



**TOWN OF LOS GATOS**  
**COUNCIL MEETING AGENDA \*AMENDED**  
**JUNE 18, 2024**  
**110 EAST MAIN STREET AND TELECONFERENCE**  
**TOWN COUNCIL CHAMBERS**  
**7:00 PM**

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

**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 Zoom Webinar (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](http://www.LosGatosCA.gov/TownYouTube).

**HOW TO PARTICIPATE**

The public is welcome to provide oral comments in real-time during the meeting in three ways:

**Zoom Webinar (Online):** Join from a PC, Mac, iPad, iPhone or Android device. Please use this URL to join: [https://losgatosca-](https://losgatosca.gov.zoom.us/j/82232739012?pwd=1zlbRu029_33oyBb9l3AyTZQ7D2MEQ.kN8FbuOkINsmz-Ji)

[gov.zoom.us/j/82232739012?pwd=1zlbRu029\\_33oyBb9l3AyTZQ7D2MEQ.kN8FbuOkINsmz-Ji](https://losgatosca.gov.zoom.us/j/82232739012?pwd=1zlbRu029_33oyBb9l3AyTZQ7D2MEQ.kN8FbuOkINsmz-Ji)  
Passcode: 793054 You can also type in 822 3273 9012 in the "Join a Meeting" page on the Zoom website at and use passcode 793054.

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.

**Telephone:** Please dial (877) 336-1839 for US Toll-free or (636) 651-0008 for US Toll. (Conference code: 1052180)

If you are participating by calling in, press #2 on your telephone keypad to raise your hand.

**In-Person:** Please complete a "speaker's card" located on the back of the chamber benches and return it to the Town Clerk before the meeting or when the Mayor announces the item for which you wish to speak.

**NOTES:** (1) Comments will be limited to three (3) minutes or less at the Mayor's discretion.

(2) If you are unable to participate in real-time, you may email to [Clerk@losgatosca.gov](mailto:Clerk@losgatosca.gov) the subject line "Public Comment Item #\_\_" (insert the item number relevant to your comment). All comments received will become part of the record.

(3) Deadlines to submit written comments are:

11:00 a.m. the Thursday before the Council meeting for inclusion in the agenda packet.

11:00 a.m. the Monday before the Council meeting for inclusion in an addendum.

11:00 a.m. on the day of the Council meeting for inclusion in a desk item.

(4) Persons wishing to make an audio/visual presentation must submit the presentation electronically to [Clerk@losgatosca.gov](mailto:Clerk@losgatosca.gov) no later than 3:00 p.m. on the day of the Council meeting.

## 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. Parks and Open Space Month Proclamation
- ii. Commendation for Outgoing Town Manager

**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 1 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 Minutes of the June 4, 2024 Town Council Meeting.
- 2. Approve Minutes of the June 4, 2024 Town Council Meeting.
- 3. Receive the Monthly Financial and Investment Report for April 2024.
- 4. Authorize the Town Manager to Execute a Second Amendment to Agreement for Services with H. A. Bowen Electric Inc. to Extend the Term through June 30, 2026 and Increase the Compensation Amount by \$48,000 for a Total Agreement Amount Not to Exceed \$145,335.
- 5. Authorize the Town Manager to Execute a Lease Agreement with the Friends of the Los Gatos Library for the Property Located at 108 E. Main St.
- 6. Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218):
  - a. Award and Authorize the Town Manager to Execute a Contract with Sposeto Engineering Inc. in an Amount Not to Exceed \$2,115,930.50;
  - b. Authorize the Town Manager to Execute Change Orders in an Amount Not to Exceed Ten Percent (10%) of the Contract Award Amount (\$211,593);
  - c. Approve the Project Construction Plans with Addenda as Required by Government Code 830.6 – Design Immunity;
  - d. Authorize an Expenditure Budget Increase From Storm Drain Basin #1 Funds in an Amount of \$447,717; and
  - e. Authorize an Expenditure Budget Decrease of Underground Utility Funds in an Amount of \$48,003.
- 7. Stormwater Network Mapping Services (CIP No. 816-0425):
  - a. Award and Authorize the Town Manager to Execute a Contract with NCE in an Amount Not to Exceed \$380,700;
  - b. Authorize the Town Manager to Execute Change Orders in an Amount Not to Exceed Ten Percent (10%) of the Contract Award Amount (\$38,070).



8. Authorize the Town Manager to Execute a Revised Master Service Agreement with Flock Safety Group Inc. for Stationary Automated License Plate Readers (ALPR) in the Amount \$255,000 for a Sixty-Month Term and Authorize the Town Manager to Enter into Amendments as Necessary for up to an Additional \$40,000 for a Total Agreement Not to Exceed \$295,000 Over the Agreement Term.
9. Authorize the Town Manager to Execute a Second Amendment to the Agreement for Services with Pro-Sweep, Inc. for Power-Washing Services to Extend the Term Through December 31, 2024, and Increase the Compensation by \$32,760 for a Total Amount not to Exceed \$410,539.
10. Approve and Authorize the Town Manager to Execute a Side Letter of Agreement Between the Town of Los Gatos and the Police Officers Association (POA) to Modify the Vacation Accrual Cap through June 30, 2025.
11. Highway 17 Bicycle and Pedestrian Overcrossing (Project No. 818-0803):
  - a. Authorize the Town Manager to Execute a Second Amendment to the Agreement for Consultant Services with BKF Engineers Inc. for Additional Environmental Consulting Services in the amount of \$39,000 for a Total Agreement Not to Exceed \$3,087,735; and
  - b. Authorize an Expenditure Budget Adjustment in the Amount of \$34,822 to Authorize the Allocation to the Previously Received Transportation Development Act Article 3 Grant Receipt.
12. Approve Change to Existing Purchase Order with Baker and Taylor Not to Exceed \$115,800.
13. Authorize the Town Manager to Execute a Fifth Amendment to a Special Services Agreement with Liebert Cassidy Whitmore (LCW) to Increase Compensation in the Amount of \$120,000 for a Total Contract Amount Not to Exceed \$550,000.
14. Approve an Amendment to the Town Employees Association (TEA) Salary Schedule to Establish a New Classification Title and Salary Range for Senior Transportation Planner.
15. Authorize the Town Manager to Execute an Agreement with Los Gatos-Monte Sereno Safe Routes to School to Provide Education and Encouragement Programs and Crossing Guard Services for a Total Agreement Base Amount Valued at \$350,950 Prior to Any Increased Adjustment Made for Consumer Price Index (CPI) Changes.

**VERBAL COMMUNICATIONS** *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda and is within the subject matter jurisdiction of the Town Council. The law generally prohibits the Town Council from discussing or taking action on such items. However, the Council may instruct staff accordingly. To ensure all agenda items are heard, this portion of the agenda is limited to 30 minutes. 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. Each speaker is limited to no more than three (3) minutes or such time as authorized by the Mayor.)*

**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.)*

16. Conduct a Public Hearing to Hear Protests and Authorize the Following Actions for Landscape and Lighting Assessment Districts No. 1 and 2:
  - a. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of Assessments for Landscape and Lighting Assessment District No. 1-Blackwell Drive Benefit Zone.
  - b. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of Assessments for Landscape and Lighting Assessment District No. 1-Kennedy Meadows Benefit Zone.
  - c. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of Assessments for Landscape and Lighting Assessment District No. 1-Santa Rosa Heights Benefit Zone.
  - d. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of assessments for Landscape and Lighting Assessment District No. 1-Vasona Heights Benefit Zone.
  - e. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of assessments for Landscape and Lighting Assessment District No. 1-Hillbrook Drive Benefit Zone.
  - f. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of assessments for Landscape and Lighting Assessment District No. 2-Gemini Court Benefit Zone.
17. Conduct Brush Abatement Program Public Hearing to Consider Objections to the Proposed Removal of Brush on Parcels Listed on the 2024 Wildland Urban Interface (WUI) Area Non-Compliant Parcel List and Order Abatement.
18. Hear Protests and Adopt a Resolution Making Determinations and Approving the Reorganization of an Uninhabited Area Designated as El Gato Lane No. 06, Approximately 0.563 Acres on Property Pre-Zoned R-1:8. APN 523-22-007. Annexation Application AN24-001. Project Location: 15575 El Gato Lane. Property Owner: Sai Kiran Garimella and Renu Sushma Kolli. Applicant: Barzin Keyhankhadiv.
19. Consider a Request for an Exception to the Height Pole, Flagging, Netting, and Signage Policy to Allow Preparation of Visual Renderings by the Applicant Rather than the Town's Consultant as Required by the Policy on Property Zoned R:PD Located at 110 Wood Road. This Request is Not a Project as Defined by CEQA Guidelines Section 21065. APN 510-47-038. Applicant: Frank Rockwood. Property Owner: Front Porch Communities. Project Planner: Sean Mullin

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

20. Receive a Presentation, Provide Direction, and Consider Accepting a Proposed Donation from the Los Gatos Rotary to the Town at Live Oak Manor Park.
21. Provide Direction on the Town's Community Grant Process.
22. Provide Any Additional Direction on Near-term Improvements to the Interim Community Center and Operational Support for Community Partners.

**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.)*

23. \*Adopt a Resolution and Introduce Ordinances to Place a One-Eighth Cent Sales Tax on the November 2024 Ballot as Either One Measure for a Special Tax or Two Measures for a General Tax and a Companion Advisory Measure to be Adopted by a Separate Resolution; and Authorize a Fiscal Year 2024/25 Expenditure Budget Adjustment of \$66,000 for a Single Measure or \$132,000 for Two Measures from the Available Capital/Special Projects Reserve.

## **COUNCIL / MANAGER MATTERS**

### **CLOSED SESSION REPORT**

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

**ADA NOTICE** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk's Office at (408) 354- 6834. Notification at least two (2) business days prior to the meeting date will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR §35.102-35.104]

**Item #23 has been amended**



**TOWN OF LOS GATOS**  
**COUNCIL CLOSED SESSION MINUTES**

MEETING DATE: 06/18/2024

ITEM NO: 1

ITEM NO. 1.

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**DRAFT**  
**Minutes of the Town Council Special Meeting – Closed Session**  
**Tuesday, June 4, 2024**

The Town Council of the Town of Los Gatos conducted a Special Meeting in-person and utilizing teleconferencing means on Tuesday, June 4, 2024, at 5:15 p.m. to hold a Closed Session to discuss labor negotiations and anticipated litigation.

**MEETING CALLED TO ORDER AT 5:15 P.M.**

**ROLL CALL**

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

Absent: None

**VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)**

None.

**THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:**

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code §54957.6)  
To meet with Town Negotiators listed below in closed session pursuant to Government Code §54957.6 regarding negotiations with the Employee Organizations listed below:

Town Negotiators: Lisa Charbonneau, Liebert Cassidy Whitmore  
Katy Nomura, Assistant Town Manager

Employee Organizations:

American Federation of State, County and Municipal Employees (AFSCME)

Town Employees Association (TEA)

Police Officers' Association (POA)

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code §54956.9(e)(3)): 2 cases.
  - Claim submitted by B. Tiernan
  - Verbal Communications from Chris O'Reilly

The Town Council reconvened in open session. The Town Attorney stated there was no reportable action.

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Special Town Council Meeting of June 4, 2024

DATE: June 5, 2024

ITEM NO. 1.

**ADJOURNMENT**

The meeting adjourned at 6:02 p.m.

Attest:

Submitted by:

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Wendy Wood, Town Clerk

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Laurel Prevetti, Town Manager



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 2

ITEM NO. 2.

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**DRAFT  
Minutes of the Town Council Meeting  
Tuesday, June 4, 2024**

The Town Council of the Town of Los Gatos conducted a regular meeting in-person and utilizing teleconferencing means on Tuesday, June 4, 2024, at 7:00 p.m.

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

**ROLL CALL**

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

Absent: None

**PLEDGE OF ALLEGIANCE**

Vikram Devaru led the Pledge of Allegiance. The audience was invited to participate.

**PRESENTATIONS**

Youth Commissioners gave a presentation on the work of the Youth Commission, announced Salt and Straw as the Youth Friendly Business of the Year and Juice Co. as the Green Youth Friendly Business of the Year.

Mayor Badame presented commendations to outgoing Youth Commissioners.

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

1. Approve Minutes for the May 20, 2024 Closed Session Town Council Meeting.
2. Approve Minutes for the May 21, 2024 Town Council Meeting.
3. Approve Town Council Meeting Schedule for Fiscal Year 2024/2025.
4. Ratify the Town Council Selection Committee's Recommended Youth Commissioner Appointments.
5. Authorize the Town Manager to Execute a First Amendment to the Agreement for Consultant Services with The KPA Group to Increase the Compensation for Construction Administration for the Civic Center Improvements (CIP 821-2117) in an Amount of \$36,835 for a Total Contract Amount of \$132,835.
6. Adopt a Resolution to Adopt a List of Projects for Fiscal Year 2024/25 Funded by the State Senate Bill 1, the Road Repair and Accountability Act of 2017. **RESOLUTION 2024-027**
7. Authorize the Town Manager to Execute a Five-Year Agreement for Services with Air Systems Inc. for Heating Ventilation and Air Conditioning (HVAC) Preventative Maintenance and Repair Services Including a Contingency for Unforeseen Repairs for a Total Agreement Amount of \$521,600.



SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

8. 2024 Annual Street Repair and Resurfacing Project (CIP No. 811-9901):
  - a. Award and Authorize the Town Manager to Execute a Contract with O'Grady Paving in an Amount Not to Exceed \$3,274,430;
  - b. Authorize the Town Manager to Execute Change Orders in an Amount Not to Exceed Ten Percent (10%) of the Contract Award Amount (\$327,443);
  - c. Authorize the Town Manager to Execute a Contract with BSK for Project Materials Testing in an Amount Not to Exceed \$48,356; and
  - d. Approve the Project Construction Plans with Addenda as Required by Government Code 830.6 – Design Immunity.
9. Adopt a Resolution Establishing the Fiscal Year 2024/25 Gann Appropriation Limit for the Town of Los Gatos. **RESOLUTION 2024-028**
10. Authorize the Town Manager to Execute an Agreement with Los Gatos-Monte Sereno Safe Routes to School to Provide Education and Encouragement Programs and Crossing Guard Services for an Amount Not to Exceed \$70,190.
11. Adopt a Resolution Calling for the General Municipal Election to be Held on November 5, 2024 for the Election of Two Town Council Members to be Held in the Town of Los Gatos, Requesting the Consolidation of Election with the Statewide General Election, Requesting the Santa Clara County Board of Supervisors Render Specified Services to the Town Related to the Conduct of the General Municipal Election, Adopting Regulations for Candidates for Elective Office Pertaining to Filing Fees and Candidate Statements, and Providing for the Process in the Event of a Tie Vote. **RESOLUTION 2024-029**
12. Authorize the Town Manager to Execute a First Amendment to an Agreement for Services with JLP Building Maintenance LLC for Janitorial Services to Extend the Term through September 30, 2024 and Increase the Compensation by \$66,551 for a Total Amount Not to Exceed \$1,115,603.
13. Authorize the Town Manager to Execute a First Amendment to the Construction Agreement with Tucker Construction Inc. to Increase the Compensation by \$13,538 for a Total Agreement Amount Not to Exceed \$287,977 for the Adult Recreation Center Americans with Disabilities Act (ADA) Compliant Public Restroom Project (CIP 821-2601).
14. 2024 Annual Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921):
  - a. Award and Authorize the Town Manager to Execute an Agreement for Consultant Services with Ninyo & Moore for Materials Testing in an Amount Not to Exceed \$18,555; and
  - b. Authorize an Expenditure Budget Transfer in an Amount of \$18,555 from the Annual Street Repair and Resurfacing Project (CIP No. 811-9901) to the Annual Curb, Gutter, and Sidewalk Maintenance Project (CIP No. 813-9921).
15. Authorize the Town Manager to Execute an Amendment to the Software Support Agreement with Sun Ridge Systems to Incorporate Crossroads Collision and E-Citation Add-On Modules for the Remaining Term of the Original Agreement with the Total Agreement Not to Exceed \$260,000.
16. Authorize the Town Manager to Execute a Transitional Agreement for Animal Services with Silicon Valley Animal Control Authority (SVACA) and Execute a Revised Joint Exercise of Powers Agreement for SVACA as a Participating Member Agency.

PAGE 3 OF 9

SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

**MOTION: Motion by Council Member Ristow to approve consent items 1-16. Seconded by Council Member Moore.**

**VOTE: Motion passed unanimously by roll call vote.**

### VERBAL COMMUNICATIONS

Amy Despars

- Commented concerns regarding proposed development projects.

Gil Mesa

- Commented on concerns regarding the building height of proposed development projects.

Deborah Weinstein and Sonya Tappan, Los Gatos Education Foundation

- Announced Sonya will be taking over the role of Executive Director and thanked the Council for their support.

David Lawler

- Inquired about postcard notice mailing.

Joe Enz, Friends of the Los Gatos Creek

- Commented on creek clean-up.

Rob Stump

- Requested the Town Council work with the Los Gatos Lodge property developer and school district to create a second point of access to the Los Gatos High School property.

Lee Fagot

- Stated support of Rob Stump's comments and provided positive remarks on the Youth Commission's work.

Rich Stephens

- Commented concerns regarding proposed development projects.

Lucinda Van Bruggen

- Inquired about signage for development projects and commented on concerns regarding proposed development projects.

SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

Pat Kearns, WRATES

- Commented on concerns with San Jose Water Company and requested the Town work with the California Public Utilities Commission (CPUC) to ensure utilities are held accountable.

Tony Alarcon

- Commented concerns regarding proposed development projects.

Conrad Van Bruggen

- Commented on height concerns regarding proposed development projects.

Franz Zach

- Commented concerns regarding proposed development projects.

Audry Warmuth

- Commented concerns regarding proposed development projects.

Ellie Stearn

- Commented on height concerns of proposed development projects.

Lynley Hogan

- Read religious text and commented on concerns.

Brent Ventura

- Commented on concerns with proposed development projects.

## PUBLIC HEARINGS

17. Consider a Recommendation of the Planning Commission to Adopt a Resolution Adopting the Draft Revised 2023-2031 Housing Element. An Environmental Analysis Based on the Previously Certified 2040 General Plan Final Environmental Impact Report has been Prepared for the Draft Revised 2023-2031 Housing Element. The Housing Element is Within the Scope of the Previously Approved 2040 General Plan, and the Program EIR for the General Plan Adequately Describes the Impacts of the Housing Element for Purposes of CEQA. Location: Townwide. Applicant: Town of Los Gatos. General Plan Amendment Application GP-24-001. **RESOLUTION 2024-030**

Jocelyn Shoopman, Senior Planner, presented the staff report.

Council asked preliminary questions.

Mayor Badame opened public comment.

SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

Tony Alarcon

- Commented on RHNA (Regional Housing Needs Allocation) numbers and upzoning concerns.

Rich Stephens

- Commented on concerns with increased housing in hillside areas and a streamlined process for approval of Accessory Dwelling Units (ADUs).

Amy Despars

- Commented on concerns with the number of units proposed for approval.

Lee Quintana

- Commented on concerns with Housing Element Programs J and AY and that the Town needs to address the parcels with zoning district and General Plan designation inconsistencies.

David Lawler

- Commented on the letter he submitted and requested the Town fight the State to stop Builders Remedy.

Brent Ventura

- Commented on concerns with the number of housing units proposed for approval.

Mayor Badame closed public comment.

Council discussed the item.

**MOTION: Motion by Council Member Moore** to adopt a resolution adopting the Draft Revised 2023 Housing Element shown in the agenda [packet material] as Attachment 10.  
**Seconded by Council Member Ristow.**

**VOTE: Motion passed 3-2 by roll call vote. Vice Mayor Hudes and Mayor Badame voted no.**

Mayor Badame called a recess at 9:51 p.m.

The meeting reconvened at 10:03 p.m.

18. Operating and Capital Budgets:

- a. Adopt a Resolution Approving the Town of Los Gatos Fiscal Year (FY) 2024/25 Operating Budget and FY 2024/25– 2028/29 Capital Improvement Program (CIP), New Appropriations, Additional Council Actions on May 21, 2024; Minor Corrections, and Carry-Forward Appropriations; **RESOLUTION 2024-031**

SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

- b. Adopt a Resolution Approving Commitment of Fund Balances under GASB 54 (Attachment 2); **RESOLUTION 2024-032**
- c. Approve FY 2023/24 Budget Adjustments and Reclassifications as listed in Attachment 3; and
- d. Authorize an Expenditure Budget Adjustment from IRS 115 Restricted Pension Trust to CalPERS up to the Amount Available in the Trust (the Estimated Balance Available is \$2,090,163).

Gitta Ungvari, Finance Director, presented the staff report.

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

**MOTION: Motion by Mayor Badame** to adopt a resolution approving the Town of Los Gatos Fiscal Year (FY) 2024/25 Operating Budget and FY 2024/25 – 2028/29 Capital Improvement Program (CIP), new appropriations, additional Council actions on May 21, 2024; minor corrections, and Carry-Forward Appropriations as in Attachment 1; adopt a Resolution Approving Commitment of Fund Balances under GASB 54 (Attachment 2); approve FY 2023/24 Budget Adjustments and Reclassifications as listed in Attachment 3; and authorize an expenditure budget adjustment from IRS 115 restricted pension trust to CalPERS up to the amount available in the trust (which the estimated balance is \$2,090,163). **Seconded by Council Member Moore.**

Town Manager Prevetti stated Attachment 3 was revised in the Desk Item with Attachment 5. She also noted that the Oversight Committee did not take action to move money from the pension fund, therefore the recommended action on the expenditure budget adjustment (item d) is not necessary at this time.

**SUBSTITUTE MOTION: Motion by Mayor Badame** to approve the Resolutions in Attachments 1, 2, and 5 [in the agenda packet and supplemental materials]. **Seconded by Council Member Moore.**

**VOTE: Motion passed unanimously by roll call vote.**

- 19. Adopt a Resolution Approving the Administrative Fine and Penalty Schedule for Fiscal Year 2024/25 to Continue, Amend, and Add Certain Department Administrative Fines and Penalties for Fiscal Year 2024/25. **RESOLUTION 2024-033**

Gabreille Whelan, Town Attorney, presented the staff report.

SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

**MOTION:** Motion by Council Member Ristow to adopt a resolution approving the administrative fine and penalty schedule for Fiscal Year 2024/25 in Attachment 1 with the removal of references to Town Code Sections 15.50.015 and 15.050.020 [15.05.020 as stated in the Desk Item] to continue, amend, and add certain department administrative fines and penalties for fiscal year 2024/25 [Attachment 2]. **Seconded by Council Member Moore.**

**VOTE:** Motion passed unanimously by roll call vote.

### OTHER BUSINESS

20. Adopt a Resolution to Set a Date for Consideration of the Reorganization of an Uninhabited Area Designated as El Gato Lane No. 6, Approximately 0.563 Acres on Property Pre-Zoned R-1:8. APN 523-22-007. Annexation Application AN24-001. Project Location: 15575 El Gato Lane. Property Owners: Sai Kiran Garimella and Renu Sushma Kolli. Applicant: Barzin Keyhankhadiv. **RESOLUTION 2024-034**

Joel Paulson, Community Development Director, presented the staff report.

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

**MOTION:** Motion by Mayor Badame to adopt a resolution in Attachment 1 to set a date for consideration of the reorganization of an uninhabited area designated as El Gato Lane No. 6, approximately 0.563 acres located at 15575 El Gato Lane. **Seconded by Council Member Ristow.**

**VOTE:** Motion passed unanimously by roll call vote.

### PUBLIC HEARINGS

21. Introduce an Ordinance Amending the Town's Curfew Ordinance. Ordinance Title: "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 18, 'Offenses And Miscellaneous Provisions,' Article III, 'Minors,' and Division 2, 'Curfew,' of the Town of Los Gatos Town Code."



SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

Gabreille Whelan, Town Attorney, presented the staff report.

Mayor Badame opened public comment.

Lee Fagot

- Shared his experience on a ride along to see who was violating the curfew law and stated all the youths stopped were from other municipalities.

Mayor Badame closed public comment.

Council discussed the item.

**MOTION: Motion by Mayor Badame** to introduce an Ordinance in Attachment 2 amending the Town's Curfew Ordinance. **Seconded by Council Member Ristow.**

**VOTE: Motion passed unanimously by roll call vote.**

## **COUNCIL/TOWN MANAGER REPORTS**

### **Council Matters**

- Council Member Ristow stated she attended CalCities Call to Action Luncheon, Memorial Day Ceremony, Chamber of Commerce Merchant Meeting, Romantiques' 30<sup>th</sup> Anniversary Celebration, and the Monday Morning Monthly Movie held by the Los Gatos Thrives Foundation.
- Council Moore acknowledged the passing of Drew Gordon; stated he will participate in the Library Summer Reading Challenge; attended the Los Gatos Education Foundation Celebration for Deborah Weinstein, a Los Gatos Disaster Aid Response Team (DART) Team meeting, a League of Cities Peninsula Division meeting, the Daves Avenue Culture Fair, the Africa Day event hosted by AWO, the Silicon Valley at Home "Happy Housers" event, and a Lion's Club date night event; met with students affected by the passing of an individual in an accident on Blossom Hill Road; and met with developers.
- Council Member Rennie stated he attended a Silicon Valley Clean Energy Oversight Committee meeting.
- Vice Mayor Hudes stated he met with the Los Gatos Foundation for Older Adult to Thrives Executive Committee and the Community Center Planning Committee meeting; announced the upcoming Community Center Dreaming meeting and invited all to attend; attended a Community Health and Senior Services Committee (CHSSC) meeting; participated in a meeting with the Los Gatos Foundation for Older Adults to Thrive meeting; and met with developer working on an older adults community called the Meadows.
- Mayor Badame stated she attended a League of Cities Peninsula Division meeting; participated in Mayors and Managers of West Valley monthly meeting, a West Valley Solid Waste Management Authority meeting; participated in the Memorial Day Ceremony; met with Los Gatos-Saratoga Union High School District Superintendent; attended a Monday

SUBJECT: Draft Minutes of the Town Council Meeting of June 4, 2024

DATE: June 4, 2024

Morning Monthly Movie; and participated in the 8<sup>th</sup> grade promotional ceremony at Hillbrook School.

**Town Manager Matters**

- Announced Symphony in the Park will be held on July 4, 2024, at Oak Meadow Park starting at 10:30 a.m. and invited all to attend.

**CLOSED SESSION REPORT**

Gabreille Whelan, Town Attorney, stated the Town Council met in closed session to discuss labor negotiations pursuant to Government Code §54957.6 and conference with legal counsel regarding anticipated litigation pursuant to Government Code §54956.9(e)(3) there was no reportable action for either item.

**ADJOURNMENT**

The meeting adjourned at 10:47 p.m.

Respectfully Submitted:

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Jenna De Long, Deputy Town Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 3.

ITEM NO: 3

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DATE: June 10, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Receive the Monthly Financial and Investment Report for April 2024

**RECOMMENDATION:**

Receive the Monthly Financial and Investment Report for April 2024.

**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, disbursements, and fund balances. The Finance Director assumes the Town Treasurer role.

Attachment 1 contains the April 2024 Monthly Financial and Investment Report which fulfills this requirement. The April 2024 Monthly Financial and Investment Report will be received by the Finance Commission at their September 9, 2024 meeting.

**DISCUSSION:**

The April 2024 Monthly Financial and Investment Report includes a Fund Balance Schedule, representing estimated funding available for all funds at the end of the respective month. The fund balances were 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.

**PREPARED BY:** Eric Lemon  
Finance and Accounting Manager

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

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SUBJECT: Monthly Financial and Investment Report for April 2024

DATE: June 10, 2024

DISCUSSION (continued):

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.

<b>Reconciling Cash to Fund Balance - April 30, 2024</b>		
Total Cash	\$	80,969,252
Plus: Assets	\$	12,438,853
Less: Liabilities	\$	(29,619,426)
<b>Estimated Fund Balance</b>	<b>\$</b>	<b>63,788,679</b>

As of April 30, 2024, the Town's financial position (Assets \$93.41M, Liabilities \$29.62M, and Fund Equity \$63.79M) remains strong and there are no issues meeting financial obligations in the near future.

As of April 30, 2024, the Town's weighted portfolio yield for investments under management was 4.37% which was 10 basis points above the Local Agency Investment Fund (LAIF) yield of 4.27% for the same reporting period. Currently, the LAIF portfolio's weighted average maturity (WAM) is 227 days versus the Town's longer WAM of 657 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 4.37% at the close of April was 3 basis points higher when compared to the prior month's return of 4.34% reported as of March 31, 2024.

Since April 2023, LAIF yields had climbed from 287 basis points (2.87%) to 427 basis points (4.27%) through the end of April 2024.

Staff, in coordination with the Town's investment advisor, primarily replaced maturing investments with long term maturities in the four-to-five-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%.

SUBJECT: Monthly Financial and Investment Report for April 2024

DATE: June 10, 2024

DISCUSSION (continued):

The US economy added 303,000 jobs in March, stronger than consensus expectations of 214,000. The participation rate edged up from 62.5% to 62.7% and the unemployment rate fell slightly from 3.9% to 3.8%. Wage growth fell from 4.3% to 4.1%. However, the employment cost index (ECI), the fed's preferred measure of labor costs, came in at 1.2% in Q1 from 0.9% in Q4 (stalling at 4.2% per annum), higher than the market expected and the firmest quarterly ECI print since Q3 2022.

The Town's investments are in compliance with the Town's Investment Policy dated May 21, 2024, 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.

CONCLUSION:

Receive Monthly Financial and Investment Report for April 2024.

Attachment:

1. Financial and Investment Report (April 2024)

**Town of Los Gatos**  
**Summary Investment Information**  
**April 30, 2024**

**Weighted Average YTM Portfolio Yield on Investments under Management**

**4.37%**

**Weighted Average Maturity (days)**

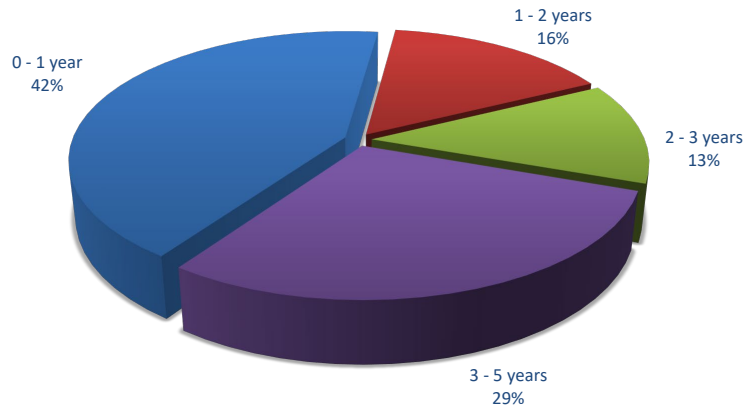
**657**

	This Month	Last Month	One year ago
<b>Portfolio Allocation &amp; Treasurer's Cash Balances</b>	\$80,969,252	\$74,499,958	\$74,868,304
<b>Cert. of Participation 2002 Lease Payment Fund</b>			
Managed Investments	\$49,675,957		
Local Agency Investment Fund	\$16,516,009		
Reconciled Demand Deposit Balances	\$14,777,286		
Portfolio Allocation & Treasurer's Cash Balances	<u>\$80,969,252</u>		

**Benchmarks/ References:**

Town's Average Yield	4.37%	4.34%	2.77%
LAIF Yield for month	4.27%	4.23%	2.87%
3 mo. Treasury	5.41%	5.38%	5.08%
6 mo. Treasury	5.41%	5.33%	5.04%
2 yr. Treasury	5.04%	4.62%	4.01%
5 yr. Treasury (most recent)	4.71%	4.21%	3.49%
10 Yr. Treasury	4.68%	4.20%	3.43%

**Portfolio Maturity Profile**



**Compliance:** The Town's investments are in compliance with the Town's investment policy dated May 21, 2024, 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.

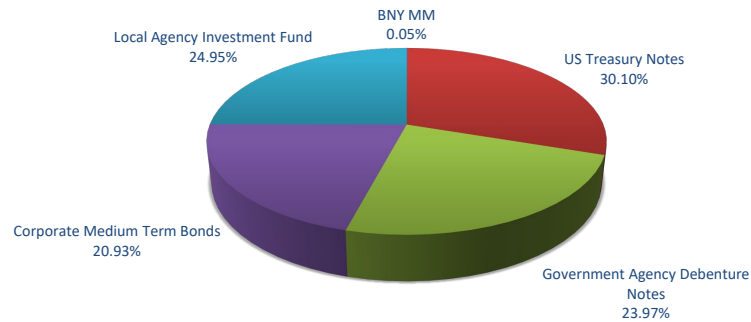


**Town of Los Gatos**  
**Portfolio Allocation & Treasurer's Cash Balances**  
**April 30, 2024**

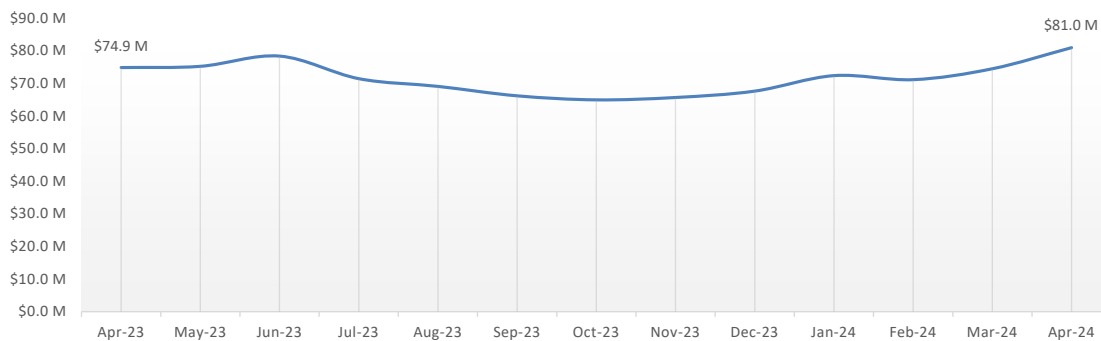
	Month	YTD
Cash & Investment Balances - Beginning of Month/Period	\$ 74,499,957.76	\$ 78,384,947.79
Receipts	9,787,361.30	66,567,695.67
Disbursements	(3,318,066.61)	(63,983,391.01)
Cash & Investment Balances - End of Month/Period	<u>\$80,969,252.45</u>	<u>\$80,969,252.45</u>

Portfolio Allocation	Amount	% of Portfolio	Max. % or \$ Allowed per State Law or Policy
BNY MM	\$36,103.88	0.05%	20% of Town Portfolio
US Treasury Notes	\$19,915,752.16	30.10%	No Max. on US Treasuries
Government Agency Debenture Notes	\$15,867,942.90	23.97%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$13,856,158.01	20.93%	30% of Town Portfolio
Local Agency Investment Fund	\$16,516,009.29	24.95%	\$75 M per State Law
Subtotal - Ir Subtotal - Investments	66,191,966.24	100.00%	
Reconciled Demand Deposit Balances	<u>14,777,286.21</u>		
Total Portfolio Allocation & Treasurer's Cash Balances	<u>\$80,969,252.45</u>		

**Portfolio Investment Allocation**



**Treasurer's Fund Balances**



**Town of Los Gatos**  
**Non-Treasury Restricted Fund Balances**  
**April 30, 2024**

	Beginning Balance	April 2024 Deposits Realized Gain/Adj.	April 2024 Interest/ Earnings	April 2024 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Ser A Reserve Fund	\$ 691,910.37	\$ -	\$ 2,814.90	\$ -	\$ 694,725.27	Note 1
Cert. of Participation 2010 Ser Lease Payment Fund	101.00	-	0.37	-	101.37	Note 2
Cert. of Participation 2002 Ser A Lease Payment Fund	29,302.20	-	119.29	-	29,421.49	Note 1
Cert. of Participation 2010 Ser Reserve Fund	1,370,921.35	-	6,037.37	-	1,376,958.72	Note 2
Total Restricted Funds:	<u>\$ 2,092,234.92</u>	<u>\$ -</u>	<u>\$ 8,971.93</u>	<u>\$ -</u>	<u>\$ 2,101,206.85</u>	
CEPPT IRS Section 115 Trust	2,180,743.10	-	(63,241.59)	-	\$ 2,117,501.51	Note 3
Grand Total COP's and CEPPT Trust	<u>\$ 4,272,978.02</u>	<u>\$ -</u>	<u>\$ (54,269.66)</u>	<u>\$ -</u>	<u>\$ 4,218,708.36</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 post employment benefits.

**Town of Los Gatos**  
**Statement of Interest Earned**  
**April 30, 2024**

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July 2023	\$	133,845.42
August 2023	\$	131,615.82
September 2023	\$	158,361.71
October 2023	\$	149,112.14
November 2023	\$	163,137.22
December 2023	\$	177,498.26
January 2024	\$	183,950.61
February 2024	\$	183,453.40
March 2024	\$	206,361.80
April 2024	\$	218,590.31
May 2024		-
June 2024		-
	\$	<u>1,705,926.69</u>

**Town of Los Gatos  
Investment Schedule  
April 30, 2024**

Institution	CUSIP #	Security	Coupon	Deposit Date	Par Value	Original Cost	Original Issue (Discount) Premium	Market Value	Market Value Above (Under)	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs	Interest Earned Current FY	Days to Maturity
Apple	037833DB3	Corporate Bond	2.90%	12/20/2022	1,300,000.00	1,228,591.00	(71,409.00)	1,213,719.00	(14,872.00)	-	6/21/2027	4.19%	\$ 46,287.22	\$ -	\$ 21,707.97	1,147
Honic Depot	437076BM3	Corporate Bond	3.00%	8/4/2022	1,000,000.00	959,660.00	(40,000.00)	959,660.00	(32,300.00)	-	1/1/2026	3.04%	\$ 49,750.00	\$ 29,522.66	\$ 27,036.55	611
US Treasury	91282KZW3	US Treasury Note	0.25%	8/9/2022	350,000.00	322,096.88	(27,903.12)	330,519.00	8,422.12	-	6/30/2025	3.16%	\$ 1,217.39	\$ 9,366.72	\$ 8,790.30	426
IBM	459200Y8	Corporate Bond	3.00%	3/25/2021	1,000,000.00	1,071,040.00	71,040.00	999,000.00	(72,040.00)	-	5/15/2024	0.71%	\$ 79,166.67	\$ 16,751.96	\$ 6,178.17	15
FFCB	3133ENS5V8	Gov. Agency Debenture	4.13%	1/17/2023	236,000.00	239,174.20	3,174.20	231,128.96	(8,045.24)	-	1/11/2027	3.76%	\$ 9,572.75	\$ 4,016.30	\$ 7,469.34	986
US Treasury	91282CBY7	US Treasury Note	0.75%	9/30/2022	800,000.00	712,565.18	(87,434.82)	737,720.00	(25,154.82)	-	3/31/2026	4.14%	\$ 9,000.00	\$ 23,165.06	\$ 25,880.38	700
FFCB	3133ENPP5	Gov. Agency Debenture	4.25%	9/30/2022	900,000.00	900,939.60	939.60	888,633.00	(12,306.60)	-	9/30/2025	4.14%	\$ 57,375.00	\$ 28,374.86	\$ 31,700.65	518
American Honda	02665WC22	Corporate Bond	2.40%	11/27/2019	1,000,000.00	1,012,410.01	12,410.01	995,070.00	(17,340.01)	-	6/27/2024	2.12%	\$ 108,733.34	\$ 76,483.79	\$ 17,793.71	58
JP Morgan Chase	46625HRS1	Corporate Bond	3.20%	9/23/2022	500,000.00	474,660.00	(25,340.00)	477,550.00	2,890.00	-	3/15/2026	4.70%	\$ 19,644.44	\$ 17,865.15	\$ 19,460.25	684
Honeywell Int'l.	438516BW5	Corporate Bond	2.30%	11/20/2019	1,000,000.00	1,014,660.00	14,660.00	990,500.00	(24,160.00)	-	7/15/2024	1.64%	\$ 96,983.33	\$ 71,679.55	\$ 16,568.45	76
Caterpillar Financial Serv	14913Q2V0	Corporate Bond	2.85%	2/23/2021	1,000,000.00	1,077,370.00	77,370.00	998,740.00	(78,630.00)	-	5/17/2024	0.44%	\$ 77,900.00	\$ 10,677.18	\$ 3,799.93	17
FNMA	3135G0V75	Gov. Agency Debenture	1.75%	10/17/2019	1,100,000.00	1,105,833.30	5,833.30	1,092,971.00	(12,862.30)	-	7/2/2024	1.63%	\$ 81,331.25	\$ 66,718.86	\$ 15,051.22	63
FFCB	3133EKQA7	Gov. Agency Debenture	2.08%	10/21/2019	1,000,000.00	1,019,780.00	19,780.00	987,900.00	(31,880.00)	-	9/10/2024	1.66%	\$ 91,231.11	\$ 61,888.40	\$ 14,002.94	133
FHLB	3135G0SX7	Gov. Agency Debenture	0.38%	6/10/2022	1,200,000.00	1,102,952.40	(97,047.60)	1,127,028.00	24,075.60	-	8/25/2025	3.04%	\$ 7,687.50	\$ 36,626.55	\$ 29,015.84	482
US Treasury	91282KZL7	US Treasury Note	0.38%	4/12/2022	1,700,000.00	1,583,927.57	(116,072.43)	1,620,287.00	36,359.43	-	4/30/2025	2.72%	\$ 13,066.99	\$ 54,017.06	\$ 37,106.31	365
FHLB	3130A0F65	Gov. Agency Debenture	1.25%	11/30/2022	1,300,000.00	1,160,559.40	(139,440.60)	1,188,304.00	27,744.60	-	12/21/2026	4.15%	\$ 17,197.92	\$ 29,385.32	\$ 42,276.06	965
US Treasury	91282KXT2	US Treasury Note	2.00%	10/31/2019	1,000,000.00	1,015,667.41	15,667.41	997,180.00	(18,487.41)	-	5/31/2024	1.64%	\$ 81,639.34	\$ 60,792.37	\$ 18,557.75	31
FHLB	3130APJH9	Gov. Agency Debenture	1.00%	1/17/2023	1,000,000.00	907,010.00	(92,990.00)	923,110.00	16,100.00	-	10/28/2026	4.17%	\$ 13,544.17	\$ 15,544.14	\$ 28,908.30	911
FFCB	3133ENS5N6	Gov. Agency Debenture	4.00%	2/8/2023	1,700,000.00	1,706,732.00	6,732.00	1,652,264.00	(54,468.00)	-	1/6/2028	3.91%	\$ 61,955.56	\$ 25,921.64	\$ 55,676.76	1346
Freddie Mac	3137EAE3X	Gov. Agency Debenture	0.38%	5/1/2023	750,000.00	689,032.50	(60,967.50)	701,962.50	12,930.00	-	9/23/2025	3.97%	\$ 2,515.62	\$ 4,638.18	\$ 23,577.44	511
American Honda	02665WED9	Corporate Bond	4.70%	5/11/2023	600,000.00	608,856.00	8,856.00	588,540.00	(20,316.00)	-	1/12/2028	4.34%	\$ 18,878.33	\$ 3,603.61	\$ 21,982.03	1352
US Treasury	91282CE4F	US Treasury Note	2.50%	6/9/2023	1,500,000.00	1,416,626.12	(83,373.88)	1,403,850.00	(12,776.12)	-	3/31/2027	4.09%	\$ 30,327.87	\$ 3,416.23	\$ 49,616.73	1065
US Treasury	91282CGA3	US Treasury Note	4.00%	6/20/2023	2,100,000.00	2,080,558.59	(19,441.41)	2,062,683.00	(17,875.59)	-	12/15/2025	4.40%	\$ 40,852.46	\$ 2,515.25	\$ 76,715.03	594
Colgate-Palmolive	194162AR4	Corporate Bond	4.60%	7/14/2023	500,000.00	504,655.00	4,655.00	494,600.00	(10,055.00)	-	2/1/2028	4.37%	\$ 14,502.79	\$ -	\$ 17,522.43	1372
FannieMae	3135G0G6C3	Gov. Agency Debenture	0.50%	7/14/2023	500,000.00	455,157.00	(44,843.00)	466,250.00	11,093.00	-	11/7/2025	4.63%	\$ -	\$ -	\$ 17,399.66	556
FFCB	3133EPQC2	Gov. Agency Debenture	4.63%	7/17/2023	500,000.00	501,957.50	1,957.50	494,885.00	(7,072.50)	-	7/17/2026	4.48%	\$ -	\$ -	\$ 17,732.20	808
FFCB	3133EPBM6	Gov. Agency Debenture	4.13%	7/14/2023	600,000.00	596,220.00	(3,780.00)	585,576.00	(10,644.00)	-	8/23/2027	4.29%	\$ -	\$ -	\$ 20,465.02	1210
PNC Bank	69353RFJ2	Corporate Bond	3.25%	7/25/2023	1,000,000.00	921,490.00	(78,510.00)	922,710.00	1,220.00	-	12/23/2027	5.23%	\$ 15,979.17	\$ -	\$ 38,568.48	1332
US Treasury	91282CFU0	US Treasury Note	4.13%	7/31/2023	1,300,000.00	1,290,660.60	(9,339.40)	1,269,788.00	(20,872.60)	-	10/31/2027	4.31%	\$ 40,218.75	\$ -	\$ 41,903.26	1279
Toyota Motor Credit	89236TKL8	Corporate Bond	5.45%	8/25/2023	1,600,000.00	1,716,608.00	116,608.00	1,610,112.00	(70,560.00)	-	11/10/2027	5.16%	\$ 18,166.67	\$ -	\$ 56,707.65	1289
US Treasury	912810FE3	US Treasury Note	5.50%	10/3/2023	1,200,000.00	1,238,207.14	38,207.14	1,235,724.00	(2,483.14)	-	8/15/2028	4.76%	\$ 24,211.96	\$ -	\$ 33,459.55	1568
PepsiCo Inc	713448DF2	Corporate Bond	2.85%	10/16/2023	1,000,000.00	947,570.00	(52,430.00)	959,690.00	12,120.00	-	11/24/2025	5.24%	\$ -	\$ -	\$ 28,796.10	573
FFCB	3133EPWJ3	Gov. Agency Debenture	4.75%	10/13/2023	1,000,000.00	994,338.00	(5,662.00)	992,650.00	(1,688.00)	-	9/1/2026	4.96%	\$ -	\$ -	\$ 17,401.78	854
Freddie Mac	3137EAE9P	Gov. Agency Debenture	1.50%	10/13/2023	1,000,000.00	951,540.00	(48,460.00)	970,330.00	18,790.00	-	2/12/2025	5.32%	\$ -	\$ -	\$ 28,079.83	288
US Treasury	91282CEW7	US Treasury Note	3.25%	10/16/2023	1,000,000.00	950,039.06	(49,960.94)	953,090.00	3,050.94	-	6/30/2027	4.73%	\$ 6,711.96	\$ -	\$ 24,815.53	1156
US Treasury	91282CEN7	US Treasury Note	2.75%	10/31/2023	1,300,000.00	1,214,336.39	(85,663.61)	1,223,118.00	8,781.61	-	4/30/2027	4.82%	\$ 17,875.00	\$ -	\$ 30,034.94	1095
US Treasury	91282YV6	US Treasury Note	1.50%	11/15/2023	700,000.00	673,667.97	(26,332.03)	684,565.00	10,897.03	-	11/30/2024	5.26%	\$ 430.33	\$ -	\$ 16,345.97	214
US Treasury	91282CAB7	US Treasury Note	0.25%	11/15/2023	675,000.00	623,900.39	(51,099.61)	634,871.25	10,970.86	-	7/31/2025	4.92%	\$ 353.09	\$ -	\$ 14,447.79	457
US Treasury	91282CGU9	US Treasury Note	3.88%	11/30/2023	1,000,000.00	983,515.62	(16,484.38)	987,810.00	4,294.38	-	3/31/2025	5.17%	\$ 12,916.67	\$ -	\$ 21,282.01	335
US Treasury	91282CCH2	US Treasury Note	1.25%	12/21/2023	900,000.00	798,647.55	(101,352.45)	780,786.00	(17,861.55)	-	6/30/2028	3.99%	\$ 305.71	\$ -	\$ 12,069.84	1522
FNMA	3135G0Q22	Gov. Agency Debenture	1.88%	12/21/2023	900,000.00	845,676.00	(54,324.00)	836,136.00	(9,540.00)	-	9/24/2026	4.22%	\$ 4,359.38	\$ -	\$ 13,116.47	877
US Treasury	91282CFB2	US Treasury Note	2.75%	1/2/2024	1,000,000.00	960,354.91	(39,645.09)	937,030.00	(23,324.91)	-	7/31/2027	3.95%	\$ 2,167.12	\$ -	\$ 12,578.13	1187
US Treasury	91282CHE4	US Treasury Note	3.63%	1/17/2024	1,800,000.00	1,775,185.72	(24,814.28)	1,722,726.00	(52,459.72)	8,557.37	5/31/2028	3.97%	\$ (8,557.37)	\$ -	\$ 20,208.75	1492
JP Morgan Chase	46647PDG8	Corporate Bond	4.85%	2/1/2024	1,400,000.00	1,396,528.00	(3,472.00)	1,371,188.00	(25,340.00)	1,131.90	7/25/2027	4.93%	\$ (1,131.90)	\$ -	\$ 16,803.17	1181
US Bancorp	91159JF8	Corporate Bond	4.55%	2/5/2024	1,000,000.00	989,200.00	(10,800.00)	966,800.00	(22,400.00)	1,642.33	7/22/2027	4.89%	\$ (1,642.33)	\$ -	\$ 11,318.07	1178
US Treasury	91282CHB0	US Treasury Note	3.63%	2/23/2024	1,175,000.00	1,151,962.92	(23,037.08)	1,143,004.75	(8,958.17)	11,701.58	5/15/2026	4.56%	\$ (11,701.58)	\$ -	\$ 9,719.42	745
FHLB	3130AXB31	Gov. Agency Debenture	4.88%	2/27/2024	1,000,000.00	1,003,060.00	3,060.00	995,840.00	(7,220.00)	-	3/13/2026	4.72%	\$ 2,979.17	\$ -	\$ 8,155.62	682
FFCB	3133EPSU5	Gov. Agency Debenture	4.13%	3/28/2024	1,700,000.00	1,687,981.00	(12,019.00)	1,652,638.00	(35,343.00)	1,558.33	3/20/2029	4.28%	\$ (1,558.33)	\$ -	\$ 6,558.24	1785
US Treasury	91282SM8	US Treasury Note	3.13%	4/30/2024	1,200,000.00	1,123,832.14	(76,167.86)	1,120,356.00	(4,746.14)	17,204.66	11/15/2028	4.69%	\$ (17,204.66)	\$ -	\$ -	1660
Subtotal					\$ 50,986,000.00	\$ 49,639,853.07	\$ (1,346,146.93)	\$ 49,180,593.46	\$ (459,259.61)	\$ 41,796.17			\$ 1,195,753.32	\$ 680,871.81	\$ 1,162,424.41	
BNY MM		Money Market				36,103.88		36,103.88	0.00			0.00%				1
LAIF		State Investment Pool			16,516,009.29			16,420,072.20	(95,937.09)			4.27%			436,564.71	1
						<b>66,191,966.24</b>		<b>\$65,636,769.54</b>	<b>(\$555,196.70)</b>	<b>\$41,796.17</b>			\$ 1,195,753.32	\$ 680,871.81	\$ 1,598,989.12	
Matured Assets																
PNC Financial	69349LAM0	Corporate Bond	3.80%	2/7/2022	1,000,000.00	1,033,470.00	33,470.00				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	(11,625.00)				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	10,580.00				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	7,315.00				8/25/2023	0.94%	\$ 24,090.00	\$ 15,144.57	\$ 1,585.23	
US Treasury	91282CDA6	US Treasury Note	0.25%	1/31/2022	1,100,000.00	1,085,222.44	(14,777.56)				9/30/2023	1.07%	\$ 4,570.74	\$ 16,417.94	\$ 2,932.91	
American Honda	02665WC02	Corporate Bond	3.63%	9/14/2021	950,000.00	1,012,871.00	62,871.00				10/10/2023	0.41%	\$ 71,362.15	\$ 7,316.05	\$ 1,141.03	
FFCB	3133EMC03	Gov. Agency Debent														

Town of Los Gatos  
Investment Transaction Detail  
April 30, 2024

Date	Cusip/Id	Description	Transaction Type	Settlement Date	Par	Coupon	Maturity Date	Price	Principal	Interest	Transaction Total
4/1/2024	3133ENP95	FEDERAL FARM CREDIT BANK 4.25% 30SEP2025	BOND INTEREST	4/1/2024	900,000	4.25%	9/30/2025	-	-	19,125.00	19,125.00
4/1/2024	91282CEF4	USA TREASURY 2.5% 31MAR2027	BOND INTEREST	4/1/2024	1,500,000	2.50%	3/31/2027	-	-	18,750.00	18,750.00
4/1/2024	91282CBT7	USA TREASURY 0.75% 31MAR2026	BOND INTEREST	4/1/2024	800,000.00	0.75%	3/31/2026	-	-	3,000.00	3,000.00
4/1/2024	91282CGU9	USA TREASURY 3.875% 31MAR2025	BOND INTEREST	4/1/2024	1,000,000.00	3.88%	3/31/2025	-	-	19,375.00	19,375.00
4/1/2024	437076BM3	HOME DEPOT INC 3% 01APR2026 (CALLABLE 01JAN26)	BOND INTEREST	4/1/2024	1,000,000.00	3.00%	4/1/2026	-	-	15,000.00	15,000.00
4/2/2024	Cash	Cash-USD	SHORT TERM INVESTMENT FUND INCOME	4/2/2024	384	0.00%		100.00	-	-	384.33
4/29/2024	3130APJH9	FEDERAL HOME LOAN BANK 1.25% 28OCT2026 (CALLABLE 28JUL24) #0006	BOND INTEREST	4/28/2024	1,000,000	1.25%	10/28/2026	-	-	5,000.00	5,000.00
4/30/2024	9128285M8	USA TREASURY 3.125% 15NOV2028	PURCHASE	4/30/2024	1,200,000	3.13%	11/15/2028	93.65	1,123,832.15	17,204.67	1,141,036.82
4/30/2024	91282CEN7	USA TREASURY 2.75% 30APR2027	BOND INTEREST	4/30/2024	1,300,000	2.75%	4/30/2027	-	-	17,875.00	17,875.00
4/30/2024	91282CFU0	USA TREASURY 4.125% 31OCT2027	BOND INTEREST	4/30/2024	1,300,000	4.13%	10/31/2027	-	-	26,812.50	26,812.50
4/30/2024	912828X70	USA TREASURY 2% 30APR2024	BOND INTEREST	4/30/2024	1,000,000	2.00%	4/30/2024	-	-	10,000.00	10,000.00
4/30/2024	912828ZL7	USA TREASURY 0.375% 30APR2025	BOND INTEREST	4/30/2024	1,700,000	0.38%	4/30/2025	-	-	3,187.50	3,187.50
4/30/2024	912828X70	USA TREASURY 2% 30APR2024	REDEMPTION	4/30/2024	1,000,000	2.00%	4/30/2024	100.00	1,000,000.00	-	1,000,000.00

**Town of Los Gatos**  
**Insight ESG Ratings as of April 30, 2024**

Security Description	Maturity Date	Par/Shares	S&P Rating	Moody Rating	Insight ESG Rating	Environment	Social	Governance
IBM CORP 3.0% 15MAY2024	5/15/2024	\$ 1,000,000	A-	A3	2	1	2	4
CATERPILLAR FIN SERVICES 2.85% 17MAY24	5/17/2024	\$ 1,000,000	A	A2	4	5	3	4
AMERICAN HONDA FINANCE 2.4% 27JUN2024	6/27/2024	\$ 1,000,000	A-	A3	3	3	3	3
HONEYWELL INTERNATIONAL 2.3% 15AUG2024 (CALLABLE 15JUL24)	8/15/2024	\$ 1,000,000	A	A2	4	3	4	4
PEPSICO INC 2.85% 24FEB2026 (CALLABLE 24NOV25)	2/24/2026	\$ 1,000,000	A+	A1	2	2	2	3
HOME DEPOT INC. 3% 01APR2026 (CALLABLE 01JAN2026)	4/1/2026	\$ 1,000,000	A	A2	2	3	2	3
JPMORGAN CHASE & CO 3.2 15JUN2026 (CALLABLE 15MAR26)	6/15/2026	\$ 500,000	A-	A1	3	1	3	4
APPLE INC. 2.9% 12SEP2027 (CALLABLE 12JUN27)	9/12/2027	\$ 1,300,000	AA+	Aaa	4	1	4	5
TOYOTA MOTOR CREDIT CORP 5.45% 10NOV2027	11/10/2027	\$ 1,600,000	A+	A1	4	2	3	4
AMERICAN HONDA FINANCE 4.7% 12JAN2028	1/12/2028	\$ 600,000	A-	A3	3	3	3	3
PNC BANK NA 3.25% 22JAN2028 (CALLABLE 01 FEB28)	1/22/2028	\$ 1,000,000	A	A2	3	2	3	3
COLGATE-PALMOLIVE CO 4.6% 01MAR2028 (CALLABLE 01FEB28)	3/1/2028	\$ 500,000	A+	Aa3	3	2	3	3
US BANCORP 4.548% 22JUL2028 (CALLABLE 22JUL27)	7/22/2028	\$ 1,000,000	A	A3	3	3	4	3
JPMORGAN CHASE & CO 4.851% 25JUL2028 (CALLABLE 25JUL28)	7/25/2028	\$ 1,400,000	A-	A1	3	1	3	4
<b>Total/Average</b>		<b>\$ 13,900,000</b>			<b>3.1</b>	<b>2.3</b>	<b>2.9</b>	<b>3.6</b>

\*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

ITEM NO. 3.

Fund Number	Fund Description	Prior Year Carryforward 7/1/2023	Increase/ (Decrease) July - Mar	Apr 2024				Estimated Fund Balance 4/30/2024*
				Current Revenue	Current Expenditure	Transfer In	Transfer Out	
111	<b>GENERAL FUND</b>							
	<b>Non-Spendable:</b>							
	Loans Receivable	159,000	-	-	-	-	-	159,000
	<b>Restricted Fund Balances:</b>							
	Pension	1,400,163	-	-	-	-	-	1,400,163
	Land Held for Resale	44,338	-	-	-	-	-	44,338
	<b>Committed Fund Balances:</b>							
	Budget Stabilization	6,129,774	-	-	-	-	-	6,129,774
	Catastrophic	6,129,775	-	-	-	-	-	6,129,775
	Pension/OPEB	300,000	-	-	-	-	-	300,000
	Measure G District Sales Tax	590,581	-	-	-	-	-	590,581
	<b>Assigned Fund Balances:</b>							
	Open Space	410,000	-	-	-	-	-	410,000
	Sustainability	140,553	-	-	-	-	-	140,553
	Capital/Special Projects	10,359,577	-	-	-	-	-	10,359,577
	Carryover Encumbrances	37,698	-	-	-	-	-	37,698
	Compensated Absences	1,580,623	-	-	-	-	-	1,580,623
	ERAF Risk Reserve	689,608	-	-	-	-	-	689,608
	Council Priorities - Economic Recovery	1,556,614	-	-	-	-	-	1,556,614
	<b>Unassigned Fund Balances:</b>							
	Other Unassigned Fund Balance Reserve (Pre YE distribution)	-	(951,295)	8,543,125	(3,428,569)	-	-	4,163,261
	<b>General Fund Total</b>	29,528,304	(951,295)	8,543,125	(3,428,569)	-	-	33,691,565

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

## Fund Schedule

ITEM NO. 3.

Fund Number	Fund Description	Prior Year Carryforward 7/1/2023	Increase/ (Decrease) July - Mar	Apr 2024				Estimated Fund Balance 4/30/2024*
				Current Revenue	Current Expenditure	Transfer In	Transfer Out	
	SPECIAL REVENUE							
211/212	CDBG	166,653	-	-	-	-	-	166,653
222	Urban Runoff (NPDES)	629,843	62,715	29,996	(17,627)	-	-	704,927
231-236	Landscape & Lighting Districts	176,964	1,893	-	-	-	-	178,857
251	Los Gatos Theatre	74,991	47,243	9,830	(5,378)	-	-	126,686
711-716	Library Trusts	530,173	64,094	-	(2,849)	-	-	591,418
	Special Revenue Total	1,578,624	175,945	39,826	(25,854)	-	-	1,768,541
	CAPITAL PROJECTS							
411	GFAR - General Fund Appropriated Reserve	21,725,837	(1,498,115)	82,050	(31,708)	-	-	20,278,064
412	Community Center Development	-	866,281	-	-	-	-	866,281
421	Grant Funded Projects	(406,890)	(196,967)	322,776	(54,425)	-	-	(335,506)
461-463	Storm Basin Projects	3,218,331	171,469	2,080	-	-	-	3,391,880
471	Traffic Mitigation Projects	431,079	-	300	(300)	-	-	431,079
472	Utility Undergrounding Projects	3,438,996	21,600	-	-	-	-	3,460,596
481	Gas Tax Projects	1,671,245	(354,977)	138,131	-	-	-	1,454,399
	Capital Projects Total	30,078,598	(990,709)	545,337	(86,433)	-	-	29,546,793
	INTERNAL SERVICE FUNDS							
611	Town General Liability	212,022	(14,976)	-	(1,594)	-	-	195,452
612	Workers Compensation	514,813	(566,500)	-	(132,489)	-	-	(184,176)
621	Information Technology	2,474,618	(10,704)	3,097	(29,409)	-	-	2,437,602
631	Vehicle & Equipment Replacement	2,413,719	723,003	-	-	-	-	3,136,722
633	Facility Maintenance	927,700	219,425	6,933	(104,039)	-	-	1,050,019
	Internal Service Funds Total	6,542,872	350,248	10,030	(267,531)	-	-	6,635,619
	Trust/Agency							
942	RDA Successor Agency	(6,187,789)	(1,665,933)		(117)	-	-	(7,853,839)
	Trust/Agency Fund Total	(6,187,789)	(1,665,933)	-	(117)	-	-	(7,853,839)
	Total Town	61,540,609		9,138,318	(3,808,504)	-	-	63,788,679

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

### Deposit Accounts of Interest:

111-23541 General Plan Update deposit account balance \$697,897.51

111-23521 BMP Housing deposit account balance \$4,021,280.60



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 4.

ITEM NO: 4

---

DATE: June 3, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute a Second Amendment to Agreement for Services with H. A. Bowen Electric Inc. to Extend the Term through June 30, 2026 and Increase the Compensation Amount by \$48,000 for a Total Agreement Amount Not to Exceed \$145,335

**RECOMMENDATION:**

Authorize the Town Manager to execute a second amendment to Agreement for Services with H. A. Bowen Electric Inc. to extend the term through June 30, 2026 and increase the compensation amount by \$48,000 for a total agreement amount not to exceed \$145,335.

**BACKGROUND:**

On August 10, 2021, the Town entered into an Agreement for Services with H. A. Bowen Electric Inc. to provide on-call electrical services and repairs for Town facilities, emergencies, unforeseen infrastructure work, and downtown decorative lighting. The agreement was amended on February 1, 2022, and is set to expire on June 30, 2024.

**DISCUSSION:**

Staff recommends extending the agreement term through June 30, 2026, and adjusting the compensation amount not to exceed \$145,335. This would allow for continued coverage for unforeseen electrical repairs, emergencies, after-hours response, and downtown decorative lighting repairs for the Town. The extension would provide continuous electrical service coverage and allow staff time to evaluate the agreement's scope of work to determine if a formal bid for a larger compensation amount is necessary for future electrical needs.

**PREPARED BY:** Daniel Keller  
Facilities and Environmental Services Manager

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

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SUBJECT: Authorize the Town Manager to Execute a Second Amendment to Agreement for Services with H. A. Bowen Electric Inc., to Extend the Term through June 30, 2026 and Increase the Compensation Amount by \$48,000 for a Total Agreement Amount Not to Exceed \$145,335

DATE: June 3, 2024

CONCLUSION:

Authorize the Town Manager to execute a Second Amendment to Agreement for Services with H. A. Bowen Electric Inc. to extend the term through June 30, 2026 and increase the compensation amount by \$48,000 for a total agreement amount not to exceed \$145,335.

FISCAL IMPACT:

The Adopted Fiscal Year (FY) 2024/25 Parks and Public Works Facilities Program Operating Budget includes sufficient funds to cover the contract amendment in the amount of \$24,000 for FY 2024/25.

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA and is Categorically Exempt (Section 15301) as a modification to an existing facility.

Attachment:

1. Second Amendment to Agreement for Services with Exhibit A (First Amendment and Original Agreement) and Exhibit B (New Proposal)

## SECOND AMENDMENT TO AGREEMENT

This SECOND AMENDMENT to AGREEMENT for SERVICES is dated for identification this 3<sup>rd</sup> day of June 2024 and amends that certain First Amendment to Agreement for Consultant Services dated February 1, 2022, made by and between the Town of Los Gatos, ("Town," ) and H.A. Bowen Electrical Inc. ("Service Provider") and whose address is 2055 Williams Street, San Leandro, CA 94577.

### RECITALS

- A. Town and Service Provider entered into an Agreement for Services for On-call Electrical Services on August 10, 2021, ("Agreement"), a First Amendment to Agreement for Consultant Services on February 1, 2022, copies of which are attached hereto and incorporated by reference as Exhibit A to this Agreement.
- B. Town desires to amend the Agreement to extend the term and time of performance and adjust the compensation.

### AMENDMENT

1. 2.2 Term and Time of Performance is amended to read as follows:

This contract will remain in effect from August 10, 2021, and extend to June 30, 2026.

2. 2.6 Compensation is amended to read as follows:

Additional compensation for Service Provider's professional services shall be increased as follows:

FY 2024/25 = \$20,000 + \$4,000 for unanticipated services = \$24,000

FY 2025/26 = \$20,000 + \$4,000 for unanticipated services = \$24,000

For a total agreement amount **not to exceed \$145,335** inclusive of all costs. Payment shall be based upon Town approval of each task as described in Exhibit B.

3. All other terms and conditions of the Agreement remain in full force and effect.

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

Town of Los Gatos:

Approved as to Consent:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_  
Rich Gallespie, Superintendent

Department Approval:

\_\_\_\_\_  
Nicolle Burnham  
Director of Parks and Public Works

Approved as to Form:

Attest:

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney

\_\_\_\_\_  
Wendy Wood, CMC, Town Clerk



6/5/2024

**Daniel Keller**  
*Facilities & Environmental Services Manager*  
*Town of Los Gatos*  
41 Miles Ave.  
Los Gatos, CA 95030  
[dkeller@losgatosca.gov](mailto:dkeller@losgatosca.gov)

**Rich Gillespie**  
*Project Manager*  
*H.A. Bowen Electric, Inc.*  
2055 Williams St  
San Leandro, CA 94577  
[richg@bowenelectric.com](mailto:richg@bowenelectric.com)

PROJECT: **2 Year Service Proposal- Town of Los Gatos**

Thank you for the opportunity to provide a price for the electrical portion of work on the above mentioned project. Bowen Electric is a union contractor and a member of the NECA. Our scope of work is based on the following:

**Scope of Work:**

- ▶ All work is assumed to take place during regular working hours.
- ▶ Proposal is for \$20,000 for each year, for a total of \$40,000. 7/1/2024 to 6/30/26
- ▶ Standard non-emergency service call response 24hrs.
- ▶ Emergency service call response within 4hrs.

**Final Price \$ 40,000**

Thank you for your time in reviewing this proposal. Please feel free to contact me if you need any further information.

Sincerely,  
Richard Gillespie  
Project Manager

## FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This AMENDMENT TO AGREEMENT is dated for identification this 1<sup>st</sup> day of February 2022 and amends that certain Agreement for Services dated August 10, 2021, made by and between the Town of Los Gatos, ("Town," ) and the H.A. Bowen Electrical, Inc. ("Service Provider").

RECITALS

- A. Town and Consultant entered into an Agreement for Services on August 10, 2021 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services for on-call electrical services to increase compensation for the Scope of Services for Fiscal Years: 2021/22, 2022/23, 2023/24.

AMENDMENT

2.6 Compensation is amended as described below:

- 1. Compensation shall amend to read.
  - FY 21/22: Not to exceed \$11,100, plus \$21,235 for unanticipated services = \$32,335
  - FY 22/23: Not to exceed \$11,100, plus \$21,400 for unanticipated services = \$32,500
  - FY 23/24: Not to exceed \$11,100, plus \$21,400 for unanticipated services = \$32,500

**Total agreement not to exceed \$97,335)**

(Prior agreement = \$49,500 + Amendment = \$97,335)

- 2. All other terms and conditions of the Agreement remain in full force and effect.



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

Town of Los Gatos

DocuSigned by:  
By: Laurel Prevetti 2/14/2022  
853FEEAZEB39470...  
Laurel Prevetti, Town Manager

Service Provider, by:

DocuSigned by:  
By: Rich Gillespie  
C8A965D1FE47489...

Recommended by:

DocuSigned by:  
Matt Morley 2/9/2022  
BBA0B3B0D8F4484...  
Matt Morley, Director of Parks and Public Works

Approved as to Form:

DocuSigned by:  
Robert W. Schultz 2/11/2022  
2FE0938555B744C...  
Robert Schultz, Town Attorney

Attest:

DocuSigned by:  
Shelley Neis 2/14/2022  
B9060F65B1F34F6...  
Shelley Neis, MMC, CPMC, Town Clerk

## AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 10<sup>th</sup> day of August 2021, and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and H.A. Bowen Electrical whose address is 2055 Williams Street, San Leandro, CA 94577. 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 On-call Electrical Services.
- 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 Proposal sent to the Town on July 15, 2021, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. The effective date of this Agreement shall begin upon execution and will continue through June 30, 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 shall be:

FY 21/22: Not to exceed \$11,100, plus \$5,400 for unanticipated services = \$16,500

FY 22/23: Not to exceed \$11,100, plus \$5,400 for unanticipated services = \$16,500

FY 23/24: Not to exceed \$11,100, plus \$5,400 for unanticipated services = \$16,500

For a total agreement amount not to exceed \$49,500, 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. 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: one million dollars (\$1,000,000) 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 officers, officials, employees and volunteers 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 officers, officials, employees and volunteers. 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 officers, agent, 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](http://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 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.
- 4.6 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.
- 4.7 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:
- |  |  |
|--|--|
| <p>Town of Los Gatos<br/>Attn: Town Clerk<br/>110 E. Main Street<br/>Los Gatos, CA 95030</p> | <p>H.A. Bowen Electrical<br/>2055 Williams Street,<br/>San Leandro, CA 94577</p> |
|--|--|
- or personally delivered to Service Provider to such address or such other address as Service Provider designates in writing to Town.
- 4.8 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.
- 4.9 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:

H.A. Bowen Electrical by:

DocuSigned by:  
Laurel Prevetti 9/2/2021  
853FEEA2EB39470...  
Laurel Prevetti, Town Manager

DocuSigned by:  
Rich Gillespie 8/31/2021  
C8A965D1FE47489...

Recommended by:  
Matt Morley 9/1/2021  
1BFA0B8F00381484...  
Matt Morley, Director of Parks and Public Works

Superintendent  
\_\_\_\_\_  
Title

Approved as to Form:

DocuSigned by:  
Robert W. Schultz 9/2/2021  
2FE093655556744C...  
Robert Schultz, Town Attorney

Attest:

DocuSigned by:  
Shelley Neis 9/2/2021  
B9666F65B1F34F6...  
Shelley Neis, MMC, CPMC, Town Clerk

July 15, 2021

**Request for Quotes:**

On call and Electrical Services for the Town of Los Gatos.

The Town of Los Gatos is seeking Electrical Services for both on-call emergency and planned repairs for Town facilities. All work for the Town requires prevailing wage and registration with the State Department of Industrial Relations (DIR).

**Please provide hourly rate and cost information below:**

Journeyman	Regular time	<u>180</u>	Overtime	<u>290</u>
Apprentice	Regular time	<u>135</u>	Overtime	<u>220</u>
Call – out	minimum charge	<u>2 HR</u>		
Vehicle	charge	<u>30</u>		
Materials	mark-up	<u>20%</u>		
Rental equipment	mark-up	<u>20%</u>		

Company Name H.A. Bowen Electric Inc.

Address 2055 Williams Street

License # 384915

Contact Name Richard Gillespie

Email RichG@BowenElectric.com

Phone (510)385-1712

**Send to:**

Dan Keller, Facilities & Environmental Services Manager

Parks & Public Works Dept. - Town of Los Gatos

[dkeller@losgatosca.gov](mailto:dkeller@losgatosca.gov)

41 Miles Ave, Los Gatos, CA 95030

(408) 395-5310



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 5

ITEM NO. 5.

DATE: June 3, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute a Lease Agreement with the Friends of the Los Gatos Library for the Property Located at 108 E. Main St.

**RECOMMENDATION:**

Authorize the Town Manager to execute a Lease Agreement with the Friends of the Los Gatos Library for the property located at 108 E. Main St.

**BACKGROUND:**

The Friends of the Los Gatos Library (Friends) are a 501c3 non-profit organization with the dedicated mission of supporting the Los Gatos Library through funding for programs and events. The Friends support their mission with an annual cash donation to the Town stipulated for Library programs, services, and program not covered by General Fund dollars. The donation amount varies each year and has not been less than \$70,000 each year for the past seven years; however, this amount is not guaranteed as the actual amount is tied to the success of their fundraising for each year.

The primary source of fundraising is generated through the operation of the Friends Bookstore. The Friends have been operating the Friends Bookstore at 108 East Main St in the Civic Center Complex as a tenant of the Town since July of 2015. This lease set the actual "rent" as \$1 per year with the understanding that the Friends would make a cash donation to the Town for Library services of a minimum of \$35,000 per year.

**DISCUSSION:**

The original 2015 lease agreement expired in June of 2023, at which point the Friends operated as a month-to-month tenant per stipulations of that original agreement. Staff recommends

**PREPARED BY:** Ryan Baker  
Library Director

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

PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to execute a Lease Agreement with the Friends of the Los Gatos Library for the Property Located at 108 E. Main St.

DATE: June 3, 2024

DISCUSSION (continued):

that the Town and the Friends enter into a new lease agreement (Attachment 1). The new agreement is relatively similar to the original with general changes and updates consistent with other current Town lease agreements, updated insurance specifications, and current conventions.

Top level points of the lease include:

- Five-year lease expiring April 30, 2029.
- Option to extend the lease for two additional five-year periods.
- 90-day termination option by the Town.
- \$1 rent per year with minimum donation commitment of \$35,000 per year.
- Use of the 1,860-square foot property as a retail new and used bookstore.
- Friends to determine hours of operation at their discretion.
- Friends to pay for utility usage based on the square footage of the property.
- Friends to hire and maintain their own custodial services.

With regard to insurance, the Town usually requires at least \$2M in commercial general liability insurance from its tenants and contractors. However, the Friends of the Los Gatos Library is a non-profit and was only able to obtain \$1M in commercial general liability insurance. Staff is recommending that the Town Council accept the lower limits on the basis that the Friends are a non-profit and are providing the maximum amount of insurance available to them. The new lease has been reviewed by the Friends and was approved to enter into the agreement by their Board on June 5, 2024.

COORDINATION:

This item was coordinated with the Library, the Town Attorney, Town Manager's Office, and the Friends of the Los Gatos Library.

FISCAL IMPACT:

This lease continues a current lease arrangement and has no expected change in fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Lease Agreement Between Town of Los Gatos and Friends of the Los Gatos Library

**LEASE AGREEMENT**  
**BETWEEN**  
**TOWN OF LOS GATOS**  
**AND**  
**FRIENDS OF THE LOS GATOS PUBLIC LIBRARY**

**TABLE OF CONTENTS**

**LEASE PROVISIONS**

1. PREMISES.....	1
2. TERM.....	1
3. RENT. ....	2
4. FUNDING COMMITMENT. ....	2
5. USE OF PREMISES AND OPERATING HOURS.....	2
6. UTILITIES AND OPERATING EXPENSES. ....	3
7. TAXES. ....	4
8. MAINTENANCE.....	4
9. CASP INSPECTION. ....	5
10. AMERICANS WITH DISABILITIES ACT.....	6
11. TENANT IMPROVEMENTS. ....	6
12. ALTERATIONS BY LESSEE.....	7
13. HOLD HARMLESS/INDEMNIFICATION.....	7
14. DAMAGE, DESTRUCTION AND TERMINATION.....	7
15. SIGNS AND MARKETING. ....	8
16. ASSIGNMENT AND SUBLETTING.....	8
17. DEFAULTS; REMEDIES.....	9
18. INTEREST ON PAST-DUE OBLIGATIONS.....	10
19. HOLDING OVER.....	11
20. TOWN’S ACCESS.....	11
21. INSURANCE.....	11
22. DISPUTE RESOLUTION.....	12
23. NON-LIABILITY OF OFFICIALS AND EMPLOYEES OF THE TOWN. ....	12
24. NON-DISCRIMINATION. ....	12

<b>25. INDEPENDENT CONTRACTOR.....</b>	<b>13</b>
<b>26. CONFLICT OF INTEREST.....</b>	<b>13</b>
<b>27. ESTOPPEL CERTIFICATE.....</b>	<b>13</b>
<b>28. LIENS.....</b>	<b>13</b>
<b>29. VACATING.....</b>	<b>14</b>
<b>30. ABANDONMENT. ....</b>	<b>14</b>
<b>31. NOTICES.....</b>	<b>14</b>
<b>32. TIME.....</b>	<b>14</b>
<b>33. AMENDMENTS. ....</b>	<b>14</b>
<b>34. SIGNING AUTHORITY.....</b>	<b>15</b>
<b>35. CAPTIONS.....</b>	<b>15</b>
<b>36. SURRENDER OF LEASE NOT MERGER. ....</b>	<b>15</b>
<b>37. INTEGRATED DOCUMENT.....</b>	<b>15</b>
<b>38. WAIVER.....</b>	<b>15</b>
<b>39. INTERPRETATIONS.....</b>	<b>15</b>
<b>40. SEVERABILITY CLAUSE.....</b>	<b>16</b>
<b>41. GOVERNING LAW.....</b>	<b>16</b>
<b>42. VENUE.....</b>	<b>16</b>
<b>43. COMPLIANCE WITH LAWS.....</b>	<b>16</b>
<b>44. BROKERS.....</b>	<b>16</b>
<b>45. ATTACHMENTS TO LEASE. ....</b>	<b>16</b>

## **EXHIBITS**

<b>A DESCRIPTION OF SUBJECT PREMISES.....</b>	<b>18</b>
<b>B STANDARD INSURANCE REQUIREMENTS.....</b>	<b>20</b>

**LEASE AGREEMENT  
BETWEEN  
TOWN OF LOS GATOS  
AND  
FRIENDS OF THE LOS GATOS PUBLIC LIBRARY**

This lease agreement (herein "Lease") is made and entered into \_\_\_\_\_, 2024, by and between the Town of Los Gatos, a California municipal corporation (herein "Town") and Friends of the Los Gatos Public Library, a California nonprofit corporation (herein "Lessee"). Town and Lessee may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Lease." The Town Manager serves as Contract Administrator for this Lease on behalf of the Town Council.

In consideration of these recitals and the following covenants, terms, and conditions, Lessee and Town mutually agree as follows:

**LEASE PROVISIONS**

**1. PREMISES.**

Town hereby leases to Lessee, certain real property located in the Town of Los Gatos, County of Santa Clara, State of California, commonly known as 108 E. Main Street (herein the "Premises") and more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Premises consists of approximately one thousand eight hundred and sixty (1,860) square feet of space for retail book sales. Unless specifically provided, Lessee accepts the Premises "as-is" on the date of execution of this Lease.

**2. TERM.**

2.1 Original Term. The term of this Lease shall be for five (5) years, commencing on \_\_\_\_\_, 2024 ("Delivery Date") and ending on April 30, 2029. Lessee shall, at the expiration of the term of this Lease, or upon its earlier termination, surrender the Premises in as good condition as it is now at the date of this lease. The Parties expect reasonable wear and tear.

2.2 Option to Extend. Provided Lessee is not in default hereunder, either at the time of exercise or at the time the extended term commences, Lessee shall have the option to extend the initial term of this Lease for two (2) additional periods of five (5) years ("Option Period") with the same terms, covenants and conditions provided herein by letter agreement. Lessee's option shall be exercised by Lessee providing Town with request for an extension in writing no less than sixty (60) days prior to the expiration of the then current term.

Early Termination by Town. If Town in its sole discretion determines that it requires the Premises for any public purpose, Town may terminate this Lease upon ninety (90) days written notice.

### 3. **RENT.**

3.1 **Base Rent.** The rent to be paid by Lessee shall be in the amount of One Dollar (\$1.00) per year.

3.2 **Payment Date.** Rent shall be payable on the first day of \_\_\_\_ commencing on the Delivery Date, and each \_\_\_\_ 1<sup>st</sup> thereafter during the term of the Lease and any Lease extension at Town Hall Finance Department.

### 4. **FUNDING COMMITMENT.**

Lessee shall be obligated to contribute a minimum of \$35,000 to Town on an annual basis based on proceeds from the Lessee's efforts to support the Town of Los Gatos Public Library as established in Lessee's Library Trust Fund account. All funds paid by the Friends of the Los Gatos Public Library per the funding commitment will be used as enhancements to the Library budget and are not intended to offset the general fund contributions to the Library budget. All payments shall be made payable annually to the Town the day after the second Town Council meeting in August. The Town will provide an opportunity for the Friends of the Los Gatos Public Library to ceremonially present the contribution at a regular meeting of the Town Council in August.

### 5. **USE OF PREMISES AND OPERATING HOURS.**

5.1 **Required Uses.** Throughout the term of this Lease, Lessee shall provide the following uses, services and activities ("Required Uses"):

5.1.1 Uses consistent with Lessee's business purposes which includes retail sales of used and new books, ancillary items (cards, t-shirts, paper, and similar products), and museum merchandise.

5.1.2 1,860 square feet of space on the upper level of the old Town of Los Gatos Library located at 108 Main Street, Los Gatos, CA, as shown on Exhibit A.

5.1.3 Lessee may request to reserve the conference room once a month in the new public library and the outdoor Town deck adjacent to Lessee's space in accordance with the Town's Facility Use Policy

5.2 **Hours of Operations.**

5.2.1 **Public Hours.** Lessee may set reasonable hours of operation.



5.2.2 Special Events. Lessee shall be obligated to apply for a Special Events Permit in accordance with Town rules and regulations and pay all associated costs and fees for any event that meets the criteria set forth by Town Code. Alcohol (beer & wine only) may be allowed in conjunction with approval of a Special Events Permit, subject to all regulations required by the Los Gatos Police Department. For those events that do not meet the criteria requiring a Special Event Permit, but do impact parking at the Civic Center, Lessee shall coordinate with the Town Manager's office to avoid conflicts during business hours or when Town events or meetings are scheduled.

5.3 Prohibited Uses. Lessee shall not use Premises for any purpose not expressly permitted hereunder. Lessee shall not create, cause, maintain or permit any nuisance or waste in, on, or about the Premises, or permit or allow the Premises to be used for any unlawful or immoral purpose. Lessee shall not do or permit to be done anything in any manner which unreasonably disturbs the users of the Town Property or the occupants of neighboring property. Specifically, and without limiting the above, Lessee agrees not to cause any unreasonable odor, noise, vibration, power emission, or other item to emanate from the Premises. No materials or articles of any nature shall be stored outside upon any portion of the Premises. Lessee will not use Premises in a manner that increases the risk of fire, cost of fire insurance or improvements thereon. No unreasonable sign or placard shall be painted, inscribed or placed in or on said Premises; and no tree or shrub thereon shall be destroyed or removed or other waste committed of said Premises. No bicycles, motorcycles, automobiles or other mechanical means of transportation shall be placed or stored anywhere on the Premises. No repair, overhaul or modification of any motor vehicle shall take place on the Premises or the street in front of said Premises. Lessee, at his/her expense, shall keep the Premises in as good condition as it was at the beginning of the terms hereof, except damage occasioned by ordinary wear and tear, and except damage to the roof, sidewalks and underground plumbing, which is not the fault of Lessee.

5.4 Condition, Use of Premises. Town makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Premises, knows its condition, finds it fit for Lessee's intended use, accepts it as is, and has ascertained that it can be used exclusively for the limited purposes specified in Section 5.1.

5.5 Parking. Town will provide Olive Zone parking to Lessee for their volunteers.

5.6 Coordination with Town. Lessee shall schedule, attend, and fully participate in annual meetings with Town Manager and/or Manager's designee to address any and all conditions of this Agreement or any other matter which arises in conjunction with the use of the Premises. Lessee shall also be required to participate in Town Emergency Preparedness training and exercises.

## 6. UTILITIES AND OPERATING EXPENSES.

6.1 Lessee Obligations. Lessee at Lessee's sole expense shall fully and promptly pay for all expenses associated with the operation of the Premises, including but not limited to the furnishing of gas, water, sewer, electricity, telephone service, garbage pickup and disposal, other public utilities and custodial service. Lessee shall be obligated to pay a pro-rated share based on square footage for gas, water, sewer, electricity, garbage service and other public utilities provided by or through the Town. Lessee shall be obligated to pay their own direct costs for telephone, technology, audio-visual, custodial or other specialized services, including any initial costs for those services. Town shall maintain all exterior landscaping.

6.2 Custodial Services. Lessee at Lessee's sole expense shall fully maintain and pay for all custodial services to maintain the interior premises in a clean and safe manner. All vendors for custodial services shall be bonded, insured, and the Town named as an additional insured. Proof of bond and insurance including the additional insured certificate shall be provided to Town prior to any custodial services being performed.

## 7. TAXES.

7.1 Payment of Real Property Taxes. Town shall pay Lessee's share of all real property taxes which become due and payable.

7.2 Revenue and Taxation Code. Lessee specifically acknowledges it is familiar with section 107.6 of the California Revenue and Taxation Code. Lessee realizes that a possessory interest subject to property taxes may be created, agrees to pay any such tax, and hereby waives any rights Lessee may have under said California Revenue and Taxation Code section 107.6.

7.3 Personal Property Taxes. Lessee shall pay before delinquent, or if requested by Town, reimburse Town for, any and all taxes, fees, and assessments associated with the Premises, the personal property contained in the premises and other taxes, fees, and assessments regarding any activities which take place at the Premises. Lessee recognizes and understands in accepting this Lease that its interest therein may be subject to a possible possessory interest tax that Town or County may impose on such interest and that such tax payment shall not reduce any rent due Town hereunder and any such tax shall be the liability of and be paid by Lessee.

## 8. MAINTENANCE.

8.1 Town and Lessee Responsibilities. Lessee at Lessee's expense, shall perform all interior maintenance and repairs, including all painting, necessary to keep the Premises in good order, repair, and condition, and shall keep the Premises in a safe, clean, and sanitary condition to the complete satisfaction of Town, and in compliance with all applicable laws, throughout the term of this Lease. In addition, Lessee shall maintain, at Lessee's expense, all equipment, furnishings and trade fixtures upon the Premises required for the maintenance and operation of public services of the type to be conducted pursuant to this Lease. Routine

interior plumbing and electrical maintenance (e.g., plugged toilets/sinks, faulty switches/lights) will be the responsibility of the Lessee. Town shall be responsible for the routine maintenance and repair of the exterior structure of the Premises and main support systems, including roof repair, exterior painting and structural repairs, excluding any maintenance or repairs resulting from Lessee's actions or activities. Windows broken or cracked will be the responsibility of the Town, excluding broken windows resulting from Lessee's actions or activities.

8.2 Waiver of Civil Code. Lessee expressly waives the benefit of any statute now or hereinafter in effect, including the provisions of sections 1941 and 1942 of the Civil Code of California, which would otherwise afford Lessee the right to make repairs at Town's expense or to terminate this Lease because of Town's failure to keep Premises in good order, condition and repair. Lessee further agrees that if and when any repairs, alterations, additions or betterments shall be made by Lessee as required by this paragraph, Lessee shall promptly pay for all labor done or materials furnished and shall keep the Premises free and clear of any lien or encumbrance of any kind whatsoever. If Lessee fails to make any repairs or perform any maintenance work for which Lessee is responsible within a reasonable time (as determined by the Town Manager in the Town Manager's sole discretion) after demand by the Town, Town shall have the right, but not the obligation, to make the repairs at Lessee's expense; within ten (10) days of receipt of a bill, Lessee shall reimburse Town for the cost of such repairs, including a fifteen percent (15%) administrative overhead fee. The making of such repairs or performance of maintenance by Town shall in no event be construed as a waiver of the duty of Lessee to make repairs or perform maintenance as provided in this Section.

8.3 Maintenance of Common Areas. Town shall maintain or cause to be maintained, including repair and replacement as necessary, the exterior grounds, exterior shared deck, and the parking lot adjacent to the Premises. If Lessee uses the shared deck for activities or a special event, Lessee shall promptly remove all structures, fixtures, accessories, decorations and trash associated with the activity or event.

## 9. CASP INSPECTION.

Landlord states that the Premises have not been inspected by a Certified Access Specialist (CASP). Accordingly, this notice is provided by Landlord pursuant to California Civil Code Section 1938:

"A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or Landlord may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp

inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of the construction-related accessibility standards within the premises.”

Unless otherwise expressly stated in this Lease and subject to the terms of this Lease: (a) Lessee may elect at any time to perform a CASp inspection of the Premises at Lessee’s expense; (b) any repairs or modifications necessary to correct violations of applicable construction-related accessibility standards within or about the Premises are the responsibility of Lessee; and (c) any construction-related accessibility improvements by Lessee or alterations of or improvements to the Premises are the responsibility of the Lessee.

## **10. AMERICANS WITH DISABILITIES ACT.**

Throughout the term of the Lease, Lessee acknowledges and expressly accepts full responsibility and shall incur all costs and expenses (whether structural or non-structural in nature) for compliance with the requirements of the Americans with Disabilities Act (ADA) and any other law regarding the accessibility of the Premises (and the improvements located or to be located thereon) by disabled individuals. Lessee agrees to release, indemnify, defend and hold harmless Landlord (and its officials, officers, directors, employees, agents, representatives, volunteers, contractors, successors and assigns) from and against any claim, loss, expense or liability arising from Lessee’s failure to fully comply with all such applicable laws and/or this Section 10 (Americans with Disabilities Act).

## **11. TENANT IMPROVEMENTS.**

11.1 Improvements Permitted. Subject to prior written approval of the Town Manager, which shall not be unreasonably withheld, Lessee shall be entitled to install improvements in an efficient and workmanlike manner within the Premises, at no cost to Town. All costs of plans, improvements, and permits shall be the sole responsibility of the Lessee. All structural improvements and improvements in excess of \$5,000 must be approved in writing by the Town Manager.

11.2 Cost of Improvements. All tenant improvements shall be made at Lessee’s sole expense.

11.3 Ownership of Improvements. All improvements constructed, erected, or installed upon the Premises must be free and clear of all liens, claims, or liability for labor or material and shall become the property of Town, at its election, upon expiration or earlier termination of this lease and upon Town's election, shall remain upon the Premises upon termination of this Lease. Title to all free standing equipment, furniture, furnishings, and trade fixtures placed by Lessee upon the Premises shall remain in Lessee’s ownership, and replacements, substitutions and modifications thereof may be made by Lessee throughout the term of this Lease.

11.4 Indemnity for Claims Arising Out of Construction. Lessee shall defend and indemnify

Town against all claims, liabilities, and losses of any type arising out of work performed on the Premises by Lessee, together with reasonable attorneys' fees and all costs and expenses reasonably incurred by Town in negotiating, settling, defending or otherwise protecting against such claims.

11.5 Certificate of Inspection. Upon completion of construction of any building, Lessee shall submit to the Town Manager a Certificate of Inspection, verifying that the construction was completed in conformance with Title 20 of the California Code of Regulations for residential construction, or in conformance with Title 24 of the California Code of Regulations for non-residential construction.

11.6 As Built Plans. Lessee shall provide the Town Manager with a complete set of reproducible "as built plans" reflecting actual construction within or upon the Premises upon completion of any: (i) new construction; (ii) structural alterations; or, (iii) non-structural alterations costing more than \$25,000.

## 12. ALTERATIONS BY LESSEE

Lessee shall not make any alterations or improvements to the Premises without obtaining the prior written consent of the Town Manager. Lessee may, at any time and at its sole expense, install and place business fixtures and equipment within the Premises, provided such fixtures and installation have been reviewed and approved by the Town Manager.

## 13. HOLD HARMLESS/INDEMNIFICATION

13.1 Indemnification. To the fullest extent permitted by law, Lessee agrees to protect, defend, hold harmless and indemnify Town, its Town Council, commissions, officers, agents, volunteers, and employees from and against any claim, injury, liability, loss, cost, and/or expense or damage, however same may be caused, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom for which Town shall become legally liable arising from Lessee's negligent, reckless, or wrongful acts, errors, or omissions with respect to or in any way connected with this Lease. Lessee shall give Town immediate notice of any claim or liability hereby indemnified against. This indemnity shall be in addition to the Hazardous Materials indemnity contained in this Lease and shall survive the expiration of or early termination of the Lease Term.

13.2 Waiver of Claims. Lessee waives any claims against Town for injury to Lessee's business or any loss of income therefrom, for damage to Lessee's property, or for injury or death of any person in or about the Premises or the Town Property, from any cause whatsoever, except to the extent caused by Town's active negligence or willful misconduct.

## 14. DAMAGE, DESTRUCTION AND TERMINATION

14.1 Force Majeure. Prevention, delay or stoppage due to strikes, lockouts, labor disputes, Acts of God, inability to obtain labor, inability to obtain materials or reasonable substitutes, governmental restrictions, governmental regulation, governmental controls, judicial orders,

enemy or hostile governmental actions, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Lessee (financial inability excepted), shall excuse the performance by Lessee for a period equal to the prevention, delay, or stoppage, except the obligations imposed with regard to rent to be paid by Lessee pursuant to this Lease. In the event any work performed by Lessee or Lessee's contractors results in a strike, lockout, and/or labor dispute, the strike, lockout, and/or labor dispute shall not excuse the performance by Lessee of the provisions of this Lease.

**14.2 Restoration of Premises Termination.** If, during the term of the Lease, the Premises are totally or partially destroyed, rendering the Premises totally or partially inaccessible or unusable, Lessor may restore the Premises to substantially the same condition as it was in immediately before destruction, whether or not the insurance proceeds are sufficient to cover the actual cost of restoration. Either party can also choose to terminate this Lease by giving reasonable notice to the other party.

## **15. SIGNS AND MARKETING.**

15.1 Lessee shall not place, construct, maintain, or allow any signs affixed to the building or to the exterior of the Premises without prior written consent of the Town following Town Council review and approval. Lessee shall submit an application to the Community Development Department and, be obligated to pay all costs associated with any application process required to obtain approval for any signs.

15.2 Lessee shall not place, construct, maintain, or allow any other signs, including minor ones, visible to the exterior of the Premises without prior written consent of the Town Manager. Lessee shall submit an application to the Community Development Department and, be obligated to pay all costs associated with any application process required to obtain approval for any signs. Exterior or otherwise visible signage shall be subject to the Town's naming policy and donation policy.

15.3 Town shall include references to Lessee on signs and marketing programs prepared by or for Town in association with Lessee's operations on the Premises.

## **16. ASSIGNMENT AND SUBLETTING.**

16.1 Town's Consent Required. Lessee shall not assign this Lease, nor any interest therein, and shall not sublet or encumber the Premises or any part thereof, nor any right or privilege appurtenant thereto, nor allow or permit any other person(s) to occupy or use the Premises, or any portion thereof, without the prior written consent of Town. This Lease shall be binding upon any permitted assignee or successor of Lessee. Consent by Town to one assignment, subletting, occupation or use by another person shall not be deemed to be consent to any subsequent assignment, subletting, occupation or use by another person. No assignment, subletting, or encumbrance by Lessee shall release it from or in any way alter any of Lessee's obligations under this Lease. Lessee may have the Premises delivered to a subsidiary company of Lessee, but such arrangement shall in no way alter Lessee's

responsibilities hereunder with respect to the Premises. Any assignment, subletting, encumbrances, occupation, or use contrary to the provisions of this Lease shall be void and shall constitute breach of this Lease. Town may assign any of its rights hereunder without notice to Lessee.

16.2 No Release of Lessee. No subletting or assignment as approved by Town shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to pay the rent and to perform all other obligations by Lessee hereunder. The acceptance of rent by Town from any other person shall not be deemed to be a waiver by Town of any provision hereof. In the event of default by any assignee of Lessee or any successor of Lessee in the performance of any of the terms hereof, Town may proceed directly against Lessee without the necessity of exhausting remedies against said assignee.

## 17. **DEFAULTS; REMEDIES.**

17.1 Defaults. The occurrence of any one or more of the following events shall constitute a material default, or breach of this Lease, by Lessee:

17.1.1 Abandonment of the Premises by Lessee as defined by California Civil Code section 1951.3;

17.1.2 Failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as provided in this Lease, where such failure shall continue for a period of ten (10) business days after written notice thereof from Town to Lessee. In the event Town serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph;

17.1.3 Failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease in any material respect where such failure shall continue for a period of thirty (30) days after written notice thereof from Town to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion;

17.1.4 Making by Lessee of any general arrangement or assignment for the benefit of creditors; Lessee's becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); the appointment of a bankruptcy trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease where possession is not restored to Lessee within thirty (30) days; or the attachment, execution or other judicial seizure of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.

17.1.5 Failure to make the Funding Commitment payments as required under this Lease Agreement for a period of six (6) months or more.

17.2 Remedies. In the event of any material default or breach by Lessee, Town may at any time thereafter, following any notice required by statute, and without limiting Town in the exercise of any right or remedy which Town may have by reason of such default or breach:

17.2.1 Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises and Improvements to Town. In such event, Town shall be entitled to recover from Lessee all damages incurred by Town by reason of Lessee's default including but not limited to: the cost of recovering possession of the Premises and Improvements; expenses of reletting, including necessary renovation and alteration of the Premises and Improvements; reasonable attorneys' fees; the worth at the time of the award of the unpaid rent that had been earned at the time of termination of this Lease and the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.

17.2.2 Maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event, Town shall be entitled to enforce all of Town's rights and remedies under this Lease, including the right to recover rent and other payments as they become due hereunder.

17.2.3 Pursue any other remedy now or hereafter available to Town under the laws or judicial decisions of the State of California. Town shall have all remedies provided by law and equity.

17.3 No Relief from Forfeiture After Default. Lessee waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure sections 1174 and 1179, and any other present or future law, in the event Lessee is evicted or Town otherwise lawfully takes possession of the Premises by reason of any default or breach of this Lease by Lessee.

17.4 Disposition of Abandoned Personal Property. If the Lessee fails to remove any personal property belonging to Lessee from the Premises after forty-five (45) days of the expiration or termination of this Lease, such property shall at the option of Town be deemed to have been transferred to Town. Town shall have the right to remove and to dispose of such property without liability to Lessee or to any person claiming under Lessee, and the Town shall have no need to account for such property.

## **18. INTEREST ON PAST-DUE OBLIGATIONS.**

Except as expressly provided herein, any amount due Town when not paid when due shall bear interest at the lesser of ten percent (10%) per year or the maximum rate then allowable by law from



the date due.

## **19. HOLDING OVER.**

If Lessee remains in possession of the Premises or any part thereof after the expiration of the term or option term hereof, such occupancy shall be a tenancy from month to month with all the obligations of this Lease applicable to Lessee and at a monthly rental obligation at the market rate in effect at the time of expiration. Nothing contained in this Lease shall give to Lessee the right to occupy the Premises after the expiration of the term, or upon an earlier termination for breach.

## **20. TOWN'S ACCESS.**

20.1 Access for Inspection. Town and Town's agents shall have the right to enter the Premises at reasonable times, upon not less than twenty-four (24) hours prior notice to Lessee, for the purpose of inspecting same, showing same to prospective purchasers, lenders or lessees, and making such alterations, repairs, improvements, or additions to the Premises as Town may deem necessary.

20.2 Intentionally omitted

20.3 New Locks. Lessee may not install new locks on any doors without the express written consent of the Town. Lessee shall advise Town of such action and shall provide Town with keys to said locks. Lessee shall also deliver to Town the old locks with keys. Upon termination, Lessee shall leave new locks that shall become the property of Town.

## **21. INSURANCE.**

Lessee shall purchase and maintain in full force and effect during the entire term of this Lease insurance coverage in amounts and in a form acceptable to Town as set forth in Exhibit B attached hereto and incorporated herein by reference.

Lessee shall be responsible for all losses incurred for any reason of its personal property or contents on Premises. Lessee may want to consider securing renter's liability insurance.

Lessee shall deposit with the Town Manager, on or before the effective date of this Lease, certificates of insurance necessary to satisfy Town that the insurance provisions of this Lease have been complied with, and to keep such insurance in effect and the certificates therefore on deposit with Town during the entire term of this Lease. Should Lessee not provide evidence of such required coverage at least three (3) days prior to the expiration of any existing insurance coverage, Town may purchase such insurance, on behalf of and at the expense of Lessee to provide six months of coverage.

Town shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the Town's Risk Manager (or comparable official), the insurance provisions in this Lease do not provide adequate protection for Town and for members of the public using the Premises, the Town Manager may require Lessee to obtain insurance sufficient

in coverage, form, and amount to provide adequate protection as determined by the Risk Manager. Town's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk that exists at the time a change in insurance is required.

The Town Manager or designee shall notify Lessee in writing of changes in the insurance requirements. If Lessee does not deposit copies of acceptable insurance policies with Town incorporating such changes within sixty (60) days of receipt of such notice, or in the event Lessee fails to maintain in effect any required insurance coverage, Lessee shall be in default under this lease without further notice to Lessee. Such failure shall constitute a material breach and shall be grounds for immediate termination of this Lease at the option of Town.

The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification provision and requirements of this Lease. Notwithstanding the policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Lease or with use or occupancy of the Premises.

## **22. DISPUTE RESOLUTION.**

22.1 Unless otherwise mutually agreed to, any controversies between Lessee and Town regarding the construction or application of this Lease, and claims arising out of this Lease or its breach shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

22.2 The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Lease.

22.3 The costs of mediation shall be borne by the Parties equally.

22.4 Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation arising out of any dispute related to this Lease, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

## **23. NON-LIABILITY OF OFFICIALS AND EMPLOYEES OF THE TOWN.**

No official or employee of Town shall be personally liable for any default or liability under this agreement.

## **24. NON-DISCRIMINATION**

26.1 Non-discrimination in Lease Activities. Lessee agrees that in the performance of this Lease and in connection with all of the activities Lessee conducts on the Premises, it shall not discriminate, harass, or retaliate against any person or class of persons regardless of

race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, religion, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation, and military or veteran status, or any other consideration made unlawful by local, State or Federal law. Tenant shall make its accommodations and services available to all persons on equal and reasonable terms.

**25. INDEPENDENT CONTRACTOR.**

It is agreed that Lessee shall act and be an independent contractor and not an agent nor employee of Town.

**26. CONFLICT OF INTEREST.**

Lessee shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Lease. Lessee warrants and covenants that no official or employee of Town nor any business entity in which any official or employee of Town is interested: (1) has been employed or retained to solicit or aid in the procuring of this agreement; or (2) will be employed in the performance of this Lease without the divulgence of such fact to Town. In the event that Town determines that the employment of any such official, employee or business entity is not compatible with such official's or employee's duties as an official or employee of Town, Lessee upon request of Town shall immediately terminate such employment. Violation of this provision constitutes a serious breach of this Lease and Town may terminate this Lease as a result of such violation.

**27. ESTOPPEL CERTIFICATE.**

Lessee shall, from time to time, upon at least thirty (30) days prior written notice from Town, execute, acknowledge and deliver to Town a statement in writing: (i) certifying this Lease is unmodified and in full force and effect, or, if modified, stating the nature of the modification and certifying that the Lease, as modified, is in full force and effect, and the date to which the rental and other charges, if any, have been paid; and, (ii) acknowledging that there are not to Lessee's knowledge, any defaults, or stating if any defaults are claimed, any statement may be relied upon by any prospective purchaser or encumbrance of the Town Property. Lessee's failure to deliver such statements within such time shall be conclusive upon the Lessee that this Lease is in full force and effect, except as and to the extent any modification has been represented by Town, and that there are no uncured defaults in Town's performance.

**28. LIENS.**

Lessee agrees at its sole cost and expense to keep the Premises free and clear of any and all claims, levies, liens, encumbrances or attachments.

**29. VACATING.**

Upon termination of the tenancy, Lessee shall completely vacate the Premises, including the removal of any and all of its property. Before departure, Lessee shall return keys and personal property listed on the inventory to Town in good, clean and sanitary condition, reasonable wear and tear excepted. Lessee shall allow Town to inspect the Premises to verify the condition of the Premises and its contents.

**30. ABANDONMENT.**

Lessee's absence from the Premises for three (3) consecutive days, without prior notice, during which time rent or other charges are delinquent, shall be deemed abandonment of the Premises. Such abandonment will be deemed cause for immediate termination without notice. Town shall thereupon be authorized to enter and take possession and to remove and dispose of the property of Lessee or its guests without any liability whatsoever to Town.

**31. NOTICES.**

All notices to the Parties shall, unless otherwise requested in writing, be sent to Town addressed as follows:

Town of Los Gatos  
Attention: Town Manager  
110 E. Main Street  
Los Gatos, CA 95030

And to Lessee addressed as follows:

Friends of the Los Gatos Public Library  
Attn: Friends of the Library President  
100 Villa Ave.  
Los Gatos, CA 95030

Notices may be served upon Lessee in person, by first class mail, or by certified mail whether or not said mailing is accepted by Lessee. If notice is sent via facsimile or e-mail, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday. These addresses shall be used for service of process.

**32. TIME.**

Time shall be of the essence in this Lease.

**33. AMENDMENTS.**

It is mutually agreed that no oral Leases have been entered into and that no alteration or variation of the terms of this Lease shall be valid unless made in writing and signed by the Parties to this Lease.

**34. SIGNING AUTHORITY.**

If this Lease is not signed by all Lessees named herein, the person actually signing warrants that he/she has the authority to sign for the others.

**35. CAPTIONS.**

The captions of the various sections, paragraphs and subparagraphs of this Lease are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

**36. SURRENDER OF LEASE NOT MERGER.**

The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Town, terminate all or any existing subleases or subtenancies, or may, at the option of Town, operate as an assignment of any and all such subleases or subtenancies.

**37. INTEGRATED DOCUMENT.**

This Lease, including any exhibits attached hereto, embodies the entire agreement between Town and Lessee. No other understanding, agreements, conversations or otherwise, with any officer, agent or employee of Town prior to execution of this Lease shall affect or modify any of the terms or obligations contained in any documents comprising this Lease. Any such verbal agreement shall be considered as unofficial information and in no way binding upon Town. All agreements with Town are subject to approval of the Town Council before Town shall be bound thereby.

**38. WAIVER.**

Waiver by Town of one or more conditions of performance or any breach of a condition under this Lease shall not be construed as a waiver of any other condition of performance or subsequent breaches. The subsequent acceptance by a Party of the performance of any obligation or duty by another Party shall not be deemed to be a waiver of any term or condition of this Lease. The exercise of any remedy, right, option or privilege hereunder by Town shall not preclude Town from exercising the same or any and all other remedies, rights, options and privileges hereunder and Town's failure to exercise any remedy, right, option or privilege at law or equity, or otherwise which Town may have, shall not be construed as a waiver.

**39. INTERPRETATIONS.**

In construing or interpreting this Lease, the word "or" shall not be construed as exclusive and the word "including" shall not be limiting. The Parties agree that this Lease shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against any other Party.

**40. SEVERABILITY CLAUSE.**

If any provision of this Lease is held to be illegal, invalid or unenforceable in full or in part, for any reason, then such provision shall be modified to the minimum extent necessary to make the provision legal, valid and enforceable, and the other provisions of this Lease shall not be affected thereby.

**41. GOVERNING LAW.**

This Lease shall be governed and construed in accordance with the statutes and laws of the State of California.

**42. VENUE.**

In the event that suit shall be brought by any Party to this Lease, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara.

**43. COMPLIANCE WITH LAWS.**

The Parties hereto shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments in the performance of their rights, duties and obligations under this Lease.

**44. BROKERS.**

Each party represents that neither has had dealings with any real estate broker, finder, or other person, with respect to this lease in any manner. Each Party shall hold harmless the other party from all damages resulting from any claims that may be asserted against the other party by any broker, finder, or other person with whom the Indemnifying Party has or purportedly has dealt.

**45. ATTACHMENTS TO LEASE.**

The following exhibits are attached to and made a part of this Agreement:

“A” – Description of Subject Premises

“B” – Standard Insurance Requirements

IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

**TOWN:**

TOWN OF LOS GATOS (LESSOR)

**TENANT:**

FRIENDS OF THE LOS GATOS  
PUBLIC LIBRARY

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_  
, President

**ATTEST:**

\_\_\_\_\_  
Wendy Wood, Town Clerk

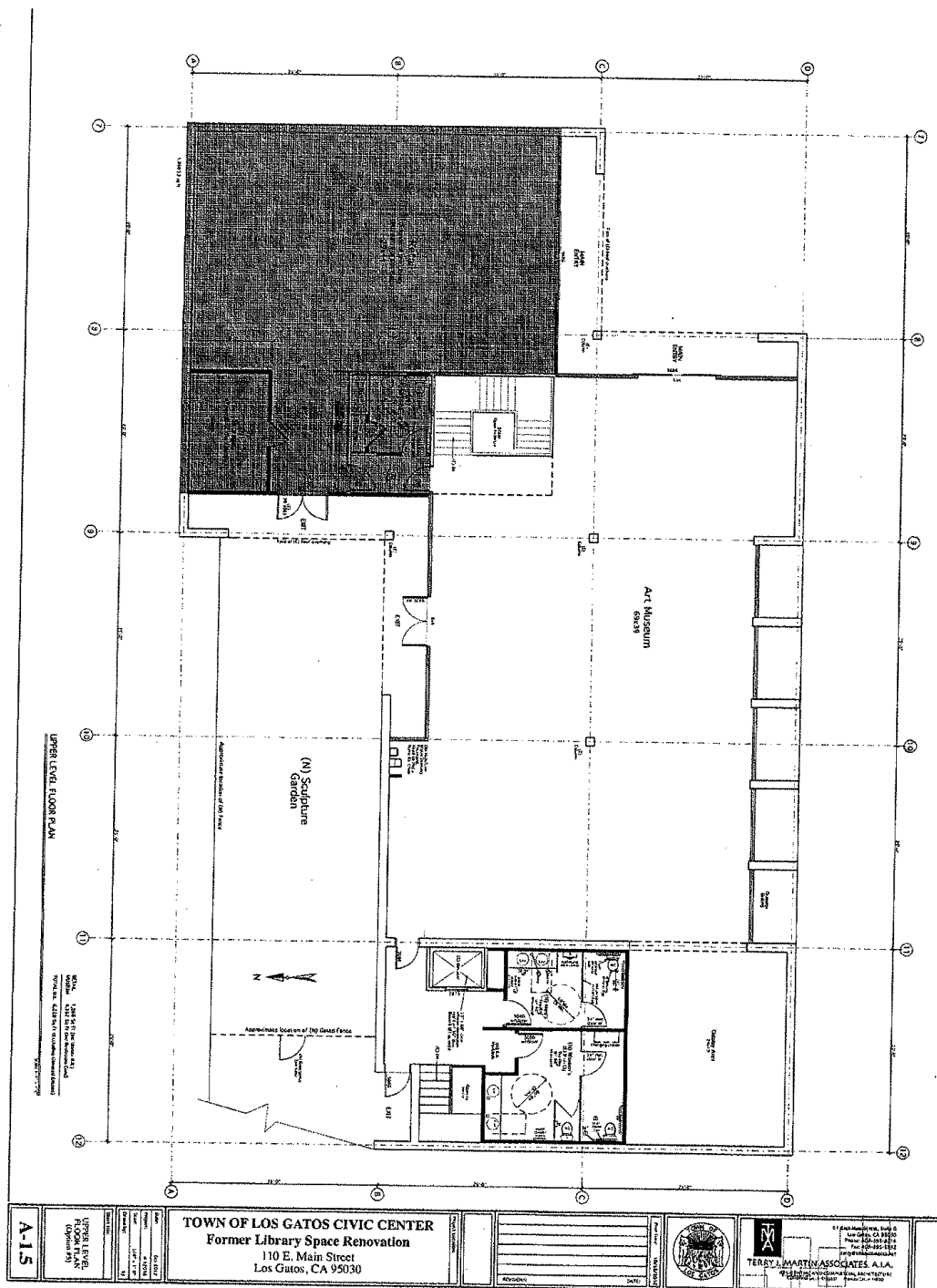
**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney

**LEASE AGREEMENT**  
**BETWEEN**  
**TOWN OF LOS GATOS**  
**AND**  
**FRIENDS OF THE LOS GATOS PUBLIC LIBRARY**  
**EXHIBIT A**

**DESCRIPTION OF SUBJECT PREMISES**





**LEASE AGREEMENT BY AND BETWEEN TOWN OF LOS GATOS, CALIFORNIA  
AND  
FRIENDS OF THE LIBRARY**

**EXHIBIT B  
INSURANCE REQUIREMENTS**

Upon executing this Lease Agreement, Tenant shall procure and maintain for the duration of the Lease and for so long as may be necessary to fully protect Landlord, insurance against claims for injuries to persons and/or damages to property which may arise from or in connection with the Tenant's operations on, access to, and/or use of the Premises and Property. The cost of such insurance shall be borne by the Tenant.

**A. CERTIFICATE REQUIREMENTS**

The Town will be issued a Certificate of Insurance (a Memorandum of Understanding will not be accepted) with the following minimum requirements:

- Certificate(s) will show current policy number(s) and effective dates,
- Coverage and policy limits will meet, or exceed, requirements below,
- The Certificate Holder will be Town of Los Gatos, 110 E Main Street, Los Gatos, CA 95030,
- Certificate will be signed by an authorized representative,
- An endorsement, if required below, will be provided to show the Town, its officers, officials, employees, and volunteers as additional insureds, and
- Coverages must be maintained during the term of the Lease with the Town, unless a longer duration is required.

**B. MINIMUM SCOPE AND LIMIT OF INSURANCE**

Tenant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. If Tenant maintains broader insurance coverage and/or higher limits than the minimums shown below, Landlord shall be entitled to the broader insurance coverage and/or higher limits maintained by Tenant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Landlord.

Coverage shall be at least as broad as the following:

1. **Commercial General Liability (CGL):** During the term of this Lease, including any extensions or renewals thereof, Tenant, at its sole cost, shall keep in full force and effect a policy of standard form commercial general liability insurance, including coverage for contractual liability, personal injury, property damage, products liability, acts of independent contractors, with a single combined liability limit of not less than **One Million Dollars (\$1,000,000.00) per occurrence; Two Million Dollars (\$2,000,000) in the aggregate**, for bodily injury and property damage insuring against all liability of Tenant and its employees, agents, representatives, subtenants, assignees and concessionaires arising out of and in connection with Tenant's use or occupancy of the Premises.

The liability insurance policy required herein shall insure Tenant's performance of the indemnity provisions of this Lease, and **Landlord, and its officials, officers, employees, and agents shall be named as additional insureds with cross-liability endorsements.** The Landlord, and any person, firms or corporations designated by Landlord, by reason of their inclusion under said policy, shall not incur liability for payment of any premium for any policy of insurance required herein. If available, any policy of insurance required herein shall contain a provision requiring the insurer to give the Landlord **thirty (30) days' prior written notice before canceling or changing any such coverage.**

2. **Automobile Liability:** Tenant shall procure automobile insurance on an "Any Auto" Basis: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 combined single limit each occurrence/per accident for bodily injury and property damage.
3. **Workers' Compensation and Employer's Liability Insurance.** Tenant shall obtain policies as required by applicable law against liability arising on account of injuries or death to workers or employees on the Premises or any improvement of Tenant. Such workers' compensation insurance shall be in amounts at least equal to the maximum liability of Tenant, its agents, and contractors under the Workers' Compensation Insurance and Safety Act of the State of California and the Federal Longshore and Harbor Workers' Compensation Act, as applicable. Tenant shall also maintain Employer's Liability insurance with limits no less than **One Million Dollars (\$1,000,000) per accident for bodily injury or disease, \$1,000,000 disease – policy limit, \$1,000,000 disease – each employee.** Such insurance shall include a waiver of subrogation in favor of Landlord.
4. **Property Insurance**  
 Tenant shall, at Tenant's sole expense, obtain and keep in full force and effect an insurance policy covering all of Tenant's personal property, trade fixtures, equipment and merchandise located in or upon the leased Premises, and including tenant improvements and betterments in an amount sufficient to cover not less than **one hundred percent (100%) of the replacement value** of the personal property. Tenant shall be solely responsible for any uninsured loss or damage caused to Tenant's personal property, trade fixtures, equipment and merchandise located in or upon the leased Premises for any reason.

#### C. **OTHER INSURANCE PROVISIONS**

1. **Primary Coverage:**  
 For any claims related to this Lease, the Tenant's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the Town, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Landlord, its officers, officials, employees, or volunteers shall be excess of the Tenant's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability

policies.

**2. Insurance Limits, Rating, and Proof of Coverages:**

All insurance policies required hereunder shall be issued by an insurance company having not less than a financial rating of Class A VIII or better as rated in the most current available Best's Key Rating Guide.

Prior to the commencement of the term of this Lease, Tenant shall provide Landlord with evidence of any insurance policies required herein and shall continue to provide such evidence of insurance upon the request of Landlord during the remaining term of this Lease, including all extensions and renewals thereto. All public liability, property damage and other casualty policies shall be written as primary policies, not contributing with and not in excess of coverage which the Landlord may carry.

**3. Review of Coverage:**

Landlord may increase or decrease the amount of commercial general liability insurance and other policies required herein, based upon a general review by Landlord of the standard insurance requirements. Changes in insurance amounts shall occur not more frequently than once a year. Landlord will notify Tenant of any changes under this provision of this Lease. Landlord may also require Tenant's contractor or subcontractor to obtain insurance sufficient in coverage, form and amount to provide adequate protection for Landlord, Tenant, and/or those using the Premises or Property.

**4. Contractors:**

Tenant shall require and verify that all contractors and subcontractors maintain insurance meeting all the requirements stated herein, and Tenant shall ensure that Town, its officers, officials, employees, agents, and volunteers are named as additional insureds on insurance required from its contractor(s) and subcontractor(s).

**D. SPECIAL RISKS/CIRCUMSTANCES**

Landlord reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances and provide notice to Tenant.





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 6.

ITEM NO: 6

---

DATE: June 13, 2024

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218):

- a. Award and Authorize the Town Manager to Execute a Contract with Sposeto Engineering Inc. in an Amount Not to Exceed \$2,115,930.50;
- b. Authorize the Town Manager to Execute Change Orders in an Amount Not to Exceed Ten Percent (10%) of the Contract Award Amount (\$211,593);
- c. Approve the Project Construction Plans with Addenda as Required by Government Code 830.6 – Design Immunity;
- d. Authorize an Expenditure Budget Increase From Storm Drain Basin #1 Funds in an Amount of \$447,717; and
- e. Authorize an Expenditure Budget Decrease of Underground Utility Funds in an Amount of \$48,003.

**RECOMMENDATION:**

Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218):

- a. Award and authorize the Town Manager to execute a contract with Sposeto Engineering Inc. in an amount not to exceed \$2,115,930.50;
- b. Authorize the Town Manager to execute change orders in an amount not to exceed ten percent (10%) of the contract award amount (\$211,593);
- c. Approve the project construction plans with addenda as required by Government Code 830.6 – Design Immunity;
- d. Authorize an expenditure budget increase from Storm Drain Basin #1 Funds in an amount of \$447,717; and
- e. Authorize an expenditure budget decrease of Underground Utility Funds in an amount of \$48,003.

**PREPARED BY:** Gary Heap  
Town Engineer

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

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SUBJECT: Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218)

DATE: June 13, 2024

**BACKGROUND:**

The Shannon Road Pedestrian and Bikeway Improvements Project is intended to provide pedestrian and bicycle safety improvements on Shannon Road between Los Gatos Boulevard and Cherry Blossom Lane. This segment of Shannon Road is a two-lane neighborhood collector street with high volumes of bicycle and pedestrian traffic when schools are in session. The street is a popular route for students attending Blossom Hill Elementary, Louise Van Meter Elementary, and Raymond J. Fisher Middle Schools. There are intermittent sections of sidewalk on both sides of the roadway. Currently, on-street parking is not allowed on Shannon Road between 7 a.m. and 6 p.m., except on Saturdays, Sundays, and holidays.

**DISCUSSION:**

The project was advertised for bid on Friday, May 3, 2024. On May 29, 2024, bid packages were opened and three contractors submitted bids. A summary of bid results is presented in Table 1 (with a detailed list on Attachment 2). The contract is recommended to be awarded to Sposeto Engineering Inc. as the apparent low and responsive bidder.

The engineer's estimate for the project was \$1,873,920. Bids received were higher than expected. This is due to the bidder's unit prices being higher than expected for most bid items, with the exception of the drainage piping which was much higher. The California Construction Cost Index (CCCI) for the San Francisco Bay Area indicates that construction prices are continuing to rise throughout the area. As such, staff does not believe that rebidding the project would change yield pricing that is consistent with the Engineers Estimate.

**Table 1. Bid Summary for Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218)**

BIDDER NAME	BASE BID
Sposeto Engineering Inc	\$2,115,930.00
Redgewick Construction Co	\$2,192,202.50
Galeb Paving Inc	\$2,451,454.47

Government Code 830.6 – Design Immunity states that neither a public entity nor a public employee is liable under this chapter for an injury caused by the plan or design of a construction of, or an improvement to, public property where such plan or design has been approved in advance of the construction or improvement by the legislative body. The project

PAGE 3 OF 4

SUBJECT: Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218)

DATE: June 13, 2024

DISCUSSION (continued):

construction plans can be found at the following link: <https://www.losgatosca.gov/108/Capital-Improvement-Program>.

CONCLUSION:

Staff recommends awarding and executing an agreement with Sposeto Engineering, Inc. for \$2,115,930.50. Staff also requests that Town Council formally approve the construction plans, bid documents, and addenda.

COORDINATION:

This project has been coordinated with the Finance Department.

FISCAL IMPACT:

Shannon Road Pedestrian and Bikeway Improvements		
CIP No. 813-0218		
	Budget	Costs
GFAR	\$ 740,296.49	
OBAG Grant	\$ 940,100.00	
TFCA Grant	\$ 174,250.00	
Storm Basin #1	\$ 200,000.00	
Budget Increase from Storm Basin #1 Funds (Requested with this Staff Report)	\$ 447,717.00	
Traffic Mitigation	\$ 133,380.00	
Underground Utility Funds	\$ 119,204.00	
Budget Decrease of Underground Utility Funds (Requested with this Staff Report)	\$ (48,003.00)	
<b>Total Budget</b>	<b>\$ 2,706,944</b>	
Prior Expenses Including Encumbrances		\$ 369,421
Construction Agreement with Sposeto Engineering Inc. (Requested with this Staff Report)		\$ 2,115,930
Construction Contingency (Requested with this Staff Report)		\$ 211,593
Temporary/Part-Time Staff		\$ 10,000
<b>Total Expenditures</b>		<b>\$ 2,706,944</b>
<b>Remaining Budget</b>		<b>\$0</b>



PAGE 4 OF 4

SUBJECT: Shannon Road Pedestrian and Bikeways Improvement Project (CIP No. 813-0218)

DATE: June 13, 2024

FISCAL IMPACT (continued):

The original project budget included funding for utility undergrounding. Efforts were made towards utility undergrounding; however, relocation of the existing utility poles is what was determined to be the best course of action. Underground Utility Funds were used for the PG&E application for this project. As the project will only relocate existing utility poles and not actually accomplish any utility undergrounding, staff is requesting that the remainder of these underground funds be removed from the project and reallocated back to the Utility Undergrounding Fund.

Additional funding from the Storm Drain Funds will be used to cover the shortage of project funding as there are more than \$700,000 in storm drainage improvements being constructed with the project.

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA and is Categorically Exempt (Section 15301(c)). A Notice of Exemption has been filed.

Attachments:

1. Construction Agreement with Exhibit A – Bid Summary
2. Bid Summary

## Contract

This public works contract ("Contract") is entered into by and between Town of Los Gatos ("Town") and Sposeto Engineering Inc. ("Contractor"), for work on the Shannon Road Pedestrian and Bikeway Improvement Project, TLG Project #813-0218 – Federal Project #CML-5067(024) ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On June 18, 2024, Town authorized award of this Contract to Contractor for the amount set forth in Section 4, below. Town has elected to include the following Project alternate(s) in the Contract: No alternates.
  
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract.
  - 2.1 Notice Inviting Bids;
  - 2.2 Instructions to Bidders;
  - 2.3 Addenda, if any;
  - 2.4 Bid Proposal and attachments thereto;
  - 2.5 Contract;
  - 2.6 Payment and Performance Bonds;
  - 2.7 General Conditions;
  - 2.8 Special Conditions;
  - 2.9 Project Plans and Specifications;
  - 2.10 Change Orders, if any;
  - 2.11 Notice of Potential Award;
  - 2.12 Notice to Proceed; and
  - 2.13 The following: No additional documents.
  
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

ATTACHMENT 1

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, Town will pay Contractor \$2,115,930.50 ("Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project, meeting all requirements for Final Completion, within (95) ninety-five working days from the start date set forth in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** As further specified in Section 5.4 of the General Conditions, if Contractor fails to complete the Work within the Contract Time, Town will assess liquidated damages in the amount of \$2,850 per day for each day of unexcused delay in achieving Final Completion, and such liquidated damages may be deducted from Town's payments due or to become due to Contractor under this Contract.
7. **Labor Code Compliance.**
  - 7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance, as further specified in Article 9 of the General Conditions.
  - 7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
  - 7.3 **DIR Registration.** Town may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.
8. **Workers' Compensation Certification.** Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

- 9. Conflicts of Interest.** Contractor, its employees, Subcontractors, and agents may not have, maintain, or acquire a conflict of interest in relation to this Contract in violation of any Town ordinance or requirement, or in violation of any California law, including Government Code § 1090 et seq., or the Political Reform Act, as set forth in Government Code § 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.
- 10. Independent Contractor.** Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of Town and are not entitled to participate in any health, retirement, or any other employee benefits from Town.
- 11. Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

**Town:**

Finance Department  
 Town of Los Gatos  
 110 E. Main St.  
 Los Gatos, CA 95030  
 AP@losgatosca.gov

Copy to: Gary Heap, Town Engineer  
 gheap@losgatosca.gov

**Contractor:**

Name: Sposeto Engineering  
 Address: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Attn: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Copy to: \_\_\_\_\_

**12. General Provisions.**

- 12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without Town's written consent. This

Contract is binding on Contractor's and Town's lawful heirs, successors and permitted assigns.

- 12.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract.
- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Santa Clara County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Santa Clara County, California.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between Town and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Iran Contracting Act.** If the Contract Price exceeds \$1,000,000, Contractor certifies, by signing below, that it is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the "Act"), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.
- 12.8 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporations Code § 313.

*[Signatures are on the following page.]*

The parties agree to this Contract as witnessed by the signatures below:

**CITY:**

Approved as to form:

s/\_\_\_\_\_

s/\_\_\_\_\_

Laurel Prevetti, Town Manager

Gabrielle Whelan, Town Attorney

Name, Title

Name, Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

s/\_\_\_\_\_

Wendy Wood, CMC, Town Clerk

Name, Title

Date: \_\_\_\_\_

**CONTRACTOR:** Sposeto Engineering Inc.  
Business Name

s/\_\_\_\_\_

Seal:

\_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

Second Signature (See Section 12.8):

s/\_\_\_\_\_

\_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

\_\_\_\_\_  
Contractor's California License Number(s) and Expiration Date(s)

END OF CONTRACT

## Payment Bond

Town of Los Gatos ("Town") and Sposeto Engineering Inc. ("Contractor") have entered into a contract for work on the Shannon Road Pedestrian and Bikeway Improvement Project, TLG Project #813-0218 – Federal Project #CML-5067(024) ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and \_\_\_\_\_, its surety ("Surety"), are bound to Town as obligee in an amount not less than \$\_\_\_\_\_, under California Civil Code § 9550 et seq., to ensure payment to authorized claimants. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay a person authorized in California Civil Code § 9100 to assert a claim against a payment bond, any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors under California Unemployment Insurance Code § 13020 with respect to the work and labor, then Surety will pay the obligation.
3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code § 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.
4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845. Town waives the requirement of a new bond for any supplemental contract under Civil Code § 9550. Any notice to Surety may be given in the manner specified in the Contract and sent to Surety as follows:

Attn: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_



6. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Santa Clara County Superior Court, and no other place. Surety will be responsible for Town's attorneys' fees and costs in any action to enforce the provisions of this Bond.

*[Signatures are on the following page.]*

**7. Effective Date; Execution.** This Bond is entered into and is effective on \_\_\_\_\_,  
20\_\_.

**SURETY:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**CONTRACTOR:**

\_\_\_\_\_  
Business Name

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

**APPROVED BY TOWN:**

s/ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name, Title

END OF PAYMENT BOND

## Performance Bond

**Town of Los Gatos** ("Town") and **Sposeto Engineering Inc.** ("Contractor") have entered into a contract for work on the **Shannon Road Pedestrian and Bikeway Improvement Project, TLG Project #813-0218 – Federal Project #CML-5067(024)** ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and \_\_\_\_\_, its surety ("Surety"), are bound to Town as obligee for an amount not less than \$\_\_\_\_\_ to ensure Contractor's faithful performance of its obligations under the Contract. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligations.** Surety's obligations are co-extensive with Contractor's obligations under the Contract. If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void. Otherwise, Surety's obligations will remain in full force and effect.
3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845.
4. **Application of Contract Balance.** Upon making a demand on this Bond for completion of the Work prior to acceptance of the Project, Town will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by Town to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which Town is entitled under the terms of the Contract.
5. **Contractor Default.** Upon written notification from Town of Contractor's termination for default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
  - 5.1 Arrange for completion of the Work under the Contract by Contractor, with Town's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;
  - 5.2 Arrange for completion of the Work under the Contract by a qualified contractor acceptable to Town, and secured by performance and payment bonds issued by

an admitted surety as required by the Contract Documents, at Surety's expense;  
or

**5.3** Waive its right to complete the Work under the Contract and reimburse Town the amount of Town's costs to have the remaining Work completed.

**6. Surety Default.** If Surety defaults on its obligations under the Bond, Town will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.

**7. Notice.** Any notice to Surety may be given in the manner specified in the Contract and sent to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**8. Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Santa Clara County Superior Court, and no other place. Surety will be responsible for Town's attorneys' fees and costs in any action to enforce the provisions of this Bond.

**9. Effective Date; Execution.** This Bond is entered into and effective on \_\_\_\_\_, 20\_\_\_\_.

**SURETY:**

---

Business Names/ 

---

---

Date

---

Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**CONTRACTOR:**

---

Business Names/ 

---

---

Date

---

Name, Title**APPROVED BY TOWN:**s/ 

---

---

Date

---

Name, Title

END OF PERFORMANCE BOND



### Bid Schedule

This Bid Schedule must be completed in ink and included with the sealed Bid Proposal. Pricing must be provided for each Bid Item as indicated. Items marked "(SW)" are Specialty Work that must be performed by a qualified Subcontractor. The lump sum or unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the "Extended Total Amount" column must be identical to the Base Bid price entered in Section 1 of the Bid Proposal form.

AL = Allowance      CF = Cubic Feet      CY = Cubic Yard      EA = Each      LB = Pounds  
 LF = Linear Foot      LS = Lump Sum      SF = Square Feet      TON = Ton (2000 lbs)

BID ITEM NO.	ITEM DESCRIPTION	EST. QTY.	UNIT	UNIT COST	EXTENDED TOTAL AMOUNT
1	Traffic Control	1	LS	148,000.00	\$ 148,000.00
2	Changeable Message Sign	2	EA	8,000.00	\$ 16,000.00
3	Construction Staking and Layout	1	LS	20,000.00	\$ 20,000.00
4	Tree Protection	1	LS	3,600.00	\$ 3,600.00
5	Adjust Storm Manhole to Grade	2	EA	2,100.00	\$ 4,200.00
6	Adjust Survey Monument to Grade	2	EA	600.00	\$ 1,200.00
7	Adjust Electric Pullbox	1	EA	290.00	\$ 290.00
8	Abandon Storm Drain Pipe	94	LF	75.00	\$ 7,050.00
9	Remove Tree	9	EA	1,200.00	\$ 10,800.00
10	Remove Tree Stump	1	EA	250.00	\$ 250.00
11	Remove Concrete Sidewalk & Driveway	2943	SF	8.00	\$ 23,544.00
12	Remove Concrete Curb & Gutter	178	LF	25.00	\$ 4,450.00
13	Remove Concrete Curb	192	LF	21.00	\$ 4,032.00
14	Remove Concrete Valley Gutter	10	LF	60.00	\$ 600.00
15	Remove Brick Wall	60	LF	40.00	\$ 2,400.00
16	Remove Brick Column	5	EA	400.00	\$ 2,000.00
17	Remove Decorative Paver	640	SF	8.00	\$ 5,120.00
18	Remove Drainage Inlet	4	EA	1,400.00	\$ 5,600.00
19	Remove Area Drain	1	EA	400.00	\$ 400.00
20	Remove Existing Sign Panel	5	EA	400.00	\$ 2,000.00
21	Remove Existing Roadside Sign and Sign Panel	20	EA	400.00	\$ 8,000.00
22	Remove Fence	109	LF	18.00	\$ 1,962.00



BID ITEM NO.	ITEM DESCRIPTION	EST. QTY.	UNIT	UNIT COST	EXTENDED TOTAL AMOUNT
23	Remove Mailbox	3	EA	675.00	\$ 2,025.00
24	Remove Base and Surfacing	3071	SY	33.50	\$ 102,878.50
25	Cold Plane Asphalt Concrete Pavement	3221	SY	12.30	\$ 39,618.30
26	Clearing and Grubbing	1	LS	53,560.00	\$ 53,560.00
27	Excavate Unsuitable Material	120	CY	390.00	\$ 46,800.00
28	Imported Topsoil	118	CY	172.00	\$ 20,296.00
29	Tree Procurement & Planting	47	EA	1,924.00	\$ 90,428.00
30	Root Barrier	40	LF	25.00	\$ 1,000.00
31	Hot Mix Asphalt	1251	TON	225.00	\$ 281,475.00
32	Asphalt Crack Sealing	1	LS	16,000.00	\$ 16,000.00
33	Slurry Seal (Black Aggregate)	3150	SY	11.00	\$ 34,650.00
34	Concrete Sidewalk	9448	SF	20.00	\$ 188,960.00
35	Concrete Curb Ramp	865	SF	42.38	\$ 36,658.70
36	Concrete Driveway	3737	SF	30.50	\$ 113,978.50
37	Concrete Curb & Gutter per TLS-ST-210	51	LF	89.00	\$ 4,539.00
38	Concrete Curb & Gutter (MOD)	2809	LF	74.00	\$ 207,866.00
39	Concrete Curb	276	LF	60.00	\$ 16,560.00
40	Drainage Curb Inlet	9	EA	6,800.00	\$ 61,200.00
41	Drainage Manhole on Existing Pipe	1	EA	10,000.00	\$ 10,000.00
42	Drainage Manhole	1	EA	10,000.00	\$ 10,000.00
43	Adjust Inlet	1	EA	3,400.00	\$ 3,400.00
44	Full Trash Capture Device	2	EA	5,700.00	\$ 11,400.00
45	4" PVC Schedule 40	130	LF	38.00	\$ 4,940.00
46	12" Corrugated High Density Polyethylene Pipe (Drainage)	245	LF	335.00	\$ 82,075.00
47	24" Corrugated High Density Polyethylene Pipe (Drainage)	503	LF	557.00	\$ 280,171.00
48 *	Concrete Backfill (Pipe Trench)	5	CY	1,120.00	\$ 5,600.00
49	6" Thermoplastic Traffic Stripe	8115	LF	3.15	\$ 25,562.25
50	6" Thermoplastic Traffic Stripe (Broken)	1525	LF	3.15	\$ 4,803.75
51	4" Thermoplastic Traffic Stripe	299	LF	2.50	\$ 747.50
52	12" Thermoplastic Traffic Stripe	458	LF	7.50	\$ 3,435.00
53	Crosswalk - TLG STD. ST-261 Thermoplastic	105	LF	8.75	\$ 918.75



BID ITEM NO.	ITEM DESCRIPTION	EST. QTY.	UNIT	UNIT COST	EXTENDED TOTAL AMOUNT
54	Pavement Marking - Thermoplastic	582	SF	12.50	\$ 7,275.00
55	Blue Fire Hydrant Marker	3	EA	12.50	\$ 37.50
56	Red-Painted Curb	137	LF	3.75	\$ 513.75
57	Green Bike Lane Marking - Thermoplastic	2818	SF	20.00	\$ 56,360.00
58	Roadside Sign on New Post	20	EA	467.50	\$ 9,350.00
59	Roadside Sign on Existing Post or Luminaire	20	EA	467.50	\$ 9,350.00

\* Final Pay Quantity

TOTAL BASE BID: Items 1 through 59 inclusive: \$ 2,115,930.50

*Note: The amount entered as the "Total Base Bid" should be identical to the Base Bid amount entered in Section 1 of the Bid Proposal form.*

BIDDER NAME: SPOSETO ENGINEERING INC

END OF BID SCHEDULE

PROJECT: 18-813-0218 Shannon Road Pedestrian and Bikeway Improvements				Sposeto Engineering		Redgewick Construction		Galeb Paving	
Bid	Item	Quantity	Type	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost
1	Traffic Control	1	LS	\$ 148,000.00	\$ 148,000.00	\$ 298,745.00	\$ 298,745.00	\$ 141,300.00	\$ 141,300.00
2	Changeable Message Sign	2	EA	\$ 8,000.00	\$ 16,000.00	\$ 1,500.00	\$ 3,000.00	\$ 19,860.00	\$ 39,720.00
3	Construction Staking and Layout	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 35,000.00	\$ 35,000.00	\$ 36,960.00	\$ 36,960.00
4	Tree Protection	1	LS	\$ 3,600.00	\$ 3,600.00	\$ 3,950.00	\$ 3,950.00	\$ 8,245.00	\$ 8,245.00
5	Adjust Storm Manhole to Grade	2	EA	\$ 2,100.00	\$ 4,200.00	\$ 1,600.00	\$ 3,200.00	\$ 1,150.00	\$ 2,300.00
6	Adjust Survey Monument to Grade	2	EA	\$ 600.00	\$ 1,200.00	\$ 1,500.00	\$ 3,000.00	\$ 750.00	\$ 1,500.00
7	Adjust Electric Pullbox	1	EA	\$ 290.00	\$ 290.00	\$ 400.00	\$ 400.00	\$ 1,500.00	\$ 1,500.00
8	Abandon Storm Drain Pipe	94	LF	\$ 75.00	\$ 7,050.00	\$ 73.00	\$ 6,862.00	\$ 101.50	\$ 9,541.00
9	Remove Tree	9	EA	\$ 1,200.00	\$ 10,800.00	\$ 1,000.00	\$ 9,000.00	\$ 2,160.00	\$ 19,440.00
10	Remove Tree Stump	1	EA	\$ 250.00	\$ 250.00	\$ 250.00	\$ 250.00	\$ 3,300.00	\$ 3,300.00
11	Remove Concrete Sidewalk & Driveway	2943	SF	\$ 8.00	\$ 23,544.00	\$ 5.00	\$ 14,715.00	\$ 6.70	\$ 19,718.10
12	Remove Concrete Curb & Gutter	178	LF	\$ 25.00	\$ 4,450.00	\$ 60.00	\$ 10,680.00	\$ 53.40	\$ 9,505.20
13	Remove Concrete Curb	192	LF	\$ 21.00	\$ 4,032.00	\$ 30.00	\$ 5,760.00	\$ 47.50	\$ 9,120.00
14	Remove Concrete Valley Gutter	10	LF	\$ 60.00	\$ 600.00	\$ 130.00	\$ 1,300.00	\$ 200.00	\$ 2,000.00
15	Remove Brick Wall	60	LF	\$ 40.00	\$ 2,400.00	\$ 25.00	\$ 1,500.00	\$ 283.20	\$ 16,992.00
16	Remove Brick Column	5	EA	\$ 400.00	\$ 2,000.00	\$ 200.00	\$ 1,000.00	\$ 1,290.00	\$ 6,450.00
17	Remove Decorative Paver	640	SF	\$ 8.00	\$ 5,120.00	\$ 4.00	\$ 2,560.00	\$ 11.40	\$ 7,296.00
18	Remove Drainage Inlet	4	EA	\$ 1,400.00	\$ 5,600.00	\$ 1,500.00	\$ 6,000.00	\$ 3,250.00	\$ 13,000.00
19	Remove Area Drain	1	EA	\$ 400.00	\$ 400.00	\$ 1,400.00	\$ 1,400.00	\$ 1,000.00	\$ 1,000.00
20	Remove Existing Sign Panel	5	EA	\$ 400.00	\$ 2,000.00	\$ 325.00	\$ 1,625.00	\$ 71.50	\$ 357.50
21	Remove Existing Roadside Sign and Sign Panel	20	EA	\$ 400.00	\$ 8,000.00	\$ 325.00	\$ 6,500.00	\$ 159.50	\$ 3,190.00
22	Remove Fence	109	LF	\$ 18.00	\$ 1,962.00	\$ 30.00	\$ 3,270.00	\$ 64.10	\$ 6,986.90
23	Remove Mailbox	3	EA	\$ 675.00	\$ 2,025.00	\$ 650.00	\$ 1,950.00	\$ 1,000.00	\$ 3,000.00
24	Remove Base and Surfacing	3071	SY	\$ 33.50	\$ 102,878.50	\$ 20.00	\$ 61,420.00	\$ 92.52	\$ 284,128.92
25	Cold Plane Asphalt Concrete Pavement	3221	SY	\$ 12.30	\$ 39,618.30	\$ 12.00	\$ 38,652.00	\$ 9.20	\$ 29,633.20
26	Clearing and Grubbing	1	LS	\$ 53,560.00	\$ 53,560.00	\$ 192,480.00	\$ 192,480.00	\$ 447,081.00	\$ 447,081.00
27	Excavate Unsuitable Material	120	CY	\$ 390.00	\$ 46,800.00	\$ 80.00	\$ 9,600.00	\$ 254.50	\$ 30,540.00
28	Imported Topsoil	118	CY	\$ 172.00	\$ 20,296.00	\$ 100.00	\$ 11,800.00	\$ 213.40	\$ 25,181.20
29	Tree	47	EA	\$ 1,924.00	\$ 90,428.00	\$ 1,625.00	\$ 76,375.00	\$ 1,788.00	\$ 84,036.00
30	Root Barrier	40	LF	\$ 25.00	\$ 1,000.00	\$ 35.00	\$ 1,400.00	\$ 38.50	\$ 1,540.00
31	Hot Mix Asphalt	1251	TON	\$ 225.00	\$ 281,475.00	\$ 238.00	\$ 297,738.00	\$ 158.20	\$ 197,908.20
32	Asphalt Crack Sealing	1	LS	\$ 16,000.00	\$ 16,000.00	\$ 12,800.00	\$ 12,800.00	\$ 41,250.00	\$ 41,250.00
33	Slurry Seal (Black Aggregate)	3150	SY	\$ 11.00	\$ 34,650.00	\$ 8.75	\$ 27,562.50	\$ 9.55	\$ 30,082.50
34	Concrete Sidewalk	9448	SF	\$ 20.00	\$ 188,960.00	\$ 19.00	\$ 179,512.00	\$ 15.40	\$ 145,499.20
35	Concrete Curb Ramp	865	SF	\$ 42.38	\$ 36,658.70	\$ 63.00	\$ 54,495.00	\$ 30.20	\$ 26,123.00
36	Concrete Driveway	3737	SF	\$ 30.50	\$ 113,978.50	\$ 24.00	\$ 89,688.00	\$ 22.00	\$ 82,214.00
37	Concrete Curb & Gutter per TLS-ST-210	51	LF	\$ 89.00	\$ 4,539.00	\$ 105.00	\$ 5,355.00	\$ 44.00	\$ 2,244.00
38	Concrete Curb & Gutter (MOD)	2809	LF	\$ 74.00	\$ 207,866.00	\$ 82.00	\$ 230,338.00	\$ 38.50	\$ 108,146.50
39	Concrete Curb	276	LF	\$ 60.00	\$ 16,560.00	\$ 105.00	\$ 28,980.00	\$ 33.00	\$ 9,108.00
40	Drainage Curb Inlet	9	EA	\$ 6,800.00	\$ 61,200.00	\$ 7,500.00	\$ 67,500.00	\$ 7,500.00	\$ 67,500.00
41	Drainage Manhole on Existing Pipe	1	EA	\$ 10,000.00	\$ 10,000.00	\$ 13,000.00	\$ 13,000.00	\$ 5,000.00	\$ 5,000.00
42	Drainage Manhole	1	EA	\$ 10,000.00	\$ 10,000.00	\$ 36,000.00	\$ 36,000.00	\$ 6,500.00	\$ 6,500.00
43	Adjust Inlet	1	EA	\$ 3,400.00	\$ 3,400.00	\$ 4,000.00	\$ 4,000.00	\$ 2,500.00	\$ 2,500.00
44	Full Trash Capture Device	2	EA	\$ 5,700.00	\$ 11,400.00	\$ 1,800.00	\$ 3,600.00	\$ 12,500.00	\$ 25,000.00
45	4" PVC Schedule 40	130	LF	\$ 38.00	\$ 4,940.00	\$ 35.00	\$ 4,550.00	\$ 35.00	\$ 4,550.00
46	12" Corrugated High Density Polyethylene Pipe (Drainage)	245	LF	\$ 335.00	\$ 82,075.00	\$ 295.00	\$ 72,275.00	\$ 267.20	\$ 65,464.00
47	24" Corrugated High Density Polyethylene Pipe (Drainage)	503	LF	\$ 557.00	\$ 280,171.00	\$ 295.00	\$ 148,385.00	\$ 347.00	\$ 174,541.00
48 *	Concrete Backfill (Pipe Trench)	5	CY	\$ 1,120.00	\$ 5,600.00	\$ 1,700.00	\$ 8,500.00	\$ 1,435.00	\$ 7,175.00
49	6" Thermoplastic Traffic Stripe	8115	LF	\$ 3.15	\$ 25,562.25	\$ 2.50	\$ 20,287.50	\$ 11.31	\$ 91,780.65
50	6" Thermoplastic Traffic Stripe (Broken)	1525	LF	\$ 3.15	\$ 4,803.75	\$ 2.50	\$ 3,812.50	\$ 3.30	\$ 5,032.50
51	4" Thermoplastic Traffic Stripe	299	LF	\$ 2.50	\$ 747.50	\$ 2.00	\$ 598.00	\$ 4.40	\$ 1,315.60
52	12" Thermoplastic Traffic Stripe	458	LF	\$ 7.50	\$ 3,435.00	\$ 6.00	\$ 2,748.00	\$ 13.20	\$ 6,045.60
53	Crosswalk - TLG STD. ST-261 Thermoplastic	105	LF	\$ 8.75	\$ 918.75	\$ 7.00	\$ 735.00	\$ 55.00	\$ 5,775.00
54	Pavement Marking -Thermoplastic	582	SF	\$ 12.50	\$ 7,275.00	\$ 10.00	\$ 5,820.00	\$ 15.40	\$ 8,962.80
55	Blue Fire Hydrant Marker	3	EA	\$ 12.50	\$ 37.50	\$ 10.00	\$ 30.00	\$ 27.50	\$ 82.50
56	Red-Painted Curb	137	LF	\$ 3.75	\$ 513.75	\$ 3.00	\$ 411.00	\$ 8.80	\$ 1,205.60
57	Green Bike Lane Marking -Thermoplastic	2818	SF	\$ 20.00	\$ 56,360.00	\$ 16.00	\$ 45,088.00	\$ 17.60	\$ 49,596.80
58	Roadside Sign on New Post	20	EA	\$ 467.50	\$ 9,350.00	\$ 375.00	\$ 7,500.00	\$ 545.00	\$ 10,900.00
59	Roadside Sign on Existing Post or Luminaire	20	EA	\$ 467.50	\$ 9,350.00	\$ 375.00	\$ 7,500.00	\$ 269.50	\$ 5,390.00

Total Bid Amount = \$ 2,115,930.50 \$ 2,192,202.50 \$ 2,451,454.47



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 7.

ITEM NO: 7

DATE: June 10, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Stormwater Network Mapping Services (CIP No. 816-0425):  
a. Award and Authorize the Town Manager to Execute a Contract with NCE in an Amount Not to Exceed \$380,700;  
b. Authorize the Town Manager to Execute Change Orders in an Amount Not to Exceed Ten Percent (10%) of the Contract Award Amount (\$38,070)

**RECOMMENDATION:**

Stormwater Network Mapping Services (CIP No. 816-0425):  
a. Award and authorize the Town Manager to execute a contract with NCE in an amount not to exceed \$380,700;  
b. Authorize the Town Manager to execute change orders in an amount not to exceed ten percent (10%) of the contract award amount (\$38,070).

**BACKGROUND:**

The ability to operate, maintain, and make informed management decisions about the storm drain system is critical for the Town of Los Gatos. The Town's existing storm drainage mapping and data are currently incomplete, and in some cases unreliable. The Town requires the need for consultant services to prepare a complete and accurate map of the network. Due to this incomplete network mapping, staff currently lacks the information necessary to effectively manage the storm drain system and make informed management decisions about street flooding, drainage, and National Pollutant Discharge Elimination System (NPDES) permit compliance. Staff currently estimates the storm drainage system assets to include approximately 1,900 drainage inlets, 300 outfalls, 1,000 manholes, and 3,400 pipe segments (350,000 linear feet of storm pipe), totaling approximately 6,600 assets.

**PREPARED BY:** Gary Heap  
Town Engineer

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

PAGE 2 OF 3

SUBJECT: Stormwater Network Mapping Services (CIP No. 816-0425)

DATE: June 10, 2024

BACKGROUND (continued):

In 2021, NCE was contracted to conduct a pilot project to collect stormwater network asset data and completed approximately 13% (860 of 6,600) of the Town's storm drainage infrastructure data collection with the allocated project budget. The contract under consideration with this agenda item would allow the completion of the remaining 87% of the stormwater network data collection and mapping to create a reliable storm drainage Geographic Information System (GIS) map.

DISCUSSION:

Proposals for this project were requested through a Request for Proposal (RFP) process which was advertised on Tuesday, August 15, 2023. On September 15, 2023, the Town received three proposals, from NCE, Surveying and Mapping, LLC, and Sandis. Staff reviewed the proposals and selected NCE due to quality of their proposal, the cost, and the fact that they had previously collected a portion (13%) of the storm drainage network data in Town. The final scope of work took several months to negotiate, and staff worked through the Capital Budget process to increase the available funding to allow for the work to be completed.

CONCLUSION:

The contract for Storm Drainage Mapping Services is recommended to be awarded to NCE in the amount of \$380,700 plus contingencies. This project is in the Adopted Fiscal Year (FY) 2024/25 – FY 2028/29 Capital Improvement Program (CIP) Budget. If this item is approved by Council, execution of the project agreement and notice to proceed would occur after July 1, 2024. There are sufficient funds in the project to accommodate the proposed award.

COORDINATION:

The project was coordinated with the Finance Department.

FISCAL IMPACT:

The storm drainage mapping project is included in the Adopted FY 2024/25-2028/29 CIP Budget with sufficient funds for the project beginning July 1st.

SUBJECT: Stormwater Network Mapping Services (CIP No. 816-0425)

DATE: June 10, 2024

FISCAL IMPACT (continued):

Storm Drainage Mapping Project CIP No. 816-0425		
	Budget	Costs
GFAR	\$ 190,000	
Storm Basin #1	\$ 86,667	
Storm Basin #2	\$ 86,667	
Storm Basin #3	\$ 86,667	
<b>Total Budget</b>	<b>\$ 450,001</b>	
		Costs
Consultant Services Agreement with NCE (Requested with this Staff Report)		\$ 380,700
10% Contingency (Requested with this Staff Report)		\$ 38,070
<b>Total Expenditures</b>		<b>\$ 418,770</b>
<b>Available Balance</b>		<b>\$ 31,231</b>

ENVIRONMENTAL ASSESSMENT:

Assessment of the Town's storm drainage system is not considered a project defined under CEQA, and no further action is required.

Attachment:

1. Agreement with NCE with Exhibit A

## AGREEMENT FOR CONSULTANT SERVICES

### PREAMBLE

THIS AGREEMENT is dated for identification on July 1, 2024 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") NCE, ("Consultant"), identified as a C Corporation (Type of Corporation) and whose address is 1885 S Arlington Avenue, Suite 111, Reno NV 89509. This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 The Town desires to engage Consultant to provide stormwater network data collection and mapping needed for the creation of a complete and reliable storm drainage GIS map.
- 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 that certain Proposal sent to the Town on May 17, 2024, 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 July 1, 2024 through June 30, 2025. Consultant shall perform the services described in this agreement as described in Exhibit A.
- 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 **shall not exceed \$380,700**, 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

Email (preferred): AP@losgatosca.gov

- 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 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 officers, officials, employees or volunteers 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 officers, officials, employees or volunteers.
- 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. As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease.
- 3.4 Indemnification. The Consultant 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 Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

#### 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 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

NCE  
1885 S Arlington Avenue, Suite 111  
Reno, NV 89509

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:

NCE by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_  
Jason Drew, Principal

Recommended by:

\_\_\_\_\_  
Nicolle Burnham  
Director of Parks and Public Works

Approved as to Form:

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney

Attest:

\_\_\_\_\_  
Wendy Wood, CMC, Town Clerk

May 17, 2024

Gary Heap  
Town Engineer, Parks & Public Works  
Town of Los Gatos  
41 Miles Avenue  
Los Gatos, CA 95030

**RE: Los Gatos Storm Drain Data Collection Project**

Dear Mr. Heap:

NCE is pleased to submit the following scope of work for the Los Gatos Storm Drain Data Collection Project (Project).

## NCE Scope of Services

Based on NCE's proposal approach, key discussion points from the interview, and follow up discussions, NCE offers the following scope of work for the Project.

### Task 1: Project Coordination

Upon an executed contract and the Town's Notice to Proceed, NCE will schedule a kickoff meeting with key staff from the Town and NCE. The purpose of the meeting is to discuss elements of the scope including the approach to fieldwork, the proposed schedule, and the deliverables. Based on the discussion from the interview and subsequent follow-up meetings, the Project will proceed with capturing surface data and limited subsurface attribute information (i.e., pipe material, condition, flow direction, and pipe diameter [when accessible]) to support Operations and Maintenance (O&M) activities. In advance of the kickoff meeting, NCE will begin its review of the Town's existing data and come prepared with an initial assessment and recommendations.

The kickoff meeting will be held via web conference and is anticipated to last up to two hours. Following the meeting, NCE will provide a summary and updated Project schedule, if necessary. During the first month of data collection, brief (30 minute) status meetings will be held to discuss challenges and potential solutions. After the first month of data collection, monthly progress meetings will be held as needed and documented with brief summaries. As necessary, the project schedule will be updated.

#### Deliverables for Task 1:

- Kickoff meeting agenda and summary (project schedule included).
- Weekly progress meetings held during the first month of data collection (meeting summaries provided following each meeting)
- Monthly progress meetings held after the first month of data collection and for the remainder of the project (meeting summaries provided following each meeting)
- Scheduled updated as necessary.

1003 W. Cutting Blvd., Suite 110  
Point Richmond, CA 94804  
(510) 215-3620

[www.ncenet.com](http://www.ncenet.com)

## Task 2: Project Planning

### Task 2a: Data Review

Data review will focus on 1), identifying those areas where additional data collection will be necessary (annexed areas, large development projects, etc.) and 2), developing a proposed geodatabase (GDB) data collection schema.

NCE will confirm annex area boundaries with the Town. These areas are likely to require new data collection. Next, NCE will develop a draft GDB data collection schema based on the design of the 2021 data collection GDB. The assets collected in 2021 will not be revisited. Asset types to be collected include Inlets, Manholes, Outfalls, Channels, and Pipes. Attributes and domain values to be collected will include readily available surface data and will be confirmed in Task 2b prior to data collection.

To preserve as much existing information as possible, and to facilitate the data collection workflow, NCE will append the Town's existing data into the new GDB. This will transfer the geometry and much of the existing attributes into the new GDB for subsequent field verification during the data collection task.

### Task 2b: Project Delivery Plan

NCE will update the 2021 Project Delivery Plan (PDP) to provide a roadmap for the Project. The updated PDP will detail NCE's review and understanding of the Town's existing data, the data collection approach, definitions for the Town's assets, and the GDB data collection schema. To facilitate review of the geodatabase design, NCE will develop a metadata spreadsheet to outline and describe asset layers, attributes, and domain values. Attributes and domain values to be collected will include readily available surface data.

Up to two rounds of revision each are anticipated to finalize the metadata spreadsheet and the PDP.

#### Deliverables for Task 2:

- Draft and final PDP.
- Draft metadata spreadsheet (final provided as an appendix of the PDP).

## Task 3: Data Collection & Management

NCE will collect up to 6,600 readily accessible assets. Data collected will include horizontal location (sub-foot), type of asset (i.e., inlet/catch basin, manhole, outfall, pipe, channel), and attributes consistent with the data collected in 2021. When pipes are readily accessible (e.g., located directly below catch basin grates or manholes), NCE will collect pipe diameter. Pipe material will be collected when it can be accurately determined via visual observation. NCE proposes to conduct the work over an approximate 15-week period, with two crews of two field technicians, utilizing four 10-hour workdays. For purposes of budget development, a collection rate of 120 assets per day is assumed for the Project (60 assets per crew per day).

Accessible assets are those that are visually observable, located in the Town right of way, easement, or area readily open to the public, and can be opened by hand with a manhole hook or crowbar. Accessible assets are also outside of the travel lane of arterial, collector, or high-speed roadways (over 25 mph) and/or high traffic intersections. The list below helps to clarify what is classified as inaccessible. As inaccessible assets are identified during the data collection, they will be flagged. If funds remain after the data collection task has been completed (6,600 assets collected or all accessible assets/areas visited).

- Accessibility Issues:
  - Assets located behind locked gates.
  - Access prohibited by an obstruction, such as a parked vehicle.
- Maintenance Issues:
  - Assets with stuck/ceased manhole lids, damaged catch basin grates prohibiting visibility into the facility or filled with debris and/or sediment. NCE will attempt to free the stuck lid with a sledgehammer.
  - Several assets are anticipated to be filled or partially filled with debris and/or sediment during data collection. NCE will not perform maintenance during data collection. In situations where facilities obscure attributes of interest (e.g., pipe size [if accessible], pipe material), NCE will take a best guess approach. The asset will be flagged to ensure the Town understands the data collected may not be accurate.
- High Traffic Areas:
  - High traffic areas, identified as arterial and collector streets (see attached Road Classification map), require traffic control. Assets located in these areas will not be collected.
- Private Property:
  - The review of the Town's existing data indicates nearly 40% of assets are located on private property including residential and commercial private property. It is assumed a number of these assets will be inaccessible due to their location on residential private property and not readily accessible to the public (e.g., single family residential homes, parcels behind gates). These assets will not be collected.

Data will be collected using an ESRI-based workflow, including tablets loaded with the ESRI Field Maps mobile application and tethered via Bluetooth to Trimble R2 or EOS Arrow Gold GPS receivers capable of sub-foot horizontal accuracy. Assets part of the Town's existing GIS (excluding the 2021 data) will be updated (i.e., refine spatial information and collect any missing attribute information). Existing attributes will be verified for accuracy and completeness and updated, as appropriate. Storm drain assets missing from the existing GIS will be collected.

One benefit of the ESRI-based workflow collected data can be tracked and viewed in real time within the ArcGIS Online (AGOL) environment. NCE will create a Dashboard to track the progress of data collection over time and throughout the Town. NCE will store an authoritative copy on NCE's AGOL account and periodic backups of the data will be stored on NCE's network. Concurrent to data collection, a technician will conduct a desktop quality assurance and quality control (QA/QC) protocol (explained below) to verify data accuracy and completeness.

Field data, processed in phases throughout the life of a project, is filtered through three rounds of QA/QC, followed by a post data collection review, and a final review by NCE's Project Manager, to evaluate accuracy and completeness at the network level. QA/QC phases conducted during data collection include the steps summarized below. Two additional review stages, Post Data Collection Review, and the Manager Review, are then conducted before and after post processing, discussed in Task 4.

- **First Line Review** – This review step occurs in the field, directly after an asset has been collected. A data technician collects the necessary attributes for each asset while the other technician enters the information, and the values are repeated to ensure the data was entered properly.
- **Second Line Review** – This systematic desktop evaluation involves flagging records with missing or erroneous values.

- **Third Line Review** – This step occurs in the field to check records flagged as part of second line review plus an additional 10% random sample of records collected during the latest phase of the project (the random sample is generated during Second Line Review).

Should budget remain at the conclusion of data collection for readily accessible assets, NCE and the Town may agree to use the remaining budget to return to inaccessible assets or collect additional assets. A daily data collection rate will be used. Examples of how remaining funds could be utilized include:

- Return to assets initially blocked by parked vehicles. This could be coordinated with the Town's sweeping schedule to facilitate collecting assets when the streets have been cleared. If the parked vehicle remains during the revisit, these assets will not be collected.
- Return to assets with stuck/ceased manhole lids or assets located behind locked gates, with assistance from Town maintenance staff, to gain access.
- Return to assets where sediment or debris obscured attributes of interest (e.g., pipe size [if directly below manholes or catch basins], pipe material) after the sediment/debris has been cleared.
- Collect assets located in high traffic areas using traffic control assistance from a sub-contractor. A daily traffic control rate would be applied in addition to the daily data collection rate.
- For assets located on residential private property not readily accessible to the public (e.g., single family residential homes, parcels behind gates), the Town will create and print door hanger notifications. NCE will hang notifications on these properties 48 hours in advance of data collection. If NCE returns to these properties and they remain inaccessible or NCE is not granted access to enter, data will not be collected.

**Deliverables associated with work conducted in this task will be provided as part of Task 5.**

#### **Task 4: Post Processing**

Upon completion of data collection, a GIS Specialist will perform a fourth round of QC (Post Field Review). Annotations are added for storm drain assets with missing information (e.g., not accessible). Flow direction is evaluated to ensure accuracy within the network. Connectivity is programmatically checked to ensure lines snap to points.

Following the Post Field Review, NCE will review the data one final time. This final review helps to identify possible issues of network connectivity, flow direction, and/or unrealistic or improbable values.

Deliverables associated with work conducted in this task will be provided as part of Task 5.

#### **Task 5: Final Deliverables**

The final task includes the development of a Data Collection Summary Report to outline what was accomplished during the data collection projects. Assets requiring attention (e.g., broken pipes, broken grates, clogged structures, etc.) will be identified in a table, as well as in the GIS. Additional mapping products, including a large format, system-wide PDF map, and a more portable, larger scale map book PDF will be provided. Up to two rounds of edits are anticipated to finalize the Summary Report. The draft GDB will also be provided with the final deliverables. NCE will perform desktop-based edits during this review and assumes no additional field work will be necessary (e.g., field name changes, domain value changes).

##### **Deliverables for Task 5:**

- Draft and final Data Collection Summary Report.



- Draft and final GDB (in both ESRI File GDB and AutoCAD format with attributes retained).
- Large format system-wide PDF map.
- Map book PDF.

## Assumptions

- Task 1
  - The kickoff call will be held via web conference and last up to two hours.
  - The schedule will be revised once, if necessary.
- Task 2
  - The PDP and the metadata spreadsheet will be limited to one round of edits each.
  - The data collection schema for the current project will closely mirror the schema developed for the 2021 project (minus the constraints associated with subsurface data and vertical accuracy).
  - Revisiting assets collected in 2021 is not included in this scope.
- Task 3
  - Up to 6,600 assets will be collected within the Town boundaries.
    - Assets located outside the Town limits will not be collected.
    - Assets will be collected at a rate of 120 per day.
    - Assets determined to have accessibility issues, maintenance issues, located in high traffic areas, or located on residential private property (not readily accessible to the public) will not be collected. If funds remain at the completion of data collection, NCE will work with the town to prioritize how best to use those funds to collect additional data.
  - Approximately 15 weeks is estimated for data collection.
  - Estimated horizontal spatial accuracy is sub-foot. If conditions exist impacting this level of accuracy, a spatial data point will be collected a second time and the highest resolution data point will be used.
  - Vertical accuracy will be collected and reported for point assets, but no quality control will be applied (i.e., the focus of spatial accuracy for this project is horizontal, so vertical accuracy will be provided “as is”).
  - Attribute data collection for pipes will include pipe material, pipe diameter (when accessible, see below), condition, and flow direction when they can accurately be collected from the surface of the asset. Pipe invert elevation and facility floor elevations will not be collected.
  - Pipe diameter will be collected when the pipe is accessible and the diameter can accurately be measured. If pipes are recessed or other conditions impact the ability to accurately collect data, pipe diameter will not be collected. Approximately one-third of pipes in the Town’s existing geodatabase (i.e., 1,110) is missing a value for pipe diameter. During data collection the following logic will be applied:
    - If the pipe is accessible (e.g., directly below a catch basin or manhole opening), it will be measured and the value entered (if blank) or verified (if a value exists) – it will then be marked as “Verified”.
    - If a pipe is not accessible, and has an existing value, that value will be assumed correct and it will be marked as “Not Verified”. If pipe diameter is missing a value, it will be left blank and marked as “Not Verified”.

- Task 5
  - The Summary Report will be brief and outline the major accomplishments of the project.
  - The report and mapping deliverables (PDF map book and large format system map) will be limited to one round of edits each.
  - The final GDB will also be converted to AutoCAD format; however, a certain amount of data loss will occur such as domain values (ability to select from a drop-down), photo attachments, and truncation of field headers. Conversion to AutoCAD will be for 2D linework only, not 3D. Attribute values in GIS will be retained in AutoCAD.

## Schedule

Based on a Notice to Proceed (NTP) by early July, 2024, NCE has identified the following preliminary schedule:

- Task 1
  - Kickoff meeting conducted soon after the NTP in early July.
- Task 2
  - Draft PDP to Town for review by late July.
  - Final PDP approved by late August.
- Task 3
  - Data collection will start in early to mid-September and extend through January 2025.
- Task 4
  - Post processing and final data review will be completed by March 2025.
- Task 5
  - Draft Summary Report and mapping deliverables (PDF maps and GDB) provided by April 2025.
  - Final deliverables provided by May 2025.

## Cost Estimate

NCE proposes to provide the above-listed services on a time and materials basis in accordance with our Schedule of Charges. To collect up to 6,600 storm drain assets focused primarily on surface data, the total fee for this scope of services will not exceed \$380,700. The table below provides the cost breakdown per task.

Task	Fee
Task 1. Project Coordination	\$10,200
Task 2. Project Planning	\$26,200
Task 3. Data Collection	\$318,500
Task 4. Post Processing	\$12,900
Task 5. Final Deliverables	\$12,900
<b>Total</b>	<b>\$380,700</b>

### ***Supplemental Data Collection Daily Rate***

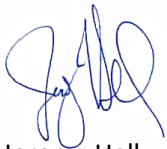
Should funds remain at the completion of the data collection task (up to 6,600 readily accessible assets collected), NCE will work with the Town to determine how best to use the remainder of the Task 3 budget. For a daily rate of \$2,000 per crew (two technicians), NCE can collect up to 40 assets per day. If traffic control is necessary, this can

be accomplished with an additional daily rate of \$2,250 (\$4,250/day). An itemized budget is attached and provides details regarding labor costs and expenses.

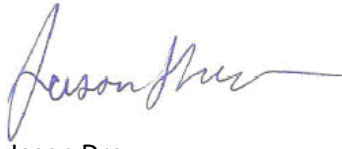
We appreciate the opportunity to provide this service to the Town and look forward to working with you on this project. If you have any questions or additional needs, please contact Jeremy Hall at [jhall@ncenet.com](mailto:jhall@ncenet.com) or 775-588-2505.

Respectfully,

**NCE**



Jeremy Hall  
Project Manager  
775-588-2505  
[JHall@ncenet.com](mailto:JHall@ncenet.com)



Jason Drew  
Principal  
775-588-2505  
[JDrew@ncenet.com](mailto:JDrew@ncenet.com)

**Attachments:**

Los Gatos Road Classification Map

Itemized Budget

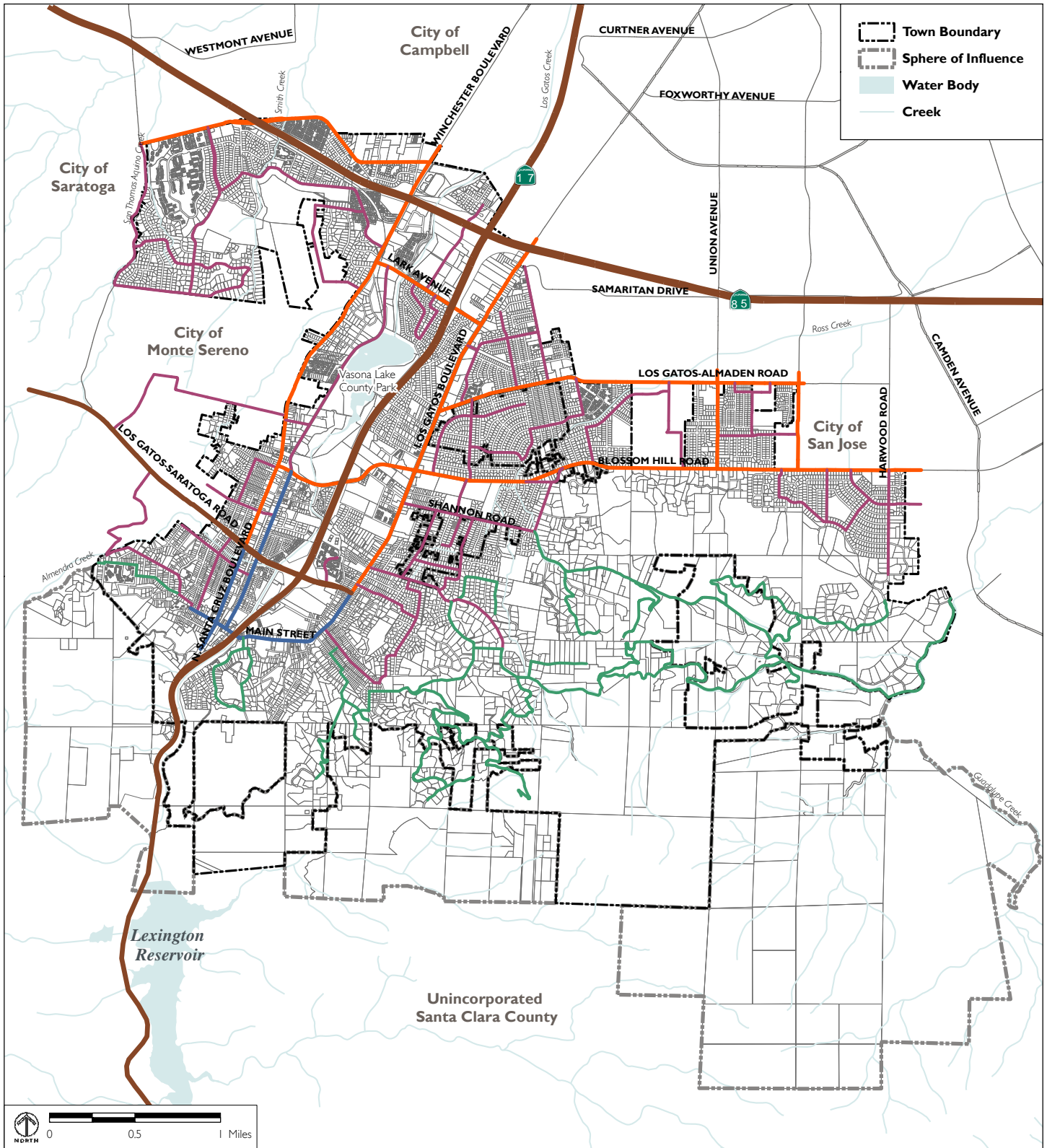


FIGURE TRA-1

FUNCTIONAL CLASSIFICATION OF ROADWAYS

Task Description	Hourly Breakdown by Personnel									-		ITEM NO. 7.
	Principal	Associate	Project Manager	Senior Scientist (QA/QC)	Project Scientist	Staff Scientist	GIS Tech	Field Tech	Project Admin	Total Labor	Expenses	Total Cost (Rounded)
	\$250	\$220	\$195	\$190	\$170	\$155	\$115	\$100	\$80	-	-	-
Task 1. Project Kickoff and Coordination	0	0	48	0	0	0	0	8	1	\$10,240	\$0	<b>\$10,200</b>
Task 2. Project Planning	0	20	40	0	0	32	48	24	2	\$25,240	\$974	<b>\$26,200</b>
Task 3. Data Collection	0	0	0	0	78	0	61	2400	0	\$260,275	\$58,220	<b>\$318,500</b>
Task 4. Post Processing	0	0	12	0	24	0	56	0	0	\$12,860	\$0	<b>\$12,900</b>
Task 5. Final Deliverables	1	0	32	0	0	0	56	0	0	\$12,930	\$0	<b>\$12,900</b>
<b>Total</b>	1	20	132	0	102	32	221	2432	3	\$321,545	\$59,194	<b>\$380,700</b>
Data collection daily rate:	\$2,000											
Traffic control daily rate:	\$2,250											

Expenses	Task 1	Task 2	Task 3	Task 4	Task 5	Cost
Truck	\$0	\$200	\$12,000	\$0	\$0	\$12,200
Field Equipment	\$0	\$0	\$6,000	\$0	\$0	\$6,000
Printing	\$0	\$200	\$0	\$0	\$0	\$200
Milage/Lodging	\$0	\$574	\$40,220	\$0	\$0	\$40,794
<b>Task Total</b>	<b>\$0</b>	<b>\$974</b>	<b>\$58,220</b>	<b>\$0</b>	<b>\$0</b>	<b>\$59,194</b>



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 8.

ITEM NO: 8

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**DATE:** June 10, 2024  
**TO:** Mayor and Town Council  
**FROM:** Laurel Prevetti, Town Manager  
**SUBJECT:** Authorize the Town Manager to Execute a Revised Master Service Agreement with Flock Safety Group Inc. for Stationary Automated License Plate Readers (ALPR). in the Amount \$255,000 for a Sixty-Month Term and Authorize the Town Manager to Enter into Amendments as Necessary for up to an Additional \$40,000 for a Total Agreement Not to Exceed \$295,000 Over the Agreement Term.

**RECOMMENDATION:**

Authorize the Town Manager to execute a revised Master Service Agreement with Flock Safety Group Inc. for Stationary Automated License Plate Readers (ALPR) in the amount \$255,000 for a sixty-month term and authorize the Town Manager to enter into amendments as necessary for up to an additional \$40,000 for a total agreement not to exceed \$295,000 over the agreement term.

**BACKGROUND:**

On June 1, 2021, the Town Council approved a two-year pilot program for Flock Safety Automated License Plate Readers (ALPR). The Police Department identified the Flock system based on its proven capability to augment traditional Police services in the deterrence, interruption, and investigation of crime, specifically residential and commercial burglary, in the Town of Los Gatos. The Flock Safety ALPR camera system is being utilized nationwide and throughout California.

Since the system became operational in the Town of Los Gatos, it has proven to be an effective force multiplier for the Los Gatos-Monte Sereno Police Department and other neighboring

**PREPARED BY:** Heather St. John  
Senior Administrative Analyst

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

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PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a Revised Master Service Agreement with Flock Safety Group Inc. for Stationary Automated License Plate Readers (ALPR)

DATE: June 10, 2024

BACKGROUND (continued):

jurisdictions. The Los Gatos-Monte Sereno Police Department has seen positive results in suppressing crime before it occurs and utilizing the ALPR as an investigative tool to assist with leads to apprehend criminals and recover key evidence to major crimes. Images captured by this system can be used to alert Officers in real-time to the location of a stolen vehicle or a suspect vehicle in a crime, or the system can be used to investigate crimes after they occur, providing crucial evidence and investigative leads.

The existing Flock ALPR system consists of 17 cameras mounted at key fixed-point locations throughout the Town, which capture still images of passing vehicles. Collected images are analyzed by system software in compliance with Criminal Justice Information Systems (CJIS) and then searchable when linked to an investigative incident by license plate number, state of origin for the license plate, car color, car make, or car model. The images are stored and available for law enforcement use for 30 days, and subsequently deleted from the secured retention system.

The Los Gatos-Monte Sereno Police Department provides transparency, accountability, and integrity on Police activities, Departmental policies, training materials, and agency practices. Information is available to the public at <https://www.losgatosca.gov/2713/Transparency-and-Data-page>.

DISCUSSION:

In 2021, the Town entered into a two-year agreement term with Flock Safety Group for fifteen ALPR cameras totaling \$78,750. During this two-year agreement, the Town amended the initial agreement and added two additional cameras in the amount of \$11,400 for a total two-year agreement in the amount of \$90,150, for installation and subscription costs.

In 2023, Flock Safety Group increased their subscription pricing structure from \$2,500 per camera to \$3,000 per camera annually. To maintain the benefits of the existing technology and forecast future subscription costs, Flock Safety Group proposed a revised five-year (60-month) master services agreement in the amount of \$255,000 (\$51,000 per year) for the existing seventeen ALPR camera subscription costs.

CONCLUSION:

Staff recommends the Town Council authorize the Town Manager to execute a revised agreement with Flock Safety Group, Inc. for stationary Automated License Plate Readers (ALPRs), not to exceed a five-year total agreement amount of \$295,000. The purpose of the



PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute a Revised Master Service Agreement with Flock Safety Group Inc. for Stationary Automated License Plate Readers (ALPR)

DATE: June 10, 2024

CONCLUSION (continued):

revised Master Service Agreement is to provide the updated fiscal cost per camera which increased from \$2,500 annually per camera to \$3,000 annually per camera. This approach would lock in a 60-month term pricing and avoid potential annual increases.

The Department is seeking additional authority up to \$40,000 for the term of the agreement to offset any unforeseen costs related to equipment replacement, enhanced service capability adjustments, or modifications to existing technology.

FISCAL IMPACT:

The current Police Department Operating Budget includes \$51,000 annual subscription cost for FY 2023/24. The Adopted FY 2024/25 Police Department Operating Budget also includes the annual cost of the ALPR cameras. Any cost adjustment of future fiscal years would be proposed during budget development cycles for a total agreement amount (FY 2023/24 through FY 2027/28) not to exceed \$295,000.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Master Service Agreement
2. Sole Source Letter



## Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”) on this the \_\_\_ day of \_\_\_\_\_, 2024. This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

### RECITALS

**WHEREAS**, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

**WHEREAS**, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

**WHEREAS**, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the **Order Form**. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

### AGREEMENT

**NOW, THEREFORE**, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the

Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

## 1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Flock Services, under the rights granted to Customer pursuant to this Agreement.

1.3 “**Customer Data**” means the data, media and content provided by Customer through the Flock Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.5 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

1.7 “**Flock IP**” means the Flock Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 “**Flock Network End User(s)**” means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Flock Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Flock Services.

## 2. SERVICES AND SUPPORT

**2.1 Provision of Access.** Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form (“**Retention Period**”). Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Customer shall be responsible for all acts and omissions of Authorized End Users, including any acts or omissions of Authorized End Users which would constitute a breach of this Agreement if undertaken by Customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

**2.2 Embedded Software License.** Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

**2.3 Support Services.** Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at [support@flocksafety.com](mailto:support@flocksafety.com) (such services collectively referred to as “**Support Services**”).

**2.4 Upgrades to Platform.** Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services, such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

**2.5 Service Interruption.** Flock Services may be interrupted in the event that: (a) Flock's provision of the Flock Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Flock Services are interrupted; (c) if Flock reasonably believe Flock Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled (to the extent reasonably feasible, scheduled only during non-peak usage hours) or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption, except to the extent such Service Interruption occurs due to the negligence or willful misconduct of Flock. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

**2.6 Service Suspension.** Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***").

Except to the extent a Service Suspension occurs due to the negligence or willful misconduct of Flock, Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

**2.7 Hazardous Conditions.** Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

### 3. CUSTOMER OBLIGATIONS

**3.1 Customer Obligations.** Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this Agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “*Customer Obligations*”).

**3.2 Customer Representations and Warranties.** Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

### 4. DATA USE AND LICENSING

**4.1 Customer Data.** As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited,

non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

**4.2 Customer Generated Data.** Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“**Customer Generated Data**”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

**4.3 Anonymized Data.** Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Flock Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Flock Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Flock Services. Flock does not own and shall not sell Anonymized Data.

## 5. CONFIDENTIALITY; DISCLOSURES

**5.1 Confidentiality.** To the extent required by any applicable public records requests, each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Flock Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock

Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Flock Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

**5.2 Usage Restrictions on Flock IP.** Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock



IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

**5.3 Disclosure of Footage.** Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose (after providing written notice to Customer) the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

## **6. PAYMENT OF FEES**

**6.1 Billing and Payment of Fees.** Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

**6.2 Notice of Changes to Fees.** Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

**6.3 Late Fees.** Intentionally omitted.

**6.4 Taxes.** Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid

by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

## 7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Term**”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“**Cure Period**”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the **Cure Period**, Flock will refund Customer a pro-rata portion of the pre-paid fees for Flock Services not received due to such termination.

7.3 **Survival.** The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

## 8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

**8.1 Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

**8.2 Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

**8.3 Warranties.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Flock Services in a manner which minimizes errors and interruptions in the Flock Services and shall perform the Installation Services in a professional and workmanlike manner. Flock Services may be temporarily unavailable for scheduled maintenance (which to the extent reasonably feasible, only occur during non-peak usage hours) or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. To the best of Flock’s knowledge as of the Effective Date of this Agreement, Customer’s license use of the Flock Services, Embedded Software, and/or Web Interface, will not infringe the intellectual property rights of any third party. The Flock Services shall be performed in material accordance with this Agreement and in a timely, workmanlike manner. Flock shall not modify or change the Embedded Software or the Flock Services to reflect a material diminution in the form, features, or functionality of such Embedded Software or Flock Services, form that existing as of the Effective Date of this

Agreement. Flock shall ensure its Embedded Software and the Flock Services comply with all applicable laws and regulations.

**8.4 Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTS. EXCEPT TO THE EXTENT CAUSED BY FLOCK'S NEGLIGENCE OR WILLFUL MISCONDUCT, FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, AND EXCEPT FOR EACH PARTY'S INDEMNITY OBLIGATIONS HEREUNDER, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

**8.5 Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

**8.6 Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions. Each Party will, however, make all reasonable efforts to remove or eliminate such a cause of delay or failures in performance and will, upon the cessation of the cause, diligently pursue performance of its obligations in this Agreement.

## 9. LIMITATION OF LIABILITY; INDEMNITY

**9.1 Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND

EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED TWO TIMES THE AMOUNT OF THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION AND WARRANTY OBLIGATIONS, OR (III) LIABILITY RELATING TO INTELLECTUAL PROPERTY INFRINGEMENT.

**9.2 Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

**9.3 Flock Indemnity.** Flock shall defend, indemnify, and hold harmless Customer, its agents, officers, officials, and employees, from liability of any kind, including claims, demands, liabilities, actions, damages, fines, sanctions, costs (including defense) and expenses, arising out of a claim of infringement, actual or alleged, direct or contributory, of any intellectual property rights in any way related to this Agreement or to the Customer's authorized use of the Embedded

Software or Flock Services. Flock shall not enter into any stipulated judgment or settlement that purports to bind Customer without Customer's express written authorization, which shall not be unreasonably withheld or delayed. Flock further agrees to defend, indemnify, and hold harmless Customer, its agents, officers, officials, and employees, from and against any and all liability, claim, action, loss, injury, damage, judgment, fines, sanctions, or expenses, including reasonable attorneys' fees and costs ("Losses") caused by or resulting from the negligence, recklessness, or willful misconduct of Flock, Flock's employees, agents, or subcontractors in any way related to this Agreement. Flock's duty to indemnify and hold harmless hereunder shall not apply to the extent such Losses are caused by the sole or active negligence or willful misconduct of Customer.

## 10. INSTALLATION SERVICES AND OBLIGATIONS

**10.1 Ownership of Hardware.** Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

**10.2 Deployment Plan.** Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a

designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

**10.3 Changes to Deployment Plan.** After installation of Flock Hardware, any subsequent requested changes from Customer to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

**10.4 Customer Installation Obligations.** Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("**Customer Obligations**"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

**10.5 Flock's Obligations.** Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

## 11. MISCELLANEOUS

**11.1 Compliance With Laws.** Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

**11.2 Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

**11.3 Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

**11.4 Entire Agreement.** This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

**11.5 Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

**11.6 Governing Law; Venue.** This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State and County in which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

**11.7 Special Terms.** Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual



execution by authorized representatives (“**Special Terms**”). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

**11.8 Publicity.** Upon prior written consent from Customer, Flock may reference and use Customer’s name and trademarks and disclose the nature of the Services, for the sole purpose of business and development and marketing efforts.

**11.9 Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

**11.10 Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation (“FAR”), section 2.101, the Services, the Flock Hardware and Documentation are “commercial items” and according to the Department of Defense Federal Acquisition Regulation (“DFAR”) section 252.2277014(a)(1) and are deemed to be “commercial computer software” and “commercial computer software documentation.” Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

**11.11 Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

**11.12 Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Morality.** Intentionally omitted.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

**FLOCK NOTICES ADDRESS:**

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

**Customer NOTICES ADDRESS:**

ADDRESS: 110 E. Main St. Los Gatos, CA 95030

ATTN: Police Department, Heather St. John

EMAIL: Hstjohn@losgatosca.gov

11.16 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

**11.17 Counterparts.** The Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be deemed an original but all of which, together, shall constitute one and the same instrument. A scanned, electronic, facsimile or other copy of a party's signature shall be accepted and valid as an original.

The parties enter into this Agreement as of the date first written above.

FLOCK

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed: \_\_\_\_\_ Title: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed: \_\_\_\_\_ Title: \_\_\_\_\_

TOWN OF LOS GATOS

\_\_\_\_\_  
Laurel Prevetti, Town Manager

Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney

Attest:

\_\_\_\_\_  
Wendy Wood, CMC, Town Clerk

EXHIBIT A  
**ORDER FORM**

DRAFT

## **Flock Safety + CA - Los Gatos PD**

---

Flock Group Inc.  
1170 Howell Mill Rd, Suite 210  
Atlanta, GA 30318

---

MAIN CONTACT:  
Graham Carter  
[graham.carter@flocksafety.com](mailto:graham.carter@flocksafety.com)  
(415) 329-1307



## EXHIBIT A ORDER FORM

Customer: CA - Los Gatos PD  
 Legal Entity Name: CA - Los Gatos PD  
 Accounts Payable Email: hstjohn@losgatosca.gov  
 Address: 110 E Main St Los Gatos, California 95030

Initial Term: 60 Months  
 Renewal Term: 24 Months  
 Payment Terms: Net 30  
 Billing Frequency: Annual - First Year at Signing.  
 Retention Period: 30 Days

### Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
<b>Flock Safety Platform</b>			<b>\$51,000.00</b>
<b>Flock Safety Flock OS</b>			
FlockOS™ - Essentials	Included	1	Included
<b>Flock Safety LPR Products</b>			
Flock Safety Falcon ®	Included	17	Included

### Professional Services and One Time Purchases

Item	Cost	Quantity	Total
<b>One Time Fees</b>			

<b>Subtotal Year 1:</b>	\$51,000.00
<b>Annual Recurring Subtotal:</b>	\$51,000.00
<b>Estimated Tax:</b>	\$0.00
<b>Contract Total:</b>	\$255,000.00

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

### Special Terms:

- The Term of this contract shall be from 03/01/2024 - 02/28/2029.

**Billing Schedule**

ITEM NO. 8.

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$51,000.00
Annual Recurring after Year 1	\$51,000.00
Contract Total	\$255,000.00

\*Tax not included

## Product and Services Description

ITEM NO. 8.

Flock Safety Platform Items	Product Description	Terms
FlockOST™	Flock Safety's situational awareness operating system.	
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

## FlockOS Features & Description

FlockOS Features	Description
Community Network Access	The ability to request direct access to feeds from privately owned Flock Safety Falcon® LPR cameras located in neighborhoods, schools, and businesses in your community, significantly increasing actionable evidence that clears cases.
Unlimited Users	Unlimited users for FlockOS
State Network (License Plate Lookup Only)	Allows agencies to look up license plates on all cameras opted into the Flock Safety network within your state.
Nationwide Network (License Plate Lookup Only)	With the vast Flock Safety sharing network, law enforcement agencies no longer have to rely on just their devices alone. Agencies can leverage a nationwide system boasting 10 billion additional plate reads per month to amplify the potential to collect vital evidence in otherwise dead-end investigations.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Insights & Analytics	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Map-based interface that consolidates all data streams and the locations of each connected asset, enabling greater situational awareness and a common operating picture.
Real-Time NCIC Alerts on Flock ALPR Cameras	Receive automated alerts when vehicles entered into established databases for missing and wanted persons are detected, including the FBI's National Crime Information Center (NCIC) and National Center for Missing & Exploited Children (NCMEC) databases.
Unlimited Custom Hot Lists	Ability to add a suspect's license plate to a custom list and get alerted when it passes by a Flock camera
Law Enforcement Network Access	The ability to request direct access to evidence detection devices from Law Enforcement agencies outside of your jurisdiction.



By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>

ITEM NO. 8.

The Parties have executed this Agreement as of the dates set forth below.

**FLOCK GROUP, INC.**

**Customer: CA - Los Gatos PD**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PO Number: \_\_\_\_\_

**EXHIBIT B**  
**INSURANCE**

**Required Coverage.** Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”.

Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees.

**Types and Amounts Required.** Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

(i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;

(ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate. Flock may use excess liability/umbrella policies to meet the required liability limits on the condition that they provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The excess liability/umbrella insurance policies shall be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying CGL insurance. No insurance policies maintained by the additional insureds, whether primary or excess, and which also apply to a loss

covered hereunder, shall be called upon to contribute to a loss until the Flock's primary and excess liability policies are exhausted;

(iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate; Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after date of completion of the services under this Agreement. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date or start of work date, Flock must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the contracted work;

(iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000) and Five Million Dollars (\$5,000,000) in the aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by Flock in this Agreement. The policy(ies) shall include coverage for claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information.

The policy(ies) shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

The policy(ies) shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Customer in the care, custody, or control of Flock.

(vi) **Workers' Compensation As Required By The State Of California, With Statutory Limits, And Employer's Liability Insurance:** \$1,000,000 per accident for bodily injury or disease. The Worker's Compensation policy must be endorsed with a waiver of subrogation in favor of the Customer for all work performed by Flock and its employees.

(Not required if Flock provides written verification it has no employees) - If Flock has no employees, Flock shall complete and sign a Workers' Compensation Exemption Declaration and Release of Liability.

**Other Insurance Provisions.** The insurance policies are to comply with the following provisions:

**(i) Additional Insured Status**

The Customer, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Flock including materials, parts, or equipment furnished in connection with such work or operations, products and completed operations. General liability coverage will be provided in the form of an endorsement to Flock's insurance at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 (if a later edition is used).

**(ii) Primary Coverage**

For any claims related to this Agreement, Flock's and all subcontractor's insurance coverage will be primary and non-contributory as respects the Customer, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the Customer, its officers, officials, employees, agents, or volunteers will be excess of Flock's and all subcontractor's insurance and will not contribute with it.

**(iii) Notice of Cancellation**

Each insurance policy required above shall state that the coverage shall not be canceled, except with notice to the Customer.

**(iv) Waiver of Subrogation**

Flock hereby grants to the Customer a waiver of any right to subrogation, except as otherwise not applicable, which any insurer of Flock may acquire against the Customer by virtue of the payment of any loss, including attorney's fees under such insurance. Flock agrees to obtain any

endorsement that may be necessary to effectuate this waiver of subrogation, but this provision applies regardless of whether or not the Customer has received a waiver of subrogation endorsement from the insurer.

(v) **Self-Insured Retentions (SIR)**

Self-insured retentions must be declared to and approved by the Customer. Customer may require Flock to purchase coverage with a lower retention or provide proof of ability to pay losses and related expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Customer.

(vi) **Claims Made Policies**

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

1. The Retroactive Date must be shown and must be before the date of the Agreement or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Flock must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

(vii) **Verification of Coverage**

Flock will furnish the Customer with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy (and CPL, automobile and any Excess Liability/Umbrella policies, as applicable) listing all policy endorsements to be approved by the Customer before work commences. However, failure to obtain the required documents prior to the work beginning will not waive Flock’s obligation to provide them. The Customer reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(viii) **Subcontractors**

Flock shall include their subcontractor(s) as additional insured(s) under the policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. Flock shall require and verify that all contractors and subcontractors maintain insurance meeting all the requirements stated herein, and Flock shall ensure that Customer, its officers, officials, employees, agents, and volunteers are named as additional insureds on insurance required from its contractor(s) and subcontractor(s).

(ix) **Special Risks/Circumstances**

Customer reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances and provide notice to Flock.

EXHIBIT C

**Customer Implementation Guide**

DRAFT

Customer Implementation Guide

# Law Enforcement



flock safety

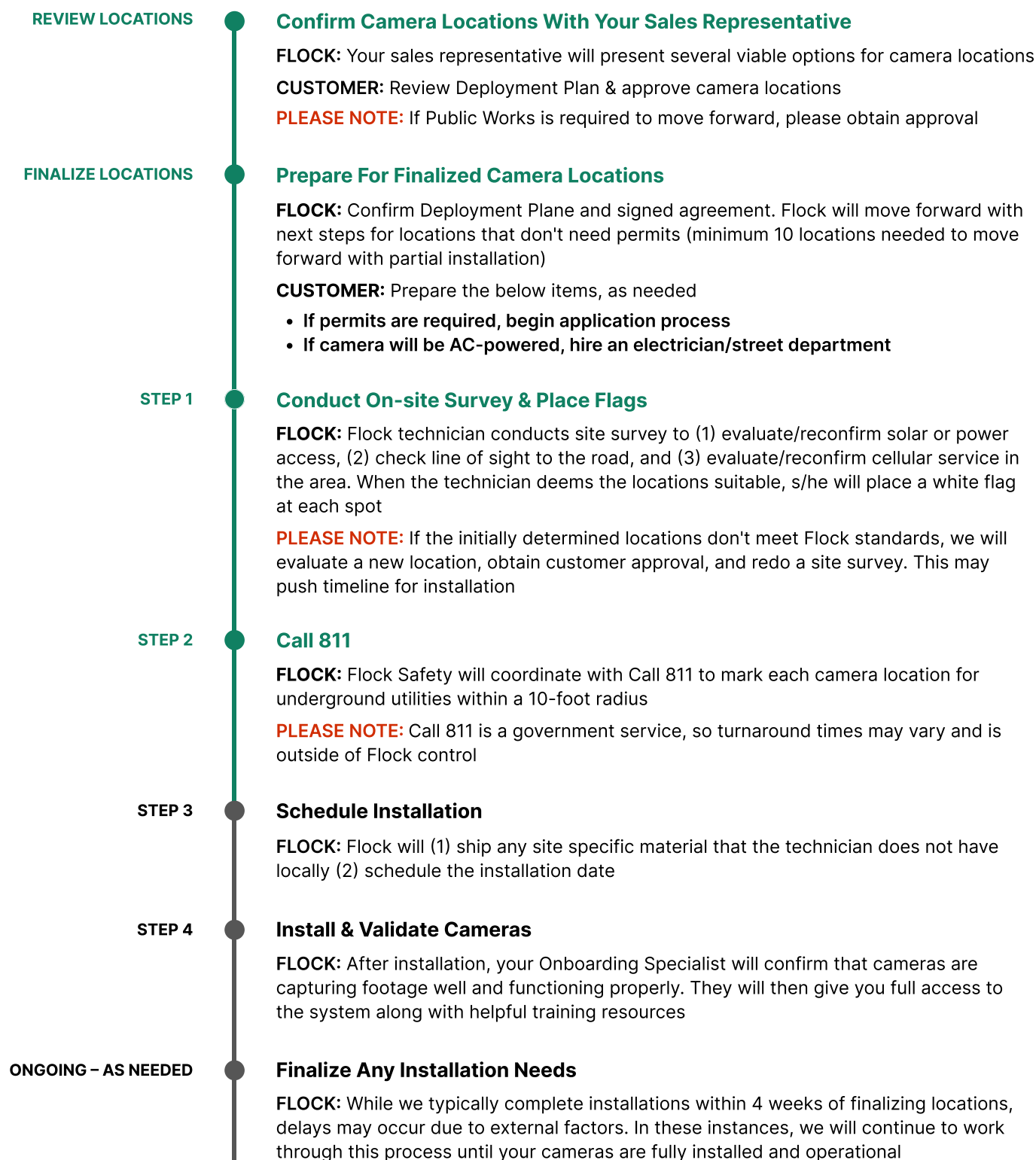


# Table of Contents



Implementation Timeline .....	2
Flock Safety Team .....	3
Implementation Service briefs: Existing Infrastructure .....	6
vs Standard vs Advanced	
• Existing Infrastructure Implementation	
• Standard Implementation	
• Advanced Implementation	
Things to Consider When Selecting Locations .....	12
Customer Responsibilities: AC-Powered Cams .....	14
Electrician Handout .....	15
• Electrician Installation Steps	
• FAQs about AC-Powered Flock Cameras	
Installation Service Brief Summary .....	18
Permitting: Pre-Install Questionnaire .....	19
1. Timeline	
2. Right of Way	
3. AC Power vs. Solar	
4. Traffic Control & Installation Methods	
5. Paperwork & Required Forms	
6. Contacts	
*Fee Schedule .....	21
Help Center .....	22
Customer Support .....	22



# Implementation Timeline

This timeline provides general guidance and understanding of your installation process. While we typically complete installations 6-8 weeks after locations have been finalized, delays can occur as noted in the timeline below:



# Flock Safety Team

Implementation Team	How They Will Support You
 <p><b>Project Manager</b></p>	<p>Your <b>Project Manager</b> is your <b>primary contact during camera installation</b>.</p> <p>Your project manager will guide you through the entire installation process, keeping you apprised of all implementation updates as well as answering any questions you have during this time. They will ensure that all the cameras are on the ground and operating for at least 48 hours before transitioning you to your Customer Success Manager.</p>
 <p><b>Field Operations Team</b></p>	<ul style="list-style-type: none"> <li>• The Field Operations team is responsible for the physical installation and maintenance of cameras and associated equipment provided by Flock. This includes a large team of technicians, schedulers, and many others involved in ensuring the delivery of the product.</li> <li>• They take the technical plan you finalized with Product Implementation and work closely with other teams at Flock to make sure that the cameras are installed quickly and safely and in a way that maximizes the opportunity to solve crime at a specific location.</li> <li>• <b>*Note*:</b> For <b>all Installation questions or concerns</b>, please always direct them to your <b>Customer Success Manager</b> and not the technician.</li> </ul>

Relationship Team	How They Will Support You
 <p data-bbox="201 674 511 751"><b>Customer Success Manager</b></p>	<p data-bbox="609 373 1403 457">Your Customer Success Manager is your strategic partner for your lifetime as a Flock customer.</p> <p data-bbox="609 495 1403 625">While the cameras are getting installed, your CSM will help get your account set up and get all key users trained on the system.</p> <p data-bbox="609 663 1403 793">Post-Camera-Installation, your CSM will be your go-to for most account-related needs: You should reach out to them to:</p> <ul data-bbox="630 814 1414 1178" style="list-style-type: none"> <li>• Set up Account Training</li> <li>• Understand benefits of features</li> <li>• Learning best practices for getting relevant data</li> <li>• Identifying opportunities to expand the security network in your area</li> <li>• Provide feedback on your partnership with Flock</li> </ul>
 <p data-bbox="253 1644 459 1728"><b>Flock Safety Support</b></p>	<p data-bbox="609 1341 1414 1566">The Flock Safety Support team is committed to answering all your day-to-day questions as quickly as possible. <b>To get in touch with support</b>, simply email <a href="mailto:support@flocksafety.com">support@flocksafety.com</a> or call <b>866-901-1781 Mon-Fri 8am-8pm EST</b>.</p> <p data-bbox="609 1581 959 1619">Support can help you:</p> <ul data-bbox="630 1640 1414 1913" style="list-style-type: none"> <li>• Request camera maintenance</li> <li>• Troubleshoot online platform</li> <li>• Contract / Billing questions</li> <li>• Update account information</li> <li>• Camera Sharing questions</li> <li>• Quick “How to” questions in your Flock Account</li> </ul>

Outside Party	When They May Be Involved
Electrician/Street Department	If the Flock cameras need to be AC powered, you (customer) are responsible for providing an electrician to ensure power connectivity
Public Works (LE)	To weigh in on the use of public Rights of Way or property
Department of Transportation (DOT), City, or County agencies	If installation in your area requires permitting

**PLEASE NOTE:** On some occasions, third parties outside of Flock Safety may be (or need to be) involved in your implementation.

# Implementation Service Briefs: Existing Infrastructure vs Standard vs Advanced

	Existing Infrastructure Install	Standard Install	Advanced Install
<b>Pole</b>	None	Flock	NCHRP 350 / MASH
<b>Timeline</b>	Short	Medium	Longest
<b>Cost</b>	Lowest	Mid	Highest

## Existing Infrastructure Implementation

**COST:** \$150 per camera (one time cost)

### Included In Scope:

Once designated locations are approved by the customer, as part of the **Existing Infrastructure Implementation Service** Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
  - Cameras need sufficient power. Since a solar panel is required per camera, it can prevent adequate solar power if two cameras and two solar panels are on a single pole (blocking visibility). Therefore if relying on solar power, only one camera can be installed per pole.
- Confirm that a location is safe for work by following State utility locating procedures.
- Each installation may include the following:
  - Installation of camera and solar panel or AC adapter box on a suitable existing pole

- Types of existing infrastructure such as existing utility, light, and traffic signal poles.
- Pole no higher than 8'-12' (approval at Flock Safety's discretion)
- Flock will provide and mount an AC adapter unit that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock is unable to make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material). Electrical work requiring a licensed electrician and associated costs, not included in the scope.
  - Access requiring up to a 14' using an A-frame ladder
  - Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the city and state of camera location

## Out Of Scope:

By default, Flock does **not** include the following as part of the **Existing Infrastructure Implementation Service** but can provide a quote for sourcing at an additional cost:

- Mounting on mast arms (always require bucket truck and traffic control)
- Call 811 'Call-before-you-Dig' system
- Installation of any poles including but not limited to
  - Standard, 12' above grade [Flock breakaway pole](#)
  - NCHRP 350 or MASH approved pole (as may be required for locations in DOT right of way)
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or city-specific specialty contractor licenses or unique attachment/connection requirements
- Custom engineered drawings
- Electrical work requires a licensed electrician.

- Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)
- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Any fees or costs associated with filing for required city, county, or state permits
- Licensing or attachment agreements with asset / infrastructure owners
- Utility contracts and billing
- Customer requested relocations (see fee schedule)

## Standard Implementation

**COST:** \$650 per camera (one time cost)

### Included In Scope:

Once designated locations are approved by the customer, as part of the **Standard Implementation Service** Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
- Confirm that a location is safe for work by following state utility locating procedures. Work with local utilities to prevent service interruptions during the installation
  - Engage 811 'Call-before-you-Dig' system to receive legal dig date
  - Apply approved markings Coordinate with 811 regarding any necessary high-risk dig clearances or required vendor meets
- Each installation may include the following:
  - Installation of camera and solar panel with standard, 12' above grade Flock breakaway pole



- Installation of camera and AC adapter that a qualified electrician can connect to AC power on a suitable existing pole, no higher than 8-12' (approval at Flock Safety's discretion)
  - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock is unable to make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material). Electrical work requiring a licensed electrician and associated costs, not included in the scope.
- Access requiring up to a 14' A-frame ladder
- Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the City and State of camera location

## Out Of Scope:

By default, Flock does **not** include the following as part of the Standard Implementation Service but can provide a quote for sourcing at an additional cost:

- Use and/or mounting to existing infrastructure.
- NCHRP 350 or MASH approved pole (as may be required for locations in DOT right of way)
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or city-specific specialty contractor licenses
- Custom engineered drawings
- Electrical work requires a licensed electrician.
  - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)

- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Any fees or costs associated with filing for required city, county, or state permits
- Licensing or attachment agreements with asset / infrastructure owners
- Utility contracts and billing
- Customer requested relocations (see fee schedule)

## Advanced Implementation

**COST:** \$1,900 per camera (one time cost)

### Included In Scope:

Once Designated Locations are confirmed, as part of the **Advanced Implementation Service**, Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
- Confirm that a location is safe for work by following State utility locating procedures. Work with local utilities to prevent service interruptions during the installation
  - Engage 811 'Call-before-you-Dig' system to receive legal dig date
  - Apply approved markings Coordinate with 811 regarding any necessary high-risk dig clearances or required vendor meets
- Each installation may include the following:
  - Installation of camera and solar panel on a suitable **NCHRP 350 or MASH** approved pole.
  - Installation of camera and AC adapter that a qualified electrician can connect to AC power.
    - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).

Electrical work requiring a licensed electrician and associated costs, not included in the scope.

- Access requiring up to a 14' A-frame ladder
- Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the City and State of camera location

## Out Of Scope:

By default, Flock does not include the following as part of the **Advanced Implementation Service** but can optionally provide a quote for sourcing (additional cost):

- Installation on **Standard, 12' above grade Flock breakaway pole** or existing infrastructure.
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or City-specific specialty contractor licenses
- Custom engineered drawings
- Electrical work requires a licensed electrician. Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)
- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Fees or costs associated with filing for required City, County, or State permits

# Things to Consider When Selecting Locations

## Falcon Cameras



- Use Cases
  - Flock LPRs are designed to capture images of rear license plates aimed in the direction of traffic.
  - Flock LPRs are not designed to capture pedestrians, sidewalks, dumpsters, gates, other areas of non-vehicle traffic, intersections.
- Placement
  - They capture vehicles driving away from an intersection.
  - They cannot point into the middle of an intersection.
  - They should be placed after the intersection to prevent stop and go motion activation or “stop and go” traffic.
- Mounting
  - They can be mounted on existing utility, light, traffic signal poles, or 12 foot Flock poles.\*
  - They should be mounted one per pole.\*\* If using AC power, they can be mounted 2 per pole.
- They can be powered with solar panels or direct wire-in AC Power (no outlets).\*\*\*
- They will require adequate cellular service using AT&T or T-Mobile to be able to process & send images.

\* Permitting (or permission from pole owner) may be required to use existing infrastructure or install in specific areas, depending on local regulations & policies.

\*\* Cameras need sufficient power. Since a solar panel is required per camera, it can prevent adequate solar power if two cameras and two solar panels are on a single pole (blocking visibility). Therefore if relying on solar power, only one camera can be installed per pole.

\*\*\* Flock does not provide Electrical services. Once installed, the agency or community must work with an electrician to wire the cameras. Electrician services should be completed within two days of installation to prevent the camera from dying.

## Solar Panels

Solar panels need unobstructed southern-facing views.



## Pole

If a location requires a "DOT Pole" (i.e., Advanced Pole, **not** Flock standard pole), the implementation cost will be \$5,000/camera.





# Customer Responsibilities: AC-Powered Cams

If the Flock cameras need to be AC-powered, the **customer is responsible** for acquiring an electrician and ensuring they connect the camera to power. **See steps 2 and 6 below.**

## How to Get Started with a Powered Install



### 1. Create a Deployment Plan

Work with us to select the best location(s) for Flock Safety cameras and power sources



### 2. Acquire an Electric Quote

Contact an electrician to receive a quote to run 120volt AC power to the camera



### 3. Sign Flock Safety Agreement

Sign the Flock Safety purchase order to begin the installation of cameras



### 4. Conduct Site Survey

Flock will mark camera locations, locate underground utilities and mark if present



### 5. Install Camera

Flock will install the camera and AC power kit at the specified camera location



### 6. Connect Camera to Power

Notify the electrician that the camera is ready for the power connection installation

# Electrician Handout

## Electrician Installation Steps

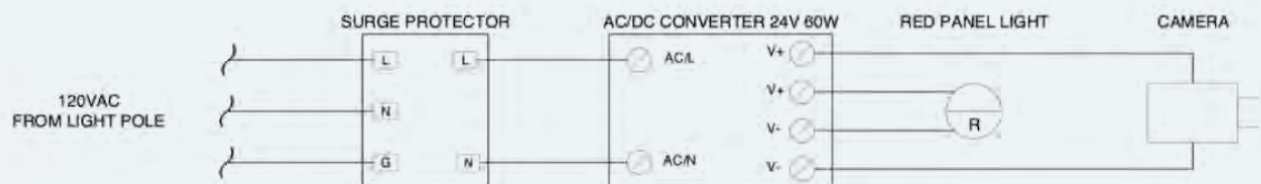
1. Run AC cable and conduit to the box according to NEC Article 300 and any applicable local codes. The gland accepts 1/2" conduit.
2. Open the box using hinges.
3. Connect AC Mains per wiring diagram below:
  - a. Connect AC Neutral wire to the Surge Protector white Neutral wire using the open position on the lever nut.
  - b. Connect AC Line wire to the Surge Protector black Line wire using the open position on the lever nut.
  - c. Connect AC Ground wire to the Surge Protector green ground wire using the open position on the lever nut.
4. Verify that both the RED LED is lit on the front of the box
5. Close box and zip tie the box shut with the provided zip tie
6. While still on-site, call Flock, who will remotely verify that power is working correctly:



**Southeast Region - (678) 562-8766**

**West-Region - (804) 607-9213**

**Central & NE Region - (470) 868-4027**



## FAQs about AC-Powered Flock Cameras

### What voltage is supported?

The AC kit is designed to work with 120VAC Infrastructure by default. A 240VAC version is available on request.

### How much power does this consume?

Peak current draw is 1.5 A at 120VAC. The average power draw is roughly 30W in high traffic conditions but maybe lower when fewer vehicles are present.

### Who is responsible for contracting the electrician?

The customer is responsible for contracting an electrician. We can help answer questions, but the customer is responsible for identifying and contracting an electrician.

### Who is responsible for maintenance?

Flock will handle all maintenance related to Flock's camera and power equipment. However, any problems with the electrical supply are the customer's responsibility. The AC junction box has two lights to indicate the presence of power and make it easy for quick diagnosis if there is a problem related to the AC power source.

- If the camera indicates to Flock that there is a power supply problem, Flock will notify the customer and request that the customer verifies the lights on the AC junction box. If the AC Source light is illuminated, Flock will send a technician to investigate. If the AC source light is not illuminated, the customer should check any GFCI's or breakers in the supply circuit or call the electrician who installed the power supply.

### How much does it cost?

Work required to bring AC power to each location will be different, so exact pricing is unavailable. Primary cost drivers include arrow boards and the distance from the camera location to the AC power source.

### What information do I need to provide my electrician?

The Flock deployment plan and these work instructions should be sufficient to secure a quote. It will be helpful if you know the location of the existing power infrastructure before creating the deployment plan.



**Can you plug it into my existing power outlet?** The Flock AC power adapter does not use a standard outlet plug but must be directly wired into the power mains. While using outlet plugs may be convenient, they can easily be unplugged, presenting a tampering risk to this critical safety infrastructure. The electrician can route power directly to the camera with a direct wire-in connection if an outlet is close to the camera.

**How long does this process typically take?**

The installation process typically takes 6-8 weeks. To accelerate the process, be sure to have the electrician perform his work shortly after the Flock technician finishes installing the camera.

**What kind of electrician should I look for?**

Any licensed electrician should perform this work, though we have found that those who advertise working with landscape lighting are most suited for this work.

**What happens if the electrician damages the equipment?**

The customer is responsible for contracting the electrician. Any liability associated with this work would be assumed by the customer. If any future work is required at this site due to the electrical infrastructure or the work performed by the electrician would be the responsibility of the customer.

**When should the electrician perform his work?**

Once Flock installs the camera, you will receive an email alert letting you know that this has been completed. After this, you will need to schedule the electrician to route power to the pole.

**What if my electrician has questions about Flock's AC Kit?**

You should share the [AC-Power Kit Details](#) packet with the electrician if they have questions.

**What if the AC power is on a timer?**

Sometimes the AC power will be on a timer (like used for exterior lighting). Flock requires that the AC power provided to the camera be constant. The source that the electrician uses must not be on a timing circuit.

# Installation Service Brief Summary

Below outlines the statement of work for the Flock Camera Installation:

What Is Covered By Flock	What Is NOT Covered By Flock	Special Note
Flock Cameras & Online Platform	Traffic Control And Any Associated Costs	
Mounting Poles	*DOT Approved Pole Cost Electrician & Ongoing Electrical Costs	
AC Power Kit (As Needed)	Engineering Drawings	
Solar Panels (As Needed)	Relocation Fees	<i>Excluding Changes During Initial Installation</i>
Site Surveys And Call 811 Scheduling	Contractor Licensing Fees	
Installation Labor Costs	Permit Application Processing Fees	
Customer Support / Training	Specialist Mounting Equipment	<i>Including, But Not Limited To, **MASH Poles Or Adapters</i>
Cellular Data Coverage	Bucket Trucks	
Maintenance Fees (Review <a href="#">Fees Sheet</a> For More Details)	Loss, Theft, Damage To Flock Equipment	
Data Storage For 30 Days	Camera Downtime Due To Power Outage	<i>Only Applicable For AC-Powered Cameras</i>
	***Field Technician Maintenance For <b>Falcon™ Flex</b>	

\*If a location requires a "DOT pole" (i.e., not our standard), the implementation cost will be \$5,000/camera; This cost is applicable for installations in GA, IL, SC, TN, and CA.

\*\*MASH poles: Manual for Assessing Safety Hardware (MASH) presents uniform guidelines for crash testing permanent and temporary highway safety features and recommends evaluation criteria to assess test results

\*\*\*If a camera is lost, stolen, or damaged, a replacement device can be purchased at a discounted price of \$800

# Permitting: Pre-Install Questionnaire

## 1. Timeline

- In Flock Safety's experience, in-depth permitting requirements can **add 2+ months to the installation timeline**.
- The SLA for permit document submission is within 15 days from contract signature date (contract Closed-Won)

## 2. Right of Way

- Will any Flock Safety cameras be installed on the city, state, or power company-owned poles or in the city, county, or state Right of Way (RoW)?
  - What is the RoW buffer?
  - Will additional permits or written permission be required from third-party entities (such as DOT, power companies, public works, etc.)?
- Will any cameras be installed on city-owned traffic signal poles (vertical mass)?
  - If yes, please provide heights/photos to determine if a bucket truck is needed for the installation.
    - Note: A bucket truck is required if the height exceeds 15 feet tall.

## 3. AC Power vs. Solar

- If AC powered, is there a 120V power source available, and is there access to an electrician who can connect the existing wire to the Flock Safety powered **installation kit**?
- If solar-powered, consider the size of the solar panel and potential to impact the visibility of DOT signs/signals:
  - Single Panel: 21.25" x 14" x 2" (Length x Width x Depth)
  - Double Panel: 21.25" x 28" x 2" (LxWxD)

## 4. Traffic Control & Installation Methods

- **If a bucket truck is required**, this typically necessitates an entire lane to be blocked in the direction of travel. **Can you provide a patrol car escort, or will full traffic control be required?\***

**PLEASE NOTE:** If traffic control is required, you may incur additional costs due to city/state requirements; Fees will be determined by quotes received.

- **If full traffic control is required (cones, arrow boards, etc.):**
  - Will standard plans suffice, or are custom plans needed? Custom plans can double the cost, while standard plans can be pulled from the Manual of Uniform Traffic Control Devices (**MUTCD**).
  - Will a non-sealed copy of the traffic plan suffice? Or does the traffic plan need to be sealed and/or submitted by a professional engineer?
  - Are there state-specific special versions/variances that must be followed?
- **If a bucket truck is not required**, the shoulder or sidewalk should suffice and enable Flock Safety to proceed without traffic control systems in place.
  - Note: In some states (i.e., arrow boards), sidewalks may require signage. If signage is mandatory, Will your Public Works department be able to assist?

## 5. Paperwork & Required Forms

- Flock Safety will need copies of paperwork to complete before proceeding (ex., business license applications, encroachment permit applications). We can save critical time by gathering these documents upfront. We appreciate your assistance in procuring these.

## 6. Contacts

- If Flock Safety needs to interface directly with the departments, please share the contact information of the following departments:
  - Permitting
  - Public Works
  - Traffic Department

## \*Fee Schedule

After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Customer, any subsequent changes to the deployment plan ("Reinstalls") driven by a Customer's request will incur a fee per the table below.

### What Services Incur Fees:

- Requested relocations post-approval by customer
- Relocations due to poor performance will be the responsibility of Flock
  - If a customer requests a location against the advisement of Flock, performance issues and any requested relocations will be the responsibility of the customer.
- Per the contract and absent a defect, in the event that Flock Hardware is lost, stolen, or damaged, Customer may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy  
<https://www.flocksafety.com/reinstall-fee-schedule>
- Misc billables for out of scope items for each implementation

### Incurred Fees:

- Camera relocation
  - Existing infrastructure (non-AC powered)..... **\$350**
  - Flock pole (non-AC powered)..... **\$750**
  - Advanced pole (non-AC powered)..... **\$5000**
- Replacements
  - Camera only as a result of vandalism, theft, or damage ..... **\$800**
  - Pole replacement only as a result of vandalism, theft, or damage
    - Flock pole ..... **\$500**
    - Advanced pole ..... **\$5000**
  - Full replacement as a result of vandalism, theft, or damage
    - Flock pole, camera, and solar (non-AC Powered)..... **\$1300**
    - Advanced pole, camera, and solar (non-AC Powered)..... **\$5800**

- Trip charge ..... \$350
  - Examples:
    - Angle adjustment (elective)
    - Install additional Flock signage

All fees are per reinstall or required visit (in the case that a reinstall is attempted but not completed) and include labor and materials. If you have any questions, please email [support@flocksafety.com](mailto:support@flocksafety.com).

## Help Center

Our Help Center is filled with many resources to help you navigate through the online platform. Below you will find some common questions and their relevant help article:

[How do I search camera footage?](#)

[How do I add a user?](#)

[How do I add a vehicle to my own Hot List?](#)

[How do I enable browser notifications for Hot List alerts?](#)

[How do I get text alerts for Hot List?](#)

[How do I request camera access from other nearby agencies?](#)

[How do I use the National Lookup to search for a plate?](#)

*(National Lookup - network of law enforcement agencies that have opted to allow their network of Flock cameras to be used for searches)*

[How do I reset my / another user's password?](#)

## Customer Support

You can reach our customer support team anytime by emailing [support@flocksafety.com](mailto:support@flocksafety.com). They can help answer any “How-To” questions you may have.



### **Sole Source Letter for Flock Safety® ALPR Cameras and Solution**

Flock Safety® is the sole manufacturer, developer, and distributor of the Flock Safety® ALPR Camera. Flock Safety® is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety® ALPR Camera.

**The Flock Safety® ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of proprietary features:**

1. Vehicle Fingerprint Technology®:
  - Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data)
  - Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate
  - Ability to 'Save Search' based on description of vehicles using our patented Vehicle Fingerprint Technology without the need for a license plate, and set up alerts based on vehicle description
  - Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo
  - Flock Safety Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self install. Flock Safety Falcon Flex™ ties seamlessly into the Flock Safety® ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge
2. Integrated Cloud-Software & Hardware Platform:
  - Ability to capture two (2+) lanes of traffic simultaneously with a single camera from a vertical mass
  - Best in class ability to capture and process up to 30,000 vehicles per day with a single camera powered exclusively by solar power
  - Wireless deployment of solar powered license plate reading cameras with integrated cellular communication weighing less than 5lbs and able to be powered solely by a solar panel of 60W or less
  - Web based footage retrieval tool with filtering capabilities such as vehicle color, vehicle type, vehicle manufacturer, partial or full license plate, state of license plate, and object detection

# flock safety

- Utilizes motion capture to start and stop recording without the need for a reflective plate
  - Motion detection allows for unique cases such as bicycle capture, ATV, motorcycle, etc.
  - On device machine processing to limit LTE bandwidth consumption
  - Cloud storage of footage
  - Covert industrial design for minimizing visual pollution
3. Transparency & Ethical Product Design:
- One-of-a-kind “Transparency Portal” public-facing dashboard that details the policies in place by the purchaser, as well as automatically updated metrics from the Flock Safety® system
  - Built-in integration with NCMEC to receive AMBER Alerts to find missing children
  - Privacy controls to enable certain vehicles to “opt-out” of being captured
4. Integrated Audio & Gunshot Detection:
- Natively integrated audio detection capabilities utilizing machine learning to recognize audio signatures typical of crimes in progress (e.g., gunshots)
5. Live Video Integration:
- Ability to apply computer vision to third-party cameras using Flock Safety Wing® LPR, transforming them to evidence capture devices using the same Vehicle Fingerprint technology offered on the Flock Safety Falcon® ALPR cameras
  - Flock Safety Wing® Livestream integrates live stream traffic cameras, publicly or privately owned livestream security cameras into one cloud-based situational awareness dashboard to increase response time in mission-critical incidents
  - Manage various government intelligence including ALPR, livestream cameras, CAD, automatic vehicle location (AVL) on Flock Safety Wing® Suite
  - Ability to access live and recorded video using Flock Safety Condor™, a subscription video solution which allows officers to remotely view instant replay of downloadable live on-scene video with PTZ controls and 25X optical zoom without the need for additional camera network set-up, installation, or up-keep.
6. Partnerships:
- Flock Safety® is the only LPR provider to officially partner with AXON to be natively and directly integrated into Evidence.com



# flock safety

- Flock Safety® is the only LPR provider to be fully integrated into a dynamic network of AXON's Fleet 3 mobile ALPR cameras for patrol cars and Flock Safety Falcon® cameras
- Access to additional cameras purchased by our HOA and private business partners, means an ever-increasing amount of cameras and data at no additional cost

## 7. Warranty & Service:

- Lifetime maintenance and support included in subscription price
- Flock Safety® is the only fully integrated ALPR one-stop solution from production of the camera to delivery and installation
- Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues

Thank you,



Garrett Langley CEO, Flock Safety®



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 9.

ITEM NO: 9

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DATE: June 13, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute a Second Amendment to the Agreement for Services with Pro-Sweep, Inc. for Power-Washing Services to Extend the Term Through December 31, 2024, and Increase the Compensation by \$37,399 for a Total Amount not to Exceed \$410,539

**RECOMMENDATION:**

Authorize the Town Manager to execute a Second Amendment to the Agreement for Services with Pro-Sweep, Inc. for power-washing services to extend the term through December 31, 2024, and increase the compensation by \$37,399 for a total amount not to exceed \$410,539.

**BACKGROUND:**

On June 18, 2019, the Town Council authorized the Town Manager to execute a five-year Agreement for Services with Pro-Sweep, Inc. for maintenance services, including downtown sidewalk power-washing and parking lot sweeping. On September 17, 2019, the Town Council authorized the Town Manager to execute a First Amendment to the Agreement for Services with Pro-Sweep, Inc. for additional street sweeping services through the Class IV bike lanes on Blossom Hill Rd. for an additional amount monthly, plus annual Consumer Price Index adjustments.

The Town of Los Gatos currently provides street sweeping services internally, which are complemented by contracted sweeping services of Town parking lots, bicycle lanes, and the underground parking garage.

**PREPARED BY:** Jim Harbin  
Superintendent

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

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PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to Execute a Second Amendment to the Agreement for Services with Pro-Sweep, Inc.

DATE: June 13, 2024

DISCUSSION:

In 2022, the West Valley Solid Waste Management Authority (WVSWMA) issued a Request for Proposals (RFP) for solid waste collection, which expanded its scope to include street sweeping services for the participating West Valley cities, including the Town of Los Gatos. The RFP process resulted in the selection of West Valley Collection & Recycling and their street sweeping subcontractor, Sweeping Corporate of America (SCA), to provide street sweeping services for the Town of Los Gatos effective July 1, 2024.

This amendment of a six-month extension allows the Town to continue power-washing services while staff explores options for continued power-washing services and supplemental/emergency street sweeping options.

CONCLUSION:

Authorize the Town Manager to execute a second amendment to the agreement for services with Pro-Sweep, Inc. for power-washing services to extend the term through December 31, 2024, and increase the compensation by \$37,399 for a total amount not to exceed \$410,539.

FISCAL IMPACT:

The Adopted Fiscal Year (FY) 2024/25 Parks and Public Works Streets Program Operating Budget includes sufficient funds to cover the contract amendment in the amount of \$37,399 for FY 2024/25.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Second Amendment to Agreement for Services with Exhibit A (First Amendment and Original Agreement) and Exhibit B (New Proposal).

## SECOND AMENDMENT TO AGREEMENT FOR SERVICES

This SECOND AMENDMENT TO AGREEMENT FOR SERVICES is dated for identification this 18<sup>th</sup> day of June 2024 and amends that certain FIRST AMENDMENT to AGREEMENT FOR SERVICES dated September 17, 2019, made by and between the Town of Los Gatos, ("Town,") and the Pro-Sweep, Inc. ("Service Provider") identified as an S Corporation and whose address is 2028 Woodward Road, San Jose, CA 95124.

### RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 18, 2019, ("Agreement"), a First Amendment to Agreement for Services on September 17, 2019, copies of which are attached hereto and incorporated by reference as Exhibit A to this Amendment.
- B. Town desires to amend the Agreement to extend the term and add to the compensation.

### AMENDMENT

1. Section 2.2 Term and Time of Performance is amended to read as follows:

This contract will remain in effect from June 18, 2019, to December 31, 2024.

2. Section 2.6 Compensation is amended to read as follows:

Additional compensation for Service Provider's professional services shall be increased as follows:

- FY24/25 \$37,399 for a total agreement **not to exceed \$410,539** as described in Exhibit B.

3. All other terms and conditions of the Agreement remain in full force and effect.

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

Town of Los Gatos:

Approved as to Consent:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_  
Rich Saso, President

Department Approval:

\_\_\_\_\_  
Nicolle Burnham  
Director of Parks and Public Works

Approved as to Form:

Attest:

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney

\_\_\_\_\_  
Wendy Wood, CMC, Town Clerk

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

Proposal #: 22460

Date: 5/31/2024

Expiration Date: 8/4/2024

Requested By: Jim Harbin

Total: \$26,460.00

Steam

Frequency: Jul-Dec Occurrence 2nd Mon

Location: Lot 4 Los Gatos, CA 95032

Scope: Steam Cleaning Services

Billing Frequency	Qty	Rate	Line Item Total
Monthly	6	\$4410.00	\$26,460.00

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

**Proposal #: 22460**

Date ITEM NO. 9.

Expiration Date: 8/4/2024

Requested By: Jim Harbin

**Total: \$26,460.00**

**Total: \$26,460.00**

**Notes:**

- Please advise tenant of possible water seepage at entrances.
- Inaccessible areas may prohibit ability to clean
- Water run-off (often containing contaminants) will be recaptured and processed by standards established by municipality governing property's geographic location.
- Fire alarms must be set to TEST mode and exhaust fans activated by management, during duration of service in enclosed garages
- Working conditions deemed unsafe, due to fire alarm or carbon monoxide sensor activation, will result in an immediate evacuation of premises, until "all clear" is provided by onsite security/building engineer.

Pro-Sweep, Inc. agrees to provide services in this scope, including all necessary supervision, skilled labor, and specialized equipment required to complete the agreed-upon work. Supplies, billing portals and compliance portals will be billed separately unless specifically stated otherwise.

Pro-Sweep uses cameras as a standard component of property service and inspection activities. A camera may be used to capture visual data for the purpose of documentation, assessment, and quality assurance.

Pro-Sweep reserves the right to charge a cancellation fee in the event that the service is canceled within 48 hours of the scheduled service date. The cancellation fee will be calculated based on the scope of the canceled service. As a diligent service provider, we strive to maintain competitive pricing. However, it is important to note that pricing adjustments may occur due to market conditions. In such cases, any price increases will take effect at the beginning of the next calendar year. Upon request, Pro-Sweep offers the option for multiyear pricing contracts. These contracts provide clients with the benefit of locked-in pricing and ensure predictable cost management over an extended period.

**Acceptance of Proposal** - The prices and conditions are hereby accepted. You are authorized to complete the scope of work defined in this proposal. Payment will be due as invoiced.

Date of Acceptance \_\_\_\_\_

Authorized

Signature \_\_\_\_\_

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

Requested By: Jim Harbin

**Proposal #: 22460**

Date ITEM NO. 9.

Expiration Date: 8/4/2024

**Total: \$26,460.00**



Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

Proposal #: 22459

Date: 5/31/2024

Expiration Date: 8/4/2024

Requested By: Jim Harbin

Total: \$2,268.00

	Billing Frequency	Qty	Rate	Line Item Total
Steam	Monthly	6	\$378.00	\$2,268.00
Frequency:	Jul-Dec Occurrence 3rd Sun			
Location:	100 Villa Ave Los Gatos, CA 95030			
Scope:	Steam Cleaning Services			

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

**Proposal #: 22459**

Date ITEM NO. 9.

Expiration Date: 8/4/2024

Requested By: Jim Harbin

**Total: \$2,268.00**

**Total: \$2,268.00**

**Notes:**

- Please advise tenant of possible water seepage at entrances.
- Inaccessible areas may prohibit ability to clean
- Water run-off (often containing contaminants) will be recaptured and processed by standards established by municipality governing property's geographic location.
- Fire alarms must be set to TEST mode and exhaust fans activated by management, during duration of service in enclosed garages
- Working conditions deemed unsafe, due to fire alarm or carbon monoxide sensor activation, will result in an immediate evacuation of premises, until "all clear" is provided by onsite security/building engineer.

Pro-Sweep, Inc. agrees to provide services in this scope, including all necessary supervision, skilled labor, and specialized equipment required to complete the agreed-upon work. Supplies, billing portals and compliance portals will be billed separately unless specifically stated otherwise.

Pro-Sweep uses cameras as a standard component of property service and inspection activities. A camera may be used to capture visual data for the purpose of documentation, assessment, and quality assurance.

Pro-Sweep reserves the right to charge a cancellation fee in the event that the service is canceled within 48 hours of the scheduled service date. The cancellation fee will be calculated based on the scope of the canceled service.

As a diligent service provider, we strive to maintain competitive pricing. However, it is important to note that pricing adjustments may occur due to market conditions. In such cases, any price increases will take effect at the beginning of the next calendar year. Upon request, Pro-Sweep offers the option for multiyear pricing contracts.

These contracts provide clients with the benefit of locked-in pricing and ensure predictable cost management over an extended period.

**Acceptance of Proposal** - The prices and conditions are hereby accepted. You are authorized to complete the scope of work defined in this proposal. Payment will be due as invoiced.

Date of Acceptance \_\_\_\_\_

Authorized

Signature \_\_\_\_\_

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

Requested By: Jim Harbin

**Proposal #: 22459**

Date ITEM NO. 9.

Expiration Date: 8/4/2024

**Total: \$2,268.00**

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

Proposal #: 22458

Date: 5/31/2024

Expiration Date: 8/4/2024

Requested By: Steve Souza

Total: \$4,032.00

Steam

Frequency: Aug,Nov Occurrence 3rd Sat

Location: 2 N Santa Cruz Ave Los Gatos, CA 95030

Scope: Steam Cleaning Services

Billing Frequency	Qty	Rate	Line Item Total
Monthly	2	\$2016.00	\$4,032.00

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

**Proposal #: 22458**

Date ITEM NO. 9.

Expiration Date: 8/4/2024

Requested By: Steve Souza

**Total: \$4,032.00**

**Total: \$4,032.00**

**Notes:**

- Please advise tenant of possible water seepage at entrances.
- Inaccessible areas may prohibit ability to clean
- Water run-off (often containing contaminants) will be recaptured and processed by standards established by municipality governing property's geographic location.
- Fire alarms must be set to TEST mode and exhaust fans activated by management, during duration of service in enclosed garages
- Working conditions deemed unsafe, due to fire alarm or carbon monoxide sensor activation, will result in an immediate evacuation of premises, until "all clear" is provided by onsite security/building engineer.

Pro-Sweep, Inc. agrees to provide services in this scope, including all necessary supervision, skilled labor, and specialized equipment required to complete the agreed-upon work. Supplies, billing portals and compliance portals will be billed separately unless specifically stated otherwise.

Pro-Sweep uses cameras as a standard component of property service and inspection activities. A camera may be used to capture visual data for the purpose of documentation, assessment, and quality assurance.

Pro-Sweep reserves the right to charge a cancellation fee in the event that the service is canceled within 48 hours of the scheduled service date. The cancellation fee will be calculated based on the scope of the canceled service. As a diligent service provider, we strive to maintain competitive pricing. However, it is important to note that pricing adjustments may occur due to market conditions. In such cases, any price increases will take effect at the beginning of the next calendar year. Upon request, Pro-Sweep offers the option for multiyear pricing contracts. These contracts provide clients with the benefit of locked-in pricing and ensure predictable cost management over an extended period.

**Acceptance of Proposal** - The prices and conditions are hereby accepted. You are authorized to complete the scope of work defined in this proposal. Payment will be due as invoiced.

Date of Acceptance \_\_\_\_\_

Authorized

Signature \_\_\_\_\_

Town of Los Gatos  
PO Box 655  
Los Gatos, CA 95031

Requested By: Steve Souza

**Proposal #: 22458**

Date ITEM NO. 9.

Expiration Date: 8/4/2024

**Total: \$4,032.00**

## FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 17<sup>th</sup> day of September 2019 and amends that certain agreement for Agreement for Services dated June 18, 2019, made by and between the Town of Los Gatos, ("Town,") and Pro-Sweep ("Service Provider").

### RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 18, 2019, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide an additional Scope of Services and increase the Compensation.

### AMENDMENT

1. 2.1 Scope of Services: Is amended to include additional services as described in that certain Proposal sent to the Town on August 23, 2019, which is hereby incorporated by reference and attached as Exhibit B.

The effective date of this Amendment shall begin on October 1, 2019 and will continue through June 30, 2024, subject to appropriation of funds, notwithstanding any other provision in this agreement.

2. 2.6 Compensation: Is amended to read:

Compensation for services **shall not exceed \$73,692** for the first year, inclusive of all costs. Payment shall be based upon Town approval of each task. Compensation for years two through five of this agreement are at a base cost of **\$74,862** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$74,862.


Period	Description	Unit Price	Total Item Price (Annually)
Monthly	Pressure Wash Downtown Sidewalks	\$4,200	\$50,400
Monthly	Pressure Wash Civic Center Library Area	\$360	\$4,320
Quarterly	Pressure Wash Downtown Parking Garage	\$1,920	\$7,680
Monthly	Additional Cost for Parking Lot Sweeping Service for 11 Municipal Lots and 8 Parks Parking Lots	\$746	\$8,952
Monthly	Sweeping Service for Curb Line West to the Bridge Deck on Blossom Hill Road	\$292.50	\$2,340 FY19/20 (Oct-Jun) \$3,510 FY20/21 through FY23/24

3. All other terms and conditions of the Agreement remain in full force and effect.

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


Town of Los Gatos

Service Provider by:

By:   
Laurel Prevetti, Town Manager

  
Name/Title

Department Approval:

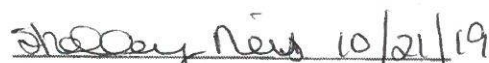
  
Name/Title

  
Matt Morley  
Director of Parks and Public Works

Approved as to Form:

Attest:

  
Robert Schultz, Town Attorney

 10/21/19  
Shelley Neis, CMC, Town Clerk



Date: 8/23/2019

To: Steve Regan

Downtown Los Gatos  
Los Gatos, CA 95030

Job Location:

2 N Santa Cruz Ave, Los Gatos, CA 95030

Service Proposal

Pro-Sweep, Inc., agrees to furnish all supervision, labor, materials, and equipment needed to complete the required services at the following location below.

Pro-Sweep reserves the right to charge a cancellation fee should the service be canceled less than 48 hours from the scheduled service date.

Description	Qty	Rate	Extension
1 S30 Sweeping for the curb line west to the bridge deck on Blossom Hill. Total Cost	1	\$292.50	\$292.50

The S30 sweeper's three-stage SweepMax® Plus cyclonic filtration and dust control system enables:

- Indoor and outdoor outstanding performance.
- Sweep everything from cement dust to heavy debris.
- Allow operators to control brush and vacuum speeds to remove heavier debris with II-speed sweeping technology.
- One of the lowest noise levels in class for an engine-powered sweeper.
- Pre-filter stage of dust control removing an additional 90 percent of dust particles from the air stream before reaching the filter.

- To accept this proposal, please sign and return to your service coordinator.
- Please email your insurance requirements to [paulina@pro-sweep.com](mailto:paulina@pro-sweep.com).
- Should this service require a purchase order please submit along with signed proposal.
- Contract with a 30 day cancellation clause in effect, upon approval of this proposal.
- Terms: Net 30

**Total \$292.50**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

## AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 18<sup>th</sup> of June 2019, and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Pro-Sweep ("Service Provider"), whose address is P.O. Box 5182, San Jose, CA 95150. This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 Town sought proposals 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 Pressure Washing and Parking Lot Sweeping services.
- 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 Proposal sent to the Town on May 14, 2019, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. The effective date of this Agreement shall begin **July 1, 2019** and will continue through **June 30, 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 **shall not exceed \$71,352** for the first year, inclusive of all costs. Payment shall be based upon Town approval of each task. Compensation for years two through five of this agreement shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount of \$71,352.
- 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 Failure to Perform. It is mutually agreed by SERVICE PROVIDER and TOWN that in the event that performance of the work by SERVICE PROVIDER under this Agreement is not completed as scheduled, TOWN will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of

penalty, SERVICE PROVIDER shall pay to TOWN the sum of five hundred dollars (\$500.00) per location per scheduled service in liquidated damages for every missed service. In the event that the liquidated damages are not paid, SERVICE PROVIDER agrees that TOWN may deduct the amount of unpaid damages from any money due or that may become due to SERVICE PROVIDER under this Agreement.

- 2.9 Schedule. Service Provider shall provide a schedule to the Town prior to beginning work. The schedule shall identify dates of service for each location. Schedule changes shall be approved by the Town with 24-hour notice. Each missed location shall be considered a failure to perform, unless the contractor provides advance notice of schedule change.
- 2.10 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.
- 2.11 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.
- 2.12 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.
- 2.13 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.

- 2.14 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: one million dollars (\$1,000,000) 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 officers, officials, employees and volunteers 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 officers, officials, employees and volunteers. 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 officers, agent, 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 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.
- 4.5 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

Pro-Sweep  
P.O. Box 5182  
San Jose, CA 95150

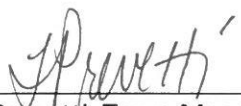
or personally delivered to Service Provider to such address or such other address as Service Provider designates in writing to Town.


- 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 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:

Service Provider by:


  
 \_\_\_\_\_  
 Laurel Prevetti, Town Manager

  
 \_\_\_\_\_  
Digitally signed by Rich Saso  
 DN: cn=Rich Saso, o, ou, email=rich@pro-sweep.com, c=US  
 Date: 2019.07.10 08:28:37 -07'00'

**President, Rich Saso**

Title

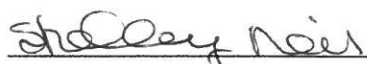
Recommended by:

  
 \_\_\_\_\_  
 Matt Morley  
 Director of Parks and Public Works

Approved as to Form:

Attest:

  
 \_\_\_\_\_  
 Robert Schultz, Town Attorney

  
 \_\_\_\_\_  
 Shelley Neis, CMC, Town Clerk



**BID PRICE SHEET**

For all services described below, unless excluded by the Town in description of services below, the Town shall consider unit prices below to include all labor, equipment, fees of any kind, overhead, insurance, fuel, materials, surcharges, disposal fees, and any other costs associated with and necessary for the Bidder to perform such service. No qualifications, exemptions, or alterations of services described below will be allowed. Failure to comply will result in disqualification of bid.

**A. GENERAL SERVICES****COST PROPOSAL**

BID ITEM	PERIOD	DESCRIPTION, WITH UNIT PRICE IN WORDS. (PRICE IS INCLUSIVE OF ALL APPLICABLE TAXES AND FEES)	UNIT PRICE	TOTAL ITEM PRICE	TOTAL HOURS FOR SERVICES.
01	Monthly	Pressure Wash Downtown Sidewalks per attached Site Location map.	\$4,200	\$50,400	70 hours /service
02	Monthly	Pressure Wash Civic Center Library Area per attached Site Location map.	\$360	\$4,320	6 hours / service
03	Quarterly	Pressure Wash Downtown Parking Garage. All water and Materials Shall be Captured through-out the Process.	\$1,920	\$7,680	32 hours / service
04	Monthly	Additional Cost for Parking Lot Sweeping Service for eleven (11) Municipal Lots and eight (8) Parks Parking Lots	\$746	\$8,952	14.5 hours / service

To: Steve Regan

Date: 5/7/2019

41 Miles Ave  
Los Gatos, CA 95030

Job Location:  
131 E Main St, Los Gatos, CA 95030

**Service Proposal**

Pro-Sweep, Inc., agrees to furnish all supervision, labor, materials, and equipment needed to complete the required services at the following location below.  
Pro-Sweep reserves the right to charge a cancellation fee should the service be canceled less than 48 hours from the scheduled service date.

**Service To Include:**

1. To remove all dirt, algae, gum and stains (to the best of our ability) from surface.
2. Steam clean designated areas per your request.
3. Protect all entrances to prevent water seepage.
4. Scrub and hydro-flush concrete areas.
5. Water recaptured and processed.
6. Squeegee any over-spray on windows.
7. Service to be performed: As specified below.

**Equipment and Labor To Be Used:**

1. 1 Delco 4500 PSI - Water temperature will be 160 degrees
2. 2 Water Vacuum
3. 2 Men
4. Pressed wood sheets (to protect all landscaped areas)

Description	Qty	Rate	Extension
1 Monthly steam Cleaning of Downtown sidewalks per site location map provided. Cost per Month	12	\$4,200.00	\$50,400.00
2 Monthly steam cleaning of Civic Center library area per site location map provided. Cost per Month	12	\$360.00	\$4,320.00
3 Quarterly steam cleaning of Downtown parking garage. All water and materials to be recaptured throughout the process. Cost per Service	4	\$1,920.00	\$7,680.00

**NOTES:**

- Please advise tenant of possible water seepage at entrances.
- Inaccessible areas may prohibit ability to clean
- Water run-off (often containing contaminants) will be recaptured and processed by standards established by municipality governing property's geographic location.
- Fire alarms must be set to TEST mode and exhaust fans activated by management, during duration of service in enclosed garages
- Working conditions deemed unsafe, due to fire alarm or carbon monoxide sensor activation, will result in an immediate evacuation of premises, until "all clear" is
- To accept this proposal, please sign and return to your service coordinator.
- Please email your insurance requirements to [shelby@pro-sweep.com](mailto:shelby@pro-sweep.com).
- Should this service require a purchase order please submit along with signed proposal.
- Contract with a 30 day cancellation clause in effect, upon approval of this proposal.
- Terms: Net 30

**Total \$62,400.00**

**Authorized Signature**

**Date**

PRO-SWEEP, INC. \*P.O. BOX 5182, San Jose, CA 95150 \* Phone: 408-558-1900 \* Fax: 408-558-1909

To: Steve Regan  
41 Miles Ave  
Los Gatos, CA 95030

Date: 5/14/2019

Job Location:  
North Parking Lot, Los Gatos, CA 95032, Lot 1, Los Gatos, CA 95032, Lot 2, Los Gatos, CA 95032, Lot 3, Los Gatos, CA 95032, Lot 4, Los Gatos, CA 95032, Lot 5, Los Gatos, CA 95032, Lot 6, Los Gatos, CA 95032, Lot 7, Los Gatos, CA 95032, Lot 8, Los Gatos, CA 95032, Lot 9, Los Gatos, CA 95032, Lot 10, Los Gatos, CA 95032,

**Service Proposal**

Pro-Sweep, Inc., agrees to furnish all supervision, labor, materials, and equipment needed to complete the required services at the following location below.  
Pro-Sweep reserves the right to charge a cancellation fee should the service be canceled less than 48 hours from the scheduled service date.

**Service Proposal | Sweeping Services**

Pro-Sweep, Inc., agrees to furnish all supervision, labor, materials, and equipment needed to complete the required services at the following location below:

**Scope Of Work:**

1. Sweeping Of All Paved Areas Utilizing Back Pack Blowers And/or Power Nite-hawk Sweeping Unit, As Appropriate For Property.
2. Sweeping Includes Along Perimeter Of Buildings, Curbs, Fences, And Tire Stops In Accessible Serviced Areas.
3. Follow Up Inspection After Initial Service With Subsequent Unscheduled Inspections To Verify Quality Of Service.
4. Check All Storm Drains For Excessive Debris And Clean Surface If Necessary.
5. Notify Client Of Any Unusual Circumstances (i.e., Excessive Water, Broken Sprinkler Head, Lighting Issues Or Large Abandoned Objects) In Serviced Areas.
6. To Include Liability Insurance And Worker's Compensation. Waivers Of Subrogation And Primary Wording Are Available Upon Request.
7. Sweeping Frequency: As Specified Below.

Description	Qty	Rate	Extension
1 Power sweep all accessible paved areas utilizing a Nite-Hawk Sweeper. For maximum efficiencies and effectiveness, Pro-Sweep sweeping services are performed in the late p.m./early a.m. post-business hours, unless contracted otherwise	12	\$240.00	\$2,880.00
2 Power sweep all accessible paved areas utilizing a Nite-Hawk Sweeper. For maximum efficiencies and effectiveness, Pro-Sweep sweeping services are performed in the late p.m./early a.m. post-business hours, unless contracted otherwise	12	\$160.00	\$1,920.00

- To accept this proposal, please sign and return to your service coordinator.
- Please email your insurance requirements to [shelby@pro-sweep.com](mailto:shelby@pro-sweep.com).
- Should this service require a purchase order please submit along with signed proposal.
- Contract with a 30 day cancellation clause in effect, upon approval of this proposal.
- Terms: Net 30

**Total \$8,952.00**

**Authorized Signature**

**Date**

PRO-SWEEP, INC. \*P.O. BOX 5182, San Jose, CA 95150 \* Phone: 408-558-1900 \* Fax: 408-558-1909

To: Steve Regan  
41 Miles Ave  
Los Gatos, CA 95030

Date: 5/14/2019

Job Location:  
North Parking Lot, Los Gatos, CA 95032, Lot 1, Los Gatos, CA 95032, Lot 2, Los Gatos, CA 95032, Lot 3, Los Gatos, CA 95032, Lot 4, Los Gatos, CA 95032, Lot 5, Los Gatos, CA 95032, Lot 6, Los Gatos, CA 95032, Lot 7, Los Gatos, CA 95032, Lot 8, Los Gatos, CA 95032, Lot 9, Los Gatos, CA 95032, Lot 10, Los Gatos, CA 95032,

3	Power sweep all accessible paved areas utilizing a Nite-Hawk Sweeper. For maximum efficiencies and effectiveness, Pro-Sweep sweeping services are performed in the late p.m./early a.m. post-business hours, unless contracted otherwise	12	\$296.00	\$3,552.00
4	Hauling and recycling of all leaf and natural debris	12	\$50.00	\$600.00

CONTRACTS: While we hesitate to increase our pricing, costs that are driven by market conditions are inevitable. For your budgeting purposes, please note that if increases occur they will take place at the beginning of the calendar year after contract expiration.

THINKING GREEN: Our Nite-Hawk powerful sweepers BURN LESS FUEL to do the same work as other auxiliary engine sweepers. They also have been measured at 66 DECIBELS COMPARED TO 90+ DECIBELS of the auxiliary engine sweepers.

NOTE: All leaf debris is recycled at green recycling centers.

- To accept this proposal, please sign and return to your service coordinator.
- Please email your insurance requirements to [shelby@pro-sweep.com](mailto:shelby@pro-sweep.com).
- Should this service require a purchase order please submit along with signed proposal.
- Contract with a 30 day cancellation clause in effect, upon approval of this proposal.
- Terms: Net 30

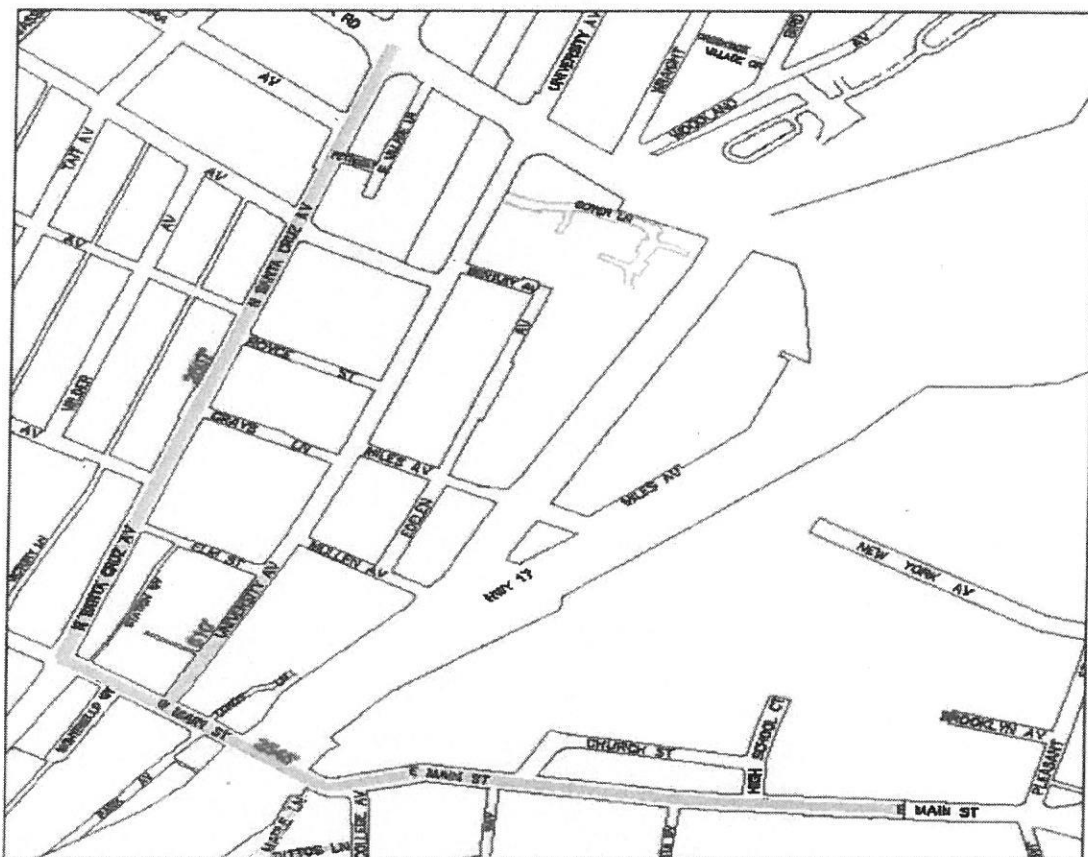
**Total \$8,952.00**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

PRO-SWEEP, INC. \*P.O. BOX 5182, San Jose, CA 95150 \* Phone: 408-558-1900 \* Fax: 408-558-1909

DOWNTOWN SIDEWALKS LOCATION MAP



**LOS GATOS CIVIC CENTER LIBRARY**



Bid Tabulation - Downtown Power Washing and Parking Lot Sweeping Services

Item No.	Description	Unit Pricing	Pro Sweep		Universal Site Services		Webco Sweeping LLC	
			Total Hours	Item Cost	Total Hours	Item Cost	Total Hours	Item Cost
1	Monthly Pressure Washing Downtown	Mo.	\$ 70	\$ 50,400	\$ 40	\$ 51,840	\$ -	\$ -
2	Monthly Pressure Washing Library	Mo.	\$ 6	\$ 4,320	\$ 4	\$ 4,536	\$ -	\$ -
3	Quarterly Washing Parking Lot #4	Qtr.	\$ 32	\$ 7,680	\$ 16	\$ 8,000	\$ -	\$ -
4	Monthly Parking Lot Sweeping	Mo.	\$ 15	\$ 8,952	\$ 16	\$ 7,440	\$ -	\$ -
Total Bid Price				\$ 71,352		\$ 71,816		\$ -





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 10

ITEM NO. 10.

DATE: June 10, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve and Authorize the Town Manager to Execute a Side Letter of Agreement Between the Town of Los Gatos and the Police Officers Association (POA) to Modify the Vacation Accrual Cap through June 30, 2025

**RECOMMENDATION:**

Approve and authorize the Town Manager to execute a Side Letter of Agreement (Attachment 1) between the Town of Los Gatos and the Police Officers Association (POA) to modify the vacation accrual cap through June 30, 2025.

**REMARKS:**

On May 2, 2023, the Town Council approved a side letter with POA to temporarily increase POA members' vacation accrual maximum cap by 100 hours (from 344 hours to 444 hours). This was done due to unusually low staffing levels in the Police Department that prevented many POA members from using their accrued vacation leave. This vacation accrual maximum cap increase is currently set to end on June 30, 2024.

The Town's negotiating team met and conferred in good faith with POA representatives to negotiate a one-year extension of that side letter (Attachment 1). If approved, the temporary vacation accrual maximum cap increase would end June 30, 2025, and effective July 1, 2025, the vacation accrual maximum cap would return to 344 hours. At that time, if an employee's vacation balance is above 344 hours, the hours will remain in the employee's vacation leave bank for future use or cash out per the terms of the Memorandum of Understanding (MOU), and vacation accruals will not resume until an employee's balance is below 344 hours.

**PREPARED BY:** Katy Nomura  
Assistant Town Manager

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



SUBJECT: Approve a Side Letter of Agreement Between the Town of Los Gatos and the  
Police Officer Association (POA) to Modify the Vacation Accrual Cap Through  
June 30, 2025  
DATE: June 10, 2024

REMARKS (continued):

The parties agree that the preceding language temporarily modifies the maximum accrual of vacation hours as indicated in **Section 23. Vacation Schedule** of the 2024-2027 Memorandum of Understanding (Attachment 2). The parties acknowledge that this side letter is subject to Council approval.

FISCAL IMPACT:

The maximum fiscal impact of the side letter will be absorbed in the Police Department's Fiscal Year 2024/25 operating budget. If any adjustments are needed, they will be requested at that time.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. 2024 POA Vacation Side Letter of Agreement
2. 2024-2027 POA Memorandum of Understanding

**SIDE LETTER OF AGREEMENT  
BETWEEN THE TOWN OF LOS GATOS AND POLICE OFFICERS' ASSOCIATION  
JUNE 18, 2024**

Having met and conferred in good faith, the Town of Los Gatos and the Police Officers' Association agree as follows:

Whereas current low staffing levels in the Police Department have prevented POA members from using their accrued vacation leave, the Town shall maintain its temporary increase to POA members' vacation accrual maximum cap from 344 hours to 444 hours. The temporary increase shall end June 30, 2025. Effective July 1, 2025, the vacation accrual maximum cap shall return to 344 hours. At that time, if an employee's vacation balance is above 344 hours, the hours will remain in the employee's vacation leave bank for future use or cash out per the terms of the MOU, but vacation accruals will not resume until an employee's balance is below 344 hours.

The parties agree that the preceding language temporarily modifies the maximum accrual of vacation hours as indicated in Section 23. Vacation Schedule of the 2024-2027 Memorandum of Understanding. The parties agree that this side letter is subject to Council approval.

**FOR POA:**


---

 Greg Borromeo, President

---

 Bill Hoyt, Sergeant

---

 Mike Birley, Detective

---

 Riley Frizzell, Detective

---

 Peter Hoffman, Rains Lucia Stern  
St. Phalle & Silver, PC
**TOWN OF LOS GATOS:**


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 Laurel Prevetti, Town Manager

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 Katy Nomura, Assistant Town Manager

---

 Lisa Charbonneau, Liebert Cassidy  
Whitmore
**APPROVED AS TO FORM:**


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 Gabrielle Whelan, Town Attorney

**TOWN OF LOS GATOS**

**AND**

**LOS GATOS POLICE OFFICERS' ASSOCIATION**



**MEMORANDUM OF UNDERSTANDING**

**April 1, 2024 – June 30, 2027**

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**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE TOWN OF LOS GATOS  
AND  
THE LOS GATOS POLICE OFFICERS ASSOCIATION**

THIS AGREEMENT IS ENTERED INTO AS OF April 16, 2024, BETWEEN THE TOWN OF LOS GATOS, HEREINAFTER REFERRED TO AS THE "TOWN", AND THE LOS GATOS POLICE OFFICERS ASSOCIATION, HEREINAFTER REFERRED TO AS "POA".

Pursuant to Town Resolution 1974-41 of the Town of Los Gatos and Section 3500 et. seq. of the Government Code, the duly authorized representatives of the Town and POA, having met and conferred in good faith concerning the issues of wages, hours, and terms and conditions of employment, as herein set forth, declare their agreement to the provisions of this Memorandum of Understanding.

**FOR THE TOWN:**

DocuSigned by:



5/3/2024

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Laurel Prevetti, Town Manager

DocuSigned by:



5/1/2024

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Katy Nomura, Assistant Town Manager

DocuSigned by:



4/23/2024

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Lisa S. Charbonneau Liebert Cassidy Whitmore

**FOR POA:**

DocuSigned by:



4/23/2024

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Greg Borromeo, President

DocuSigned by:



4/22/2024

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Bill Hoyt, Sergeant

DocuSigned by:



4/22/2024

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Mike Birley, Detective

DocuSigned by:



4/22/2024

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Riley Frizzell, Detective

DocuSigned by:



4/23/2024

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Peter Hoffmann, Rains Lucia Stern St. Phalle Silver, PC

APPROVED AS TO FORM:

DocuSigned by:



4/30/2024

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Gabrielle Whelan  
Town Attorney

Attest:

DocuSigned by:



5/3/2024

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Wendy Wood

Town Clerk

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Preamble .....	1
Term .....	1
1. Employer-Employee Relations.....	1
2. Savings Clause.....	1
3. Payroll Deduction .....	1
4. Non-Discrimination.....	2
4.1 General Provisions Regarding Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA) .....	2
5. Salary .....	2
5.1 Intent.....	2
5.2 Effective Upon Approval .....	2
5.3 Effective 2025 .....	2
5.4 Effective 2026.....	2
6. PERS Benefits.....	2
6.1 PERS 3% at 50 Retirement Option Classic Members .....	3
6.2 PERS 2.7% at 57 Retirement Option New Members .....	3
7. Education Incentive Pay .....	3
7.1 Four-Year Degree Incentive .....	3
7.2 Two-Year Degree Incentive Pay .....	3
7.3 Commencement of Educational Incentive Pay .....	3
7.4 Re-Opener.....	4
7.5 CalPERS.....	4
8. POST Certification Pay .....	4
9. Special Pays.....	4
9.1 Special Assignment Pay.....	4
9.2 Bilingual Pay.....	5
9.3 Canine Pay.....	5
9.4 Field Training Officer Training Premium .....	6
9.5 Trailing Canine Pay .....	6
9.6 Therapy Canine Pay.....	6
9.7 Posting for Special Assignments.....	7
10. Acting Sergeant Pay .....	7
11. Reimbursement of Expenses .....	7
12. Tuition Reimbursement.....	7

13.	Health and Welfare Benefits and Rate of Town Contribution.....	7
13.1	Cafeteria Plan.....	7
13.2	Dental.....	8
13.3	Medical .....	8
13.4	Vision.....	8
13.5	Cash-In-Lieu Plan.....	8
13.6	Supplemental Health and Welfare Benefits .....	8
14.	Retiree Health.....	9
14.1	Retiree Health Benefit for Eligible Retirees Hired on or Before October 1, 2018.....	9
14.2	Retiree Health Benefit for Eligible Retirees Hired After October 1, 2018.....	10
15.	Uniforms .....	11
16.	Mileage Reimbursement .....	11
17.	Payroll Periods .....	11
18.	Paychecks.....	11
19.	Deferred Compensation .....	11
20.	Overtime .....	11
21.	Duty Extension.....	12
22.	Call Back.....	12
23.	Vacation Schedule .....	13
24.	Vacation and Compensatory Time Off Cash-Out.....	13
25.	Shift and Vacation Selection Procedures.....	13
26.	Holidays and Holiday Pay.....	13
27.	Personal Leave .....	14
28.	Sick Leave.....	14
29.	Sick Leave Cash-Out Program .....	14
29.1	Annual Sick Leave Cash-Out for Employees Hired Prior to October 1, 2018 .....	14
29.2	Sick Leave Cash-Out Upon Termination for Employees Hired Prior to October 1, 2018 .....	14
29.3	Unused Sick Leave Upon Retirement.....	15
30.	Military Leave .....	15
31.	Bereavement/Compassion Leave .....	15
32.	Leave Without Pay.....	15



33.	Accrual of Benefits.....	16
34.	Workers' Compensation .....	16
35.	Jury Duty .....	16
36.	Outside Employment .....	16
37.	Residency Requirement.....	16
38.	Layoff Policy .....	16
39.	Paid Family Leave .....	17
40.	Promotions .....	17
41.	Probationary Period.....	17
42.	Performance Evaluations.....	17
43.	Reinstatement .....	18
44.	Re-Employment .....	18
45.	Grievance Procedures.....	18
46.	Attendance .....	19
47.	Completeness of MOU .....	19
48.	Association Notification or Communications .....	19
49.	Labor-Management Committee.....	19
50.	Catastrophic Time Bank.....	19
51.	Me Too Clause .....	20

## Salary Schedule Exhibit A

**Town of Los Gatos and Los Gatos Police Officers Association  
Comprehensive Memorandum of Understanding  
On Salaries, Fringe Benefits and Working Conditions**

**Preamble**

The authorized representatives of the Town of Los Gatos, hereinafter referred to as the "Town" and the authorized representatives of the Town of Los Gatos Police Officers Association hereinafter referred to as "Association" do jointly accept and agree to all the terms and conditions of employment set forth in this comprehensive memorandum of understanding pursuant to Town Resolution 1974-41 of the Town of Los Gatos.

This understanding shall apply to represented employees assigned to those classifications listed on Exhibit A when classifications are created which fall under the representation of POA, this understanding shall also apply.

The terms and conditions of employment set forth in this understanding have been discussed in good faith by the authorized representatives of the Town and the authorized representatives of the Police Officers Association. They agree to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by the Association, authorized representatives of the Town agree to recommend to the Town Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective without further action by either party.

**Term**

The term of this Memorandum of Understanding shall be three years, commencing on April 1, 2024, and terminating on June 30, 2027.

**Section 1. Employer-Employee Relations**

The Association recognizes the existence of Town Resolution 1974-41, and its successor if any, during the term of this MOU. Recognition of any amendments to this resolution does not imply POA has agreed to the changes.

**Section 2. Savings Clause**

If any provision or the application of any provision of this agreement as implemented should be rendered or declared invalid by any court action or decree or by reasons of any preemptive legislation, the remaining sections of this agreement shall remain in full force and effect for the duration of this agreement.

**Section 3. Payroll Deduction**

Any employee may sign and deliver to the Association an authorization for payroll deduction of membership dues. The Town agrees to remit to the Association all monies deducted accompanied by a list of workers for whom such deductions have been made and indicating any changes in personnel from the list previously furnished.

The Association shall certify in writing to the Town any changes in the amount of membership dues. The Town shall not be obligated to put into effect any new, changed, or discontinued deduction until the pay period commencing thirty (30) days or longer after such submission.

The Association shall indemnify and hold harmless the Town against any and all suits, claims, demands, and liabilities that may arise out of, or by reason of, any action or omission of the Town in complying with this Section.

## **Section 4. Non-Discrimination**

The Town and Association agree that all provisions of this agreement shall be applied equally to all employees covered herein without favor or discrimination because of race, religious creed, color, sex (including pregnancy, childbirth, and related medical conditions), age (over 40), gender, gender identity, gender expression, sexual orientation, national origin, ancestry, political or religious affiliation, Association membership or activity on behalf of the Association, marital status, military or veteran status, or physical disability, mental disability, medical condition, or genetic information or any other basis prohibited by applicable federal, State or Town law. Association and Town support equal employment opportunity in hiring and will support all State and Federal regulations regarding equal employment opportunity.

### **4.1 General Provision regarding the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act (FEHA)**

#### **4.1.1**

Because the ADA and the FEHA require accommodations for individuals protected under the Acts, the Association recognizes the Town's obligation to comply with all provisions of the ADA and the FEHA on a case-by-case basis.

#### **4.1.2**

The Association recognizes that the Town has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The Association will be notified of these proposed accommodations.

#### **4.1.3**

Any accommodation provided to an individual protected by the ADA and the FEHA shall not establish a past practice.

## **Section 5. Salary**

### **5.1 Intent**

It is the intent of the Town to maintain salaries and benefits at a level that attracts and retains quality employees. The parties agree that surveys of the wages and benefits of police officers performing comparable work for comparable agencies provide information useful in ensuring that the Town continues to meet this goal.

### **5.2 Effective Upon Approval**

Effective April 1, 2024, the salary rate for all classifications shall be increased by six- and one-half percent (6.5%).

### **5.3 Effective 2025**

Effective the first full pay period in July 2025, the salary rate for all classifications shall be increased by five percent (5%).

### **5.4 Effective 2026**

Effective the first full pay period in July 2026, the salary rate for all classifications shall be increased by four percent (4%).

## **Section 6. PERS Benefits**

The Town contracts with the California Public Employees' Retirement System (CalPERS or PERS) to provide Town employees with retirement benefits.

## 6.1 PERS 3% at 50 Retirement Option Classic Members

For employees that are not “New Members” as defined under Government Code section 7522.04(f), commonly referred to as “Classic Members,” the Town provides the 3% at 50 option for members of the bargaining unit. The Town’s contract with CalPERS for the 3% at 50 option also includes the following optional benefits:

- Single Highest Year
- 1959 Survivor Benefit Level 4
- Conversion of Unused Sick Leave to Service Credit

Classic Members contribute 12% towards PERS (3% more than required by statute) in accordance with Government Code section 20516(a).

## 6.2 PERS 2.7% at 57 Retirement Option for New Member Employees Hired on or After January 1, 2013

For employees hired on or after January 1, 2013, who meet the definition of New Member under Government Code 7522.04(f), the Town provides the 2.7% at 57 retirement benefit.

The Town’s contract with CalPERS for the 2.7% at 57 option also includes the following optional benefits:

- 36-month final average compensation (Gov’t Code 20037)
- 1959 Survivor Benefit Level 4
- Conversion of Unused Sick Leave to Service Credit

New Members contribute toward CalPERS an amount that is equal to one half (1/2) the normal cost of their CalPERS pension as determined annually by CalPERS, or the current contribution rate of similarly situated employees, whichever is greater (Government Code 7522.30(c)).

## Section 7. Education Incentive Pay

### 7.1 Four-Year Degree Incentive Pay

The Town shall pay two and one-half percent (2.5%) of base salary to any member who possesses a four-year degree that enhances their ability to do their job. Employees must submit proof of the four-year degree to Human Resources in order to be eligible for the payment.

### 7.2 Two-Year Degree Incentive Pay

For employees hired prior to June 30, 2008, the Town shall pay two and one-half percent (2.5%) of base salary to any member who possesses a two-year degree or meets the minimum requirements to obtain an Associates of Arts Degree that enhances their ability to do their job. Employees must submit proof of the two-year degree or completion of the minimum requirements to obtain an Associates of Arts Degree in a related field to Human Resources in order to be eligible for the payment. The incentive pay for a two-year degree does not stack with incentive pay for a four-year degree; the maximum education incentive pay any member may receive under this section 7 is two and one-half percent (2.5%) of base salary.

### 7.3 Commencement of Educational Incentive Pay

Educational Incentive Pay is effective the first full pay period after the employee provides Human Resources with sufficient proof that the employee has obtained the requisite degree or education for Educational Incentive Pay.

## 7.4 Re-Opener

If the law changes on the education requirements for California police officers, the Town has the right to reopen this section 7.

## 7.5 CalPERS

The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(2) and 571.1(b)(2) as Education Incentive.

## Section 8. POST Certificate Pay

Qualified employees shall receive one of the following payment amounts in accordance with Exhibit A:

### 8.1

Employees in their represented classifications who have been awarded an Intermediate POST Certificate: An additional 5% of base salary.

### 8.2

Employees in their represented classifications who have been awarded an Advanced POST Certificate: An additional 2.5% of base salary for a total of 7.5%.

### 8.3

The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(2) and 571.1(b)(2) as Education Incentive.

## Section 9. Special Pays

Officers are limited to one special assignment pay or canine pay. Officers who qualify for bilingual pay may receive bilingual pay in addition to a special assignment pay or canine.

### 9.1 Special Assignment Pay

Town shall provide a 5% special assignment pay to Association represented personnel who are routinely and consistently assigned as follows:

#### 9.1.1

Motorcycle Patrol Premium - For unit members who operate and/or patrol on motorcycle.

#### 9.1.2

School Resource Officer Duty Pay - For unit members who are assigned to School Resource Officer duty.

#### 9.1.3

Detective Division Premium - For unit members who are routinely assigned to a detective or investigative division.

#### 9.1.4

Police Administrative Officer-for unit members who are assigned to police administration to provide support for the Police Chief and Command Staff in the operation of the Police Department.

Assignment for special pay purposes shall be done using Town Personnel Action Forms.

Association represented personnel removed from specialty positions on a temporary basis for departmental purposes and through no fault or request of their own shall continue to receive specialty pay for a maximum of 30 calendar days.

The parties agree that to the extent permitted by law, special assignment pays are special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR 571(a)(4) and 571.1(b)(3) as Special Assignment Pay.

## 9.2 Bilingual Pay

The Town will pay an additional 2.5% above base pay for employees who are routinely and consistently assigned to communicate in languages other than English. Bilingual pay will be for Spanish, Russian, Arabic, Chinese, Vietnamese, and any other language designated by the Chief of Police. The Town will determine the qualifying criteria including the test and the application to the specific job assignment.

The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(4) and 571.1(b)(3) as Bilingual Premium.

## 9.3 Canine Pay

Officers who are routinely and consistently assigned to handle, train, and board a canine in accordance with this section are eligible for Canine Officer/Animal Premium. Officers assigned to the canine unit are required to care for, train, groom, feed, and bathe their assigned dog. The parties agree that two hours per week is a reasonable amount of time to care for the canine. The Town compensates Canine officers a total of five (5) hours per week for additional time spent caring for the canine. Two (2) hours of this additional time is outside of the regular shift. The remaining three (3) hours is provided as release time.

Call-back as defined in the MOU shall not apply for the purposes of caring for the dog. Compensation provided during the additional paid time and release time is mutually acknowledged to compensate for additional time required to care for, train, groom, feed, and bathe the assigned canine.

### 9.3.1

Canine Pay Premium - Compensation for the 2 hours outside of the regular shift is paid as a 5% premium on all hours worked.

The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR 571(a)(4) and 571.1(b)(3) as Canine Officer / Animal Premium.

### 9.3.2

Canine Release Time - Canine Officers on a 4-10 schedule shall be released in a paid capacity for 0.75 hours prior to the "normal" conclusion of each regularly scheduled shift (4 shifts per week equaling 3 hours per week) for the normal care of the canine, including but not limited to training, grooming, feeding, bathing, and routine veterinarian care.

Canine Officers on a 12-hour schedule shall be released in a paid capacity for 1.0 hours prior to the "normal" conclusion of each regularly scheduled shift (3 shifts per week equaling 3 hours per week) for the normal care of the canine, including but not limited to training, grooming, feeding, bathing, and routine veterinarian care.

In the event that a Canine Officer is not released in sufficient time prior to the conclusion of his or her shift, the officer will be paid for additional time after the end of shift to compensate them for 0.75 or 1.0 hours of Canine care time as appropriate. The Town recognizes that this may result in overtime.

### 9.3.3

Commute Time with Canine - Commute time with the canine shall not be considered working time. If there is an event requiring emergency veterinarian care, travel to the veterinarian will be compensable work time.

## 9.4 Field Training Officer Training Premium

In addition to the above special pays, officers assigned by the Chief of Police as Field Training Officers shall also receive the 5% incentive whenever providing training to a Department member for which a training observation report is required or when completing special assignments directly related to the Field Training Officer Program with prior approval of the Chief of Police. Attendance at FTO meetings, training provided at briefings, or other training provided in conjunction with the Department's annual Advanced Officer Training or other on-going general training to Department members does not qualify for the 5% incentive.

The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(4) and 571.1(b)(3) as Training Premium.

## 9.5 Trailing Canine Pay

Officers that personally own a certified and properly equipped Trailing Canine and have been identified as a Department Trailing Canine Handler will provide the Los Gatos-Monte Sereno Police Department with the use of the Trailing Canine when tracking, trailing and related canine services are required. Deployment of the Trailing Canine Team may be requested for location of missing persons, fugitive apprehension, and evidence recovery. With the approval of the Chief of Police, the Trailing Canine Team may also be deployed to other jurisdictions. Trailing Canine Handlers are responsible for the maintenance and care of the canine, in addition to recurring in-service training, at no cost to the Town.

### 9.5.1

Trailing Canine Premium - Officers will receive a five percent (5%) specialty pay premium only during approved deployment and use of services and will submit an approved time sheet noting the specialty pay during the pay period in which the services were rendered. The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR 571(a)(4) and 571.1(b)(3) as Canine Officer / Animal Premium.

The Town will reimburse Officers up to, but not to exceed, \$150.00 per month premium for private pet insurance. Officers will submit receipts for payment on a quarterly basis to Finance — Accounts Payable for reimbursement. The Town will also reimburse Officers for insurance deductible payments up to \$250.00 per injury/illness incurred to canine while deployed for use on Town assignments.

### 9.5.2

Trailing Canine Training - Trailing Canine Handlers will maintain required recurring in-service training and associated records, within the scope of policies and procedures of the Los Gatos-Monte Sereno Police Department. Officers will be reimbursed for annual canine recertification course registration fees not to exceed \$800.00 per year. Officers are responsible for cost of travel, lodging, and per-diem related to the annual recertification course.

Up to 40-hours of paid release time annually will be allowed to attend re-certification course. The approved re-certification course constitutes scheduled Department training for which the release time will be honored.

## 9.6 Therapy Canine Pay

The parties agree that one half-hour per day, outside of their regularly scheduled workday, is a reasonable amount of time for officers assigned to handle a canine as part of the Department's Therapy Canine Program to care for their canines off duty. Therefore, effective the first full pay period after July 1, 2024, an officer assigned to handle a canine under the Department's Therapy Canine Program shall receive one half hour of pay per day, totaling seven hours per pay period, at an hourly rate of one- and one-half times the state minimum wage. As of January 1, 2024, the California state minimum wage is \$16.00 per hour, which would equate to a therapy canine payment of one hundred and sixty-eight dollars (\$168) per pay period.

## 9.7 Posting for Special Assignments

Any opening for a special assignment shall be posted for a minimum of two weeks, unless extraordinary circumstances warrant otherwise.

## Section 10. Acting Sergeant Pay

Police Officers working as acting supervisors shall be compensated at Step "4" of the Sergeant's rate of pay. Town shall periodically review the actual time use of acting supervisor designations in order to determine the necessity of additional permanent supervisory personnel.

The parties agree that to the extent permitted by law, this is special compensation for "Classics" only and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(3) as Temporary Upgrade Pay.

## Section 11. Reimbursement of Expenses

The Town shall pay claims for reimbursement within 30 days following the complete and accurate submission of claims as approved by the Finance Director.

## Section 12. Tuition Reimbursement

Town will reimburse 100% of the cost of books, university/school fees (except parking) and tuition. Tuition and school fees shall be reimbursed up to the full-time rates of San Jose State University at applicable Undergraduate or Graduate rates per school term. The maximum reimbursement per employee per fiscal year is equivalent to two (2) semesters.

The reimbursement shall be only for courses that are directly related to the employee's position as determined by the Town Manager, including general education courses that are generally related to attainment of a job-related degree or certification. General education courses not generally related to the employee's position will not be eligible for reimbursement. Reimbursement shall be taxed pursuant to the State and Federal Regulations.

Application for Tuition Reimbursement shall be made to the Town before the course begins. Prior to reimbursement of costs, all course work must be completed with a passing grade of "C" or equivalent when numerical score or pass/fail is given. Individuals requesting reimbursement must currently be employed by the Town to be eligible for reimbursement.

Any employee who terminates employment with the Town within one year from the completion of a class or classes, for which tuition reimbursement was paid, shall refund all tuition paid under this provision, unless required to attend by the appointing authority.

## Section 13. Health and Welfare Benefits and Rate of Town Contribution

The Town contracts with CalPERS for the purpose of providing employees and their eligible dependents with medical insurance benefits. The Town's maximum monthly contribution for each eligible active employee shall be equal to the minimum employer contribution required under Public Employees' Medical and Hospital Care Act (PEMHCA), currently \$149 per month, as may be adjusted by CalPERS from year to year.

### 13.1 Cafeteria Plan

During the term of the MOU, the Town agrees to maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing eligible active employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include medical insurance, dental insurance, vision insurance and life insurance benefits.



## 13.2 Dental

Employees choosing this option instead of Cash-in-Lieu will be provided 100% of the Delta Dental DPO Plan premium less a \$15.00 employee contribution. If the premium cost of the dental plan exceeds the Town contribution, the employee shall pay through payroll deductions the difference between the monthly premium and the amount contributed by the Town. The Town will pay 100% of the premium for employees choosing to participate in the DeltaCare USA Plan.

## 13.3 Medical

The Town will provide active employees with a medical allowance equal to 100% of the cost of the Kaiser Bay Area Medical Insurance Program premium offered by the Public Employees' Retirement System Health Benefit Medical Program at the Employee Only level of participation. For dependents, the Town will pay 90% of the difference between Kaiser Employee Only and Kaiser level of participation (Employee Plus One or Employee Family, depending on family status). If the employee chooses medical coverage under a program more expensive than Kaiser Bay Area, the employee will pay the difference between the Town-provided medical allowance and the cost of the more expensive program through payroll deduction.

The Town's contribution towards medical insurance set forth in Section 13 (the PEMHCA minimum) will be deducted from the amount of contribution provided by this Section.

## 13.4 Vision

The Town shall pay for employee-only coverage under the Town's Vision Service Plan (VSP). Employees may enroll eligible dependents at their own cost.

## 13.5 Cash-In-Lieu Plan

Employees have the option of choosing all available coverages or, upon providing proof of other medical coverage, may choose to opt out of the Town's coverage and be provided with cash-in-lieu.

Employees who choose to receive the cash-in-lieu must first show proof of alternative minimum essential medical coverage for the employee and employee's tax family (individuals for whom the employee expects to claim a personal exemption deduction). Individual coverage, and individual coverage from Covered California does not qualify as alternative minimum essential coverage under this section. Employees must provide reasonable evidence of alternative minimum essential coverage each plan year, during open enrollment. The Town will not make the cash payment if it knows or has reason to know that the employee or tax family does not have alternative minimum essential coverage. Any amount received in cash is taxable. Employees choosing to receive taxable cash will have the option of receiving it in two equal amounts in December and June, or the first two paychecks of each month (24 times a year).

- For employees hired before January 1, 2006, the Town contribution to the Cash-In-Lieu program will be equal to Nine Hundred and Twenty-two Dollars (\$922) per month.
- For employees hired after January 1, 2006, the Town contribution to the Cash-In-Lieu program will be Four Hundred Dollars (\$400) per month.

The parties agree to meet and confer at the Town's request on any changes that are within the mandatory scope of bargaining related to its Town sponsored Medical Insurance and Cash In-Lieu Plan that may be related to the compliance and implementation of the Affordable Care Act or the Fair Labor Standards Act as it relates to the regular rate of pay for overtime.

## 13.6 Supplemental Health and Welfare Benefits

### 13.6.1

Life - Coverage of \$50,000 plus \$50,000 accidental death: Town to pay for premium. Additional life insurance may be purchased by the employee equal to once or twice the employee's base salary, not to exceed \$200,000.

**13.6.2**

Disability - Short Term Disability Policy effective 8th calendar day; coverage of 60% of weekly earnings up to maximum of \$1,300/week for 13 weeks. Long Term Disability benefits begin on the 91st day of disability; coverage of 60% of monthly earnings up to a maximum of \$6,000/month.

**13.6.3**

Employee Assistance Program - Premiums shall be paid by the Town.

**13.6.4**

Unemployment Insurance - Premiums shall be paid by the Town to provide State coverage.

**Section 14. Retiree Health**

The Town provides retiree health benefits in accordance with the PEMHCA for employees who qualify as eligible PERS retirees who receive a PERS retirement allowance and are PEMHCA annuitants entitled to such benefits under the PEMHCA.

The Town's maximum monthly contribution for each eligible annuitant shall be equal to the minimum employer contribution required under the PEMHCA, currently \$149 per month, as may be adjusted by CalPERS from year to year. The provisions of PEMHCA will govern medical insurance coverage for annuitants.

**14.1 Retiree Health Benefit for Eligible Retirees Hired on or Before October 1, 2018**

An employee hired on or prior to October 1, 2018, or provided with a final offer confirmation of employment prior to October 1, 2018, is eligible for Health Reimbursement Account (HRA) retiree health benefits in accordance with this Section.

**14.1.1**

The employee retired from the Town taking a service or disability retirement from CalPERS as a retiree receiving a PERS retirement allowance and is a PEMHCA annuitant; and,

**14.1.2**

The employee must actually draw a CalPERS pension within ninety (90) days of separation from the Town, provided the employee remains with the Town's health plan through COBRA.

**14.1.3**

The amount of the supplemental retiree health benefit allowance will be equal to 100% of the cost of the premium for Kaiser Bay Area Retiree Only and 90% of the difference between the Kaiser Employee Only and Kaiser level of participation (Employee Plus One or Employee Family, depending on family status). The Town will pay \$ \$1,947.16 per month towards a Retiree Plus One or More plan, as of the 2022 plan year. This amount will increase by \$100.00 each year until it is equal to the active employee contribution.

**14.1.4**

The Town's contribution towards retiree health insurance set forth in Section 14 (the PEMHCA minimum) will be deducted from the amount of contribution provided by this Section (14.1).

**14.1.5**

Employees retiring on or after February 1, 2016 and upon becoming eligible for Medicare will cease to receive any retiree health benefit allowance under this Section (14.1) and will become eligible for Supplemental Medicare equal to the cost of Kaiser Senior Advantage Bay Area Medicare rates up to a maximum of 100% Retiree Only, 90% for Retiree Plus One or 90% for Retiree Plus One or More less the amount of the employee contribution provided under Section 14 (the PEMHCA minimum). This benefit is available to the eligible retired employee only after he or she has reached the

age of 65 and is Medicare eligible or as otherwise specified by law.

#### 14.1.6

The benefits described by this Section (14.1) will be provided to annuitants through CalPERS by means of a Health Reimbursement Account (HRA).

### **14.2 Retiree Health Benefit for Eligible Retirees Hired After October 1, 2018**

The Association will establish participation in a retiree medical plan administered by the PORAC Retiree Medical Trust (PORAC RMT). This agreement to participate will apply to every employee, represented by the Association, hired by the Town after October 1, 2018. The cost of establishing and maintaining the Trust shall be at no cost to the Town, including administrative fees. The Town is not a party to the Trust, aside from transferring funds, and has no obligations to the management, regulatory compliance, or performance of the trust. In the event the Trust becomes insolvent or unable to pay, the Town has no financial obligation to the Trust or the contributing members of the Association.

The Town will transfer a monthly employee contribution of one hundred dollars (\$100.00) for each Association member deducted in fifty dollars (\$50.00) increments from the first two paychecks of each month (24 times per year). These contributions shall be on a pre-tax basis if permitted by law. As each member will contribute the same predetermined dollar amount, no member election forms designating the amount will be needed, allowed, or requested; and there shall be no member election available to take the member contribution amount in cash, or to determine the member contribution amount. These contributions shall be included as salary for purpose of calculating retirement benefits as determined by the California Public Employees Retirement System (CalPERS).

Effective the first full pay period in July 2024, in addition to the employee contributions set forth above, the Town shall contribute twenty-five dollars (\$25) per month to the PORAC Retiree Medical Plan for all members hired after October 1, 2018. Effective the first full pay period in July 2025, the Town contribution shall increase to fifty dollars (\$50) per month.

The Town will comply with reasonable procedures set by the Trust Office with regard to reporting and depositing the required contributions set forth above, typically involving providing the Trust Office with the name, social security number and amount paid for each Association member. In the event that the reporting requirement of the Trust requires reporting beyond that which the Town typically provides, the Town may require the Association to pay for any costs related to programing or producing such reports. Prior to engaging in any activity that could result in such an expense, the Town will secure the Association's authorization.

The Association agrees to defend, indemnify, and hold the Town harmless from any liabilities of any nature which may arise as a result of the operating of the PORAC RMT, except for the obligation of the Town to make and report the non-elective transfer of Association member contributions as described above.

The monies contributed to the Trust fund shall only be used for retiree health insurance premiums or health care expenses, as allowed by law. There shall be no Association member election/option available to take such amount in unrestricted cash.

The purpose of this Trust shall be to provide for retiree health care expense reimbursement benefits. The Trust shall be and remain separate and apart from any Town health insurance funding program, unless changed by mutual written agreement of the parties. The contributions set forth above, unless otherwise dictated by law or rules set forth by CalPERS, shall be included as salary for purpose of calculating pension benefits.

The Town hereby acknowledges receipt of the Trust Agreement governing the Trust. The Town will cooperate with the Trust in allowing a payroll audit only for the purpose of ascertaining if the proper number of contributions have been made.

## Section 15. Uniforms

The Town will provide a full set of uniforms and equipment (per Department Uniform Policy) to each new employee. Employees are expected to maintain fitting uniforms, including a maintained, fitting Class A uniform. The Town will replace authorized uniform items damaged in the performance of duty as approved by the Chief of Police.

The Town will pay bargaining unit employees a uniform allowance of One Hundred Fifteen Dollars (\$115) per month (paid the first two pay periods of each month) for the repair, maintenance, and replacement of uniforms.

The parties agree that to the extent permitted by law, this is special compensation for "Classic Members" only and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(5) as Uniform Allowance.

## Section 16. Mileage Reimbursement

If no Town vehicle is available, employees may use personal vehicles on official Town business with the prior written or electronic approval of their supervisor. In the event an employee is approved to use their personal vehicle on official Town business, the employee shall be reimbursed at the mileage rate established by the I.R.S. Private vehicles used for Town business shall comply with the California Vehicle Code.

Mileage reimbursement requests must be submitted within 30 days of the date accrued.

## Section 17. Payroll Periods

The Town and Association agree to the continuation of a biweekly payroll period. The following conditions are in effect:

### 17.1

Employee pay shall not be withheld more than seven (7) calendar days from the end of the payroll period; however, a maximum of two days overtime may appear on the next payroll period if it is worked following the submittal of time sheets, or during a pay period with a Town holiday which requires early submittal of time sheets and early distribution (before Friday) of pay checks. This may also occur at the end of the fiscal or calendar year.

### 17.2

The Town shall provide an optional electronic check deposit system for use by employees.

## Section 18. Paychecks

Payroll deductions and accruals shall appear on all paychecks.

## Section 19. Deferred Compensation

The Town shall continue to offer a program of deferred compensation to its members in the represented classifications. The Town makes no representation on the merit of the plan nor any of the investment products or instruments which may be offered by the plan. The responsibility for evaluating the options within the plan is the responsibility of the individual participant. The Town shall not be obligated to offer more than one Deferred Compensation carrier.

## Section 20. Overtime

Overtime is time worked beyond any scheduled work shift.

All overtime worked shall be compensated at time and one-half. The employee may choose whether overtime shall be paid in cash or accumulated as Compensatory Time Off (CTO), subject to a maximum accumulated CTO of one hundred and forty (140) hours.

On or before the pay period which includes December 15 of each calendar year, an employee may make an irrevocable election to cash out up to 40 hours of CTO twice per year (paid at the regular rate of pay in whole hour increments) which will be earned in the following calendar year. In the first full pay period of June and December in the following year, the employee will receive cash for the amount of CTO the employee elected to cash out in the prior year. However, if the employee's CTO balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of the CTO the employee has accrued at the time of the cash out.

Annual review of the impact of those changes will occur to determine if there is any adverse impact on scheduling.

For private duty contracts, officers may only receive pay.

Overtime is to be approved by a supervisor as soon as practical. Overtime payroll sheets are the responsibility of the employee to have approved and forwarded to the division commander by the appropriate payroll deadline.

## **Section 21. Duty Extension**

Compensation is made for actual time worked and shall be computed in minimum quarter-hour blocks.

Personnel whose work hours would normally terminate within one hour or less from the time of the scheduled court, meeting, or training commencement will be compensated from the termination of their normal work hour through the termination of the scheduled event.

Duty extension is paid at time and one half.

## **Section 22. Call Back**

Requests that personnel return to duty, attend mandatory meetings, court appearances and training classes are call backs and compensated at a 3-hour minimum or actual time, whichever is greater. Mandatory meetings where a minimum of two weeks' notice has been given are not a call back and will be compensated at a one (1) hour minimum or actual time worked whichever is greater.

Call backs for officers assigned to Watch I (midnight shift) who have worked the night before shall receive a minimum of 4 hours.

Personnel are considered on duty for the duration of a call back.

Court appearances-hearings-depositions: Required off duty attendance at judicial or administrative hearings is compensated at a 3-hour minimum (4 hours for midnight if shift worked the night before appearance), or actual time, whichever is greater. Should there be more than one appearance, including separate court locations, within the 3- or 4-hour time period, only one minimum will be granted.

Call back is paid at time and one half.

## Section 23. Vacation Schedule

The following vacation schedule shall apply to all employees:

Months of Employment / Experience	Accrual Days Per Year	Accrual Hours Per Pay Period	Accrual Hours Per Year
0 to 36	10	3.08	80
37 to 60	15	4.62	120
61 to 120	20	6.46	160
121 to 180	23	7.08	184
181 months	25	7.70	200

Effective April 1, 2024, the individual rate of accrual for all members and future members shall be increased to account for total years of experience working in a sworn peace officer position that requires possession of a basic POST certificate.

Maximum accrual of vacation hours shall be 344 hours.

On or before the pay period which includes December 15 of each calendar year, an employee may make an irrevocable election to cash out up to 80 hours of vacation twice per year (in whole hour increments) which will be earned in the following calendar year. In the first full pay period of June and December in the following year, the employee will receive cash for the amount of vacation the employee irrevocably elected to cash out in the prior year. However, if the employee's vacation balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of vacation the employee has accrued at the time of the cash out.

## Section 24. Vacation and Compensatory Time Off Cash-Out

Employees who terminate from Town service shall have all accrued vacation and compensatory time off cashed-out. This will terminate their status as an employee of the Town.

## Section 25. Shift and Vacation Selection Procedures

Patrol shift selection and vacation bidding shall commence approximately ten weeks prior to shift change unless circumstances require otherwise.

The Town agrees to continue efforts to transition to an online mechanism for shift and vacation selection.

## Section 26. Holidays and Holiday Pay

The following holidays will be observed by non-uniform personnel:

- January 1.
- the third Monday in January.
- the third Monday in February.
- the last Monday in May.
- Juneteenth.
- July 4.
- the first Monday in September.
- Thanksgiving Day.
- the Friday following Thanksgiving Day.
- December 25.
- Four hours on December 24 and December 31

- Every day declared a Holiday by the Mayor as a result of a national holiday declared by the President or State Governor.

Holidays which fall on Saturday shall be observed on the Friday prior and holidays which fall on Sunday shall be observed on the following Monday.

Uniform personnel assigned to shift work (Patrol and Traffic) receive compensation in-lieu of holiday time off in the amount of 4.4% of base salary per pay period.

The parties agree that to the extent permitted by law, this is special compensation and shall be reported as such to CalPERS, pursuant to Title 2 CCR Section 571(a)(5) and 571.1(b)(4) as Holiday Pay.

## Section 27. Personal Leave

Employees shall have the option of either taking personal leave off equal to twenty-four (24) hours of base pay annually or receiving in-lieu compensation equal to same if the personal leave is not used by the end of November. Employees may use personal leave hours during the month of December; however, employees desiring to receive compensation for those hours shall do so in conjunction with the annual cash out in November.

## Section 28. Sick Leave

Accumulation rate shall be 8 hours per month (3.70 hours per pay period) with a maximum accrual of 1180 hours. The Town may require association represented employees to provide a doctor statement of proof of illness for any use of sick leave beyond one working day.

## Section 29. Sick Leave Cash-Out Program

### 29.1 Annual Sick Leave Cash-Out for Employees Hired Prior to October 1, 2018

On or before the pay period which includes December 15 of each calendar year, employees eligible to cash out under this section may make an irrevocable election to cash out up to 40 hours of their accumulated sick leave at 50% of current salary two times per year (in whole hour increments) which will be earned in the following calendar year. In the first full pay period of June and December in the following year, the employee will receive cash for the amount of sick leave the employee irrevocably elected to cash out in the prior year. However, if the employee's sick leave balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of sick leave the employee has accrued at the time of the cash out.

### 29.2 Sick Leave Cash-Out Upon Termination for Employees Hired Prior to October 1, 2018

Employees who terminate employment with the Town for any reason other than retirement or disciplinary termination, may cash-out their accumulated sick leave as follows:

Months of Employment	
1-59 months	25%
60-119 months	37.5%
120 months or more	50%

In order to be eligible for the sick leave cash-out program, an employee must have a sick leave accrual balance of at least 200 hours at the time of termination.

## 29.3 Unused Sick Leave Upon Retirement

Upon retirement, eligible employees may choose from the following options:

### 29.3.1

Eligible employees may convert unused sick time to service credit in accordance with provisions established by CalPERS.

### 29.3.2

Sick Leave Cash Out for Employees Hired Prior to October 1, 2018 - All eligible employees who retire with a sick leave accrual balance of at least 200 hours may elect to be paid in cash in accordance with the same provisions as Section.

### 29.3.3

Sick Leave Cash-Out Upon Termination - Sick Leave Conversion for Employees Hired Prior to January 1, 2009 - All employees who retire with a sick leave accrual balance of at least 200 hours may convert 100% of this accumulated sick leave to a dollar equivalent at their hourly rate of pay at the time of retirement. This amount shall be held in an account. The employee's portion of the medical insurance premium payment will be withheld from their monthly retirement payment by PERS.

The Town agrees to pay the retiree quarterly in advance on the first pay period of January, April, July, and October of each year after retirement. The first payment will be pro-rated to the nearest quarter.

Retiree's (including dependents of the retiree) portion of medical payments will be paid from this account by the Town until all monies are depleted from the account.

This account will not accrue interest and will not be paid in cash to the retiree or any beneficiaries. The retirees shall be responsible for 100% of their share of future medical insurance premiums once the account is exhausted.

## Section 30. Military Leave

Military leave and benefits shall be granted in accordance with State and Federal Law, including the continuation of employee salary and benefits if applicable.

Generally, employees with more than one year service will receive up to thirty (30) calendar days of paid military leave annually while engaged in military duty ordered for purposes of active military training.

## Section 31. Bereavement/Compassion Leave

Up to 40 hours paid leave upon the death of a family member. For purposes of this section, family member is defined as spouse, domestic partner, parent, parent-in-law, grandparent, grandparent in law, child, grandchild, sibling, or sibling-in-law.

Days of bereavement leave need not be consecutive but shall be completed within three months of the date of death of the family member.

If requested by the Town, the employee shall provide documentation of the death of the family member within 30 days of the first day of the leave. Appropriate documentation for this purpose is defined in California Government Code section 12945.7(f).

It is recognized that bereavement leave is separate from employee's accumulated sick leave, vacation, or CTO.

## Section 32. Leave Without Pay

Leave without pay shall be subject to approval of the Chief of Police and the Town Manager.



An employee who is on leave without pay shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement, credit for time employed or seniority entitlement of any kind) for the duration of such leave.

Vacation or sick leave or time worked shall not be used intermittently during an extended leave to interrupt a determination that an employee is on leave without pay.

The Town may, at its discretion, approve leave beyond the specific amount provided above.

### **Section 33. Accrual of Benefits**

Benefits shall not accrue to employees on unauthorized leave, suspension without pay, or leave without pay.

### **Section 34. Workers' Compensation**

Employees shall be provided benefits in compliance with State law.

### **Section 35. Jury Duty**

Employee salary and benefits shall be continued during jury duty; employee turns over to the Town any compensation from the courts or other source of jury duty on regular workdays.

### **Section 36. Outside Employment**

Outside employment shall be subject to approval of the Chief of Police and the Town Manager, subject to the following limitations: no security work within Town limits; no use of Los Gatos uniform, badge, ID, or Los Gatos issued items; vacation or CTO to be used for court appearances resulting from private employment. Approval must be obtained prior to engaging in the outside employment and shall be renewed prior to July 1 of each year. In order to best maintain the safety and integrity of the LGMSPD workforce and its delivery of services to the Los Gatos and Monte Sereno communities, requests for full-time sworn staff to "double-badge" (e.g. temporarily serve as a member of another law enforcement agency) shall be automatically denied unless the requesting employee has at least five (5) years of experience as a sworn peace officer in a position that requires possession of a basic POST certificate and with at least four (4) years of service with the Town

### **Section 37. Residency Requirement**

There is no residency requirement for represented employees.

### **Section 38. Layoff Policy**

Association recognizes the right of the Town to determine the resources to be made available to the police department. Although a reduction in force (layoff) is not anticipated, it is recognized that it is the sole right of the Town to determine when such reductions in force are necessary.

Reductions in force shall be by classification with the determination of affected employees by the Town based on seniority counted as total time employed by the Town. Affected employees shall be provided a minimum thirty (30) calendar days' notice of layoff.

Employees in the classification of Police Sergeant and designated for layoff shall have the right to return to positions previously held with the Town and represented by the Association.

## Section 39. Paid Family Leave

Upon request from the Association between July and December 2024, the Town and the Association shall meet to agree to identify and implement paid parental leave benefits through Lincoln-Financial via PRISM-EIA, New York Life, or any other provider that are equal to or greater than those provided under the California Paid Family Leave program.

## Section 40. Promotions

The Town and Association agree that it is in the best interest of both the Town and its employees to foster promotion of incumbent employees.

The Town and Association recognize the Town's sole right to determine the examination process for the selection of Town employees. Qualified employees who are invited to participate in the examination process shall be allowed up to two (2) hours of time-off from regularly scheduled work in order to participate in the examination process if the examination process is scheduled during the employee's normal work period.

To the best of its ability, the Town shall maintain a current promotional list for the positions of Police Corporal and Police Sergeant.

Any opening for Police Corporal or Police Sergeant positions shall be posted for a minimum of three weeks, unless extraordinary circumstances warrant otherwise.

## Section 41. Probationary Period

The Town and the Association agree that all original appointments to the rank of Police Officer will include a probationary period of 18 months from date of hire to allow the department to fully evaluate the officer following the academy and FTO training.

Individuals hired as a lateral transfer must have a valid P.O.S.T. Basic Certificate at the time of hire and will be subject to a 12-month probationary period.

Any individual on an 18-month probationary period will be eligible to receive a step increase after 12 months.

All promotional appointments to the positions of Corporal and Sergeant shall be subject to satisfactory completion by the employee of a 12-month probationary period.

The Chief of Police may extend the probationary period of an employee for a period not to exceed an additional six (6) months.

## Section 42. Performance Evaluations

Performance evaluations shall take place at least every three (3) months for all probationary employees and shall take place at least annually thereafter on the anniversary of an employee's employment with the Town. Employees eligible for step increases shall receive their performance evaluation no later than fifteen (15) days prior to their employment anniversary date.

All performance evaluations shall be discussed with the employee prior to the evaluation being completed. Employees may sign their individual performance evaluations as evidence of discussion having taken place; employee signature does not necessarily imply agreement with the evaluation. If an employee chooses not to sign an evaluation, the supervisor will note that the employee has read the evaluation and chooses not to sign. An employee may attach separate written comments to their evaluation.

### Section 43. Reinstatement

Subject to the approval of the Town Manager, a permanent employee who has resigned from employment with the Town may be reinstated within two (2) years of their resignation to their former position, if vacant. Upon reinstatement, the employee shall be considered as though they had received an original appointment, unless other conditions are made a part of the reinstatement by the Town Manager.

### Section 44. Re-Employment

The names of employees affected by layoff shall be placed on appropriate re-employment lists in the order of total continuous cumulative time served in paid status. Such names shall remain thereon for a period of eighteen (18) months unless such persons are sooner re-employed. When a re-employment list is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list the number of names equal to the number of vacancies to be filled, and the appointing power shall appoint such persons to fill the vacancies.

### Section 45. Grievance Procedures

Grievances shall be defined as alleged violations of this agreement or disputes regarding interpretations, application, or enforcement of this agreement to Town ordinances, resolutions, and written policies related to personnel policies and working conditions. Grievances shall not include disagreements, disputes, or activities regarding or pertaining to examinations for employment or promotion, disciplinary action, performance evaluations, and probationary terminations.

No act or activity which may be grievable may be considered for resolution unless a grievance is filed in accordance with the procedure contained herein within sixty (60) calendar days of the date the grievable activity occurred or the date the employee could reasonably have known such activity occurred.

The parties agree that all grievances will be processed in accordance with the following procedure:

Any employee who has a grievance shall first try to get it settled through discussion with their immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution at the lowest possible level of supervision. If after such discussion the employee does not believe the grievance has been satisfactorily resolved, they may file a formal appeal in writing to the command officer responsible for supervision of the employee's immediate supervisor within ten (10) calendar days after receiving the informal decision of their immediate supervisor. The command officer shall respond within ten (10) calendar days of the filing of the appeal.

If the employee does not believe the grievance has been satisfactorily resolved by the command officer, the employee may then file a formal appeal in writing to the Chief of Police within ten (10) calendar days after receiving the informal decision of the command officer. The Chief of Police shall render his written decision within ten (10) calendar days after receiving the appeal.

If after receipt of the written decision of the Chief of Police, the employee is still dissatisfied, they may appeal the decision of the Chief to the Town Manager. Such appeal shall be made by filing a written appeal to the Town Manager within five (5) days after the receipt of the written decision of the Chief. The Town shall render a written decision within twenty (20) working days after the appeal is made.

If after receipt of the written decision of the Town Manager the employee is still dissatisfied, he/she/they may appeal the decision of the Town Manager to the Personnel Board. Such appeal shall be made by filing a written appeal to the Chair of the Personnel Board within five (5) days after receipt of the written decision of the Town Manager.

The Personnel Board shall establish a hearing date within 30 days of receipt of the written appeal. The Personnel Board shall conduct a closed hearing giving opportunity for presentation by the employee or their representative and the Town Manager. The Personnel Board shall render a written decision within 30 days after the appeal is made. If after receipt of the written decision of the Personnel Board, the employee is still dissatisfied, they may appeal the decision of the Personnel Board to the Town Council. Such appeal shall be made by filing a written appeal with the Mayor. The Mayor shall schedule a closed hearing with the Town Council within 30 days after receipt of the appeal. At this hearing, the employee and the Town Manager may make presentations. The Town Council decision shall be final. The Town Council shall render a decision within 30 days after the hearing. An open hearing may be conducted by the Personnel Board or Town Council with mutual consent of the Town and person(s) filing the grievance.

The time limitations for filing and responding to grievances may be waived or extended by mutual agreement of the parties. If either party to the grievance so requests, an informal hearing shall be conducted at the Chief of Police or Town Manager appeal levels. Employees may be represented by counsel or other person at any stage in the grievance process.

## **Section 46. Attendance**

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leave.

An employee whose absence is not authorized will not receive pay or benefits for the absent period and shall be subject to discipline. Failure on the part of an employee absent without leave to return to duty shall be grounds for discharge. It shall be the responsibility of an employee absent without leave to notify the department head of the reason the employee is absent and of the employee's availability for duty.

## **Section 47. Completeness of MOU**

The Town and the Association acknowledge and agree to abide by the provisions of the Meyers-Milias-Brown Act.

## **Section 48. Association Notification or Communications**

The Town and the Department will make every reasonable effort to keep the Association President informed on issues related to the working conditions of the Association members.

## **Section 49. Labor-Management Committee**

As part of a continuing effort to promote healthy labor relations, the Department and the Association shall establish a Police Labor-Management Committee to meet on at least a quarterly basis to promote open communication and the sharing of information. It is the intent of the parties that the Chief or designee and the Association President or designee will attend these meetings.

Upon request from the Town, the Association agrees to meet to agree with the Town on Department shift schedules.

## **Section 50. Catastrophic Time Bank**

If an employee is catastrophically ill or injured, or if the spouse or child of such employee becomes catastrophically ill or injured, the employee may request of the Town Manager that a catastrophic time bank be established. This request should be in writing. The catastrophic time bank will enable other employees to donate accrued CTO, holiday credits, or vacation credits to the requesting employee in accordance with departmental policies.

Specific procedures for the administration of the catastrophic time bank will be developed by the department.

## **Section 51. Me Too Clause**

The Town shall not enter into an agreement with another bargaining unit, local union, or management unit so that unit, local or bargaining unit can receive any compensation related to any salary or total compensation increase obtained by the POA.

## SALARY SCHEDULE EXHIBIT A (New schedules inserted)

**Town of Los Gatos POA Classifications**  
**Salary Schedule for Fiscal Year 2023/24 and Fiscal Year 2024/25**  
**Effective pay period containing April 1, 2024**

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant	05-0721	1	\$76.7013
	<i>Appointment after 03/01/2015</i>		2	\$80.5364
			3	\$84.5632
			4	\$88.7914

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$63.6338
			2	\$66.8155
			3	\$70.1563
			4	\$73.6641
			5	\$77.3473

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$60.6198
			2	\$63.6508
			3	\$66.8333
			4	\$70.1750
			5	\$73.6838

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$57.5888
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

*Reflects General Increase of 6.5%.*

**Town of Los Gatos POA Classifications**  
**Salary Schedule for Fiscal Year 2025/26**  
**Effective the first full pay period in July 2025**

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant	05-0721	1	\$80.5364
	<i>Appointment after 03/01/2015</i>		2	\$84.5632
			3	\$88.7914
			4	\$93.2310

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$66.8155
			2	\$70.1563
			3	\$73.6641
			4	\$77.3473
			5	\$81.2147

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$63.6508
			2	\$66.8333
			3	\$70.1750
			4	\$73.6838
			5	\$77.3680

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$60.4683
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

*Reflects General Increase of 5%.*

**Town of Los Gatos POA Classifications**  
**Salary Schedule for Fiscal Year 2026/27**  
**Effective the first full pay period in July 2026**

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant	05-0721	1	\$83.7579
	<i>Appointment after 03/01/2015</i>		2	\$87.9458
			3	\$92.3431
			4	\$96.9603

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$69.4881
			2	\$72.9625
			3	\$76.6106
			4	\$80.4411
			5	\$84.4632

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$66.1968
			2	\$69.5066
			3	\$72.9819
			4	\$76.6310
			5	\$80.4626

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$62.8870
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

*Reflects General Increase of 4%.*





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 11

ITEM NO. 11.

DATE: June 13, 2024

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Highway 17 Bicycle and Pedestrian Overcrossing (Project No. 818-0803)

- a. Authorize the Town Manager to Execute a Second Amendment to the Agreement for Consultant Services with BKF Engineers Inc. for Additional Environmental Consulting Services in the amount of \$39,000 for a Total Agreement Not to Exceed \$3,087,735; and
- b. Authorize an Expenditure Budget Adjustment in the Amount of \$34,822 to Authorize the Allocation to the Previously Received Transportation Development Act Article 3 Grant Receipt.

**RECOMMENDATION:**

Highway 17 Bicycle and Pedestrian Overcrossing (Project No. 818-0803)

- a. Authorize the Town Manager to execute a Second Amendment to the Agreement for Consultant Services with BKF Engineers Inc. for additional environmental consulting services in the amount of \$39,000 for a total agreement not to exceed \$3,087,735; and
- b. Authorize an expenditure budget adjustment in the amount of \$34,822 to authorize the allocation to the previously received Transportation Development Act Article 3 Grant receipt.

**BACKGROUND:**

The Highway 17 Bicycle and Pedestrian Overcrossing Project is a high priority project in the Town's adopted Bicycle and Pedestrian Master Plan (BPMP). The project is intended to improve bicycle and pedestrian mobility, encourage active transportation, close a gap in the Town's bicycle network, and enhance safety for all modes of travel on Blossom Hill Road between Roberts Road West and Roberts Road East. Blossom Hill Road is a high-volume transportation corridor and route to school for the Town.

**PREPARED BY:** Sean Rose  
Special Projects Manager

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

SUBJECT: Highway 17 Bicycle/Pedestrian Overcrossing Project (CIP No. 818-0803)

DATE: June 13, 2024

BACKGROUND (continued):

The project is being led by the Town with significant funding support from the 2016 Santa Clara Countywide Measure B Program and design oversight by Caltrans for the portion of the project within Caltrans' Highway 17 right of way.

The current project design includes: 1) a new 20-foot wide bicycle/pedestrian bridge over Highway 17 south of the existing Blossom Hill Road overcrossing; 2) pathways on the east and west sides of the new bridge to provide a new, continuous bicycle and pedestrian pathway between Roberts Road West and Roberts Road East; 3) safety enhancements to the Blossom Hill Road/Roberts Road West and Blossom Hill Road/Roberts Road East intersections; and 4) modifications to the existing vehicle and bicycle lane configurations and pedestrian facilities on Blossom Hill Road. A Location Map of these project improvements is shown in Attachment 1.

The following is a brief chronology of past Town Council actions associated with the project:

- On June 18, 2019, Council authorized the issuance of a Request for Proposals (RFP) for the project's feasibility study and authorized the consultant agreement in an amount not to exceed \$234,456.
- On March 3, 2020, Council approved the project's purpose and need, and authorized staff to proceed with design alternatives for a separate bicycle and pedestrian overcrossing.
- On September 1, 2020, at the recommendation of the Town's Complete Streets and Transportation Commission (CSTC), Council adopted the 2020 BPMP update identifying the project as a high priority.
- On September 1, 2020, Council approved the feasibility study, directed staff to proceed with final design of a separate 16- to 20-foot wide bridge south of Blossom Hill Road and analyze three bridge types (steel truss, steel arch, and concrete), authorized the submittal of an Active Transportation Program (ATP) grant application for construction, and committed up to \$1 million in FY23-24 budget funding as a local match for the ATP grant.
- On December 1, 2020, Council authorized a Measure B grant funding agreement in the amount of \$2,754,990 for project design, authorized \$946,210 in General Fund budget as a required local match for the Measure B grant, authorized issuance of a RFP for project design and authorized the Town Manager to sign a consultant agreement in an amount not to exceed \$3,000,000, and approved the project's community engagement plan. On May 20, 2021, the Town entered into an agreement for consultant services with BKF for project design including preliminary engineering, environmental review,

SUBJECT: Highway 17 Bicycle/Pedestrian Overcrossing Project (CIP No. 818-0803)

DATE: June 13, 2024

BACKGROUND (continued):

and final design in an amount not to exceed \$3,000,000 consistent with the Council action that had been taken on December 1, 2020.

- On November 9, 2022, Council received an update on the project's community outreach activities and the preferred bridge type, and approved the concrete box girder as the preferred bridge type for project design.
- On February 20, 2024, Council authorized a first amendment to the agreement with BKF for grant writing services, in the amount of \$48,735, for a total agreement not to exceed amount of \$3,048,735, and recognized the need for \$1,500,000 in matching funds as local match for construction grants. The grant writing services were for the completion of the Safe Streets for All (SS4A) and Active Transportation Program (ATP) grant applications for construction funding. The SS4A application was submitted in May and the ATP application deadline is June 17, 2024.

DISCUSSION:

The project is currently in the conceptual design and environmental approval phase. During staff's review of the concept design, staff directed BKF to modify the alignment of the 20-foot wide approach path east of the bridge from a curved alignment with the path closer to the roadway to a straight alignment with the path further from the roadway. The curved alignment necessitates the construction of an up to six-foot tall retaining wall a few feet from the eastbound vehicle lane. The preferred straight alignment eliminates the need for the tall retaining wall, locates the path further away from the vehicle lane, and provides an opportunity for landscaping and/or aesthetic treatments between the vehicle lane and the path.

Because the plans and environmental studies for the curved alignment had already been submitted to Caltrans, the plans and studies need to be revised and resubmitted. BKF agreed to complete the revisions to the plans within their existing contract scope of work; however, the environmental study revisions are out of scope and therefore, are additional services. Staff negotiated with BKF to minimize the scope and cost of the additional services. BKF's negotiated proposal for the additional environmental consulting services in the amount of \$39,000 is shown in Exhibit C of Attachment 2 of this report. Approval of the proposal would be in the form of a second amendment to BKF's contract (Attachment 2).

CONCLUSION:

The Town Council's authorization of the second amendment to BKF's consultant agreement for the Highway 17 Bicycle/Pedestrian Overcrossing Project design would allow BKF to provide

SUBJECT: Highway 17 Bicycle/Pedestrian Overcrossing Project (CIP No. 818-0803)

DATE: June 13, 2024

CONCLUSION (continued):

additional environmental consulting services to obtain environmental approval for the project to include the easterly path alignment revision.

COORDINATION:

This report is coordinated with the Finance Department.

FISCAL IMPACT:

The current project budget, assuming approval of the BKF second amendment, is provided in the table below. The proposed BKF amendment would not increase the overall project budget; the funds would come from the previously approved design contingency budget, decreasing it from \$251,265 to \$212,265. The budget reflects the cost of the feasibility study and project design phases. As shown in the table, there is an estimated \$601,745 surplus from those phases that can be allocated to the construction phase as local match.

Highway 17 Bicycle and Pedestrian Overcrossing Project		
CIP No. 818-0803		
	Budget	Costs
Transportation Development Act Article 3 (TDA) Grant	\$52,995	
Budget Adjustment Recognizing Previously Received Transportation Development Act Article 3 (TDA) Grant Funds (Requested with this Staff Report)	\$34,456	
2016 Measure B	\$2,754,900	
Traffic Impact Mitigation Fund	\$147,005	
GFAR	\$946,210	
GFAR/Development In-Lieu Fee	\$522,314	
<b>Total Budget</b>	<b>\$4,457,880</b>	
BKF Engineers - Feasibility Study		\$234,456
BKF Engineers - Final Design Existing Contract		\$3,000,000
BKF Engineers - First Amendment		\$48,735
BKF Engineers - Second Amendment Requested with this Staff Report		\$39,000
Design Contingency		\$212,265
Independent Structural Review		\$50,000
Caltrans Cooperative Agreement		\$55,691
Part-Time Staff Cost		\$215,988
<b>Total Expenditures</b>		<b>\$3,856,135</b>
<b>Remaining Budget for Construction Phase</b>		<b>\$601,745</b>

SUBJECT: Highway 17 Bicycle/Pedestrian Overcrossing Project (CIP No. 818-0803)

DATE: June 13, 2024

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is statutorily exempt under Section 21080.25. A Notice of Exemption has been filed.

Attachments:

1. Location Map
2. Second Amendment to Agreement for Consultant Services with BKF Engineers Inc. for the Highway 17 Bicycle and Pedestrian Overcrossing Project #19-818-0803 with Exhibit A (Original Agreement), Exhibit B (First Amendment), and Exhibit C (Proposal for Additional Environmental Services)





**HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING**  
LOCATION MAP





## SECOND AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This SECOND AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES is dated for identification this 4th day of June 2024 and amends that certain AGREEMENT FOR CONSULTANT SERVICES FOR THE HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING PROJECT #19-818-0803, dated May 20, 2021, made by and between the Town of Los Gatos, ("Town,") and BKF Engineers Inc. ("CONSULTANT") identified as a California corporation and whose address is 1730 N. First Street, Suite 600, San Jose, CA 95112.

### RECITALS

- A. Town and CONSULTANT entered into an agreement for Consultant Services on May 20, 2021 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Exhibit A to this Second Amendment.
- B. On February 20, 2024, Town and CONSULTANT amended the Agreement (First Amendment) to add to the scope of work to include grant writing services for ATP and SS4A grant applications for the Highway 17 Bicycle/Pedestrian Overcrossing Project, a copy of which is attached hereto and incorporated by reference as Exhibit B to this Amendment.
- C. Town desires to amend the Agreement to add to the scope of work to include additional environmental services for the Highway 17 Bicycle/Pedestrian Overcrossing Project.

### AMENDMENT

1. ARTICLE II STATEMENT OF WORK is amended to ADD the following text:

Consultant shall provide services as described in that certain Proposal dated May 9, 2024, which is hereby incorporated by reference and attached hereto as Exhibit C.

2. ARTICLE V ALLOWABLE COSTS AND PAYMENTS, PART E. is amended to read as follows:

The total amount payable by LOCAL AGENCY for PHASE I shall not exceed \$3,000,000.

Compensation for Consultant's professional services shall be increased by \$48,735 for grant writing services specified in the First Amendment, for a total agreement not to exceed amount of \$3,048,735.

Compensation for Consultant's professional services shall be increased by \$39,000 for additional environmental services specified in the Second Amendment, for a total agreement not to exceed amount of \$3,087,735.

3. All other terms and conditions of the Agreement remain in full force and effect.

Exhibit A Agreement for Consulting Services for the Highway 17 Bicycle and Pedestrian Overcrossing Project #19-818-0803 dated May 20, 2021

Exhibit B First Amendment by BKF for Grant Writing Services for ATP and SS4A Grant Applications dated February 20, 2024

Exhibit C Proposal by BKF for Additional Environmental Services for dated May 9, 2024

IN WITNESS WHEREOF, the Town and CONSULTANT have executed this Amendment.

Town of Los Gatos, by:

CONSULTANT, by:

\_\_\_\_\_  
Laurel Prevetti  
Town Manager

\_\_\_\_\_  
Jaggi Bhandal, Vice President, BKF

Department Approval:

\_\_\_\_\_  
Nicolle Burnham  
Director of Parks and Public Works

Approved as to Form:

Attest:

\_\_\_\_\_  
Gabrielle Whelan  
Town Attorney

\_\_\_\_\_  
Wendy Wood, CMC  
Town Clerk



Exhibit A  
Original Agreement

**AGREEMENT FOR CONSULTANT SERVICES****HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING PROJECT # 19-818-0803****ARTICLE I - INTRODUCTION**

- A. This AGREEMENT is made and entered into on May 20, 2021 by and between the TOWN OF LOS GATOS, a California municipal corporation, hereinafter referred to as, LOCAL AGENCY and **BKF Engineers**, hereinafter referred to as, CONSULTANT, whose address is **1730 N. First Street, Suite 600, San Jose, CA 95112**. The CONSULTANT is incorporated in the State of California.

The Project Manager for the "CONSULTANT" will be **Natalina V. Bernardi, PE, LEED AP, Principal and Vice President**.

The Contract Administrator for LOCAL AGENCY will be WooJae Kim, Town Engineer.

This Agreement is made with reference to the following facts.

The LOCAL AGENCY desires to engage CONSULTANT to provide professional engineering services for the Highway 17 Bicycle and Pedestrian Overcrossing Project.

The CONSULTANT represents and affirms that it is willing to perform the desired work pursuant to this Agreement.

The CONSULTANT represents and warrants to LOCAL AGENCY that it possesses the distinct professional skills, qualifications, experience, and resources necessary and has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONSULTANT to practice its profession and to timely perform the services described in this Agreement. CONSULTANT acknowledges LOCAL AGENCY has relied upon these warranties to retain the CONSULTANT.

CONSULTANT shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws.

CONSULTANT shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.

- B. The work to be performed under this AGREEMENT is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated **05-06-21**. The approved CONSULTANT's Scope of Service (Exhibit A) and Cost Proposal (Exhibit B) is attached hereto and incorporated by reference. If there is any conflict between the approved Scope of Services or Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees, to the fullest extent permitted by law, to save, keep, indemnify and hold harmless and defend the LOCAL AGENCY, its officers, agents, employees and volunteers from all damages, claims, demands, 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, errors, or omissions of the CONSULTANT, or any of the CONSULTANT'S officers, employees, or agents or any

sub-consultant. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.

- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to LOCAL AGENCY 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.
- E. LOCAL AGENCY is not required to make any deductions or withholding from the compensation payable to CONSULTANT under the provisions of this AGREEMENT, and is not required to issue W-2 forms for income and employment tax purposes for any of CONSULTANT'S assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against LOCAL AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- G. Except as expressly authorized herein, CONSULTANT'S obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT from LOCAL AGENCY under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT'S expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

## ARTICLE II STATEMENT OF WORK

CONSULTANT agrees to perform the services as outlined in "Exhibit A –Scope of Services" within the time frames specified therein, and "Exhibit B – Consultant's Cost Proposal" which are hereby

incorporated by reference and attached. In the performance of the Scope of Services for this contract, the responsible CONSULTANT professional engineer shall sign all plans, specifications and estimates and engineering data furnished under the AGREEMENT, including registration number.

### **ARTICLE III CONSULTANT'S REPORTS OR MEETINGS**

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY'S Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.
- C. This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the LOCAL AGENCY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the CONSULTANTS fee.

### **ARTICLE IV PERFORMANCE PERIOD** May 20, 2021

- A. This contract shall go into effect on \_\_\_\_\_ contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end at the earlier of final Project construction or on 12/31/26 unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

### **ARTICLE V ALLOWABLE COSTS AND PAYMENTS**

#### **TASK 1 -**

- A. The method of payment for PHASE I of this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment necessary to provide the services described in Article II Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the Project. In the instance of a change in the scope of work or scope of the Project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this contract has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within 30 days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than 30 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each phase and on each task as applicable. Invoices shall follow the format

stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and Project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice must be submitted within 60-calendar days after completion of CONSULTANT's work, unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works Department  
ATTN: WooJae Kim, Town Engineer  
Highway 17 Bicycle and Pedestrian Overcrossing Project  
41 Miles Avenue  
Los Gatos, CA 95030

- E. The total amount payable by LOCAL AGENCY for PHASE I shall not exceed \$3,000,000 (Three million dollars).

**PHASE II – PHASE II work shall not be awarded at this time. Future Phase II services, if requested, shall be incorporated to this agreement by contract amendment for approval by LOCAL AGENCY and the CONSULTANT. The following articles shall apply to a future Phase II contract amendment.**

- A. The method of payment for Phase II shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel, if any, shall be per approved Cost Proposal. The rates for fully equipped vehicle(s) shall be as specified in Article II Statement of Work, if applicable. The specified rate to be paid for equipment shall be, as listed in the approved Cost Proposal, if applicable.
- C. The method of payment for Phase II of this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "J," shall not be exceeded unless authorized by AGREEMENT amendment.
- D. In addition to the allowable costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$0. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- E. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

- F. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- G. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- H. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- I. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each Project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and Project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works Department  
 ATTN: Woo Jae Kim/Town Engineer  
 Highway 17 Bicycle and Pedestrian Overcrossing Project  
 41 Miles Avenue  
 Los Gatos, CA 95030

- J. The total amount payable by LOCAL AGENCY for Phase II shall be as specified by a future contract amendment.
- K. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.
- L. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

#### **ARTICLE VI TERMINATION**

- A. This AGREEMENT may be terminated by LOCAL AGENCY provided that LOCAL AGENCY gives not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawing and data estimates performed to that date, whether complete or not.
- B. LOCAL AGENCY may temporarily suspend the AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination. If the duration of the temporary suspension exceeds 180 calendar days, this AGREEMENT may be terminated by

CONSULTANT provided that CONSULTANT gives not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate.

- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- E. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

#### **ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 or 48 CFR Part 31, are subject to repayment by CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CRF Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

#### **ARTICLE VIII RETENTION OF RECORDS/AUDIT**

For the purpose of determining compliance with Government Code 8546.7; the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT, including but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT'S Independent CPA, shall make such materials available at their respective offices at all reasonable times during the AGREEMENT period and for five (5) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, VTA, or any duly authorized representative of the Federal Government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of CONSULTANT, Subconsultants, and the CONSULTANT'S Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

**ARTICLE IX AUDIT REVIEW PROCEDURES**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTS, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the contract and disallowance of prior reimbursed costs.
- E. CONSULTANT Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Caltrans' Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
  - 1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.



Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred and fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
  - b. If the proposed rate is between one hundred and fifty percent (150%) and two hundred percent (200%) - the provisional rate will be eighty five percent (85%) of the proposed rate.
  - c. If the proposed rate is greater than two hundred percent (200%) - the provisional rate will be seventy five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
  3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
  4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA-audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

#### **ARTICLE X SUBCONTRACTING**

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. The CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the CONSULTANT'S approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY..
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator in advance of assigning work to a subconsultant(s).
- F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

**G. Prompt Payment of Withheld Funds to Subconsultants**

The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY designates the method below to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.

Method 3: The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

**ARTICLE XI EQUIPMENT PURCHASE**

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000) prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
1. "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
  2. Regulation 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the Project.

#### ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction Project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY Projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this Project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
  1. Each CONSULTANT and subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
    - a. The information contained in the payroll record is true and correct.

- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works Project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
  - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
  - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
  - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
6. The CONSULTANT or subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
  1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or

portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or subconsultant.
4. If a worker employed by a subconsultant on a public works Project is not paid the general prevailing per diem wages by the subconsultant, the prime CONSULTANT of the Project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
  - a. The AGREEMENT executed between the CONSULTANT and the subconsultant for the performance of work on public works Projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
  - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the subconsultant to the employees by periodic review of the certified payroll records of the Sub-consultant.
  - c. Upon becoming aware of the Sub-consultant's failure to pay the specified prevailing rate of wages to the subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the subconsultant for work performed on the public works Project.
  - d. Prior to making final payment to the subconsultant for work performed on the public works Project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subconsultant that the subconsultant had paid the specified general prevailing rate of per diem wages to the subconsultant's employees on the public works Project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works Project within fifteen (15) calendar days of receipt of a complaint that a subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due

the subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

**G. Hours of Labor**

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

**H. Employment of Apprentices**

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

**ARTICLE XIII CONFLICT OF INTEREST**

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction Project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction Project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction Project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

**ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the AGREEMENT without liability; to pay only for the value of the work actually performed; or to deduct from the AGREEMENT price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

#### **ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING**

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or 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 federal 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; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. 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 ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subagreements, which exceed one hundred thousand dollars (\$100,000) and that all such sub recipients shall certify and disclose accordingly.

#### **ARTICLE XVI NON DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE**

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

#### **ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION**

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
  - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
  - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
  - 3. Does not have a proposed debarment pending; and



4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

#### **ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found [here](#).

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTS who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is **12%**. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good

Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Substitution of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.

The LOCAL AGENCY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the Project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the Project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the LOCAL AGENCY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
  - Name and business address of each 1st-tier subconsultant
  - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
  - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold \$10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining

quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or Project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10<sup>th</sup> of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) with a copy to the Agency.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

#### **ARTICLE XIX INSURANCE**

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance in compliance with the following:

##### **Minimum Scope of Insurance:**

- i. Consultant agrees to have and maintain, for the duration of the contract, General Comprehensive Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) 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, bodily injury liability insurance herein provided for, which shall be in effect at all times during the term of this AGREEMENT.
- iii. 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.
- iv. Consultant shall provide to the LOCAL AGENCY all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the LOCAL AGENCY before work commences. The Certificate of Insurance will provide: 1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to LOCAL AGENCY. 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned. 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- v. 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 LOCAL AGENCY, its officers, officials, employees and volunteers 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 professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the LOCAL AGENCY, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the LOCAL AGENCY, its officers, officials, employees or volunteers 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 LOCAL AGENCY, its officers, officials, employees or volunteers.
- 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.

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 LOCAL AGENCY. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

In the event said insurance coverage expires at any time or times during the term of this

AGREEMENT, CONSULTANT agrees to provide a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

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 LOCAL AGENCY 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.

- B. CONSULTANT agrees that the insurance herein provided for, shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

#### **ARTICLE XX FUNDING REQUIREMENTS**

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

#### **ARTICLE XXI CHANGE IN TERMS**

- A. This AGREEMENT may be amended only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY'S Contract Administrator.
- C. There shall be no change in CONSULTANT'S Project Manager or members of the Project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY'S Contract Administrator.

**ARTICLE XXII CONTINGENT FEE**

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**ARTICLE XXII DISPUTES**

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Parks and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

**ARTICLE XXIV INSPECTION OF WORK**

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the Project activities and files at all reasonable times during the performance period of this AGREEMENT.

**ARTICLE XXV SAFETY**

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction Project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the Project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices,

work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper

#### **ARTICLE XXVI OWNERSHIP OF DATA**

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other Project except the one detailed in this Contract. Any reuse by City for another Project or Project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

#### **ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR**

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

#### **ARTICLE XXVIII CONFIDENTIALITY OF DATA**

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to



CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

#### **ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

#### **ARTICLE XXX EVALUATION OF CONSULTANT**

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the contract record.

#### **ARTICLE XXXI PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT**

The LOCAL AGENCY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the LOCAL AGENCY shall act in accordance with both of the following:

- 1) Each payment request shall be reviewed by the LOCAL AGENCY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- 2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

**ARTICLE XXXII NOTIFICATION**

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT: Natalina V. Bernardi, PE  
(NAME)  
ATTN: Jaggi Bhandal  
(Project Manager)  
  
1730 N. First Street, Suite 600  
  
San Jose, CA 95112  
(ADDRESS)

LOCAL AGENCY: Parks and Public Works Department  
ATTN: WooJae Kim, Town Engineer, Contract Administrator  
41 Miles Avenue  
Los Gatos, CA 95030

**ARTICLE XXXIII CONTRACT**

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

**ATTACHMENTS:**

EXHIBIT A – SCOPE OF SERVICES  
EXHIBIT B – CONSULTANT’S COST PROPOSAL  
EXHIBIT 10-O2 - Consultant Contract DBE Information

**ARTICLE XXXIV SIGNATURES**

Recommended by Department Head:

DocuSigned by:

Matt Morley 5/13/2021

Matt Morley, Parks and Public Works Director

IN WITNESS WHEREOF, THE LOCAL AGENCY AND CONSULTANT HAVE EXECUTED THIS AGREEMENT.

**TOWN OF LOS GATOS** by:

DocuSigned by:

Laurel Prevetti 5/20/2021

Laurel Prevetti, Town Manager

**CONSULTANT** by:

DocuSigned by:

Natalina V. Bernardi 5/12/2021

Signature

Natalina V. Bernardi, Principal / Vice President

Printed Name and Title

**Approved as to Form:**

DocuSigned by:

Robert W. Schultz 5/18/2021

Robert Schultz, Town Attorney

**Attest:**

DocuSigned by:

Shelley Neis 5/20/2021

Shelley Neis, CMC, Town Clerk

## PROJECT SCOPE OF SERVICES

### PHASE I - ENGINEERING DESIGN SERVICES AND ENVIRONMENTAL CLEARANCES:

The BKF Team will provide all design services, including but not limited to: Project management; preliminary engineering; environmental studies and clearances; utility coordination and right-of-way; permits and coordination with other agencies; surveys and mapping; geotechnical investigations and reports; structural and final design and development of all contract documents; bid support and obtaining the authorization to proceed to construction from Caltrans for the Highway 17 Bicycle and Pedestrian Overcrossing Project as more specifically described as follows. Where appropriate professional engineer shall sign all plans, specifications and estimates and engineering data furnished under the scope of services, including registration number.

- **Task A.1 Project Management** - The BKF Team will provide the necessary Project coordination, administration, management and interfacing with the Town, Caltrans, and other internal/external stakeholders to achieve Project objective. The BKF Team will proactively provide direction to the Town regarding the Project tasks necessary to deliver the federally funded Project consistent with Caltrans permitting requirements and federal reimbursement requirements. The BKF Team will be responsible for Project management activities throughout the life of the contract. The scope of these activities includes, but is not limited to,
  - provide, distribute, and maintain contact information for all Project team members
  - coordinate and schedule meetings/conference calls as needed
  - prepare and distribute meeting minutes
  - itemize, track, and pursue all Project action items to completion
  - develop and maintain the Project schedule, report on Project progress
  - manage Subconsultant activities to remain on schedule,
  - supervise, coordinate, and monitor design for conformance with all current applicable design standards from the Town, AASHTO, Caltrans Design Standards and Specifications, California Building Code, and any affected utilities
  - supervise, coordinate, and monitor the design for conformance with permit requirements from Caltrans, VTA, and utility companies
  - conduct field reviews as needed
  - prepare and track Town's submissions to Caltrans
  - provide internal quality control checks and document quality control actions conducted for the Project
  - conduct cross-checking to avoid potential conflicts between various subconsultant's work
  - develop Project filing and record keeping system for Project files for a period of 5 years
  - develop a list of Project stakeholders for coordination during Project design
  - assist the Town with grant funding pursuits for project construction. BKF understands that the Town will lead these funding pursuit efforts, but will provide minimal support (project information, exhibits, etc).

*Deliverables: Meeting minutes, schedule, progress reports, action item logs, tracking spreadsheets, Caltrans submissions and other items resulting from the BKF Team's Project management duties*

- **Task A.2 Data Collection and Review** - The BKF Team will obtain and collect data as needed to develop general Project design concepts and related activities needed to establish the parameters for final design, such as, existing topography/geometrics, grading and drainage considerations, geotechnical/retaining wall considerations, structural engineering and proposed bridge structure, ADA considerations, extent of required demolition activities, construction phasing/staging, environmental and future maintenance considerations. The scope of these activities includes, but is not limited to, (items to be provided by the Town or items on the Town's Project webpage are as indicated below).
  - Complete an extensive site review/existing conditions assessment of the Project area
  - Collect and review existing background information regarding the Project including:
    - Town's adopted Bicycle and Pedestrian Master Plan and Update (see Attachment 3)
    - Highway 17 Bicycle and Pedestrian Overcrossing Feasibility Analysis (see Attachment 3)



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

- Funding Agreement between the Town of Los Gatos and Santa Clara Valley Transportation Agency for the Bicycle and Pedestrian Overcrossing Over Highway 17 (see Attachment 3)
- Caltrans Local Procedures Manual
- Plans for existing utilities in Project area
- Development plans for adjacent properties – (Town to provide)
- Proposed developments in the Project vicinity (Town to provide) and potential Project impacts
- Street improvement plans, including signalized intersections (Town to provide)
- Aerial photos and any available mapping, including digitized topography
- Survey control data
- ROW information, including Caltrans right of way documents, existing easements, etc.
- Existing as-built information from the Town, Caltrans, property owners, local agencies, utility companies, and other organizations
- Existing Blossom Hill Road Highway 17 Overcrossing bridge structure plans and geotechnical information
- Geologic and soil literature in the Project vicinity
- Design standards and codes applicable to the Project
- Town's Standard Specifications and Details for Construction, 2010 Caltrans Standard Specifications and Standard Plans, and applicable portions of the MUTCD and California MUTCD, and other controlling design standards as appropriate
- Americans with Disabilities Act (ADA) requirements
- Connect Los Gatos webpage and Highway 17 Bicycle and Pedestrian Overcrossing Project page
- Minutes from Project related community meetings
- Based on existing conditions and Project objectives, determine required permits and permit requirements necessary for successful completion of Project and review permit applications and requirements
- Based on the data collected and site evaluations, review the preliminary layout as presented in the feasibility study, verify assumptions, and confirm consistency with the Project's objectives and budget.
- Based on information collected, prepare a summary or diagram of existing conditions highlighting any special/potential conditions that may affect the final design (opportunities and constraints diagram)

*Deliverables: Video of existing site conditions, listing of all potentially required permits, opportunities and constraints diagram*

- **Task A.3 Surveys and Base Mapping** - The BKF Team will be responsible for data collection, and all mapping and surveying necessary to complete a comprehensive base map and other plans as indicated below. The scope of a comprehensive base map and survey includes setting Project benchmarks and establishing control for Project layout and construction, aerial photogrammetry, design level topographic surveys, identification of all public right-of-way, adjacent parcels, property lines, easements, and existing utility locations. The extent of the topographical surveying and mapping shall extend a minimum of 10' or more beyond the existing Blossom Hill Road right of way to show adequate conforms to existing conditions and proper future drainage. Existing conditions mapping shall include appropriate data collected in Task A.2.
- The BKF Team shall conduct a detailed field survey to review and record existing conditions in the Project area and shall identify any unusual or special conditions that may affect the design or construction of the Project. The field survey for the Project area shall include at a minimum, the location of all existing above and below grade facilities, including but not limited to, roadways, signing/stripping, medians, traffic signals and appurtenances, fire hydrants, street lights, retaining walls, sidewalks, curbs, gutters, ramps, SR 17 overcrossing structure including the embankments and structural components, fences, gates, utilities, flood control facilities, waterways, outfalls, trees



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

greater than 6" DBH, and any existing irrigation facilities.

- The BKF Team shall review data and survey information collected with proposed Project layout and shall complete physical verification of utility locations in areas of potential conflict. The BKF Team shall obtain all permits and approvals necessary to complete the potholing operations. Results of potholing shall be included on the Utilities Base Map.
- Based on the survey and data collected, the BKF Team shall prepare one or more existing conditions base maps, at a scale of 1"=20' for use in the Project design and community meetings, including
  - Existing Conditions Base Map
  - Existing Utilities Base Map
  - Existing Tree Plan - the BKF Team shall prepare a separate plan showing the location and number of existing trees over 6" DBH, including size, species, and location.
  - Right of Way Map – showing location of all property lines and easements within or immediately adjacent to the Project area.

*Deliverables: Survey data sheets, base map(s) and plans in AutoCAD format– including Existing Conditions Base Map, Existing Utilities Base Map, Tree Locations and Right of Way Map*

- **Task A.4 Stakeholder Coordination and Project Permits** - The BKF Team shall identify all Project stakeholders and shall take actions necessary to coordinate Project design with the Town and Project stakeholders. Meetings with the stakeholders, including the Town, Town Council and Commissions, community members, Caltrans, VTA, any affected utilities, and any affected private properties will be included in this scope of work and shall include preparing and providing supporting documents, reports, and exhibits. The BKF Team shall determine the need for permits to allow for the ultimate construction of the Project, including a Caltrans encroachment permit, and any other permits deemed necessary for construction access and staging areas and shall prepare required applications, documents, and reports to allow the Town to obtain the Project permits in a timely manner. Design of the Project is to remain within the existing public and Caltrans right of way, however, the BKF Team will identify any conform or other activities that may need to temporarily take place on private property, and will coordinate with adjacent property owners to obtain clearances for such activities. The BKF Team shall coordinate permits necessary for geotechnical drilling operations and USA clearances.

**Caltrans Coordination:** The BKF Team will take the lead and coordinate with Caltrans and the Town to prepare a Project Initiation Document (PID), Project Study Report-Project Development Study (PSR-PSD), Project Approval & Environmental Document (PA&ED), and final PS&E including all reports and documentation required by Caltrans in order to obtain a Caltrans encroachment permit for the Project. To start the coordination process, BKF will assist the Town in obtaining a Cooperative Agreement with Caltrans to start the PID phase. The PID shall comply with the Caltrans standard PSR-PDS requirements and will include the overall site plan and typical conceptual cross-sections for the alternatives identified in the feasibility study. The BKF Team will assist the Town in the development of the necessary Cooperative Agreements with Caltrans for the PID, PA/ED, and PS&E phases. The BKF Team will schedule and hold meetings as needed with Caltrans and shall also schedule and hold regular Project team coordination meetings with Caltrans and shall prepare the meeting agendas, minutes, and action items. It will be the BKF Team's responsibility to prepare, implement and monitor a realistic schedule of the activities necessary, to lead the Town through the PID, PA/ED, and PS&E phases of the Project. BKF will also assist the Town in the execution of a Maintenance Agreement for the proposed project improvements and supporting exhibits necessary to complete the agreement.

*Deliverables: Approved PID, PA/ED, and PS&E; Project team meeting agendas, minutes, action item lists, Caltrans encroachment permit for Project construction.*

**Selection of Preferred Bridge Type:** The feasibility study has identified three feasible types of bridge structures for consideration. The BKF Team understands that the Town



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

plans to only move forward with the concrete and steel truss bridge options identified in the feasibility study. BKF will develop each concept further and shall assist the Town in the presentation of these two alternatives to the community, the Town's Complete Streets and Transportation Commission and the Town Council. The BKF Team will lead the Town's effort to develop a consensus regarding the final bridge type for advancing into the final design process. This process is to take place concurrently with the development of the Project Initiation Document (PID), and shall result in the Town Council's selection of the final bridge type prior to the completion of the PID phase. The following tasks are anticipated for the selection of the preferred bridge structure:

- Prepare a Principal Span Structure Selection Matrix including structure type, anticipated costs, key opportunities and constraints for each bridge type
- Define embankments (if any), retaining walls/sound walls (if any), supports, main span and approach structure geometrics
- Geometric alignment and clearances, including bridge and approaches with a focus on geometric plans through Caltrans right of way. The geometric design for the bridge and approaches through Caltrans right of way will be developed based on project objectives, the constraints and the Town's and Caltrans design standards. Adequate detail will be provided so that assessments and evaluations can be made and discussed.
- Refine each alternative to show impacts to adjacent properties and relationship to adjacent property lines
- Provide diagrams and plans showing the movement of bicycle and pedestrians across the structures and through the adjacent intersections and across bridge structure
- Develop additional perspectives for each bridge structure showing:
  - Viewer friendly plans showing proposed alignment, profiles, and cross-sections of each bridge alternative
  - Visual simulation/view of each bridge structure from both south and northbound SR 17
  - Visual simulation/view of each bridge from the user's perspective both east and west bound directions
  - Potential additional architectural features or opportunities for each bridge type including pedestrian and bicycle railings, lighting concepts, and potential incorporation of public art features.
  - Landscape and urban design concepts
  - Refine basic cost estimate for each bridge type
- Assist the Town in a community workshop(s) to review bridge types and determine community preference
- Assist the Town in presentations to the Parks and Recreation Commission, the Complete Streets and Transportation Commission, and Town Council to determine the final bridge type.

In advance of the 35% phase, the BKF Team will develop Bridge APS submittal for the Town's and Caltrans review and approval. The team will perform necessary modeling and analysis to support member sizing. The Bridge APS shall be performed in accordance with Caltrans Bridge Memo to Designers 1-8. The APS shall consist of one structure plan sheet showing general structure layout details and estimated cost, preliminary geotechnical memorandum, APS checklists, design memorandum, and itemized cost estimates. There will be no APS sheets developed for the retaining structures unless these walls are very unusual in characteristic and type.

*Deliverables: Opportunities and constraints diagrams, visual simulations, plans, profiles, cross-section, meeting presentations, cost estimates, APS.*

**Community Engagement:** With assistance from the BKF Team, Town staff will implement and lead the Project's Community Engagement Plan. The BKF Team shall develop and implement a robust community engagement process, attend and provide support to Town staff in public outreach efforts, and facilitate community meetings to obtain input on the proposed design. The BKF Team will develop all necessary meeting materials including graphics, presentations slides, handouts, drawings, graphic boards, etc. for each meeting, as





**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

appropriate. BKF will conduct a "pre-meeting planning session" with the Town via teleconference before each meeting to review materials. The BKF Team will provide minutes for all meetings. A minimum of eighteen (18) public outreach activities are anticipated per the RFP. The following public activities are preliminary proposed into three broad phases: 1) Technical Translation Phase to build and test educational materials, 2) Stakeholder Engagement Phase to interact directly with specific key groups such as adjacent homeowners, nearby schools, and other specific organizations, to address their key concerns and 3) General Public Phase to engage the broader public to ensure understanding of the project, the community preferences, and forthcoming design and construction schedule. The following list includes public meetings and other engagement activities anticipated during and after the Structural Design and Aesthetic Evaluation Study. Specific community engagement activities required of the BKF Team are anticipated to include the following:

- Stakeholder Engagement Materials: The BKF Team will provide supporting documents and exhibits for the Town's use in stakeholder notifications.
- Stakeholder and Contact Database: The BKF Team shall collaborate with Town staff to build onto any existing contact list to include key individuals, organizations, and agencies to engage.
- Community Engagement Strategy: Working with Town staff, the BKF Team shall define key outreach activities, their sequence, and their likely schedule.
- Project Informational Materials: The BKF Team shall develop materials to help educate the community about the project and potentially promote input activities, typically including a Project Fact Sheet, FAQ sheet, and flyer template, or other information that can be posted to the Town's website.
- Stakeholder Interviews: The BKF Team shall interview specific individuals and community champions representing key stakeholder groups or constituencies early in the process to identify concerns and early design preferences or parameters.
- Stakeholder Group Meetings: The BKF Team shall coordinate and present at stakeholder meetings. Among the possibilities include advisory group meetings, neighborhood group meetings, the chamber of commerce, school PTA meetings, service clubs (Kiwanis, Rotary, Lions, etc.), or employee groups.
- Community Meeting and Workshops: The BKF Team and Town shall develop a list of key Project milestones for community input and workshops. The Town shall arrange venues – if health guidelines allow – for workshops and shall notify stakeholders of meetings and workshops, however the BKF Team will be prepared to facilitate the community discussion/workshops and Commission/Council presentations and shall provide supporting documentation and visual aids. Workshops and meetings will be conducted as virtual events if shelter in place protocols remain. Visual aids shall include renderings and visual simulations of major Project elements. All Project materials shall include the appropriate Measure B logo and acknowledgements. The BKF Team will provide meeting summaries and follow up on outstanding comments or issues. It is anticipated that the community meetings, workshops, and presentations will be required at the following Project milestones:
  - Preferred Bridge Type Selection – Two (2) community workshops, plus four (4) Council or other Commission presentations
  - Community/Commission Design Reviews– minimum of two (2) each at PID, PA/ED, 35% design, 65% design, and 95% design
  - Town Council presentation at 35% and at 100% complete PS&E
- On-line Engagement: the BKF Team shall provide periodic progress updates for the Town to post on the Project web-page.
- Online Preference Setting Activity: To reach the broader Los Gatos community beyond those attending in-person, an online activity, potentially a graphics – or map-based survey is proposed to help garner community input and ideas, and to help hone in on a design alternative.
- Town Council Meetings: The BKF Team shall attend and assist in presentations in up to a total of two (2) Town Council meetings. These meetings shall be planned at the Town's staff's discretion.

*Deliverables: Workshops and presentations (18 total), agendas, visual aids/visual simulations, renderings, meeting summaries, follow-up as needed,*





**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

**VTA Coordination:** the BKF Team assumes the Town will facilitate all coordination efforts with the VTA for this Project, however, BKF will provide support as outlined below:

- Include insurance coverage and endorsements as required by VTA funding agreement. The Project must include Measure B branding/logo in work released to the public and in project construction/specifications.
- The BKF Team shall allow VTA a minimum of thirty (30) calendar days to review and provide comments and shall include such review time in the master Project schedule. VTA's comments must be considered in the final design phase of the Project. The BKF Team shall provide back-up information as necessary for any VTA comment that will not be incorporated into the final design documents. BKF assumes that the Town will lead/facilitate reviews with the VTA.
- Submit to the Town all records including invoices, miscellaneous invoices, and force account charges as substantiation for invoices submitted to VTA for reimbursement hereunder.
- Maintain financial records, books, documents, papers, accounting records, and other evidence pertaining to costs related to the Project for five (5) years. The BKF Team shall make such records available to VTA and the Town upon written request for review and audit purposes. Financial audits may be performed at VTA's sole discretion.

*Deliverables: Written responses to VTA review comments.*

**Utility Coordination** – The complete effort for utility coordination is to include accurately identifying and mapping of existing utilities, identifying and defining any relocations or modifications required by the Project, and documenting utilities in accordance with Caltrans policies, and coordinating any future utility requirements for the Project.

- Coordinate with all utility companies early in Project to identify and confirm any potential conflicts with the Project.
- Submit proposed plans to utility companies as necessary for review in accordance with utility requirements.
- Complete potholing to verify location of utilities in potential conflict areas.
- Coordinate any necessary utility relocations, including and temporary relocation of the utility facilities, as needed, for bridge installation or other construction considerations.
- Coordinate with PG&E and the SJWC for future power and water service points needed for the Project.
- Develop and maintain a list of utility contacts and relocation tracking database for the Project design and construction activities.
- Prepare Utility A, B, and C letters.
- Conduct utility coordination meetings, prepare agendas, minutes, and track action items.
- Prepare utility conflict maps clearly delineating existing and proposed utilities in current and final locations.
- Provide support to the Town for the utility relocation process, determining liability for the costs associated with necessary relocations.
- Prepare necessary Utility Agreements.
- Incorporate relocation activities into Project schedule.
- Certify that all utility conflicts are addressed and other actions necessary to obtain the Utility Certification as part of the ROW Certification.

*Deliverables: A, B, C, letters and utility certifications, agreements, permits, clearances as required to obtain the Caltrans encroachment permit and for construction of the Project, meeting minutes, utility contact list.*

• **Task A.5 Environmental Studies and Documentation – CEQA and NEPA**

The BKF Team will complete all required environmental reviews and obtain all environmental clearances to allow the Project to move forward into construction. All environmental documents and reports, studies and public noticing shall be conducted according to the



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

provisions of the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA).

For CEQA clearance, David J. Powers & Associates, Inc. (DJP&A) will prepare an Initial Study pursuant to the requirements of CEQA and the Town of Los Gatos. This scope assumes the Initial Study will not be circulated for public review; instead, upon completion of the Initial Study, the Town will determine the project is categorically or statutorily exempt from the provisions of CEQA. In addition, with the recent passing of Senate Bill 288, Public Resources Code Section 21080.20 now exempts bicycle and pedestrian facility projects. Therefore, DJP&A believes the project would be statutorily exempt under CEQA. For the purposes of this proposal, the BKF Team assumes the Town will be designated as the CEQA lead agency.

NEPA clearance will be required due to the future federal funding for construction of the Project. The BKF Team will work with Caltrans (the lead for the NEPA process) and the Town, and complete all technical memorandums and studies as identified by Caltrans through the Preliminary Environmental Studies (PES) and Field Review process. For the purpose of this proposal, the BKF Team assumes the appropriate filing for NEPA will be a Categorical Exclusion under NEPA (23 CFR 771.117; (c) (3): Construction of bicycle and pedestrian lanes, paths, and facilities.

Based on the DJP&A's recent experience working on Caltrans Local Assistance Projects in the greater Bay Area, DJP&A believes Caltrans will require preparation of the following technical memos for the bicycle and pedestrian overcrossing. The actual studies to be completed will be determined by Caltrans upon completion of the PES and field review meeting:

- Traffic Technical Memo
- Air Quality PM2.5 Exemption
- Water Quality Technical Memo
- Natural Environmental Study (Minimal Impact)
- Archaeological Survey Report
- Equipment Staging Technical Memo
- Initial Site Assessment
- Visual Impact Assessment (Moderate Impact)

DJP&A will prepare the air quality, traffic, equipment staging, and water quality memos based on information provided by the Town and BKF.

The Natural Environmental Study (Minimal Impact), Archaeological Survey Report and Historic Property Survey Report, and Visual Impact Assessment (Moderate Impact) will be prepared by H.T. Harvey & Associates, Archaeological Historic Consultants, and Earthview Sciences, respectively, under contract to DJP&A.

The Natural Environmental Study (Minimal Impact) will characterize the existing conditions, and determine the potential project impacts to sensitive biological resources. A wetland delineation is not included in this scope.

The Archeological Survey Report will include a summary of records search results and Native American consultations. The Historic Property Survey Report (HPSR) will report the findings of any documented historic resources located within the project limits and a summary of the findings of the Archeological Survey Report, which will be included as an attachment to the HPSR.

The Visual Impact Assessment will evaluate up to three views, based on photosimulations to be prepared under separate contract and provided to DJP&A. Earthview Sciences will participate in consultation with Caltrans and Town staff for viewpoint selection.

The Phase I Initial Site Assessment will be prepared by Parikh for the proposed project. ASTM recommends a 1.0-mile radius for the data search. Environmental Data Research Inc. (EDR Inc.) report study will be ordered using an approximate center of the project. The ISA



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

study will be prepared to identify potential hazardous waste sites and evaluate environmental factors that may have impacted the soil groundwater quality within the project limits. The study will include data collection and documents research including historical land use based on study of aerial photographs and other relevant documents. No field exploration and/or testing are included in this phase of the work.

The studies and memos will be prepared based on Caltrans' Standard Environmental Reference (SER) and submitted to the Town and BKF for review. DJP&A will revise the memos once and submit them back to the Town for submittal to Caltrans. Based upon review comments by Caltrans, DJP&A and its subconsultants (H.T. Harvey & Associates, Archaeological Historic Consultants, and Earthview Sciences), with concurrence from the Town, will revise the memos once for resubmittal to Caltrans. Once the memos are deemed complete by Caltrans, Caltrans will issue the NEPA Categorical Exclusion for use by the Town in obtaining federal funding.

Note the technical memos and reports will also be used to support the CEQA Categorical Exemption.

For the purpose of this proposal, the BKF Team assumes the following:

- The Project will not include work outside of existing Town or Caltrans right-of-way.
- The NEPA and CEQA process will be limited to the evaluation of one build alternative.
- The Project description will not change.
- The Project will not impact threatened or endangered plant or animal species, or habitat utilized by such species.
- No private property will be affected by the Project.
- The Project will use Tier 4 construction equipment and construction air quality analysis will be qualitative.
- All construction staging will occur on paved surfaces within Town right-of-way.
- BKF will provide information on tree location and diameter.
- BKF will provide information on construction staging, duration, equipment use, etc.
- Completion of an Extended Phase I (i.e., subsurface archaeological testing) will not be required.

**Regulatory Agency Permits** – The BKF Team assumes the project will not need regulatory agency permits from the San Francisco Regional Water Quality Control Board or California Department of Fish and Wildlife because there are no wetlands or riparian habitat within or immediately adjacent to the project alignment.

*Deliverables to include: Initial Study, Notice of Exemption, Preliminary Environmental Studies form, traffic technical memo, air quality PM2.5 exemption confirmation, water quality technical memo, Natural Environmental Study (Minimal Impact), Archaeological Survey Report, Equipment Staging Technical Memo, Initial Site Assessment Visual Impact Assessment (Moderate Impact).*

- **Task A.6 Geotechnical Investigations and Reports** - The BKF Team will conduct geotechnical investigations as necessary to ensure that all geotechnical data within the Project area that may affect the final design and construction of the Project are identified and addressed per the Caltrans encroachment permit requirements and in the final design of the Project. The specific project elements that will require geotechnical studies are listed below:
  - New bridge POC structure, Caltrans Review
  - Retaining Walls, embankments, slopes and trail pavement (Non-Caltrans ROW)

The following proposed geotechnical studies are planned to be performed during PA/ED Phase:

- **Preliminary Foundation Report (PFR):** Preliminary Foundation Report will be prepared for the POC over Highway 17. The PFR will be prepared in accordance with Caltrans guidelines and will include discussions on potential



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

geotechnical/geologic impacts and mitigations on a broad basis including but not limited to slope stability, geology, seismic impacts, erosion, groundwater conditions, etc. for the proposed bridge structure. Certain design assumptions are made as to the type of foundations, approximate pile length. Generally, the geotechnical issues relevant to the proposed project are presented in a qualitative manner with no specific design recommendations. Subsequently, during the PS&E phase a more detailed Foundation Report will be prepared for the bridge.

- **Preliminary Geotechnical Design Report (PGDR):** The project proposes to include retaining walls and slope cuts, embankments and pavement for the trail work. However, this work is outside of the Caltrans ROW. To simplify the process, Parikh will prepare a combined report that covers these elements as a PGDR.

A Preliminary Geotechnical Design Report is proposed for the roadway pavement, retaining walls, slopes and other civil design features. The review will be based on readily available data including as-built Log of Test Borings from the previous geotechnical reports and other Agency records. The potential geotechnical/geologic impacts and mitigations will be discussed on a broad basis including but not limited to slope stability, geology, seismic impacts, erosion, groundwater conditions, etc. for the proposed project. Wall foundation types will be based on Caltrans standard design guidelines. Generally, the geotechnical issues relevant to the proposed project are presented in a qualitative manner with no specific design recommendations.

Overall scope of work during PS&E Phase will include preparation of a Geotechnical Design Report for the roadway work, slopes, retaining walls and embankments. A separate foundation report will be prepared for the overcrossing of Highway 17. The proposed retaining walls are not located within the Caltrans right-of-way; therefore, separate foundation reports are NOT proposed for each of these walls.

The following proposed geotechnical studies are planned to be performed during PS&E Phase:

- **Foundation Report and Log of Test Borings (Bridge):** Parikh will prepare foundation report and log of test borings for the POC structure. Existing borings and CPT data from the Caltrans database will be used as a reference. Additional borings will be required for the new structure. Following is a task breakdown for the proposed work.
  - Research and Data Collection: Review of readily available geologic and soil literature in the vicinity of the site including review of any as-builts drawings and existing LOTB.
  - Permits/USA Clearances: Comply with the Caltrans Permit requirements. Encroachment permits will be processed with Caltrans for field investigations within Caltrans R/W. The BKF Team assumes encroachments within the Town will follow is streamlined process with fees waived.
  - Field locate the borings and call for USA clearance.
  - Field Exploration: Due to limited access, steep terrain and need for deeper exploration portable rigs are not feasible. There are three potential locations identified for the bridge project. One median boring will be included in this program that will require potentially night work and lane closures. This will be dictated by the Permit Engineer. The borings are proposed to a depth of 100' or refusal. One exploration per working shift is assumed. These explorations will provide an evaluation of subsurface conditions for the proposed structures. Traffic control is assumed for 1 shift.
  - The boring locations will depend upon the available access and the boring data from previous studies. We anticipate using a truck-mounted rig for majority of the work. Coordination and encroachment/permit to enter is to be provided by the client. Some private access and permits may be required.
  - Classify and continuously log subsurface soil conditions encountered in



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

each test boring at the time of drilling. Obtain "relatively undisturbed" and bulk samples of substrata from test borings. The borings will be drilled and capped in accordance with the permit requirements.

- Laboratory Testing: Perform laboratory tests on representative soil samples such as moisture density, consolidation tests, unconfined compression, gradation analyses, corrosion tests and Plasticity Index test, as necessary.
- Soils Analysis/Evaluation: Perform engineering analyses and develop design recommendations for the proposed structure foundation design. The design should follow AASHTO LRFD specifications (8<sup>th</sup> edition, September 2017) with California amendment 2019.
- Prepare Draft Preliminary Foundation Reports (Type Selection) for the bridge structure. Prepare preliminary recommendations for the overcrossing and provide Draft Foundation Report with the LOTB. The foundation design will be based on analyses using Caltrans seismic design and LRFD guidelines.
- Discuss seismic considerations, evaluate the liquefaction potential and comment on the site soil conditions from this standpoint. Information related to Caltrans Seismic design criteria (SDC v 2.0) shall be provided. Information related to the recently revised Seismic design guidelines (2019) and the ARS curves (using Caltrans ARS online tool) will be provided.
- Prepare Foundation Report for the overcrossing structure. LOTB will be prepared using the general plan as a base map.

▪ **Geotechnical Design Report (one report within Town right-of-way):**

PARIKH will prepare a separate Geotechnical Design Report (GDR). The GDR will include retaining walls, slope stability analyses and trail. Detail scope for preparing this report is as follows:

- Research and Data Collection: Review of additional available geologic and soil literature in the vicinity of the site.
- Permits/USA Clearances: Work will comply with the Town's Permit requirements. Encroachment permits (Town/private) will be provided by the client.
- Boring locations will be located for USA clearance.
- Field Exploration: The boring program will include 4 explorations to 30 feet deep for the proposed walls and the slopes. These are planned with track mounted field equipment. These explorations will provide an evaluation of subsurface conditions for the proposed cut and fill walls and slopes. The boring locations will depend upon the available access and any permit conditions. No traffic control is assumed at this time as most of the work will be off the travel areas.
- Classify and log subsurface soil conditions encountered in each test boring at the time of drilling. Obtain "relatively undisturbed" and bulk samples of substrata from test borings. The borings will be drilled and capped in accordance with the permit requirements. Generally, the borings are required to be backfilled with cement grout.
- Laboratory Testing: Perform laboratory tests on representative soil samples such as moisture density, unconfined compression, gradation analyses, corrosion tests and Plasticity Index test, as necessary.
- Soils Analysis/Evaluation: Perform engineering analyses and develop design recommendations for the proposed retaining walls, slopes, embankments, and pavement design.
- Prepare Draft Geotechnical Design Report: Prepare preliminary recommendations including retaining wall design parameters, possible MSE wall option, slope stability recommendations and pavement section. Draft LOTB will be included in the report.
- Prepare final Geotechnical Design Report: Final GDR will include response to review comments from agency. Final design recommendations will be based on the updated design requirements. Log of Test Borings will be prepared using the general plan as a base map.





**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

- **Prepare Phase II ISA:** The Phase II ISA will include the following field activities and laboratory analysis:
  - Field Activities will include the following:
    - Advance up to 8 hand-auger borings to 2.5 ft bgs.
    - Collect 3 soil samples per boring (total 24 samples)
  - Analytical Laboratory Analyses (Standard Laboratory Turnaround Time):
    - 18 soil samples for Total Lead
    - 6 soil samples for CAM 17 Metals
    - 8 samples for TPHg
    - 8 samples for TPHd/mo
    - 4 samples for Organochlorine Pesticides
    - 1 sample for Volatile Organic Compounds
    - 1 sample for Semi-Volatile Organic Compounds
    - 1 sample for Polychlorinated Biphenyls
    - 4 samples for Naturally Occurring Asbestos
  - Prepare Site Investigation Report

*Deliverables: Draft and Final Preliminary Geotechnical Design Report (PGDR), Draft and Final Preliminary Foundation Report (PFR), Draft Geotechnical Design Report (Town right-of-way), Draft Foundation Report for POC (Caltrans), Final Geotechnical Design Report (Town right-of-way), Final Foundation Report for POC (Caltrans).*

- **Task A.7 35% PS&E** – The preliminary 35% design is intended to allow the Town, Caltrans, the community, and other stakeholders to review and comment based upon the basic design concepts early in the design process to minimize change in subsequent tasks. Plan development shall be based on the base mapping, data collection, and other determinations that are developed through the Environmental and PID and PA/ED phases. The BKF Team shall prepare the 35% design and submit to stakeholders for review and comment at community, commission, and Council meetings. Stakeholder comments shall be addressed in writing by the BKF Team prior to continuation of the design to the next level.

For scoping purposes, the BKF Team assumes that the basic structural configuration and concept, is limited to the concrete box girder and steel truss options identified in the Feasibility Study will be the preferred bridge type over Highway 17. The preliminary 35% design will include the following:

**Preliminary Transportation Management Plan (TMP):** TJKM will prepare a TMP Data Sheet to include proper cost, scope, and scheduling of the TMP activities at this early stage of development as required by the Caltrans PSR-PDS guidelines.

**Basis of Design Memorandum:** The BKF Team will confirm the applicable Town, Caltrans, other applicable jurisdictional standards and guidelines to be implemented and considered for the design of the pedestrian and bicycle overcrossing. The applicable standards and criteria set for the Project design will be described and culminated in a Design Basis Memorandum.

**Preliminary Plans:** The BKF Team shall refine the initial concept designs and prepare preliminary design plans (35%) for the preferred alternative based on community and Town input showing architectural and civil plans, structure elevations, sections, any artwork, lighting, and fence/railing elements, horizontal control lines, vertical profiles and super-elevations, grading and drainage, structure location and wall limits, utility impacts, and right-of-way/construction easement impacts.

**Preliminary Cost Estimates:** The BKF Team shall prepare preliminary construction cost estimate for the project in accordance with Caltrans guidelines including Caltrans Bridge Memo to Designers 1-8 and Section 11 of the Caltrans Bridge Design Aids. Use Caltrans Cost Estimate form for bridge item.

**Bridge Type Selection Report:** The BKF Team will analyze the structure type selection before extensive structural design work is performed and prepare a Bridge Type Selection



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

Report (TSR) in accordance with Caltrans guidelines. The TSR will include a Bridge General Plan, Bridge Site Data Submittal, Foundation Plan, Construction Cost Estimate and Type Selection Memo. This work will be developed using Section 10, "Type Selection," of the Caltrans Bridge Design Aids, and Section 1-29, "Type Selection Review Meeting," of the Caltrans Bridge Memo to Designers. The BKF Team will submit the TSR for Caltrans review, and will present the proposed structure to Caltrans at a Bridge Type Selection Meeting. The BKF Team will conduct one (1) "pre-meeting planning session" teleconference with the Town. The BKF Team will finalize the TSR based on input received in the meeting. The TSR General Plan and Foundation Plan will be incorporated into the 35% Plan Submittal.

35% submittal, at a minimum, is anticipated to include the following:

- **PSR-PDS and Supporting Documents**
  - Purpose and Need
  - Geometric Approval Plans (Typicals and Horizontal and Vertical Alignments)
  - Identify Design Exceptions
  - Preliminary Drainage Report
  - PID Level Storm Water Data Report (SWDR)
  - Preliminary Transportation Management Plan (TMP)
  - Traffic Engineering Performance Assessment (TEPA) – The BKF Team assumes a formal TEPA is not required and minimal efforts to address the Traffic section in the PSR-PDS will suffice since the Project does not propose to alter traffic operations. Although a formal traffic analysis will not be required by Caltrans, BKF assumes a traffic memo to address the anticipated traffic signal modifications at West and East Roberts Road intersections will be required as part of the project scope. This analysis would be limited to Town review only and opening year operations.
  - Preliminary Geotechnical Memo and Preliminary Site Investigation
  - Biological/Cultural Records Searches
  - Preliminary Environmental Assessment Report (PEAR)
  - Construction and Support Cost Estimates
  - PID Draft Narratives/Sections
  - Administrative Draft PSR/PDS
  - Draft PSR/PDS with comments incorporated
  - Final PSR/PDS
- **PR and Supporting Documents** – For scoping purposes, the BKF Team assumes only one (1) alignment alternative and one (1) bridge type will be evaluated in the Project Report and supporting documents, which will include the following:
  - Geometric Approval Plans (Typicals and Horizontal and Vertical Alignments)
  - Design Exception Report
  - Utility Policy Exception
  - Preliminary Drainage Report
  - Storm Water Data Report (SWDR)
  - Transportation Management Plan (TMP)
  - Traffic Operations Analysis Report (TOAR) – The BKF Team assumes a formal TOAR is not required and minimal efforts to address the Traffic section in the PR will suffice since the Project does not propose to alter traffic operations. Although a formal traffic analysis will not be required by Caltrans, BKF assumes a traffic memo to address the anticipated traffic signal modifications at West and East Roberts Road intersections will be required as part of the project scope. This analysis would be limited to Town review only and opening year operations.
  - Right of Way Data Sheet (R/W Data Sheet)
  - Structures Advance Planning Study (APS)
  - Cost Estimate
  - Risk Management Plan
  - PR Draft Narrative/Sections
  - Administrative Draft Project Report
  - Updated/Finalized Supporting Documents
  - Draft Project Report with comments incorporated



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

- Final Draft Project Report
- **35% PS&E** – The 35% PS&E submittal will be limited to the development of the Geometric Approval Drawings to obtain Caltrans Design approval of the Project's alignment design and features, including nonstandard design features.
  - Horizontal and vertical alignment plans
  - Typical trail cross sections
  - Preliminary bridge plans (structural and architectural), typical cross sections, and details
  - Preliminary and Final Type Selection Reports
  - Preliminary retaining wall plans, details, and cross sections
  - Tree removal/Tree Protection plan
  - Independent quality control check including a review of the 35% plans and specifications for accuracy and conformance to applicable design standards and codes, constructability, and potential for value engineering/cost savings measures.
- **Task A.8 Final Design** – Based on the 35% PS&E documents and resolved comments, and following Caltrans approval of the PA/ED, the BKF Team will prepare the PS&E for the 65%, 95% and Final 100% submittals. PS&E shall be submitted to the Town of Los Gatos - Parks and Public Works Department at 65%, 95% and 100% complete. At each submittal stage, the items listed in Task A.7 shall be completed to the appropriate level of design. At each state, 3 hard copy sets of D-size (24"x36") plans and 3 hard copy sets of B-size (11"x17") plans shall be submitted along with electronic copies prepared in PDF format. At each stage 3 hard copies of the Specifications, Special Provisions, and Cost Estimates shall be provided along with electronic copies in MS Word/Excel. After each submittal, the BKF Team will allow appropriate time frames for identified stakeholders to review the submittal and return comments. All comments provided shall be addressed in writing prior to beginning work on the following submittal.

Based on the work from the previous 35% PS&E, and upon review and approval of the same by the Town, the BKF Team shall prepare and submit 65% design plans and updated cost estimates. The BKF Team will prepare the necessary design plan sheets for the 65% PS&E submittal, which includes the following:

- Title Sheet, Vicinity Map, and Key Map
- Typical Sections
- Layout Plans
- Profiles/Superelevations
- Grading Plans
- Demolition Plans
- Drainage Plans and Profiles
- Stormwater Management Plans and Details
- Temporary Water Pollution Control Plans and Details
- Utility Plans, Profiles, and Details – BKF assumes water line design work will not be required as part of this scope. BKF recognizes the San Jose Water Company (SJWC) has expressed a desire to relocate their line onto the new bridge and will coordinate with SJWC to accommodate this line on the new structure, however, all design details to include this on the structure and any specific reinforcement/attachment details will be completed by SJWC.
- Construction Details
- Stage Construction Plans
- Traffic Handling Plans
- Pavement Delineation Plans
- Signing Plans
- Electrical Plans and Details
- Traffic Signal Plans and Conductor Schedules – modifications are assumed at the Roberts Road West and East intersections. BKF assumes the Town can provide existing as-built drawings for these existing traffic signals.





**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

- Tree Removal/Protection Plans
- Planting and Irrigation Plans

Anticipated structural design drawings include but are not limited to:

- General Plan
- Structure Plan
- Deck Contours
- Foundation Plan
- Abutment Layout and Details
- Retaining Wall Layout and Details
- Bent Layout and Details
- Typical Sections
- Girder Layout and Details
- Approach Ramp Details
- Log of Test Borings
- Project specifications, special provisions and estimates

The Structural PS&E packages will be prepared in accordance with Caltrans processes/procedures. The structural design calculations will be performed in accordance with the most current California bridge practices and the following bridge design codes and manuals:

- Caltrans Standard Plans and Specifications
- Caltrans Bridge Design and Detailing Manuals
- American Association of State Highway and Transportation Officials Load and Resistance Factor Design (AASHTO LRFD) Bridge Design Specifications
- California Amendments to the AASHTO LRFD Bridge Design Specifications
- AASHTO LRFD Guide Specifications for the Design of Pedestrian Bridges
- Caltrans Seismic Design Criteria (SDC)

The proposed design will be coordinated with anticipated projects (i.e. Senior Housing Center northeast of existing Blossom Hill Overcrossing, SJWC Water line upgrade, Public Art Program, etc) located within the Project site limits, assuming their schedule progresses on a similar timeline as the proposed project design.

BKF assumes the Town of Los Gatos will Advertise, Award, and Administer (AAA) the construction of the proposed structure. As a result, BKF will not prepare additional Caltrans documents (Quantity Sheets, Survey files, RE files, etc.) that are typically required by Caltrans when Caltrans AAA's a construction contract.

BKF's subconsultant, TJKM, will prepare a TMP report to support construction activities proposed in the PS&E phase. The TMP is a method for minimizing activity-related traffic delay and accidents by the effective application of traditional traffic handling practices and an innovative combination of public and motorist information, demand management, incident management, system management, construction strategies, alternate route, and other strategies. During the final design phase, TJKM will propose lane closures on both Highway 17 and Blossom Hill Road, if needed, to support the construction of the bike and pedestrian overcrossing structure. The TMP report will be started at 65% PS&E and will be updated accordingly during 95% PS&E, and 100% PS&E. The BKF Team assumes no substantial impacts will be created with a full closure on Highway 17 and no detour will be needed during construction in the scope of work given the scope of work assumes the construction of a cast-in-place concrete structure with falsework, or steel truss structure. As a result, an approval or formal presentation with the Caltrans District Lane Closure Review Committee (DLCRC) will not be required and design approval can occur solely with the Caltrans TMP group during design approval.

**Project Specifications and Special Provisions:** The BKF Team shall prepare technical specifications and special provisions for all bid items including bid alternates. Documents shall be developed in accordance with federal, state and local requirements in all subsequent final design tasks. General conditions shall follow the Town and Caltrans requirements. The BKF Team shall prepare special provisions based on Caltrans Standard



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

Special Provisions, Caltrans Standard Specifications, and Town construction contract standards. Special provisions shall follow the 2018 format of the Caltrans Standard Specifications and Standard Special provisions (SSP's)

**Cost Estimate:** The BKF Team shall prepare an engineer's estimate of probable construction cost for 65% design using both Caltrans and the Team's professional experience. Estimate shall include construction costs that reflect current market conditions, the bid items, utility relocation costs (if any), environmental mitigation costs, and contingencies.

65% submittal shall include all plan sheets developed to a minimum 65% complete stage and shall have been reviewed by the BKF Team for quality control, and coordination and consistency between plan sheets. Specifications and Special Provisions at the 65% level shall include a complete table of contents with all special provisions necessary for the construction of the Project identified. The construction cost estimate shall be prepared and shall include an appropriate estimating contingency.

It is the BKF Team's understanding that the 65% structural submittal package that consists of structural plans and specifications, and structural calculations will be reviewed by a Structural Engineer registered in the State of California and hired by the Town outside of this proposal.

**BKF Team's Independent Structures Check of PS&E:** As required by the Caltrans Office of Specially Funded Projects (OSFP), an independent check of the bridge design and drawings will be performed. The independent check will include independent structural calculations and independent quantities calculations and will be performed by an engineer who was not involved in the design of the bridge. The independent check will be performed concurrently with the Caltrans review of the 65% PS&E.

The BKF Team shall ensure all activities necessary to comply with regulations of the State Water Resources Control Board, including the requirements for the National Pollutant Discharge Elimination System permitting process, preparation of Project Registration Documents (PRDs) by a licensed qualified stormwater pollution prevention plan (SWPPP) developer (QSD), submittal of information to the Stormwater Multi Application Permit Tracking System (SMARTS), preparing landscape plans in accordance with Model Water Efficient Landscape Ordinance (MWELO), obtaining the WDID Project number, processing any other applicable documents, studies, waivers, and payment of all fees is addressed by the BKF Team and/or included in the construction Project specifications for completion during construction.

Once the Town receives the final 65% PS&E submittal, the BKF Team shall schedule a meeting with the Town and PDT members to review the revisions on the final 65% PS&E submittal package. Following this review session, the BKF Team shall prepare the 95% PS&E submittal. All comments from the 65% PS&E submittal review shall have been addressed.

95% submittal shall be the fully developed set of contract documents including all plans sheets, Specifications and Special Provisions, details, and other contract documents necessary for the construction of the Project. The construction cost estimate shall be finalized and shall include a 10% estimating contingency. The BKF Team will have conducted an internal quality control review of the plans, Specifications, Special Provisions, and construction cost estimate prior to submitting the 95% complete set and shall ensure that the contract documents are well coordinated, and information is consistent between all documents.

Following submission and review of the 95% submittal, The BKF Team will prepare and provide the Town with the final contract documents 100% for use in the construction bid process. All contract documents (plans, Specifications, Special Provisions, and estimates) are to be signed by the appropriately licensed professional engineer in responsible charge of the design.



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

Once the Town receives the final 95% PS&E submittal, the BKF Team shall schedule a meeting with the Town and PDT members to review the revisions on the final 95% PS&E package. Following this review session, the Team shall prepare the 100% PS&E package.

The BKF Team shall also ensure that all design calculations, deliverables, and other works are independently verified to ensure accuracy. All exhibits, plans, and reports should be checked, corrected, and backed checked for accuracy and completeness prior to submitting documents to the Town and other agencies for review.

The PS&E must be approved prior to submission to Caltrans District Local Assistance. The BKF Team shall assist the Town in obtaining Caltrans approval of the Project PS&E for compliance with all applicable federal and state regulations and procedures. A preliminary "PS&E Checklist" form, included as Exhibit 12-D in Chapter 12 (Plans, Specifications & Estimate) of Caltrans' Local Assistance Procedures Manual, which summarizes the items requiring local agency compliance and identifies critical federal requirements shall be prepared by the BKF Team. With prior approval and consent from the Town, the BKF Team shall prepare the final Project PS&E Checklist, PS&E approval letter (Exhibit 12-C, LAPM Chapter 12), and preliminary estimate to be submitted to the Caltrans District Local Assistance Engineer (DLAE) along with a completed E-76 - "Request for Authorization" to proceed with construction.

The BKF Team shall provide an electronic copy of the final contract documents, a signed and stamped mylar copy of the final approved plans, and a hard copy of the final signed, approved, and stamped Specifications, Special Provisions, and construction cost estimate. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications and estimate shall be provided in both Microsoft Word/Excel format and PDF format. Town of Los Gatos - Parks and Public Works Department will be responsible for making copies of contract documents and will distribute to plan rooms and contractors in advance of the bid phase.

*Deliverables: Plans, Specifications, Special Provisions, and estimates for Town review at 35%, 65%, 95% design stages; final contract documents, SWPPP, WDID Project number*

**Right of Way, Utility and ADA Certifications** – BKF assumes that temporary and permanent right of way will not be required for the Project. The BKF Team shall verify and prepare the appropriate Right of Way, Utility, and ADA certifications to advance the Project to the construction phase using procedures outlined in the Caltrans Local Assistance Procedures Manual. All property lines are to be shown on the design and construction documents.

*Deliverables: Utility Clearance, Right of Way and ADA Certifications*

- **Task A.9 Construction Phase Authorization** – The BKF Team shall assist the Town in the preparation of the Request for Authorization to advance Project to Construction using procedures outlined in the Caltrans Local Assistance Procedures Manual and shall complete any items necessary to obtain authorization for the Town to proceed with construction.

*Deliverables: Caltrans Encroachment Permit, Authorization from Caltrans to proceed with construction (E-76)*

## **PHASE II – CONSTRUCTION SUPPORT SERVICES (FUTURE SCOPE OF SERVICES):**

As part of Phase II, the BKF Team will provide design support services to the Town during construction of the Project as noted below. The scope of work outlined below assumes the Town will advertise, award, and administer (AAA) construction of the project.

- **Task B.1 Project Management**

The BKF Team will provide all the necessary Project coordination, administration, management and interfacing with the Town, Caltrans, and other internal/external stakeholders to achieve Project objective. The BKF Team shall proactively provide direction



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

to the Town regarding the Project tasks necessary to deliver the federally funded Project consistent with Caltrans permitting requirements and federal reimbursement requirements. The BKF Team will be responsible for Project management activities throughout the life of the contract. The scope of these activities includes, but is not limited to,

- provide, distribute, and maintain contact information for all Project team members
- coordinate and schedule meetings/conference calls as needed
- prepare and distribute meeting minutes
- itemize, track, and pursue all Project action items to completion
- develop and maintain the Project schedule, report on Project progress
- supervise, coordinate, and monitor the construction for conformance with permit requirements from Caltrans, VTA, and utility companies
- conduct field reviews as needed,
- prepare all submissions for the Town's submittal to Caltrans
- provide internal quality control checks and document quality control actions conducted for the Project
- conduct cross-checking to avoid potential conflicts between various subconsultant's work
- develop Project filing and record keeping system for Project files for a period of 5 years
- develop a list of Project stakeholders for coordination during Project design
- provide the Town with required documents required for compliance with the Measure B funding Agreement between the Town and VTA, Including but not limited to progress reports, reimbursement forms, etc.)
- provide monthly Project updates for posting on the Project page of the Town's website

*Deliverables: Meeting minutes, schedule, progress reports, action item logs, tracking spreadsheets, Caltrans submissions and other items resulting from the BKF Team's Project management duties*

- **Task B.2 Bid Support Services** –The BKF Team shall respond in writing to questions that arise during the bid phase and shall prepare addendums, if necessary, which will be distributed by the Town of Los Gatos - Parks and Public Works Department. Each addendum shall also address cost implications to the Project construction cost estimate. The BKF Team shall prepare written responses to questions received and addenda in a format that can be easily posted to the Town's website. Following completion of bid stage, The BKF Team shall incorporate any addenda into the final contract documents and shall prepare the final "Conformed Contract Documents". The BKF Team shall provide an electronic copy of the final Conformed Contract Documents, a signed and stamped mylar copy of the final conformed plans, and a hard copy of the final signed, approved, and stamped conformed Specifications, Special Provisions, and cost estimate. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications and estimate shall be provided in both Microsoft Word/Excel format and PDF format.
- **Task B.3 Construction Support Services** – The BKF Team shall be prepared to provide the following construction support services:
  - Review of submittals and shop drawings for compliance with Contract Documents
  - Review and response to Requests for Information, Requests for Change Orders, Quotes from Contractor
  - Review of Contract Change Orders
  - Review and tracking of results from materials testing for conformation to Contract Documents
  - Field review and geotechnical monitoring during bridge installation
  - Structural review and field monitoring during bridge installation
  - Prepare design modifications if necessary due to unforeseen conditions

**Assumptions:**

1. The BKF Team assumes a formal Traffic Engineering Performance Assessment (TEPA) will not be needed for PSR/PDS phase.
2. It is assumed that a formal Traffic Operation Report (TOAR) will not be needed for



**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

PA/ED phase. In the event that lane modifications are needed to accommodate the new pathway where roadway widths are constrained, the BKF Team will analyze intersection delay/level of service for two intersections of Blossom Hill Road/Roberts Road West/Vasona Park Road and Blossom Hill Road/Roberts Road East in the Town of Los Gatos with and without project (up to one build alternative) for existing conditions. Travel demand forecasting and future analysis are NOT included in this scope and fee under this task. If a more comprehensive TOAR is required, additional work will be required warranting a fee amendment.

3. PS&E Submittals will be provided at 35%, 65%, 95%, and 100% completion levels. Agency reviews are limited to one round of comments consolidated to one set of redline plan, specification and estimate redline comments per agency. BKF understands minor comments may be received outside of these formal reviews and will do its best to incorporate comments into the noted completion levels when reasonable. Substantial comments not received within reasonable timeframes will be evaluated on a case-by-case basis with the Town as they may require additional efforts not identified within this proposal. Project Reports will be limited to one draft and one final version of each report.
4. For planning and budgeting purposes the 35% and Final design scope of services have been estimated assuming the basic structural configuration and concept outlined in the conceptual Study for a concrete and structural steel truss bridge option. These design scope will be reviewed with the Town at the completion of Task A.6 to ensure that all required design services are adequately addressed.
5. The Construction Support Services scope will be reviewed with the Town at the completion of Final Design to ensure that all required services are adequately addressed.
6. Formal Caltrans Value Engineering services will not be required since the project is projected to be less than the \$40 million per bridge project threshold.
7. The Town will assign a Resident Engineer (RE) to the project that will be responsible for day to day oversight of the Town's Contractor and all inspections required by the Project Documents. It is assumed that the Town RE will have all of the necessary experience, expertise and authority to manage the day to day oversight of the project, coordinate with outside agencies (such as Caltrans, County, Utilities, etc.) and to perform all necessary inspections and shop drawing reviews not otherwise identified as being performed by the Design Team.
8. In addition to the quality assurance and control measures required as part of this scope, BKF Team recommends that the Town retain their RE prior to completion of the 95% PS&E submittal and that the Town RE perform a constructability, bidability, and cost verification of the 95% plans, specifications, and estimates.
9. Structural construction support work is limited to major items of work only as outlined herein. Minor and construction management and administration elements will be reviewed by the Town RE.
10. All correspondence, shop drawing submittals and RFIs for Design Team review will be routed and coordinated through the RE to BKF and then BCA.
11. As outlined in the Caltrans Standard Specification requirements, shop drawing reviews are provided for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The BKF Team review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the BKF Team, of construction means, methods, techniques, sequences or procedures. The BKF Team's review of a specific item shall not indicate approval of an assembly of which the item is a component. The contract documents prepared by BKF will clearly identify the Contractor's responsibilities in these areas.
12. Record Drawings will be prepared from one consolidated master mark-up set of Town RE red line comments provided to the BKF Team by the Town RE. Record Drawings will be prepared per project drafting standards in AutoCad format and it is assumed that Caltrans will not require transition of Record Drawings into Microstation format.
13. Construction staking, construction inspection, and post-construction survey of the





**EXHIBIT A - PROJECT SCOPE OF SERVICES**

ITEM NO. 11.

May 6, 2021

proposed improvements are excluded from this proposal.

14. Phase I shall be completed within a reasonable timeframe. Following the notice to proceed, the assumed timeframe for completing Phase I scope as outlined within the proposal is approximately 40 months (Preliminary Engineering/Environmental Approval – 24 months; Final Design – 12 months; Construction Phase Authorization – 4 months). Key milestones and their approximate durations are further outlined below:
- a. Task 5 Environmental Studies and Documentation – 16 months
  - b. Task 7 Preliminary Design - 35% PS&E Submittal – 24 months
    - i. PSR-PDS – 10 months
    - ii. PR – 14 months
  - c. Task 8 Final Design – 12 months
    - i. 65% PS&E – 6 months
    - ii. 95% PS&E – 4 months
    - iii. 100% PS&E – 2 months
  - d. Task 9 Construction Phase Authorization – 4 months



**EXHIBIT B - COST PROPOSAL**

Highway 17 Bicycle and Pedestrian Overcrossing Project  
BKF Engineers, 5/6/2021

<b>Phase I - Engineering Design Services and Environmental Approval</b>	<b>TOTAL NOT TO EXCEED</b>
Task A.1 Project Management and Administration	\$ 176,115
Task A.2 Data Collection and Review	\$ 57,281
Task A.3 Surveying and Base Mapping	\$ 119,790
Task A.4 Stakeholder Coordination and Project Permits	\$ 453,756
Task A.5 Environmental Studies and Documentation - CEQA and NEPA	\$ 138,883
Task A.6 Geotechnical Engineering	\$ 202,215
Task A.7 Preliminary Design - 35% PS&E Submittal	\$ 655,460
Task A.8 Final Design	\$ 1,146,561
Task A.9 Construction Phase Authorization	\$ 49,939
<b>Total Not To Exceed</b>	<b>\$ 3,000,000</b>
<b>Phase II - Construction Support - (FUTURE SCOPE OF SERVICES)</b>	
Task B.1 Project Management and Administration	\$ 192,013
Task B.2 Bidding Phase	\$ 37,545
Task B.3 Additional Reports and Services	\$ 482,426
<b>Total</b>	<b>\$ 711,984</b>

**Phase I Assumptions:**

1. Town will be the CEQA Lead Agency.
2. Scope does not identify any community or public hearing meetings for environmental process.
3. No ABC Mapping Process will be required.
4. Utility Potholing budget identified is an allowance; potholing fees exceeding this balance will be reimbursed by the Town.
5. Permit Application and Filing Fees will be borne by the Town.
6. Town will hire a firm to perform the structural independent check.
7. PG&E and CPUC Encroachment Processing is not required.
8. All proposed project improvements are located within the public right of way.
9. Town will provide Title Reports if required.
10. Town will administer the construction contract; Caltrans will not RTL the project and thus DOE review not required.
11. A three year project schedule has been assumed for the Preliminary Engineering, Environmental Approval and Final Design Phase.
12. Design effort is based on a concrete or steel structure within the Caltrans right of way.
13. 401/404 Regulatory Permits are not required.
14. Only one round of comment response will be received from each agency at each milestone submittal. BKF understands minor comments may be received outside of these formal reviews and will do its best to incorporate comments into the noted design completion levels when reasonable. Substantial comments not received within reasonable timeframes will be evaluated on a case-by-case basis with the Town as they may require additional efforts not identified within this scope of services.
15. There will only be one iteration on the 100% PS&E package, which will serve as the Final PS&E package

**Phase II Assumptions:**

1. Construction Support Services are provided for reference only. Future construction support services will be negotiated following completion of design and are not a part of the current contract scope of services..
2. The estimated effort for Design Services During Construction is an estimated allowance only and will depend on final design of the bridge and project improvements.
3. Construction Inspection services are excluded. BKF assumes the Town will hire a Resident Engineer to administer construction and inspection.
4. Contractor will provide red lined mark-ups for as-built record drawings
5. A one and half year construction schedule has been assumed for Construction.

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: Town of Los Gatos
2. Contract DBE Goal: 1.1%
3. Highway 17 Bicycle and Pedestrian Overcrossing Project
4. Project Location: Town of Los Gatos, CA
5. Consultant's Name: BKF Engineering 6. Prime Certified DBE: No 7. Total Contract Award Amount: \$3,000,000
8. Total Dollar Amount for & Subconsultants: \$1,340,000 9. Total Number of & Subconsultants: 8 Tier 1 Subs (+1 ODC Subs)

7D.escription of Work. Service. or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE\$
Environmental Engineering- CEQA/NEPA	VTA #38205	Akoni Danielsen - David J. Powers & Associates, Inc, 1871 The Alameda, Ste 200, CA 95126	\$97,227.73
Geotechnical Engineering Services	20259	Gary Parkh - Parikh Consultants Inc, 1497 N Milpitas Blvd., Milpitas, CA 95035	\$198,986.89
Traffic Engineering	40772	Nayan Amin - TJKM TransQortation Consultants, 2055 Gateway Pl #400, Sann Jose, CA 95110	\$62,926.53
Traffic Control	38321	Kellie Avila - Avila Traffic Safety, 8365 El camino Real, Atascadero, CA 93422	\$4,000.00
local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	\$363,141.15
17. Local Agency Contract Number: t•J-B'I'O- vf.303		IMPORTANT: Identify all DBE firms being claimed for cred . regardless of tier. Written confirmation of each listed DBE is required. 12. Preparers Signature 13. Date: 01/14/2021 14. Preparer's Name 15. Phone: 408-467-1932 16.Pr<;,ti } \e mf.'  N tallna B rdi 408-467-1932  Principal and Vice President	
18. Federal-Aid Project Number:			
19. Proposed Contract Execution Date: A- e / i / ilP, 2-02-J			
20. Consultant's Ranking after Evaluation:			
Local Agency certifies that all DBE certifications are valid a11d i11 fun11ati0r1m1 this fom, is complete and accurate.'			

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.



Exhibit B  
First Amendment

## FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES is dated for identification this 20th day of February 2024 and amends that certain AGREEMENT FOR CONSULTANT SERVICES FOR THE HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING PROJECT #19-818-0803, dated May 20, 2021, made by and between the Town of Los Gatos, ("Town,") and BKF Engineers Inc. ("CONSULTANT") identified as a C Corporation and whose address is 2100 Franklin Street, Suite 4C, Oakland, CA 94612.

RECITALS

- A. Town and CONSULTANT entered into an agreement for Consultant Services on May 20, 2021 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Exhibit A to this Amendment.
- B. Town desires to amend the Agreement to add to the scope of work to include grant writing services for construction phase grant applications for the Highway 17 Bicycle/Pedestrian Overcrossing Project.

AMENDMENT

1. ARTICLE II STATEMENT OF WORK is amended to ADD the following text:

Consultant shall provide services as described in that certain Proposal dated January 17, 2024, which is hereby incorporated by reference and attached hereto as Exhibit B.

2. ARTICLE V ALLOWABLE COSTS AND PAYMENTS, PART E. is amended to read as follows:

The total amount payable by LOCAL AGENCY for PHASE I shall not exceed \$3,048,735. The original not-to-exceed amount of the agreement of \$3,000,000 was increased by \$48,735 as compensation for the First Amendment.

3. All other terms and conditions of the Agreement remain in full force and effect.

Exhibit A Agreement for Consulting Services for the Highway 17 Bicycle and Pedestrian Overcrossing Project #19-818-0803 dated May 20, 2021

Exhibit B Proposal by BKF for Grant Writing Services for ATP and SS4A Grant Applications dated January 17, 2024

IN WITNESS WHEREOF, the Town and CONSULTANT have executed this Amendment.

Town of Los Gatos, by:

DocuSigned by:  
Laurel Prevetti 3/1/2024  
853FEEA2EB39470...  
Laurel Prevetti  
Town Manager

CONSULTANT, by:

DocuSigned by:  
Jaggi Bhandal 2/26/2024  
7B73EF7F8823429...  
Jaggi Bhandal, Vice President, BKF

Department Approval:

DocuSigned by:  
Nicolle Burnham 2/26/2024  
8E97831343644C3...  
Nicolle Burnham  
Director of Parks and Public Works

Approved as to Form:

DocuSigned by:  
Gabrielle Whelan 2/29/2024  
EFD6738A5534428...  
Gabrielle Whelan  
Town Attorney

Attest:

DocuSigned by:  
Wendy Wood 3/1/2024  
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Wendy Wood, CMC  
Town Clerk

Exhibit C

Proposal for Additional Environmental Services



BKF No. 20202120  
May 9, 2024

Sean Rose  
Special Projects Manager  
41 Miles Avenue  
Los Gatos, CA 95030  
*Transmitted Via Email*

**Subject: Revised Environmental Studies for Pathway Realignment  
Highway 17 Bicycle and Pedestrian Bridge Structure**

Dear Mr. Rose:

BKF Engineers welcomes the opportunity to submit this proposal for civil engineering design services for the Highway 17 Bicycle and Pedestrian Bridge Project (Project). Based on our recent coordination with the Town of Los Gatos (Town), there is a desire to revise the current design to eliminate or minimize the proposed retaining wall located adjacent to the Blossom Hill Road, east of Highway 17. BKF proposes to incorporate the Town's comments by realigning the proposed pathway and creating a greater separation to the roadway, which will provide several aesthetic opportunities and improve user experience along the proposed pathway.

To incorporate these revisions, the BKF Team will need to revisit several environmental technical studies associated with the realignment revision. After coordinating with Caltrans Project Management and Environmental groups, the following efforts will be required to update studies and complete the project's NEPA clearance document:

Task	Cost
DJP&A project management to coordinate with Caltrans, Town, design team, and their subconsultants to revise and finalize the Visual Impact Assessment (VIA), Archaeological Survey Report (ASR) and Historic Properties Survey Report (HPSR), and Natural Environment Study – Minimal Impacts (NES-MI).	\$20,000
Revise and finalize the Tree Removal Plans to capture additional impacts (4 weeks).	\$2,500
The team will update the current visual simulations to include the realigned pathway from the easterly approach view. Earthview Science to revise and finalize the VIA based on the updated simulations and project plans (4 weeks).	\$10,000
Archaeological/Historic Consultants to revise and finalize the ASR/HPSR based on updated project plans (3 weeks).	\$2,500
H.T. Harvey & Associates, Inc. to revise and finalize the NES-MI based on the updated project plans and disturbance area including tree removal (2 weeks).	\$4,000
<b>TOTAL</b>	<b>\$39,000</b>

Per our discussions with Caltrans, we assume modifications to the all project documents outside of those noted will not be required based on current Caltrans approvals. Specifically, we assume the currently approved PIR-PER and Vibration Studies Memo will not be required.

BKF proposes to provide the work described herein and the enclosed fee summary for an estimated fee not to exceed \$39,000. Should any additional services be requested or required which are not included in our Scope of Work above, we will complete our one-page Contract Addendum and forward it to you for approval and processing prior to executing any additional work task. All fees, including our base services and additional work, shall be paid on a time and material basis. The fees noted do not include markup for any subconsultants.

Thank you for the opportunity to present this proposal. We look forward to assisting in the continued development of this project. Please contact me at 925-396-7700 if you have any questions regarding the additional scope of services.

Respectfully,

**BKF Engineers**



Jaggi Bhandal, P.E.

Senior Associate Principal/Vice President





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 12

ITEM NO. 12.

DATE: June 6, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve Change to Existing Purchase Order with Baker and Taylor Not to Exceed \$115,800.

**RECOMMENDATION:**

Approve change to existing purchase order with Baker and Taylor not to exceed \$115,800.

**BACKGROUND:**

The Library works with several book distributors to purchase books and other Library materials. Baker and Taylor is a discount distributor of published materials working directly with major publishers. The Library has frequently used Baker and Taylor as one of their purchasing channels for over thirty years to obtain high-demand books and other published materials at discounted prices.

**DISCUSSION:**

Based on previous year spending with the vendor, the Library estimated expenditures for books and print materials with Baker and Taylor in FY 23/24 to be close to \$95,000. A purchase order for this amount was opened at the beginning of the fiscal year. The Library is requesting a change to the purchase order to a not to exceed amount of \$115,800 to accommodate additional purchases with the vendor due to community demand for books and materials available from this distributor. The purchase order and change order constitute the agreement between the parties.

**PREPARED BY:** Ryan Baker  
Library Director

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

SUBJECT: Approve Change to Existing Purchase Order with Baker and Taylor

DATE: June 6, 2024

FISCAL IMPACT:

There is no fiscal impact associated with this item. The request is only to change the amount of an existing purchase order. Funds are already budgeted in the appropriate line items to cover the change in full.

ENVIRONMENTAL ASSESSMENT:

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





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 13

ITEM NO. 13.

DATE: June 10, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute a Fifth Amendment to a Special Services Agreement with Liebert Cassidy Whitmore (LCW) to Increase Compensation in the Amount of \$120,000 for a Total Contract Amount Not to Exceed \$550,000

**RECOMMENDATION:**

Authorize the Town Manager to execute a Fifth Amendment (Attachment 1) to a special services agreement with Liebert Cassidy Whitmore (LCW) to increase compensation in the amount of \$120,000 for a total contract amount not to exceed \$550,000.

**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.

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.

**PREPARED BY:** Katy Nomura  
Assistant Town Manager

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

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

DATE: June 10, 2024

BACKGROUND (continued):

On September 19, 2023, 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.

On October 17, 2023, the Town Council authorized the Town Manager to execute a Fourth Amendment (Attachment 5) 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.

DISCUSSION:

The current agreement expires on June 30, 2024. The proposed Fifth Amendment would extend the term to June 30, 2025 and incorporate the funds budgeted in the Adopted Fiscal Year (FY) 2024/25 Operating Budget for the services in the upcoming year. Negotiations are still underway with two of the Town's three bargaining units and it is critical to have continuity of labor representation during negotiations. In addition, LCW provides ongoing legal services related to employee relations.

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 Fifth Amendment to the special services agreement with LCW to increase compensation in the amount of \$120,000 for a total contract amount not to exceed \$550,000 to continue providing employment relations support through June 30, 2025 (Attachment 1).

FISCAL IMPACT:

The existing agreement is for \$430,000. With this agenda item, there would be a total net increase of \$120,000 for a total contract amount not to exceed \$550,000. This increase has already been included in the existing Human Resources Department budget for FY 2024/25.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Fifth Amendment
2. First Amendment with Original Agreement
3. Second Amendment

PAGE 3 OF 3

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

DATE: June 10, 2024

ITEM NO. 13.

Attachments (continued):

4. Third Amendment
5. Fourth Amendment

FIFTH AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

ITEM NO. 13.

THIS FOURTH AMENDMENT TO AGREEMENT is entered into this \_\_\_\_ day of June, 2024, 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.
- E. Town and Attorney entered into a Fourth Amendment to Agreement on October 17, 2023.

AMENDMENT

- 1. Total compensation by the Town for the Attorney's services shall increase by an additional \$120,000, not to exceed \$550,000 over the course of the agreement.
- 2. The Town desires to extend the Agreement from July 1, 2024 through June 30, 2025.
- 3. 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, Third Amendment dated September 19, 2023, and Fourth October 17, 2023 remain in full force and effect.

IN WITNESS WHEREOF, the Town and Attorney have executed the Fifth 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

ITEM NO. 13.

Attest:

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Wendy Wood  
Town Clerk

## FIRST AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

THIS FIRST AMENDMENT TO AGREEMENT is entered into this 17<sup>th</sup> 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 20.000

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 12<sup>th</sup> 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  
EFD6738A534428...  
Gabrielle Whelan  
Town Attorney

Attest:

DocuSigned by:  
Wendy Wood  
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Wendy Wood  
Clerk

## FOURTH AMENDMENT TO AGREEMENT FOR SPECIAL SERVICES

THIS FOURTH AMENDMENT TO AGREEMENT is entered into this 17th 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:

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

Attorney:

DocuSigned by:  
By: J. Scott Tiedemann  
37000E2D33DE44B...  
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  
EFD6738A5534426...  
Gabrielle Whelan  
Town Attorney



ITEM NO. 13.

Attest:

DocuSigned by:

Wendy Wood

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Wendy Wood

Town Clerk



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 14

ITEM NO. 14.

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DATE: June 12, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Approve an Amendment to the Town Employees Association (TEA) Salary Schedule to Establish a New Classification Title and Salary Range for Senior Transportation Planner

**RECOMMENDATION:**

Approve an amendment (Attachment 1) to the Town Employees Association (TEA) Salary Schedule to establish a new classification title and salary range for Senior Transportation Planner.

**BACKGROUND:**

The Town of Los Gatos Personnel Rules and Regulations (Section 4.4) and the Municipal Code (Section 2.30.925) require that amendments and revisions to the salary schedule/classification plan are effective upon approval by Town Council. Changes must be presented to Council for approval as part of the formal budget adoption, through the labor negotiations process, or as needed.

**DISCUSSION:**

The Town seeks to establish the new classification of Senior Transportation Planner to better meet the immediate and long-term transportation program needs of the Parks and Public Works Department. Based on the need for transportation planning, interagency coordination, project management, and community engagement, among other skills, the Department has determined that a Senior Transportation Planning position would be the most appropriate classification for the type of work needed.

**PREPARED BY:** Vilcia Rodriguez, Human Resources Analyst  
Katy Nomura, Assistant Town Manager

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

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SUBJECT: Add Senior Transportation Planner Classification to TEA Salary Schedule

DATE: June 11, 2024

DISCUSSION (continued):

The proposed classification will be fiscally aligned with the existing Senior Planner salary range of \$58.96 to \$75.83 per hour. Staff has met the Town's obligation to meet and confer with TEA to add this classification to the salary schedule in alignment with the Senior Planner classification.

CONCLUSION:

Staff recommends the approval of an amendment to the TEA salary schedule to establish a new classification title and salary range for Senior Transportation Planner.

FISCAL IMPACT:

This agenda item would modify the TEA salary schedule by adding a Senior Transportation Planner classification. As a new classification, this modification would not impact any existing employees. If approved, should a Department wish to use this classification, the cost would need to be absorbed into the Department's existing budget or a budget adjustment would need to be requested at that time.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Amended TEA Salary Schedule

**Town of Los Gatos TEA Classifications**  
**Salary Schedule for Fiscal Year 2023/24**  
**Effective July 9, 2023\***

ITEM NO. 14.

Class Code	Classification Title	Rate Type	Range TE1	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
4310	Account Technician	Hourly	08	\$37.99	\$39.89	\$41.88	\$43.97	\$46.17	\$49.06
3580	Administrative Assistant	Hourly	04	\$31.80	\$33.39	\$35.06	\$36.81	\$38.65	\$41.16
4620	Assistant Engineer	Hourly	25	\$50.59	\$53.12	\$55.78	\$58.57	\$61.50	\$65.16
4420	Assistant Planner	Hourly	12	\$43.99	\$46.19	\$48.50	\$50.93	\$53.48	\$56.73
4600	Associate Civil Engineer	Hourly	27	\$57.56	\$60.44	\$63.46	\$66.63	\$69.96	\$74.04
4661	Associate Engineering Technician	Hourly	14	\$44.31	\$46.53	\$48.86	\$51.30	\$53.87	\$57.14
4400	Associate Planner	Hourly	20	\$51.19	\$53.75	\$56.44	\$59.26	\$62.22	\$65.91
4410	Building Inspector	Hourly	24	\$49.25	\$51.71	\$54.30	\$57.02	\$59.87	\$63.44
4430	Code Compliance Officer	Hourly	10	\$44.04	\$46.24	\$48.55	\$50.98	\$53.53	\$56.79
4530	Communication Dispatcher	Hourly	17	\$46.67	\$49.00	\$51.45	\$54.02	\$56.72	\$60.14
4535	Communication Dispatcher Lead	Hourly	19	\$58.96	\$61.91	\$65.01	\$68.26	\$71.67	\$75.83
4540	Community Services Officer	Hourly	11	\$37.45	\$39.32	\$41.29	\$43.35	\$45.52	\$48.38
4615	Construction Project Manager	Hourly	26	\$55.22	\$57.98	\$60.88	\$63.92	\$67.12	\$71.06
4660	Engineering Technician	Hourly	13	\$40.22	\$42.23	\$44.34	\$46.56	\$48.89	\$51.91
4705	Environmental Programs Specialist	Hourly	08	\$37.99	\$39.89	\$41.88	\$43.97	\$46.17	\$49.06
4200	Events and Marketing Specialist	Hourly	06	\$33.51	\$35.19	\$36.95	\$38.80	\$40.74	\$43.36
3501	Executive Assistant	Hourly	08	\$37.99	\$39.89	\$41.88	\$43.97	\$46.17	\$49.06
4900	IT Systems Administrator	Hourly	23	\$54.84	\$57.58	\$60.46	\$63.48	\$66.65	\$70.56
4915	IT Technician	Hourly	07	\$41.11	\$43.17	\$45.33	\$47.60	\$49.98	\$53.06
4810	Librarian I	Hourly	16	\$42.03	\$44.13	\$46.34	\$48.66	\$51.09	\$54.22
4808	Librarian II	Hourly	18	\$45.80	\$48.09	\$50.49	\$53.01	\$55.66	\$59.02
4830	Library Assistant	Hourly	03	\$31.03	\$32.58	\$34.21	\$35.92	\$37.72	\$40.19
4807	Library Customer Service Specialist	Hourly	01	\$29.08	\$30.53	\$32.06	\$33.66	\$35.34	\$37.69
4805	Library Customer Service Supervisor	Hourly	08	\$37.99	\$39.89	\$41.88	\$43.97	\$46.17	\$49.06
4825	Library Specialist	Hourly	06	\$33.51	\$35.19	\$36.95	\$38.80	\$40.74	\$43.36
4819	Library Tech Specialist	Hourly	15	\$40.74	\$42.78	\$44.92	\$47.17	\$49.53	\$52.59
3181	Office Assistant	Hourly	01	\$29.08	\$30.53	\$32.06	\$33.66	\$35.34	\$37.69
4640	Park Services Officer	Hourly	11	\$37.45	\$39.32	\$41.29	\$43.35	\$45.52	\$48.38
4560	Parking Control Officer	Hourly	01	\$29.08	\$30.53	\$32.06	\$33.66	\$35.34	\$37.69

**Town of Los Gatos TEA Classifications**  
**Salary Schedule for Fiscal Year 2023/24**  
**Effective July 9, 2023\*\***

ITEM NO. 14.

Class Code	Classification Title	Rate Type	Range TE1	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
4440	Permit Technician	Hourly	09	\$36.60	\$38.43	\$40.35	\$42.37	\$44.49	\$47.29
4425	Planning Technician	Hourly	11	\$37.45	\$39.32	\$41.29	\$43.35	\$45.52	\$48.38
4550	Police Records Specialist	Hourly	05	\$32.55	\$34.18	\$35.89	\$37.68	\$39.56	\$42.12
4555	Police Records Specialist Lead	Hourly	31	\$40.22	\$42.23	\$44.34	\$46.56	\$48.89	\$51.91
4630	Public Works Inspector	Hourly	18	\$45.80	\$48.09	\$50.49	\$53.01	\$55.66	\$59.02
4450	Senior Building Inspector	Hourly	27	\$57.56	\$60.44	\$63.46	\$66.63	\$69.96	\$74.04
4525	Senior Communication Dispatcher	Hourly	29	\$52.28	\$54.89	\$57.63	\$60.51	\$63.54	\$67.30
4831	Senior Library Page	Hourly	02	\$20.45	\$21.47	\$22.54	\$23.67	\$24.85	\$26.67
4565	Senior Parking Control Officer	Hourly	11	\$37.45	\$39.32	\$41.29	\$43.35	\$45.52	\$48.38
4405	Senior Planner	Hourly	28	\$58.96	\$61.91	\$65.01	\$68.26	\$71.67	\$75.83
4552	Senior Police Records Specialist	Hourly	30	\$36.60	\$38.43	\$40.35	\$42.37	\$44.49	\$47.29
4610	Senior Public Works Inspector	Hourly	26	\$55.22	\$57.98	\$60.88	\$63.92	\$67.12	\$71.06
4415	Senior Transportation Planner	Hourly	32	\$58.96	\$61.91	\$65.01	\$68.26	\$71.67	\$75.83
4662	Sr. Engineering Technician	Hourly	24	\$49.25	\$51.71	\$54.30	\$57.02	\$59.87	\$63.44

\*Except for Senior Transportation Planner which was added on June 18, 2024



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 15

ITEM NO. 15.

DATE: June 13, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Authorize the Town Manager to Execute an Agreement with Los Gatos-Monte Sereno Safe Routes to School to Provide Education and Encouragement Programs and Crossing Guard Services for a Total Agreement Base Amount Valued at \$350,950 Prior to Any Increased Adjustment Made for Consumer Price Index (CPI) Changes

**RECOMMENDATION:**

Authorize the Town Manager to execute an agreement (Attachment 1) with Los Gatos-Monte Sereno Safe Routes to School to provide education and encouragement programs and crossing guard services for a total agreement base amount valued at \$350,950 prior to any increased adjustment made for Consumer Price Index (CPI) changes.

**BACKGROUND:**

On June 4, 2024, Town Council authorized the Town Manager to execute a five year agreement with the Los Gatos Monte Sereno Safe Routes to School. The amount of the agreement authorized was \$70,190 for costs associated with the Fiscal Year 2024/2025 expenses. In finalizing the agreement, staff recognized the agreement amount should address costs over the entire five years of the agreement.

**DISCUSSION:**

Attachment 1 is an agreement that reflects the five year base contract valued at \$350,950, contingent on future budget appropriations. Section 2.6 of the agreement is revised from what was approved on June 4, 2024 to reflect this change.

**PREPARED BY:** Nicolle Burnham  
Parks and Public Works Director

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

SUBJECT: Authorize Town Manager to Execute an Agreement with Safe Routes to School

DATE: June 13, 2024

**CONCLUSION:**

If approved, this action will provide ongoing support for SRTS education and encouragement programs for the five-year contract period pending future budget allocations.

**COORDINATION:**

This memo has been coordinated with the Finance Department, and the Town Attorney and Town Manager's Offices.

**FISCAL IMPACT:**

The Police Department Operating Budget has sufficient funds of \$50,190 for crossing guard services (Account 4302- 63342).

The adopted Fiscal Year 2023/24 – 2027/28 Capital Improvement Program (CIP) Budget for this project has sufficient funds for the payment of \$20,000 for education and encouragement services. Payments are subject to the appropriation of funds, and it is anticipated that future allocations of 2016 Measure B revenue received will allow for the future payments for the term of this agreement. To accommodate the potential impacts of inflation on the service, the contract allows for annual increases based on the Consumer Price Index beginning year two.

Measure B Education & Encouragement CIP No. 812-0134		
	Budget	Costs
2016 Measure B Funds*	\$ 126,645	
<b>Total Budget</b>	<b>\$ 126,645</b>	
		Costs
Misc. Project Costs (Including Encumbrances)		\$ 57,988
FY 2024/25 Education and Encouragement Services (Requested with this Staff Report)		\$ 20,000
<b>Total Expenditures</b>		<b>\$ 77,988</b>
<b>Available Balance</b>		<b>\$ 48,657</b>

\* Future revenues (and subsequent expenses) are contingent on continuation of the 2016 Measure B Funds from VTA.

SUBJECT: Authorize Town Manager to Execute an Agreement with Safe Routes to School

DATE: June 13, 2024

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Los Gatos-Monte Sereno Safe Routes to School Agreement for Services



## AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is dated for identification on this 18<sup>th</sup> day of June 2024 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Los Gatos-Monte Sereno Safe Route to School (SR2S) ("Consultant"), identified as a 501(c)(3) and whose address is 17010 Roberts Road, Los Gatos CA 95032. This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 The Town desires to support access to safe walking and bicycling routes to schools located in the Town through the use of contracted crossing guards and by implementing education and encouragement programs.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement, by administering and operating the Town's program consistent with the Town's goals as set forth herein.
- 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.
- 1.4 Parties agree that this Agreement supersedes all prior agreements between the Town and Consultant.

### II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services consistent with their mission, consistent with the goals and objectives of the Valley Transportation Authority's (VTA) Measure B Education and Encouragement Program, and the requirements of a crossing guard program for select schools. The services are further described in Exhibits A-1 and A-2.
- 2.2 Term and Time of Performance. This Agreement will remain in effect upon execution to June 30, 2029, subject to the appropriation of funds, notwithstanding any other provision of this agreement.
- 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 perform the services under this Agreement. 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 reports and supportive data prepared for the Town by the Consultant under this Agreement shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. Unless otherwise agreed to by the Parties all reports, information, data, and exhibits prepared or assembled by Consultant for the Town in connection with the performance of its services pursuant to this Agreement and which are not generally known to the public, shall not be made available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release, or unless otherwise required to be released by law. 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. Base compensation for Consultant's services **shall not exceed \$70,190 in Fiscal Year 2024/25**, inclusive of all costs. Payment is based on \$20,000 per year for education and encouragement services and \$50,190 per year for crossing guard services. Compensation will be subject to Budget Appropriations.

Charges may be increased annually on the anniversary date of this Agreement, subject to prior written notice and with Town's written approval, based on either: a) the San Francisco-Oakland-San José Metropolitan Area Consumer Price Index for all Urban Consumers for all items (CPI) of the preceding year ending on December 31; or b) cost increases from contracted services from the service provider for crossing guard services. If the CPI indicates a downward adjustment compensation would remain at the level of the preceding year. It is understood by both parties that this compensation is not intended to fully fund either of these programs and that the Consultant will seek funding sources outside of the Town for all costs.

Year 1 – FY 2024/25 = \$70,190

Year 2 – FY 2025/26 = \$70,190

Year 3 – FY 2026/27 = \$70,190

Year 4 – FY 2027/28 = \$70,190

Year 5 – FY 2028/29 = \$70,190

For a total agreement **not to exceed \$350,950**, plus CPI increases that may arise.

Consultant's ordinary business expenses, such as administrative, overhead, administrative support time/overtime, information systems, software and hardware, photocopying, telecommunications (telephone, internet), in-house printing, insurance and other ordinary business expenses, are included within the scope of payment for Services and are not reimbursable expenses hereunder. There are no reimbursable expenses permitted under this Agreement.

- 2.7 Billing. Billing shall be semi-annually by invoice on October 1 and March 1 and shall be accompanied by a detailed explanation of the work performed, including adequate information for the Town to secure reimbursement from the VTA for Education and Encouragement Measure B Programs.

Payment shall be made within 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. 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. This Agreement shall not be assigned without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Consultant, including each of Consultant's employees, agents, subcontractors, or others under Consultant's supervision or control, 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 and in the aggregate for bodily injury, personal injury and property damage.
  - ii. Consultant shall provide to the Town all certificates of insurance, with original endorsements affecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- 3.2 General Liability.
- i. The Town, its elected and appointed officers, officials, employees, and, volunteers are to be covered as additional insured as respects: the commercial general liability policy to cover 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 professional liability insurance required for professional errors and omissions.

- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town with respect to this Agreement, its elected and appointed officers, officials, employees, and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers 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 officers, officials, employees or volunteers.
- 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.

3.3 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.

3.4 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.

3.5 Indemnification. Consultant agrees, to the fullest extent permitted by law, to indemnify, defend, and hold harmless the Town, its officials, officers, employees, agents, and volunteers (collectively, "Indemnitees") from and against any and all liability, claim, action, loss, injury, damage, judgment, or expense, including attorneys' fees and costs ("Losses") caused by or resulting from the negligence, recklessness, or willful misconduct of Consultant, Consultant's officers, employees, agents, or subcontractors in any way related to this Agreement. Consultant's duty to indemnify and hold harmless Indemnitees shall not apply to the extent such Losses are caused by the sole or active negligence or willful misconduct of Indemnitees. Consultant's obligation to defend shall arise regardless of any claim or assertion that Indemnitees caused or contributed to the Losses.

3.6 Subcontractors.

a. Consultant will require its subcontractors or agents who will perform any portion of the scope of services set forth in this Agreement, to maintain in force, during the term of this Agreement, a policy of general liability insurance, naming Town, its officers, officials, employees, and volunteers as additional insureds in the same amount and same terms as set forth in Sections 3.1(i) and 3.2(i) above. Coverage shall be evidenced by a certificate of insurance and an endorsement in a form satisfactory to the Town that shall be delivered to the Town with a copy of any contract between Consultant and its subcontractor/agents for provision of services related to this Agreement. Upon Consultant's written request, Town may agree to waive or lower insurance policy limits including waiving the additional insurance requirement after consideration of the risk and special circumstances relevant to the subcontractor's scope of work.

b. Consultant will require its subcontractors or agents who will perform any portion of the scope of services set forth in this Agreement, to comply with the indemnification requirement set forth in Section 3.5 above. Consultant shall require such subcontractors or agents to defend, indemnify, and hold harmless the Town, its officers, officials, employees, and volunteers to the same extent and under the same terms and conditions as Consultant is required to defend, indemnify, and hold harmless the Town, its officers, officials, employees, and volunteers herein. Consultant shall provide Town with a copy of any contract between Consultant and its subcontractor/agents for provision of services related to this Agreement to verify compliance with this obligation.

#### 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 Consultant shall have the right to terminate this agreement without cause by giving not less than ninety (90) days notice prior to the end of the Town's fiscal year. The Town and Consultant shall each have the right to terminate with cause (if the party in breach fails to cure the breach within a 30 day time period after notice of the breach) by giving not less than ninety (90) days 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.
- 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

Los Gatos-Monte Sereno Safe Routes to  
School  
17010 Roberts Road  
Los Gatos, CA 95032

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 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.
- 4.9 Severability. The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid or illegal.
- 4.10 Contract Interpretation. Each party acknowledges that it has reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
- 4.11 Counterparts. The Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be deemed an original but all of which, together, shall constitute one and the same instrument. A scanned, electronic, facsimile or other copy of a party's signature shall be accepted and valid as an original.

- 4.12 Warranty of Authority. The signatories to this Agreement warrant and represent that each is authorized to execute this Agreement and that their respective signatures serve to legally obligate their respective representatives, agents, successors and assigns to comply with the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]



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

Town of Los Gatos by:

Consultant by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_  
Wendy Riggs, Executive Director

Recommended by:

\_\_\_\_\_  
Nicolle Burnham  
Director of Parks and Public Works

Approved as to Form:

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney

Attest:

\_\_\_\_\_  
Wendy Wood, CMC, Town Clerk

# Exhibit A-1 – Scope of Services between the Town of Los Gatos and the Los Gatos-Monte Sereno Safe Routes to School Program

## Town of Los Gatos

### Task 1 - Measure B Bicycle & Pedestrian Education & Encouragement Program of Projects

This schedule depicts the nature of the programs to be provided. Additions, deletions and changes may occur.  
July 1, 2024 - June 30, 2025

Project Title	Project Activities Description	Project Locations	Frequency	Project Goals*	Proposed Evaluation Metrics*
<i>Pre K Education Opportunities: Learn to Ride Balance Bikes</i>	30 minutes of outdoor on-bike training.  Using class time to introduce balance bike curriculum to students.	LGUSD elementary schools.  Local preschools.	Once a month depending on participation rates.	<ul style="list-style-type: none"> <li>To encourage children to learn to ride bikes.</li> <li>Encourage parents to teach kids bike skills.</li> <li>20 student participants</li> </ul>	<ul style="list-style-type: none"> <li>Number of children participating</li> <li>Number of locations we offer the program</li> <li>Number of sessions offered</li> </ul>
<i>Kindergarten Pedestrian Training</i>	Use a combination of a visual presentation and outdoor crosswalk practice to teach kindergarteners how to be more aware as a pedestrian.	LGUSD elementary schools.	1 presentation per kindergarten class at each LGUSD school per year.	<ul style="list-style-type: none"> <li>2 schools = Present to 25% of kindergarteners.</li> </ul>	<ul style="list-style-type: none"> <li>Number of students participating</li> <li>Number of schools participating</li> </ul>
<i>Grade 1 - Advanced Pedestrian Training</i>	To build on the Kindergarten Training by adding traffic flow and more advanced traffic situations. In class visual presentation and playground.	LGUSD elementary schools.	1 presentation per first grade class at each LGUSD school per year.	<ul style="list-style-type: none"> <li>2 schools = Present to 25% of first graders.</li> </ul>	<ul style="list-style-type: none"> <li>Number of students participating</li> <li>Number of schools participating</li> </ul>
<i>Grade 2 - Scooter Training and Traffic Understanding</i>	To build on Pedestrian training with focus on scooter safety and the acknowledgment of traffic flow. Outdoor on-scooter training.	LGUSD elementary schools.	1 presentation per school at each LGUSD school per year.	<ul style="list-style-type: none"> <li>1 school = Engage with 15% of second graders.</li> </ul>	<ul style="list-style-type: none"> <li>Number of students participating</li> <li>Number of schools participating</li> </ul>
<i>Grade 3 or 4- Helmet Safety Training</i>	Middle school students present the importance of	LGUSD elementary schools.	1 assembly per LGUSD school.	<ul style="list-style-type: none"> <li>2 Schools = 50% of 3rd or 4th graders.</li> </ul>	<ul style="list-style-type: none"> <li>Number of students participating</li> </ul>

	wearing a helmet and how to properly fit it. Indoor assembly.				<ul style="list-style-type: none"> <li>• Number of schools participating</li> </ul>
<b>Grade 4 - Bike Rodeo</b>	Practical outdoor on-bike training for kids, showing them various traffic situations and how to best navigate them.  Develops a sense of responsibility, confidence and empowerment.	LGUSD elementary schools.	1 Bike Rodeo per school per year.	4 Schools = 100% of 4th graders.	<ul style="list-style-type: none"> <li>• Number of students that participate (maintain current participation levels )</li> <li>• Number of schools that participate</li> </ul>
<b>Grade 5 &amp; 6 - Middle School Cycling Proficiency</b>	Practical outdoor on-bike training for kids.  Reviewing basic safety manoeuvres and road riding.  Develops a sense of responsibility, confidence and empowerment.	Daves Elementary School - Monte Sereno Neighborhood	4 week course - 2 hours per week.	10 students who graduate the program.  1-2 courses offered.	<ul style="list-style-type: none"> <li>• Number of students that graduate the program.</li> <li>• Number of courses offered.</li> </ul>
<b>Grade 7 &amp; 8 - Train the Trainer: Helmet Safety</b>	Train Middle school students to teach elementary school kids about the importance of wearing helmets.	Fisher Middle School - Leadership Class	1-2 times per year.	1-2 training sessions completed. 15 student participants.	<ul style="list-style-type: none"> <li>• Number of students that participate.</li> <li>• Number of training sessions completed.</li> </ul>
<b>Los Gatos High School - Implementation into Life Fitness Course</b>	High school students learn about key elements of riding on the roads.  On road experience on the town roads navigating traffic.	Los Gatos High School - Town of Los Gatos	1 class per week - 90 minutes.  Ongoing class.	Number of students that participate - 20-30 Total hours of education and practical road experience - goal is to keep cycling in the HS curriculum	<ul style="list-style-type: none"> <li>• Number of students that participate</li> <li>• Total hours of education and practical road experience</li> </ul>

<b>LCI training</b>	<i>Encourage Town members to obtain their Licensed Cycling Instructor License through the American League of Cyclists to help expand our programs going forward.</i>	<i>Los Gatos Location.</i>	<i>3 classes, 4 hour per class.</i>	<i>10 trained and licensed community members.</i>	<i>Number of community members trained and licensed.</i>
<b>Educational Videos</b>	<i>Online education on key areas of concern in the community regarding routes to school and student transportation ( ie. key intersections, helmets, bike route mapping, key bike manoeuvres.)</i>	<i>LGUSD newsletters and website, SR2S social media and website.</i>	<i>Ongoing</i>	<ul style="list-style-type: none"> <li>• 2 Videos.</li> <li>• Develop a rollout procedure to maximize views.</li> <li>• Metrics to be developed along with rollout procedure</li> </ul>	<i>Number of students/families that see videos.</i>
<b>Safety Lessons in a Set Curriculum / Lesson Plan (rainy day/substitute teacher plans)</b>	<i>Provide teachers/PE teachers set curriculums to satisfy learning initiatives and target safety education using videos &amp; games- target elementary school classes.</i>	<i>LGUSD Schools</i>	<i>Ongoing</i>	<i>1-2 schools using the curriculum.</i>	<ul style="list-style-type: none"> <li>• Number of schools using the lesson plans</li> <li>• Number of teachers that use lesson plans</li> <li>• Number of students that participate in lessons</li> </ul>

## Task A-2 – Crossing Guard Services

ITEM NO. 15.

Consultant shall provide Crossing Guard Services as defined below.

1. Manage and coordinate the Crossing Guard program to the satisfaction of the school districts served. Consultant to hire, train, and manage contractors, define the scope of work to be completed and oversee the contractor's performance to provide adequate crossing guard services at schools within the Town's school districts during the school year and summer sessions, provide payroll and worker's compensation coverage for all guards with a waiver of subrogation in favor of the Town, and provide all necessary safety equipment.
2. Serve as liaison to the school districts with regard to the crossing guard program. Consultant to provide communication and other services as needed to meet the needs of school districts and coordinate payment of contract services as required for funding of the program. Town will provide annual funding as noted in Section 2.6 of the Agreement.
3. Consultant is responsible for conducting background checks, finger-printing, and hiring crossing guards who do not have any felony convictions, misdemeanor convictions involving crimes against children, or convictions involving any violent crime, or not be a registered sex offender or narcotics offender.
4. Consultant must comply with all applicable laws related to the operating and administering the Crossing Guard program.



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 16

ITEM NO. 16.

DATE: June 3, 2024

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Conduct a Public Hearing to Hear Protests and Authorize the Following Actions for Landscape and Lighting Assessment Districts No. 1 and 2:

- a. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of Assessments for Landscape and Lighting Assessment District No. 1-Blackwell Drive Benefit Zone.
- b. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of Assessments for Landscape and Lighting Assessment District No. 1-Kennedy Meadows Benefit Zone.
- c. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of Assessments for Landscape and Lighting Assessment District No. 1-Santa Rosa Heights Benefit Zone.
- d. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of assessments for Landscape and Lighting Assessment District No. 1-Vasona Heights Benefit Zone.
- e. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of assessments for Landscape and Lighting Assessment District No. 1-Hillbrook Drive Benefit Zone.
- f. Adopt a Resolution Confirming the Diagram and Assessments and Levying and Authorizing Collection of assessments for Landscape and Lighting Assessment District No. 2-Gemini Court Benefit Zone.

PREPARED BY: Meredith Johnston  
Administrative Technician

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

SUBJECT: Landscape and Lighting Assessment Districts No. 1 and 2

DATE: June 3, 2024

**RECOMMENDATION:**

Conduct a public hearing to hear protests and take the following actions for Landscape and Lighting Assessment Districts No. 1 and 2:

- a. Adopt a resolution (Attachment 1) confirming the diagram and assessments and levying and authorizing collection of assessments for Landscape and Lighting Assessment District No. 1- Blackwell Drive Benefit Zone.
- b. Adopt a resolution (Attachment 2) confirming the diagram and assessments and levying and authorizing collection of assessments for Landscape and Lighting Assessment District No. 1- Kennedy Meadows Benefit Zone.
- c. Adopt a resolution (Attachment 3) confirming the diagram and assessments and levying and authorizing collection of assessments for Landscape and Lighting Assessment District No. 1- Santa Rosa Heights Benefit Zone.
- d. Adopt a resolution (Attachment 4) confirming the diagram and assessments and levying and authorizing collection of assessments for Landscape and Lighting Assessment District No. 1- Vasona Heights Benefit Zone.
- e. Adopt a resolution (Attachment 5) confirming the diagram and assessments and levying and authorizing collection of assessments for Landscape and Lighting Assessment District No. 1- Hillbrook Drive Benefit Zone.
- f. Adopt a resolution (Attachment 6) confirming the diagram and assessments and levying and authorizing collection of assessments for Landscape and Lighting Assessment District No. 2- Gemini Court Benefit Zone.

**BACKGROUND:**

The Town has a number of Landscape and Lighting Districts that were established in accordance with Streets and Highways Code Sections 22500 and following. On April 16, 2024, the Town Council initiated the annual process of renewing Landscape and Lighting Assessment Districts No. 1 and 2 for the fiscal year commencing July 1, 2024. The Districts are comprised of six distinct zones of benefit, five of which are included in District No. 1, and one included in District No. 2. Maps of each zone are contained in the Engineer's Report (Attachment 7). The primary purpose of each District is to provide for the ongoing maintenance and care of landscaped areas that especially benefit the properties within each of the zones. These services are performed by a contractor retained by the Town on behalf of the property owners. For a specific description of the services provided in each zone, please refer to the attached Engineer's Report.

On May 21, 2024, Council received and approved the Engineer's Report and adopted Resolutions confirming diagrams and assessments and levying and authorizing collection of assessments for Landscape and Lighting Districts for Fiscal Year (FY) 2024/25 and set June 18, 2024, at 7:00 p.m. as the date and time for the required Public Hearing on the proposed assessments. If a majority protest is received at the public hearing, the assessments cannot be

SUBJECT: Landscape and Lighting Assessment Districts No. 1 and 2

DATE: June 3, 2024

**BACKGROUND (continued):**

levied. A majority protest exists if a majority of the parcel owners, weighted according to parcel size, object to the assessment.

**DISCUSSION:**

The Notice of Intention to Levy Annual Assessments for FY 2024/25 is being published in the Los Gatos Weekly on June 7 and June 14, 2024. Additionally, notices of the proposed assessments and of the scheduled public hearing were mailed to each of the property owners in the Districts, and to date, no protests or other written communication have been received. If communication is received prior to the June 18, 2024 Town Council meeting, it will be presented at the hearing.

The following table shows the number of parcels for each benefit zone and the proposed FY 2024/25 assessments:

<b>Benefit Zone</b>	<b>No. of Parcels</b>	<b>Per Parcel Assessment</b>
Blackwell Drive	5	\$632
Kennedy Meadows	15	\$685
Santa Rosa Heights	15	\$300
Vasona Heights	33	\$295
Hillbrook	34	\$175
Gemini Court	20	\$230

**CONCLUSION:**

Staff recommends that the Town Council open the public hearing, hear any protests, and adopt the six resolutions (Attachments 1-6) to continue the annual process of renewing the Landscape and Lighting Assessment Districts 1 and 2 for Fiscal Year 2024/25.

**ALTERNATIVES:**

If the Council chooses not to adopt the six resolutions, then the renewal process would halt, and staff would follow any alternative direction given by the Town Council. If the Town Council were to decide not to renew the Assessment Districts, staff would need direction about whether the services currently provided by the Districts should continue and how.

The two most likely options that the Town Council could choose would be to either:

1. Give the responsibility for providing the services back to the property owners within the districts, or



SUBJECT: Landscape and Lighting Assessment Districts No. 1 and 2

DATE: June 3, 2024

ALTERNATIVES (continued):

2. Assume responsibility for providing the services through the Town's General Fund Operating Budget.

As the Districts provide for higher levels of landscaping and lighting services within the specific benefit zones than in other areas of the Town, staff does not recommend either of these two approaches.

FISCAL IMPACT:

There are no direct fiscal impacts on the Town's General Fund as a result of administering the Landscape and Lighting Assessment Districts. All the costs associated with the Districts are recovered via the assessments levied against the property owners within the Districts. There are no proposed increases in any of the parcel assessments for FY 2024/25 that would require a ballot vote under Proposition 218.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Resolution Confirming Diagram and Assessment and Levying and Authorizing Collection of Assessments – Blackwell Drive Benefit Zone
2. Resolution Confirming Diagram and Assessment and Levying and Authorizing Collection of Assessments – Kennedy Meadows Drive Benefit Zone
3. Resolution Confirming Diagram and Assessment and Levying and Authorizing Collection of Assessments – Santa Rosa Heights Benefit Zone.
4. Resolution Confirming Diagram and Assessment and Levying and Authorizing Collection of Assessments – Vasona Heights Benefit Zone.
5. Resolution Confirming Diagram and Assessment and Levying and Authorizing Collection of Assessments – Hillbrook Drive Benefit Zone.
6. Resolution Confirming Diagram and Assessment and Levying and Authorizing Collection of Assessments – Gemini Court Benefit Zone.
7. Engineer's Report for Fiscal Year 2024/25.

**DRAFT RESOLUTION 2024-****RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
CONFIRMING DIAGRAM AND ASSESSMENT,  
AND LEVYING AND AUTHORIZING COLLECTION OF ASSESSMENTS FOR  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1 -  
BLACKWELL DRIVE BENEFIT ZONE  
FOR FISCAL YEAR 2024/25**

**WHEREAS**, on April 16, 2024, the Town Council ordered the Town Engineer to prepare and file a report regarding Landscape and Lighting Assessment District No. 1 - Blackwell Drive Benefit Zone regarding the improvements in the District and proposed assessments to support those improvements; and

**WHEREAS**, the Town Engineer prepared and filed that report; and

**WHEREAS**, the Town Council considered and approved that report; and

**WHEREAS**, the Engineer's Report contains a detailed description of the improvements in the District, the boundaries of the District, and the proposed assessments upon assessable lots and parcels of land within the District; and

**WHEREAS**, on May 21, 2024, the Town Council adopted Resolution No. 2024-20 declaring its intention to levy and collect assessments in Landscape and Lighting District No. 1 - Blackwell Drive Benefit Zone, and set the matter for public hearing in accordance with State law; and

**WHEREAS**, notice of the public hearing was duly mailed and published in accordance with State law; and

**WHEREAS**, the public hearing on the proposed levy of assessments was held by the Town Council on June 18, 2024, at which time all interested persons present were heard; and

**WHEREAS**, the proposed assessments are not proposed to be increased from any previous year; and

**WHEREAS**, the Town Council has received and considered all written and oral statements and protests regarding the proposed assessment.

ATTACHMENT 1

**NOW THEREFORE, BE IT RESOLVED:**

1. The diagram and assessment attached hereto as Parts C and D are approved.
2. This Resolution shall constitute the levy of assessment for Landscape and Lighting Assessment District No. 1 - Blackwell Drive Benefit Zone, for Fiscal Year 2024/25.
3. The Town Clerk shall transmit a certified copy of this Resolution to the Tax Collector of Santa Clara County for entry on the County Assessment Roll opposite each lot or parcel of land in the amount assessed pursuant to the Resolution, and collection pursuant to Streets and Highways Code Sec. 22646 and payment to the Town pursuant to Streets and Highways Code Sec. 22647.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 18<sup>th</sup> day of June 2024 by the following vote:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**PART C****ASSESSMENT ROLL  
FISCAL YEAR 2024/25****BLACKWELL DRIVE BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$632	424-12-123
Lot 2	\$632	424-12-124
Lot 3	\$632	424-12-125
Lot 4	\$632	424-12-126
Lot 5	\$632	424-12-127
<b>Total Assessment:</b>	<b>\$3,160</b>	

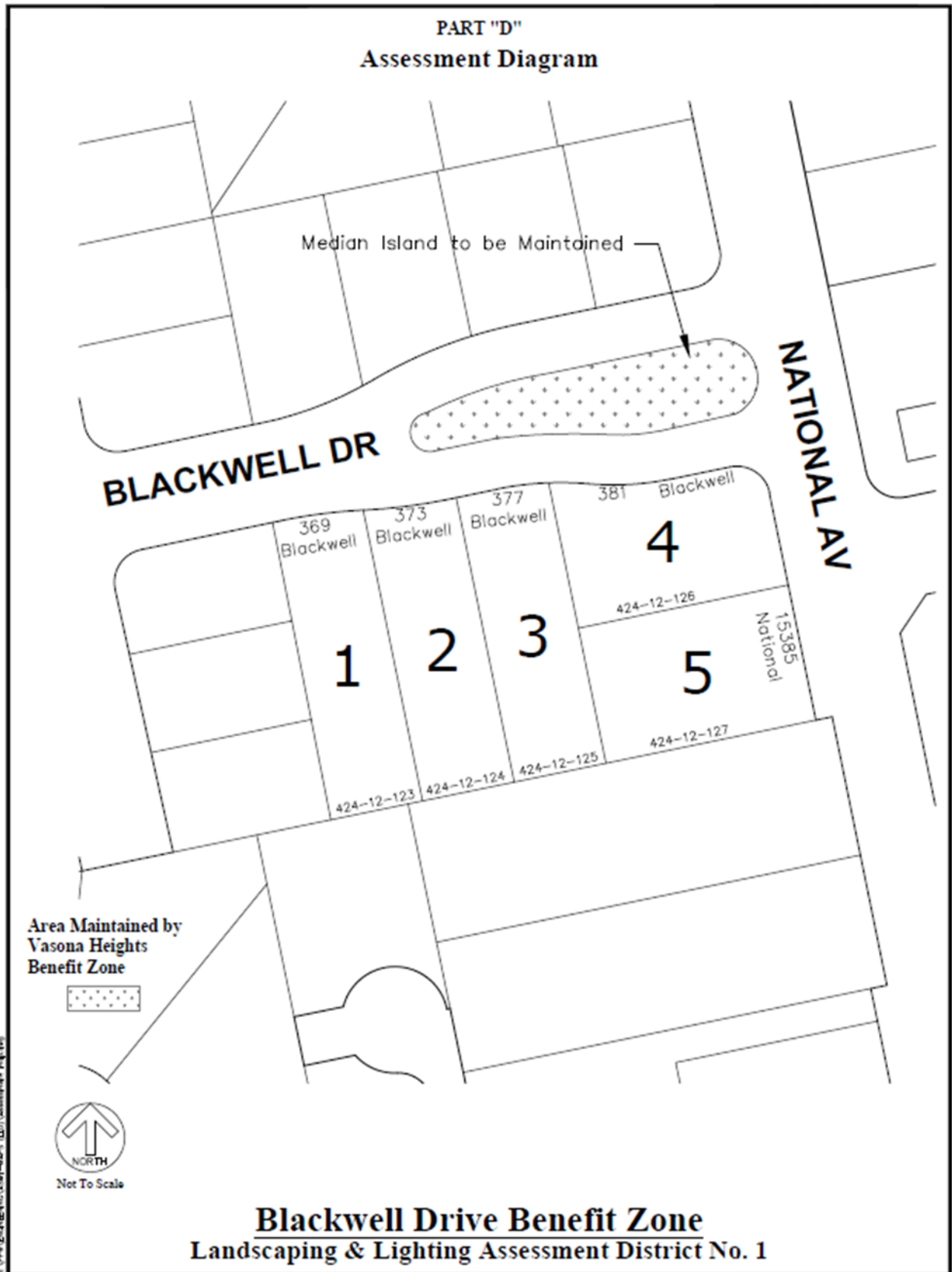
The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within the Blackwell Drive Benefit Zone of Landscape and Lighting Assessment District No. 1.

**PROPERTY OWNERS LIST**

<b>APN</b>
42412123
42412124
42412125
42412126
42412127



**DRAFT RESOLUTION 2024-****RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
CONFIRMING DIAGRAM AND ASSESSMENT,  
AND LEVYING AND AUTHORIZING COLLECTION OF ASSESSMENTS FOR  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1 -  
KENNEDY MEADOWS BENEFIT ZONE  
FOR FISCAL YEAR 2024/25**

**WHEREAS**, on April 16, 2024, the Town Council ordered the Town Engineer to prepare and file a report regarding Landscape and Lighting Assessment District No. 1 - Kennedy Meadows Benefit Zone regarding the improvements in the District and proposed assessments to support those improvements; and

**WHEREAS**, the Town Engineer prepared and filed that report; and

**WHEREAS**, the Town Council considered and approved that report; and

**WHEREAS**, the Engineer's Report contains a detailed description of the improvements in the District, the boundaries of the District, and the proposed assessments upon assessable lots and parcels of land within the District; and

**WHEREAS**, on May 21, 2024, the Town Council adopted Resolution No. 2024-21 declaring its intention to levy and collect assessments in Landscape and Lighting District No. 1 - Kennedy Meadows Benefit Zone, and set the matter for public hearing in accordance with State law; and

**WHEREAS**, notice of the public hearing was duly mailed and published in accordance with State law; and

**WHEREAS**, the public hearing on the proposed levy of assessments was held by the Town Council on June 18, 2024, at which time all interested persons present were heard; and

**WHEREAS**, the proposed assessments are not proposed to be increased from any previous year; and

**WHEREAS**, the Town Council has received and considered all written and oral statements and protests regarding the proposed assessment.

**NOW THEREFORE, BE IT RESOLVED:**

1. The diagram and assessment attached hereto as Parts C and D are approved.
2. This Resolution shall constitute the levy of assessment for Landscape and Lighting Assessment District No. 1 - Kennedy Meadows Benefit Zone, for Fiscal Year 2024/25.
3. The Town Clerk shall transmit a certified copy of this Resolution to the Tax Collector of Santa Clara County for entry on the County Assessment Roll opposite each lot or parcel of land in the amount assessed pursuant to the Resolution, and collection pursuant to Streets and Highways Code Sec. 22646 and payment to the Town pursuant to Streets and Highways Code Sec. 22647.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 18<sup>th</sup> day of June 2024 by the following vote:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**PART C****ASSESSMENT ROLL  
FISCAL YEAR 2023/24****KENNEDY MEADOWS BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$685.00	532-18-050
Lot 2	\$685.00	532-18-049
Lot 3	\$685.00	532-18-048
Lot 4	\$685.00	532-18-047
Lot 5	\$685.00	532-18-052
Lot 6	\$685.00	532-18-063
Lot 7	\$685.00	532-18-062
Lot 8	\$685.00	532-18-061
Lot 9	\$685.00	532-18-060
Lot 10	\$685.00	532-18-059
Lot 11	\$685.00	532-18-058
Lot 12	\$685.00	532-18-057
Lot 13	\$685.00	532-18-056
Lot 14	\$685.00	532-18-055
Lot 15	\$685.00	532-18-054
<b>Total Assessment:</b>	<b>\$10,275</b>	

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

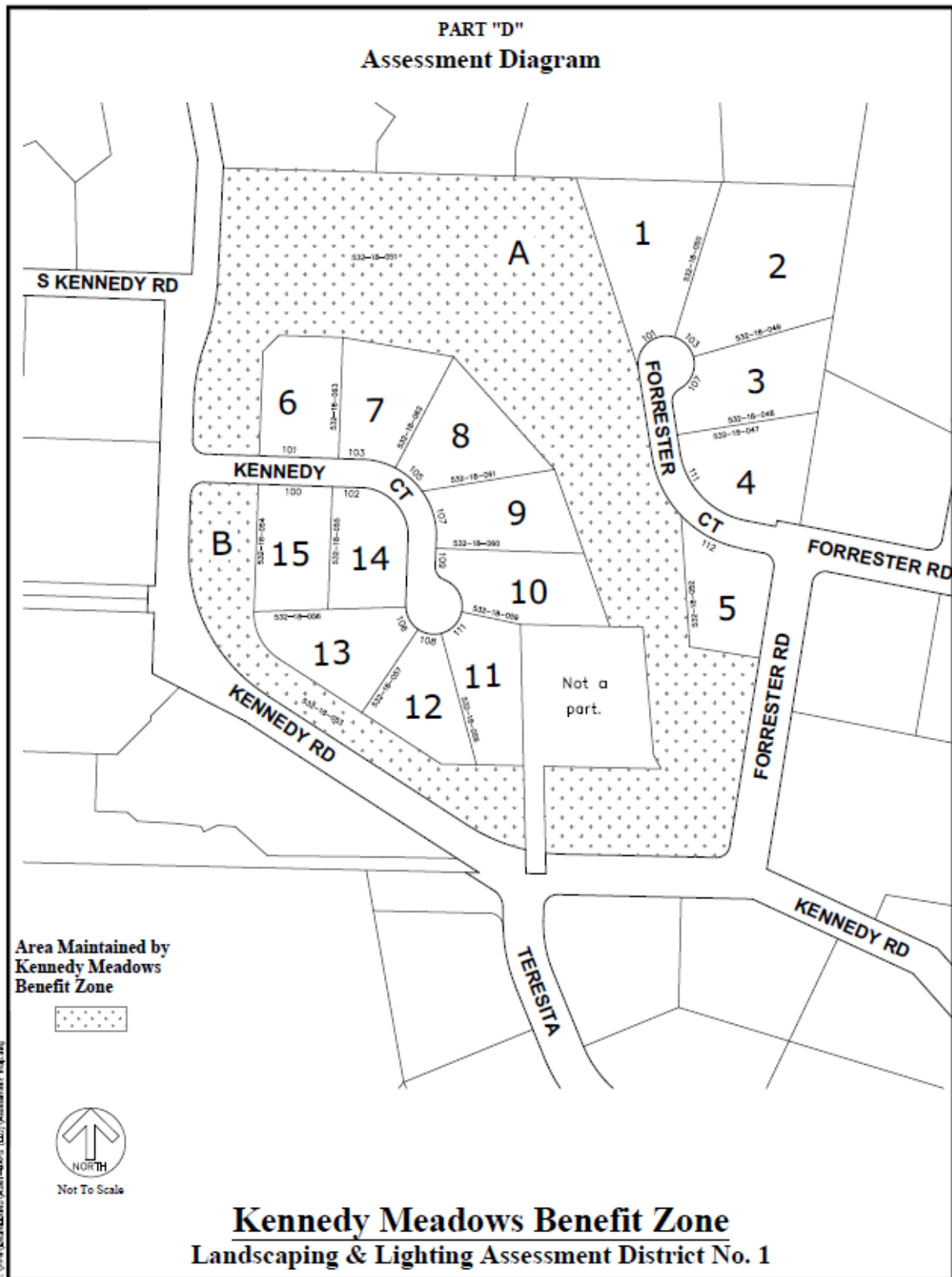
**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within Kennedy Meadows Benefit Zone of Landscape and Lighting Assessment District No. 1.



**KENNEDY MEADOWS BENEFIT ZONE****PROPERTY OWNERS LIST**

<b>APN</b>
53218047
53218048
53218049
53218050
53218052
53218054
53218055
53218056
53218057
53218058
53218059
53218060
53218061
53218062
53218063



**DRAFT RESOLUTION 2024-**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
CONFIRMING DIAGRAM AND ASSESSMENT,  
AND LEVYING AND AUTHORIZING COLLECTION OF ASSESSMENTS FOR  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1 -  
SANTA ROSA HEIGHTS BENEFIT ZONE  
FOR FISCAL YEAR 2024/25**

**WHEREAS**, on April 16, 2024, the Town Council ordered the Town Engineer to prepare and file a report regarding Landscape and Lighting Assessment District No. 1 - Santa Rosa Heights Benefit Zone regarding the improvements in the District and proposed assessments to support those improvements; and

**WHEREAS**, the Town Engineer prepared and filed that report; and

**WHEREAS**, the Town Council considered and approved that report; and

**WHEREAS**, the Engineer's Report contains a detailed description of the improvements in the District, the boundaries of the District, and the proposed assessments upon assessable lots and parcels of land within the District; and

**WHEREAS**, on May 21, 2024, the Town Council adopted Resolution No. 2024-22 declaring its intention to levy and collect assessments in Landscape and Lighting District No. 1 - Santa Rosa Heights Benefit Zone, and set the matter for public hearing in accordance with State law; and

**WHEREAS**, notice of the public hearing was duly mailed and published in accordance with State law; and

**WHEREAS**, the public hearing on the proposed levy of assessments was held by the Town Council on June 18, 2024, at which time all interested persons present were heard; and

**WHEREAS**, the proposed assessments are not proposed to be increased from any previous year; and

**WHEREAS**, the Town Council has received and considered all written and oral statements and protests regarding the proposed assessment.

**NOW THEREFORE, BE IT RESOLVED:**

1. The diagram and assessment attached hereto as Parts C and D are approved.
2. This Resolution shall constitute the levy of assessment for Landscape and Lighting Assessment District No. 1 - Santa Rosa Heights Benefit Zone, for Fiscal Year 2023/24.
3. The Town Clerk shall transmit a certified copy of this Resolution to the Tax Collector of Santa Clara County for entry on the County Assessment Roll opposite each lot or parcel of land in the amount assessed pursuant to the Resolution, and collection pursuant to Streets and Highways Code Sec. 22646 and payment to the Town pursuant to Streets and Highways Code Sec. 22647.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 20<sup>th</sup> day of June 2023 by the following vote:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**PART C****ASSESSMENT ROLL  
FISCAL YEAR 2023/24****SANTA ROSA HEIGHTS BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$300.00	537-31-001
Lot 2	\$300.00	537-31-002
Lot 3	\$300.00	537-31-003
Lot 4	\$300.00	537-31-022
Lot 5	\$300.00	537-31-023
Lot 6	\$300.00	537-31-006
Lot 7	\$300.00	537-31-007
Lot 8	\$300.00	537-31-008
Lot 9	\$300.00	537-31-009
Lot 10	\$300.00	537-31-010
Lot 11	\$300.00	537-31-011
Lot 12	\$300.00	537-31-012
Lot 13	\$300.00	537-31-013
Lot 14	\$300.00	537-31-014
Lot 15	\$300.00	537-31-015
<b>Total Assessment:</b>	<b>\$4,500</b>	

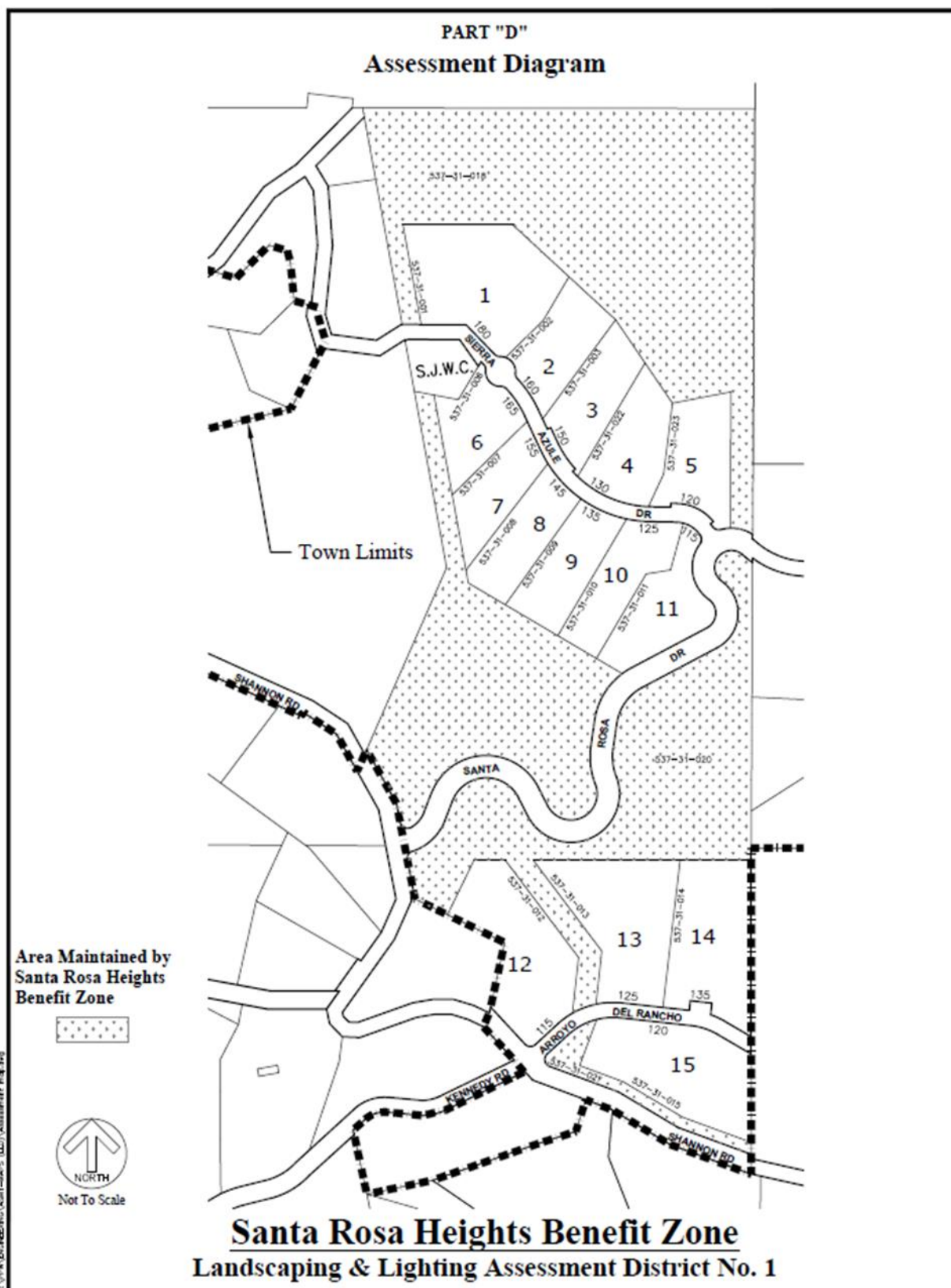
The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within Santa Rosa Heights Benefit Zone of Landscape and Lighting Assessment District No. 1.

**SANTA ROSA HEIGHTS BENEFIT ZONE****PROPERTY OWNERS LIST**

<b>APN</b>
53731001
53731002
53731003
53731006
53731007
53731008
53731009
53731010
53731011
53731012
53731013
53731014
53731015
53731022
53731023



**DRAFT RESOLUTION 2024-**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
CONFIRMING DIAGRAM AND ASSESSMENT,  
AND LEVYING AND AUTHORIZING COLLECTION OF ASSESSMENTS FOR  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1 -  
VASONA HEIGHTS BENEFIT ZONE  
FOR FISCAL YEAR 2024/25**

**WHEREAS**, on April 16, 2024, the Town Council ordered the Town Engineer to prepare and file a report regarding Landscape and Lighting Assessment District No. 1 - Vasona Heights Benefit Zone regarding the improvements in the District and proposed assessments to support those improvements; and

**WHEREAS**, the Town Engineer prepared and filed that report; and

**WHEREAS**, the Town Council considered and approved that report; and

**WHEREAS**, the Engineer's Report contains a detailed description of the improvements in the District, the boundaries of the District, and the proposed assessments upon assessable lots and parcels of land within the District; and

**WHEREAS**, on May 21, 2024, the Town Council adopted Resolution No. 2024-23 declaring its intention to levy and collect assessments in Landscape and Lighting District No. 1 - Vasona Heights Benefit Zone, and set the matter for public hearing in accordance with State law; and

**WHEREAS**, notice of the public hearing was duly mailed and published in accordance with State law; and

**WHEREAS**, the public hearing on the proposed levy of assessments was held by the Town Council on June 18, 2024, at which time all interested persons present were heard; and

**WHEREAS**, the proposed assessments are not proposed to be increased from any previous year; and

**WHEREAS**, the Town Council has received and considered all written and oral statements and protests regarding the proposed assessment,



**NOW THEREFORE, BE IT RESOLVED:**

1. The diagram and assessment attached hereto as Parts C and D are approved.
2. This Resolution shall constitute the levy of assessment for Landscape and Lighting Assessment District No. 1 - Vasona Heights Benefit Zone, for Fiscal Year 2024/25.
3. The Town Clerk shall transmit a certified copy of this Resolution to the Tax Collector of Santa Clara County for entry on the County Assessment Roll opposite each lot or parcel of land in the amount assessed pursuant to the Resolution, and collection pursuant to Streets and Highways Code Sec. 22646 and payment to the Town pursuant to Streets and Highways Code Sec. 22647.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 18<sup>th</sup> day of June 202 by the following vote:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**PART C**  
**ASSESSMENT ROLL**  
**FISCAL YEAR 2023/24**

**VASONA HEIGHTS BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$295.00	529-13-056
Lot 2	\$295.00	529-13-055
Lot 3	\$295.00	529-13-054
Lot 4	\$295.00	529-13-053
Lot 5	\$295.00	529-13-052
Lot 6	\$295.00	529-13-051
Lot 7	\$295.00	529-13-049
Lot 8	\$295.00	529-13-048
Lot 9	\$295.00	529-13-047
Lot 10	\$295.00	529-13-046
Lot 11	\$295.00	529-13-044
Lot 12	\$295.00	529-13-043
Lot 13	\$295.00	529-13-042
Lot 14	\$295.00	529-13-041
Lot 15	\$295.00	529-13-040
Lot 16	\$295.00	529-13-039
Lot 17	\$295.00	529-13-038
Lot 18	\$295.00	529-13-037
Lot 19	\$295.00	529-13-036
Lot 20	\$295.00	529-13-035
Lot 21	\$295.00	529-13-060
Lot 22	\$295.00	529-13-061
Lot 23	\$295.00	529-13-032
Lot 24	\$295.00	529-13-031
Lot 25	\$295.00	529-13-030
Lot 26	\$295.00	529-13-029
Lot 27	\$295.00	529-13-028
Lot 28	\$295.00	529-13-063
Lot 29	\$295.00	529-13-062
Lot 30	\$295.00	529-13-022
Lot 31	\$295.00	529-13-021
Lot 32	\$295.00	529-13-058
Lot 33	\$295.00	529-13-059
<b>Total Assessment:</b>	<b>\$9,735.00</b>	

## METHOD OF APPORTIONMENT OF ASSESSMENT

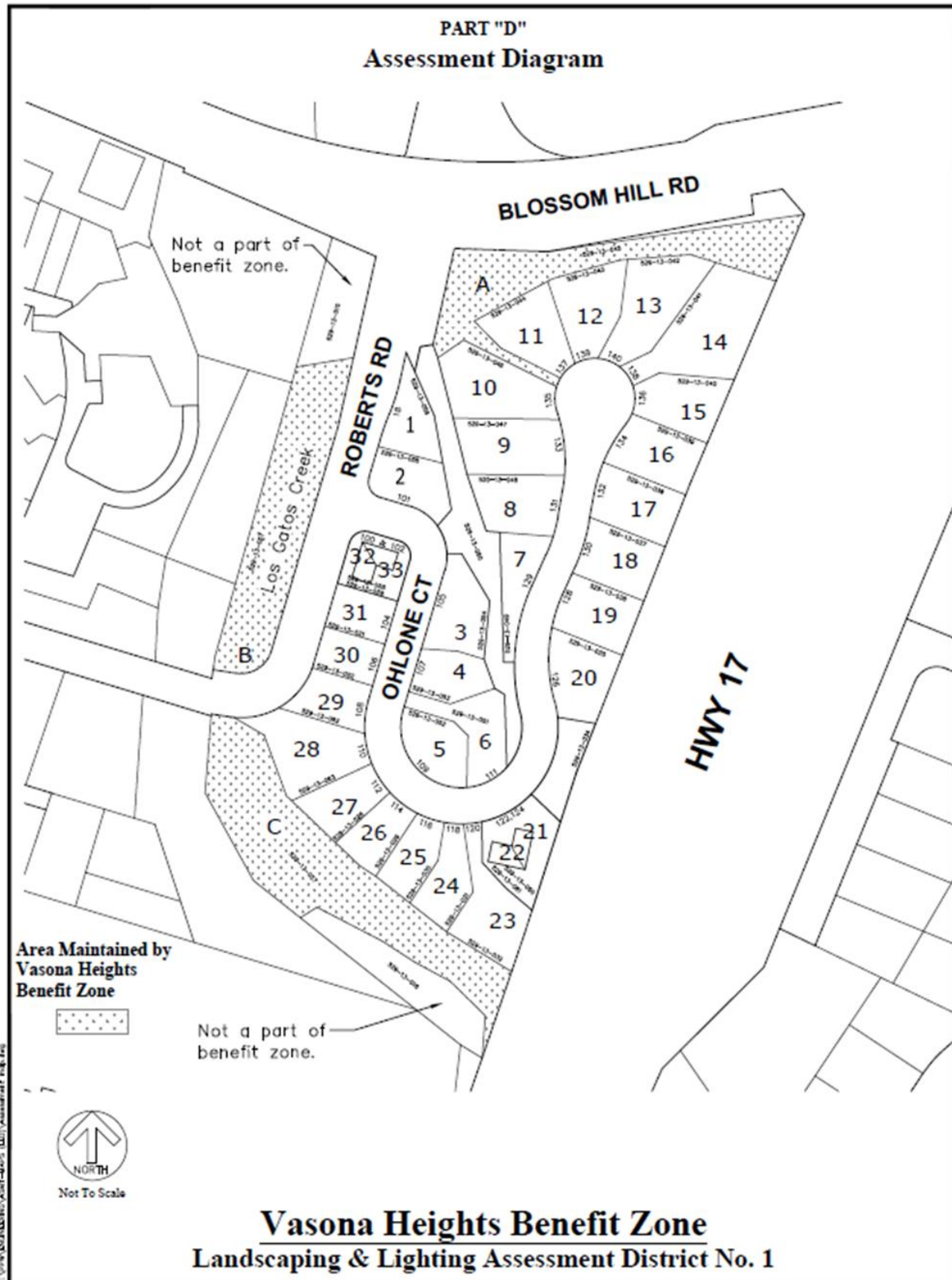
The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

The total amount of the assessment was apportioned equally to all the lots within Vasona Heights Benefit Zone of Landscape and Lighting Assessment District No. 1.

## **VASONA HEIGHTS BENEFIT ZONE**

### PROPERTY OWNERS LIST

APN
52913021
52913022
52913028
52913029
52913030
52913031
52913032
52913035
52913036
52913037
52913038
52913039
52913040
52913041
52913042
52913043
52913044
52913046
52913047
52913048
52913049
52913051
52913052
52913053
52913054
52913055
52913056
52913058
52913059
52913060
52913061
52913062
52913063



**DRAFT RESOLUTION 2024-****RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
CONFIRMING DIAGRAM AND ASSESSMENT,  
AND LEVYING AND AUTHORIZING COLLECTION OF ASSESSMENTS FOR  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1 -  
HILLBROOK DRIVE BENEFIT ZONE  
FOR FISCAL YEAR 2024/25**

**WHEREAS**, on April 16, 2024, the Town Council ordered the Town Engineer to prepare and file a report regarding Landscape and Lighting Assessment District No. 1 - Hillbrook Drive Benefit Zone regarding the improvements in the District and proposed assessments to support those improvements; and

**WHEREAS**, the Town Engineer prepared and filed that report; and

**WHEREAS**, the Town Council considered and approved that report; and

**WHEREAS**, the Engineer's Report contains a detailed description of the improvements in the District, the boundaries of the District, and the proposed assessments upon assessable lots and parcels of land within the District; and

**WHEREAS**, on May 21, 2024, the Town Council adopted Resolution No. 2024-24 declaring its intention to levy and collect assessments in Landscape and Lighting District No. 1 - Hillbrook Drive Benefit Zone, and set the matter for public hearing in accordance with State law; and

**WHEREAS**, notice of the public hearing was duly mailed and published in accordance with State law; and

**WHEREAS**, the public hearing on the proposed levy of assessments was held by the Town Council on June 18, 2024, at which time all interested persons present were heard; and

**WHEREAS**, the proposed assessments are not proposed to be increased from any previous year; and

**WHEREAS**, the Town Council has received and considered all written and oral statements and protests regarding the proposed assessment.

**NOW THEREFORE, BE IT RESOLVED:**

1. The diagram and assessment attached hereto as Parts C and D are approved.
2. This Resolution shall constitute the levy of assessment for Landscape and Lighting Assessment District No. 1 - Hillbrook Drive Benefit Zone, for Fiscal Year 2024/25.
3. The Town Clerk shall transmit a certified copy of this Resolution to the Tax Collector of Santa Clara County for entry on the County Assessment Roll opposite each lot or parcel of land in the amount assessed pursuant to the Resolution, and collection pursuant to Streets and Highways Code Sec. 22646 and payment to the Town pursuant to Streets and Highways Code Sec. 22647.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 18<sup>th</sup> day of June 2024 by the following vote:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**PART C**  
**ASSESSMENT ROLL**  
**FISCAL YEAR 2023/24**  
**HILLBROOK BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$175.00	523-11-027
Lot 2	\$175.00	523-11-026
Lot 3	\$175.00	523-11-025
Lot 4	\$175.00	523-11-024
Lot 5	\$175.00	523-11-023
Lot 6	\$175.00	523-11-022
Lot 7	\$175.00	523-11-021
Lot 8	\$175.00	523-11-020
Lot 9	\$175.00	523-11-019
Lot 10	\$175.00	523-11-018
Lot 11	\$175.00	523-07-030
Lot 12	\$175.00	523-07-029
Lot 13	\$175.00	523-07-028
Lot 14	\$175.00	523-07-027
Lot 15	\$175.00	523-07-026
Lot 16	\$175.00	523-07-025
Lot 17	\$175.00	523-07-024
Lot 18	\$175.00	523-07-023
Lot 19	\$175.00	523-07-022
Lot 20	\$175.00	523-07-021
Lot 21	\$175.00	523-07-020
Lot 22	\$175.00	523-07-019
Lot 23	\$175.00	523-07-018
Lot 24	\$175.00	523-07-017
Lot 25	\$175.00	523-07-016
Lot 26	\$175.00	523-07-015
Lot 27	\$175.00	523-07-014
Lot 28	\$175.00	523-07-013
Lot 29	\$175.00	523-07-012
Lot 30	\$175.00	523-07-011
Lot 31	\$175.00	523-07-010
Lot 32	\$175.00	523-07-009
Lot 33	\$175.00	523-07-008
Lot 34	\$175.00	523-07-007
<b>Total Assessment:</b>	<b>\$5,950</b>	

**ASSESSMENT ROLL  
FISCAL YEAR 2023/24**

**HILLBROOK BENEFIT ZONE**

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

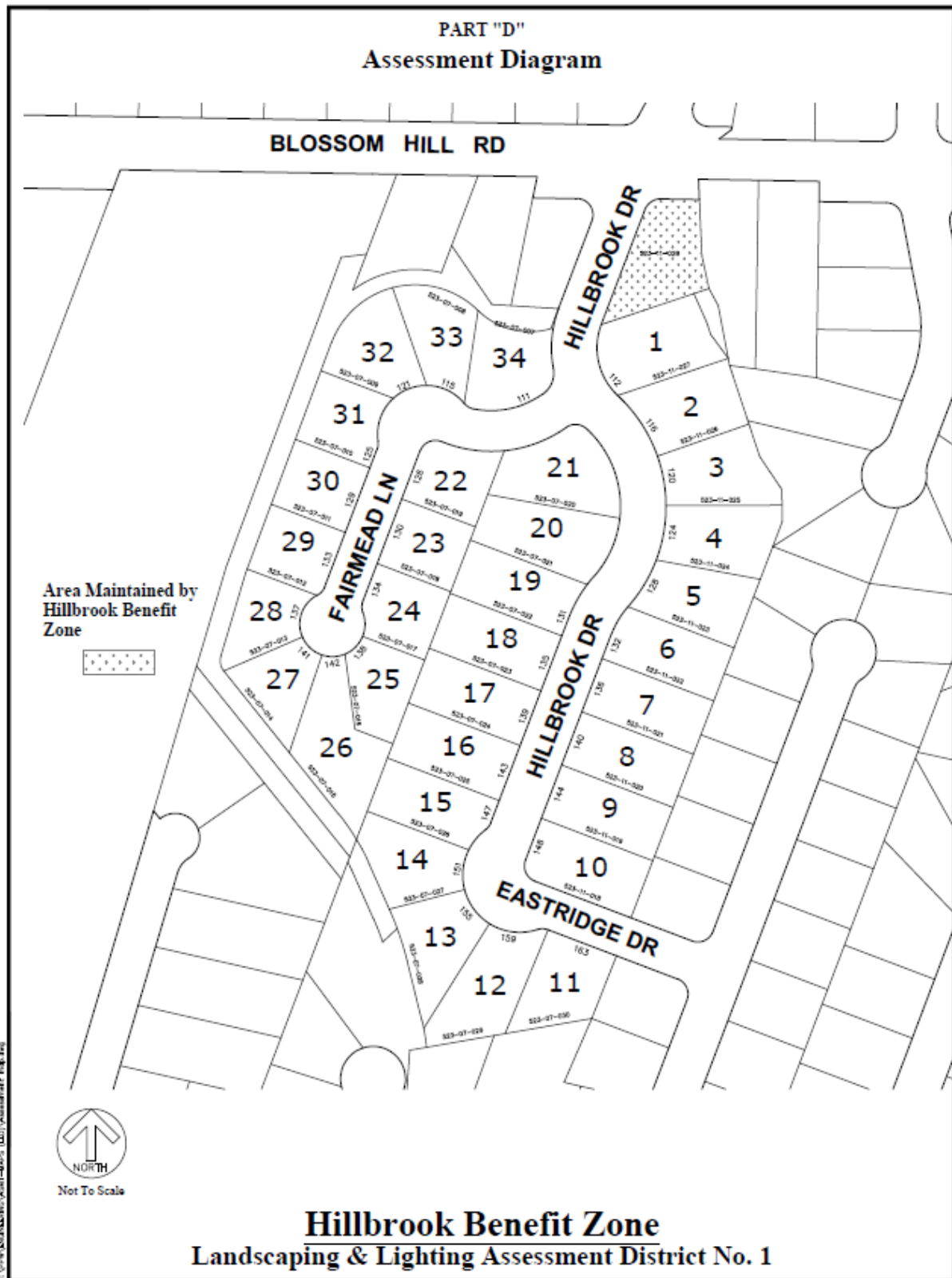
The total amount of the assessment was apportioned equally to all the lots within Landscape and Lighting Assessment District No. 1--Hillbrook Benefit Zone.



# **HILLBROOK BENEFIT ZONE**

## **PROPERTY OWNERS LIST**

<b>APN</b>
52307007
52307008
52307009
52307010
52307011
52307012
52307013
52307014
52307015
52307016
52307017
52307018
52307019
52307020
52307021
52307022
52307023
52307024
52307025
52307026
52307027
52307028
52307029
52307030
52311018
52311019
52311020
52311021
52311022
52311023
52311024
52311025
52311026
52311027



**DRAFT RESOLUTION 2024-****RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
CONFIRMING DIAGRAM AND ASSESSMENT,  
AND LEVYING AND AUTHORIZING COLLECTION OF ASSESSMENTS FOR  
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 2 -  
GEMINI COURT BENEFIT ZONE  
FOR FISCAL YEAR 2024/25**

**WHEREAS**, on April 16, 2024, the Town Council ordered the Town Engineer to prepare and file a report regarding Landscape and Lighting Assessment District No. 2 - Gemini Court Drive Benefit Zone regarding the improvements in the District and proposed assessments to support those improvements; and

**WHEREAS**, the Town Engineer prepared and filed that report; and

**WHEREAS**, the Town Council considered and approved that report; and

**WHEREAS**, the Engineer's Report contains a detailed description of the improvements in the District, the boundaries of the District, and the proposed assessments upon assessable lots and parcels of land within the District; and

**WHEREAS**, on May 21, 2024, the Town Council adopted Resolution No. 2024-25 declaring its intention to levy and collect assessments in Landscape and Lighting District No. 2 - Gemini Court Benefit Zone, and set the matter for public hearing in accordance with State law; and

**WHEREAS**, notice of the public hearing was duly mailed and published in accordance with State law; and

**WHEREAS**, the public hearing on the proposed levy of assessments was held by the Town Council on June 18, 2024, at which time all interested persons present were heard; and

**WHEREAS**, the proposed assessments are not proposed to be increased from any previous year; and

**WHEREAS**, the Town Council has received and considered all written and oral statements and protests regarding the proposed assessment.

**NOW THEREFORE, BE IT RESOLVED:**

1. The diagram and assessment attached hereto as Parts C and D are approved.
2. This Resolution shall constitute the levy of assessment for Landscape and Lighting Assessment District No. 2 - Gemini Court Benefit Zone, for Fiscal Year 2024/25.
3. The Town Clerk shall transmit a certified copy of this Resolution to the Tax Collector of Santa Clara County for entry on the County Assessment Roll opposite each lot or parcel of land in the amount assessed pursuant to the Resolution, and collection pursuant to Streets and Highways Code Sec. 22646 and payment to the Town pursuant to Streets and Highways Code Sec. 22647.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos held on the 18<sup>th</sup> day of June 2024 by the following vote:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**PART C**  
**ASSESSMENT ROLL**  
**FISCAL YEAR 2023/24**

**GEMINI COURT BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$230.00	567-64-051
Lot 2	\$230.00	567-64-050
Lot 3	\$230.00	567-64-049
Lot 4	\$230.00	567-64-048
Lot 5	\$230.00	567-64-047
Lot 6	\$230.00	567-64-046
Lot 7	\$230.00	567-64-045
Lot 8	\$230.00	567-64-044
Lot 9	\$230.00	567-64-054
Lot 10	\$230.00	567-64-053
Lot 11	\$230.00	567-64-052
Lot 12	\$230.00	567-64-042
Lot 13	\$230.00	567-64-041
Lot 14	\$230.00	567-64-040
Lot 15	\$230.00	567-64-039
Lot 16	\$230.00	567-64-038
Lot 17	\$230.00	567-64-037
Lot 18	\$230.00	567-64-036
Lot 19	\$230.00	567-64-035
Lot 20	\$230.00	567-64-034
<b>Total Assessment:</b>	<b>\$4,600.00</b>	

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

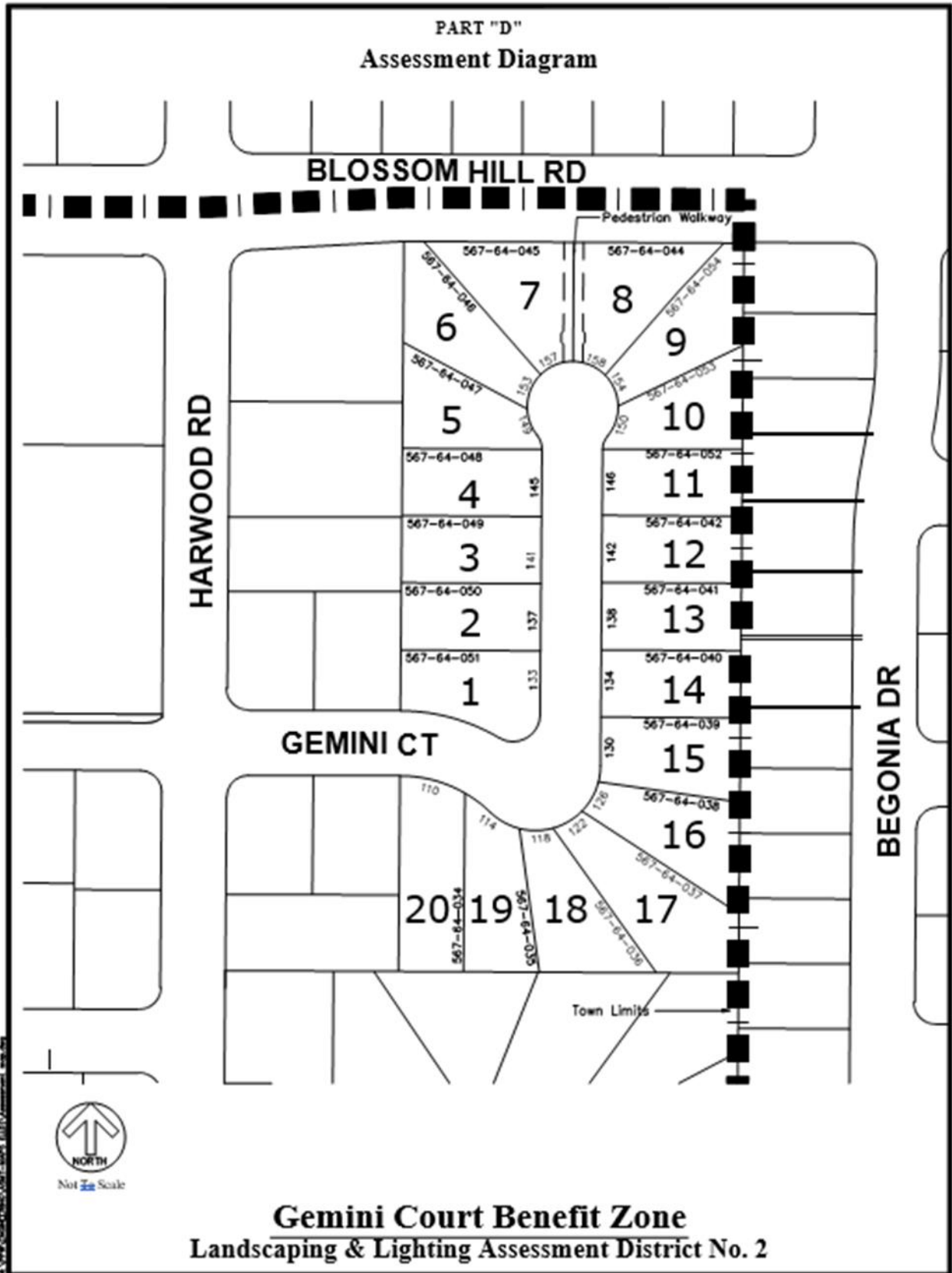
**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within the Gemini Court Benefit Zone of Landscape and Lighting Assessment District No. 2.

## **GEMINI COURT BENEFIT ZONE**

### **PROPERTY OWNERS LIST**

<b>APN</b>
56764034
56764035
56764036
56764037
56764038
56764039
56764040
56764041
56764042
56764044
56764045
56764046
56764047
56764048
56764049
56764050
56764051
56764052
56764053
56764054





**Landscape and Lighting  
Assessment Districts No. 1 and 2**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**

ATTACHMENT 7



# ENGINEER'S REPORT

## LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1 AND 2

(Pursuant to the Landscape and Lighting Act of 1972)

The Engineer of Work respectfully submits the enclosed report as directed by the Town Council.

*Gary Heap*  
GARY HEAP  
Town Engineer

May 6, 2024  
DATE

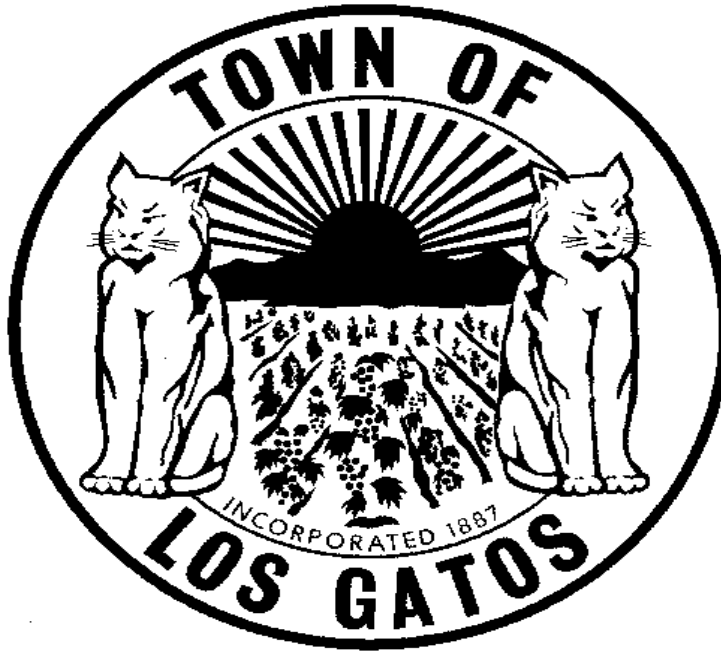
**I HEREBY CERTIFY** that the enclosed Engineer's Report, with Assessment and Assessment Diagram thereto attached was filed with me on the 6th day of May, 2024.

*Wendy Wood*  
TOWN CLERK, Town of Los Gatos  
Santa Clara County, California

**I HEREBY CERTIFY** that the enclosed Engineer's Report, with Assessment and Assessment Diagram thereto attached, was approved and confirmed by the Town Council of the Town of Los Gatos, California on the 21<sup>st</sup> day of May 2024, by Resolution No. 2024- 019

*Wendy Wood*  
TOWN CLERK, Town of Los Gatos  
Santa Clara County, California

**I HEREBY CERTIFY** that the enclosed Engineer's Report, with Assessment and Assessment Diagram thereto attached was filed with the County Assessor of the County of Santa Clara on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.



**Landscape and Lighting  
Assessment District No. 1**

**BLACKWELL DRIVE  
BENEFIT ZONE**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**

**ENGINEER'S REPORT  
FISCAL YEAR 2024/25**

ITEM NO. 16.

LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1  
(Pursuant to the Landscaping and Lighting Act of 1972)

**BLACKWELL DRIVE BENEFIT ZONE**

WooJae Kim, Town Engineer for Landscape and Lighting Assessment District No. 1, Town of Los Gatos, Santa Clara County, California, makes this report, as directed by the Town Council, pursuant to Section 22566, et seq. of the Streets and Highways Code (Landscaping and Lighting Act of 1972).

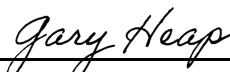
The improvements that are the subject of this report are briefly described as follows:

Maintaining the landscaping in the median island constructed as a part of Tract No. 8306 and maintaining the streetlights installed along Blackwell Drive and National Avenue as a part of Tract No. 8306.

This report consists of four parts, as follows:

- PART A: Plans and specifications for the improvements are filed in the Clerk Department. Although separately bound, the plans and specifications are a part of this report and are included in it by reference.
- PART B: An estimate of the cost of the improvements.
- PART C: An assessment of the estimated cost of the improvements on each benefited parcel within the assessment district, the method by which the Engineer of Work has determined the proposed assessment against each parcel, and a list of the owners of real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Town Clerk.
- PART D: A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to Part C by assessment number.

Respectfully submitted,

  
\_\_\_\_\_  
GARY HEAP  
Town Engineer

May 6, 2024  
DATE

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## **PART A**

ITEM NO. 16.

**FISCAL YEAR 2024/25**

**PLANS, SPECIFICATIONS AND REPORTS**

### **BLACKWELL DRIVE BENEFIT ZONE**

Plans and specifications for the improvements are those prepared by Greg G. Ing, and Associates, dated February 16, 1990. These plans and specifications have been filed separately in the Clerk Department of the Town of Los Gatos and are incorporated in the Report by reference.



**PART C****ASSESSMENT ROLL  
FISCAL YEAR 2024/25****BLACKWELL DRIVE BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$632	424-12-123
Lot 2	\$632	424-12-124
Lot 3	\$632	424-12-125
Lot 4	\$632	424-12-126
Lot 5	\$632	424-12-127
<b>Total Assessment:</b>	<b>\$3,160</b>	

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

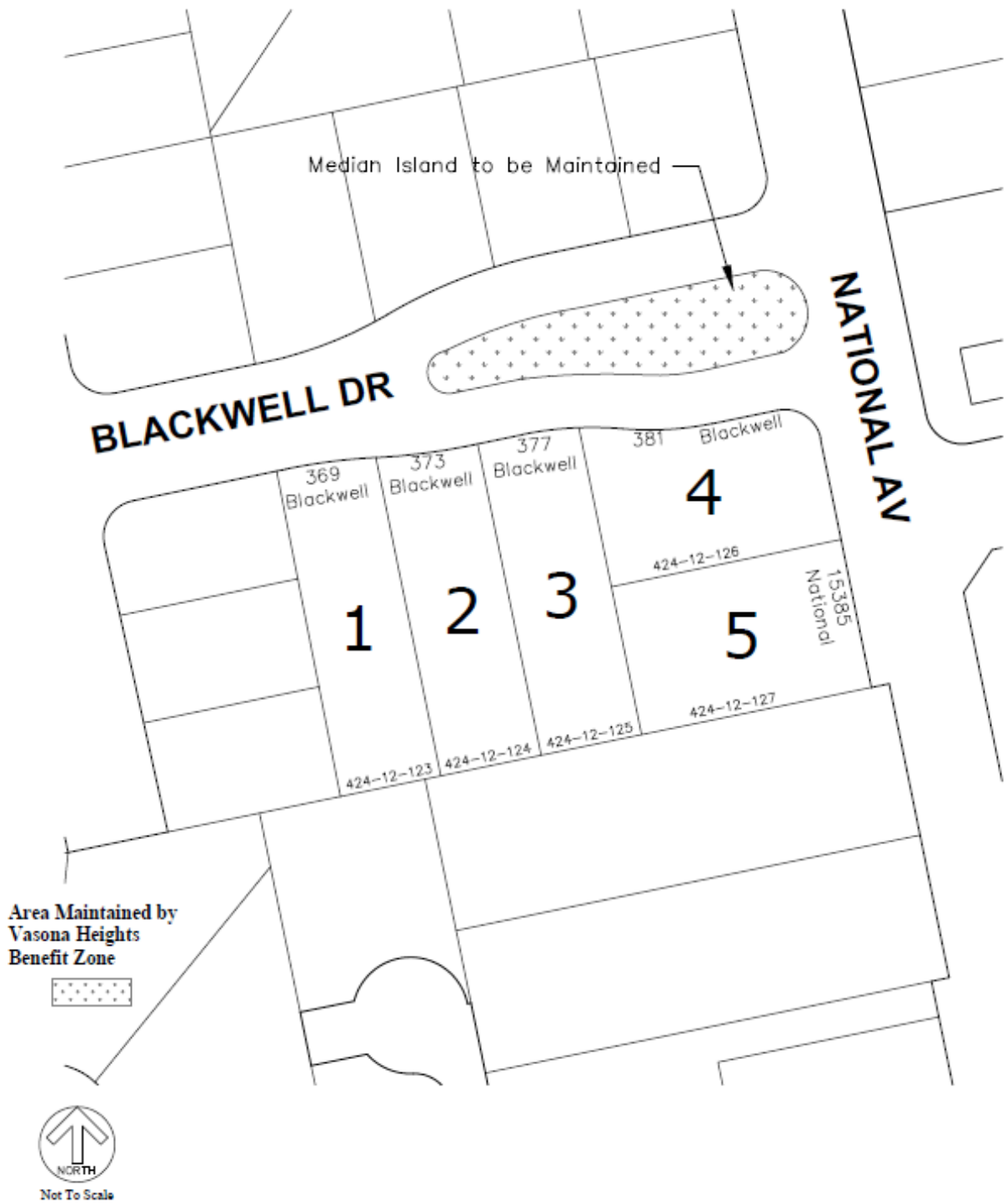
The total amount of the assessment was apportioned equally to all the lots within the Blackwell Drive Benefit Zone of Landscape and Lighting Assessment District No. 1.

## BLACKWELL DRIVE BENEFIT ZONE

### PROPERTY OWNERS LIST

APN
42412123
42412124
42412125
42412126
42412127

**PART "D"**  
**Assessment Diagram**



**Blackwell Drive Benefit Zone**  
**Landscaping & Lighting Assessment District No. 1**





**Landscape and Lighting  
Assessment District No. 1**

**KENNEDY MEADOWS  
BENEFIT ZONE**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**

**ENGINEER'S REPORT  
FISCAL YEAR 2024/25**

ITEM NO. 16.

LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1  
(Pursuant to the Landscaping and Lighting Act of 1972)

**KENNEDY MEADOWS BENEFIT ZONE**

WooJae Kim, Town Engineer for Landscape and Lighting Assessment District No. 1--Kennedy Meadows Benefit Zone, Town of Los Gatos, Santa Clara County, California, makes this report, as directed by the Town Council, pursuant to Section 22566, et seq. of the Streets and Highways Code (Landscaping and Lighting Act of 1972).

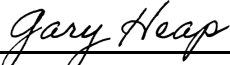
The improvements that are the subject of this report are briefly described as follows:

The maintenance of trees, landscaping, irrigation systems, trail, and streetlights within open space areas (Parcels A and B) and along Kennedy Court and Forrester Court, as shown on the approved improvement for Tract No. 8612, Los Gatos, California and the riparian and wetlands area described in the report by H. T. Harvey Associates, dated November 11, 1994.

This report consists of four parts, as follows:

- PART A: Plans and specifications for the improvements and the report by H. T. Harvey Associates are filed in the Clerk Department. Although separately bound, the plans, specifications and H.T. Harvey report are a part of this report and are included in it by reference.
- PART B: An estimate of the cost of the improvements, including interest on the funds advanced to the benefit zone by the Town.
- PART C: An assessment of the estimated cost of the improvements on each benefited parcel within the assessment district, the method by which the Engineer of Work has determined the amount proposed to be assessed against each parcel, and a list of the owners of real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Town Clerk.
- PART D: A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to Part C by assessment number.

Respectfully submitted,

  
\_\_\_\_\_  
GARY HEAP  
Town Engineer

May 6, 2024  
DATE

**PART A****FISCAL YEAR 2024/25****PLANS, SPECIFICATIONS AND REPORTS****KENNEDY MEADOWS BENEFIT ZONE**

Plans and specifications for the improvements are those prepared by Nowack and Associates, Civil Engineers, dated September 21, 1994, their job number 90-263C, pages 1 - 11. These plans and specifications have been filed separately in the Clerk Department of the Town of Los Gatos and are incorporated in the Report by reference.

The wetlands mitigation and monitoring plan was prepared by H.T. Harvey & Associates, Ecological Consultants, dated November 11, 1994, their file number 733-04, 11 pages. A revised wetlands mitigation plan is contained in a letter to the U.S. Army Corp of Engineers and California Regional Water Quality Control Board dated August 30, 1995 and as-built plans in a letter dated February 21, 1995. The original report and letters have been filed separately in the Clerk Department of the Town of Los Gatos and are incorporated in this Report by reference.

Page 382

**PART C****ASSESSMENT ROLL  
FISCAL YEAR 2024/25****KENNEDY MEADOWS BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$685.00	532-18-050
Lot 2	\$685.00	532-18-049
Lot 3	\$685.00	532-18-048
Lot 4	\$685.00	532-18-047
Lot 5	\$685.00	532-18-052
Lot 6	\$685.00	532-18-063
Lot 7	\$685.00	532-18-062
Lot 8	\$685.00	532-18-061
Lot 9	\$685.00	532-18-060
Lot 10	\$685.00	532-18-059
Lot 11	\$685.00	532-18-058
Lot 12	\$685.00	532-18-057
Lot 13	\$685.00	532-18-056
Lot 14	\$685.00	532-18-055
Lot 15	\$685.00	532-18-054
<b>Total Assessment:</b>	<b>\$10,275</b>	

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within Kennedy Meadows Benefit Zone of Landscape and Lighting Assessment District No. 1.

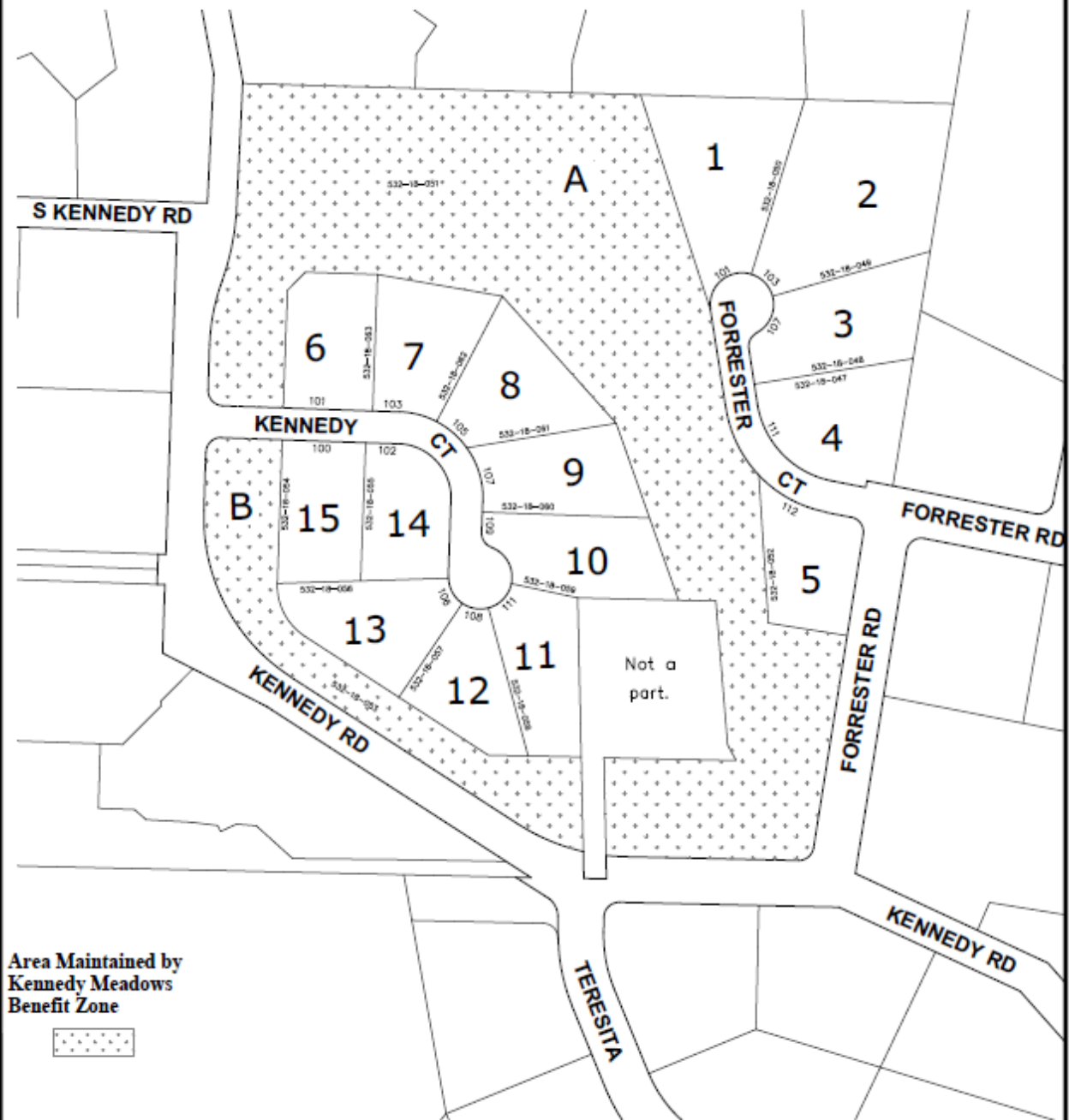
# **KENNEDY MEADOWS BENEFIT ZONE**

ITEM NO. 16.

## **PROPERTY OWNERS LIST**

<b>APN</b>
53218047
53218048
53218049
53218050
53218052
53218054
53218055
53218056
53218057
53218058
53218059
53218060
53218061
53218062
53218063

**PART "D"**  
**Assessment Diagram**



**Kennedy Meadows Benefit Zone**  
**Landscaping & Lighting Assessment District No. 1**

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**Landscape and Lighting  
Assessment District No. 1**

**SANTA ROSA HEIGHTS  
BENEFIT ZONE**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**



**ENGINEER'S REPORT  
FISCAL YEAR 2024/25**

ITEM NO. 16.

LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1  
(Pursuant to the Landscaping and Lighting Act of 1972)

**SANTA ROSA HEIGHTS BENEFIT ZONE**

WooJae Kim, Town Engineer for Landscape and Lighting Assessment District No. 1--Santa Rosa Heights Benefit Zone, Town of Los Gatos, Santa Clara County, California, makes this report, as directed by the Town Council, pursuant to Section 22566, et seq. of the Streets and Highways Code (Landscaping and Lighting Act of 1972).

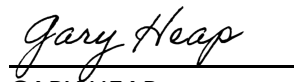
The improvements that are the subject of this report are briefly described as follows:

The maintenance of trees, landscaping, trail and retaining walls, as shown on the approved improvement plans for Tract No. 8400, Los Gatos, California.

This report consists of four parts, as follows:

- PART A: Plans and specifications for the improvements are filed in the Clerk Department. Although separately bound, the plans and specifications are a part of this report and are included in it by reference.
- PART B: An estimate of the cost of the improvements.
- PART C: An assessment of the estimated cost of the improvements on each benefited parcel within the assessment district, the method by which the Engineer of Work has determined the amount proposed to be assessed against each parcel, and a list of the owners of real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Town Clerk.
- PART D: A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to Part C by assessment number.

Respectfully submitted,

  
GARY HEAP  
Town Engineer

May 6, 2024  
DATE

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**PART A****FISCAL YEAR 2024/25****PLANS, SPECIFICATIONS AND REPORTS****SANTA ROSA HEIGHTS BENEFIT ZONE**

Plans and specifications for the improvements are those prepared by Nowack & Associates, dated February 1991, their job number 90-295. These plans and specifications have been filed separately in the Clerk Department of the Town of Los Gatos and are incorporated in the Report by reference.

## PART B

### ESTIMATE OF THE COST OF IMPROVEMENTS

## FISCAL YEAR 2023/24

<b>SANTA ROSA HEIGHTS BENEFIT ZONE</b>				
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<b>Fiscal Year 2022/23 Resources</b>			
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		Fund Balance 6/30/22					\$	40,708
		Assessment						4,545
		Delinquent Assessment						0
		Penalties/Late Fees						0
		Interest						690
		<b>Total Resources Available for FY 2022/23</b>					\$	<b>45,942</b>

Fiscal Year 2022/23 Expenses				
------------------------------	--	--	--	--

	Santa Clara County Collection Fee		\$	45
	Publication & Notification Charges			470
	Light Pole Maintenance			0
	Electric Utility			0
	San Jose Water			0
	Landscape Contractor			8,398
	Town Administrative Charges			660
	<b>Total Expenses for FY 2022/23</b>		<b>\$</b>	<b>9,573</b>

Ending Fund Balance for FY 2022/23		\$	36,369
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Fiscal Year 2023/24 Estimated Resources				
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	Fund Balance 6/30/23			\$	36,369
	Assessment				4,500
	Interest				50
	<b>Total Estimated Resources Available for FY 2023/24</b>			<b>\$</b>	<b>40,919</b>

<b>Fiscal Year 2023/24 Estimated Expenses</b>			
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	Santa Clara County Collection Fee		\$	45
	Publication & Notification Charges			300
	Tree Services			0
	Weed Abatement			0
	Light Pole Maintenance			0
	Electric Utility			0
	San Jose Water			0
	Landscape Contractor			11,882
	Town Administrative Charges			660
	District Capital Improvements			0
	<b>Total Estimated Expenses for FY 2023/24</b>		<b>\$</b>	<b>12,887</b>

Estimated Ending Fund Balance for FY 2023/24	\$	28,032
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**PART C**

ITEM NO. 16.

**ASSESSMENT ROLL  
FISCAL YEAR 2024/25**

**SANTA ROSA HEIGHTS BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$300.00	537-31-001
Lot 2	\$300.00	537-31-002
Lot 3	\$300.00	537-31-003
Lot 4	\$300.00	537-31-022
Lot 5	\$300.00	537-31-023
Lot 6	\$300.00	537-31-006
Lot 7	\$300.00	537-31-007
Lot 8	\$300.00	537-31-008
Lot 9	\$300.00	537-31-009
Lot 10	\$300.00	537-31-010
Lot 11	\$300.00	537-31-011
Lot 12	\$300.00	537-31-012
Lot 13	\$300.00	537-31-013
Lot 14	\$300.00	537-31-014
Lot 15	\$300.00	537-31-015
<b>Total Assessment:</b>	<b>\$4,500</b>	

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within Santa Rosa Heights Benefit Zone of Landscape and Lighting Assessment District No. 1.

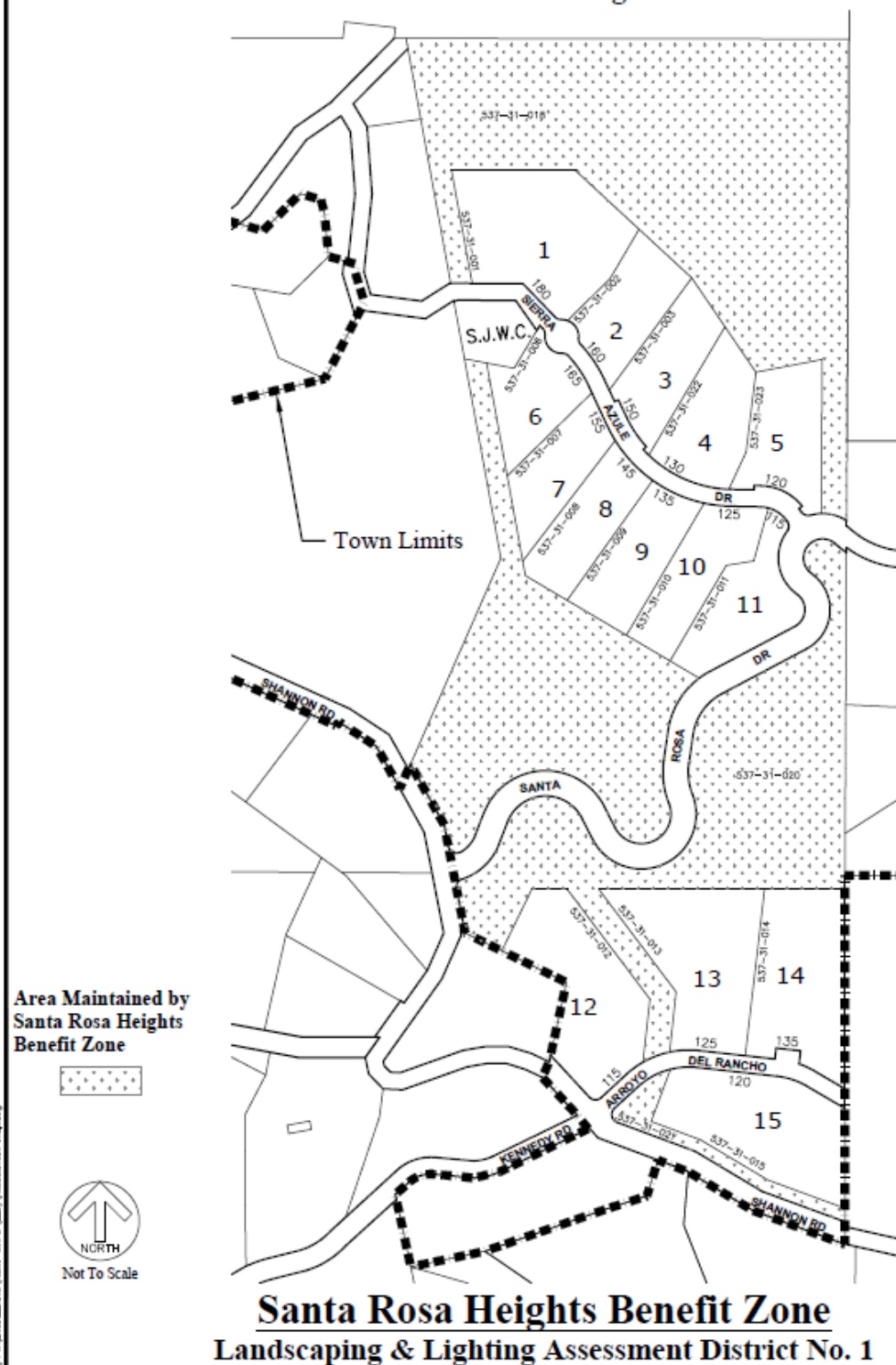
# **SANTA ROSA HEIGHTS BENEFIT ZONE**

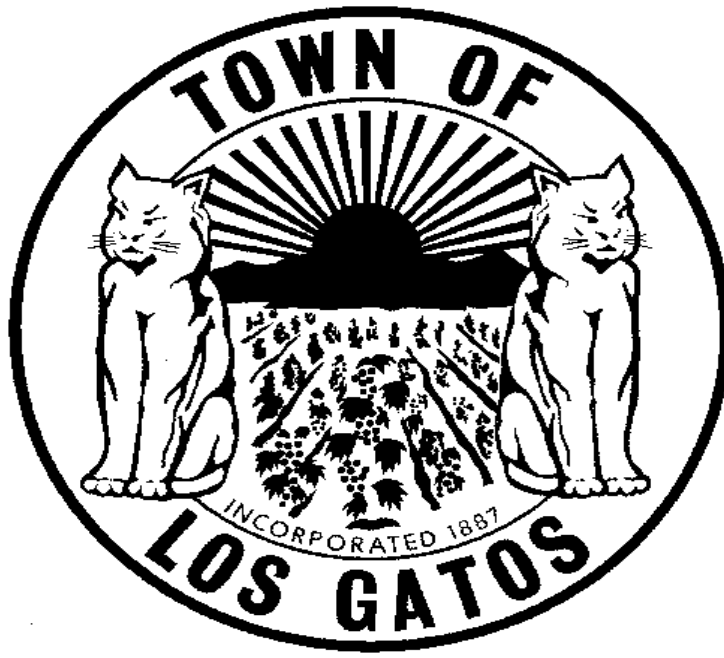
ITEM NO. 16.

## **PROPERTY OWNERS LIST**

<b>APN</b>
53731001
53731002
53731003
53731006
53731007
53731008
53731009
53731010
53731011
53731012
53731013
53731014
53731015
53731022
53731023

**PART "D"**  
**Assessment Diagram**





**Landscaping and Lighting  
Assessment District No. 1**

**VASONA HEIGHTS  
BENEFIT ZONE**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**

**ENGINEER'S REPORT  
FISCAL YEAR 2024/25**

ITEM NO. 16.

LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 1  
(Pursuant to the Landscaping and Lighting Act of 1972)

**VASONA HEIGHTS BENEFIT ZONE**

WooJae Kim, Town Engineer for Landscaping and Lighting Assessment District No. 1--Vasona Heights Benefit Zone, Town of Los Gatos, Santa Clara County, California, makes this report, as directed by the Town Council, pursuant to Section 22566, et seq. of the Streets and Highways Code (Landscaping and Lighting Act of 1972).

The improvements that are the subject of this report are briefly described as follows:

The maintenance of trees, landscaping, irrigation systems, trail, emergency access, and retaining wall within open space areas, as shown on the approved improvement for Tract No. 8280, Los Gatos, California.

This report consists of four parts, as follows:

- PART A: Plans and specifications for the improvements are filed in the Clerk Department. Although separately bound, the plans and specifications are a part of this report and are included in it by reference.
- PART B: An estimate of the cost of the improvements.
- PART C: An assessment of the estimated cost of the improvements on each benefited parcel within the assessment district, the method by which the Engineer of Work has determined the amount proposed to be assessed against each parcel, and a list of the owners of real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Town Clerk.
- PART D: A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to Part C by assessment number.

Respectfully submitted,

  
GARY HEAP  
Town Engineer

May 6, 2024  
DATE



## **PART A**

ITEM NO. 16.

**FISCAL YEAR 2024/25**

**PLANS, SPECIFICATIONS AND REPORTS**

### **VASONA HEIGHTS BENEFIT ZONE**

Plans and specifications for the improvements are those prepared by Dillon/Drulias Associates, Landscape Architects, dated April 16, 1990, their job number 8840, pages L1 - L17 and revised planting and irrigation plans as prepared by Greg Ing and Associates, dated November 3, 1992 and revised November 23, 1993. These plans and specifications have been filed separately in the Clerk Department of the Town of Los Gatos and are incorporated in the Report by reference.



**PART C**  
**ASSESSMENT ROLL**  
**FISCAL YEAR 2024/25**

**VASONA HEIGHTS BENEFIT ZONE**

Special Assessment No.	Amount of Assessment	Property Description
Lot 1	\$295.00	529-13-056
Lot 2	\$295.00	529-13-055
Lot 3	\$295.00	529-13-054
Lot 4	\$295.00	529-13-053
Lot 5	\$295.00	529-13-052
Lot 6	\$295.00	529-13-051
Lot 7	\$295.00	529-13-049
Lot 8	\$295.00	529-13-048
Lot 9	\$295.00	529-13-047
Lot 10	\$295.00	529-13-046
Lot 11	\$295.00	529-13-044
Lot 12	\$295.00	529-13-043
Lot 13	\$295.00	529-13-042
Lot 14	\$295.00	529-13-041
Lot 15	\$295.00	529-13-040
Lot 16	\$295.00	529-13-039
Lot 17	\$295.00	529-13-038
Lot 18	\$295.00	529-13-037
Lot 19	\$295.00	529-13-036
Lot 20	\$295.00	529-13-035
Lot 21	\$295.00	529-13-060
Lot 22	\$295.00	529-13-061
Lot 23	\$295.00	529-13-032
Lot 24	\$295.00	529-13-031
Lot 25	\$295.00	529-13-030
Lot 26	\$295.00	529-13-029
Lot 27	\$295.00	529-13-028
Lot 28	\$295.00	529-13-063
Lot 29	\$295.00	529-13-062
Lot 30	\$295.00	529-13-022
Lot 31	\$295.00	529-13-021
Lot 32	\$295.00	529-13-058
Lot 33	\$295.00	529-13-059
<b>Total Assessment:</b>	<b>\$9,735.00</b>	

## **METHOD OF APPORTIONMENT OF ASSESSMENT**

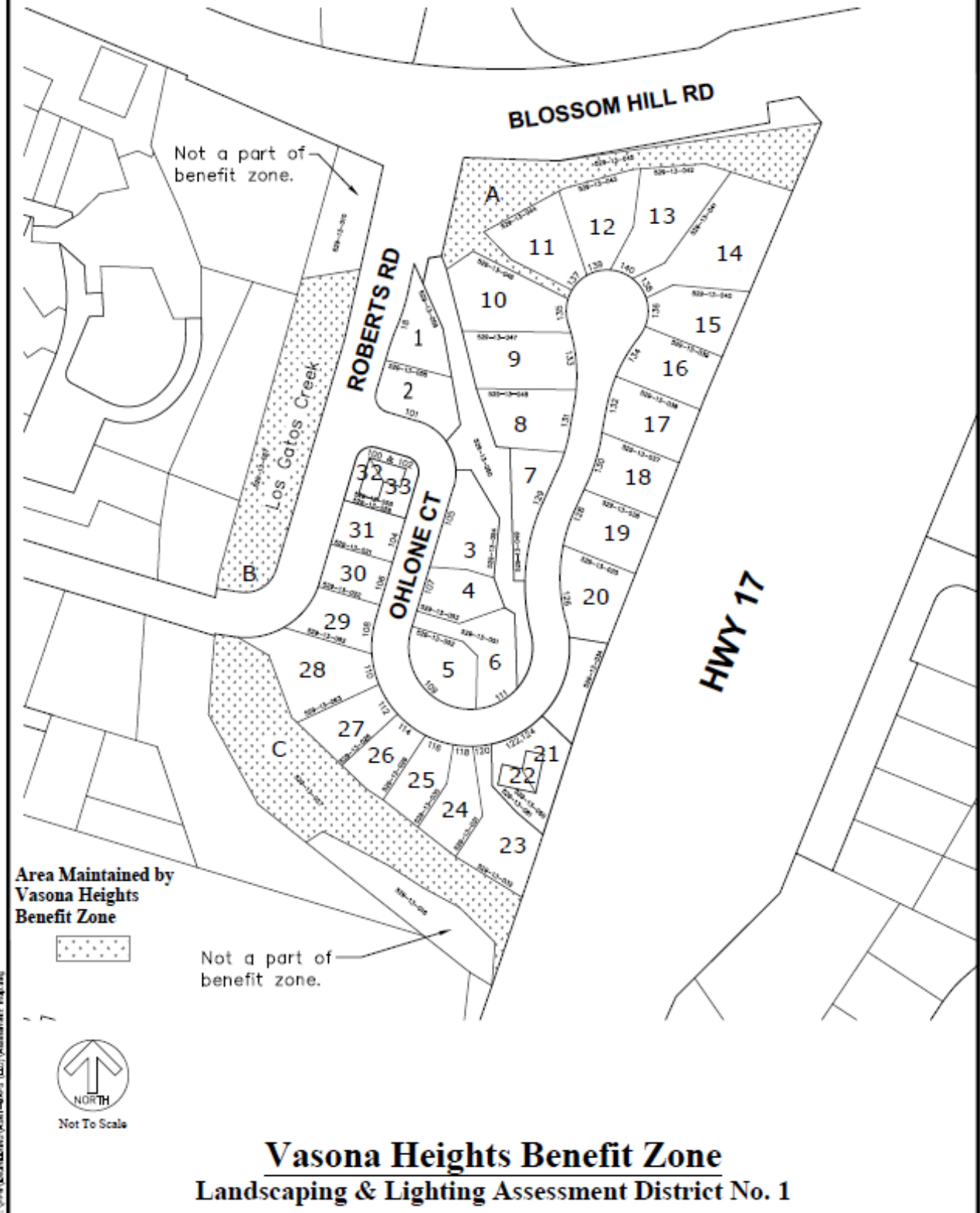
The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

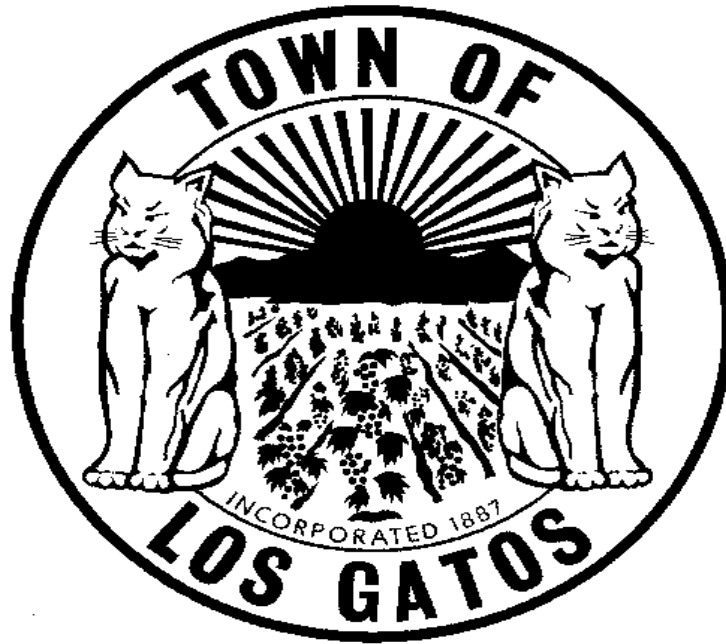
The total amount of the assessment was apportioned equally to all the lots within Vasona Heights Benefit Zone of Landscaping and Lighting Assessment District No. 1.

**VASONA HEIGHTS BENEFIT ZONE****PROPERTY OWNERS LIST**

APN
52913021
52913022
52913028
52913029
52913030
52913031
52913032
52913035
52913036
52913037
52913038
52913039
52913040
52913041
52913042
52913043
52913044
52913046
52913047
52913048
52913049
52913051
52913052
52913053
52913054
52913055
52913056
52913058
52913059
52913060
52913061
52913062
52913063

**PART "D"**  
**Assessment Diagram**





**Landscape and Lighting  
Assessment District No. 1**

**HILLBROOK  
BENEFIT ZONE**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**

**ENGINEER'S REPORT**  
**FISCAL YEAR 2024/25**

**LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1**  
(Pursuant to the Landscaping and Lighting Act of 1972)

**HILLBROOK BENEFIT ZONE**

WooJae Kim, Town Engineer for Landscape and Lighting Assessment District No. 1--Hillbrook Benefit Zone, Town of Los Gatos, Santa Clara County, California, makes this report, as directed by the Town Council, pursuant to Section 22566, et seq. of the Streets and Highways Code (Landscaping and Lighting Act of 1972).

The improvements that are the subject of this report are briefly described as follows:

The maintenance of trees, landscaping, irrigation systems, hardscape, and fences currently exist on APN: 523-11-028, located at the southeast corner of Blossom Hill Road and Hillbrook Drive, Los Gatos, California.

This report consists of four parts, as follows:

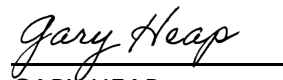
PART A: Diagram of Existing Improvements.

PART B: An estimate of the cost of the improvements.

PART C: An assessment of the estimated cost of the improvements on each benefited parcel within the assessment district, the method by which the Engineer of Work has determined the amount proposed to be assessed against each parcel, and a list of the owners of real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Town Clerk.

PART D: A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to Part C by assessment number.

Respectfully submitted,



GARY HEAP  
Town Engineer

May 6, 2024  
DATE



PART "A"

### Existing Improvements to be Maintained

**BLOSSOM HILL RD**

HILLBROOK  
SIGN

EX.  
OAK

EX. SHRUBS

$$523 \rightarrow 11 \rightarrow 028$$

LÄWA

EX.  
OAK

EX. SHRUBS

HILLBROOK DR



Not To Scale

## Hillbrook Benefit Zone

## Landscaping & Lighting Assessment District No. 1

## PART B

### ESTIMATE OF THE COST OF IMPROVEMENTS

## FISCAL YEAR 2023/24

HILLBROOK DRIVE BENEFIT ZONE			
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Fiscal Year 2022/23 Resources			
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	Fund Balance 6/30/22	\$ 24,138
	Assessment	5,995
	Delinquent Assessment	0
	Penalties/Late Fees	0
	Interest	426
	<b>Total Resources Available for FY 2022/23</b>	<b>\$ 30,559</b>

Fiscal Year 2022/23 Expenses			
------------------------------	--	--	--

	Santa Clara County Collection Fee		\$	60
	Publication & Notification Charges			470
	Light Pole Maintenance			0
	Electric Utility			0
	San Jose Water			2,249
	Landscape Contractor			1,254
	Town Administrative Charges			250
	<b>Total Expenses for FY 2022/23</b>		<b>\$</b>	<b>4,282</b>

Ending Fund Balance for FY 2022/23	\$	26,277
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Fiscal Year 2023/24 Estimated Resources									
---	--	--	--	--	--	--	--	--	--

		Fund Balance 6/30/23				\$	26,277
		Assessment					5,950
		Interest					90
<b>Total Estimated Resources Available for FY 2023/24</b>							<b>\$ 32,317</b>

Fiscal Year 2023/24 Estimated Expenses			
--	--	--	--

	Santa Clara County Collection Fee		\$	60
	Publication & Notification Charges			300
	Tree Services			0
	Weed Abatement			0
	Light Pole Maintenance			0
	Electric Utility			0
	San Jose Water			2,500
	Landscape Contractor			1,794
	District Capital Improvements			0
	Town Administrative Charges			250
	<b>Total Estimated Expenses for FY 2023/24</b>		<b>\$</b>	<b>4,904</b>

Estimated Ending Fund Balance for FY 2023/24	\$	27,413
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**PART C**  
**ASSESSMENT ROLL**  
**FISCAL YEAR 2024/25**

**HILLBROOK BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$175.00	523-11-027
Lot 2	\$175.00	523-11-026
Lot 3	\$175.00	523-11-025
Lot 4	\$175.00	523-11-024
Lot 5	\$175.00	523-11-023
Lot 6	\$175.00	523-11-022
Lot 7	\$175.00	523-11-021
Lot 8	\$175.00	523-11-020
Lot 9	\$175.00	523-11-019
Lot 10	\$175.00	523-11-018
Lot 11	\$175.00	523-07-030
Lot 12	\$175.00	523-07-029
Lot 13	\$175.00	523-07-028
Lot 14	\$175.00	523-07-027
Lot 15	\$175.00	523-07-026
Lot 16	\$175.00	523-07-025
Lot 17	\$175.00	523-07-024
Lot 18	\$175.00	523-07-023
Lot 19	\$175.00	523-07-022
Lot 20	\$175.00	523-07-021
Lot 21	\$175.00	523-07-020
Lot 22	\$175.00	523-07-019
Lot 23	\$175.00	523-07-018
Lot 24	\$175.00	523-07-017
Lot 25	\$175.00	523-07-016
Lot 26	\$175.00	523-07-015
Lot 27	\$175.00	523-07-014
Lot 28	\$175.00	523-07-013
Lot 29	\$175.00	523-07-012
Lot 30	\$175.00	523-07-011
Lot 31	\$175.00	523-07-010
Lot 32	\$175.00	523-07-009
Lot 33	\$175.00	523-07-008
Lot 34	\$175.00	523-07-007
<b>Total Assessment:</b>	<b>\$5,950</b>	

**ASSESSMENT ROLL  
FISCAL YEAR 2024/25**

**HILLBROOK BENEFIT ZONE**

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

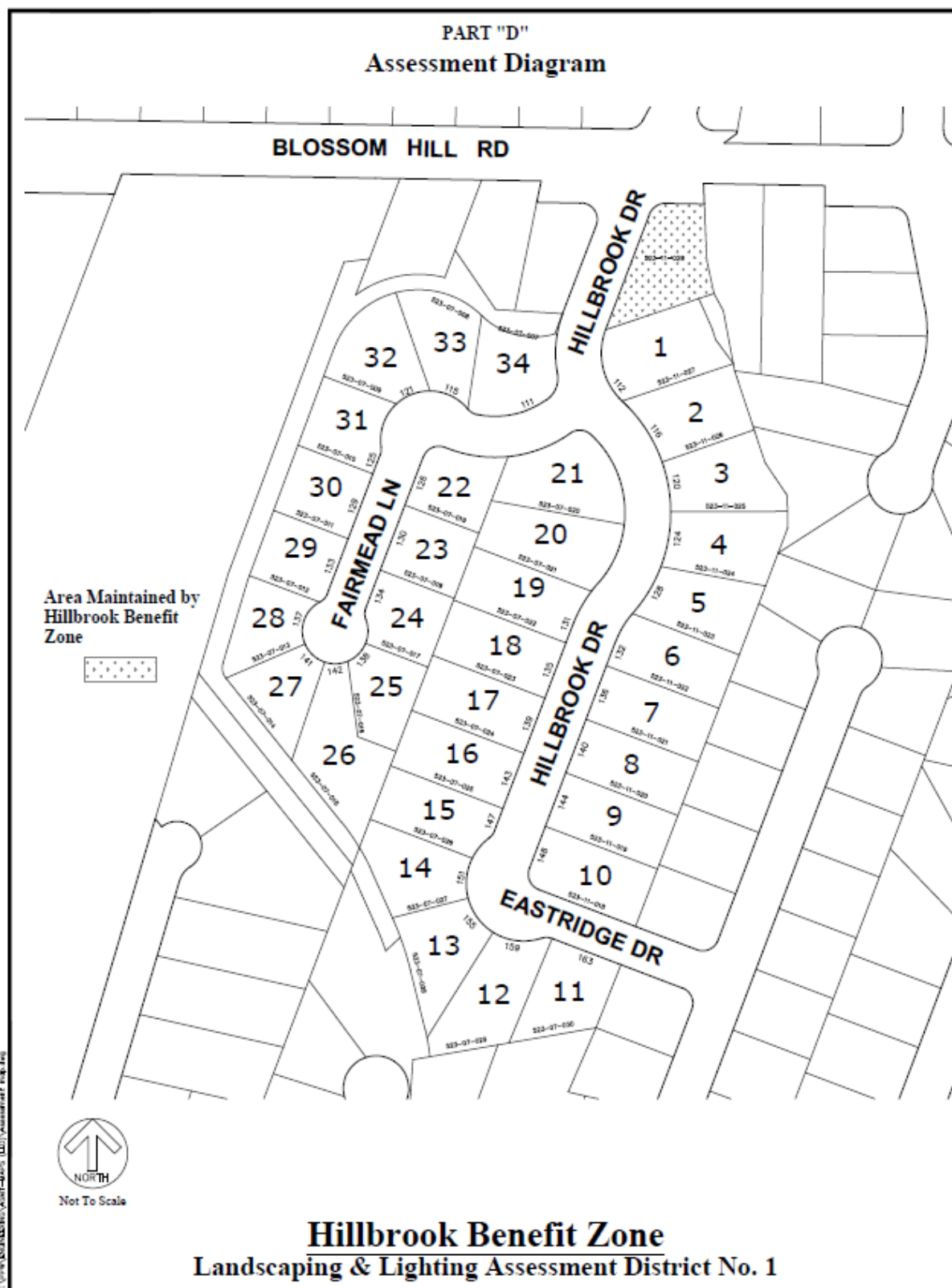
**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within Landscape and Lighting Assessment District No. 1--Hillbrook Benefit Zone.

# **HILLBROOK BENEFIT ZONE**

## **PROPERTY OWNERS LIST**

<b>APN</b>
52307007
52307008
52307009
52307010
52307011
52307012
52307013
52307014
52307015
52307016
52307017
52307018
52307019
52307020
52307021
52307022
52307023
52307024
52307025
52307026
52307027
52307028
52307029
52307030
52311018
52311019
52311020
52311021
52311022
52311023
52311024
52311025
52311026
52311027





**Landscape and Lighting  
Assessment District No. 2**

**GEMINI COURT  
BENEFIT ZONE**

**Fiscal Year  
2024/25**

**ENGINEER'S REPORT**

## ENGINEER'S REPORT FISCAL YEAR 2024/25

### LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 2 (Pursuant to the Landscaping and Lighting Act of 1972)

### **GEMINI COURT BENEFIT ZONE**

WooJae Kim, Town Engineer for Landscape and Lighting Assessment District No. 2, Town of Los Gatos, Santa Clara County, California, makes this report, as directed by the Town Council, pursuant to Section 22566, et seq. of the Streets and Highways Code (Landscaping and Lighting Act of 1972).

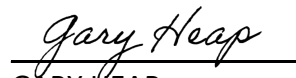
The improvements that are the subject of this report are briefly described as follows:

The maintenance of trees, landscaping, irrigation systems, lighting, sound wall and fences as shown on the approved improvement and landscape plans for Tract No. 8439, Los Gatos, California.

This report consists of four parts, as follows:

- PART A: Plans and specifications for the improvements are filed in the Clerk Department. Although separately bound, the plans and specifications are a part of this report and are included in it by reference.
- PART B: An estimate of the cost of the improvements.
- PART C: An assessment of the estimated cost of the improvements on each benefited parcel within the assessment district, the method by which the Engineer of Work has determined the proposed assessment against each parcel, and a list of the owners of real property within this assessment district, as shown on the last equalized assessment roll for taxes, or as known to the Clerk Administrator.
- PART D: A diagram showing all of the parcels of real property within this assessment district. The diagram is keyed to Part C by assessment number.

Respectfully submitted,

  
GARY HEAP  
Town Engineer

May 6, 2024  
DATE

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**PART A****FISCAL YEAR 2024/25****PLANS, SPECIFICATIONS AND REPORTS****GEMINI COURT BENEFIT ZONE**

Plans and specifications for the improvements are those prepared by Greg G. Ing, and Associates, dated September 14, 1990, their job number 9031. These plans and specifications have been filed separately in the Clerk Department of the Town of Los Gatos and are incorporated in the Report by reference.



**PART C****ASSESSMENT ROLL  
FISCAL YEAR 2024/25****GEMINI COURT BENEFIT ZONE**

<b>Special Assessment No.</b>	<b>Amount of Assessment</b>	<b>Property Description</b>
Lot 1	\$230.00	567-64-051
Lot 2	\$230.00	567-64-050
Lot 3	\$230.00	567-64-049
Lot 4	\$230.00	567-64-048
Lot 5	\$230.00	567-64-047
Lot 6	\$230.00	567-64-046
Lot 7	\$230.00	567-64-045
Lot 8	\$230.00	567-64-044
Lot 9	\$230.00	567-64-054
Lot 10	\$230.00	567-64-053
Lot 11	\$230.00	567-64-052
Lot 12	\$230.00	567-64-042
Lot 13	\$230.00	567-64-041
Lot 14	\$230.00	567-64-040
Lot 15	\$230.00	567-64-039
Lot 16	\$230.00	567-64-038
Lot 17	\$230.00	567-64-037
Lot 18	\$230.00	567-64-036
Lot 19	\$230.00	567-64-035
Lot 20	\$230.00	567-64-034
<b>Total Assessment:</b>	<b>\$4,600.00</b>	

\*formerly Lot 9 – split into 3 parcels.

The lines and dimensions of each parcel are those shown on the maps of the County Assessor of the County of Santa Clara and the County assessment roll.

**METHOD OF APPORTIONMENT OF ASSESSMENT**

The total amount of the assessment was apportioned equally to all the lots within the Gemini Court Benefit Zone of Landscape and Lighting Assessment District No. 2.

**GEMINI COURT BENEFIT ZONE****PROPERTY OWNERS LIST**

APN
56764034
56764035
56764036
56764037
56764038
56764039
56764040
56764041
56764042
56764044
56764045
56764046
56764047
56764048
56764049
56764050
56764051
56764052
56764053
56764054





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 17.

ITEM NO: 17

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DATE: June 3, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Conduct Brush Abatement Program Public Hearing to Consider Objections to the Proposed Removal of Brush on Parcels Listed on the 2024 Wildland Urban Interface (WUI) Area Non-Compliant Parcel List and Order Abatement

**RECOMMENDATION:**

Conduct a public hearing to consider objections to the proposed removal of brush on parcels listed on the 2024 Wildland Urban Interface (WUI) Area Non-Compliant Parcel List (Attachment 1) and order abatement.

**BACKGROUND:**

The Brush Abatement Program is a different and complementary program to the Weed Abatement Program. Both programs work to protect the Town from wildfire risk by reducing potential fuel, such as brush, in hillside areas.

The Brush Abatement Program is managed by the Santa Clara County Fire Department. The Town of Los Gatos Municipal Code Section 9.20.025 et seq requires property owners in the locally adopted Wildland Urban Interface Fire Area (WUI) (Attachment 2) to maintain effective defensible space by removing brush, flammable vegetation, and combustible growth, based on the locally adopted Fire Codes. Government Code Section 39560 and the following, authorize the County Fire Department, through a contract for services with the Town, to remove the brush if the property owner fails to do so and to recover administrative service and abatement costs through an assessment on the property tax bill for each parcel.

**PREPARED BY:** Meredith Johnston  
Administrative Technician

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

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SUBJECT: Brush Abatement Program Public Hearing to Consider Objections to the  
Proposed Removal of Brush on Parcels Listed on the 2024 Wildland Urban  
Interface (WUI) Area Non-Compliant Parcel List and Order Abatement

DATE: June 3, 2024

BACKGROUND (continued):

The WUI area is the part of the Town at greatest risk for wildfire and primarily consists of the hillsides and immediately adjacent neighborhoods. Los Gatos has over 1,800 parcels in the WUI area. County Fire categorizes the parcels into zones and conducts inspections of each zone every three years within the five to six-week inspection time frame (April-June). Through this approach, each parcel is inspected every three years.

Early each year, property owners are reminded that they must remove flammable vegetation from around their home and other structures on their property to create defensible space. The Town annually adopts the Hazardous Vegetation Abatement Program and works with the Santa Clara County Fire Prevention Division who serves as the enforcement agent and conducts the inspections.

DISCUSSION:

On May 7, 2024, the Town Council passed Resolution 2024-18 (Attachment 3) declaring hazardous vegetation (brush) a public nuisance, ordering abatement, and setting June 18, 2024, as a public hearing to consider objections to the proposed removal of brush.

The following is a timeline of the program:

<b><u>FEBRUARY/ MARCH</u></b>	<p>The Santa Clara County Fire Prevention Division (County Fire) notifies property owners located within the designated WUI area of the requirements and timeline to comply with the safety regulations of the adopted California Fire Code.</p> <p>At the time of the notice, property owners are given the option to complete the required work themselves, hire their own contractor, or elect to schedule the Town of Los Gatos' authorized contractor (which is the County of Santa Clara Weed Abatement Program) to perform the work.</p>
<b><u>APRIL</u></b>	<p>County Fire conducts the first inspections of the properties identified in February/March. Letters and door-hangers are provided for those who are still not in compliance with the program requirements.</p>

SUBJECT: Brush Abatement Program Public Hearing to Consider Objections to the  
Proposed Removal of Brush on Parcels Listed on the 2024 Wildland Urban  
Interface (WUI) Area Non-Compliant Parcel List and Order Abatement

DATE: June 3, 2024

DISCUSSION (continued)

<b><u>MAY</u></b>	<p>Town Council adopts a Resolution declaring hazardous vegetation (brush) a public nuisance and sets a June public hearing to consider objections to the proposed removal of brush on the non-compliant private properties by the Town contractor.</p> <p>County Fire re-inspects the properties that were non-compliant during the Spring property inspection. County Fire provides the Town with the list of properties that continue to be non-compliant. The Town then proceeds to schedule a Public Hearing (to be held in June) to direct the removal of brush from the non-compliant properties.</p>
<b>JUNE</b>	<p>On June 1, property owners who are not in compliance will be assessed with a fee of \$546 to cover the administrative fees associated with the various inspections.</p> <p>Town Council conducts a public hearing regarding properties not in compliance (this public hearing is the subject of this agenda item). At this public hearing, property owners are provided the right to object to the removal of hazardous vegetation (brush) on their non-compliant parcels. County Fire provides notice of the public hearing to the property owners at least 10 days prior (Attachment 4). The Town publishes notices at least 10 days prior to the public hearing. As a result of the hearing, the Town contractor (which is the County Weed Abatement Division) is authorized to perform the necessary abatement on private property and charge the property owner for this service.</p> <p>After the June public hearing but prior to abatement, County Fire performs an inspection of the properties that were the subject of the hearing. If the property owner has completed the abatement and is brought into compliance after June 1 and before the contractor arrives, the property owner will only be charged the amount of \$546 administrative fee. These properties are then monitored through the County's Weed Abatement program (which works in partnership with County Fire) until such time as the property demonstrates three consecutive years of voluntary compliance.</p>



**SUBJECT:** Brush Abatement Program Public Hearing to Consider Objections to the Proposed Removal of Brush on Parcels Listed on the 2024 Wildland Urban Interface (WUI) Area Non-Compliant Parcel List and Order Abatement

**DATE:** June 3, 2024

**DISCUSSION (continued):**

<b>JULY</b>	County Fire provides the Town with an assessment list of charges for any abatement work performed on private properties. This assessment list will be brought to Council for a public hearing in August. If there are no proposed charges, no additional public hearing is required.
<b>AUGUST</b>	Town Council conducts a public hearing to consider assessments on properties in the Brush Abatement Program, if any are required. A list of assessments will be submitted to the County Tax Assessor.

The timeline for the final inspections runs very close to the date of the June public hearing, which means that properties on the WUI area non-compliant list (Attachment 1) may ultimately comply prior to the date of the public hearing. There are currently nine properties reported as non-compliant; however, if additional properties comply, staff will provide an updated list on the day of the public hearing by way of a Desk Item.

**CONCLUSION:**

Staff recommends that the Council conduct a public hearing to consider objections to the proposed removal of brush on parcels listed on the 2024 Wildland Urban Interface (WUI) Area Non-Compliant Parcel List and order abatement of the public nuisance and potential fire hazard pursuant to the Town of Los Gatos Municipal Code (Chapter 9) regarding defensible space.

**COORDINATION:**

This program is coordinated with the Santa Clara County Fire Department and the Santa Clara County Weed Abatement Program.

**FISCAL IMPACT:**

Funds allocated in the adopted Operating Budget cover the cost of publishing the legal notices for the program. The County's cost to administer the abatement are recovered through the tax roll assessment charges levied against the affected properties.

**ENVIRONMENTAL ASSESSMENT:**

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

SUBJECT: Brush Abatement Program Public Hearing to Consider Objections to the  
Proposed Removal of Brush on Parcels Listed on the 2024 Wildland Urban  
Interface (WUI) Area Non-Compliant Parcel List and Order Abatement

DATE: June 3, 2024

Attachments:

1. 2024 Wildland Urban Interface (WUI) Area Non-Compliant Property List
2. Wildland Urban Interface (WUI) Map
3. Resolution 2024-18 Declaring Hazardous Vegetation a Public Nuisance (May 7, 2024)
4. Letter to Property Owners



## SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | [www.sccfd.org](http://www.sccfd.org)

# Wildland Urban Interface (WUI) Enforced Safety Regulations 2024 Non-Compliant Properties

June 05, 2024

## TOWN OF LOS GATOS

<b>1</b>	<b>APN</b>	52934092	<b>WUI Letter</b>	LGA 100
	<b>Re-Inspection Date</b>	5/31/2024	<b>Inspector</b>	Marlon Spencer
	<b>Violations</b>	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p> <p>[ X ] Remove pine needles, leaves, and other dead vegetation from roofs, eaves and rain gutters.</p>		
	<b>Situs Address</b>	123 CLELAND AV, LOS GATOS		
	<b>Property Owner Name</b>	[REDACTED]		
	<b>Property Owner Address</b>	123 CLELAND AV, LOS GATOS		

<b>2</b>	<b>APN</b>	52937016	<b>WUI Letter</b>	LGA 100
	<b>Re-Inspection Date</b>	6/3/2024	<b>Inspector</b>	Marlon Spencer
	<b>Violations</b>	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p> <p>[ X ] Remove pine needles, leaves, and other dead vegetation from roofs, eaves and rain gutters.</p>		
	<b>Situs Address</b>	1 HIGHLAND AV, LOS GATOS		
	<b>Property Owner Name</b>	[REDACTED]		
	<b>Property Owner Address</b>	1 HIGHLAND AV, LOS GATOS		

ATTACHMENT 1



## SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | [www.sccfd.org](http://www.sccfd.org)

# Wildland Urban Interface (WUI) Enforced Safety Regulations 2024 Non-Compliant Properties

June 05, 2024

## TOWN OF LOS GATOS

<b>3</b>	<b>APN</b>	53723061	<b>WUI Letter</b>	LGA 100
	<b>Re-Inspection Date</b>	5/28/2024	<b>Inspector</b>	Tracey Oliver
	<b>Violations</b>	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p> <p>[ X ] Create 100 feet of Defensible Space around your home. To accomplish this, you must clear all flammable vegetation a minimum of 30-feet around structures. Additionally, create a Reduced Fuel Zone for the remaining 70 feet (or to the property line).</p>		
	<b>Situs Address</b>	130 HAPPY ACRES RD, LOS GATOS		
	<b>Property Owner Name</b>	[REDACTED]		
	<b>Property Owner Address</b>	130 HAPPY ACRES RD, LOS GATOS		

<b>4</b>	<b>APN</b>	53724015	<b>WUI Letter</b>	LGA 100
	<b>Re-Inspection Date</b>	5/23/2024	<b>Inspector</b>	Marlon Spencer
	<b>Violations</b>	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p>		
	<b>Situs Address</b>	333 HAPPY ACRES RD, LOS GATOS		
	<b>Property Owner Name</b>	[REDACTED]		
	<b>Property Owner Address</b>	333 HAPPY ACRES RD, LOS GATOS		



## SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | www.sccfd.org

# Wildland Urban Interface (WUI) Enforced Safety Regulations 2024 Non-Compliant Properties

June 05, 2024

## TOWN OF LOS GATOS

5	APN	53725024	WUI Letter	LGA 100
	Re-Inspection Date	5/31/2024	Inspector	Andrew Chen
	Violations	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p> <p>[ X ] Create 100 feet of Defensible Space around your home. To accomplish this, you must clear all flammable vegetation a minimum of 30-feet around structures. Additionally, create a Reduced Fuel Zone for the remaining 70 feet (or to the property line).</p> <p>[ X ] Remove all non-fire-resistive vegetation a minimum of 10 feet on each side of a fire apparatus access road or driveway.</p>		
	Situs Address	15403 SHANNON RD, LOS GATOS		
	Property Owner Name	[REDACTED]		
	Property Owner Address	15403 SHANNON RD, LOS GATOS		

6	APN	53726001	WUI Letter	LGA 100
	Re-Inspection Date	5/28/2024	Inspector	Dean Whipple
	Violations	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p>		
	Situs Address	15605 SHANNON RD, LOS GATOS		
	Property Owner Name	[REDACTED]		
	Property Owner Address	1199 MALLARD RIDGE LOOP, SAN JOSE		



# SANTA CLARA COUNTY FIRE DEPARTMENT

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## Wildland Urban Interface (WUI) Enforced Safety Regulations 2024 Non-Compliant Properties

June 05, 2024

### TOWN OF LOS GATOS

7	APN	53726034	WUI Letter	LGA 100
	Re-Inspection Date	05/28/2024	Inspector	Dean Whipple
	Violations	<p>[ X ] Create 30 feet of Defensible Space around the home. To accomplish this, you must clear all flammable vegetation a minimum of 30 feet (or to the property line) around structures.</p> <p>[ X ] Create 100 feet of Defensible Space around your home. To accomplish this, you must clear all flammable vegetation a minimum of 30-feet around structures. Additionally, create a Reduced Fuel Zone for the remaining 70 feet (or to the property line).</p> <p>[ X ] Remove pine needles, leaves, and other dead vegetation from roofs, eaves and rain gutters.</p>		
	Situs Address	15800 SHANNON RD, LOS GATOS		
	Property Owner Name	[REDACTED]		
	Property Owner Address	15800 SHANNON RD, LOS GATOS		

8	APN	53727047	WUI Letter	LGA 100
	Re-Inspection Date	05/28/2024	Inspector	Tracey Oliver
	Violations	[ X ] Remove pine needles, leaves, and other dead vegetation from roofs, eaves and rain gutters.		
	Situs Address	14915 SHANNON RD, LOS GATOS		
	Property Owner Name	[REDACTED]		
	Property Owner Address	2549 EASTBLUFF DR UNIT 361, NEWPORT BEACH		

9	APN	53730021	WUI Letter	LGA 100
	Re-Inspection Date	05/28/2024	Inspector	Tracey Oliver
	Violations	[ X ] Post a clearly visible house address, using at least 4" high numbers, for easy identification. For homes located more than 50 feet from the street, post address numbers at the driveway entrance.		
	Situs Address	135 HILLTOP DR, LOS GATOS		
	Property Owner Name	[REDACTED]		
	Property Owner Address	135 HILLTOP DR, LOS GATOS		





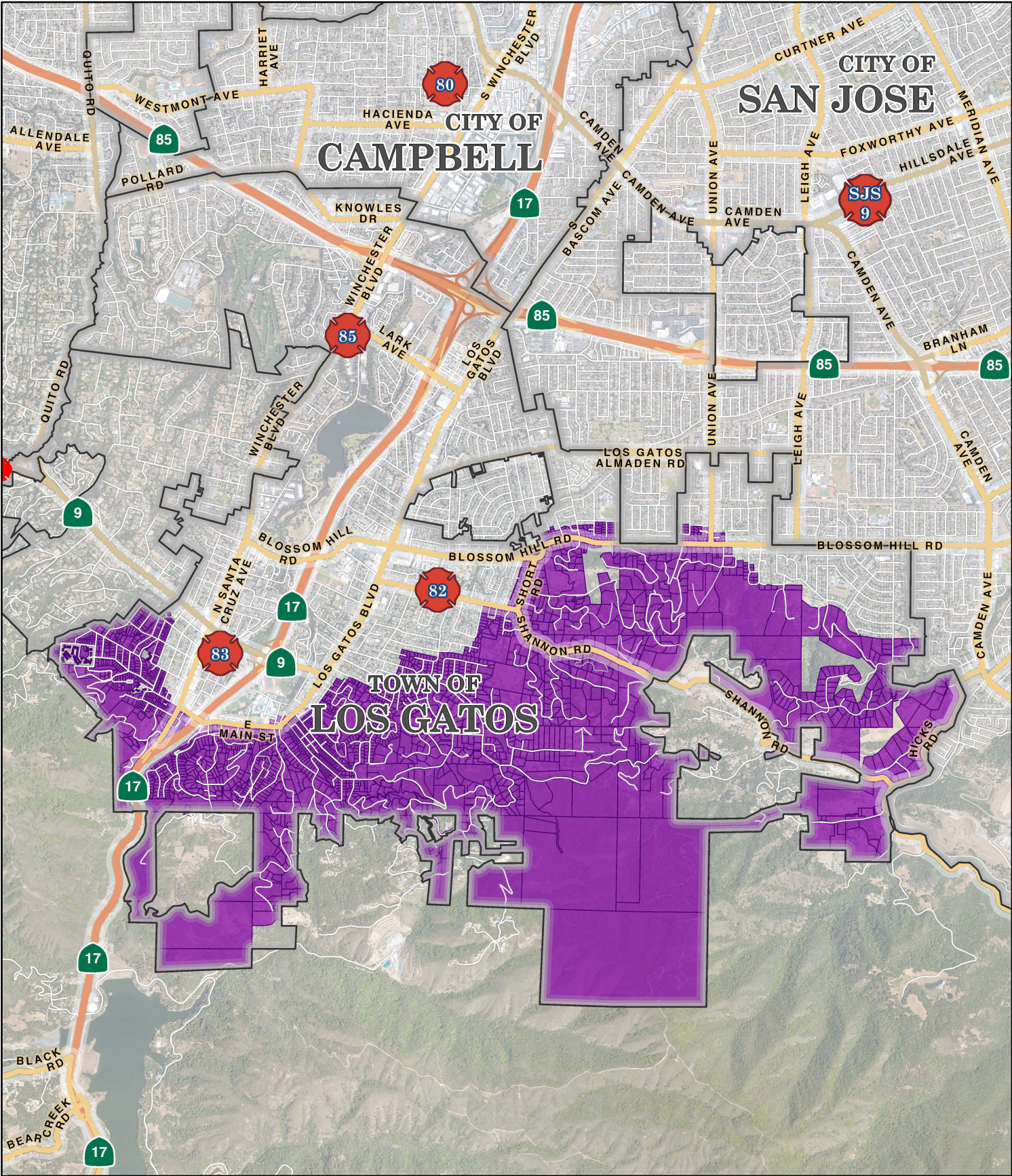
Town of Los Gatos

Local Responsibility Area Fire Hazard Severity Zones

ATTACHMENT 2

January 2024

LGA 100 / LRA Very High FHSZ



Municipality



LGA 100 / Very High FHSZ

ITEM NO. 17.

51014077	51019018	51040086	51041068	51044003	51045098	52309037	52347019	52707011	52716006
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51015015	51019031	51040105	51042010	51044018	51047013	52310026	52347031	52708009	52717003
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51015023	51020009	51040113	51042018	51044065	51047032	52324023	52347039	52708018	52718006
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51015026	51020012	51040116	51042022	51044076	51047038	52324050	52347042	52708021	52718009
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51015029	51020015	51040119	51042025	51044086	51047041	52324062	52347045	52709011	52718012
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51015034	51020023	51040124	51042030	51045001	51051002	52325001	52347051	52709020	52718017
51015036	51020024	51040125	51042031	51045002	51051003	52325002	52347053	52709021	52718018
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51016011	51020066	51040130	51042036	51045008	51051008	52325014	52347058	52709030	52718023
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52757011	52930036	52932026	52935004	52937029	52941012	53208031	53214008	53218029	53223053	53228024	53229072	53232032	53236001	53240011	53705002	53723028	53729001
52758001	52930037	52932027	52935005	52937030	52944003	53208032	53214009	53218034	53223055	53228025	53229073	53232033	53236002	53240012	53705016	53723029	53729002
52758003	52930038	52932030	52935006	52937031	52944004	53208033	53214010	53218036	53223057	53228028	53229080	53232034	53236003	53240013	53708026	53723031	53729003
52901002	52930039	52932031	52935009	52937032	52944007	53208034	53214011	53218037	53223066	53228029	53229081	53232035	53236004	53240014	53711008	53723037	53729004
52901006	52930040	52932032	52935010	52937033	52944008	53208049	53214012	53218038	53223069	53228030	53229082	53232036	53236008	53240015	53711009	53723038	53729005
52901013	52930041	52932033	52935011	52937034	52944009	53208050	53214013	53218039	53223072	53228031	53229083	53233001	53236009	53240017	53711011	53723040	53729006
52901015	52930042	52932036	52935012	52937035	52944010	53208059	53214014	53218040	53223073	53228032	53229084	53233002	53236010	53240018	53711015	53723042	53729007
52901016	52930043	52932037	52935014	52937036	52944011	53208060	53214015	53218041	53223076	53228033	53229085	53233003	53236011	53240022	53711017	53723045	53729008
52901017	52930044	52932038	52935015	52937037	52944012	53208061	53214016	53218043	53223077	53228035	53229086	53233004	53236012	53240023	53711032	53723046	53730002
52901018	52930045	52932039	52935017	52937038	52944013	53208062	53214017	53218044	53223080	53228036	53229087	53233005	53236013	53240024	53711033	53723049	53730003
52901020	52930046	52932040	52935018	52937039	52944014	53208064	53214018	53218045	53223082	53228037	53229089	53233006	53236014	53240025	53711034	53723054	53730004
52901021	52930047	52932041	52935023	52937041	52944015	53208065	53214019	53218046	53223089	53228038	53229090	53233007	53236016	53240026	53711036	53723055	53730005
52901022	52930048	52932042	52935024	52937042	52944016	53208067	53214020	53218047	53223092	53228039	53229091	53233008	53236017	53240027	53711037	53723057	53730006
52901025	52930049	52932043	52935025	52937043	52944017	53208068	53214021	53218048	53223093	53228041	53229092	53233009	53236018	53240028	53712004	53723058	53730007
52901026	52930050	52932044	52935026	52937044	52944018	53208069	53214022	53218049	53223094	53228042	53229093	53233010	53236019	53240029	53712009	53723061	53730008
52901027	52930051	52932045	52935028	52938001	52944019	53208070	53214023	53218050	53223095	53228043	53229094	53233011	53236053	53240030	53712010	53723062	53730010
52901028	52930052	52932046	52935029	52938002	52944020	53208071	53214024	53218051	53223098	53228044	53229096	53233012	53236055	53240031	53713001	53723063	53730011
52901032	52930053	52932047	52935030	52938003	52944021	53208072	53214025	53218052	53223104	53228045	53229097	53233013	53236057				



**RESOLUTION 2024-018****RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
DECLARING HAZARDOUS VEGETATION (BRUSH) A PUBLIC NUISANCE, ORDERING  
ABATEMENT, AND SETTING JUNE 18, 2024 AS A PUBLIC HEARING TO CONSIDER  
OBJECTIONS TO THE PROPOSED REMOVAL OF BRUSH**

**WHEREAS**, Sections 39560 and following of the Government Code of the State of California authorize the Town of Los Gatos to declare that hazardous vegetation (brush) growing to such size and such type and in such locations as to constitute a fire hazard to the community may be declared a public nuisance and to compel owners, lessees, or occupants of buildings, grounds, or lots to remove or abate the hazardous vegetation (brush) to mitigate the fire hazard from such buildings, grounds, or lots to remove or abate the hazardous vegetation (brush) to mitigate the fire hazard from such buildings, grounds, property, and adjacent sidewalks and parkways, and upon the person's failure to do so, to remove or abate such hazardous vegetation (brush) at the owner's expense, making the cost of that abatement a lien upon the property; and

**WHEREAS**, the Town of Los Gatos has entered into an agreement with the County of Santa Clara to provide hazardous vegetation (brush) abatement services; and

**WHEREAS**, the maintenance of hazardous vegetation (brush) in violation of the Uniform Fire Code adopted by the Town of Los Gatos within the Wildland Urban Interface Fire areas identified and shown on the map (Exhibit A) constitutes a public nuisance and should be abated immediately; and

**WHEREAS**, the Santa Clara County Fire Department has mailed notices to property owners within the Wildland Urban Interface areas notifying them of the need to abate

hazardous vegetation (brush) violations and explaining the steps necessary to correct such violations.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Los Gatos, and the Town Council hereby finds that hazardous vegetation (brush) is a wood, perennial plant usually with multiple stems and trunks under ten feet in height and is indigenous to the hillside area. Hazardous vegetation (brush) is also known to have a high oil, high resin, or low moisture contention in their leaves and branches. Examples of this type of plant material include California Sagebrush, Greasewood or Chamise, Scotch Broom, and Toyon. Unabated growth of hazardous vegetation (brush) upon and adjacent to private property within the hillside hazardous fire area and adjacent parkways and sidewalks is a public nuisance and should be abated. The Director of Parks and Public Works shall act as the Superintendent for purposes of giving notice, supervising performance of the agreement with the County of Santa Clara, and evaluating the costs of abatement.

**BE IT FURTHER RESOLVED** that the Town Clerk is directed to mail notice of this resolution to the persons designated by the Superintendent in conformance with the Government Code and publish notice of this resolution as provided in the Government Code.

**BE IT FURTHER RESOLVED** that unless the hazardous vegetation (brush) violations are corrected within the time specified in a written agreement with the Superintendent or the Superintendent's representative, the Town of Los Gatos shall cause such nuisance to be abated, and the expense thereof assessed upon the lots or lands from which or on which the abatement actions occur, such expense to constitute a lien upon such lots or lands until paid,

and to be collected upon the next real property tax roll upon which general municipal taxes are collected.

**BE IT FURTHER RESOLVED** that on the 18<sup>th</sup> day of June 2024, at a meeting of the Town Council beginning at 7:00 p.m. in the Council Chambers of the Civic Center, 110 E. Main Street, Los Gatos, CA, a public hearing will be held during which all property owners within the Wildland Urban Interface areas in the Town of Los Gatos having any objections to the proposed abatement of hazardous vegetation (brush) will be heard and given due consideration.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7<sup>th</sup> day of May 2024 by the following vote:

COUNCIL MEMBERS:

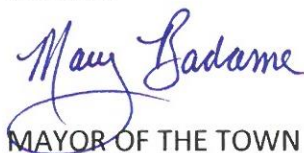
AYES: Maria Ristow, Rob Moore, Matthew Hudes, Mayor Mary Badame

NAYS: None

ABSENT: Rob Rennie

ABSTAIN: None

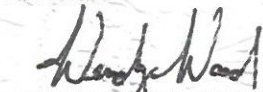
SIGNED:



MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: 05/08/24

ATTEST:



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

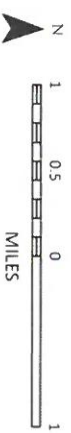
DATE: 5/8/24



Exhibit "A"

January 2024

## LGA 100 / LRA Very High FHSZ



## Exhibit







## SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | [www.sccfd.org](http://www.sccfd.org)

<<Date>>

<<Owner Name>>

<<Owner Address>>

<<Owner City>>, <<Owner State>> <<Owner ZIP Code>>

Re: <<APN>> / <<Property Address>>

Dear Property Owner,

Your property is located in the designated Wildland Urban Interface (WUI) Hazardous Fire Area which requires defensible space to be maintained around all structures on your property. Defensible space is the buffer created when combustible vegetation is removed or reduced around a structure to slow or stop the spread of wildfire. On February 23, 2024, Santa Clara County Fire Department mailed to you a packet of information regarding the enforced applicable wildland fire safety regulations, available community wildfire preparedness workshops, and this year's property inspection schedule mandating compliance of the enforced applicable wildland fire safety regulations before **June 1, 2024**.

Your property was recently re-inspected by the Santa Clara County Fire Department on <<Re-inspection date>>. At that time, your property was found to be non-compliant with the applicable wildland fire safety regulations. The noted violation details are listed below:

<<Violations>>

<<Inspector comments>>

On May 7, 2024, the Los Gatos Town Council passed a resolution declaring that hazardous vegetation (brush) growing to such size and such type in such locations as to constitute a fire hazard to the community may be declared a public nuisance which must be abated by the removal of said hazardous vegetation. For further particulars, please refer to said resolution.

We are informed by the Town of Los Gatos that the Los Gatos Town Council will hold a public hearing at the Town Council meeting on **Tuesday, June 18, 2024 @ 7:00 pm.** For more information on this process, please contact the Town of Los Gatos at

408.354.6888 or visit <https://www.losgatosca.gov>.

At that time, all properties identified by the Fire Department as being non-compliant with the applicable wildland fire safety regulations will be declared to have hazardous conditions requiring abatement. An additional inspection of all identified properties will be conducted after the hearing and prior to ordering any abatement work.

If you do not bring your property into compliance, the **Town of Los Gatos** through its contractor, may perform any brush or weed removal at your expense and will be placed on your property tax bill for payment after legal requirements are met. If you would like more information about the hazardous vegetation abatement contractor services, please contact the County of Santa Clara Weed Abatement Program at 408.282.3145 or visit <https://weedabatement.sccgov.org>. For your convenience, a price list indicating the rates for the County Contractor is included below.

## **2024 TOWN OF LOS GATOS** **COUNTY CONTRACTOR WEED ABATEMENT FEES**

**Please be advised that the property owner of any parcel found to be non-compliant on or after the deadline will be charged a processing fee of \$546.00 and the property will be scheduled for abatement by the County contractor. If you complete the abatement work before the County contractor performs the abatement, you will not incur further charges. Should the abatement work be performed by a County contractor, you will be assessed the contractor's charges plus a County administrative fee of \$884.00 per parcel.**

### A) DISC WORK\*

PARCEL SIZE:	1 <sup>st</sup> Disc	+	2 <sup>nd</sup> Disc	=	Total Discs
0 — 12,500 sq. ft.	<u>\$290.77</u>		<u>\$179.94</u>		<u>\$470.71</u>
12,501 — 43,560 sq. ft.	<u>\$337.87</u>		<u>\$224.94</u>		<u>\$562.81</u>
Larger than 1 Acre	<u>\$149.63</u>		<u>\$118.10</u>		<u>\$268.11</u> (Per Acre)

\*It is required that parcels be disced twice a year. The cost for the first discing is higher due to additional work normally required during the first discing.

B) HANDWORK	<u>\$5.09 PER 100 Square Feet (SF)</u>
C) FLAIL	<u>6 Foot Mower \$6.45 PER 1,000 SF</u>
MOWING	<u>12 Foot Mower \$6.45 PER 1,000 SF</u>
D) LOADER WORK	<u>\$152.44 PER HOUR</u>
E) DUMP TRUCK	<u>\$140.72 PER HOUR</u>
F) BRUSH WORK	<u>\$4.84 PER 100 SF</u>
G) DEBRIS REMOVAL	<u>\$55.70 PER HOUR</u>
H) DUMP FEE	<u>100%</u> (Added to orders with debris removal at 100% of the dump site charge)



## SANTA CLARA COUNTY FIRE DEPARTMENT

14700 Winchester Blvd., Los Gatos, CA 95032 | (408) 378-4010 | [www.sccfd.org](http://www.sccfd.org)

Please note this program does not offer herbicide application as a method of abatement.

If you have questions about this notice, please contact the Fire Prevention Division of the Santa Clara County Fire Department at 408.341.4420 or email [prevention@sccfd.org](mailto:prevention@sccfd.org).





**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 18

ITEM NO. 18.

DATE: June 13, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Hear Protests and Adopt a Resolution Making Determinations and Approving the Reorganization of an Uninhabited Area Designated as El Gato Lane No. 06, Approximately 0.563 Acres on Property Pre-Zoned R-1:8. APN 523-22-007. Annexation Application AN24-001. Project Location: 15575 El Gato Lane. Property Owner: Sai Kiran Garimella and Renu Sushma Kolli. Applicant: Barzin Keyhankhadiv.

**RECOMMENDATION:**

Open the public hearing to hear any protests and adopt a resolution (Attachment 1) making determinations and approving the reorganization of an uninhabited area designated as El Gato Lane No. 06, approximately 0.563 acres, located at 15575 El Gato Lane (APN 523-22-007).

**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. 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).

Annexation has been requested by the property owner of 15575 El Gato Lane in anticipation of a future application for a new single-family residence. The total annexation area (approximately 0.563 acres) includes 0.376 acres of County street right-of-way (El Gato Lane).

**PREPARED BY:** Maria Chavarin  
Assistant Planner

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

PAGE 2 OF 2

SUBJECT: El Gato Lane No. 06/AN24-001

DATE: June 13, 2024

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 annexation was introduced at the June 4, 2024, Town Council meeting and the protest proceedings are set for June 18, 2024.

DISCUSSION:

The Town has received a petition requesting annexation to the Town of Los Gatos from Sai Kiran Garimella and Renu Sushma Kolli, owners of the property at 15575 El Gato Lane. The property is located on the west side of El Gato Lane in an unincorporated County pocket.

The property is in the Town's Urban Service Area, is within 300 feet of 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 Division and County Lighting Service Area have been notified in writing of the annexation request.

COORDINATION:

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

Attachments:

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

**DRAFT RESOLUTION 2024-**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
MAKING DETERMINATIONS AND APPROVING THE REORGANIZATION  
OF AN UNINHABITED TERRITORY DESIGNATED AS  
EL GATO LANE NO. 06**

**APN: 523-22-007  
APPROXIMATELY 0.563 ACRES  
ANNEXATION APPLICATION: AN24-001  
PROPERTY LOCATION: 15575 EL GATO LANE  
PROPERTY OWNERS: SAI KIRAN GARIMELLA AND RENU SUSHMA KOLLI  
APPLICANT: BARZIN KEYHANKHADIV**

**WHEREAS**, the Town Council of the Town of Los Gatos has received a request for annexation of territory designated as El Gato Lane No. 06 from Sai Kiran Garimella and Renu Sushma Kolli; and

**WHEREAS**, the property, is approximately 0.187 acres and includes 0.376 acres of County street right-of-way (El Gato Lane) for a total of 0.563 acres, located at 15575 El Gato Lane, APN: 523-22-007, is within 300 feet of 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

**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 a 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

**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**, the Town Council held a public hearing to hear any protests on June 18, 2024.

**NOW, THEREFORE, BE IT RESOLVED**, that the that the Town Council of the Town of Los Gatos does as follows:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated as El Gato Lane No. 06, more particularly described in Exhibits A and B;
2. That the following findings are made by the Town Council of the Town of Los Gatos:
  - a. Said territory is uninhabited and comprises approximately 0.563 acres;
  - b. The annexation is consistent with the orderly annexation of territory within the Town's Urban Service Area and is consistent with the Town policy of annexing when required by the Town's agreement with the County of Santa Clara;
  - c. The project is exempt from the California Environmental Quality Act (CEQA) under Title 14 Code of Regulations, Chapter 3: Guidelines for the Implementation of CEQA Section 15061(b)(3): Review for Exemption;

- d. The Town Council enacted Ordinance 1267 in 1975 pre-zoning the subject territory with a R-1:8 (single-family residential, 8,000 square foot minimum lot size) zoning designation;
  - e. The territory is within the Town's Urban Service Area as adopted by the Local Agency Formation Commission of Santa Clara County;
  - f. The County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies. The County Surveyor has been reimbursed for the actual cost incurred by the County Surveyor in making this determination;
  - g. The proposed annexation will not create an area in which it would be difficult to provide municipal services;
  - h. The proposed annexation does not split lines of assessment or ownership;
  - i. The proposed annexation is consistent with the Town's General Plan;
  - j. The territory to be annexed is located within 300 feet of a Town boundary; and
  - k. The Town has complied with all conditions imposed by the Commission for inclusion of the territory in the Town's Urban Service Area.
- 3. That all owners of land within the affected territory have provided written consent to the reorganization and no protests have been received;
  - 4. That upon completion of these reorganization proceedings the territory described in Exhibit A will be annexed to the Town of Los Gatos; and
  - 5. That upon completion of these reorganization proceedings the territory reorganized will be taxed on the regular County assessment roll, including taxes for existing bonded indebtedness.

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

Gatos, California, held on the 18<sup>TH</sup> day of June 2024, 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: \_\_\_\_\_

EXHIBIT A  
EL GATO LANE NO. 6  
ANNEXATION TO THE TOWN OF LOS GATOS  
GEOGRAPHIC DESCRIPTION

ITEM NO. 18.

DESCRIBED REAL PROPERTY IN THE RANCHO RINCONADA DE LOS GATOS, UNINCORPORATED AREA OF LOS GATOS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND DESCRIBED AS FOLLOWS:

ALL OF LOT 52 AND A PORTION OF EL GATO LANE AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "TRACT NO. 1168 EL GATO TERRACE," WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 2, 1954 IN BOOK 48 OF MAPS AT PAGE 13, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHEAST CORNER OF LOT 56; AS SHOWN THAT CERTAIN MAP ENTITLED, "TRACT NO. 1168 EL GATO TERRACE," WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 2, 1954 IN BOOK 48 OF MAPS AT PAGE 13; POINT OF BEGINNING ALSO LIES ON THE SOUTHERLY LINE OF EL GATO LANE NO. 1 ANNEXATION;

THENCE, (1) SOUTH 77° 33' 45" WEST, 60.00 FEET TO THE EASTERLY LINE OF EL GATO LANE.

THENCE, (2) ALONG THE EASTERLY LINE OF EL GATO LANE, SOUTH 12° 26' 15" EAST, 273.00 FEET ;

THENCE, (3) SOUTH 77° 33' 45" WEST, 60.00 FEET TO THE WESTERLY LINE OF EL GATO LANE ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 52;

THENCE, (4) ALONG THE SOUTHERLY LINE OF SAID LOT 52, SOUTH 77° 33' 45" WEST, 149.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 52;

THENCE, (5) ALONG THE WESTERLY LINE OF SAID LOT 52, NORTH 12° 26' 15" WEST, 54.60 FEET TO THE NORTHWEST CORNER OF SAID LOT 52;

THENCE, (6) ALONG THE NORTHERLY LINE OF SAID LOT 52, NORTH 77° 33' 45" EAST, 149.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 52;

THENCE, (7) ALONG THE WESTERLY LINE OF EL GATO AVENUE, NORTH 12° 26' 15" WEST, 218.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 24,515 SQUARE FEET, MORE OR LESS.

**DISCLAIMER:**

*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 AND OFFER FOR SALE OF THE LAND DESCRIBED.*

AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND MADE A PART HEREOF.



3-28-2024

*Wade Hammond*

EXHIBIT B

LOS GATOS  
ALMADEN RD

LOT GATOS TOWN LIMITS  
EL GATO  
LANE NO. 1  
N77°33'45"E

POINT OF  
BEGINNING

COURSES:

- 1 NORTH 77° 33' 45" EAST, 60.00'
  - 2 SOUTH 12° 26' 15" EAST, 273.00'
  - 3 SOUTH 77° 33' 45" WEST, 60.00'
  - 4 SOUTH 77° 33' 45" WEST, 149.00'
  - 5 NORTH 12° 26' 15" WEST, 54.60'
  - 6 NORTH 77° 33' 45" EAST, 149.00'
  - 7 NORTH 12° 26' 15" WEST, 218.40'
- AREA: 24,515 SQUARE FEET  
0.563 ACRES

LOT 56

LOT 55

LOT 54

LOT 53

APN: 523-22-006  
149.00'

LOT 52  
48 MAPS 13  
15575 EL GATO LANE  
LOS GATOS  
APN: 523-22-007

S77°33'45"W

149.00'

APN: 523-22-008

60.00'

218.40'

(60' WIDE)

EL GATO LANE

273.00'

S12°26'15"E

60.00'

24,515 SQ. FT.

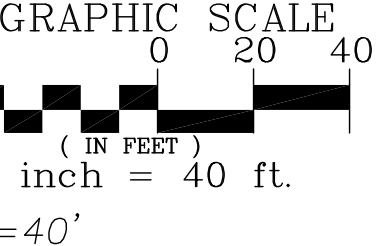
S77°33'45"W

L. Wade Hammond

Licensed Land Surveyor No. 6163  
36660 Newark Blvd. Suite C  
Newark, California 94560

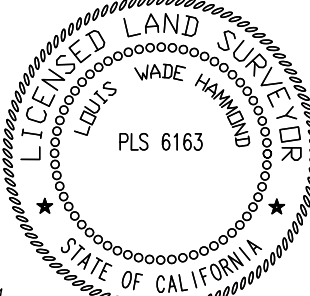
EL GATO  
LANE  
NO. 2

BEING A PORTION OF RANCHO  
RINCONADA DE LOS GATOS



LEGEND

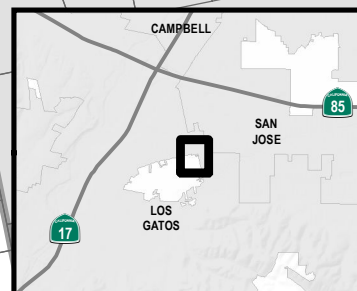
DESCRIBED AREA  
ADJOINING LOT LINES



3-28-2024  
*Louis Wade Hammond*

DISCLAIMER:  
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 AND  
OFFER FOR SALE OF THE LAND  
DESCRIBED.






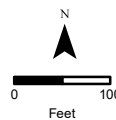


**County of Santa Clara**  
 Department of Planning and Development  
 County Government Center, East Wing  
 70 West Hedding St., 7th Floor  
 San Jose, California 95110

**EXHIBIT A**  
**El Gato Lane No. 6**  
**0.56 acres +/-**

Prepared for the Office of the County Surveyor  
 March 28, 2024  
 August Hanks, County Surveyor

-  Area of Annexation
-  Incorporated Lands
-  Unincorporated Lands



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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO. 19.

ITEM NO: 19

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**DATE:** June 13, 2024  
**TO:** Mayor and Town Council  
**FROM:** Laurel Prevetti, Town Manager  
**SUBJECT:** Consider a Request for an Exception to the Height Pole, Flagging, Netting, and Signage Policy to Allow Preparation of Visual Renderings by the Applicant Rather than the Town's Consultant as Required by the Policy on Property Zoned R:PD Located at 110 Wood Road. This Request is Not a Project as Defined by CEQA Guidelines Section 21065. APN 510-47-038. Applicant: Frank Rockwood. Property Owner: Front Porch Communities. Project Planner: Sean Mullin

**RECOMMENDATION:**

Consider a request for an exception to the Height Pole, Flagging, Netting, and Signage Policy (Policy) to allow preparation of visual renderings by the applicant rather than the Town's consultant as required by the Policy on property zoned R:PD located at 110 Wood Road.

**BACKGROUND:**

Historically, story poles have been used for two purposes. The primary purpose is to help illustrate proposed building locations and heights for pending development applications. Additionally, the story poles help alert the community of development applications that are scheduled for consideration at a public hearing.

The existing Policy was recently updated and adopted by the Town Council on April 16, 2024 (Attachment 2). The updated Policy requires installation of story poles and netting for new non-residential primary structures. However, the Policy provides an exemption for buildings that are over 55 feet tall, requiring these projects to provide alternative/video renderings prepared by the Town's consultant. The current project qualifies for the exemption with buildings ranging in height from 59 feet to 93.5 feet.

**PREPARED BY:** Sean Mullin, AICP  
Senior Planner

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

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PAGE 2 OF 4

SUBJECT: 110 Wood Road/Story Pole Exception Request

DATE: June 13, 2024

BACKGROUND (continued):

The subject site is an approximately 10.84-acre parcel at the intersection of Wood Road and South Santa Cruz Avenue (Attachment 1). The site has been occupied by the Los Gatos Meadows, a senior living community since 1971. In February 2019, the Los Gatos Meadows facility initiated a month's long closure and transition process to relocate all residents. By September 2019, the facility was vacant. While the property owner, Front Porch Communities, has completed the closure process, the property continues to be staffed to provide on-going maintenance and to ensure security of the property.

On February 12, 2020, an application was filed requesting a new Planned Development (PD) zoning for the property for the purpose of building a new senior living community. The existing zoning is Residential, Planned Development (R:PD) and the General Plan Land Use designation is Medium Density Residential.

On October 19, 2021, the Town Council approved an exception to the previous Policy to allow installation of story poles with a double row of flagging, rather than the required netting. The Planning Commission then considered the project on January 12, 2022, and forwarded a recommendation of denial to the Council based on concerns related to building height, tree removal, and unit mix. On April 5, 2022, The Town Council considered the project and several options presented by the applicant in response to the concerns expressed by the Planning Commission. The Council remanded the application back to the Planning Commission for further discussion. On October 25, 2023, the Planning Commission held a study session and provided feedback to the applicant on a revised submittal presented in a conceptual fashion.

The Town Council and Planning Commission staff reports and meeting minutes are available at [www.losgatosca.gov/110WoodRoad](http://www.losgatosca.gov/110WoodRoad).

The revised project is currently progressing through the staff technical review process and will be forwarded to the Planning Commission at a future date to be determined.

DISCUSSION:

On May 8, 2024, the applicant submitted a request for an exception to the Policy to allow preparation of visual renderings by their consultant rather than the Town's consultant (Attachment 3). The applicant's request letter provides additional details and justification, including a link to the visual renderings prepared by their consultant. The applicant indicates that their consultant began preparing the renderings several months prior to the Council's April 16, 2024 adoption of the revised Policy. The renderings were being prepared to accompany their next submittal to the Town to help clarify the visual impacts of the revised project.

PAGE 3 OF 4

SUBJECT: 110 Wood Road/Story Pole Exception Request

DATE: June 13, 2024

DISCUSSION (continued):

The timing of the Council's adoption of the revised Policy relative to the applicant's preparation of the visual renderings by their consultant creates a unique circumstance. The applicant is concerned that adhering to the Policy could place undue financial hardship and delay on the applicant by having to repeat the work to prepare visual renderings by the Town's consultant.

Additionally, since the adoption of the revised Policy in April, staff has prepared a Request for Proposals (RFP) to retain a consultant which was released on June 5, 2024. Proposals are due at the end of this month and after review, the Town will enter into a contract with a qualified consultant. A consultant should be under contract by the end of August.

PUBLIC COMMENTS:

Pursuant to the Policy, notice of the Town Council hearing was sent to property owners and tenants within 1,000 feet of the subject property and agendas for the hearing were posted outside Town Hall and in the Town Library. Notice was also published in the Los Gatos Weekly, posted under "What's New" on the Town's website, and posted on the Town's social media platforms. Lastly, the request for an exception from the policy and the proposed story pole plan was posted under "Pending Projects" on the Town's website. Comments received by 11:00 a.m., Thursday, June 13, 2024 are included as Attachment 4.

CONCLUSION:

Based on the discussion above, staff recommends approval of the request for an exception to the Policy to allow preparation of visual renderings by the applicant rather than the Town's consultant as required by the Policy on property zoned R:PD located at 110 Wood Road as the Town has not retained a consultant.

ALTERNATIVES:

1. Continue the request to a date certain with specific direction; or
2. Approve the request with modified requirements; or
3. Deny the request.

ENVIRONMENTAL REVIEW:

Action on the requested exception does not constitute a "project" as defined by section 15378 of the CEQA Guidelines because it is not an action which has a potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

PAGE 4 OF 4

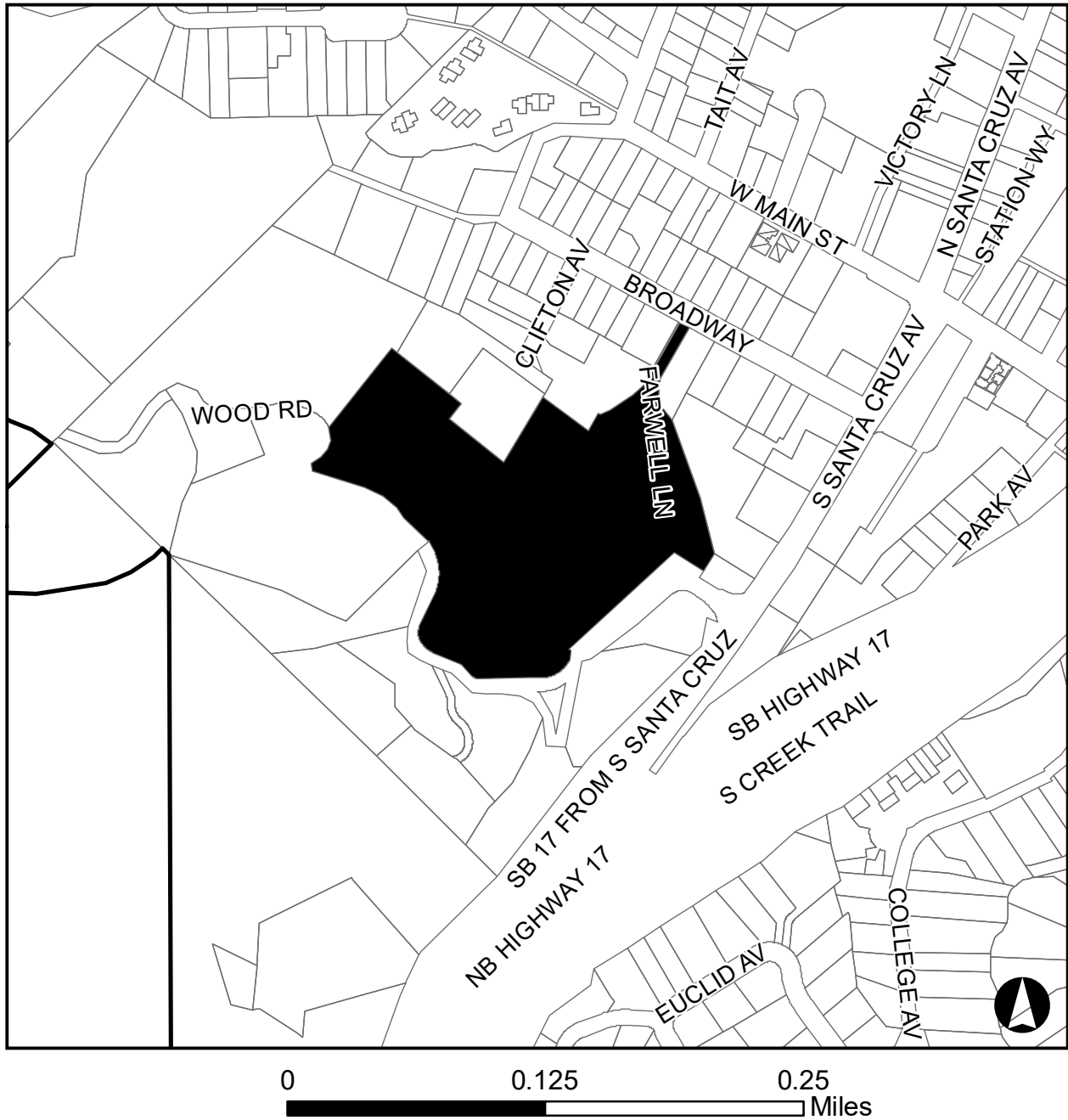
SUBJECT: 110 Wood Road/Story Pole Exception Request

DATE: June 13, 2024

ATTACHMENTS:

1. Location Map
2. Height Pole, Flagging, Netting, and Signage Policy
3. Exception Request from the Applicant, dated May 8, 2024
4. Public Comments received by 1100 a.m., Thursday, June 13, 2024

# 110 Wood Road



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## **Height Pole, Flagging, Netting, and Signage Policy For Additions and New Construction**

### **I. Purpose:**

It is a policy of the Town of Los Gatos Town Council to have story poles and project identification signs installed on the sites of an active development application. The placement of story poles is extremely helpful and important during the course of Town's review of applications for new development. Proper and accurate placement of story poles demonstrates the planned rooflines and heights and provides some indication of the potential massing of the proposed structure. Story poles enhance understanding of the project for Town residents, staff, advisory bodies, and decision making bodies. Story poles also provide a visual notice to the community of a forthcoming land use public hearing.

Project identification signs present both written and graphical information that will further communicate the proposed project to the community as well as provide the public hearing dates for the development application.

This policy is for the benefit of the Town and community and is not intended to create a requirement under the California Environmental Quality Act (CEQA).

### **II. Height Poles and Netting/Flagging:**

Height story poles and netting/flagging shall be used for the following types of Community Development Department, Planning Division, land use applications:

For single-family and two-family residential projects:

- If proposed project is a two-story house or second story addition where the adjacent properties on the same side of the street both contain only single-story houses.
- If proposed project includes a variance or exception to the physical development standards for the primary structure.

For non-residential projects:

- New primary structures.
- Non-residential additions exceeding 20 percent of the existing building floor area.
- If proposed project includes a variance or exception to the physical development standards for the primary structure.

For properties in the Historic Resource Inventory:

- New residential (excluding single-story accessory structures) and non-residential buildings.
- Residential second story additions.
- Non-residential additions exceeding 100 square feet.

For properties in the Hillside Area as defined in the Hillside Development Standards and Guidelines:

- New primary structures.
- New second story additions.

Exemptions/Alternatives (per Section II.G below):

- Affordable housing projects where 30 percent of the housing units are deed restricted to be Below Market Price, or 20 percent are deed restricted to be Low or Very Low Income shall comply with alternative/video rendering requirements in place of story poles.
- Buildings over 55 feet in height shall comply with alternative/video rendering requirements in place of story poles.
- Multi-family and mixed-use projects that include residential may choose to comply with alternative/video rendering in place of story poles.

The terms height poles and story poles are used interchangeably.

#### **A. Procedure:**

When it is determined that story poles are required, the applicant's engineer, architect, or building designer may, but is not required to, prepare a "Story Pole Plan" to indicate the locations where the poles will be installed. If submitted, the Story Pole Plan shall be approved by the project planner prior to the placement of the poles on the site. Once the placement of the story poles is complete, the applicant shall inform the project planner and submit photographs showing installation.

The height poles and netting/flagging shall be installed prior to the neighborhood notification process and shall remain in place until 60 days after the first public hearing on the project, or end of final appeal period, whichever is first. If the project is substantially modified, staff may direct removal or modification of the story poles.

**B. Timing**

Public notices will not be mailed and/or application(s) shall not be advertised until the height poles and netting/flagging have been installed and photographs have been submitted to the project planner, as required in Section II.A.

**C. Location and Number:**

The number of story poles may vary with each specific project. Story pole locations shall adequately demonstrate the height, mass, and bulk of the project requiring review. At a minimum, story poles shall be placed at all outside building corners of the building wall (excluding eaves) and along the rooflines of the proposed structure(s) or addition. Architectural elements such as towers, spires, elevator and mechanical penthouses, cupolas, mechanical equipment screening and similar elements not used for human activity or storage which are visible from the streetscape shall be represented by the story poles. For multi-building developments, story poles shall only be required for the tallest structures and those along the perimeter of the site.

While guy wires may sometimes be attached to existing fencing or similar onsite structures, pursuant to Section 29.10.1005 of the Tree Protection Ordinance, the attachment of wires, signs, or ropes to any protected tree is prohibited. Trees may not be "flagged" or used as a substitute for the erection of story poles.

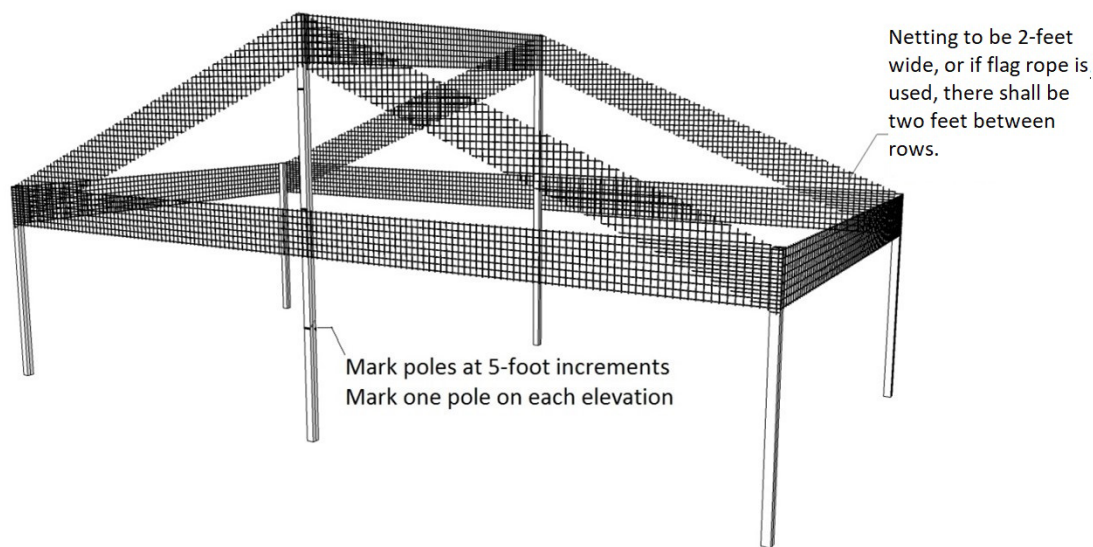
After the placement of the story poles on-site, the applicant shall provide the project planner with photographs of the story poles taken from a variety of vantage points. The vantage point from where the photograph was taken shall be indicated on each photograph.

A licensed surveyor or civil engineer shall submit written verification that the height and position of the poles and netting/flagging accurately represents the height and location of the proposed structure(s) or addition.

**D. Materials:**

The material of the story poles shall be indicated on the Story Pole Plan. Story poles shall be constructed of 2"x4" lumber, metal poles, or other sturdy building material acceptable to the project planner. Telephone poles; mechanical equipment, such as cranes; or other materials may be acceptable for higher structures if the Community Development Director determines that the material will adequately portray the height, bulk, and mass of the proposed structure(s) or addition and withstand the wind and weather. Either a double row of orange flag rope/flagging, or orange woven plastic snow fencing (netting) must be erected to represent the rooflines of the proposed structure(s) or addition. If flagging is chosen, the two rows shall be

placed with one located two feet below the other. If netting is used, it shall be at least two foot (2') wide. Netting/flagging must be supported by height poles that are strong enough to accurately maintain the outlines and height of the structure(s). One of the height poles on each elevation must be clearly marked and labeled in five foot (5') increments measured from existing or finished grade, whichever creates a higher profile.



#### **E. Public Safety:**

All story poles shall be placed, braced, and supported to ensure the health, safety, and general welfare of the public. Applicants shall sign an agreement that holds the Town harmless for any liability associated with the construction of, or damage caused by the story poles. If at any time, the Town determines the story poles to be unsafe, they shall be repaired and reset immediately by the project applicant or, at the Town's discretion, removed. Depending on the scope of the poles, the applicant may be requested to verify with the Building Division of the Community Development Department that no permits and/or inspections are required for the poles.

#### **F. Exceptions:**

In the event there are justifiable reasons why story poles cannot be accommodated for all structures proposed to be constructed on the project site, the applicant shall submit a letter to the Community Development Director no later than 45 days prior to the required installation date, clearly articulating the reasons why an exception to the Story Pole requirement is warranted. Requests for an exception and alternative plan will only be considered if the applicant can clearly demonstrate to the Town,

and the Town agrees, that the installation of the story poles would: (1) cause a threat to public health and safety or (2) would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the business or residential use would be infeasible. Some form of poles and netting/flagging and/or on-site physical representation of the project will be required, even if an exception is granted.

Planned Development applications with multiple detached commercial structures and/or residential units may request to erect story poles on the locations where the key structures will be placed. The deciding body will take into account the density of the development when considering an exception request. The story poles shall be installed on all corner structures and the structures with the greatest height and mass. An exception to providing story poles for all structures in a Planned Development application with multiple commercial structures and/or residential units shall follow the same procedures as outlined below.

The Town Manager will review all justifiable requests for an exception to the Story Pole requirement within 14 days of receipt of the request and shall place the matter on the next available Town Council agenda for consideration by the Council. Written notice of the exception request shall be mailed to property owners and residents of properties within 300 feet of the project site. All requested and approved exceptions shall be posted on the Town's Web site under "What's New," in agenda posting locations at Town Hall and the Library, and in the online development activity report when established.

If an exception is approved, the applicant will be required to demonstrate the proposed structure height and mass using alternative means as outlined in Section II.G.

- G. Alternatives/Visual Renderings:** If an alternative is allowed (Section II) or an exception is granted (Section II.F) to the Story Pole requirements, digital imagery simulations, computer modeling, built to-scale models or other visual techniques shall be required in-lieu of the Story Pole requirements. Simulations shall be prepared by the Town's consultant. The applicant shall be responsible for all technical review(s), materials, and cost of the Town's evaluation and/or preparation process.

## H. Removal:

Story poles and netting/flagging may be removed 60 days after the first public hearing on the project or once a final action has been taken and the appeal period is over. Once a final action has been taken and the appeal period is over, the height poles and netting/flagging shall be removed at the applicant's expense within 30 days. If not removed, the height poles and netting/flagging will be considered rubbish and will be in violation of Section 11.10.020 of the Town Code and the matter will be forwarded to Code Compliance for enforcement action.

## III. Project Identification Signs:

All development applications that include public notification shall also provide project identification signs on the development site consistent with the following requirements.

### A. Timing:

Project identification signs shall be installed within 30 days of the first staff review. Public notices will not be mailed and/or application(s) shall not be advertised until project identification sign(s) have been installed. The applicant shall submit a photo showing the on-site sign(s) installed on the subject property prior to the distribution of the public notices.

### B. Size:

- Single-Family or Duplex Residential Projects: One, 2'x2' sign placed on the street frontage. The top of the sign shall be five feet (5') from existing grade and visible from the main street frontage. The sign shall indicate the scheduled public hearing date and the availability of plans for review at the Community Development Department.
- Multi-Family, Mixed-Use, Commercial/Industrial Projects: One 4'x8' sign on each of the property frontages that are visible to surrounding public right of ways, including pedestrian trails such as the Los Gatos Creek Trail. The top of the signs shall be six feet (6') from existing grade. The Community Development Director may require additional signs for development sites that have large frontages.
- Conditional Use Permit (CUP) Only Projects: One 2' by 3' vertical sign on or inside the window of a building, provided the sign is visible from public locations outside the building.

- Downtown (C-2 Zone) Remodels or New Commercial Development: One 2' by 3' vertical sign constructed of metal frame with water resistant plastic or laminated face. In cases where it is infeasible to install a free-standing sign, the posting of a durable, all weather sign on or inside the window of a building is permitted, provided the sign is visible from public locations outside the building. Requests for an exception to the free-standing sign requirements shall be made to the Community Development Department in writing no less than 30 days prior to the public hearing for the project.

#### **C. Number and Placement of Signs:**

With two exceptions, on-site signs shall be placed on each street frontage of the site. The first exception is for permits related to an individual new single family dwelling, where, only one sign on the street frontage is required. The signs shall be oriented towards the street, within one foot (1') of the front property line or two feet (2') of the back of the sidewalk. The second exception is for projects that involve only a Conditional Use Permit for use of an existing building, where only one sign located at the business frontage is required.

#### **D. Materials:**

Signs shall be constructed of durable materials, such as foam core or plywood, and shall be laminated during the rainy season (October through April) if posted outdoors. The sign colors shall be a white background with black printing, and color graphics (excluding single family, which may have black and white graphics). As noted under Section III.B., signs in the Downtown C-2 Zone shall be constructed of higher grade materials, including a metal frame and a plastic or laminated poster board face.

#### **E. Sign Content:**

Up to 75 percent of the overall sign area must be used to provide a general description of the project; including number of residential units or commercial buildings and square footage; a color perspective drawing, three-dimensional image or photographic simulation and the name and contact information of the project applicant. Signage designs that are visually striking are encouraged. Single family remodel projects are not required to provide a rendering on the sign. Projects that do not include review of exterior changes to an existing building are not required to provide drawing or building image. The public notice portion of the sign message must constitute 25 percent of the overall sign area and notify the community of the public hearing date and time and contain the following message, "For more information about this project, please contact the Town of Los Gatos Planning

Division at 110 E. Main Street, Los Gatos, (408) 354-6872. Plans can be reviewed on the Town's website at: [www.losgatosca.gov/2216/Pending-Planning-Projects](http://www.losgatosca.gov/2216/Pending-Planning-Projects)." The project address, application number, applicant email contact information, and a QR code shall be included on the notice sign.

**F. Duration of Sign Posting:**

Project identification signs shall be placed on site within 30 days of the first staff review of the proposed project and shall be removed within 30 days of the final action.

**G. Maintenance:**

The applicant is responsible for replacement of any missing, damaged, or vandalized signs within five days of request by the Town. The Town may cease processing of the application if the signs are not replaced and/or maintained.

**IV. Definitions:**

Height: As defined by the Zoning Ordinance, height is determined by the plumb vertical distance from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade. For portions of a structure located directly above a cellar (refer to Section 29.10.020 of the Zoning Ordinance for definition of cellar), the height measurement for that portion of the structure shall be measured as the plumb vertical distance from the existing natural grade to the uppermost point of the structure directly over that point in the existing natural grade.

Roofline or edge: The contour or shape of a roof.

*This policy was adopted by Town Council on April 16, 2024 (Resolution 2024-017)*



**May 8, 2024**

**Request for Exception to Story Pole Policy for Rebuild of Los Gatos Meadows  
Planned Development Application PD-20-001**

Proposed Exception:

Front Porch understands that the Town Council has adopted a revised Height Pole, Flagging, Netting and Signage Policy for Additions and New Construction (“Story Pole Policy”). This policy was adopted on April 16, 2024, approximately two weeks after Front Porch re-submitted the Project Application for Los Gatos Meadows (resubmittal date: April 1, 2024). We understand that under the updated Story Pole Policy, buildings over 55 feet in height may now be exempt from the Story Pole Policy, but if an exemption is granted, the project must comply with the alternative/video rendering requirements in place of story poles.

In January 2024, prior to our April 1<sup>st</sup>, 2024 resubmittal, and to further assist in clarifying the visual impacts of the proposed reallocation of height and massing, Front Porch engaged the services of a professional and technically advanced visual simulation company. The visual simulations were prepared to evaluate, model and illustrate the potential impacts associated with the resubmittal on both public and private views of the neighboring properties most affected by redevelopment of the site. Given that our visual simulations were nearly complete prior to the Town Council taking action on the revised Story Pole Policy, we respectfully request that Council consider our request for an Exception and allow us to proceed with the use of the visual simulations prepared by our consultant using advanced computer modeling and digital imagery. The visual simulations are provided for your review at the following link:

*Refer to current application plan sheets A406-A408; Visual Simulations for exhibits specifically related to the above comments are to be posted at the project web site:*  
<https://frontporch.net/community/los-gatos-meadows/>.

Rationale for Proposed Exception:

As outlined in detail below, the project team for the rebuilding of Los Gatos Meadows believes it has met the intent of the Town’s Height Pole, Flagging, Netting and Signage Policy through the use of advanced digital visual simulations while minimizing undue increases in safety risks, nuisances, and further damage to existing structures through re-construction of story poles. Our professional visualization consultant was engaged in this effort, and the simulations completed

prior to Town Council's April 16, 2024, action on the updated Story Pole Policy. We are thus requesting an Exception from Section II G of the updated Policy, requiring that simulations be prepared by the Town's consultant.

Our rationale for utilizing our consultant's visual simulations are as follows:

- Front Porch's professional consultant was engaged in March, and nearly completed with their modeling efforts prior to the Council's April 16, 2024, action to update the Town's Story Pole Policy. As we understand from Town staff, the Town has yet to retain a list of qualified professional consultants to prepare visualizations. We have already submitted our response to the Town's initial technical review of our project application. Thus, the initiation and engagement of a third-party consultant would cause undue delay to our application review process currently underway.
- The digital visualizations conducted by our consultant utilize advanced software technology to assess the project's visual impacts using 3D modeling techniques. The model has the sophisticated capability of depicting how the project site is integrated into the surrounding context, including the project's relationship to site topography, placement/height of existing trees and surrounding buildings, and terrain geometry using the landscape plan, site survey & engineering, and photographs from key public & private vantage points. These visualizations render the most advanced, technically accurate means of assessing a project's visual impact(s) from selected vantage points. We welcome the Council's review of the visualizations, and the methodology/process our consultant utilized to prepare the visualizations as documented in our video (see link below).

The visualizations are available for Town Council review at <https://frontporch.net/community/los-gatos-meadows/> and will be demonstrated/shown at the Town Council meeting for the council members to review and consider prior to taking action on this Exception Request.

**From:** Julie Southern <[REDACTED]>  
**Sent:** Monday, June 10, 2024 1:48 AM  
**To:** Sean Mullin <SMullin@losgatosca.gov>  
**Cc:** C So <[REDACTED]>; Matthew Southern <[REDACTED]>  
**Subject:** Story Pole discussion

[EXTERNAL SENDER]

Hello Sean

Just sending you a formal note about the upcoming June 18 discussion for Storey Poles.

As a long time resident, I appreciate the rigorous town oversight of construction in helping maintain our town. As a neighbor impacted by potential heights of the Meadows work, I appreciate the visual assistance of story poles. It is "easier" to see and address height issues before construction, than after. In fact if after the fact it does not match their 'renderings', I highly doubt you will ask them to take it down.

As mentioned in many meetings before, I am not against the Meadows nor development as a whole, just do not want them blocking my view - and my issue with the potential story pole revision, that will not be caught until after the fact.

Do let me know if you have any questions or concerns.

Thank you  
Julie

From: Marc Dubresson [REDACTED] >  
Sent: Saturday, June 8, 2024 1:49 PM  
To: Planning <[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)>  
Cc: [REDACTED]  
Subject: 110 Wood Road - Objection to the request for an exception to pole, flagging, netting and signage.

[EXTERNAL SENDER]

Hi,

We've received a notice for the consideration of an exception to the pole flagging, netting and signage for this project (110 Wood Road). As close residents would like to visualize the proposed development with such methods as artists and architectural rendering often fail to provide perspective from all angles.

Thank you for your consideration,

Yours sincerely,

Marc and Caroline Dubresson

[REDACTED]  
Los Gatos CA 95030

From: Evelyn Mitsunaga <[REDACTED]>  
Sent: Monday, June 10, 2024 10:22 AM  
To: Planning <[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)>  
Subject: 110 Wood Road

[EXTERNAL SENDER]

To: Sean Mullin; Town Council

I want to go on record as supporting the Meadows/Front Porch request for exception to the height poles and flagging for the property at 110 Wood Road and am writing this email because I'm not sure I will be able to attend the June 18 Town Council meeting to voice this support.

I think the previous concerns from people living along Tait Avenue were unfounded — of course they could “see” the proposed buildings: the orange flags and lack of landscaping were jarring. But the flags and height poles do not represent how it will actually look. When completed, the property will be landscaped and won't be any more obtrusive than properties already visible on the hillside. The buildings will not interrupt the skyline where trees meet the sky, which, to me, is the most important consideration about height.

My husband and I supported the earlier application for building and planned to move to this property when completed so we could stay close to town center where we have lived for 50 years. Now it is just me, and I still support this project as necessary for the town, and I still want to move in — if, of course, it is completed while I am still alive.

Thank you for your consideration.  
Evelyn Mitsunaga, [REDACTED] Los Gatos

**From:** Clare Southern <[REDACTED]>  
**Sent:** Monday, June 10, 2024 5:14 PM  
**To:** Julie Southern <[REDACTED]>  
**Cc:** Matthew Southern <[REDACTED]>; Sean Mullin <SMullin@losgatosca.gov>  
**Subject:** Re: Story Pole discussion

[EXTERNAL SENDER]

Hi Sean,

I'd like to take a look at the project file. Would you be able to point me in the right direction? Where can I find it?

I'm curious to learn more about the town's reason for reconsidering the story pole decision. My understanding is that this was decided a year+ ago and that there's a law mandating story poles for a reason: to allow the town to visualize/ understand the impacts of changes to their town.

I'm not clear on why we'd consider taking on an additional expense (saw there's an RFP out for visualization software/ contract work) when there's an existing precedent for how to deal with new construction (especially when that construction is both downtown and on the most visible hillside).

Thank you for taking the time to help here. I trust there will be process and visibility in this project.

Clare

**From:** [REDACTED]  
**Sent:** Tuesday, June 11, 2024 6:36 PM  
**To:** Sean Mullin <SMullin@losgatosca.gov>  
**Subject:** Comment: Height poles for June 18 meeting

[EXTERNAL SENDER]

I am writing to express that the height pole requirement for new construction is important for the community and remain intact and required.

Looking at a photo or drawing vs seeing the actual impact to neighborhoods, site lines and setbacks is important. It encourages awareness and discussion within the community.

The building process is already heavily slanted towards builders and developers - with "recommendations to talk with neighbors" but not requirements beyond dropping a note off and getting a signature. By the time these poles go up the town is already heavily involved and in support of development. Any changes are very hard to get thru the commissions in our experience. But at least it allows people to be aware and get involved if they want to.

I am 100% in favor of story poles for all building in the town of Los Gatos and the neighboring communities. There is no need to change this existing requirement.

-Pam M

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**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 20

ITEM NO. 20.

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DATE: June 13, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Receive a Presentation, Provide Direction, and Consider Accepting a Proposed Donation from the Los Gatos Rotary to the Town at Live Oak Manor Park

**RECOMMENDATION:**

Receive a presentation, provide direction, and consider accepting a proposed donation from the Los Gatos Rotary to the Town at Live Oak Manor Park.

**BACKGROUND:**

Los Gatos Rotary (Rotary) contacted staff in early 2024 and proposed a donation to the Town to celebrate their centennial. Staff and Rotary agreed to consider an oak grove planting and walkway in an underutilized space at Live Oak Manor Park. The proposed improvements would add native habitat and a shaded walkway. The project is in an area where two large trees were lost during the winter 2023 storms.

**DISCUSSION:**

The concept plans are presented in Attachment 1. At the June 18 Council meeting, the Rotary's project team will present the concepts and is seeking feedback from Town Council. Specifically, staff would like confirmation on whether Town Council would accept the donation. Assuming Town Council would like to consider acceptance of the donation, the Rotary's design team would like feedback on the concept plans and staff will return to Town Council in August to request authorization for the Town Manager to execute the necessary agreement(s). The agreement(s) would indicate the specific role of Rotary making improvements on Town property and any expectations of Town staff in the installation of the project. Rotary is planning construction in Fall 2024.

**PREPARED BY:** Nicolle Burnham  
Parks and Public Works Director

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

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PAGE 2 OF 2

SUBJECT: Receive a Presentation and Provide Direction on the Proposed Donation from  
Rotary to Live Oak Manor Park

DATE: June 13, 2024

CONCLUSION:

Following feedback and direction from Town Council, staff will proceed to coordinate with Rotary on detailed design and an appropriate agreement(s) to allow Rotary to construct the project.

COORDINATION:

The project and proposed donation were considered by the Parks and Sustainability Commission at its meeting of June 10, 2024. The Commission discussed the planting materials, sidewalk materials and color, and project schedule. The Commission voted 5-1 to recommend that Town Council accept the project.

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

FISCAL IMPACT:

Rotary is proposing to donate the materials and labor required to construct the project. Staff time to support the construction project and its ongoing maintenance will be via the operating budget.

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA. Information on CEQA clearance will be provided when staff brings forward the project agreement.

Attachment:

1. Live Oak Manor – Rotary Centennial Grove Presentation



# ROTARY CLUB OF LOS GATOS CENTENNIAL GROVE AT LIVE OAK MANOR PARK

PREPARED FOR: LOS GATOS PARKS AND SUSTAINABILITY COMMISSION MEETING  
DATE: MONDAY JUNE 10, 2024



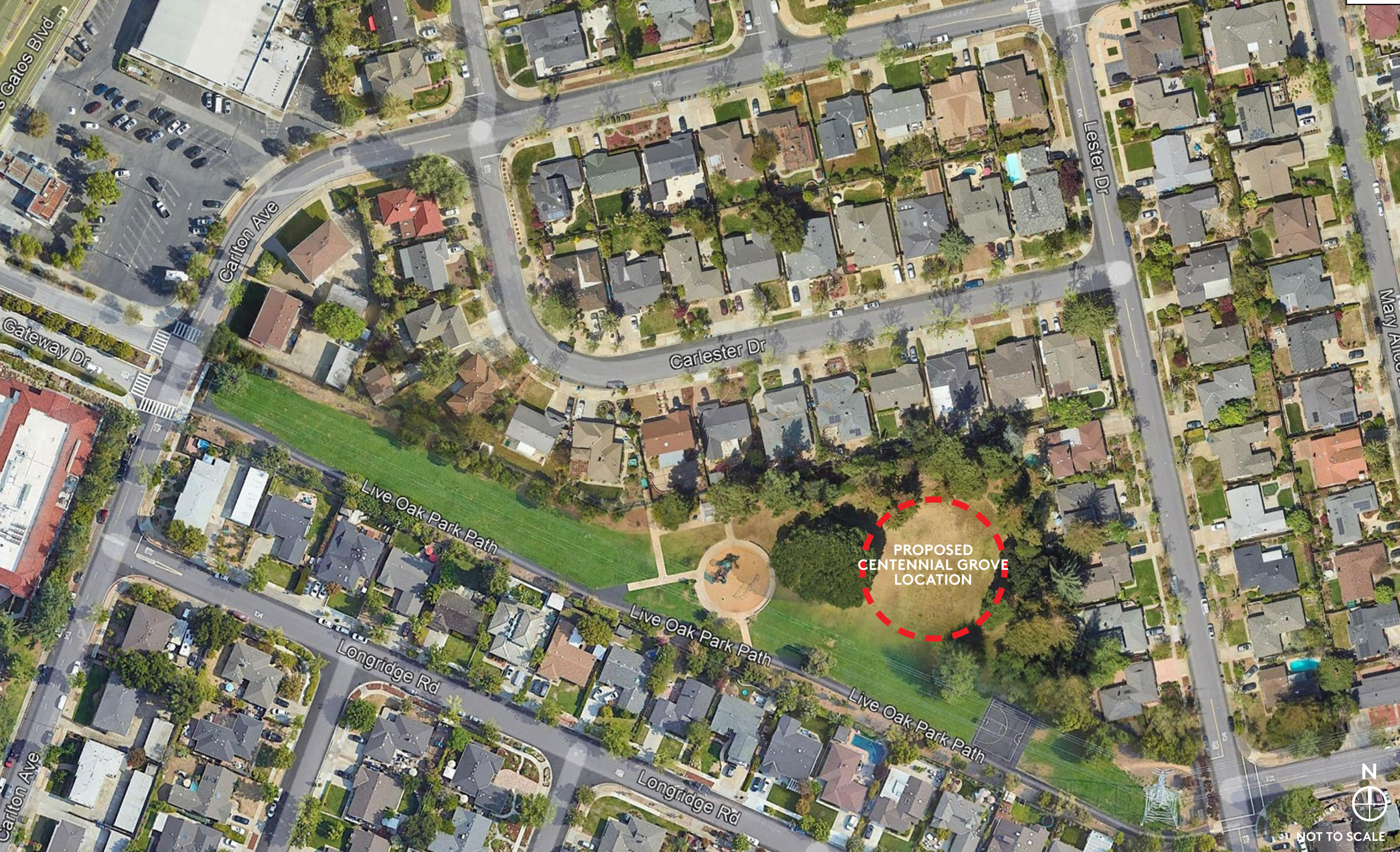




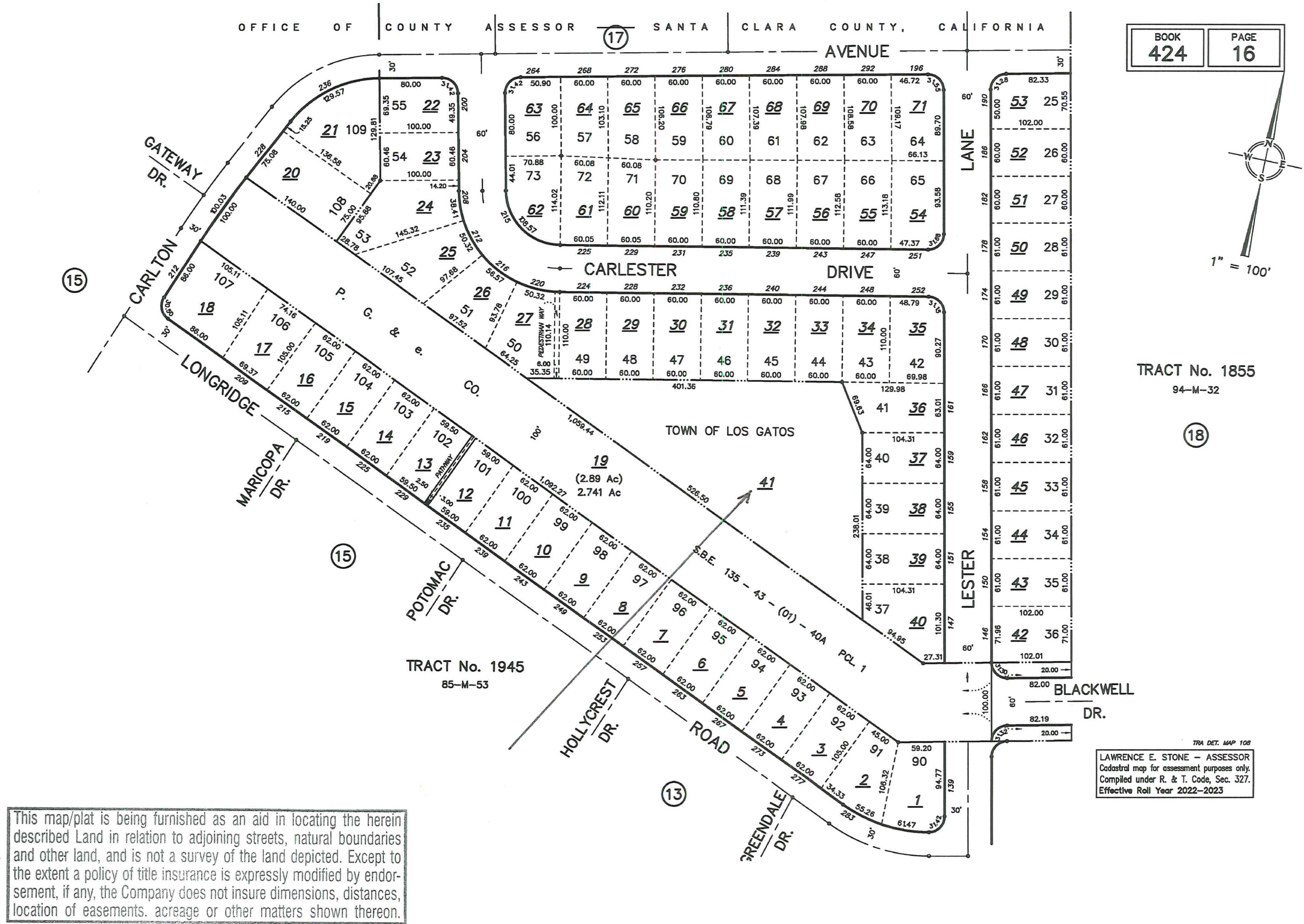
TABLE OF CONTENTS

LIVE OAK MANOR PARK - AERIAL MAP	2
LIVE OAK MANOR PARK - PARCEL MAP	3
CENTENNIAL GROVE SITE PHOTOS	4 - 5
LIVE OAK MANOR PARK - GRADING PLAN	6
CENTENNIAL GROVE - LANDSCAPE CONCEPT	7 - 8
CENTENNIAL GROVE - CONCEPTUAL RENDERINGS	9 - 10









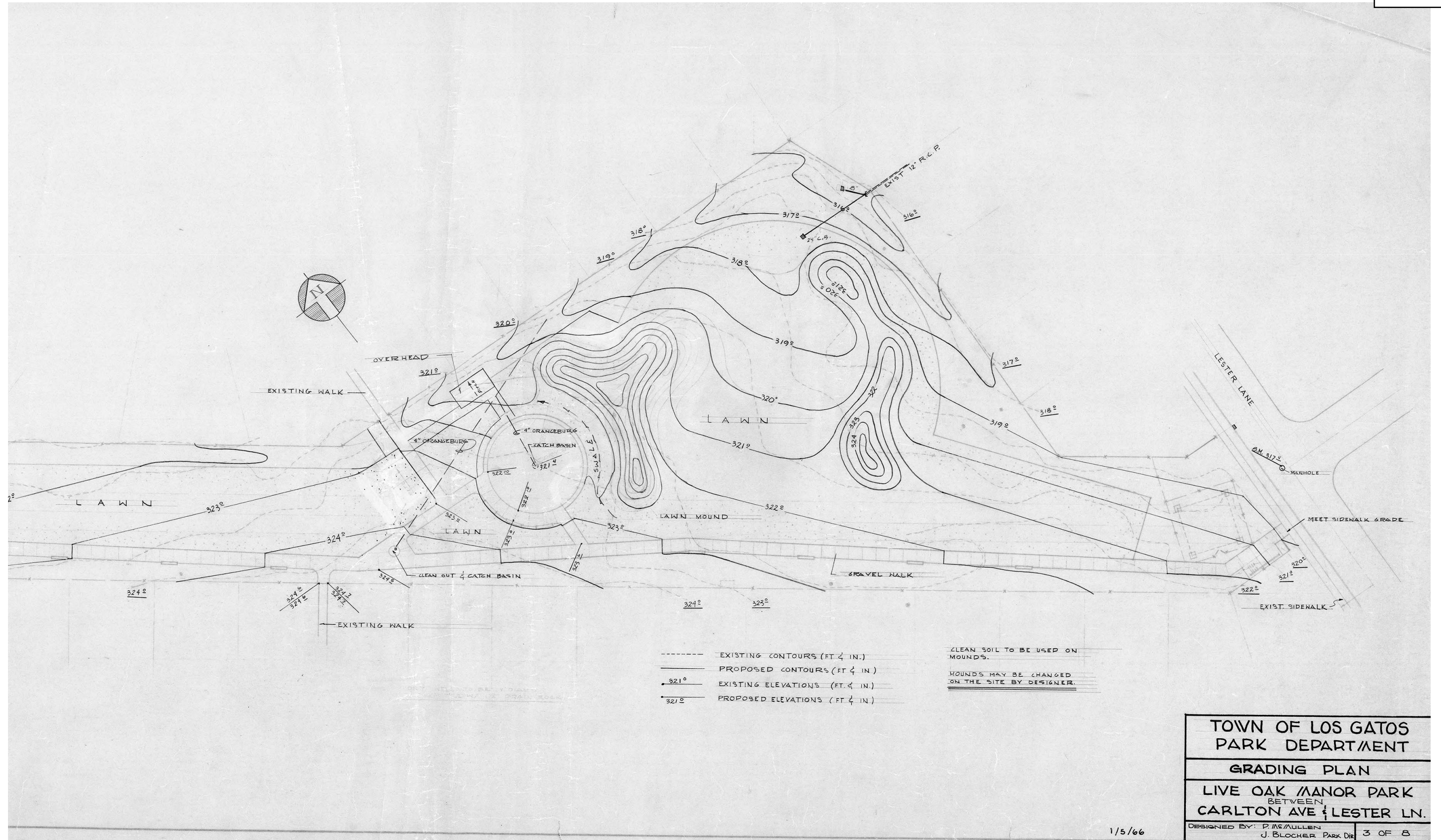














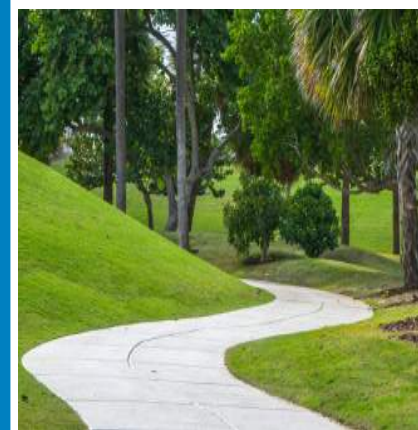




PARK MEMORIAL  
MONUMENT



MEADERING PATH



CALIFORNIA NATIVE PLANTING



AESCULUS  
CALIFORNICA



ACHILLEA  
MILLEFOLIUM



SALVIA CLEVELANDII



QUERCUS QGRIFOLIA



ERIPHYLLUM  
CONFERTIFLORUM



PENSTEMON EATONII



QUERCUS DOUGLASII













**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 21

ITEM NO. 21.

DATE: June 6, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Provide Direction on the Town's Community Grant Process

**RECOMMENDATION:**

Provide direction on the Town's Community Grant Process.

**BACKGROUND:**

The Town of Los Gatos has been awarding grants since 1992 to support community groups working toward the benefit of Los Gatos residents. The program was administered by the Town's Community Services Department until the Department was dissolved in Fiscal Year (FY) 2011/12. In that year, program administration was transferred to the Town Manager's Office with review of applications and award recommendations passing through the Arts and Culture Commission (ACC) and the Community and Senior Services Commission [now Community Health and Senior Services Commission (CHSSC)] before final approval by Town Council.

Prior to 2011, the program funding was provided in-part using federal Community Development Block Grant (CDBG) funds. Beginning in FY 2011/12, those funds were diverted to the County of Santa Clara's Housing and Community Development Advisory Committee for distribution and the Town's Community Grants became funded entirely by the Town's General Fund dollars.

On February 4, 2020, the Town Council approved revisions to the Community Grant program which had been recommended by Town staff working in conjunction with the ACC and the CHSSC based input from community organizations. These changes were intended to address problems that had developed over the previous years and to create a more fair and equitable system for grant applicants.

**PREPARED BY:** Ryan Baker  
Library Director

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

SUBJECT: Provide Direction for the Town's Community Grant Process

DATE: June 6, 2024

BACKGROUND (Continued):

Three classes of grants were established: one-time competitive grants focusing on assisting new projects or surmounting new challenges for non-profits, two-year grants for sustaining non-profits in social services that had been receiving funding consistently between 2014 and 2020, and one-time innovation grants to assist individual community members in launching a project for the community. Innovation grants were discontinued as a line item in the Adopted FY 2024/25 Operating Budget due to the decreasing number of applications over the previous years and unexpected tax implications for recipients; funding in this category has been diverted to one-time competitive grants given that non-profit organizations have provided a greater impact for the funds allocated.

Town Council reviewed the scoring rubric for grants on several occasions between 2020 and 2024, with the Diversity, Equity, and Inclusion Committee (DEIC) additionally reviewing in spring of 2024. The standardized scoring rubric for evaluating and rating grant applications creates a fair and equally comparable set of guidelines. In fairness to all applicants and to extend funding to as many organizations as possible, past practice limited applications and grants awards to one per organization. Under the current system, grant applications are read and ranked by two members of the ACC, two members of the CHSSC, and one member of the DEIC. Each of the reviewers independently evaluates the applications and provides their scores to the Library Director who compiles the results.

The Town's Community Grant Program is unique in that few local government agencies offer similar competitive application programs on an annual basis for distributing grants of public money from their General Funds; where such programs do exist, they are often funded from Community Development Block Grants or passed through from other State or Federal grants.

In addition to the \$70,000 in sustaining grants and \$80,000 in one-time competitive grant line items in the Proposed FY 2024/25 Operating Budget, Council allocated an additional \$100,000 for the overall community grant program plus \$25,000 in competitive grant funds for nutrition programs and \$25,000 in competitive grant funds for rental assistance. The Council requested that staff return to Council for direction for the community grant process prior to the release of the applications for the next cycle, which is the subject of this agenda item.

DISCUSSION:

With the additional \$100,000 for the community grant program (bringing it to \$250,000), \$25,000 for rental assistance grants, and \$25,000 for nutrition/food grants, staff has the following questions to guide the Council's discussion and direction.

SUBJECT: Provide Direction for the Town's Community Grant Process

DATE: June 6, 2024

DISCUSSION (Continued):

1. Is it the intent of the Council to maintain the four noncompetitive, sustaining grants at approximately their current levels, totaling \$70,000:
  - Live Oak Nutrition at \$23,000
  - Counseling and Support Services for Youth at \$13,000
  - Next Door Solutions to Domestic Violence at \$13,000
  - West Valley Community Services at \$21,000
  
2. Should the remaining \$180,000 for the competitive grants be distributed into 18 grants with a cap of \$10,000 each? Each year tends to bring more applications in the competitive program as word of the program spreads. For example, past organizations that have applied within the competitive process are:
 

<ul style="list-style-type: none"> <li>• Art Docents of Los Gatos</li> <li>• AWO</li> <li>• Chabad of S Jose</li> <li>• Daves Avenue Elementary School</li> <li>• Girls on the Run of Silicon Valley</li> <li>• Homenetmen Santa Clara Ani</li> <li>• Jewish Silicon Valley</li> <li>• KCAT</li> <li>• Live Oak Adult Day Services</li> <li>• Los Gatos Chamber of Commerce</li> <li>• Los Gatos Community Concert Association</li> <li>• Los Gatos Education Foundation</li> <li>• Los Gatos Music and Arts</li> <li>• Louise Van Meter Project Cornerstone</li> <li>• Morning Rotary</li> <li>• New Museum Los Gatos</li> </ul>	<ul style="list-style-type: none"> <li>• Omniware Networks</li> <li>• Parents Helping Parents</li> <li>• Parents Helping Parents Inc</li> <li>• Plant Based Advocates</li> <li>• Rebuilding Together Silicon Valley</li> <li>• Saratoga Senior Coordinating Council</li> <li>• Silicon Valley Jewish Film Festival</li> <li>• St Lukes Pantry Fund</li> <li>• The Los Gatos Anti-Racism Coalition</li> <li>• The Rotary Club of Los Gatos</li> <li>• United Way</li> <li>• Veterans Memorial &amp; Support Foundation</li> <li>• West Valley Muslim Association</li> <li>• Young Science Institute</li> <li>• YWCA Support Network</li> </ul>
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3. Should organizations who receive funding from the Town through other mechanisms (e.g., the Chamber for a service contract and NUMU for the one-time allocation in the FY 2024/25 Budget) be eligible for community grant funding through the competitive process?
  
4. For the nutrition/food grants and for the rent relief grants, should organizations that already receive a sustaining grant be eligible for all or a portion of these funds?



SUBJECT: Provide Direction for the Town's Community Grant Process

DATE: June 6, 2024

DISCUSSION (Continued):

5. For the nutrition/food grants and for the rent relief grants, is it the intent of the Council to distribute the funds to as many qualifying organizations in that category that apply, award the entire \$25,000 to a single entity of that category, or have a cap on the grant amount per organization (e.g., \$10,000 that matches the other competitive grants)?

CONCLUSION:

Staff will work within the current framework and include the newest additions from the Adopted FY 2024-25 Budget to keep the grant timelines on track.

In addition, an open and honest discussion of the entire process would be well warranted soon to solidify the program for future years. Considering that the underlying philosophy of the grant process overhaul in 2020 was to establish a set of transparent rules, a level playing field for all applicants, consistent messaging, and an objective method of ranking all applications equally, it is becoming apparent that new direction is needed from Council regarding its present-day overall objectives of the Community Grant program and process. At that time, Council may wish to additionally consider if there is advantage in memorializing any selected process through an official Town Council Policy.

FISCAL IMPACT:

Grants funds in the total amount of \$300,000 have been included in the Adopted FY 2024/25 Operating Budget.

ENVIRONMENTAL ASSESSMENT:

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



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 22

ITEM NO. 22.

DATE: June 10, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Provide Any Additional Direction on Near-term Improvements to the Interim Community Center and Operational Support for Community Partners

**RECOMMENDATION:**

Provide any additional direction on near-term improvements to the Interim Community Center and operational support for community partners.

**BACKGROUND:**

On August 15, 2023, the Town Council allocated \$866,281 to a Community Center Development Fund to design and construct near-term improvements to the Adult Recreation Center to achieve two major purposes. The Adopted Fiscal Year (FY) 2024/25 Budget programmed an additional \$11,333, increasing the total available funding to \$877,614. One purpose is to facilitate the use of space for a variety of non-profit agencies to provide services to the community. The second purpose is to reconfigure the existing space to make it more open and inviting to the community. This effort is referred to as the Interim Community Center.

On November 21, 2023, the Town Council provided additional feedback on the Interim Community Center effort which involves the following steps:

1. *(Completed January 25, 2024)* **Host Community Meeting** to receive community input on:
  - a. Preferred types of community partners/services;
  - b. Community partner selection criteria; and
  - c. Ideas for near-term improvements to the ARC/Community Center.

**PREPARED BY:** Katy Nomura  
Assistant Town Manager

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

SUBJECT: Interim Community Center

DATE: June 10, 2024

BACKGROUND (continued):

2. *(Completed February 15, 2024)* **Receive the Community Health and Senior Services Commission's (CHSSC) recommendation on items relevant to a Request for Interest (RFI) for community partners**, such as the types of community partners and selection criteria.
3. *(Completed March 5, 2024)* **Return to Council with CHSSC's recommendation for Council input and approval on items relevant to the Request for Interest (RFI) for community partners**, such as the types of community partners and selection criteria.
4. *(Completed March 29, 2024)* **Issue the RFI.**
5. *(Completed May 7, 2024)* **Return to Council with the final selection of community partners.**
6. *(Completed May/June 2024)* **Discuss any potential physical near-term improvements and operational support needed by selected community partners** with Los Gatos Saratoga Recreation (LGS Recreation).
7. *(Completed June 11, 2024)* **Receive CHSSC's recommendation on near-term improvements and operational support** for Council's consideration, taking into account ideas shared at the community meeting and budget constraints.
8. *(We are here.)* **Return to Council with CHSSC's recommendation on near-term improvements and operational support** for consideration.
9. **Hire an architect (if needed) to provide cost estimates for the prioritized items.**
10. **Return to Council with cost estimates** for selection of which prioritized items to move forward for implementation, design, and bidding, as applicable.

DISCUSSION:

After discussions with Los Gatos Saratoga Recreation (LGS Recreation) and the community partners Council selected on May 7, 2024, staff has gathered the following information for the Council's consideration. Recommendations from the CHSSC's June 11, 2024 meeting are also included.

**Hybrid Meeting Equipment**

On March 5, 2024, Council directed staff to proceed with creating a space at the Interim Community Center for hybrid/Zoom meetings with modern equipment. Staff proceeded with this work and had determined that depending on which models are selected, modern hybrid meeting equipment can cost an estimated \$4,500-\$10,000 per setup along with a \$50/month Zoom room license per setup. If a portable setup is used, it can provide the hybrid functionality in whichever room it is placed in; however, due to the large nature of the screens involved, it is not practical to bring a system up and down the elevator on a regular basis.

On June 11, 2024, the CHSSC recommended that the Council proceed with two systems, one for the first floor and one for the second floor.

SUBJECT: Interim Community Center

DATE: June 10, 2024

DISCUSSION (continued):

*Staff looks forward to Council's direction on whether to pursue one portable system or two systems to accommodate both the first and second floors.*

**Office for Shared Desk Space for Community Partners**

LGS Recreation was able to identify and graciously offer an office space that could be used for the rotational desk space shared by community partners without any major retrofitting. The one retrofit that LGS Recreation recommended would be to put a keypad or key fob lock on the door to allow multiple partners entry. This is estimated to cost \$1,400-\$2,000; however, this is a preliminary estimate.

To cover the operating costs of using the space such as custodial, utilities, and front office staff support to help direct clients appropriately when visiting, LGS Recreation would charge the community partners a nominal fee of \$24 per hour. They would also be willing to waive their normal deposit (\$500), application fee (\$10), and facility attendant fees (\$24 per hour). Each participating community partner would need to complete an application with a liability waiver and provide proof of insurance. In addition to allowing LGS Recreation to recover their costs for providing the space, another consideration for the nominal fee is that it may help ensure that any time booked will be fully utilized and that time will be reserved wisely.

On June 11, 2024, the CHSSC requested clarification on whether or not the current lease agreement with LGS Recreation obligated them to provide space to community partners at no charge. After legal review, it has been determined that the existing lease does not require LGS Recreation to provide the space for free. It is also worth noting that since the office space will be fully dedicated to the community partners on an ongoing/weekly basis, it is a different arrangement from the occasional event rentals that are common with community centers.

*Staff recommends that Council direct staff to proceed with the keypad for the office and to provide any direction regarding the nominal charge to community partners to cover LGS Recreation's related operating expenses.*

**Other Improvements**

While reviewing the input received at the community meeting (Attachment 1) and throughout this process, staff recommends the following improvements for consideration. If the Council ultimately would like to move forward with these items, more formal costing would be determined as a next step.

1. **Large Hall Divider:** The current room divider is not fully functional and requires multiple staff to move. Replacing the existing divider would allow the room to easily be divided for multiple programs to occur at the same time. This could be beneficial to allow more

SUBJECT: Interim Community Center

DATE: June 10, 2024

DISCUSSION (continued):

independent spaces for current and future programming and partnerships. In addition, a fully functional divider that was lockable would allow the Main St. side of the room to be used without opening access to the full facility. This could be beneficial should a community partner in the future be interested in a food pantry or some type of pick-up service that did not require a restroom. Replacing this room divider and including a motor mechanism is estimated to cost approximately \$100,000.

- a. There was also interest from LGS Recreation to have a second divider put in to secure the storage area that holds the tables and chairs. While this second divider is not part of staff's recommendation due to the higher costs of the structural analysis, permitting, and construction associated with new railing and partitions, this secured storage area could also be beneficial for storing the hybrid meeting system if one was placed downstairs.
2. **Additional Lighting:** Staff could explore additional safety lighting on the exterior of the building as well as on the interior for the installation of emergency lighting, such as in the restrooms. If these are improvements that Council is interested in, staff would determine cost estimates for the work for further consideration.

In addition to safety lighting, it has been indicated that upgrading to pendant lighting in the lobby area could make the space brighter and more welcoming. Preliminarily, it is estimated that this lobby lighting upgrade may cost an estimated \$100,000, and if Council is interested in this option, staff would determine more formal costing for further consideration.

On June 11, 2024, the CHSSC recommended that the Council proceed with the motorized large hall divider replacement and a lockable, secure second divider so that the portable hybrid meeting equipment could be stored securely. The CHSSC further recommended that the Council explore additional safety lighting on the exterior and interior of the building, including emergency lighting for the bathrooms.

*Staff recommends that Council direct staff to proceed with the large hall divider and safety lighting. Staff looks forward to Council's direction regarding the second large hall divider for storage, the lobby lighting upgrade, and any other near-term improvements of interest.*

CONCLUSION:

Staff looks forward to any additional direction from Council on near-term improvements to the Interim Community Center and operational support for community partners.

SUBJECT: Interim Community Center

DATE: June 10, 2024

CONCLUSION (continued):

The following summarizes staff's recommendations and requests for Council's direction throughout this report:

- Hybrid Meeting Equipment: Staff looks forward to Council's direction on whether to pursue one portable system or two systems to accommodate both the first and second floors.
- Office for Shared Desk Space for Community Partners: Staff recommends that Council direct staff to proceed with the keypad for the office and to provide any direction regarding the nominal charge to community partners to cover LGS Recreation's related operating expenses.
- Other Improvements: Staff recommends that Council direct staff to proceed with the large hall divider and safety lighting. Staff looks forward to Council's direction regarding the second large hall divider for storage, the lobby lighting upgrade, and any other near-term improvements of interest.

COORDINATION:

The preparation of this report was coordinated with the Town Manager's Office, Parks and Public Works, and the Town Attorney.

FISCAL IMPACT:

The \$877,614 allocated to the Community Center Development Fund can be used for near-term improvements to the Adult Recreation Center/Community Center. Additional funding may be required to support the operational and administrative needs of coordinating and supporting the service providers if the providers do not pay those costs directly.

ENVIRONMENTAL ASSESSMENT:

This informational update and request for direction is not a project defined under CEQA, and no further action is required.

Attachment:

1. Input Received from January 25, 2024 Community Meeting

1. What near-term improvements would you like to see at the Adult Recreation Center/Interim Community Center to make the space more welcoming for all ages?

- Ability for seniors to meet 2 hours/week – Continuing, Large screen TVs/Internet for lounge, Earthquake compliance/retrofit, No improvements
- Sliding doors
- More storage in the conference room
- Enclose patio for storage, more usage
- AV upgrades -- current projectors flaky
- Noise abatement in large hall
- Commercial kitchen update
- Good to have in-wall sound system
- Lighting -- stretch down for better cleaning
- Water damage throughout the building
- Restroom, emergency lights upgrade
- Sensors in bathroom
- Restroom automatic door openers
- Uneven parking lots – unsafe esp. for seniors –add handrails
- More lighting in parking lot
- Cover on the entrance for rain
- More cameras in the parking lot
- Cosmetic improvements (Ask Nancy and users)
- Play area for children
- Panic button (mental health)
- Well-defined purpose of rooms reconfiguration
- Survey of current users of this space and potential users and their road blocks to current use
- This building as a central hub to coordinate
- Upgrading tech to modernize
- Equipment/tech for hybrid/virtual meetings in several designated areas/rooms of various sizes (includes AV camera, OWL 360°, ADA compliant, etc)
- Better utilization of 2<sup>nd</sup> floor to maximize space, i.e. size of room, combine services, remediation
- Closet/storage space for non-profits
- Access to kitchen
- Food pantry for storage/food prep for unhoused individuals
- One room that service providers can use
- Translation services
- Minor repairs and upgrades (including entryway)
- Suggestion box in lobby somewhere easily accessible
- Make empty space more inviting
- Functional upgrades – See LGS Rec list
  - LGS Rec List: Recommended ARC Building Improvements 2/13/2023

- Replace large hall dividing doors – current divider door is broken
- Solution for table and chair storage – possible partition wall in large hall for storage?
- AV upgrades in conference rooms / large hall
- ARC in-wall sound system in large hall
- Noise abatement in large hall – wall or ceiling sound dampening?
- More secure storage in large hall - repurpose large hall outside patio for storage?
- Deepen shelves in existing large hall locked cabinets
- Paint/refresh large hall kitchen cabinets and counter
- Pendant lighting in the lobby – easier to clean and brighter light!
- Restroom upgrades - emergency lights in restrooms during power outage, sensors on sinks/toilets/soap/towels so they are touchless
- Parking lot changes to increase safety
- More lighting, ramps, cameras, handrails
- Awning at entry to protect against rain
- Address water damage
- Welcoming entry – sliding glass doors in north wall to a patio
- Electronic signage with activities and schedule
- Modern AV and IT upgrades – local and remote capabilities
- Lighting – External and emergency
- Improve lobby -- space decorate -- user friendly
- Lighting
- Better internet capability
- Zoom
- Microphone speaker unit
- More video screens – adequate size
- Comfortable rooms for group meetings of 20 people
- Sound proofing enhancements
- Big room into 2 soundproof rooms
- Break room for staff
- Enhance kitchen
- Long term -- NUMU, police space could be repurposed
- Long term -- Use existing inventory of buildings for community usage
- How should the money be allocated? Initial improvements and reserve funds for future com. Center reconstruction/new center (i.e. \$300k saved for future plan/design for the new center); keep extra \$ in the community center fund

2. What types of community partners and services would you like to see at the Adult Recreation Center/Interim Community Center?

- Ability for seniors to get together/talk
- West Valley Community Services – Already serving LG, pantry, brown bag



- HUB model – place to go
- Mental Health Service with CASSY
- Co-sharing space – Day assignment to different organizations
- Life long learning – LGS Rec
- Speaker series catering to community—Could also use LG Theater (Oshner)
- If \$866K is not used, donate to senior 501c3 as seed to get it started
- Live Oak Nutrition – food scarcity – “Food with a friend”
- “To good to go” app – partner with them
- Dest for RYDE program (senior lobby)
- Sourcewise (house rich, cash poor)
- Fund grant writer
- Case manager/social worker
- Meeting place for other clubs/non-profits
- Mental health services
- Fundraisers
- Financial support for those who need it
- General place to enhance the quality of life for residents
- Plays the role of the Civic Center
- Navigator system (housing, youth and family, mental health) – one stop shop
- Facilitate creation of new organizations
- West valley community services
- Rotation of different types of partners/non-profits
- A room dedicated to non-profits
- Plant-based Advocates non-profit (local in LG)
- Health and nutrition education (esp. plant-based education) and how it relates to health/chronic illnesses
- Certain number of days allocated to community groups to host events at no charge
- Community discussion groups (where seniors feel safe, ADA accessibility, and can speak freely)
- Speaker series
- Mental health services – CASSY, Navigators, County
- Medicare reps
- Veterans affairs Benefits
- Ombudsman
- Health care services
- Business mentoring (SCORE)
- Police dept – fraud/scam prevention
- Transportation
- West Valley College
- Is the Town going to pay providers to staff the ARC, or do potential providers have to pay?
- Person to answer questions in the lobby

- Concierge
- Guidance for transportation
- Life issues – Life and death
- Reference to transit agency
- Community meeting room (seniors) to discuss local issues
- True senior center

3. What criteria do you believe should be used when selecting community partners and services?

- 501c3 or JPA (Joint Powers Authority)
- Should already be serving LG or close by South Bay community
- Should they be financially solvent?
- Are they going to pay?
- Case manager/social worker could funnel ppl/issues to the right area
- Create “volunteer support base” list – helping to provide resources
- Student nurses to do BP check, wellness check
- Youth centric space/activities – Hangout, game console, etc
- Services
- We should survey for services in demand
- Check what other communities have
- Basic needs (housing, mental health, food, nutrition)
- Rideshare services (free/community organized)
- Intentional avoidance of duplication of services
- Maslow’s hierarchy of needs
- Would providing this venue expand the capacity of organizations to provide services?
- Non-profit predominant (free/at cost)
- Non-profits as a priority (but not an absolute)
- Provide services for residents of Los Gatos
- Provide services that promote our health and wellness and benefit society (health, environment, humanity, social responsibility)
- Providers of social services (e.g. case management and other services that funds have been allocated to)
- Unduplicated services
- Reporting requirements (residency percent of service utilization, funding needs/use)
- Provider plan for space utilization
- Operational/administrative needs/footprint
- Non-commercial
- Responsive to community needs/alignment to senior roadmap
- Track record/community presence

- 55+ members have priority to set up meetings or any topic
- Local issues discussion
- A place for 55+members to meet in a safe and accommodating space on Town owned property to have discussion on local regional and national topics, the intent is a forum with [non legible] behavior, where [non legible] can advocate their views, this should be easy to set up without lawyers and discouraging requirements

Feb. 4, 2024

To: Katy Nomura, Asst. Town Manager

Fr: Eleanor Yick

**Re: Community Feedback – purple group ( front group on the left)**

Members of the group: Tom Picraux, Rob Moore, Darryl, friend of Darryl's, 2 women from Plant Based Advocates and Eleanor Yick. The top comments under each question are listed in order.

**1. Near term improvements to make the space more welcoming for all ages:**

**1.Equipment ( tech) for hybrid/virtual meetings in several designated areas/room of various sizes, particularly large room on main floor. (Includes 360 degree camera and meets all ADA regs for access, hearing, sight impaired, etc.**

**2.Better utilization of second floor to maximize usage, i.e. size of room, remediation and combine some rooms. One room that service providers can use.**

**3.Minor repairs entering building and upgrades**

- Closet space for storage for non-profits
- Translation services
- Access to kitchen
- Food pantry for storage, food prep for unhoused individuals
- Suggestion box in lobby that is easily accessible
- Make entry space more inviting

**2.What types of Community Partners and Services:**

**1. West Valley Community Services**

**2 .Health and Nutrition education ( i.e. plant based and how it relates to health and chronic illnesses)**

**3.Community Discussion Groups: where seniors feel safe and can speak freely. Space must be ADA compliant. Speaker series.**

- Rotation of different types of partners and non profits
- A room dedicated to non-profits
- Certain number of days allocated to community groups at no cost to host events

**3. Criteria to select Community Partners:**

- 1. Non-profits as a priority but not a deal breaker.**
- 2. Provide services to the residents of Los Gatos.**
- 3. Provide services that promote our health and wellness and benefit society (health, environment, humanity, social responsibility. Provides social services, such as case management & other services that funds have been allocated to.**

**4. The Group also discussed how the money should be allocated and the idea of saving some funds for a dedicated new community center and agreed:**

- 1. Initial improvements and reserve fund for future community center- new or remodeled ( i.e. \$300K saved for planning, design, etc.**
- 2. Keep saved/extra funds in a dedicated, restricted fund ( i.e. Community Center Fund.**

**#1: Near Term Improvements:**

Functional upgrades: See LGS Rec. list

Welcoming Entry Way-sliding glass door in north wall to a patio

Electronic Signage with activities and schedule

Modern A/V & IT upgrades; local and remote capabilities

Lighting-external and emergency

**#2: Community Partners and Services:**

Mental Health Services

CASSY

Navigators

County

West Valley Community Services

West Valley College

Medicare Reps.

Veteran's affairs-Benefits

Ombudsman

Health Care Services

Business Mentoring (SCORE)

Police Department-Fraud/Scam prevention

Transportation

Question: Is the town going to pay providers to staff the space or do potential providers have to pay?

**#3: Community Partner Priority Criteria:**

Unduplicated service

Reporting requirements

Residency % of service utilization

Funding needs/use

Provider plan for space utilization

Operational/Administrative needs/Footprint

Noncommercial

Responsive to community needs/Alignment to Senior Road Map

Track record/community presence

**1. What near-term improvements would you like to see at the Adult Recreation Center/Interim Community Center to make the space more welcoming for all ages?** Near-term improvements would be smaller-scale improvements such as improving signage or upgrading conference room technology for hybrid meetings. Larger-scale improvements would be more costly and would be reserved for the full remodel of the building in the future. Tonight's discussion will focus on near-term improvements. If you are not sure whether your idea falls into the "near-term" category, please share it, and we will do our best to determine whether it would be most appropriate for the near-term or future.

Some general improvement areas:

- Replace large hall dividing doors - large hall space must be configurable (current door is reported to be broken)
- Solution for table and chair storage - building partition wall in large hall for storage?
- AV upgrades in conference rooms / large hall
- Noise abatement in large hall
- More secure storage in large hall ( repurpose patio for storage?)
- Paint/refresh kitchen cabinets and counter
- In-wall sound system in Large Hall
- Pendant lighting in the lobby - easier to clean plus brighter light
- Look for and fix water damage
- Restroom upgrades - emergency lights in restrooms for power outage, sensors on sinks, toilets, soap, towel holders
- Automatic door openers
- Parking lot changes focusing on safety - lights, direction signs etc. currently parking lots are uneven and hence unsafe for seniors. Install cameras in the parking lot
- More lighting, ramps, install cameras and handrails
- Cover at the entry to protect against rain

**2. What types of community partners and services would you like to see at the Adult Recreation Center/Interim Community Center?** The Town is exploring providing space for community partners to provide services at the Adult Recreation Center in partnership with LGS Recreation. The intent would be to work with LGS Recreation to ensure there is minimal impact to existing programming, if any. This would mean there may be limited space available for community partners and the Town would appreciate feedback on which services should be prioritized. It is possible that multiple community partners could provide services on a rotation throughout the week to allow a variety of services using minimal space.

- Do not disrupt existing activities, esp for seniors. Maintain the ability for seniors to meet at least 2 hours per week.
- Partner with West valley Community Services - already serving Los Gatos, Support services like pantry, brown bag lunch
- Envision it as a HUB - place to go for everyone including seniors as well as youth. Co-sharing concept - daily assignment to different organizations



- Partner with CASSY to provide mental health services
- Life-long learning opportunities - via speaker series or specific keynotes
- Support Live Oak Nutrition - "Food with a friend". leverage kitchen and relationship with West Valley Community Services to provide food/nutritions
- Potential partnership with "Too Good to go" App to provide food options to the needy at the center
- Desk for RYDE program providing both service/information
- Create Senior Lobby
- Fund GRANT writer to seek grants for the center
- Fund case manager/social worker
- Youth centric space/activities for youths to hangout, with game consoles etc
- Student nurses for basic health check like BP

**3. What criteria do you believe should be used when selecting community partners**

**and services?** Since space will be limited, it is likely there will be more potential community partners than there is space available, even if they share the space on a rotational basis. Criteria will be used to evaluate community partners to select the top candidates. For example, criteria could include a requirement that they currently provide services to the Los Gatos community or that they are a nonprofit.

- 501c(3) or JPA (Joint Powers Authority)
- Prioritize if already serving Los Gatos or surrounding communities
- Financial sustainability/solvency and be able to pay for the usage
- Prioritize org with existing or commitment to create "Volunteer Support Base" to support services at the center



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 06/18/2024

ITEM NO: 23

ITEM NO. 23.

DATE: June 14, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Adopt a Resolution and Introduce Ordinances to Place a One-Eighth Cent Sales Tax on the November 2024 Ballot as Either One Measure for a Special Tax or Two Measures for a General Tax and a Companion Advisory Measure to be Adopted by a Separate Resolution; and Authorize a Fiscal Year 2024/25 Expenditure Budget Adjustment of \$66,000 for a Single Measure or \$132,000 for Two Measures from the Available Capital/Special Projects Reserve.

**RECOMMENDATION:**

Adopt a resolution and introduce ordinances by title only, waiving further reading, to place a one-eighth cent sales tax on the November 2024 Ballot as either one measure for a special tax or two measures for a general tax and a companion advisory measure to be adopted by a separate resolution; and authorize a Fiscal Year 2024/25 expenditure budget adjustment of \$66,000 for a single measure or \$132,000 for two measures from the available Capital/Special Projects Reserve.

**BACKGROUND:**

In January 2023, the Town Council included Exploring Revenue Measures as one of its Strategic Priorities to address its overall goal to ensure fiscal stability and sustainability in the long term for the Town of Los Gatos. Since then, the Town has conducted a competitive consultant selection process and hired NBS to advise on a potential revenue measure. Through May 2024, NBS has analyzed different revenue options and conducted a scientific poll on a potential 1/8<sup>th</sup> cent sales tax measure.

On May 21, 2024, Town Council discussed the poll results and the Finance Commission recommendation for a special tax and voted to:

**PREPARED BY:** Katy Nomura  
Assistant Town Manager

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

SUBJECT: Adopt a Resolution to Place a One-Eighth Cent Sales Tax on the November 2024 Ballot

DATE: June 14, 2024

BACKGROUND (continued):

- Explore a special tax for police, public safety, and emergency preparedness; wildfire prevention (such as vegetation management); and traffic relief.
- Approve an amendment to the NBS agreement to conduct outreach.
- Direct staff to talk to key stakeholders and work with NBS on the outreach.

This report summarizes the outreach conducted, evaluates options for Town Council for a potential ballot measure, and discusses next steps should the Council adopt a resolution to place a measure on the ballot.

DISCUSSION:

**NBS Outreach**

NBS completed a set of frequently asked questions and answers regarding sales tax measures which was posted on the Town's website on Friday, June 7, 2024:

[www.losgatosca.gov/RevenueMeasure](http://www.losgatosca.gov/RevenueMeasure).

In addition, this webpage also contains a link to a short survey, encouraging community members to identify their priorities for the use of the revenue from a potential sales tax measure. The data from the survey are currently being compiled and are expected to be available to the Council and the public in a Desk Item for the June 18<sup>th</sup> Council meeting.

**Staff Outreach**

Based on Council direction, the Town Manager and Assistant Town Manager met with a few key stakeholders to understand their perspectives on a potential ballot measure. While recognizing that a 1/8<sup>th</sup> cent sales tax would add 12.5 cents for every \$100 purchase and would most likely not deter people from shopping in Los Gatos, most stakeholders acknowledged tax and inflation fatigue on the part of Los Gatos voters.

In addition, stakeholders thought voters would want to know how the extra revenue would be used. The three dedicated areas identified by the Council all resonated with the stakeholders. For this reason, the notion of a special tax seemed most appealing to some despite the 2/3<sup>rd</sup> vote requirement. Others also expressed that while these areas were worthy recipients of additional funding, there was some concern that the special tax would not pass with the higher threshold and therefore, result in no additional funding for these areas.

The Los Gatos Chamber of Commerce Board is scheduled to discuss the potential sales tax and at the time of the writing of this report, the outcome of the Board's discussion is not known.

PAGE 3 OF 5

SUBJECT: Adopt a Resolution to Place a One-Eighth Cent Sales Tax on the November 2024  
Ballot

DATE: June 14, 2024

DISCUSSION (continued):**Options for Consideration**

Special Tax: Based on the Council's motion on May 21, 2024, Attachment 1 contains a draft resolution with ballot language for a special tax to be placed on the November ballot and the proposed ordinance attached as Exhibit A. Attachment 2 contains a draft ordinance approving placement of the ballot measure on the ballot with the proposed ordinance attached as Exhibit A. The specific uses of the additional revenue are the three priorities identified by the Town Council on May 21, 2024. The resolution and ordinances were prepared by municipal tax counsel.

General Tax with a Companion Advisory Measure: At the May 21, 2024, Council meeting, the Town Attorney mentioned an approach that has been used in other jurisdictions in which a general tax is placed on the ballot along with a companion advisory measure that indicates the specific use(s) for which the voters would prefer the tax revenue to be spent should both measures pass. This concept was not explored in depth at the meeting and subsequently, a Council Member has asked staff to provide more information to the Council.

The advantage of the general tax with a companion advisory measure is that each only need a simple majority to pass. In addition, having a companion advisory measure prioritizing the specific uses of the tax revenue would provide compelling guidance to the elected officials of the will of the voters.

Attachment 3 is a draft resolution placing a general tax on the ballot with the proposed ordinance imposing a general tax as Exhibit A. Attachment 4 is a draft ordinance approving placement of the general tax on the ballot with the proposed ordinance imposing a general tax as Exhibit A. Attachment 5 is a resolution placing an advisory measure on the ballot to accompany the general tax measure. The advisory measure focuses on the same three priorities as identified in the proposed special tax. The resolution for this measure has been prepared by municipal tax counsel.

While the Registrar of Voters customarily receives ballot measures adopted by resolution, the Revenue and Taxation Code can be interpreted to require that the placement of sales tax measures on the ballot be approved by ordinance. For that reason, the attachments include both resolutions and ordinances approving both measures for placement on the ballot. The resolution will be provided to the County Registrar upon adoption and the ordinances will be provided separately after adoption.

Attachment 6 contains examples of California cities that have successfully passed a general tax with a companion advisory measure.

SUBJECT: Adopt a Resolution to Place a One-Eighth Cent Sales Tax on the November 2024 Ballot

DATE: June 14, 2024

CONCLUSION AND NEXT STEPS:

The Town Council has the opportunity to determine whether to:

1. Adopt a resolution and introduce an ordinance by title only to place a one-eighth cent sales tax on the November 2024 ballot as a special tax, waive further reading, introduce an ordinance to approve the tax ordinance, and authorize a budget adjustment in the amount of \$66,000 from the available Capital/Special Projects Reserve; or
2. Adopt a resolution and introduce an ordinance by title only to place a one-eighth cent sales tax on the November 2024 ballot as a general tax, waive further reading, introduce an ordinance to approve the tax ordinance, adopt a resolution to add a companion advisory measure, and authorize a budget adjustment in the amount of \$132,000 from the available Capital/Special Projects Reserve; or
3. Provide other direction; or
4. Take no action.

August 9, 2024 is the last day in which the Santa Clara County Registrar of Voters is accepting resolutions to add measures for the November 2024 election.

COORDINATION:

This report was prepared in collaboration between NBS, the Town Manager's Office, the Town Attorney, and municipal tax counsel.

FISCAL IMPACT:

The cost of each ballot measure is approximately \$66,000. If the Council votes to put two measures on the ballot (i.e., general tax and companion advisory measures), the total estimated cost is \$132,000. Budget adjustments would be needed to add these resources to the adopted Fiscal Year 2024/25 Operating Budget. The source of funds would be the Capital/Special Projects Reserve.

If a sales tax measure passes in November, it is estimated to generate approximately \$1 million per year.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Draft Special Tax Resolution with Exhibit A: Special Tax Ordinance
2. Draft Ordinance Approving Proposed Ordinance with Exhibit A: Special Tax Ordinance

SUBJECT: Adopt a Resolution to Place a One-Eighth Cent Sales Tax on the November 2024  
Ballot

DATE: June 14, 2024

Attachments (continued):

3. Draft General Tax Resolution with Exhibit A: General Tax Ordinance
4. Draft Ordinance Approving Proposed Ordinance with Exhibit A: General Tax Ordinance
5. Resolution Approving Advisory Measure to General Tax
6. Examples of Approved General Taxes with Advisory Measures

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS, CALIFORNIA,  
SUBMITTING A SPECIAL TRANSACTIONS AND USE TAX MEASURE TO THE VOTERS AT  
THE TUESDAY, NOVEMBER 5, 2024, GENERAL MUNICIPAL ELECTION**

**WHEREAS**, Town of Los Gatos residents have indicated that the quality of life in Los Gatos is highly valued; and

**WHEREAS**, the costs of providing Town services and programs to residents have significantly increased over the years and Town revenues have not kept pace; and

**WHEREAS**, additional locally controlled funding would allow the Town to maintain and enhance critical public safety services and infrastructure; and

**WHEREAS**, the Town seeks to maintain and improve public safety services; and

**WHEREAS**, the Town also seeks to maintain and improve emergency services, including protection against wildfire and storm hazards; and

**WHEREAS**, the Town also seeks to help fund infrastructure programs improving traffic flow and mobility to relieve congestion;

**WHEREAS**, Government Code section 53724 and Revenue & Taxation Code section 7285.91 authorize the Town Council to submit to the qualified voters of the Town for their approval a proposed special transactions and use tax; and

**WHEREAS**, locally-enacted funding sources such as a voter-approved transactions and use tax are not subject to seizure by the State or County; and

**WHEREAS**, the Town Council desires to submit to the qualified voters of the Town a proposed one-eighth of one percent (0.125%) special Transactions and Use Tax(the "Tax") to be collected in addition to the existing one-eighth of one percent (0.125%) general Transactions and Use Tax currently being collected within the Town; and

**WHEREAS**, the Tax must be approved by the electorate to be effective; and

**WHEREAS**, by Resolution 2024-029, the Town Council of the Town of Los Gatos called a municipal election to be held on Tuesday, November 5, 2024, ("the Election") and requested the Board of Supervisors of the County of Santa Clara to consolidate the election with the General Statewide election; and

**WHEREAS**, the consolidated municipal election will be held, regulated, and conducted in accordance with the provisions of the law as provided in Resolution 2024-029.

**NOW THEREFORE, BE IT RESOLVED**, that the Town Council orders as follows:

**Section 1.** The Town Council finds and determines that each of the findings set forth above are true and correct.

**Section 2.** The Town Council hereby submits the proposed ordinance set forth in Exhibit A, attached hereto and incorporated in this Resolution by this reference, to the qualified voters of the Town at the Election, and orders the following question to be submitted to the voters at the Election:

<p>“To provide dedicated funding for Los Gatos, that cannot be taken by the State/County, for maintaining and enhancing Police and emergency services, rapid 911 response times, wildfire/storm hazard prevention/protection, and infrastructure to improve traffic flow/reduce congestion, shall the measure to enact a 1/8 cent sales tax (0.125%), raising approximately \$1 million annually, ending in 20 years, with mandatory annual audits, independent resident oversight, and all funds controlled locally in Los Gatos, be adopted?”</p>	YES
	NO

The measure requires a two-thirds majority of the qualified voters voting on the proposed ordinance to pass.

**Section 3.** That the “full text” of the proposed ordinance shall appear in the Voter Information Pamphlet. The “full text” of the proposed ordinance is attached to this resolution as “Exhibit A.”

**Section 4.** Pursuant to Elections Code Section 9280, the Town Council hereby directs the Town Clerk to transmit a copy of the measure to the Town Attorney. The Town Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the Town Clerk on or before 4:00 p.m. on August 12, 2024.

**Section 5.** Pursuant to Elections Code Section 9286 et. seq., August 12, 2024, at 4:00 p.m. shall be the deadline for submission of arguments in favor of, and arguments against, this measure. Arguments in favor of or against the measure shall not exceed 300 words in length. The Mayor, or her designee(s), is hereby authorized to prepare a written argument in favor of the proposed measure on behalf of the City Council. At the Mayor’s discretion, the Argument may also be signed by bona fide associations or by individual voters who are eligible to vote in the Town of Los Gatos. Each argument shall be signed, filed with the Town Clerk, and include the printed name(s) and signature(s) of the author(s) submitting the argument. If more than one argument for or against is received, the priorities established by Elections Code Section 9287 shall control.



**Section 6.** Subdivision (a) of section 9285 of the Elections Code shall apply to the Election and shall control the submission of any rebuttal arguments for this measure. If an argument in favor and an argument against the measure have been selected to be printed in the voter information guide, the Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure. The rebuttal authors or persons designated by them may prepare and submit rebuttal arguments not to exceed 250 words in length. Rebuttal arguments must be submitted not later than August 19, 2024, by 4:00 p.m. This Section shall apply only to the election to be held on November 5, 2024, and shall then be repealed.

**Section 7.** Pursuant to Elections Code Section 10002, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to make available the services of the Registrar of Voters for the purpose of performing the usual services necessary in the conduct of the consolidated general municipal election, including the provisions of election supplies and voters' pamphlets; and that upon approval of such requests, the Registrar of Voters of the County of Santa Clara shall be reimbursed for all costs incurred by said services.

**Section 8.** Pursuant to Elections Code commencing with Section 10400, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to order the consolidation of the general municipal election to be conducted within the boundaries of the Town of Los Gatos on November 5, 2024, with respect to which the Board of Supervisors of the County of Santa Clara has the power to order a consolidation. The Town Council further consents to and orders the consolidation of the general municipal election hereby called with the statewide general election and acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418.

**Section 9.** The Town Clerk is hereby authorized and directed to publish a notice of the general municipal election within the time and in the manner specified in the Elections Code Section 12112. The Town Clerk is further authorized and directed to do all other things required by law to hold the general municipal election above provided.

**Section 10.** The Town Clerk is hereby authorized and directed to certify to the adoption of this resolution and to transmit a certified copy to the Board of Supervisors of the County of Santa Clara and to the Registrar of Voters of the County of Santa Clara.

**Section 11.** That the Town Manager is authorized to negotiate and execute an agreement with the Board of Equalization in accordance with Revenue and Taxation Code Section 7270 to perform all functions incident to the administration and operation of the ordinance if adopted.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos this 18th day of June, 2024 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: \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE OF THE PEOPLE OF THE TOWN OF LOS GATOS IMPOSING A SPECIAL  
TRANSACTIONS AND USE TAX FOR A PERIOD OF TWENTY YEARS**

The People of the Town of Los Gatos ordain as follows:

**SECTION 1. AMENDMENT OF MUNICIPAL CODE.**

Chapter 25 of the Los Gatos Town Code is hereby amended by adding provisions as set forth in this section below. Portions of the Chapter not included in this Ordinance are not changed.

**Chapter 25  
REVENUE AND TAXATION****ARTICLE VIII. SPECIAL TRANSACTIONS AND USE TAX****Section 25.080.010. Title.**

This article shall be known as the Los Gatos Special Transactions and Use Tax Ordinance. The town of Los Gatos hereinafter shall be called "Town." This article shall be applicable in the incorporated territory of the Town.

**Section 25.080.020. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 25.080.030. Purpose.**

This article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the Town to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- (2) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

- (3) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- (4) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.
- (5) To provide transactions and use revenue to the Town to be used solely for maintaining and enhancing Police and emergency services, rapid 911 response times, wildfire and storm hazard prevention and protection, and infrastructure to improve traffic flow and to reduce congestion.

#### **Section 25.080.040. Contract with State.**

Prior to the operative date, the Town shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Town shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

#### **Section 25.080.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the Town at the rate of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

#### **Section 25.080.060. Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined

under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

#### **Section 25.080.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the Town of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eighth of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

#### **Section 25.080.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

#### **Section 25.080.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- (1) Wherever the State of California is named or referred to as the taxing agency, the name of this Town shall be substituted therefor. However, the substitution shall not be made when:
  - a. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
  - b. The result of that substitution would require action to be taken by or against this Town or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
  - c. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
    1. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

2. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
  - d. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- (2) The word "Town" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.
- a. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

#### **Section 25.080.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

#### **Section 25.080.110. Exemptions and Exclusions.**

- (1) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- (2) There are exempted from the computation of the amount of transactions tax the gross receipts from:
  - a. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - b. Sales of property to be used outside the Town which is shipped to a point outside the Town, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the Town shall be satisfied:

1. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
  2. With respect to commercial vehicles, by registration to a place of business out-of-Town and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
- c. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
  - e. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- (3) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this Town of tangible personal property:
- a. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  - b. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
  - c. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for

any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

- e. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
  - f. Except as provided in subparagraph (7), a retailer engaged in business in the Town shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.
  - g. "A retailer engaged in business in the Town " shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.
- (4) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

#### **Section 25.080.120. Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.



### **Section 25.080.130. Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

### **Section 25.080.140. Use of Revenue.**

The revenues from the tax imposed by this chapter shall be segregated and deposited into a special account and may be spent only for maintaining or enhancing Police or emergency services, rapid 911 response times, wildfire or storm hazard prevention or protection, or infrastructure to improve traffic flow or to reduce traffic congestion.

### **Section 25.080.150. Residents' Oversight and Annual Audit.**

- (1) The Town Council shall appoint a committee ("Special Tax Finance Committee") to review and report on the receipt of revenues and the expenditure of funds from the tax authorized by this chapter ("revenues and expenditures"). The number, qualifications, and duties of Special Tax Finance Committee members shall be established by ordinance or resolution of the Town Council.
- (2) Beginning with the fiscal year that ends June 30, 2025, the Town's independent auditors shall, as part of their annual audit of the Town's financial statements, review the collection and expenditure of revenue from the tax authorized by this chapter. The auditors' review shall be a public document.
- (3) Each year, the Finance Director shall prepare a report consistent with the requirements of section 50075.3 of the Government Code and shall submit the report to the Special Tax Finance Committee and to the Town Council. The Special Tax Finance Committee shall annually review the auditors' findings and the Finance Director's report and report in writing to the Town Council regarding the revenues and expenditures. The Special Tax Finance Committee's report shall be transmitted to the Town Council for consideration at a public meeting.
- (4) By January 31, 2025, the Town Council shall adopt a resolution establishing the composition of the Special Tax Finance Committee and further defining its responsibilities consistently with this section. Provisions defining the scope of the Special Tax Finance Committee's responsibilities and reporting requirements shall address bond oversight, in the event that a decision is made at a later time to sell bonds that are in part backed by the revenues referenced in this section. The Town Council shall appoint the initial members of the Special Tax Finance Committee no later than March 1, 2025

**Section 25.080.160. Termination Date.**

The authority to levy the tax imposed by this chapter shall expire on March 31, 2045, without further action by the Town Council or the voters of the Town. After said date, the tax imposed by this Chapter can only be continued or reestablished by a two-thirds majority vote of Los Gatos voters.

**SECTION 2. ADJUSTMENT OF APPROPRIATIONS LIMIT.**

Pursuant to Article XIIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the Town is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-2025 and each year thereafter.

**SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

This ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065, and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

**SECTION 4. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5. EFFECTIVE DATE.**

This ordinance relates to the levying and collecting of the Town transactions and use taxes and shall take effect immediately.

**SECTION 6. NOTICE.**

Upon approval by the voters, the Town Clerk Administrator shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

\* \* \* \* \*

It is hereby certified that this Ordinance was duly adopted by the voters at the November 5, 2024 General Municipal Election and took effect 10 days following adoption of a resolution

declaring the results of the election at a regular meeting of the Town Council held on \_\_\_\_\_, 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 ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**DRAFT ORDINANCE**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
APPROVING THE ORDINANCE TO BE SUBMITTED TO THE VOTERS OF THE  
TOWN OF LOS GATOS AT THE NOVEMBER 5, 2024, GENERAL MUNICIPAL  
ELECTION THAT PROPOSES TO IMPOSE A ONE-EIGHTH OF ONE PERCENT  
SPECIAL TRANSACTIONS AND USE TAX IN THE TOWN OF LOS GATOS**

**WHEREAS,** The Town Council of the Town of Los Gatos has adopted a resolution submitting to the voters of the Town of Los Gatos at the November 5, 2024, general municipal election as a measure on the ballot for their approval an ordinance, a copy of which is attached hereto as Exhibit A ("Proposed Ordinance") that proposes to impose a one-eighth of one percent (0.125%) special Transactions and Use Tax in the Town of Los Gatos; and

**WHEREAS,** The Town Council wishes to approve by its own ordinance the Proposed Ordinance, although the Proposed Ordinance cannot go into effect unless and until approved by a two-thirds majority of the voters of the Town of Los Gatos voting on the measure at the November 5, 2024, general municipal election;

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

The Town Council of the Town of Los Gatos approves the Proposed Ordinance, attached hereto as Exhibit A, which proposes to impose a one-eighth of one percent (0.125%) special Transactions and Use Tax in the Town of Los Gatos.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 18th day of June, 2024, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the \_\_\_\_ day of \_\_\_\_ 2024, 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: \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE OF THE PEOPLE OF THE TOWN OF LOS GATOS IMPOSING A SPECIAL  
TRANSACTIONS AND USE TAX FOR A PERIOD OF TWENTY YEARS**

The People of the Town of Los Gatos ordain as follows:

**SECTION 1. AMENDMENT OF MUNICIPAL CODE.**

Chapter 25 of the Los Gatos Town Code is hereby amended by adding provisions as set forth in this section below. Portions of the Chapter not included in this Ordinance are not changed.

**Chapter 25  
REVENUE AND TAXATION**

**ARTICLE VIII. SPECIAL TRANSACTIONS AND USE TAX**

**Section 25.080.010. Title.**

This article shall be known as the Los Gatos Special Transactions and Use Tax Ordinance. The town of Los Gatos hereinafter shall be called "Town." This article shall be applicable in the incorporated territory of the Town.

**Section 25.080.020. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 25.080.030. Purpose.**

This article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the Town to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- (2) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

- (3) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- (4) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.
- (5) To provide transactions and use revenue to the Town to be used solely for maintaining and enhancing Police and emergency services, rapid 911 response times, wildfire and storm hazard prevention and protection, and infrastructure to improve traffic flow and to reduce congestion.

#### **Section 25.080.040. Contract with State.**

Prior to the operative date, the Town shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Town shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

#### **Section 25.080.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the Town at the rate of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

#### **Section 25.080.060. Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined

under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

#### **Section 25.080.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the Town of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eighth of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

#### **Section 25.080.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

#### **Section 25.080.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- (1) Wherever the State of California is named or referred to as the taxing agency, the name of this Town shall be substituted therefor. However, the substitution shall not be made when:
  - a. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
  - b. The result of that substitution would require action to be taken by or against this Town or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
  - c. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
    1. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;



2. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
  - d. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- (2) The word "Town" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.
- a. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

#### **Section 25.080.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

#### **Section 25.080.110. Exemptions and Exclusions.**

- (1) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- (2) There are exempted from the computation of the amount of transactions tax the gross receipts from:
  - a. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - b. Sales of property to be used outside the Town which is shipped to a point outside the Town, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the Town shall be satisfied:

1. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
  2. With respect to commercial vehicles, by registration to a place of business out-of-Town and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
- c. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
  - e. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- (3) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this Town of tangible personal property:
- a. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  - b. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
  - c. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for

any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

- e. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
  - f. Except as provided in subparagraph (7), a retailer engaged in business in the Town shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.
  - g. "A retailer engaged in business in the Town " shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.
- (4) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

#### **Section 25.080.120. Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

### **Section 25.080.130. Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

### **Section 25.080.140. Use of Revenue.**

The revenues from the tax imposed by this chapter shall be segregated and deposited into a special account and may be spent only for maintaining or enhancing Police or emergency services, rapid 911 response times, wildfire or storm hazard prevention or protection, or infrastructure to improve traffic flow or to reduce traffic congestion.

### **Section 25.080.150. Residents' Oversight and Annual Audit.**

- (1) The Town Council shall appoint a committee ("Special Tax Finance Committee") to review and report on the receipt of revenues and the expenditure of funds from the tax authorized by this chapter ("revenues and expenditures"). The number, qualifications, and duties of Special Tax Finance Committee members shall be established by ordinance or resolution of the Town Council.
- (2) Beginning with the fiscal year that ends June 30, 2025, the Town's independent auditors shall, as part of their annual audit of the Town's financial statements, review the collection and expenditure of revenue from the tax authorized by this chapter. The auditors' review shall be a public document.
- (3) Each year, the Finance Director shall prepare a report consistent with the requirements of section 50075.3 of the Government Code and shall submit the report to the Special Tax Finance Committee and to the Town Council. The Special Tax Finance Committee shall annually review the auditors' findings and the Finance Director's report and report in writing to the Town Council regarding the revenues and expenditures. The Special Tax Finance Committee's report shall be transmitted to the Town Council for consideration at a public meeting.
- (4) By January 31, 2025, the Town Council shall adopt a resolution establishing the composition of the Special Tax Finance Committee and further defining its responsibilities consistently with this section. Provisions defining the scope of the Special Tax Finance Committee's responsibilities and reporting requirements shall address bond oversight, in the event that a decision is made at a later time to sell bonds that are in part backed by the revenues referenced in this section. The Town Council shall appoint the initial members of the Special Tax Finance Committee no later than March 1, 2025

**Section 25.080.160. Termination Date.**

The authority to levy the tax imposed by this chapter shall expire on March 31, 2045, without further action by the Town Council or the voters of the Town. After said date, the tax imposed by this Chapter can only be continued or reestablished by a two-thirds majority vote of Los Gatos voters.

**SECTION 2. ADJUSTMENT OF APPROPRIATIONS LIMIT.**

Pursuant to Article XIIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the Town is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-2025 and each year thereafter.

**SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

This ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065, and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

**SECTION 4. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5. EFFECTIVE DATE.**

This ordinance relates to the levying and collecting of the Town transactions and use taxes and shall take effect immediately.

**SECTION 6. NOTICE.**

Upon approval by the voters, the Town Clerk Administrator shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

\* \* \* \* \*

It is hereby certified that this Ordinance was duly adopted by the voters at the November 5, 2024 General Municipal Election and took effect 10 days following adoption of a resolution

declaring the results of the election at a regular meeting of the Town Council held on \_\_\_\_\_, 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 ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS, CALIFORNIA,  
SUBMITTING A SUPPLEMENTAL GENERAL TRANSACTIONS AND USE TAX MEASURE  
TO THE VOTERS AT THE TUESDAY, NOVEMBER 5, 2024,  
GENERAL MUNICIPAL ELECTION**

**WHEREAS**, Town of Los Gatos residents have indicated that the quality of life in Los Gatos is highly valued; and

**WHEREAS**, the costs of providing Town services and programs to residents have significantly increased over the years and Town revenues have not kept pace; and

**WHEREAS**, additional locally controlled funding would allow the Town to maintain and enhance critical public safety services and infrastructure; and

**WHEREAS**, the Town seeks to maintain and improve public safety services; and

**WHEREAS**, the Town also seeks to maintain and improve emergency services, including protection against wildfire and storm hazards; and

**WHEREAS**, the Town also seeks to help fund infrastructure programs improving traffic flow and mobility to relieve congestion;

**WHEREAS**, Government Code section 53724 and Revenue & Taxation Code section 7285.9 authorize the Town Council to submit to the qualified voters of the Town for their approval a proposed transactions and use tax; and

**WHEREAS**, locally-enacted funding sources such as a voter-approved transactions and use tax are not subject to seizure by the State or County; and

**WHEREAS**, the Town Council desires to submit to the qualified voters of the Town a proposed one-eighth of one percent (0.125%) Transactions and Use Tax(the "Tax") to be collected in addition to the existing one-eighth of one percent (0.125%) Transactions and Use Tax currently being collected within the Town; and

**WHEREAS**, the Tax must be approved by the electorate to be effective; and

**WHEREAS**, by Resolution 2024-029, the Town Council of the Town of Los Gatos called a municipal election to be held on Tuesday, November 5, 2024, ("the Election") and requested the Board of Supervisors of the County of Santa Clara to consolidate the election with the General Statewide election; and

**WHEREAS**, the consolidated municipal election will be held, regulated, and conducted in accordance with the provisions of the law as provided in Resolution 2024-029.

**NOW THEREFORE, BE IT RESOLVED**, that the Town Council orders as follows:

**Section 1.** The Town Council finds and determines that each of the findings set forth above are true and correct.

**Section 2.** The Town Council hereby submits the proposed ordinance set forth in Exhibit A, attached hereto and incorporated in this Resolution by this reference, to the qualified voters of the Town at the Election, and orders the following question to be submitted to the voters at the Election and appear on the ballot immediately after the advisory measure:

<p>“To provide funding that cannot be taken by the State/County, to maintain/enhance Los Gatos essential services, including Police/emergency services, rapid 911 response, wildfire/storm hazard prevention/protection, infrastructure to reduce traffic congestion, and for general government use, shall the measure enacting a 1/8 cent sales tax (0.125%), raising approximately \$1 million annually, ending in 20 years, with mandatory annual audits, independent resident oversight, and all funds controlled locally in Los Gatos, be adopted?”</p>	YES
	NO

The measure requires a majority of the qualified voters voting on the proposed ordinance to pass.

**Section 3.** That the “full text” of the proposed ordinance shall appear in the Voter Information Pamphlet. The “full text” of the proposed ordinance is attached to this resolution as “Exhibit A.”

**Section 4.** Pursuant to Elections Code Section 9280, the Town Council hereby directs the Town Clerk to transmit a copy of the measure to the Town Attorney. The Town Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the Town Clerk on or before 4:00 p.m. on August 12, 2024.

**Section 5.** Pursuant to Elections Code Section 9286 et. seq., August 12, 2024, at 4:00 p.m. shall be the deadline for submission of arguments in favor of, and arguments against, this measure. Arguments in favor of or against the measure shall not exceed 300 words in length. The Mayor, or her designee(s), is hereby authorized to prepare a written argument in favor of the proposed measure on behalf of the City Council. At the Mayor’s discretion, the Argument may also be signed by bona fide associations or by individual voters who are eligible to vote in the Town of Los Gatos. Each argument shall be signed, filed with the Town Clerk, and include the printed name(s) and signature(s) of the author(s) submitting the argument. If more than one argument for or against is received, the priorities established by Elections Code Section 9287 shall control.



**Section 6.** Subdivision (a) of section 9285 of the Elections Code shall apply to the Election and shall control the submission of any rebuttal arguments for this measure. If an argument in favor and an argument against the measure have been selected to be printed in the voter information guide, the Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure. The rebuttal authors or persons designated by them may prepare and submit rebuttal arguments not to exceed 250 words in length. Rebuttal arguments must be submitted not later than August 19, 2024, by 4:00 p.m. This Section shall apply only to the election to be held on November 5, 2024, and shall then be repealed.

**Section 7.** Pursuant to Elections Code Section 10002, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to make available the services of the Registrar of Voters for the purpose of performing the usual services necessary in the conduct of the consolidated general municipal election, including the provisions of election supplies and voters' pamphlets; and that upon approval of such requests, the Registrar of Voters of the County of Santa Clara shall be reimbursed for all costs incurred by said services.

**Section 8.** Pursuant to Elections Code commencing with Section 10400, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to order the consolidation of the general municipal election to be conducted within the boundaries of the Town of Los Gatos on November 5, 2024, with respect to which the Board of Supervisors of the County of Santa Clara has the power to order a consolidation. The Town Council further consents to and orders the consolidation of the general municipal election hereby called with the statewide general election and acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418.

**Section 9.** The Town Clerk is hereby authorized and directed to publish a notice of the general municipal election within the time and in the manner specified in the Elections Code Section 12112. The Town Clerk is further authorized and directed to do all other things required by law to hold the general municipal election above provided.

**Section 10.** The Town Clerk is hereby authorized and directed to certify to the adoption of this resolution and to transmit a certified copy to the Board of Supervisors of the County of Santa Clara and to the Registrar of Voters of the County of Santa Clara.

**Section 11.** That the Town Manager is authorized to negotiate and execute an agreement with the Board of Equalization in accordance with Revenue and Taxation Code Section 7270 to perform all functions incident to the administration and operation of the ordinance if adopted.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos this 18th day of June, 2024 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: \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE OF THE PEOPLE OF THE TOWN OF LOS GATOS IMPOSING A  
SUPPLEMENTAL TRANSACTIONS AND USE TAX FOR A PERIOD OF TWENTY YEARS**

The People of the Town of Los Gatos ordain as follows:

**SECTION 1. AMENDMENT OF MUNICIPAL CODE.**

Chapter 25 of the Los Gatos Town Code is hereby amended by adding provisions as set forth in this section below. Portions of the Chapter not included in this Ordinance are not changed.

**Chapter 25  
REVENUE AND TAXATION**

**ARTICLE VIII. SUPPLEMENTAL TRANSACTIONS AND USE TAX**

**Section 25.080.010. Title.**

This article shall be known as the Los Gatos Supplemental Transactions and Use Tax Ordinance. The town of Los Gatos hereinafter shall be called "Town." This article shall be applicable in the incorporated territory of the Town.

**Section 25.080.020. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 25.080.030. Purpose.**

This article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the Town to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- (2) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

- (3) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- (4) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

#### **Section 25.080.040. Contract with State.**

Prior to the operative date, the Town shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Town shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

#### **Section 25.080.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the Town at the rate of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

#### **Section 25.080.060. Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

### **Section 25.080.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the Town of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eight of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

### **Section 25.080.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

### **Section 25.080.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- (1) Wherever the State of California is named or referred to as the taxing agency, the name of this Town shall be substituted therefor. However, the substitution shall not be made when:
  - a. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
  - b. The result of that substitution would require action to be taken by or against this Town or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
  - c. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
    1. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
    2. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

- d. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- (2) The word "Town" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.
- a. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

#### **Section 25.080.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

#### **Section 25.080.110. Exemptions and Exclusions.**

- (1) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- (2) There are exempted from the computation of the amount of transactions tax the gross receipts from:
  - a. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - b. Sales of property to be used outside the Town which is shipped to a point outside the Town, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the Town shall be satisfied:
    - 1. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of

the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

2. With respect to commercial vehicles, by registration to a place of business out-of-Town and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
- c. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
  - e. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- (3) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this Town of tangible personal property:
- a. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  - b. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
  - c. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

- e. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
  - f. Except as provided in subparagraph (7), a retailer engaged in business in the Town shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.
  - g. "A retailer engaged in business in the Town " shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.
- (4) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

#### **Section 25.080.120. Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

#### **Section 25.080.130. Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.



**Section 25.080.140. Residents' Oversight and Annual Audit.**

- (1) The Town Council shall appoint a committee ("Tax Finance Committee") to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this chapter ("revenues and expenditures"). The number, qualifications, and duties of Tax Finance Committee members shall be established by ordinance or resolution of the Town Council.
- (2) Beginning with the fiscal year that ends June 30, 2025, the Town's independent auditors shall, as part of their annual audit of the Town's financial statements, review the collection and expenditure of revenue from the tax authorized by this chapter. The auditors' review shall be a public document. The Tax Finance Committee shall annually review the auditors' findings and report in writing to the Town Council regarding the revenues and expenditures. The Tax Finance Committee report shall be transmitted to the Town Council for consideration at a public meeting.
- (3) By January 31, 2025, the Town Council shall adopt a resolution establishing the composition of the Tax Finance Committee and further defining its responsibilities consistently with this section. Provisions defining the scope of the Tax Finance Committee's responsibilities and reporting requirements shall address bond oversight, in the event that a decision is made at a later time to sell bonds that are in part backed by the revenues referenced in this section. The Town Council shall appoint the initial members of the Tax Finance Committee no later than March 1, 2025

**Section 25.080.150. Termination Date.**

The authority to levy the tax imposed by this chapter shall expire on March 31, 2045, without further action by the Town Council or the voters of the Town. After said date, the tax imposed by this Chapter can only be continued or reestablished by a majority vote of Los Gatos voters.

**SECTION 2. ADJUSTMENT OF APPROPRIATIONS LIMIT.**

Pursuant to Article XIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the Town is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-2025 and each year thereafter.

**SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

This ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065, and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

**SECTION 4. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5. EFFECTIVE DATE.**

This ordinance relates to the levying and collecting of the Town transactions and use taxes and shall take effect immediately.

**SECTION 6. NOTICE.**

Upon approval by the voters, the Town Clerk Administrator shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

\* \* \* \* \*

It is hereby certified that this Ordinance was duly adopted by the voters at the November 5, 2024 General Municipal Election and took effect 10 days following adoption of a resolution declaring the results of the election at a regular meeting of the Town Council held on \_\_\_\_\_, 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 ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS  
APPROVING THE ORDINANCE TO BE SUBMITTED TO THE VOTERS OF THE  
TOWN OF LOS GATOS AT THE NOVEMBER 5, 2024, GENERAL MUNICIPAL  
ELECTION THAT PROPOSES TO IMPOSE A ONE-EIGHTH OF ONE PERCENT  
GENERAL TRANSACTIONS AND USE TAX IN THE TOWN OF LOS GATOS**

**WHEREAS,** The Town Council of the Town of Los Gatos has adopted a resolution submitting to the voters of the Town of Los Gatos at the November 5, 2024, general municipal election as a measure on the ballot for their approval an ordinance, a copy of which is attached hereto as Exhibit A ("Proposed Ordinance") that proposes to impose a one-eighth of one percent (0.125%) general Transactions and Use Tax in the Town of Los Gatos; and

**WHEREAS,** The Town Council wishes to approve by its own ordinance the Proposed Ordinance, although the Proposed Ordinance cannot go into effect unless and until approved by a majority of the voters of the Town of Los Gatos voting on the measure at the November 5, 2024, general municipal election;

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

The Town Council of the Town of Los Gatos approves the Proposed Ordinance, attached hereto as Exhibit A, which proposes to impose a one-eighth of one percent (0.125%) general Transactions and Use Tax in the Town of Los Gatos.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 18th day of June, 2024, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the \_\_\_\_ day of \_\_\_\_ 2024, 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: \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE OF THE PEOPLE OF THE TOWN OF LOS GATOS IMPOSING A  
SUPPLEMENTAL TRANSACTIONS AND USE TAX FOR A PERIOD OF TWENTY YEARS**

The People of the Town of Los Gatos ordain as follows:

**SECTION 1. AMENDMENT OF MUNICIPAL CODE.**

Chapter 25 of the Los Gatos Town Code is hereby amended by adding provisions as set forth in this section below. Portions of the Chapter not included in this Ordinance are not changed.

**Chapter 25  
REVENUE AND TAXATION**

**ARTICLE VIII. SUPPLEMENTAL TRANSACTIONS AND USE TAX**

**Section 25.080.010. Title.**

This article shall be known as the Los Gatos Supplemental Transactions and Use Tax Ordinance. The town of Los Gatos hereinafter shall be called "Town." This article shall be applicable in the incorporated territory of the Town.

**Section 25.080.020. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 25.080.030. Purpose.**

This article is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the Town to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- (2) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

- (3) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- (4) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

#### **Section 25.080.040. Contract with State.**

Prior to the operative date, the Town shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Town shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

#### **Section 25.080.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the Town at the rate of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

#### **Section 25.080.060. Place of Sale.**

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

**Section 25.080.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the Town of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eight of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**Section 25.080.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

**Section 25.080.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- (1) Wherever the State of California is named or referred to as the taxing agency, the name of this Town shall be substituted therefor. However, the substitution shall not be made when:
  - a. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
  - b. The result of that substitution would require action to be taken by or against this Town or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
  - c. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
    1. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
    2. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

- d. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- (2) The word "Town" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.
  - a. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

#### **Section 25.080.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

#### **Section 25.080.110. Exemptions and Exclusions.**

- (1) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- (2) There are exempted from the computation of the amount of transactions tax the gross receipts from:
  - a. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - b. Sales of property to be used outside the Town which is shipped to a point outside the Town, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the Town shall be satisfied:
    - 1. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of

the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

2. With respect to commercial vehicles, by registration to a place of business out-of-Town and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
- c. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
  - e. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- (3) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this Town of tangible personal property:
- a. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  - b. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
  - c. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
  - d. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.



- e. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
  - f. Except as provided in subparagraph (7), a retailer engaged in business in the Town shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.
  - g. "A retailer engaged in business in the Town " shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.
- (4) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

#### **Section 25.080.120. Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

#### **Section 25.080.130. Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

#### **Section 25.080.140. Residents' Oversight and Annual Audit.**

- (1) The Town Council shall appoint a committee ("Tax Finance Committee") to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this chapter ("revenues and expenditures"). The number, qualifications, and duties of Tax Finance Committee members shall be established by ordinance or resolution of the Town Council.
- (2) Beginning with the fiscal year that ends June 30, 2025, the Town's independent auditors shall, as part of their annual audit of the Town's financial statements, review the collection and expenditure of revenue from the tax authorized by this chapter. The auditors' review shall be a public document. The Tax Finance Committee shall annually review the auditors' findings and report in writing to the Town Council regarding the revenues and expenditures. The Tax Finance Committee report shall be transmitted to the Town Council for consideration at a public meeting.
- (3) By January 31, 2025, the Town Council shall adopt a resolution establishing the composition of the Tax Finance Committee and further defining its responsibilities consistently with this section. Provisions defining the scope of the Tax Finance Committee's responsibilities and reporting requirements shall address bond oversight, in the event that a decision is made at a later time to sell bonds that are in part backed by the revenues referenced in this section. The Town Council shall appoint the initial members of the Tax Finance Committee no later than March 1, 2025

#### **Section 25.080.150. Termination Date.**

The authority to levy the tax imposed by this chapter shall expire on March 31, 2045, without further action by the Town Council or the voters of the Town. After said date, the tax imposed by this Chapter can only be continued or reestablished by a majority vote of Los Gatos voters.

#### **SECTION 2. ADJUSTMENT OF APPROPRIATIONS LIMIT.**

Pursuant to Article XIIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the Town is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-2025 and each year thereafter.

#### **SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

This ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065, and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

**SECTION 4. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5. EFFECTIVE DATE.**

This ordinance relates to the levying and collecting of the Town transactions and use taxes and shall take effect immediately.

**SECTION 6. NOTICE.**

Upon approval by the voters, the Town Clerk Administrator shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

\* \* \* \* \*

It is hereby certified that this Ordinance was duly adopted by the voters at the November 5, 2024 General Municipal Election and took effect 10 days following adoption of a resolution declaring the results of the election at a regular meeting of the Town Council held on \_\_\_\_\_, 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 ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS,  
CALIFORNIA, SUBMITTING AN ADVISORY MEASURE TO THE VOTERS AT  
THE TUESDAY, NOVEMBER 5, 2024, GENERAL MUNICIPAL ELECTION**

**WHEREAS**, the Town Council is submitting to the qualified voters of the Town a proposed one-eighth of one percent (0.125%) general Transactions and Use Tax (the "Tax") to be collected in addition to the existing one-eighth of one percent (0.125%) general Transactions and Use Tax currently being collected within the Town; and

**WHEREAS**, revenues from the Tax, if approved by a majority of the qualified voters voting on the measure, could legally be used by the Town for any legitimate municipal purpose; and

**WHEREAS**, the Town Council wishes to ask the voters to state in a non-binding measure whether they would prefer the revenues from the Tax to be spent on certain identified priorities; and

**WHEREAS**, by Resolution 2024-029, the Town Council of the Town of Los Gatos called a municipal election to be held on Tuesday, November 5, 2024, ("the Election") and requested the Board of Supervisors of the County of Santa Clara to consolidate the election with the General Statewide election; and

**WHEREAS**, the consolidated municipal election will be held, regulated, and conducted in accordance with the provisions of the law as provided in Resolution 2024-029.

**NOW THEREFORE, BE IT RESOLVED**, that the Town Council orders as follows:

**Section 1.** The Town Council finds and determines that each of the findings set forth above are true and correct.

**Section 2.** The Town Council hereby submits the following question to the qualified voters of the Town at the Election and appear on the ballot immediately before the general tax measure:

<p>"If Measure __ is approved by Los Gatos voters, authorizing a local 1/8th cent sales tax, shall the measure providing that the revenues from Measure __ should be dedicated to the following categories: 1) Maintaining and enhancing Police and emergency services, including rapid 911 response times; 2) Wildfire and storm hazard prevention and protection; and 3) Infrastructure projects to improve traffic flow and reduce congestion, be adopted?"</p>	<p align="center">YES</p> <hr/> <p align="center">NO</p>
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This measure will require a majority of the qualified voters voting on the measure to pass.

**Section 3.** Pursuant to Elections Code Section 9280, the Town Council hereby directs the Town Clerk to transmit a copy of the measure to the Town Attorney. The Town Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the Town Clerk on or before 4:00 p.m. on August 12, 2024.

**Section 4.** Pursuant to Elections Code Section 9286 et. seq., August 12, 2024, at 4:00 p.m. shall be the deadline for submission of arguments in favor of, and arguments against, this measure. Arguments in favor of or against the measure shall not exceed 300 words in length. The Mayor, or her designee(s), is hereby authorized to prepare a written argument in favor of the proposed measure on behalf of the City Council. At the Mayor's discretion, the Argument may also be signed by bona fide associations or by individual voters who are eligible to vote in the Town of Los Gatos. Each argument shall be signed, filed with the Town Clerk, and include the printed name(s) and signature(s) of the author(s) submitting the argument. If more than one argument for or against is received, the priorities established by Elections Code Section 9287 shall control.

**Section 5.** Subdivision (a) of section 9285 of the Elections Code shall apply to the Election and shall control the submission of any rebuttal arguments for this measure. If an argument in favor and an argument against the measure have been selected to be printed in the voter information guide, the Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure. The rebuttal authors or persons designated by them may prepare and submit rebuttal arguments not to exceed 250 words in length. Rebuttal arguments must be submitted not later than August 19, 2024, by 4:00 p.m. This Section shall apply only to the election to be held on November 5, 2024, and shall then be repealed.

**Section 6.** Pursuant to Elections Code Section 10002, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to make available the services of the Registrar of Voters for the purpose of performing the usual services necessary in the conduct of the consolidated general municipal election, including the provisions of election supplies and voters' pamphlets; and that upon approval of such requests, the Registrar of Voters of the County of Santa Clara shall be reimbursed for all costs incurred by said services.

**Section 7.** Pursuant to Elections Code commencing with Section 10400, the Town Council hereby requests the Board of Supervisors of the County of Santa Clara to order the consolidation of the general municipal election to be conducted within the boundaries of the Town of Los Gatos on November 5, 2024, with respect to which the Board of Supervisors of the County of Santa Clara has the power to order a consolidation. The Town Council further consents to and orders the consolidation of the general municipal election hereby called with the statewide general election and acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418.

**Section 8.** The Town Clerk is hereby authorized and directed to publish a notice of the general municipal election within the time and in the manner specified in the Elections Code Section 12112. The Town Clerk is further authorized and directed to do all other things required by law to hold the general municipal election above provided.

**Section 9.** The Town Clerk is hereby authorized and directed to certify to the adoption of this resolution and to transmit a certified copy to the Board of Supervisors of the County of Santa Clara and to the Registrar of Voters of the County of Santa Clara.

**Section 10.** That the Town Manager is authorized to negotiate and execute an agreement with the Board of Equalization in accordance with Revenue and Taxation Code Section 7270 to perform all functions incident to the administration and operation of the ordinance if adopted.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos this 18th day of June, 2024 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: \_\_\_\_\_

## Examples of Approved General Taxes with Advisory Vote

### Loomis, California, Sales Tax with Advisory (November 2016)

General Tax - Yes 59.59%

**Measure F:** To support the continued operation of the Loomis library, and for other general fund purposes, shall a quarter percent transactions and use tax ("sales tax") raising approximately \$250,000 annually be adopted for a period of ten years, subject to annual audits?

Advisory Vote - Yes 64.41%

**Measure G:** If a local transactions and use tax is enacted in the Town of Loomis, should its revenue be used predominantly to support the continued operation of the Loomis Library?

### Santa Monica, California, Sales Tax with Advisory (November 2016)

General Tax - Yes 62.35%

**MEASURE GSH:** To maintain and improve Santa Monica community services including support for preservation of affordable housing, reducing homelessness, school repair and improvement, education of Santa Monica children and students, and other general fund services, shall an ordinance be adopted to increase by one-half percent Santa Monica's transactions and use tax, subject to independent annual audits, all funds used locally, no money going to Sacramento, raising approximately \$16 million annually, until ended by the voters?

Advisory Vote - Yes 70.18%

**MEASURE GS:** ADVISORY VOTE ONLY: If a local transactions and use tax is enacted in Santa Monica, should half its revenue be used to improve and maintain local public schools, including attracting and retaining high-quality teachers, expanding access to pre-schools, assisting at-risk students, and improving school technology, arts, music, math, and science instruction; and half to help preserve and ensure housing in Santa Monica that is affordable, protect residents from displacement by rising housing costs, and reduce homelessness?

### King City, California Sales Tax with Advisory (November 2018)

General Tax - Yes 56.03%

**Measure K:** Shall the measure increasing the City of King's current one-half percent sales tax to one percent to generate an estimated increase of \$800,000 annually for general city expenses, such as public safety and other essential services, street repairs, economic development efforts, and improving the City's overall financial solvency subject to citizen oversight, an annual audit, and expiration of the tax in 10 years be adopted?

Advisory Vote - Yes 68.11%

**Measure L:** If the City of King General Sales Tax Measure K passes, should the revenues be used to balance the budget in order to maintain existing services; pay off General Fund debt and establish a financial reserve; fund public safety staffing, services and projects designed to eliminate youth violence; fund improvements to street and sidewalk infrastructure; and fund downtown public improvements and other economic development efforts designed to increase businesses, jobs and visitors to King City?

### Ukiah, California, Sales Tax with Advisory (November 2016)

General Tax - Yes 51.5%

**Measure Y:** Shall Ordinance No. 1165 be adopted to impose as a general tax and additional transaction (sales) and use tax of one-half percent within the city limits of the City of Ukiah to fund essential City services, including street repair and maintenance? Such tax increase is estimated to raise \$2,470,000 annually at a rate of .5%. The duration of the tax will continue unless or until the tax is repealed by majority vote in a municipal election

Advisory Vote - Yes 68.84%

**Measure Z:** Should street repair and maintenance and related public infrastructure improvements be the exclusive use of the revenues from an additional .5% sales tax in the City of Ukiah and add to and not replace current spending for street maintenance and repair?

### Fort Bragg, California, Hotel Tax with Advisory (November 2016)

General Tax - Yes 59.55%

**Measure AA:** Shall Ordinance No. 924-2016 amending portions of Chapter 3.12 of the Fort Bragg Municipal Code to increase the City of Fort Bragg's existing Transient Occupancy Tax (a bed tax paid when overnight visitors rent a room) from ten percent (10%) to twelve percent (12%) to fund public services and maintain public areas, effective April 1, 2017, which proposed rate increase and amendment is anticipated to raise an additional \$400,000 per year in revenue and which will continue until repealed by the City Council or the city voters, be adopted?

Advisory Vote - Yes 69.65%

**Measure AB:** If Measure "AA" is approved by voters, shall the People of the City of Fort Bragg advise the City Council to use the additional funds in the following manner: (i) One-half of the revenues to substantially increase promotions, events, and marketing for Fort Bragg; (ii) One-quarter of the revenues to enhance Coastal Trail maintenance and security; (iii) One-eighth of the revenues to support establishment of the Noyo Center for Marine Sciences as a premiere visitor attraction; and (iv) One-eighth of the revenues to undertake special projects that support tourism and benefit the community including, but not limited to, repair and enhancement of local athletic fields?

### Pasadena, California, Sales Tax with Advisory (November 2018)

General Tax - Yes 68.74%

**Measure I:** Shall an ordinance be adopted to maintain essential City of Pasadena services such as fire, police, paramedics, emergency service/response times; keep fire stations open; improve neighborhood and school safety; repair streets/sidewalks; address homelessness; maintain after-school programs/senior services, and other general fund services, by establishing a  $\frac{3}{4}\%$  sales tax providing approximately \$21,000,000 annually until ended by voters; requiring audits and all funds locally controlled?

Advisory Vote - Yes 72.05%

**Measure J:** If Pasadena voters approve a local sales tax measure, should the City use 2/3rds of the measure's annual revenue to maintain essential City of Pasadena services such as fire, police, paramedics, emergency service/response times; keep fire stations open; improve neighborhood and school safety; repair streets/sidewalks; address homelessness; maintain afterschool programs/senior services; with the remaining 1/3rd of the measure's revenue going to support Pasadena public schools?