

**SECOND AMENDMENT TO AGREEMENT 2015-25**  
**BETWEEN THE CITY OF CUPERTINO AND ALL CITY**  
**MANAGEMENT SERVICES INC. FOR CROSSING**  
**GUARD SERVICES**

This Second Amendment to Agreement 2015-25 between the City of Cupertino and All City Management Services, Inc. (ACMS), for reference dated 6/17/2020, is by and between the CITY OF CUPERTINO, a municipal corporation (hereinafter "City") and ACMS, a Corporation ("Contractor") whose address is 10440 Pioneer Blvd., Suite 5, Santa Fe Springs, CA 90670, and is made with reference to the following:

RECITALS:

- A. On 8/17/2015, Agreement 2015-25 ("Original Agreement") was entered into by and between City and Contractor for Crossing Guard Services at various locations throughout the City for a term of three years with the option to extend for two years.
- B. On 10/4/2016, City and Consultant agreed to the First Amendment for compensation adjustments to be limited to changes in City's minimum wage requirements plus 31.5% labor burden added.
- C. On March 20, 2018, City exercised the option to extend the Agreement two years, through June 30, 2020 ("2018 Contract Extension").
- D. On October 9, 2018, City and Consultant agreed to an adjusted compensation rate based on an increase in City minimum wage, effective January 1, 2019 ("2019 Compensation Adjustment")
- E. The Original Agreement, First Amendment, 2018 Contract Extension and 2019 Compensation Adjustment are collectively referred to as the "Agreement" unless otherwise indicated.
- F. City and Contractor 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. TERM

Paragraph 3.1 – Contract Time of the Agreement is modified to read as follows:

The Contract Time will commence to run on the date indicated in the Notice to Proceed. City may give a Notice to Proceed at any time within 30 Days after the Notice of Award. Contractor shall not do any Work at the Site prior to the date on which the Contract Time commences to run.

With satisfactory performance by the Contractor, the term of this Agreement shall be three (3) years from the start date of the Agreement. The City shall retain the option to extend the term of the Agreement for an additional two (2) years, for a possible total of five (5) years. Contractor performance will be documented weekly by the Safe Routes to School Coordinator, with deficiencies communicated to the Contractor. An annual review of Contractor performance will

be completed by March 31st of each year. Satisfactory performance will be achieved if annual liquidated damages are less than \$1,500 for missed crossing guard events and \$200 for improper staging of pedestrian flow.

The City may elect to extend the Agreement on an annual basis as necessary to address an emergency that has been declared by the County of Santa Clara. Any such emergency extension shall be accomplished by the City providing a written notice of extension to the Contractor at least 30 days prior to expiration of the term.

Compensation to the Contractor during any extension period shall be limited to actual changes in the minimum wage requirements plus 31.5% labor burden added.

Cupertino's minimum wage for the 2020 calendar year is \$15.35/hr. Compensation to the Contractor through December 31, 2020 shall be \$23.04 per hour, based on the calculation below, where \$15.00 was the minimum wage in 2019 and \$22.58 was the Contractor's compensation rate in 2019.

Adjusted Min Wage - Prior Min Wage = Difference in Min Wages \* 1.315 Labor Burden =  
Billing Differential + Prior Billing Rate = New Billing Rate

$\$15.35 - \$15.00 = \$0.35 * 1.315 = \$0.46 + \$22.58 = \$23.04$

Cupertino's minimum wage rate may be adjusted effective January 1, 2021. In the event of an adjustment, a new billing rate will be determined for services rendered between January 1, 2021 and June 30, 2021, using the formula above. If the City's minimum wage remains unchanged, the billing rate specified for 2020 will remain constant through the end of the Contract Time.

Cupertino's 2021 minimum wage rate will be announced on the City's website by October 1, 2020, or as soon as practicable thereafter if the Consumer Price Index for August has not yet been published. Once the billing rate for 2021 has been established, the City will notify Contractor.

The City shall have the authority to suspend this Agreement, wholly or in part, for such period as it deems necessary due to unfavorable conditions or the failure on the part of the Contractor to perform any provisions of this Agreement,

## 2. LIQUIDATED DAMAGES

Paragraph 3.2.1 – in the Agreement is modified to read as follows:

3.2.1

\$140 for each and every shift that services are not completed on time and/or designated crosswalk areas are omitted, up to a maximum of \$280 in a calendar day.

3. Exhibit B – Crossing Guard Locations SY2020-21, attached hereto, is added to the Agreement. Exhibit B lists anticipated crossing guard locations and the school(s) served at each location for the 2020-21 School Year. This exhibit includes the addition of Monta Vista High School as one of the schools served at three existing locations, and gives the City flexibility to modify crossing guard locations, should the need arise, and lists alternate locations the City would select from.
4. Exhibit A-A – Shelter in Place and Social Distancing Requirements and Face Covering Order, attached hereto, is added to this Agreement.

5. 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.

CONTRACTOR

By 

Title Secretary

Date 6/3/2020

CITY OF CUPERTINO

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

**EXPENDITURE DISTRIBUTION**

<b>PO #: TBD</b>	<b>100-88-846 700-702</b>
<b>Original</b>	<b>8/17/2015</b>
<b>Amendment #1:</b>	<b>10/4/2016</b>
<b>Amendment #2:</b>	<b>6/2/2020</b>
<b>Total:</b>	<b>FY20-21: \$324,321</b>

**Exhibit B: Cupertino Crossing Guard Locations**

These are the anticipated site locations for the 2020-21 school year. The City retains the right to change these locations based on schools' needs, while maintaining 16 guards throughout the City. In the unlikely event of a location change, the City will notify All City Management Services, Inc. of a new location to be served with as much notice as possible.

<b>Location #</b>	<b>School(s) Served</b>	<b>Intersection</b>
1	Collins Elementary	N Blaney Ave/Forest Ave
2	Collins Elementary & Lawson Middle	N Blaney Ave/Merritt Dr
3	Eaton Elementary	S Blaney Ave/Suisun Dr
4.1	Cupertino High	Stevens Creek Blvd/Finch Ave
4.2	Cupertino High	Stevens Creek Blvd/Finch Ave
5	Garden Gate Elementary	Greenleaf Dr/S Stelling Rd
6	Kennedy Middle	Bubb Rd/Hyannisport Dr
7	Kennedy Middle & Monta Vista High	Hyannisport Dr/Fort Baker Dr
8	Lincoln Elementary & Kennedy Middle & Monta Vista High	McClellan Rd/Bubb Rd
9	Lawson Middle	N. De Anza Blvd./Mariani Ave.
10	Lawson Middle	Vista Dr./Merritt Dr.
11	Lawson Middle	Vista Dr./Stevens Creek Blvd.
12	Lincoln Elementary	McClellan Rd./Lincoln Elementary
13	Lincoln Elementary & Monta Vista High	McClellan Rd./Orange Ave.
14	Stevens Creek	Ainsworth / Bahl
15	Sedgwick Elementary	Barnhart Ave./S. Tantau Ave.

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

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

**B. Health Order Compliance.** Contractor shall comply with any restrictions on travel and social distancing requirements in the Health Order when performing work under this Contract. If a scope of work item, notice to proceed, or work order under this Contract specifies work that cannot be performed in compliance with the Health Order or other Health Laws, Contractor shall refrain from conducting the work and immediately inform the City.

**C. Individuals at High Risk of Severe Illness.** Nothing in this Contract shall be interpreted to require any person at high risk of severe illness from COVID-19 to leave their residence to perform work under the Contract. Contractor will inform the City if other arrangements for the work must be made, and City will do so, with no penalty to Contractor, although Contractor will not be compensated for work performed by the City or third parties. Information from the Center for Disease Control ("CDC") on "high risk" categories is available at the CDC's website at: <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/people-at-higher-risk.html>.

**D. Health Order Requirements and Best Practices.** Contractor will immediately undertake all appropriate measures to ensure compliance with the Social Distancing Requirements in the Health Order by all individuals on any project site or work area performing work under this Contract, including Contractor's or any subcontractor's workers, employees, representatives, vendors, or suppliers (collectively, "workers"), and shall maintain these measures for as long as required by the Health Order or other Health Laws. In particular, Contractor must comply with the provisions of Appendix B-1 or B-2 (attached hereto) to the Health Order, as applicable.

Further, as long as required by the operative Health Order including Appendix B-1 or B-2, or other Health Laws, these measures shall include, but are not limited to, the following best practices:

**1. Information.** Inform all workers of the Social Distancing Requirements and these best practices, including any updates or modifications, and require compliance as a condition to being present on the project site or work area.

**2. Sick Workers.** Prohibit any individuals who have been tentatively or conclusively diagnosed with COVID-19 or who have any symptoms of illness, including the following, from entering or remaining on the project site or work area: fever, cough, shortness of

breath, sore throat, body aches, chills, sudden loss of smell or taste or other flu-like symptoms. *Encourage sick workers to get immediate medical attention.*

**a. Daily Screening.** A supervisor must ask the following questions of each worker before the worker is permitted to enter the project site or work area each day, and a worker who responds "yes" to any one of the following questions must be asked to leave immediately and will not be permitted back on the project site or work area until cleared based on meeting the applicable requirements set forth in the CDC's Interim Guidance on Discontinuation of Home Isolation for Persons with COVID-19 (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html>):

(1) Have you had any of the following symptoms within the past 14 days: fever, cough, shortness of breath, sore throat, body aches, chills, sudden loss or smell or taste, or any other flu-like symptoms?

(2) Have you or anyone in your household been in contact with a person that has been diagnosed with, has symptoms of, or is being tested for COVID-19?

(3) Have you been medically directed to self-quarantine due to possible exposure to COVID-19?

**3. Signage/Posters.** In compliance with the Health Order, post a Social Distancing Protocol, substantially in the form attached to the Health Order as Appendix A, at all project site or work area entry points, and in other areas where they are likely to be seen (e.g., project trailers, sanitary facilities, break areas). The Social Distancing Protocol must explain how Contractor is achieving compliance with social distancing requirements. Resources for this purpose are available from the CDC at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> A copy of the Social Distancing Protocol must also be provided to each employee performing work at the project site or work area.

**4. Sanitary Facilities.** Ensure adequate handwashing and/or hand-sanitizing facilities are available at all times and encourage frequent handwashing and/or hand-sanitizing throughout the day as specified below. Portable sanitary facilities must be serviced and cleaned on a daily basis. Provide hand sanitizer in or around all toilet facilities and common areas, including project trailers.

**a. Handwashing.** Wash hands using soap and water for at least 20 seconds.

**b. Hand-sanitizer.** Use a hand sanitizer that contains at least 60-95% alcohol when handwashing is not immediately available.

**c. Paper Products.** Ensure that toilet paper, tissues, and paper towels are available as appropriate, with designated receptacles for disposal.

**5. Distancing.** Prohibit workers from being less than six feet apart, unless and only to the extent that would compromise worker safety or violate safety Laws for specific operations. Prohibit handshaking or any physical contact among workers, with the sole and limited exception of any physical contact required for worker safety or to comply with safety Laws. Avoid sharing tools to the extent possible. Require workers to provide their own transportation where possible and to avoid having more than two workers in a vehicle.

**6. Groups/Meetings/Site Access.** Avoid any group gatherings of 10 or more people. Use electronic alternatives to in person meetings, e.g., conference calls, video-conferencing, etc., to the greatest extent possible. Limit access to the project site or any work area to workers who are necessary to perform the work at that time. Allow non-essential personnel to work from home to the extent possible. Avoid all non-essential travel. Do not stack trades if possible.

**7. Frequent Cleaning.** Provide for regular and appropriate cleaning of all high touch surfaces at a project site or work area, including, but not limited to, shared tools or equipment, doorknobs and handles, toolboxes, sanitary facilities, common break areas, keypads, touch screens, project trailer surfaces and equipment, light or power switches, workstations, countertops, break areas, and the like. Clean and/or disinfect any reusable items or equipment. Clean surfaces of shared vehicles, including steering wheels, gear shifts, handles, instrument panels, etc. Ensure that cleaning products are used correctly and safely, and avoid cleaning techniques, such as use of pressurized air or water sprays, that may generate bioaerosols.

**8. Personal Protective Equipment.** When workers cannot avoid close proximity or physical contact, e.g., based on applicable safety laws, or are otherwise at risk for exposure to COVID-19, ensure that the affected workers are provided with appropriate personal protective equipment ("PPE"), which may include disposable gloves and/or other PPE. Instruct workers to wash or sanitize hands after removing gloves or other PPE. Ensure that all personal protective equipment is disposed of properly.

**9. Water and Food.** Prohibit shared or communal food or common water coolers. Provide individual water bottles for workers or instruct workers to bring their own.

**10. Enforcement.** Immediately eject any worker who fails or refuses to comply with the Health Laws, Social Distancing Requirements, or these best practices from the project site until or unless the Project Manager issues a written authorization for the worker to return, subject to full compliance.

**F. Proof of Compliance.** If Contractor is subject to Appendix B-1 of the Health Order, Contractor must provide to the City the name and contact information for its designated site-specific COVID-19 supervisor(s). If Contractor is subject to Appendix B-2 of the Health Order, Contractor must provide to the City a copy of its Site-Specific Health and Safety Plan. Any changes to the COVID-19 supervisor or the Site-Specific Health and Safety Plan must be reported to the City immediately.

**E. Oversight.** In order to ensure that all workers comply with the Social Distancing Requirements to the extent possible, Contractor shall designate a named individual to have primary responsibility for implementation and enforcement of the Social Distancing Requirements and these best practices, and to serve as the primary point of contact with the City in this regard. Contractor shall promptly inform the City of the name of this individual.

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

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

**Attachments to Exhibit A-A**

Appendix B-1 to June 5, 2020 Health Order

Appendix B-2 to June 5, 2020 Health Order

1228578.4

**Appendix B-1**  
**(Effective June 5, 2020)**

**Small Construction Project Safety Protocol**

1. Any construction project meeting any of the following specifications is subject to this Small Construction Project Safety Protocol (“SCP Protocol”), including public works projects unless otherwise specified by the Health Officer:
  - a. For residential projects, any single-family, multi-family, senior, student, or other residential construction, renovation, or remodel project consisting of 10 units or less. This SCP Protocol does not apply to construction projects where a person is performing construction on their current residence either alone or solely with members of their own household.
  - b. For commercial projects, any construction, renovation, or tenant improvement project consisting of 20,000 square feet of floor area or less.
  - c. For mixed-use projects, any project that meets both of the specifications in subsection 1.a and 1.b.
  - d. All other construction projects not subject to the Large Construction Project Safety Protocol set forth in Appendix B-2.
2. The following restrictions and requirements must be in place at all construction job sites subject to this SCP Protocol:
  - a. Comply with all applicable and current laws and regulations including but not limited to OSHA and Cal-OSHA. If there is any conflict, difference, or discrepancy between or among applicable laws and regulations and/or this SCP Protocol, the stricter standard shall apply.
  - b. Designate a site-specific COVID-19 supervisor or supervisors to enforce this guidance. A designated COVID-19 supervisor must be present on the construction site at all times during construction activities. A COVID-19 supervisor may be an on-site worker who is designated to serve in this role.
  - c. The COVID-19 supervisor must review this SCP Protocol with all workers and visitors to the construction site.
  - d. Establish a daily screening protocol for arriving staff to ensure that potentially infected staff do not enter the construction site. If workers leave the jobsite and return the same day, establish a cleaning and decontamination protocol prior to entry and exit of the jobsite. Post the daily screening protocol at all entrances and exits to the jobsite. More information on screening can be found online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>.
  - e. Practice social distancing by maintaining a minimum six-foot distance between workers at all times, except as strictly necessary to carry out a task associated with the construction project.

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**(Effective June 5, 2020)**

- f. Where construction work occurs within an occupied residential unit, separate work areas must be sealed off from the remainder of the unit with physical barriers such as plastic sheeting or closed doors sealed with tape to the extent feasible. If possible, workers must access the work area from an alternative entry/exit door to the entry/exit door used by residents. Available windows and exhaust fans must be used to ventilate the work area. If residents have access to the work area between workdays, the work area must be cleaned and sanitized at the beginning and at the end of workdays. Every effort must be taken to minimize contact between workers and residents, including maintaining a minimum of six feet of social distancing at all times.
- g. Where construction work occurs within common areas of an occupied residential or commercial building or a mixed-use building in use by on-site employees or residents, separate work areas must be sealed off from the rest of the common areas with physical barriers such as plastic sheeting or closed doors sealed with tape to the extent feasible. If possible, workers must access the work area from an alternative building entry/exit door to the building entry/exit door used by residents or other users of the building. Every effort must be taken to minimize contact between worker and building residents and users, including maintaining a minimum of six feet of social distancing at all times.
- h. Prohibit gatherings of any size on the jobsite, including gatherings for breaks or eating, except for meetings regarding compliance with this protocol or as strictly necessary to carry out a task associated with the construction project.
- i. Cal-OSHA requires employers to provide water, which should be provided in single-serve containers. Sharing of any of any food or beverage is strictly prohibited and if sharing is observed, the worker must be sent home for the day.
- j. Provide personal protective equipment (PPE) specifically for use in construction, including gloves, goggles, face shields, and face coverings as appropriate for the activity being performed. At no time may a contractor secure or use medical-grade PPE unless required due to the medical nature of a jobsite. Face coverings must be worn in compliance with the April 17, 2020 Guidance from the County of Santa Clara Public Health Department, available at: <https://www.sccgov.org/sites/covid19/Pages/learn-what-to-do.aspx#howto>.
- k. Strictly control “choke points” and “high-risk areas” where workers are unable to maintain six-foot social distancing and prohibit or limit use to ensure that six-foot distance can easily be maintained between individuals.
- l. Minimize interactions and maintain social distancing with all site visitors, including delivery workers, design professional and other project consultants, government agency representatives, including building and fire inspectors, and residents at residential construction sites.
- m. Stagger trades as necessary to reduce density and allow for easy maintenance of minimum six-foot separation.

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**(Effective June 5, 2020)**

- n. Discourage workers from using others' desks, work tools, and equipment. If more than one worker uses these items, the items must be cleaned and disinfected with disinfectants that are effective against COVID-19 in between use by each new worker. Prohibit sharing of PPE.
- o. If hand washing facilities are not available at the jobsite, place portable wash stations or hand sanitizers that are effective against COVID-19 at entrances to the jobsite and in multiple locations dispersed throughout the jobsite as warranted.
- p. Clean and sanitize any hand washing facilities, portable wash stations, jobsite restroom areas, or other enclosed spaces daily with disinfectants that are effective against COVID-19. Frequently clean and disinfect all high touch areas, including entry and exit areas, high traffic areas, rest rooms, hand washing areas, high touch surfaces, tools, and equipment
- q. Maintain a daily attendance log of all workers and visitors that includes contact information, including name, phone number, address, and email.
- r. Post a notice in an area visible to all workers and visitors instructing workers and visitors to do the following:
  - i. Do not touch your face with unwashed hands or with gloves.
  - ii. Frequently wash your hands with soap and water for at least 20 seconds or use hand sanitizer with at least 60% alcohol.
  - iii. Clean and disinfect frequently touched objects and surfaces such as work stations, keyboards, telephones, handrails, machines, shared tools, elevator control buttons, and doorknobs.
  - iv. Cover your mouth and nose when coughing or sneezing, or cough or sneeze into the crook of your arm at your elbow/sleeve.
  - v. Do not enter the jobsite if you have a fever, cough, or other COVID-19 symptoms. If you feel sick, or have been exposed to anyone who is sick, stay at home.
  - vi. Constantly observe your work distances in relation to other staff. Maintain the recommended minimum six feet at all times when not wearing the necessary PPE for working in close proximity to another person.
  - vii. Do not carpool to and from the jobsite with anyone except members of your own household unit, or as necessary for workers who have no alternative means of transportation.
  - viii. Do not share phones or PPE.
- s. In the event of a confirmed case of COVID-19 at any jobsite, the following must take place:
  - i. Immediately remove the infected individual from the jobsite with directions to seek medical care.
  - ii. Each location the infected worker was at must be decontaminated and sanitized by an outside vendor certified in hazmat clean ups, and work in these locations must cease until decontamination and sanitization is complete.
  - iii. The County Public Health Department must be notified immediately by both telephone (by calling 408.885.4214) and by email (by sending an email to [coronavirus@phd.sccgov.org](mailto:coronavirus@phd.sccgov.org)). Any requirements specified by the County health officials must be completed, including full compliance with any tracing efforts by the County.

**Appendix B-2**  
**(Effective June 5, 2020)**

**Large Construction Project Safety Protocol**

1. Any construction project meeting any of the following specifications is subject to this Large Construction Project Safety Protocol (“LCP Protocol”), including public works projects unless otherwise specified by the Health Officer:
  - a. For residential construction projects, any single-family, multi-family, senior, student, or other residential construction, renovation, or remodel project consisting of more than 10 units.
  - b. For commercial construction projects, any construction, renovation, or tenant improvement project consisting of more than 20,000 square feet of floor area.
  - c. For construction of Essential Infrastructure, as defined in section 16.c of the Order, any project that requires 20 or more workers at the jobsite at any one time.
2. The following restrictions and requirements must be in place at all construction job sites subject to this LCP Protocol:
  - a. Comply with all applicable and current laws and regulations including but not limited to OSHA and Cal-OSHA. If there is any conflict, difference or discrepancy between or among applicable laws and regulations and/or this LCP Protocol, the stricter standard will apply.
  - b. Prepare a new or updated Site-Specific Health and Safety Plan to address COVID-19-related issues, post the Plan on-site at all entrances and exits, and produce a copy of the Plan to County governmental authorities upon request. The Plan must be translated as necessary to ensure that all non-English speaking workers are able to understand the Plan.
  - c. Provide personal protective equipment (PPE) specifically for use in construction, including gloves, goggles, face shields, and face coverings as appropriate for the activity being performed. At no time may a contractor secure or use medical-grade PPE, unless required due to the medical nature of a job site. Face coverings must be worn in compliance with the April 17, 2020 Guidance from the County of Santa Clara Public Health Department, available at:  
<https://www.sccgov.org/sites/covid19/Pages/learn-what-to-do.aspx#howto>.
  - d. Ensure that employees are trained in the use of PPE. Maintain and make available a log of all PPE training provided to employees and monitor all employees to ensure proper use of the PPE.
  - e. Prohibit sharing of PPE.

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**(Effective June 5, 2020)**

- f. Implement social distancing requirements including, at minimum:
- i. Stagger stop- and start-times for shift schedules to reduce the quantity of workers at the jobsite at any one time to the extent feasible.
  - ii. Stagger trade-specific work to minimize the quantity of workers at the jobsite at any one time.
  - iii. Require social distancing by maintaining a minimum six-foot distance between workers at all times, except as strictly necessary to carry out a task associated with the project.
  - iv. Prohibit gatherings of any size on the jobsite, except for safety meetings or as strictly necessary to carry out a task associated with the project.
  - v. Strictly control “choke points” and “high-risk areas” where workers are unable to maintain minimum six-foot social distancing and prohibit or limit use to ensure that minimum six-foot distancing can easily be maintained between workers.
  - vi. Minimize interactions and maintain social distancing with all site visitors, including delivery workers, design professional and other project consultants, government agency representatives, including building and fire inspectors, and residents at residential construction sites.
  - vii. Prohibit workers from using others’ phones or desks. Any work tools or equipment that must be used by more than one worker must be cleaned with disinfectants that are effective against COVID-19 before use by a new worker.
  - viii. Place wash stations or hand sanitizers that are effective against COVID-19 at entrances to the jobsite and in multiple locations dispersed throughout the jobsite as warranted.
  - ix. Maintain a daily attendance log of all workers and visitors that includes contact information, including name, address, phone number, and email.
  - x. Post a notice in an area visible to all workers and visitors instructing workers and visitors to do the following:
    1. Do not touch your face with unwashed hands or with gloves.
    2. Frequently wash your hands with soap and water for at least 20 seconds or use hand sanitizer with at least 60% alcohol.
    3. Clean and disinfect frequently touched objects and surfaces such as workstations, keyboards, telephones, handrails, machines, shared tools, elevator control buttons, and doorknobs.
    4. Cover your mouth and nose when coughing or sneezing or cough or sneeze into the crook of your arm at your elbow/sleeve.
    5. Do not enter the jobsite if you have a fever, cough, or other COVID-19 symptoms. If you feel sick, or have been exposed to anyone who is sick, stay at home.
    6. Constantly observe your work distances in relation to other staff. Maintain the recommended minimum six-foot distancing at all times when not wearing the necessary PPE for working in close proximity to another person.
    7. Do not share phones or PPE.

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**(Effective June 5, 2020)**

- xi. The notice in section 2.f.x must be translated as necessary to ensure that all non-English speaking workers are able to understand the notice.
- g. Implement cleaning and sanitization practices in accordance with the following:
  - i. Frequently clean and sanitize, in accordance with CDC guidelines, all high-traffic and high-touch areas including, at a minimum: meeting areas, jobsite lunch and break areas, entrances and exits to the jobsite, jobsite trailers, hand-washing areas, tools, equipment, jobsite restroom areas, stairs, elevators, and lifts.
  - ii. Establish a cleaning and decontamination protocol prior to entry and exit of the jobsite and post the protocol at entrances and exits of jobsite.
  - iii. Supply all personnel performing cleaning and sanitization with proper PPE to prevent them from contracting COVID-19. Employees must not share PPE.
  - iv. Establish adequate time in the workday to allow for proper cleaning and decontamination including prior to starting at or leaving the jobsite for the day.
- h. Implement a COVID-19 community spread reduction plan as part of the Site-Specific Health and Safety Plan that includes, at minimum, the following restrictions and requirements:
  - i. Prohibit all carpooling to and from the jobsite except by workers living within the same household unit, or as necessary for workers who have no alternative means of transportation.
  - ii. Cal-OSHA requires employers to provide water, which should be provided in single-serve containers. Prohibit any sharing of any food or beverage and if sharing is observed, the worker must be sent home for the day.
  - iii. Prohibit use of microwaves, water coolers, and other similar shared equipment.
- i. Assign a COVID-19 Safety Compliance Officer (SCO) to the jobsite and ensure the SCO's name is posted on the Site-Specific Health and Safety Plan. The SCO must:
  - i. Ensure implementation of all recommended safety and sanitation requirements regarding the COVID-19 virus at the jobsite.
  - ii. Compile daily written verification that each jobsite is compliant with the components of this LCP Protocol. Each written verification form must be copied, stored, and made immediately available upon request by any County official.
  - iii. Establish a daily screening protocol for arriving staff, to ensure that potentially infected staff do not enter the construction site. If workers leave the jobsite and return the same day, establish a cleaning and decontamination protocol prior to entry and exit of the jobsite. Post the daily screening protocol at all entrances and exit to the jobsite. More information on screening can be found online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>.
  - iv. Conduct daily briefings in person or by teleconference that must cover the following topics:
    - 1. New jobsite rules and pre-job site travel restrictions for the prevention of COVID-19 community spread.
    - 2. Review of sanitation and hygiene procedures.
    - 3. Solicitation of worker feedback on improving safety and sanitation.
    - 4. Coordination of construction site daily cleaning/sanitation requirements.
    - 5. Conveying updated information regarding COVID-19.

**Appendix B-2**  
**(Effective June 5, 2020)**

6. Emergency protocols in the event of an exposure or suspected exposure to COVID-19.
  - v. Develop and ensure implementation of a remediation plan to address any non-compliance with this LCP Protocol and post remediation plan at entrance and exit of jobsite during remediation period. The remediation plan must be translated as necessary to ensure that all non-English speaking workers are able to understand the document.
  - vi. The SCO must not permit any construction activity to continue without bringing such activity into compliance with these requirements.
  - vii. Report repeated non-compliance with this LCP Protocol to the appropriate jobsite supervisors and a designated County official.
- j. Assign a COVID-19 Third-Party Jobsite Safety Accountability Supervisor (JSAS) for the jobsite, who at a minimum holds an OSHA-30 certificate and first-aid training within the past two years, who must be trained in the protocols herein and verify compliance, including by visual inspection and random interviews with workers, with this LCP Protocol.
- i. Within seven calendar days of each jobsite visit, the JSAS must complete a written assessment identifying any failure to comply with this LCP Protocol. The written assessment must be copied, stored, and, upon request by the County, sent to a designated County official.
  - ii. If the JSAS discovers that a jobsite is not in compliance with this LCP Protocol, the JSAS must work with the SCO to develop and implement a remediation plan.
  - iii. The JSAS must coordinate with the SCO to prohibit continuation of any work activity not in compliance with rules stated herein until addressed and the continuing work is compliant.
  - iv. The remediation plan must be sent to a designated County official within five calendar days of the JSAS's discovery of the failure to comply.
- k. In the event of a confirmed case of COVID-19 at any jobsite, the following must take place:
- i. Immediately remove the infected individual from the jobsite with directions to seek medical care.
  - ii. Each location the infected worker was at must be decontaminated and sanitized by an outside vendor certified in hazmat clean ups, and work in these locations must cease until decontamination and sanitization is complete.
  - iii. The County Public Health Department must be notified immediately by both telephone (by calling 408.885.4214) and by email (by sending an email to [coronavirus@phd.sccgov.org](mailto:coronavirus@phd.sccgov.org)). Any requirements specified by the County health officials must be completed, including full compliance with any tracing efforts by the County.
- l. Where construction work occurs within an occupied residential unit, any separate work area must be sealed off from the remainder of the unit with physical barriers such as plastic sheeting or closed doors sealed with tape to the extent feasible. If possible, workers must access the work area from an alternative entry/exit door to the entry/exit door used by

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residents. Available windows and exhaust fans must be used to ventilate the work area. If residents have access to the work area between workdays, the work area must be cleaned and sanitized at the beginning and at the end of workdays. Every effort must be taken to minimize contact between workers and residents, including maintaining a minimum of six feet of social distancing at all times.

- m. Where construction work occurs within common areas of an occupied residential or commercial building or a mixed-use building in use by on-site employees or residents, any separate work area must be sealed off from the rest of the common areas with physical barriers such as plastic sheeting or closed doors sealed with tape to the extent feasible. If possible, workers must access the work area from an alternative building entry/exit door to the building entry/exit door used by residents or other users of the building. Every effort must be taken to minimize contact between worker and building residents and users, including maintaining a minimum of six feet of social distancing at all times.

## **EMERGENCY ORDER NO. 20-01**

### **AN ORDER BY THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF CUPERTINO REQUIRING MEMBERS OF THE PUBLIC TO WEAR FACE COVERINGS**

**WHEREAS**, Cupertino Municipal Code Section 2.40.060 empowers the City Manager, as the Director of Emergency Services, to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by a proclaimed local emergency; and

**WHEREAS**, March 11, 2020, the City Manager, serving as the Director of Emergency Services, issued a Proclamation of Local Emergency regarding the presence and community spread of the COVID-19 pandemic, and on March 17, 2020, the City Council ratified the Proclamation of Local Emergency; and

**WHEREAS**, the Director of Emergency Services does hereby find the following:

1. Santa Clara County has been coordinating with the counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo on COVID-19 response efforts. On April 17, 2020, Santa Clara County issued guidance strongly recommending that members of the public wear face coverings in certain situations. On that same day, Alameda, Contra Costa, Marin, San Francisco, and San Mateo counties issued Public Health Orders requiring that the public wear face coverings in similar situations. This Emergency Order aligns in scope with those County orders and with the Santa Clara County's guidance regarding when to wear face coverings.
2. As of April 20, 2020, Santa Clara County had a total of 1922 confirmed cases of COVID-19. Of those cases, 23 were from Cupertino. These counts increased on April 21, 2020 when Santa Clara County had a total of 1946 confirmed cases of COVID-19. Of those cases, 24 were from Cupertino. County transmission is believed to be widespread and due to limited testing capacity, Cupertino's and even the County's counts only represent a small portion of actual cases in all likelihood.
3. COVID-19 is spread through respiratory droplets that are produced when an infected person coughs, sneezes or talks. These droplets can land in the mouths or noses of others who are nearby or can be inhaled into their lungs. COVID19 has been shown to attach to surfaces for days and remain viable in the air for up to three hours after the infected person has left. When properly worn by the user, face coverings have the potential to slow the spread of the virus by limiting the spread of these droplets. Even a small reduction in community transmission could make a major difference in the demand on the healthcare system.

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4. People can be infected and contagious while not showing any symptoms, meaning they are asymptomatic. People can also be infected and contagious 48 hours before developing symptoms, during the time when they are pre-symptomatic. In addition, many people with the COVID-19 virus have mild symptoms and do not recognize they are infected and contagious. Due to these factors, people can unknowingly be infected and can unintentionally infect others. Therefore, the CDC believes that wearing a face covering, when combined with physical distancing of at least 6 feet and frequent hand washing, may reduce the risk of transmitting coronavirus when in public and engaged in essential activities; and

**WHEREAS**, the above facts give rise to conditions of extreme peril to the safety and health of persons within the City; and

**WHEREAS**, carriers of COVID-19 have been known to be asymptomatic and wearing face coverings would help reduce the chances of transmission, further protecting the community during this emergency;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that effective at 12:00 p.m. on Friday, April 24, 2020, and continuing in effect until further notice from the Director of Emergency Services or the City Council:

1. As used in this Order, a “Face Covering” means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers only the nose and mouth and surrounding areas of the lower face. A covering that hides or obscures the wearer’s eyes or forehead is not a Face Covering. Examples of Face Coverings include a scarf or bandana; a neck gaiter; a homemade covering made from a t-shirt, sweatshirt, or towel, held on with rubber bands or otherwise; or a mask, which need not be medical-grade. A Face Covering may be factory-made or may be handmade and improvised from ordinary household materials. The Face Covering should be comfortable, so that the wearer can breathe comfortably through the nose and does not have to adjust it frequently, so as to avoid touching the face. For as long as medical grade masks such as N95 masks and surgical masks are in short supply, members of the public should not purchase those masks as Face Coverings under this Order; those medical grade masks should be reserved for health care providers and first responders. In general, even when not required by this Order, people are strongly encouraged to wear Face Coverings when in public. Also, for Face Coverings that are not disposed of after each use, people should clean them frequently and have

extra ones available so that they have a clean one available for use.

Note that any mask that incorporates a one-way valve (typically a raised plastic cylinder about the size of a quarter on the front or side of the mask) that is designed to facilitate easy exhaling is not a Face Covering under this Order and is not to be used to comply with this Order's requirements. Valves of that type permit droplet release from the mask, putting others nearby at risk.

A video showing how to make a face covering and additional information about how to wear and clean Face Coverings may be found at the website of Centers for Disease Control and Prevention, at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.

2. All members of the public, except as specifically exempted below, must wear a Face Covering outside their home or other place they reside in the following situations:
  - a. When they are inside of, or in line to enter, any Essential Business (as that term is defined in Section 13.f of the Santa Clara County Health Officer's Order to Shelter in Place, dated March 31, 2020 ("SCC Shelter in Place Order")), including, but not limited to, grocery stores, convenience stores, supermarkets, laundromats, and restaurants;
  - b. When they are inside or at any location or facility engaging in Minimum Basic Operations or seeking or receiving Essential Government Functions (as defined in Sections 13.g and 13.d, respectively, of the SCC Shelter in Place Order);
  - c. When they are engaged in Essential Infrastructure work (as defined in Section 13.c of the SCC Shelter in Place Order);
  - d. When they are obtaining services at Healthcare Operations (as defined by in Section 13.b of the SCC Shelter in Place Order)—including hospitals, clinics, COVID-19 testing locations, dentists, pharmacies, blood banks and blood drives, other healthcare facilities, mental health providers, or facilities providing veterinary care and similar healthcare services for animals—unless directed otherwise by an employee or worker at the Healthcare Operation; or

- e. When they are waiting for or riding on public transportation (including without limitation any bus) or paratransit or are in a taxi, private car service, or ride-sharing vehicle.
- 3. Each driver or operator of any public transportation or paratransit vehicle, taxi, or private car service or ride-sharing vehicle must wear a Face Covering while driving or operating such vehicle, regardless of whether a member of the public is in the vehicle, due to the need to reduce the spread of respiratory droplets in the vehicle at all times.
- 4. All Essential Businesses, as well as entities and organizations with workers engaged in Essential Infrastructure work, Minimum Basic Operations, or Essential Government Functions (except for Healthcare Operations, which are subject to their own regulation regarding specified face coverings), must:
  - a. Require their employees, contractors, owners, and volunteers to wear a Face Covering at the workplace and when performing work off-site any time the employee, contractor, owner, or volunteer is:
    - i. interacting in person with any member of the public or with coworkers;
    - ii. working in any space visited by members of the public, such as by way of example and without limitation, reception areas, grocery store or pharmacy aisles, service counters, public restrooms, cashier and checkout areas, waiting rooms, service areas, and other spaces used to interact with the public, regardless of whether anyone from the public is present at the time;
    - iii. working in any space where food is prepared or packaged for sale or distribution to others;
    - iv. working in or walking through common areas such as hallways, stairways, elevators, and parking facilities; or
    - v. in any room or enclosed area when other people (except for members of the person's own household or residence) are present, including coworkers.

For clarity, a Face Covering is not required when a person is in a personal office (a single room) when others outside of that person's household are not present as long as the public and coworkers do not regularly visit the room. By way of example and without limitation, a construction worker, plumber, bank manager, accountant, or bike repair person is not required to

wear a Face Covering if that individual is alone and in a space not regularly visited by the public or coworkers, but that individual must put on a Face Covering when coworkers are nearby, when being visited by a client/customer, and anywhere members of the public or other coworkers are regularly present.

- b. Take reasonable measures, such as posting signs, to remind their customers and the public of the requirement that they wear a Face Covering while inside of or waiting in line to enter the business, facility, or location. Essential Businesses and entities or organizations that engaged in Essential Infrastructure work or Minimum Basic Operations may take reasonable steps to prohibit any member of the public who is not wearing a Face Covering from entering, may refuse to serve that person if those efforts are unsuccessful, and may seek to remove that person.
5. Any child aged two years or less must not wear a Face Covering because of the risk of suffocation. Also due to risk of suffocation, this Order does not require that any child aged six years or less wear a Face Covering. Parents and caregivers must supervise use of Face Coverings by children to avoid misuse.
6. Wearing a Face Covering is recommended but not required while engaged in outdoor recreation such as walking, hiking, bicycling, or running. But each person engaged in such activity must comply with social distancing requirements including maintaining at least six feet of separation from all other people to the greatest extent possible. Additionally, it is recommended that each person engaged in such activity bring a Face Covering and wear that Face Covering in circumstances where it is difficult to maintain compliance with Social Distancing Requirements (as defined in Section 13.k of the SCC Shelter in Place Order), and that they carry the Face Covering in a readily accessible location, such as around the person's neck or in a pocket, for such use. Because running or bicycling causes people to more forcefully expel airborne particles, making the usual minimum 6 feet distance less adequate, runners and cyclists must take steps to avoid exposing others to those particles, which include the following measures: wearing a Face Covering when possible; crossing the street when running to avoid sidewalks with pedestrians; slowing down and moving to the side when unable to leave the sidewalk and nearing other people; never spitting; and avoiding running or cycling directly in front of or behind another runner or cyclist who is not in the same household.

7. This Order does not require any person to wear a Face Covering while driving alone, or exclusively with other members of the same family or household, in a motor vehicle.
8. A Face Covering is also not required by this Order to be worn by a particular individual if the person can show either: (1) a medical professional has advised that wearing a Face Covering may pose a risk to the person wearing the mask for health-related reasons; or (2) wearing a Face Covering would create a risk to the person related to their work as determined by local, state, or federal regulators or workplace safety guidelines. A Face Covering should also not be used by anyone who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance.
9. The intent of this Order is to ensure that all people who are visiting or working at Essential Businesses and all people who are seeking care at healthcare facilities or engaged in certain types of public transit or transportation with others wear a Face Covering to reduce the likelihood that they may transmit or receive the COVID-19 virus. The intent of this Order is also to ensure that people who work for or seek services from entities engaged in Essential Infrastructure work, Minimum Basic Operations, or Essential Government Functions also wear a Face Covering when they are in close proximity to others. In so doing, this Order will help reduce the spread of the COVID-19 virus and mitigate the impact of the virus on members of the public and on the delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent.
10. Face coverings are meant to protect the public from the wearer in case the wearer is infected and not yet displaying symptoms. Face coverings are not a substitute for other evidence-based measures to prevent the spread of COVID-19. Face coverings should be used in addition to, but not in place of, other evidence-based measures such as social distancing, frequent hand washing practices, avoiding touching the eyes, nose, and mouth; and avoiding interactions if sick.
11. Violation of this Order shall be punishable through the issuance of administrative citations, fines, and penalties as set forth in Cupertino Municipal Code Chapter 1.10. Law enforcement officers of the Santa Clara County Sheriff's Office are authorized to enforce this Order.
12. If any section, subsection, sentence, clause, or phrase of this Order is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Order.

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13. Any capitalized terms in this Order that are defined in the SCC Shelter in Place Order dated March 31, 2020 shall be automatically updated to incorporate any future revisions to that order without a need to update this Order.

The Cupertino City Council confirmed this Emergency Order in advance on April 22, 2020.

DATED this 23rd day of April, 2020.

By: 

Deborah Feng

Director of Emergency Services  
City of Cupertino

ATTEST:



Kirsten Squarcia, City Clerk