

**SECOND AMENDMENT TO AGREEMENT BETWEEN THE CITY OF CUPERTINO
AND 4LEAF, INC. FOR BUILDING AND PUBLIC WORKS INSPECTIONS AT APPLE
CAMPUS 2**

This Second Amendment to the Agreement between the City of Cupertino and 4LEAF, Inc., for reference dated October 20, 2016, is by and between the CITY OF CUPERTINO, a municipal corporation (hereinafter "City") and 4LEAF, Inc., a California Corporation ("Consultant") whose address is 2110 Rheem Drive, Suite A, Pleasanton, CA 94588 and is made with reference to the following:

RECITALS:

A. On February 10, 2014, an agreement was entered into by and between City and Consultant (hereinafter "Agreement") for Phase 1 building inspection and public works inspections at Apple Campus 2.

B. City and Consultant desire to modify the Agreement on the terms and conditions set forth herein.

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

1. **SERVICES TO BE PERFORMED:**

Paragraph 2 of the Agreement is modified to read as follows:
Consultant shall perform building inspection and public works inspection, set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.

2. **COMPENSATION TO CONSULTANT:**

Paragraph 3 of the agreement is modified to read as follows:
Compensation shall be increased by this amendment in the amount not to exceed \$3,450,399 for Phase 1 Building Inspections and \$1,310,977 for Public Works Inspections for a total contract amount not to exceed \$15,126,478.

3. The following Exhibits to the Agreement, are amended and replaced to read as shown in the attachments to this Amendment:

a. Exhibit "A,"- Apple Campus 2 Inspection Service Estimates August 1, 2016 – June 30, 2017

4. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CONSULTANT
4LEAF, Inc.

MUNICIPAL CORPORATION
City of Cupertino

By _____
Title _____
Date _____

By: _____
Title _____

RECOMMENDED FOR APPROVAL:

By: _____
Title _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

EXPENDITURE DISTRIBUTION

PO #2015-57	100-73-714 900-923 Building Inspection	100-82-805 900-923 Public Works Inspection	Both Accounts
Original Contract	\$8,310,998.00	\$1,120,392.00	\$9,431,390.00
Amendment #1	-	\$933,712.00	\$933,712.00
Amendment #2	\$3,450,399.00	\$1,310,977.00	\$4,761,376.00
Total	\$11,761,397.00	\$3,365,081.00	\$15,126,478.00



Albert Salvador, P.E., CBO
 Chief Building Official
 10300 Torre Ave
 Cupertino, CA 93014

September 7, 2016

RE: Apple Campus 2 Inspection Services Estimates (August 1, 2016 – June 30, 2017)

Dear Mr. Salvador,

We wanted to first say thank you for the opportunity to serve the City of Cupertino on the Apple Campus 2 (AC2) Project. We feel our partnership with the City has made for a very success project thus far and we hope to continue providing the same level of exemplary service the City has come to expect. We feel it is best to recap where we are today in hopes of providing an accurate accounting of the current contract and to propose an estimate and fee schedule to complete the project that has gone beyond the initial 31 Month estimate.

Recap:

In December of 2013, 4LEAF was awarded a Professional Services contract to provide Building and Public Works Inspections on behalf of the City of Cupertino. Based on the information provided by the City through the successful RFP process and subsequent information, the City of Cupertino requested a budget to include 31 Months of inspection and project administration services to cover January, 2014 through July, 2016. The Agreement was executed in February, 2014 and the contract term is valid through December, 2017.

Phase 1

In January, 2014, 4LEAF proposed and was granted a contract from the City of Cupertino in the amount of \$9,431,390 to cover the 31 month period. 4LEAF was also granted two smaller contracts to cover other items not addressed in the RFP including a \$54,000 contract for the Sound Wall, Batch Plant, and Demo Inspections and a contract for Temporary Facilities in the amount of \$56,000. 4LEAF also received an increase in budget for an expanded scope of services for the Public Works Department in the amount of \$933,712 in May, 2015.

Here is the current cost accounting for the entirety of the 31 month budget:

Job #	Project Contracts	Budget Per Contract	% Of Budget Complete	Total Billed To Date	Remaining Budget	Status
J1848	AC2 Building Inspection	\$8,310,998	87.29%	\$7,255,037	\$1,055,961	Open
J1848	AC2 Public Works Inspection	\$2,054,104	109%	\$2,233,125	(\$179,021)	Open
J1860	AC2 Sound Wall, Batch, Demo	\$54,000	64.12%	\$34,625	\$19,375	Closed
J1866	AC2 Temp Facilities	\$56,000	90%	\$50,668	\$5,332	Closed
	TOTALS	10,475,102	91.39%	\$9,573,455	\$901,647	



4LEAF has provided the City a monthly summary report of all accounts as part of our invoicing procedures. Although we haven't been formally notified, we understand that the AC2 project is behind its anticipated 31 Month construction schedule. Per the City's request, 4LEAF has prepared a budget for the anticipated 11 Months to include September 1, 2016 through June 30, 2017. 4LEAF has utilized the current fee schedule and terms and conditions that exist in our Agreement. We have not provided a budget for August as the month is complete and we currently have a budget surplus.

Phase 2

In August, 2015, 4LEAF was awarded Phase 2 of the AC2 project. With limited information and scope, 4LEAF proposed and was granted a contract for \$347,256. Here is the current cost accounting for the Phase 2 Project:

Job #	Project Contracts	Budget Per Contract	% Of Budget Complete	Total Billed To Date	Remaining Budget
J1865	AC2 Phase 2	\$347,256	141%	\$490,016	(\$142,760)
	TOTALS	\$347,256	141%	\$490,016	(\$142,760)

4LEAF has provided:

- Estimate of fees for Phase 1 including breakdown of Full Time Equivalent (FTE) count by staff type per each month of construction. Phase 1 includes Main Building, Restaurant, Fitness Center, Corporate Theatre, North and South Parking Structures, and Central Plant.
- A copy of 4LEAF's Public Works estimate submitted under separate cover to Chad Mosely in July, 2016.
- Current Fee Schedule and Basis of Charges, including terms and conditions.

Not Included:

- Invoice for August, 2016 (Pending)



We look forward to the opportunity to continue to serve the City of Cupertino. Should you have any questions, I may be reached on my office phone at (925) 462-5959 or by cellular phone at (925) 580-4055. You may also reach me at ctole@4leafinc.com.

Sincerely,
4LEAF, Inc.

Craig Tole
Director of Development Services/Principal Project Manager

**City of Cupertino - Apple 2 Campus - Inspection Services
Preliminary Manpower and Cost Estimate**

Task	2016						2017						
	July.	Aug	Sept.	Oct.	Nov.	Dec.	Jan	Feb	Mar.	Apr.	May	June	
Phase 1 On-Site Building													
AC2 Main Building & Restaurant													
AC2 Theatre Inspections													
AC2 Fitness Center													
AC2 Central Plant													
AC2 Parking Structure													
On-Site and Off-Site Public Works and Phase 2 Inspections													
Provided on Separate Estimate													
LEAD INSPECTOR													
Estimated FTEs	0	3.75	3.75	3.75	3.75	3.75	3.75	3.75	3.75	3.75	3.75	3.75	
Estimated Hours	0	690	630	630	600	630	630	570	690	600	690	660	7,020
Estimated Cost (expressed in Thousands of \$)	\$0	\$97	\$88	\$88	\$84	\$88	\$94	\$85	\$103	\$89	\$103	\$98	\$1,018,319
ASSISTANT INSPECTORS													
Estimated FTEs	0	11.5	11.5	11.5	9.5	7	6	5	3.5	2.5	1.5	0.5	
Estimated Hours	0	2,116	1,932	1,932	1,520	1,176	1008	760	644	400	276	88	11,852
Estimated Cost (expressed in Thousands of \$)	\$0	\$250	\$228	\$228	\$179	\$139	\$126	\$95	\$81	\$50	\$35	\$11	\$1,420,781
ADMINISTRATOR													
Estimated FTEs	0	0	0	0.5	0.5	0.5	0.5	0	0	0	0	0	
Estimated Hours	0	0	0	84	80	84	84	0	0	0	0	0	332
Estimated Cost (expressed in Thousands of \$)	\$0	\$0	\$0	\$7	\$7	\$7	\$7	\$0	\$0	\$0	\$0	\$0	\$28,025
PW RESIDENT ENGINEER (Separate)													
Estimated FTEs	0	0	0	0	0	0	0	0	0	0	0	0	
Estimated Hours	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Cost (expressed in Thousands of \$)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PW INSPECTOR (Separate)													
Estimated FTEs	0	0	0	0	0	0	0	0	0	0	0	0	
Estimated Hours	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Cost (expressed in Thousands of \$)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
OFFICE ENGINEER													
Estimated FTEs	0	1.75	1.75	1.75	1.75	1.75	1.75	1.25	1.25	1.25	1.25	0.75	
Estimated Hours	0	322	294	294	280	294	294	190	230	200	230	132	2,760
Estimated Cost (expressed in Thousands of \$)	\$0	\$45	\$41	\$41	\$39	\$41	\$44	\$28	\$34	\$30	\$34	\$20	\$398,395
PROJECT MANAGEMENT													
Estimated FTEs	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	
Estimated Hours	0	18	17	17	16	17	16.8	15.2	18.4	16	18	18	187
Estimated Cost (expressed in Thousands of \$)	\$0	\$5	\$5	\$5	\$4	\$5	\$5	\$5	\$5	\$5	\$5	\$5	\$54,310
Allowance for Overtime (15%)													\$525,569
ODCs (Software, Library, Site Transport, etc.)													\$5,000
Total Estimated Costs:													\$3,450,399

Notes:

Estimated costs include 6% Annual Escalation for hourly rates for Years 2016 and 2017

FTE - Full-Time Equivalent.

ODCs - Other Direct Costs.

See attached Fee Schedule for hourly rates and basis of charges.

This schedule is to demonstrate our projected costs for services. This estimate is for the time period of August, 2016 through June, 2017. These services are beyond the initial 31 Month Construction Schedule (January 2014 through July 2016) that was budgeted by the City at time of contract award. This 11 month schedule is intended to show our current understanding of the project scope. Any hours or staffing in addition to the quantities listed above will require advanced written authorization from the City's Chief Building Official prior to commencement of any additional services. Consultant shall submit, at the Chief Building Official's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation. 4LEAF does not control contractors means and methods and will service all inspection requests per direction of the City of Cupertino.

Public Works and Phase 2 Estimates are each provided under separate cover.

July '2016 budget not shown as the Month is complete and covered under initial 31 Month cost schedule.

No Construction Schedules were provided to 4LEAF.

**Fee Proposal to Perform
Resident Engineer and Public Works Inspection Services Between June 2016 and the Project Completion
for the AC2 Project for the City of Cupertino**

Fee Proposal Alternative 1: Perform Resident Engineer and Public Works Inspections Between June 1, 2016 and May 31, 2017.

Task	Sub Task	Task Description	Project Manager (RT Hours) (Calendar Year 2016)	Project Manager (RT Hours) (Calendar Year 2017)	Resident Engineer (RT Hours) (Calendar Year 2016)	Resident Engineer (OT Hrs) (Calendar Year 2016)	Public Works Inspector (RT Hours) (Calendar Year 2016)	Public Works Inspector (OT Hours) (Calendar Year 2016)	Public Works Inspector (Double Time Hours) (Calendar Year 2016)	2nd Public Works Inspector (RT Hours) (June 2016)	2nd Public Works Inspector (OT Hours) (June 2016)	Resident Engineer (RT Hours) (Calendar Year 2017)	Resident Engineer (OT Hrs) (Calendar Year 2017)	Public Works Inspector (RT Hours) (Calendar Year 2017)	Public Works Inspector (OT Hours) (Calendar Year 2017)	Public Works Inspector (Double Time Hours) (Calendar Year 2017)	Total Hours	Cost Per Task	Notes	
		Hourly Rate	\$157.30	\$166.74	\$228.96	\$343.44	\$196.63	\$294.95	\$393.26	\$196.63	\$294.95	\$242.70	\$364.05	\$208.43	\$312.64	\$416.86			See Note (a)	
1		Perform Resident Engineer and Public Works Inspections (June 1, 2016 through May 31, 2017)	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours			
	1a	Perform Resident Engineer and Public Works Inspections for Phase 3 Streetscape Activities between June 1, 2016 and May 31, 2017.	0	0	1,104	3	1,184	166	4	48	3	840	0	840	64	80	4,335	\$979,428	See Notes (b) & (c).	
	1b	Project Management.	160	125	0	0	0	0	0	0	0	0	0	0	0	0	285	\$45,932	See Note (d)	
		Alternative 1 Totals:															4,619	\$1,025,360		

Fee Proposal Alternative 2: On-Site Storm Drain Utilities Inspections (Overtime).

2		Perform Public Works Inspections for On-Site Storm Drainage Facilities.	Hours																	
	2a	Perform On-Site Storm Drain Utilities Inspections (Overtime).	0	0	0	0	0	126	0	0	0	0	0	0	0	0	126	\$37,163	See Note (e)	
		Alternative 2 Totals:															126	\$37,163		

Fee Proposal Alternative 3: Contingency in the Event that the Completion Date Extends Past May 31, 2017 (assumes project completion date of August 31, 2017).

3		Perform Resident Engineer and Public Works Inspections (June 1, 2017 to August 31, 2017)	Hours																	
	3a	Perform Resident Engineer and Public Works Inspections for Phase 3 Streetscape Activities between June 1, 2017 and August 31, 2017:	0	0	0	0	0	0	0	0	0	520	0	520	0	0	1,040	\$234,585	See Note (f)	
	3b	Project Management	0	82	0	0	0	0	0	0	0	0	0	0	0	0	82	\$13,869	See Note (g)	
		Alternative 3 Totals:															1,122	\$248,454		

(a) The hourly rates for Project Manager, Resident Engineer and Public Works Inspector for January 2017 include a 6% annual escalation.

(b) Assumes one full-time Resident Engineer and one full-time Public Works Inspector to perform all off-site public works inspections and on-site inspections for grading and retention basins only (no inspections of on-site storm drain lines or concrete pours for manholes or catch basins). Assumes 20 working days in July, 23 working days in August, 21 working days in September, 21 working days in October, 20 working days in November, and 21 working days in December. Also assumes 8 hours of overtime (OT) per week between June 1, 2016 and August 31, 2016.

(c) Assumes one full-time Resident Engineer and one full-time Public Works Inspector in January 2017 (21 working days in January). Assumes one full-time Resident Engineer (M-F), one full-time Public Works Inspector (M-F), and one Public Works Inspector for two (2) weekends per month (10 hrs/day on Saturdays and 8 hrs/day on Sundays) during the months of February, March, April, and May 2017. Assumes 19 working days in February 2017, 23 working days in March 2017, 20 working days in April 2017, and 22 working days in May 2017. The weekend OT includes 8 hours at 1.5x hourly rate and 2 hours at 2x hourly rate on Saturdays at 1.5x hourly rate and 8 hours on Sundays at double-time rate.

(d) Assumes 6 hours per week for Project Management between June 2016 and May 2017.

(e) Assumes (1) Over-Time Inspector for 6 months (Assumes 21 working days/month 1 hr/day for 6 months).

(f) Assumes one full-time Resident Engineer and one full-time Inspector between June 1, 2017 and August 31, 2017 (Assumes 22 days in June, 20 days in July, and 23 days in August). Assumes no additional OT Monday-Friday or on weekends or holidays.

(g) Assumes 6 hours per week for Project Management between June 1, 2017 and August 31, 2017.



INSPECTION FEE SCHEDULE & BASIS OF CHARGES FOR APPLE CAMPUS 2

Field Services*

Lead Inspector	\$ 125 per hour
Assistant Inspector	\$ 105 per hour
Plan Reviewer	\$ 157 per hour
Public Works Resident Engineer	\$ 224 per hour
Public Works Inspector	\$ 175 per hour
Office Engineer	\$ 125 per hour
Project Administrator	\$ 74 per hour

Office Services*

Principal (Direct Charge only)	\$ 250 per hour
Project Manager (Direct Charge only)	\$ 250 per hour

Other Direct Charges*

CA Code Book Library** (if provided by 4LEAF)	\$1,200 each
Site Vehicles **	\$1,000 per month each
Personal Computer **	\$ 1 per hour surcharge
Field Tablet and/or Mobile Assistant **	\$ 1 per hour surcharge
GoFormz software **	\$ 25 per month per user
Personal Protective Equipment (PPE)**	Cost + 20%
Internet Access (MIFI, WIFI, or 3G)**	Cost + 20%
Office or Administrative furnishings and consumables**	Cost + 20%

***All Fees Subject to Basis of Charges**

****If provided by 4LEAF**

BASIS OF CHARGES

- All time and materials invoices will be submitted monthly.
- Work is subject to 4 hour minimum charges unless stated otherwise. Services billed in 4 hour increments.
- Overtime and Premium time will be charged as follows:

- Regular time (work begun after 5AM or before 4PM)	1 x hourly rate
- Night Time (work begun after 4PM or before 5AM)	1.125 x hourly rate
- Overtime (over 8 hour M-F or Saturdays)	1.5 x hourly rate
- Overtime (over 8 hours Sat or 1 st 8 hour Sun)	2 x hourly rate
- Overtime (over 8 hours Sun or Holidays)	3 x hourly rate
- All work with less than 8 hours rest between shifts will be charged the appropriate overtime rate.
- Mileage and/or travel cost and travel time will be charged from site for all offsite work.
- All billable expenses will be charged at cost plus 20%.
- All rates are subjected to annual escalation of the greater of 6% or the CA CPI each January 1st.
- Payment due on receipt. All payments over 30 days will be assessed a 1.5% interest charge.