



MASTER PROFESSIONAL/SPECIALIZED SERVICES AGREEMENT WITH 4Leaf, Inc

1. **PARTIES**

This Master Agreement is made by and between the City of Cupertino, a municipal corporation (“City”), and 4Leaf, Inc (“Contractor”) a Corporation for Construction Management Services, and is effective on the last date signed below (“Effective Date”).

2. **SERVICES**

2.1 Scope of Services. Contractor agrees to provide the Services set forth in the Scope of Services, attached and incorporated here as **Exhibit A**, on an as-needed basis. The Services must comply with this Agreement and with each Service Order issued by the City’s Project Manager or his/her designee, in accordance with the following procedures, unless otherwise specified in **Exhibit A**. Contractor further agrees to carry out its work in compliance with the City’s Shelter In Place and Social Distancing Requirements, attached here and incorporated as **Exhibit A-A**.

2.2 Service Orders. Before issuing a Service Order, the City Project Manager will request Services in writing and hold a meeting with Contractor to discuss the Service Order. Contractor will submit a written proposal that includes a specific Scope of Services, Schedule of Performance, and Compensation, which the Parties will discuss. Thereafter, City will execute a Service Order Form for the Services, attached and incorporated here as **Exhibit B**. The Service Order will specify the Scope of Services, Schedule of Performance, Compensation, and any other conditions applicable to the Service Order. Issuance of a Purchase Order is discretionary. The City Project Manager is authorized to streamline these procedures based on the City’s best interests. Contractor will not be compensated for Services performed without a duly authorized and executed Service Order.

3. **TIME OF PERFORMANCE**

3.1 Term. This Agreement begins on the Effective Date and ends on December 30, 2022 (“Contract Time”), unless terminated earlier as provided herein. The City’s appropriate department head or 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 within the time specified in each Service Order, and under no circumstances should the Services go beyond the Contract Time.

3.3 Time is of the essence for the performance of all the Services required in this Agreement and in each Service Order. Contractor must have sufficient time, resources and qualified staff to deliver the Services on time. Contractor must respond promptly to each Service Order request.

4. COMPENSATION

4.1 Maximum Compensation. City will pay Contractor for satisfactory performance of the Services a total amount that will be based upon actual costs but that will be capped so as not to exceed \$ 500,000.00 _____ (“Contract Price”), based upon the Scope of Services in **Exhibit A** and the budget and rates included. The maximum compensation includes all expenses and reimbursements and will remain in place even if Contractor’s actual costs exceed the capped amount.

4.2 Per Service Order. Compensation for Services provided under a Service Order will be based on the rates set forth in the Service Order, which shall not exceed the capped amount specified in the Service Order.

4.3 Invoices and Payments. Except as otherwise provided in a Purchase Order, monthly invoices must state a description of the deliverables completed and the amount due for the preceding month. Thirty (30) days prior to expiration of the Agreement, Contractor must submit a requisition for final and complete payment of costs and pending claims for City approval. Noncompliance with this requirement relieves City of any further payment or other obligations under the Agreement.

5. INDEPENDENT CONTRACTOR

5.1 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.

5.2 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.

5.3 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.

5.4 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.

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

5.6 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. Should any court, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS), the Internal Revenue Service or the State Employment Development Division, determine that Contractor, or any of its employees, agents, or subcontractors, is an employee for any purpose, then Contractor agrees to a reduction in amounts payable under this Agreement, or to promptly remit to City any payments due by the City as a result of such determination, so that the City's total expenses under this Agreement are not greater than they would have been had the determination not been made.

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 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.

7.5 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.

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 will be considered an assignment of the Agreement and subject to City approval. 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 Contractors ("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 C**, 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 Contractor's employees or sub-contractors will not be tolerated.

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 John Raaymakers 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 Gene Barry as its single Representative for all purposes under this Agreement, with authority to oversee the progress and performance of the Services. Contractor's Project manager is responsible for coordinating and scheduling the Services in accordance with City instructions, service orders and the Schedule of Performance. Contractor must regularly update the City's project manager about the status, progress and any delays with the work. City's written approval is required prior to Contractor substituting a new Representative which shall result in no additional costs to City.

15. ABANDONMENT OF PROJECT

City may abandon or postpone the Project or parts thereof 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 10300 Torre Ave., Cupertino CA 95014 Attention: John Raaymakers Email: JohnR@cupertino.org	To Contractor: 4Leaf, Inc 2126 Rheem Dr, Pleasanton, CA 94588 Attention: Gene Barry Email: GBarry@4LeafInc.com
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27. VALIDITY OF CONTRACT

This Agreement is valid and enforceable only if (a) it complies with the purchasing and contract provisions of Cupertino Municipal Code Chapters 3.22 and 3.23, as amended from time to time, (b) is signed by the City Manager or an authorized designee, and (c) is approved for form by the City Attorney's Office.

28. 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


By _____

Name _____

Title _____

Date _____

CONTRACTOR

By  _____

Name Gene Barry

Title Vice President

Date Sep 23, 2020

Tax I.D. No.: _____

APPROVED AS TO FORM:

HEATHER M. MINNER
Cupertino City Attorney

ATTEST:

KIRSTEN SQUARCIA
City Clerk

Date: _____

EXHIBIT A SCOPE OF SERVICES

The CONSULTANT shall provide certain Construction Management services as required and requested by the CITY.

The CONSULTANT shall provide services under this Master Agreement on an “as needed” basis and only (1) upon written request from the CITY’s Director of Public Works or authorized Agent as defined in Section 11, PROJECT COORDINATION and (2) as defined in a fully executed SERVICE ORDER, Exhibit B.

SECTION 1- GENERAL PROVISIONS

- A. The CONSULTANT shall perform all services to the satisfaction of the CITY’s Public Works Director or authorized Agent.
- B. The CONSULTANT shall perform all services under this agreement to the currently prevailing professional standards and quality found among Program and Project Management Consultants with similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.
- C. The CONSULTANT shall perform services under this AGREEMENT only by authorization of a fully executed SERVICE ORDER which shall clearly provide the nature of the specific services, the time limit within which such services must be completed, and the compensation for such services. Unauthorized services performed by the CONSULTANT shall be at no cost to the CITY.
- D. The CONSULTANT shall begin work only after receipt of a fully authorized and executed SERVICE ORDER. The CITY shall incorporate each authorized and fully executed SERVICE ORDER into the terms and conditions of this MASTER AGREEMENT.
- E. The CITY shall designate a Project Manager for each authorized and fully executed SERVICE ORDER under this AGREEMENT. The CONSULTANT shall coordinate the SERVICE ORDER performance with the CITY’s designated Project Manager.

SECTION 2. BASIC SERVICES

The Consultant shall provide Construction Management services for various CITY Public Works projects. All services performed shall be authorized by a fully executed SERVICE ORDER prior to work commencement.

A. General Performance Requirements

1. The performance of all services by CONSULTANT shall be to the satisfaction of the CITY, in accordance with the express terms hereof, including but not limited to the terms set out in detail in this scope of services and the standard of care provisions contained in this AGREEMENT.
2. CONSULTANT shall be responsible for coordinating the work of all consultants and contractors, as needed or as directed by the CITY. CONSULTANT shall schedule meetings and prepare meeting agendas and minutes for all PROJECT meetings during the execution of this agreement under the scope of work. All minutes of meetings are due to the CITY within five (5) working days after the meeting. CONSULTANT shall provide copies of such documentation to the CITY, and as directed by the CITY, to other appropriate agencies and entities.
3. CONSULTANT shall designate and provide to the CITY the names of their team members for the PROJECT. The team members shall be satisfactory to the CITY. CONSULTANT shall not substitute any team members without the prior approval of the CITY. CITY retains the right to reject team members assigned by CONSULTANT or require replacement of team members.
4. CONSULTANT shall manage its SUBCONSULTANTS, and administer the PROJECT. CONSULTANT shall consult with the CITY, research applicable information, and communicate with members of the PROJECT team.
5. During the course of work of an assigned PROJECT, CONSULTANT shall meet weekly with CITY's assigned project manager for the respective construction projects to provide an update on the current status of the construction project. CM will provide the CITY's assigned project manager with a summary report.

- B.** CONSULTANT shall effectively manage the assigned construction projects for the efficient, progressive, and proactive delivery of each construction project. For each assigned construction project, the CONSULTANT may provide any or all of the following tasks and subtasks under Section 2, as is required for each specific project.

C. TASKS

Consultant services for any assigned project under this Master Agreement may include, but is not limited to the following tasks:

Task 1 – Pre-Construction Phase - work may include but is not limited to the following:

- 1) Conduct a constructability review of the construction documents (50%, 95% and 100%) for the various projects. Provide a written report with recommendations for changes.
- 2) Cost Estimate review and value engineering for various projects. Provide a written report with recommendations.
- 3) Utility coordination for projects. Work may include a survey of existing utilities, the

development of utility service plan for new and existing structures, coordinating with consultant preparing the project plans and making application to the utility companies for service.

- 4) Assist with the building permit approval process. Work may include but is not limited to coordinating with design consultant and building department to receive an approved building permit.
- 5) Assist with the review and approval process for other permits and regulatory requirements. Work may include but is not limited to coordinating with design consultant, city staff, and regulatory agencies to apply for and secure approved permits and authorizations as needed.
- 6) Assist with the development and conducting of public outreach programs to assist in providing public information regarding project.
- 7) Assist with grant administration during the project.

Task 2 – Bid Phase - work may include but is not limited to the following:

- 1) Conduct a pre-bid Conference with prospective Bidders.
- 2) Assist with the issuing of Addendums.
- 3) Assist in the development of bidders' interest in a project.
- 4) Review bid documents and assist the CITY in evaluation of bidders Statement of Qualifications for responsible low bidder and assist in analyzing bid protest as may be necessary.
- 5) Tabulation and evaluation of bid results. Assist in the evaluation of bid alternatives and make recommendations on award.
- 6) Assist in review and processing of substitution submittals during bid and construction phase.

Task 3 – Construction Phase – work may include but is not limited to the following:

- 1) Administration and Coordination of Construction Contract: CM will provide administrative, construction management and related services necessary to administer the Construction Contract on each assigned project. CM's services shall include but are not limited to the following:
 - a. Scheduling, coordinating and conducting pre-construction and construction meetings; recording, maintaining and distributing minutes thereof.
 - b. Prior to start of project construction the CM and CITY will come to agreement on the format for all project records to be kept and turned over to the CITY at the completion of the project. Documents may be hard copies and/or electronic. CM will make recommendations on programs to be used for tracking and other record keeping needs.
 - c. Develop and implement a procedure for the submittal and processing of submittals with the design consultant. This shall include preparing and

- updating logs. Provide preliminary review for completeness and general compliance of submittals that are to be reviewed by the design consultant. Provide review and response for submittals that do not involve the design consultant (such as Safety Plan, Fire Protection Plan). Sign and date such submittals with response: Reviewed or Revise and Resubmit.
- d. Develop and implement a procedure for the submittal and processing of substitution requests with the CITY and the design consultant. This shall include preparing and updating logs.
 - e. Develop and implement a procedure for timely handling and disposition of the Contractor's request for information (RFI) or clarifications with the design consultant. This shall include preparing and updating logs.
 - f. Establish and implement procedures for the timely transmittal and receipt of communications, drawing and other information between CM, design consultant and the Contractor relating to construction of the project.
 - g. Develop and implement a procedure for the timely submittal, processing and tracking of Contract Change Orders (CCO), Request for Price Quote (RPQ), etc. with the CITY. This shall include preparing and updating logs.
 - h. Coordinate and maintain a project directory for the project, with emergency contact information.
 - i. Review the Contractor's comprehensive schedule that establishes a base line and reports the status and progress of the project. The schedule should include details such as milestones and key activities to track project progress. Review the Contractor's three week look ahead schedule. Verify that schedules conform to the construction contract documents.
 - j. Work with CITY and Contractor to maintain use of existing facilities that are affected by the construction, to minimize the disruption to the existing facilities and to have their continued use during the construction of the project. This includes all phase of construction and delivery of materials.
- 2) Monitoring of construction costs and progress payments, CM services may include but are not limited to the following:
- a. Provide and maintain project level reports for budgeting and contingency tracking; contract payment status; cash flow forecasting and analysis; grant documentation; and other financial reporting as necessary to support the CITY's accounting needs. CM shall maintain records reflecting the actual costs for activities completed or in progress, including records relating to work performed on a unit cost basis and additional work performed by the Contractor on a time and materials basis. CM shall monitor and advise the CITY of costs pertaining to potential, pending and completed changes; and potential or pending claims.
 - b. Develop a procedure for submittal, review and processing of the progress payments to Contractor, along with associated forms and reporting systems. CM shall review progress payment applications and work with Contractor to achieve agreement on the progress payment amount. CM will verify that the "as built"

check set of plans by the Contractor are updated prior to approval of progress payment being submitted to the CITY. CM will require Contractor to provide a conditional waiver and release for progress payments and a final release and waiver for the final payment. CM will certify that the data in each application for progress payment is to the best of CM's knowledge, information and belief, the work has progressed to the point indicated in the application for progress payment and the quality of the work is generally in accordance with the contract documents. CM's review of application for progress payment shall be undertaken and completed in a timely manner so that the CITY can meet its obligations to make progress payment due Contractor within the time permitted by applicable law without incurring interest liability or other penalties/liabilities. CM shall also verify the progress payment satisfies any grant requirement.

- 3) Substantial completion and final completion, CM services may include but are not limited to the following:
 - a. Consult with the design consultants and CITY to jointly ascertain the achievement of substantial completion of the project. If upon inspection of the project substantial completion has not been achieved, the CM will assist the design consultant in noting the conditions of the work and the measures necessary for the Contractor to achieve substantial completion. Upon determining that the Contractor has achieved substantial completion the CM will coordinate the CITY's and design consultant's final inspection of the work to note punch list items to be completed by the Contractor as a condition to achieve final completion.
 - b. Assist the CITY in issuing a certificate of substantial completion and final completion, as applicable.
- 4) Progress Records, CM services may include but are not limited to the following:
 - a. Maintain records of the progress of construction of the project, including written progress reports and photographs reflecting the status of construction and percentage completion of the project. CM will maintain daily records during construction of the project showing weather conditions, personnel of the Contractor and Subcontractor at the site, work accomplished, problems encountered and other matters materially affecting the project, completion of the project or construction cost to complete construction of the project. CM shall maintain project records for test results and special inspection results.
 - b. Provide monthly progress reports on the project.
- 5) Site observations of project, CM services may include but are not limited to the following:
 - a. CM shall be on-site during construction of the project and substantially at all times during which there are construction activities at the site. CITY and CM may agree to the amount of time required to be at the site for observation, however this does not relieve the CM from the requirement of having knowledge of the status of the work.

- b. Coordinate testing, lab services and inspections, this includes by outside firms. CM will work with the Building Department for permit inspections coordination and final approvals of permit. Provide testing and test results by testing firm acceptable to CITY. Such testing services shall be a reimbursable expense as described in Task 5.
- c. Maintain at the site the following documents at a minimum: Contract, Drawings, Specifications, approved Change Orders, Submittals, building permit, SWPPP and associated testing or monitoring documentation, other permits, applicable codes, rules and regulation and other written or electronic materials relating to the project.
- d. CM will endeavor to guard the CITY against defects and deficiencies in construction and workmanship of the project on the basis of its site observations, and a quality control program established and implemented hereunder to monitor construction workmanship for conformity: 1) accepted industry standards; 2) applicable laws, codes, regulations, ordinances or rules: 3) and the requirements of the construction documents.
- e. CM shall reject work whenever in the ordinary course of discharging its services the CM discovers or observes patent conditions of defective or deficient construction and workmanship which as or may have an adverse impact upon the project's life-safety systems or operations, structural elements or integrity of the safety of persons or property. CM shall take prompt action appropriate under the circumstances, including stopping the work and thereupon notifying the CITY in writing. CM's responsibilities hereunder shall be limited to defective or deficient work or an apparent or patent nature.
- f. Review the Contactor safety program and the requirements of the construction documents and applicable law. CM shall monitor the Contractor's compliance with safety programs and advise the CITY of measures, if any, necessary or appropriate to obtain the Contractor's compliance. By undertaking the obligation hereunder, CM shall not be deemed to have assumed responsibility of the adequacy or sufficiency of safety programs implemented by the Contractor, but the CM is responsible for verifying that the Contractor has established a safety program, that the safety program established by the Contractor is in compliance with applicable law, rule or regulation and that the Contractor has implemented its safety program.
- g. CM shall promptly notify the CITY in writing of all CM observed instances of Contractor's failure to comply with applicable safety requirements. If in the course of performing services during the construction, the CM observes a safety violation or other unsafe condition on or about the site or surrounding area which have a immediate or potential or actual adverse effect on life or property, the CM is authorized, without prior notice to the CITY or prior directive by the CITY, to take all actions deemed necessary and appropriate by the CM under the then existing circumstances to prevent such actual or potential adverse effect.

- h. CM shall become familiar with all CEQA documents and permit requirements from other agencies having jurisdictions over the site or work that will affect the project and the construction site. CM shall be responsible for monitoring all aspects of the project as it relates to the requirements. CM shall monitor the Contractor's compliance with all requirements of the CEQA documents and permits by other agencies. CM shall take prompt action appropriate under the circumstances, including stopping the work and thereupon notifying the CITY in writing if Contractor is not following all requirements.
- 6) Contract Change Order (CCO) processing, CM services may include but are not limited to the following:
 - a. Coordinate and disseminate correspondence, drawings and other written materials by and between the Contractor, the CITY and the design consultants relating to changes to the project. CM will coordinate the Contractor's performance of changes authorized by the CITY. CM shall maintain a log or other written records to monitor the pendency and disposition of change and CCOs to keep the CITY advised of the status of the same and the actual or potential impact of any particular change or CCO or the cumulative effects thereof on the construction cost or time for completion of construction of the project.
 - b. Assist the CITY and design consultant in evaluation of requests for the Contractor for issuance of CCOs, assist in negotiations with the Contractor relative to the CCOs proposals and the adjustment of the contract price or the contract time under the construction contract. CM will make recommendations to the CITY and the design consultant for handling and disposition of the Contractor's proposal relative to the changes. If a change to the construction contract is approved or authorized by the CITY, CM will assist the CITY and the design consultant in the preparation of a CCO reflecting such approved or authorized change to the construction contract. The CM is not authorized, without the prior consent and approval of the CITY, to effectuate or authorize any change to the work of the project. The CM shall be liable to the CITY for all direct and consequential costs, losses or damage resulting from the CM's direction or authorization of effectuate a change to the work of the project without the prior direction and authorization by the CITY.
- 7) Claims handling, CM service may include but are not limited to the following:
 - a. Assist the design consultant in the review, evaluation and processing of claims asserted by the Contractor; CM will make recommendations to the CITY as to merit, handling and disposition of Contractor's claims. Except in the event that the CM is alleged to have caused or contributed to the circumstances giving rise to a Contractor claim or other Contractor demand for compensation, services of the CM to prepare documentation or provide testimony in a mediation, arbitration or judicial proceeding arising out of such a claim or demand for compensation shall be deemed additional services. If the CM is alleged to have

caused or contributed to a Contractor claim, the CM's claims handling services, including without limitation, claims analysis, assistance in preparing briefs/graphic materials in connection with negotiations or dispute resolution proceeding relating to a Contractor claim shall be deemed part of the CM's basic services under this agreement.

- 8) CM equipment, CM shall provide the following equipment necessary to carry out CM duties:
 - a. Provide all equipment, furnishings and other items necessary to complete the services required for the project. Including without limitation, trailer, computers, related hardware, software, vehicles, cell phones, office equipment and copiers.

Task 4 – Inspections and Testing – work may include but is not limited to the following:

- 1) CM shall conduct routine inspection of the construction work over the course of construction to ensure compliance of the work with the construction contract, including all drawings and specifications.
- 2) CM shall monitor the contractor's compliance with required Regulatory Agency Permit inspections and advise CITY of coordination problems and Contractor's compliance with permit/inspection requirements.
- 3) CM shall engage the necessary subconsultants to perform the necessary inspections and testing as required for the project. CM shall schedule and coordinate with the contractor and subconsultant for the necessary testing and inspection for the project.
- 4) Compensation to the CM for inspections and testing by subconsultant shall be for the actual billed amount only, no mark up or overhead will be allowed for these subcontracted services. CM shall bill monthly for actual inspections and testing completed. CM shall attach copies of subconsultants' invoice for verification of cost being billed.

Task 5 – Post-Construction Phase – work may include but is not limited to the following:

- 1) Contractor closeout document review, CM services shall include but are not limited to the following:
- 2) Receive from the Contractor the closeout documents and items to be submitted by the Contractor under the terms of the Construction Contract upon completion of its obligations under the Construction Contract. The CM shall review each Contractor's closeout submittals to determine conformity with the requirements of the Construction Contract. If the CM determines that any Contractor's closeout submittals are not in conformity with requirements of the construction contract, the CM shall make recommendations to the CITY for measures to secure compliance with the requirements of the construction contract. The CM shall deliver to the CITY all of the Contractor's

closeout submittals, including the Contractor's as-build drawings which the CM shall transmit to the design consultant for preparation of the record drawings. The CM shall monitor the design consultant's preparation and completion of the project record drawings prior to delivering to the CITY.

- 3) Within thirty (30) days of the date of issuance of a Certificate of Final Completion for the construction contract, the CM shall assemble and deliver to the CITY all of the records maintained by the CM relating to the project.

COMPENSATION

The City shall compensate the Consultant according to the hourly rate(s) stated in this Exhibit which shall remain in effect for the Master Agreement schedule of performance unless changed by written amendment to the Master Agreement.

Each authorized Service Order under this Master Agreement shall identify the method of compensation consistent with the scope of services provided by the Consultant. In any case, the Consultant's total payment for each authorized Service Order shall not exceed the maximum compensation identified in that Service Order, unless authorized by a written amendment executed by the City and the Consultant, and the total compensation for all authorized Service Orders shall not exceed the maximum compensation stated in Article 4, Compensation, of the Master Agreement.

Work exceeding the total authorized amount for a Service Order or the total compensation for the Master Agreement shall be at no cost to the City.

Consultant Hourly Rate(s)

The Consultant shall be compensated according to the following hourly rate(s) for all work performed under authorized Service Orders:

Labor Category	Master Agreement Hourly Rate
Program Manager	\$170
Construction Manager	\$156
Construction Inspector	\$92-144

Reimbursable Expenses

Reimbursable expenses represent the acquisition cost of items, other than direct labor, specifically required to perform the scope of services and beyond normal business operating expenses which are included in the direct labor rate. Such expenses include, but are not limited to:

- Individual or multiple document reproductions that exceed 50 pages;
- Drawing or bid set reproductions;
- Software required by City other than Microsoft Word, Excel, PowerPoint, and Project; Adobe Acrobat; and a photo editor program.
- Travel expenses to the extent allowed by City policy;
- Sub-consultants required by project scope of services;

COMPENSATION

- Safety equipment required by City policy or the project scope of services;
- Mass mailing notifications;
- Expenses for public meetings, such as refreshments, interpreters, security, valet parking, facility rental, tents or booths, easels, markers, paper, presentation equipment.

The City shall compensate the Consultant for such reimbursable expenses only with prior written authorization by the City representative designated in Section 14, Project Coordination, of the Master Agreement. All compensation, including reimbursable expenses, shall not exceed the maximum compensation for the Service Order.

The City shall compensate the Consultant for reimbursable expenses for the documented actual cost only, allowing for no surcharge for Consultant administration. Reimbursable expenses shall be separately identified on the Consultant invoice.

Method of Payment

The Consultant shall submit an invoice to the City by the 5th business day of each month that clearly identifies the work performed in the previous month and authorized reimbursable expenses. All invoices from Consultant shall be emailed to PWInvoices@Cupertino.org and the Project Manager or mail to the City at:

Attention: John Raaymakers, Public Works Project Manager
City of Cupertino
10300 Torre Ave.
Cupertino, CA 95014

The invoice shall identify the applicable period of work, a description of the work performed consistent with the Service Order scope of services, the number of hours, hourly rate, reimbursable expenses, Service Order maximum compensation, Service Order compensation to date including invoice number, total invoice amount for current invoice, Service Order maximum compensation balance remaining.
All Consultant payments shall be addressed to:

4Leaf, Inc.
2126 Rheem Drive
Pleasanton, CA 94588
Attention: Gene Barry

END OF EXHIBIT

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 the County's Mandatory Directive for Construction Projects (attached hereto), as applicable.

Further, as long as required by the operative Health Order or Mandatory Directive for Construction Projects, 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. Social Distancing Protocol. Fill out and submit the newest version of the Social Distancing Protocol to the County, using the County's online form available at <https://www.sccgov.org/sites/covid19/Pages/social-distancing-protocol.aspx>.

3. 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.*

4. Signage/Posters. As required, post or distribute (1) the most updated version of the COVID-19 PREPARED Sign, and (2) a Social Distancing Protocol Visitor Information Sheet.

5. Face Coverings. Everyone at a job site must wear a face covering at all time, except children under the age of 2, people who are medically prevented from wearing a face covering, and for communication by or with people who are hearing impaired.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 the Mandatory Directive for Construction Projects, Contractor must provide to the City the name and contact information for its designated site-specific COVID-19 supervisor(s).

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

Santa Clara County Mandatory Directive for Construction Projects

1228578.5



MANDATORY DIRECTIVE:



Construction Projects

Effective July 13, 2020

sccgov.org/coronavirus



MANDATORY DIRECTIVE FOR CONSTRUCTION PROJECTS

Please confirm that your facility and/or construction project jobsite may open under the State Order. Where there is a difference between the local County Order and the State Order, the more restrictive order must be followed. The State also has specific guidance for certain facilities that must be followed in addition to this mandatory directive.

Issued: July 7, 2020

Information on the State's Order and State guidance is available at covid19.ca.gov.

While the construction industry is critical to ensuring a safe and sufficient supply of residential and commercial space, construction work can also pose significant risks to public health due to the COVID-19 pandemic. Because construction projects typically involve many workers actively working on a jobsite at the same time, often in close proximity to one another or sharing equipment, businesses and individuals performing and overseeing construction projects must take extra precautions to reduce the risk of COVID-19 transmission for workers, visitors, and others. **This Directive applies to all construction projects, but the restrictions vary by the size of the project, as specified below.**

“Construction project” means any work (including a public works project) carried out in connection with the construction, alteration, conversion, fitting-out, remodel, renovation, refurbishment, demolition, decommissioning, or dismantling of a building or other structure; the preparation of a physical site for any such activity; and education or training at which any such activity is taught through onsite practice or experience. “Construction project” does not include architectural, design, financial, or administrative work related to a construction project, unless that work occurs at the construction jobsite. “Construction project” also does not include basic repair or maintenance work, which means a repair or maintenance job that requires no more than 2 workers and no more than 2 days and that is not architecturally, financially, or administratively associated with an active construction project.

This Directive explains how construction projects may operate. This Directive is mandatory, and failure to follow it is a violation of the Health Officer's Order issued on July 2, 2020 (“Order”). Construction projects must comply with the Order and all requirements of this Directive.

The Order Issued July 2

The Order imposes several restrictions on all businesses and activities to ensure that the County stays as safe as possible, including but not limited to the following:

The Social Distancing Protocol: All businesses must fill out and submit the newest version of the Social Distancing Protocol to the County using the online form, available [here](#). The Protocol is submitted under penalty of perjury, meaning that everything written on the form must be truthful and accurate to the best of the signer's knowledge, and submitting false information is a crime. The Protocol must be distributed to all workers, and it must be accessible to all officials who are enforcing the Order. Businesses are responsible for ensuring that workers understand and are trained on Protocol requirements in a language that they understand. For any business that only performs services for dispersed facilities or worksites that the business does not own or operate, the business must complete a Social Distancing Protocol for its operation as a whole. For any business that has a facility, but also provides services at dispersed facilities or worksites that the business does not own or operate, the business must complete a Social Distancing Protocol for its own facility and provide that Protocol to the owners or operators of any facility where it operates.

- Example: A construction company serves as a subcontractor on various jobsites throughout the County and also operates a base facility within the County, where it maintains its vehicles and equipment. The subcontractor must complete a Social Distancing Protocol for its base facility. It must also distribute the Protocol to the owners or operators of the jobsites to which it sends its workers. The subcontractor's workers must be given a copy of, be trained on, and comply with the measures in both the subcontractor's Social Distancing Protocol and the Social Distancing Protocol for any jobsite at which they are performing work.
- **Signage:** All businesses must print (1) an updated COVID-19 PREPARED Sign and (2) a Social Distancing Protocol Visitor Information Sheet, and both must be posted prominently at all facility entrances. These are available for printing after submission of the Social Distancing Protocol online.
 - Businesses do not need to post these documents if they do not have their own facility or worksite and *only* perform services for dispersed facilities or worksites that the business does not own or operate.
- **Face Coverings:** Everyone at a business facility or worksite must wear a face covering at all times (except very young children, people for whom face coverings are medically inadvisable, or for communication by or with people who are hearing impaired). **Face coverings must be worn even while working at a construction project.** Workers do not need to wear face covering if it would create a risk to the person related to their work, in accordance with local, state, or federal workplace safety guidelines.

- **Density Limitation:** All businesses must limit the number of people who may be inside the facility at the same time. For staff members, the limit is 1 person per 250 gross square feet of indoor facility space (this means total space, including areas open only to staff like storage rooms). For members of the public, the limit is 1 person per 150 square feet of space open to the public. The density requirements tell businesses how many people (staff or clients) they can let inside the facility before another person leaves. Children under 12 who are accompanying a parent or guardian do not count against the limit, but everyone age 12 and over does. **This Directive describes a limited exception to the density limitation applicable only to construction project jobsites.**

See the [Order](#) and the [FAQ page](#) for more details.

In addition to these general requirements applicable to all businesses under the Order, construction projects must comply with the following directives.

Construction Projects on Own Residence Exempted

This Directive does not apply to construction projects where a person is performing construction on their current residence alone or solely with members of their own household.

Rules for Single-Worker Construction Projects

This section lists the requirements for construction projects performed by only 1 worker, such as someone who is working alone on a kitchen remodel project. This section for single-worker projects does not apply to construction projects that involve multiple workers, even if only 1 worker is at the jobsite at any time; those projects must follow the Rules For All Construction Projects, which are listed in the next section.

- a. If the worker is working for a business, the worker must comply with the Social Distancing Protocol of that business.
- b. The worker must maintain 6 feet of social distance from all other people at all times, including when entering and leaving the work area or building.
- c. The worker must use and properly wear face coverings. In addition, the worker must wear other personal protective equipment (PPE) appropriate for use in construction, including gloves, goggles, and/or face shields.
- d. To the extent possible, the worker must seal off the work area so that there is a barrier between the worker and any other people in the building. For example, a worker performing construction in the hallway of a residence must install a barrier (such as plastic sheeting) between the area where the worker is working and the rest of the hallway.

- e. The worker must frequently wash hands with soap and water for at least 20 seconds or use hand sanitizer with at least 60% alcohol.
- f. The worker must not work or come to the jobsite if the worker has a fever, cough, or any other COVID-19 symptoms.
- g. The worker must maintain records of the dates and times the worker was at the jobsite and must make those records immediately available upon request to any County official.
- h. If the worker tests positive for COVID-19, the worker must notify the County Public Health Department within 4 hours of learning of the positive result by following the instructions at www.sccsafeworkplace.org.

Rules for All Construction Projects (Except Single-Worker Construction Projects)

This section lists requirements for all construction projects (other than single-worker construction projects).

Note: Large Construction Projects must also follow additional requirements, which are described beginning on page 9.

1. Responsibilities of the General Contractor and Subcontractors

- a. The business with the responsibility to oversee a construction project, described in this Directive as the “General Contractor,” must complete and submit a [Social Distancing Protocol](#) specific to the construction project jobsite. (The General Contractor may also need to submit social distancing protocols for its base facility or for other jobsites subject to this Directive.)
- b. The General Contractor is responsible for ensuring that all work and operations at the construction jobsite is performed in compliance with the Order, this Directive, and the jobsite-specific Social Distancing Protocol.
- c. The General Contractor must train its workers to comply with the Order, this Directive, and the jobsite-specific Social Distancing Protocol.
- d. Subcontractors do not need to submit their own jobsite-specific Social Distancing Protocols for the same site, but the General Contractor must not allow any subcontractor onto the jobsite unless that subcontractor has given the General Contractor a signed certification that:
 - i. the subcontractor has reviewed the Order and this Directive and will comply with them;

- ii. the subcontractor has reviewed the General Contractor's jobsite-specific Social Distancing Protocol and trained its workers on that Protocol; and
- iii. the subcontractor has completed and submitted its own Social Distancing Protocol covering its operations, and has provided a copy of that Protocol to the General Contractor.

2. *General Contractors and Subcontractors Must Report COVID-19 Positive Cases*

- a. Whenever the General Contractor learns that a person who has tested positive for COVID-19 was at the jobsite within 48 hours of the date they were tested or within 48 hours of becoming symptomatic, the General Contractor must immediately implement the jobsite-specific Social Distancing Protocol's procedures for when a person tests positive for COVID-19. All positive cases must be reported by following the instructions at www.sccsafeworkplace.org.
- b. All subcontractors must immediately (within 1 hour, regardless of the time of day) alert the General Contractor as soon as they learn that an employee has tested positive who is currently at the jobsite, or who was at the jobsite within 48 hours of the date they were tested or within 48 hours of becoming symptomatic. This reporting requirement is in addition to the subcontractor's own reporting requirements under the Order and the procedures in the subcontractor's Social Distancing Protocol.

3. *Cleaning After Positive Case Identified*

Upon learning of a confirmed positive case at the jobsite within the last 48 hours, any location where the infected worker was known to have been present must be immediately closed and sanitized. Work in these locations must cease until sanitization is complete.

4. *General Contractor is Responsible for Ensuring the Jobsite is Operated Safely Following All Legal Requirements*

- a. The General Contractor must ensure that everyone at the jobsite—including its own workers, the subcontractors' workers, and visitors—complies with the Order, this Directive, the jobsite-specific Social Distancing Protocol, and any other laws and regulations that apply to the work (for example, OSHA and Cal-OSHA requirements). If there is a conflict in what different laws require, the strictest standard applies.
- b. The General Contractor's responsibility for ensuring jobsite compliance under this paragraph 4 does not, however, relieve any subcontractors of their own responsibilities under the Order, their Social Distancing Protocol, this Directive, and all other applicable laws and regulations.

- c. Any worker, or any subcontractor, may file a complaint that the General Contractor has not complied with the Order, this Directive, or the jobsite-specific Social Distancing Protocol, or that the General Contractor has failed to require others to comply. Complaints may be filed through the County Office of Labor Standards Enforcement Advice Line (866-870-7725) or website (www.sccfairworkplace.org).

5. *Designated COVID-19 Supervisor(s)*

- a. The General Contractor must designate a site-specific COVID-19 Supervisor or Supervisors to enforce the jobsite-specific Social Distancing Protocol and this Directive. The designated COVID-19 Supervisor(s) must be present at the jobsite at all times during construction activities. The COVID-19 Supervisor may be an on-site worker who is designated to serve in this role. The General Contractor must prominently post a sign at all entrances to the jobsite clearly identifying the COVID-19 Supervisor(s) by name and providing their phone number and email address.
- b. The designated COVID-19 Supervisor(s) must review this Directive and the jobsite-specific Social Distancing Protocol with all workers and other persons at the jobsite. The General Contractor is responsible for making sure this occurs.
- c. The COVID-19 Supervisor must monitor and ensure implementation at the jobsite of all requirements in this Directive, the jobsite-specific Social Distancing Protocol, and the Order.

6. *Seal Off Area of Construction Project from Other Parts of Occupied Sites*

Where construction work occurs within an occupied residential or commercial building, all of the following rules apply:

- a. Work areas must, to the extent feasible, be sealed off from the remainder of the building (and from the remainder of the unit, if work is performed within a residential unit) with physical barriers such as plastic sheeting or closed doors sealed with tape.
- b. If possible, workers must access the work area from entry/exit door(s) different from the entry/exit door(s) used by residents or occupants accessing the remainder of the building that is not under construction.
- c. Available windows and/or doors must be used to ventilate the work area during the workday and any other times work is performed.
- d. If residents or occupants 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.

- e. Every effort must be taken to minimize contact between workers and residents or occupants, including maintaining a minimum of at least 6 feet of social distancing at all times.

7. *Personal Protective Equipment (PPE)*

The General Contractor must obtain, provide at no cost to workers, and require that all workers use personal protective equipment (PPE) appropriate for use in construction, including gloves, goggles, face shields, and face coverings as appropriate for the activity being performed. Face coverings must be worn in compliance with the State's mandatory Guidance for the Use of Face Coverings and any additional directives issued by the County Health Officer. At no time may medical-grade PPE be used at a construction site unless it is required due to the medical nature of the jobsite or local, state, or federal workplace safety requirements.

8. *Social Distancing, Sanitizing, and other Measures*

- a. The General Contractor must:
 - i. Ensure compliance at the jobsite with the Order's density limitations except to the extremely limited extent a higher density is temporarily necessary to safely carry out a specific job function.
 - 1. The density limitations apply to all indoor areas where construction work is actively being performed. Density limitations do not apply to staging areas or lay-down areas that are separate from the area where construction work is actively being performed.
 - ii. Stagger shifts, breaks, and trade-specific work as necessary to reduce density and allow for easy maintenance of minimum 6-foot distancing. Staggered shifts and breaks must comply with applicable wage and hour laws.
 - 1. All persons must maintain minimum 6-foot distancing except to the extremely limited extent shorter distances are temporarily necessary to safely carry out a specific job function.
 - iii. Eliminate or resolve "choke points" and "high-risk areas" where workers are unable to maintain 6-foot social distancing. The General Contractor must prohibit or limit use of these areas to ensure that 6-foot distance can easily be maintained between individuals.

- iv. If possible, ensure workers eat their meals and take their breaks outdoors, and maintain social distancing during meals and breaks.
 - v. Prohibit gatherings of any size on the jobsite (except for meetings required by this Directive), including gatherings for breaks or eating. Sharing of any food or beverage is strictly prohibited.
 - vi. Cal-OSHA requires employers to provide water. Water must be provided in single-serve containers.
 - vii. Prohibit use of microwaves, water coolers, and other similar shared equipment.
- b. Workers must:
- i. Unless strictly necessary to carry out a job function, maintain at all times at least 6-foot social distancing from fellow workers and all site visitors, including delivery workers, design professionals and other project consultants, government agency representatives (including building and fire inspectors), and residents at residential construction sites.
 - ii. Not carpool to and from the jobsite except with others living within the same household unit, or if necessary because they have no alternative means of transportation. If workers from different households must carpool, they must wear face coverings while riding together in the same vehicle, sit at the greatest distance possible, and maintain ventilation by keeping windows open as feasible.

9. *Notice for Workers and Visitors of Required Practices*

The General Contractor must prominently post a notice at all entrances to the jobsite visible to all workers and visitors instructing workers and visitors to do the following:

- a. Do not touch your face with unwashed hands or with gloves.
- b. If equipment is shared, it must be fully sanitized before and after each use.
- c. Wash your hands often with soap and water for at least 20 seconds each time, or use hand sanitizer with at least 60% alcohol.
- d. Clean and disinfect objects and surfaces you touch often, such as work stations, keyboards, telephones, handrails, machines, shared tools, elevator control buttons, and doorknobs.
- e. Cover your mouth and nose with a tissue or cloth when you cough or sneeze, or

cough or sneeze into your elbow/sleeve – never into your hands.

- f. 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.
- g. Constantly make sure you are staying at least 6 feet away from co-workers at all times, unless it is absolutely necessary to get closer to complete a task for the construction project.
- h. Do not carpool to and from the jobsite with anyone except members of your own household, or if necessary because you have no alternative means of transportation. If you carpool with people from another household, you must wear a face covering while riding together in the same vehicle.
- i. Do not share phones or PPE.

Posters conforming to this requirement are available for download at <https://www.sccgov.org/sites/covid19/Pages/learn-what-to-do-flyers.aspx>.

10. Cooperate with County's Case Investigation and Contact Tracing Efforts

The General Contractor must maintain a daily attendance log of all workers and visitors at the jobsite that includes contact information (including name, phone number, address, and email) and the date, time, and duration of each person's presence at the jobsite. If someone on the jobsite tests positive for COVID-19, the General Contractor is legally required to assist the [County Public Health Department](#) in any case investigation and contact tracing efforts.

11. Monitor and Inform Supervisors and Subcontractors of Revised Requirements

The General Contractor must regularly check for revisions to the Order, this Directive, relevant industry-specific guidance published by the California Department of Public Health, and other relevant rules or guidance. The General Contractor must inform all jobsite supervisors (including the designated COVID-19 Supervisor(s), all field supervisors, foremen, and safety directors) and all subcontractors of any revisions or additions to the requirements for construction projects.

Additional Rules for Large Construction Projects

This section describes additional requirements that apply only to Large Construction Projects.

12. What is a Large Construction Project?

A "Large Construction Project" is a construction project that meets any of the following

specifications:

- a. For residential projects, any single-family, multi-family, senior, student, or other residential construction project consisting of 10 or more units; or
- b. For commercial projects, any construction project consisting of 20,000 or more square feet of floor area; or
- c. For mixed-use construction projects, any construction project that meets either of the specifications above in Subparagraphs (a) and (b); or
- d. Any infrastructure project that requires 20 or more workers at the jobsite at any one time.

13. COVID-19 Supervisor's Additional Compliance, Monitoring, and Remediation Responsibilities

- a. The designated COVID-19 Supervisor must:
 - i. Conduct daily briefings in person (with proper social distancing) or by teleconference that must cover the following topics:
 - 1. New jobsite rules and pre-jobsite travel restrictions for the prevention of COVID-19 community spread.
 - 2. Review of sanitizing and hygiene procedures.
 - 3. Worker feedback on improving safety and sanitizing.
 - 4. Coordination of construction site daily cleaning/sanitization requirements.
 - 5. Any newly available information regarding COVID-19.
 - 6. Emergency protocols in the event of an exposure or suspected exposure to COVID-19.
 - ii. Each day, verify and record verification that each jobsite is compliant with this Directive. The General Contractor must collect each written verification, store them for at least 1 year, and make them immediately available upon request to any County official.
 - iii. Conduct the following activities to make sure that the jobsite is ready to fix any violations of this Directive:

1. Develop a remediation plan;
 2. If any non-compliance is identified, ensure that the remediation plan is implemented, and post the remediation plan at all entrances to the jobsite during the remediation period;
 3. Stop any construction activity until the jobsite is back in compliance; and
 4. Report repeated non-compliance with this Directive to the appropriate jobsite supervisors and the permitting agency for the local government where the project is located.
- b. The General Contractor is responsible for making sure the designated COVID-19 Supervisor takes all of these steps.

14. *Jobsite Safety Accountability Supervisor (JSAS)*

The General Contractor must assign a COVID-19 Third-Party Jobsite Safety Accountability Supervisor (JSAS) for the jobsite. The JSAS may not be an employee of the General Contractor. The JSAS must at a minimum hold an OSHA-30 certificate and first-aid training, or equivalent credentials, from within the past 2 years. The JSAS must be trained in the requirements in this Directive and the jobsite-specific Social Distancing Protocol and must verify compliance with those requirements, including by visual inspection and random interviews with workers. The JSAS must inspect the jobsite as often as needed to ensure consistent compliance, but not less than once per week. The JSAS must inspect the jobsite during normal construction hours.

- a. The General Contractor must prominently post a sign at all entrances to the jobsite visible to all workers and visitors that clearly identifies the JSAS for the jobsite by name and providing their phone number and email address.
- b. Within 7 calendar days of each jobsite visit, the JSAS must complete a written assessment identifying any failure to comply with this Directive. The written assessment must be copied, stored, and, produced upon request to the County or local permitting agency.
- c. If the JSAS discovers that a jobsite is not in compliance with this Directive and the jobsite-specific Social Distancing Protocol, the JSAS must work with the designated COVID-19 Supervisor to develop and implement a remediation plan.
- d. The JSAS must coordinate with the designated COVID-19 Supervisor to prohibit continuation of any work activity not in compliance with this Directive or the jobsite-specific Social Distancing Protocol. The JSAS must make sure that the

work activity does not resume until the noncompliance is fixed and the continuing work is compliant with this Directive.

- e. The remediation plan must be sent to the local permitting agency and a designated County official within 5 calendar days of the JSAS's discovery of the failure to comply.

15. Translation for Non-English-Speaking Workers

The General Contractor must translate (and, where otherwise required, post) all of the following documents as necessary to ensure that all non-English-speaking workers are able to understand the documents:

- a. The Notice for Workers and Visitors of Required Practices described in Paragraph 9 (on page 8).
- b. The remediation plan described in Paragraph 13.a.iii.1 (on page 11).

Stay Informed

For answers to frequently asked questions about this industry and other topics, please see the [FAQ page](#). **Please note that this Directive may be updated.** For up-to-date information on the Health Officer Order, visit the County Public Health Department's website at www.sccgov.org/coronavirus.

EXHIBIT B

SERVICE ORDER PROCESS

The CONSULTANT shall provide services under this Master Agreement on an “as needed” basis and only (1) upon written request from the CITY’s Director of Public Works or authorized Agent as defined in Section 14 , Project Coordination, and (2) as defined in a fully executed Service Order..

SECTION 1- SERVICE ORDER INITIATION

- A. The City Public Works Director or his designee shall provide written request for Consultant services as defined in this agreement. The Consultant and City shall meet to discuss the services after which the consultant shall provide a written proposal including specific scope of services, performance schedule, and compensation to the City.
- B. The City and Consultant shall discuss the proposal in detail and agree upon the terms of the Service Order.
- C. The City shall prepare a Project Service Order consistent with the City’s standard form, Service Order, and Attachment A. The Service Order shall, at a minimum, include (1) specific scope of services, deliverables, schedule of performance, and compensation.

SECTION 2- SERVICE ORDER EXECUTION

- D. Both parties shall execute the Service Order as evidenced by the signatures of the authorized representatives defined in Section 14 of the Master Agreement, Project Coordination, and the date signed.
- E. The Consultant shall begin work on the scope of services only after receipt of a fully executed authorized Service Order defining those services. Consultant understands and agrees that work performed before the date of the authorized Service Order or outside the scope of services once a Service Order is signed and authorized shall be at no cost to the City.
- F. The maximum compensation authorized by a single Service Order and/or the aggregate of Service Orders shall not exceed the maximum compensation set forth in Article 4 of the Master Agreement.

CITY OF CUPERTINO
MASTER AGREEMENT CONSULTANT SERVICES
SERVICE ORDER NO. Choose

Master Agreement Contract #: _____ **MA Date:** _____

Maximum Compensation: _____ **MA End Date:** _____

Consultant: **Firm Name:** _____
Address: _____
Contact: _____ **Ph:** _____

Project Name: _____

☐ Description: (simple project description if appropriate)

☐ Attachment A: Includes Description of Project, Scope of Service, Schedule of Performance and Compensation

City Project Management

Managing Department: Public Works **Project Manager:** _____

Fiscal/Budget :

Master Agreement Maximum Compensation: _____

Total Previously Encumbered to Date: _____

Encumbrance this Service Order: _____

Master Agreement Unencumbered Balance: _____

SO Acc't #: _____ **PO #:** _____

Project #: _____ **Date:** _____

Approvals Signatures:

Consultant/ Contractor _____ **Date:** _____

Manager/ Supervisor: _____ **Date:** _____

Appropriation Certification: I hereby certify that an unexpended appropriation is available in the above fund for the above contract as estimated and that fund are available as of this date of signature

City Finance: _____ **Date:** _____
Management Analyst

EXHIBIT C
Insurance Requirements
Professional/Specialized Services Agreement

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance and results of the Services hereunder by the Contractor, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. ***Commercial General Liability*** (CGL): Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, contractual liability, property damage, bodily injury, and personal and advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Project (ISO CG 25 03 or 25 04) or it shall be twice the required occurrence limit.
 - a. It shall be a requirement under this agreement 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 (1) the minimum coverage/limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
 - b. Additional Insured coverage under Contractor's policy shall be "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as ISO CG 20 01 04 13
 - c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy 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 before the City's own insurance or self-insurance shall be called upon to protect City as a named insured.
2. ***Automobile Liability***: ISO Form Number CA 00 01 covering any auto (Code 1), or, if Contractor has no owned autos, then hired autos (Code 8) and non-owned autos (Code 9), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
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** per occurrence for bodily injury or disease. *(Not required if Contractor provides written verification it has no employees).*
4. ***Professional Liability***. Insurance which includes coverage for professional acts, errors and omissions, with limits no less than **\$2,000,000** per occurrence or claim, \$2,000,000 aggregate *(if applicable)*.

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

OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers are to be covered as additional insureds on the CGL and automobile liability policies with respect to liability arising out of the Services performed by or on behalf of Contractor including materials, parts, or equipment furnished. Endorsement of CGL coverage shall be at least as broad as ISO Form CG 20 10 11 85 or if not

available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used.

Primary Coverage

For any claims related to this Contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Contractor'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.

Waiver of Subrogation

Contractor grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

City may approve self-insured retentions and require proof of Contractor's ability to pay losses and related investigations, claim administration and defense expenses within the retention. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Acceptability of Insurers

Insurers must be acceptable to City and licensed to do business in California, and each insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.

Claims Made Policies (applicable only to professional liability)

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the Effective Date of the Contract.
2. Insurance must be maintained for at least five (5) years after completion of the Services.
3. 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 Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

Verification of Coverage

Contractor shall furnish the City with acceptable original certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City prior to commencing the Services. City retains the right to demand verification of compliance at any time during the Contract.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Insurance coverage shall not limit Contractor's duties to indemnify, defend and hold City harmless. City reserves the right to modify these requirements based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.



4LEAINC-01

MINED1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/10/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C41366 Granite Professional Insurance Brokerage, Inc. 6600 Koll Center Parkway #100 Pleasanton, CA 94566	CONTACT NAME:		
	PHONE (A/C, No, Ext): (925) 462-8400	FAX (A/C, No): (925) 462-8888	
	E-MAIL ADDRESS: commercial@graniteins.com		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Travelers Property Casualty Company of America		25674
INSURED 4LEAF, Inc. 2126 Rheem Dr Pleasanton, CA 94588	INSURER B: National Union Fire Ins. Co PA		19445
	INSURER C: Redwood Fire & Casualty Insurance Company		11673
	INSURER D: Evanston Insurance		35378
	INSURER E:		
	INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	6800J268720	4/9/2020	4/9/2021	EACH OCCURRENCE \$ 2,000,000	
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000	
							MED EXP (Any one person) \$ 5,000	
							PERSONAL & ADV INJURY \$ 2,000,000	
	GENERAL AGGREGATE \$ 4,000,000							
	PRODUCTS - COMP/OP AGG \$ 4,000,000							
							\$	
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			8106P148457	5/9/2020	4/9/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
							BODILY INJURY (Per person) \$	
							BODILY INJURY (Per accident) \$	
							PROPERTY DAMAGE (Per accident) \$	
							\$	
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			BE 017147018	4/9/2020	4/9/2021	EACH OCCURRENCE \$ 5,000,000	
							AGGREGATE \$	
							Aggregate \$ 5,000,000	
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	X	FOWC114271	4/9/2020	4/9/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
								E.L. EACH ACCIDENT \$ 1,000,000
								E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
								E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liab			MKLV7PL0004133	4/9/2020	4/9/2021	Each Claim 2,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
All operations of the named insured. Certificate holder is named as additional insured to General Liability and Automobile Liability policies per attached endorsements CG D3 81 09 15 and CA T3 53 02 15. Waiver of Subrogation applies to General Liability per endorsement CG D3 81 09 15. Waiver of Subrogation applies to Auto Liability per endorsement CA T3 53 02 15.

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers are named as additional insured on General Liability Policy per attached endorsement CG D3 81 09 15. Primary and non-contributory applies to General Liability policy per attached endorsement CG D3 81 09 15. Waivers of subrogation apply to General Liability and Workers Compensation Policies per attached endorsements CG D3 81 09 15 and WC 99 04 10 C. Professional Liability Retro Date 4/1/07

CERTIFICATE HOLDER

CANCELLATION

City of Cupertino 10300 Torre Ave. Cupertino, CA 95014	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <ul style="list-style-type: none"> A. BROAD FORM NAMED INSURED B. BLANKET ADDITIONAL INSURED C. EMPLOYEE HIRED AUTO D. EMPLOYEES AS INSURED E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS G. WAIVER OF DEDUCTIBLE – GLASS | <ul style="list-style-type: none"> H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT J. PERSONAL PROPERTY K. AIRBAGS L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS M. BLANKET WAIVER OF SUBROGATION N. UNINTENTIONAL ERRORS OR OMISSIONS |
|---|---|

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **c. in A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b. in B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

- b.** For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1)** Any covered "auto" you lease, hire, rent or borrow; and
- (2)** Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph **B.7., Policy Period, Coverage Territory**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph **C., Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph **C., Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph **A.4.b.**, **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph **B.3.**, **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph **A.2.a.**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud,** of **SECTION IV – BUSINESS AUTO CONDITIONS:**

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA
BLANKET BASIS**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be calculated by applying a factor of 2% to the total manual premium, with a minimum initial charge of \$350, then applying all other pricing factors for the policy to this calculated charge to derive the final cost of this endorsement.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule**Blanket Waiver**

Person/Organization	Blanket Waiver – Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.
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Job Description**Waiver Premium (prior to adjustments)**

All CA Operations

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 04/09/2020

Policy No.: FOWC114271

Endorsement No.:

Insured:

Premium \$

Insurance Company: Redwood Fire and Casualty Ins Co

Countersigned by _____

City of Cupertino Master Agreement for CIP Construction Management

Final Audit Report

2020-09-23

Created:	2020-09-23
By:	Julia Kinst (juliak@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA7tnpkg9lbHPPrA9Uy9AIW67hg58F24D8w

"City of Cupertino Master Agreement for CIP Construction Management" History

-  Document created by Julia Kinst (juliak@cupertino.org)
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