



COMMUNITY DEVELOPMENT DEPARTMENT •
10300 TORRE AVENUE • CUPERTINO, CALIFORNIA 95014

REQUEST FOR PROPOSALS

FOR

Nexus Study for Below Market Rate Inclusionary Housing
and In-Lieu Fees

Submittal Due Dates:

RFP issued:	Tuesday, June 30, 2026
Submittals due:	Tuesday, July 28, 2026, by 2:00 PM PST

RFP Contact:

Nicky Vu, Senior Housing Coordinator

NickyV@cupertino.gov

REQUEST FOR PROPOSALS
CITY OF CUPERTINO

1. INVITATION 3

2. PROJECT SCOPE OF WORK 3

3. MINIMUM QUALIFICATIONS..... 4

4. TENTATIVE TIMELINE 4

5. SUBMITTAL REQUIREMENTS..... 4

6. SCHEDULE 6

7. CLARIFICATIONS AND QUESTIONS 7

8. PAYMENT AND SERVICES 7

9. SUBMITTAL PROCESS 7

10. COST PROPOSAL 8

11. EVALUATION AND SELECTION PROCESS 8

12. CONTRACTUAL PROCESS 10

13. CONFLICT OF INTEREST 10

14. DISCLAIMERS AND RESERVED RIGHTS 11

15. CONTRACT REQUIREMENTS 11

16. PUBLIC RECORDS ACT REQUESTS 12

ATTACHMENTS:

- A – Scope of Work and Services
- B - Sample Standard Professional/Specialized Services Agreement
- C - Insurance Requirements
- D – Resolution 25-098 (2025 City of Cupertino Schedule of Fees Schedule C Planning)

1. INVITATION

The City of Cupertino Community Development Department (hereinafter “City”) is soliciting Proposals from qualified firms (hereinafter “Consultant”) through this Request for Proposal (“RFP”) for the development of a Nexus Study to review and update the City’s existing Below Market Rate (BMR) Housing Mitigation Program as outlined in the City’s BMR Procedural Manual (“BMR Program”) and develop any updates to the program for the City to adopt with respect to all development which results in a net increase of gross floor area or new residential units.

SUBCONSULTANTS

The City has strong interest in the quality, qualification and experience of subconsultants that the lead Consultant may partner with for specialized professional services required. City will evaluate proposed subconsultants to determine the Subconsultant qualifications to perform and furnish the proposed scope of work.

2. PROJECT SCOPE OF WORK

Cupertino Community Vision 2015-2040: Cupertino General Plan and Municipal Code Chapter 19.172 regulates and imposes an affordable housing mitigation requirement for all new development within the City. The City seeks the services of a qualified consultant to review and update the City’s existing BMR Program and related in-lieu fees, including preparation of any necessary nexus analysis, economic feasibility analysis, fee study, and supporting documentation to ensure the program is legally defensible and economically feasible. The Consultant shall ensure the BMR Program is current with constitutional standards governing land use exactions and development-related fees, state law and local ordinances, and is equitable to produce commensurate affordable housing to non-affordable development, and legally defensible under direction of the City. The Consultant will perform under the general direction of the Community Development Department and consult with other City personnel throughout the course of the work.

The City of Cupertino is committed to studying the Housing Mitigation Program and its current fee schedule, to update development fees to ensure that they remain legally defensible. These items are enumerated in the Housing Element as HE – 2.3.3 (Residential Housing Mitigation Program) and HE – 2.3.9 (Review Impact Fees). The study will provide the technical and legal basis for any updates to the City’s BMR Housing Mitigation Program and in-lieu fee requirements for all developments which results in a net increase of gross floor area or new residential units.

CITY’S RESPONSIBILITIES

To support the work, the City will:

- Provide existing fee schedules, BMR inventory data, and other relevant data related to the study.
- Facilitate access to relevant General Plan and GIS data.

- Coordinate review among departments and the City Attorney's Office.

The full scope of services to be provided are described in Attachment A – Scope of Work and Services.

3. MINIMUM QUALIFICATIONS

Qualifications of key staff persons who will carry out the project shall meet the minimum qualifications listed below.

- Project Manager (PM) must have at least five (5) years of overall project management experience working on the preparation of development impact fees and/or inclusionary affordable housing and in-lieu fee nexus studies for public agencies.
- Lead Staff and Technical Staff must each have at least three (3) years of experience working on the preparation of development impact fees and/or inclusionary affordable housing and in-lieu fee nexus studies for public agencies.

4. TENTATIVE TIMELINE

The tentative RFP timeline is provided for the convenience of prospective proposers and is subject to change. Any such change will be stated in an addendum to this RFP. The tentative RFP timeline is as follows:

RFP EVENT	DATE
RFP Released	Tuesday, June 30, 2026
Deadline for Consultant Questions	Tuesday, July 21, 2026, by 2:00 PM PST
Proposals Due	Tuesday July 28, 2026 by 2:00 PM PST
Evaluation of Proposals	August 3, 2026
Contract Award	Anticipated August 4, 2026

5. SUBMITTAL REQUIREMENTS

The proposal is not to exceed 20 pages, excluding table of contents, cover letter, and resumes for key personnel. The City prefers quality submissions over quantity; therefore, succinct and responsive proposals are requested. Proposals shall be organized by tabs/dividers in the order of the sections as outlined below to facilitate review.

Consultant proposals shall provide the following information:

A. Cover Transmittal Letter

A transmittal letter signed by a partner or officer of the firm authorized to solicit business and enter into contracts for the firm, indicating your firm's interest to be considered for this RFP. The transmittal letter should include the name and telephone number of a primary contact person, if different from the authorizing official. The letter should indicate (i) whether there are any conflicts of interest that would limit the Consultant's

ability to provide the services requested in this RFP, and (ii) the acknowledgment of the receipt of any addenda, by number, if issued for this RFP. Finally, specifically demonstrate how the firm meets the minimum qualifications for this RFP.

A. Title Page

Title page showing the RFP name, the name of the Consultant's firm, address, telephone number, name, and email of contact person.

B. Consultant Qualifications and Experience

The Consultant shall identify:

- Business type (corporation, limited liability company, partnership, sole proprietorship)
- Firm's organization structure
- The Data Universal Numbering System ("DUNS") number of the Consultant
- The location of the office(s) where the services will be performed
- Summarized experience within the past five (5) years conducting nexus studies for California municipalities, particularly for affordable housing and in-lieu fees with a legally defensible nexus consistent with California State Laws, and constitutional standards governing land use exactions and development-related fees.
- Experience communicating technical findings to City staff and policy decision-makers.

C. Staff Qualifications and Experience

Provide a list of the project team and brief summary of their qualifications and experience with emphasis on the proposed project manager ("PM"), lead staff and technical support staff and subconsultants ("key personnel"). Key personnel shall be dedicated to the project for the entire project duration. The City, at its discretion, may allow substitutions of Consultant key personnel dedicated to the project.

Provide a table/chart showing key personnel members, their assigned role for the project and their applicable skills and/or areas of expertise.

Provide staff resumes of key personnel highlighting their experience and skills relevant to the services requested in this RFP.

D. Similar Projects and References

Provide a brief summary of three (3) similar projects completed by the PM and the lead staff within the last five (5) years. Examples of similar projects include fee updates, inclusionary housing programs, long-range planning and housing policy changes with economic feasibility analysis, for California municipal governments. Project summaries must include details on the project client, services, schedule, budget, challenges, project status, and contact information of the client manager who may be contacted as a reference. At the discretion of the City, these client managers may be contacted for references during the proposal evaluation process.

E. Project Approach

The Proposal shall give an introduction and overview of the project’s principal elements and challenges, demonstrate an understanding of the project’s objectives and describe the approach to accomplish the required scope of services.

Develop a detailed approach to the scope of work by breaking the project into specific tasks that are clearly associated with the scope of this RFP, including procedures, methodologies, measures of effectiveness, organization and staff schedule. The Project Approach shall include a proposed plan for quality and cost control to enhance the service and responsiveness to the City.

Include an explanation of the Consultant’s approach with respect to technical and institutional challenges in the Bay Area.

The Consultant may recommend any optional services that are not included in the listed scope of work by including a description of such services in this section.

F. Cost Proposal

A complete cost proposal that includes all proposed tasks shall be submitted under separate cover as an electronic submittal . The proposal shall include the level of service to be provided by each staff and/or subconsultant, broken down by task or phase and the corresponding fees. See Section 10 for additional information.

G. Contract Acceptance

The Consultant must specifically agree, in writing, to accept the terms of the City’s Standard Professional/Specialized Services Agreement, including specifically the City’s Indemnification requirements and insurance coverage requirements, without modification. If a Consultant proposes changes to the Agreement, these must be submitted along with an explanation of the request as part of their response to this RFP. The City reserves the sole right to accept, reject or modify any proposed changes to the Agreement. The City’s Standard Professional/Specialized Agreement, and Insurance Requirements are each included as an Attachment to this RFP.

6. SCHEDULE

Consultant shall keep all project stakeholders updated on changes to the project schedule throughout the duration of the project, however, they will be scored on their ability to demonstrate that they are able to meet the tentatively proposed schedule for delivery of service.

Table 1: Tentative Deliverable/Task Schedule

Milestone	Description	Target Completion
Task 1: Project Kickoff	Execute contract and hold initial meeting	August 2026

Task 2: Data Review and Analysis	Complete background and data collection	September 2026
Task 3: Draft Methodology and Fee Calculation	Present with staff to Housing Commission for review	October 2026
Task 4: Administrative Draft Report	City staff and legal review	November 2026
Task 5: Final Report and Presentation	Council presentation and adoption	February 2027

7. CLARIFICATIONS AND QUESTIONS

Questions and requests for clarification and/or additional information shall be directed in writing via email to Nicky Vu, Senior Housing Coordinator, NickyV@cupertino.gov, by Tuesday, July 21, 2026, by 2:00 PM PST. Include “RFP – BMR Inclusionary Housing and Mitigation In-Lieu Fee Study” in the subject line.

All responses to questions and/or clarifications will be provided by addenda and posted on the City’s Business Opportunities webpage.

8. PAYMENT OF SERVICES

Consultant shall be paid, as full compensation for the satisfactory completion of the work described in Attachment A – Scope of Work and Services for the agreed upon amount, which includes all labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, as well as indirect costs, overhead and profit allowance, subcontractors costs, travel, equipment, materials and supplies.

Consultant shall submit one invoice per month to the City for all the deliverables completed in a calendar month. Any exceptions would require the approval of the Director of Community Development. The payment shall be approved once the City approves of the deliverable as complete.

9. SUBMITTAL PROCESS

Interested Consultants must submit an electronic PDF format copy of their proposal on the City’s Business Opportunities webpage at:

<https://apps.cupertino.org/bidmanagement/index.aspx>

Consultants need to create an account to download RFP documents as well as to upload proposals. To submit a proposal, open the RFP posting and select the Electronic Submission tab.

The proposal, including cost proposal, shall be submitted **no later than 2:00 pm PST on Tuesday July 28, 2026**, and are to be addressed to Nicky Vu, Senior Housing Coordinator.

It is recommended that Consultants familiarize themselves with the web application prior to the due date. Make sure to follow all submittal instructions and include all required documents.

Submitting documents electronically can take more time than anticipated so please allow enough time to finalize your submission by the stated deadline. Submittals in process but not completely uploaded by the deadline will automatically be rejected by the system. It will not allow submissions once the deadline closes. Hard copies in any form will not be accepted. No faxed submittals will be accepted. Electronic submittals are the only form of submittal that will be accepted.

10. COST PROPOSAL

A cost proposal will be evaluated with the initial submittal. The cost proposal shall be submitted under the Fee Submission section in the Business Opportunity webpage with RFP – BMR Inclusionary Housing and Mitigation In-Lieu Fee Study in the subject line. The cost proposal shall include the cost for tasks and hour and fee breakdown by the tasks detailed in the Scope of Work. Line items shall be broken out by subtask, when appropriate.

Proposers shall include optional tasks recommended for the completion of a successful project. If optional tasks are proposed, those shall be identified individually. Approval of the individual optional tasks is at the City's discretion.

No markups shall be allowed on reimbursable expenses and the maximum markup on each subconsultant shall be 5%.

11. EVALUATION AND SELECTION PROCESS

Some of the project specific criteria for selection of the consultant team for this project are listed below, not necessarily in order of importance:

- A. Prior experience performing similar work.
- B. Success and range of experience in previous projects of similar work.
- C. Ability to adapt to changes and factors that may affect the project outcome as described in the Project Approach.
- D. Special knowledge and expertise of PM and lead staff material to the project and its execution; such as experience with:
 - 1. Inclusionary affordable housing requirements and in-lieu fee nexus studies for public agencies pursuant to all applicable federal, state, and local laws.
 - 2. Demonstrated knowledge of California density bonus law and the City's policies regarding affordable housing and in-lieu fees, including any fee waivers or reductions for below-market-rate (BMR) housing units, and how these factors affect the calculation and implementation of Housing Mitigation in-lieu fees.

3. Developing planning-level cost estimates for affordable housing projects, including land acquisition, pre-development, construction development, conversion/rehabilitation and other strategies to create affordable housing.
 4. Applying demographic, service-level, and growth-based methodologies to assess the impacts of development on affordable housing needs.
 5. Understanding the development community and the potential effects of inclusionary affordable housing and in-lieu fees on development within the City.
 6. Identifying alternative or complementary funding sources to support affordable housing in coordination with inclusionary affordable housing and in-lieu fees.
 7. Data collection, documentation, and quality control, including review of land use, population, BMR portfolios, and other necessary data used to support fee calculations.
- E. Previous client References.
- F. Proposed work program for completing all tasks and meeting the City's schedule.
- G. Understanding of the project assignment as described in *Section 2*.
- H. Organization of the consultant team and prior mutual experience of the team.
- I. Adequate staff resources to perform a nexus study, attend meetings and develop a Nexus Report.

Proposal will be evaluated by the City's evaluation panel. Points will be assigned based on the proposer's qualifications, experience, ability, effectiveness and efficiency to support each criteria being rated with consideration for the submittal requirements identified in *Section 5*.

Criteria		Possible Points
1.	Technical approach/understanding of conducting the study, work item proposal	35
2.	Consultant's past record of performance on similar projects and special knowledge/experience	30
3.	Experience of the Consultant's key personnel and potential subconsultants	20
4.	Cost proposal	15
Total Possible Points		100

A selection team from the City will evaluate the submitted qualifications and may contact references in former or current projects completed by the proposing Consultant.

After City's evaluation panel reviews all submitted proposals, the top ranked Consultants may be invited to participate in an interview. The details of the interview will be provided in a letter provided to the Consultant(s) invited. However, a final determination of the highest ranked proposal(s), and recommendation to proceed with contract negotiations, may occur without an interview selection process. If an interview is conducted, it will occur after the proposals have been evaluated.

The evaluation panel will again rank the interviewed Consultants and the highest ranked proposal will be identified, based on the best overall ranking among the panel members. Contract negotiations will then begin with the highest ranked Consultant. If negotiations with highest-ranked Consultant are not successful, in consideration of either the scope or cost, the next ranked Consultant will be invited to negotiate, and so on.

The City reserves the right to accept or reject any and all submitted proposals, to waive minor irregularities, to request additional information from the responsive Consultant at any stage of the evaluation, to not conduct oral interviews or presentations, and to choose the Consultant which in its opinion best serves its interests, based on the City's sole discretion. The City reserves the right to reject any and all proposals prior to execution of the City's Standard Professional/Specialized Agreement, with no penalty to the City.

12. CONTRACTUAL PROCESS

The City is interested in securing a Consultant for the specific purpose. This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of the proposal or in anticipation of a contract.

The selected consultant will be contracted using the City's standard Professional/ Specialized Services Agreement. This agreement shall be established term based upon the proposal.

13. CONFLICT OF INTEREST

By submitting a response to this RFP, the Consultant represents and warrants that no public official, officer, or employee of the City is in any manner interested, directly or indirectly, in the RFP, any contract resulting from this RFP, or any profits expected to arise therefrom, as set forth in California Government Code section 1090. Consultant further represents and warrants that it presently has no interest, and agrees that it will not acquire any interest, that would create a conflict of interest under California Government Code sections 1090 et seq. or 87100 et seq. during the performance of services under any contract resulting from this RFP.

Consultant shall disclose any actual, potential, or perceived conflicts of interest, including any current or recent (within the preceding 24 months): (i) financial interests in real property located within the City; and (ii) representation of developers, property owners, or other parties whose interests may be affected by the recommendations contained in the study. The City reserves the right to reject any proposal or determine a consultant ineligible for award if the City concludes that the disclosed relationship may impair the consultant's ability to provide independent and objective services. Consultant shall remain free from conflicts of interest throughout the term of the engagement and shall promptly disclose any conflict of interest that arises during the performance of the work.

Further, California Government Code section 84308, as amended, commonly referred to as the "Levine Act," regulates certain campaign contributions made to officers of local agencies by parties, participants, and agents in proceedings involving contracts and other covered matters.

The Levine Act generally provides that while a proceeding involving a contract is pending, and for 12 months following the date a final decision is rendered in the proceeding, Board members (including Board member alternates) and officers may not accept, solicit, or direct a campaign contribution of more than \$500 from an applicant for the contract or their agents, if the Board member or officer knows or has reason to know that the applicant has a financial interest. The Levine Act also generally requires Board members and officers who have received from an applicant for a contract or their agents a campaign contribution of more than \$500 in the preceding 12 months to disclose the contribution on the record of the proceeding in which a contract is being considered before the decision on the contract is rendered, and to refrain from making, participate in making, or in any way attempt to use their official position to influence the decision on the contract if the officer has willfully or knowingly received the contribution. The Levine Act provides certain opportunities to cure. Applicants are responsible for reviewing and complying with the current law.

14. DISCLAIMERS AND RESERVED RIGHTS

This RFP does not commit the City to award a contract or to pay any costs incurred in the preparation of a proposal or participation in response to this RFP.

The City reserves the right to accept or reject any or all proposals received, waive any irregularities, negotiate with qualified Consultants, select Consultants which, in its opinion, best serve the City's interests or cancel the RFP. The City reserves the right to reject any proposal that is determined to contain false, misleading, or materially incomplete information.

The City reserves the right to require any proposer to submit additional clarifying data or other information the City deems necessary to substantiate the costs presented by the proposer. The City may also require Consultant to revise one or more elements of its proposal in accordance with contract negotiations.

15. CONTRACT REQUIREMENTS

Within ten calendar days of the date the selected Consultant is notified of potential award by the City, it shall execute a standard City of Cupertino Standard Professional/Specialized Services Agreement. A sample City Standard Professional/Specialized Services Agreement is attached to this RFP as Attachment B. Note that the indemnity and insurance requirements that are included as Attachment C are identified in the agreements and must be accepted without modification.

Business License Requirements: The Consultant must hold or obtain a business license in the City of Cupertino for any work within City limits. If work for the City of Cupertino is the only business within the City of Cupertino that the Consultant undertakes, no business license is required per the City of Cupertino municipal code.

A completed Internal Revenue Service Form W-9 may also be required to establish the vendor in the City's Financial System.

Failure of the selected Consultant to make a timely submission may result in a rescission of acceptance of the proposal by the City and an award of the contract to another Consultant.

16. PUBLIC RECORDS ACT REQUESTS

This RFP and any material submitted by a Consultant in response to this RFP are subject to public inspection under the California Public Records Act (Government Code § 7920 et seq.), unless exempt by law. Proposal submittals will remain confidential until the City has authorized an award. Other than proprietary information or other information exempt from disclosure by law, the content of the RFPs submitted to City will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the Consultant believes any communication contains trade secrets or other proprietary information that the Consultant believes would cause substantial injury to the Consultant's competitive position if disclosed, the Consultant shall require that City withhold from disclosure such proprietary materials by marking each page containing propriety information as confidential and shall include the following notice at the front of its RFP:

"The data on the following pages of this RFP, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the Consultant's competitive position. The Consultant requests that such data be used for review by City only, but understands that exemption from disclosure will be limited by City's obligations under the California Public Records Act. If a contract is awarded to the Consultant submitting this RFP, City shall have the right to use or disclose the data to the extent it is incorporated into the contract, unless otherwise provided by law. [List pages]"

Failure to include this notice with relevant page numbers shall render any "confidential/proprietary" markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire RFP confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Consultant may not designate any required RFP Forms or the cost proposal as confidential.**

In the event properly marked data is requested pursuant to the California Public Records Act, the Consultant will be advised of the request and given the opportunity to provide to City a detailed statement indicating the reasons it believes the information should be withheld from discussion. If City complies with the Consultant's request, the Consultant shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend City and hold it harmless from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting such Consultant information) and pay any and all costs and expenses relating to the withholding of the Consultant information.

If the Consultant does not request that City withhold information marked as confidential and requested under the California Public Records Act, City shall have no obligation to withhold

the information from disclosure, and the Consultant shall not have a right to make a claim or maintain any legal action against City or its Councilmembers, Commissioners, officers, employees, or agents in connection with such disclosure.

Attachment A – SCOPE OF WORK AND SERVICES

The Consultant will perform under the general direction of the Community Development Department and consult with other City personnel throughout the course of the work.

PROJECT DESCRIPTION

Cupertino Community Vision 2015-2040: Cupertino General Plan and Municipal Code Chapter 19.172 regulates and imposes an affordable housing mitigation requirement for all new development within the City. The BMR program includes the provision of affordable units for rental and ownership housing, and a Housing Mitigation In-Lieu Fee on all non-residential development which results in a net increase of gross floor area to support the provision of affordable housing in Cupertino, with certain exemptions identified in the [BMR Housing Mitigation Program Procedural Manual](#). In addition, the City's BMR program allows residential rental developments where calculation of BMR units requirements result in "fractional" units less than 0.5 units, to pay an in-lieu of fee for the fractional unit less than 0.5 unit.

The purpose is to review and update (if necessary) the City's existing Housing Mitigation Program and related in-lieu fees, including preparation of any necessary nexus analysis, economic feasibility analysis, fee study, and supporting documentation to ensure the program is legally defensible and economically feasible. The Consultant shall ensure it is current with constitutional standards governing land use exactions and development-related fees, state law and local ordinances, equitable to produce commensurate affordable housing to non-affordable development, and legally defensible. The nexus study shall be prepared in compliance with (i) Local Ordinance Authority Law (Cal.Gov. Code §65850), (ii) Density Bonus Law (Cal.Gov. Code §65915-65918), (iii) the Mitigation Fees Act (Cal. Gov. Code §66000 et. seq.), (iv) relevant provisions of the City's General Plan, (v) City ordinances, and (vi) applicable constitutional and statutory standards governing development-related fees, inclusionary housing programs, and exactions, each as applicable.

The City of Cupertino is committed to studying the Housing Mitigation Program and its current fee schedule to update development fees to ensure that they remain legally defensible. These items are enumerated in the Housing Element as HE – 2.3.3 (Residential Housing Mitigation Program) and HE – 2.3.9 (Review Impact Fees). The study will provide the technical and legal basis for any updates to the City's BMR Housing Mitigation Program and in-lieu fee requirements for all developments which results in a net increase of gross floor area or new residential units.

PROJECT DELIVERABLES

The City seeks the services of a qualified consultant to prepare all analyses necessary to support the City's consideration of updates to its inclusionary housing program and associated in-lieu fees, including an evaluation of the existing program, economic feasibility analysis, inclusionary housing nexus and fee analysis, policy recommendations, stakeholder outreach, public meeting support, and final technical reports suitable for consideration by the Planning Commission and

City Council. At a minimum, the consultant's analyses, recommendations, and deliverables shall provide the following:

- A current, transparent, and legally defensible Housing Mitigation In-Lieu Fee program that aligns with City policy, state law, and applicable constitutional standards governing development-related fees, inclusionary housing programs, and exactions.
- A methodology and fee model the City can maintain and update annually.
- Recommended City Municipal Code or City policy revisions to ensure long-term compliance and defensibility.

SCOPE OF SERVICES

Basic service will consist of review and update of the City's existing BMR Program and related in-lieu fees, including preparation of any necessary nexus analysis, economic feasibility analysis, fee study, and supporting documentation to ensure the program is legally defensible and economically feasible. The Consultant shall ensure the BMR Program is current with constitutional standards governing land use exactions and development-related fees, state law and local ordinances, and is equitable to produce commensurate affordable housing to non-affordable development, and legally defensible under direction of the City. The Consultant scope of services may include, but is not limited to:

Task 1: Project Initiation and Background Review

- Conduct a project kickoff meeting with City staff to confirm objectives, scope, methodology, and schedule.
- Review relevant documents, including:
 - Existing Housing Mitigation program and ordinance.
 - City General Plan, particularly the Housing Element and policies related to BMR Housing
 - Current and historical fee schedules, prior nexus studies (including those from other Santa Clara County cities if available), and other relevant housing project data.
- Confirm compliance requirements under the City's Municipal Code, Local Ordinance Authority Law, Density Bonus Law, Mitigation Fees Act, and identify any additional applicable state, local, or constitutional standards relevant to the preparation of a legally defensible nexus study for development-related fees, inclusionary housing programs, and exactions.

Task 2: Data Collection and Baseline Conditions

- Review the City's current development patterns, demographic forecasts, and progress towards meeting the City's Regional Housing Needs Allocation (RHNA).
- Verifying whether the City's current BMR Housing requirements (15% very-low and low for rental projects, 20% median and moderate for ownership projects) is financially feasible

and/or could be amended to increase affordable housing inventory for the lower-income ranges.

- Evaluate the most recent Housing Mitigation Residential and Non-Residential In-Lieu Fees (as described in 2025 Fee schedule) for task three.

Task 3: Methodology and Fee Calculation

- Develop an updated fee calculation (if applicable) consistent with all applicable federal, state, and local laws and City policy.
- The current Housing Mitigation In-Lieu Fee is for fractional units less than 0.5 that result from the BMR Inclusionary Requirement Calculation and is based on the formula:

[(Gross Floor Area x Fee Amount per SF by Development Type) / Below
Market Rate Inclusionary Requirement (15% or 20% of total units provided)]
x Remaining Fraction of BMR Requirement

- Propose a new fee schedule inclusive of all current Fee Amounts Per Square Foot (SF) by Development Type and adds any additional categories for commonly used categories in other California jurisdictions not currently covered by the fee schedule.
- Evaluate calculation methods, such as:
 - Updated population projections or household composition factors.
 - Fluctuations and projections in the housing market for ownership and rental options.
 - Comparison with other California jurisdictions.
- Propose a new fee option for a total “fee-out” for rental projects as an alternative to providing inclusionary BMR units and other necessary alternatives for meeting BMR requirements, in compliance with applicable law.
- Recommend an economically feasible inclusionary housing requirement that can boost the City’s production of very-low and low income housing within private development for both rental and ownership housing without impeding development.
- Consider alternative inclusionary housing requirements for housing development projects that can encourage the development of lower and/or moderate income housing, with alternatives to include moderate income units.
- Ensure the selected methodology clearly demonstrates proportionality and nexus between new development and the need for affordable housing.

Task 4: Legal and Policy Review

- Evaluate the City’s existing municipal code provisions governing inclusionary affordable housing and in-lieu fees.
- Recommend ordinance or policy amendments as necessary to align with the updated fee methodology and legal standards.

- Ensure the final study provides sufficient documentation to be legally defensible, considering current case law and all applicable federal, state, and local laws.
- Coordinate with City staff and the City Attorney's Office (or designated legal counsel) to review draft findings.

Task 5: Reporting and Deliverables

- Administrative Draft Report detailing:
 - Methodology, data sources, assumptions, and findings.
 - Recommended fee schedule by dwelling unit type.
 - Supporting technical appendices and legal justification.
- Final Report incorporating City staff review comments.
- Fee Calculation Model (Excel) allowing the City to update values in future years, particularly to adjust for land costs (with proportional Consumer Price Index (CPI) increases).
- Presentation to City Council summarizing study findings, methodology, and recommendations.

In all cases, Consultants will be contracted using the City's standard Professional/Specialized Services Agreement will be negotiated and executed for the specific duties and/or projects that require work.



PROFESSIONAL/CONSULTING SERVICES AGREEMENT

1. **PARTIES**

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

2. **SERVICES**

2.1 Contractor agrees to provide the services and perform the tasks (“Services”) set forth in detail in Scope of Services, attached here and incorporated as **Exhibit A**. Contractor further agrees to carry out its work in compliance with any applicable local, State, or Federal order regarding COVID-19.

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

3. **TIME OF PERFORMANCE**

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

3.2 Schedule of Performance. Contractor must deliver the Services in accordance with the Schedule of Performance, attached and incorporated here **Exhibit B**.

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

4. COMPENSATION

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

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

5. INDEPENDENT CONTRACTOR

51 Status. Contractor is an independent contractor and not an employee, partner, or joint venture of City. Contractor is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. Contractor is not entitled to health benefits, worker’s compensation, or other benefits from the City.

52 Contractor’s Qualifications. Contractor warrants on behalf of itself and its subcontractors that they have the qualifications and skills to perform the Services in a competent and professional manner and according to the highest standards and best practices in the industry.

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

54 Subcontractors. Only Contractor’s employees are authorized to work under this Agreement. Prior written approval from City is required for any subcontractor, and the terms and conditions of this Agreement will apply to any approved subcontractor.

55 Tools, Materials, and Equipment. Contractor will supply all tools, materials and equipment required to perform the Services under this Agreement.

56 Payment of Benefits and Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Contractor’s business including, but not limited to, federal and state income taxes. City shall have no obligation whatsoever to pay or withhold any taxes or benefits on behalf of Contractor. In the event

that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City, and actual attorney's fees incurred by City in connection with the above.

6. PROPRIETARY/CONFIDENTIAL INFORMATION

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

7. OWNERSHIP OF MATERIALS

7.1 Property Rights. Any interest (including copyright interests) of Contractor in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document, or other information or work, in any medium (collectively, "Work Product"), prepared by Contractor in connection with this Agreement will be the exclusive property of the City upon completion of the work to be performed hereunder or upon termination of this Agreement, to the extent requested by City. In any case, no Work Product shall be shown to any third-party without prior written approval of City.

7.2 Copyright. To the extent permitted by Title 17 of the U.S. Code, all Work Product arising out of this Agreement is considered "works for hire" and all copyrights to the Work Product will be the property of City. Alternatively, Contractor assigns to City all Work Product copyrights. Contractor may use copies of the Work Product for promotion only with City's written approval.

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

7.4 Re-Use of Work Product. Unless prohibited by law and without waiving any rights, City may use or modify the Work Product of Contractor or its sub-contractors prepared or created under this Agreement, to execute or implement any of the following:

- (a) The original Services for which Contractor was hired;
- (b) Completion of the original Services by others;
- (c) Subsequent additions to the original Services; and/or
- (d) Other City projects.

75 Deliverables and Format. Contractor must provide electronic and hard copies of the Work Product, on recycled paper and copied on both sides, except for one single-sided original.

8. RECORDS

Contractor must maintain complete and accurate accounting records relating to its performance in accordance with generally accepted accounting principles. The records must include detailed information of Contractor's performance, benchmarks and deliverables, which must be available to City for review and audit. The records and supporting documents must be kept separate from other records and must be maintained for four (4) years from the date of City's final payment.

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

9. ASSIGNMENT

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

10. PUBLICITY/SIGNS

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

11. INDEMNIFICATION

11.1 To the fullest extent allowed by law, and except for losses caused by the sole and active negligence or willful misconduct of City personnel, Contractor shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, officials, employees, agents, servants, volunteers, and consultants ("Indemnitees"), through legal counsel acceptable to City, from and against any and all liability, damages, claims, actions, causes of action, demands, charges, losses, costs, and expenses (including attorney fees, legal costs, and expenses related to litigation and dispute resolution proceedings) of every nature, arising directly or indirectly from this Agreement or in any manner relating to any of the following:

- (a) Breach of contract, obligations, representations, or warranties;
- (b) Negligent or willful acts or omissions committed during performance of the Services;
- (c) Personal injury, property damage, or economic loss resulting from the work or performance of Contractor or its subcontractors or sub-subcontractors;
- (d) Unauthorized use or disclosure of City's confidential and proprietary Information;
- (e) Claim of infringement or violation of a U.S. patent or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party.

11.2 Contractor must pay the costs City incurs in enforcing this provision. Contractor must accept a tender of defense upon receiving notice from City of a third-party claim. At City's request, Contractor will assist City in the defense of a claim, dispute, or lawsuit arising out of this Agreement.

11.3 Contractor's duties under this section are not limited to the Contract Price, workers' compensation payments, or the insurance or bond amounts required in the Agreement. Nothing in the Agreement shall be construed to give rise to an implied right of indemnity in favor of Contractor against City or any Indemnitee.

11.4. Contractor's payments may be deducted or offset to cover any money the City lost due to a claim or counterclaim arising out of this Agreement, a purchase order, or other transaction.

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

11.6. This Section 11 shall survive termination of the Agreement.

12. INSURANCE

Contractor shall comply with the Insurance Requirements, attached and incorporated here as **Exhibit D**, and must maintain the insurance for the duration of the Agreement, or longer as required by City. City will not execute the Agreement until City approves receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Failure to comply with this provision may result in City, at its sole discretion and without notice, purchasing insurance for Contractor and deducting the costs from Contractor's compensation or terminating the Agreement.

13. COMPLIANCE WITH LAWS

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

13.2 Labor Laws. Contractor shall comply with all labor laws applicable to this Agreement. If the Scope of Services includes a “public works” component, Contractor is required to comply with prevailing wage laws under Labor Code Section 1720 and other labor laws.

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

13.4 Conflicts of Interest. Contractor shall comply with all conflict of interest laws applicable to this Agreement and must avoid any conflict of interest. Contractor warrants that no public official, employee, or member of a City board or commission who might have been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement, in violation of California Government Code Section 1090 et seq. Contractor may be required to file a conflict of interest form if Contractor makes certain governmental decisions or serves in a staff capacity, as defined in Section 18700 of Title 2 of the California Code of Regulations. Contractor agrees to abide by the City’s rules governing gifts to public officials and employees.

13.5 Remedies. Any violation of Section 13 constitutes a material breach and may result in City suspending payments, requiring reimbursements or terminating this Agreement. City reserves all other rights and remedies available under the law and this Agreement, including the right to seek indemnification under Section 11 of this Agreement.

14. PROJECT COORDINATION

City Project Manager. The City assigns _____ as the City’s representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. City reserves the right to substitute another Project manager at any time, and without prior notice to Contractor.

Contractor Project Manager. Subject to City approval, Contractor assigns _____ as its single Representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Scope of Services. Contractor’s Project manager is responsible for coordinating and scheduling the Services in accordance with the Scope of Services and the Schedule of Performance. Contractor must regularly update the City’s Project Manager about the progress with the work or any delays, as required under the Scope of Services. City written approval is required prior to substituting a new Representative.

15. ABANDONMENT OF PROJECT

City may abandon or postpone the Project or parts therefor at any time. Contractor will be

compensated for satisfactory Services performed through the date of abandonment, and will be given reasonable time to assemble the work and close out the Services. With City's pre-approval in writing, the time spent in closing out the Services will be compensated up to a maximum of ten percent (10%) of the total time expended to date in the performance of the Services.

16. TERMINATION

City may terminate this Agreement for cause or without cause at any time. Contractor will be paid for satisfactory Services rendered through the date of termination, but final payment will not be made until Contractor closes out the Services and delivers the Work Product.

17. GOVERNING LAW, VENUE, AND DISPUTE RESOLUTION

This Agreement is governed by the laws of the State of California. Any lawsuits filed related to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California. Contractor must comply with the claims filing requirements under the Government Code prior to filing a civil action in court. If a dispute arises, Contractor must continue to provide the Services pending resolution of the dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

18. ATTORNEY FEES

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

19. THIRD PARTY BENEFICIARIES

There are no intended third party beneficiaries of this Agreement.

20. WAIVER

Neither acceptance of the Services nor payment thereof shall constitute a waiver of any contract provision. City's waiver of a breach shall not constitute waiver of another provision or breach.

21. ENTIRE AGREEMENT

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

22. INSERTED PROVISIONS

Each provision and clause required by law for this Agreement is deemed to be included and will be inferred herein. Either party may request an amendment to cure mistaken insertions or omissions of required provisions. The Parties will collaborate to implement this Section, as appropriate.

23. HEADINGS

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

24. SEVERABILITY/PARTIAL INVALIDITY

If any term or provision of this Agreement, or their application to a particular situation, is found by the court to be void, invalid, illegal, or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other terms and provisions of this Agreement or their application to specific situations shall remain in full force and effect. The Parties agree to work in good faith to amend this Agreement to carry out its intent.

25. SURVIVAL

All provisions which by their nature must continue after the Agreement expires or is terminated, including the Indemnification, Ownership of Materials/Work Product, Records, Governing Law, and Attorney Fees, shall survive the Agreement and remain in full force and effect.

26. NOTICES

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

To City of Cupertino	To Contractor: _____
Attention: _____	Attention: _____
Email: _____	Email: _____

27. EXECUTION

The person executing this Agreement on behalf of Contractor represents and warrants that Contractor 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 Contractor. This Agreement may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

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

CITY OF CUPERTINO

A Municipal Corporation

CONTRACTOR

By _____

Name _____

Title _____

Date _____

By _____

Name _____

Title _____

Date _____

APPROVED AS TO FORM:

MICHAEL K. WOO
Senior Assistant City Attorney

ATTEST:

LAUREN SAPUDAR
City Clerk

DATE: _____

EXHIBIT D

Insurance Requirements Professional Consultant Contracts

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

INSURANCE POLICIES AND MINIMUMS REQUIRED

1. **Commercial General Liability** (CGL) with coverage at least as broad as Insurance Services Office (ISO) Form CG 00 01, with limits no less than **\$2,000,000** per occurrence and **\$2,000,000** general aggregate. The policy shall include a per project or per location general aggregate endorsement as broad as CG 25 03 or CG 24 04. If a per project/location endorsement is not available, the limit of the general aggregate shall be doubled.
 - a It shall be a requirement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (i) the minimum coverage/limits specified in this agreement; or (ii) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
 - b Additional Insured coverage under Consultant's policy shall allow and be endorsed "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as the most recent edition of ISO Form CG 20 01.
 - c The limits of insurance required may be satisfied by a combination of primary and umbrella or excess liability insurance, provided each policy follows form of the underlying policy and complies with the requirements set forth in this Contract. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary basis for the benefit of City. The City's own insurance or self-insurance shall not be called upon.
2. **Automobile Liability:** Coverage shall be provided using ISO CA 00 01 covering any auto (including owned, hired, and non-owned autos) with limits no less than **\$1,000,000** each accident for bodily injury and property damage.
 - ☐ *Not required. Consultant shall be fully remote and not use automobiles to provide the service.*
In the event Consultant uses an automobile or automobiles in the operation of its business to provide services under this Agreement, the Consultant shall, **prior to such use**, provide the City with evidence of Business Automobile Liability insurance coverage in the amount required under this Section 2 for owned, non-owned and hired autos (any auto-Symbol 1), or if Consultant does not own autos (hired autos-Symbol 8 and non-owned autos-Symbol 9). Evidence shall be provided with a Certificate of Insurance, along with an additional insured endorsement in favor of the City, primary and non-contributory coverage and endorsement, and waiver of subrogation coverage and endorsement under the policy prior to the use of any automobile.
 - ☐ Consultant has provided written confirmation that it does not own any autos. Consultant shall provide coverage for hired autos-Symbol 8 and non-owned autos-Symbol 9. Primary and Non-Contributory coverage and Waiver of Subrogation coverage is waived under the Automobile Liability hired and non-owned only coverage. In the event Consultant uses an owned automobile or automobiles in the operation of its business to provide services under this Agreement, the Consultant shall, prior to such use, provide the City with evidence of Business Automobile Liability insurance coverage in the amount required under this Section 2 for owned, non-owned and hired autos (any auto-Symbol 1).

- ☐ In lieu of Business Automobile Liability, Consultant shall maintain throughout the term of this Agreement and provide the City with evidence (including the policy Declarations Page) of personal automobile insurance coverage in accordance with the laws of the State of California. As available under the policy, evidence shall be provided with the Certificate of Insurance, along with an additional insured endorsement in favor of the City, primary and non-contributory coverage and endorsement, and waiver of subrogation coverage and endorsement. City approval of coverage is required prior to commencement of services.
- 3. **Workers' Compensation:** As required by the State of California, with Statutory Limits and Employer's Liability Insurance of no less than **\$1,000,000** each accident/ disease.
☐ *Not required. Consultant has provided written verification of no employees.*
- 4. **Professional Liability** for professional acts, errors and omissions, if applicable and as appropriate to Consultant's profession, with limits no less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate. If written on a claims-made basis form:
 - a. The Retroactive Date must be shown and must be before the Effective Date of the Contract.
 - b. Insurance must be maintained for at least five (5) years after completion of the Services.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract Effective Date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

OTHER INSURANCE PROVISIONS

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

Additional Insured Status

The City of Cupertino, its City Council, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered and endorsed as additional insureds on Consultant's CGL and automobile liability policies. General Liability coverage can be provided in the form of an endorsement to Consultant's insurance (at least as broad as ISO Form CG 20 10 (11/ 85) or if not available, through the addition of **both** CG 20 10 and CG 20 37 forms, if later editions are used).

Primary and Non-Contributory Coverage

Except Workers Compensation, coverage afforded to City/Additional Insureds shall allow and be endorsed primary insurance. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Consultant's insurance and shall not contribute to it.

Notice of Cancellation

Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums. If a carrier will not provide the required notice of cancellation or policy modification, the Consultant shall provide written notice to the City of a cancellation or policy modification no later than 30 days in advance or 10 days in advance if due to non-payment of premiums.

Waiver of Subrogation

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

Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City (Insert on the Certificate of Insurance, if zero, insert "\$0"). At City's option, either: the insurer must reduce or eliminate the deductible or self-insured retentions as respects the City/Additional Insureds; or Consultant must show proof of ability to pay losses and costs related investigations, claim administration and defense expenses. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the insured or the City.

Acceptability of Insurers

Insurance shall be placed with insurers admitted in the State of California and with an AM Best rating of A-VII or higher.

Verification of Coverage

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

Subconsultants

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

Higher Insurance Limits

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

Adequacy of Coverage

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

CITY OF CUPERTINO
Resolution 25-098
Fees Effective September 1, 2025
Schedule C - Planning

DEFINITIONS

- A. Parcel Map: Subdivisions, including ministerial subdivisions - up to four (4) parcels (CMC Chapter 18.20).
- B. Tentative map: Subdivisions - five (5) or more parcels (CMC Chapter 18.16).
- C. Minor: for ten thousand square feet or less of commercial and/or industrial and/or office and/or other non-residential use, or six or fewer residential units (CMC Chapter 19.12)
- D. Major: for more than ten thousand square feet of commercial and/or industrial and/or office and/or other non-residential use, or greater than six residential units (CMC Chapter 19.12).
- E. Minor Architectural and Site Approval - Duplex/Residential: Architectural approval of single family homes in a planned development zoning district, redevelopment or modification of duplexes, and associated landscaping, where such review is required (CMC Chapter 19.12).
- F. Minor Architectural and Site Approval: Architectural approval of the following: minor building modifications, landscaping, signs and lighting for new development, redevelopment or modification in such zones where such review is required (CMC Chapter 19.12).
- G. Major Architectural and Site Approval: Architectural approval of all other development projects (CMC Chapter 19.12).
- H. Minor Modification: An application that is administratively reviewed by staff either at an advertised public hearing/meeting or in a non-hearing process (CMC Chapter 19.164).
- I. Exceptions: An exception to the zoning standards for which an exception process and findings are identified in the Municipal Code. These include Fence, Sign, Height, Hillside, Parking, R-1, A, A-1, and R1 cluster zone exceptions. This also includes exceptions identified in the City's Specific Plans (CMC Chapter 19.12 and Title 20).
- J. Project Review Meeting: Request for a one hour meeting by an applicant to review a project with City staff without any written feedback.
- K. Preliminary Review: One round of informal review of any proposed project with written feedback from City staff.
- L. Temporary Sign Permit: A review of a temporary sign application for banners, A-frame signs and other temporary signs (CMC Chapter 19.104).
- M. Sign Permit: For signs that require a public meeting such as freeway oriented signage, electronic readerboard signs etc. (CMC Chapter 19.104)
- N. Extension Permit: A one-time one-year extension of the planning permit expiration date (CMC Chapter 19.12).
- O. Appeal: A request from the project applicant or interested party to reverse or amend a decision made by the approval authority. Fee Exemption for: an appointed public official serving on the board that made the decision subject to the appeal, an appointed public official serving on a board that is directly affected by the decision and City Council members. At the conclusion of a City Council appeal hearing, it may choose to, at its sole discretion, refund all, a portion of, or none of the appeal fee (CMC Chapter 19.12).
- P. Legal Noticing Fee: Assessed for all permit applications that require noticing (CMC Chapter 19.12).

CITY OF CUPERTINO
Resolution 25-098
Fees Effective September 1, 2025
Schedule C - Planning

Q. Special Events Permit: A request to host a special event for no more than a total of 12 calendar days in a year including, but not limited to, employee holiday party, summer barbeque, any outdoor event where normal operations occur indoors, car sales/show event, events located in parking lots where such uses are not authorized ordinarily. Large events involve an entire shopping center, office or industrial buildings/sites, and other commercial sites. Small events typically involve individual businesses/tenants in a shopping center or building. Staff reserves the right to determine the applicable event type based on the project description provided. Churches/non-profits operating on property in their control are exempt from fees.

R. Housing Mitigation Fee: A fee assessed in accordance with the City's General Plan Housing Element, Municipal Code (CMC 19.172) and the City's BMR Housing Mitigation Program Procedural Manual.

Note: Mixed use applications will be classified based upon the highest intensity and review process. The Director of Community Development will have discretion to classify projects based upon the above criteria.

Fee Description¹	Unit	FY 2025-26 Fee
Planning Staff Hourly Rate ²	Per Hour	\$318
<i>General Plan</i>		
Authorization	Deposit	Staff Hourly Rate
Amendment	Deposit	Staff Hourly Rate
<i>Zoning</i>		
Zoning Map Amendment	Deposit	Staff Hourly Rate
Zoning Text Amendment	Deposit	Staff Hourly Rate
Single-Story Overlay District	Deposit	Staff Hourly Rate
Study Session	Deposit	Staff Hourly Rate
<i>Subdivision</i>		
SB9 Lot Line Split	Each	\$10,885
Parcel Map (See Definition A)	Each	\$30,047
Tentative Map (See Definition B)	Each	\$51,639
<i>Conditional Use/Development Permit</i>		
Temporary Use Permit	Each	\$5,573
Administrative Conditional Use Permit	Each	\$11,761
Minor (See Definition C)	Each	\$28,250
Major (See Definition D)	Each	\$43,109
<i>Amendment to Conditional Use/Development Permit</i>		
Minor (See Definition C)	Each	\$12,744
Major (See Definition D)	Each	\$27,500
<i>Architectural and Site Approval Permit</i>		
Minor Duplex / Residential (See Definition E)	Each	\$11,728
Minor (See Definition F)	Each	\$18,299
Major (See Definition G)	Each	\$27,917
<i>Single Family (R-1) Residential Permits</i>		
Minor Residential Permit	Each	\$4,414
Two-Story Permit without Design Review	Each	\$5,523
Two-Story Permit with Design Review	Each	\$6,745
Director Minor Modification (See Definition H)	Each	\$6,030
<i>Ministerial Residential Permit</i>		
Miscellaneous Ministerial Permit	Each	\$4,992
<i>Exceptions (See Definition I)</i>		
Fence Exception - R1 & R2	Each	\$5,126
Fence Exception - Other	Each	\$5,686
Sign Exception	Each	\$7,657
R-1 Exception	Each	\$8,579
Heart of the City Exception	Each	\$27,560

CITY OF CUPERTINO
Resolution 25-098
Fees Effective September 1, 2025
Schedule C - Planning

Fee Description	Unit	FY 2025-26 Fee
Hillside Exception	Each	\$26,287
Exception - Other	Each	\$8,711
Variance	Each	\$9,961
Reasonable Accommodation	Each	\$1,978
Project Review Meeting (See Definition J)	Per Review	\$2,747
Preliminary Application Review (See Definition K)		
Single Family	Per Review	\$2,780
Non-Residential (Retail/Industrial/Office/Hotel)		
<10,000 sf	Per Review	\$6,023
>10,000 sf	Per Review	\$10,475
Residential / Mixed Use:		
Duplex	Per Review	\$2,184
3-6 Units	Per Review	\$9,627
6-50 Units	Per Review	\$14,862
>50 Units	Per Review	\$21,451
<i>Tree Removal Permit</i>		
Tree Removal Permit (no Arborist review required)		
First Tree	Per Tree	\$465
Each Additional Tree	Per Tree	\$183
Tree Removal Permit (Arborist review required)		
First Tree	Per Tree	\$851
Each Additional Tree	Per Tree	\$274
Retroactive Tree Removal	Per Tree	\$6,055
Heritage Tree Designation	Each	\$463
Tree Management Plan	Each	\$8,721
<i>Signs</i>		
Temporary Sign Permit (See Definition L)	Each	\$607
Sign Permit (See Definition M)	Each	\$8,262
Sign Program	Each	\$4,888
Planning Commission Interpretation	Each	\$8,834
Extension of Approved Entitlements (See Definition N)	Each	\$2,307
<i>Environmental Assessment</i>		
Environmental Impact Report (Plus State & County Filing Fees)	Each	Contract+Admin Fee
Negative Declaration - Major (Plus State & County Filing Fees)	Each	Contract+Admin Fee
Negative Declaration - Minor (Plus State & County Filing Fees)	Each	Contract+Admin Fee
Categorical Exemption (Plus County Filing Fee)	Each	\$440
<i>Appeals (See Definition O)</i>		
Planning Commission	Each	\$554
City Council	Each	\$554
<i>Miscellaneous Fees</i>		
Legal Noticing Fee (See Definition P)	Each	\$578
Mercury News Ad		Actual Cost + Admin Fee
Zoning Verification Letter	Each	\$639
Public Convenience and Necessity Letter (Alcoholic Beverage License)	Each	\$319
Short-Term Rental	Each	\$449
Mobile Vending Registration Fee	Each	\$601
Special Events (See Definition Q)		
Large Event	Each	\$5,359
Small Event	Each	\$500
Planning Inspection	Per Inspection	\$472
Technology Fee	Per Permit	5.80%

CITY OF CUPERTINO
Resolution 25-098
Fees Effective September 1, 2025
Schedule C - Planning

Fee Description	Unit	FY 2025-26 Fee
<i>Fees Assessed with Building Permits</i>		
<i>Wireless Master Plan Fees (at Building Permit Issuance)</i>		
Equipment Mounted on Existing Light/Utility Pole	Each	\$11.28
New Personal Wireless Facility (not mounted on light/utility pole)	Each	\$2,458
<i>Zoning, Planning, Municipal Code Fees (at Building Permit Issuance)</i>		
All Non-Residential and Multi-Family	Per s.f.	\$1.67
Residential Single Family	Per s.f.	\$1.67
General Plan Office Allocation Fee	Per s.f.	\$1.67
Planning Department Review fee (New Construction and Additions) (Payable at permit submittal)	Each	20% of Plan Check and Inspection fees

FOR INFORMATIONAL PURPOSES ONLY: ²		
<i>Housing Mitigation In-Lieu Fees ² (See Definition R)</i>		
Residential - Ownership		
Detached Single Family Residence	Per s.f.	\$22.45
Small Lot Single Family Residence or Townhome	Per s.f.	\$24.70
Multi-family Attached Townhome, Apartment, or Condominium (up to 35 du/ac)	Per s.f.	\$29.94
Multi-family Attached Townhome, Apartment, or Condominium (over 35 du/ac)	Per s.f.	\$29.94
Residential - Rental		
Multi-family Attached Townhome, Apartment, or Condominium (up to 35 du/ac)	Per s.f.	\$29.94
Multi-family Attached Townhome, Apartment, or Condominium (over 35 du/ac)	Per s.f.	\$37.42
Non-Residential		
Office, Research and Development, or Industrial	Per s.f.	\$35.48
Hotel	Per s.f.	\$17.74
Self-storage, employee unit provided	Per s.f.	\$0.66
Self-storage, employee unit not provided	Per s.f.	\$1.40
Warehouse	Per s.f.	\$49.29
Commercial/Retail	Per s.f.	\$14.97

¹ All application fees except those projects subject to the Planning Staff Hourly Rate fee (see note 2) allow for two rounds of review. Any submissions beyond two shall be subject to a fee equal to 50% of the total permit fees paid initially.

² Applications may be subject to a Planning Staff Hourly Rate fee for applicable staff time, and vendor invoice. These fees apply to projects that require a level of staff support greater than the scope of work included in the regular fee schedule and will be based on the time and materials required to process the entire project. The applicant will be notified if these fees are applicable to their project. The applicant will be required to enter into a Reimbursement Agreement with the City for such projects.

³ All Housing Mitigation Fees are assessed in accordance with the BMR Housing Mitigation Manual. Non-residential Housing Mitigation In-lieu Fees are based on the 2015 and the 2020 Supplement to the Non-Residential Nexus Analysis by Keyser Marsten. Residential Housing Mitigation In-lieu Fees are based on the 2015 Nexus Study. These fees increase automatically annually (on July 1 of each year) by the Consumer Price Index of All Urban Consumers for San Francisco, CA.

An administrative fee (15%) will be charged for outside agency review/consultant services/outside services (ads etc.) per Schedule A - General Fees.

If plans are submitted on paper, these must be sent to an outside agency for scanning. The cost of scanning the plans, plus the administrative fee per Schedule A - General Fees will be charged.