project; and/or
- (4) Other City projects as appropriate.

C. Any City reuse of works shall be subject to California Business and Professions Code Sections 5536.25, 6735, 6735.3 or 6735.4, if and to the extent applicable. Any City reuse of works for any purpose other than those in B(1) through B(3) above, and any modifications to any of the works, shall be at City's sole risk and expense.

D. Consultant shall, at such time and in such form as City may require, furnish reports concerning the status of services required under this Agreement.

E. All written work required to be provided by this Agreement (other than large-scale architectural plans and similar items) shall be printed on recycled paper and shall be copied on both sides of the paper except for one original, which shall be single sided.

F. No work, information or other data given to or prepared created or assembled by Consultant or any of its subconsultants pursuant to this Agreement, shall be made available to any individual or organization by Consultant or any subconsultant without prior approval by City.

G. Electronic and hard copies of Consultant's work product shall constitute the Project deliverables. Plans shall be in CAD and PDF formats, and other documents shall be in Microsoft Word and PDF formats.

18. RECORDS:

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement.

Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of City or its designees at all proper times, and gives City the right to examine and audit same, and to make transcripts there from as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

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 Consultant shall reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit.

19. NOTICES:

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall 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, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Consultant to City shall be addressed to City at:

City of Cupertino
10300 Torre Ave.
Cupertino CA 95014
Attention: Katy Jensen

All notices, demands, requests, or approvals from City to Consultant shall be addressed to Consultant at:

Perkins+Will
185 Berry Street, Lobby One
Suite 5100
San Francisco, CA 94107
Attention: Geeti Silwal

20. TERMINATION:

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If such default is not cured within the time specified after receipt by Consultant from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may terminate the Agreement forthwith by giving to the Consultant written notice thereof.

City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Consultant as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

In the event of termination, Consultant shall deliver to City, copies of all reports, documents, and other work performed by Consultant under this Agreement.

21. COMPLIANCES:

Consultant shall comply with all state or federal laws and all ordinances, rules and regulations enacted or issued by City.

22. CONFLICT OF LAW:

This Agreement shall 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 shall be filed with the courts of the County of Santa Clara, State of California.

23. ADVERTISEMENT:

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

24. WAIVER:

A waiver by City of any breach of any term, covenant, or condition contained herein shall 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.

25. INTEGRATED CONTRACT:

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 shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Consultant.

26. GIFTS:

A. Consultant is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in City Administrative Procedures.

B. Consultant agrees not to offer any City officer or designated employee any gift prohibited by the Administrative Procedures.

C. The offer or giving of any prohibited gift shall constitute a material breach of this Agreement by Consultant. In addition to any other remedies, City may have in law or equity, City may terminate this Agreement for such breach as provided in Section 19 of this Agreement.

27. INSERTED PROVISIONS:

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall 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 shall be amended to make such insertion on application by either party.

28. CAPTIONS:

The captions 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.

P.O. No.: _____

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

CONSULTANT
Perkins+Will
A California Corporation

CITY OF CUPERTINO
A Municipal Corporation

By _____

By _____

David Brandt, City Manager

Name _____

Date _____

Title _____

Date _____

Tax I.D. No.: _____

APPROVED AS TO FORM:

Address:

185 Berry Street, Lobby One
Suite 5100
San Francisco, CA 94107

Carol Korade, City Attorney

ATTEST:

Grace Schmidt, City Clerk

Contract Amount: _____

Account No. : _____

EXHIBIT A

SCOPE OF SERVICES

CIVIC CENTER MASTER PLAN & PARKING GARAGE CONCEPTUAL PLANNING

CITY OF CUPERTINO, CALIFORNIA

CONSULTANT shall perform professional services as detailed in the following sections related to the master planning of the Cupertino Civic Center area and the feasibility analysis and conceptual design for the parking option.

SECTION 1 GENERAL

- A. General PROJECT Description:** The PROJECT involves the development of a Civic Center Master Plan, and to develop a feasibility analysis and conceptual design for a parking structure at the Civic Center.

The CONSULTANT shall provide all services required to manage the project, including all processes, all communication, all coordination, all record-keeping, and all process documentation. The CONSULTANT shall propose a detailed schedule for the project for review and approval of the CITY. The CONSULTANT shall solicit and obtain decisions from CITY as the project process requires in order to advance the project in accordance with the approved project schedule. The CONSULTANT shall prepare and submit to the CITY a project and process update report at least monthly, or more frequently as project process requires.

B. General Performance Requirements:

1. The performance of all services by CONSULTANT shall be to the satisfaction of the CITY, in accordance with the express terms hereof, including but not limited to the terms set out in detail in this scope of services and the standard of care provisions contained in this AGREEMENT.
2. The CITY's Department of Public Works shall manage the design and construction of the PROJECT and this AGREEMENT. CONSULTANT shall receive final direction from the CITY's Director of Public Works or his/her authorized designee (hereinafter collectively "CITY") only. The CITY shall resolve any conflicting direction from other groups, departments or agencies.
3. CONSULTANT shall coordinate this scope of services with the CITY as well as with other CITY consultants and contractors, as needed or as directed by the CITY. CONSULTANT shall schedule meetings and prepare meeting agendas and action item list for all PROJECT meetings under the scope of work. All

- action item list of meetings are due to the CITY within five (5) working days after the meeting. CONSULTANT shall provide copies of such documentation to the CITY, to be shared by the CITY to other appropriate agencies and entities. CONSULTANT shall coordinate all responses to comments through the CITY.
4. The CITY shall direct CONSULTANT with respect to programming and functionality of the PROJECT space. The CITY shall approve design milestones through all tasks. For the purpose of this AGREEMENT, direct written authorization or approval from the CITY shall mean and require the signatures of the CITY before proceeding to the next phase of work.
 5. CONSULTANT shall designate and provide to the CITY the names of their team members for the PROJECT. The team members shall be satisfactory to the CITY. The team members shall include Karen Alschuler as CONSULTANT's Principal-in-charge for the duration of the PROJECT. CONSULTANT shall not substitute any team members without the prior approval of the CITY.
 6. CONSULTANT's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly process of the work. The schedule for the performance included in EXHIBIT B, may be adjusted by mutual agreement.
 7. CONSULTANT shall manage its SUBCONSULTANTS, and administer the PROJECT. CONSULTANT shall consult with the CITY, research applicable design criteria, communicate with members of the PROJECT team, and issue progress reports as necessary and directed by the CITY.
 8. CONSULTANT shall submit design documents to the CITY, according to SECTION 2 – "SCOPE OF SERVICES", of this EXHIBIT A for purposes of evaluation and approval by the CITY. The CITY will review the design during each task. CONSULTANT will meet with the CITY for progress review at various stages of the PROJECT. CONSULTANT will be responsible for calling the appropriate SUBCONSULTANT(S) to attend any meetings included in this SCOPE OF SERVICES. CONSULTANT shall make revisions to the design documents as required for each task in a timely manner.
 9. CONSULTANT shall assist the CITY, as requested by the CITY, in connection with the CITY's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the PROJECT.
 10. CONSULTANT shall prepare and make presentations to explain the design of the PROJECT at various occasions to representatives of the CITY, as directed by the CITY according to SECTION 2 – "SCOPE OF SERVICES" of this EXHIBIT A.
 11. CONSULTANT shall prepare and present to the CITY an Organization Chart, Directory, and Communication Flow Chart at the PROJECT Kick-Off Meeting. This meeting shall introduce team members, establish routes of communication, and discuss the participants' roles, responsibilities, and authority.
 12. CONSULTANT shall submit written requests for all information and official documents related to the PROJECT to the CITY.

13. **Communications Protocols**

- **Team Meetings and Conference Calls:** CONSULTANT will initiate the team/client meetings that allow for essential brainstorming and sharing of ideas among consultants and the CITY, leading to well-conceived final products. Attendance at these meetings will vary, based upon the work in progress and need for collaboration. In addition, it is important to have a weekly conference call with the CITY that will be attended by the invited consultants as needed. This will be a means to strategize the efforts and coordination needed for the upcoming weeks, update the CITY about work in progress, discuss points of collaboration to inform the products, and lay down the next steps for a seamless work process.
- **Meeting Agendas:** CONSULTANT to prepare, or have prepared by the particular meeting leader, draft meeting agendas for the team meetings and the weekly conference calls. CONSULTANT will send draft agendas to the CITY for review and comment. The finalized agenda will be distributed to required attendees by the CONSULTANT.
- **Meeting Notes:** CONSULTANT to prepare the meeting action item list for the team/client meetings and the conference calls. The action item list notes will focus primarily on documenting agreed-upon follow-up actions and responsibilities for the consultant team and CITY.
- **Other Communication:** In addition to the team meetings and the conference calls, all consultant team members are expected to be in direct communication with CITY for discussion and feedback specific to their scope, as required. The record of these independent meetings will consist of notes on key decisions made and action items, and will be completed by the respective consultant team member on behalf of CONSULTANT. This information will be reported by CONSULTANT in a timely manner at team meetings, during conference calls, or sooner via email if key decisions and directions need to be communicated to other consultant team members.

14. **Management Protocols**

- **Project Management:** Project management actions are critical to the success of the project. As such, close coordination will be required between the CONSULTANT and CITY at each step in the process. Weekly phone calls and exchange of e-mail messages are anticipated to make up the bulk of these communications. In addition a brief bi-weekly status update documenting past 2-weeks effort and next 2 weeks effort memorandum will be produced by CONSULTANT for CITY.
- CONSULTANT will maintain overall control of the subconsultant team throughout the process, ensuring completion of draft and final documents, and any related actions, consistent with this overall Scope of Work, Project Timeline and Project Budget. CONSULTANT, their subconsultant team, and the CITY will share ideas and offer constructive feedback as the various studies are being

prepared, working to ensure that key findings and concerns generated through one subtask are considered in overall project findings and recommendations. As part of this action, CONSULTANT and CITY, will ensure seamless transition from one task to the next through a written sign-off of CITY approving the end of each phase and acknowledging the start of the next.

- **Document Management:** CONSULTANT will set up an internet-based document management/exchange platform called Newforma for efficient and secure sharing of information among consultants and CITY. Newforma tracks all files shared and maintains a record of files accessed by user group. It will help team members effectively communicate and share information throughout the course of the project.

15. Deliverables

- **Format:** The format of all text and graphic documents must be compatible with MS Word, Excel, or Adobe Creative Suite (e.g. Illustrator, Photoshop, Acrobat), respectively. All digital maps shall be in pdf, unless otherwise directed by the CITY. For all deliverables, one hard copy as well as a copy (in PDF format) shall be provided to CITY.
- **Steps to Deliverable Completion:** Working as partners toward completion of the scope, the CITY will participate in the evolution of the Master Plan through team work sessions and sharing of early concepts. Draft and final documents will be submitted by CONSULTANT to CITY. CITY will ensure timely review of all draft documents, providing a single set of consolidated City staff comments back to the CONSULTANT within 15 days of receipt of the documents from CONSULTANT, as well as meeting other responsibilities as contained in this Scope of Work. Comments received from CITY on the draft documents will be addressed in the next deliverable.

- C. **Estimate of Probable Construction Cost:** CONSULTANT shall be responsible for the conceptual design of the PROJECT to allow a comprehensive Estimate of Probable Construction Cost and states the valid timeframe for the estimate.

SECTION 2 **SCOPE OF SERVICES****GENERAL**

1. The CONSULTANT shall provide all services necessary required to complete the tasks identified in the Scope of Services
2. The CONSULTANT shall coordinate and manage all subconsultants in each project task.
3. The CITY shall use the minimum work items identified in Appendix A as evidence that the CONSULTANT met the Task deliverable submission for billing purposes. Any deficiencies in the minimum work items identified shall cause the CITY to reject the entire submission, require the CONSULTANT to make appropriate corrections, and resubmit, at no cost to the CITY. Earned value for submissions according to the EXHIBIT C, Compensation Schedule shall not be considered earned until the Task Deliverable meets the minimum work standards set for in the Appendix.

TASK 1 – PROJECT INITIATION**Task 1.1 – Project Kick-Off**

- Preparation for project kick-off meeting
- CCMP consultant team + client + environmental consultants kick-off meeting to confirm project goals, scope, approach, roles and communication protocols.
- Discuss and establish a clear 3-part project schedule to identify critical milestones in the 3 different scopes – Civic Center Master Plan+Parking, Book Drop-Off Canopy, and Library Story Room Expansion + Teen Room – that will need to track in parallel to enable flow of information/findings from one scope of services to the other.
- Reiteration of preliminary understanding of the issues and opportunities as studied in the Master Plan Framework effort
- Preliminary discussion on the envisioned experience of the Civic Center Master Plan area.
- Discuss project/site energy, water, resiliency goals and targets, both quantifiable and experiential.

Task 1.2 – Develop Outreach Plan

- Establish clarity of process, participants and consultant/City roles at various outreach meetings
- Develop list of attendees for the various outreach meetings and establish format for notification
- Discuss schedule for community engagement
- Discuss goals for each of the public outreach engagement and possibility for larger communications strategy
- Discuss format/logistics of each event
- Describe tools for effective communication and decision-making

Task 1.3 – Analysis of Issues and Opportunities for next phase of CCMP

Conduct in-depth analysis of parking/circulation/land use/open space/infrastructure

Circulation/Parking Analysis -

- Study traffic and travel patterns
- Conduct parking demand (vehicle & bicycles) surveys and circulation observations on two days TBD in collaboration with City staff
- Establish target for number of additional parking spaces needed
- Identify opportunities for providing additional parking
 - Expansion of surface parking
 - Location(s)
 - Approximate number of spaces
 - Possibilities of shared parking within or outside the site
 - Parking under new buildings
 - Building purpose/location
 - Parking footprint
 - Stand-alone parking structure
 - Locations
 - Footprint/Number of levels
- Study pedestrian access and circulation network

Land Use/Open Space Analysis –

- Study context and its relations and connections with the project area.
- Discuss opportunities

Infrastructure Analysis –

- Issues and constraints relating to infrastructure and its ability to serve the area will be studied.

Task 1.4 – Coordination with Environmental Consultants

- Coordination meeting with the EIR Consultants early on in the design process to help inform the design team of environmental constraints.

Task 1.5 – Develop Range of Program Elements for CCMP

- Discuss and define experience map for CCMP, with desired attributes and outcomes per piece.
- Establish list of all program elements (built and open space) that address project goals and enhance the district’s economic and civic presence.
- With established program elements, and project vision as a base, use the experience mapping to articulate and align key design elements, processes, and potential users for this site.

TASK 1 DELIVERABLES –

- Memo summarizing findings of the analysis

TASK 2 – MASTER PLAN OPTIONS DEVELOPMENT

Task 2.1 – Develop & Evaluate Master Plan Options for Alternative 3 – Civic Life

- Study precedents/best practices relevant to the site

- Develop up to 3 options for CCMP to incorporate various program elements. This task will be done in parallel with Task 2.3 – Develop Parking Options.
- Develop land use, circulation and conceptual landscape plans for each option
- Study three-dimensional concept massing of each option to understand view impacts on adjoining neighborhoods
- Develop conceptual development program of each option
- Study conceptual phasing plan for each option
- Evaluate plans according to their ability to meet project goals

Task 2.2 – Develop & Evaluate Parking Options (with & without structure) for Alternative 3 – Civic Life

- Develop vehicle parking demand estimates based on selected program, including potential reductions associated with various TDM measures
- Develop parking options identified in Phase 1, Task 1.3
- Prepare sketches for each alternative showing
 - Facility massing
 - Parking layout
 - Entry/exit locations and vehicle circulation paths
 - Pedestrian accommodations
- Identify and discuss pros and cons of each alternative
- Select preferred alternative(s) for further development
- Develop short-, mid-, and long-term options for vehicle and bicycle parking
- Develop interim parking solutions (parking management) to address parking demand until permanent additional parking is constructed.

Task 2.3 – Cost Estimation of Master Plan Options + Parking Options

- Develop costing options for CCMP master plan
- Develop ROM cost estimates for parking options

Task 2.4 – Develop Funding Strategies

- Meet with City staff (Public Works/Finance) to review the types of funding sources that have been used by the City
- Research additional local, regional, state and federal funding sources
- Recommend funding strategies that could be utilized for Master Plan and Parking options
- Analyze the potential use of tax exempt bond financing to fund all or a portion of the improvements
- Analyze the potential use of public private partnerships

Task 2.5 – Focus-Group Stakeholder Meeting 1

- Plan, coordinate and staff/facilitate stakeholder meeting to garner input on Master Plan options
- Prepare presentation material

- Summarize stakeholder meeting

Task 2.6 – City Council Meeting 1 – Study session

This is intended as an across the table discussion with the City Council to walk them through the conceptual options developed and get their buy-in on the preferred direction.

- Preparation of presentation material
- Share presentation material 1 week in advance of Council Meeting for one set of consolidated City comments
- Attendance and presentation at the City Council Meeting
- Incorporate comments received for final submission of Phase 2 material

Task 2.7 – Community Workshop 1 – *Master Plan + Parking Concepts*

- Pre-meeting 2 weeks in advance of workshop to review workshop material and finalize plan preparation
- Strategize format and prepare presentation material
- Facilitate and attend workshop
- Summarize workshop findings

Task 2.8 – City Council Meeting 2 – *Approval on preferred direction*

- Preparation of presentation material
- Attendance and presentation at the City Council Meeting
- Incorporate comments received from City Council for submission of Phase 2 material

TASK 2 DELIVERABLES –

- Memorandum summarizing the Stakeholder Meeting and Community Workshop
- Memorandum summarizing cost estimation
- Memorandum summarizing funding strategies
- Draft and final City Council presentation

TASK 3 – PREFERRED MASTER PLAN DEVELOPMENT

Task 3.1 – Develop Preferred Master Plan

- Develop preferred Master Plan which could be a combination of components from various options. The preferred Master Plan will incorporate preferred parking option.
- Develop land use, circulation and landscape plan for preferred option
- Refine phasing plan for preferred option

Task 3.2 – Refine Funding Strategies

- Prepare projections for potential parking revenues and potential bond capacity analysis (and any other revenue sources identified in recommendations)
- Prepare more refined funding strategy including evaluation of public private partnership options.

Task 3.3 – Coordination with Environmental Consultants

- Coordination meeting with the EIR Consultants to discuss the preferred Master Plan

Task 3.4 – Finalize Master Plan

- Develop illustrative Final Master Plan
- Develop land use plan illustration
- Develop open space and streetscape plan illustration
- Circulation plan
- Conceptual elevation sketches
- Site section
- Development Phasing Plan
- Develop 3-dimensional views/renderings for ease of visualizing the future Civic Center area

Task 3.5 – Community Workshop 2 – Draft Master Plan

- Pre-meeting 2 weeks in advance of workshop to review workshop material and finalize input strategy
- Preparation of presentation material
- Facilitation and attendance at workshop
- Workshop summary memo

TASK 3 DELIVERABLES –

- Memorandum summarizing the Stakeholder Meeting and Community Workshop
- Final illustrative Master Plan and 3-dimensional views
- Draft and final City Council presentation

TASK 4 – MASTER PLAN DOCUMENT

Task 4.1 –Draft Master Plan Document

- Prepare draft master plan document for City review and comments

Task 4.2 – Planning Commission Meeting

- Prepare presentation of draft master plan document
- Share presentation material 1 week in advance of Commission Meeting for one consolidated set of City comments
- Attendance and presentation at the Planning Commission Meeting.

Attendance by other consultant team members shall be additional service.

Task 4.3 – Final Draft Master Plan Document

- Prepare final draft master plan document to incorporate City Council comments

Task 4.4 – City Council Meeting 3 – Plan Adoption

- Prepare presentation of final draft master plan document
- Share presentation material 1 week in advance of Council Meeting for one consolidated set of City comments

- Attendance and presentation at the City Council Meeting by Perkins+Will. Other consultant attendance if needed will be discussed with the City as an additional service.

Task 4.5 – Final Master Plan

- Prepare final master plan document to incorporate City Council comments

TASK 4 DELIVERABLES –

- Draft Master Plan document
- Final Draft Master Plan document
- Final Master Plan document

TASK 5 – ADDITIONAL SERVICES

Consultant services not specifically identified in the Scope of Services shall be considered Additional Services. At the CITY's request, the CONSULTANT shall provide a fee proposal for specific additional services consistent and in accordance with the Exhibit C . Some of the additional tasks that may be requested are -

Task 5.1 – Eco-charrette to Develop Sustainable Strategies

Task 5.2 – Develop branding/identity of the Civic Center District

Task 5.3 – LEED ND documentation

Task 5.4 – Preparation for and attendance by subconsultants at Planning Commission

Task 5.5 – Preparation for and attendance at additional City Council Meetings

This is not an exhaustive list but based on preliminary understanding of the project.

END OF EXHIBIT A

EXHIBIT B

SCHEDULE OF PERFORMANCE

CIVIC CENTER MASTER PLAN & PARKING GARAGE CONCEPTUAL PLANNING

CITY OF CUPERTINO, CALIFORNIA

This is an exhibit attached to, and made a part of this Consultant Services Agreement with THE CITY OF CUPERTINO (“City”) and Perkins+Will (“Consultant”) for the provision of professional urban planning and architectural services (“Services”).

CONSULTANT shall complete all work by March 31, 2015.

The following sets forth the distribution of CONSULTANT’s Schedule of Performance for the project. The CITY may approve in writing the extension of any milestone date set in this Exhibit.

Task #1:	Project Initiation	2 months after execution the agreement
Task #2:	Master Plan Options Development	3 months after Notice to Proceed (NTP) for this task
Task #3:	Preferred Master Plan Development	2 months after Notice to Proceed (NTP) for this task
Task #4:	Master Plan Document	3 months after Notice to Proceed (NTP) for this task

END OF EXHIBIT B

EXHIBIT C

SCOPE OF SERVICES

CIVIC CENTER MASTER PLAN & PARKING GARAGE CONCEPTUAL PLANNING

CITY OF CUPERTINO, CALIFORNIA

This is an exhibit attached to, and made a part of this Consultant Services Agreement with THE CITY OF CUPERTINO (“City”) and Perkins+Will (“Consultant”) for the provision of professional architectural services (“Services”).

A. Maximum Compensation.

The CITY agrees to compensate CONSULTANT for professional services performed in accordance with the terms and conditions of this AGREEMENT. The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including both payment for professional services, additional services and reimbursable expenses, shall not exceed Five Hundred and Seventy-one Thousand DOLLARS (\$ 571,000). CONSULTANT agrees that it shall perform all of the services set forth in Exhibit A of this AGREEMENT, except for additional services required pursuant to Section 2, Task No. 5 and inclusive of reimbursable expenses, for the lump-sum amount of Five Hundred and Twenty-one Thousand dollars (\$ 521,000). The maximum amount of Additional Services are authorized under Section G of this Exhibit C is Forty-five thousand DOLLARS (\$ 50,000).

B. Method of Payment

For Task Nos. 1 through 5 CONSULTANT shall, during the term of this AGREEMENT, invoice the CITY monthly based upon a percentage of completion of each milestone set forth below in the Payment Schedule (Schedule D below) for services performed, and reimbursable expenses incurred if applicable, in completing that milestone under this AGREEMENT. Provided CONSULTANT has completed the services and incurred the reimbursable expenses covered by the Invoice in accordance with the provisions of this AGREEMENT, as determined by the CITY, the CITY shall pay CONSULTANT the amount shown on the Invoice within thirty (30) working days of receipt of the Invoice. Earned value for submissions according to the EXHIBIT C, Compensation Schedule shall not be considered earned until the Task Deliverable meets the minimum work standards set for in the Appendix.

The Invoice shall be based on the percentage of milestone completed, and it shall describe the topics and tasks completed during the Invoice period in accordance with the Budget Schedule and Payment Schedule set forth below. The Invoice shall list work completed and reimbursable

expenses if applicable, in accordance with the Budget Schedule and Payment Schedule set forth below. CONSULTANT also shall include supporting documents for any reimbursable expenses. The Invoice shall also show the total to be paid for the Invoice period.

C. Budget Schedule

The Budget Schedule for this AGREEMENT shall be as follows:

	<u>Task Description</u>	<u>Task Compensation</u>
Task #1:	Project Initiation	\$103,500
Task #2	Master Plan Options Development	\$ 167,000
Task #3:	Preferred Master Plan Development	\$ 152,500
Task #4:	Master Plan Document	\$ 98,000
	TOTAL	<u>\$ 521,000</u>

CONSULTANT shall not exceed any of the specified budget amounts for any Task without prior written authorization from the CITY. The CITY may approve in writing the transfer of budget amounts between any of the Tasks listed above provided the total AGREEMENT amount does not exceed Five Hundred and Twenty-one thousand DOLLARS (\$521,000).

D. Payment Schedule

The Payment Schedule for this AGREEMENT shall be as follows:

<i>TASK</i>	<i>MILESTONE</i>	PERCENT OF TASK COMPENSATION PAID UPON COMPLETION OF MILESTONE
Task #1 – Project Initiation		
	a. Task 1.1 to Task 1.3	70%
	b. Task 1.4 to Task 1.5	30%
Task #2 – Master Plan Options Development		
	a. Task 2.1 to Task 2.4	60%
	b. Task 2.5 to Task 2.6	20%
	c. Task 2.7 to Task 2.8	20%
Task #3 – Preferred Master Plan Development		
	a. Task 3.1 to Task 3.3	70%
	b. Task 3.4 to Task 3.5	30%
Task #4 – Master Plan Document		
	a. Task 4.1 to Task 4.2	50%
	b. Task 4.3	30%
	c. Task 4.4 to Task 4.5	20%
Task – Additional Services		Paid pursuant to Subsection G below.

E. Subconsultant Services.

CONSULTANT is directly responsible for any payment for SUBCONSULTANT work on this PROJECT. SUBCONSULTANT work on this PROJECT is included in the Budget Schedule shown above and shall be billed to the CITY by CONSULTANT as part of the Basic Services.

F. Reimbursable expenses.

Reimbursable expenses are included in CONSULTANT's lump sum compensation, including, but not limited to, any expenses related to CONSULTANT's internal plan checks, CAD test prints, 8 1/2" x 11" copies or fax copies. Plotting and Printing for public distribution shall be the responsibility of the CITY. There are no separate reimbursable expenses for Basic Services performed under Tasks 1-5 of EXHIBIT A.

G. Additional Services.

CONSULTANT shall not perform Additional Services without prior written authorization of the CITY. Additional Services shall be separately negotiated to be paid on a lump sum or a time and material basis at the rates set forth herein, as authorized by the CITY. The CITY has set aside the sum of Fifty Thousand DOLLARS (\$50,000.00) for the payment of Additional Services. The CITY shall not authorize and CONSULTANT shall not perform any Additional Services that result in charges in excess of the above amount.

CONSULTANT shall submit an Invoice to the CITY for payment on a monthly basis for authorized Additional Services rendered during the previous month. In the event Additional Services are authorized, CONSULTANT shall submit Invoices in accordance with the Schedule of Consultant Hourly Rates for Additional Services included in this Exhibit C. The rates shown in the Schedule of Consultant Hourly Rates for Additional Services shall stay in effect during the full term of the contract. The CITY shall pay for Additional Services Invoices as provided for in this EXHIBIT C.

SCHEDULE OF CONSULTANT HOURLY RATES FOR ADDITIONAL SERVICES

Perkins+Will

Principal	\$295
Senior Project Manager	\$220
Senior Project Architect/Designer	\$210
Project Architect/Designer	\$170
Architect/Designer III	\$150
Architect/Designer III	\$120
Architect/Designer I	\$110
Senior Technical Coordinator	\$210
Administrative	\$90

Fehr & Peers

Principal	\$290
Associate	\$170
Engineer/Planner	\$120
Graphics & Data Visualization	\$135
Administrative	\$110

Walker Parking

Principal	\$255
Senior Project Manager/ Senior Parking Consultant/ Senior Engineer/Senior Architect	\$235
Project Manager/parking Consultant	\$195
Engineer/Architect	\$170
Parking Analyst/Planner	\$165
Designer	\$150
Senior Technician	\$145
Technician	\$120
Field Auditor/Senior Admin Assistant	\$95
Administrative Assistant	\$80

TBD Consultants (Cost Estimator)

Principal	\$165
Project Manager	\$155

Senior MEP / Estimator	\$145
Senior Scheduler	\$150
Estimator/Scheduler	\$135
Assist Estimator	\$115
Administrative / Technical Support	\$70

Seifel Consulting (Economist)

President	\$250
Consultant	\$125

Public Dialogue Consortium

Project Team Lead	\$190
Project Team Senior Consultant	\$160
Project Team Consultant	\$110
Public Dialogue Facilitators	\$50

END OF EXHIBIT C

APPENDIX A

CIVIC CENTER MASTER PLAN & PARKING GARAGE CONCEPTUAL PLANNING CITY OF CUPERTINO, CALIFORNIA

TASK 1: PROJECT INITIATION and TASK 2: MASTER PLANS OPTIONS DEVELOPMENT

- A **PURPOSE:** Appendix A describes the minimum content required for project deliverables identified in Exhibit A Scope of Services Tasks 1 and 2. Project deliverables under all Tasks must be reviewed and written City approval obtained prior to start of a subsequent task.
- B **GENERAL:** CONSULTANTS deliverables shall include, **at a minimum**, the work described in each task identified in this appendix. The CONSULTANT may include other work in the Task deliverable submission as it sees fit to meet the intent of a Task submission.
- C The CITY shall use the minimum work items identified in Appendix A as evidence that the CONSULTANT met the Task deliverable submission for billing purposes. Any deficiencies in the minimum work items identified shall cause the CITY to reject the submission, require the CONSULTANT to make appropriate corrections and resubmit, at no cost to the CITY. **Earned value for submissions according to the EXHIBIT C, Compensation Schedule shall not be considered earned until the Task Deliverable meets the minimum work standards set for in this Appendix.**
- D The Appendix shall be used as a guideline for professional services performance in this Agreement and shall not modify the CONSULTANT's inherent responsibilities identified in this AGREEMENT. In the event of any conflict with Exhibit A, Scope of Services, Exhibit A governs.

TASK 1: PROJECT INITIATION

A. PROJECT INFORMATION ANALYSIS:

1. Review of CITY provided Guidelines and Program Documents.
2. Review of CITY Municipal Code, Zoning Regulations & adopted model codes.
3. Review of CEQA Report.
4. Review existing site information available from the CITY or other sources
5. Review other applicable reports and data.

B. BASE INFORMATION GENERATION

Based on information provided by the City -

1. Base map production at a scale suitable project site study and visibility.
2. Existing site conditions analysis
3. Existing topography, infrastructure, and utilities analysis
4. Site opportunities and constraints analysis.

TASK 2: MASTER PLANS OPTIONS DEVELOPMENT

The **minimum** Conceptual design deliverable shall consist of the following:

- 1) Define project goals and objectives
- 2) Three (3) different concepts showing project design solutions given the site analysis.
- 3) Existing and proposed vehicular and pedestrian circulation.
- 4) Existing and proposed pedestrian circulation
- 5) Building massing
- 6) Solar impact
- 7) Analysis of each concept providing site opportunities, constraints, and conceptual solutions.

-- END OF APPENDIX A --