

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
OCTOBER 17, 2023**

**110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
LOS GATOS, CA
7:00 PM**



PARTICIPATION IN THE PUBLIC PROCESS

*Maria Ristow, Mayor
Mary Badame, Vice Mayor
Matthew Hudes, Council Member
Rob Moore, Council Member
Rob Rennie, Council Member*

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please follow the participation instructions on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period, by following the participation instructions on page 2 of this agenda. The time allocated to speakers may change to better facilitate the Town Council meeting.

Effective Proceedings: The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk’s Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
 - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.

Rebroadcast of Town Council Meetings on the 2nd and 4th Tuesdays at 7:00 p.m.

Live & Archived Council Meetings can be viewed by going to:

www.LosGatosCA.gov/TownYouTube

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING WILL ENABLE THE TOWN TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28 CFR §35.102-35.104]

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COUNCIL MEETING AGENDA
OCTOBER 17, 2023
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
7:00 PM**

IMPORTANT NOTICE

This is a hybrid meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through the Zoom webinar application (log-in information provided below). Members of the public may provide public comments for agenda items in-person or virtually through the Zoom webinar by following the instructions listed below. The live stream of the meeting may be viewed on television and/or online at www.LosGatosCA.gov/TownYouTube.

PARTICIPATION

To provide oral comments in real-time during the meeting:

- Zoom webinar: Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: <https://losgatosca.gov.zoom.us/j/85379428243?pwd=b3QzdklOUXRxaG5XQ2dSN3c0U0NLdz09>
Passcode: 192366. You can also type in 853 7942 8243 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
When the Mayor announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand.
- Join by telephone: Join by Telephone: Dial: USA 877 336 1839 US Toll-free or 636 651 0008 US Toll. Conference code: 686100
If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- In-Person: If you wish to speak during the meeting, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Town Clerk. If you wish to speak to an item on the agenda, please list the item number. If you wish to speak on an item NOT on the agenda, please list the subject and you may speak during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

When called to speak, you may be asked to provide your full name and your town/city of residence. This identifying information is optional and not a requirement for participation. Please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for speakers at a Council meeting. If you wish to speak to an item or items on the Consent Calendar, please state which item number(s) you are commenting on at the beginning of your time.

If you are unable to participate in real-time, you may email to Clerk@losgatosca.gov the subject line “Public Comment Item #__” (insert the item number relevant to your comment) or “Verbal Communications – Non-Agenda Item.” Comments received by 11:00 a.m. the day of the meeting will be reviewed and distributed before the meeting. All comments received will become part of the record.

CALL MEETING TO ORDER

ROLL CALL

APPROVE REMOTE PARTICIPATION *(This item is listed on the agenda in the event there is an emergency circumstance requiring a Council Member to participate remotely under AB 2449 (Government Code 54953)).*

PLEDGE OF ALLEGIANCE

PRESENTATIONS

- i. Recognize Silicon Valley Clean Energy Authority Electric Showcase Award Winner.

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Council may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Mayor asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Mayor has the sole discretion to determine when the item will be heard.)*

1. Approve Closed Session Council Meeting Minutes of October 3, 2023.
2. Approve Minutes of the October 3, 2023 Town Council Meeting.
3. Reschedule to December 5, 2023, the Consideration of the Adoption of a Resolution Modifying the Height Pole and Netting Policy for Additions and New Construction. The Proposed Modifications to Town Policy are Not Considered a Project Under the California Environmental Quality Act. Project Location: Town Wide. Applicant: Town of Los Gatos.
4. Receive the Monthly Financial and Investment Report for August 2023.
5. Rescind Resolution 2021-006 and Adopt a Revised Enabling Resolution for the Policy Committee.
6. Authorize the Town Manager to Execute a Fourth Amendment to a Special Services Agreement with Liebert Cassidy Whitmore (LCW) to Increase Compensation in the Amount of \$150,000 for a Total Contract Amount Not to Exceed \$430,000; and Authorize an Expenditure Budget Adjustment in the Amount of \$117,283 from the Available General Fund Capital/Special Projects Reserve.
7. Authorize Revenue and Expenditure Budget Adjustments in the Total Amount of \$40,000 to Recognize Receipt and Expenditure of the California Automated Permit Processing (CalAPP) Grant Administered by the California Energy Commission.
8. Authorize the Town Manager to Execute an Agreement for Services with Bay Area Tree Specialists for Tree Removal and Stump Grinding of Eighteen Eucalyptus Trees Located on Overlook Road for a Total Agreement Amount not to Exceed \$186,300.
9. Adopt a Resolution to Set a Date for Consideration of the Reorganization of an Uninhabited Area Designated as Los Gatos Boulevard No. 20, Approximately 0.521 Acres

on Property Pre-Zoned R-1:8. APN 523-01-001. Annexation Application AN22-001.
Project Location: **15810 Los Gatos Boulevard**. Property Owner/Applicant: Jesus Ching and Kathleen Ban.

- [10.](#) Adopt an Ordinance Titled, “An Ordinance of the Town Council of the Town of Los Gatos Amending Section 18.60.020, ‘Permits for Retailers of Tobacco Products’ of Article VI, ‘Smoking Regulations’ of Chapter 18, ‘Offenses and Miscellaneous Provisions,’ of the Town Code to Increase Fine Amounts and Amend the Definition of ‘Tobacco Products’ to Align with the Santa Clara County Ordinance.”
- [11.](#) Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Fiscal Year 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921) Completed by Spencon Construction and Authorize the Town Clerk to File for Recordation.
- [12.](#) Authorize Revenue and Expenditure Budget Adjustments in the Amount of \$76,700 to Recognize Receipt and Expenditure for State of California Office of Traffic Safety (OTS) Grant Funds.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

- [13.](#) Receive and Provide Direction for the Youth Commission Work Plan for School Year 2023/24.

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council’s consent at the meeting.)*

- [14.](#) Consider a Resolution to Amend the General Plan Land Use Designation of 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial and Introduce an Ordinance Titled “An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for Property **Located at 15810 Los Gatos Boulevard**.” APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001 and General Plan Amendment Application GP-23-001. PROPERTY OWNER/APPLICANT: Jesus Ching and Kathleen Ban. PROJECT PLANNER: Jocelyn Shoopman.

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

- [15.](#) Authorize the Town Manager to Execute an Agreement for Revenue Ballot Measure Consultant Services with NBS in an Amount Not to Exceed \$105,000 and Authorize an Expenditure Budget Adjustment in an Amount of \$105,000 from the Available General Fund Capital/Special Projects Reserve.
- [16.](#) Discuss and Provide Direction Regarding Potential Changes to the Town's Boards, Commissions, and Committees.
- [17.](#) Accept the Diversity, Equity, and Inclusion (DEI) Plan and Identify First Year Priorities for the DEI Commission.

ADJOURNMENT *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time.)*

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.

Note: In accordance with Code of Civil Procedure §1094.6; litigation challenging a quasi-adjudicatory decision of the Town Council must be brought within 90 days after the decision is final unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 1

**DRAFT
Minutes of the Town Council Special Meeting – Closed Session
Tuesday, October 3, 2023**

The Town Council of the Town of Los Gatos conducted a Special Meeting in person and utilizing teleconferencing means on Tuesday, October 3, 2023, at 5:45 p.m. to hold a Closed Session.

MEETING CALLED TO ORDER AT 5:45 P.M.

ROLL CALL

Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, and Council Member Rob Rennie.

Absent: None

VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)

None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:

1. Public Employee Appointment, Employment, Evaluation of Performance, Discipline, and Dismissal
[Government Code Section 54957(b)(1)]
Titles: Town Manager and Town Attorney

The Town Council reconvened in open session. The Town Attorney stated there was no reportable action under the Brown Act.

ADJOURNMENT

The meeting adjourned at 6:24 p.m.

Attest:

Submitted by:

Wendy Wood, Town Clerk

Laurel Prevetti, Town Manager



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 2

**DRAFT
Minutes of the Town Council Meeting
Tuesday, October 3, 2023**

The Town Council of the Town of Los Gatos conducted a regular meeting in person and utilizing teleconferencing means on Tuesday, October 3, 2023, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Mayor Maria Ristow, Vice Mayor Mary Badame, Council Member Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie.

Absent: None

PLEDGE OF ALLEGIANCE

Madeline Sieve led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATIONS

Mayor Ristow presented proclamations to faith leaders from Saint Vincent de Paul, Saint Luke's Episcopal Church, and the Los Gatos United Methodist Church for their work of service and in supporting the unhoused residents of Los Gatos.

CLOSED SESSION

Gabrielle Whelan, Town Attorney, stated the Town Council met in closed session to discuss performance evaluations for the Town Attorney and the Town Manager, and there was no reportable action.

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Vice Mayor Badame stated she attended the Police Department swearing in ceremony for the new Dispatchers and Police Officers; the second annual Octoberfest; and met with residents to discuss various concerns.
- Council Member Moore commented on recent "Zoom bombing" attacks in other jurisdictions; attended the League of California Cities annual conference in Sacramento; toured Villas on the Park which is a 100% affordable housing community run by People Assisting the Homeless (PATH); helped teach bike safety to students at Fisher Middle School; attended the Youth Citizens of the Year awards ceremony, the Informed Community Book Club at the Library, the Los Gatos Parks Commission meeting, and the housing Element Advisory Board meeting; met with various members of the community; and spoke about his next Community Coffee.

- Council Member Rennie stated he attended the CEO search committee meeting for Silicon Valley Clean Energy.
- Council Member Hudes stated he participated in a half-day session with the Silicon Valley Regional Interoperability Authority; attended the Initiatives and Publicity Committee meeting of the new Foundation for Older Adults, the Police Department swearing in ceremony for the new Dispatchers and Police Officers, the Foundation for Older Adults to Thrive in Los Gatos Board meeting, the NUMU opening of the history lab, and the Housing Element Advisory Board meeting; and made a request to move item 13 up on the agenda for discussion.
- Mayor Ristow stated she attended the League of California Cities annual conference in Sacramento, the Youth Citizens of the Year awards ceremony, the Police Department swearing in ceremony for the new Dispatchers and Police Officers, and the West Valley Mayors and Managers meeting; commented on recent “Zoom bombing” attacks; helped teach bike safety to students at Fisher Middle School; did a ribbon cutting for the NUMU history lab; and met with several residents on a variety of topics.

Manager Matters

- Announced the Town submitted its Housing Element to the State after the required seven-day public comment period.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approve the Minutes of the September 12, 2023 Joint Meeting of the Town Council and Planning Commission Study Session.
2. Approve the Minutes of the September 19, 2023 Town Council Meeting.
3. Approve Modifications to Council Policy 2-11 Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum to Accommodate the Exception to Residency Requirements for the Newly Established Diversity, Equity, and Inclusion Commission.

Mayor Ristow opened public comment.

No one spoke.

Mayor Ristow closed public comment.

Council Member Hudes pulled item #3.

MOTION: Motion by Vice Mayor Badame to approve consent items one and two. **Seconded** by Council Member Moore.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Tom Picraux

- Announced the formation of a non-profit organization called the Los Gatos Foundation for Older Adults to Thrive and commented on the goals of the Foundation.

Lynley Fenchel

- Commented on the Bible and diversity, equity, and inclusion.

Ronald Meyer

- Commented on concerns with accountability, transparency, and process for the Housing Element.

Dorene Kastelman, Jewish Community Relations Council

- Commented on concerns with increasing incidents of hate.

PUBLIC HEARINGS

4. Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Section 18.60.020, 'Permits for Retailers of Tobacco Products,' of Article VI, 'Smoking Regulations,' of Chapter 18, 'Offenses and Miscellaneous Provisions,' of the Town Code to Increase Fine Amounts and Amend the Definition of 'Tobacco Products' to Align with the Santa Clara County Ordinance."

Gabrielle Whelan, Town Attorney, presented the staff report.

Mayor Ristow opened public comment.

Carol Baker, Santa Clara County Tobacco Free Coalition

- Commented in appreciation of the Ordinance.

Mayor Ristow closed public comment.

MOTION: Motion by Vice Mayor Badame to introduce an Ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Section 18.60.020, 'Permits for Retailers of Tobacco Products,' of Article VI, 'Smoking Regulations,' of Chapter 18, 'Offenses and Miscellaneous Provisions,' of the Town Code to Increase Fine Amounts and Amend the Definition of 'Tobacco Products' to Align with the Santa Clara County Ordinance." **Seconded by Council Member Moore.**

VOTE: Motion passed unanimously.

5. Consider a Resolution to Amend the General Plan to Include a Description of the Housing Element Overlay Zone (HEOZ) and Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Replace the Affordable Housing Overlay Zone Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,' With the Housing Element Overlay Zone As Division 5 of Article VIII, 'Overlay Zones and Historic Preservation.'" An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendments. No Further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-002 and General Plan Amendment Application GP-23-002. Project Location: Town Wide. Applicant: Town of Los Gatos. **RESOLUTION: 2023-052**

Jocelyn Shoopman, Associate Planner, presented the staff report.

Mayor Ristow opened public comment.

No one spoke.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Moore to make the finding that no further environmental analysis is required as listed in Attachments 1 and 2 of the staff report; adopt a resolution to amend the 2020 General Plan Land Use Element to include a description of the HEOZ Attachment 1 of the staff report; and introduce an ordinance, by title only, effecting an amendment to the Town Code to replace the AHOZ of Division 5, Article VIII, "Overlay Zones and Historic Preservation," with the HEOZ (Attachment 2) with any specific changes identified and agreed upon by the majority of the Town Council.
Seconded by Mayor Ristow.

VOTE: Motion passed by a 4-1 vote. Vice Mayor Badame voted no.

Mayor Ristow called for a brief recess at 9:04 p.m.

Mayor Ristow reconvened the meeting at 9:18 p.m.

6. Consider a Resolution to Amend the General Plan Land Use Designation of 16492 Los Gatos Boulevard and Assessor Parcel Number (APN) 532-07-086 from Low Density Residential to Neighborhood Commercial; Amend the General Plan Land Use Designation of Caltrans Right-of-Way Adjacent to 14685 Oka Road from Low Density Residential to Medium Density Residential; and Introduce an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 (Single-Family Residential) To R-M (Multiple-Family Residential) for a Caltrans Right-of-Way Property Located Adjacent to 14685 Oka Road; and Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: APN's 424-06-116, 424-07-116, 424-08-029, 424-08-058, 424-08-059, 424-08-060, 424-08-074, and 532-07-085; 620 and 14000 Blossom Hill Road; 16210, 16240, 16245, 16250, 16260, 16270, and 16392 Burton Road; Cal Trans Right-of-Way Adjacent to 14685 Oka Road; 110 and 206 Knowles Drive; 445 Leigh Avenue; 440 Los Gatos Almaden Road; 16603 Lark Avenue; 14823, 14831, 14849, 14859, 14917, 14925, 15795, 16151, 16203, and 16492 Los Gatos Boulevard; 165 Los Gatos Saratoga Road; and 14800 and 14840 Oka Road." An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed General Plan and Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003 and General Plan Amendment Application GP-23-003.
Applicant: Town of Los Gatos.

Mayor Ristow stated items 6, 7, 8, and 9 would be continued to a date certain and opened public comment for those people in the audience wanted to speak on the items.

Christina Olvera

- Commented on concerns with future development and how it would affect existing small businesses.

Lee Quintana

- Commented on the site inventory list and stated some concerns.

Mayor Ristow closed public comment.

MOTION: Motion by Council Member Hudes to continue item 6 to November 7. Seconded by Council Member Rennie.

VOTE: Motion passed unanimously.

7. Introduce an Ordinance Titled “An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Site Inventory Analysis of the 2023-2031 Housing Element: 401 through 409 Alberto Way, 50 Los Gatos-Saratoga Road, 529-24-001, and 529-24-003.” An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

MOTION: Motion by Council Member Hudes to continue item 7 to November 7. Seconded by Mayor Ristow.

VOTE: Motion passed 4-0-1. Vice Mayor Badame was rescued from the vote.

8. Introduce an Ordinance Titled “An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Sites Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 15300, 15349, 15367, 15405, 15425, 15480, and 15500 Los Gatos Boulevard.” An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

MOTION: Motion by Council Member Hudes to continue item 8 to November 7. Seconded by Mayor Rennie.

VOTE: Motion passed 4-0-1. Council Member Moore was rescued from the vote.

9. Introduce an Ordinance Titled “An Ordinance of the Town Council of the Town of Los Gatos to Apply the Housing Element Overlay Zone (HEOZ) to Provide for Increases to the Allowable Density, Height, Floor Area Ratio, and Lot Coverage for Residential Development on the Following Site Included in the Sites Inventory Analysis of the 2023-2031 Housing Element: 101 South Santa Cruz Avenue and Apply the Housing Element Overlay Zone.” An Environmental Impact Report was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, which Included the Proposed Zoning Code Amendments. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-23-003. Applicant: Town of Los Gatos.

MOTION: Motion by Council Member Hudes to continue item 8 to November 7. **Seconded** by Mayor Rennie.

VOTE: Motion passed 4-0-1. Mayor Ristow was rescued from the vote.

OTHER BUSINESS

10. Discuss and Consider Modifications to the Review Process for Exception Requests to the State Minimum Fire Safe Regulations (Public Resource Code 4290).

Jennifer Armer, Planning Manager, presented the staff report.

Mayor Ristow opened public comment.

Brandye Sweetnam

- Commented on concerns with the review process and Public Resource Code 4290.

Terry Szewczyk

- Commented on concerns with the review process and Public Resource Code 4290.

Gary Kohlsaat

- Commented on concerns with the review process and Public Resource Code 4290.

Scott Watson

- Commented on concerns with the review process and Public Resource Code 4290.

Ivy Chang

- Commented on adding a timeline to the appeal process and adopting a resolution similar to Saratoga.

David Hutchinson

- Commented on concerns with the review process and complying with State law.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Hudes to continue with the existing appeal process and provide principles to the Planning Commission of transparency, objectivity, feasibility, and timeliness. **Seconded** by Council Member Moore.

VOTE: Motion passed unanimously.

Mayor Ristow called for a brief recess at 10:41 p.m.

Mayor Ristow reconvened the meeting at 10:51 p.m.

11. Rescind Resolution 2023-051 and Adopt a Revised Enabling Resolution for the Diversity, Equity, and Inclusion Commission to Clarify that All Members are Voting Members, and that Terms will be Staggered. **RESOLUTION: 2023-053**

Laurel Prevetti, Town Manager, presented the staff report.

Mayor Ristow opened public comment.

Ronald Meyer

- Commented on concerns with the diversity, equity, and inclusion initiative and spoke in opposition of the item.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: Motion by Councilmember Moore to rescind Resolution 2023-051 and adopt a revised enabling Resolution for the Diversity, Equity, and Inclusion Commission to clarify that all members are voting members and that terms will be staggered, and modify the resolution to say there will be no term limits. **Seconded** by Council Member Hudes.

VOTE: Motion passed 4-1. Vice Mayor Badame voted no.

12. Adopt a Resolution to Deny an Appeal of a Planning Commission Decision to Approve the Demolition of One Existing Office and Four Residential Buildings, Construction of an Assisted Living and Memory Care Facility, Variance from the Maximum Height and Lot Coverage of the Zone, Merger of Four Lots into One, and Removal of Large Protected Trees on Property Zoned Office. Located at 15860 -15894 Winchester Boulevard and 17484 Shelburne Way. APNs 529-11-013, -038, -039, and -040. Architecture and Site Application S-21-008, Conditional Use Permit Application U-21-010, Variance Application V-21-003, Subdivision Application M-22-008, and Mitigated Negative Declaration ND-22-001. An Initial Study and Mitigated Negative Declaration Have Been Prepared for This Project. Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson. Appellant: Eric Hulser. Project Planner: Jennifer Armer. **RESOLUTION: 2023-054**

Jennifer Armer, Planning Manager, presented the staff report.

Mayor Ristow opened public comment.

Eric Hulser

- Commented on concerns and requested the Council reconsider this matter.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Moore to adopt the staff recommendation listed on the staff report for item number 12 (Adopt a resolution to deny an appeal of a Planning Commission decision to approve the demolition of one existing office and four residential buildings, construction of an assisted living and memory care facility, variance from the maximum height and lot coverage of the zone, merger of four lots into one, and removal of large protected trees on property zoned Office). **Seconded by Council Member Rennie.**

VOTE: Motion passed 3-2. Council Member Hudes and Vice Mayor Badame voted no.

13. Discuss the Housing Element Work Plan.

Jennifer Armer, Planning Manager, presented the staff report.

Mayor Ristow opened public comment.

Lee Fagot

- Commented on concerns with the process.

Ronald Meyer

- Commented on concerns with the process.

Mayor Ristow closed public comment.

Council discussed the item.

PULLED CONSENT ITEM

3. Approve Modifications to Council Policy 2-11 Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum to Accommodate the Exception to Residency Requirements for the Newly Established Diversity, Equity, and Inclusion Commission.

Laurel Prevetti, Town Manager, presented the staff report.

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SUBJECT: Draft Minutes of the Town Council Meeting of October 3, 2023

DATE: October 3, 2023

Mayor Ristow opened public comment.

Ronald Meyer

- Commented on concerns with the modification and spoke in opposition of the item.

Mayor Ristow closed public comment.

Council discussed the item.

MOTION: Motion by Councilmember Hudes to approve modifications to Council Policy 2-11 Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum to accommodate the exception to residency requirements for the newly established Diversity, Equity, and Inclusion Commission. **Seconded by Council Member Moore.**

VOTE: Motion passed 3-2. Council Member Rennie and Vice Mayor Badame voted no.

ADJOURNMENT

The meeting adjourned at 12:18 a.m.

Respectfully Submitted:

Wendy Wood, Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 3

DATE: October 12, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Reschedule to December 5, 2023, the Consideration of the Adoption of a Resolution Modifying the Height Pole and Netting Policy for Additions and New Construction. The Proposed Modifications to Town Policy are Not Considered a Project Under the California Environmental Quality Act. Project Location: Town Wide. Applicant: Town of Los Gatos

RECOMMENDATION:

Reschedule to December 5, 2023, the consideration of the adoption of a resolution modifying the Height Pole and Netting Policy for Additions and New Construction.

REMARKS:

This item was advertised in the paper for discussion by Town Council on September 19, 2023, and then rescheduled to October 17, 2023. It has now been rescheduled to December 5, 2023, to allow for time on the current Town Council agenda for other priority items.

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Department Director

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TOWN OF LOS GATOS
TOWN COUNCIL AGENDA REPORT

MEETING DATE: 10/17/2023

ITEM NO: 4

DATE: October 6, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Monthly Financial and Investment Report for August 2023

RECOMMENDATION:

Receive the Monthly Financial and Investment Report for August 2023.

BACKGROUND:

California Government Code Section 41004 requires that the Town Treasurer submit to the Town Clerk and the legislative body a written report and accounting of all receipts, disbursement, and fund balances. The Finance Director assumes the Town Treasurer role. Attachment 1 contains the August 2023 Monthly Financial and Investment Report which fulfills this requirement. This report was presented to the Finance Commission at its October 9, 2023 regular meeting.

DISCUSSION:

August 2023 Monthly Financial and Investment Report includes a Fund Balance Schedule, representing estimated funding available for all funds at the end of the August 2023. The fund balances are estimated at a point in time and will be finalized at the final close of the fiscal year.

Please note that the amount in the Fund Schedule differs from the Portfolio Allocation and Treasurer's Cash Fund Balances Summary schedule because assets and liabilities are components of the fund balance.

As illustrated in the summary below, Total Cash is adjusted by the addition of Total Assets less the amount of Total Liabilities to arrive at the Ending Fund Balance – which represents the actual amount of funds available.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

DISCUSSION (continued):**Reconciling Cash to Fund Balance - August 31, 2023**

Total Cash	\$	69,093,001
Plus: Assets	\$	13,600,186
Less: Liabilities	\$	(26,414,194)
Estimated Fund Balance	\$	56,278,993

As of August 31, 2023, the Town's financial position (Assets \$82.7M, Liabilities \$26.4M and Fund Equity \$56.3M) remains strong and there are no issues meeting financial obligations in the near future.

As of August 31, 2023, the Town's weighted portfolio yield for investments under management was 3.71% which was 28 basis points above the Local Agency Investment Fund (LAIF) yield of 3.43% for the same reporting period. Currently the LAIF portfolio's weighted average maturity (WAM) is 237 days versus the Town's longer WAM of 495 days. The longer maturity (WAM) for Town assets under management reflects the Town's strategy to take advantage of higher yields associated with longer maturities balanced with shorter term yields available on investments held with the State's LAIF. The Town's weighted average rate of return on investments under management of 3.71% at the close of August was 16 basis points higher when compared to the prior months return of 3.53 % reported as of July 31, 2023.

Since December 31, 2022, LAIF yields had climbed from 217 basis points (2.17%) to 343 basis points (3.43%) through the end of August 2023.

Staff, in coordination with the Town's investment advisor, continued primarily replacing maturing investments with shorter to medium term maturities in the two- to three-year maturity range. These investments capture current yields that exceed the rates expected to be earned in the LAIF pool during that same time period. The State LAIF pool typically lags the market when current market yields are either increasing or decreasing.

On March 22, 2023, the Federal Reserve voted to approve a ¼ percentage basis point increase from 4.75% to 5.00%. This action was followed with additional hikes in May 2023 from 5.00% to 5.25% and July from 5.25 % to 5.5 %. Through these actions over time, the Federal Open Market Committee's (FOMC) goal is to bring year to year inflation to its targeted level of 2%. The unemployment rate fell to 3.5% from 3.6% and wage growth picked up slightly to 4.4%, with notable gains in the manufacturing and construction sector.

The Town's investments are in compliance with the Town's Investment Policy dated February 21, 2023 and also in compliance with the requirements of Section 53600 at seq. of the

PAGE 3 OF 3

SUBJECT: Monthly Financial and Investment Reports August 2023 for Fiscal Year 2023/24

DATE: October 6, 2023

DISCUSSION (continued):

California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

CONCLUSION:

Receive Monthly Financial and Investment Report for August 2023.

Attachment:

1. Financial and Investment Report (August 2023)

Town of Los Gatos
Summary Investment Information
August 31, 2023

Weighted Average YTM Portfolio Yield on Investments under Management

3.71%

Weighted Average Maturity (days)

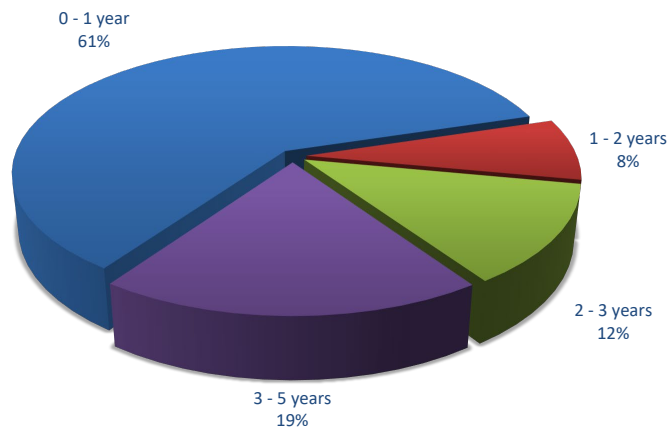
495

	This Month	Last Month	One year ago
Portfolio Allocation & Treasurer's Cash Balances	\$69,093,001	\$71,462,894	\$65,471,423
Cert. of Participation 2002 Lease Payment Fund			
Managed Investments	\$49,231,145		
Local Agency Investment Fund	\$14,138,242		
Reconciled Demand Deposit Balances	\$5,723,614		
Portfolio Allocation & Treasurer's Cash Balances	<u>\$69,093,001</u>		

Benchmarks/ References:

Town's Average Yield	3.71%	3.53%	1.49%
LAIF Yield for month	3.43%	3.31%	1.28%
3 mo. Treasury	5.47%	5.42%	2.95%
6 mo. Treasury	5.51%	5.47%	3.36%
2 yr. Treasury	4.87%	4.88%	3.50%
5 yr. Treasury (most recent)	4.26%	4.18%	3.35%
10 Yr. Treasury	4.11%	3.96%	3.20%

Portfolio Maturity Profile



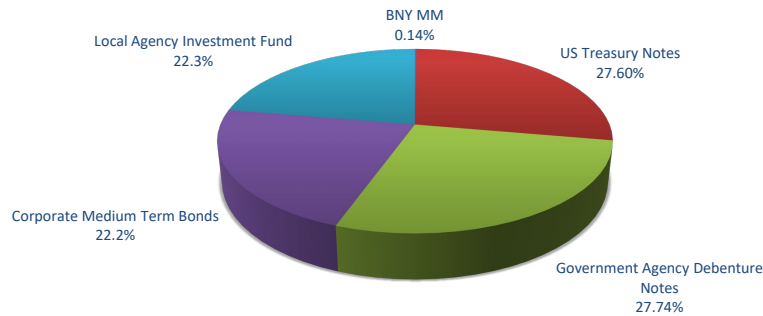
Compliance: The Town's investments are in compliance with the Town's investment policy dated February 21, 2023 and also in compliance with the requirements of Section 53600 at seq. of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Cash Balances
August 31, 2023

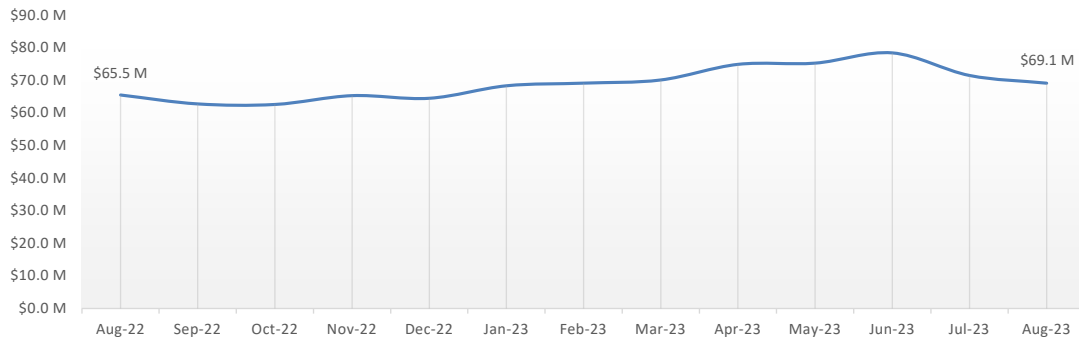
	Month	YTD
Cash & Investment Balances - Beginning of Month/Period	\$ 71,462,894.01	\$ 78,384,947.79
Receipts	6,275,438.28	11,001,459.94
Disbursements	(8,645,331.36)	(20,293,406.80)
Cash & Investment Balances - End of Month/Period	<u>\$69,093,000.93</u>	<u>\$69,093,000.93</u>

Portfolio Allocation	Amount	% of Portfolio	Max. % or \$ Allowed per State Law or Policy
BNY MM	\$89,488.15	0.14%	20% of Town Portfolio
US Treasury Notes	\$17,490,610.47	27.60%	No Max. on US Treasuries
Government Agency Debenture Notes	\$17,580,861.65	27.74%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$14,070,185.01	22.20%	30% of Town Portfolio
Local Agency Investment Fund	\$14,138,241.57	22.31%	\$75 M per State Law
Subtotal - Investments	<u>63,369,386.85</u>	<u>100.00%</u>	
Reconciled Demand Deposit Balances	<u>5,723,614.08</u>		
Total Portfolio Allocation & Treasurer's Cash Balances	<u>\$69,093,000.93</u>		

Portfolio Investment Allocation



Treasurer's Fund Balances



Town of Los Gatos
Non-Treasury Restricted Fund Balances
August 31, 2023

	Beginning Balance	August 2023 Deposits Realized Gain/Adj.	August 2023 Interest/ Earnings	August 2023 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 698,385.72		\$ 2,748.79		\$ 701,134.51	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	1,108,662.50		780.70	1,108,662.50	780.70	Note 1
Cert. of Participation 2002 Lease Payment Fund	561,257.36		399.08	561,225.00	431.44	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,324,140.08		5,685.55		1,329,825.63	Note 2
Total Restricted Funds:	<u>\$ 3,692,445.66</u>	<u>\$ -</u>	<u>\$ 9,614.12</u>	<u>\$ 1,669,887.50</u>	<u>\$ 2,032,172.28</u>	
CEPPT IRS Section 115 Trust	1,415,625.11		(19,566.86)		\$ 1,396,058.25	
Grand Total COP's and CEPPT Trust	<u>\$ 5,108,070.77</u>	<u>\$ -</u>	<u>\$ (9,952.74)</u>	<u>\$ 1,669,887.50</u>	<u>\$ 3,428,230.53</u>	

These accounts are not part of the Treasurer's fund balances reported elsewhere in this report, as they are for separate and distinct entities.

Note 1: The three original funds for the Certificates of Participation 2002 Series A consist of construction funds which will be expended over the next few years, reserve funds which will guarantee the payment of lease payments, and a third fund for the disbursement of lease payments and initial delivery costs.

Note 2: The 2010 COP Funds are all for the Library construction, reserves to guarantee lease payments, and a lease payment fund for the life of the COP issue. The COI fund was closed in September 2010.

Note 3: The CEPPT Section IRS Section 115 Trust was established as an irrevocable trust dedicated to accumulate resources to fund the Town's unfunded liabilities related to pension and other p

Town of Los Gatos
Statement of Interest Earned
August 31, 2023

Interest by Month		
July 2023	\$	133,845.42
August 2023		129,679.93
September 2023		-
October 2023		-
November 2023		-
December 2023		-
January 2024		-
February 2024		-
March 2024		-
April 2024		-
May 2024		-
June 2024		-
	\$	<u>263,525.35</u>

Town of Los Gatos Investment Schedule

August 31, 2023

				Deposit	Par	Original	Market	Market Value	Purchased	Maturity	Yield to	Interest	Interest	Interest	Days			
Institution	CUSIP #	Security	Coupon	Date	Value	Cost	Value	Above (Under)	Interest	Date or	Maturity or	Received	Earned	Earned	To			
								Cost		Call Date	Call	To Date	Prior Yrs.	Current FY	Maturity			
US Treasury	91282CAP6	US Treasury Note	0.13%	6/30/2021	1,000,000.00	995,390.63	993,590.00	(1,800.63)		10/15/2023	0.33%	\$ 2,240.44	\$ 6,520.12	\$ 553.76	45			
US Treasury	91282CDD0	US Treasury Note	0.38%	1/13/2022	1,100,000.00	1,090,675.78	1,090,848.00	172.22		10/31/2023	0.85%	\$ 5,344.27	\$ 13,599.56	\$ 1,581.94	61			
FFCB	3133EKM1X	Gov. Agency Debenture	2.23%	8/2/2019	1,000,000.00	1,014,400.00	984,760.00	(29,640.00)		2/23/2024	1.90%	\$ 96,075.83	\$ 74,902.07	\$ 3,252.05	176			
FFCB	3133EMBE1	Gov. Agency Debenture	0.30%	10/8/2020	1,600,000.00	1,598,000.00	1,553,056.00	(44,944.00)		3/28/2024	0.34%	\$ 11,853.34	\$ 14,655.57	\$ 913.21	210			
FFCB	3133EMCCQ3	Gov. Agency Debenture	0.28%	10/16/2020	2,000,000.00	1,998,000.00	1,987,480.00	(10,520.00)		10/13/2024	0.31%	\$ 13,953.33	\$ 16,496.92	\$ 1,036.28	409			
Apple	037833DB3	Corporate Bond	2.90%	12/20/2022	1,300,000.00	1,228,591.00	1,216,488.00	(12,103.00)		6/21/2027	4.19%	\$ 8,587.22	\$ 28,170.97	\$ 9,096.88	1390			
Cert. of Participation 2002 Le	437076BM3	Corporate Bond	3.00%	8/4/2022	1,000,000.00	991,960.00	955,820.00	(36,140.00)		1/1/2026	3.04%	\$ 19,750.00	\$ 29,252.66	\$ 5,495.95	854			
US Treasury	912828ZW3	US Treasury Note	0.25%	8/9/2022	350,000.00	322,096.88	321,590.50	(506.38)		6/30/2025	3.16%	\$ 779.89	\$ 9,366.72	\$ 1,786.88	669			
IBM	459200JY8	Corporate Bond	3.00%	3/25/2021	1,000,000.00	1,071,040.00	981,670.00	(89,370.00)		5/15/2024	0.71%	\$ 64,166.67	\$ 16,751.96	\$ 1,255.89	258			
FFCB	3133ENS58	Gov. Agency Debenture	4.13%	1/17/2023	236,000.00	239,174.20	232,509.56	(6,664.64)		1/11/2027	3.76%	\$ 4,705.25	\$ 4,016.30	\$ 1,518.36	1229			
US Treasury	91282CBT7	US Treasury Note	0.75%	9/30/2022	800,000.00	712,565.18	725,968.00	13,402.82		3/31/2026	4.14%	\$ 3,000.00	\$ 23,165.06	\$ 5,260.93	943			
FFCB	3133ENP95	Gov. Agency Debenture	4.25%	9/30/2022	900,000.00	900,939.60	888,246.00	(12,693.60)		9/30/2025	4.14%	\$ 19,125.00	\$ 28,374.86	\$ 6,444.11	761			
US Treasury	91282CDA6	US Treasury Note	0.25%	1/31/2022	1,100,000.00	1,085,222.44	1,095,501.00	10,278.56		9/30/2023	1.07%	\$ 3,195.74	\$ 16,417.94	\$ 1,976.53	30			
US Treasury	91282CAW1	US Treasury Note	0.25%	7/15/2021	1,200,000.00	1,199,437.50	1,187,340.00	(12,097.50)		11/15/2023	0.27%	\$ 5,502.72	\$ 6,348.21	\$ 550.47	76			
American Honda	02665WC22	Corporate Bond	2.40%	11/27/2019	1,000,000.00	1,012,410.01	973,370.00	(39,040.01)		6/27/2024	2.12%	\$ 96,733.34	\$ 76,483.79	\$ 3,617.08	301			
JP Morgan Chase	46625HRS1	Corporate Bond	3.20%	9/23/2022	500,000.00	474,660.00	473,850.00	(810.00)		3/15/2026	4.70%	\$ 11,644.44	\$ 17,865.15	\$ 3,955.85	927			
Honeywell Int'l.	438516BW5	Corporate Bond	2.30%	11/20/2019	1,000,000.00	1,014,660.00	970,360.00	(44,300.00)		7/15/2024	1.64%	\$ 85,483.33	\$ 71,679.55	\$ 3,371.88	319			
Caterpillar Financial Serv	14913Q2V0	Corporate Bond	2.85%	2/23/2021	1,000,000.00	1,077,370.00	981,320.00	(96,050.00)		5/17/2024	0.44%	\$ 63,650.00	\$ 10,677.18	\$ 772.44	260			
FNMA	3135G0V75	Gov. Agency Debenture	1.75%	10/17/2019	1,100,000.00	1,105,833.30	1,066,450.00	(39,383.30)		7/2/2024	1.63%	\$ 71,706.25	\$ 66,718.86	\$ 3,059.59	306			
US Bancorp	91159HHV5	Corporate Bond	3.38%	12/24/2019	1,000,000.00	1,049,040.00	990,330.00	(58,710.00)		1/5/2024	2.12%	\$ 121,968.75	\$ 75,978.33	\$ 3,668.74	127			
FFCB	3133EKQA7	Gov. Agency Debenture	2.08%	10/21/2019	1,000,000.00	1,019,780.00	966,720.00	(53,060.00)		9/10/2024	1.66%	\$ 70,431.11	\$ 61,888.40	\$ 2,846.50	376			
FHLB	3135G05X7	Gov. Agency Debenture	0.38%	6/10/2022	1,200,000.00	1,102,952.40	1,096,836.00	(6,116.40)		8/25/2025	3.04%	\$ 5,437.50	\$ 36,626.55	\$ 5,898.30	725			
US Treasury	91282ZL7	US Treasury Note	0.38%	4/12/2022	1,700,000.00	1,583,927.57	1,575,016.00	(8,911.57)		4/30/2025	2.72%	\$ 6,691.99	\$ 54,017.06	\$ 7,542.92	608			
JP Morgan Chase	46625HJT8	Corporate Bond	3.88%	9/23/2019	1,400,000.00	1,485,414.00	1,390,438.00	(94,976.00)		2/1/2024	2.39%	\$ 209,163.89	\$ 130,689.90	\$ 5,888.64	154			
US Treasury	912828V23	US Treasury Note	2.25%	11/29/2021	1,000,000.00	1,032,933.04	989,690.00	(43,243.04)		12/31/2023	0.66%	\$ 35,706.52	\$ 10,649.43	\$ 1,142.33	122			
US Treasury	91282CBE0_2	US Treasury Note	0.13%	10/7/2021	1,000,000.00	994,768.98	980,820.00	(13,948.98)		1/15/2024	0.36%	\$ 2,214.67	\$ 6,137.79	\$ 603.08	137			
FHLB	3130ALH98	Gov. Agency Debenture	0.25%	2/26/2021	1,000,000.00	997,610.00	974,710.00	(22,900.00)		2/26/2024	0.33%	\$ 6,250.00	\$ 7,713.30	\$ 559.98	179			
FHLB	3130AQF65	Gov. Agency Debenture	1.25%	11/30/2022	1,300,000.00	1,160,559.40	1,169,415.00	8,855.60		12/21/2026	4.15%	\$ 9,072.92	\$ 29,385.32	\$ 8,593.82	1208			
US Treasury	912828U57	US Treasury Note	2.13%	7/31/2019	1,000,000.00	1,011,875.00	991,880.00	(19,995.00)		11/30/2023	1.84%	\$ 81,458.33	\$ 72,526.17	\$ 3,144.49	91			
US Treasury	912828X70	US Treasury Note	2.20%	12/30/2019	1,000,000.00	1,010,589.29	977,730.00	(32,859.29)		4/30/2024	1.75%	\$ 73,703.30	\$ 68,481.11	\$ 3,322.24	243			
US Treasury	912828X72	US Treasury Note	2.00%	10/31/2019	1,000,000.00	1,015,667.41	974,920.00	(40,747.41)		5/31/2024	1.64%	\$ 71,639.34	\$ 60,792.37	\$ 2,816.99	274			
American Honda	02665WCQ2	Corporate Bond	3.63%	9/14/2021	950,000.00	1,012,871.00	947,967.00	(64,904.00)		10/10/2023	0.41%	\$ 54,143.40	\$ 7,316.05	\$ 693.57	40			
FFCB	3133EJ3Q0	Gov. Agency Debenture	2.88%	8/28/2019	1,500,000.00	1,587,503.75	1,488,135.00	(99,368.75)		12/21/2023	2.12%	\$ 164,473.96	\$ 87,804.46	\$ 3,882.94	112			
US Treasury	91282CBE0	US Treasury Note	0.13%	9/15/2021	650,000.00	647,615.46	637,533.00	(10,082.46)		1/15/2024	0.28%	\$ 1,488.12	\$ 3,281.18	\$ 311.54	137			
FHLB	3130APJH9	Gov. Agency Debenture	0.75%	1/17/2023	1,000,000.00	907,010.00	906,520.00	(490.00)		10/28/2026	4.17%	\$ 2,104.17	\$ 14,420.85	\$ 5,451.78	1154			
FFCB	3133ENS56	Gov. Agency Debenture	4.00%	2/8/2023	1,700,000.00	1,706,732.00	1,671,389.00	(35,343.00)		1/6/2028	3.91%	\$ 27,955.56	\$ 25,921.64	\$ 11,317.90	1589			
Freddie Mac	3137EAXE3	Gov. Agency Debenture	0.04%	5/1/2023	750,000.00	689,032.50	684,037.50	(4,995.00)	296.88	9/23/2025	3.97%	\$ (296.88)	\$ 4,222.09	\$ 4,362.83	754			
American Honda	02665WED9	Corporate Bond	4.70%	5/11/2023	600,000.00	608,856.00	592,122.00	(16,734.00)		1/12/2028	4.34%	\$ 4,778.33	\$ 3,603.61	\$ 4,468.48	1595			
US Treasury	91282CEF4	US Treasury Note	2.50%	6/9/2023	1,500,000.00	1,416,626.12	1,405,365.00	(11,261.12)	7,172.13	3/31/2027	4.09%	\$ (7,172.13)	\$ 3,416.23	\$ 10,086.02	1308			
US Treasury	91282CGA3	US Treasury Note	4.00%	6/20/2023	2,100,000.00	2,080,558.59	2,065,791.00	(14,767.59)	1,147.54	12/15/2025	4.40%	\$ (1,147.54)	\$ 2,515.25	\$ 15,594.53	837			
Colgate-Palmolive	194162AR4	Corporate Bond	4.60%	7/14/2023	500,000.00	504,655.00	501,550.00	(3,105.00)	8,497.21	2/1/2028	4.37%	\$ (8,497.21)	\$ -	\$ 2,890.30	1615			
FannieMae	3135G06G3	Gov. Agency Debenture	0.50%	7/14/2023	500,000.00	455,157.00	455,420.00	263.00	465.28	11/7/2025	4.63%	\$ (465.28)	\$ -	\$ 2,870.05	799			
FFCB	3133EPQC2	Gov. Agency Debenture	4.63%	7/17/2023	500,000.00	501,957.50	499,320.00	(2,637.50)		7/17/2026	4.48%	\$ -	\$ -	\$ 2,770.66	1051			
FFCB	3133EPBM6	Gov. Agency Debenture	4.13%	7/14/2023	600,000.00	596,220.00	593,334.00	(2,886.00)		8/23/2027	4.29%	\$ 2,681.25	\$ -	\$ 3,375.67	1453			
PNC Bank	69353RFJ2	Corporate Bond	3.25%	7/25/2023	1,000,000.00	921,490.00	914,870.00	(6,620.00)	270.83	12/23/2027	5.23%	\$ (270.83)	\$ -	\$ 5,096.55	1575			
US Treasury	91282CFU0	US Treasury Note	4.13%	7/31/2023	1,300,000.00	1,290,660.60	1,287,663.00	(2,997.60)	13,406.25	10/31/2027	4.31%	\$ (13,406.25)	\$ -	\$ 4,740.88	1522			
Toyota Motor Credit	89236TKL8	Corporate Bond	5.45%	8/25/2023	1,600,000.00	1,617,168.00	1,629,920.00	12,752.00	25,433.33	11/10/2027	5.16%	\$ (25,433.33)	\$ -	\$ 1,366.45	1532			
Subtotal					\$ 49,536,000.00	\$ 49,141,657.13	\$ 48,039,658.56	\$ (1,101,998.57)	\$ 56,689.45							\$ 1,482,170.72	\$ 1,298,850.54	\$ 180,808.26
BNY MM		Money Market				89,488.15	89,488.15	0.00				0.00%				1		
LAIF		State Investment Pool				14,138,241.57	13,923,743.22	(214,498.35)				3.43%			80,917.87	1		
						\$63,369,386.85	\$62,052,889.93	\$ (1,316,496.92)	\$ 56,689.45							\$ 1,482,170.72	\$ 1,298,850.54	\$ 261,726.13

Matured Assets																		
PNC Financial	69349LAM0	Corporate Bond	3.80%	2/7/2022	1,000,000.00	1,033,470.00				7/25/2023	1.49%	\$ 55,733.33	\$ 20,987.56	\$ 1,032.85				
US Treasury	91282CCN9	US Treasury Note	0.13%	1/13/2022	1,200,000.00	1,188,375.00				7/31/2023	0.75%	\$ 2,323.37	\$ 13,176.45	\$ 766.36				
Toyota Motor Credit	89236THA6_1	Corporate Bond	1.35%	4/12/2021	500,000.00	510,580.00				8/25/2023	0.45%	\$ 15,993.75	\$ 5,065.91	\$ 350.67				
Toyota Motor Credit	89236THA6	Corporate Bond	1.35%	1/11/2022	1,100,000.00	1,107,315.00				8/25/2023	0.94%	\$ 24,090.00	\$ 15,144.57	\$ 1,585.23				

Total Investments "Matured"														\$ 1,799.21		
Total Interest FY 23_24 Matured and Current														\$ 263,525.35		

Maturity Profile		Amount	Percent
0-1 year		\$ 38,338,057.31	60%
1-2 years		\$4,923,804.45	8%
2-3 years		\$7,909,782.77	12%
3-5 years		<u>\$ 12,197,742.32</u>	19%
		\$63,369,386.85	

Town of Los Gatos

Insight ESG Ratings as of August 31, 2023

Security Description	Maturity Date	Par/Shares	Moody Rating	S&P Rating	Insight ESG Rating	Environment	Social	Governance
AMERICAN HONDA FINANCE 3.625% 10OCT2023	10/10/2023	\$ 950,000	A3	A-	2	1	3	3
JPMORGAN CHASE & CO 3.875% 01FEB2024	2/1/2024	\$ 1,400,000	A1	A-	3	1	3	4
US BANCORP 3.375% 05FEB2024 (CALLABLE 05JAN24)	2/5/2024	\$ 1,000,000	A3	A	3	3	4	3
IBM CORP 3.0% 15MAY2024	5/15/2024	\$ 1,000,000	A3	A-	2	1	2	3
CATERPILLAR FIN SERVICES 2.85% 17MAY24	5/17/2024	\$ 1,000,000	A2	A	4	4	3	4
AMERICAN HONDA FINANCE 2.4% 27JUN2024	6/27/2024	\$ 1,000,000	A3	A-	2	1	3	3
HONEYWELL INTERNATIONAL 2.3% 15AUG2024 (CALLABLE 15JUL24)	8/15/2024	\$ 1,000,000	A2	A	4	3	4	3
HOME DEPOT INC. 3% 01APR2026 (CALLABLE 01JAN2026)	4/1/2026	\$ 1,000,000	A2	A	2	2	2	2
JPMORGAN CHASE & CO 3.2 15JUN2026 (CALLABLE 15MAR2026)	6/15/2026	\$ 500,000	A1	A-	3	1	3	4
APPLE INC. 2.9% 12SEP2027 (CALLABLE 12JUN2027)	9/12/2027	\$ 1,300,000	Aaa	AA+	5	1	4	5
TOYOTA MOTOR CREDIT CORP 5.45% 10NOV2027	11/10/2027	\$ 1,600,000	A1	A+	3	2	3	4
AMERICAN HONDA FINANCE 4.7% 12JAN2028	1/12/2028	\$ 600,000	A3	A-	2	1	3	3
PNC BANK NA 3.25% 22JAN2028 (CALLABLE 01 FEB28)	1/22/2028	\$ 1,000,000	A2	A	3	2	3	3
COLGATE-PALMOLIVE CO 4.6% 01MAR2028 (CALLABLE 01FEB28)	3/1/2028	\$ 500,000	Aa3	AA-	3	2	2	3
Total/Average		\$ 13,850,000			2.9	1.8	3.0	3.4

*ESG ratings are from 1 to 5, with 1 as the highest rating and 5 as the lowest. All ratings are weighted by industry rankings, based on the importance of the category within the individual industry.

Fund Schedule

Fund Number	Fund Description	Prior Year Carryforward 7/1/2023*	Increase/ (Decrease) July	Aug 2023				Estimated Fund Balance 8/31/2023**
				Current Revenue	Current Expenditure	Transfer In	Transfer Out	
111	GENERAL FUND							
	Non-Spendable:							
	Loans Receivable	159,000	-	-	-	-	-	159,000
	Restricted Fund Balances:							
	Pension	690,000	-	-	-	-	-	690,000
	Committed Fund Balances:							
	Budget Stabilization	5,991,566	-	-	-	-	-	5,991,566
	Catastrphic	5,991,566	-	-	-	-	-	5,991,566
	Pension/OPEB	300,000	-	-	-	-	-	300,000
	Assigned Fund Balances:							
	Open Space	410,000	-	-	-	-	-	410,000
	Sustainability	140,553	-	-	-	-	-	140,553
	Capital/Special Projects	11,002,352	-	-	-	-	-	11,002,352
	Carryover Encumbrances	33,145	-	-	-	-	-	33,145
	Compensated Absences	1,519,147	-	-	-	-	-	1,519,147
	Measure G District Sales Tax	590,581	-	-	-	-	-	590,581
	Unassigned Fund Balances:							
	Other Unassigned Fund Balance Reserve (Pre YE distribution)	6,823,541	(2,740,635)	2,068,160	(3,178,832)	114,499	-	3,086,733
	General Fund Total	33,651,451	(2,740,635)	2,068,160	(3,178,832)	114,499	-	29,914,643

* Interfund transfers and ARPA funding allocation to be performed as part of the fiscal year end closing entries.

** Interfund transfers to be performed as part of the fiscal year end closing entries.

Fund Schedule

Fund Number	Fund Description	Prior Year Carryforward 7/1/2023*	Increase/ (Decrease) July	Aug 2023				Estimated Fund Balance 8/31/2023**
				Current Revenue	Current Expenditure	Transfer In	Transfer Out	
	SPECIAL REVENUE							
211/212	CDBG	166,653	-	-	-	-	-	166,653
222	Urban Runoff (NPDES)	640,562	(11,685)	29,996	(16,466)	-	-	642,407
231-236	Landscape & Lighting Districts	178,826	-	-	(2,520)	-	-	176,306
241	ARPA	3,614,872	-	-	-	-	-	3,614,872
251	Los Gatos Theatre	24,704	5,514	5,514	(186)	-	-	35,546
711-716	Library Trusts	530,220	(2,681)	500	(10,744)	-	-	517,295
	Special Revenue Total	5,155,837	(8,852)	36,010	(29,916)	-	-	5,153,079
	CAPITAL PROJECTS							
411	GFAR - General Fund Appropriated Reserve	14,441,953	6,000	96,100	(264)	-	(102,000)	14,441,789
421	Grant Funded Projects	(485,610)	19,122	451,925	-	-	-	(14,563)
461-463	Storm Basin Projects	3,162,560	-	10,631	-	-	-	3,173,191
471	Traffic Mitigation Projects	415,570	-	60,476	(47,977)	-	(12,499)	415,570
472	Utility Undergrounding Projects	3,379,836	-	-	-	-	-	3,379,836
481	Gas Tax Projects	1,756,762	(64,037)	232,171	-	-	-	1,924,896
	Capital Projects Total	22,671,071	(38,915)	851,303	(48,241)	-	(114,499)	23,320,719
	INTERNAL SERVICE FUNDS							
611	Town General Liability	248,957	5,000	-	(997,484)	-	-	(743,527)
612	Workers Compensation	873,703	76,414	-	(395,960)	-	-	554,157
621	Information Technology	3,076,585	(315,320)	5,310	(77,356)	-	-	2,689,219
631	Vehicle & Equipment Replacement	2,458,150	10,713	16,725	-	-	-	2,485,588
633	Facility Maintenance	725,773	(5,828)	8,867	(64,770)	-	-	664,042
	Internal Service Funds Total	7,383,168	(229,021)	30,902	(1,535,570)	-	-	5,649,479
	Trust/Agency							
942	RDA Successor Agency	(6,087,051)	(1,669,989)	-	(1,887)	-	-	(7,758,927)
	Trust/Agency Fund Total	(6,087,051)	(1,669,989)	-	(1,887)	-	-	(7,758,927)
	Total Town	62,774,477		2,986,375	(4,794,446)	114,499	(114,499)	56,278,993

* Interfund transfers and ARPA funding allocation to be performed as part of the fiscal year end closing entries.

** Interfund transfers to be performed as part of the fiscal year end closing entries.

Deposit Accounts of Interest:

111-23541 General Plan Update deposit account balance \$1,026,671.96

111-23521 BMP Housing deposit account balance \$3,847,171.82



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 5

DATE: October 2, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Rescind Resolution 2021-006 and Adopt a Revised Enabling Resolution for the Policy Committee

RECOMMENDATION:

Rescind Resolution 2021-006 and adopt a revised Enabling Resolution for the Policy Committee (Attachment 2).

BACKGROUND:

At its February 23, 2021 meeting, the Policy Committee reviewed the Committee's purpose, focus, and process. At that time, staff researched the history of the Policy Committee and was not able to locate an enabling resolution but was able to locate agendas beginning in April 2003. The Policy Committee asked staff to prepare a draft enabling resolution acknowledging the Committee's existence and keeping its objectives flexible, depending on the Town Council's priorities and the Committee's annual work plan.

At its March 23, 2021 meeting, the Policy Committee reviewed the draft Enabling Resolution and after public testimony and Committee discussion, the Committee unanimously agreed to forward a recommendation to the Town Council to approve the draft enabling resolution with minor modifications.

At its April 6, 2021 meeting, the Town Council adopted the proposed Policy Committee enabling resolution as recommended by the Policy Committee with a language change to clarify the Committee as an advisory, recommending body to the Town Council. The adopted enabling resolution is Attachment 1 to this report.

PREPARED BY: Holly Young
Senior Management Analyst

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION:

At its January 23, 2023 meeting, the Policy Committee requested that a reexamination of the Policy Committee enabling resolution be added to its work plan for 2023.

At its August 22, 2023 meeting, after discussion, the Policy Committee unanimously agreed to forward a recommendation to the Town Council to approve modifications to the third paragraph of the Enabling Resolution as follows (deletions are shown in ~~striketrough text~~ and additions are shown in *red italicized* text):

WHEREAS, the ~~duties of the Committee shall be~~ *is available* to report to, consult with, and provide recommendations to the Town Council on ~~all~~ matters relating to Council Policies, ~~Town Code~~, and other policy documents of the Town, *excluding land use policies that are considered by the Planning Commission*. The Committee shall forward recommendations to the full Council for discussion and final action, and as appropriate refer items to the appropriate Town Board, Committee, or Commission.

A clean copy of the proposed Enabling Resolution, including the changes recommended by the Policy Committee, is Attachment 2 to this report.

CONCLUSION:

Staff recommends that the Town Council rescind Resolution 2021-006 and adopt a revised Enabling Resolution for the Policy Committee (Attachment 2), as recommended by the Policy Committee.

COORDINATION:

This report was coordinated with the Town Manager's Office, Town Clerk, and Town Attorney.

FISCAL IMPACT:

There is no associated fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Existing Policy Committee Enabling Resolution
2. Proposed Policy Committee Enabling Resolution

RESOLUTION 2021-006

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ESTABLISHING THE TOWN COUNCIL POLICY COMMITTEE

WHEREAS, the Town Council of the Town of Los Gatos, does hereby formally establish the Town Council Policy Committee.

WHEREAS, the purpose of the Council Policy Committee shall be to identify areas, issues, concerns where Council and Town policy needs to be communicated/documented, clarified, or developed to enhance the effectiveness of the Council and/or the Town administration in conducting Town business in their own respective roles; and to continually review policies, providing recommendations to the Town Council to amend them when necessary, and rescind them when appropriate. The Committee's objectives shall be flexible, depending on the Town's priorities and the Committee's annual work plan.

WHEREAS, the duties of the Committee shall be to report to, consult with, and provide recommendations to the Town Council on all matters relating to Council Policies, Town Code, and other policy documents of the Town. The Committee shall forward recommendations to the full Council for discussion and final action, and as appropriate refer items to the appropriate Town Board, Committee, or Commission.

WHEREAS, the Committee shall be advisory to the Town Council and shall operate in the manner hereinafter prescribed.

- A. The Town Council Policy Committee shall consist of two (2) Town Council Members appointed annually by the Mayor.
- B. The Committee shall appoint a Chair and Vice Chair.
- C. The Committee shall establish a regular time and location for its meetings and shall conduct its meetings in compliance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950).
- D. Minutes of the actions taken during the Committee's meetings shall be kept and shall be a public record.

WHEREAS, nothing in this resolution shall be construed as restricting or curtailing any of the powers of the Town Council, or as a delegation to the Committee of any of the authority or discretionary powers vested and imposed by law in such bodies.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council Policy Committee is hereby established as an advisory committee to the Los Gatos Town Council.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of April 2021 by the following vote:

COUNCIL MEMBERS:

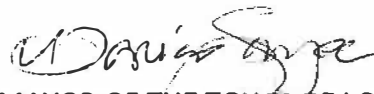
AYES: Rob Rennie, Maria Ristow, Mayor Marico Sayoc

NAYS: Mary Badame, Matthew Hudes

ABSENT: None

ABSTAIN: None

SIGNED:



**MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: 04/12/2021

ATTEST:



**TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA**

DATE: 4/15/2021

DRAFT RESOLUTION 2023 -

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ESTABLISHING THE TOWN COUNCIL POLICY COMMITTEE

WHEREAS, the Town Council of the Town of Los Gatos formally established the Town Council Policy Committee on April 6, 2021 through Resolution 2021-006.

WHEREAS, the Town Council of the Town of Los Gatos rescinds Resolution 2021-006 to adopt this revised enabling resolution for the Town Council Policy Committee.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby rescinds Resolution 2021-006 and re-establishes the Town Council Policy Committee as an advisory committee to the Los Gatos Town Council as outlined below:

1. The purpose of the Council Policy Committee shall be to identify areas, issues, concerns where Council and Town policy needs to be communicated/documented, clarified, or developed to enhance the effectiveness of the Council and/or the Town administration in conducting Town business in their own respective roles; and to continually review policies, providing recommendations to the Town Council to amend them when necessary, and rescind them when appropriate. The Committee's objectives shall be flexible, depending on the Town's priorities and the Committee's annual work plan.
2. The Committee is available to report to, consult with, and provide recommendations to the Town Council on matters relating to Council Policies and other policy documents of the Town, excluding land use policies that are considered by the Planning Commission. The Committee shall forward recommendations to the full Council for discussion and final action, and as appropriate refer items to the appropriate Town Board, Committee, or Commission.
3. The Committee shall be advisory to the Town Council and shall operate in the manner hereinafter prescribed.
 - a. The Town Council Policy Committee shall consist of two (2) Town Council Members appointed annually by the Mayor.
 - b. The Committee shall appoint a Chair and Vice Chair.
 - c. The Committee shall establish a regular time and location for its meetings and shall conduct its meetings in compliance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950).
 - d. Minutes of the actions taken during the Committee's meetings shall be kept and shall be a public record.
4. Nothing in this resolution shall be construed as restricting or curtailing any of the powers of the Town Council, or as a delegation to the Committee of any of the authority or discretionary powers vested and imposed by law in such bodies.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of October 2023 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 6

DATE: October 5, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Fourth Amendment to a Special Services Agreement with Liebert Cassidy Whitmore (LCW) to Increase Compensation in the Amount of \$150,000 for a Total Contract Amount Not to Exceed \$430,000; and Authorize an Expenditure Budget Adjustment in the Amount of \$117,283 from the Available General Fund Capital/Special Projects Reserve

RECOMMENDATION:

Authorize the Town Manager to execute a fourth amendment (Attachment 1) to a special services agreement with Liebert Cassidy Whitmore (LCW) to increase compensation in the amount of \$150,000 for a total contract amount not to exceed \$430,000; and authorize an expenditure budget adjustment in the amount of \$117,283 from the available General Fund Capital/Special Projects Reserve.

BACKGROUND:

In 2018, Liebert Cassidy Whitmore (LCW) was selected as a sole source provider for labor and employment relations services, and services were continued in 2020 as the result of a competitive interview process. LCW provides valuable negotiations and employee relations legal guidance and has established a good rapport with the Town's bargaining units.

On May 17, 2022, the Town Council authorized the Town Manager to execute a First Amendment (Attachment 2) to the Special Services Agreement with LCW to extend the term through June 30, 2024 and to increase compensation in the amount of \$15,000 for a total contract amount not to exceed \$180,000.

PREPARED BY: Katy Nomura
Assistant Town Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

On September 20, 2022, the Town Council authorized the Town Manager to execute a Second Amendment (Attachment 3) to the Special Services Agreement with LCW to increase compensation in the amount of \$50,000 for a total contract amount not to exceed \$230,000.

On September 19, the Town Council authorized the Town Manager to execute a Third Amendment (Attachment 4) to the Special Services Agreement with LCW to increase compensation in the amount of \$50,000 for a total contract amount not to exceed \$280,000.

DISCUSSION:

As mentioned in the staff report for the third amendment, cost estimates for LCW's support for the upcoming labor negotiations were still being developed at that time and a fourth amendment would return to the Town Council for consideration. LCW estimates that \$150,000 will be needed to provide legal services related to labor negotiations and employment relations matters for the remainder of the fiscal year. The Town will be negotiating with each of the three bargaining units: the Town Employees' Association (TEA), the American Federation of State, County and Municipal Employees (AFSCME), and the Police Officers' Association (POA). It is critical to have continuity of labor representation during negotiations.

CONCLUSION:

LCW has been highly effective in assisting the Town with labor negotiations and employment relations support.

Staff recommends that the Town Council authorize the Town Manager to execute a fourth amendment to the special services agreement with LCW to increase compensation in the amount of \$150,000 for a total contract amount not to exceed \$430,000 to continue providing employment relations support through June 30, 2024 (Attachment 1).

FISCAL IMPACT:

The existing agreement is for \$280,000. With this agenda item, there would be a total net increase of \$150,000 for a total contract amount not to exceed \$430,000. While \$32,717 of this increase has already been included in the existing Human Resources Department budget, an expenditure budget adjustment in the amount of \$117,283 from the General Fund Capital/Special Projects Reserve is necessary to cover the remaining amount.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

PAGE 3 OF 3

SUBJECT: Fourth Amendment to Agreement with Liebert Cassidy Whitmore (LCW)

DATE: October 5, 2023

Attachments:

1. Fourth Amendment
2. First Amendment with Original Agreement
3. Second Amendment
4. Third Amendment

FOURTH AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

THIS FOURTH AMENDMENT TO AGREEMENT is entered into this ____ day of October, 2023, by and between the Town of Los Gatos, State of California, herein called the "Town," and Liebert Cassidy Whitmore, a Professional Corporation ("Attorney"), herein called the "Attorney."

RECITALS

- A. Town and Attorney entered into a Special Services Agreement from February 1, 2020, through February 1, 2022 ("Agreement").
- B. Town and Attorney entered into a First Amendment to Agreement on May 17, 2022.
- C. Town and Attorney entered into a Second Amendment to Agreement on September 12, 2022.
- D. Town and Attorney entered into a Third Amendment to Agreement on September 19, 2023.

AMENDMENT

- 1. Total compensation by the Town for the Attorney's services shall increase by an additional \$150,000, not to exceed \$430,000 over the course of the agreement.
- 2. All other terms and conditions of the Agreement dated February 1, 2020, the First Amendment dated May 17, 2022, Second Amendment dated September 12, 2022, and Third Amendment dated September 19, 2023 remain in full force and effect.

IN WITNESS WHEREOF, the Town and Attorney have executed the Fourth Amendment to Agreement as of the date indicated above.

Town of Los Gatos:

Attorney:

By: _____
Laurel Prevetti
Town Manager

By: _____
J. Scott Tiedemann, Managing Partner
Liebert Cassidy Whitmore

Department Approval:

Katy Nomura
Assistant Town Manager

Approved as to Form:

Gabrielle Whelan
Town Attorney

Attest:

Wendy Wood
Town Clerk

FIRST AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

THIS FIRST AMENDMENT TO AGREEMENT is entered into this 17th day of May, 2022, by and between the Town of Los Gatos, State of California, herein called the "Town," and Liebert Cassidy Whitmore, a Professional Corporation ("Attorney"), herein called the "Attorney."

RECITALS

- A. Town and Attorney entered into a Special Services Agreement from February 1, 2020, through February 1, 2022 ("Agreement") (see Attachment 2).

AMENDMENT

1. The Town desires to extend the Agreement from February 2, 2022, through June 30, 2024.
2. Total compensation by the Town for the Attorney's services shall increase by an additional \$15,000, not to exceed \$180,000.
3. Compensation is based on an updated rate schedule (see Attachment 1).
4. All other terms and conditions of the Agreement dated February 1, 2020, remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed the First Amendment to Agreement as of the date indicated above.

Town of Los Gatos:

DocuSigned by:
By: Laurel Prevetti 7/11/2022
553FEEA2EB39470...
Laurel Prevetti
Town Manager

Attorney:

DocuSigned by:
By: J. Scott Tiedemann
37600E2D33DE44B...
J. Scott Tiedemann, Managing Partner
Liebert Cassidy Whitmore

Department Approval:

DocuSigned by:
Salina Flores
981F8405FCCA4DC...
Salina Flores
Human Resources Director

Approved as to Form:

DocuSigned by:
Gabrielle Whelan
EFD8738A5534428...
Gabrielle Whelan
Town Attorney

Attest:

DocuSigned by:
Shelley Neis 7/11/2022
B966BF65B1F34F6...
Shelley Neis, MMC, CPMC
Town Clerk

LIEBERT CASSIDY WHITMORE

FEE SCHEDULE

Partners	\$415.00
Senior Counsel	\$345.00
Associates	\$230.00 - \$325.00
Labor Relations/Human Resources Consultant	\$260.00
Paralegals	\$145.00
E-Discovery Specialists	\$145.00
Law Clerks	\$145.00 - \$185.00

AGR 20.026

IHH _____

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation ("Attorney"), and the TOWN OF LOS GATOS, A Municipal Corporation ("Town").

1. Conditions

This Agreement will not take effect, and Attorney will have no obligation to provide services, until Town returns a properly signed and executed copy of this Agreement.

2. Attorney's Services

Attorney agrees to provide Town with consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by Town or otherwise required by law.

3. Fees, Costs, Expenses

Town agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including reasonable travel time.

The current range of hourly rates for Attorney time is from Two Hundred Ten to Three Hundred Eighty Dollars (\$210.00 - \$380.00). See Schedule I for a full Fee Schedule. Attorney reviews its hourly rates on an annual basis and, if appropriate, adjusts them effective July 1. Attorney will provide the Town with written notification of any adjustment in the range of rates. Attorney bills its time in minimum units of one-tenth of an hour.

Total compensation for the duration of this agreement is not to exceed \$165,000. CRF

For Litigation Matters

See Schedule II attached for a description of Attorney's Litigation and E-Discovery Management.

Other Expenses

Town agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of Town. Attorney bills photocopying charges at Fifteen Cents (\$0.15) per page. See Schedule I attached.

Payment by Town against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

4. Professional Liability Insurance

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

5. Arbitration of Professional Liability or Other Claims

Disputes. If a dispute between Town and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between Town and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

6. File Retention

After our services conclude, Attorney will, upon Town's request, deliver the file for the matter to Town, along with any funds or property of Town's in our possession. If Town requests the file for the matter, Attorney will retain a copy of the file at the Town's expense. If Town does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If Town does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to Town. At any point during the seven (7) year period, Town may request delivery of the file.

7. **Assignment**

This Agreement is not assignable without the written consent of Town.

8. **Independent Contractor**

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of Town.

9. **Authority**

The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

10. **Term**

This Agreement is effective February 1, 2020, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

through February 1, 2022
LCP

LIEBERT CASSIDY WHITMORE,
A Professional Corporation

TOWN OF LOS GATOS,
A Municipal Corporation

By: 

By: 

Name: J. Scott Tiedemann

Name: Laurel Prevetti

Title: Managing Partner

Title: Town Manager

Date: 2/10/2020

Date: 2-20-2020

SCHEDULE I – FEES & COSTS

1. Hourly Rates (As of Agreement Effective Date)

Partners	\$380.00
Senior Counsel	\$325.00
Associates	\$210.00 - \$305.00
Labor Relations/HR Consultant	\$240.00
Paralegals	\$135.00
E- Discovery Specialists	\$135.00
Law Clerks	\$135.00 - \$175.00

2. COSTS

1. Photocopies	\$0.15 per copy
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SCHEDULE II

LCW LITIGATION and E-DISCOVERY MANAGEMENT

LCW is committed to using state-of-the-art technology to efficiently manage and harness electronically-stored information ("ESI") in compliance with Federal and State law requirements. LCW partners with an outside managed services provider to provide Relativity, the industry leading e-discovery software, for this purpose. The cost for each matter will depend on the volume and format of the data. For non-complex data up to 50 gigabytes, LCW charges a monthly fee of \$375 on all active litigation matters for data management, including data validation and security, ingestion, de-duplication, culling and streamlining, and creation of Relativity fields for expedited review. For data of 50 gigabytes and over and for complex data requiring specialized services (e.g., payroll data, spreadsheets with underlying formulas, video, advanced searches, etc.), additional charges are incurred and are passed through to the client. For such charges, we will provide an itemized bill from our managed services provider and obtain client approval prior to incurring the charges.

Litigation Case Staffing

LCW has organized its litigation practice to meet the challenges of today's complex litigation cases. We employ a dedicated Litigation Manager – a non-billing attorney litigator – whose responsibility is to monitor all litigation cases to ensure quality, efficiency, and adherence to client and firm litigation guidelines. Each litigation case is staffed with a Partner, an Associate (or Associates, as required and as approved by the Client), a Paralegal and an E-Discovery Specialist. Our E-Discovery Specialists have extensive experience in the efficient management of electronic data through every stage of the e-discovery life cycle, and they strategize with attorneys and clients on effective ESI protocols. This makes the document review process more efficient and enables our attorneys to target the most relevant data to meet litigation objectives. Working with our e-discovery managed services provider, we are able to provide state-of-the-art data processing and hosting services at below-market rates.

SECOND AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

THIS SECOND AMENDMENT TO AGREEMENT is entered into this 12th day of September, 2022, by and between the Town of Los Gatos, State of California, herein called the "Town," and Liebert Cassidy Whitmore, a Professional Corporation ("Attorney"), herein called the "Attorney."

RECITALS

- A. Town and Attorney entered into a Special Services Agreement from February 1, 2020, through February 1, 2022 ("Agreement").
- B. Town and Attorney entered into a First Amendment to Agreement on May 17, 2022.

AMENDMENT

1. Total compensation by the Town for the Attorney's services shall increase by an additional \$50,000, not to exceed \$230,000 over the course of the agreement.
2. All other terms and conditions of the Agreement dated February 1, 2020, remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed the Second Amendment to Agreement as of the date indicated above.

Town of Los Gatos:

DocuSigned by:
By: Laurel Prevetti
853FEEA2EB39470...
Laurel Prevetti
Town Manager

Attorney:

DocuSigned by:
By: J. Scott Tiedemann
37600E2D33DE44B...
J. Scott Tiedemann, Managing Partner
Liebert Cassidy Whitmore

Department Approval:

DocuSigned by:
Salina Flores
981F8405FCCA4DC...
Salina Flores
Human Resources Director

Approved as to Form:

DocuSigned by:
Gabrielle Whelan
EFD6738A9534A28...
Gabrielle Whelan
Town Attorney

Attest:

DocuSigned by:
Wendy Wood
BF6EBCBE2C214F8...
Wendy Wood
Town Clerk

THIRD AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

THIS THIRD AMENDMENT TO AGREEMENT is entered into this 19th day of September, 2023, by and between the Town of Los Gatos, State of California, herein called the "Town," and Liebert Cassidy Whitmore, a Professional Corporation ("Attorney"), herein called the "Attorney."

RECITALS

- A. Town and Attorney entered into a Special Services Agreement from February 1, 2020, through February 1, 2022 ("Agreement").
- B. Town and Attorney entered into a First Amendment to Agreement on May 17, 2022.
- C. Town and Attorney entered into a Second Amendment to Agreement on September 12, 2022.

AMENDMENT

- 1. Total compensation by the Town for the Attorney's services shall increase by an additional \$50,000, not to exceed \$280,000 over the course of the agreement.
- 2. All other terms and conditions of the Agreement dated February 1, 2020, the First Amendment dated May 17, 2022, and Second Amendment dated September 12, 2022, remain in full force and effect.

IN WITNESS WHEREOF, the Town and Attorney have executed the Third Amendment to Agreement as of the date indicated above.

Town of Los Gatos:

DocuSigned by:
By: Laurel Prevetti
833FEEA2EB39470...
Laurel Prevetti
Town Manager

Attorney:

DocuSigned by:
By: J. Scott Tiedemann
37600E2D33DE44B...
J. Scott Tiedemann, Managing Partner
Liebert Cassidy Whitmore

Department Approval:

DocuSigned by:
Katy Nomura
3BC2441CEBC343B...
Katy Nomura
Assistant Town Manager

Approved as to Form:

DocuSigned by:
Gabrielle Whelan
EFD6738A5334428...
Gabrielle Whelan
Town Attorney

Attest:

DocuSigned by:
Wendy Wood
BF6EBCBE2C214F6...
Wendy Wood
Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 7

DATE: October 5, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize Revenue and Expenditure Budget Adjustments in the Total Amount of \$40,000 to Recognize Receipt and Expenditure of the California Automated Permit Processing (CalAPP) Grant Administered by the California Energy Commission.

RECOMMENDATION:

Authorize revenue and expenditure budget adjustments in the total amount of \$40,000 to recognize receipt and expenditure of the California Automated Permit Processing (CalAPP) Grant administered by the California Energy Commission.

REMARKS:

SB 379 was passed in 2022, requiring local jurisdictions to adopt an online permitting platform that can verify code compliance and issue permits in real time for residential solar energy systems. Compliance with this law is required by September 30, 2024, for jurisdictions with a population under 50,000.

To help offset costs, the California Energy Commission (CEC) established the California Automated Permit Processing (CalAPP) grant program wherein a jurisdiction could qualify for up to \$40,000 reimbursement for subscription costs, training, and necessary staff time to adopt an online permitting system such as SolarApp+. Staff applied for the grant and were successfully awarded the full reimbursable amount of \$40,000. Staff has begun working with our IT consultant Tru-Point Solutions, to integrate the SolarApp+ software into our current permitting platform and expect it to be operational before the end of this calendar year.

PREPARED BY: Robert Gray
Chief Building Official

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and
Community Development Director

PAGE 2 OF 2

SUBJECT: California Automated Permitting Processing (CalAPP) Grant

DATE: October 5, 2023

FISCAL IMPACT:

With Council approval to receive the CalAPP grant funds, a budget adjustment is needed to the General Fund. The budget adjustment recognizes an increase in expenditures in the amount up to \$40,000 that would be offset by grant revenue of an equal amount. The grant will be recorded to Fiscal Year 2023/24.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. CEC Grant Agreement

GRANT AGREEMENT

CEC-146 (Revised 3/2019)

CALIFORNIA ENERGY COMMISSION



RECIPIENT Town of Los Gatos	AGREEMENT NUMBER APP-22-298
ADDRESS 110 E. Main Street Los Gatos CA, 95030	AGREEMENT TERM 04/17/2023 to 05/31/2027 The effective date of this Agreement is either the start date or the approval signature date by the California Energy Commission representative below, whichever is later. The California Energy Commission shall be the last party to sign. No work is authorized, nor shall any work begin, until on or after the effective date.

PROJECT DESCRIPTION

The parties agree to comply with the terms and conditions of the following Exhibits which are by this reference made a part of the agreement.

Exhibit A – Application with Scope of Work
Exhibit B – APP General Terms and Conditions
Exhibit C – Contact List

Page(s): 4

Page(s): 5

Page(s): 1

REIMBURSABLE AMOUNT \$ 40,000
MINIMUM MATCH SHARE REQUIRED \$ 0
TOTAL OF REIMBURSABLE AMOUNT AND MINIMUM MATCH \$ 40,000

The undersigned parties have read the attachments to this agreement and will comply with the standards and requirements contained therein.

CALIFORNIA ENERGY COMMISSION		CONTRACTOR	
AUTHORIZED SIGNATURE	DATE	AUTHORIZED SIGNATURE	DATE
		 853FEEA2EB30470	6/27/2023
NAME Adrienne Winuk		NAME Laurel Prevetti	
TITLE Contracts, Grants, and Loans Office Manager		TITLE Town Manager	
CALIFORNIA ENERGY COMMISSION ADDRESS 715 P Street, MS 18, Sacramento, CA 95814			

ATTACHMENT 01
Grant Application Form – EXHIBIT A

California Automated Permit Processing (CalAPP) Program

1. APPLICANT INFORMATION (REQUIRED)

Jurisdiction Name (please use full legal name as it would appear on the executed grant):

Town of Los Gatos

Jurisdiction Type (select one):



City



County



City and County

Current Estimated Population [State of California Department of Finance Demographics](https://dof.ca.gov/forecasting/Demographics/)
 (https://dof.ca.gov/forecasting/Demographics/):



Less than 50,000



From 100,000 to 200,000



From 50,000 to 99,999



Greater than 200,000

Project Manager (serves as point of contact for all communications)	Name	Robert Gray
	Street Address	110 E. Main Street
	City and Zip Code	Los Gatos, CA 95030
	Phone Number	(408) 354-6815
	E-Mail Address	RGray@LosGatosCA.gov

2. FUNDING (REQUIRED)

Assigned Maximum Grant Amount (select ***one***)



Group 1 (\$40,000): Population less than 50,000



Group 2 (\$60,000): Population from 50,000 to 99,999



Group 3 (\$80,000): Population from 100,000 to 200,000



Group 4 (\$100,000): Population greater than 200,000

3. PROJECT INFORMATION (REQUIRED)**A. Online, automated solar permitting platform to be adopted:**☒ SolarAPP+☐ Other. If selected, complete Section 4 ("Additional Information")**B. Please select allowable budget item(s) anticipated to be used (Select at least one):**☒ Ongoing in-house staff labor costs associated directly with adoption and maintenance of the platform☐ Ongoing third-party or consultant time associated directly with adoption and maintenance of the platform☒ Ongoing staff training and education, specific to the platform☒ Ongoing training events for local installers, specific to the platform☒ Essential hardware or equipment necessary to support adoption of the platform☒ Maintenance, such as adding support for energy storage paired with solar energy system permitting, and subscription cost for permit tracking software in support of adopted permitting platform**C. Estimated Project Timeline***

*Enter actual dates if activities already began

Activity	Date (Month/Year)
Begin Development/Pilot	06/2023
Full Adoption	09/2023
Staff Training	09/2023
Training for Local Installers	09/2023

4. ADDITIONAL INFORMATION (if applicable)

NOTE: Only complete this section if you implement a platform other than SolarAPP+

Please identify whether the following features are supported by the implemented platform. All features are required for the platform to qualify for funding. CEC staff will verify prior to payment approval.

Performs an automated plan review for residential solar energy systems that completes automatic code compliance checks based on user inputs (such as a contractor), thereby enabling or otherwise issuing permits instantly when the project is confirmed as code compliant, without the need for human review	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Supports online, immediate fee payment once an application is complete, which may include auto-invoicing of permit fee costs	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Supports immediate generation of a permit job card following payment confirmation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Blocks noncompliant applications from receiving a permit	<input type="checkbox"/> Yes	<input type="checkbox"/> No
EITHER: 1) Stand-alone permitting tool; OR 2) Integrates with current software and inspection platform already in use	<input type="checkbox"/> Yes	<input type="checkbox"/> No

5. REPORTING (REQUIRED)

<p>Following adoption and verification of a qualifying platform, the Energy Commission may request, and the Recipient will provide if requested, annual data on the number of permits issued for solar energy systems and a solar energy system paired with an energy storage system including relevant characteristics of those systems, such as system capacity.</p> <p>Please indicate your acceptance of these terms.</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------	-----------------------------

6. CERTIFICATION (REQUIRED)

- I am authorized to complete and sign this form on behalf of the applicant.
- I authorize the California Energy Commission to make any inquiries necessary to verify the information presented in this application.
- I have read and understand the terms and conditions contained in this solicitation. I accept the terms and conditions contained in this solicitation on behalf of the applicant, and the applicant is willing to enter into an agreement with the Energy Commission to conduct the proposed project according to the terms and conditions without negotiation.
- I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Name of Authorized Representative:	Laurel Prevetti
Title:	Town Manager
Phone Number:	(408) 354-6832
E-mail Address:	Manager@LosGatosCA.gov
Date:	04/18/2023
Signature of Authorized Representative:	

NOTE: Do not overlap signature with surrounding border lines.

California Automated Permit Processing (CalAPP) Program ATTACHMENT 2 – Terms and Conditions

Added language appears in **bold underlined** font and deleted language appears in strikethrough and within square brackets.

1. Background and Authority for this Grant

California Senate Bill 129 (2021) included an appropriation to the California Energy Commission (CEC) to support a grant program for cities, counties, or cities and counties to establish online solar permitting.

2. Documents Incorporated by Reference and Priority

Incorporated by reference into this agreement are the following documents:

- A. Grant Funding Opportunity (GFO) 21-402.
- B. Recipient's application to CalAPP.

As between and the incorporated documents and the remainder of this Agreement, the rest of this Agreement takes priority in case of a conflict.

3. Budget, Invoices, and Payments

- a) The CEC is only obligated to reimburse the Recipient for paid costs that are (1) incurred during the Agreement Term; (2) invoiced within the required timeframes of this Agreement; (3) not more than this Agreement's budget; and (4) reasonable, actual, and allowable expenses under this Agreement.
- b) Recipient acknowledges that the funds under this Agreement have a liquidation date of June 30, 2027, a legal timeframe after which the CEC has no authority to pay the funds. In addition, it takes the CEC administrative time to review, approve, work with the Recipient to correct any errors in, and request the State Controller's Office to pay invoices. Accordingly, Recipient acknowledges that if it does not submit accurate invoices by March 30, 2027, for all amounts due under the Agreement, it risks not receiving payment, and relinquishes all rights to such payments should the CEC not pay it by the liquidation date. Recipient acknowledges that time is of the essence in invoicing by March 30, 2027, for all amounts due under this Agreement.

The Recipient may request payment from the Energy Commission at any time during the term of this Agreement after successful adoption of a qualifying solar permitting platform as verified by the CEC, but no more frequently than monthly. Recipient must use the CAM provided template invoice spreadsheet.

- c) If invoicing for in-house staff time, the template invoice spreadsheet must identify the employee's name, hours worked, and billing rate to be included as a reimbursable expense. ✓
- d) Unallowable costs include:
 - Software not related to the adoption of a qualifying online, automated permitting platform.

- Any costs incurred or activities conducted prior to entering into a grant agreement with the Energy Commission or incurred after the grant agreement has ended.
- Typically excluded items such as food and beverages.
- Advertising costs.
- Fines and penalties.
- Permit processing fees charged by operator of an online platform.
- All other costs not identified as allowable.
- Unreasonable amounts or rates.

4. Certification

By signing this Agreement, Recipient hereby certifies that all funds received pursuant to this Agreement shall be spent exclusively for its CalAPP project in compliance with this Agreement. The Recipient further certifies that it shall comply with all applicable laws in performing this Agreement.

5. Nondiscrimination Statement of Compliance

During the performance of this Agreement, the Recipient and its subcontractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, or denial of family care leave. The Recipient and its subcontractors will ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

The Recipient and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full. The Recipient and its subcontractors will give written notice of their obligations under this section to labor organizations with which they have a collective bargaining or other Agreement.

The Recipient shall include the nondiscrimination and compliance provisions of this section in all subcontracts to perform work under this Agreement.

6. Drug-Free Workplace Certification

By signing this Agreement, the Recipient certifies under penalty of perjury under the laws of the State of California that it will comply and will ensure its subcontractors will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.). In addition to any other rights and remedies available to the CEC, failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the Recipient may be ineligible for any future state awards if the CEC determines that any of the following

has occurred: (1) the Recipient has made false certification, or (2) violates the certification by failing to carry out the requirements of the Act.

~~[By signing this Agreement, the Recipient certifies under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:~~

- ~~1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations as required by Government Code Section 8355(a).~~
- ~~2) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - ~~• The dangers of drug abuse in the workplace;~~
 - ~~• The person's or organization's policy of maintaining a drug-free workplace;~~
 - ~~• Any available counseling, rehabilitation, and employee assistance programs; and~~
 - ~~• Penalties that may be imposed upon employees for drug abuse violations.~~~~
- ~~3) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed project:
 - ~~• Will receive a copy of the company's drug-free policy statement; and~~
 - ~~• Will agree to abide by the terms of the company's statement as a condition of employment on the project.]~~~~

~~In addition to any other rights and remedies available to the CEC, failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the Recipient may be ineligible for any future state awards if the CEC determines that any of the following has occurred: (1) the Recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.~~

7. Americans With Disabilities Act

By signing this Agreement, the Recipient assures the CEC that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. Section 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

8. Accounting and Audit

The Recipient will keep separate, complete, and correct accounting of the costs involved in completing the Agreement. The Recipient agrees that the CEC, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Recipient agrees to maintain such records for possible audit for a minimum of three (3) years after the Agreement ends in any way. The Recipient agrees to allow the auditor(s) access to such records during normal business hours and to allow

interviews of any employees who might reasonably have information related to such records. Further, the Recipient agrees to include a similar right of the CEC, the Bureau of State Audits, or their designated representative, to audit records and interview staff in any subcontract related to performance of this Agreement. These rights and responsibilities are in addition to and not restrictive of those in Section 16. Access to Sites and Records.

9. Public Works

The Recipient is responsible for complying with all applicable laws, which can include public works requirements under the Labor Code. Recipient acknowledges acceptance of Agreement funds may trigger public works laws (Labor Code Section 1720 et seq.), a requirement of which is to pay prevailing wages, applying to its entire project. If the project is public works then it is subject to compliance monitoring and enforcement by the Department of Industrial Relations. By signing this Agreement, Recipient certifies that it shall comply with all applicable Public Works laws and requirements.

10. Intellectual Property

As between the Recipient and the CEC, the Recipient owns all intellectual property it or its subcontractors create under this Agreement. The CEC has a no-cost, non-exclusive, transferable, irrevocable, royalty-free, worldwide, perpetual license to use, publish, translate, modify, and reproduce all intellectual property, such as the products identified in Section 2. above, for governmental purposes the Recipient or its subcontractors create under this agreement. The Recipient shall include a provision securing these rights for the CEC in all of its subcontractor agreements related to performance of this Agreement.

11. Amendment

No amendment or variation of this Agreement shall be valid unless made in writing and signed by both the Recipient and CEC.

12. Governing Law

This Agreement is governed by the laws of the State of California as to interpretation and performance.

13. Independent Capacity

In the performance of this Agreement, Recipient and its agents, subcontractors, and employees will act in an independent capacity and not as officers, employees, or agents of the CEC or the State of California.

14. Severability

If any provision of this Agreement is unenforceable or held to be unenforceable, all other provisions of this Agreement will remain in full force and effect.

15. Waiver

No waiver of any breach of this Agreement constitutes waiver of any other breach. All remedies in this Agreement will be taken and construed as cumulative, meaning in addition to every other remedy provided in the Agreement or by law.

16. Access to Sites and Records

The Recipient shall provide during the Agreement and for at least 3 years after the Agreement ends in any way to the CEC or its representatives reasonable access to all project sites and to all records related to this Agreement. These rights and responsibilities are in addition to and not restrictive of those in Section 8. Accounting and Audit.

17. Termination Without Cause

The CEC may terminate this Agreement without cause upon giving written notice to the Recipient. In this event, the Recipient will use all reasonable efforts to mitigate its expenses and obligations.

18. Third-Party Beneficiary

The Recipient shall in every subcontract under this Agreement include a provision indicating the CEC is a third-party beneficiary to the agreement.

19. Survival of Terms

The following terms survive this Agreement no matter how the agreement ends, such as by its own terms or via termination:

- 8. Accounting and Audit
- 9. Public Works
- 10. Intellectual Property
- 12. Governing Law
- 14. Severability
- 15. Waiver
- 16. Access to Sites and Records
- 18. Third-Party Beneficiary

Exhibit C CONTACT LIST

California Energy Commission	Recipient
Commission Agreement Manager: Lucio Hernandez California Energy Commission 716 P Street, MS-45 Sacramento, CA 95814 Phone: (916) 477-1799 e-mail: lucio.hernandez@energy.ca.gov	Project Manager: Robert Gray Chief Building Official 110 E. Main Street, Building Dept Los Gatos, CA 95030 Phone: (408) 354-6815 e-mail: rgray@LosGatosCA.gov
Confidential Deliverables/Products California Energy Commission Contracts, Grants, and Loans Officer 715 P Street MS-18 Sacramento, CA 95814	Administrator: Laurel Prevetti Town Manager 110 E. Main Street, Town Mgr Office Los Gatos, CA 95030 Phone: (408) 354-6832 e-mail: manager@LosGatosCA.gov
Invoices, Progress Reports and Non-Confidential Deliverables to: California Energy Commission Accounting Officer 715 P Street MS-2 Sacramento, CA 95814 Email PDF of Payment Request invoice packet to: invoices@energy.ca.gov	Accounting Officer: Tania Maheu Administrative Analyst PO Box 665 Los Gatos, CA 95031 Phone: (408) 384-8754 e-mail: tmaheu@LosGatosca.gov
Legal Notices: Tatyana Yakshina Grants Manager 715 P Street MS-18 Sacramento, CA 95814 Phone: (916) 827-9294 e-mail: tatyana.yakshina@energy.ca.gov	Recipient Legal Notices: Robert Gray Chief Building Official 110 E. Main Street, Building Dept Los Gatos, CA 95030 Phone: (408) 354-6815 e-mail: rgray@LosGatosCA.gov

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 8

DATE: October 03, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with Bay Area Tree Specialists for Tree Removal and Stump Grinding of Eighteen Eucalyptus Trees Located on Overlook Road for a Total Agreement Amount not to Exceed \$186,300

RECOMMENDATION:

Authorize the Town Manager to execute an Agreement for Services with Bay Area Tree Specialists for tree removal and stump grinding of eighteen Eucalyptus trees located on Overlook Road for a total agreement amount not to exceed \$186,300 (Attachment 1).

BACKGROUND:

On March 21, 2023, Town Council received a report on Roadside Fire Fuel Reduction (Vegetation Management) (CIP 812-0130). In the report, eighteen Eucalyptus trees located on Overlook Road were identified as dangerous as two very large Eucalyptus trees located on Overlook Road fell during the winter storms. Town Council directed staff to remove the eighteen trees and grind the stumps on Overlook Road utilizing available Town-match grant funding for wildfire fuel load reduction.

DISCUSSION:

Staff initiated a Request for Bids (RFB) for tree removal and stump grinding services specifically for the eighteen Eucalyptus trees located on Overlook Road between Wissahickon Avenue and Madrone Avenue. Firms were asked to provide their capability and qualifications for these

PREPARED BY: Jim Harbin
Superintendent

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with Bay Area Tree Specialists

DATE: October 3, 2023

DISCUSSION (continued):

services and to provide a lump sum total for all work needed. Five proposals were received on September 29, 2023, with the results presented in Attachment 2.

Staff determined that Bay Area Tree Specialists is the best qualified and the most cost competitive firm to provide the requested services. Bay Area Tree Specialists provide large scale Eucalyptus tree removal services for several Bay Area municipalities including the Town of Woodside and San Mateo County Parks Department.

CONCLUSION:

Authorize the Town Manager to execute an Agreement for Services with Bay Area Tree Specialists for tree removals and stump grinding of eighteen Eucalyptus trees located on Overlook Road for a total agreement amount not to exceed \$186,300.

FISCAL IMPACT:

The adopted Fiscal Year 2023/24 – 2027/28 Capital Improvement Program (CIP Budget) is sufficient for this Agreement for Services.

SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with Bay Area Tree Specialists

DATE: October 3, 2023

Roadside Fire Fuel Reduction CIP No. 812-0130		
SOURCE	Budget	Costs
GFAR	\$ 75,191	
GFAR - Town Match for USDA Grant	\$ 750,000	
USDA Grant Funds	\$ 750,000	
Total Budget	\$ 1,575,191	
USE		
GFAR Town Match - USDA Grant Expenditures:		
Agreement for Services with Bay Area Tree Specialists (Approved with this Staff Report)		\$ 186,300
Total Expenditures		\$ 186,300
Remaining GFAR		\$ 75,191
Remaining GFAR - Town Match - USDA Grant		\$ 563,700
Remaining Grant - USDA Grant Funds		\$ 750,000
Remaining Budget		\$ 1,388,891

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorical Exempt (Section 15301c). A Notice of Exemption was filed.

Attachments:

1. Agreement for Services with Exhibit A
2. Bid Summary

AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 17th day of October 2023 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Bay Area Tree Specialists ("Service Provider"), identified as a Sole Proprietor and whose address is Bay Area Tree Specialists 541 W Capitol Expwy, PMB #287, San Jose, CA 95136. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 Town sought quotations for the services described in this Agreement, and Service Provider was found to be the lowest responsible supplier for this purchase.
- 1.2 Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Town desires to engage Service Provider to provide tree removal and stump grinding of eighteen Eucalyptus trees located on Overlook Road.
- 1.4 Service Provider warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Service Provider acknowledges Town has relied upon these warranties to retain Service Provider.

II. AGREEMENT

- 2.1 Scope of Services. Service Provider shall provide services as described in that certain Request for Bids and associated Attachments dated September 6, 2023, incorporated by reference and that certain Proposal sent to the Town on September 28, 2023, which is attached as Exhibit A.
- 2.2 Term and Time of Performance. The effective date of this Agreement shall begin upon execution and terminate on January 31, 2024, subject to appropriation of funds, notwithstanding any other provision in this Agreement.
- 2.3 Compliance with Laws. The Service Provider shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Service Provider represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Service Provider to practice its profession. Service Provider shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.

- 2.4 Sole Responsibility. Service Provider shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Service Provider by the Town and all reports and supportive data prepared by the Service Provider under this Agreement are the Town's property and shall be delivered to the Town upon the completion of services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Service Provider in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Service Provider shall not make any of these documents or information available to any individual or organization not employed by the Service Provider or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Service Provider pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Service Provider in connection with other projects shall be solely at Town's risk, unless Service Provider expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Service Provider which is and has been confirmed in writing by Service Provider to be a trade secret of Service Provider.
- 2.6 Compensation: Compensation for services in the amount **not to exceed \$186,300**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

e-mail: AP@losgatosca.gov

- 2.8 Availability of Records. Service Provider shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Service Provider shall make these records available to authorized personnel of the Town at the Service Provider offices during business hours upon written request of the Town.

- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Service Provider. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Service Provider, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Service Provider may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Service Provider agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Service Provider shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Service Provider or is based on allegations of Service Provider's negligent performance or wrongdoing.
- 2.11 Conflict of Interest. Service Provider understands that its professional responsibilities are solely to the Town. The Service Provider has and shall not obtain any holding or interest within the Town of Los Gatos. Service Provider has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Service Provider warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Service Provider shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person Service Provider discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement Service Provider shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.12 Equal Employment Opportunity. Service Provider warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Service Provider nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

3.1 Minimum Scope of Insurance:

- i. Service Provider agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: five million dollars (\$5,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Service Provider agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Service Provider shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Service Provider agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

General Liability:

- i. The Town, its elected and appointed officials, employees, and agents are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Service Provider; products and completed operations of Service Provider, premises owned or used by the Service Provider.
- ii. The Service Provider's insurance coverage shall be primary insurance as respects the Town, its elected and appointed officials, employees, and agents. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Service Provider's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
- iv. The Service Provider's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

- 3.3 Workers' Compensation. In addition to these policies, Service Provider shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Service Provider shall ensure that all subcontractors employed by Service Provider provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Service Provider shall save, keep, hold harmless and indemnify and defend the Town its elected and appointed officials, agents, employees, and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Service Provider, or any of the Service Provider's officers, employees, or agents or any subcontractor.

IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 Termination of Agreement. The Town and the Service Provider shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Service Provider shall deliver to the Town all plans, files, documents, reports, performed to date by the Service Provider. In the event of such termination, Town shall pay Service Provider an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
- 4.4 Prevailing Wages. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes: construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.

- 4.4.1 The applicable California prevailing wage rate can be found at www.dir.ca.gov and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be available to any interested party upon request. The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.
- 4.4.2 Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime, weekend and holiday pay, and shift pay must be paid pursuant to applicable Labor Code section.
- 4.4.3 The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
- 4.4.4 As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
- 4.4.5 In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
- 4.4.6 No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- 4.4.7 No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a

registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.

- 4.4.8 Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the TOWN for any fines assessed by the California Department of Industrial Relations against the TOWN for such violation, including all staff costs and attorney's fee relating to such fine.
- 4.4.9 The TOWN shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the TOWN may continue to hold sufficient funds to cover estimated wages and penalties under the contract.
- 4.5 Bonding Requirement. Service Provider agrees to post a Faithful Performance Bond and a Labor and Material Bond, or other guarantees, each in the required amount of \$186,300 upon bond forms provided by the TOWN, guaranteeing the performance of the terms of this Agreement. Surety issuing bonds for CONTRACTOR shall be approved by the U.S. Department of Treasury's Financial Management Service and shall be listed on the most current Treasury Circular 570 as contained in the Federal Register.
- 4.6 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Service Provider.
- 4.7 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.8 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Town Clerk
110 E. Main Street
Los Gatos, CA 95030

Bay Area Tree Specialists
541 W Capitol Expwy, PMB #287
San Jose, CA 95136

or personally delivered to Service Provider to such address or such other address as Service Provider designates in writing to Town.

- 4.9 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any

attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.

- 4.10 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Service Provider. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Service Provider have executed this Agreement.

Town of Los Gatos by:

Bay Area Tree Specialists, by:

Laurel Prevetti, Town Manager

Name, Title

Recommended by:

Nicolle Burnham
Director of Parks and Public Works

Approved as to Form:

Gabrielle Whelan, Town Attorney

Attest:

Wendy Wood, CMC, Town Clerk

Cover Letter:

Richard Smith
Owner and Senior Arborist
Bay Area Tree Specialists
541 W Capitol Expy. PMB #287
San Jose CA 95136
Office: (408) 836-9147
Fax: (408) 784-7285
bayareatreespecialists@gmail.com
www.bayareatreespecialists.com
September 28, 2023

Jim Harbin
Department of Parks and Public Works
41 Miles Avenue
Los Gatos, CA, 95030
Telephone: (408) 399-5775
E-mail: jharbin@losgatosca.gov

Dear Mr. Harbin,

Greetings from Bay Area Tree Specialists!

Please find included our response Town of Los Gatos Department of Park and Public Works Request for Proposal Fire Fuel Reduction Projects (Roadside Eucalyptus) Town Project 812-0130 Federal Project #22-DG-11052012-134.

We will meet the needs of the Town by removing 18 Tasmanian Blue Gum Eucalyptus (*Eucalyptus globulus*) trees on Overlook Road generally between Wissahickon Avenue and Chestnut Avenue. We will complete the work with removal and lawful disposal of all branches, leaves, woody material, with grinding and removal of stumps.

We will have experienced and certified tree workers safely and efficiently take down the trees with the support of crane and traffic control. We will use aerial lift vehicles that are certified annually to assist with the tree removal along with skid steers with grapple and winches to move the tree parts to the chipper for chipping into our chip truck or to our knuckle boom grapple dump truck for loading and hauling logs for lawful disposal. We call 811 before we grind the stumps with our power stump grinding machine to insure at we at clear to stump grind and not disturb underground utilities.

We will invest the resources necessary to manage this contract be completed in within 45 days of receiving the notice to proceed. We will ensure that this contract is completed in a safe, efficient and professional, that meets and exceed the expectation and requirements for Town of Los Gatos, its residence and it visitors.

We have no deviations from or exceptions to the Town's Standard Agreement in Attachment B of this Request of Bid package.

We have the relevant experience and expertise of the firm to successfully complete this contract without issue or exceptions.

I Richard Smith, Owner of Bay Area Tree Specialists will personally manage our project team and am the main project contact.

Names, addresses and contractor license numbers of any subcontractors intended for use on the project (as required per California Public Contract Code sections 4100 through 4114).

Sub-Contractor for Traffic Control will be:
CITY RISE LLC
686 E LOCKEFORD STREET
LODI, CA 95240
CSLB # 1067575 DIR # PW-LR-1000623333

Sub-Contractor for Crane will be:
HATTON'S CRANE & RIGGING INC
3643 DEPOT ROAD
HAYWARD, CA 94545
CSLB # 683819 DIR # 1000019666

Following this cover letter, the resumes for the project team identifying relevant experience and other relevant information to assist the Town in its selection.

We have carefully read and fully understand the information that was provided by the Town to serve as the basis for submission of this Bid.

We have the capability to successfully undertake and complete the responsibilities and obligations of the Bid being submitted.

We represent that all information contained in the Bid is true and correct.

We did not, in any way, collude, conspire to agree, directly or indirectly, with any person, firm, corporation or other Bidder in regard to the amount, terms, or conditions of this Bid.

We acknowledge that the Town has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by Bidder, and we hereby grants the Town permission to make these inquiries, and to provide any and all related documentation in a timely manner.

We have successfully performed many large scale hazard tree removal contract the included Eucalyptus tree removal, crane and aerial left, rigging, hauling, debris disposal and stump grinding:

We welcome the opportunity to do the same for the Town of Los Gatos!

Sincerely,



Richard Smith,

Owner Bay Area Tree Specialists

ATTACHMENT C
BID FORMS
(To be returned with Bid. Also See Request for Bid
Section 7 for Additional Required Information)

TO: The Town of Los Gatos, County of Santa Clara, State of California, herein called Owner

FROM: Bay Area Tree Specialists, herein called Contractor

A. LUMP SUM PRICE SCHEDULE

Pursuant to and in compliance with your Notice to Contractors and the Contract Documents relating to the Project # 22-812-0130 Fuels Reduction Project — Federal Project No. 22-DG-11052012-134, including Addenda No. 1, _____, _____.

The undersigned Bidder, as Bidder, declares that the only person or parties interested in this Bid as principals are those named herein; that this Bid is made without collusion with any other person firm or corporation; that the Bidder has thoroughly read and examined and has full knowledge of and understands all the provisions and contents of this Request for Bid document entitled "TLG Project # 22-812-0130; Federal Project # 22-DG-11052012-134 – Fire Fuel Reduction (Roadside Eucalyptus) Project" including all Addenda; and that Contractor will take in full payment therefore for the lump sum amount of:

Item Description	Unit	Estimated Quantity	Unit Cost	Item Total
Blue Gum Eucalyptus Removal and Disposal	Each	18	\$9,350	\$168,300
Stump Grinding Removal and Disposal	Each	18	\$1,000	\$18,000
CONTRACT TOTAL (LUMP SUM)				\$186,300

Request for Bids
Fuels Reduction Project (Roadside Eucalyptus)
CIP 22-812-0130
Federal Project No. 22-DG-11052012-134

 9/26/23

Attachment C, Bid Forms
Page 1



TOWN OF LOS GATOS

CLERK DEPARTMENT

BID RESULT FORM

**FIRE FUEL REDUCTION PROJECTS
(ROADSIDE EUCALYPTUS)
TOWN PROJECT 812-0130
FEDERAL PROJECT #22-DG-11052012-134**

DATE: September 30, 2023

TIME: 10:00 AM

BY: Wendy Wood, Town Clerk

BIDDER	BID AMOUNT
Brightview Tree Care	\$360,000.00
West Coast Arborists, Inc.	\$477,000.00
The Professional Tree Care Company	\$218,250.00
Julian Tree Care, Inc.	\$199,188.00
Bay Area Tree Specialists	\$186,300.00

ATTEST: Wendy Wood

DATE: 9-29-2023



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 9

DATE: October 12, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution to Set a Date for Consideration of the Reorganization of an Uninhabited Area Designated as Los Gatos Boulevard No. 20, Approximately 0.521 Acres on Property Pre-Zoned R-1:8. APN 523-01-001. Annexation Application AN22-001. Project Location: 15810 Los Gatos Boulevard. Property Owner/Applicant: Jesus Ching and Kathleen Ban.

RECOMMENDATION:

Adopt a resolution (Attachment 1) to set a date for consideration of the reorganization of an uninhabited area designated as Los Gatos Boulevard No. 20, approximately 0.521 acres, located at 15810 Los Gatos Boulevard (APN 523-01-001).

BACKGROUND:

The Town has an agreement with Santa Clara County that requires annexation of any property located within the Town's Urban Service Area boundary that is either contiguous to a Town boundary or within 300 feet of a Town maintained roadway if a use is proposed to intensify. The subject property is within 300 feet of a Town boundary. Annexation has been requested in conjunction with a proposal for an amendment to the General Plan Land Use designation and zoning, which will be heard on the October 17, 2023, Town Council agenda under a separate agenda item. The total annexation area (0.521 acres) includes 0.2581 acres of County street right-of-way.

Section 56757 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 gives cities in Santa Clara County the authority to annex territory without application to and hearing by the Santa Clara County Local Agency Formation Commission (LAFCO).

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Department Director, and Finance Director

BACKGROUND (continued):

The Town is required to hold a protest proceeding even if the area proposed for annexation is uninhabited (less than twelve registered voters) and all property owners have consented to the annexation. This first meeting and resolution sets the date for the consideration of the annexation and the protest proceeding.

DISCUSSION:

The Town has received a petition requesting annexation to the Town of Los Gatos from Jesus Ching and Kathleen Ban, owners of the property at 15810 Los Gatos Boulevard. The property is located on the east side of Los Gatos Boulevard in an unincorporated County pocket.

The property is in the Town's Urban Service Area, is contiguous to a Town boundary, and is Pre-zoned R-1:8 (Single-Family Residential, 8,000 square foot minimum lot size). Annexation would allow Town services to be extended to the property and reduce an existing County pocket.

The Santa Clara County Planning, County Lighting Service Area, and the County Library Service Area have been notified in writing of the annexation request. This agenda item, if approved, would set the date for consideration of the annexation application for November 7, 2023.

COORDINATION:

The preparation of this report was coordinated with the Santa Clara County Library District, Santa Clara County Lighting Service Area, County of Santa Clara Infrastructure Development Division, LAFCO, County of Santa Clara Assessor, County of Santa Clara Surveyor, and the County of Santa Clara Planning Division.

FISCAL IMPACT:

Once the annexation is certified by the State Board of Equalization, the Town will receive approximately 9.3 percent of the property taxes.

ENVIRONMENTAL ASSESSMENT:

The project is exempt pursuant to the California Environmental Quality Act Guidelines under Section 15061(b)(3): Review for Exemption, in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. A Notice of Exemption will not be filed.

PAGE 3 OF 3

SUBJECT: Los Gatos Boulevard No. 20/AN22-001

DATE: October 12, 2023

Attachments:

1. Resolution, with Exhibits A and B
2. Location Map

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DRAFT RESOLUTION 2023-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
TO SET A DATE FOR CONSIDERATION OF THE REORGANIZATION
OF AN UNINHABITED TERRITORY DESIGNATED AS
LOS GATOS BOULEVARD NO. 20**

**APN: 523-01-001
APPROXIMATELY 0.521 ACRES
ANNEXATION APPLICATION: AN22-001
PROPERTY LOCATION: 15810 LOS GATOS BOULEVARD
PROPERTY OWNER/APPLICANT: JESUS CHING AND KATHLEEN BAN**

WHEREAS, the Town Council of the Town of Los Gatos has received a request for annexation of territory designated Los Gatos Boulevard No. 20 from Jesus Ching; and

WHEREAS, the property, is approximately 0.2629 acres and includes 0.2581 acres of County street right-of-way for a total of 0.521 acres located at 15810 Los Gatos Boulevard, APN: 523-01-001, is contiguous to a Town boundary and within the Town's Urban Service Area; and

WHEREAS, the following special districts would be affected by the proposal: Santa Clara County Lighting Service Area; and Santa Clara County Library Service Area; and

WHEREAS, the annexation would provide for use of Town services; and

WHEREAS, the Town Council enacted Ordinance 1267 in 1975 pre-zoning the subject territory with an R-1:8 (single-family residential, 8,000 square foot minimum lot size) zoning designation; and

WHEREAS, the Town of Los Gatos, as Lead Agency for environmental review for the reorganization, has determined annexation of the subject property is exempt from the California Environmental Quality Act guidelines, pursuant to Section 15061(b)(3); and

ATTACHMENT 1

WHEREAS, the County Surveyor of Santa Clara County has found the description and map (Exhibits A and B) to be in accordance with Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO's road annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the Town Council of the Town of Los Gatos shall be the conducting authority for a reorganization including an annexation to the Town; and

WHEREAS, the territory is uninhabited and all owners of land included in the proposal have consented to this annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory the Town Council may approve or disapprove the annexation without a public hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Los Gatos hereby initiates annexation proceedings and will consider annexation of the territory designated as Los Gatos Boulevard No. 20 at its regular meeting on November 7, 2023.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los

Gatos, California, held on the 17th day of October 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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EXHIBIT A

LOS GATOS BOULEVARD NO. 20

ANNEXATION TO THE TOWN OF LOS GATOS

GEOGRAPHIC DESCRIPTION

All that certain real property lying in the Rancho Rinconada De Los Gatos, County of Santa Clara, State of California, being more particularly described as follows:

Beginning at the southwest corner of Lot 9 of Tract 649, Recorded October 17, 1949 in Book 24 of Maps at Page 32-33, in the Office of the County Recorder of said Santa Clara County, said **Point of Beginning** being on the easterly line of Los Gatos Boulevard and Bascom Avenue (Parcel Number 2) Annexation as passed and adopted January 25, 1969,

Thence, (1) along the easterly line of said annexation and the westerly line of said Lot 9 North 20°44'00" East, 110.94 feet;

Thence, (2) along the westerly and northerly line of said Lot 9 and the easterly line of said annexation along a tangent curve to the right, concave to the southeast, having a radius of 20.00 feet, having an included angle of 78°53'00", an arc length of 27.54 feet;

Thence, (3) leaving said northerly line of Lot 9 and continuing along the easterly line of said annexation North 09°37'00" East, 30.00 feet to the centerline of Farley Road, being the most northeasterly corner of said annexation and on the southerly line of Blossom Hill Manor Number One Annexation as passed and adopted June 15, 1959;

Thence, (4) along the centerline of Farley Road and the southerly line of last said annexation South 80°23'00" East, 116.83 feet;

Thence, (5) along the easterly line of last said annexation North 20°44'00" East, 30.57 feet to the northerly right of way line of Farley Road and the southwest corner of Lot 8 of said Tract 649;

Thence, (6) leaving last said annexation and along said right of way line of Farley Road and the southerly line of said Lot 8 South 80°23'00" East, 110.94 feet;

Thence, (7) along said right of way line and southerly line of said Lot 8 around a tangent curve to the left, concave to the northwest, having a radius of 20.00 feet, an included angle of 78°53'47", and an arc length of 27.54 feet;

Thence, (8) South 20°43'47" West, 101.91 feet to a point on the westerly right of way line of Camellia Terrace as shown on the Map of said Tract 649;

Thence, (9) along said right of way line along a non tangent curve to the left, concave to the southwest, whose center bears North 69°16'00" West, having a radius of 20.00 feet, and included angle of 101°06'34", and an arc length of 35.29 feet;

Thence, (10) along the southerly right of way line of Farley Drive and the northerly line of Lots 10 and 11 of said Tract 649 North 80°23'00" West, 150.69 feet to the northeast corner of aforesaid Lot 9 of Tract 649;

Thence, (11) along the easterly line of said Lot 9 South 09°37'00" West, 125.00 feet to the southeast corner of said Lot 9;

Thence, (12) along the southerly line of said Lot 9 North 80°23'00" West, 104.35 feet to the **Point of Beginning**.

Area of Proposed Annexation: 22,701 sq. ft. of land, more or less (0.521 acres)

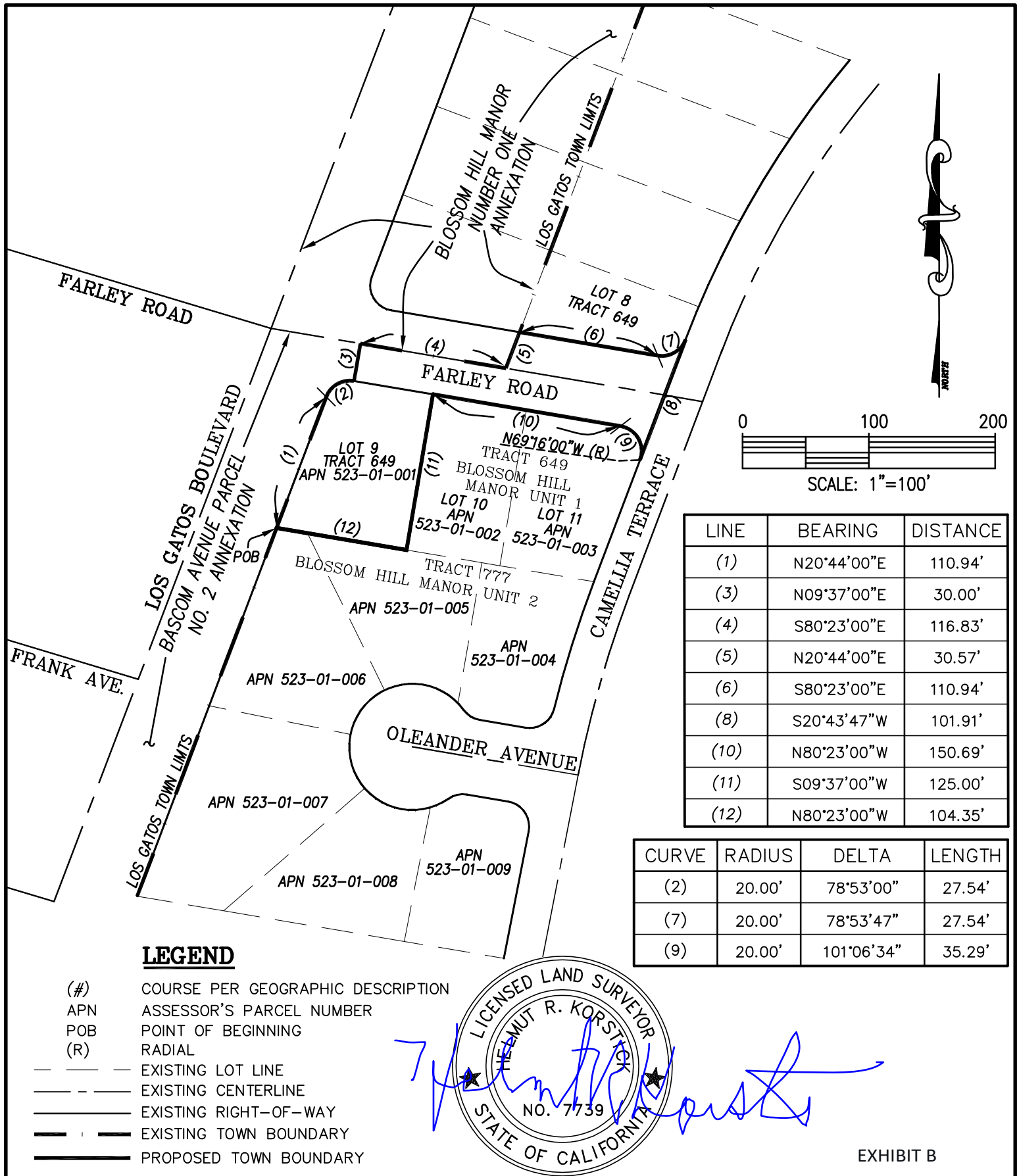
For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for the sale of the land described.



Helmut R. Korstick (PLS 7739)

Aug-25-2003 (Date)





PREPARED BY:



Page 90
 10000 BLVD, SUITE 205
 CA 94538
 ltants@gmail.com PHONE: 510.344.8956

EXHIBIT B

PLAT TO ACCOMPANY GEOGRAPHIC DESCRIPTION
 LOS GATOS BOULEVARD NO. 20 ANNEXATION
 SANTA CLARA COUNTY RECORDS

CITY OF LOS GATOS - PUBLIC WORKS DEPARTMENT
 41 MILES AVENUE, LOS GATOS, CA 95030. PH (408) 399-5770

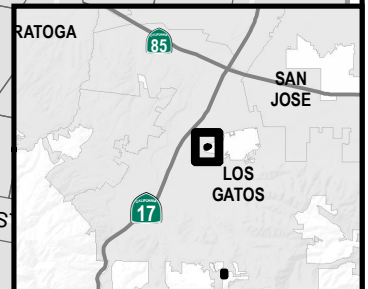
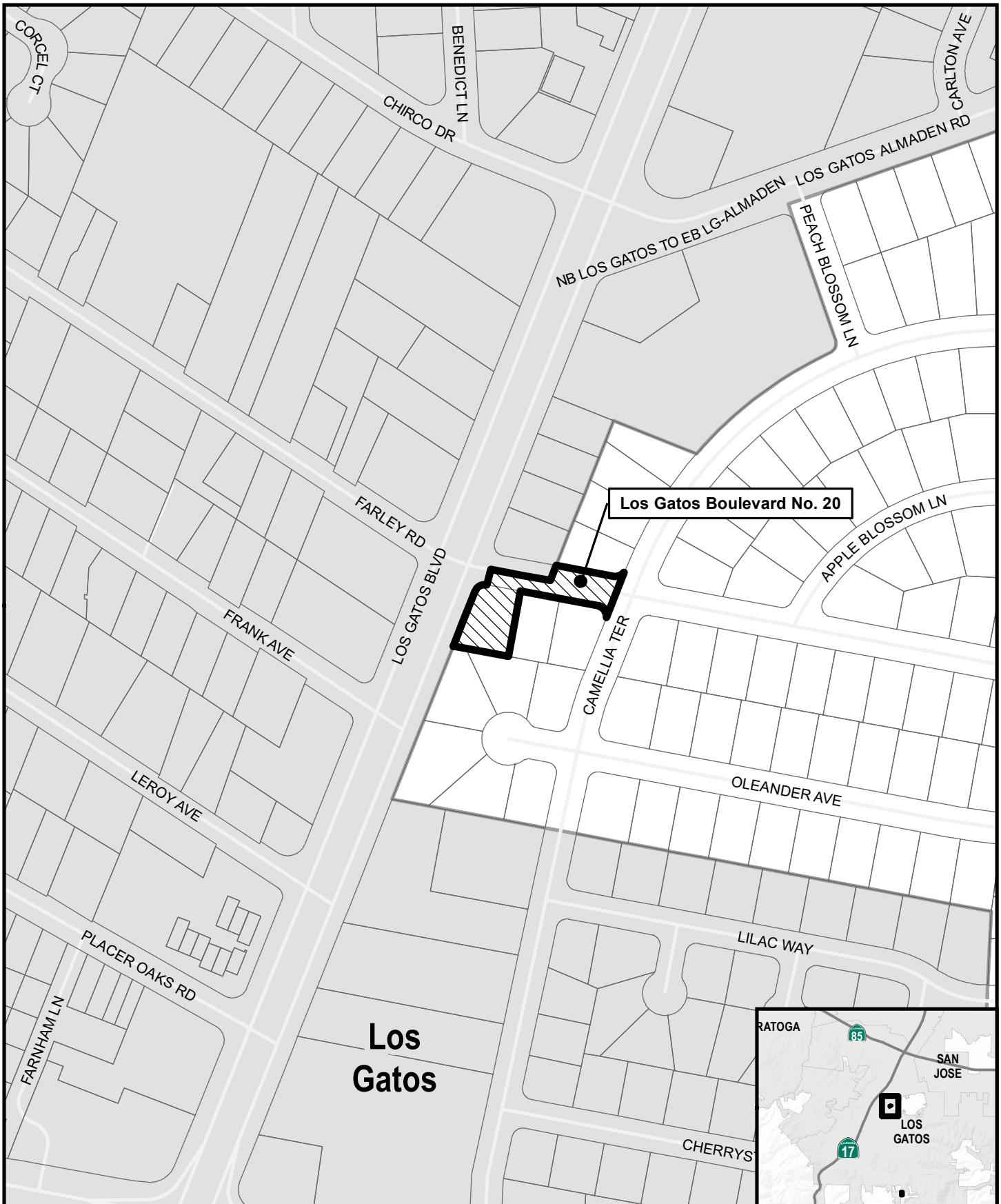
SCALE: 1"=100'

DATE: AUGUST 25, 2023

PAGE: 1 of 1

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 CHK: HRK




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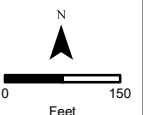


County of Santa Clara
 Department of Planning and Development
 County Government Center, East Wing
 70 West Hedding St., 7th Floor
 San Jose, California 95110

EXHIBIT A
Los Gatos Boulevard No. 20
0.521 acres +/-

Prepared for the Office of the County Surveyor
 September 5, 2023
 August Hanks, County Surveyor

-  Area of Annexation
-  Incorporated Lands
-  Unincorporated Lands



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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 10

DATE: October 11, 2023
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Adopt an Ordinance Titled, "An Ordinance of the Town Council of the Town of Los Gatos Amending Section 18.60.020, 'Permits for Retailers of Tobacco Products' of Article VI, 'Smoking Regulations' of Chapter 18, 'Offenses and Miscellaneous Provisions,' of the Town Code to Increase Fine Amounts and Amend the Definition of 'Tobacco Products' to Align with the Santa Clara County Ordinance."

RECOMMENDATION:

Adopt an Ordinance titled, "An Ordinance of the Town Council of the Town of Los Gatos amending Section 18.60.020, 'Permits for Retailers of Tobacco Products,' of Article VI, 'Smoking Regulations,' of Chapter 18, 'Miscellaneous Provisions,' of the Town Code to increase fine amounts and amend the definition of 'Tobacco Products' to align with the Santa Clara County Ordinance."

REMARKS:

At its regular meeting of October 3, 2023, the Town Council held a public hearing to consider the introduction of an Ordinance titled, "An Ordinance of the Town Council of the Town of Los Gatos amending Section 18.60.020, 'Permits for Retailers of Tobacco Products,' of Article VI, 'Smoking Regulations,' of Chapter 18, 'Miscellaneous Provisions,' of the Town Code to increase fine amounts and amend the definition of 'Tobacco Products' to align with the Santa Clara County Ordinance." The Town Council voted 5-0 to approve the introduction of this ordinance. The ordinance becomes effective 30 days after the adoption date.

PREPARED BY: Bridgette Falconio
Administrative Technician

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Police Chief, and Finance Director

CONCLUSION:

Staff recommends Town Council adopt the Ordinance titled, "An Ordinance of the Town Council of the Town of Los Gatos amending Section 18.60.020, 'Permits for Retailers of Tobacco Products,' of Article VI, 'Smoking Regulations,' of Chapter 18, 'Miscellaneous Provisions' of the Town Code to increase fine amounts and amend the definition of 'Tobacco Products' to align with the Santa Clara County Ordinance."

COORDINATION:

The Police Department, Town Attorney's Office, Town Manager's Office, and Santa Clara County coordinated this report.

FISCAL IMPACT:

This action does not affect the Town's Budget and is required to continue the existing arrangement between the Town and the County for enforcement of the Ordinance provisions.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Draft Ordinance

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING SECTION 18.60.020, "PERMITS FOR RETAILERS OF TOBACCO PRODUCTS," OF ARTICLE VI, "SMOKING REGULATIONS," OF "CHAPTER 18, "OFFENSES AND MISCELLANEOUS PROVISIONS," OF THE TOWN CODE TO INCREASE FINE AMOUNTS AND AMEND THE DEFINITION OF "TOBACCO PRODUCTS" TO ALIGN WITH THE SANTA CLARA COUNTY ORDINANCE

WHEREAS, the Town's Smoking Regulations are codified at Sections 18.60.010 and following;

WHEREAS, Town Code Section 18.60.020 regulates retailers of tobacco products;

WHEREAS, the Town contracts with the County of Santa Clara for enforcement of the tobacco retailer ordinance;

WHEREAS, the County has amended its tobacco retailer ordinance to increase fine amounts and amend the definition of "tobacco products" to include electronic cigarette products; and

WHEREAS, in order to continue its enforcement activities in the Town, the County requires that the Town's ordinance be amended to align with the County's ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Town Code Section 18.60.020, "Permits for Retailers of Tobacco Products," is amended to read as follows:

Sec. 18.60.020. Permits for retailers of tobacco products.

(a) Intent. This Section is adopted to:

- (1) Ensure compliance with the business standards and practices of the Town;
- (2) Encourage responsible Retailing of Tobacco Products;
- (3) Discourage violations of laws related to Tobacco Products, especially those that prohibit or discourage the sale or distribution of Tobacco Products and Electronic Cigarette Devices to persons under twenty-one (21);
- (4) Respond to a new wave of addiction to Electronic Cigarette Products;
- (5) Reduce vulnerability to unexplained illnesses associated with Electronic Cigarette Products; and
- (6) Protect the public health and welfare.

This Section does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws.

(b) *Definitions.* For the purposes of this Section, the following definitions shall apply:

- (1) *Arm's length transaction* means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two or more informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this Section is not an Arm's Length Transaction.
- (2) *Designee* means the agency selected or designated by the Town to enforce or administer the provisions of this section.
- (3) *Department* means the County of Santa Clara's Department of Environmental Health and any agency or person designated by the Director of the Department of Environmental Health to enforce or administer the provisions of this Section.
- (4) *Distribute or distribution* means the transfer, by any person other than a common carrier, of a Tobacco Product to another person for sale or personal consumption.
- (5) *Electronic Cigarette Product* means any of the following products:
 - a. Any device or delivery system that can be used to deliver nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
 - b. Any component, part, or accessory of such a device or delivery system that is used during its operation.
 - c. Any flavored or unflavored liquid or substance containing nicotine, whether sold separately or sold in combination with any device or delivery system that could be used to deliver nicotine in aerosolized or vaporized form.
 - d. Any product for use in an electronic nicotine device or delivery system whether or not it contains nicotine or tobacco or is derived from nicotine or tobacco.
 - e. Electronic Cigarette Products shall not include any battery, battery charger, carrying case, or other accessory not used in the operation of the device if sold separately. Electronic Cigarette Products shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. See 21 U.S.C. § 387(a). As used in this Subsection, nicotine does not include any food products as that term is defined pursuant to Section 6359 of the California Revenue and Taxation Code.
- (6) *Hearing Officer* shall mean the hearing officer appointed by the Town or its Designee to hear appeals. So long as the Town's Designee is in the Department, the hearing officer shall be the hearing officer appointed by the Department in accordance with County of Santa Clara ordinance code ("County ordinance code") Section A38-4.

- (7) *Impound* means the legal control exercised by the Town or its Designee over the use, sale, disposal or removal of any Tobacco Products.
 - (8) *Ownership* means possession of a ten percent or greater interest in the stock, assets, or income of a business, other than a security interest for the repayment of debt. Notwithstanding any other definition in this Code, an owner means a person who possesses ownership.
 - (9) *Permit* means a valid permit issued by the Town or its Designee to a person to act as a Retailer.
 - (10) *Retailer* means any person who sells or distributes Tobacco Products for any form of consideration, whether or not they possess a current Permit. Retailing shall mean the doing of any of these actions. This definition is without regard to the quantity of Tobacco Products sold or distributed.
 - (11) *School* means a public or private elementary, middle, junior high or high school.
 - (12) *Tobacco Product* means (unless specifically noted elsewhere):
 - a. Any product subject to subchapter IX [21 U.S.C. § 387 et seq. ("subchapter IX")) of the Federal Food, Drug, and Cosmetic Act (See 21 U.S.C. § 387a(b) (products subject to Subchapter IX); 21 C.F.R. §§ 1100.1—1100.3 (tobacco products subject to Subchapter IX) and Electronic Cigarette Products]. Products subject to Subchapter IX include, but are not limited to, cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, cigars, pipe tobacco, and waterpipe tobacco. Products that are not subject to Subchapter IX include accessories of tobacco products, such as, but not limited to, ashtrays, spittoons, and conventional matches and lighters that solely provide an external heat source to initiate but not maintain combustion of a tobacco product.
- (c) *Requirements and prohibitions.*
- (1) *Permit required.* It shall be unlawful for any person to act as a Retailer in the Town of Los Gatos without first obtaining and maintaining a permit pursuant to this Section for each location at which Retailing occurs.
 - (2) *Lawful business operation.* It shall be a violation of this Section for any Retailer to violate any local, state, or federal law applicable to Tobacco Products, or the Retailing of such Tobacco Products.
 - (3) *Display of Permit.* Each Permit shall be prominently displayed in a publicly visible place at the location identified in the Permit.
 - (4) *Notice of minimum age for purchase of Tobacco Products.* Retailers shall post conspicuously, at each point of purchase, a notice stating that selling Tobacco Products to anyone under twenty-one (21) years of age is illegal and subject to penalties. Such notice shall be subject to the approval of the Town or its Designee.
 - (5) *Positive identification required.* No Retailer shall sell or distribute a Tobacco Product to another individual without first examining the individual's identification to confirm

that the individual is at least the minimum age required under State law to purchase and possess the Tobacco Product.

- (6) *Minimum age for individuals selling Tobacco Products.* No individual who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products shall engage in Retailing.
- (7) *False and misleading advertising prohibited.* A Retailer without a Permit:
 - a. Shall keep all Tobacco Products out of public view.
 - b. Shall not display any advertisement relating to Tobacco Products that promotes the sale or distribution of such products from the Retailer's location or that could lead a reasonable consumer to believe that Tobacco Products can be obtained at that location.
- (8) *Limitation on storefront advertising.* No more than fifteen (15) percent of the square footage of the windows and clear doors of physical storefront used for Retailing Tobacco Products shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. However, this latter requirement of this subsection (8) shall not apply to an establishment where there are no windows or clear doors, or where existing windows are located only at a height that precludes a view of the interior of the premises by an individual standing outside the premises.
- (9) *Flavored Tobacco Products.*
 - a. No Retailer shall sell a Tobacco Product containing, as a constituent or additive, an artificial or natural flavor or aroma (other than tobacco) or an herb or spice, including but not limited to, strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, mint, menthol, or coffee, that is a characterizing flavor or aroma of the Tobacco Product, smoke or vapor produced by the Tobacco Product.
 - b. A Tobacco Product shall be subject to a rebuttable presumption that the product is prohibited by paragraph (a) of this Subsection if:
 - (i) The product's manufacturer or any other person associated with the manufacture or sale of Tobacco Products makes or disseminates public statements or claims to the effect that the product has or produces a characterizing flavor or aroma, other than tobacco; or
 - (ii) The product's label, labeling, or packaging includes a statement or claim including any text and/or images used to communicate information that the product has or produces a characterizing flavor or aroma other than tobacco.

- (10) *Vending machines prohibited.* No Tobacco Product shall be sold or distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.
- (11) *Prohibition on Sale or Distribution of Tobacco Products to individuals under twenty-one (21) years.* No retailer shall sell or distribute any Tobacco Product to any individual who is under twenty-one (21) years of age.
- (12) *Prohibition on Sale or Distribution of Electronic Cigarette Products.* No person, whether or not issued a Permit, shall Sell or Distribute Electronic Cigarette Products.
- (d) *Eligibility requirements for a Permit.*
- (1) No Permit may be issued to authorize Retailing at or from other than a fixed location. For example, Retailing by persons on foot or from vehicles is prohibited.
 - (2) No Permit may be issued to authorize Retailing at a temporary or recurring temporary event. For example, Retailing at flea markets and farmers' markets is prohibited.
 - (3) No Permit may be issued to authorize Retailing at any location where the profession of pharmacy is practiced by a pharmacist licensed by the State in accordance with the Business and Professions Code and where prescription drugs are offered for sale.
 - (4) No Permit may be issued to authorize Retailing at any location within one thousand (1,000) feet of a School, as measured by a straight line between any point along the property line of any parcel on which a School is located and any point along the perimeter of the applicant's proposed business location; provided, however, that the prohibition contained in this subsection (d)(4) shall not apply to the following:
 - a. Any Retailer of Tobacco Products operating lawfully on January 1, 2018 (the effective date of the predecessor Ordinance Code); and
 - b. Any Retailer of Electronic Cigarette Products operating lawfully on January 1, 2018 (effective date of predecessor ordinance), however, any such Retailer is subject to the prohibition on the sale and distribution of Electronic Cigarette Products established in subsection (c)(12) of this section; and
 - c. Any lawfully operating Retailer of Tobacco Products that would otherwise become ineligible to receive or renew a Permit due to the creation or relocation of a School.
 - (5) No Permit may be issued to authorize Retailing at a location which is within five hundred (500) feet of a location occupied by another Retailer, as measured by a straight line between any point along the perimeter of an existing Retailer's business location and any point along the perimeter of the Permit applicant's proposed business location, provided, however, that the prohibition contained in this Subsection (d)(5) shall not apply to:
 - a. Any Retailer of Tobacco Products operating lawfully on January 1, 2018 (effective date of predecessor ordinance); and

- b. Any Retailers of Electronic Cigarette Products operating lawfully on January 1, 2018 (effective date of predecessor ordinance); however, any such Retailer is subject to the prohibition on the sale and distribution of Electronic Cigarette Products established in in Subsection (c)(12) of this Section.
- (6) Any exemption granted to a Retailer pursuant to subsection (4) and (5) shall cease to apply upon the earlier of the following to occur:
 - a. The Retailer fails to timely renew the Permit pursuant to this Section.
 - b. A new person obtains Ownership in the business.
- (e) *Application procedure.*
 - (1) It is the responsibility of each Retailer to be informed of all laws applicable to Retailing, including those laws affecting the issuance of a Permit. No Retailer may rely on the issuance of a Permit as a determination by the Town that the Retailer has complied with all laws applicable to Retailing. A Permit issued contrary to this Section, contrary to any other law, or on the basis of false or misleading information supplied by a Retailer shall be revoked pursuant to this Section.
 - (2) All Permit applications shall be submitted on a form supplied by the Town or its Designee to implement this Section.
 - (3) A permitted Retailer shall inform the Town or its Designee in writing of any change in the information submitted on an application for a Permit within fourteen (14) calendar days of a change.
 - (4) All information specified in an application pursuant to this Section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions.
- (f) *Permit issuance, denial, and revocation.*
 - (1) Upon the receipt of a complete application for a Permit, the application fee, and the annual Permit fee, the Department shall issue a Permit unless substantial evidence demonstrates that one or more of the following bases for denial exists:
 - a. The information presented in the application is inaccurate or false.
 - b. The application seeks authorization for Retailing at a location for which this Section prohibits issuance of a Permit.
 - c. The application seeks authorization for Retailing by a person to whom this Section prohibits issuance of a Permit.
 - d. The application seeks authorization for a Retailer whose Permit has previously been revoked or who has otherwise violated any provision of this Section within the last 60 months.
 - e. The application seeks authorization for Retailing that is prohibited pursuant to this Section (e.g., mobile vending, Electronic Cigarette Products) or that is unlawful pursuant to any other law.

- f. The application seeks authorization for Retailing by a Retailer who has failed to pay any fees, penalties, or reinspection fees required by this Section.
 - (2) A Permit shall be revoked if the Town or its Designee finds that one or more of the bases for denial of a Permit under this Section existed at the time application was made or at any time before the Permit was issued. Such a revocation shall be without prejudice to the filing of a new Permit application.
 - (3) A Permit shall be permanently revoked if the Retailer has committed violations as specified in paragraph m(4) of this Section.
- (g) *Permit term, conditions, renewal, and expiration.*
- (1) *Term of Permit.* The term of a Permit is one year. A Permit is invalid upon expiration.
 - (2) *Conditions of Permit.* As conditions of Permit issuance and retention, Retailer shall:
 - a. Allow Compliance Inspections as described in Subsection (k) and expressly consent to inspection of all areas and records of a Retailer's business required to effectuate the purpose of this Section, including unlocking and allowing access to any area of the Retailer's business requested by any individual authorized to monitor and facilitate compliance with this Section.
 - b. Comply with any order of the Town or its Designee to impound any product not authorized to be sold by this Section and cooperate with any Departmental seizure of any product, subject to appeal of those actions.
 - c. Failure to comply with these Permit conditions may result in Permit suspension or revocation as described in Subsection (m).
 - (3) *Renewal of Permit.* The Town or its Designee shall renew a Permit upon timely payment of the annual permit fee provided that the Retailer complies with this Section. The Town or its Designee may, in its discretion, agree to renew any expired Permit within the three-month period following expiration if the Retailer pays the annual permit fee and applicable late charges. For every calendar month, or fraction thereof, that a Retailer fails to renew an expired Permit, a late charge equal to twenty percent of the annual Permit fee shall be assessed. A Permit renewed within three calendar months of expiration shall be treated as if timely renewed.
 - (4) *Issuance of Permit after revocation or expiration of Permit.* To apply for a new Permit more than three calendar months after expiration of a Permit or following revocation of a Permit that was wrongly issued, a Retailer must submit a complete application for a Permit, along with the application fee and annual Permit fee. The Town or its Designee shall issue a Permit pursuant to the requirements of this Section.
- (h) *Permits nontransferable.*
- (1) A Permit may not be transferred from one person to another or from one location to another. Whenever a new person obtains Ownership in a business for which a Permit has been issued, a new Permit shall be required, but any exemption granted pursuant to subsection (d) shall cease to apply.

- (2) Notwithstanding any other provision of this Section, prior violations of this Section at a location shall continue to be counted against a location and Permit ineligibility and suspension periods shall continue to apply to a location unless:
- a. One hundred percent of the interest in the stock, assets, or income of the business, other than a security interest for the repayment of debt, has been transferred to one or more new owners; and
 - b. The Town or its Designee is provided with clear and convincing evidence, including an affidavit, that the business has been acquired in an Arm's Length Transaction.
- (i) *Permit conveys a limited, conditional privilege.* Nothing in this Section shall be construed to grant any person obtaining and maintaining a Permit any status or right other than the limited, conditional privilege to act as a Retailer at the location in the Town identified on the face of the Permit. All Permits are issued subject to the Town's right to amend this Section, and Retailers shall comply with all provisions of this Section, as amended.
- (j) *Fees.* The Town or its Designee shall not issue or renew a Permit before full payment of any applicable fees. The County Board of Supervisors shall, from time to time, establish by resolution the fees to issue or to renew a Permit, and so long the Department is the Town's Designee, the Town shall amend its fee schedule to reflect any changes. The fees shall be calculated so as to recover the cost of administration of this Section, including, for example, issuing a Permit, administering the Permit program, Retailer education, and routine Retailer inspection and compliance, but shall not exceed the cost of the regulatory program authorized by this Section. All fees and interest earned from such fees shall be used exclusively to fund administration and enforcement of this Section.
- (k) *Compliance monitoring.*
- (1) Compliance with this Section shall be monitored by the Town or its Designee. In addition, any peace officer may enforce the penal provisions of this Section. The Town or its Designee may designate any number of additional individuals to monitor and facilitate compliance with this Section.
 - (2) The Town or its Designee or other individuals designated to enforce the provisions of this Section shall monitor each Retailer at least once per twelve-month period to determine if the Retailer is complying with all laws applicable to Retailing, other than those laws regulating underage access to Tobacco Products. Nothing in this paragraph shall create a right of action in any Retailer or other person against the Town, the Town or its Designee, or their agents.
 - (3) Any Retailer found to be in violation of this Section shall pay all costs related to enforcement to ensure Retailer's compliance with this Section, including but not limited to, fees for reinspection to determine compliance after a violation, enforcement costs, litigation costs, and attorney fees in any administrative or civil matter in which the Town or its Designee prevails.
- (l) *Prevention of underage sales.*

- (1) The Town or its Designee, shall monitor each Retailer at least twice per 12-month period to determine whether the Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco Products. Nothing in this paragraph shall create a right of action in any Retailer or other person against the Town, the Town or its Designee or their agents.
 - (2) The Town or its Designee shall not enforce any law establishing a minimum age for Tobacco Product purchases against an individual who otherwise might be in violation of such law because of the individual's age ("Youth Decoy") if the potential violation occurs when:
 - a. The Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the Town;
 - b. The Youth Decoy is acting as an agent of the Town to monitor compliance with this Section; or
 - c. The Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the County, or the California Department of Public Health.
- (m) *Penalties for a violation by a retailer with a permit.*
- (1) *Administrative fine.* In addition to any other penalty authorized by law, a Retailer shall pay a fine if the Retailer, or the Retailer's agents or employees, violates any of the requirements, conditions, or prohibitions of this Section.
 - (2) *Amount of fine.* The amount of the administrative fine for each violation of this Section shall be as follows:
 - a. A fine not to exceed one thousand dollars (\$1,000.00) for each violation identified during the first instance in which the Retailer has committed a violation or violations;
 - b. A fine not to exceed two thousand five hundred dollars (\$2,500.00) for each violation identified during a subsequent instance if the Retailer has committed a previous violation or violations within a 60-month period; and
 - c. A fine not to exceed five thousand dollars (\$5,000.00) for each violation identified during a subsequent instance after the Retailer twice committed a previous violation or violations within a 60-month period.
 - (3) *Permit suspension.* In addition to any other penalty authorized by law, the Town or its Designee may suspend a Permit if the Town or its Designee demonstrates that the Retailer or any of the Retailer's agents or employees has violated any of the requirements, conditions, or prohibitions of this Section. The period of the suspension shall be as follows:
 - a. A suspension not to exceed 30 calendar days for an initial violation.

- b. A suspension not to exceed 180 calendar days if a Retailer commits a violation or violations during two instances within a 60-month period.
- c. When a Permit is suspended based on a violation of this Section, the Town or its Designee shall post a placard at the physical location used for Retailing Tobacco Products to notify the general public of the suspension. The placard shall be:
 - (A) Posted in the front window of the storefront used for Retailing Tobacco Products within five feet of the front door; or
 - (B) Posted in a display case mounted on the outside front wall of the physical location used for Retailing Tobacco Products within five feet of the front door; or
 - (C) Posted in a location approved by the Town or its Designee to ensure proper notice to the general public and to patrons of the physical location used for Retailing Tobacco Products.
 - (D) Once attached to a building or structure, a placard is not to be removed, altered, or covered until done so by Town or its Designee or upon written notification from the Town or its Designee.
- (4) *Waiver or reduction of fines and penalties for first violation.* The Town or its Designee may, in its sole discretion, waive or reduce any fines and penalties for a Retailer's first violation of this Section if the Retailer admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of the Town's or its Designee's waiver of penalties for a first violation, the violation will be considered in determining the fines and suspension periods or revocation for any future violation. This Subsection shall not apply to any violation involving a law regulating youth access to Tobacco Products.
- (5) *Corrections period.* The Town or its Designee shall have discretion to allow a Retailer a period of time to correct any violation of any requirement, condition or prohibition of this Section, other than a violation of a law regulating youth access to Tobacco Products. If the Town or its Designee exercises its discretion to provide a Retailer's corrections period and a Retailer's violation is corrected within the time allowed for correction, no penalty shall be imposed under this section.
- (6) *Written notice of penalties.* Whenever a fine is issued and/or Permit is suspended or revoked based on a violation of this Section, the Town or its Designee shall provide the Retailer written notice of the violation and the fine and suspension or revocation, including when the suspension or revocation shall take effect.
- (7) *Appeals.* Any penalties imposed under this Section may be appealed pursuant to Subsection (o) of this Section.
- (8) A timely appeal shall stay enforcement of the appealed penalties until the final administrative decision of the Town or its Designee is issued.
- (n) *Penalties for Retailing without a Permit.*

- (1) *Administrative fine.* In addition to any other penalty authorized by law, a Retailer shall pay a fine if the Town or its Designee demonstrates that the Retailer has engaged in Retailing at a location without a valid retailer permit either directly or through the person's agents or employees.
- (2) *Amount of fine.* The amount of the administrative fine for each such violation of this Section shall be as follows:
 - a. A fine not to exceed two thousand five hundred dollars (\$2,500.00) for each violation identified during the first instance in which the Retailer has committed a violation or violations without a valid Permit;
 - b. A fine not to exceed five thousand dollars (\$5,000.00) for each violation identified during a subsequent instance if the Retailer has committed a previous violation or violations within a 60-month period without a valid Permit;
 - c. A fine not to exceed ten thousand dollars (\$10,000.00) for each violation identified during a subsequent instance after the Retailer has twice committed a previous violation or violations within a 60-month period without a valid Permit.
- (3) *Time period for permit ineligibility.*
 - a. For an initial violation of this Section without a valid Permit, no new Permit may be issued to the Retailer or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until thirty (30) calendar days have passed from the date of the violation.
 - b. If a Retailer commits a violation or violations during two instances within any sixty-month period without a valid permit, no new Permit may be issued for the Retailer or the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) until one year has passed from the date of the second violation.
 - c. If a Retailer commits a violation or violations during three instances within a 60-month period, without a valid Permit, the Retailer and the location (unless Ownership of the business at the location has been transferred in an Arm's Length Transaction) shall be permanently ineligible for a Permit.
- (4) *Waiver or reduction of fines and penalties for first violation.* The Town or its Designee may, in its sole discretion, waive or reduce any fines and penalties for a Retailer's first violation of this Section if the Retailer admits the violation in writing and agrees to forego a hearing on the allegations. Regardless of waiver of fines or penalties for a first violation, the violation will be considered in determining the fines and suspension periods or revocation for any future violation. This Subsection shall not apply to any violation involving a law regulating youth access to Tobacco Products.
- (5) *Written notice of penalties.* Whenever a fine is issued and/or a Permit is suspended pursuant to this Section, the Town or its Designee shall provide the Retailer written notice of the fine and suspension, including when the suspension shall take effect.

(6) *Appeals.* Any penalties imposed under this Section may be appealed pursuant to Section (o) below.

(o) *Appeals.*

- (1) Any Retailer served with a written notice of violation may request an administrative hearing to appeal the existence of the violation, the amount of the fine, the length of a suspension, a revocation of a Permit, or the sustained impoundment and/or seizure of Tobacco Products by returning a completed hearing request form to the Hearing Officer within ten days from the date of the written notice of penalties.
- (2) The Retailer shall include the following in or with the hearing request form:
 - a. A statement indicating the reason the Retailer contests the written notice of penalties;
 - b. Any evidence the Retailer wants the Hearing Officer to consider;
 - c. An advance deposit of the amount of any fine challenged; and
 - d. The address of the Retailer and, if available, an email address that can be used for contact and correspondence by the Hearing Officer. The Retailer may request service of notice by mail.
- (3) The hearing request form shall be deemed filed on the date received by the Hearing Officer. A timely appeal shall stay enforcement of the appealed penalties while the appeal is ongoing.
- (4) After receiving a timely hearing request form, the Hearing Officer shall notify the Department as soon as practicable and then shall schedule an administrative hearing. The Hearing Officer shall provide the Retailer at least ten calendar days' written notice of the date, time, and place of the administrative hearing and the name of the Hearing Officer who will conduct the hearing. The notice shall be given to the Retailer either by email, if requested, or by first class mail, postage prepaid.
- (5) Between the time the Retailer requests the administrative hearing and the time of the Hearing Officer's decision, the Retailer, the Town or its Designee, and each of their representatives shall not engage in ex parte communications with the Hearing Officer regarding the matters at issue in the hearing.
- (6) The hearing shall be conducted by the Hearing Officer on the date, time, and place specified in the notice to the Retailer. A Retailer's failure to appear at the hearing shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies as a precedent to judicially challenge the existence of the violation and the imposition of the fine and suspension.
- (7) At the hearing, the Retailer and the Town or its Designee shall have the opportunity to present evidence, including witnesses, relevant to the Hearing Officer's determination of the matter. Neither the provisions of the Administrative Procedure Act (Government Code Section 11500 et seq.) nor the formal rules of evidence in civil or criminal judicial proceedings shall apply to such hearing. The Hearing Officer may

admit any evidence, including witnesses, relevant to the determination of the matter, except as otherwise provided in Subsection (p)(3) of this Section.

- (8) The written notice of penalties and any other reports prepared by or for the Town or its Designee concerning the violation shall be admissible and accepted by the Hearing Officer as prima facie evidence of the violation and the facts stated in those documents. The Hearing Officer may continue the hearing from time to time, in the Hearing Officer's sole discretion, to allow for its orderly completion of the hearing.
 - (9) After receiving the evidence submitted at the hearing, the Hearing Officer may further continue the hearing and request additional information from either the Town or its Designee or the Retailer.
 - (10) After considering the evidence and testimony submitted, the Hearing Officer shall issue a written decision regarding the matters properly raised in the request for administrative hearing. The Hearing Officer's decision, shall:
 - a. Be based on a preponderance of the evidence.
 - b. Include a statement of the reasons for the decision.
 - c. Be issued within twenty (20) calendar days of the close of the hearing.
 - d. Be served on both the Retailer and the Town or its Designee. The decision shall be given to the Retailer either by email, if requested, or by first class mail, postage prepaid.
 - (11) Based on the Hearing Officer's decision, the Town or its Designee shall promptly refund to the Retailer any amount of the advance fine deposit the Town or its Designee is not entitled to and shall provide the remainder to the Town or its Designee.
 - (12) The Hearing Officer's written decision shall constitute the final administrative decision.
- (p) *Enforcement.*
- (1) Any violation of this Section is hereby declared to be a public nuisance.
 - (2) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Section shall also constitute a violation of this Section.
 - (3) Whenever evidence of a violation of this Section is obtained in any part through the participation of an individual under the age of twenty-one years old, such a person shall not be required over their objection to appear or give testimony in any civil or administrative process brought to enforce this Section and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
 - (4) Violations of this Section may be remedied by a legal action brought by the Town or its Designee. For the purposes of the remedies provided in this Section, each day on which a product is offered for sale in violation of this Section and each individual

product which is sold in violation of this Section, shall constitute a separate violation of this Section.

(5) *Impoundment.*

(A) Based upon inspection findings or other evidence, the Town or its Designee may impound Tobacco Products that are suspected of being or found to be offered for sale or distribution in violation of this Section. The Town or its Designee may affix a label to the products that shall be removed only by the Town or its Designee following final written determination by the Town or its Designee as described below.

(B) No impounded Tobacco Products shall be used, removed, disposed, or offered for sale unless the impoundment has been released. The decision by the Town or its Designee may be appealed pursuant to the procedures set forth in Subsection (o).

(C) Within 30 days of final determination whether impounded products are authorized for sale under this Section, the Town or its Designee shall release the impounded materials or order that unauthorized, impounded product shall be destroyed and properly disposed of at the Retailer's expense after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to Subsection (o) has expired.

(6) *Seizure.* Tobacco Products offered for sale in violation of this Section are subject to seizure by the Town or its Designee and shall be forfeited after the Retailer of the Tobacco Products seized is given reasonable notice and an opportunity to demonstrate that the Tobacco Products were not offered for sale in violation of this Section. This decision may be appealed in accordance with the procedure set forth this Section. Forfeited Tobacco Products shall be destroyed and properly disposed of at Retailer's expense after all internal appeals have been exhausted and after the time in which to seek judicial review has expired.

(7) *Employees.* All Retailers are responsible for the actions of their employees relating to compliance with this Section. The sale, offer to sell, or furnishing of any Tobacco Products by an employee shall be considered an act of the Retailer.

(8) *Remedies.* The remedies provided by this Section are cumulative and in addition to any other remedies available at law or in equity.

(q) *No conflict with federal or state law.* Nothing in this Section shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by, or in conflict with, federal or state law, rules, or regulations.

(r) *Section applicable to Retailing only.* Nothing in this Section shall be construed to penalize the purchase, use, or possession of a Tobacco Product by any person not engaged in the Retailing of such products.

SECTION II. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION III. Publication.

The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

SECTION IV. CEQA.

Adopting this ordinance amending the Town's tobacco retailer ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION V. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the _____, 2023, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the _____, 2023. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

DRAFT



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 11

DATE: October 4, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Fiscal Year 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921) Completed by Spencon Construction and Authorize the Town Clerk to File for Recordation

RECOMMENDATION:

Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion for the Fiscal Year (FY) 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921) completed by Spencon Construction and authorize the Town Clerk to file for recordation.

BACKGROUND:

The FY 2022/23 Curb, Gutter, and Sidewalk Maintenance Project focused on replacing or retrofitting curb ramps in compliance with the Americans with Disabilities Act (ADA) and other accessibility requirements. Title II of the ADA obligates jurisdictions to upgrade non-conforming curb ramps when streets are resurfaced from one intersection to another. The United States Department of Justice has determined that roadway resurfacing work such as asphalt overlay and rubber cape seal prompts curb ramps on associated streets to be installed or upgraded per the latest ADA requirements and standards.

At the February 7, 2023 Town Council meeting, Council approved the plans and specifications for bidding for the Annual (FY 2022/23) Curb, Gutter, and Sidewalk Maintenance Project. On March 2, 2023, the Town received five bids for base bid plus additive alternate ranging from \$427,520 to \$654,010. On April 4, 2023, Council authorized staff to award a construction contract to the lowest bidder, Spencon Construction, in an amount of \$427,520, plus a 10% contingency for a total contract amount of \$470,272.

PREPARED BY: Gary Heap
Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the FY 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921) Completed by Spencon Construction and Authorize the Town Clerk to File for Recordation

DATE: October 17, 2023

DISCUSSION:

The construction project started in May 2023 and Spencon Construction has since satisfactorily completed all contracted work items, including Town requested change orders for additional work identified in the field during construction, for a final Spencon construction cost of \$465,530 as referenced in the fiscal table below. The project brought a total of 69 curb ramps into ADA compliance and replaced about 630 square feet of sidewalk and 570 linear feet of curb and gutter which were uplifted and damaged. Staff recommends accepting the project.

Five percent of the faithful performance bonds will remain in effect for a period of two years as a guarantee for any needed repair or replacement caused by defective materials and/or workmanship for the project. The execution and recordation of the Certificate of Acceptance is required to finalize the Town's acceptance and to release the retention funds withheld from the contractor.

CONCLUSION:

Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion for the FY 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921), completed by Spencon Construction, and authorize the Town Clerk to file the certificate with the County Clerk-Recorder's Office for recordation.

COORDINATION:

This project has been coordinated with the Finance Department.

FISCAL IMPACT:

This report is meant to close out the contract with Spencon Construction associated with the FY 2022/23 work. There were sufficient funds available in the CIP Budget for the 2022/23 Curb, Gutter, and Sidewalk Maintenance Project CIP No. 813-9921 as displayed in the fiscal table.

The project fund balance carries forward into the next year's project.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the FY 2022/23 Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921) Completed by Spencon Construction and Authorize the Town Clerk to File for Recordation

DATE: October 17, 2023

FISCAL IMPACT (continued):

FY 2022/23 Curb, Gutter, and Sidewalk Maintenance Project 813-9921		
	Budget	Costs
GFAR FY 2022/23	\$ 544,280	
Total Budget	\$ 544,280	
Spenco Contract Amount	\$ 427,520	
10% Contingency	\$ 42,752	
Total Contract Amount	\$ 470,272	
Construction Contract - Spenco Construction		\$ 427,520
Construction Contingency - Spenco Construction		\$ 38,010
Total Spenco Project Cost		\$ 465,530
Consultation Services - Ninyo & Moore		\$ 12,048
Advertising		\$ 865
Blueprint/Copy/Postage		\$ 296
Temporary/Part-time Staff		\$ 4,110
Total Expenditures		\$ 482,849
Remaining Budget		\$ 61,431

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorically Exempt (Section 15301c). A Notice of Exemption was previously filed.

Attachment:

1. Certificate of Acceptance and Notice of Completion

Recording Requested by:

TOWN OF LOS GATOS

WHEN RECORDED MAIL TO:

TOWN CLERK
TOWN OF LOS GATOS
110 E MAIN ST
LOS GATOS, CA 95030

(SPACE ABOVE BAR FOR RECORDER'S USE)

(RECORD WITHOUT FEE UNDER GOVERNMENT CODE SECTIONS 27383 AND 6103)

TYPE OF RECORDING

CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION

PPW JOB NO. 22-813-9921 FY 2022/23 Curb, Gutter, and Sidewalk Maintenance Project

TO WHOM IT MAY CONCERN:

I do hereby certify that **Spenco Construction** completed the work called for in the agreement with the Town of Los Gatos dated March 30, 2021. The work is outlined in the Town's bid process prepared by the Town of Los Gatos and generally consisted of furnishing all labor, materials, tools, equipment, and services required for completion of the PPW Job No. 22-813-9921 located in the TOWN OF LOS GATOS, County of Santa Clara, State of California and was completed, approved and accepted **October 17, 2023**.

Bond No.: RCB00042841

Date: 4/25/2023

TOWN OF LOS GATOS

By: _____
Laurel Prevetti, Town Manager

Acknowledgment Require



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 12

DATE: October 5, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize Revenue and Expenditure Budget Adjustments in the Amount of \$76,700 to Recognize Receipt and Expenditure for State of California Office of Traffic Safety (OTS) Grant Funds

RECOMMENDATION:

Authorize revenue and expenditure budget adjustments in the amount of \$76,700 to recognize receipt and expenditure for State of California Office of Traffic Safety (OTS) grant funds.

REMARKS:

The Police Department has been successful in obtaining a \$76,700 grant from the State of California Office of Traffic Safety (OTS). State and local agencies need timely, accurate, complete, accessible, and uniform traffic records to identify and prioritize traffic safety issues, choose appropriate safety countermeasures, and evaluate their effectiveness. Traffic records improvement grants provide recipients with the ability to plan and initiate traffic records improvement projects, such as the purchase and implementation of traffic crash reporting systems as well as electronic citation equipment and software.

The Los Gatos-Monte Sereno Police Department (LGMSPD) will use the awarded grant funds to purchase the Crossroads Collisions Database Analytics System and E-Citation Ticket Writer System.

Traffic Collision software would allow LGMSPD to obtain summaries of traffic collisions and citations. The software also runs traffic-related queries by cause, type, conditions, locations, location rankings, and injuries.

PREPARED BY: Heather St. John
Administrative Analyst

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

PAGE 2 OF 2

SUBJECT: Authorize revenue and expenditure budget adjustments in the amount of \$76,700 to recognize receipt and expenditure for State of California Office of Traffic Safety (OTS) grant funds.

DATE: October 5, 2023

REMARKS (continued):

E-Citation Writer technology would be used to process citation data more effectively in the field by uploading the data through an interface with the Town's current Records Management System (RMS). This results in an automatic data entry, which would streamline the Town's efforts to prepare the records for the judicial proceedings. The improved efficiencies through the data interface using the e-citation software allows Officers to write citations faster and more accurately, with the ability to generate comprehensive reports. The handheld devices are part of the equipment that has been issued and is in use by sworn staff. The additional equipment involved will be purchased through the grant funds to allow the printing of the citation.

FISCAL IMPACT:

With Council approval to receive the Office of Traffic Safety grant funds, a budget adjustment is needed to the General Fund. The budget adjustment recognizes an increase in expenditures in the amount up to \$76,700 that would be offset by grant revenue of an equal amount. The grant will be recorded to Fiscal Year 2023/24.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Draft OTS Grant Agreement

1. GRANT TITLE Traffic Records Improvement Project	
2. NAME OF AGENCY Los Gatos	3. Grant Period From: 10/01/2023 To: 09/30/2024
4. AGENCY UNIT TO ADMINISTER GRANT Los Gatos Monte Sereno Police Department	
5. GRANT DESCRIPTION State and local agencies need timely, accurate, complete, accessible, and uniform traffic records to identify and prioritize traffic safety issues, to choose appropriate safety countermeasures and evaluate their effectiveness. Traffic records improvement grants provide traffic safety stakeholders with the ability to plan and initiate traffic records improvement projects such as the purchase and implementation of traffic crash reporting systems as well as electronic citation equipment and software.	
6. Federal Funds Allocated Under This Agreement Shall Not Exceed: \$76,700.00	
7. TERMS AND CONDITIONS: The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement: <ul style="list-style-type: none">• Schedule A – Problem Statement, Goals and Objectives and Method of Procedure• Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)• Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)• Exhibit A – Certifications and Assurances• Exhibit B* – OTS Grant Program Manual• Exhibit C – Grant Electronic Management System (GEMS) Access <p>*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto.</p> <p>These documents can be viewed at the OTS home web page under Grants: www.ots.ca.gov.</p> <p>We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.</p> <p>IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.</p>	
8. Approval Signatures	
A. GRANT DIRECTOR NAME: Clinton Tada TITLE: Captain EMAIL: ctada@losgatosca.gov PHONE: 408-827-3218 ADDRESS: 110 East Main Street Los Gatos, CA 95030 _____ (Signature) (Date)	B. AUTHORIZING OFFICIAL NAME: Laurel Prevetti TITLE: Town Manager EMAIL: lprevetti@losgatosca.gov PHONE: (408) 354-6832 ADDRESS: 110 East Main Street Los Gatos, CA 95030 _____ (Signature) (Date)
C. FISCAL OFFICIAL NAME: Heather St. John TITLE: Senior Administrative Analyst EMAIL: hstjohn@losgatosca.gov PHONE: 404-354-6834 ADDRESS: 110 East Main Street Los Gatos, CA 95030 _____ (Signature) (Date)	D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY NAME: Barbara Rooney TITLE: Director EMAIL: barbara.rooney@ots.ca.gov PHONE: (916) 509-3030 ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758 _____ (Signature) (Date)

E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY NAME: Carolyn Vu ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758	9. SAM INFORMATION SAM #: MPQTKTQ7N4L4 REGISTERED ADDRESS: Physical Address: CITY: 110 E MAIN ST ZIP+4: Los Gatos 95030-6943
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10. PROJECTED EXPENDITURES						
FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
				AGREEMENT TOTAL		\$76,700.00
				AMOUNT ENCUMBERED BY THIS DOCUMENT		\$76,700.00
I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT		\$ 0.00
				TOTAL AMOUNT ENCUMBERED TO DATE		\$76,700.00
OTS ACCOUNTING OFFICER'S SIGNATURE		DATE SIGNED				

1. PROBLEM STATEMENT

The Los Gatos-Monte Sereno Police Department needs to address a traffic collision software and electronic citation solution which will produce timely, accurate, complete, accessible, and uniform traffic crash records. In addition to documenting traffic crashes reports, the solution software products should be utilized to identify, prioritize and predict traffic safety issues, analyze appropriate safety countermeasures, record traffic safety enforcement efforts, and produce data to evaluate their effectiveness. Currently, the California Highway Patrol collects a portion of this data via the Statewide Integrated Traffic Records System (SWITRS) from law enforcement agencies throughout the state.

The Los Gatos-Monte Sereno Police Department utilizes the CHP 555 traffic collision form (a PDF format) to collect and document local traffic crash data for manual review, approval, and input into SWITRS, which negatively impacts the efficient use of staff resources. In 2022, a total of 190 traffic crash reports were documented and investigated by officers and processed by Records personnel, all of which were typed in a PDF formatted application or word processing document. The implementation and use of a traffic collision reporting software system which interfaces with both SWITRS and the Department's current Records Management System would increase workflow efficiencies (by officers and support staff) and decrease current backlog of unprocessed crash reports with increased accuracy. In addition, data entered into a robust traffic crash software system could be used to effectively to analyze, educate, and promote traffic safety engineering improvements and traffic enforcement efforts.

In 2020, the Police Department purchased a new Records Management System (RMS) which does not provide an adequate traffic crash reporting module or an efficient method of conducting statistical analysis of crash data to address traffic safety needs and directed enforcement areas within the Town. The Police Department and Town of Los Gatos Public Works Departments currently have a licensed subscription to Crossroads Reporting and Crossroads Analytics software systems. Although, due to the lack of necessary interface software and other featured applications, Crossroads cannot be used at this time to document, analyze or report required statistics related to collision data. The Police Department needs to fund the purchase of one-time software application and set up from Crossroads and the appropriate interface set up applications with current RMS and SWITRS databases. The Department has conducted research with other law enforcement agencies within the Santa Clara County and other Sunridge RMS user agencies, with the majority of departments utilizing Crossroads Collision software with positive results.

In addition, the Los Gatos-Monte Sereno Police Department is seeking to purchase and integrate an electronic citation software program which interfaces with the current RMS system. Currently, citations are hand-written, manually reviewed, entered individually into RMS systems, and mailed to the judicial courts for disposition. This labor-intensive process causes a backlog of citation processing by Records personnel, a reduction in the efficiency of officer enforcement time, and the inability for the Traffic Division Officers and Town's Engineering Department to identify the frequency of violations by specific area, violation type, etc. The Department has identified Crossroads E-Citation Software system which incorporates the ability to interface with the Crossroads Traffic Collision Reporting software system requested and the Department's current RMS system. Crossroads E-Citation application would be installed on existing individual Officers' department issued mobile devices and would supplant existing methods of hand-written citations for traffic and criminal citations.

2. PERFORMANCE MEASURES

A. Goals:

1. Reduce the number of persons killed in traffic crashes.
2. Reduce the number of persons injured in traffic crashes.

B. Objectives:

1. Purchase a new electronic crash reporting program or upgrade an existing electronic crash reporting program to the latest version available that includes the capability of exporting complete crash report records to a departmental records management system (RMS) and the California Highway Patrol's Statewide Integrated Traffic Records System (SWITRS).

Target Number

1

<p>2. Purchase and implement a new complete electronic citation solution or upgrade an existing electronic citation solution that includes the capability of exporting data to both a departmental records management system (RMS) as well as the local court records system if and when the local court can receive electronic citation data.</p>	1
<p>3. METHOD OF PROCEDURE</p> <p>A. <u>Phase 1 – Program Preparation (1st Quarter of Grant Year)</u></p> <ul style="list-style-type: none"> • Determine specific system requirements. • Determine specific equipment requirements. • Request vendor price quotation per host agency requirements. • Procure an electronic crash reporting system with the following functionalities: <ul style="list-style-type: none"> • System licensing with installation and training. • GIS based mapping. • Segment crash diagramming tool. • Ability to create or import crash reports. • Ability to import and export agency RMS files. • Ability to perform complete analysis of crash reports. • Secure database accessible by appropriate agency personnel. • Ability to export complete crash report to the California Highway Patrol's Statewide Integrated Traffic Records System. • Procure an electronic citation system with the following functionalities: <ul style="list-style-type: none"> • System licensing with installation and training. • Ability to import and export to agency RMS files. • Ability to perform complete analysis of citation reports. • Secure database accessible by appropriate agency personnel. • Ability to export complete citation reports to the local county court. 	
<p>B. <u>Phase 2 – Program Operations (Throughout Grant Year)</u></p> <ul style="list-style-type: none"> • Select vendor for system development, implementation, and installation. • Monitor and oversee progress of system/software development. <p>The Department has identified Crossroad as a preferred vendor for this product for the xxxxxxxxxxxxxxxxxxxx</p>	
<p>C. <u>Phase 3 – Data Collection & Reporting (Throughout Grant Year)</u></p> <ul style="list-style-type: none"> • Prepare and submit grant claims invoice (due January 30, April 30, July 30, and October 30). <ul style="list-style-type: none"> • Successful project completion and confirmation of successful transmission of crash reports by the California Highway Patrol is required before submission of invoice claims seeking reimbursement from OTS. • Prepare and submit quarterly performance reports (due January 30, April 30, July 30, and October 30). <ul style="list-style-type: none"> • Collect and report quarterly appropriate data that supports the progress of goals and objectives. • Provide a summary of quarterly accomplishments and explanations for objectives not completed. • Collect, analyze, and report statistical data relating to the grant goals and objectives. 	
<p>4. METHOD OF EVALUATION</p> <p>Using the data compiled during the grant, the Grant Director will complete the “Final Evaluation” section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant’s accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.</p>	
<p>5. ADMINISTRATIVE SUPPORT</p> <p>This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.</p>	

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405c TR-24	20.616	State Traffic Safety Information System Improvements	\$76,700.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
A. PERSONNEL COSTS				
<u>Straight Time</u>				\$0.00
<u>Overtime</u>				\$0.00
Category Sub-Total				\$0.00
B. TRAVEL EXPENSES				
				\$0.00
				\$0.00
Category Sub-Total				\$0.00
C. CONTRACTUAL SERVICES				
				\$0.00
Category Sub-Total				\$0.00
D. EQUIPMENT				
Complete Traffic Crash and Electronic Citation Data Collection System	405c TR- 24	\$76,700.00	1	\$76,700.00
Category Sub-Total				\$76,700.00
E. OTHER DIRECT COSTS				
				\$0.00
Category Sub-Total				\$0.00
F. INDIRECT COSTS				
				\$0.00
Category Sub-Total				\$0.00
GRANT TOTAL				\$76,700.00

BUDGET NARRATIVE

PERSONNEL COSTS

-

TRAVEL EXPENSES

-

CONTRACTUAL SERVICES

-

EQUIPMENT

Complete Traffic Crash and Electronic Citation Data Collection System - A combination traffic crash and electronic citation data collection system will handle both traffic crash and traffic citation data collection and processing. The traffic crash database system will collect, analyze, and display crash and enforcement data, including a full featured module for analysis, allowing queries for top ranking lists of locations, breakdowns by cause, type, injury, conditions, and many other attributes. Queries and Reports will be provided in a variety of formats including pie charts, bar charts, and summaries. The system provides for crash mapping on Google Earth, ESRI GIS, or similar mapping products. Costs may include laptop/desktop computers, software and licenses, printers, accessories, training, and associated shipping and taxes. The traffic citation system will collect citation data electronically in the field, print a violator copy of the citation, and transfer the information electronically to the agency RMS system and the courts for prosecution. The system will be used by traffic officers to improve the efficiency and accuracy of writing traffic citations. Costs may include the purchase of electronic citation devices, mag-strip readers, fingerprint readers, audio recorders, cameras, docking/charging stations, laptop/desktop computers, software, licenses, printers, accessories, training, and associated shipping and taxes.

OTHER DIRECT COSTS

-

INDIRECT COSTS

-

STATEMENTS/DISCLAIMERS

There will be no program income generated from this grant.

Certifications and Assurances for Fiscal Year 2024 Highway Safety Grants (23 U.S.C. Chapter 4 or Section 1906, Public Law 109-59, as amended by Section 25024, Public Law 117-58)

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies, and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended;
- Sec. 1906, [Public Law 109-59](#), as amended by Sec. 25024, [Public Law 117-58](#);
- [23 CFR part 1300](#)—Uniform Procedures for State Highway Safety Grant Programs;
- [2 CFR part 200](#)—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- [2 CFR part 1201](#)—Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

NONDISCRIMINATION

(applies to all subrecipients as well as States)

The State highway safety agency [and its subrecipients] will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

- *Title VI of the Civil Rights Act of 1964* ([42 U.S.C. 2000d](#) et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- [49 CFR part 21](#) (entitled *Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964*);
- [28 CFR 50.3](#) (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- *The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, ([42 U.S.C. 4601](#)), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- *Federal-Aid Highway Act of 1973*, ([23 U.S.C. 324 et seq.](#)), and *Title IX of the Education Amendments of 1972*, as amended ([20 U.S.C. 1681-1683](#) and [1685-1686](#)) (prohibit discrimination on the basis of sex);
- *Section 504 of the Rehabilitation Act of 1973*, ([29 U.S.C. 794 et seq.](#)), as amended, (prohibits discrimination on the basis of disability) and [49 CFR part 27](#);
- *The Age Discrimination Act of 1975*, as amended, ([42 U.S.C. 6101 et seq.](#)), (prohibits discrimination on the basis of age);
- *The Civil Rights Restoration Act of 1987*, (Pub. L. 100-209), (broadens scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- *Titles II and III of the Americans with Disabilities Act* ([42 U.S.C. 12131-12189](#)) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and [49 CFR parts 37](#) and [38](#);
- [Executive Order 12898](#), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (preventing discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency* (requiring that recipients of Federal financial assistance provide meaningful access for applicants and beneficiaries who have limited English proficiency (LEP));
- [Executive Order 13985](#), *Advancing Racial Equity and Support for Underserved Communities through the Federal Government* (advancing equity across the Federal Government); and
- [Executive Order 13988](#), *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation* (clarifying that sex discrimination includes discrimination on the grounds of gender identity or sexual orientation).

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

GENERAL ASSURANCES

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including NHTSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the Civil Rights Act of 1964 and other non-discrimination requirements (the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

SPECIFIC ASSURANCES

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Highway Safety Grant Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in § 21.23(b) and (c) of [49 CFR part 21](#) will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Highway Safety Grant Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source: *“The [name of Recipient], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”*
3. The Recipient will insert the clauses of appendix A and E of this Assurance (also referred to as DOT Order 1050.2A) in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of appendix B of DOT Order 1050.2A, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in appendix C and appendix D of this DOT Order 1050.2A, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the State highway safety agency also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing NHTSA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by NHTSA. You must keep records, reports, and submit the material for review upon request to NHTSA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The State highway safety agency gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Highway Safety Grant Program. This ASSURANCE is binding on the State highway safety agency, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Highway Safety Grant Program. The person(s) signing below is/are authorized to sign this ASSURANCE on behalf of the Recipient.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The Subgrantee will provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing a drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation, and employee assistance programs;
 4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
 5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 1. Abide by the terms of the statement;
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;
- e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted—
 1. Taking appropriate personnel action against such an employee, up to and including termination;
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)

(applies to all subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to all subrecipients as well as States)

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING (applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (applies to all subrecipients as well as States)

INSTRUCTIONS FOR PRIMARY TIER PARTICIPANT CERTIFICATION (STATES)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of [2 CFR parts 180](#) and [1200](#).
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded**, as used in this clause, are defined in [2 CFR parts 180](#) and [1200](#). You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under [48 CFR part 9, subpart 9.4](#), debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with [2 CFR parts 180](#) and [1200](#).
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under [48 CFR part 9, subpart 9.4](#), debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or

otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under [48 CFR part 9, subpart 9.4](#), suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate the transaction for cause or default.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS— PRIMARY TIER COVERED TRANSACTIONS

1. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

INSTRUCTIONS FOR LOWER TIER PARTICIPANT CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of [2 CFR parts 180](#) and [1200](#).
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded**, as used in this clause, are defined in [2 CFR parts 180](#) and [1200](#). You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under [48 CFR part 9, subpart 9.4](#), debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with [2 CFR parts 180](#) and [1200](#).
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under [48 CFR part 9, subpart 9.4](#), debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or

otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov>).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under [48 CFR part 9, subpart 9.4](#), suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION— LOWER TIER COVERED TRANSACTIONS

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

CERTIFICATION ON CONFLICT OF INTEREST

(applies to subrecipients as well as States)

GENERAL REQUIREMENTS

No employee, officer, or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.
 - a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.
 - b. The code or standards shall establish penalties, sanctions, or other disciplinary actions for violations, as permitted by State or local law or regulations.
2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

DISCLOSURE REQUIREMENTS

No State or its subrecipient, including its officers, employees, or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.
2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may (a) terminate the award, or (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.
3. Conflicts of interest that require disclosure include all past, present, or currently planned organizational, financial, contractual, or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor, and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(applies to all subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 13

DATE: October 11, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive and Provide Direction for the Youth Commission Work Plan for School Year 2023/24.

RECOMMENDATION:

Receive and provide direction for the Youth Commission work plan for school year 2023/24.

BACKGROUND:

The purpose of the Youth Commission is to foster and encourage civic and neighborhood pride and a sense of identity through the knowledge, understanding, and increased involvement of the Town's youth in the Town's present and future municipal affairs. The Los Gatos Youth Commission operates under the provisions of Town Resolution 2018-008 adopted by Council in March 2018. This Commission establishes a formal body by which the youth of Los Gatos have a voice in the community. The Youth Commission shall generally be responsible for studying various problems, activities, and other issues of concern to the youth in general, and for advising Council on matters pertaining to issues involving the youth of Los Gatos.

The Youth Commission consists of twenty students that are entering grades 8 through 12. Members serve a two-year term unless entering grade 12, in which case they would serve a term of one year. A Chair and Vice-Chair were appointed at the September meeting. Commission also appointed one primary Town Board and Commission liaison and at least one alternate for the following.

1. Arts and Culture Commission
2. Complete Streets and Transportation Commission
3. Community and Senior Services Commission

PREPARED BY: Jamie Field
Chief of Police

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney

BACKGROUND (continued):

4. Library Board
5. Parks Commission

The Commission liaisons provide a monthly report to the Youth Commission and represent a youth voice at these Board and Commission meetings.

The Youth Commission meetings are on the second Tuesday of each month at 7:00 p.m. from September through June, with August being a Special Meeting. The Police Chief serves as the staff liaison to the Commission with support by Executive Assistant Claudia Martinez.

DISCUSSION:

The Youth Commission had a Special Meeting in August and a regular meeting in September with emphasis on assigning roles and discussions on school year priorities for the Commission. The Commission again hosted a successful and well attended Canine Companion event at the Los Gatos High School (LGHS) in August, shortly after the start of 2023/24 school year.

Periodically, the Youth Commission has focused considerable effort on ordinances, including the Social Host Ordinance, Smoking Ordinance, and amending the Bike Ordinance to address E-bikes. Given the high volume of work and required staff support, the Youth Commission will not be addressing ordinances in 2023/24. Instead, the Commission will continue to promote the ordinances they have worked on and other youth outreach opportunities.

Four Ad Hoc Committees were established to address work items outlined in the Youth Commission Work Plan shown in Table 1. The Ad Hoc Committees consist of the following.

1. Traffic Safety
2. Environmental
3. Community Outreach
4. Teen Wellness

DISCUSSION (continued):**Table 1. Youth Commission (YC) Work Plan for School Year 2023/24**

Work Item	Proposed Commission Approach
Canine Companion	Bring Therapy Canines to the front lawn of LGHS to provide support at lunch at beginning of school year.
E-Bike Safety Awareness	Collaborate and partner with local bike businesses and schools for greater safety awareness.
SNAP Outreach & Event	Promote the Special Needs Awareness Program and annual spring event with local special needs children for egg hunt and cookie decorating.
Christmas Parade Flat	Participate in the Los Gatos Children's Holiday Parade by decorating and riding in a float.
Senior Community Activity	Initiate efforts to determine an event date and venue where presence and support will be provided by the YC to seniors within Los Gatos (LG).
Fentanyl Education & Prevention	Identify education, training, and prevention program and materials for locals LG schools to be funded by Fentanyl prevention and training program monies received by the Town.
Spring into Green	Provide outreach materials on recent YC supported Ordinances and other work plan items, and staff a table for youth to make their own succulent plant display.
Traffic Safety near LGHS	To be determined

CONCLUSION:

The Youth Commission will provide a year-end concluding presentation in June 2024 that will outline the accomplishments from the work plan, identifying an Environmentally Friendly Business and a Youth Friendly Business.

FISCAL IMPACT:

There is no fiscal impact associated with this work plan.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Slide Presentation



2023-2024

@LOSGATOSYOUTHCOMMISSION



Chair
Taj Chunawala

Vice-chair
Ryan Idemoto





Youth Commission- School Year Work Plan 2023/24



Work Item	Proposed Commission Approach
Canine Companion	Bring Therapy Canines to the front lawn of LGHS to provide support at lunch at beginning of school year.
E-Bike Safety Awareness	Collaborate and partner with local bike businesses and schools for greater safety awareness.
SNAP Outreach & Event	Special Needs Awareness Program outreach and annual Easter event with local special needs children for egg hunt and cookie decorating.
Christmas Parade Float	Participate in the Los Gatos Childrens Christmas Parade by decorating and riding in a float.
Senior Community Activity	In developmental stage to determine event date and venue where presence and support will be provided by the YC to seniors within Los Gatos.
Fentanyl Education & Prevention	Identify education, training, and prevention program and materials for locals LG schools to be funded by Fentanyl prevention and training program monies received by the Police Department.
Spring into Green	Provide outreach materials on recent YC supported Ordinances, work plan related materials, and staff a table for youth to make their own succulent plant display.
Traffic Safety near LGHS	TBD

Ad-Hoc Committees



Community Outreach



Environmental



Teen Wellness



Traffic Safety

Los Gatos Commissions

- ◇ Arts and Culture
- ◇ Community Health & Sr. Services
- ◇ Library Board
- ◇ Parks Commission
- ◇ Complete Streets & Transportation

Each commission is represented by a Youth Commission student. A liaison and alternate are assigned by the Youth Commission.

Questions





**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 13

DESK ITEM

DATE: October 17, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive and Provide Direction for the Youth Commission Work Plan for
School Year 2023/24

REMARKS:

Attachment 2 contains an updated presentation.

Attachment Received with the Staff Report:

1. Slide Presentation

Attachment Received with this Desk Item:

2. Updated Slide Presentation

PREPARED BY: Jamie Field
Chief of Police

Reviewed by: Town Manager, Assistant Town Manager, and Town Attorney



2023-2024

@LOSGATOSYOUTHCOMMISSION



Chair
Taj Chunawala

Vice-chair
Ryan Idemoto





Youth Commission- School Year Work Plan 2023/24



Work Item	Proposed Commission Approach
Canine Companion	Bring Therapy Canines to the front lawn of LGHS to provide support at lunch at beginning of school year.
E-Bike Safety Awareness	Collaborate and partner with local bike businesses and schools for greater safety awareness.
SNAP Outreach & Event	Special Needs Awareness Program outreach and annual Easter event with local special needs children for egg hunt and cookie decorating.
Christmas Parade Float	Participate in the Los Gatos Childrens Christmas Parade by decorating and riding in a float.
Senior Community Activity	In developmental stage to determine event date and venue where presence and support will be provided by the YC to seniors within Los Gatos.
Fentanyl Education & Prevention	Identify education, training, and prevention program and materials for locals LG schools to be funded by Fentanyl prevention and training program monies received by the Police Department.
Spring into Green	Provide outreach materials on recent YC supported Ordinances, work plan related materials, and staff a table for youth to make their own succulent plant display.
Traffic Safety near LGHS	TBD

Ad-Hoc Committees



Community Outreach



Environmental



Teen Wellness



Traffic Safety

Los Gatos Commissions

- ◇ Arts and Culture
- ◇ Community Health & Sr. Services
- ◇ Library Board
- ◇ Parks Commission
- ◇ Complete Streets & Transportation
- ◇ Diversity, Equity, and Inclusion (DEI)- *January*

Each commission is represented by a Youth Commission student. A liaison and alternate are assigned by the Youth Commission.

Questions





**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 14

DATE: October 12, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Consider a Resolution to Amend the General Plan Land Use Designation of 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial and Introduce an Ordinance Titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for Property **Located at 15810 Los Gatos Boulevard.**" APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001 and General Plan Amendment Application GP-23-001. PROPERTY OWNER/APPLICANT: Jesus Ching and Kathleen Ban. PROJECT PLANNER: Jocelyn Shoopman.

RECOMMENDATION:

Adopt a resolution (Attachment 3) to amend the General Plan land use designation of 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial and introduce an ordinance (Attachment 4) titled "An Ordinance of the Town of Los Gatos Amending the Zoning Code from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for property located at 15810 Los Gatos Boulevard."

BACKGROUND:

The subject parcel is located at the southeast corner of Los Gatos Boulevard and Farley Road with driveway access off both streets (Attachment 1, Exhibit 1). The adjoining residential properties to the south along Los Gatos Boulevard have access off Oleander Avenue and the adjoining residential property to the east has access off of Farley Road. The property is currently located in an unincorporated area of Santa Clara County. Under Santa Clara County

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

development regulations, the parcel has a zoning of OA (Administrative, Professional Office) and a General Plan land use designation of Urban Service Area Los Gatos. Concurrently with the Zone Change and General Plan Amendment application, the property owner has submitted an Annexation application that will be considered by the Town Council under a separate agenda item for the October 17, 2023, Council agenda.

The subject parcel is bound by parcels with a Low Density Residential General Plan land use designation to the east and south (Attachment 1, Exhibit 1). The parcels to the north and west have a Mixed Use Commercial General Plan land use designation.

The applicant is requesting approval of a zone change from R-1:8 Prezone to CH and a General Plan amendment to change the land use designation from Low Density Residential to Mixed Use Commercial. At this time, no modifications to the building or existing dentist office use are proposed.

On June 30, 2022, the Town Council approved the 2040 General Plan, which included modifying the land use designation of the property located at 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial. On August 16, 2022, signatures were submitted to the Town in support of a referendum on the Land Use and Community Design Elements of the approved 2040 General Plan. Once the referendum signatures were verified by the County Registrar in late September, the 2040 General Plan Land Use and Community Design Elements were suspended in accordance with Elections Code Section 9237.

On October 4, 2022, Town Council approved a Resolution to confirm suspension of the 2040 General Plan Land Use and Community Design Elements and provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period. The land use designation of this property, based on the 2020 Land Use Element, is therefore returned to Low Density Residential for the period of that suspension.

DISCUSSION:

A. General Plan Committee

At its May 10, 2023, meeting, the General Plan Committee (GPC) reviewed the application and unanimously recommended approval of the General Plan amendment to the Planning Commission and Town Council.

DISCUSSION (continued):

B. Planning Commission

At its July 12, 2023, meeting, the Planning Commission reviewed the applications and unanimously recommended approval of the General Plan amendment and zone change to the Town Council (Attachment 2).

C. General Plan Land Use Designations

The applicant is proposing a General Plan amendment to change the land use designation from Low Density Residential to Mixed Use Commercial. The Low Density Residential land use designation (0-5 dwelling units per acre) provides for single-family residential properties located on generally level terrain. It encourages single-family residential development in either the standard development established by traditional zoning or by innovative forms obtained through a planned development.

The Mixed Use Commercial land use designation provides for the following:

- A mixture of retail, office, and residential in a mixed-use project, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restaurants;
- Projects developed under this designation shall maintain the small town, residential scale and natural environments of adjacent residential neighborhoods, as well as provide prime orientation to arterial street frontages and proper transitions and buffers to adjacent residential properties; and
- This designation should never be interpreted to allow development of independent commercial facilities with principal frontage on the side streets.

D. General Plan Goals and Policies

Applicable 2020 General Plan Land Use and Community Design goals and policies that should be used to evaluate the proposed General Plan amendment and zone change applications for this site include, but are not limited to:

Land Use Goals

- LU-1 – To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.
- LU-6 – To preserve and enhance the existing character and sense of place in residential neighborhoods.
- LU-9 – To provide residents with adequate commercial and industrial services.

DISCUSSION (continued):

- LU-12 – To ensure an appropriate mix of land use types along Los Gatos Boulevard in order to maintain the economic vitality of the corridor and continue to serve the needs of Town residents.
- LU-13 – To promote appropriate and compatible development along Los Gatos Boulevard that complements the whole Town and serves residents and families.

Land Use Policies

- LU-1.4 – Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
- LU-1.8 – Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos.
- LU-2.1 – Minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos.
- LU-6.1 – Protect existing residential areas from the impacts of nonresidential development.
- LU-6.2 – Allow non-residential activity in residential areas only when the character and quality of the neighborhood can be maintained.
- LU-6.3 – Protect existing residential areas from adjacent nonresidential uses by assuring that buffers are developed and maintained.
- LU-6.4 – Prohibit uses that may lead to the deterioration of residential neighborhoods, or adversely impact the public safety or the residential character of a residential neighborhood.
- LU-6.5 – The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood.

Community Design Goals

- CD-6 – To preserve, promote, and protect the existing small-town character and quality of life within Los Gatos.

Community Design Policies

- CD-12.2 – Encourage the preservation, maintenance, and adaptive reused of existing residential, commercial, or public buildings.

DISCUSSION (continued):

E. Zoning

The applicant is proposing a zone change from R-1:8 Prezone to CH. The proposed zoning would be consistent with the General Plan land use designation if the proposed General Plan amendment is approved. Permitted uses in the CH zone are activities which do not unreasonably interfere with nearby residential uses and which are in the following categories:

1. Retailing, including formula retail up to ten thousand (10,000) square feet.
2. Personal service businesses and service businesses necessary for the conduct of households.
3. Office activities.
4. Limited manufacturing activities when a majority of sales are made on site to the ultimate consumer.
5. Group classes.
6. Specialty food retail without alcoholic beverages.

The present use of the subject property is a dentist office. This use is a permitted use in the proposed CH zone. Under the current R-1:8 regulations, the use is considered a non-conforming use and would be permitted to continue; however, the non-conforming use would be limited in that any modification, such as an increase in the proposed floor area, increase in the required parking, or increase in the number of hours of operation would be considered an intensification of the use which would require approval of a Conditional Use Permit. A proposal to demolish and construct a new commercial building under the same proposed use of a dentist's office would not be permitted on a residentially zoned parcel. At this time, no modifications to the building or use are proposed by the applicant (Attachment 1, Exhibit 5).

The subject parcel is bound by parcels with a CH zoning designation to the north and west (Attachment 1, Exhibit 1). The parcel to the south and east have a R-1:8 Prezone designation.

PUBLIC COMMENTS:

Written notice of the Town Council hearing was sent to property owners and tenants within 300 feet of the subject property. At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Summary

The proposed project is a request for approval of a zone change from R-1:8 Prezone to CH and a General Plan amendment to change the land use designation from Low Density Residential to Mixed Use Commercial. As described above, the proposed General Plan amendment and zone change would be consistent with the existing adjacent pattern of land uses and zones (Attachment 1, Exhibit 1).

B. Recommendation

Based on the analysis above, and the recommendations of the Planning Commission and GPC, staff recommends that the Town Council consider the existing and proposed General Plan Land Use and zoning designations and approve the proposed amendments. If the Town Council finds merit with the proposed amendments, it should:

1. Make the finding that no further environmental analysis is required (Attachments 3 and 4);
2. Make the required finding that the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its elements, in that the proposal is consistent with the pattern of development and that the land use will support and enhance the character of the Town (Attachment 3);
3. Adopt a Resolution approving General Plan Amendment Application GP-23-001 amending the General Plan land use designation from Low Density Residential to Mixed Use Commercial (Attachment 3);
4. Make the required finding that the proposed zone change is consistent with the General Plan and its Elements in that the proposed zoning is consistent with the proposed General Plan land use designation (Attachment 4); and
5. Introduce an Ordinance of the Town of Los Gatos, by title only, effecting a zone change from Prezone R-1:8 (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) for the property located at 15810 Los Gatos Boulevard (Attachment 4), by title only, with any specific changes identified and agreed upon by the majority of the Town Council.

C. Alternatives

Alternatively, the Town Council could:

1. Continue the matter to a date certain with specific direction;
2. Remand the applications to the Planning Commission with specific direction; or
3. Deny the applications.

PAGE 7 OF 8

SUBJECT: 15810 Los Gatos Boulevard/Z-23-001/GP-23-001

DATE: October 12, 2023

COORDINATION:

The Community Development Department coordinated with the Parks and Public Works Department, the Santa Clara County Fire Department, and the Town Attorney's Office in the review of the proposed project.

ENVIRONMENTAL ASSESSMENT:

An EIR was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan amendment for the property located at 15810 Los Gatos Boulevard. No further environmental analysis is required.

Attachments:

1. July 12, 2023, Planning Commission Staff Report with Exhibits 1-7
2. July 12, 2023, Planning Commission Verbatim Minutes
3. Draft Resolution for the General Plan Amendment, with Exhibit A
4. Draft Ordinance for the Zone Change, with Exhibit A

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 07/12/2023

ITEM NO: 1

DATE: July 7, 2023

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Consider a Request for Approval of a Zone Change from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) and a General Plan Amendment to Change the Land Use Designation from Low Density Residential to Mixed Use Commercial for Property **Located at 15810 Los Gatos Boulevard**. APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001 and General Plan Amendment Application GP-23-001. PROPERTY OWNER/APPLICANT: Jesus Ching and Kathleen Ban. PROJECT PLANNER: Jocelyn Shoopman.

RECOMMENDATION:

Approval.

PROJECT DATA:

General Plan Designation:	Low Density Residential
Zoning Designation:	R-1:8 Prezone (Single-Family Residential, minimum lot size of 8,000 square feet)
Applicable Plans & Standards:	General Plan
Parcel Size:	10,800 square feet

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Planning Manager, Community Development Director, and Town Attorney

PROJECT DATA (continued):

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Commercial	Mixed Use Commercial	CH
South	Residential	Low Density Residential	R-1:8 Prezone
East	Residential	Low Density Residential	R-1:8 Prezone
West	Commercial	Mixed Use Commercial	CH

CEQA:

An EIR was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan amendment for the property located at 15810 Los Gatos Boulevard. No further environmental analysis is required.

FINDINGS:

- An EIR was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan amendment for the property located at 15810 Los Gatos Boulevard. No further environmental analysis is required.
- That the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its elements, in that the proposal is consistent with the pattern of development and that the land use will support and enhance the character of the Town.
- That the proposed Zone Change is consistent with the General Plan and its elements in that the proposed zoning is consistent with the proposed General Plan land use designation.

BACKGROUND:

The subject parcel is located at the southeast corner of Los Gatos Boulevard and Farley Road with driveway access off of both streets (Exhibit 1). The adjoining residential properties to the south along Los Gatos Boulevard have access off of Oleander Avenue and the adjoining residential property to the east has access off of Farley Road. The property is currently located in an unincorporated area of Santa Clara County. Under Santa Clara County development regulations, the parcel has a zoning of OA (Administrative, Professional Office) and a General Plan land use designation of Urban Service Area Los Gatos. Concurrently with the Zone Change and General Plan Amendment application, the property owner has submitted an Annexation application that is currently under review by the Town and County of Santa Clara Offices of the Assessor and Surveyor and is anticipated to be considered by Town Council once that review is complete.

The subject parcel is bound by parcels with a Low Density Residential General Plan land use

BACKGROUND (continued):

designation to the east and south (Exhibit 1). The parcels to the north and west have a Mixed Use Commercial General Plan land use designation.

The applicant is requesting approval of a zone change from R-1:8 Prezone to CH (Exhibit 3) and a General Plan amendment to change the land use designation from Low Density Residential to Mixed Use Commercial (Exhibit 4). At this time, no modifications to the building or existing dentist office use are proposed.

On June 30, 2022, the Town Council approved the 2040 General Plan, which included modifying the land use designation of the property located at 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial. On August 16, 2022, signatures were submitted to the Town in support of a referendum on the Land Use and Community Design Elements of the approved 2040 General Plan. Once the referendum signatures were verified by the County Registrar in late September, the 2040 General Plan Land Use and Community Design Elements were suspended in accordance with Elections Code Section 9237.

On October 4, 2022, Town Council approved a Resolution to confirm suspension of the 2040 General Plan Land Use and Community Design Elements and provide that the 2020 General Plan Land Use and Community Design Elements govern during the suspension period. The land use designation of this property, based on the 2020 Land Use Element, is therefore returned to Low Density Residential for the period of that suspension.

DISCUSSION:

A. General Plan Committee

At its May 10, 2023, meeting, the General Plan Committee (GPC) reviewed the application and recommended approval of the General Plan amendment to the Planning Commission and Town Council.

B. General Plan Land Use Designation

The applicant is proposing a General Plan amendment to change the Land Use designation from Low Density Residential to Mixed Use Commercial.

The Low Density Residential land use designation (0-5 dwelling units per acre) provides for single-family residential properties located on generally level terrain. It encourages single-family residential development in either the standard development established by traditional zoning or by innovative forms obtained through a planned development.

DISCUSSION (continued):

The Mixed Use Commercial Land Use designation provides for the following:

- A mixture of retail, office, and residential in a mixed-use project, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restaurants;
- Projects developed under this designation shall maintain the small town, residential scale and natural environments of adjacent residential neighborhoods, as well as provide prime orientation to arterial street frontages and proper transitions and buffers to adjacent residential properties; and
- This designation should never be interpreted to allow development of independent commercial facilities with principal frontage on the side streets.

The subject parcel is bound by parcels with a Low Density Residential General Plan land use designation to the east and south (Exhibit 1). The parcels to the north and west have a Mixed Use Commercial General Plan land use designation.

C. Zoning

The applicant is proposing a zone change from R-1:8 Prezone to CH. The proposed zoning would be consistent with the General Plan land use designation if the proposed General Plan amendment is approved. Permitted uses in the CH zone are activities which do not unreasonably interfere with nearby residential uses and which are in the following categories:

1. Retailing, including formula retail up to six thousand (6,000) square feet;
2. Personal service businesses and service businesses necessary for the conduct of households;
3. Office activities;
4. Limited manufacturing activities when a majority of sales are made on site to the ultimate consumer; and
5. Group classes.

The present use of the subject property is a dentist office. Under the current regulations, the non-conforming use would be permitted to continue; however, the non-conforming use would be limited in that any modification, such as an increase in the proposed floor area, increase in the required parking, or increase in the number of hours of operation would be considered an intensification of the use which would require approval of a Conditional Use Permit. A proposal to demolish and construct a new commercial building under the same

DISCUSSION (continued):

proposed use of a dentist's office would not be permitted on a residentially zoned parcel. At this time, no modifications to the building or use are proposed by the applicant (Exhibit 5).

PUBLIC COMMENTS:

At the time of this report's preparation, the Town has not received any public comment.

CONCLUSION:

A. Summary

The applicant is requesting approval for a Zone Change from R-1:8 Prezone to CH and a General Plan Amendment to Change the land use designation from Low Density Residential to Mixed Use Commercial. The proposed General Plan amendment and Zone Change would be consistent with the existing adjacent pattern of land uses and zones (Exhibit 1).

B. Recommendation

Based on the analysis above, staff recommends that the Planning Commission consider the existing and proposed General Plan Land Use designations and zoning and forward a recommendation for approval of the amendments to the Town Council. If the Planning Commission finds merit with the proposed amendments, it should:

1. Make the finding that no further environmental analysis is required (Exhibit 2);
2. Make the required finding that the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its elements, in that the proposal is consistent with the pattern of development and that the land use will support and enhance the character of the Town (Exhibit 2);
3. Make the required finding that the proposed zone change is consistent with the General Plan and its elements in that the proposed zoning is consistent with the proposed General Plan land use designation (Exhibit 2); and
4. Forward a recommendation of approval of General Plan Amendment Application GP-23-001 and Zone Change Application Z-23-001 to the Town Council.

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction;
2. Provide a recommendation for denial to the Town Council providing findings for denial.

PAGE 6 OF 6

SUBJECT: 15810 Los Gatos Boulevard/Z-23-001/GP-23-001

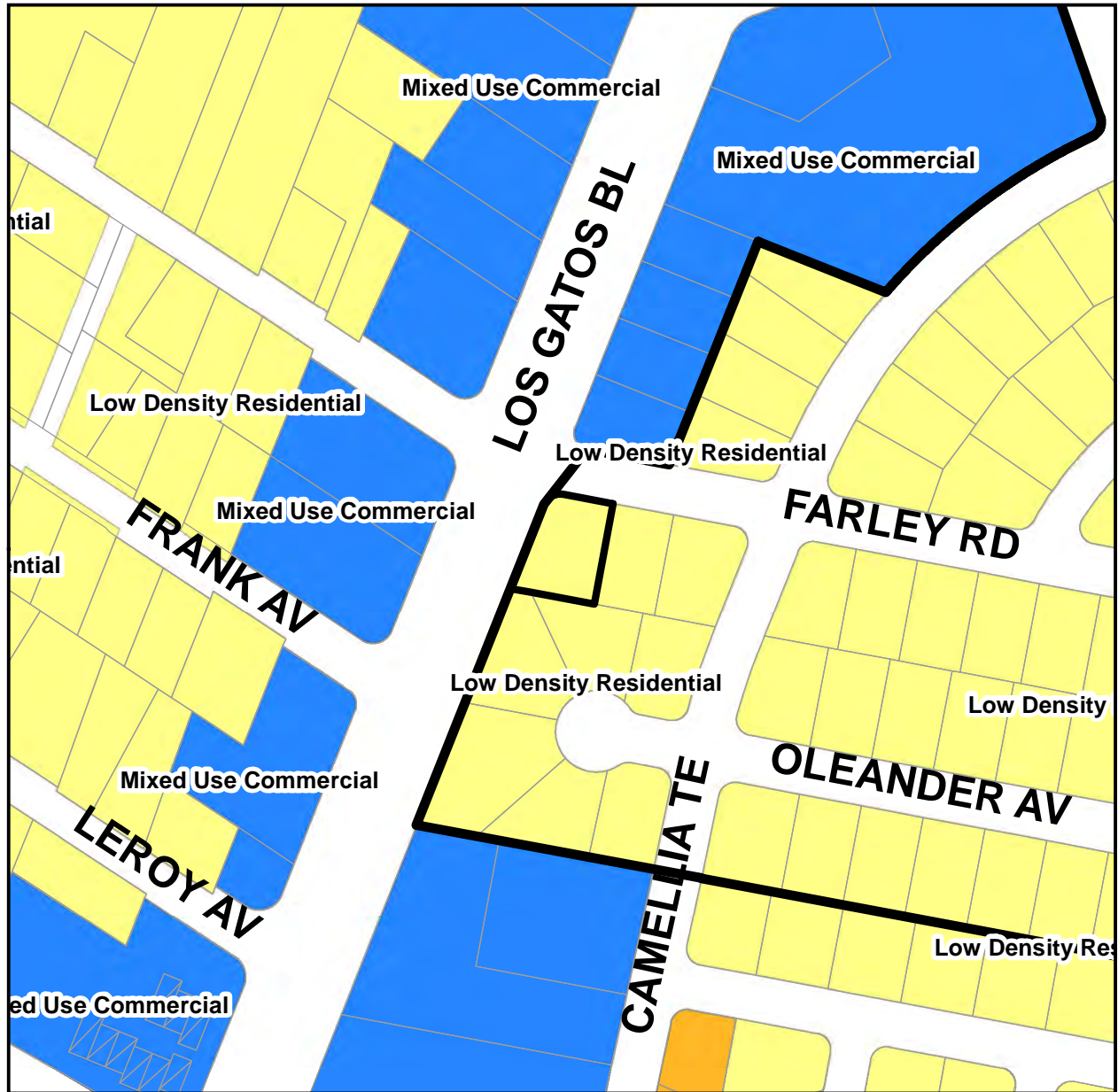
DATE: July 7, 2023

EXHIBITS:

1. Location Maps (Showing Existing General Plan Land Use Designations and Zoning)
2. Draft Findings
3. Draft Ordinance for the Zone Change, with Exhibit A
4. Draft Resolution for the General Plan Amendment, with Exhibit A
5. Letter from the Applicant
6. Property Aerial and Photos
7. Property Survey

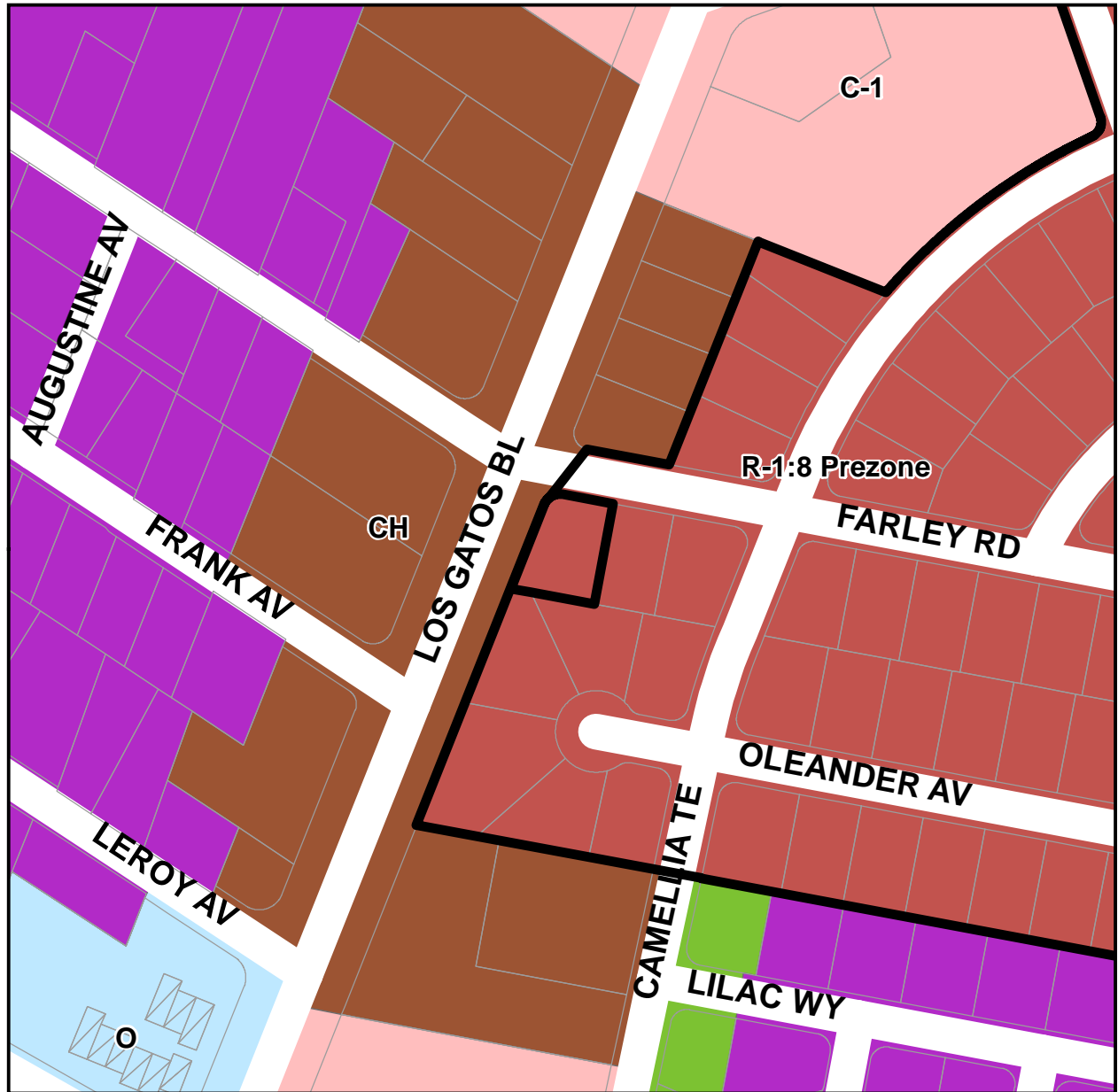
15810 Los Gatos Boulevard

Existing General Plan Land Use Designation



15810 Los Gatos Boulevard

Existing Zoning



PLANNING COMMISSION – July 12, 2023
REQUIRED FINDINGS

15810 Los Gatos Boulevard

General Plan Amendment Application GP-23-001

Zone Change Application Z-23-001

Consider a Request for Approval of a Zone Change from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway) and a General Plan Amendment to Change the Land Use Designation from Low Density Residential to Mixed Use Commercial for Property Located at 15810 Los Gatos Boulevard. APN: 523-01-001. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022, Which Included the Proposed General Plan Amendment for the Property Located at 15810 Los Gatos Boulevard. No Further Environmental Analysis is Required. Zone Change Application Z-23-001 and General Plan Amendment Application GP-23-001. Property Owner/Applicant: Jesus Ching and Kathleen Ban.

FINDINGS:

Required finding for CEQA:

- An EIR was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning and General Plan Amendment for the property located at 15810 Los Gatos Boulevard. No further environmental analysis is required.

Required consistency with the Town's General Plan:

- That the General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its elements, in that the proposal is consistent with the pattern of development and that the land use will support and enhance the character of the Town.
- That the proposed Zone Change is consistent with the General Plan and its elements in that the proposed zoning is consistent with the proposed General Plan land use designation.

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DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING THE ZONING CODE FROM R-1:8 PREZONE (SINGLE-FAMILY
RESIDENTIAL, MINIMUM LOT SIZE OF 8,000 SQUARE FEET)
TO CH (RESTRICTED COMMERCIAL HIGHWAY) FOR
PROPERTY LOCATED AT 15810 LOS GATOS BOULEVARD.**

**NOW, THEREFORE, THE PEOPLE OF THE TOWN OF LOS GATOS AND THE TOWN
COUNCIL DO HEREBY ORDAIN AS FOLLOWS:**

SECTION I

The Zoning map of the Town of Los Gatos is hereby amended to change the zoning of the property at 15810 Los Gatos Boulevard (Santa Clara County Assessor Parcel Number 523-01-001) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway).

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____ 2023, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____ 2023. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

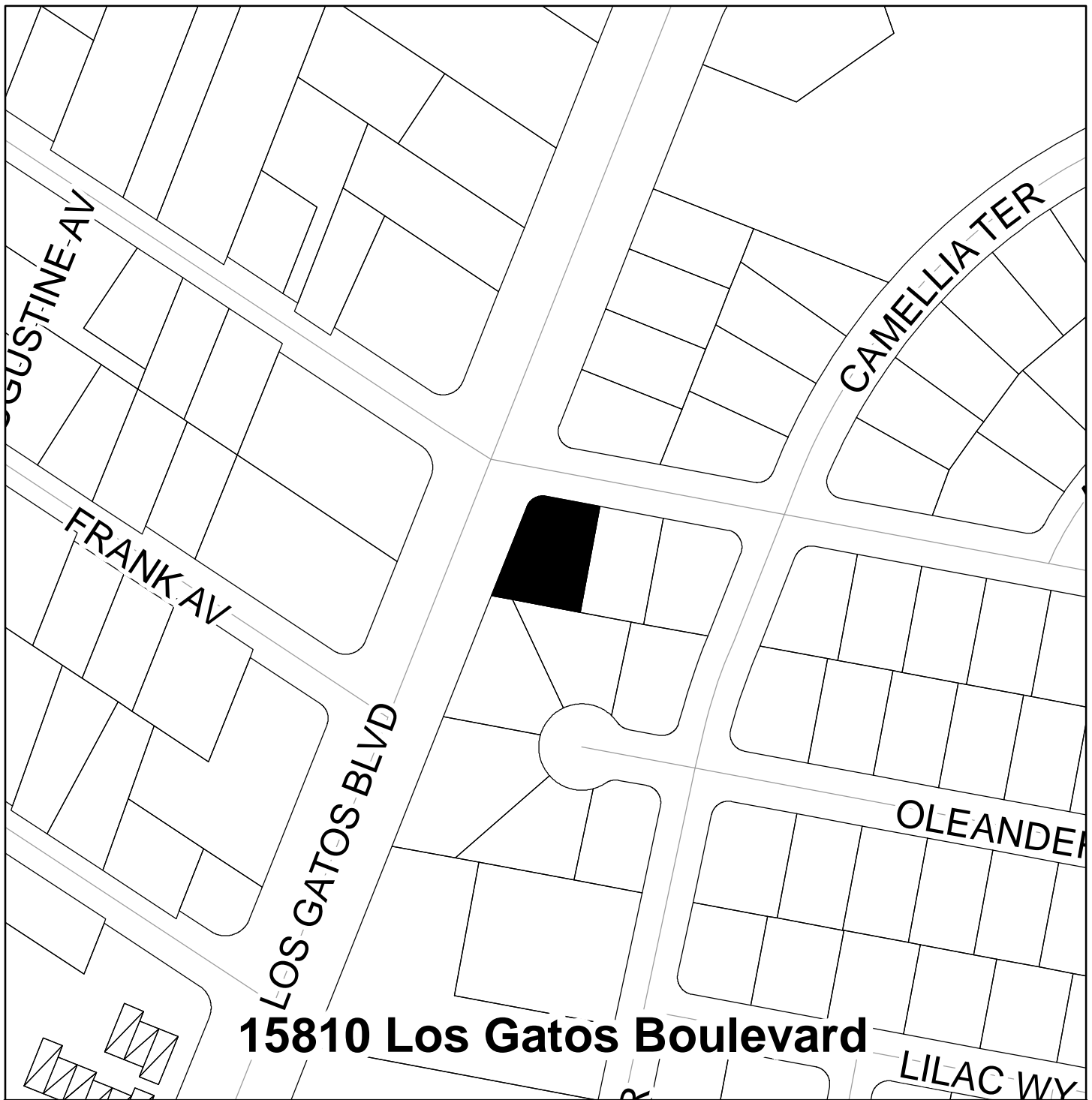
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



15810 Los Gatos Boulevard

TOWN OF LOS GATOS

Application No. Z-23-001

A.P.N. # 523-01-001

Change of zoning map amending the Town Zoning Ordinance.

☒ Zone Change

From: R-1:8 Prezone To: CH

☐ Prezoning



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Ord:

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RESOLUTION 2023-

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS AMENDING THE
GENERAL PLAN LAND USE DESIGNATION FROM
LOW DENSITY RESIDENTIAL TO MIXED USE COMMERCIAL
FOR PROPERTY LOCATED AT 15810 LOS GATOS BOULEVARD.**

Draft Resolution to
be modified by Town
Council deliberations
and direction.

WHEREAS, the applicant requests approval to change the General Plan land use designation from Low Density Residential to Mixed Use Commercial on property located at 15810 Los Gatos Boulevard (Santa Clara County Assessor Parcel Number 523-01-001); and

WHEREAS, the General Plan Committee at its meeting of May 10, 2023, recommended that the General Plan land use designation be changed from Low Density Residential to Mixed Use Commercial as that designation is consistent with the land use designations of neighboring properties and consistent with the proposed use of the property; and

WHEREAS, the Planning Commission recommended approval of the General Plan amendment at its regularly noticed public hearing on _____, 2023; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on _____, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendment; and

WHEREAS, the Town Council finds as follows:

A. An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments for the property located at 15810 Los Gatos Boulevard. No further environmental analysis is required; and

B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its elements, in that the proposal is consistent with the pattern of development and that the land use will support and enhance the character of the Town; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

WHEREAS, the Town Council considered all facts and information related to a request to change the General Plan land use designation for the property at 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial as shown on Exhibit A

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby changes the General Plan land use designation for property at 15810 Los Gatos Boulevard as shown on Exhibit A, from Low Density Residential to Mixed Use Commercial.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the ____th day of _____, 2023, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

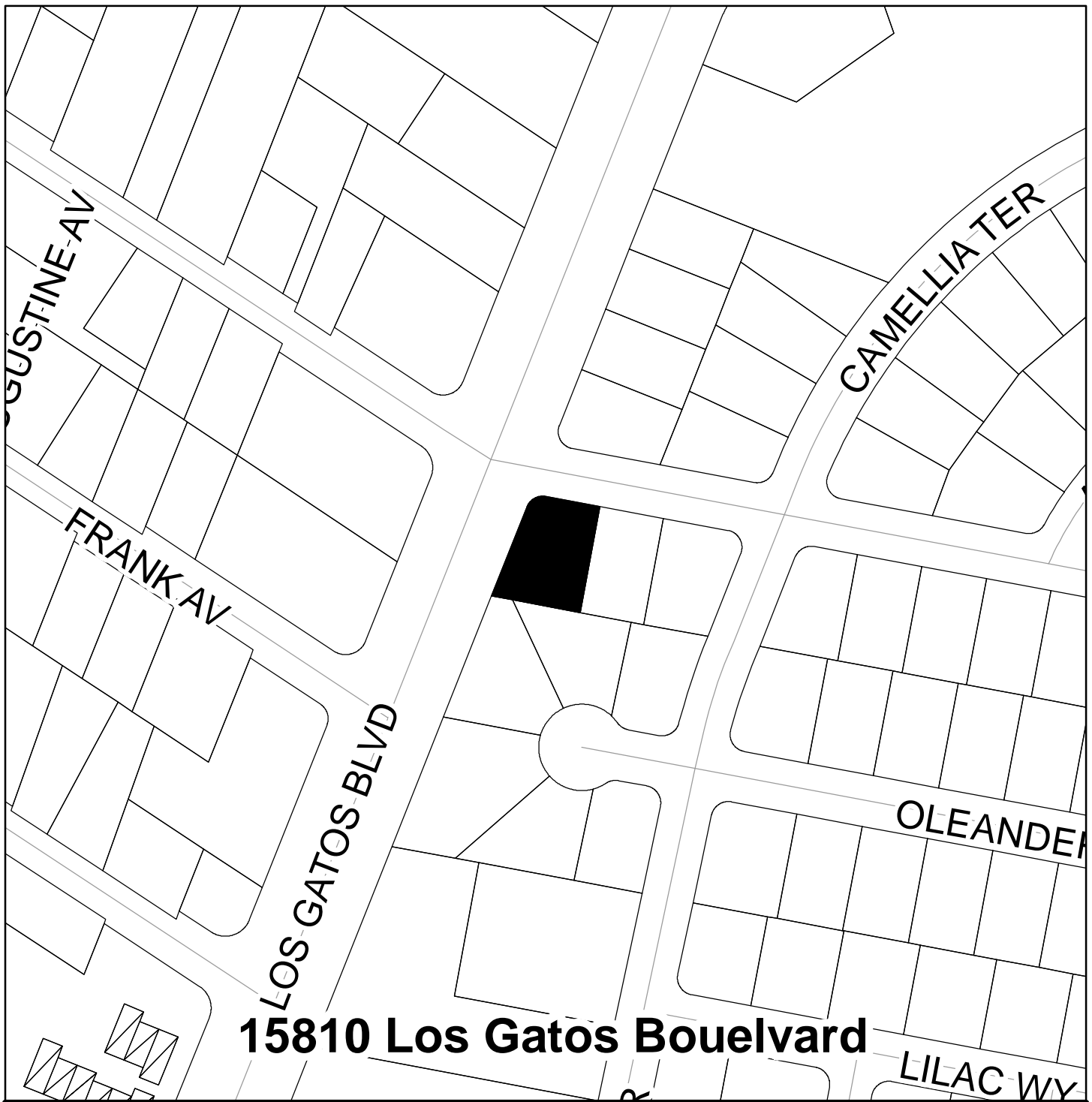
DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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15810 Los Gatos Boulevard

TOWN OF LOS GATOS

Application No. GP-23-001

A.P.N. # 523-01-001

Change of the general plan map amending the Town General Plan

From: Low Density Residential

To: Mixed Use Commercial



Forwarded by Planning Commission

Date:

Approved by Town Council

Date:

Resolution:

Clerk Administrator

Mayor

EXHIBIT A

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Letter of Justification

The applicant, Jesus Ching, is requesting a General Plan Amendment and Rezoning of property located at 15810 Los Gatos Blvd. The property is currently in an unincorporated area of Santa Clara County. The current zoning in the County is OA (Administrative – Professional Office) and the General Plan designation is Urban Service Area Los Gatos.

The current Los Gatos General Plan designation for the parcel is Low Density Residential.

The property is on the corner of Los Gatos Blvd. and Farley Road and currently has driveway access to both streets. The adjacent two parcels south of the subject parcel, front on Oleander Ave. with no access to Los Gatos Blvd. The subject property is the only County parcel in this area with frontage or access to Los Gatos Blvd.

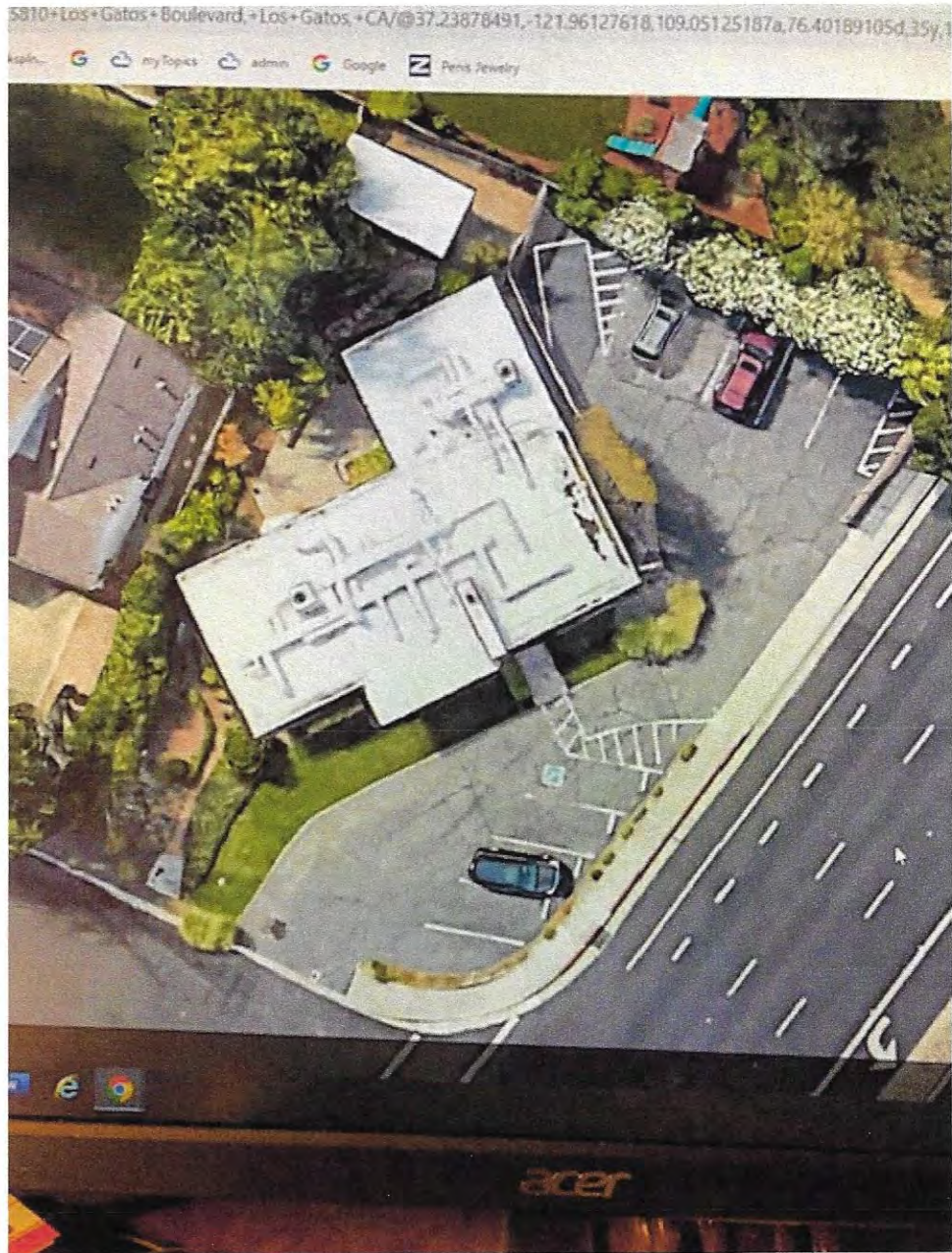
The properties lying to the north and south of the three County parcels all have frontage and access on Los Gatos Blvd., and are designated on the Los Gatos General Plan as Mixed Use Commercial and zoned CH (Restricted Commercial Highway).

The applicant is requesting the Los Gatos General Plan be amended to designate the property from Low Density Residential to Mixed Use Commercial. In addition, the applicant is requesting the property be zoned CH Restricted Commercial Highway.

The proposed the land use designation conforms to the land use designation of Mixed Use Commercial as shown on the 2040 General Plan Land Use Diagram.

In conjunction the proposed General Plan Amendment and Rezoning the applicant has filed with the Town of Los Gatos a request for annexation of the County property into the Town of Los Gatos.

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Jeffrey Barnett, Chair Steve Raspe, Vice Chair Susan Burnett Melanie Hanssen Kathryn Janoff
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

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P R O C E E D I N G S:

CHAIR BARNETT: We're going to move on to Item 1, and that is asking the Commission to consider a request for approval of a zone change from R-1:8 (Prezone Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway), and also a General Plan Amendment to change the land use designation from Low Density Residential to Mixed Use Commercial for property located at 15810 Los Gatos Boulevard. APN 523-01-001.

As noted in the agenda, an Environmental Impact Report was prepared and certified for the 2040 General Plan Update on June 30th and included a proposed General Plan Amendment for this property. Per staff, no additional environmental analysis is required.

The requests apply to Zone Change Application Z-23-001 and General Plan Amendment Application GP-23-001. The property owners are Jesus Ching and Kathleen Ban, and the project planner is Jocelyn Shoopman.

We'll have a request for hands of those who have visited the property. Thank you, and are there any disclosures tonight? I don't see any. We will begin with a presentation by Ms. Shoopman, if you would.

1 JOCELYN SHOOPMAN: Thank you, good evening.
2 Before you tonight is a request for approval of a zone
3 change from R-1:8 Prezone to CH, and a General Plan
4 Amendment to change the land use designation from Low
5 Density Residential to Mixed-Use Commercial.

6 The approximate 10,000 square foot parcel is
7 located at the southeast corner of Los Gatos Boulevard and
8 Farley Road and contains an existing commercial building.
9 The property is presently located in an unincorporated area
10 of Santa Clara County with the zoning of Administrative and
11 Professional Office and a General Plan use designation of
12 Urban Service Area Los Gatos.
13

14 Concurrently with the zone change and General
15 Plan Amendment Application the property owner has also
16 submitted an Annexation Application that is currently under
17 review by the County. It is anticipated that the Town
18 Council will consider this once that review has been
19 completed.

20 At this time no modifications to the building or
21 use of the building as a dentist office is proposed by the
22 Applicant. The General Plan Committee considered the
23 request on May 10th of this year where the Committee
24 recommended approval of the General Plan Amendment.
25

1 This completes Staff's presentation, but I'm
2 available for any questions.

3 CHAIR BARNETT: Thank you for that, Ms. Shoopman,
4 and I'll turn to my fellow commissioners and see if they
5 have any questions, and I do not see any, so thank you
6 again.

7 We'll now open the public portion of the public
8 hearing on Item 1 and give the Applicant an opportunity to
9 address the Commission for up to five minutes, and we have
10 two cards, Mr. Ching and Mr. Shanks, and if you're part of
11 the same team then there will be a five-minute limit for
12 both of you.

13 ROGER SHANKS: Good evening, I'm Roger Shanks, a land
14 use consultant working with the applicant on this project.
15 This is an interesting project in that it's already been
16 changed to this designation with the 2040 General Plan,
17 which has now been suspended for a while, so we are asking
18 that this go back to the same designation.

19 If we could put up that one slide. This is your
20 General Plan and the property under discussion is right
21 here; I tried to circle that. It is about the only
22 commercial piece fronting on Los Gatos Boulevard that is
23 not in this designation; it is designated right now Single-
24 Family. The three properties adjacent to it, right here,
25

1 all back up to Los Gatos Boulevard; they have no access to
2 the street, so they're accessing into the residential
3 neighborhood.

4 This is a single-story building; they want to
5 keep that. At this point they have no intention of changing
6 it. The access is out to Los Gatos Boulevard. We feel this
7 really conforms to the overall goal and objective of the
8 General Plan and is in keeping with the theme of
9 maintaining the residential character of the surrounding
10 area and not impacting on that.

11
12 If you have any questions, I would be more than
13 glad to answer, and the property owner is here also.

14 CHAIR BARNETT: Will the property owner be
15 speaking too?

16 ROGER SHANKS: Yes, he will.

17 CHAIR BARNETT: So let's stop the clock if we can
18 and ask Commissioners if they have any questions for you at
19 this time. I don't see any. So, Mr. Ching.

20 JESUS CHING: My name is Jesus Ching; I'm the
21 property owner of 15810 Los Gatos Boulevard. I just want to
22 say thank you to Jennifer and Jocelyn for helping me walk
23 through this whole detailed process over the last three
24 years.
25

1 Please consider our proposal here. We are trying
2 to get the property incorporated into the Town of Los Gatos
3 and continue to provide services for the community. Thank
4 you.

5 CHAIR BARNETT: Thank you, sir. Before you go
6 back to sitting down, I'll ask Commissioners if they have
7 any questions for you, and I do not see any, so thank you
8 again.

9 JESUS CHING: Thank you.

10 CHAIR BARNETT: We'll invite comments on Item 1
11 from members of the public. Please use the raised hand
12 feature in Zoom, or if you're speaking in person tonight
13 and have not already done so, please bring up a card to
14 Staff. I don't see anyone. Mr. Paulson?

15 JOEL PAULSON: Thank you, Chair. No, there's no
16 one with their hand raised for this item.

17 CHAIR BARNETT: Okay, thank you. We'll now close
18 the public portion of the public hearing and ask if any
19 Commissioners have questions of Staff, wish to comment on
20 the request, or introduce a motion for consideration by the
21 Commission? Commissioner Hanssen.

22 COMMISSIONER HANSSEN: I don't have any
23 questions. I actually sit on the General Plan Committee
24 when we heard the General Plan Amendment portion of this.
25

1 This is both a General Plan Amendment and a zoning change,
2 but it would make it consistent with its General Plan
3 designation if the Commission approves it.

4 When we heard this at the General Plan Committee
5 there were a few questions, but there were no issues that
6 anyone brought up; it seemed very straightforward. We don't
7 have the Los Gatos Boulevard Plan anymore, but when we had
8 that plan the idea was the only Residential on the
9 boulevard was going to be farther down south, so this
10 seemed to be very consistent with both the 2020 General
11 Plan and what we were looking at in the Housing Element,
12 and ultimately if the 2040 Land Use Plan is approved in any
13 form it should be consistent with that as well.

15 CHAIR BARNETT: Thank you, Commissioner Hanssen.
16 Other input? We'll start with Commissioner Janoff.

17 COMMISSIONER JANOFF: Thank you. I also sit on
18 the General Plan Committee, and the comments that we had
19 during that meeting also involved talking about this notion
20 of small town character, the proximity of this Residential
21 designation to other residences, and whether it made sense
22 for there to be a Residential designation on Los Gatos
23 Boulevard with an access off of Los Gatos Boulevard, and
24 for a lot of reasons it doesn't make sense for that to be
25 Residential, so the request seemed reasonable to us.

1 It's designated Residential, but if it's changed
2 to Mixed-Use then in theory we have the opportunity to see
3 more Residential than just one unit on this property, and
4 that's also consistent with where we want to go with the
5 General Plan and the Housing Element.

6 I want to just reiterate that I believe it is the
7 only Residential... I mean it isn't Residential, it's working
8 as a Commercial entity, but there are no other residences
9 or anything close to Residential from Lark Avenue down to
10 probably past Blossom Hill Road, so it doesn't seem to make
11 sense for the overall fabric of the Town for this to remain
12 Residential, so I'm in support of making the recommendation
13 as requested.

14
15 CHAIR BARNETT: Thank you for that, and
16 Commissioner Burnett, you had your hand up.

17 COMMISSIONER BURNETT: Yes, thank you, Chair. A
18 question. I agree with Commissioner Janoff. I did want to
19 mention that the property is located in an unincorporated
20 area of Santa Clara County and that the property owner has
21 submitted an Annexation Application that is under review,
22 so I just wanted to be sure there would be no issue
23 regarding that matter.

24 JOCELYN SHOOPMAN: No, there's no issue with
25 that.

1 CHAIR BARNETT: Anything further? I'd like Ms.
2 Armer to confirm what I believe I heard yesterday, which is
3 that housing would be allowed in this CH zone, at least if
4 there was a Conditional Use Permit.

5 JENNIFER ARMER: Thank you for that question.
6 Yes, this is in a Mixed-Use zone, or is proposed to be in a
7 Mixed-Use zone, and therefore Residential could be allowed
8 on the site as part of a Mixed-Use project through the
9 Conditional Use Permit process.
10

11 CHAIR BARNETT: Thank you very much. I think we
12 might be ready for a motion. Commissioner Hanssen.

13 COMMISSIONER HANSSEN: I move that we approve
14 General Plan Amendment Application GP-23-001 and Zone
15 Change Application Z-23-001, which is considering a request
16 for approval for a zone change from R-1:8 Prezone (Single-
17 Family Residential) to CH (Restricted Commercial Highway),
18 as well as the General Plan Amendment to change the land
19 use designation from Low Density Residential to Mixed-Use
20 Commercial for property located at 15810 Los Gatos
21 Boulevard, APN 523-01-001.

22 An Environmental Impact Report was prepared and
23 certified for the 2040 General Plan Update on June 30,
24 2022, which was mentioned by our Chair. This included the
25 proposed general amendment for the property. No further

1 environmental analysis is required because of that, and the
2 property owners were already speaking.

3 I can make the required findings for CEQA, and I
4 can make the findings for the required consistency with the
5 Town's General Plan, that the General Plan Amendment is
6 internally consistent with the existing goals and policies
7 of the plan and its elements, and that the proposed zoning
8 is also consistent with the proposed General Plan change.
9

10 I think there is a draft ordinance. Do we have to
11 mention that as well in the motion? Okay, so that's my
12 motion.

13 CHAIR BARNETT: Thank you for the motion. Do we
14 have a second? Commissioner Janoff.

15 COMMISSIONER JANOFF: Second.

16 CHAIR BARNETT: Any discussion? We can have show
17 of hands now, so all those in favor of the motion? It
18 passes unanimously. Thank you very much.

19 (END)
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RESOLUTION 2023-

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AMENDING THE GENERAL PLAN LAND USE
DESIGNATION FROM LOW DENSITY RESIDENTIAL TO
MIXED USE COMMERCIAL FOR PROPERTY LOCATED AT
15810 LOS GATOS BOULEVARD.**

WHEREAS, the applicant requests approval to change the General Plan land use designation from Low Density Residential to Mixed Use Commercial on property located at 15810 Los Gatos Boulevard (Santa Clara County Assessor Parcel Number 523-01-001); and

WHEREAS, the General Plan Committee at its meeting of May 10, 2023, recommended that the General Plan land use designation be changed from Low Density Residential to Mixed Use Commercial as that designation is consistent with the land use designations of neighboring properties and consistent with the existing use of the property; and

WHEREAS, the Planning Commission recommended approval of the General Plan amendment at its regularly noticed public hearing on July 12, 2023; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on October 17, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed General Plan amendment; and

WHEREAS, the Town Council considered all facts and information related to a request to change the General Plan land use designation for the above mentioned property as shown in Exhibit A.

WHEREAS, the Town Council finds as follows:

A. An Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed General Plan Amendments for the property located at 15810 Los Gatos Boulevard. No further environmental analysis is required; and

ATTACHMENT 3

B. The General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its elements, in that the proposal is consistent with the pattern of development and that the land use will support and enhance the character of the Town; and

C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.; and

WHEREAS, the Town Council considered all facts and information related to a request to change the General Plan land use designation for the property at 15810 Los Gatos Boulevard from Low Density Residential to Mixed Use Commercial as shown on Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby changes the General Plan land use designation for property at 15810 Los Gatos Boulevard as shown on Exhibit A, from Low Density Residential to Mixed Use Commercial.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17th day of October 2023, by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Rob Moore, Rob Rennie, Mayor Maria Ristow

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

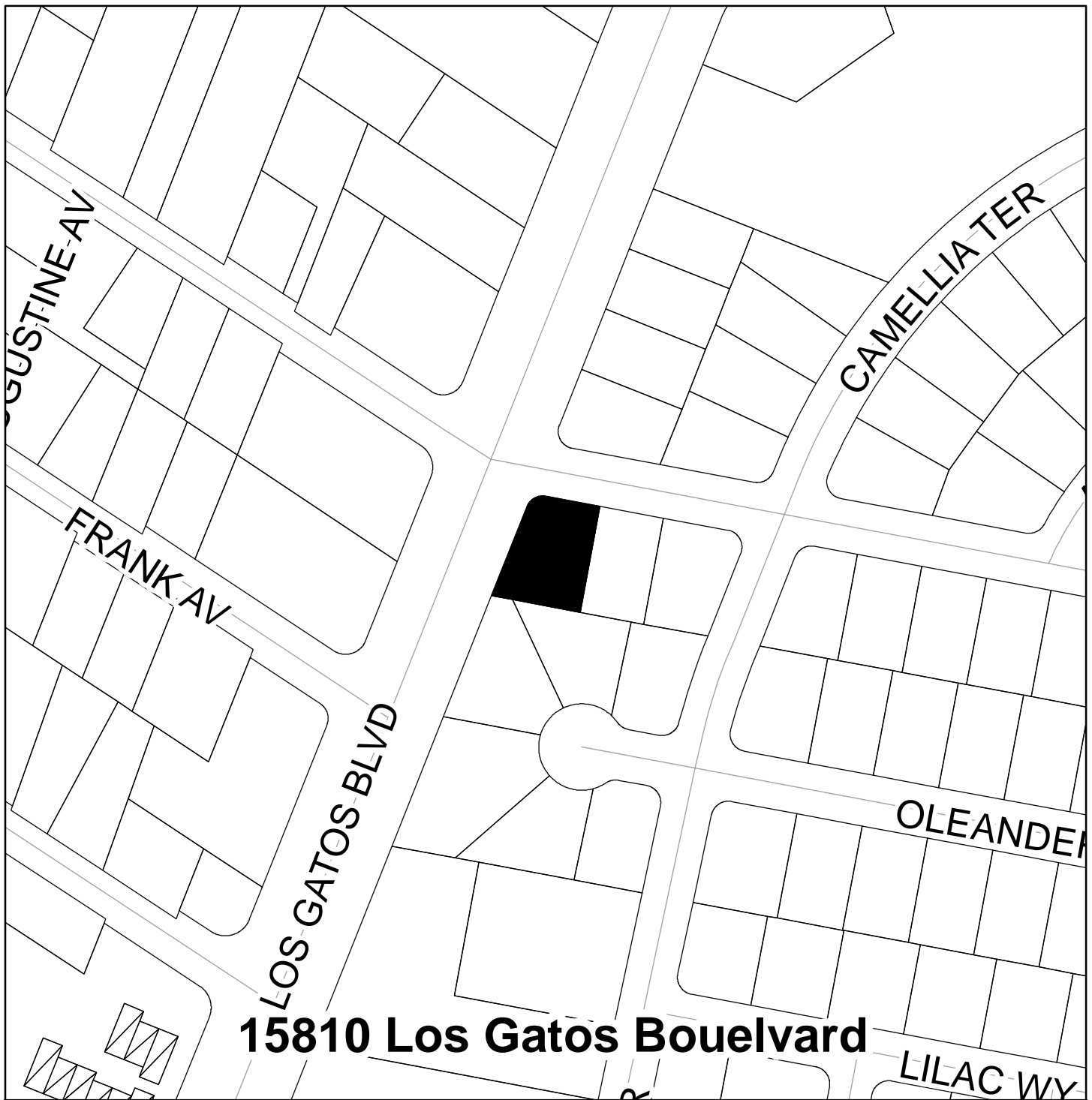
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



15810 Los Gatos Boulevard

TOWN OF LOS GATOS

Application No. GP-23-001

A.P.N. # 523-01-001

Change of the general plan map amending the Town General Plan

From: Low Density Residential

To: Mixed Use Commercial



Forwarded by Planning Commission

Date: July 12, 2023

Approved by Town Council

Date:

Resolution:

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DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING THE ZONING CODE FROM R-1:8 PREZONE (SINGLE-FAMILY
RESIDENTIAL, MINIMUM LOT SIZE OF 8,000 SQUARE FEET)
TO CH (RESTRICTED COMMERCIAL HIGHWAY) FOR
PROPERTY LOCATED AT 15810 LOS GATOS BOULEVARD.**

WHEREAS, the Planning Commission recommended approval of the Zoning Code amendment at its regularly noticed public hearing on July 12, 2023; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on October 17, 2023; and

WHEREAS, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Zoning Code amendment; and

WHEREAS, the Town Council considered all facts and information related to a request to change the Zoning for the above mentioned property as shown in Exhibit A.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DO
HEREBY ORDAIN AS FOLLOWS:**

SECTION I

The Town Council finds as follows:

- A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and
- B. The zone change is consistent with the General Plan and its elements in that the proposed zoning is consistent with the proposed General Plan land use designation; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and
- D. The Town Council considered all facts and information related to the proposal to rezone the site from Prezone R-1:8 to CH as shown in Exhibit A.

SECTION II

The Town Code of the Town of Los Gatos is hereby amended to change the zoning of the property at 15810 Los Gatos Boulevard (Santa Clara County Assessor Parcel Number 523-01-001) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from R-1:8 Prezone (Single-Family Residential, Minimum Lot Size of 8,000 square feet) to CH (Restricted Commercial Highway).

SECTION III

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 17th day of October 2023, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



15810 Los Gatos Boulevard

TOWN OF LOS GATOS

Application No. Z-23-001

A.P.N. # 523-01-001

Change of zoning map amending the Town Zoning Ordinance.

☒ Zone Change

From: R-1:8 Prezone To: CH

☐ Prezoning



Forwarded by Planning Commission

Date: July 12, 2023

Approved by Town Council

Date:

Ord:

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 15

DATE: October 5, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Agreement for Revenue Ballot Measure Consultant Services with NBS in an Amount Not to Exceed \$105,000 and Authorize an Expenditure Budget Adjustment in an Amount of \$105,000 from the Available General Fund Capital/Special Projects Reserve

RECOMMENDATION:

Authorize the Town Manager to execute an agreement for revenue ballot measure consultant services with NBS in an amount not to exceed \$105,000 and authorize an expenditure budget adjustment in an amount of \$105,000 from the available General Fund Capital/Special Projects Reserve.

BACKGROUND:

On January 24, 2023, the Town Council determined its Strategic Priorities for 2023-2025, which included exploring new revenue opportunities and addressing the forecasted structural deficit.

Over the years, the Town has added the following additional revenues in an incremental and diversified way:

- November 2016 Measure T increased the Transient Occupancy Tax (TOT) from 10 percent to 12 percent. The 2% increase raises approximately \$400,000 annually in additional revenue.
- November 2018 Measure G creates a 1/8 cent dedicated district sales tax for a 20-year period. The adoption of the dedicated tax provides approximately \$1,000,000 annually in additional revenue.
- In February 2019, Council approved an Ordinance allowing regulated short-term rentals subject to TOT. Approximately \$80,000 of additional TOT is collected annually.

PREPARED BY: Katy Nomura
Assistant Town Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

- In June 2019, Council voted to annex 24 unincorporated County pockets. This action results in approximately \$1,000,000 in property taxes remaining in the Town instead of being diverted to the County.
- November 2022 Measure J increased business license taxes for the first time since 1991, raising approximately \$1,100,000 annually in additional revenue.

In an effort to explore new revenue opportunities to address the forecasted deficits, the Town may want to consider a revenue ballot measure in 2024. On June 20, 2023, the Town Council authorized the Town Manager to issue a Request for Qualifications (RFQ) for revenue ballot measure consulting services. Revenue ballot measure consulting services provide public opinion research, polling, public information and engagement strategies, ballot measure recommendations, and overall support if a ballot measure is pursued.

On July 11, 2023, the Town issued a Revenue Ballot Measure RFQ and submissions were due on August 1, 2023. The Town received five submissions from the following firms by the deadline:

- FM3 Research
- NBS (subcontracting with Gene Bregman & Associates)
- Props and Measures and Probolsky Research
- Team CivX and True North Research
- Tripepi Smith

Based on the submissions, interviews, and reference checks considered during the review process, staff selected NBS to provide the Town with revenue ballot measure consulting services.

DISCUSSION:

NBS and their subconsultant Gene Bregman & Associates (GBA) have decades of experience supporting local governments with revenue ballot measures. While NBS would focus on strategy, community engagement, and communications, GBA specializes in public opinion research and polling. Both firms have worked together successfully on several ballot measures.

The consulting work from NBS and GBA would help inform the type of potential revenue measures the Town may want to consider, and GBA would conduct polling to determine how viable the measures may be. From this analysis, NBS and GBA would provide recommendations on which measures may be most viable and whether the Town should pursue a measure in 2024. These recommendations would be brought to the Finance Commission and the Town Council in early 2024. The work leading up to and including providing these recommendations will be considered Phase I and is estimated to cost \$44,600.

DISCUSSION (continued):

At that point, the Town Council would review the recommendations with the Finance Commission's input and determine whether or not to pursue a revenue measure.

If the Town Council wishes to pursue a revenue measure at that time, the consultant would begin Phase 2 which includes public education and outreach, ballot measure language refinement, and a final resolution for the Town Council to place the measure on the 2024 ballot. Phase 2 is anticipated to cost \$39,325.

Throughout Phase 1 and 2, mailing and printing costs are estimated at \$12,000 and travel expenses are estimated to be \$3,500. Combining these costs with Phase 1 and 2 estimates results in an approximate total cost of \$99,425. A 5.6% buffer of \$5,575 has been included to account for any unforeseen costs, resulting in a not to exceed amount of \$105,000.

CONCLUSION:

Staff recommends that the Town Council authorize the Town Manager to execute an agreement for revenue ballot measure consultant services with NBS in an amount not to exceed \$105,000 and authorize an expenditure budget adjustment in an amount of \$105,000 from the General Fund.

If the Town does not move forward with these consulting services, an opportunity for revenue generation to address the forecasted structural deficit may be missed. Without additional revenue sources, the Town may need to reduce levels of service to have a balanced budget in light of the forecasted deficit.

COORDINATION:

This staff report was coordinated with the Town Manager, Town Attorney, and Director of Finance.

FISCAL IMPACT:

Revenue ballot measure consulting services were not budgeted in Fiscal Year 2023/24. As a result, an expenditure budget adjustment in an amount of \$105,000 from the available General Fund Capital/Special Projects is necessary to engage in these services. If the Town Council does not wish to pursue a revenue measure after the completion of Phase 1, the remaining funds unspent for Phase 2 will return to the General Fund at year end, unless otherwise directed.

PAGE 4 OF 4

SUBJECT: Revenue Ballot Measure Consultant

DATE: October 5, 2023

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Draft Agreement with Exhibit A - Scope of Services

AGREEMENT FOR REVENUE BALLOT MEASURE CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on October 18, 2023 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and NBS Government Finance Group, DBA: NBS, S Corporation ("Consultant"), whose address is 870 Market Street, Suite 1223, San Francisco, CA 94102. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desire to engage Consultant to provide **revenue ballot measure consultant services**.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in the **Scope of Services**, which is hereby incorporated by reference and attached as **Exhibit A**.
- 2.2 Term and Time of Performance. This contract will remain in effect from **October 18, 2023 to November 5, 2024**.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of these documents or information available to any

individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.

- 2.6 Compensation. Compensation for Consultant's professional services in the amount of \$99,425 plus \$5,575 for unanticipated services and **shall not exceed \$105,000**, inclusive of all costs. Payment shall be based upon Town approval of each task.

- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:

Town of Los Gatos
Attn: Accounts Payable
P.O. Box 655
Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to

testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

- 2.11 Conflict of Interest. Consultant understands that its professional responsibilities are solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.12 Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

- 3.1 Minimum Scope of Insurance:
- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: two million dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
 - ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The Town, its elected and appointed officials, employees, and agents, are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the automobile or professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its elected and appointed officials, employees, and agents. Any insurance or self-insurances maintained by the Town, its elected and appointed officials, employees, and agents, shall be excess of the Consultant's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its elected and appointed officials, employees, and agents.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- 3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.
- 3.3 Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

- 3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town, its elected and appointed officials, employees, and agents, from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing the work described in this contract.

IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Governing Law and Venue. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
- 4.4 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.
- 4.5 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.6 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Town Clerk
110 E. Main Street
Los Gatos, CA 95030

NBS Government Finance Group, DBA: NBS, S
Corporation
870 Market Street, Suite 1223
San Francisco, CA 94102

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

- 4.7 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- 4.8 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement.

Town of Los Gatos by:

Consultant, by:

Laurel Prevetti, Town Manager

Recommended by:

Katy Nomura, Assistant Town Manager

Printed Name and Title

Approved as to Form:

Gabrielle Whelan, Town Attorney

4. Project Approach

Summary of Approach



NBS will communicate with the Town staff throughout the duration of the project to clarify the Town's goals, identify any special circumstances, and develop a realistic project schedule. The following Work Plans detail the steps needed to put the Town in the best position to propose a viable local funding ballot measure for the November 2024 election.

Although not mentioned in the Town's Request for Qualifications, an additional service we can provide is Revenue Measure Modeling to calculate financial benefit to the Town of a Special Financing District. This is listed as an optional item in our proposed budget.

Phase 1 | October - December 2023 | Issue Research, Polling, Community Survey

NBS will work with your team to understand the specific needs for, and demand on, the Town's programs and services, and will provide an analysis of various tax models for the Town to understand potential options.

Develop Stakeholder Outreach and Public Engagement Messaging: NBS will work with staff, elected officials and stakeholders to develop agreed-upon messaging that will ensure the sharing of consistent ideas and concepts with the community during Phase One services such as polling. Standard messaging will provide clarity to community members and prevent confusion.

NBS will partner with the Town Manager, Town team, and our subconsultant GBA to provide the research needed for the Town to understand its most viable revenue measure options.

Voter Poll: Working with NBS and the Town team, GBA will draft a survey questionnaire for Town approval, and conduct a poll among likely voters within Los Gatos that will achieve the following objectives:

- Explore the current image of the Town of Los Gatos, voters' attitudes towards the Town, and their assessments of the strengths and weaknesses of local government;
- Determine voter perceptions of the needs of the Town and the priorities that voters set for those needs;
- Determine voter attitudes towards various revenue measures for the Town, and the optimum amount to place before the voters;

- Evaluate voters' top priorities for money raised in order to design a measure that best addresses the desires of the community;
- Determine the most effective and important reasons for your voters to support a ballot measure;
- Develop a demographic profile of Town voters, including how various demographic groups differ in their opinions and attitudes towards a possible ballot measure.

Polling Methodology: Our subconsultant, GBA, will select the survey sample from highly sophisticated and up-to-date voter registration files. This information, when combined with the answers to our survey questions, is essential as we identify voters who are most likely to vote in general, primary, municipal, special, or mail-only elections. It is critical to remember that any survey must interview only likely voters. Being a registered voter is not enough. Those likely to vote will have demonstrated their interest in voting through their history in previous elections.

The sample will be drawn from lists of registered voters which have been matched with telephone directories and other lists to maximize the quantity of available telephone numbers. Since this is a small city, we would expect that a smaller sample of voters will be adequate, even if it is no more than 100-200 completed interviews.

GBA believes that it is of the utmost importance to go beyond simple questions and simple answers. For example, you will never see us ask if a problem is serious or not serious. We require differentiation between those with strong opinions and those with weaker opinions, those who say the problem is "extremely serious," or "very serious" rather than those who say it is only "somewhat serious" or "not too serious." Therefore, virtually all questions in our polls will delve into the intensity of feeling that voters bring to an issue. Only in this way can we separate those voters with a general opinion on an issue from those who are moved to take action because of that same issue (even if the "action" is just voting "yes" or "no").

Telephone interviews are conducted by a regularly employed staff of full-time professional interviewers who specialize in conducting interviews for public opinion surveys. GBA supervises the interviewing process and verifies that interviews are conducted according to specifications. Supervisory procedures include continuous on-site and telephone monitoring of interviews. GBA follows established industry standards for call backs of busy or "not-at-home" numbers designed specifically to maintain the randomness of interviewee selection and the validity of the survey. A regularly employed staff of full-time professional interviewers conducts interviews in English, Spanish, Vietnamese, Cantonese, Mandarin, and other languages.

To summarize, we will provide to the Town of Los Gatos:

- Random telephone and on-line survey of likely voters
- Consultation solely with principal of Gene Bregman & Associates
- Assistance in developing topic areas to be investigated
- Development of survey questionnaire
- Scientific sample selection to assure reaching an accurate representation of the voting population
- Pre-testing of questionnaire
- Conduct of field work from our central phone bank, as well as surveys completed from text and email contacts
- Editing, coding, and electronic data processing
- A full computer printout of all cross-tabulated data

- Analysis of survey results
- On-going strategy and consultation

Feasibility Analysis of Ballot Measure Options and Expenditure Plan: Incorporating polling data, NBS and GBA will make recommendations to the Town team on a proposed ballot measure amount and ballot measure expenditure plan elements. If polling is favorable for a potential funding measure, this would be an optimal time to present polling data to the Town Council for discussion and recommendation to draft ballot measure language. This allows time for community outreach, input and consensus building among key stakeholders prior to finalizing the proposed ballot language and the resolutions Council must adopt to officially place a measure before voters.

Decision from Council to move to Phase 2.

Phase 2 | January 2023 – July 2024 | Message Toolkit, Stakeholder Outreach and Public Engagement

Outreach to key stakeholders (business, labor, and other community leaders) before a measure is officially proposed can be key to the success of its passage. This is where potential bumps in the road are uncovered, and ideally resolved. NBS will work with the Town team to develop a Stakeholder Outreach Plan and strategy to help build community consensus around the need for a ballot measure to maintain the quality of life that Los Gatos residents desire.

NBS will work with the Town team to create a Key Stakeholder Outreach Plan and a list of key stakeholders and media outlets, develop website content, and an Informational Toolkit (fact sheet, Q&A, PowerPoint presentation) that can be used to educate and engage leaders in the public and private sector, business community, and community-based organizations about the need for additional funding for essential public services.



Once the Council acts to place a measure on the ballot, the Town may consider some informational outreach to educate residents on the proposal itself through online and news media communications and through the mail. Working with your staff and legal counsel, we can assist with crafting and implementing that communications program.

Community Survey: In addition to the quantitative research conducted by GBA, CivicMic can conduct qualitative research in the form of a community survey of residents at large. This outreach through email and social media will be comprised of an abbreviated survey asking residents to weigh in with their priorities for town services and programs. This community engagement effort provides additional perspectives to the research and can be helpful in conveying the Town’s commitment to inclusivity and transparency.



Engagement Activities

Aiming to reach residents with diverse backgrounds allowing for unique perspectives, CivicMic would:

Create a customized webpage for your project on civicmic.com. This site would feature a variety of engagement tools and informational materials.

Develop an email campaign strategy to reach out to community members and stakeholders who may not have access to social media or may not regularly visit the Town website.

Include specialized mapping and graphics on CivicMic.com, such as sample maps showing community participation in the survey.

Design content related to the Town's challenges in maintaining high services levels for resident programs and services.

Coach various Stakeholders on ways to share educational materials with community members through workshops and printed materials.

Create an email list of community members who have expressed interest in receiving updates.

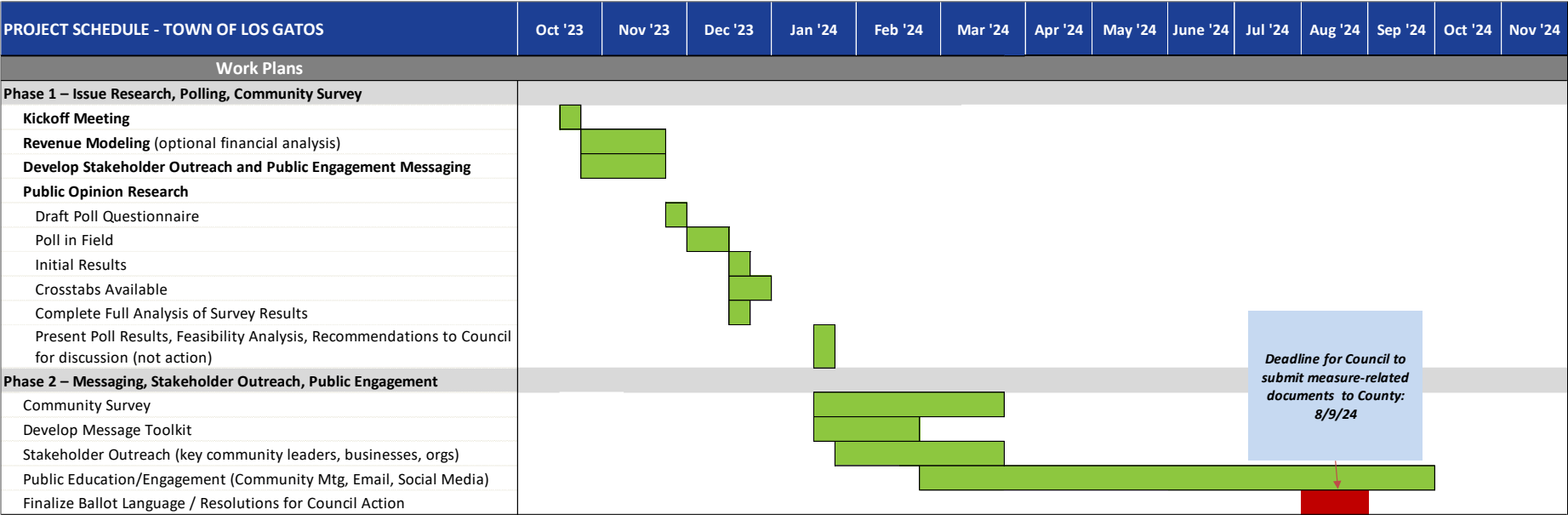
Finalize Ballot Measure Language and Ballot Argument

To place a ballot measure on the November 5, 2024 ballot, all election-related Council action and resolutions must be completed and noticed to the County by August 9, 2024, providing an important window of time for informing and engaging community members around the need for additional revenue before officially proposing and finalizing the ballot measure language.

NBS will work with the Town Manager and Town Attorney to draft ballot measure language and accompanying resolutions for Town Council approval.

DRAFT TIMELINE

The following is an overview of our proposed project schedule. We will discuss a detailed schedule at the kick-off meeting, along with the expected timing for individual tasks. *Note: This page is intentionally formatted differently to improve legibility of the table contents.*



5. Costs

Our professional fees are based on our understanding the Town’s needs and the effort we believe is necessary to complete the scope of services described.

FEE SCHEDULE TOWN OF LOS GATOS							Grand Totals		
	Director (Wood)	Project Manager (Lewis)	GBA Flat Fee	NBS Consultant (Argerich- Valentine)	NBS Senior Consultant (Dayhoff)	NBS Specialist and Analyst (Savage)	Consultant Labor (Hrs.)	Consultant Costs (\$) with Optional Services	Consultant Costs (\$) without Optional Services
<i>Hourly Rate</i>	<i>\$250</i>	<i>\$200</i>	<i>\$30,000</i>	<i>\$175</i>	<i>\$200</i>	<i>\$150</i>			
Work Plans									
Phase 1 – Issue Research, Polling, Develop Communications Plan									
Kickoff Meeting	1.0	1.0	-	1.0	1.0	-	4.0	\$ 825	\$ 825
Revenue Modeling (Optional)	2.0	2.0	-	2.0	30.0	-	36.0	\$ 7,250	\$ -
Develop Stakeholder Outreach & Public Education Messaging	7.0	7.0	-	5.0	-	8.0	27.0	\$ 5,225	\$ 5,225
Public Opinion Research* (design voter poll, analyze data)	2.0	4.0	1.0	-	-	-	7.0	\$ 31,300	\$ 31,300
Total Phase 1								\$ 44,600	\$ 37,350
Phase 2 – Messaging, Stakeholder Outreach & Public Engagement									
Community Survey Implementation (Optional)	4.0	10.0	-	10.0	-	20.0	44.0	\$ 7,750	\$ -
Complete Stakeholder Outreach & Public Education Plan	8.0	8.0	-	5.0	-	-	21.0	\$ 4,475	\$ 4,475
Create Informational Toolkit (e.g., webpage content, Fact Sheet, FAQ)	4.0	12.0	-	12.0	-	4.0	32.0	\$ 6,100	\$ 6,100
Stakeholder Outreach & Public Education (meetings, flyers, social media)	8.0	40.0	-	20.0	-	20.0	88.0	\$ 16,500	\$ 16,500
Draft Ballot Language	5.0	5.0	-	-	-	-	10.0	\$ 2,250	\$ 2,250
Finalize Ballot Language / Resolution for Council	5.0	5.0	-	-	-	-	10.0	\$ 2,250	\$ 2,250
Total Phase 2								\$ 39,325	\$ 31,575
GRAND TOTAL FEES	46.0	94.0	1.0	55.0	31.0	52.0	279.0	\$ 83,925	\$ 68,925
ESTIMATED EXPENSES									
Mailing and printing costs	Cost associated with the design/print/postage per mailer							\$ 12,000	\$ 12,000
Travel and meeting expenses								\$ 3,500	\$ 3,500
TOTAL INCLUDING ESTIMATED EXPENSES								\$ 99,425	\$ 84,425
OPTIONAL SERVICES PRICING									
Labor & Travel Costs Per Optional In-Person Meeting								\$ 2,000	\$ 2,000

1. Travel-related cost and direct reimbursable expenses; all other expenses are included in labor rates. This cost will be \$0 if all meetings and presentations are held remotely.

ADDITIONAL POLLING INFORMATION

*Survey cost dependent on # of completed interviews desired.
100 completed interviews = \$15,000
200 completed interviews = \$24,000
300 completed interviews = \$30,000

Three major factors determine the cost for a survey: the number of interviews to be completed; the average length of each interview; and how easy or hard it is to reach and complete interviews with qualified voters. Of course, the more interviews that are completed, the more reliable is the data, as shown by the changes in sampling tolerance, or margin of error (MOE), at different completion rates. The following table shows how the MOE changes with the number of completes:

200 completed interviews = Margin of Error +/- 6.9%
300 completed interviews = Margin of Error +/- 5.7%

In addition, when the overall sample size increases, the sample sizes for various voter sub-groups will also increase, and their margins of error will decrease.

HOURLY RATES

Title	Hourly Rate
Director / Senior Review	\$250
Associate Director / Engineer	\$225
Senior Consultant	\$200
Consultant	\$175
Project Analyst / Specialist	\$150
Project Resource Analyst	\$130
Clerical / Support	\$110

TERMS

Public Engagement services are invoiced on a monthly basis. Expenses will be itemized and included in the next regular invoice. If the project is prematurely terminated by either party, NBS shall receive payment for work completed. Payment shall be made within 30 days of submittal of an invoice. If payment is not received within 90 days, simple interest will begin to accrue at the rate of 1.5% per month. Either party can cancel consulting contract with 30 days’ written notice.

EXPENSES

Customary out-of-pocket expenses are billed at actual cost to NBS. These expenses may include, but not be limited to, boundary map and assessment diagram preparation (time, materials, plotting and all related costs), mailing fulfillment, postage, supplies, reproduction, telephone, travel, meals and various third-party charges for data, maps, and recording fees.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 15

ADDENDUM

DATE: October 16, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Agreement for Revenue Ballot Measure Consultant Services with NBS in an Amount Not to Exceed \$105,000 and Authorize an Expenditure Budget Adjustment in an Amount of \$105,000 from the Available General Fund Capital/Special Projects Reserve

REMARKS:

Attachment 2 contains public comment received after 11:00 a.m. Friday, October 13, 2023, and before 11:01 a.m. on Monday, October 16, 2023.

Attachments previously received with the October 17, 2023, Staff Report:

1. Draft Agreement with Exhibit A - Scope of Services

Attachments received with this Addendum:

2. Public comment received after 11:00 a.m. Friday, October 13, 2023, and before 11:01 a.m. on Monday, October 16, 2023

PREPARED BY: Katy Nomura
Assistant Town Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

From: [Rob Stump](#)
To: [Maria Ristow](#); [Mary Badame](#); [Rob Rennie](#); [Rob Moore](#); [Matthew Hudes](#)
Cc: [Laurel Prevetti](#); [Wendy Wood](#); [Nicolle Burnham](#)
Subject: Agenda Item 15 - Revenue Ballot Measure Consultant Services, October 17
Date: Monday, October 16, 2023 9:37:12 AM
Attachments: [Agenda Item 15 - October 17 LG Town Council.pdf](#)

[EXTERNAL SENDER]

Town Council Members,

Attached is a letter that outlines why Wildfire Preparation and Prevention should be strongly considered as the public safety issue for a revenue ballot measure in 2024. Simply put, if we do not provide a reliable on-going source of funding to this public safety threat, Los Gatos will not significantly reduce the threat of wildfire.

One lesson learned from Marin County. In 2020, Measure C was passed, 70.8% yes, resulting in the establishment a Joint Powers Authority (JPA) to address the threat of wildfire. This tax generates \$19.3 million/year for wildfire programs and initiatives. One of the key takeaways, this ballot measure was strongly supported by the public. It is my opinion that the people of Marin County understood the threat and supported the ballot measure. Eighteen of twenty cities in Marin County passed the measure. Two cities chose not to participate and now wish they had.

Thanks for your time and consideration.

Rob Stump
[REDACTED]

October 16, 2023

Dear Town Council Members,

At your October 17 Council meeting, you will likely approve Item 15 on the agenda, Revenue Ballot Measure Consultant Services. As the Council considers a ballot initiative and a use or uses for generated funds, I strongly suggest that it be focused on Wildfire preparation and prevention or on Public Safety as a broader initiative.

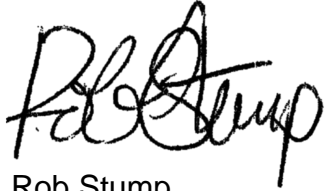
Why address Wildfire preparation and prevention through a new source of generated revenue? While the Town has been successful in “winning” grant funding for fuel reduction and vegetation management, grant funding cannot be relied upon to address all that needs to be done. What needs to be done to save lives and property?

1. Roadside Fuel Reduction: This is an on-going need. Once through the first pass (6-year plan, 5 miles/year), regular maintenance work needs be performed on a 6-year cycle. The Town does not have money built into its operating budget to fund this critical on-going activity. This maintenance must be performed on public and private roads in the WUI.
2. Weed Abatement: The Town needs to abate weeds along its owned roadside rights-of-way. Funding must be secured to make two passes/year (31 miles of roadway). There is currently no funding in the operating budget to fund this critical activity. This must also be funded for both public and private roads. A high percentage of wildfires begin within 50 feet of a roadway.
3. Evacuation Routes: There are numerous substandard width (less than 20 feet) roadways in Los Gatos. A complete review of the roadways and major evacuation routes throughout the WUI must be undertaken to determine needed roadway improvements – public and private. Correction of substandard width roadways in Los Gatos may run into the millions.
4. Emergency Communication: Installation of an Emergency Communication system owned and operated by the Town will cost between \$1.5 to \$2 million.
5. Water Service: There are neighborhoods in the hillside that do not have standard utility-supplied water service. Without this service, fire protection is more challenging. Why? Access to hydrants may be a long distance from the source of a fire. Readily available water will address a localized fire and reduce the potential of it becoming a wildfire.
6. Wildland Fire Specialist and Fuels Crew: These programs will likely have a limited life due to funding constraints. An on-going source of funding is required to sustain them.

I will stop at this point. I think the need is clear and funding is an ongoing challenge. While the Town has had good success securing grants for wildfire initiatives, grants are not a guaranteed source of funding. A reliable source of revenue will enable expedited projects and maintenance that will TRULY make Los Gatos more Wildfire resilient.

In 2020, Marin County passed Measure C (70.8% yes) and formed a Joint Powers Authority (JPA). This tax generates \$19.3 million/year for wildfire programs and initiatives. While Los Gatos would not generate that amount of revenue per year, borrowing against future years' tax collection is possible and would expedite critical projects.

I am ready to assist the Town in developing the case for a Wildfire or broader Public Safety parcel tax. Let me know how I can help you in moving this critical initiative forward for the Town of Los Gatos.

A handwritten signature in black ink, appearing to read "Rob Stump". The signature is stylized with large, flowing letters.

Rob Stump
Los Gatos Hillside Resident



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/17/2023

ITEM NO: 16

DATE: October 10, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction Regarding Potential Changes to the Town's Boards, Commissions, and Committees

RECOMMENDATION:

Discuss and provide direction regarding potential changes to the Town's Boards, Commissions, and Committees.

BACKGROUND:

In January 2023, the Town Council added a Strategic Priority to evaluate the Town's Boards, Commissions, and Committees (hereafter, Commissions) to determine potential refinements to align with the Council's Strategic Priorities. The 2023-2024 Strategic Priorities are contained in Attachment 1.

Some of the Town's existing bodies have a specific regulatory, land use purpose, or appeal function, including the following (*the Department providing primary administrative and technical support to the Commission is identified in parentheses*):

- Building Board of Appeals (*Community Development*)
- Conceptual Development Advisory Committee (*Community Development*)
- Development Review Committee (*Community Development*)
- General Plan Committee (*Community Development*)
- Historic Preservation Committee (*Community Development*)
- Housing Element Advisory Board (*Community Development*)
- Personnel Board (*Human Resources*)
- Planning Commission (*Community Development*)

The Finance Commission was established by a ballot initiative and can only be modified by Los Gatos voters. The Town Manager's Office, Finance Department, and Clerk's Office provide administrative and technical support to this Commission.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

Other Town Commissions, which are the focus of this report, include the following (*the Department providing primary administrative and technical support to the Commission is identified in parentheses*):

- Arts and Culture (*Library Department*)
- Community Health and Senior Services (*Town Manager's Office*)
- Complete Streets and Transportation (*Parks and Public Works*)
- Library Board (*Library Department*)
- Parks Commission (*Parks and Public Works*)
- Youth Commission (*Police*)

The enabling resolutions for each of these Commissions identify the scope and membership of each Commission. The resolutions can be found on the website for each Commission, respectively. In addition, Town Council recently adopted an enabling resolution to establish a new Diversity, Equity, and Inclusion (DEI) Commission, which will be primarily administered by the Town Manager's Office.

The Town Clerk and Town Attorney provide valuable guidance to all Town's advisory bodies and Commissions to ensure compliance with State laws and regulations as well as consistency in administrative practices.

DISCUSSION:

As the Town Council deliberated on the creation of the DEI Commission, Council members raised questions regarding other subject areas for which a Commission would be useful. Specifically, interest was expressed in a Sustainability Commission to give heightened awareness and attention to a variety of environmental issues facing the Town.

The Council should define the scope of sustainability as it has many facets, including but not limited to Greenhouse Gas reduction, tree canopy, recycling, energy conservation, water conservation, climate resiliency, etc. Depending on the Council's focus, one option may be to expand the scope of an existing Commission (e.g., Parks Commission) to cover sustainability and rename it (e.g., Parks and Sustainability Commission).

The Council was also interested to know the workload implications of adding new Commissions. A new Commission does bring additional workload to the Town's lean staffing resources. The ability of a Department to absorb the additional work varies by Department. For example, if the Parks Commission were to expand to a Parks and Sustainability Commission, it would likely need to meet monthly instead of every other month. Parks and Public Works staff can absorb this increment of new work better than a new Commission which would meet regularly in addition to the Complete Streets and Transportation Commission and Parks Commission.

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SUBJECT: Town Boards, Commissions, and Committees

DATE: October 10, 2023

CONCLUSION:

This agenda item provides the Town Council the opportunity to discuss alignment of the Commissions to the Council's Strategic Priorities, direct any modifications to enabling resolutions, and provide other guidance as appropriate.

COORDINATION:

The preparation of this report was coordinated with all Department Directors, the Town Clerk, and the Town Attorney.

FISCAL IMPACT:

The discussion of Commission refinements has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. 2023-2025 Strategic Priorities



Ongoing Strategic Priorities 2023-2025

SAFETY

- Community Policing
- Emergency Preparedness
 - CERT Recruitment & Training
 - Communications, EOC Readiness & Emergency Plan Development
- Fire Protection
 - Implementation of Ad Hoc Wildfire Mitigation Plan
- Vegetation and Hazardous Tree Management

PRUDENT FINANCIAL MANAGEMENT

- Address Pension & OPEB Obligations
- Sell or Lease Certain Town Properties
- Develop a Five-Year Structurally Balanced and Sustainable Operating Forecast
 - Explore New Revenue Opportunities
 - Cure Forecasted Structural Deficit
- Develop a Five-Year Full Funded Capital Plan

TRAFFIC/TRANSPORTATION

- Comprehensive Parking Study
 - Short, Medium, and Long-Term Actions
- Transportation Demand Management
 - Measure B Transportation Projects
 - Bicycle & Pedestrian Improvements
 - Community Shuttle
 - Summer/Rush Hour/School Traffic
 - Regional Transportation Issues
- Traffic Calming/Safety for All Users

QUALITY OF LIFE

- Community Vitality
 - Diversity, Equity & Inclusion Efforts
 - Community Where Older Adults Thrive
 - Adopt a Senior Road Map
 - Events & Other Town-Wide Efforts
 - Community Engagement
 - Environmental Sustainability/Climate Resiliency
- Economic Vitality & Pandemic Recovery
 - Policies & Ordinances
 - Semi-Permanent Parklets
 - Streamline Permit Process
- Land Use Planning
 - General Plan 2040
 - Housing Element
 - Affordable Housing Partnerships
 - SB9 Implementation
- Work with Town Partners to Support Needs of Unhoused Residents
- Redefine Town Commissions in Alignment with Strategic Priorities



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/11/2023

ITEM NO: 17

DATE: October 11, 2023
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Accept the Diversity, Equity, and Inclusion (DEI) Plan and Identify First Year Priorities for the DEI Commission

RECOMMENDATION:

Accept the Diversity, Equity, and Inclusion (DEI) Plan and Identify First Year Priorities for the DEI Commission.

BACKGROUND:

In 2021, Town staff began to identify Town processes, policies, and other Town work that would enhance equity and inclusion in Los Gatos. In addition, the adopted 2040 General Plan contains a new Racial, Social, and Environmental Justice Element. On August 17, 2021, the Town Council approved engaging ALF Insights (ALFI), the consulting arm of American Leadership Forum Silicon Valley, to complete a phase of discovery, engaging community partners to ascertain their understanding of the Town's Diversity, Equity, and Inclusion (DEI) work to date as well as gather input on equity and inclusion efforts in the Town. ALFI summarized the themes and ideas gathered in those meetings and provided a set of recommendations in a Discovery Report accepted by the Town Council on September 6, 2022.

Also on September 6th, the Town Council directed the Town Manager to continue work with ALFI to assist in strategizing and identifying Justice, Equity, Diversity, and Inclusion (JEDI) Implementation Actions to include clear goals and action items. ALFI engaged a Community Working Group to assist in the development of its recommendations for the Town.

On September 19, 2023, the Town Council received ALFI's Implementation Actions and voted to establish a DEI Commission. On October 3, the Council considered and approved a revised enabling resolution for the new Commission.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

SUBJECT: Accept the Diversity, Equity, and Inclusion (DEI) Plan and Identify First Year Priorities for the DEI Commission

DATE: October 11, 2023

DISCUSSION:

In addition to ALFI's efforts with the Community Working Group, staff sought a larger engagement of the community in preparation of a comprehensive DEI Plan. Staff met with almost every Town Board, Commission, and Committee to discuss the recommendations in the 2022 Discovery Report, consider DEI in the work of each body, identify potential additional DEI action items, and obtain related input.

The Town also held a community workshop over Zoom with smaller break out discussion groups to discuss similar topics as the Commissions. Finally, an internal employee Equity Team met to consider these topics and an anonymous survey was sent to all Town staff to garner input.

Many different voices were heard during these various meetings. Some people questioned why the Town was doing this work at this time; asked what specific problem a DEI Plan was intended to solve; expressed that the Town is welcoming to all people currently; shared stories of personal experiences that indicated that not everyone is welcome in Los Gatos; recognized the long term work associated with DEI; indicated that the Town government cannot do DEI work alone; and made other suggestions and comments.

Staff has compiled a comprehensive DEI Plan that brings together the ALFI Implementation Actions, the General Plan 2040 Racial, Social, and Environmental Justice Element Implementation Programs, internal Town efforts that have been underway since 2021 (e.g., Police reforms), and the broader community, Town Commissions/Boards/Committees, and staff input into a single document.

As directed by the Town Council, the Plan identifies short, medium, and long term action items. The Plan also contains action items that are ongoing and do not have a specific conclusion. All action items are organized by the same goals found in the ALFI Implementation Actions document plus a goal pertaining to internal Town operations:

- Oversight: Create a process for oversight of the Town's DEI Plan;
- Safety: Create a robust and safe process for equity-focused, community-based programming;
- Collaboration: Leverage community resources to ensure equity efforts are collaborative and inclusive;
- Communication: Develop a communications campaign that highlights the Town's equity work;
- Housing: Educate the community about affordable housing to ensure that the Town meets its Housing Element Goals; and
- Increase equity in internal Town operations, service delivery, and customer interactions.

PAGE 3 OF 3

SUBJECT: Accept the Diversity, Equity, and Inclusion (DEI) Plan and Identify First Year
Priorities for the DEI Commission

DATE: October 11, 2023

CONCLUSION:

The DEI Plan acknowledges the ongoing work that the Town is doing to become a more diverse and inclusive community. This agenda item provides the Town Council an opportunity to discuss the Plan, modify the timeframe(s) for specific action items, and identify a couple of first year priorities for the DEI Commission and staff.

COORDINATION:

The DEI Plan was reviewed by all Town Department Directors, Town Attorney, Town Clerk, and Assistant Town Manager.

The preparation of the Plan included input from the Arts and Culture Commission, Community Health and Senior Services Commission, Complete Streets and Transportation Commission, Finance Commission, Library Board, Parks Commission, Personnel Board, Planning Commission, and Youth Commission. Resident members of the Historic Preservation Committee and Housing Element Advisory Committee (which includes the General Plan Committee) were invited to the Planning Commission's discussion.

FISCAL IMPACT:

The acceptance of the Plan and identifying first year priorities has no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Draft DEI Plan



Town of Los Gatos Diversity, Equity, and Inclusion (DEI) Plan



1. PURPOSE

This Diversity, Equity, and Inclusion (DEI) Plan is intended to be an actionable plan for the Town of Los Gatos to become a more inclusive place where all community members feel welcome and a sense of belonging. It is a living and evolving document.

2. GOALS AND ACTION ITEMS

Some of the goals and action items listed below are attributed to either the Los Gatos 2040 General Plan or the American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions document. Those items without specific attribution came from input received from either Town Boards/Commissions/Committees, Town staff, or the broader community. Please see Section 3 below for more details on how this feedback was obtained.

All of the goals and action items listed below are dependent on authorization, direction, and prioritization from the Town Council.

A. **GOAL: Oversight. Create a process for oversight of the Town's DEI Plan.** ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions*](#))

1. Short Term Action Items

- a. In partnership with other Commissions, DEI Commission to review the community grants rubric for the community grant distribution process through an equity lens. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 6*](#))
- b. DEI Commission to create an annual review process and evaluation of the DEI Work Plan action items. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 6*](#))
 - i. Create standing discussion item for the DEI Commission to review progress on the DEI Plan.
 - ii. Submit annual progress update to the Council.

2. Long Term Action Items

- a. DEI Commission to recommend additional action items to the Town Council to make visible the equity issues that matter to the larger community. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 6*](#))
 - i. Utilize DEI Commission meetings to obtain community feedback, discuss and identify potential equity action items to inform the on-going JEDI Plan Implementation, and listen to other community ideas.

3. Ongoing Action Items

- a. Town staff/Commissions/Council to examine all proposed policies and ordinances in the context of promoting, facilitating, and improving equity, diversity, and inclusion in Los Gatos.

B. GOAL: Safety. Create a robust and safe process for equity-focused, community-based programming. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions](#))

1. Short Term Action Items

- a. Town staff/DEI Commission to review the Town's four events (Spring into Green, 4th of July Symphony in the Park, Screen on the Green, and Winter Celebration) with an equity lens. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 7](#))
 - i. Consider potential modifications to existing Town events.
 - ii. Consider adding a statement in the Town's Special Event Permit application indicating that the Town encourages events to consider our community's diversity and to support equity and inclusion.
- b. Town staff/DEI Commission to evaluate heritage/holiday celebrations and recognitions in the Holiday and Recognition Work Plan. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 7](#))

2. Medium Term Action Items

- a. Town staff/DEI Commission/Community Partners to create public forums and garner feedback from the community on the types of equity programming they would like to see offered in the Town, including but not limited to: community members; business owners; faith leaders; community-based organizations; and youth. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 7](#))
- b. Town staff/DEI Commission/Community Partners to work with other Boards, Commissions, and Committees to curate safe and engaging learning, dialogue and advocacy spaces for all community members. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 8](#))
- c. Town staff/Commissions to explore opportunities for public art/murals that celebrate underrepresented groups.
- d. Town staff to explore the possibility of film festivals/benefit events at the Los Gatos Theatre.
- e. Town staff/Commissions to explore options for bringing diversity and incorporating equity into Town parks, open space, and the community garden.
 - i. Consider a Park Stewardship Program to develop meaningful relationships between different groups (example: seniors) and each park.

3. Long Term Action Items

- a. Town staff/DEI Commission/Community Partners to develop a community learning opportunity focused on historical inequities and the history of the

Town of Los Gatos. Focused on but not limited to: Indigenous communities; redlining practices; and other items as identified through community partners. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 8*](#))

- b. Town staff to develop diversity, sensitivity, and awareness training courses and curriculum for residents, business owners, and local organizations to take part in. Training could include, but is not limited to, an informational column in the weekly newsletter and/or links to recommended online materials, lectures, and community engagement events. ([*Los Gatos 2040 General Plan, p. 2-9*](#))

4. Ongoing Action Items

- a. Town staff in the Police Department to continue to offer a Community Police Academy, or similar program, to educate community members on law enforcement policies, practices, and problem solving, as well as promoting the opportunity for one-on-one interaction with Department members in a relaxed environment. ([*Los Gatos 2040 General Plan, p. 2-8*](#))
- b. Town staff/Arts and Culture Commission/DEI Commission to explore ways to potentially incorporate DEI into new art projects as they arise.
- c. Town staff/Complete Streets and Transportation Commission to continue to look for ways to improve transportation accessibility, bicycle/pedestrian access, ADA access on sidewalks, and public transportation options.
- d. Town staff/Library Board/DEI Commission to make suggestions for the Library's DEI reading list(s) and share those lists with local schools.
- e. Town staff to continue to enhance awareness of DEI through expanded Library programming for both adults and children.
- f. Town staff to continue to increase technology offerings at the Library to help low-income community members who do not have access to WiFi and/or other devices.

C. GOAL: Collaboration. Leverage community resources to ensure equity efforts are collaborative and inclusive. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions*](#))

1. Short Term Action Items

- a. Town staff/DEI Commission/Community Partners to foster collaboration between community groups and other partners engaging in equity work in order to offer joint activities. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 8*](#))
 - i. Meet with community partners to determine how they would like to manifest equity learning in the community. Focused on, but not limited to, the following local groups: local businesses; community-based organizations; nonprofits; education partners; faith-based partners; Town Departments; and other Town Commissions.
 - ii. Focus on collaborative projects that promote healing.

- iii. Evaluate Town spaces available for joint activities and projects and consider how those spaces can be best used to promote equity and belonging.

2. Medium Term Action Items

- a. Town staff/School Districts/Youth to identify needs for both community-based and school-based programming. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 9*](#))
 - i. As requested by local schools, share resources that support the schools' equity work.
 - ii. Intentionally connect school districts to community groups for joint projects, centered in art and expression.
 - iii. Host a joint session with community partners and school leaders regarding equity dialogues and in support of their joint planning efforts.
 - iv. Explore the possibility of the Town hosting or partnering on a DEI assembly or event with local schools.
- b. Town staff/Chamber of Commerce/other community organizations to organize an annual career and job fair with local employers to highlight local employment and employment training opportunities for Los Gatos residents. ([*Los Gatos 2040 General Plan, p. 2-8*](#))
- c. Town staff to research the viability of increasing support for the acceptance of food vouchers at local food retailers and farmers' markets. ([*Los Gatos 2040 General Plan, p. 2-9*](#))

3. Ongoing Action Items

- a. Town staff to continue to work with the Los Gatos Saratoga Union High School District and Los Gatos Union School District on the Positive Community Norms effort.
- b. Town staff to explore opportunities for collaborating with other municipalities on DEI work.

D. GOAL: Communication. Develop a communications campaign that highlights the Town's equity work. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions*](#))

1. Short Term Action Items

- a. Town staff/DEI Commission/Community Partners to create a yearly communications campaign centered around equity education and promotion of community events. Include in this process: visible signage/banners, local art, and art displays. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 9*](#))

2. Medium Term Action Items

- a. Town staff/DEI Commission/Community Partners to create a new Town tagline, in concert with the mission statement that involves the spirit of 'belonging', as

a north star for ongoing work. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 10*](#))

- i. Engage the community in the development of this work.
 - ii. Garner input from Commissions, businesses and community-based organizations.
 - iii. Present to Council for approval.
- b. Town staff/DEI Commission/Community Partners to engage the business community as a partner in promoting the benefits of the DEI Plan and the positive attributes of the Town of Los Gatos. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 10*](#))
 - i. Develop a local business pledge about belonging and unwillingness to tolerate discrimination.
 - ii. Create a plan for outreach and support for minority-owned businesses.
 - iii. Engage the business community in supporting the development of more affordable housing as a path to support their businesses.
- c. Town staff to develop clear and inclusive outreach materials to increase and advance racial, social, and environmental justice initiatives. ([*Los Gatos 2040 General Plan, p. 2-8*](#))
- d. Town staff/DEI Commission to reexamine Welcome Packets sent to new Los Gatos residents for opportunities to make them more inclusive.

3. Long Term Action Items

- a. Town staff to develop mechanisms to communicate and engage members of the community who are not typically active in civic issues to foster relationships with the Town and the Police Department. This can be accomplished by leveraging technology and by focusing resources on non-enforcement interaction with the community. ([*Los Gatos 2040 General Plan, p. 2-9*](#))

4. Ongoing Action Items

- a. Town staff to develop clear and inclusive outreach materials, expand media campaigns, and implement other strategies to engage the public in the Town's processes. ([*Los Gatos 2040 General Plan, p. 2-10*](#))
- b. Town staff to communicate actively on social media and in other forums to reinforce messages of inclusion, belonging, and welcoming.

E. GOAL: Housing. Educate the community about affordable housing to ensure that the Town meets its Housing Element goals. ([*American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions*](#))

1. Long Term Action Items

- a. Town staff to dispel the misconceptions surrounding affordable housing by providing:
 - i. Developer tours to completed affordable housing build outs.

- ii. Education about affordable housing residents and the services they receive. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 11](#))
- b. Town staff to investigate ways to attract affordable housing developers to the Town of Los Gatos. ([American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions, p. 11](#))
 - i. Review the work of other jurisdictions and what policy changes they have made to incentivize the building of affordable housing.
 - ii. Publicize opportunities to build affordable housing with developers.
 - iii. Educate the community about what affordable housing brings to the Town in order to leverage and develop community support for these projects.
- c. Town staff to create a program to ensure that all rental multifamily housing is inspected on a three to five-year cycle to ensure compliance with all building, housing, and other codes for safe and sanitary housing. ([Los Gatos 2040 General Plan, p. 2-10](#))

2. Ongoing Action Items

- a. The 2040 General Plan was adopted with its Racial, Social, and Environmental Justice Element on June 30, 2022. The Implementation Programs from that Element are included in this DEI Plan.
- b. The Housing Element with modifications was adopted by the Town Council on January 30, 2023. The Town is continuing to address the detailed comments from the State, engaging with the community in that process. Once certified by the State, the Town will need to implement the Housing Element programs.

F. GOAL: Increase equity in internal Town operations, service delivery, and customer interactions.

1. Short Term Action Items

- a. Town staff to enhance the Town's Tree Lighting event with other inclusive activities to transition it to an Annual Winter Celebration.
- b. Town staff to create a defined set of criteria that measures and prioritizes equitable distribution of Capital Improvement (CI) Projects Town-wide. ([Los Gatos 2040 General Plan, p. 2-9](#))

2. Medium Term Action Items

- a. Town staff to develop and facilitate a community-based budgeting process to provide the public an opportunity to identify funding priorities annually. This program could feature in-person and online engagement opportunities. ([Los Gatos 2040 General Plan, p. 2-8](#))
- b. Town staff to determine effective recruitment strategies to attract diverse candidates to Town employment opportunities. Work with educational institutions and other entities to promote local government job opportunities

with middle school, high school, technical school, and college students. ([Los Gatos 2040 General Plan, p. 2-8](#))

- c. To remove any administrative barriers to increase access to healthy foods, Town staff to conduct an internal audit of and make necessary changes to Town regulations, including but not limited to the Zoning Ordinance. ([Los Gatos 2040 General Plan, p. 2-9](#))
- d. Town staff to increase opportunities for DEI conversations among Town staff and Departments with guest speakers/brown bag lunches.
- e. Town staff to explore the possibility for team-building exercises for staff.

3. Long Term Action Items

- a. Town staff to develop a study to measure tree canopy distribution throughout the Town and encourage the use of native plants when increasing green space. ([Los Gatos 2040 General Plan, p. 2-9](#))
- b. Town staff to implement the Town's ADA Transition Plan as funding permits.

4. Ongoing Action Items

- a. Form a Social and Racial Justice Commission that will serve as an advisory board to the Town Council to advance the Town's racial equity work. ([Los Gatos 2040 General Plan, p. 2-8](#)) – Approved by Council September 19, 2023 with meetings beginning January 2024.
- b. Town staff to update the Town's Anti-Harassment Policy to meet current best practices, including anti-bullying.
- c. Town staff to continue to evaluate the annual proposed Capital Improvement Budget and any service expansion/contraction in the Operating Budget to ensure that all neighborhoods are treated equitably in the availability of services and infrastructure investment. ([Los Gatos 2040 General Plan, p. 2-8](#))
- d. Require all Town staff to undergo ongoing DEI/implicit bias training. ([Los Gatos 2040 General Plan, p. 2-8](#))
- e. Continue to offer DEI training for Councilmembers and Commissioners.
- f. Town staff to develop an annual survey which measures the successfulness of advancing social equity and diversity Town-wide. ([Los Gatos 2040 General Plan, p. 2-8](#))
- g. Town staff to continuously expand access to Town records and information to further demonstrate the Town's commitment to transparency in governmental operations.
- h. Town staff to continue to provide Biannual Reports to review progress at Town Council meetings on Police Reforms, including independent investigations, mental health/homeless support, traffic stop data, and options for non-emergency calls.
- i. Town staff to continue to strengthen the Police Department relationship with County Behavioral Health and Crisis Response Teams.
- j. Town staff to work toward the Police Chief's goal for all Department personnel to exceed the minimum number of hours of training in de-escalation and crisis intervention.
- k. Town staff to continuously review and update Town policies and procedures to ensure that it is employing the best practices for hiring, training, eliminating bias, and ensuring the public's safety.

- l. Town staff to foster a more diverse work force by continuing to update job descriptions and minimum qualifications to encourage a broader set of candidates, promoting job opportunities using conventional and unconventional techniques to reach deeper into the talent pool, and encouraging professional development to expand skills and abilities.
- m. Town staff to continually reevaluate the Commission application process to facilitate more equity and inclusivity.
- n. Town Council to examine/update the Town Council Code of Conduct.
- o. Town staff to conduct staff surveys on a regular basis to assess if employees feel welcomed and included.
- p. Town staff to explore options for assisting unhoused Los Gatos residents.

Staff explored the option of including metrics for each item; however, after extensive outreach, research, and attending DEI training sessions put on by the Government Alliance of Race and Equity (GARE), the conclusion reached was that metrics/performance measures are not only extremely difficult for this work, but not advised. DEI work is long-term term and ongoing over generations of people and progress cannot adequately be measured in a shorter timeframe of a few years. Additionally, aiming for a goal of a certain demographic makeup (for example, X amount of employees of Y ethnicity/race) can be misleading because even if that goal is reached it does not necessarily mean that all feel welcome or as they belong.

3. DESCRIPTION OF PROCESS FOR DEVELOPING THE DEI PLAN

Community Advisory Group Led by American Leadership Forum Silicon Valley Insights (ALFI)

On September 6, 2022, the Town Council authorized the Town Manager to continue working with DEI Consultant ALFI on the development of a DEI Plan. To do this work, ALFI convened a Community Advisory Group to move the initial Discovery Report recommendations forward and provide concrete steps for implementation. The Community Advisory Group met on a monthly basis from February through September 2023 for two and a half hours each meeting and utilized the initial Discovery Report recommendations as a jumping off point for dialogues. The Group helped put together the American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions document and provided numerous action/implementation items included in this DEI Plan. The most significant recommendation to come out of the group was for the Town to establish an equity-focused Commission. On September 19, 2023, the Town Council approved the enabling resolution to create the Diversity, Equity, and Inclusion Commission.

Community Workshop

On April 20, 2023, the Town held a community workshop to give the broader Los Gatos community an opportunity to provide input on the Discovery Report and the potential action items for this DEI Plan. Attendees were divided into two smaller breakout group discussions to provide feedback used to shape this plan.

Town Boards, Commissions, and Committees Participation

During the months of March and April, Town staff met with each Board/Commission/Committee, and/or solicited written feedback on the potential DEI Plan action items and the recommendations in the Discovery Report. Input was also sought regarding how DEI work intersects with each Commission, how Commissions can work to increase equity and inclusivity in Los Gatos, and other ideas for how the Town can work holistically toward becoming a more inclusive place. Ideas garnered from those sessions are reflected in this DEI Plan.

Town Staff Engagement

Outreach regarding the development of this plan and other Town DEI work was also conducted with staff. In 2022, the Town Manager's Office offered the first Employee Equity Survey to all Town staff. The Town staff is much more diverse than the broader Los Gatos community. At a high level, survey results indicated 70% of respondents reported feeling welcome at work while 30% did not. Responses also indicated a need for increased education for Town staff about the DEI work being done and a desire for DEI training.

In 2023, the Town Manager's Office conducted another anonymous survey specific to input relating to the Discovery Report recommendations and potential DEI Plan action items. Discussions on these topics also occurred during the Staff Equity Team's monthly meetings. Themes from this staff feedback are also found in this Plan.

Training

Based on staff demand as illustrated in the Employee Equity Survey results, in November 2022, the Town held a mandatory staff Diversity, Equity, and Inclusion training entitled "Creating Environments of Belonging" led by DEI trainer and former prosecutor Mwanaisha Sims. The topic discussed included:

- Awareness of workplace diversity issues, such as those affecting underrepresented groups, in daily interactions;
- Exploration of internal beliefs and unconscious biases;
- An understanding of what motivates (and demotivates) those around us;
- Collaboration skills to help work more effectively with people who have different qualities from your own;
- How to stand up to discrimination such as racial bias or sexual harassment; and
- Skills to foster an inclusive workplace culture.

In February 2023, the "Creating Environments of Belonging" DEI training was also offered to the Town Councilmembers and all Town Commissioners.

In May 2023, based on demand, Ms. Sims returned to offer Town staff a second training that specifically focused on learning tools for how to respond to microaggressions, bias, and uncomfortable conversations.

DEI training can help build a safe and equitable workplace for all staff and promote an environment where everyone feels comfortable being their authentic selves at work.

4. **DEFINITIONS**

Ableism. Ableism is the discrimination of and social prejudice against people with disabilities based on the belief that typical abilities are superior. At its heart, ableism is rooted in the assumption that disabled people require ‘fixing’ and defines people by their disability. ([Access Living](#))

Anti-Semitism. The belief or behavior hostile toward Jews just because they are Jewish. It may take the form of religious teachings that proclaim the inferiority of Jews, for instance, or political efforts to isolate, oppress, or otherwise injure them. It may also include prejudiced or stereotyped views about Jewish peoples. ([Anti-Defamation League](#))

Belonging. Belonging is a core need of all humans and is defined as a system of values and practices where no person is left out of the circle of human concern. It is more than just access. It is having a meaningful voice and an opportunity to participate in the design of cultural structures. Belonging includes the right to contribute as well as the right to make demands and it requires shared power, access, and opportunity among all individuals within a shared system. Belonging is about being seen, heard and valued for the uniqueness that each individual brings into the circle (Source: Othering and Belonging Institute). Distinction Between Diversity, Inclusion, and Belonging: You can have diversity without inclusion (e.g. tokenism, assimilation). You can’t have inclusion without diversity. Focusing on inclusion gets you further than just focusing on diversity. Belonging is a term that goes beyond the legal or HR definitions and gets to how power and meaningful inclusion can look and feel within the context of a group or network. ([Race Forward](#))

BIPOC. Acronym referring to Black, Indigenous, and Persons of Color. ([Los Gatos 2040 General Plan, p. 2-3](#))

Community Member. Any individual who resides, owns property, is a business owner, or is employed in the Town of Los Gatos. ([Los Gatos 2040 General Plan, p. 2-3](#))

Debiasing Strategies. Interventions to eliminate, mitigate or prevent bias are often focused on the individual level, rather than at the institutional level, where interventions are most needed. Debiasing strategies focused on individual change (e.g. “just be aware of your bias),” have dubious impacts and success. Debiasing strategies focused at the institutional levels can help prevent and remove opportunities for bias by instituting practices, policies, and protocols that require institutional actors to address institutional racism. ([Race Forward](#))

Disadvantaged Community. An area identified by the California Environmental Protection Agency (CalEPA) pursuant to Section 39711 of the California Health and Safety Code or a predominately low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation. ([Los Gatos 2040 General Plan, p. 2-3](#))

Diversity. A variety of racial identities or characteristics (e.g. African Americans, Native Americans, Latinx) as well as people from a range of different social, racial, ethnic, cultural, and economic backgrounds; genders; sexual orientations; abilities; experiences; perspectives; and other personal identities. Diversity is a quantitative measure of representation. ([Race Forward](#))

Environmental Justice. The fair treatment of people of all races, cultures, incomes, political and religious affiliation, and national origins with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies including climate adaptation strategies. ([Los Gatos 2040 General Plan, p. 2-3](#))

Equality. Is sameness; everyone gets the same thing. Equality focuses on everyone getting the same opportunity, but often ignores the realities of historic exclusion and power differentials among whites and other racialized groups. ([Los Gatos 2040 General Plan, p. 2-3](#))

Equity. Ensures that outcomes in the conditions of well-being are improved for marginalized groups, lifting outcomes for all. Equity is a measure of justice (Los Gatos 2040 General Plan, p. 2-3). Distinction Between Equality and Equity: Equality uses the same strategies for everyone, but because people are situated differently, they are not likely to get the same outcomes. Equity uses differentiated and targeted strategies to address different needs and to get to fair outcomes. Equality-focused strategies don't work for, or benefit, everyone – e.g. teaching everyone the same way does not work for different kinds of learners -- each must be taught the appropriate way for them. ([Race Forward](#))

Explicit Bias. Conscious attitudes and beliefs about a person or group, also known as overt and intentional bias. ([Los Gatos 2040 General Plan, p. 2-3](#))

Implicit Bias. Attitudes or stereotypes that affect our understanding, decisions, and actions in an unconscious manner. ([Los Gatos 2040 General Plan, p. 2-3](#))

Individual Bias. Bias by individuals. But if the individual is acting in an institutional capacity (e.g. a teacher or a police officer) their individual bias is also a manifestation of institutional bias. ([Race Forward](#))

Individual Racism. Lies within individuals. These are private beliefs and biases about race that reside inside our own minds and bodies. For White people, this can be internalized privilege, entitlement, and superiority; for people of color, this can be internalized oppression. Examples: prejudice, xenophobia, conscious and unconscious bias about race, influenced by the white normative or dominant culture. ([Race Forward](#))

Institutional Bias. Bias by institutions — such as patterns, practices, policies, or cultural norms that advantage or disadvantage people of color. ([Race Forward](#))

Institutional Racism. Occurs within institutions. It involves unjust policies, practices, procedures, and outcomes that work better for White people than people of color, whether intentional or not. Example: A school district that concentrates students of color in the most overcrowded, under-funded schools with the least experienced teachers. ([Race Forward](#))

Interpersonal Racism. Occurs between individuals. Bias, bigotry, and discrimination based on race. Once we bring our private beliefs about race into our interactions with others, we are now in the interpersonal realm. Examples: public expressions of prejudice and hate, microaggressions (common place intentional or unintentional terms or hostility), bias and bigotry between individuals. ([Race Forward](#))

Inclusion. The measure of the quality of representation, such as full access, authentic representation, empowered participation, true belonging and power-sharing. Inclusion is a qualitative measure of representation and participation. ([Race Forward](#))

Intersectionality. The concept of intersectionality describes the ways in which systems of inequality based on gender, race, ethnicity, sexual orientation, gender identity, disability, class and other forms of discrimination “intersect” to create unique dynamics and effects. All forms of inequality are mutually reinforcing and must therefore be analyzed and addressed simultaneously to prevent one form of inequality from reinforcing another. Intersectionality brings our understanding of systemic injustice and social inequality to the next level by attempting to untangle the lines that create the complex web of inequalities. It is also a practical tool that can be used to tackle intersectional discrimination through policies and laws. ([Center for Intersectional Justice](#))

LGBTQIA+ Discrimination. Being harassed, discriminated against and/or being denied access to employment, housing, access to basic goods and services and/or the ability to participate meaningfully in our society's decision making processes, based on gender identity, sexual orientation and/or gender expression. ([Gender Equity Law Center](#))

Racial Equity. A process of eliminating racial disparities and improving outcomes for everyone. It is the intentional and continual practice of changing policies, practices, systems, and structures by prioritizing measurable change in the lives of people of color. From GARE: Racial equity is realized when race can no longer be used to predict life outcomes, and outcomes for all groups are improved. ([Race Forward](#))

Racial Justice. A vision and transformation of society to eliminate racial hierarchies and advance collective liberation, where Black, Indigenous, Latinx, Asian Americans, Native Hawaiians, and Pacific Islanders, in particular, have the dignity, resources, power, and self-determination to fully thrive. Distinction Between Racial Equity and Racial Justice: Racial equity is the process for moving towards the vision of racial justice. Racial equity seeks measurable milestones and outcomes that can be achieved on the road to racial justice. Racial equity is necessary, but not sufficient, for racial justice. ([Race Forward](#))

Resident. Any individual who resides in the Town of Los Gatos. ([Los Gatos 2040 General Plan, p. 2-3](#))

Social Capital. A concept in social science that involves the potential of individuals to secure benefits and invent solutions to problems through membership in social networks. Social capital revolves around three dimensions: interconnected networks of relationships between individuals and groups (social ties or social participation); levels of trust that characterize these ties; and resources or benefits that are both gained and transferred by virtue of social ties and social participation. ([Los Gatos 2040 General Plan, p. 2-3](#))

Socially Disadvantaged Individuals and Groups. Socially disadvantaged individuals and groups who have been subjected to prejudice or some form of discrimination or bias because of their perceived identity as a member of a particular group (i.e., race, ethnicity, culture, sex, political or religious affiliation, sexual orientation, age, immigration status) without regard to their individuality and/or merit. ([Los Gatos 2040 General Plan, p. 2-3](#))

Structural Racism. Racial inequities across institutions, policies, social structures, history, and culture. Structural racism highlights how racism operates as a system of power with multiple interconnected,

reinforcing, and self-perpetuating components which result in racial inequities across all indicators for success. Structural racism is the racial inequity that is deeply rooted and embedded in our history and culture and our economic, political, and legal systems. Examples: The “racial wealth gap,” where Whites have many times the wealth of people of color, resulting from the history and current reality of institutional racism in multiple systems. ([Race Forward](#))

5. RESOURCES/APPENDICES

American Leadership Forum Insights Discovery Report (2022):

<https://www.losgatosca.gov/DocumentCenter/View/31460/Final-Discovery-Report>

American Leadership Forum Insights Justice, Equity, Diversity, and Inclusion Implementation Actions (2023):

<https://www.losgatosca.gov/DocumentCenter/View/36518/ALFI-Implementation-Actions>

Racial, Social, and Environmental Justice Element of the Los Gatos 2040 General Plan (2022):

www.losgatosca.gov/DocumentCenter/View/31980/2-LGGP_2040_Racial-Social-and-Environmental-Justice-Element

Town of Los Gatos Becoming an Inclusive Community Website:

<https://www.losgatosca.gov/2604/Becoming-an-Inclusive-Community>