



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
JUNE 07, 2022
TELECONFERENCE
7:00 P.M.**

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

PARTICIPATION IN THE PUBLIC PROCESS

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

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

Deadlines for Public Comment and Presentations are as follows:

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

***Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.
Rebroadcast of Town Council Meetings on the 2nd and 4th Mondays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.LosGatosCA.gov/TownYouTube***

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

**TOWN OF LOS GATOS
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7:00 PM**

IMPORTANT NOTICE

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.). Consistent with AB 361 and Town of Los Gatos Resolution 2021-044, this meeting will not be physically open to the public and the Council will be teleconferencing from remote locations. Members of the public can only participate in the meeting by joining the Zoom webinar (log in information provided below).

PARTICIPATION

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

- **Zoom webinar:** Join from a PC, Mac, iPad, iPhone or Android device: Please click this URL to join: <https://losgatosca.gov.zoom.us/j/83159897289?pwd=ejBZNHFvSlhZZGZOVmJlaU1JOUt6dz09>. Passcode: 285711. You can also type in 831 5989 7289 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join>.
- **Join by telephone:** Join by Telephone: Dial: USA 877 336 1839 US Toll-free or 636-651-0008 US Toll. Conference code: 969184

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

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

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

RULES OF DECORUM AND CIVILITY

To conduct the business of the community in an effective and efficient manner, please follow the meeting guidelines set forth in the Town Code and State law.

The Town does not tolerate disruptive conduct, which includes but is not limited to:

- addressing the town Council without first being recognized;
- interrupting speakers, Town Council, or Town staff;
- continuing to speak after the allotted time has expired;
- failing to relinquish the microphone when directed to do so;
- repetitiously addressing the same subject.

Town Policy does not allow speakers to cede their commenting time to another speaker. Disruption of the meeting may result in a violation of Penal Code 403.

REMOTE LOCATION PARTICIPANTS *The following Council Members are listed to permit them to appear electronically or telephonically at the Town Council meeting: MAYOR ROB RENNIE, VICE MAYOR MARIA RISTOW, COUNCIL MEMBER MARY BADAME, COUNCIL MEMBER MATTHEW HUDES, and COUNCIL MEMBER MARICO SAYOC. All votes during the teleconferencing session will be conducted by roll call vote.*

MEETING CALL TO ORDER

ROLL CALL

PRESENTATIONS

- i. Outgoing Youth Commissioner Commendations
- ii. Youth Friendly Business of the Year
- iii. Youth Friendly Green Business of the Year

BOARD, COMMISSION, AND COMMITTEE APPOINTMENTS

- iv. Conduct Appointments for Adult Commissioner Vacancies on Boards, Commissions, and Committees.

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

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

1. Approve the Draft Minutes of the May 17, 2022 Town Council Meeting.
2. Approve Town Council Closed Session Meeting Minutes of June 1, 2022.

3. Adopt a Resolution Reaffirming Resolution 2021-044 Regarding Brown Act Compliance and Teleconferencing and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, During the COVID -19 Pandemic.
4. Ratify the Town Council Selection Committee's Recommended Youth Commissioner Appointments.
5. Adopt a Resolution Calling for the Holding of a General Municipal Election to be Held on November 8, 2022 for the Election of Three Town Council Members, 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 at the Election to be Held Tuesday, November 8, 2022.
6. Approve Town Council Meeting Schedule for 2022/2023 Fiscal Year.
7. Authorize the Town Manager to Execute a New Agreement with the Chamber of Commerce to Extend the Term of the Destination Marketing American Rescue Plan Act Grant.
8. Authorize the Town Manager to Execute an Extension of the LGS Recreation 55+ Senior Services American Rescue Plan Act Grant.
9. Authorize the Town Manager to Execute an Agreement for Services with the Los Gatos Chamber of Commerce to Manage the Town's Visitors Information Center Including a Visit Los Gatos Website, Related Social Media Pages, and Assist with Related Community Vitality Initiatives as Outlined in the Scope of Services in an Amount Not to Exceed \$55,000.
10. Adopt a Resolution Establishing the Fiscal Year 2022/23 Gann Appropriation Limit for the Town of Los Gatos.
11. Operating and Capital Budgets
 - a. Adopt a Resolution Approving the Town of Los Gatos Fiscal Year (FY) 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (CIP), New Appropriations, Additional Council Actions on May 17, 2022 and Revisions Related to Salary and Benefit Costs as Presented in the Labor Agreements Agenda Reports on June 7, 2022; American Rescue Plan Act Budget Adjustment, Minor Corrections, and Carry-Forward Appropriations
 - b. Adopt a Resolution Approving Commitment of Fund Balances under GASB 54.
 - c. Approve FY 2021/22 Budget Adjustments:
 - 1) Major Revenue Adjustments to Match Year-End Estimated Revenues as Directed by the Town Council on May 17, 2022; and as Determined from Updated Information
 - i. Property Tax revenue Increase in the Amount of \$582,609,
 - ii. Sales Tax Revenue Increase in the Amount of \$428,828 (\$361,806 in regular Sales Tax and \$67,022 in Measure G Sales Tax)
 - iii. Business License Tax Revenue Increase in the Amount of \$175,000,
 - iv. Transient Occupancy Tax Increases in the Amount of \$75,000, and
 - v. Recognize \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 2) Expenditure Increases to Reflect Past Actions:

- i. In the Amount of \$300,000 to expense the \$300,000 available General Fund Pension/OPEB Reserve to the CEPPT Trust.
 - ii. In the Amount of \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
- 3) Approve American Rescue Plan Act Budget Adjustments.
- 12. Adopt a Resolution Approving the Parcel Map for 16940 Roberts Road and Accepting Dedications.
- 13. Adopt a Resolution Approving the Parcel Map for 105 Newell Avenue and Accepting the Public Service Easement Dedication.
- 14. Authorize the Town Manager to Execute a First Amendment to the Consultant Services Agreement with Ninyo and Moore for the On-Call Materials Testing and Special Inspection Services to Increase the Contract Amount by \$100,000, for a Total Contract Amount Not to Exceed \$280,000, and Extend the Contract Term.
- 15. Authorize the Town Manager to Execute an Agreement for Services with Shaw Industries Inc. for Flooring Replacement at the Adult Recreation Center in an Amount of \$133,920.59 Including a 5% for Unanticipated Services, for a Total Agreement Amount Not to Exceed \$140,616.61.
- 16. Authorize the Town Manager to Execute a Second Amendment to the Consultant Services Agreement with Dixon Resources Unlimited for the Comprehensive Downtown Parking Study to Extend the Contract Term.
- 17. Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Universal Site Services to Extend the Term through August 31, 2022, and Increase Compensation for Fiscal Year 2021/22 by \$500 and Fiscal Year 2022/23 by \$9,511.11 for a Total Amended Amount Not to Exceed \$197,748.11.
- 18. Authorize the Town Manager to Execute a Fourth Amendment to the Agreement for Services with Brightview Tree Care Services, Inc. to Increase Compensation for Fiscal Year 2021/22 in an Amount of \$30,000 for a Total Annual Amount Not to Exceed \$155,000, for a Total Agreement Amount Not to Exceed \$996,000.
- 19. Approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association and Authorize the Town Manager to Execute the Memorandum of Understanding.
- 20. Approve a Labor Agreement Between the Town of Los Gatos and the Town Employees' Association and Authorize the Town Manager to Execute the Memorandum of Understanding.
- 21. Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding.
- 22. Approve Cost of Living Increases for Unrepresented Management, Confidential, and Temporary/Hourly Employees; One-Time Non-PERSable Bonuses for Confidential and Management; and a 5% Market Adjustment for Confidential and Temporary/Hourly Employees.

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda by following the Participation Instructions contained on page 2 of this agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal Communications will be opened prior to adjournment.)*

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

- [23.](#) Consider the Draft Site Inventory as Recommended by the Housing Element Advisory Board.
- [24.](#) Discuss and Provide Direction on Proposed Electrification Reach Codes for the 2022 Green Building Standards Code.
- [25.](#) Provide Direction Regarding a Potential Land Acknowledgement Regarding Aboriginal Homeland.
- [26.](#) Discuss and Identify the Town Council's Objectives for the Summer Promenade Event Series and Provide Direction as Necessary for Modifications to the Conditional Letter of Approval.

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

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

Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 6/07/2022

APPOINTMENTS

DATE: May 26, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Conduct Appointments for Adult Commissioner Vacancies on Boards, Commissions, and Committees

RECOMMENDATION:

Conduct the appointment process for the following vacancies: Building Board of Appeals (BOA), Community Health and Senior Services Commission (CHSSC), Finance Commission (FC), Historic Preservation Committee (HPC), Parks Commission, and Personnel Board.

DISCUSSION:

Council is scheduled to interview applicants for vacant Board, Commission, and Committee positions (Attachment 1) at a Special Meeting on June 7, 2022, at 6:00 p.m. via teleconference following the COVID-19 Shelter in Place guidelines.

Staff recommends Council appoint Commissioners for each Board/Commission/Committee per Council Policy 2-11 (Attachment 2). One applicant has applied for multiple positions and has been advised they can only be appointed to one position per Council Policy 2-11. Due to an insufficient number of applications, not all vacant positions can be filled.

Building Board of Appeals (BOA)

One (1) partial term 2-year position and one (1) partial 1-year term are open due to unexpired vacancies. No applications were received.

Community Health and Senior Services Commission (CHSSC)

One (1) partial term 3-year position and one (1) partial term 2-year term are open due to unexpired vacancies. One application was received.

PREPARED BY: Shelley Neis
Town Clerk

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

DISCUSSION (continued):

Finance Commission (FC)

One (1) partial term 2-year position is open due to an unexpired vacancy. One application was received; however, the candidate does not meet the minimum requirements.

Historic Preservation Committee (HPC)

One (1) partial term 2-year position is open due to an unexpired vacancy. Two applications were received.

Parks Commission

One (1) partial term 3-year position and one (1) partial term 2-year position are open due to unexpired vacancies. Three applications were received.

Personnel Board

One (1) full term 5-year position and one (1) partial term 4-year position are open due to unexpired vacancies. No applications were received.

CONCLUSION:

It is recommended that Council appoint applicants to fill vacant Town Board, Commission, and Committee positions. Upon completion of the appointment process, direct the Town Clerk to re-advertise any vacant positions with the annual recruitment to begin in September 2022.

FISCAL IMPACT:

There is no fiscal impact with the appointments to the Town's Boards, Committees, and Commissions.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Adult Commissioner Applicant List
2. Council Policy 2-11 Commission Appointments

Adult Commissioner Applicants Mid-Year Recruitment 2022

BUILDING BOARD OF APPEALS (BOA)

No applications received.

COMMUNITY HEALTH AND SENIOR SERVICES COMMISSION (CHSSC)

- Pradeep Khanal

FINANCE COMMISSION (FC)

- Pradeep Khanal

HISTORIC PRESERVATION COMMITTEE (HPC)

- Susan Burnett
- Alan Feinberg

PARKS COMMISSION

- Brant Corenson
- Craig Gleason
- Pradeep Khanal

PERSONNEL BOARD

No applications received.

ATTACHMENT 1

TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum

POLICY NUMBER: 2-11

EFFECTIVE DATE: 2/28/1990

PAGES: 7

ENABLING ACTIONS:

REVISED DATES: 6/13/1994; 6/16/2014;
4/7/2015; 10/18/2016; 2/21/2017;
2/6/2018; 3/19/19; 9/3/2019; 6/1/2021;
12/7/21, 3/15/22

APPROVED:



PURPOSE

To establish a policy to encourage participation by the Town's residents on Town Boards, Commissions and Committees (hereinafter referred to as "Commissions"). The Town of Los Gatos is committed to inclusivity. We value all our community members, regardless of religion, immigration status, ethnicity, race, disability, gender, sexual orientation, or gender identity. The Town will encourage residents to participate on Commissions by advertising vacancies on Commissions for at least 30 days, preparing easily understood applications, maintaining clear descriptions of the role of each Board, Commission, and Committee and its respective members, providing current meeting schedules, and conducting public interviews of all Commission applicants, except as provided by this Policy.

SCOPE

This Policy applies to all applicants to Town Boards, Commissions and Committees.

POLICY

The Town Council encourages public participation in all decision-making and to be successful residents must be assured both that the participation is meaningful and that their input will be valued. The widest representation from the community can only be achieved if vacancies are well advertised so that anyone interested will have the opportunity to apply. Interviews of the applicants conducted in public by the Town Council demonstrates that it values these appointments and that all have an equal opportunity to be appointed. Applicants may apply to more than one Commission, and shall rank their choices in their preferred order, during each recruitment cycle.

TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum	PAGE: 2 of 7	POLICY NUMBER: 2-11
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To ensure the greatest possible participation by the public, it is the Town's policy that no person shall be appointed to more than one Commission except in those cases where they are ex-officio members of other Boards, Commissions and Committees. This Policy does not apply to Commission members serving as representatives of their Commission who have been appointed by the Town Council.

RESIDENCY REQUIREMENTS

Residency within the incorporated municipal limits of the Town of Los Gatos, California is required for appointment and continued membership on all Town of Los Gatos Boards, Commissions, and Committees, with the exception of the Youth Commission.

Youth Commission:

The members shall be students who are entering grades 8 through 12 in the fall. Membership for the students requires either residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.

ATTENDANCE REQUIREMENTS

1. All members of all appointive Town Advisory Bodies should attend all regular and special meetings of said Advisory Bodies.
2. Any member not in attendance at a regular meeting of said Advisory Body for at least 70% of the meeting shall be considered absent.
3. Any member of an appointive Town Advisory Body who is absent from the number of regular meetings listed below appropriate to his or her Advisory Body shall, as a result, surrender his or her office on the Advisory Body and the office shall be considered vacant.
 - a. For an Advisory Body which holds six (6) or more regular meetings per a consecutive twelve (12) month period: three (3) regular meetings.
 - b. For an Advisory Body which holds five (5) or fewer regular meetings per a consecutive twelve (12) month period: two (2) regular meetings.
 - c. For an Advisory Body which holds sixteen (16) or more regular meetings per a consecutive twelve (12) month period: eight (8) regular meetings.
4. The vacant position shall be filled by appointment by a majority vote of the Town Council, for a term equal to the unexpired portion of the office vacated. Any member removed from office due to non-attendance may re-apply to serve on a Town Advisory Body but will not be treated as an incumbent in any subsequent application to the same Advisory Body.
5. If a Youth Commissioner liaison misses three meetings of a liaison Commission during a *consecutive twelve (12) month period, the Youth Commission shall appoint a different Youth Commissioner as liaison.

*Consecutive twelve (12) month period is defined as any consecutive twelve-month period beginning with the first absence. A regular meeting shall not be cancelled and replaced with a special meeting in order to alleviate an absence by an advisory body member.

QUORUM REQUIREMENTS

The number of members needed to constitute a quorum on any Town Advisory Body shall be a majority of the total number of filled seats.

PROCEDURES

The following procedures will be followed by the applicant, the Town Clerk, and the Town Council for the appointment of applicants to Town Commissions:

Responsibility and Actions: Town Clerk

A. Annual Recruitments

Adult Commission members' terms begin on January 1st and end December 31st, Youth Commissioners' terms follow the academic year and begin on August 1st and end on June 30th. The Town Clerk shall perform the following duties in conducting an annual recruitment for Commission members:

1. Notify Town Council of vacancies on Commissions by indicating the names of the Commissions, the number of terms expiring or being vacated, names of individual(s) with expiring terms or vacating seats, advertising periods (at least 30 days) and the date of interview.
2. Advertise the vacancies, including the application deadline and the interview date. Interviews and appointments for Adult Commissioners shall occur after annual Mayor and Vice Mayor selection, and in the case of election years, after new Council Members have been seated. Interviews and appointments for Youth Commissioners shall occur by the fourth Wednesday in May, no earlier than 4:00 p.m.
3. Prepare and maintain easily understood applications for appointment to Commissions. Applications shall include the following policy information:
 - a. Prior to initial appointment to any Commission, non-incumbent applicants must be interviewed by the Town Council. The applications of those not appearing will be held for the next recruitment.
 - b. If an incumbent Commissioner is requesting reappointment to the same Commission, the incumbent may submit a request to be interviewed by telephone, with their application, instead of attending the interview or must submit a letter prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
 - c. Submissions deadlines are mandatory; no exceptions are permitted.

TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum	PAGE: 4 of 7	POLICY NUMBER: 2-11
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4. Applications:

- a. *For adult applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council prior to the interviews for appointment.
- b. *For student applicants* — Accept applications, verify eligibility, and distribute copies of the applications of eligible applicants to the Town Council Selection Committee, consisting of the Mayor, Vice Mayor, Police Chief, and Youth Commission Chair (if not reapplying), prior to the interviews for appointment.

5. Notify the applicant by letter or email as to the date and time of the interview and provide the option for an in person or teleconference interview.

6. Facilitate the Council voting process set forth below by informing Council as to how many votes are possible on each Commission, calling out applicants' names, and identifying the applicants receiving sufficient votes for appointment. This process does not apply to student applicants.

7. Applicants:

- a. *For adult applicants* — After the interviews and Council vote are completed, notify all applicants of the Council's action, and explain Town policy of keeping application active for one year with notification of subsequent openings on that Commission to the interested applicants.
- b. *For student applicants* — After the interviews are completed, notify all applicants of the Council Committee's action, and prepare a staff report for the Town Council to ratify the Committee's appointment at the first Town Council meeting in June.

Interview Process

To ensure the interview process is consistent, fair, and equitable, each applicant shall be asked the same standard questions, as provided below. Notwithstanding, no Council Member shall be prevented from asking appropriate questions of applicants.

1. If appointed, what ideas would you like to see the Commission explore?
2. Please expand beyond the written response on your application: your experience, interest, and/or expertise that you feel would be most useful to the Commission.
3. Please elaborate on any written response provided in the application to assist the Council learn more about you.
4. If you did not answer any of the questions on the application, please explain why.

Given that most interviews are only three to five minutes due to the size of the applicant pool, the standard questions are limited in number to allow an applicant sufficient time to respond. The Council may or may not ask all of the questions, in the same order, or by the same Council member. Interview questions will be reviewed annually by the Town Council in advance of the interview process for any potential modifications.

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Balloting Process

Unless determined otherwise, the Council shall conduct a ballot vote for the appointment of individuals to fill the vacancies for each Commission. Such ballot vote may be conducted at either a regular, adjourned, or special meeting of the Town Council. The ballot vote process shall be conducted as follows:

1. The Town Clerk shall provide a ballot to each Town Council member listing the names of all applicants and "None of the above" for each respective Commission. Prior to the vote, the Town Clerk shall publicly announce the position vacancy and all applicant names that are listed on the ballot.
2. Each Council member may vote for the same number of applicants as there are current vacancies on the respective Commission. In no case, can a Council Member cast more votes than there are vacancies; or vote for the same candidate more than once on each ballot (i.e. cumulative voting -- e.g. where there are three vacancies, a Council member may not give all three votes to the same candidate). A Council Member is not required to vote for any of the candidates or for the total number of vacancies available.
3. The Town Clerk shall collect all ballots and shall publicly announce the name of each Town Council member and how that Council member cast his or her vote. In the case of a tie vote, the Town Clerk will announce that there is a tie and that a run-off vote shall be conducted but will not announce the names of the applicants in the run-off. Once all voting is concluded and a decision made, the votes will be made public. The run-off ballot will also include a "None of the above" option.
4. Applicants receiving a majority number of votes shall be deemed appointed to the Commission. In the event of a tie, a run-off vote shall be conducted among the applicants receiving the highest number of votes from the previous round. This shall continue until a majority consensus on an applicant(s) is reached for the number of vacancies to be filled. In the event of an unbreakable tie, the Council may determine an alternative method for selecting the appointee(s) or direct the Town Clerk to re-advertise the vacancy.
5. If an applicant(s) is appointed to an Advisory Body which has vacancies for both full and partial, unexpired terms, the length of the appointee's term will be determined by the Mayor.

B. Mid-Term Recruitments

During the year, Commissions may experience vacancies that drop the number of filled seats to a number of members that is not sufficient to conduct Commission business. The Commission may request the Council to conduct a mid-term recruitment to fill seats. To the extent possible, the Town Clerk will consolidate mid-term recruitments to minimize the number of recruitments occurring throughout the year. In the event of a vacancy on the Planning Commission, the Town will automatically conduct a mid-term recruitment. Mid-term recruitments will not be conducted for Youth Commissioners. The Town Clerk shall advertise mid-term vacancies on Commissions for at least 15 days.

TITLE: Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum	PAGE: 6 of 7	POLICY NUMBER: 2-11
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Responsibility and Action: Applicant

1. Read the Commission Appointments, Residency and Attendance Requirements, and Establishing a Quorum Policy, complete and submit to the Town Clerk the application for appointment to a Town Commission by the advertised deadline date and time.
2. *For adult applicants:* Attend the Council meeting to be interviewed for Commission appointment. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the Friday before the scheduled interview date whether they will attend in person or via teleconference.
3. *For student applicants:* Attend the Council Selection Committee interview session. The applicant is required to notify the Town Clerk no later than 4:00 p.m. the Friday before the scheduled interview date whether they will attend in person or via teleconference.
4. If an incumbent Commission member is requesting reappointment to the same Commission and is not available on the date of the interview, the incumbent must submit a letter by 4:00 p.m. the Friday prior to the interviews, describing the reason why the applicant cannot be present telephonically or in person for the interview, and why the applicant should be reappointed to the Commission.
5. If appointed, prior to starting the Commission term, appointees are required to attend a Commissioner Orientation and take the "Oath of Office."
6. Attend Advisory Body meetings once term begins.
7. Read the Commissioners' Handbook. Hard copies of the Handbook are to be returned to the Town Clerk when the term is complete.

Responsibility and Action: Town Council

1. Review applications.
2. *For adult applicants* – Interview applicants individually by Commission at a public meeting with all applicants present.
For student applicants – Town Council Selection Committee interviews applicants.
3. Determine if the incumbents not in attendance and having submitted a letter pursuant to this Policy should be considered for reappointment.
4. If there are limited applications for any vacancy to a Commission, the Mayor, on behalf of the Council, may request that the Town Clerk re-advertise the vacancy, reschedule the interviews, and notify all applicants of the new interview date.

COMPLIANCE - GROUNDS FOR DISMISSAL

A member may be removed from the Advisory Body prior to the end of his or her term by a three-fifths (3/5) vote of the Town Council and may not be reappointed for the following reasons:

1. Failure to attend Advisory Body meetings.
2. Failure to file the following documents required by the Fair Political Practices Commission (Adult Commissioners):
 - a. Form 700 – Assuming Office, Annual, and Leaving Office when term is complete.
 - b. Planning Commissioners are also required to complete AB 1234 Ethics Training and file the original certificate with the Town Clerk every two years.
3. Failure to comply with all Town Policies, Guidelines, and Handbooks.

CONFLICT OF INTEREST

Under the Fair Political Practice Act, an advisory board member has a disqualifying conflict of interest in a governmental decision if it is foreseeable that the decision will have a financial impact on his or her personal finances or other financial interests. In such cases, there is a risk of biased decision-making that could sacrifice the public's interest in favor of the official's private financial interests. To avoid actual bias or the appearance of possible improprieties, the public official is prohibited from participating in the decision.

The Fair Political Practice Act does not prohibit an advisory board member from participating in a decision simply by virtue of holding a position as a board member, director, officer, or employment with a nonprofit corporation. However, the Town strongly encourages that in the event that a decision concerns a nonprofit corporation for which an advisory board member is a board member, director, officer, or employed with that nonprofit corporation, the person should recuse him or herself and at a minimum shall disclose the potential conflict of interest before any discussion and decision.

APPROVED AS TO FORM:


Robert Schultz, Town Attorney



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 1

**DRAFT
Minutes of the Town Council Meeting
May 17, 2022**

The Town Council of the Town of Los Gatos conducted a regular meeting utilizing teleconference and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.) and Town of Los Gatos Resolution 2021-044 on Tuesday, May 17, 2022 at 7:00 p.m.

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

ROLL CALL

Present: Mayor Rob Rennie, Vice Mayor Maria Ristow, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Marico Sayoc (all participating remotely).

Absent: None

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Council Member Hudes stated he attended the Finance Commission, Senior Service Road Map Sub-Committee, and Senior Service Workplan Sub-Committee meetings.
- Council Member Sayoc stated she attended the Cannabis Community Meeting as an observer, Housing Element Advisory Board (HEAB) meeting, Silicon Valley Clean Energy Authority (SVCEA) Board meeting as an alternate for Mayor Rennie, and the Cities Association Executive Committee and Board of Directors meetings.
- Council Member Badame stated she attended the Cannabis Community Meeting as an observer, West Valley Clean Water Authority (WVCWA) Board meeting, West Valley Solid Waste Management Authority (WVSWMA) Board meeting, Ribbon Cutting for Montebello Market, Finance Commission as an observer, and met with residents regarding cannabis and the Drat 2040 General Plan.
- Vice Mayor Ristow stated she attended the Cannabis Community Meeting as an observer, Kiwanis Turnaround Scholarship luncheon, Los Gatos Service Providers meeting, Conceptual Development Advisory Committee, West Valley Sanitation District (WVSD) Board meeting, Valley Transportation Authority (VTA) Policy Advisory Committee (PAC) meeting, and the Youth Commission Candidate Interviews.

Council Matters – continued

- Mayor Rennie stated he attended the Bay Area Air Quality Management District (BAAQMD) Board and Legislative and Technology Implementation Committee meetings; attended the Special Olympics fundraiser, Ribbon Cutting for Montebello Market, Silicon Valley Clean Energy Authority (SVCEA) Special Board meetings, and Finance Commission meeting; met with Silvar Realtors Group; attended a Housing and Community Development (HCD) Zoom meeting with Town Manager Prevetti; and met with Los Gatos Unified School District Superintendent Grove and Los Gatos High School Principal Buchanan.

Mayor Rennie introduced and welcomed Town Attorney Gabrielle Whelan.

Manager Matters

- Announced the HEAB will meet on Thursday, May 19, 2022, via teleconference.
- Announced Adult Commissioner recruitment is underway; the application period closes on May 27 at 4:00 p.m. Interviews are scheduled for June 7, 2022.
- Announced the 2040 General Plan Public Hearing will take place on June 20, 2022, via teleconference.

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

1. Approve the Draft Minutes of the May 3, 2022 Town Council Meeting.
2. Adopt a Resolution Reaffirming Resolution 2021-044 Regarding Brown Act Compliance and Teleconferencing and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, During the COVID -19 Pandemic. **RESOLUTION 2022-031**
3. Authorize the Town Manager to Execute a First Amendment to an Agreement for Consultant Services with TruePoint Solutions DigEplan (LCT Software).
4. Authorize the Town Manager to Execute a Second Amendment to a Consultant Agreement for Executive Recruitment Services with Teri Black & Company, LLC. in an Amount Not to Exceed \$139,500 and Authorize an Expenditure Budget Adjustment in the Amount of \$40,000 from Available General Fund Capital/Special Project Reserve.
5. Authorize the Town Manager to Execute a First Amendment to a Special Services Agreement with Liebert Cassidy Whitmore.
6. Receive the Third Quarter Investment Report (January through March 2022) for Fiscal Year 2021/22.

Opened public comment.

No one spoke.

Closed public comment.

Consent items – continued

MOTION: Motion by Council Member Sayoc to approve consent items. Seconded by Council Member Badame.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Carl Guardino, Bloom Energy

- Announced the Stars and Strides Community Run benefitting the Valley Medical Center will take place on July 2, 2022. Registration and more information can be found at:
<https://www.starsandstridesrun.com/>

Joanne Rodgers

- Commented in opposition of allowing cannabis dispensaries in Town and inquired why the Council may consider a cannabis tax as a revenue source.

Jim Handy

- Requested a Town Code amendment to disallow portable toilets in front yards.

Susan Burnett

- Commented in opposition of allowing cannabis dispensaries in Town.

OTHER BUSINESS

7. Consider the Recommendations of the Finance Commission and Staff, and Provide Direction on the Town of Los Gatos Proposed Operating and Capital Budget for Fiscal Year (FY) 2022/23 and on the Proposed Capital Improvement Program for FY 2022/23 – FY 2026/27; Including but Not Limited to:
 - a. Provide direction to Balance the FY 2022/23 Proposed Budget;
 - b. Provide Direction on the Proposed Operating Budget;
 - c. Provide Direction on the Proposed Capital Budget; and
 - d. Consider the FY 2022/23 List of Potential Donations Consistent with the Town's Donation Policy.

Arn Andrews, Assistant Town Manager, presented the staff report.

Opened public comment.

Rob Stump

- Requested Council prioritize roadside fuel reduction, fund weed abatement, establish clear evacuation routes, establish sound land uses, and allocate more funding for wildfire preparation initiatives.

Other Business Item #7 – continued

Ami Davis, NUMU Executive Director

- Thanked the Council for continuing rent forgiveness for NUMU and requested Council enlist NUMU as a financial partner to support strategic priorities.

Catherine Somers, Chamber of Commerce Executive Director

- Requested Council consider allocating some remaining ARPA funds to community assets such as NUMU and the Chamber of Commerce.

Closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Hudes to approve the Finance Commission recommendation to allocate \$3.77 million to General Fund Appropriated Reserve (GFAR); allocate \$2.2 million of unallocated American Rescue Plan Act (ARPA) funds to the GFAR; direct the Town Attorney to bring forward at the mid-year budget review additional information from other jurisdictions in regard to the dissolution of Workers Compensation and Self-Insurance Internal Service Funds; acknowledge Finance Commission finding and direct the Commission to work with Town Management to confirm the actual amount of the deficit and request recommendations on how to cure the deficit; and initiate an employee-led operational efficiency program with the goal of 3 to 5% operational improvements and develop 5-year goals. **Seconded by Council Member Badame.**

VOTE: Motion passes 3/2, vice Mayor Ristow and Council Member Sayoc voting no.

Recess at 9:36 p.m.

Reconvene at 9:47 p.m.

MOTION: Motion by Council Member Badame to accept the 5-year forecast as presented in the staff report. **Seconded by Council Member Hudes.**

VOTE: Motion passed unanimously.

MOTION: Motion by Council Member Sayoc to utilize \$1,700,000 of ARPA funds to balance the budget. **Seconded by Council Member Vice Mayor Ristow.**

VOTE: Motion passed unanimously.

PAGE 5 OF 5

SUBJECT: Draft Minutes of the Town Council Meeting of May 17, 2022

DATE: May 17, 2022

Other Business Item #7 – continued

MOTION: Motion by **Council Member Hudes** to approve the FY 22/23 proposed Operating Budget with the previously approved Finance Commission recommendations. **Seconded by Council Member Sayoc.**

VOTE: Motion passed unanimously.

MOTION: Motion by **Council Member Sayoc** to approve the Capital Budget with the previously approved Finance Commission recommendations. **Seconded by Council Member Hudes.**

VOTE: Motion passed unanimously.

MOTION: Motion by **Council Member Hudes** to approve the donation list. **Seconded by Vice Mayor Ristow.**

VOTE: Motion passed unanimously.

ADJOURNMENT

The meeting adjourned in memory of Lynda Seastrom at 10:05 p.m.

Respectfully submitted:

Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 2

**DRAFT
Minutes of the Town Council Special Meeting - Closed Session
June 1, 2022**

The Town Council of the Town of Los Gatos conducted a special meeting utilizing teleconference and electronic means consistent with Government Code Section 54953, as Amended by Assembly Bill 361, in response to the state of emergency relating to COVID-19 and enabling teleconferencing accommodations by suspending or waiving specified provisions in the Ralph M. Brown Act (Government Code § 54950 et seq.) and Town of Los Gatos Resolution 2021-044 on Tuesday, June 1, 2022, to hold a Closed Session at 6:00 p.m.

MEETING CALLED TO ORDER AT 6:00 P.M.

ROLL CALL

Present: Mayor Rob Rennie, Vice Mayor Maria Ristow, Council Member Mary Badame, Council Member Matthew Hudes, Council Member Marico Sayoc (all participating remotely).

Absent: None

VERBAL COMMUNICATIONS

None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:

1. Conference with Labor Negotiator (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

Arn Andrews, Assistant Town Manager

Salina Flores, Human Resources Director

Employee Organizations:

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

Town Employees Association (TEA)

Police Officers' Association (POA)

Unrepresented Employees (Confidential, Management, Temporary/Hourly)

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Town Council Special Meeting of June 1, 2022

DATE: June 2, 2022

ADJOURNMENT

Closed Session adjourned at 6:52 p.m.

Attest:

Submitted by:

Shelley Neis, Town Clerk

Laurel Prevetti, Town Manager



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 3

DATE: May 26, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Reaffirming Resolution 2021-044 Regarding Brown Act Compliance and Teleconferencing and Making Findings Pursuant to Government Code Section 54953, as Amended by Assembly Bill 361, During the COVID -19 Pandemic

RECOMMENDATION:

Adopt a Resolution reaffirming Resolution 2021-044 and making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings due to health and safety concerns for the public.

BACKGROUND:

On March 17, 2020, Governor Newsom issued Executive Order N-29-20, which allowed for relaxed provisions of the Ralph M. Brown Act (Brown Act) that allowed legislative bodies to conduct meetings through teleconferencing without having to meet the strict compliance of the Brown Act. All provisions of Executive Order N-29-20 concerning the conduct of public meetings expired on September 30, 2021.

DISCUSSION:

AB 361 was signed into law by the Governor on September 16, 2021, and went into effect immediately upon signing. It amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology after the September 30, 2021, expiration of the current Brown Act exemptions as long as there is a "proclaimed state of emergency" by the Governor. This allowance also depends on State or local officials imposing or recommending measures that promote social distancing or a legislative body finding that meeting in person would present an imminent safety risk to attendees.

PREPARED BY: Shelley Neis
Town Clerk

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

DISCUSSION (Cont):

AB 361 requires Public agencies to make findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency

still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing.

Town Council adopted Resolution 2021-044 on October 5, 2021 regarding Brown Act compliance and teleconferencing pursuant to Government Code Section 54953, as amended by AB 361, and adopted resolutions on the following dates reaffirming Resolution 2021-044:

- November 2, 2021 adopted Resolution 2021-046
- November 16, 2021 adopted Resolution 2021-048
- December 7, 2021 adopted Resolution 2021-054
- December 21, 2021 adopted Resolution 2021-059
- January 18, 2022 adopted Resolution 2022-001
- February 1, 2022 adopted Resolution 2022-003
- February 15, 2022 adopted Resolution 2022-004
- March 1, 2022 adopted Resolution 2022-006
- March 15, 2022 adopted Resolution 2022-009
- April 5, 2022 adopted Resolution 2022-013
- April 19, 2022 adopted Resolution 2022-017
- May 3, 2022 adopted Resolution 2022-021
- May 17, 2022 adopted Resolutio 2022-031

CONCLUSION:

Adopt a Resolution reaffirming Resolution 2021-044 making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings. If adopted, virtual meetings may continue for all Town Boards, Commissions, and Committees.

COORDINATION:

This report was coordinated with the Town Attorney and Town Manager's offices.

FISCAL IMPACT:

There will be no fiscal impact to the Town at this time.

PAGE 3 OF 3

SUBJECT: Adopt a Resolution Regarding Brown Act Compliance and Teleconferencing

DATE: May 26, 2022

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Draft Resolution

RESOLUTION 2022-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS REAFFIRMING RESOLUTION 2021-044 REGARDING BROWN ACT COMPLIANCE AND TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953, AS AMENDED BY ASSEMBLY BILL 361, DURING THE COVID-19 PANDEMIC

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Town of Director of Emergency Services, issued a Proclamation of Local Emergency; and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (California Government Code Section 54950 et seq.) so that local legislative bodies can hold public meetings via teleconference (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; and

WHEREAS, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency as set forth in Resolution 2020-008 and remains in full force and effect to date; and

WHEREAS, on June 4, 2021, the Governor clarified that the “reopening” of California on June 15, 2021 did not include any change to the proclaimed state of emergency or the powers exercised thereunder; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-21, which extended the provision of N-29-20 concerning the conduct of public meetings through September 30, 2021, and the Governor subsequently signed legislation revising Brown Act requirements for teleconferenced public meetings (Assembly Bill 361, referred to hereinafter as “AB 361”); and

WHEREAS, on September 16, 2021 Governor Newsom signed AB 361, which added subsection (e) to Government Code section 54953 of the Brown Act, and makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

ATTACHMENT 1

WHEREAS, the Town Council of the Town of Los Gatos approved Resolution No. 2021-044 on October 5, 2021 declaring the need for the Town Council, Boards, Commissions, and Committees to continue to meet remotely in order to ensure the health and safety of the public; and

WHEREAS, the Town of Los Gatos remains in a state of emergency due to the continuing spread of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated, or are at a higher risk of severe illness due to COVID-19; and

WHEREAS, the Town's public meeting facility is indoor and not designed to ensure circulation of fresh/outdoor air, and not designed to ensure that attendees can remain six (6) feet apart; and

WHEREAS, holding in-person meetings would encourage community members to come to Town facilities to participate in local government, and some of them would be at high risk of severe illness due to COVID-19; and

WHEREAS, technology exists that allows full participation from members of the public without requiring in-person attendance at a Town Council, Board, Commission, or Committee meeting.

WHEREAS, the Town Council has considered all information related to this matter, including the associated staff report and other information relating to COVID-19 provided at prior public meetings of the Town Council; and

WHEREAS, the Town Council now desires to adopt a Resolution finding that the requisite conditions continue to exist for the legislative bodies of the Town of Los Gatos, as defined in the Brown Act, to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY RESOLVE:

1. The Town Council hereby finds that the fact set forth in the above recitals and as contained in Resolution 2021-044 are true and correct, and establish the factual basis for the adoption of this Resolution;
2. There is an ongoing proclaimed state of emergency relating to the novel coronavirus causing the disease known as COVID-19 and as a result of that emergency, meeting in person would present imminent risks to the health or safety of attendees of in-person meetings of this legislative body and all Town advisory bodies within the meaning of California Government Code section 54953(e)(1).

3. Under the present circumstances, including the risks mentioned in the preceding paragraph, the Town Council determines that authorizing teleconferenced public meetings consistent with Assembly Bill 361 is necessary and appropriate.

4. Staff are directed to take all actions necessary to implement this Resolution for all Town meetings in accordance with the foregoing provisions and the requirements of Government Code section 54953, as amended by Assembly Bill 361, including but not limited to returning for ratification of this Resolution every 30 days after teleconferencing for the first time pursuant to Assembly Bill 361 for so long as either of the following circumstances exists: (a) the state of emergency continues to directly impact the ability of this legislative body to meet in person; and/or (b) state or local officials, including but not limited to the County Health Officer, continue to impose or recommend measures to promote social distancing.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of June 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 4

DATE: May 26, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Ratify the Town Council Selection Committee's Recommended Youth Commissioner Appointments

RECOMMENDATION:

Ratify the Town Council Selection Committee's recommended Youth Commissioner appointments.

BACKGROUND:

Since June of 2004, Council has appointed students in Grades 8 through 12 as members of the Youth Commission.

For this year's recruitment, the Town used a variety of mechanisms to recruit for the Youth Commission. The Town distributed a letter to the local schools requesting they help promote the Youth Commission opportunities. The letter was sent to Los Gatos High School, Leigh High School, Westmont High School, Fisher Middle School, Union Middle School, Rolling Hills Middle School, and Hillbrook School. In addition, the Town placed advertisements in local publications and posted the opportunity on the Town's What's New email blast, the Town's website, the Youth Commission Facebook page, and the Town's social media accounts.

DISCUSSION:

By the application deadline on May 6, 2022, twenty (20) applications were received. On May 16, 2022, the Town Council Selection Committee, comprised of Mayor Rennie, Vice Mayor Ristow, Chief Field, and Youth Commission Chair Sasha Balasingam, interviewed eighteen (18) applicants for fifteen (15) available positions. Two of the applicants did not attend the interview and therefore were not considered for appointment.

PREPARED BY: Shelley Neis
Town Clerk

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

PAGE 2 OF 2

SUBJECT: Ratify the Town Council Selection Committee's Recommended Youth Commissioner Appointments

DATE: May 26, 2022

DICUSSION (continued):

All the applicants demonstrated initiative and community spirit in applying for leadership positions to serve the Los Gatos community and the Selection Committee's recommended appointments are listed in Attachment 1. Following the Youth Commission enabling resolution (Attachment 2), appointments for the eight (8) newly appointed Commissioners and the one (1) reappointed Commissioner entering the 12th grade are for one (1) year, and appointments for the six (6) reappointed Commissioners are for two (2) years.

CONCLUSION:

The Town Council Selection Committee recommends that Council appoint members as shown in Attachment 1. The recommendations for appointment are based on composite assessments from the interviews and applications.

FISCAL IMPACT:

The Town-wide Commission training budget is available to provide funds as needed.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Recommended Youth Commissioner Appointments
2. Youth Commission Enabling Resolution 2018-008

RECOMMENDED YOUTH COMMISSIONER APPOINTMENTS

	NAME	GRADE IN FALL	NEW OR REAPPOINTED	TERM	TERM EXPIRATION
1.	Maia Bernholz	11	Reappointed	2 years	6/30/2024
2.	Prav Balasingham	9	New	1 year	6/30/2023
3.	Cody Chen	9	New	1 year	6/30/2023
4.	Taj Chunawala	11	Reappointed	2 years	6/30/2024
5.	Kaedon Chung	10	New	1 year	6/30/2023
6.	Colette (Coco) Dougher	11	Reappointed	2 years	6/30/2024
7.	Mikaela Hammer-Longosz	11	New	1 year	6/30/2023
8.	Ryan Idemoto	10	New	1 year	6/30/2023
9.	Anjali Kalia	9	Reappointed	2 years	6/30/2024
10.	Najman Mahboub	11	Reappointed	2 years	6/30/2024
11.	Megan McCurrie	12	Reappointed	1 year	6/30/2023
12.	Eloise Moore	9	New	1 year	6/30/2023
13.	Gwyneth Pang	10	New	1 year	6/30/2023
14.	Aanya Singh	10	New	1 year	6/30/2023
15.	Olivia Vinckier	11	Reappointed	2 years	6/30/2024

ATTACHMENT 1

RESOLUTION 2018-008

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS RESCINDING RESOLUTION 2016-059 AND ESTABLISHING RULES FOR THE YOUTH COMMISSION

WHEREAS, it is recognized that a youth perspective on issues which pertain to the youth in the community is an important part of decision making in Town; and

WHEREAS, there is value in increasing communication between adults and youth; and

WHEREAS, there is value in having a mechanism for youth to have a voice in Town affairs and issues relating to youth; and

WHEREAS, the Town Council of the Town of Los Gatos found and determined that the purpose of the Youth Commission is to foster and encourage civic and neighborhood pride and a sense of identity through the knowledge, understanding, and increased involvement of the Town's youth in the Town's present and future municipal affairs.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOS GATOS THAT:

1. There is a need for a Youth Commission to function in the Town of Los Gatos, which would establish a formal body by which the youth of Los Gatos would have a voice in the community.
2. There is hereby established a Youth Commission which shall generally be responsible for studying various problems, activities and other issues of concern to the youth in general, and for advising Council on matters pertaining to issues involving the youth of Los Gatos.
 - a. Membership/Organization
 - i. The Youth Commission shall consist of twenty (20) members. The members shall be students who are entering grades 8 through 12. Membership for the students requires residency in the incorporated limits of the Town of Los Gatos or residency in the unincorporated areas of the County of Santa Clara, which have a Los Gatos mailing address.
 - ii. Members shall serve a term of two (2) years and until their successors are appointed and qualified. Members who are entering grade 12 when appointed and first time appointees shall serve a term of one (1) year.

ATTACHMENT 2

- iii. The Commission shall appoint one (1) primary member and one (1) alternate to serve as one voting member on the following Town Boards and Commissions:
 - 1. Arts and Culture Commission
 - 2. Bicycle and Pedestrian Advisory Commission
 - 3. Community and Senior Services Commission
 - 4. Library Board
 - 5. Parks Commission
 - 6. Transportation and Parking Commission
 - iv. In addition to all Youth Commission meetings, the primary member shall attend all meetings of the Board or Commission they are appointed to. If the primary member is not able to attend the meeting of the Board or Commission they are assigned, it shall be the responsibility of the alternate to attend the meeting. If the primary member misses three (3) meetings of the Board or Commission the Youth Commission shall appoint a new primary member, and if necessary, a new alternate.
 - v. Liaisons shall provide a monthly report to the Youth Commission and be responsible for conveying the Youth Commission's input to the Board or Commission.
 - vi. A majority of members shall constitute a quorum for the purpose of transacting business.
 - vii. Commission members shall serve without compensation, provided that, with advance budgetary approval of the Town Council, the actual and necessary expenses (if any) incurred by the members in the conduct of Town business shall be reimbursable pursuant to the current Council policy.
- 3. The Commission shall hold a regular meeting at least once each month between September and June. The Commission shall establish a regular time and location for its meetings and shall otherwise call and conduct its meetings in compliance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 and following.)
 - 4. The Commission shall elect a Chair and Vice-Chair, both of whom shall serve at the pleasure of the Commission. Terms of office shall be for one (1) year and shall begin on the first meeting in September and end the following June.
 - 5. Minutes of the actions taken during its meetings shall be kept and filed with the Town Clerk Administrator.

6. Meeting attendance requirements will conform with all current Town Resolutions and Policies.
7. The duties of the Commission shall include the following:
 - a. Foster greater involvement of youth in municipal government affairs.
 - b. Study problems, activities, and concerns of youth, especially as they relate to municipal programs or projects of the Town of Los Gatos.
 - c. Hold forums on problems, activities and concerns of youth, either alone or in conjunction with other governmental agencies and community organizations, as the Commission deems desirable.
 - d. Review municipal matters referred to the Commission by the Town Council or other Town boards, committees, or commissions and, as appropriate, make recommendations on those matters.

BE IT FURTHER RESOLVED that Resolution 2016-059 is hereby rescinded.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 20th day of March, 2018, by the following vote:

COUNCIL MEMBERS:

AYES: Marcia Jensen, Steve Leonardis, Marico Sayoc, Barbara Spector, Mayor Rob Rennie

NAYS: None.

ABSENT: None.

ABSTAIN: None.

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 3/21/18

ATTEST:



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

DATE: 3/22/18



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 5

DATE: June 4, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Calling for the Holding of a General Municipal Election to be Held on November 8, 2022 for the Election of Three Town Council Members, 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 at the Election to be Held Tuesday, November 8, 2022

RECOMMENDATION:

Adopt a Resolution calling for the holding of a General Municipal Election to be held on November 8, 2022 for the election of three Town Council Members, 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 at the Election to be held Tuesday, November 8, 2022.

DISCUSSION:

The General Municipal Election of the Town of Los Gatos will be held on Tuesday, November 8, 2022, for the purpose of filling three Council Member seats. To conduct the election, the Town Council must adopt a resolution calling for the General Municipal Election to fulfill certain legal requirements. The Resolution calls for the holding of the election, requests consolidation with the Statewide Election, establishes guidelines and costs associated with candidate statements, and provides the process to resolve a tie vote.

PREPARED BY: Shelley Neis
Town Clerk

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

SUBJECT: Adopt a Resolution Calling for the Holding of a General Municipal Election to be Held on November 8, 2022 for the Election of Three Town Council Members, 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 at the Election to be Held Tuesday, November 8, 2022

DATE: May 26, 2022

DISCUSSION (continued):

The filing period for Town Council candidates in the November 8, 2022 Election begins Monday, July 18, 2022 and ends at 5:00 p.m. on Friday, August 12, 2022. Pursuant to Elections Code Section 10225, if an incumbent for a specific office fails to file Nomination Papers by the close of the workday on August 12, 2022, the filing period will be extended five (5) calendar days for that specific office for non-incumbents only. The extended filing period would close on Wednesday, August 17, 2022 at 5:00 p.m. The Town Clerk will meet with potential candidates by appointment only during regular business hours during the filing period.

The Resolution calling for the General Municipal Election sets the maximum word count for candidate statements, which may be capped at either 200 or 400 words. Historically, the Town of Los Gatos has allowed for up to 200 words in candidate statements. The Santa Clara County Registrar of Voters (ROV) estimates the cost of publishing a 200-word candidate statement in the Voter Information Guide to be \$3,040. This cost is paid by each candidate who voluntarily chooses to publish a candidate statement and represents the candidate's pro rata share of the cost to print, produce, and mail the statement. As permitted by Elections Code 10228 and Town Code Section 2.30.011, the Town imposes a \$25 filing fee. It is important to note, the \$25 fee is a mandatory fee when filing Nomination Papers; the \$3,040 is voluntary to publish a candidate statement

FISCAL IMPACT:

The estimated cost from the ROV for the election of three (3) Council seats, not including the candidate statement fee, is approximately \$84,858 and the funding is included in the proposed Fiscal Year 2022/23 Budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Resolution Calling for the General Municipal Election

RESOLUTION 2022-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION FOR THE ELECTION OF THREE TOWN COUNCIL MEMBERS, REQUESTING THE SANTA CLARA COUNTY BOARD OF SUPERVISORS CONSOLIDATE WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022 AND RENDER SPECIFIED SERVICES TO THE TOWN RELATED TO THE CONDUCT OF THE GENERAL MUNICIPAL ELECTION PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10403, 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 AT THE ELECTION TO BE HELD TUESDAY, NOVEMBER 8, 2022

WHEREAS, under the provisions of the laws in the State of California a General Municipal Election shall be held on Tuesday, November 8, 2022 for the election of Municipal Officers for the Town of Los Gatos; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide Election to be held on the same date, and that within the Town the election be held in all respects as if there were only one election, and that the Santa Clara County Registrar of Voters canvass the returns of the General Municipal Election.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Los Gatos:

1. A General Municipal Election is hereby called to be held in and for the Town of Los Gatos on Tuesday, November 8, 2022 for the purpose of electing three (3) Council Members each for a full term of four (4) years.
2. Pursuant to the Elections Code Section 10002, the Town of Los Gatos 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.
3. Pursuant to Elections Code commencing with Section 10400, the Town of Los Gatos 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 8, 2022, with respect to which the Board of Supervisors of the County of Santa Clara has the power to order a consolidation. The Town of Los Gatos 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.

4. The polls for the election shall be open 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. on the same day when the polls shall be closed.
5. Pursuant to Section 13307 of the Elections Code, each candidate for elective office to be voted for at the General Municipal Election to be held in the Town of Los Gatos on November 8, 2022 may prepare a candidate statement. The statement may include the name, age, and occupation of the candidate, and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in the Office of the Town Clerk at the same time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed during the period for filing nomination papers and until 4:00 p.m. of the next working day after the close of the nomination period. Candidates shall not be permitted to submit materials other than the candidate statement with the printed voter materials. The estimated cost per candidate for a 200-word statement is \$3,040. The estimate is an approximation of the actual costs associated with printing, handling, translating, and mailing the candidate statement. The Town Clerk shall provide written notice to such effect with each set of nomination papers issued and shall require payment of the estimated cost at the time the candidate statement is filed. In the event of an underpayment, candidates will be required to pay the balance of the cost incurred. In the event of an overpayment, the Town Clerk will refund the excess amount paid within 30 days of the election.
6. Pursuant to Section 10228 of the Elections Code, and Town Code Section 2.30.011, candidates are required to pay a filing fee in the amount of twenty-five dollars (\$25.00), which amount the Town Council hereby determines to be the amount which is proportionate to the costs of processing a candidate's nomination papers by the Town of Los Gatos. The Town Clerk shall provide written notice to such effect with each set of nomination papers issued.
7. Pursuant to Elections Code Sections 10551 and 15651, if any two or more persons receive an equal and the highest number of votes for an office to be voted for within the Town, the method of determining the winner shall be by lot.
8. 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.
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.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos this 7th day of June 2022 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 6

DATE: May 16, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve Town Council Meeting Schedule for 2022/2023 Fiscal Year

RECOMMENDATION:

Staff recommends the Town Council approve the Town Council Meeting Schedule for the 2022/2023 Fiscal Year.

BACKGROUND:

Each year in June, the Town Council adopts the following fiscal year's Town Council Meeting Schedule, including any cancellations and/or meeting exceptions necessary.

DISCUSSION:

In 2004, the Town Council implemented the cancellation of its July meetings for a Summer recess period. In 2005, Council implemented the cancellation of the first meeting in January each year, primarily due to the light level of staffing with the annual year-end closure.

Additionally, on June 2, 2014, the Town Council approved and amended Los Gatos Town Code Section 2.20.010 changing the regular Council meeting day from Mondays to Tuesdays, effective August 2014.

Lastly, both regularly scheduled Council meetings have historically taken place each December, even if the second meeting falls in close proximity to the holidays. For example, in past years going back to 2009, meetings have taken place on December 20 and 21. Staff recommends the current proposed Council meeting date of December 20, 2022 be approved inclusively with the attached schedule.

PREPARED BY: Janette Judd
Executive Assistant

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

PAGE 2 OF 2

SUBJECT: Approve Town Council Meeting Schedule for 2022/2023 Fiscal Year

DATE: May 16, 2022

CONCLUSION:

The attached schedule reflects the July 2022 and January 2023 cancellations referenced above, with remaining dates reflective of the 1st and 3rd Tuesday schedule per Town Code. The attached schedule does not show dates for any potential Council Retreat, Boards/Commissions Interviews, or Special Meetings of the Town Council. In past years, Retreats have generally been held early in the calendar year or as-needed, and Special Meetings are held throughout the year on an as-needed basis.

Staff recommends that the Town Council approve the proposed regular Town Council Meeting Schedule for the 2022/2023 Fiscal Year.

Attachments:

1. Town Council Meeting Schedule - 2022/2023 Fiscal Year



TOWN COUNCIL MEETING SCHEDULE 2022/2023 FISCAL YEAR

July 5, 2022	Regular Council Meeting	CANCELLED
July 19, 2022	Regular Council Meeting	CANCELLED
August 2, 2022	Regular Council Meeting	
August 16, 2022	Regular Council Meeting	
September 6, 2022	Regular Council Meeting	
September 20, 2022	Regular Council Meeting	
October 4, 2022	Regular Council Meeting	
October 18, 2022	Regular Council Meeting	
November 1, 2022	Regular Council Meeting	
November 15, 2022	Regular Council Meeting	
December 6, 2022	Regular Council Meeting	
December 20, 2022	Regular Council Meeting	
January 3, 2023	Regular Council Meeting	CANCELLED
January 17, 2023	Regular Council Meeting	
February 7, 2023	Regular Council Meeting	
February 21, 2023	Regular Council Meeting	
March 7, 2023	Regular Council Meeting	
March 21, 2023	Regular Council Meeting	
April 4, 2023	Regular Council Meeting	
April 18, 2023	Regular Council Meeting	
May 2, 2023	Regular Council Meeting	
May 16, 2023	Regular Council Meeting	<i>(Annual Budget Hearing)</i>
June 6, 2023	Regular Council Meeting	
June 20, 2023	Regular Council Meeting	

All Council Meetings Listed on This Meeting Schedule Are Regular Meetings as Defined In Municipal Code Section 2.20.010 (Government Code Section 54954)



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 7

DATE: June 1, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a New Agreement with the Chamber of Commerce to Extend the Term of the Destination Marketing American Rescue Plan Act Grant

RECOMMENDATION:

Authorize the Town Manager to execute a new agreement with the Chamber of Commerce to extend the term of the destination marketing American Rescue Plan Act (ARPA) grant.

BACKGROUND:

On May 4, 2021, the Town Council appropriated \$55,000 in funds from the American Rescue Plan Act (ARPA) to the Chamber of Commerce for Emergency Destination Marketing Services to promote and encourage residents and visitors to shop, dine, stay and patronize Los Gatos businesses to support economic recovery efforts. The original term of the agreement is from June 30, 2021 to December 31, 2021 (Attachment 1).

DISCUSSION:

The Los Gatos Chamber of Commerce has requested an extension of the agreement due to unforeseen implementation challenges related to ongoing variants and other issues. To address these issues, the Chamber appropriately scaled down their initial plan and to date has committed or expended \$47,673 of the original grant. Staff recommends entering into a new agreement, with substantially the same terms, with a twelve-month extension of the agreement to December 31, 2022 to allow the Chamber sufficient time to expend the remaining grant funds prudently.

PREPARED BY: Arn Andrews
Assistant Town Manager

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

PAGE 2 OF 2

SUBJECT: Extension of the Chamber's ARPA Grant Agreement

DATE: June 1, 2022

CONCLUSION:

Authorize the Town Manager to execute a new agreement with the Chamber of Commerce to extend the term of the destination marketing American Rescue Plan Act (ARPA) grant agreement to December 31, 2022.

COORDINATION:

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

FISCAL IMPACT:

None

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Chamber ARPA Grant Agreement (redline)

AGREEMENT FOR EMERGENCY DESTINATION MARKETING SERVICES BY AND BETWEEN THE TOWN OF LOS GATOS AND THE LOS GATOS CHAMBER OF COMMERCE

THIS AGREEMENT is made and entered into on June 28, 2021, by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and LOS GATOS CHAMBER OF COMMERCE, ("Chamber"), whose address is 10 Station Way, Los Gatos, California. This Agreement is made with reference to the following facts.

I. RECITALS

WHEREAS, TOWN appropriated \$55,000 in funds from the American Rescue Plan Act (ARPA) on May 18, 2021 for the Chamber to carry out the duties outlined in the proposal for Emergency Destination Marketing (Exhibit A) for a period of six months, and;

WHEREAS, TOWN desires to respond to the pandemic or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

WHEREAS, TOWN desires to engage Chamber to provide Emergency Destination Marketing Services to promote and encourage residents and visitors to shop, dine, stay and patronize Los Gatos businesses to support the economic recovery efforts and the impacts of the COVID-19 pandemic, and;

WHEREAS, CHAMBER represents and warrants the truth of all statements contained in Exhibit A and incorporated herein by reference.

- 1.2 The Chamber represents and affirms that it is willing to perform the desired work pursuant to this Agreement, as proposed in Exhibit A.
- 1.3 Chamber 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 Chamber.

II. AGREEMENTS

- 2.1 Scope of Services. Chamber shall provide services as described in that certain Exhibit A, 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 June 30, 2021 to ~~December 31, 2021~~ **December 31, 2022**. Chamber shall perform the services described in this agreement as follows: provide Emergency Destination Marketing Services.

- 2.3 Compliance with Laws. The Chamber shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Chamber represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Chamber to practice its

profession. Chamber 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. Chamber 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 Chamber 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 Chamber in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Chamber shall not make any of these documents or information available to any individual or organization not employed by the Chamber or the Town without the written consent of the Town before such release.
- 2.6 Compensation. Compensation for Consultant's professional services **shall not exceed \$55,000** for Emergency Destination Marketing, inclusive of all costs.
- 2.7 Billing. Billing shall be in one payment, requested by invoice, within thirty (30) days of the execution of this agreement.

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

Invoices:

Email to: AP@losgatosca.gov

Or, Mail to: Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Chamber 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 Use of Town of Los Gatos Branding and Logo. The Town of Los Gatos will provide branding for the Visit Los Gatos Website including a logo and color palette. This shall be used for the creation of the website. The provided branding is property of the Town of Los Gatos and shall only be used by the Chamber for business of and marketing collateral that is executed as a part of , the Emergency Destination Marketing efforts, consistent with that of the Town's Visitor's Information Center and Visit Los Gatos website/branding. Use of the logo in social media, print, email, or other form that is not directly related to the Visitor's Information Center or Visit Los Gatos website requires explicit written permission by the Town of Los Gatos.

- 2.11 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Chamber. 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 Chamber, 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 Chamber 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. Chamber agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Chamber 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 Chamber or is based on allegations of Chamber's negligent performance or wrongdoing.
- 2.13 Conflict of Interest. Chamber understands that the professional responsibilities of the Town Information Center are solely to the Town. The Chamber has and shall not obtain any holding or interest within the Town of Los Gatos. Chamber 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, Chamber 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. Chamber 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, Chamber discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Chamber shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.14 Use of Funds. The Chamber, including the Visitor Information Center, shall not use any monies received under this agreement for the endorsement, opposition or participation in any political lobbying activity involved in the support or opposition to any candidate for public office, proposed ballot measure or item pending Town Council Action.
- 2.15 Equal Employment Opportunity. Chamber warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Chamber nor its subcontractors 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. Chamber 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. Chamber 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. Chamber 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. Chamber 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 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 Chamber; products and completed operations of Chamber, premises owned or used by the Chamber. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Chamber'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 Chamber'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 Chamber'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, Chamber 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, Chamber shall ensure that all subcontractors employed by Chamber provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Chamber 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 Chamber, or any of the Chamber'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 Chamber 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 Chamber shall deliver to the Town all plans, files, documents, reports, performed to date by the Chamber. In the event of such termination, Town shall pay Chamber 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 Chamber.
- 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

LOS GATOS CHAMBER OF COMMERCE
Attn: Catherine Somers, Executive Director
10 Station Way
Los Gatos, CA 95030


or personally delivered to Chamber to such address or such other address as Chamber 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 Chamber. 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 Chamber have executed this Agreement.


Recommended by:

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 7/6/2021
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Monica Renn, Economic Vitality Manager

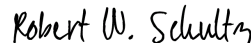
Town of Los Gatos by:

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Laurel Prevetti, Town Manager

Los Gatos Chamber of Commerce by:

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Catherine Somers, Executive Director

Approved as to Form:

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Robert Schultz, Town Attorney

Attest:

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Shelley Neis, Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 8

DATE: June 1, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Extension of the LGS Recreation 55+ Senior Services American Rescue Plan Act Grant

RECOMMENDATION:

Authorize the Town Manager to execute an extension of the LGS Recreation 55+ Senior Services American Rescue Plan Act (ARPA) Grant.

BACKGROUND:

On September 7, 2021, the Town Council appropriated \$328,500 in funds from the American Rescue Plan Act (ARPA) to the LGS Recreation 55+ to mitigate the negative effects of senior service provision in Town due to COVID-19. The original term of the agreement is from October 1, 2021 to October 31, 2022 (Attachment 1).

DISCUSSION:

LGS Recreation has requested an extension of the agreement due to unforeseen implementation challenges related to ongoing variants and other issues. To address these issues, LGS Rec appropriately scaled down the implementation of their original plan and to date has committed or expended \$123,096.52 of the original grant. Staff recommends a four-month extension of the agreement to February 28, 2023, to allow the LGS Recreation 55+ program sufficient time to expend the remaining grant funds prudently.

CONCLUSION:

Approve extension of LGS Recreation 55+ Senior Services American Rescue Plan Act (ARPA) grant agreement to February 28, 2023.

PREPARED BY: Arn Andrews
Assistant Town Manager

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

PAGE 2 OF 2

SUBJECT: LGS Recreation 55+ ARPA Grant Extension

DATE: June 1, 2022

COORDINATION:

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

FISCAL IMPACT:

None

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. LGS Rec 55+ ARPA Grant Agreement

**TOWN OF LOS GATOS AMERICAN RESCUE
PLAN ACT (ARPA) GRANT TERMS,
CONDITIONS AND UNDERSTANDINGS**

Summary:

The Town of Los Gatos ("Town") has awarded an ARPA grant to **Los Gatos – Saratoga Recreation (LGS Rec)** ("Grantee") in the total amount not to exceed **\$328,500** for the period from **October 1, 2021 to October 31, 2022**. This letter ("Agreement") sets forth the terms and conditions of the grant award.

Payment Terms and Use of Funds:

The grant will be paid on a time and materials basis through invoicing. Grantee must accept the terms of this Agreement prior to disbursement of grant funds. Grant disbursements to the Grantee shall be made after receipt of the grant claim form and the countersigned original of this Agreement. Please submit award claim and signed copy of this agreement to: Town of Los Gatos, Town Manager's Office, Attention: Lynda Seastrom, 110 E. Main Street, Los Gatos, CA 95030.

Grant funds shall be used exclusively to support the spirit of project(s) as set forth in the Grantee's proposal (Exhibit A) with the exception of funding for print or community outreach proposals. Any use of funds for a purpose other than that described in the Grantee's original proposal requires the Town's prior written consent.

Grantee shall provide complete and accurate records of all financial transactions, including, but not limited to, completed contracts, paid invoices, timecards, cash receipts, vouchers, cancelled checks, bank statements and/or other official documentation evidencing in proper detail the nature and propriety of all charges invoiced to the Town.

Grantee has been awarded these funds consistent with eligible uses as defined by ARPA. Grantee's use of funds is designed to help mitigate the negative effects of COVID-19 on the Town's senior population.

Unused Funds:

At the conclusion of the grant period, Grantee agrees to return any unexpended or unaccounted for funds to the Town. Grantee agrees to return all disbursed funds if (1) grant funds have not been used for their intended purpose, or (2) have been used inconsistent with the terms of this Agreement, or (3) if the activities or outputs funded by the grant are materially incomplete by the end of the grant period, as determined by the Town in its sole discretion.

No Pledge:

This Agreement shall not be interpreted to create any pledge or any commitment by the Town to make any further grants or contributions to Grantee or any other person or entity for this or

any other project.

Reporting and Records:

Grantee agrees to deliver to the office of the Town Clerk a final written report (Exhibit B) of the completed project by October 31, 2022. The written report must include copies of any outstanding receipts or financial statements detailing how grant funds were expended. The final written report is a publicly accessible document.

Original receipts and invoices must be maintained by Grantee and shall be make available to the Town upon request. Grantee agrees to maintain adequate financial records consistent with generally accepted accounting practices, and to retain such records for at least five years after the conclusion of the grant period. The Town may monitor and conduct an evaluation of the Grantee's operation to ensure compliance with the Agreement.

Grantee will provide a minimum of one site visit or project observation at a mutually agreed upon time during the grant period to a representative from the Town Managers Office. An interim check-in by phone, video meeting or email may also be requested at any time during the grant period by either the Town or the Grantee.

No Agency:

Grantee is solely responsible for the results of its services, compliance with the terms of this Agreement, and for all activities supported by the grant. Nothing in this Agreement creates a partnership, agency, joint venture, employment, or any other type of relationship between the Grantee and the Town. The Grantee shall not represent itself as an agent of the Town for any purpose and has no authority to bind the Town in any manner whatsoever.

No Lobbying:

Grantee confirms that the grant funds will not be used for the purpose of lobbying, carrying on propaganda or otherwise attempting to influence legislation as defined by the United States Internal Revenue Code of 1986.

No Assignment:

Grantee may not assign this Agreement or delegate performance of the terms of this Agreement or of the project to any other person or entity without the prior written consent of the Town.

Indemnity:

Grantee agrees, to the fullest extent permitted by law, to protect, defend, indemnify and hold harmless the Town, its officer, directors, affiliates, employees, and agents, from any and all claims, injury, liabilities, losses and expenses (including attorney's fees) directly, indirectly wholly or partially arising from or in connection with any act or omission of Grantee, its

employees or agents, in applying for or accepting the grant, in expending or applying grant funds, or in carrying out the project as set forth in the proposal.

Insurance Requirements:

Grantee shall supply proof of General Liability (GL) insurance and Automobile Liability (AL) insurance from an insurance company licensed to do business in the state of California and having a financial rating in Best's Insurance Guide of not less than AA. Both the GL and AL insurance will provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with the Grant. Both the GL and AL insurance will be in the minimum amount of \$1,000,000.00 combined single limit, and will name the Town and the Town officers, employees, agents, and registered volunteers as additional insured under the coverage afforded. Such insurance will be primary and noncontributing with respect to any other insurance available to the Town and will include a severability of interest (cross-liability) clause.

In addition to these policies, Grantee 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.

Compliance with Law:

Grantee shall become familiar and comply with and cause all its subcontractors and employees, if any, to become familiar and comply with all applicable federal, state and local laws, ordinances, codes, regulations.

Contact and Notices:

All notices, reports, or other correspondences related to this Agreement shall be sent to the following Addresses:

TOWN

Town of Los Gatos
Town Manager's Office
110 E. Main St
Los Gatos, CA 95030

GRANTEE

Los Gatos-Saratoga Community Education
and Recreation
208 East Main Street
Los Gatos, CA 95030

Agreement and Authority:

Grantee acknowledges and agrees that this Agreement represents the entire agreement between the Grantee and the Town with respect to the subject matter addressed herein. The terms of this Agreement may be modified only by writing signed by duly authorized representatives of both parties.

The person(s) signing this Agreement on behalf of the Grantee represents and warrants to the Town that they have the requisite legal authority and power to execute this Agreement, and to bind Grantee to the obligations contained herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first herein above set forth.

TOWN OF LOS GATOS

DocuSigned by:
Laurel Prevetti
853FEEA2EB39470...
Laurel Prevetti, Town Manager
4/3/2022
Date

Los Gatos – Saratoga Recreation Senior Services

DocuSigned by:
Nancy Rollett
44FBC88343CC406...
Signature of grant representative
3/25/2022
Date

Nancy Rollett
Printed name of grant representative
Executive Director
Title of grant

representative APPROVED AS TO FORM:

DocuSigned by:
Robert W. Schultz
2FE093853B744C...
Robert Schultz, Town Attorney
4/2/2022
Date

Attest:

DocuSigned by:
Shelley Neis
B9886F65B1F34F6...
Shelley Neis, MMC, CPMC, Town Clerk
4/3/2022

Exhibits:

- A. Grantee's original proposal
- B. Final Grant Report Template

Los Gatos-Saratoga Community Education and Recreation



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 9

DATE: May 27, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with the Los Gatos Chamber of Commerce to Manage the Town's Visitors Information Center Including a Visit Los Gatos Website, Related Social Media Pages, and Assist with Related Community Vitality Initiatives as Outlined in the Scope of Services in an Amount Not to Exceed \$55,000.

RECOMMENDATION:

Authorize the Town Manager to execute an Agreement for Services with the Los Gatos Chamber of Commerce to manage the Town's Visitors Information Center including a Visit Los Gatos Website, related social media pages, and assist with related community vitality initiatives as outlined in the Scope of Services in an amount not to exceed \$55,000.

BACKGROUND:

In 2001, an agreement for services with the Los Gatos Chamber of Commerce was first executed to include the operation and management of the Town's Visitors Information Center as well as coordination of the Town's annual Leadership Los Gatos program. Annual renewals with modifications as needed have been approved by the Council every year thereafter.

The contract amount has increased over time. Most notably for Fiscal Year (FY) 2019/20, the amount increased from a not to exceed amount of \$45,000 to a not to exceed amount of \$60,000, allocated as \$55,000 for Visitors Information Center Services and \$5,000 for the assistance with the Town's Leadership Los Gatos program. This FY 2019/20 agreement for services included a Scope of Services with deliverables and bi-annual reporting required to be submitted by the Chamber accounting for the services rendered.

PREPARED BY: Monica Renn
Economic Vitality Manager

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

SUBJECT: Annual Agreement for Services with the Chamber of Commerce for the Town's Visitor Information Center, FY 2022/23

DATE: May 27, 2022

BACKGROUND (continued):

For the following fiscal year (FY 2020/21), the Town Council provided \$55,000 to the Chamber as a subsidy for managing the Town's Visitor's Information Center and assisting with related community vitality initiatives.

This switch was made to provide the Chamber of Commerce with flexibility during the COVID-19 pandemic. The Town Council understood that the shopping, dining, and entertainment environment was drastically different than typical years, thus approved the subsidy so that the Chamber could remain nimble and serve the community as they saw fit through the various stages of the pandemic. Additionally, no new Leadership Los Gatos class was established in FY 2020/21.

On May 4, 2021, the Town Council allocated \$55,000 of the American Rescue Plan Act (ARPA) funds to the Chamber of Commerce to assist with emergency destination marketing to provide a jumpstart to community vitality efforts. The destination marketing effort included: the creation of a "one stop" branded website, Visit Los Gatos; social media content development; video production of a Visit Los Gatos promotional video; investment into Visit California content; media relations, and "Fam" trips which are local tours for hotel and hospitality staff to get to know the area in order to make recommendations to guests. When this money was allocated, the Town Council noted that this annual agreement for services would be forthcoming and that it was necessary to show a distinction between the services rendered under the funds allocated for the emergency destination marketing, and the services rendered under the Chamber's annual agreement to facilitate the Town's Visitors Information Center.

Subsequently, on June 15, 2021, the Town Council approved the annual agreement for services for FY 2021/22, for the Chamber of Commerce to operate the Town's Visitors Information Center (Attachment 1) that included refreshed deliverables in the Scope of Services, which were developed in collaboration with the Chamber, and focused on website and social media efforts. Leadership Los Gatos was not included for FY 2021/22 as the program had not returned due to the ongoing COVID-19 pandemic.

Thus, as directed by the Town Council, separate agreements for each funding allotment were executed to provide clarity and distinction of service deliverables. A time extension to the emergency destination marketing agreement is also being considered by the Town Council at this meeting, under a separate item.

DISCUSSION:

On May 17, 2022, the Town Council approved a Town budget for FY 2022/23 that included \$55,000 to fund the annual agreement with the Chamber of Commerce for its services to

SUBJECT: Annual Agreement for Services with the Chamber of Commerce for the Town's
Visitor Information Center, FY 2022/23

DATE: May 27, 2022

DISCUSSION (continued):

operate the Town's Visitors Information Center, thus staff is bringing forward the agreement for Town Council's consideration and approval (Attachment 2).

The draft agreement and scope of services for FY 2022/23 recommends a status quo draft agreement and scope of services, for the Chamber of Commerce to continue providing services for the Town's Visitors Information Center as agreed upon for FY 2021/22.

The Chamber of Commerce provided a written request to staff to increase the amount of funds the Town provides from \$55,000 to \$88,500 for the Visitor Information Center with modified services. Based on the executed agreement and scope of service from FY 2021/22, apart from street pole banners, the services for which the additional funds are being requested are covered as cores services in the current agreement including social media and the management of a branded visitor's website.

During FY 2021/22, the Chamber worked to create a Visit Los Gatos brand and website, and related social media accounts, and partnered with the Town to host merchant meetings throughout the year to facilitate open communication on topics such as parklet vendors, retail safety and awareness, and the Town's employee parking program, all of which meet the services outlined in the current agreement.

With the renewal of the annual contract for services, the Town is seeking to contract with the Chamber of Commerce for the specific services outlined in the FY 2022/23 draft agreement and scope of services and looks forward to the continued partnership.

CONCLUSION:

Authorize the Town Manager to execute an Agreement for Services with the Los Gatos Chamber of Commerce to manage the Town's Visitors Information Center including a Visit Los Gatos Website, related social media pages, and assist with related community vitality initiatives as outlined in the scope of services in an amount not to exceed \$55,000.

FISCAL IMPACT:

Funds for this agreement for services have been incorporated in the FY 2022/23 budget.

ENVIRONMENTAL ASSESSMENT:

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

PAGE 4 OF 4

SUBJECT: Annual Agreement for Services with the Chamber of Commerce for the Town's
Visitor Information Center, FY 2022/23

DATE: May 27, 2022

Attachments:

1. FY 2021/22 executed Agreement for Services for the Chamber of Commerce to manage the Town's Visitors Information Center
2. Draft Agreement for Services for the Chamber of Commerce to manage the Town's Visitors Information Center for FY 2022/23
3. Proposal from the Chamber of Commerce for increased funding for the Chamber to manage the Town's Visitors Information Center

AGREEMENT FOR SERVICES BY AND BETWEEN THE TOWN OF LOS GATOS AND THE LOS GATOS CHAMBER OF COMMERCE FISCAL YEAR 2021/2022

THIS AGREEMENT is made and entered into on June 15, 2021, by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and LOS GATOS CHAMBER OF COMMERCE, ("Chamber"), whose address is 10 Station Way, Los Gatos, California. This Agreement is made with reference to the following facts.

I. RECITALS

WHEREAS, TOWN appropriated funds in its Fiscal Year 2021/2022 Budget for allocation of funds, and;

WHEREAS, Town desires to engage Chamber to provide services as permitted, and TOWN has appropriated funds for this purpose, to be utilized during the time period between July 1, 2021, and June 30, 2022, and;

WHEREAS, CHAMBER represents and warrants the truth of all statements contained in "Scope of Services" attached as Exhibit A and incorporated herein by reference.

WHEREAS, TOWN and Los Gatos Chamber of Commerce has executed an Agreement since Fiscal Year 2001, and;

WHEREAS, TOWN desires to engage the Chamber to provide Town Visitor's Information Center, including a redesigned and robust Visit Los Gatos Website with the Town of Los Gatos.

- 1.2 The Chamber represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Chamber 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 Chamber.

II. AGREEMENTS

- 2.1 Scope of Services. Chamber shall provide services as described in that certain Exhibit A Chamber of Commerce Scope of Services, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from July 1, 2021, to June 30, 2022. Chamber shall perform the services described in this agreement as follows: provide the Visitor's Information Center including the Visit Los Gatos website as outlined in Exhibit A – Scope of Services.

- 2.3 Compliance with Laws. The Chamber shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Chamber represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Chamber to practice its profession. Chamber 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. Chamber 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 Chamber 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 Chamber in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Chamber shall not make any of these documents or information available to any individual or organization not employed by the Chamber or the Town without the written consent of the Town before such release.
- 2.6 Compensation. Compensation for Consultant's professional services **shall not exceed \$55,000** for Town Visitor's Information Center including the Visit Los Gatos Website, inclusive of all costs.
- 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 as described in Exhibit A.

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

Invoices:

Email to: AP@losgatosca.gov

Or, Mail to: Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Chamber 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 Annual Report. Chamber shall provide, at a minimum, reports in December 2021 and May 2022 including services rendered by the Visitor's Information Center and Visit Los Gatos Website accounting of expenditures of the funds covered by this agreement; and, analytics and data reflective of activity and online "traffic" on the website, social media and boosts/advertisements with direct links to the website as described in Exhibit A - Scope of Services.
- 2.10 Use of Town of Los Gatos Branding and Logo. The Town of Los Gatos will provide branding for the Visit Los Gatos Website including a logo and color palette. This shall be used for the creation of the website. The provided branding is property of the Town of Los Gatos and shall only be used by the Chamber for business of and marketing collateral that is executed as a part of the Visitor's Information Center or Visit Los Gatos website. Use of the logo in social media, print, email, or other form that is not directly related to the Visitor's Information Center or Visit Los Gatos website requires explicit written permission by the Town of Los Gatos.
- 2.11 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Chamber. 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 Chamber, 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 Chamber 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. Chamber agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Chamber 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 Chamber or is based on allegations of Chamber's negligent performance or wrongdoing.
- 2.13 Conflict of Interest. Chamber understands that the professional responsibilities of the Town Information Center are solely to the Town. The Chamber has and shall not obtain any holding or interest within the Town of Los Gatos. Chamber 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, Chamber 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. Chamber 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, Chamber discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Chamber shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

- 2.14 Use of Funds. The Chamber (Visitor Information Center) shall not use any monies received under this agreement for the endorsement, opposition or participation in any political lobbying activity involved in the support or opposition to any candidate for public office, proposed ballot measure or item pending Town Council Action.
- 2.15 Equal Employment Opportunity. Chamber warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Chamber nor its subcontractors 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. Chamber 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. Chamber 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. Chamber 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. Chamber 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 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 Chamber; products and completed operations of Chamber, premises owned or used by the Chamber. This requirement does not apply to the professional liability insurance required for professional errors and omissions.

- ii. The Chamber'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 Chamber'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 Chamber'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, Chamber 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, Chamber shall ensure that all subcontractors employed by Chamber provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Chamber 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 Chamber, or any of the Chamber'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 Chamber 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 Chamber shall deliver to the Town all plans, files, documents, reports, performed to date by the Chamber. In the event of such termination, Town shall pay Chamber 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 Chamber.
- 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

LOS GATOS CHAMBER OF COMMERCE
Attn: Catherine Somers, Executive Director
10 Station Way
Los Gatos, CA 95030

or personally delivered to Chamber to such address or such other address as Chamber 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 Chamber. 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 Chamber have executed this Agreement.

Recommended by:

DocuSigned by:

Monica Renn

7/6/2021

Monica Renn, Economic Vitality Manager

Town of Los Gatos by:

DocuSigned by:

Laurel Prevetti

7/13/2021

Laurel Prevetti, Town Manager

Los Gatos Chamber of Commerce by:

DocuSigned by:

Catherine Somers

7/12/2021

Catherine Somers, Executive Director

Approved as to Form:

DocuSigned by:

Robert W. Schultz

7/13/2021

Robert Schultz, Town Attorney

Attest:

DocuSigned by:

Shelley Neis

7/14/2021

Shelley Neis, Town Clerk



**EXHIBIT A - SCOPE OF SERVICES
AGREEMENT FOR SERVICES WITH THE CHAMBER OF COMMERCE
FY 2021/2022**

**LOS GATOS VISITOR INFORMATION CENTER & VISIT LOS GATOS WEBSITE
\$55,000**

All services rendered as a part of this scope of services under the function of the Los Gatos Visitor Information Center shall be to the benefit and promotion of Town-wide stakeholders including businesses, residents, and visitors.

The following services and information will be coordinated and provided by the Chamber of Commerce as a part of the operations of the Los Gatos Visitor Information Center and Visit Los Gatos Website:

1. Create and maintain branded website that is easily accessible and simple to navigate.
 - a. Simple url that is easily identified, published, and remembered;
 - b. Appears in keyword searches as a top option for phrases such as: Visit Los Gatos; Things to do in Los Gatos; Los Gatos Restaurants; Los Gatos Hotels; Los Gatos Events, etc.;
 - c. Inclusive of all businesses in featured categories, regardless of Chamber of Commerce membership status;
 - d. Includes businesses throughout the Town including Downtown, The Boulevard, and featured shopping centers;
 - e. Branding and messaging reflective of the Town's goals and objectives, final brand to be approved by the Town;
 - i. Town will provide logo and color palette
 - f. Language on the website must reflect the partnership of the Town of Los Gatos and Chamber of Commerce as partners/sponsors of the website;
 - g. Provide limited printed marketing materials such as small cards, window clings, counter signs, or other appropriate collateral that may be displayed or provided to visitors at the hotels, restaurants, shops, Chamber of Commerce Office, Town Hall, Library, etc. that identifies and promotes the Visit Los Gatos website;
 - h. Website maintained weekly by Chamber of Commerce to ensure information is up to date.
 - i. Town staff will provide new business information as available;
 - i. Website launched within 4 months of contract execution; and,
 - j. Town of Los Gatos will maintain a direct link to the Visit Los Gatos website as its primary source for visitor information.

2. Social Media advertisement of Visit Los Gatos Website:
 - a. Purchase/provide social media ads and/or boosts that promote the Visit Los Gatos website and track “clicks” and visits directly linked to the webpage.
 - b. Minimum three posts per week on each social media outlet promoting the Visit Los Gatos web address, Town will also utilize social media accounts to promote Visit Los Gatos website;
 - c. Provide the “link in the bio” to the Visit Los Gatos website on all social media accounts where available; and,
 - d. Identify two-three official designated hash tags, one should be #experiencelosgatos, that are included on all social media posts.
3. Continue to support the Town’s business outreach efforts for events, meetings, and programs through social media, email, etc.
 - a. Promote Town events in Chamber of Commerce marketing materials including email notifications and newsletters.
4. Offer in-person Los Gatos Visitor Information Center services from the Chamber of Commerce offices.
 - a. Respond to walk-in and call-in inquiries, and encourage engagement with the Visit Los Gatos website; and
 - b. Allow Town meetings with the business community to be conducted at the Chamber of Commerce offices during mutually agreed upon times and days.
5. Bi-Annual written reports and monthly invoicing:
 - a. Upon request, and at a minimum twice annually, in December and late May, Chamber shall provide analytics in a written report for the identified objectives.
 - b. Invoice the Town for payment of services monthly, as described in the attached agreement.

AGREEMENT FOR SERVICES BY AND BETWEEN THE TOWN OF LOS GATOS AND THE LOS GATOS CHAMBER OF COMMERCE FISCAL YEAR 2022/2023

THIS AGREEMENT is made and entered into on June 7, 2022, by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and LOS GATOS CHAMBER OF COMMERCE, ("Chamber"), whose address is 10 Station Way, Los Gatos, California. This Agreement is made with reference to the following facts.

I. RECITALS

WHEREAS, TOWN appropriated funds in its Fiscal Year 2022/2023 Budget for allocation of funds, and;

WHEREAS, Town desires to engage Chamber to provide services as permitted, and TOWN has appropriated funds for this purpose, to be utilized during the time period between July 1, 2022, and June 30, 2023, and;

WHEREAS, CHAMBER represents and warrants the truth of all statements contained in "Scope of Services" attached as Exhibit A and incorporated herein by reference.

WHEREAS, TOWN and Los Gatos Chamber of Commerce have executed an Agreement since Fiscal Year 2001, and;

WHEREAS, TOWN desires to engage the Chamber to provide Town Visitor's Information Center, including a redesigned and robust Visit Los Gatos Website with the Town of Los Gatos.

- 1.2 The Chamber represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Chamber 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 Chamber.

II. AGREEMENTS

- 2.1 Scope of Services. Chamber shall provide services as described in that certain Exhibit A Chamber of Commerce Scope of Services, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from July 1, 2022, to June 30, 2023. Chamber shall perform the services described in this agreement as follows: provide the Visitor's Information Center including the Visit Los Gatos website as outlined in Exhibit A – Scope of Services.

ATTACHMENT 2

- 2.3 Compliance with Laws. The Chamber shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Chamber represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Chamber to practice its profession. Chamber 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. Chamber 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 Chamber 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 Chamber in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Chamber shall not make any of these documents or information available to any individual or organization not employed by the Chamber or the Town without the written consent of the Town before such release.
- 2.6 Compensation. Compensation for Consultant's professional services **shall not exceed \$55,000** for Town Visitor's Information Center including the Visit Los Gatos Website, inclusive of all costs.
- 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 as described in Exhibit A.

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

Invoices:

Email to: AP@losgatosca.gov

Or, Mail to: Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Chamber 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 Annual Report. Chamber shall provide, at a minimum, reports in December 2022 and May 2023 including services rendered by the Visitor's Information Center and Visit Los Gatos Website accounting of expenditures of the funds covered by this agreement; and, analytics and data reflective of activity and online "traffic" on the website, social media and boosts/advertisements with direct links to the website as described in Exhibit A - Scope of Services.
- 2.10 Use of Town of Los Gatos Branding and Logo. The Town of Los Gatos will provide branding for the Visit Los Gatos Website including a logo and color palette. This shall be used for the creation of the website. The provided branding is property of the Town of Los Gatos and shall only be used by the Chamber for business of and marketing collateral that is executed as a part of the Visitor's Information Center or Visit Los Gatos website. Use of the logo in social media, print, email, or other form that is not directly related to the Visitor's Information Center or Visit Los Gatos website requires explicit written permission by the Town of Los Gatos.
- 2.11 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Chamber. 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 Chamber, 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 Chamber 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. Chamber agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Chamber 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 Chamber or is based on allegations of Chamber's negligent performance or wrongdoing.
- 2.13 Conflict of Interest. Chamber understands that the professional responsibilities of the Town Information Center are solely to the Town. The Chamber has and shall not obtain any holding or interest within the Town of Los Gatos. Chamber 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, Chamber 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. Chamber 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, Chamber discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Chamber shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

- 2.14 Use of Funds. The Chamber (Visitor Information Center) shall not use any monies received under this agreement for the endorsement, opposition or participation in any political lobbying activity involved in the support or opposition to any candidate for public office, proposed ballot measure or item pending Town Council Action.
- 2.15 Equal Employment Opportunity. Chamber warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Chamber nor its subcontractors 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. Chamber 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. Chamber 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. Chamber 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. Chamber 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 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 Chamber; products and completed operations of Chamber, premises owned or used by the Chamber. This requirement does not apply to the professional liability insurance required for professional errors and omissions.

- ii. The Chamber'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 Chamber'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 Chamber'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, Chamber 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, Chamber shall ensure that all subcontractors employed by Chamber provide the required Workers' Compensation insurance for their respective employees.
- 3.4 Indemnification. The Chamber 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 Chamber, or any of the Chamber'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 Chamber 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 Chamber shall deliver to the Town all plans, files, documents, reports, performed to date by the Chamber. In the event of such termination, Town shall pay Chamber 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 Chamber.
- 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 | LOS GATOS CHAMBER OF COMMERCE |
| Attn: Town Clerk | Attn: Catherine Somers, Executive Director |
| 110 E. Main Street | 10 Station Way |
| Los Gatos, CA 95030 | Los Gatos, CA 95030 |
- or personally delivered to Chamber to such address or such other address as Chamber 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 Chamber. 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 Chamber have executed this Agreement.

Recommended by:

Monica Renn, Economic Vitality Manager

Town of Los Gatos by:

Los Gatos Chamber of Commerce by:

Laurel Prevetti, Town Manager

Executive Director

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Shelley Neis, Town Clerk

EXHIBIT A - SCOPE OF SERVICES
AGREEMENT FOR SERVICES WITH THE CHAMBER OF COMMERCE
FY 2022/2023

LOS GATOS VISITOR INFORMATION CENTER & VISIT LOS GATOS WEBSITE
\$55,000

All services rendered as a part of this scope of services under the function of the Los Gatos Visitor Information Center shall be to the benefit and promotion of Town-wide stakeholders including businesses, residents, and visitors.

The following services and information will be coordinated and provided by the Chamber of Commerce as a part of the operations of the Los Gatos Visitor Information Center and Visit Los Gatos Website:

1. Create and maintain branded website that is easily accessible and simple to navigate.
 - a. Simple url that is easily identified, published, and remembered;
 - b. Appears in keyword searches as a top option for phrases such as: Visit Los Gatos; Things to do in Los Gatos; Los Gatos Restaurants; Los Gatos Hotels; Los Gatos Events, etc.;
 - c. Inclusive of all businesses in featured categories, regardless of Chamber of Commerce membership status;
 - d. Includes businesses throughout the Town including Downtown, The Boulevard, and featured shopping centers;
 - e. Branding and messaging reflective of the Town's goals and objectives, final brand to be approved by the Town;
 - i. Town will provide logo and color palette
 - f. Language on the website must reflect the partnership of the Town of Los Gatos and Chamber of Commerce as partners/sponsors of the website;
 - g. Provide limited printed marketing materials such as small cards, window clings, counter signs, or other appropriate collateral that may be displayed or provided to visitors at the hotels, restaurants, shops, Chamber of Commerce Office, Town Hall, Library, etc. that identifies and promotes the Visit Los Gatos website;
 - h. Website maintained weekly by Chamber of Commerce to ensure information is up to date.
 - i. Town staff will provide new business information as available;
 - i. Website launched within 4 months of contract execution; and,
 - j. Town of Los Gatos will maintain a direct link to the Visit Los Gatos website as its primary source for visitor information.

2. Social Media advertisement of Visit Los Gatos Website:
 - a. Purchase/provide social media ads and/or boosts that promote the Visit Los Gatos website and track “clicks” and visits directly linked to the webpage.
 - b. Minimum three posts per week on each social media outlet promoting the Visit Los Gatos web address, Town will also utilize social media accounts to promote Visit Los Gatos website;
 - c. Provide the “link in the bio” to the Visit Los Gatos website on all social media accounts where available; and,
 - d. Identify two-three official designated hash tags, one should be #experiencelosgatos, that are included on all social media posts.
3. Continue to support the Town’s business outreach efforts for events, meetings, and programs through social media, email, etc.
 - a. Promote Town events in Chamber of Commerce marketing materials including email notifications and newsletters.
4. Offer in-person Los Gatos Visitor Information Center services from the Chamber of Commerce offices.
 - a. Respond to walk-in and call-in inquiries, and encourage engagement with the Visit Los Gatos website; and
 - b. Allow Town meetings with the business community to be conducted at the Chamber of Commerce offices during mutually agreed upon times and days.
5. Bi-Annual written reports and monthly invoicing:
 - a. Upon request, and at a minimum twice annually, in December and late May, Chamber shall provide analytics in a written report for the identified objectives.
 - b. Invoice the Town for payment of services monthly, as described in the attached agreement.

**SCOPE OF SERVICES
CHAMBER OF COMMERCE • FY 2022/2023**

LOS GATOS VISITOR INFORMATION CENTER: \$88,500

All services rendered as part of this scope of services under the function of the Los Gatos Visitor Information Center, shall be to the benefit and promotion of Town-wide stakeholders including businesses, residents and visitors.

The following services and information will be coordinated and provided by the Chamber of Commerce (Chamber) as a part of the operations of the Los Gatos Visitor and Information Center:

- Offer Los Gatos Information Center walk in and call services from the Chamber of Commerce offices 40 hours a week, 52 weeks a year except for scheduled holiday closures. Be an information hub for all.
- Respond to Los Gatos visitor and resident inquiries regarding shopping, dining, lodging, events, relocation, general commerce, senior services, service organizations and service providers and other related visitor information topics.
- Coordinate and distribute various Los Gatos marketing materials such as maps, guides, and wayfinding collateral that is inclusive of all applicable businesses and business districts, and not exclusive to Chamber of Commerce members. Marketing materials may be printed or may be formatted as the market demands for social media, online, electronic notifications, email, etc.
- Assist with the assembly and distribution of Los Gatos relocation packets in coordination with the Town.
- Promote Town events in Chamber marketing materials including email notifications, newsletters, local newspaper ads and social media posts and boosts.
- Maintain the new standalone “Visit Los Gatos” website in which visitors to the Town’s website will be redirected and be able to access information relating to Los Gatos merchants, restaurants, lodging, entertainment, and parking guides, inclusive of both Chamber and non-Chamber member businesses.
- Maintain both the new Facebook and Instagram “Visit Los Gatos” pages. Services are provided by a contracted Social Media Consultant, whose exclusive role is creating content for the “Visit Los Gatos” social media accounts.
- Allow Town meetings with the business community to be conducted at the Chamber offices during mutually agreed upon times and days.
- Design, produce and coordinate hanging of decorative street pole banners to promote Town vitality. Banner design shall be approved by Town prior to installation.
- Convene leaders in the community and encourage collaborative relationships around town-wide special events, programs and services.

**SCOPE OF SERVICES
CHAMBER OF COMMERCE • FY 2022/2023**

- Be a champion for economic vitality as it relates to visitor parking, recruitment of new businesses, summer cut through traffic, town wide events, transportation, general plan, etc.

Visitor Center Per usual to cover basics rent, staff, public restroom, management of food and wine committee, and other services listed above	55,000
Social Media for Visit Los Gatos *added this year as we have assessed this component is critical for destination marketing success	24,000
Visit Los Gatos website maintenance *Staff to update website daily to reflect everything happening in town and to let folks know what there is to do when they visit our town.	2,500
Street Pole Banners *Banners have a life span of about 18 months and are a good reflection of who we are as a town and what is important to us, not to mention they are vibrant and colorful and create a feel good have feel for all.	7,000
TOTAL	\$88,500



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 9

ADDENDUM

DATE: May 27, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with the Los Gatos Chamber of Commerce to Manage the Town's Visitors Information Center Including a Visit Los Gatos Website, Related Social Media Pages, and Assist with Related Community Vitality Initiatives as Outlined in the Scope of Services in an Amount Not to Exceed \$55,000.

RECOMMENDATION:

Attachment 4 contains public comment received 11:01 a.m. Thursday, June 2 to 11:00 a.m. Friday, June 3, 2022.

Attachments previously received with the Staff Report:

1. FY 2021/22 executed Agreement for Services for the Chamber of Commerce to manage the Town's Visitors Information Center
2. Draft Agreement for Services for the Chamber of Commerce to manage the Town's Visitors Information Center for FY 2022/23
3. Proposal from the Chamber of Commerce for increased funding for the Chamber to manage the Town's Visitors Information Center

Attachment received with this Addendum:

4. Public Comment received 11:01 a.m. June 2 to 11:01 a.m. June 3, 2022

PREPARED BY: Monica Renn
Economic Vitality Manager

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

From: Donna McCurrie <donna@losgatoschamber.com>

Sent: Thursday, June 2, 2022 2:51 PM

To: Council <Council@losgatosca.gov>

Cc: Catherine Somers <catherine@losgatoschamber.com>; Randi Chen <randi@losgatoschamber.com>

Subject: Visit Los Gatos Agreement-June 7 Town Council Meeting

EXTERNAL SENDER

Dear Mayor Rennie and Council Members,

For your consideration prior to the June 7, 2022 council meeting.

Thank you,
Donna McCurrie

ATTACHMENT 4



June 2, 2022

Dear Mayor Rennie and Council Members,

The Los Gatos Visitor Center would like to pull the Visitor and Information Center Contract from the June 7 Consent Agenda.

The past few years the Visitor Center staff has been committed to building the Visitor and Information Center into Visit Los Gatos CA. Visit Los Gatos CA is the destination marketing arm for Los Gatos. This continuing commitment entails building and marketing the Visit Los Gatos CA brand through social media and the destination website in addition to the brick-and-mortar visitor and information center.

The money from our annual \$55K agreement plus the \$55K ARPA one-time emergency destination marketing funds have allowed us to build these foundations over the past year. In order to maintain, grow the brand and bring more visitors to Los Gatos, we are requesting an annual increase of \$33.5K to our existing agreement bringing the total to \$88.5K. (See Charts 1 & 2)

The Chamber fully understands the Town's current financial constraints and concern regarding a projected \$1,000,000 shortfall in TOT from 2018-2019. While the staff is still navigating the destination & digital marketing learning curve, studies have shown there is a direct positive impact on visitor spending per \$1 invested in sales and marketing. (See Chart 3). Increasing our brand awareness as a destination location has the added benefit increasing our hotel occupancy rate and in return a financial benefit for the Town. In other words, heads in beds increases TOT and sales tax revenue. (See Chart 4)

There are two questions Council should consider:

1. "Do you want Los Gatos to be a destination location?"
Visit Los Gatos CA plays a vital role in the development of Los Gatos as a destination location.
 - Boosts audience engagement and following. Followers have increased by 47.6% since the transition from Experience Los Gatos to Visit Los Gatos.
Experience Los Gatos (1999-6/7/21)-2706 Followers
Visit Los Gatos (6/8/21-Present)-5685 Followers
 - Increases brand awareness of Los Gatos as a destination by reaching potential visitors outside of Silicon Valley.
 - Represents and promotes ALL businesses in Los Gatos. Whereas the Chamber social media accounts & website promote members only, Visit Los Gatos CA levels the playing field for all businesses. It gives all businesses free marketing and advertising exposure.
 - Promotes non-business sectors of Los Gatos: parks, hiking, biking, and Town and community organizations' special events.
 - Establishes the Social media staff person as an influencer who drives our message to a target audience. Through the creation of targeted, engaging and quality content, our social media influencer has established themselves as an expert. They continue to build credibility and trust among our followers who in turn recommend the site and social media accounts to others.
2. How much longer can Los Gatos rely only on its residents to financially support the Town?
Tourism plays a critical role in funding the Town's budget and takes the tax burden off the residents.

As an example, in their destination business plan supplement for 2022, Newport Beach and Company, the Destination Marketing Organization (DMO) for Newport Beach, CA summarizes it as follows:

"By enticing visitors to stay in Newport Beach, the City of Newport Beach generates Transient-Occupancy Tax (TOT), its third-largest revenue source. This income to the city benefits residents, saving each household an average of \$1,139 in additional taxes every year, while maintaining the exceptional infrastructure and city services expected in Newport Beach. To keep the Newport Beach economy churning at the same levels and to keep thousands of local businesses open, each household would have to spend an additional \$43,922 more locally each year in Newport Beach, to make up for the economic benefits of tourism."

Source: https://newportbeachandco.com/wp-content/uploads/2021/05/DBP_2022.pdf

Visit California recently published its California's Visitor Economy Travel Forecast & Key Drivers for April 2022 with the following major takeaways.

- Tourism spending in California grew to \$100.2 billion in 2021, 69% of the 2019 amount.
- Travel-related spending from Domestic visitors is expected to recover to 104% of 2019 levels in 2022, while international spending will only recover to 53%.
- Total travel-related spending in California is not expected to reach pre-coronavirus levels until 2023 and 28% above 2019 spending levels by the end of 2026.
- Overall, Leisure travel (person trips) could recover to 94% of 2019 volume in 2022, while Business-related travel will recover to 79%.
- International Inbound travel spending increased 3% in 2021, and is expected to reach \$15 billion, or 53% of 2019 spending in 2022.
- Travel-generated tax revenue increased to \$15.0 billion in 2021, an increase of 23.1% from the prior year. Compared to 2019, travel-generated tax revenue is down 25.4 percent.
- Visitors who stayed in a Hotel, Motel, or STVR spent \$52.4 billion in 2021, an increase of 44.0%. Visitors who stayed in a Private Home with friends and relatives spent \$17.0 billion in 2021, an increase of 136.1%.
- Direct travel-related spending in California grew to \$100.2 billion in 2021, a 46.3 percent increase from the previous year. Compared to the peak of 2019, travel spending was down 30.9 percent in 2021.
- Statewide hotel occupancy averaged 71.5% in April 2022, a 19.4% increase from 2021.

Note: San Francisco Bay Area occupancy averaged 67.1% in April 2022

- The state's average daily rate was \$188.95 per night, up 41.3% year over year and 12.3% vs. 2019.

Note: San Fran Bay Area average daily rate was \$186 per night

Source: <https://industry.visitcalifornia.com/research/economic-impact>

The short answer to all of this is, now more than ever, we must be competitive to increase our share of the domestic travel market. There is money to be had. Each additional visitor to Los Gatos will incrementally increase the Town's TOT and sales tax revenue. (Chart 5) (Chart 6)

The requested increase in the Visit Los Gatos CA budget is a short-term funding fix. The requested \$33.5K increase will fund social media outreach, further website enhancements, and inviting street pole banners.

Long-term funding strategies such as Tourism Improvement Districts (TID) combined with a percentage of TOT that puts the tax burden on the visitors and not the residents require further discussion. Municipalities across the state and country have invested in forming tax-funding mechanisms that support their destination marketing efforts. If this is a consideration perhaps Council can convene a work study session with stakeholders; Town staff, Chamber, Visit Los Gatos CA, Finance Commission, and hotel representatives to consider the direction going forward.

Thank you for your consideration in this matter.

Respectfully,

The Executive Director and Staff of Visit Los Gatos CA

Chart 1

Scope of Services Visit Los Gatos CA FY 2022-23

Item	Cost
Visit Los Gatos CA Visitor Center	\$55,000
Visit Los Gatos CA social media salary	\$24,000
Visit Los Gatos CA website maintenance	\$2,500
Street Pole Banners	\$7,000
Total	\$88,500

Chart 2

Visit Los Gatos CA Pie Chart

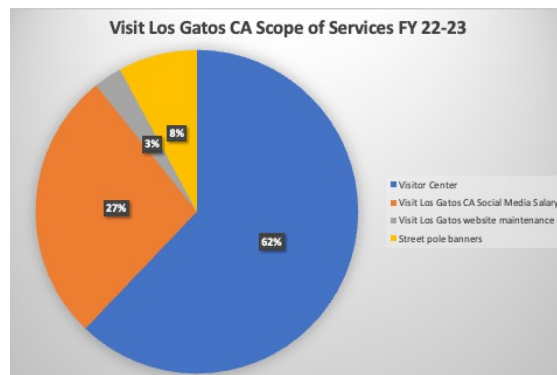


Chart 3

Visitor spending per \$1 invested in Sales & Marketing

City	Year	Visitor \$
Visit Baltimore	2019	\$36
Visit San Antonio	2019	\$50
Visit SLO	2018	\$44.40

Source: <https://www.lovecatalina.com/tbid/>

Note: A consultant could provide Los Gatos with this information.

Where to Find us on social media

<https://www.facebook.com/LosGatosChamberofCommerce/>
<https://www.instagram.com/losgatoschamber/>

VISIT LOS GATOS
The complete site for all things Los Gatos. Dining,
shopping, outdoor activities, events and more.



visitlosgatosca.com

Chart 4

Los Gatos chamber of Commerce Occupancy and TOT Analysis

2018/19					
Hotel	# of rooms	Average Daily Rate	80% occupancy (one day)	80% occupancy (year)	TOT (12%)
Hotel Los Gatos	72	\$375	\$21,600	\$7,884,000	
Toll House	115	\$250	\$14,400	\$5,256,000	
Los Gatos Lodge	129	\$130	\$7,488	\$2,733,120	
Garden Inn	28	\$127	\$7,315	\$2,670,048	
Best Western	48	\$160	\$9,216	\$3,363,840	
Totals	392	\$191.39	\$60,019	\$21,907,008	\$2,628,841
Note: Record TOT year for the Town of Los Gatos					
2021/22					
Hotel	# of rooms	Average Daily Rate	50% occupancy (one day)	50% occupancy (one year)	TOT (12%)
Hotel Los Gatos	72	\$225	\$8,100	\$2,956,500	
Toll House	115	\$225	\$12,938	\$4,722,188	
Los Gatos Lodge	129	\$100	\$6,450	\$2,354,250	
Garden Inn	28	\$100	\$1,400	\$511,000	
Best Western	48	\$150	\$3,600	\$1,314,000	
Totals	392	\$165.75	\$32,488	\$11,857,938	\$1,422,953
LGCC Projected 2022/23 using published rates					
Hotel	# of rooms	Average Daily Rate	60% occupancy (one day)	60% occupancy (one year)	TOT (12%)
Hotel Los Gatos	72	\$300	\$12,960	\$4,730,400	
Toll House	115	\$300	\$20,700	\$7,555,500	
Los Gatos Lodge	129	\$120	\$9,288	\$3,390,120	
Garden Inn	28	\$120	\$2,016	\$735,840	
Best Western	48	\$160	\$4,608	\$1,681,920	
Totals	392	\$210.77	\$49,572	\$18,093,780	\$2,171,254
Total LG Hotels					
Projected 2022/23 using Visit California YTD ADR & varying occupancy rates					
Hotel	# of rooms	* CA YTD Average Daily Rate as of April '22	One Day	One Year	TOT (12%)
Projected 22/23 @ 50 %	392	173.94	\$34,092	\$12,443,668	\$1,493,240.11
Projected 22/23 @ 60 %	392	173.94	\$40,911	\$14,932,401	\$1,791,888.13
Projected 22/23 @ 70 %	392	173.94	\$47,729	\$17,421,135	\$2,090,536.16

Source: LGCC & <https://industry.visitcalifornia.com/research/researchdashboard>

Town of Los Gatos

Proposed 22/23 \$1.6M

Forecast 23/24 \$1.7M

24/25 \$1.8M

25/26 \$1.9M

26/27 \$1.9M

27/28 \$2.0M

Source: <https://www.losgatosca.gov/DocumentCenter/View/30442/FY-2022-23-Proposed-Budget>

Chart 5

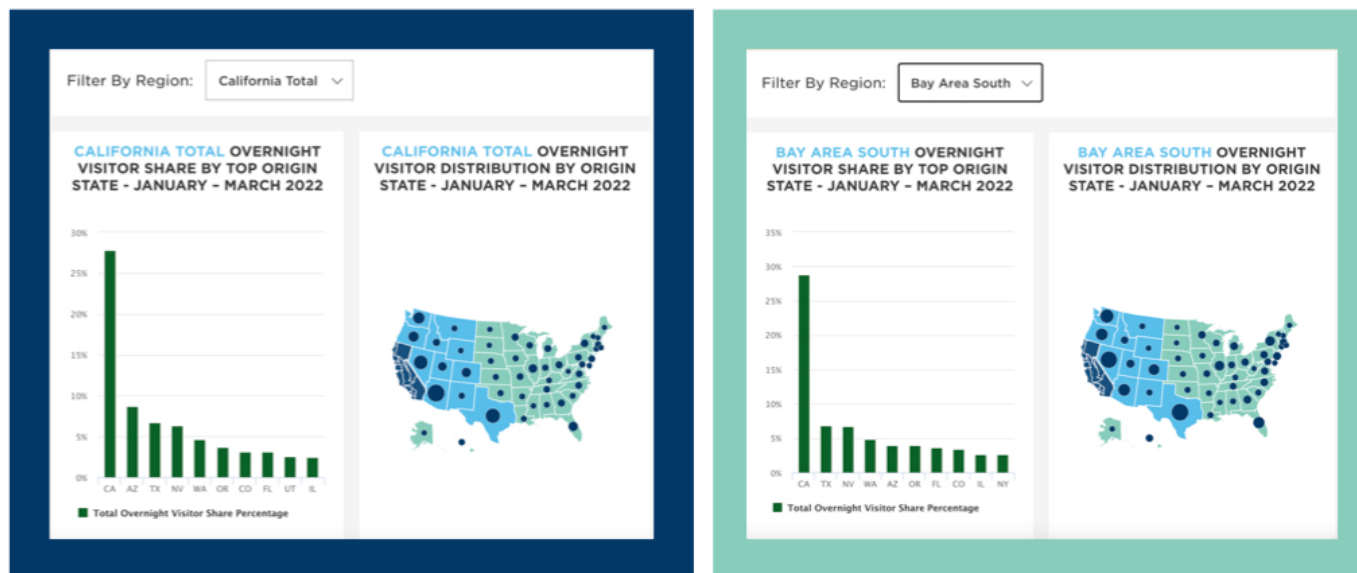
The following Chart summarizes information published by Visit California for 2021 Travel Related Spending & State & Local Tax Revenues generated.

Location	'21 Travel related spending	'21 State & Local Tax Revenue	By County % total CA '21 State & Local Tax Revenue
California	\$100.2 B	\$9.8 B	
Santa Clara County	\$4.1 B	\$368.4 M	3.76%
Santa Cruz County	\$692.8 M	\$69.8M	.70%
Monterey County	\$2.5 B	\$264 M	2.69%
Sonoma County	\$2.0 B	\$197.6 M	2.0%
Napa County	\$1.5 B	\$159.5 M	1.62%
San Francisco County	\$6.1 B	\$539M	5.5%
LA County	\$19.6 B	\$2.3 B	23.5%
San Diego County	\$9.4 B	\$878.7 M	8.9%

Source: <https://industry.visitcalifornia.com/research/economic-impact>

Chart 6

Overnight Visitors to California by Origin State



Source: <https://industry.visitcalifornia.com/research/researchdashboard>



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 10

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Establishing the Fiscal Year 2022/23 Gann Appropriation Limit for the Town of Los Gatos

RECOMMENDATION:

Adopt a resolution establishing the Fiscal Year (FY) 2022/23 Gann Appropriation Limit for the Town of Los Gatos.

BACKGROUND:

On November 6, 1979, California voters approved Proposition 4, commonly known as the Gann Spending Limitation Initiative, establishing Article XIII B of the California State Constitution. This Proposition, which became effective in FY 1980/81, mandated an appropriation (spending) limit on the amount of tax proceeds that the State and most local government jurisdictions may appropriate within a fiscal year. Charges for services, fees, grants, loans, donations, and other non-tax proceeds are excluded from the spending limitation. Exemptions are also made for voter-approved debt prior to January 1, 1979 and the cost of court-related or Federal government mandates.

The Initiative was later modified by two propositions: Proposition 98 in 1988 and Proposition 111 in 1990. Proposition 98 established the return of tax revenues exceeding appropriation limit levels to the State or citizens through a process of refunds, rebates, or other means. Proposition 111 allowed more flexibility in the appropriation calculation factors.

DISCUSSION:

Attachment 1 for Council consideration is a resolution establishing an appropriation limit for FY 2022/23. The appropriation limit is based on population and per capita income data

PREPARED BY: Stephen Conway
Finance Director

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

SUBJECT: Adopt Resolutions Establishing the FY 2022/23 Gann Appropriations Limit for the Town of Los Gatos

DATE: June 2, 2022

DISCUSSION (continued):

provided by the State of California Department of Finance. In alignment with State guidelines, the appropriation limit for FY 2022/23 was calculated using inflation and population factors comprised of the change in County or Town population (whichever is higher) and the change in California per capita personal income.

The calculation of the FY 2022/23 Gann Appropriation Limit is as follows:

FY 2022/23 Calculation				
Town Population Factor		Per Capita Income Factor		Appropriation Factor
0.9961	X	1.0755	=	1.071306
				X
				\$ 48,186,101
				=
				\$ 51,622,037

The appropriation limit is the total amount of tax money that can be appropriated by the Town in FY 2022/23. The proposed FY 2022/23 budget anticipates \$33,766,598 in taxes, which is \$17,855,439 less than the appropriation limit of \$51,622,037.

FISCAL IMPACT:

There is not direct identifiable fiscal impact from this action.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Resolution establishing the Gann Appropriation Limit for FY 2022/23

RESOLUTION 2022-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
ESTABLISHING THE FY 2022/23 APPROPRIATIONS LIMIT
FOR THE TOWN OF LOS GATOS**

WHEREAS, Article XIII B of the California Constitution (Limitation of Government Appropriations) was passed by the California electorate on November 6, 1979, and became effective on July 1, 1980; and

WHEREAS, Chapter 1205, Statute of 1980, Section 7900 of the California Government Code formally implements methods for governmental entities to establish and define annual appropriations limits; and

WHEREAS, the growth factors used to calculate the Annual Appropriations Limit are County or Town population change and the increase in the California per capita income;

WHEREAS, in addition to the annual inflation and population adjustments, state law requires the Appropriations Limit to be adjusted in the event that the financial responsibility for providing services is transferred in whole or in part from one entity of government to another; and

THEREFORE, BE IT RESOLVED: that the Annual Appropriations Limit for the Town of Los Gatos for FY 2022/23 is \$51,622,037 as reflected in Exhibit A.

ATTACHMENT 1

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of June 2022 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: _____

APPROPRIATION LIMIT FACTORS

For YE June 30	Beginning Appropriation Limit	County Population Factor	Town Population Factor	Per Capita Income Factor	Ending Appropriation Limit	% Limit Increase
2010	28,426,367	1.0156	1.0108	1.0062	29,048,811	2.19%
2011	29,048,811	1.0126	1.0101	0.9746	28,667,689	-1.31%
2012	28,667,689	1.0089	1.0096	1.0251	29,669,366	3.49%
2013	29,669,366	1.0124	1.0081	1.0377	31,169,671	5.06%
2014	31,169,671	1.0157	1.0147	1.0512	33,279,977	6.77%
2015	33,279,977	1.0150	1.0102	0.9977	33,701,485	1.27%
2016	33,701,485	1.0113	1.0020	1.0382	35,384,256	4.99%
2017	35,384,256	1.0126	1.0070	1.0537	37,754,174	6.70%
2018	37,754,174	1.0081	1.0040	1.0369	39,464,396	4.53%
2019	39,464,396	1.0099	1.0050	1.0367	41,317,775	4.70%
2020	41,317,775	1.0033	0.9998	1.0385	43,050,108	4.19%
2021	43,050,108	1.0037	1.0234	1.0373	45,831,327 *	6.46%
2022	45,831,327	0.9944	0.9919	1.0573	48,186,101	5.14%
2023	48,186,101	0.9931	0.9961	1.0755	51,622,037	7.13%

FY 2022/23 Calculation

Town Population Factor		Per Capita Income Factor		Appropriation Factor		2021/23 Appropriation Limit		2022/23 Appropriation Limit
0.9961	X	1.0755	=	1.071306	X	\$ 48,186,101	=	\$ 51,622,037

Percentage of Appropriation

2022/23 Tax Revenues		2022/23 Appropriation Limit		Percentage of Limit
33,766,598	/ \$	51,622,037	=	65%

*FY 2020/21 ending and FY 2021/22 beginning Appropriation Limit includes an adjustment of \$130,503 to address the annexed parcels from Santa Clara County. The Town of Los Gatos increasing its base by \$130,503 while the County of Santa Clara decreasing its base with the same amount.

EXHIBIT A



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 11

DATE: June 2, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Operating and Capital Budgets

- a. Adopt a Resolution Approving the Town of Los Gatos Fiscal Year (FY) 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (CIP), New Appropriations, Additional Council Actions on May 17, 2022 and Revisions Related to Salary and Benefit Costs as Presented in the Labor Agreements Agenda Reports on June 7, 2022; American Rescue Plan Act Budget Adjustment, Minor Corrections, and Carry-Forward Appropriations
- b. Adopt a Resolution Approving Commitment of Fund Balances under GASB 54.
- c. Approve FY 2021/22 Budget Adjustments:
 - 1) Major Revenue Adjustments to Match Year-End Estimated Revenues as Directed by the Town Council on May 17, 2022; and as Determined from Updated Information
 - i. Property Tax revenue Increase in the Amount of \$582,609,
 - ii. Sales Tax Revenue Increase in the Amount of \$428,828 (\$361,806 in regular Sales Tax and \$67,022 in Measure G Sales Tax)
 - iii. Business License Tax Revenue Increase in the Amount of \$175,000,
 - iv. Transient Occupancy Tax Increases in the Amount of \$75,000, and
 - v. Recognize \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 2) Expenditure Increases to Reflect Past Actions:
 - i. In the Amount of \$300,000 to expense the \$300,000 available General Fund Pension/OPEB Reserve to the CEPPT Trust.
 - ii. In the Amount of \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 3) Approve American Rescue Plan Act Budget Adjustments.

PREPARED BY: Stephen Conway
Finance Director

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

RECOMMENDATION:

Operating and Capital Budgets

- a. Adopt a Resolution Approving the Town of Los Gatos Fiscal Year (FY) 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (CIP), New Appropriations, additional Council Actions on May 17, 2022 and Revisions Related to Salary and Benefit Costs as Presented in the Labor Agreements Agenda Reports on June 7, 2022, American Rescue Plan Act (ARPA) Budget Adjustments, Minor Corrections, and Carry-Forward Appropriations
- b. Adopt a Resolution Approving Commitment of Fund Balances under GASB 54.
- c. Approve FY 2021/22 Budget Adjustments:
 - 1) Major Revenue Adjustments to Match Year-End Estimated Revenues as Directed by the Town Council on May 17, 2022; and as Determined from Updated Information
 - i. Property Tax revenue Increase in the Amount of \$582,609,
 - ii. Sales Tax Revenue Increase in the Amount of \$428,828 (\$361,806 in regular Sales Tax and \$67,022 in Measure G Sales Tax)
 - iii. Business License Tax Revenue Increase in the Amount of \$175,000,
 - iv. Transient Occupancy Tax Increases in the Amount of 75,000, and
 - v. Recognize \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 2) Expenditure Increases to Reflect Past Actions:
 - i. In the Amount of \$300,000 to expense the \$300,000 available General Fund Pension/OPEB Reserve to the CEPPT Trust.
 - ii. In the Amount of \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 3) Approve American Rescue Plan Act (ARPA) Budget Adjustments

BACKGROUND:

On April 18, 2022, the Proposed FY 2022/23 Operating and Capital Budgets were posted to the Town's website. Per Measure A, the Finance Commission received the Proposed Budgets 21 business days before May 17, 2022, which is the first meeting at which the Proposed Budgets will be considered by the Town Council. The Finance Commission held three public meetings at which Commissioners discussed the Proposed Budgets and provided recommendations to the Town Council per Measures A and G. On May 17, 2022, the Town Council conducted public hearings to discuss the proposed FY 2022/23 Operating and Capital Summary Budget and Proposed FY 2022/23 – 2026/27 Capital Improvement Program. The Town Council considered public testimony, discussed both documents, considered the Finance Commission recommendations, and directed staff to bring back the documents for final approval incorporating the Council recommendations.

DISCUSSION:

The draft resolution (Attachment 1) incorporates the budget direction provided by the Council at the May 17, 2022 budget hearing and the expenditure adjustments associated with labor agreements and corresponding revenue adjustments. Since the adoption of the Proposed Operating Budget on May 17, 2022, the Town successfully completed negotiations with all bargaining units. In order to facilitate the terms of those agreements the Resolution provides additional funding in the amount of \$902,579 from the OPEB 115 Trust to fund retiree pay go medical payments directly and allocating the remaining residual Measure G balance of \$679,433 previously allocated to the General Fund.

In addition, Attachment 3 illustrates budget adjustments related to the necessary American Rescue Plan Act (ARPA) and General Fund revenue and expense adjustments and recaps the total ARPA grant award of \$7,229,744 and the Council directed uses approved or proposed through June 7, 2022. Upon Treasury's release of the simplified reporting process for entities awarded less than \$10 million in ARPA funding and additional guidance received through staff review of federal compliance issues, staff recommends that the Town recognize the \$3.4M of FY 2021/22 and the anticipated \$3.6M FY 2022/23 cash collections of ARPA revenues as qualified revenue loss under the Treasury provisions for use in providing essential government services. To further aid in compliance with federal uniform guidance and Single Audit requirements, staff is intending to claim the lost revenue for use in providing essential government services and eligible public safety payroll costs for both FY 2021/22 and FY 2022/23.

This recommended action will allocate all ARPA "replacement" revenues to the General Fund which in turn will unencumber other General Fund operating revenues which were previously dedicated for public safety costs. The newly unencumbered General Fund revenues can then be allocated to the ARPA pandemic responses as identified, approved and allocated by Town Council in Attachment 3.

Attachment 2 contains the resolution to formally move General Fund balances based on the Town Council General Fund Reserve Policy and additional Council direction consistent with General Accounting Standards Board (GASB) 54.

CONCLUSION:

Staff recommends approval of FY 2021/22 budget adjustments, adoption of a Resolution approving the Town of Los Gatos Fiscal Year (FY) 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (CIP), approve American Rescue Plan Act Budget Adjustments for FY 201/22 and 2022/23, and adoption of a Resolution approving commitment of Fund Balances under GASB 54.

PAGE 4 OF 4

SUBJECT: Operating and Capital Budgets

DATE: June 2, 2022

COORDINATION:

The preparation of the budget documents involved the participation of all Town Departments.

FISCAL IMPACT:

The fiscal impact is presented in summary form in the Financial Summaries chapter of the Proposed Operating and Capital Budget for FY 2022/23.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Resolution of the Town Council Approving FY 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (with Exhibit A)
2. Resolution of the Town Council of the Town of Los Gatos Approving Commitments of Fund Balance under GASB 54
3. ARPA Worksheet

DRAFT RESOLUTION 2022-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING THE FISCAL YEAR (FY) 2022/23 OPERATING BUDGET AND FY 2022/23 –
2026/27 CAPITAL BUDGET; NEW APPROPRIATIONS; OTHER ADJUSTMENTS;
AMERICAN RESCUE PLAN ACT RECOGNITION; EMPLOYEE COMPENSATION ITEMS
CONSIDERED ON JUNE 7, 2022; MINOR CORRECTIONS; AND CARRY-FORWARD
APPROPRIATIONS**

WHEREAS, Section 2.30.295(b) of the Los Gatos Town Code requires the Town Manager to annually prepare and submit a budget to the Town Council and be responsible for its administration; and

WHEREAS, the Town Manager submitted to the Town Council and Finance Commission a Proposed Operating Budget for FY 2022/23 on April 18, 2022; and

WHEREAS, the Town Manager submitted to the Town Council and Finance Commission a Proposed Five-Year Capital Improvement Program for FY 2022/23 – 2026/27 on April 18, 2022; and

WHEREAS, the Town Council conducted a noticed public hearing on the Proposed Operating Budget and Capital Improvement Program on May 17, 2022; and

WHEREAS, per Measure A, the Town Council has considered and reviewed the Finance Commission written recommendations to the Town Council on the said proposed Budget and Capital Improvement Program during the public hearing on May 17, 2022; and

WHEREAS, per Measures G and A, the Town Council has considered and reviewed the Finance Commission written recommendations to the Town Council regarding the potential allocation of Measure G proceeds during its public hearing on May 17, 2022; and

WHEREAS, the Town Council previously allocated residual unallocated Measure G revenues for budget balancing and \$679,443 will be used to balance the FY 2022/23 budget; and

ATTACHMENT 1

WHEREAS, the Town Council has determined the use of Measure G proceeds in the remainder of the forecast (FY 2022/23 - FY 2026/27) to be 50% for operating expenditures and 50% for capital purposes; and

WHEREAS, the estimated FY 2022/23 business license tax revenue increased by \$100,000 based on current trends; and

WHEREAS, the Town Council has determined that to further balance the budget, the Town should reimburse \$902,579 from available Other Post-Employment Benefits (OPEB) 115 Trust assets for retiree pay-as-you go expenses in FY 2022/23.

WHEREAS, the Town Council has determined the use of American Rescue Plan Act (ARPA) for FY 2021/22 and FY 2022/23 as illustrated in Exhibit B entitled “ARPA Worksheet” including the allocation of \$2.9 Million in ARPA proceeds for capital purposes; and

WHEREAS, the Town Council has determined that a portion of the proceeds of the ARPA up to the amount of \$1,645,281 will be used for Revenue Replacement and balancing the FY 2022/23 budget; and

WHEREAS, on June 7, 2022, Town Council considered and reviewed the proposed Budget and Capital Improvement Program making final determinations.

NOW, THEREFORE, BE IT RESOLVED: that the Town Council hereby adopts as the Operating Budget for the Town of Los Gatos for the 2022/23 fiscal year as depicted in Exhibit A entitled “Total Town Revenues and Expenditures by Fund” including the first year (FY 2022/23) of the Town’s Capital Improvement Program budget as contained in the Town’s FY 2022/23 – 2026/27 Capital Improvement Program.

BE IT FURTHER RESOLVED, that the final adopted Budget documents include minor corrections and approved appropriations for unspent prior year allocations, and that they be carried forward from prior years in a Reserve for Encumbrances whereby within each fund there is an amount sufficient to cover approved outstanding encumbrances as of June 30, 2022.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 7th day of June, 2021 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: _____

TOTAL TOWN REVENUES AND EXPENDITURES BY FUND

	2022/23 Proposed Budget	Estimated Budget Revision	2022/23 Recommended Budget
REVENUES			
General Fund	\$48,378,548	\$ 1,626,919 (1)	\$ 50,005,467
Special Revenue Funds	1,775,576	-	1,775,576
Internal Service Funds	4,125,957	-	4,125,957
Capital Project Funds (does not include carryforwards)	12,753,575	2,900,000 (2)	15,653,575
Successor Agency Funds	3,799,926	-	3,799,926
TOTAL REVENUES	\$70,833,582	\$ 4,526,919	\$ 75,360,501
OTHER FUNDING SOURCES			
Designated One-Time Use of General Fund Reserves	2,350,000	\$ 679,443	3,029,443 (3)
TOTAL TOWN REVENUES & OTHER FUNDING SOURCES	\$73,183,582	\$ 5,206,362	\$ 78,389,944
TOTAL TOWN EXPENDITURES, TRANSFERS OUT & CARRYFORWARD APPROPRIATION			
General Fund	\$50,338,548	\$ 2,306,362 (4)	\$ 52,644,910
Special Revenue Funds	1,705,178	12,246 (4)	1,717,424
Internal Service Funds	6,427,499	-	6,427,499
Capital Project Funds (does not include carryforwards)	13,081,287	2,900,000 (2)	15,981,287
Successor Agency Funds	3,799,752	125 (4)	3,799,877
TOTAL TOWN EXPENDITURE & OTHER FUNDING USES	\$75,352,264	\$ 5,218,733	\$ 80,570,997
GENERAL FUND SOURCE(USE) OF FUND BALANCES	\$ 390,000		\$ 390,000
OTHER FUNDS SOURCE(USE) OF FUND BALANCES	(2,558,682)		(2,571,053) (5)
TOTAL SOURCE(USE) OF FUND BALANCES	\$ (2,168,682)	\$ (12,371)	\$ (2,181,053)

(1) Additional General Fund Revenues

\$902,579 OPEB Trust Reimbursement for Retiree Medical

\$624,340 Additional ARPA Proceeds for Revenue Replacement

\$100,000 Additional Business License Tax

(2) Additional Transfer to Capital Projects (GFAR)

\$2,900,000 General Fund Reimbursement Revenues (ARPA)

(3) Designated One-Time Use of the General Fund Reserves during FY 2022/23

\$2,350,000 - Transfer to Capital Projects (GFAR)

\$679,443 - Measure G Residual for Operation

(4) General fund Expenditures

\$2,318,733 - Increases to Negotiated Salary Increases

(5) Other Funds Source (Use) represents planned one-time uses of Internal Service Funds, Special Revenue Funds, Trust Funds, and Capital Project Funds primary for infrastructure and equipment investment.

Numbers may differ between exhibits due to rounding.

EXHIBIT A

AMERICAN RESCUE PLAN ACT (ARPA) SUMMARY WORKSHEET

	FY 2020/21	FY 2021/22	FY 2022/23	GRAND
		BUDGET ADJ.		
	ACTUALS	ACTUAL/ESTIMATED	ESTIMATED	TOTAL
ARPA FUNDS REVENUE RECOGNIZED	\$ 200,911	\$ 3,413,961	\$ 3,614,872	\$ 7,229,744
GOV SERVICES (WAIVERS,CUP&ADA,DIRECT GRANTS)	200,911			200,911
REVENUE LOSS -GOV SERVICES (PUBLIC SAFETY)		3,413,961	3,614,872	7,028,833
	\$ 200,911	\$ 3,413,961	\$ 3,614,872	\$ 7,229,744
GENERAL FUND ARPA REPLACEMENT REVENUES AVAILABLE	200,911	3,413,961	3,614,872	7,229,744
LESS APPROVED USES TO BE BUDGETED:				
PARKLETS (DOWNTOWN IMPVTS PROJECT)		680,000	250,000	930,000
RENT WAIVERS	121,255	341,452	283,756	746,463
CUP/ADA FEE WAIVERS	19,656	27,672	27,672	75,000
DESTINATION MARKETING		55,000		55,000
K-RAILS (DOWNTOWN IMPVTS PROJECT)		68,000		68,000
PROMENADES		80,000	120,000	200,000
DIRECT GRANTS	60,000	50,000		110,000
ENHANCED SENIOR SERVICES		500,000		500,000
CAPITAL IMPROVEMENT PROGRAM SUPPORT TRANSFERS			2,900,000	2,900,000
REQUIRED FOR GF BALANCING OF OPERATING REV_EXP	-		1,645,281	1,645,281
TOTAL ALLOCATIONS OF GENERAL FUND ARPA REPLACEMENT REVENUES	\$ 200,911	\$ 1,802,124	\$ 5,226,709	\$ 7,229,744
GENERAL FUND ARPA REPLACEMENT REVENUE UNCOMMITTED	\$ -	\$ 1,611,837	\$ (1,611,837)	\$ -

RESOLUTION 2022-

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING COMMITMENTS OF FUND BALANCE UNDER GASB 54

WHEREAS, the Governmental Accounting Standards Board (GASB) has issued its Statement No. 54, Fund Balance and Governmental Fund Type Definitions with the intent of improving financial reporting by providing fund balance categories that will be more easily understood and to improve the comparability of governmental fund financial statements; and

WHEREAS, GASB 54 provides that the Town Council of the Town of Los Gatos classify governmental fund balances as restricted, assigned, or committed fund balances; and

WHEREAS GASB 54 provides that restricted reserves are funds that are restricted for externally imposed constraints such as legal contracts or state law, assigned amounts are constrained by the Town's intent to use them for specific purposes, and committed amounts are dedicated for specific purposes under constraints and formal action taken by the Town Council and these committed amounts cannot be used for any other purposes unless the Town Council of the Town of Los Gatos removes or changes the specific use through the same formal action to establish the commitment; and

WHEREAS, there exists a Restricted General Fund Pension Reserve in the form of an IRS 115 Pension Trust; and

WHEREAS, there exists a balance of \$690,000 as of June 30, 2022 in the restricted Pension Reserve; and

WHEREAS, the Town Council of the Town of Los Gatos has established a General Fund Reserve Policy providing for minimum fund balance dollar target amounts for Budget Stabilization and Catastrophic Reserve fund balances and outlines policies and procedures for use and restoration of these balances; and

WHEREAS, there exists an assigned General Fund Compensated Absences Reserve allocated to fund 50% of all vested hours of sick leave, compensation, and vacation time with the actual reserve amount to be determined at the close of FY 2021/22; and

ATTACHMENT 2

WHEREAS, there exists an assigned Capital/Special Projects Reserve to fund key infrastructure and capital/special projects as identified in the Town's five-year Capital Improvement Plan, and/or other Council priorities; and

WHEREAS, there exists an assigned authorized Carry Forward Reserve for materials and services on approved purchase order and contracts which were issued but not finalized or fulfilled as of the end of the fiscal year but for which funds will be carried forward to the following fiscal year. Actual reserve balance will be established at the close of FY 2021/22; and

WHEREAS, in June 2016, the Town Council established the committed Pension/OPEB Reserve to provide funding toward pension and Other Post-Employment Benefits (OPEB) unfunded obligations by placing discretionary amounts to the reserve with formal Council action and transferring available year-end surpluses based on the General Fund Reserve Policy; and

WHEREAS, on November 6, 2018, the Town Council provided direction to establish an unassigned Surplus Property Revenue General Fund Reserve that any monies received from the sale of the property located on Winchester Boulevard and any monies received from the sale of future surplus property be placed in this reserve, and the provisions for the reserve specifically indicate that Council may, at its discretion, distribute those funds as it deems appropriate; and

WHEREAS, The Town Council established the assigned Sustainability Reserve in FY 2008/09 by closing the Solid Waste Management fund and placing the initial residual balance dedicated for conservation, recycling, and sustainability; and

WHEREAS, there exists an excess balance of \$140,553 as of June 30, 2022 in the assigned Sustainability Reserve; and

WHEREAS, there exists an assigned Market Fluctuation Reserve that represent fund balance amounts for unrealized investment gains that have been recorded as investment income in the financial statements in accordance with the requirements of GASB 31 in the amount of \$438,333, actual reserve balance will be established at the close of FY 2021/22; and

WHEREAS, there exists an assigned Measure G 2018 District Sales Tax Reserve to track receipt and use of the 1/8 cent district tax funds collected by the Town; and

WHEREAS, the Town Council has determined the use of Measure G accumulated and future proceeds to be 50% for operating expenditures and 50% for capital purposes; and

WHEREAS, the residual balance of \$679,443 that was set aside for operating purposes in FY 2020/21 and/or FY 2021/22 should be used for operating expenses in FY 2022/23; and

WHEREAS, the \$2,350,000 transfer from the Capital/Special Project Reserve to the General Fund Appropriated Reserve provides funding to the five-year capital plan; and

WHEREAS, \$2,900,000 of ARPA General Fund Reimbursement Revenue will transfer from the Capital/Special Project Reserve provides funding for capital project; and

WHEREAS, the Town Council established the assigned Open Space reserve in the FY 1998/99 to be used for the preservation of open space, connection of open space trails, the definition of the southern boundary of the Town with passive open space, and protection of unique natural features; and

WHEREAS, there exists an excess balance of \$410,000 as of June 30, 2022 in the assigned Open Space Reserve; and

WHEREAS, there exists a need for an assigned General Fund Reimbursement Revenue (ARPA) Reserve to collect the anticipated General Fund ARPA reimbursement proceeds less Council authorized use of these proceeds for pandemic response including economic recovery and business support, enhanced senior services, capital program augmentations, and other one-time uses, the estimated balance of which at June 30, 2022 balance is \$1,611,837, with the actual reserve balance being determined at the close of the FY 2021/22 fiscal year; and

WHEREAS, the General Fund Reimbursement Revenue (ARPA) Reserve is now established.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY RESOLVE that the following estimated Pension, Budget Stabilization, Catastrophic, Pension/OPEB, Capital/Special Projects, Compensated Absences; Measure G District Sales Tax, Surplus Property Revenue, Market Fluctuations, Sustainability, Open Space, and ARPA Reserves as of June 30, 2022 and as of June 30, 2023 as restricted, assigned, unassigned or formally committed as follows:

	Actual General Fund Reserves June 30, 2021	FY 2021/22 Budget, GF Reserve Policy, and this Resolution Approved Increase	FY 2021/22 Budget, GF Reserve Policy, and this Resolution Approved (Decrease)	Estimated General Fund Reserves June 30, 2022	FY 2022/23 Budget Resolution Approved Increase	FY 2022/23 Budget Resolution Approved (Decrease)	Estimated General Fund Reserves June 30, 2023
Restricted Fund Balances							
Pension	\$ -	\$ 690,000	\$ -	\$ 690,000	\$ 390,000	\$ -	\$ 1,080,000
Committed Fund Balances							
Budget Stabilization	5,460,485	\$ 531,081	-	5,991,566	-	-	5,991,566
Catastrophic	5,460,485	531,081	-	5,991,566	-	-	5,991,566
Pension/OPEB	300,000	-	(300,000)	-	-	-	-
Assigned Fund Balances							
Capital/Special Projects	6,965,356	329,258	(1,612,162)	5,682,452	-	(2,350,000)	3,332,452
Compensated Absences	1,649,917	-	-	1,649,917	-	-	1,649,917
Open Space	410,000	-	-	410,000	-	-	410,000
Sustainability	140,553	-	-	140,553	-	-	140,553
Market Fluctuations	438,333	-	-	438,333	-	-	438,333
Measure G District Sale Tax	1,730,490	-	(1,051,047)	679,443	-	(679,443)	-
Carryover Encumbrances	-	-	-	-	-	-	-
Surplus Property Revenue Reserve	1,200,000	-	(1,200,000)	-	-	-	-
GF Reimbursement Revenue (ARPA)	-	1,611,837	-	1,611,837	-	-	1,611,837
Rehab Loan Reserve (Nonspendable)	159,000	-	-	159,000	-	-	159,000

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

Los Gatos held on the 7th day of June 2022 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: _____

AMERICAN RESCUE PLAN ACT (ARPA) SUMMARY WORKSHEET

	FY 2020/21	FY 2021/22	FY 2022/23	GRAND
		BUDGET ADJ.		
	ACTUALS	ACTUAL/ESTIMATED	ESTIMATED	TOTAL
ARPA FUNDS REVENUE RECOGNIZED	\$ 200,911	\$ 3,413,961	\$ 3,614,872	\$ 7,229,744
GOV SERVICES (WAIVERS,CUP&ADA,DIRECT GRANTS)	200,911			200,911
REVENUE LOSS -GOV SERVICES (PUBLIC SAFETY)		3,413,961	3,614,872	7,028,833
	<u>\$ 200,911</u>	<u>\$ 3,413,961</u>	<u>\$ 3,614,872</u>	<u>\$ 7,229,744</u>
GENERAL FUND ARPA REPLACEMENT REVENUES AVAILABLE	200,911	3,413,961	3,614,872	7,229,744
LESS APPROVED USES TO BE BUDGETED:				
PARKLETS (DOWNTOWN IMPVTS PROJECT)		680,000	250,000	930,000
RENT WAIVERS	121,255	341,452	283,756	746,463
CUP/ADA FEE WAIVERS	19,656	27,672	27,672	75,000
DESTINATION MARKETING		55,000		55,000
K-RAILS (DOWNTOWN IMPVTS PROJECT)		68,000		68,000
PROMENADES		80,000	120,000	200,000
DIRECT GRANTS	60,000	50,000		110,000
ENHANCED SENIOR SERVICES		500,000		500,000
CAPITAL IMPROVEMENT PROGRAM SUPPORT TRANSFERS			2,900,000	2,900,000
REQUIRED FOR GF BALANCING OF OPERATING REV_EXP	-		1,645,281	1,645,281
	<u>-</u>		<u>1,645,281</u>	<u>1,645,281</u>
TOTAL ALLOCATIONS OF GENERAL FUND ARPA REPLACEMENT REVENUES	<u>\$ 200,911</u>	<u>\$ 1,802,124</u>	<u>\$ 5,226,709</u>	<u>\$ 7,229,744</u>
GENERAL FUND ARPA REPLACEMENT REVENUE UNCOMMITTED	<u>\$ -</u>	<u>\$ 1,611,837</u>	<u>\$ (1,611,837)</u>	<u>\$ -</u>



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 11

ADDENDUM

DATE: June 2, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Operating and Capital Budgets

- a. Adopt a Resolution Approving the Town of Los Gatos Fiscal Year (FY) 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (CIP), New Appropriations, Additional Council Actions on May 17, 2022 and Revisions Related to Salary and Benefit Costs as Presented in the Labor Agreements Agenda Reports on June 7, 2022; American Rescue Plan Act Budget Adjustment, Minor Corrections, and Carry-Forward Appropriations
- b. Adopt a Resolution Approving Commitment of Fund Balances under GASB 54.
- c. Approve FY 2021/22 Budget Adjustments:
 - 1) Major Revenue Adjustments to Match Year-End Estimated Revenues as Directed by the Town Council on May 17, 2022; and as Determined from Updated Information
 - i. Property Tax revenue Increase in the Amount of \$582,609,
 - ii. Sales Tax Revenue Increase in the Amount of \$428,828 (\$361,806 in regular Sales Tax and \$67,022 in Measure G Sales Tax)
 - iii. Business License Tax Revenue Increase in the Amount of \$175,000,
 - iv. Transient Occupancy Tax Increases in the Amount of \$75,000, and
 - v. Recognize \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 2) Expenditure Increases to Reflect Past Actions:
 - i. In the Amount of \$300,000 to expense the \$300,000 available General Fund Pension/OPEB Reserve to the CEPPT Trust.
 - ii. In the Amount of \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 3) Approve American Rescue Plan Act Budget Adjustments.

PREPARED BY: Stephen Conway
Finance Director

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

PAGE 2 OF 2

SUBJECT: Operating and Capital Budgets

DATE: June 2, 2022

REMARKS:

Attachment 4 contains public comment received between 11:00 a.m., Thursday, June 2, and 11:01 a.m., Monday, June 6, 2022.

Attachments Previously Received with the Staff Report:

1. Resolution of the Town Council Approving FY 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (with Exhibit A)
2. Resolution of the Town Council of the Town of Los Gatos Approving Commitments of Fund Balance under GASB 54
3. ARPA Worksheet

Attachment Received with this Addendum:

4. Public comment received between 11:00 a.m., Thursday, June 2, and 11:01 a.m., Monday, June 6, 2022

ATTACHMENT 4

From: Phil Koen

Sent: Monday, June 06, 2022 7:59 AM

To: Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>

Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; jvannada; Rick Van Hoesen; David Weissman; Lee Fagot

Subject: Agenda Item #11

Dear Honorable Mayor and Member of Council

The Los Gatos Community Alliance is requesting that Agenda Item #11 be pulled from the consent calendar to allow for more discussion and increase public transparency.

Discussion Point 1

Schedules C-8 through C-13 (attached) present a detail view of all revenues and expenditures in the Town's FY 23 budget. These schedules present both a time trend view of revenues and expenditures as well as identifying for each year the net increase or decrease in fund balance. The Council Resolution adopting the operating budget references that the Town Manager submitted to the Finance Committee a "proposed" operating budget. The total budget now being proposed is materially different than the one considered by the Finance Committee. For example, the newly proposed FY 23 budget for total consolidated salary and benefit costs have increased to \$35,700,583 which **represents a 23% increase from FY 22 estimated levels (eg \$29,019,556)**. We believe a 23% increase in salary and benefit expense over prior year's estimate is important for the Council and residents of the Town be aware of, since this have never been previously disclosed.

Additionally, the new proposed budget includes the use of an additional \$625K in ARPA funds as well as approximately a \$1m draw down of OPEB Trust assets to partially fund FY 23 retiree medical costs. This was never disclosed prior to the Staff Memo of this Friday.

Request

1. Please update schedules C-8 through C-13 so the Town Council and the public have complete transparency regarding the detail revenues and expenditure proposed for FY 23 for the General Fund, Special Revenue Funds, Internal Service Funds, Capital Project Funds, Successor Agency RDA Fund and Total All Funds. Additionally, these schedules will also make transparent the net increase or decrease in the funds balance projected for FY 23. Based on our analysis the total decrease in the general fund balance will be approximately \$5,210,496 which is 15% higher than was reported to the Finance Commission.
2. The schedule of "Total Town Revenues and Expenditures by Fund" attached to the budget resolution is not sufficiently transparent to allow member of the public to understand the detail revenues and expenditures and ending fund balances now being proposed. The Town had to prepared schedules C-8 through C-13 to create the summary schedule attached to the budget resolution, so very little work should be required to update these schedules. These schedules should be disclosed prior to the Council taken any action on the FY 23 budget.

Discussion Point 2

Agenda Item 11 also includes a resolution to approve commitments of fund Balance under GASB 54. Among other actions, the proposed resolution establishes an “assigned” General Fund Reserve totaling \$1,611,837 for the “General Fund Reimbursement Revenue (ARPA) Reserve.

Request

1. Under GASB 54 we believe the ARPA Reserve should be a “restricted reserve” because it meets the definition of a restricted reserve and the use of ARPA funds are restricted in accordance with Federal Law. The designation of restricted vs. committed vs assigned fund balances are extremely important and need to be correctly applied. We respectfully request that the ARPA fund reserve comply by GASB 54 and be designated as a “restricted” reserve.

Thank you

Phil Koen
LGCA

TOTAL TOWN
REVENUES AND EXPENDITURES

GENERAL FUND

	2018/19 Actuals	2019/20 Actuals	2020/21 Actuals	2021/22 Estimated	2022/23 Proposed
REVENUES					
Property Tax	\$ 13,636,099	\$ 14,454,513	\$ 15,826,162	\$ 15,684,964	\$ 16,551,544
VLF Backfill	3,685,247	3,875,914	4,052,672	4,229,462	4,356,350
Sales & Use Tax	7,930,021	6,535,034	6,794,218	7,497,873	7,934,189
Measure G - District Sales Tax	228,131	996,391	1,139,386	1,173,733	1,240,755
Franchise Fees	2,475,916	2,495,792	2,499,463	2,435,800	2,493,870
Transient Occupancy Tax	2,692,043	1,869,685	1,044,820	1,400,000	1,642,460
Other Taxes	1,526,894	1,357,080	1,386,943	1,250,000	1,287,500
Licenses & Permits	3,059,894	2,696,457	2,999,711	3,065,997	2,757,029
Intergovernmental	945,191	1,104,075	1,573,697	1,130,125	1,051,814
Town Services	4,648,904	4,447,213	4,835,962	4,259,099	4,235,261
Internal Srvc Reimbursement	-	-	-	-	-
Fines & Forfeitures	510,266	271,117	103,467	218,120	201,750
Interest	1,682,347	2,266,134	96,061	441,233	432,947
Other Sources	6,093,211	1,381,187	2,217,072	1,140,853	1,760,830
Debt Service Reimbursement	1,909,073	1,905,024	1,908,494	1,899,850	1,893,713
Transfers In	1,578,911	599,669	1,833,218	633,352	538,536
TOTAL REVENUES	\$ 52,602,148	\$ 46,255,285	\$ 48,311,346	\$ 46,460,461	\$ 48,378,548
EXPENDITURES					
Salaries & Benefits	\$ 26,803,225	\$ 28,933,568	\$ 30,297,504	\$ 28,866,098	\$ 33,227,942
Operating Expenditures	11,955,327	13,397,031	14,276,602	9,849,151	9,318,742
Grants & Awards	248,533	274,249	298,303	800,000	241,000
Fixed Assets	38,307	138,384	2,365	-	-
Interest	-	-	52,011	-	-
Internal Service Charges	2,527,470	2,188,211	2,314,305	2,619,672	2,650,173
Capital Projects	-	-	-	-	-
Capital Acquisitions	-	-	-	-	-
Debt Service	1,909,073	1,905,024	1,908,494	1,899,850	1,893,713
Transfers Out	2,785,220	8,053,847	4,582,641	3,423,211	3,006,978
TOTAL EXPENDITURES	\$ 46,267,155	\$ 54,890,314	\$ 53,732,225	\$ 47,457,982	\$ 50,338,548
Net Increase (Decrease)	6,334,993	(8,635,029)	(5,420,879)	(997,521)	(1,960,000)
Beginning Fund Balance	31,635,533	37,970,526	29,335,497	23,914,618	22,917,097
Ending Fund Balance*	\$ 37,970,526	\$ 29,335,497	\$ 23,914,618	\$ 22,917,097	\$ 20,957,097

* Year End Fund Balance represents General Fund 111 (Long Term Compensated Absences were accounted in Fund 961 prior to FY 2018/19, Pension Trust Fund 731 was incorporated in FY 2018/19).

TOTAL TOWN
REVENUES AND EXPENDITURES

SPECIAL REVENUE FUNDS

	2018/19 Actuals	2019/20 Actuals	2020/21 Actuals	2021/22 Estimated	2022/23 Proposed
REVENUES					
Property Tax	\$ -	\$ 29	\$ 28	\$ -	\$ -
VLF Backfill	-	-	-	-	-
Sales & Use Tax	-	-	-	-	-
Measure G - District Sales Tax	-	-	-	-	-
Franchise Fees	-	-	-	-	-
Transient Occupancy Tax	-	-	-	-	-
Other Taxes	38,088	38,012	38,566	33,720	33,720
Licenses & Permits	236,451	231,323	231,323	231,323	359,950
Intergovernmental	-	-	200,911	1,220,000	1,304,696
Town Services	345,280	-	-	-	-
Internal Svc Reimbursement	-	-	-	-	-
Fines & Forfeitures	-	-	-	-	-
Interest	13,685	13,180	9,174	5,310	7,210
Other Sources	216,834	61,809	106,547	70,500	70,000
Debt Service Reimbursement	-	-	-	-	-
Transfers In	-	10,000	-	-	-
TOTAL REVENUES	\$ 850,338	\$ 354,353	\$ 586,549	\$ 1,560,853	\$ 1,775,576
EXPENDITURES					
Salaries & Benefits	\$ 143,545	\$ 134,311	\$ 135,625	\$ 151,804	\$ 152,207
Operating Expenditures	578,580	137,628	301,302	1,356,997	1,461,088
Grants & Awards	-	-	-	-	-
Fixed Assets	21,048	25,079	-	-	83,255
Interest	-	-	-	-	-
Internal Service Charges	2,410	3,019	3,229	3,494	3,709
Capital Projects	-	-	-	-	-
Capital Acquisitions	-	-	-	-	-
Debt Service	-	-	-	-	-
Transfers Out	4,920	4,920	4,920	4,920	4,920
TOTAL EXPENDITURES	\$ 750,503	\$ 304,957	\$ 445,076	\$ 1,517,215	\$ 1,705,179
Net Increase (Decrease)	99,835	49,396	141,473	43,638	70,397
Beginning Fund Balance	972,423	1,072,258	1,121,654	1,263,127	1,306,765
Ending Fund Balance	\$ 1,072,258	\$ 1,121,654	\$ 1,263,127	\$ 1,306,765	\$ 1,377,162

TOTAL TOWN
REVENUES AND EXPENDITURES

INTERNAL SERVICE FUNDS

	2018/19	2019/20	2020/21	2021/22	2022/23
	Actuals	Actuals	Actuals	Estimated	Proposed
REVENUES					
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -
VLF Backfill	-	-	-	-	-
Sales & Use Tax	-	-	-	-	-
Franchise Fees	-	-	-	-	-
Transient Occupancy Tax	-	-	-	-	-
Other Taxes	28,390	34,437	67,146	40,000	40,000
Licenses & Permits	-	-	-	-	-
Intergovernmental	-	-	-	261,382	283,755
Town Services	148,284	115,314	147,121	115,000	85,000
Internal Srvc Reimbursement	3,529,840	3,094,669	3,235,094	3,480,926	3,687,202
Fines & Forfeitures	-	-	-	-	-
Interest	8	7	5	-	-
Other Sources	2,993,443	762,404	654,601	166,965	30,000
CIP Proj Reimbursement	-	-	-	-	-
Transfers In	450,000	1,061,256	33,000	1,787	-
TOTAL REVENUES	\$ 7,149,965	\$ 5,068,087	\$ 4,136,967	\$ 4,066,060	\$ 4,125,957
EXPENDITURES					
Salaries & Benefits	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Expenditures	3,544,783	3,779,285	3,803,452	4,841,564	4,915,264
Grants & Awards	-	-	-	-	-
Fixed Assets	601,961	644,366	307,272	729,416	812,235
Interest	-	-	-	-	-
Internal Service Charges	-	-	-	-	-
Capital Projects	-	-	-	-	-
Capital Acquisitions	-	-	-	-	-
Debt Service	-	-	-	-	-
Transfers Out	1,390,375	1,367,797	146,520	94,816	700,000
TOTAL EXPENDITURES	\$ 5,537,119	\$ 5,791,448	\$ 4,257,244	\$ 5,665,796	\$ 6,427,499
Net Increase (Decrease)	1,612,846	(723,361)	(120,277)	(1,599,736)	(2,301,542)
Beginning Fund Balance	6,841,594	8,454,440	7,731,079	7,610,802	6,011,066
Ending Fund Balance	\$ 8,454,440	\$ 7,731,079	\$ 7,610,802	\$ 6,011,066	\$ 3,709,524

TOTAL TOWN
REVENUES AND EXPENDITURES

CAPITAL PROJECT FUNDS

	2018/19 Actuals	2019/20 Actuals	2020/21 Actuals	2021/22 Estimated	2022/23 Proposed
REVENUES					
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -
VLF Backfill	-	-	-	-	-
Sales & Use Tax	-	-	-	-	-
Franchise Fees	-	-	-	-	-
Transient Occupancy Tax	-	-	-	-	-
Other Taxes	28,390	34,437	67,146	34,562	30,000
Licenses & Permits	844,064	1,153,364	1,340,530	764,465	1,074,300
Intergovernmental	1,641,511	3,161,010	1,818,494	3,153,295	7,789,892
Town Services	52,094	223,318	34,417	306,210	-
Internal Srvc Reimbursement	-	-	-	-	-
Fines & Forfeitures	-	-	-	-	-
Interest	127,251	158,756	122,705	35,801	36,405
Other Sources	784,085	325,607	2,239,342	1,198,207	116,000
CIP Proj Reimbursement	-	-	-	-	-
SCC RPTTF Reimbursement	-	-	-	-	-
Transfers In	2,685,220	8,325,591	3,401,479	3,421,424	3,706,978
TOTAL REVENUES	\$ 6,162,615	\$ 13,382,083	\$ 9,024,113	\$ 8,913,964	\$ 12,753,575
EXPENDITURES					
Salaries & Benefits	\$ -	\$ -	\$ 31,085	\$ -	\$ -
Operating Expenditures	-	-	496	-	-
Grants & Awards	-	-	-	-	-
Fixed Assets	-	-	-	-	-
Interest	-	-	-	-	-
Internal Service Charges	-	-	-	-	-
Capital Projects	8,987,510	7,907,339	5,833,758	11,847,615	12,547,670
Capital Acquisitions	-	-	-	-	-
Debt Service	-	-	-	-	-
Transfers Out	533,616	569,952	533,616	533,616	533,616
TOTAL EXPENDITURES	\$ 9,521,126	\$ 8,477,291	\$ 6,398,955	\$ 12,381,231	\$ 13,081,286
Net Increase (Decrease)	(3,358,511)	4,904,792	2,625,158	(3,467,267)	(327,711)
Beginning Fund Balance	18,488,574	15,130,063	20,034,855	22,660,013	19,192,746
Ending Fund Balance	\$ 15,130,063	\$ 20,034,855	\$ 22,660,013	\$ 19,192,746	\$ 18,865,035

TOTAL TOWN
REVENUES AND EXPENDITURES

SUCCESSOR AGENCY TO THE TOWN OF LOS GATOS RDA

	2018/19 Actuals	2019/20 Actuals	2020/21 Actuals	2021/22 Estimated	2022/23 Proposed
REVENUES					
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -
VLF Backfill	-	-	-	-	-
Sales & Use Tax	-	-	-	-	-
Franchise Fees	-	-	-	-	-
Transient Occupancy Tax	-	-	-	-	-
Other Taxes	-	-	-	-	-
Licenses & Permits	-	-	-	-	-
Intergovernmental	1,945,763	1,949,284	1,946,787	2,006,602	1,902,713
Town Services	-	-	-	-	-
Internal Srvc Reimbursement	-	-	-	-	-
Fines & Forfeitures	-	-	-	-	-
Interest	43,706	32,531	4,967	3,500	3,500
Other Sources	11,664	11,664	11,664	-	-
CIP Proj Reimbursement	1,909,073	1,905,024	1,908,494	1,999,850	1,893,713
SCC RPTTF Reimbursement	-	-	-	-	-
Transfers In	-	-	-	-	-
TOTAL REVENUES	\$ 3,910,206	\$ 3,898,503	\$ 3,871,912	\$ 4,009,952	\$ 3,799,926
EXPENDITURES					
Salaries & Benefits	\$ 1,555	\$ 1,654	\$ 1,674	\$ 1,654	\$ 1,701
Operating Expenditures	111,712	110,337	106,788	9,820	10,020
Grants & Awards	-	-	-	-	-
Fixed Assets	-	-	-	-	-
Interest	823,734	888,703	964,610	1,300,000	1,355,000
Internal Service Charges	9	5	5	5	5
Capital Projects	-	-	-	-	-
Capital Acquisitions	-	-	-	-	-
Debt Service	2,936,788	2,862,783	2,792,688	2,499,700	2,433,026
Transfers Out	-	-	-	-	-
TOTAL EXPENDITURES	\$ 3,873,798	\$ 3,863,482	\$ 3,865,765	\$ 3,811,179	\$ 3,799,752
Net Increase (Decrease)	36,408	35,021	6,147	198,773	174
Beginning Fund Balance	3,803,779	3,840,187	3,875,208	3,881,355	4,080,128
Ending Fund Balance	\$ 3,840,187	\$ 3,875,208	\$ 3,881,355	\$ 4,080,128	\$ 4,080,302

TOTAL TOWN
REVENUES AND EXPENDITURES

TOTAL ALL FUNDS

	2018/19	2019/20	2020/21	2021/22	2022/23
	Actuals	Actuals	Actuals	Estimated	Proposed
REVENUES					
Property Tax	\$ 13,636,099	\$ 14,454,542	\$ 15,826,190	\$ 15,684,964	\$ 16,551,544
VLF Backfill	3,685,247	3,875,914	4,052,672	4,229,462	4,356,350
Sales & Use Tax	7,930,021	6,535,034	6,794,218	7,497,873	7,934,189
Measure G - District Sales Tax	228,131	996,391	1,139,386	1,173,733	1,240,755
Franchise Fees	2,475,916	2,495,792	2,499,463	2,435,800	2,493,870
Transient Occupancy Tax	2,692,043	1,869,685	1,044,820	1,400,000	1,642,460
Other Taxes	1,621,762	1,463,966	1,559,801	1,358,282	1,391,220
Licenses & Permits	4,140,409	4,081,144	4,571,564	4,061,785	4,191,279
Intergovernmental	4,532,465	6,214,369	5,539,889	7,771,404	12,332,870
Town Services	5,194,562	4,785,845	5,017,500	4,680,309	4,320,261
Internal Srvs Reimbursement	3,529,840	3,094,669	3,235,094	3,480,926	3,687,202
Fines & Forfeitures	510,266	271,117	103,467	218,120	201,750
Interest	1,866,997	2,470,608	232,912	485,844	480,062
Other Sources	10,099,237	2,542,671	5,229,226	2,576,525	1,976,830
CIP Proj Reimbursement	3,818,146	3,810,048	3,816,988	3,899,700	3,787,426
SCC RPTTF Reimbursement	-	-	-	-	-
Transfers In	4,714,131	9,996,516	5,267,697	4,056,563	4,245,514
TOTAL REVENUES	\$ 70,675,272	\$ 68,958,311	\$ 65,930,887	\$ 65,011,290	\$ 70,833,582
EXPENDITURES					
Salaries & Benefits	\$ 26,948,325	\$ 29,069,533	\$ 30,465,888	\$ 29,019,556	\$ 33,381,850
Operating Expenditures	16,190,402	17,424,281	18,488,640	16,057,532	15,705,114
Grants & Awards	248,533	274,249	298,303	800,000	241,000
Fixed Assets	661,316	807,829	309,637	729,416	895,490
Interest	823,734	888,703	1,016,621	1,300,000	1,355,000
Internal Service Charges	2,529,889	2,191,235	2,317,539	2,623,171	2,653,887
Capital Projects	8,987,510	7,907,339	5,833,758	11,847,615	12,547,670
Capital Acquisitions	-	-	-	-	-
Debt Service	4,845,861	4,767,807	4,701,182	4,399,550	4,326,739
Transfers Out	4,714,131	9,996,516	5,267,697	4,056,563	4,245,514
TOTAL EXPENDITURES	\$ 65,949,701	\$ 73,327,492	\$ 68,699,265	\$ 70,833,403	\$ 75,352,264
Net Increase (Decrease)	4,725,571	(4,369,181)	(2,768,378)	(5,822,113)	(4,518,682)
Beginning Fund Balance	61,741,905	66,467,476	62,098,295	59,329,917	53,507,804
Ending Fund Balance	\$ 66,467,476	\$ 62,098,295	\$ 59,329,917	\$ 53,507,804	\$ 48,989,122

Note: Expenditures and Transfers Out may exceed Revenues due to the inclusion of planned and carry-forward capital projects and payments from General Fund reserves to the Town Pension and OPEB Trusts.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 11

DESK ITEM

DATE: June 2, 2022

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Operating and Capital Budgets

- a. Adopt a Resolution Approving the Town of Los Gatos Fiscal Year (FY) 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (CIP), New Appropriations, Additional Council Actions on May 17, 2022 and Revisions Related to Salary and Benefit Costs as Presented in the Labor Agreements Agenda Reports on June 7, 2022; American Rescue Plan Act Budget Adjustment, Minor Corrections, and Carry-Forward Appropriations
- b. Adopt a Resolution Approving Commitment of Fund Balances under GASB 54.
- c. Approve FY 2021/22 Budget Adjustments:
 - 1) Major Revenue Adjustments to Match Year-End Estimated Revenues as Directed by the Town Council on May 17, 2022; and as Determined from Updated Information
 - i. Property Tax revenue Increase in the Amount of \$582,609,
 - ii. Sales Tax Revenue Increase in the Amount of \$428,828 (\$361,806 in regular Sales Tax and \$67,022 in Measure G Sales Tax)
 - iii. Business License Tax Revenue Increase in the Amount of \$175,000,
 - iv. Transient Occupancy Tax Increases in the Amount of \$75,000, and
 - v. Recognize \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 2) Expenditure Increases to Reflect Past Actions:
 - i. In the Amount of \$300,000 to expense the \$300,000 available General Fund Pension/OPEB Reserve to the CEPPT Trust.
 - ii. In the Amount of \$36,308 General Fund Salary Reimbursement for Capital Improvement Staff Work.
 - 3) Approve American Rescue Plan Act Budget Adjustments.

PREPARED BY: Stephen Conway
Finance Director

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

REMARKS

Attachment 5 contains public comment received between 11:00 a.m., Monday, June 6, and 11:01 a.m., Tuesday June 7, 2022.

In regard to Attachment 5, Council can either act tonight on this item, or refer the item back to the Finance Commission with a date certain of June 21, 2022 for final consideration by Council.

As referenced in the staff report, the draft resolution (Attachment 1) incorporates the budget direction provided by the Council at the May 17, 2022 budget hearing predicated in part on recommendations from the Finance Commission. With the completion of negotiations with all bargaining units, staff incorporated expenditure adjustments associated with labor agreements, and per our obligation to present a balanced budget to Council, included recommended corresponding revenue adjustments.

Attachments Previously Received with the Staff Report:

1. Resolution of the Town Council Approving FY 2022/23 Operating Budget and FY 2022/23 – 2026/27 Capital Improvement Program (with Exhibit A)
2. Resolution of the Town Council of the Town of Los Gatos Approving Commitments of Fund Balance under GASB 54
3. ARPA Worksheet

Attachment Previously Received with the Addendum:

4. Public comment received between 11:00 a.m., Thursday, June 2, and 11:01 a.m., Monday, June 6, 2022

Attachment Received with this Desk Item:

5. Public comment received between 11:00 a.m., Monday, June 6, and 11:01 a.m., Tuesday, June 7, 2022.

From: [Ronald Dickel](#)
To: [Rob Rennie](#)
Cc: [Kyle Park](#); [Matthew Hudes](#); [Arn Andrews](#); [Laurel Prevetti](#); [Jenna De Long](#)
Subject: Town Council Agenda for 6/7--consent Item 11
Date: Monday, June 6, 2022 4:32:17 PM

EXTERNAL SENDER

Mr. Mayor

Kyle Park and I spoke with Assistant Town Manager Arn Andrews about the Town Council Consent item 11 for the 2022 budget to be addressed in tomorrow's meeting. The item contains budget items that have not been discussed at any Finance Commission meeting, including the results of the labor negotiations and the changed use of OPEB and ARPA reserves. These matters are material to the budget and should be discussed at the Finance Commission level before consideration by the Town Council. These matters will be the topic of our upcoming Finance Commission meeting next Tuesday. Mr. Andrews said that it would be possible to defer Town Council's consideration of this consent item until the following Council Meeting on June 21st in order to meet any July 1st budget deadline. Please let us help the Council on all budgetary issues before decisions are made. Therefore, please defer Item 11 until your June 21st meeting.

Thank you for your time and consideration.

Ron



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 12

DATE: May 17, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Approving the Parcel Map for 16940 Roberts Road and Accepting Dedications

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving the Parcel Map for 16940 Roberts Road and accepting dedications.

BACKGROUND:

On December 11, 2019, the Planning Commission approved the Architecture and Site Application S-19-008 for a new three-unit detached condominium development at 16940 Roberts Road and the Subdivision Application M-19-002 for the corresponding tentative map with conditions.

The developer, the Chang 2003 Family Trust, has filed the Parcel Map (Attachment 2) to formalize the existing parcel per the approved tentative map and dedicate public street right-of-way on both Roberts Road and Fisher Avenue to the Town.

DISCUSSION:

The parcel map formalizes the existing parcel for the construction of three new residential condominium units. The developer has provided all necessary maps and drawings. The developer has paid the appropriate fees to fully comply with the previously imposed development conditions and Town ordinances. The developer is dedicating a portion of the property on both the Roberts Road and Fisher Avenue frontages as a street dedication (in-fee).

PREPARED BY: Mike Weisz
Senior Civil Engineer

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

PAGE 2 OF 2

SUBJECT: Adopt a Resolution Approving the Parcel Map for 16940 Roberts Road and
Accepting Dedications

DATE: May 17, 2022

CONCLUSION:

Staff recommends that Council adopt a resolution approving the Parcel Map and accepting dedications for the development of 16940 Roberts Road.

COORDINATION:

This project has been coordinated with the Town Attorney and the Community Development Department.

FISCAL IMPACT:

The Town will incur undetermined ongoing maintenance costs for the public right-of-way improvements following acceptance of the project.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act - Section 15315: Minor Land Divisions and Section 15303: New Construction or Conversion of Small Structures.

Attachments:

1. Resolution
2. Parcel Map for 16940 Roberts Road

RESOLUTION 2022-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING THE PARCEL MAP FOR 16940 ROBERTS ROAD
AND ACCEPTING DEDICATIONS**

WHEREAS, on December 11, 2019, the Planning Commission of the Town of Los Gatos approved the Architecture and Site Application S-19-008 and Subdivision Application M-19-002 with conditions for the property at 16940 Roberts Road; and

WHEREAS, the developer, the Chang 2003 Family Trust, is required to dedicate portions of the land for street right-of-way in-fee within the property as indicated on the Parcel Map prepared; and

WHEREAS, the developer has complied with the conditions of Architecture and Site Application S-19-008 and Subdivision Application M-19-002; and

WHEREAS, the Parcel Map has been reviewed by staff and found to be in compliance with the Subdivision Map Act and Chapter 24 of the Town of Los Gatos Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Los Gatos that the certain Parcel Map of 16940 Roberts Road, dated April 2022 and prepared by Westfall Engineers, Inc., is hereby approved; and

BE IT FURTHER RESOLVED that all dedications of land for public use identified on the Parcel Map are hereby accepted, in substantial conformance to the Conditions of Approval as set forth above and subject to the final approval by the Town Attorney.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 7th of June 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CA

ATTEST:

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

Owner's Statement

WE HEREBY STATE THAT we are all of the parties having any record title interest in the subdivided real property shown within the distinctive borderline on this map, and all dedications and offers of dedication therein.

WE HEREBY OFFER TO DEDICATE IN FEE:
All streets and portions of streets not previously existing designated as "Area of Dedication" on the map within said subdivision.

OWNER: The Chang 2003 Family Trust dated November 21, 2003.

Tung Symon Chang, Trustee Date

Jyan-Ping Lily Chang, Trustee Date

SURVEYOR'S STATEMENT

This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of Josephine Chang on December 30, 2019. I hereby state that all the monuments are of the character and occupy the positions indicated or that they will be set in those positions before January 14, 2022, and that the monuments are, or will be, sufficient to enable the survey to be retraced, and that this parcel map substantially conforms to the approved or conditionally approved tentative map.

Harry Babicka, LS 4953 DATE
Registration Expires: 12-31-2023



TOWN ENGINEER'S STATEMENT

I hereby state that I have examined this map, the subdivision as shown is substantially the same as it appeared on the tentative map and any approved alterations thereof, that all provisions of the Subdivision Map Act and local ordinances applicable at the time of approval of the tentative map have been complied with. Pursuant to Section 66441.1 of the Government Code, certain off-site and on-site improvements are required to be installed as a Condition of Approval of preceeding applications S-19-008 and M-19-002, approved by the Planning Commission of the Town of Los Gatos on December 11, 2019.

WooJae Kim DATE
R.C.E. No. 59532
Registration Expires 12-31-2023

TOWN SURVEYOR'S STATEMENT

I hereby state that I have examined this map, and I am satisfied that said map is technically correct in accordance with Section 66442 of the Government Code (Subdivision Map Act).

Dean a Jurado, Acting Town Surveyor DATE
L.S. No. 9032
Registration Expires: 09-30-2023

SOILS AND GEOLOGICAL REPORT

A soils and/or geotechnical report on this property has been prepared by Frank Lee & Associates, dated October 22, 2019. A copy of which has been filed with the Town of Los Gatos.

PARCEL MAP

FOR CONDOMINIUM PURPOSES FOR THREE (3) RESIDENTIAL UNITS
ALL OF PARCEL A AS SHOWN ON THE PARCEL MAP
FILED FOR RECORD IN BOOK 536 OF MAPS, AT PAGE 3
SANTA CLARA COUNTY RECORDS

TOWN OF LOS GATOS
SANTA CLARA COUNTY, CALIFORNIA
APRIL 2022

WESTFALL ENGINEERS, INC.

14583 BIG BASIN WAY, SARATOGA, CA 95070

COUNTY RECORDER'S STATEMENT

Filed this day of 20 at
A.M./P.M., in Book of Maps, at pages
and Santa Clara County Records, at the
request of Fidelity National Title Company.

File No. Regina Alcomendras, County Recorder
Santa Clara County, California

Fee: \$ By: Deputy

STATEMENT OF THE COUNCIL OF THE TOWN OF LOS GATOS

It is ordered that the Parcel Map is hereby approved, that all streets, roads and other parcels of land upon said map and thereon offered for dedication are hereby accepted for the purposes for which they are offered.

I hereby state that the foregoing order was adopted by the Town Council of the Town of Los Gatos, California, at a meeting held on the day of 202 by Resolution No.

TOWN CLERK DATE
Town of Los Gatos

ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara) SS

On , 20 before me,
a Notary Public,
personally appeared

and
who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the persons(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand:

Notary's Signature

Printed Notary's Name

Notary's Principal Place of Business:

Notary Commission Number:

Expiration of Notary's Commission:



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 13

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Approving the Parcel Map for 105 Newell Avenue and
Accepting the Public Service Easement Dedication

RECOMMENDATION:

Adopt a resolution (Attachment 1) approving the Parcel Map for 105 Newell Avenue and accepting the public service easement dedication.

BACKGROUND:

On November 7, 2017, the Town Council approved the Planned Development Application PD-14-002 through Ordinance 2266 (with the second reading on November 21, 2017) to rezone the property at 105 Newell Avenue, previously occupied by Los Gatos Elks Lodge, from R-1:12 to R-1:12:PD to allow for the demolition of an existing building, subdivision of one lot into four, and construction of four single-family residences on the subdivision. As part of the approval, Council also adopted the Mitigated Negative Declaration (ND-16-002) and the Mitigation Monitoring and Reporting Program for the project.

DISCUSSION:

On November 6, 2018, the Development Review Committee approved the Subdivision Application M-18-002 for the 1.38-acre lot at 105 Newell Avenue to be subdivided into four residential lots per the corresponding tentative map and conditions. Separate Architecture and Site Applications for each lot of the development (S-18-004, -005, -006, and -007) were approved with the same motion at the November 6, 2018 meeting.

PREPARED BY: WooJae Kim
Town Engineer

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

PAGE 2 OF 2

SUBJECT: Adopt a Resolution Approving the Parcel Map for 105 Newell Avenue and
Accepting the Public Service Easement Dedication

DATE: June 2, 2022

DISCUSSION (continued):

The property owner, MDMH Partners, LLC, has since filed the Parcel Map (Attachment 2) to subdivide the aforementioned existing parcel and dedicate to the Town a public service easement within the proposed private road for utilities. The easement dedication is identified on the Parcel Map. The Parcel Map has been reviewed by staff and found to be in compliance with the Subdivision Map Act and Chapter 24 of the Town of Los Gatos Municipal Code. The Parcel Map formalizes the existing parcel for four new single-family residential units.

CONCLUSION:

Staff recommends that Council adopt a resolution approving the Parcel Map and accept the public service easement dedication for the development of 105 Newell Avenue.

COORDINATION:

This project has been coordinated with the Town Attorney and the Community Development Department.

FISCAL IMPACT:

Acceptance of the project will not result in a fiscal impact to the Town.

ENVIRONMENTAL ASSESSMENT:

Mitigated Negative Declaration for the project has been adopted by the Town Council on November 7, 2017.

Attachments:

1. Resolution
2. Parcel Map – 105 Newell Avenue

RESOLUTION 2022-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
APPROVING THE PARCEL MAP FOR 105 NEWELL AVENUE
AND ACCEPTING THE PUBLIC SERVICE EASEMENT DEDICATION**

WHEREAS, the Town Council approved the Planned Development Application PD-14-002 through Ordinance 2266 to rezone the property at 105 Newell Avenue from R-1:12 to R-1:12:PD to allow for the demolition of an existing building, subdivision of one lot into four, and construction of four single-family residences on the subdivision; and

WHEREAS, on November 6, 2018, the Development Review Committee approved the Subdivision Application M-18-002 for a 1.38-acre lot at 105 Newell Avenue to be subdivided into four residential lots per the corresponding tentative map and conditions; and

WHEREAS, the property owner, MDMH Partners, LLC, is required to dedicate a portion of the land for a public service easement within the property as indicated on the Parcel Map prepared; and

WHEREAS, the property owners have complied with the conditions of Subdivision Application M-18-002; and

WHEREAS, the Parcel Map has been reviewed by staff and found to be in compliance with the Subdivision Map Act and Chapter 24 of the Town of Los Gatos Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Los Gatos that the certain Parcel Map of 105 Newell Avenue, dated April 2022 and prepared by Carroll Engineering, is hereby approved; and

BE IT FURTHER RESOLVED that the dedication of public service easement identified on the Parcel Map is hereby accepted, in substantial conformance to the Conditions of Approval as set forth above and subject to the final approval by the Town Attorney.

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 7th day of June 2022, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CA

ATTEST:

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

OWNERS' STATEMENT:

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN WITHIN THE DISTINCTIVE BORDER LINE ON THIS MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION.

WE ALSO HEREBY DEDICATE TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC SERVICE FACILITIES INCLUDING POLES, WIRES, CONDUITS, GAS, WATER AND ALL APPURTENANCES TO THE ABOVE, UNDER UPON OR OVER THOSE CERTAIN STRIPS OF LAND LYING BETWEEN THE FRONT AND/OR SIDE LINES OF LOTS AND THE DASHED LINES AND/OR THOSE CERTAIN AREAS LYING BETWEEN DASHED LINES EACH DESIGNATED AS "P.S.E." (PUBLIC SERVICE EASEMENT). THE ABOVE MENTIONED PUBLIC SERVICE EASEMENT TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT PUBLIC SERVICE STRUCTURES, IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND LAWFUL ROOF OVERHANGS.

THERE IS ALSO SHOWN ON THE HEREON MAP EASEMENTS FOR EMERGENCY VEHICLE ACCESS PURPOSES ON OR OVER THOSE CERTAIN STRIPS OF LAND DESIGNATED AND DELINEATED AS "E.V.A.E." EMERGENCY VEHICLE ACCESS EASEMENT

THERE IS ALSO SHOWN ON THE HEREON MAP, EASEMENTS FOR STORM DRAINAGE PURPOSES AND SANITARY SEWER PURPOSES DESIGNATED AND DELINEATED AS "P.S.D.E." (PRIVATE STORM DRAIN EASEMENT) AND "P.S.S.E." (PRIVATE SANITARY SEWER EASEMENT) INCLUDING THE INSTALLATION AND MAINTENANCE OF PRIVATE STORM AND PRIVATE, SANITARY SEWER FACILITIES. THESE EASEMENTS ARE TO BE KEPT OPEN AND FREE FROM ALL BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT IRRIGATION SYSTEMS AND APPURTENANCES THERETO, LAWFUL FENCES AND LAWFUL ROOF OVERHANGS. THE MAINTENANCE, REPAIR AND/OR REPLACEMENT OF PRIVATE STORM DRAINAGE AND SANITARY SEWER FACILITIES SHALL BE THE SOLE RESPONSIBILITY OF THE PROPERTY OWNERS BENEFITED, AS DETERMINED BY THE APPROPRIATE COVENANTS, CONDITIONS AND RESTRICTIONS. SAID EASEMENTS ARE NOT OFFERED, NOR ARE THEY ACCEPTED FOR DEDICATION BY THE TOWN OF LOS GATOS.

AS OWNER: MDMH PARTNERS., LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____

ITS: _____

AS BENEFICIARY: TANGO PAPA DEVELOPMENT COMPANY, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: _____

ITS: _____

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE
VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE
DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE
TRUTHFULNESS, ACCURACY OR VALIDITY OF THAT DOCUMENT.

OWNER'S ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) SS
COUNTY OF SANTA CLARA)
ON _____, BEFORE ME, _____

PERSONALLY APPEARED _____ AND
PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S)
IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED
TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR
AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR
SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY
UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE
INSTRUMENT.

WITNESS MY HAND:

NOTARY SIGNATURE: _____

PRINTED NOTARY'S NAME: _____

NOTARY'S PRINCIPAL PLACE OF BUSINESS: _____

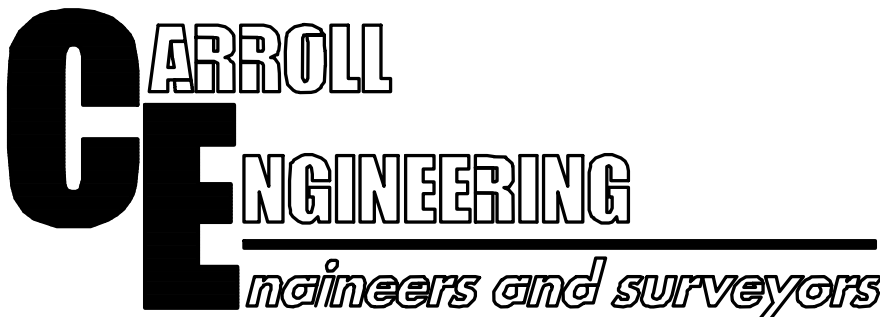
EXPIRATION OF NOTARY'S COMMISSION: _____

PARCEL MAP

BEING A SUBDIVISION OF THAT PARCEL OF LAND AS DESCRIBED IN THAT
GRANT DEED RECORDED AS DOCUMENT NUMBER 22465338, SANTA CLARA
COUNTY RECORDS, AND LYING ENTIRELY WITHIN THE

TOWN OF LOS GATOS
SANTA CLARA COUNTY, CALIFORNIA

APRIL 2022



1101 S. WINCHESTER BLVD.
SUITE H-184
SAN JOSE, CA 95128

COUNTY RECORDER'S STATEMENT:

FILED THIS _____ DAY OF _____, 20____ AT _____ M. IN
BOOK _____ OF MAPS AT PAGES _____ THRU _____ SANTA CLARA COUNTY
RECORDS AT THE REQUEST OF CARROLL ENGINEERING, INC.

FILE NO. _____ REGINA ALCOMENDRAS, COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

FEE: \$ _____ BY: _____
DEPUTY

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A
FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT
AND LOCAL ORDINANCE AT THE REQUEST OF MONICA BRANDON AND MONICA MANRIQUEZ
IN MARCH, 2005. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER
AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE
POSITIONS BEFORE DECEMBER 31, 2022. AND THAT THE MONUMENTS ARE, OR WILL BE,
SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS PARCEL MAP
SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE
MAP.

DATED _____

PHILIP C. WOOTTON, PLS 8398
LICENSE EXPIRES 6/30/2022

TOWN ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP; THE SUBDIVISION AS SHOWN IS
SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED
ALTERATIONS THEREOF, AND ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND LOCAL
ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN
COMPLIED WITH, PURSUANT TO SECTION 66441.1 OF THE GOVERNMENT CODE, CERTAIN
OFF-SITE AND ON-SITE IMPROVEMENTS ARE REQUIRED TO BE INSTALLED AS A CONDITION
OF APPROVAL OF PRECEDING APPLICATIONS PD14-002 AND ND-16-002, APPROVED BY
THE PLANNING COMMISSION OF THE TOWN OF LOS GATOS ON AUGUST 8, 2017, AS WELL
AS APPLICATIONS M-18-002, S-18-004, S-18-005, S-18-006 AND S-18-007,
APPROVED BY THE DEVELOPMENT REVIEW COMMITTEE OF THE TOWN OF LOS GATOS ON
NOVEMBER 6, 2018.

DATED _____

WOOJAE KIM, TOWN ENGINEER
R.C.E. No. 59532
REGISTRATION EXPIRES 12/31/2023

TOWN SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND I AM SATISFIED THAT SAID MAP
IS TECHNICALLY CORRECT IN ACCORDANCE WITH SECTION 66442 OF THE GOVERNMENT
CODE (SUBDIVISION MAO ACT).

DATED _____

DEAN A. JURADO, ACTING TOWN SURVEYOR
L.S. NO.: 9032
EXPIRES SEPTEMBER 30, 2023

SOILS AND GEOLOGICAL REPORT

A SOILS AND/OR GEOTECHNICAL REPORT ON THIS PROPERTY HAS BEEN PREPARED
BY MILSTONE GEOTECHNICAL, DATED OCTOBER 29, 2014. A COPY OF WHICH HAS
BEEN FILED WITH THE TOWN OF LOS GATOS.

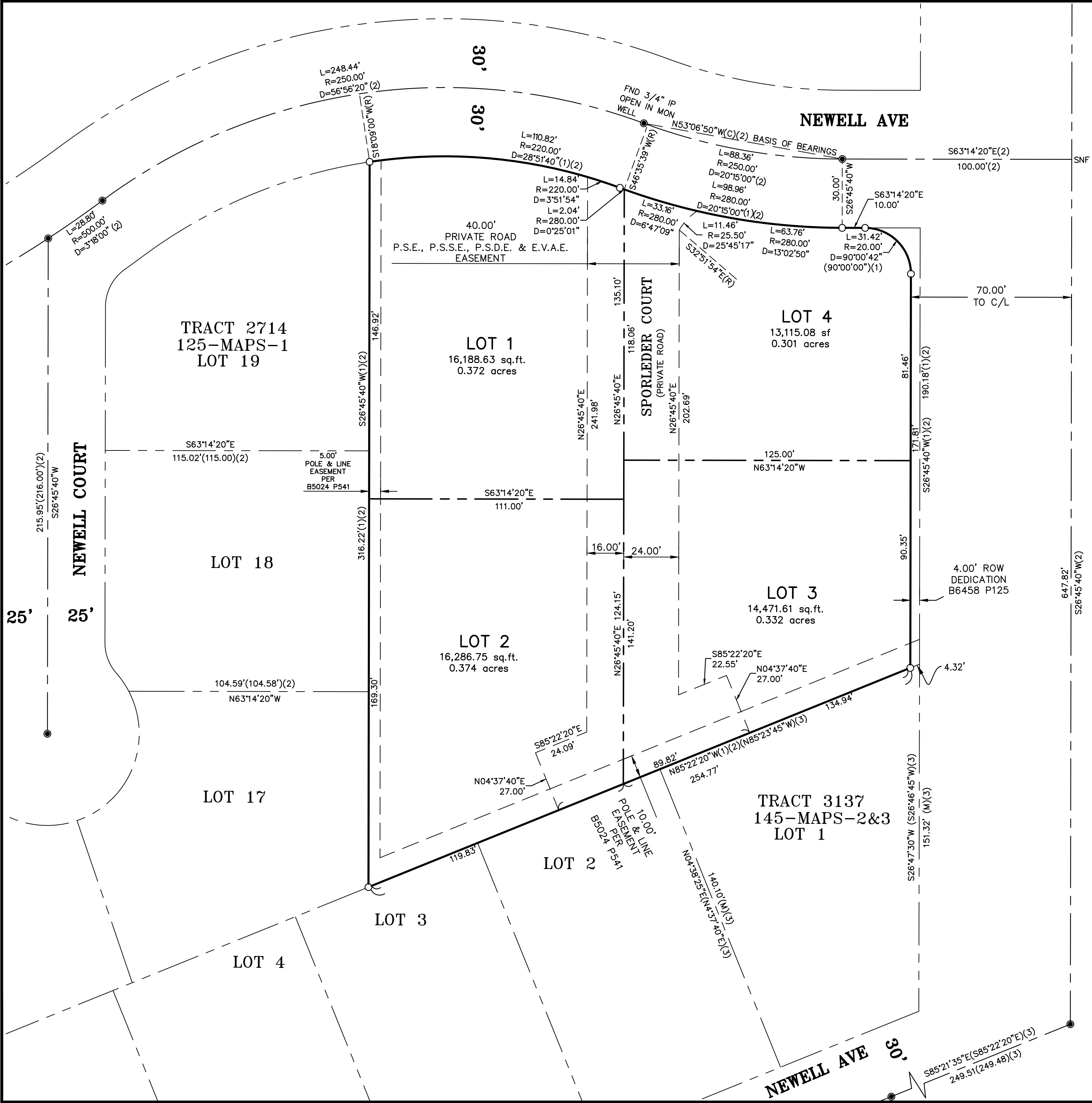
STATEMENT OF THE COUNCIL OF THE TOWN OF LOS GATOS

IT IS ORDERED THAT THE PARCEL MAP IS HEREBY APPROVED, THAT ALL EASEMENTS
AND OTHER PARCELS OF LAND SHOWN UPON SAID MAP AND THEREIN OFFERED FOR
DEDICATION ARE HEREBY ACCEPTED FOR THE PURPOSES FOR WHICH THEY ARE OFFERED.

I HEREBY STATE THAT THE FOREGOING ORDER WAS ADOPTED BY THE TOWN COUNCIL OF
THE TOWN OF LOS GATOS, CALIFORNIA, AT A MEETING HELD ON THE _____ DAY OF
_____, 2022; BY RESOLUTION NO. _____.

DATE

TOWN CLERK
TOWN OF LOS GATOS



PARCEL MAP

CONSISTING OF TWO (2) SHEETS
BEING A SUBDIVISION OF THAT 1.38 ACRE PARCEL OF LAND AS DESCRIBED
IN THAT GRANT DEED RECORDED AS DOCUMENT NUMBER 22465338, FILED
FOR RECORD ON DECEMBER 6, 2013 SANTA CLARA COUNTY OFFICIAL
RECORDS, AND LYING ENTIRELY WITHIN THE

TOWN OF LOS GATOS
SANTA CLARA COUNTY, CALIFORNIA

APRIL 2022

CARROLL
ENGINEERING
engineers and surveyors

1101 S. WINCHESTER BLVD.
SUITE H-184
SAN JOSE, CA 95128

LEGEND

- SET 3/4" IRON PIPE WITH CAP AND TACK, "PLS 8398"
- FOUND 3/4" I.P. WITH TAG (ILLEGIBLE) WITH TACK IN MON. WELL, OR AS NOTED
- (3) RECORD BEARING OR DISTANCE PER REFERENCE
- (C) CALCULATED
- (M) MEASURED
- E.V.A.E. EMERGENCY VEHICLE ACCESS EASEMENT
- P.S.D.E. PRIVATE STORM DRAIN EASEMENT
- P.S.E. PUBLIC SERVICE EASEMENT
- P.S.S.E. PRIVATE SANITARY SEWER EASEMENT
- SNF SEARCHED NOTHING FOUND

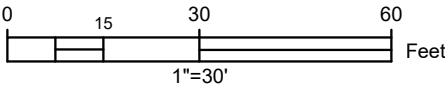
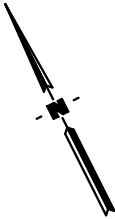
- DISTINCTIVE BORDER
- - - NEW PARCEL LINE
- - - ADJOINING PARCEL
- - - CENTERLINE
- - - EASEMENT

BASIS OF BEARINGS

THE BEARING N53°06'50", CALCULATED BETWEEN FOUND MONUMENTS, AS SHOWN ON THE TRACT MAP FILED IN BOOK 125 OF MAPS AT PAGE 1, SANTA CLARA COUNTY RECORDS, WAS USED AS THE BASIS OF BEARINGS SHOWN ON THIS MAP.

REFERENCES

- (1) GRANT DEED - DOCUMENT NO 22465338
- (2) TRACT 2714 - 125-M-1
- (3) TRACT 3137 - 145-M-2&3





**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 6/7/2022

ITEM NO: 14

DATE: May 23, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Consultant Services Agreement with Ninyo and Moore for the On-Call Materials Testing and Special Inspection Services to Increase the Contract Amount by \$100,000, for a Total Contract Amount Not to Exceed \$280,000, and Extend the Contract Term

RECOMMENDATION:

Authorize the Town Manager to execute a first amendment to the consultant services agreement with Ninyo and Moore for the On-Call Materials Testing and Special Inspection Services to increase the contract amount by \$100,000, for a total contract amount not to exceed \$280,000, and extend the contract term.

BACKGROUND:

In December 2020, the Parks and Public Works Department issued a Request for Qualifications (RFQ) to hire an on-call materials testing and special inspection services firm for the Town's capital improvement projects. Through the RFQ process, Ninyo and Moore was selected for the services, and a consultant services agreement was executed in April 2021 with a contract amount not to exceed \$180,000 as authorized by the Town Council. The services performed under the agreement are funded through individual capital projects and their approved budgets on an as-needed basis. The agreement with Ninyo and Moore is set to expire on June 30, 2022, with an option for the Town to extend the contract one additional year.

DISCUSSION:

Between April 2021 and May 2022, approximately \$113,000 of the contract amount has been earmarked for materials testing and special inspection services for various Town capital

PREPARED BY: WooJae Kim
Town Engineer

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Consultant Services Agreement with Ninyo and Moore for the On-Call Materials Testing and Special Inspection Services to Increase the Contract Amount by \$100,000, for a Total Contract Amount Not to Exceed \$280,000, and Extend the Contract Term.

DATE: May 23, 2022

DISCUSSION (continued):

projects. If approved by the Town Council, the first amendment (Attachment 1) to the consultant services agreement with Ninyo and Moore would extend the contract term to December 31, 2023 and increase the contract amount capacity by \$100,000 for a total contract amount not to exceed \$280,000.

The extension of the contract period would allow Ninyo and Moore to continue providing on-call testing services for current projects in construction through summer 2022. Furthermore, the term extension and the additional contract capacity would be utilized for the following future Town capital projects anticipated for construction in 2022 and 2023:

- Fiscal Year (FY) 2022/23 Annual Street Repair and Resurfacing
- FY 2022/23 Annual Curb, Gutter, and Sidewalk Maintenance
- Building Replacement at Corporation Yard
- Shannon Road Pedestrian and Bikeway Improvements
- Annual Storm Drain Improvements
- Retaining Wall and Guardrail Repairs
- Oak Meadow Bandstand Area Improvements
- Shannon Road Repair (pending construction funding)

In addition, there may be other Town projects that would require materials testing and special inspection services. Projects with federal grants may require a separate procurement process for testing and inspection services.

CONCLUSION:

Staff recommends that the Town Council authorize the Town Manager to execute the first amendment to the consultant services agreement with Ninyo and Moore for the On-Call Materials Testing and Special Inspection Services to increase the contract amount by \$100,000, for a total contract amount not to exceed \$280,000, and extend the contract term to December 31, 2023.

COORDINATION:

This report has been coordinated with the Town Attorney and the Finance Department.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Consultant Services Agreement with Ninyo and Moore for the On-Call Materials Testing and Special Inspection Services to Increase the Contract Amount by \$100,000, for a Total Contract Amount Not to Exceed \$280,000, and Extend the Contract Term.

DATE: May 23, 2022

FISCAL IMPACT:

The contract would be funded by budgeted Town projects requiring materials testing and special inspection services, where the projects are sufficiently funded for those services. There is no additional fiscal impact to the Town.

ENVIRONMENTAL ASSESSMENT:

Environmental review is not required for this agenda item as the requested action is not a project defined by the California Environmental Quality Act. CEQA analysis will be provided for individual capital improvement projects.

Attachments:

1. First Amendment with Original Agreement

FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This FIRST AMENDMENT is dated for identification this seventh day of June 2022 and amends that certain AGREEMENT FOR CONSULTANT SERVICES for On-Call Materials Testing and Special Inspection Services, dated April 6, 2021, made by and between the Town of Los Gatos, ("Town,") and the NINYO & MOORE ("Consultant.").

RECITALS

- A. Town and Consultant entered into an Agreement for Consultant Services on April 20, 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 to extend the agreement term to December 31, 2023.
- C. Town desires to increase the contract amount by \$100,000 for a total contract amount of \$280,000.
- D. Consultant desires to update the Schedule of Fees to Exhibit B effective July 1, 2022.

AMENDMENT

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

This contract will remain in effect until December 31, 2023.

2. 2.6 Compensation is amended to read as follows:

Compensation for Consultant's professional services **shall not exceed \$280,000**, inclusive of all costs. Payment shall be based upon Town approval of each task based on Exhibit A of the original agreement. Effective July 1, 2022, the Schedule of Fees in Exhibit B shall be applied.

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:

By: _____

By: _____

Laurel Prevetti, Town Manager

Ruchil Shah

Director of Business Development

Department Approval:

Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney
Clerk

Shelley Neis, MMC, CPMC, Town

Schedule of Fees**Hourly Charges for Personnel****Professional Staff**

Principal Engineer/Geologist/Environmental Scientist/Certified Industrial Hygienist	\$ 210
Senior Engineer/Geologist/Environmental Scientist	\$ 200
Senior Project Engineer/Geologist/Environmental Scientist	\$ 195
Project Engineer/Geologist/Environmental Scientist	\$ 185
Senior Staff Engineer/Geologist/Environmental Scientist	\$ 170
Staff Engineer/Geologist/Environmental Scientist	\$ 155
GIS Analyst	\$ 130
Technical Illustrator/CAD Operator	\$ 110

Field Staff

Certified Asbestos/Lead Technician	\$ 195
Field Operations Manager	\$ 130
Nondestructive Examination Technician (UT, MT, LP)	\$ 125
Supervisory Technician	\$ 120
Special Inspector (Concrete, Masonry, Structural Steel, Welding, and Fireproofing)	\$ 115
Senior Technician	\$ 110
Technician	\$ 110

Administrative Staff

Information Specialist	\$ 90
Geotechnical/Environmental/Laboratory Assistant	\$ 95
Data Processor	\$ 85

Other Charges

Concrete Coring Equipment (includes technician)	\$ 190/hr
Anchor Load Test Equipment (includes technician)	\$ 190/hr
GPR Equipment	\$ 180/hr
Inclinometer	\$ 100/hr
Hand Auger Equipment	\$ 80/hr
Rebar Locator (Pachometer)	\$ 25/hr
Vapor Emission Kit	\$ 65/kit
Nuclear Density Gauge	\$ 12/hr
X-Ray Fluorescence	\$ 70/hr
PID/FID	\$ 25/hr
Air Sampling Pump	\$ 10/hr
Field Vehicle	\$ 15/hr
Expert Witness Testimony	\$ 450/hr
Direct Expenses	Cost plus 15 %
Special equipment charges will be provided upon request.	

Notes

For field and laboratory technicians and special inspectors, overtime rates at 1.5 times the regular rates will be charged for work performed in excess of 8 hours in one day Monday through Friday and all day on Saturday. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day, all day Sunday and on holidays.

Field technician and special inspection hours are charged at a 4-hour minimum, and 8-hour minimum for hours exceeding 4 hours.

Invoices are payable upon receipt. A service charge of 1.5 percent per month may be charged on accounts not paid within 30 days.

Our rates will be adjusted in conjunction with the increase in the Prevailing Wage Determination during the life of the project, as applicable.

The terms and conditions are included in Ninyo & Moore's Work Authorization and Agreement form.

Schedule of Fees for Laboratory Testing

SOILS

Atterberg Limits, D 4318, CT 204	\$ 170
California Bearing Ratio (CBR), D 1883	\$ 550
Chloride and Sulfate Content, CT 417 & CT 422	\$ 175
Consolidation, D 2435, CT 219	\$ 300
Consolidation, Hydro-Collapse only, D 2435	\$ 150
Consolidation – Time Rate, D 2435, CT 219	\$ 200
Direct Shear – Remolded, D 3080	\$ 350
Direct Shear – Undisturbed, D 3080	\$ 300
Durability Index, CT 229	\$ 175
Expansion Index, D 4829, IBC 18-3	\$ 190
Expansion Potential (Method A), D 4546	\$ 170
Geofabric Tensile and Elongation Test, D 4632	\$ 200
Hydraulic Conductivity, D 5084	\$ 350
Hydrometer Analysis, D 6913, CT 203	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 120
Moisture Only, D 2216, CT 226	\$ 35
Moisture and Density, D 2937	\$ 45
Permeability, CH, D 2434, CT 220	\$ 300
pH and Resistivity, CT 643	\$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	\$ 260
Proctor Density with Rock Correction D 1557	\$ 340
R-value, D 2844, CT 301	\$ 425
Sand Equivalent, D 2419, CT 217	\$ 125
Sieve Analysis, D 6913, CT 202	\$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 120
Specific Gravity, D 854	\$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	\$ 925
Triaxial Shear, C.D., D 4767, T 297	\$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	\$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	\$ 350
Triaxial Shear, U.U., D 2850	\$ 250
Unconfined Compression, D 2166, T 208	\$ 180

MASONRY

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	\$ 70
Brick Compression Test, C 67	\$ 55
Brick Efflorescence, C 67	\$ 55
Brick Modulus of Rupture, C 67	\$ 50
Brick Moisture as received, C 67	\$ 45
Brick Saturation Coefficient, C 67	\$ 60
Concrete Block Compression Test, 8x8x16, C 140	\$ 70
Concrete Block Conformance Package, C 90	\$ 500
Concrete Block Linear Shrinkage, C 426	\$ 200
Concrete Block Unit Weight and Absorption, C 140	\$ 70
Cores, Compression or Shear Bond, CA Code	\$ 70
Masonry Grout, 3x3x6 prism compression, C 39	\$ 45
Masonry Mortar, 2x4 cylinder compression, C 109	\$ 35
Masonry Prism, half size, compression, C 1019	\$ 120
Masonry Prism, Full size, compression, C 1019	\$ 200

REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615	\$ 135
Fireproofing Density Test, UBC 7-6	\$ 90
Hardness Test, Rockwell, A 370	\$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	\$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 175
Pre-Stress Strand (7 wire), A 416	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	\$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	\$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80

CONCRETE

Compression Tests, 6x12 Cylinder, C 39	\$ 40
Concrete Mix Design Review, Job Spec	\$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 850
Concrete Cores, Compression (excludes sampling), C 42	\$ 120
Drying Shrinkage, C 157	\$ 400
Flexural Test, C 78	\$ 85
Flexural Test, C 293	\$ 85
Flexural Test, CT 523	\$ 95
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 275
Lightweight Concrete Fill, Compression, C 495	\$ 80
Petrographic Analysis, C 856	\$ 2,000
Restrained Expansion of Shrinkage Compensation	\$ 450
Splitting Tensile Strength, C 496	\$ 100
3x6 Grout, (CLSM), C 39	\$ 55
2x2x2 Non-Shrink Grout, C 109	\$ 55

ASPHALT

Air Voids, T 269	\$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	\$ 4,500
Asphalt Mix Design Review, Job Spec	\$ 180
Dust Proportioning, CT LP-4	\$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	\$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	\$ 150
Film Stripping, CT 302	\$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	\$ 225
Marshall Stability, Flow and Unit Weight, T 245	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	\$ 150
Moisture Content, CT 370	\$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	\$ 1,000
Slurry Wet Track Abrasion, D 3910	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	\$ 4,900
Superpave, Gyration Unit Wt., T 312	\$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	\$ 1,000
Unit Weight sample or core, D 2726, CT 308	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	\$ 90
Voids filled with Asphalt, (VFA) CT LP-3	\$ 90
Wax Density, D 1188	\$ 140

AGGREGATES

Clay Lumps and Friable Particles, C 142	\$ 180
Cleaness Value, CT 227	\$ 180
Crushed Particles, CT 205	\$ 175
Durability, Coarse or Fine, CT 229	\$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	\$ 180
Flat and Elongated Particle, D 4791	\$ 220
Lightweight Particles, C 123	\$ 180
Los Angeles Abrasion, C 131 or C 535	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117	\$ 90
Organic Impurities, C 40	\$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	\$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	\$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 475
Sand Equivalent, T 176, CT 217	\$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	\$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	\$ 145
Sodium Sulfate Soundness, C 88	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	\$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	\$ 175

ROOFING

Roofing Tile Absorption, (set of 5), C 67	\$ 250
Roofing Tile Strength Test, (set of 5), C 67	\$ 250

Special preparation of standard test specimens will be charged at the technician's hourly rate.
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on April 6, 2021 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") Ninyo & Moore , ("Consultant"), whose address is 2149 O'Toole Avenue, Suite 30, San Jose, CA 95131. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Consultant to provide on-call materials testing and special inspection services for various Town capital improvement projects and other projects within the Town.
- 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 January 14, 2021, 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 April 15, 2021 to June 30, 2022, with an option to extend for one (1) additional period of one (1) year.
- 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 \$180,000**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

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

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

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

III. INSURANCE AND INDEMNIFICATION

3.1 Minimum Scope of Insurance:

- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: 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, 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 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 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 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.

- 3.4 Indemnification. The Consultant 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 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 Prevailing Wages. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.
- 4.4.1 The applicable California prevailing wage rate can be found at www.dir.ca.gov and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be available to any interested party upon request. The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.

- 4.4.2 Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime, weekend and holiday pay, and shift pay must be paid pursuant to applicable Labor Code section.
- 4.4.3 The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
- 4.4.4 As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
- 4.4.5 In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
- 4.4.6 No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- 4.4.7 No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
- 4.4.8 Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully

indemnify the TOWN for any fines assessed by the California Department of Industrial Relations against the TOWN for such violation, including all staff costs and attorney's fee relating to such fine.

- 4.4.9 The TOWN shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the TOWN may continue to hold sufficient funds to cover estimated wages and penalties under the contract.
- 4.5 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.
- 4.6 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:

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

Ninyo & Moore
2149 O'Toole Avenue, Suite 30
San Jose, CA 95131

or personally delivered to Consultant to such address or such other address as Consultant 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 Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

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

Town of Los Gatos by:

Consultant, by:

DocuSigned by:



4/20/2021

Laurel Prevetti, Town Manager

DocuSigned by:

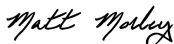


4/13/2021

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Recommended by:

DocuSigned by:



4/14/2021

Matt Money

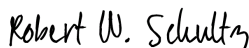
Director of Parks and Public Works

Greg Ruf, Principal Engineer

Printed Name and Title

Approved as to Form:

DocuSigned by:



4/17/2021

Robert Schultz, Town Attorney

Attest:

DocuSigned by:



4/20/2021

Shelley Neis, MMC, CPMC, Town Clerk



Ms. Janice Chin, Assistant Engineer
Town of Los Gatos
Parks and Public Works
41 Miles Avenue
Los Gatos, California 95030

On-Call Materials Testing and Special Inspection Services



January 14, 2021
Proposal No. P08SJO-01301

Ninyo & Moore
Geotechnical & Environmental Sciences Consultants

Cover Letter

Cover Letter



Geotechnical & Environmental Sciences Consultants

January 14, 2021
 Proposal No. P08SJO-01314

Ms. Janice Chin, Assistant Engineer
 Town of Los Gatos
 Parks and Public Works
 41 Miles Avenue
 Los Gatos, California 95030

Subject: On-Call Materials Testing and Special Inspection Services

Dear Ms. Chin:

Ninyo & Moore Geotechnical and Environmental Sciences Consultants is pleased to submit our qualifications in response to your Request for Qualifications (RFQ) to provide On-Call Materials Testing and Special Inspection Services for the Town of Los Gatos (Town). We acknowledge receipt of the Town's Questions and Answers addendum dated January 11, 2021, and confirm that all requirements of the addenda are included in this proposal. With regard to a 2-hour minimum charge as opposed to the standard practice of our profession of a 4-hour minimum, driven by collective bargaining and prevailing wage, we agreed to the 2-hour minimum as well as 2-hour billing increments for the first 8 hours with the understanding that our services are billed on a portal-to-portal basis from our San Jose facility, not just time on site.

Ninyo & Moore is a California "S" Corporation which began in 1986 in San Diego, California. Our firm specializes in Materials Testing and Inspection Services as part of the wide range of consulting services that we provide to our clients and is one of the most highly respected Geotechnical services consultants in Northern California. From our local offices in San Jose and Alameda, California, we have been providing Construction Materials Testing/Inspection consulting services on a wide variety of capital improvement projects that are similar in scope to the services requested. In Northern California, we currently hold or have held on-call services agreements with the following agencies:

- City of Redwood City
- City of San Carlos
- City of Millbrae
- City of South San Francisco
- San Francisco Public Works
- City of Albany
- City of Richmond
- City of Oakland
- City of El Cerrito
- City of Alameda
- City of Fremont
- Contra Costa County
- Midpeninsula Regional Open Space District
- San Francisco Unified School District
- County of Alameda Flood Control District and Public Works Agency
- County of Santa Clara Fleet and Facilities and Park and Recreations Departments

Ninyo & Moore is highly qualified to perform the requested services for the following reasons:

- **NORTHERN CALIFORNIA PUBLIC WORKS EXPERIENCE** – For 34 years Ninyo & Moore has provided geotechnical, environmental, materials testing, and inspection services to municipal agencies and school districts throughout the Western United States. We previously provided and are presently providing services similar to those required for this on-call contract for City of Fremont, City of San Jose, City of Santa Clara, City of Oakland, City of Alameda, and City of San Francisco, as well as over 50 cities and counties throughout California.
- **QUALIFIED STAFF TO RESPOND TO A VARIETY OF TASKS** – Company-wide, Ninyo & Moore has a team of 493 professionals and has the in-house resources to support this contract throughout its duration. The references we have provided can attest to our responsiveness and quality deliverables.

Cover Letter

- **SUCCESSFUL APPROACH TO PROVIDING ON-CALL SERVICES** – We understand the nature of the work required and the importance of offering a comprehensive range of services, in a responsive manner, using project-proven methods. This improves our response time on a request for service and mobilization of the qualified individuals to execute the Task Authorization. We have compiled our team with maximum flexibility for demanding project requirements or the assignment of concurrent task orders.

The Ninyo & Moore Contract Manager with authority to bind the firm in all matters related to this proposal is presented below. He will also be the City's primary point of contact.

- **Mr. Gregory J. Ruf, PE, GE**
Ninyo & Moore Geotechnical and Environmental Sciences Consultants
Principal Engineer/Dir. of Construction Services, Primary Point of Contact
2149 O'Toole Avenue, Suite 30, San Jose, California 95131
T: 408.435.9000, ext. 15314 | F: 408.435.9006 | Email: gruf@ninyoandmoore.com

As a requirement of the Town's RFQ, we have reviewed the contract template for the Consultant Services Agreement and confirm that it is acceptable.

We appreciate this opportunity to submit our qualifications and we look forward to the opportunity of working with the Town of Los Gatos, if selected. We are available to answer any questions during your evaluation period.

Sincerely,

NINYO & MOORE



Gregory J. Ruf, PE, GE
Principal Engineer

GJR/jso

Certification Forms

ATTACHMENT 2 – CONFLICT OF INTEREST STATEMENT

ATTACHMENT 2 - CONFLICT OF INTEREST STATEMENT

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

ON-CALL MATERIALS TESTING AND SPECIAL INSPECTION SERVICES

The undersigned declares:

I/We Ninyo & Moore (Insert Company Name) have the following financial, business, or other relationship with Town that may have an impact upon the outcome of the contract or the construction Project. If none, please specify that no other relationships may have an impact on this contract or Project.

No other relationship will have an impact on this contract or Project.

I/We Ninyo & Moore (Insert Company Name) have the following current clients who may have a financial interest in the outcome of this contract or the construction Project. If none, please specify that no other clients may have a financial interest with an impact on this contract or Project.

No other clients will have a financial interest with an impact on this contract or Project.

I/We Ninyo & Moore (Insert Company Name) have the following financial interests or relationships with a construction company that might submit a bid for the construction of the Project. If none, please specify that no such relationships exist.

No such relationships exist.

Certification Forms

Pursuant to Government Code section 1090 and any other laws, rules and regulations that may apply, the Proposer covenants that neither it, its subcontractors nor employees presently have an interest, and shall not acquire any interest, direct or indirect, financial or otherwise that would conflict in any manner or degree with contract awarded from this RFQ. Proposer certifies that to the best of its knowledge, no one who has or will have any financial interest in the contract awarded from this RFQ is an officer or employee of the Town. Through its submittal of a SOQ, Proposer acknowledges that it is familiar with Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California and will immediately notify the Town if it becomes aware of any facts concerning the contract to be awarded that constitute a violation of said provisions.

Furthermore, if there is reason to believe that collusion exists among the Proposers, the Town may refuse to consider SOQ's from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one SOQ for the same work unless alternate SOQ's are called for. A person, firm, or corporation who has submitted a sub-proposal to a Proposer, or who has quoted prices on materials to a Proposer, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Proposers. Reasonable ground for believing that any Proposer is interested in more than one proposal for the same work will cause the rejection of all proposals for the work in which a Proposer is interested. If there is reason to believe that collusion exists among the Proposers, the Town may refuse to consider SOQ's from participants in such collusion. Proposers shall submit as part of their SOQ documents the completed Non-Collusion Declaration provided herein as Attachment 4.

I, on behalf of the Proposer, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on January 14, 2021 [date], at San Jose [city], California [state].

Ninyo & Moore

Proposer Name (Person, Firm, Corp.)

Principal Engineer/Dir. of Construction Services

Title of Authorized Representative

2149 O'Toole Avenue, Suite 30

Address

Gregory J. Ruf, PE, GE

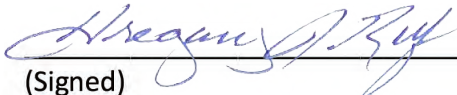
Name of Authorized Representative

San Jose, California 95131

City, State, Zip

January 14, 2021

(Date)


(Signed)

Certification Forms

ATTACHMENT 3 – NON-COLLUSION DECLARATION

ATTACHMENT 3 – NON-COLLUSION DECLARATION

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

ON-CALL MATERIALS TESTING AND SPECIAL INSPECTION SERVICES

The undersigned declares:

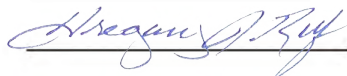
I am a Principal Engineer [Insert Title] of Ninyo & Moore, [Insert name of company, corporation, LLC, partnership or joint venture] the party making the foregoing SOQ.

The SOQ is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The SOQ is genuine and not collusive or sham. The Respondent has not directly or indirectly induced or solicited any other respondent to put in a false or sham SOQ. The Respondent has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham SOQ, or to refrain from responding. All statements contained in the SOQ are true.

Any person executing this declaration on behalf of a respondent that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 1/14/2021 [date], at San Jose [city], CA [state].

By:



Name:

Gregory J. Ruf, PE, GE

Title:

Principal Engineer/Dir. of Construction Services

Certification Forms

ATTACHMENT 5 – INSURANCE COVERAGE

ATTACHMENT 5 - STATEMENT REGARDING INSURANCE COVERAGE AND WORKERS' COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

ON-CALL MATERIALS TESTING AND SPECIAL INSPECTION SERVICES

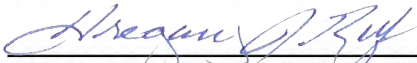
PROPOSER HEREBY CERTIFIES that the Proposer has reviewed and understands the insurance coverage requirements specified in the RFQ. Should the Proposer be awarded the contract for the Services, Proposer further certifies that the Proposer can meet the specified requirements for insurance, including insurance coverage of the subcontractors, and agrees to name the Town as additional insured for the Services specified.

By certifying this form, the Proposer also understands the Workers' Compensation insurance requirement per the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code, 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 of this contract.

Ninyo & Moore

Name of Proposer (Person, Firm, or Corporation)



Signature of Proposer's Authorized Representative

Gregory J. Ruf, PE, GE, Principal Engineer/Dir. of Construction Services

Name & Title of Authorized Representative

January 14, 2021

Date of Signing

Review of Scope of Services



Ninyo & Moore has developed an in-house project management system specifically tailored to government contracts. This system is continually updated to meet the changing needs of our public agency clients and allows us to effectively and efficiently respond to each task assigned with highly experienced and qualified personnel, while at the same time, maintaining a single-point-of-contact with the Town for the coordination of all our services. The success of our on-going contract management system is demonstrated by the numerous on-call contracts we have been awarded by public agencies and the renewal of these contracts over the years.

The scope of work performed as part of the specific project will be influenced by the nature of the proposed improvements. Based on our understanding of the various Capital Improvement Projects (CIP) within the Town, our review of the Quality Assurance Program (QAP), and our experience with similar projects, we propose to provide the following scope of services:

- ✓ Sampling of aggregate base and hot mix asphalt from the plant and job site and transportation to our laboratory for testing;
- ✓ Perform conformance testing of aggregate base material including sieve analysis (CT 202), sand equivalent (CT 217) and Cleanness Value (CT 227) in the laboratory and provide test results to the Resident Engineering within 24 hours;
- ✓ In-place field density testing of soils and aggregates using a nuclear density gauge in accordance with CT 231 to determine the relative compaction of compacted soil and aggregate base and provide test results to the Resident Engineering within 24 hours;
- ✓ Maximum compacted density determinations of soils and aggregates in the laboratory accordance with CT 216 for soil and aggregate base and provide test results to the Resident Engineering within 24 hours;
- ✓ In-place field density testing of hot mix asphalt using a nuclear density gauge in accordance with CT 375 to determine the relative compaction of the HMA;
- ✓ Theoretical maximum specific gravity and density (Rice) test (CT 309), asphalt binder content by ignition oven (CT 382), moisture content of asphalt mixture (CT 370), Air voids (CT367), Stabilometer Value test (CT 366) and bulk specific gravity and density of HMA Cores (CT 308) for asphalt concrete in the laboratory;
- ✓ Review concrete mix designs submitted by the contractor for compliance with the project documents when required by the Town;
- ✓ Portland cement concrete batch plant inspection to verify material quality, batch weights, and use of appropriate mix design;
- ✓ Structural concrete placement inspection including slump and temperature tests of concrete and cast compressive strength test specimens (1 set of Five 4"x 8" cylinders per 1,000 CY) for laboratory testing (CT 521);
- ✓ Pavement concrete placement inspection including slump and temperature tests of concrete and cast one set of two beams for Modulus of Rupture (6x6x32 inch for Center Loading and 6x6x20 inch for third point loading – CT 523);
- ✓ Concrete sample pick-up and transportation to our laboratory for curing and testing;
- ✓ Compression testing of concrete cylinders and modulus of rupture testing of concrete beams in the laboratory;
- ✓ Perform conformance testing of aggregate base material including sieve analysis (CT 202), sand equivalent (CT 217) during slurry seal and microsurfacing;
- ✓ Welding procedure and welder's qualification review prior to performing welding in the shop and field;
- ✓ Material identification, mill certificate verification and structural steel welding inspection in the shop;
- ✓ Structural steel welding inspection in the field;
- ✓ Non-destructive testing including ultrasonic and mag particle testing (UT/MT) in the shop and field;

Review of Scope of Services

- ✓ High strength bolts placement inspection and torque testing;
- ✓ Sampling of high strength bolts and transport to our laboratory for testing;
- ✓ Conformance tests of high strength bolts, nuts and washer in the laboratory;
- ✓ Prepare daily field reports documenting items inspected and reports of laboratory testing to be submitted to the project team; and
- ✓ Prepare final affidavit letter at the conclusion of the project.

Other than services listed in the quality assurance program (QAP), we also offer the following services when requested by the Town on an as-needed basis per ASTM, AASHTO and Caltrans testing and inspection standards.

- | | |
|-------------------------------------------------|----------------------------------------------------------------------------------------------------|
| ✓ Asphalt Placement Testing | ✓ Laboratory Testing of Concrete, Masonry, Reinforcing and Structural Steel, Soil and Fireproofing |
| ✓ Asphalt and Concrete Batch Plant Inspection | ✓ Load Testing of Bolts and Embeds |
| ✓ Asphalt and Concrete Mix Design Review | ✓ Masonry Inspection |
| ✓ Backfill Placement Observation | ✓ Material Identification |
| ✓ Concrete and Masonry Coring | ✓ Non-Destructive Testing |
| ✓ Concrete Batch Plant Inspection | ✓ Pile Driving Observation |
| ✓ Concrete Mix Design Review | ✓ Pre-stressed & Post-Tensioned Tendon Stressing |
| ✓ Concrete Sampling and Testing | ✓ Pre-stressed Concrete Inspection |
| ✓ Drilled Shaft Observation | ✓ Reinforced Concrete Inspection |
| ✓ Epoxy & Anchor Bolts Installation Inspection | ✓ Reinforcing Steel Sampling and Tagging |
| ✓ Field and Shop Welding Inspection | ✓ Rock Anchor Tie-Back Placement Observation |
| ✓ Fireproofing Inspection | ✓ Site Grading Observation |
| ✓ Foundation Excavation Evaluation | ✓ Soil Compaction Testing |
| ✓ Glu-lam Product Inspection | ✓ Structural Steel Shop Fabrication Inspection |
| ✓ High Strength Bolt and Expansion Bolt Testing | ✓ Welding Procedure Specification Review |
| ✓ Hveem Tests of Asphalt | |

SPECIALIZED SERVICES:

Ninyo & Moore is capable and experienced in providing geophysical services including ground penetrating radar (GPR) for air voids, reinforcing steel and post-tensioned cable location surveys, concrete, shotcrete and masonry coring services, floor flatness and levelness surveys (FF & FL), vibration and noise monitoring services, window infiltration testing as well as moisture vapor emissions testing. An additional cost estimate for these specialized services will be provided to the Town based on the required scope of work.

I am extremely grateful for the support Ninyo & Moore staff provides and consider their value-added contributions to be indispensable. In combination with the timely manner and professional work ethics, their effort and dedication are truly commendable. I would like to express my personal thanks and sincere appreciation for their efforts and support to the City...

- Ray Chan, PE, City of San Carlos
City Engineer (retired)

Ninyo & Moore has assisted the City of Oakland with a wide variety of projects. They have kept budgets to a minimum and have delivered a quality product. They have also demonstrated the ability to be flexible with both budgets and personnel as projects evolve. They are attentive to the City's needs and excellent at keeping lines of communication open before, during and after a project.

- Mark Gomez, City of Oakland
Supervisor, Environmental Protection & Compliance

Experience and Expertise

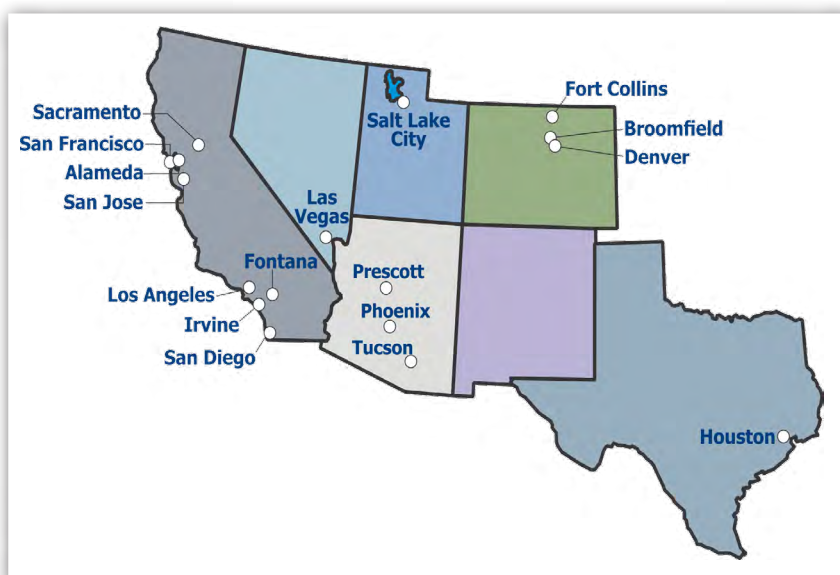
Experience and Expertise

Ninyo & Moore, #219 in the Engineering News Record (ENR) Top 500 Design Firms of 2020, was established in 1986 to provide geotechnical engineering, engineering geology, materials testing, special inspection, and environmental consulting services to clients in the governmental (federal, state, and local), commercial, and private sectors. The company is wholly-owned by Mr. Avram Ninyo, PE, GE, who directly manages the corporation and is supported by an efficient structure of technical and business-line managers. Our firm has provided soil and materials testing and inspection, geotechnical engineering, geologic, hydrogeologic, and environmental consulting services for cities and counties throughout the western United States for 34 years. Ninyo & Moore pledges to complete each and every project assignment in a high-quality manner with special attention given to quality assurance, timeliness, and cost. Specific strengths of Ninyo & Moore, which we believe make us exceptionally well qualified to undertake the requested services, are detailed below.



LOCATIONS

Ninyo & Moore's corporate office is in San Diego, California, with 16 additional locations throughout the western United States, including: San Jose, Alameda, San Francisco, Sacramento, Irvine, Fontana, and Los Angeles, California; Las Vegas, Nevada; Phoenix, Tucson, and Prescott, Arizona; Denver, Broomfield, and Fort Collins, Colorado; Houston, Texas; and Salt Lake City, Utah. This contract will be administered from our San Jose office.



PERSONNEL

Company-wide, Ninyo & Moore's staff of 500 professionals enable us to be responsive to client needs and to successfully complete project tasks on time. In our Bay Area offices, we have 54 professionals who are available to provide services the services described in Section C. Minimum Qualifications of the Town's RFQ. Our current and anticipated workload is such that the proposed qualified personnel who would be assigned to this on-call contract will be able to accomplish project requests for the duration of the contract. Our proposed project team is fully staffed, equipped, and committed to perform the required construction materials testing and inspection services for the Town and will be available to the Town when called upon for services. We are accustomed to working Full-Time and Part-Time on an as-needed basis to accommodate your project needs. Ninyo & Moore has a full-time experienced dispatcher, a full-time experienced Laboratory Manager, and highly experienced inspectors, project and task managers on our staff. The quality of Ninyo & Moore's personnel base is widely recognized. Our staff of experienced and registered professionals includes geotechnical engineers, civil engineers, engineering geologists, hydrogeologists, geophysicists, environmental engineers, environmental scientists, certified technicians and field inspectors, and hazardous waste and regulatory compliance specialists.

TESTING LABORATORIES

Ninyo & Moore's Construction Services Division is capable of performing a wide variety of construction materials inspection and testing services. Ninyo & Moore maintains fully equipped, in-house laboratories and offers full-service field and laboratory services for construction materials testing projects, including soil, concrete, masonry, asphalt, steel, fireproofing, and high strength bolt testing. Our laboratories are supervised by registered civil engineers and meet the requirements of ASTM E329, ASTM C1077,

Experience and Expertise

ASTM D3740, and ASTM D3666. Ninyo & Moore's testing laboratories have been inspected and/or accredited by the Division of the State Architect (DSA), AASHTO, AMRL, CCRL, Caltrans, U.S. Army Corps of Engineers and other governmental entities.

QUALITY

Ninyo & Moore's services are rendered in strict compliance to the firm's rigorous Quality Assurance/Quality Control program, which goes beyond the expectations of the industry. Ninyo & Moore's quality assurance program is designed to be flexible while ensuring that the data is of sufficient and appropriate quality to fulfill project requirements.

TECHNICAL RESOURCES AND MANAGEMENT

Ninyo & Moore's strengths lie in the quality, diversity, and technical experience of its key personnel and staff, and in the personal involvement of the principals throughout the company. Our firm maintains its exceptional reputation in the industry by providing high quality technical expertise and meeting challenging schedules and budgetary goals. This is made possible through our attention to detail, project management approach, and assigning an experienced Principal to every project. Project managers are well versed working closely with project inspectors and project manager of construction management firms to know the schedule ahead of time and co-ordinate with dispatcher to staff the project accordingly.

PROJECT EXAMPLES

Client satisfaction is Ninyo & Moore's most important objective. Ninety percent of our clients are repeat customers. Our primary goal is to deliver high-quality, responsible products and services; a philosophy that has contributed to our growth and client satisfaction since establishment of Ninyo & Moore. For 35 years, we have successfully completed numerous projects under On-Call contracts for public works agencies in cities and counties throughout Northern California in accordance with applicable federal, state, and local government regulations and guidelines. Provided on the following pages are project examples of a similar size, scope, and complexity as the services required by this RFQ that Ninyo & Moore would bring to project assignments. These projects involved interactions with other regulatory agencies for permitting and approvals, as well as a clear understanding of the applicable federal, state, and local government regulations and guidelines. We have attended city council meetings at the request of our clients on an as-needed basis.

Town of Los Gatos, Almond Grove Street Reconstruction Project Phase 2, Materials Testing Services

Ninyo & Moore provided materials testing and inspection services for the Almond Grove Street Reconstruction Project Phase 2 in Los Gatos, which included 10 residential streets. Project improvements consisted of increased disability access, new sidewalks, driveways and concrete paved roadways.

Ninyo & Moore's services for the project included concrete mix design reviews, geotechnical earthwork observation, laboratory testing, and field compaction testing services during earthwork operations, conformance testing in the laboratory, preparation of pavement subgrade, concrete pavement section construction, sampling of concrete and testing them in the laboratory for compression testing. Ninyo & Moore provided RFI review and response, submittal review, and liaison with the project team. Progress reports were sent on a bi-weekly basis. Final verified reports were prepared at project completion to document the work performed.

City of Santa Clara, On-Call Materials Testing and Inspection Services

Ninyo & Moore was awarded an On-Call Materials Testing and Inspection Services contract in 2019 for a three-year term. Projects under this on-call contract consist of various capital improvement projects including street pavement reconstruction & rehabilitation, pedestrian and traffic signal improvements, building construction and renovation, storm drain and sanitary sewer pipeline and pump station rehabilitation, parks and recreation facilities construction and rehabilitation and curb ramp improvements.

Ninyo & Moore is currently providing geotechnical observation and soil compaction testing for City's 2020 Pavement Preservation Project which is Federally Funded and requires to follow Local Assistance Procedures Manual from Caltrans for sampling and testing of subgrade, aggregate base and asphalt concrete material. The project consists of removal and replacement of failed

Experience and Expertise

pavement areas, application of slurry seal surface treatments, installation of rubberized asphalt, replacement of pavement markings, and construction of new ADA-compliant curb ramps. Experienced Caltrans certified technician is assigned to perform sampling of aggregates from the batch plant and deliver to laboratory for conformance testing as well as in place density testing for sub-grade, aggregate base and asphalt concrete along with concrete sampling and testing per Caltrans testing requirements.

City of Fremont, On-Call Geotechnical Consulting and Materials Testing Services

Ninyo & Moore is currently retained by the City of Fremont for a 3-year On-Call Geotechnical Services contract which began in 2018 with 2 one-year extensions through June, 2023. As part of this ongoing contract, one of the projects we provided services for was performing a geotechnical evaluation for the Central Park Athletic Fields 9 and 10 Project to gather data regarding the subsurface soil and geologic conditions at the site, and provide recommendations for the design and construction of the new facility. Our scope of services for this phase of the project included review of pertinent background data, performance of a geotechnical reconnaissance, subsurface evaluation, laboratory testing, and engineering analysis with regard to the proposed construction. Ninyo & Moore prepared a report presenting our geotechnical findings, conclusions, and recommendations for the project.

Prior to construction bid, Ninyo & Moore performed a geotechnical review of the plans and specifications for the proposed athletic fields. The purpose of our review was to offer an opinion as to whether the issues relating to the geotechnical conditions, as presented in our 2013 geotechnical evaluation had adequately addressed in the design documents.

Ninyo & Moore also provided geotechnical earthwork observation, laboratory testing, and relative compaction field testing services during earthwork operations associated with the construction of athletic fields. Field services included drill pier observation, concrete placement inspection, sampling and testing, compaction testing of native and imported material and permeability testing of permeable base rock material. Laboratory testing services included compression testing of concrete cylinders, conformance tests of permeable base material and proctor density tests of soil.

Ninyo & Moore has also provided On-Call Geotechnical and Materials Testing Services for these additional projects for the City:

- | | | |
|---------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------|
| <input checked="" type="checkbox"/> Central Park Playing Fields 9 & 10 | <input checked="" type="checkbox"/> Irvington Park Field Turf | <input checked="" type="checkbox"/> Los Cerritos Community Park |
| <input checked="" type="checkbox"/> Mill Creek & Morrison Canyon Road Landslide | <input checked="" type="checkbox"/> Karl Nordvik Community Park | <input checked="" type="checkbox"/> Large Group Picnic Area |
| <input checked="" type="checkbox"/> Capitol Avenue Extension Project | <input checked="" type="checkbox"/> Los Cerritos Community Park | <input checked="" type="checkbox"/> California Nursery Park |
| <input checked="" type="checkbox"/> Paseo Padre OC Settlement | <input checked="" type="checkbox"/> Northgate Community Park | <input checked="" type="checkbox"/> Dusterberry Park |

City of Oakland, On-Call Geotechnical Consulting and Materials Testing Services

Ninyo & Moore was awarded several multi-year contracts to provide on-call geotechnical consulting services to the City of Oakland. Projects included as part of the contract were landslide evaluations, geotechnical studies for buildings and retaining walls, evaluation of groundwater issues, pavement failure analysis and pavement design, and geotechnical analysis for pipeline trenches. Our services have included review of aerial photographs and geologic maps, geologic and geotechnical site reconnaissance, subsurface investigations, engineering analysis, geotechnical laboratory testing, landslide monitoring, preparation of geotechnical reports, and construction observation and testing services.

EAST OAKLAND SPORTS COMPLEX: Ninyo & Moore provided geotechnical engineering services for the new East Oakland Sports Complex at Ira Jinkins Park. The 14-acre site is on the south side of Edes Avenue at the location of the existing Ira Jinkins Park at an elevation of about 10 feet above mean sea level. The project included demolition of the existing community center and construction of a 155,000 square-foot, two-story sports complex containing an Olympic-size swimming pool, a recreational natatorium, gymnasium, bowling alley, and additional activity areas. Construction also included filling and grading of the parking area to an elevation of approximately 12 feet to meet the entrance of the proposed structure. The senior center/library remained in the northwest corner of the site. Ninyo & Moore's services included review of preliminary project plans, geologic maps, stereoscopic aerial photographs, and Caltrans boring logs along I-880; a geotechnical site reconnaissance to observe the existing conditions; and drilling, sampling and logging of deep exploratory borings and installation of two monitoring wells for

Experience and Expertise

monitoring groundwater levels. Deep borings were excavated to depths of approximately 30 to 50 feet below the existing ground surface for evaluation of liquefaction potential and foundation design. Our services included a geotechnical report summarizing our findings, conclusions and recommendations for this Leed Silver certified facility. This project was recognized by APWA as one of the 2012 Projects of the Year for excellence in agency, consultant/architect/engineer and contractor cooperation and team work.

A list of additional projects under this contract included:

- | | | |
|------------------------------------------|----------------------------------------------------------------------|-----------------------------------------------------|
| ✓ East Oakland Sports Complex | ✓ Lincoln Square Park | ✓ Trash Control Units, High Street & Alameda Avenue |
| ✓ Coliseum Intercity Rail Station | ✓ Trash Collector, Geotechnical Evaluation & City Permit Acquisition | ✓ Linden Park |
| ✓ Melvin Road Slope Repair and PS&E | ✓ Lincoln Square Park | ✓ Chelton & Girvin Dr./EBMUD Water Main Rupture |
| ✓ Castle Drive Slope Repair | ✓ 25th Street Mini Park | ✓ AC Transit BRT Report Peer Review |
| ✓ Westmoreland Drive Slope Remediation | ✓ West Oakland Youth Center | ✓ Charing Cross Slope Improvement |
| ✓ Emergency On-Call, Alvarado Road | ✓ 601 Macarthur Blvd & 620 Wesley Avenue, PS&E Services | ✓ 8350 Outlook Ave |
| ✓ Emergency On-Call, Westover Drive | ✓ Tunnel Road, Geotech Feasibility Study | ✓ 1630 San Pablo Peer Review |
| ✓ Emergency On-Call, Thornhill Drive | ✓ Owen Jones and Poplar Fields | ✓ Martin Luther King Streetscape |
| ✓ Emergency On-Call, Marlborough Terrace | ✓ Nichols/Base Repair Training | ✓ 6th and Harrison Sinkhole |
| ✓ Emergency On-Call, Claremont Avenue | ✓ Grizzly Peak FDR & Additional Coring | ✓ 6415 Valley View Road |
| ✓ Emergency On-Call, Dwight Way | | |
| ✓ Peralta Hacienda Historical Park | | |

City and County of San Francisco, As-Needed Special Inspection and Testing Services

Ninyo & Moore was awarded two consecutive multi-year contracts to provide special inspection and materials testing services for the City and County of San Francisco, Department of Public Works, Bureau of Construction Management (BCM). The initial contract began in 2003 under a two-year term which was eventually extended for an additional year. In 2006, Ninyo & Moore was awarded a second three-year contract. Our firm was recently awarded a third multi-year special inspection contract with the San Francisco Public Works.

Ninyo & Moore has provided oversight of specific aspects of the construction process to document that critical structural elements comply with the work assignment's specifications and plans and the permitting process of the City's Department of Building Inspection and the Department of Public Works. We also provided special inspection of structural steel welding (field and shop fabrication), torque/pull tests on epoxy dowels and high strength bolting, and testing of shear walls used as shear diaphragms, and reinforced concrete. Ninyo & Moore has performed laboratory testing on soils and aggregates, sampled and tested fresh concrete, and prepared cylindrical concrete specimens for compressive strength testing. We have also performed compaction testing on grading and earthwork activities for compliance with project specifications.

Projects successfully completed under this multi-year contract for the City include:

- | | | |
|-----------------------------------------------------------------|---------------------------------------------------------------------|-------------------------------------------------------------------|
| ✓ San Francisco General Hospital Medical Center Seismic Upgrade | ✓ Jones Street Rebar & Concrete Services | ✓ Curry Center Exterior Wall Repair and Roofing |
| ✓ Harding Park Clubhouse | ✓ Bayview Opera House Plaza | ✓ Alice Chalmers Playground Renovation |
| ✓ Excelsior Branch Library | ✓ Mission Cultural Center for Latino Arts | ✓ Hyde & Turk Mini Park |
| ✓ Western Addition Branch Library | ✓ Randall Museum Renovation | ✓ McLaren Park Playground & Group Picnic Area |
| ✓ 1680 Mission Street | ✓ 17th & Folsom Street Park | ✓ Fire Station 2 Generator Replacement |
| ✓ Noe Valley Branch Library | ✓ Noe Valley Town Square | ✓ West Portal Playground |
| ✓ Marina Branch Library | ✓ Franklin Square | ✓ Angelo Rossi Pool Renovation |
| ✓ J.P. Murphy Clubhouse and Playground | ✓ Silver Terrace Club House | ✓ George Christopher Playground Renovation |
| ✓ Rochambeau Playground and Clubhouse | ✓ Zuckerberg San Francisco General Hospital | ✓ Bayview Safe Navigation Center |
| ✓ Coffman Pool Reconstruction | ✓ SF Zoo Primate Discovery Center Exhibit | ✓ Moscone Center Expansion |
| ✓ Minnie and Lovie Ward Recreation Center | ✓ Herz Playfield ADA Improvements | ✓ PHS NFS Hose Tower Removal Fire Stations #6, #11, #12, #21, #38 |
| ✓ Richmond Branch Library Renovation | ✓ Diamond Heights Blvd Pavement Renovation & Water Main Replacement | ✓ Shoreview Park Renovation |
| ✓ SF Veteran Memorial Monuments | ✓ Alvord Lake Bridge Repair | |
| ✓ Portsmouth Square Restroom Renovation | ✓ Laguna Honda Hospital | |
| ✓ Northbeach/Joe Di Maggio Playground | ✓ Sergeant J Macaulay Playground | |
| ✓ SF County Jail Deputy Station | | |

Experience and Expertise

City of South San Francisco, On-Call Geotechnical Engineering and Materials Testing Services

Ninyo & Moore was originally retained in 2016 by the City of South San Francisco (City) for their on-call Geotechnical Engineering and Materials Testing contract; and then recently renewed for a 3-year contract, with optional 2-year extension into 2025. As part of this ongoing contract, we performed a limited geotechnical evaluation for the proposed Pavement Rehabilitation Project along portions of Harbor Way, Littlefield Avenue, Grandview Drive, DNA Way, and Point San Bruno Boulevard in South San Francisco, California. The proposed project rehabilitated the existing pavements by using the cold-in-place recycling (CIPR) method to replace the upper portion of the pavement section. The purpose of our geotechnical evaluation was to evaluate the subsurface conditions along the proposed alignment and to provide our conclusions regarding the suitability of the CIPR method for rehabilitation of the subject pavements.

Ninyo & Moore's scope of services for this phase of the project included review of pertinent background data, performance of a limited geotechnical reconnaissance, subsurface exploration, laboratory testing, and engineering analysis with regard to the proposed construction. We performed the following tasks: a site reconnaissance to observe the general site and pavement conditions and to mark the proposed locations for subsurface exploration; a subsurface exploration consisting of fourteen hand auger borings to evaluate the pavement subgrade conditions; and laboratory testing of representative soil samples collected during our subsurface exploration. Our services were performed during normal business hours and we provided 8 field and office staff over the project duration.

City of Pittsburg, Construction Material Testing, Environmental/Hazardous Material Testing and Geotechnical Services

Ninyo & Moore was retained as the City's On-Call Construction Material Testing, Hazardous Materials Testing and Geotechnical Services consultant from 2010 to 2014, and was recently awarded a new 3-year contract. One of the projects performed included materials testing services for the construction of the safety improvements along Herb White Way between West 6th Street and West 9th Street in Pittsburg, California. Related improvements included construction of pavement section, side walk, curb & gutter, access ramps, and associated streetscaping. Materials testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade and aggregate base. After project completion, Ninyo & Moore prepared the final report presenting the result on our field and laboratory testing services.

Project consisted of the streetscaping and safety improvements along Herb White Way between West 6th Street and West 9th Street in Pittsburg. Ninyo & Moore provided oversight for the materials testing services during construction. Materials testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade and aggregate base. After project completion, Ninyo & Moore prepared the final report of field and laboratory testing services.

City of Cupertino, Sports Center Tennis Court Retaining Wall Project, Materials Testing and Special Inspection Services

Ninyo & Moore was retained by the City of Cupertino to perform materials testing and special inspection for the Sports Center Tennis Court Retaining Wall Repair Project. The project consisted of a partial height concrete wall with drilled pier foundations to provide strength to an existing retaining wall that had shown signs of cracking, spalling, and tilt. Materials testing and special inspection services provided included concrete sampling and testing, shotcrete placement observation, reinforcing steel placement observation, and laboratory testing of compressive strength specimens.

Experience and Expertise

City of Cupertino, Stevens Creek Blvd at Perimeter Road Turn Pocket Extension, Materials Testing and Special Inspection Services

Ninyo & Moore performed the geotechnical observation and materials testing services Stevens Creek Blvd at Perimeter Road Turn Pocket Extension project during construction. This project included the demolition of a portion of median along Stevens Creek Blvd and the extension of an existing left turn lane. Ninyo & Moore examined the condition of the exposed roadway subgrade then observed and tested the placement and compaction of base and asphalt concrete. Ninyo & Moore's services consisted of earthwork observation and soils testing, field density testing, and submitting a grading report summarizing observations and testing.

City of South San Francisco, Four Parks Project, Geotechnical and Materials Testing Services

Ninyo & Moore was retained by the City of South San Francisco to perform Geotechnical observation and testing on the Four Parks Renovation Project. The four parks included Buri Buri Park, Winston Park, Francisco Terrace Park, and Clay Park. Related improvements included construction of pavement sections for parking lots, side walk, curb & gutter, access ramps, and new safety play surfaces. Geotechnical Observation and testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade, aggregate base, and asphalt concrete. After project completion, Ninyo & Moore prepared the final report presenting the result on our field and laboratory testing services.

City of South San Francisco, Obag 2 Street Rehabilitation, Materials Testing Services

Ninyo & Moore was retained by the City of South San Francisco to perform Geotechnical observation and testing on the Four Parks Renovation Project. The four parks included Buri Buri Park, Winston Park, Francisco Terrace Park, and Clay Park. Related improvements included construction of pavement sections for parking lots, side walk, curb & gutter, access ramps, and new safety play surfaces. Geotechnical Observation and testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade, aggregate base, and asphalt concrete. After project completion, Ninyo & Moore prepared the final report presenting the result on our field and laboratory testing services.

Qualifications of Key Personnel



Ninyo & Moore will lead the Town contract from our San Jose office located just 13 miles from the Town of Los Gatos. Our firm has drawn a carefully selected and qualified team of registered and certified professional engineers, special inspectors, field technicians, and laboratory personnel to ensure that the Town receives dedicated, skilled staff with local experience, management, and communication skills necessary for the successful completion of any assigned task or project.

We have carefully selected our team members with consistency in mind and the intention is that these team members will serve the Town throughout the contract period of performance. If changes are required, the Town will be notified of personnel changes as soon as it comes to our attention and a transition plan will be developed and proposed. Our team will be led by Mr. Gregory Ruf, PE, GE, a Principal Engineer with 41 years of experience in the materials testing and special inspection field. Mr. Ruf will serve as the Project Manager/Point-of-Contact for the duration of the contract. He will be assisted by Mr. Ruchil Shah, Senior Project Manager. Mr. Shah has 14 years of experience and oversees materials testing and special inspection projects. Should any of our staff members

On the following pages, we have included a table summarizing our project manager and key individuals which we intend to assign to this contract. Full resumes for these personnel are also provided at the end of this section.

KEY PERSONNEL SUMMARY OF QUALIFICATIONS		
Team Member / Role	Education and Training/Licenses	Relevant Project Experience
Gregory Ruf Principal-In-Charge / Contract Manager	B.S., Civil Engineering PE 35389 (CA) GE 2940 (CA)	Town of Los Gatos; Cities of San Jose, Millbrae, Santa Clara, San Carlos, Redwood City, South San Francisco, Albany, Pittsburg, Oakland, Alameda, Fremont, El Cerrito, and Los Altos; City and County of San Francisco; County of Alameda
Ruchil Shah Senior Project Manager	M.S., Civil Engineering B.S., Civil Engineering	Town of Los Gatos; Cities of Millbrae, Cupertino, South San Francisco, Albany, Oakland, Fremont, Richmond, Alameda, Burlingame; City and County of San Francisco; County of Alameda; County of Marin; Stanford University

Qualifications of Key Personnel

KEY PERSONNEL SUMMARY OF QUALIFICATIONS		
Team Member / Role	Education and Training/Licenses	Relevant Project Experience
Bryan Steinbrueck Laboratory Manager	A.S., Computer Systems Networking & Telecommunications A.A., Liberal Arts and Sciences/Liberal Studies ACI Concrete Strength Testing Technician ICC Spray-Applied Fireproofing Special Inspector NICET Construction Materials Testing: – Asphalt (Level II) – Concrete (Level II) – Soils (Level II) Caltrans Concrete Test Methods (CT: 105, 125 AGG, 201, 202, 205, 216, 217, 226, 227, 229, 521) Caltrans AASHTO Test Methods (T: 166, 209, 269, 275, 308)	Town of Los Gatos; Cities of Millbrae, Cupertino, South San Francisco, Albany, Oakland, Fremont, Richmond, Alameda, Burlingame; City and County of San Francisco; County of Alameda; County of Marin; Stanford University
Danny Winn Field Operations Manager	ACI – Grade 1 ICC – Reinforced Concrete Special Inspector Caltrans Concrete Test Methods (CT: 125 AGG, 125 BIT, 125 GEN, 125 HMA, 231, 375)	Town of Los Gatos; Cities of Millbrae, Cupertino, South San Francisco, Albany, Oakland, Fremont, Richmond, Alameda, Burlingame; City and County of San Francisco; County of Alameda; County of Marin; Stanford University
Jalal Keramat Special Inspector	B.S., Civil Engineering Engineer-In-Training, EIT #152132 ACI Concrete Field Testing Technician, Grade I; ACI Concrete Strength Testing Technician; ACI Aggregate Testing Technician Level I; ACI Concrete Laboratory Testing Technician Level I ICC Master of Special Inspection; ICC Prestressed Concrete Special Inspector; ICC Reinforced Concrete Special Inspector; ICC Spray-Applied Fireproofing Special Inspector; ICC Structural Masonry Special Inspector; ICC Structural Steel & Bolting Special Inspector; ICC Structural Welding Special Inspector	Town of Los Gatos; Cities of Millbrae, Cupertino, South San Francisco, Albany, Oakland, Fremont, Richmond, Alameda, Burlingame; City and County of San Francisco; County of Alameda; County of Marin; Stanford University
Johnkin Eliyeh-Ordshahi Special Inspector	B.S., Materials Engineering–Metallurgy AWS Certified Welding Inspector, Level II: - ASNT Magnetic Particle Testing - ASNT Ultrasonic Testing - ASNT Liquid Penetrant Testing	Cities of Millbrae, Cupertino, South San Francisco, Albany, Oakland, Fremont, Richmond, Alameda, Burlingame; City and County of San Francisco; County of Alameda; County of Marin; Stanford University
Blair Schleske Field Technician	B.A., Environmental Studies ACI Concrete Field Testing Technician Grade I Caltrans Concrete Test Methods (CT: 231, 375, 504, 518, 539, 540, 543, 556, 557)	Town of Los Gatos; Cities of Millbrae, Cupertino, South San Francisco, Albany, Oakland, Fremont, Richmond, Alameda, Burlingame; City and County of San Francisco; County of Alameda; County of Marin; Stanford University
Jonathan Urmeneta Field Technician	ACI Concrete Field Testing Technician Grade I Radiation (Nuclear Gauge) User Safety	Cities of Fremont, Millbrae, Santa Clara, Cupertino, South San Francisco, Albany, Oakland, Burlingame; City and County of San Francisco; County of San Mateo; Stanford University
Peter Manchester Field Technician	ACI Concrete Field Testing Technician Grade I Certified Pervious Concrete Technician Radiation (Nuclear Gauge) User Safety Caltrans Concrete Test Methods (CT: 125 AGG, 125 BIT, 125 GEN, 125 HMA, 231, 375)	Town of Los Gatos; Cities of Fremont, Santa Clara, Millbrae, Cupertino, South San Francisco, Albany, Alameda, Burlingame; City and County of San Francisco; Contra Costa County; County of San Mateo; Stanford University

Qualifications of Key Personnel

PERSONNEL ROLES

Ninyo & Moore's project personnel are certified in their specific disciplines and are fully committed to providing the necessary resources for successful completion of this contract. Provided below are descriptions of the type of work to be performed by our key personnel.

Principal-In-Charge/Contract Manager

As the Principal-In-Charge and Contract Manager, Mr. Gregory Ruf, PE, GE, commits the complete resources of Ninyo & Moore to this contract. Mr. Ruf directs and supervises geotechnical investigations and materials testing and inspection projects, reviews soil and foundation reports and specifications, and provides technical guidance and support to the engineering staff. Mr. Ruf has 41 years of experience providing geotechnical services for public works, schools, and infrastructure projects for cities, counties, Caltrans, Department of Water Resources and U.S. Army Corps of Engineers. His role for this contract includes the following:

- ✓ Primary point-of-contact to Town personnel;
- ✓ Work closely with the Town's Project Manager, Construction Manager and Project Inspector to ensure all services are provided in a timely and professional manner;
- ✓ Staff the project with the highly qualified and experienced special inspectors who are thoroughly familiar with the project nuances, schedules and budget;
- ✓ Make routine site visits and attend pre-construction meetings, including any other meetings, as requested by the Town;
- ✓ Organize, direct and oversee project tasks including providing QA/QC oversight;
- ✓ Create and issue a budget breakdown spreadsheet, upon request, which shall be included with our invoice on a monthly basis, with all supporting/required data;
- ✓ Implement pro-active approach systems for all special inspection activities;
- ✓ Provide technical support;
- ✓ Review all daily field reports, laboratory reports, concrete mix designs and welding procedures submittal reviews; and
- ✓ Expedite reports for project close out, including final verified reports and affidavits, within the Town's time constraints.

Senior Project Manager

Mr. Ruchil Shah will serve as the Senior Project Manager for this contract. He will be fully engaged in the day-to-day management and committed to stay with the project for the duration of the project. As a Senior Project Manager for Ninyo & Moore, Mr. Shah has 14 years of materials testing experience in project management, planning, design, engineering and estimating, material testing and inspection infrastructure projects. These projects include public and private construction, highways, roadways and bridges, commercial, residential and schools. Mr. Shah has provided materials testing and inspection services involving structural steel welding, concrete, reinforcing steel, post-tensioned concrete, masonry, roofing, fireproofing, soil compaction and epoxy and anchor bolts/dowel installation. His responsibilities will include, but are not limited to, the following:

- ✓ Act as the liaison with the Town's Project Manager;
- ✓ Review all data collected, engineering analyses performed and report drafts;
- ✓ Staff the project with qualified, experienced personnel who are familiar with the main elements of each assignment and have an understanding of the technology required to attain the project goals;
- ✓ Assure that key personnel are available as planned;
- ✓ Organize, direct and oversee project tasks and provide QA/QC oversight;
- ✓ Establish and follow through on milestones;
- ✓ Establish, review and monitor budgets, and implement cost control procedures;
- ✓ Prepare cost and performance reports, and manage funds for labor and materials procurement, as necessary;
- ✓ Assure compliance with regulatory agency protocol; and
- ✓ Assure that work is completed within the required timeframe and approved cost.

Field Operations Manager

Mr. Danny Winn, ACI, ICC, will serve as the Field Operations Manager for this contract. Mr. Winn has 16 years of experience working closely with Ninyo & Moore's field technicians and special inspectors to implement our geotechnical design and earthwork recommendations by performing earthwork observation, materials sampling, and field density testing for construction projects.

Qualifications of Key Personnel

Laboratory Manager

Mr. Bryan Steinbrueck, ACI, NICET, Caltrans, will serve as Laboratory Manager and has 21 years of experience. His responsibilities will include:

- ✓ Review material samples delivered to the laboratory from the job site, issue sample numbers with due dates and assign task to laboratory technicians;
- ✓ Perform laboratory tests and review results for soil, aggregates and asphalt concrete samples and compression tests of concrete cylinders, shotcrete, cores, non-shrink grout, masonry grout and mortar samples. masonry grout and mortar; and
- ✓ Prepare test data sheets, review and distribute laboratory reports to the project team by email.

Special Inspectors and Field Technicians

The inspection responsibilities will be assigned to these Special Inspectors/Field Technicians:

Mr. Danny Winn, ACI, ICC, Caltrans	Mr. Blair Schleske, ACI, Caltrans
Mr. Jalal Keramat, ACI, AWS-CWI, ICC, DSA	Mr. Jonathan Urmeneta, ACI
Mr. Johnkin Eliyeh-Ordshahi, AWS-CWI	Mr. Peter Manchester, ACI, Caltrans

Their duties will include:

- ✓ Observe grading operations and perform soil sampling and compaction testing;
- ✓ Observe placement and perform sampling and compaction testing of asphalt concrete;
- ✓ Observe concrete placement when required;
- ✓ Test concrete and obtain samples as required;
- ✓ Perform other testing and inspections as directed by the Town; and
- ✓ Prepare electronic daily reports on-site and maintain one copy in the field file at the Town's field office.

Provided below is an Organization Chart identifying Ninyo & Moore's proposed team for this contract. **Full resumes of key personnel noted with asterisk are provided after this organization chart.**



Qualifications of Key Personnel

Gregory J. Ruf, PE, GE

Principal-In-Charge/Contract Manager



EDUCATION

B.S., Civil Engineering, 1979, San Jose State University, San Jose, California

REGISTRATIONS/ CERTIFICATIONS

PE 35389 (California)

GE 2940 (California)

ACI Concrete Field Testing Technician
Grade I

ACI Concrete Strength Testing Technician

PROFESSIONAL AFFILIATIONS

Construction Management Association
of America

As a Principal Engineer/Director of Construction Services for Ninyo & Moore, Mr. Ruf has 40 years of experience in the construction inspection and materials testing industry. The foundation of Mr. Ruf's approach to providing construction services is based on his many years of experience working in construction materials testing laboratories and on project sites as an inspector, materials tester and engineer. His extensive experience in the field of construction services also includes development and supervision of special inspection field staff, as well as management of laboratory departments subject to review and approval of numerous agencies including Caltrans, AASHTO, the California Department of General Services, California Division of the State Architect (DSA), State of California Office of Statewide Health Planning and Development (OSHPD), Army Corp of Engineers, and local City and County Building Officials. In addition to his experience in construction inspection and testing, Mr. Ruf has been actively involved in providing geotechnical engineering services during both the design- and construction-related phases of a wide variety of public and private-sector projects over the past 35 years.

EXPERIENCE

City of San Jose, Master Agreement for Special Inspections and Material Testing Services, San Jose, California: Project Manager for on-call services contract with discrete projects authorized under task orders. Each assignment required development of a scope of inspection and materials testing services, a staffing plan and budget. Projects serviced included, but were not limited to: two fire stations, three libraries and a recycling center inclusive of both on-site and off-site construction. Mr. Ruf's responsibilities included assignment and direct supervision of qualified special inspectors and materials testers, oversight of laboratory testing, review of daily field test reports and production of summary reports, and review of laboratory testing assignments and completed test reports. His engineering responsibilities included review of materials submittals for aggregates, portland cement concrete and welding procedure specifications and his project management responsibilities include summary report production, review of invoicing and budget review.

Stanford University, Middle Plaza Mixed Use Project, Menlo Park, California: Principal-In-Charge during construction inspection and materials testing services for a mixed-use project which includes 215 rental housing units, a state-of-the art fitness center, swimming pool and spa, 145,000 square feet of three commercial offices, 10,000 square feet of retail space, and a half-acre publicly-accessible plaza, all over the underground parking. Ninyo & Moore successfully performed inspection and testing for reinforcing steel, structural concrete and shotcrete, structural steel welding, post installed and seismic anchors including pull and torque testing, high strength bolting, fireproofing inspections and testing including density and thickness testing and intumescent paint inspection. Our welding inspectors from other offices provided out-of-state fabrication and welding inspections, including NDT Level II inspectors for ultrasonic testing. We have been providing field and laboratory reports as a backup with every invoice, including a summary of all invoices to date. Our on-site and off-site staff communicate regularly with the project team and worked diligently to resolve any issues as they arise, as well as evaluated staffing and budget on a weekly basis.

US 101 Improvement Project, Capitol Expressway to Yerba Buena Interchange, San Jose, California: Project Manager (on behalf of Signet Testing Labs) responsible for technical oversight of the Quality Assurance testing services provided to the Santa

Qualifications of Key Personnel

Gregory J. Ruf

Principal-In-Charge/Contract Manager

Clara Valley Transportation Authority on this Caltrans Local Assistance project, which made improvements to Interchange at Capitol Expressway and ramp modifications at Yerba Buena Road. These improvements included construction of a separate Yerba Buena Road off-ramp from southbound US 101, a southbound US 101 auxiliary lane between the Capitol Expressway and Yerba Buena Road, modification of the Capitol Expressway Interchange from full cloverleaf to partial cloverleaf, extension of the fifth southbound lane from north of Capitol Expressway to south of Yerba Buena Road, and construction of a northbound slip on-ramp from northbound collector - distributor road. Mr. Ruf provided direct supervision of materials testers assigned to the project, review of daily field test reports, and review of laboratory testing assignments and completed test reports. His engineering responsibilities included review of materials submittals for aggregates, portland cement concrete and asphalt concrete and his project management responsibilities included summary report production, review of invoicing and budget review.

Caltrans District 4 North On-Call Contract 04A3706, Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma, California: Project Manager (on behalf of Signet Testing Labs) responsible for providing qualified materials testing technicians in support of Caltrans staff in the Caltrans North Bay Materials Labs and the construction projects supported by those labs. As many as eight (8) technicians have been assigned to provide materials sampling and testing services for department projects in District 4 North. Mr. Ruf's responsibilities included technical oversight and staff training for on-call technicians providing materials sampling and testing services to Caltrans laboratory in Pleasant Hill. Responsibilities also included assisting Caltrans Lab Manager with selection of technicians from the available pool at Signet, as well as with our DBE subconsultants, provided project management assistance including review of invoicing and resource support.

I-280/I-880 Stevens Creek Improvements, San Jose, California: Project Manager (on behalf of Signet Testing Labs) responsible for technical oversight of the Quality Assurance testing services provided to the Santa Clara Valley Transportation Authority on this Caltrans Local Assistance project, which made improvements to traffic flow, safety and access between the Interstate 280 (I-280) and Interstate 880 (I-880) freeway corridors near Stevens Creek Boulevard, including modifications to the freeway-to-freeway intersection of State Route 17 (SR-17)/I-280/I-880 freeway interchange, as well as the adjacent interchanges at I-880/Stevens Creek Boulevard. These improvements included reconfiguring the existing full cloverleaf I-880/Stevens Creek Boulevard interchange by widening and realigning ramps, widening the overcrossing structure at Stevens Creek Boulevard over I-880, improving intersections and providing enhanced access for pedestrians and bicyclists, Separating freeway-to-freeway traffic from local traffic by constructing a new direct connector from northbound I-280 to northbound I-880, constructing direct off ramps to Monroe Street from Southbound I-880. Mr. Ruf provided direct supervision of materials testers assigned to the project, review of daily field test reports, and review of laboratory testing assignments and completed test reports. His engineering responsibilities included review of materials submittals for aggregates, portland cement concrete and asphalt concrete and his project management responsibilities included summary report production, review of invoicing and budget review.

State Route 238 Improvements, Hayward, California: Project Manager (on behalf of Signet Testing Labs) responsible for technical oversight of the Quality Assurance testing services provided on this Caltrans Local Assistance project, which made improvements to traffic flow, safety, access and aesthetics of State Route 238 through the heart of the City of Hayward. Construction included extensive pavement rehabilitation and reconstruction, installation of new traffic lights and lighting, sidewalks, underground utilities, and landscaping. Mr. Ruf provided direct supervision of materials testers assigned to the project, review of daily field test reports, and review of laboratory testing assignments and completed test reports. His engineering responsibilities included review of materials submittals for aggregates, portland cement concrete and asphalt concrete and his project management responsibilities included summary report production, review of invoicing and budget review.

US Highway 101 / State Route 85 Interchange Reconstruction, Mountain View, California: Project Manager for geotechnical and materials investigations, as well as the environmental hazardous materials investigation, and supervision of teams of Geotechnical Engineers and Geologists during the initial stages of the project. The project was completed in 2006 and consisted of a \$125 million reconstruction of the northern Highway 85/101 interchange in Mountain View, with the original ramps (built circa 1965) replaced and new carpool-to-carpool and other ramps added. Mr. Ruf was responsible for resource, schedule and budget management and for determining and maintaining compliance with Caltrans standards and requirements for the materials and structures investigations.

Qualifications of Key Personnel

Ruchil R. Shah

Senior Project Manager



As a Senior Project Manager for Ninyo & Moore, Mr. Shah has 13 years of experience in project management, planning, design, engineering and estimating, material testing and inspection for building construction and infrastructure development projects. These projects include public and private construction, highways, roadways and bridges, commercial, residential, universities and school districts. Mr. Shah provides project management to the Construction Services Division at Ninyo & Moore and has managed over 30 projects including universities, school modernization and renovation projects (DSA), residential and commercial projects and post tensioned parking structure projects. He has worked as a project manager on the projects providing inspection and testing for structural steel welding, concrete, reinforcing steel, post-tensioned concrete, masonry, roofing, fireproofing, soil compaction and epoxy and anchor bolts/dowel installation.

EDUCATION

M.S., Civil Engineering, 2007,
San Jose State University,
San Jose, California

B.S., Civil Engineering, 2006,
Nirma Institute of Technology (N.I.T.),
Ah-medabad, Gujarat, India

REGISTRATIONS/CERTIFICATIONS

Engineer In Training, #138505 (California)

PROFESSIONAL AFFILIATIONS

American Council of Engineering
Companies

American Public Works Association

American Society of Civil Engineers

Society of American Military Engineers

EXPERIENCE

City of Fremont, Central Park Fields 9 & 10 Project, Fremont, California: Project Manager for project involving geotechnical earthwork observation, laboratory testing, and relative compaction field testing services during earthwork operations associated with the construction of athletic fields. Field services included drill pier observation, concrete placement inspection, sampling and testing, compaction testing of native and imported material and permeability testing of permeable base rock material. Laboratory testing services included compression testing of concrete cylinders, conformance tests of permeable base material and proctor density tests of soil.

City of Santa Clara, Street Rehabilitation Project, Santa Clara, California: Designed 100,000 sf of heavy industrial, commercial and residential distressed streets with Traffic Index (TI) ranging from 4 to 12. Prepared geometric design and plans and specifications and QC procedures. Also worked as quality control project manager during construction and monitored soil and asphalt testing.

City of San Leandro, Rehabilitation of 14 Streets, San Leandro, California: Worked as a project engineer and designed 14 heavy industrial and residential streets with Traffic Index (TI) ranging from 4 to 12. Managed coring operation for soil sampling, involved in lab testing and designed base and sub-base section of the pavement. Also worked as a quality control project manager during construction and monitored soil and asphalt testing.

City and County of San Francisco, As-Needed Special Inspection and Materials Testing Contract, San Francisco, California: Project Manager for multi-year contracts to provide special inspection and materials testing services. We provided structural steel welding inspection (field and shop fabrication), torque/pull tests on epoxy dowels and high strength bolting, and testing of shear walls used as shear diaphragms, and reinforced concrete. We also performed laboratory testing on soils and aggregates, sampled and tested fresh concrete, and prepared cylindrical concrete specimens for compressive strength testing, as well as compaction testing on grading and earthwork activities for compliance with project specifications..

City of South San Francisco, Four Parks Project, South San Francisco, California: Project Manager for a geotechnical observation and testing on the Four Parks Renovation Project. The four parks included Buri Buri Park, Winston Park, Francisco Terrace Park, and Clay Park. Related improvements included construction of pavement sections for parking lots, side walk, curb & gutter, access ramps, and

Qualifications of Key Personnel

Ruchil R. Shah

Senior Project Manager

new safety play surfaces. Geotechnical Observation and testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade, aggregate base, and asphalt concrete. After project completion, Ninyo & Moore prepared the final report presenting the result on our field and laboratory testing services.

City of Richmond Fire Station Number 68, Richmond, California: Project Manager provided construction materials testing services to the City of Richmond for the Fire Station Number 68 remodel project which consisted of remodeling the existing rest rooms at the station. Services provided included reinforcing steel placement inspection, concrete placement inspection, concrete sampling, adhesive anchor placement inspection, plywood nailing inspection, and concrete laboratory compression testing.

City of Richmond Booker T. Anderson Park Beam Replacement, Richmond, California: Ninyo & Moore provided construction materials testing services to the City of Richmond for the beam replacement project at Booker T. Anderson Park in Richmond. Services provided were structural steel welding inspection and load testing of anchor bolts.

BART Extension to Berryessa, San Jose, California: Project Manager during materials testing and inspection services for construction of a new BART extension from Fremont to Berryessa in San Jose, California, with two stations and parking garages. Ninyo & Moore provided geotechnical earthwork observation, laboratory testing, and field compaction testing services during earthwork operations associated with railway tracks, ballast and subballast conformance testing in the laboratory, placement of utility trench backfill, preparation of pavement subgrade, and pavement section construction, sampling of concrete and testing them in the laboratory for compression testing, structural steel welding inspection and vibration and noise monitoring during pile driving operations.

Stanford University, Middle Plaza Mixed Use Project, Menlo Park, California: Project Manager during construction inspection and materials testing services for a mixed-use project which includes 215 rental housing units, a state-of-the art fitness center, swimming pool and spa, 145,000 square feet of three commercial offices, 10,000 square feet of retail space, and a half-acre publicly-accessible plaza, all over the underground parking. Ninyo & Moore successfully performed inspection and testing for reinforcing steel, structural concrete and shotcrete, structural steel welding, post installed and seismic anchors including pull and torque testing, high strength bolting, fireproofing inspections and testing including density and thickness testing and intumescent paint inspection. Our welding inspectors from other offices provided out-of-state fabrication and welding inspections, including NDT Level II inspectors for ultrasonic testing. We have been providing field and laboratory reports as a backup with every invoice, including a summary of all invoices to date. Our on-site and off-site staff communicate regularly with the project team and worked diligently to resolve any issues as they arise, as well as evaluated staffing and budget on a weekly basis.

Stanford University, Comstock Graduate Housing, Stanford, California: Project Manager for the Comstock Graduate Housing center that consists of 4 residential buildings and 1 commons building. The four-story residential housing buildings each total roughly 65,000 square feet in size and are rested on continuous footings with slabs-on-grade. These buildings will comprise of precast concrete for the walls, columns, beams, including elevated slabs and roof planks. The two-story commons building totals approximately 23,000 square feet in size and will have one level of below grade construction comprised of shotcrete walls. Oversaw multi-certified inspector on site who can cover multiple inspection and testing. This helps control budget and provide one point of contact on site. Distributed inspection and testing report on a bi-weekly basis.

Santa Clara Valley Water District, Permanente Creek Flood Protection Project, Construction Inspection Services, Los Altos/Mountain View, California: Project Manager during construction materials testing and inspection services project for the Santa Clara Valley Water District Permanente Creek Flood Protection project located in Santa Clara County. Our services also included pre-construction and post-construction condition surveys on over 50 structures located along the project alignment and vibration monitoring services during construction. The project included construction of new floodwalls and levees as well as channel widening and flood detention areas to provide natural flood protection for approximately 2,200 properties. The conditions surveys included photographs and video documentation of the structure exteriors, flatwork, and other improvements and measurements of existing cracks (lengths and widths), separations, and other notable features. Construction testing and inspections included geotechnical, reinforcement steel, and concrete related services.

Qualifications of Key Personnel

Bryan Steinbrueck, ACI, ICC, NICET, Caltrans

Laboratory Manager



EDUCATION

A.S., Computer Systems Networking and Telecommunications, 2004, Brooks College, Sunnyvale, California

A.A., Liberal Arts and Sciences/Liberal Studies, 2000, De Anza College, Cupertino, California

CERTIFICATIONS

ACI Concrete Strength Testing Technician, #01047844

ICC Spray-Applied Fireproofing Special Inspector, #8408634

NICET Construction Materials Testing – Asphalt (Level II)

NICET Construction Materials Testing – Concrete (Level II)

NICET Construction Materials Testing – Soils (Level II)

Caltrans Concrete Test Methods (CT: 105, 125 AGG, 201, 202, 205, 216, 217, 226, 227, 229, 521)

Caltrans AASHTO Test Methods (T: 166, 209, 269, 275, 308)

Radiation (Nuclear Gauge) User Safety

Radiation (Nuclear Gauge) Safety Officer

As a Laboratory Manager, Mr. Steinbrueck has over 20 years of construction laboratory testing and materials testing experience and has held multiple AASHTO, CCRL, NICET, ACI laboratory certifications for over 10 years. With his many years of hands-on materials testing, he has the knowledge to efficiently and accurately complete the laboratory testing, as well as soil and aggregates testing. Projects he has provided services for, include K-12 schools, community colleges, public agencies, transportation, commercial developers and residential. He has excellent time management skills and is highly proficient in performing laboratory testing per ASTM, Caltrans, AASHTO and CBC test methods. He has a positive attitude and is able to communicate well with all levels of management.

EXPERIENCE

Town of Los Gatos, Almond Grove Phase 2, Los Gatos, California: Laboratory Manager for materials testing and inspection services project for the Almond Grove Street Reconstruction Project Phase 2 in Los Gatos, which included 10 residential streets. Project improvements consisted of increased disability access, new sidewalks, driveways and concrete paved roadways. Our services included trench backfill placement observation, moisture content testing of aggregate base, and compaction testing of trench backfill.

City of Fremont, On-Call Geotechnical Services Contract, Fremont, California: Ninyo & Moore is currently retained by the City of Fremont for this 3-year on-call Geotechnical Services contract beginning in 2018 with 2 one-year extensions through June, 2023, for which we perform geotechnical earthwork observation, laboratory testing, and relative compaction field testing services during earthwork operations associated with the construction of athletic fields. Field services include drill pier observation, concrete placement inspection, sampling and testing, compaction testing of native and imported material and permeability testing of permeable base rock material. Laboratory testing services include compression testing of concrete cylinders, conformance tests of permeable base material and proctor density tests of soil.

City of Fremont, Central Park Large Group Picnic Area, Fremont, California: Laboratory Manager during geotechnical evaluation for the City of Fremont's new large group picnic area in Central Park. Project included a new main restroom and concessions building, bocce ball and volleyball courts, outdoor seating, shade structures, picnic areas, playground structure, sidewalks, hardscape, landscaping, and other miscellaneous improvements.

City of Fremont, Central Park Fields 9 and 10, Fremont, California: Laboratory Manager during geotechnical earthwork observation, laboratory testing, and relative compaction field testing services during earthwork operations associated with the construction of athletic fields. Field services included drill pier observation, concrete placement inspection, sampling and testing, compaction testing of native and imported material and permeability testing of permeable base rock material. Laboratory testing services included compression testing of concrete cylinders, conformance tests of permeable base material and proctor density tests of soil.

City of Burlingame, Skyline Park Project, Geotechnical Evaluation and Construction Services, Burlingame, California: Laboratory Manager during geotechnical evaluation for the Skyline Park Project located on the west side of Skyline Drive just north of Rivera Drive in Burlingame. Proposed improvements consisted of a new parking lot with retaining walls. Our geotechnical evaluation included a subsurface evaluation, laboratory testing of selected soil samples, engineering analysis, and recommendations for pavement and retaining wall design and earthwork operations. Currently providing geotechnical observation and testing services during construction, including subgrade preparation, foundation observations, and testing for soil compaction.

Qualifications of Key Personnel

Danny Winn, ACI, ICC, Caltrans

Field Operations Manager



As a Field Operations Manager for Ninyo & Moore, Mr. Winn has 15 years of experience and works closely with our field technicians and special inspectors to provide reinforcing steel and concrete placement inspections, prestressed concrete placement inspections, structural steel bolting inspection and also perform earthwork observation, materials sampling, and field density testing for construction projects.

EXPERIENCE

Town of Los Gatos, Almond Grove Phase 2, Los Gatos, California: Field Technician for materials testing and inspection services project for the Almond Grove Street Reconstruction Project Phase 2 in Los Gatos, which included 10 residential streets. Project improvements consisted of increased disability access, new sidewalks, driveways and concrete paved roadways. Our services included trench backfill placement observation, moisture content testing of aggregate base, and compaction testing of trench backfill.

City of Fremont, Central Park Fields 9 and 10, Fremont, California: Field Technician for project involving geotechnical earthwork observation, laboratory testing, and relative compaction field testing services during earthwork operations associated with the construction of athletic fields. Field services included drill pier observation, concrete placement inspection, sampling and testing, compaction testing of native and imported material and permeability testing of permeable base rock material. Laboratory testing services included compression testing of concrete cylinders, conformance tests of permeable base material and proctor density tests of soil.

City of Fremont, Central Park Large Group Picnic Area, Fremont, California: Field Technician for project involving a geotechnical evaluation and materials testing and inspection for the City of Fremont's new large group picnic area. Project included a new main restroom and concessions building, bocce ball and volleyball courts, outdoor seating, shade structures, picnic areas, playground structure, sidewalks, hardscape, landscaping, and other miscellaneous improvements.

City of Redwood City, Sanitary Sewer Replacement Project, Redwood City, California: Field Technician during on-call construction materials testing services contract with the City of Redwood City. This Sanitary Sewer Replacement project consisted of excavation and backfill for sewer mains and our services included laboratory testing for soils and aggregates, and field density testing of backfill.

City of Richmond Fire Station, Richmond, California: Field Technician provided construction materials testing services to the City of Richmond for the Fire Station Number 68 remodel project which consisted of remodeling the existing rest rooms at the station. Services provided included reinforcing steel placement inspection, concrete placement inspection, concrete sampling, adhesive anchor placement inspection, plywood nailing inspection, and concrete laboratory compression testing.

Oroville Dam Emergency Spillway Recovery, Oroville, California: Field Technician for the special inspection and materials testing services of the Oroville Emergency Spillway Recovery project. During the winter rains of 2016 and 2017, the existing spillway had eroded, dangerously causing a significant hazard for the downstream residents. Ninyo and Moore was retained by Kiewit to perform Quality Control for the project. Approximately 1,000,000 cubic yards of Roller Compacted Concrete was placed along with nearly 500,000 cubic yards of structural concrete. Testing included laboratory and field sampling of the concrete, laboratory testing of the aggregates and various testing of miscellaneous structural backfill and placement of Roller Compacted Concrete.

EDUCATION

Shasta College – Coursework,
Redding, California

CERTIFICATIONS

ACI – Grade 1

ICC – Reinforced Concrete Special
Inspector

Nuclear Gauge Certification

Caltrans Concrete Test Methods
(CT: 125 AGG, 125 BIT, 125 GEN,
125 HMA, 231, 375)

Qualifications of Key Personnel

Jalal Keramat, ACI, AWS-CWI, ICC, DSA

Special Inspector



EDUCATION

B.S., Civil Engineering, 2004,
Azad University, Ghaemshahr, Iran

REGISTRATIONS/CERTIFICATIONS

Engineer-In-Training, EIT #152132

ACI Concrete Field Testing Technician
Grade I

ACI Concrete Strength Testing Technician

ACI Aggregate Testing Technician
Level I

ACI Concrete Laboratory Testing
Technician Level I

AWS Certified Welding Inspector (CWI)
#20024911

ICC Master of Special Inspection,
#8255109

ICC Prestressed Concrete Special
Inspector, #8255109

ICC Reinforced Concrete Special
Inspector, #8255109

ICC Spray-Applied Fireproofing
Special Inspector, #8255109

ICC Structural Masonry Special
Inspector, #8255109

ICC Structural Steel & Bolting
Special Inspector, #8255109

ICC Structural Welding Special
Inspector, #8255109

DSA Masonry Special Inspector, #6074

DSA Shotcrete Special Inspector, #6055

Radiation (Nuclear Gauge) User Safety

OSHA 10 Hour Certification Hazard
Recognition Training

As a Special Inspector for Ninyo & Moore, Mr. Keramat has 14 years of experience and works closely with our field technicians and special inspectors to provide reinforcing steel and concrete placement inspections, prestressed concrete placement inspections, structural steel bolting inspection and also perform earthwork observation, materials sampling, and field density testing for construction projects.

EXPERIENCE

Town of Los Gatos, Almond Grove Street Reconstruction Project Phase 2, Los Gatos, California: Special Inspector during materials testing and inspection services for project which included improvements consisting of increased disability access, new sidewalks, driveways and concrete paved roadways on 10 residential streets. Our services included trench backfill placement observation, moisture content testing of aggregate base, and compaction testing of trench backfill.

Santa Clara Valley Water District, Permanente Creek Flood Protection Project, Construction Inspection Services, Los Altos/Mountain View, California: Special Inspector during construction materials testing and inspection services project for the Santa Clara Valley Water District Permanente Creek Flood Protection project located in Santa Clara County. Our services also included pre-construction and post-construction condition surveys on over 50 structures located along the project alignment and vibration monitoring services during construction. The project included construction of new floodwalls and levees as well as channel widening and flood detention areas to provide natural flood protection for approximately 2,200 properties. The conditions surveys included photographs and video documentation of the structure exteriors, flatwork, and other improvements and measurements of existing cracks (lengths and widths), separations, and other notable features. Construction testing and inspections included geotechnical, reinforcement steel, and concrete related services.

City of South San Francisco, Four Parks Project, South San Francisco, California: Special Inspector for a geotechnical observation and testing on the Four Parks Renovation Project. The four parks included Buri Buri Park, Winston Park, Francisco Terrace Park, and Clay Park. Related improvements included construction of pavement sections for parking lots, side walk, curb & gutter, access ramps, and new safety play surfaces. Geotechnical Observation and testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade, aggregate base, and asphalt concrete. After project completion, Ninyo & Moore prepared the final report presenting the result on our field and laboratory testing services.

Stanford University, Middle Plaza Mixed Use Project, Menlo Park, California: Special Inspector during construction inspection and materials testing services for a mixed-use project which includes 215 rental housing units, a state-of-the art fitness center, swimming pool and spa, 145,000 square feet of three commercial offices, 10,000 square feet of retail space, and a half-acre publicly-accessible plaza, all over the underground parking. Ninyo & Moore successfully performed inspection and testing for reinforcing steel, structural concrete and shotcrete, structural steel welding, post installed and seismic anchors including pull and torque testing, high strength bolting, fireproofing inspections and testing including density and thickness testing and intumescent paint inspection. Our welding inspectors from other offices provided out-of-state fabrication and welding inspections, including NDT Level II inspectors for ultrasonic testing. We have been providing field and laboratory reports as a backup with every invoice, including a summary of all invoices to date. Our on-site and off-site staff communicate regularly with the project team and worked diligently to resolve any issues as they arise, as well as evaluated staffing and budget on a weekly basis.

Qualifications of Key Personnel

Johnkin Eliyeh-Ordshahi, AWS-CWI

NDT Level II Special Inspector



EDUCATION

B.S., Materials Engineering–Metallurgy,
2008, Tehran, Iran

REGISTRATIONS/CERTIFICATIONS

AWS Certified Welding Inspector (CWI)
#18010821

ASNT Magnetic Particle Testing Level II

ASNT Ultrasonic Testing Level II

ASNT Liquid Penetrant Testing Level II

As a Special Inspector for Ninyo & Moore, Mr. Eliyeh-Ordshahi performs on a multitude of projects. He holds an AWS certification and performs inspections of the project elements including concrete, steel, high-strength bolts, masonry, shotcrete, fireproofing, and welding both in the fabrication shop and at the site. His project experience includes schools, universities, airports, municipal structures, bridges, roadways, pipelines, pump stations and commercial and retail buildings.

EXPERIENCE

City and County of San Francisco, On-Call Special Inspection and Testing Contract, San Francisco, California: Special Inspector during On-Call contract for various Capital Improvement projects. Work involved on-site inspections for reinforcing steel and structural concrete placement, concrete batch plant inspections, sampling and testing concrete cylinders, epoxy dowel and post installed anchors installation including pull testing and torque testing, high strength bolts placement inspection, sampling and testing and fireproofing inspections. Ms. Watkins worked diligently with City inspector and contractors to solve any non-conformances immediately and distributed inspection reports electronically to the project team on a daily basis.

Stanford University, 3181 Porter Drive Redevelopment, Stanford, California: Special Inspector responsible for providing materials testing services which included reinforcing steel inspection, concrete placement inspection and concrete sampling including testing and inspection of two approximately 5,000 cubic yard mat foundation concrete pours. Additional construction services included non-shrink grout placement and sampling, post-installed anchor installation inspection, high strength bolting inspection, non-destructive testing, and structural steel welding inspection onsite and in fabrication shops in California, Nevada, and Idaho.

Stanford University, Bass Biology Building, Stanford, California: Special Inspector during materials testing and special inspection services for two Stanford University projects. The Stanford Bass Biology Building project consisted of a four-story, above-grade research facility with a one level basement. The facility includes research laboratories, offices, administrative spaces, and meeting spaces. Adjacent to the Bass Biology Building is the Stanford Regional Loading Dock project which consists of a below-grade dock that will centralize delivery services and minimize travel distances to the Old Chemistry, Gilbert, Herrin and Bass Biology buildings. The basement level dock will be enclosed by a concrete roof structure at the surface level above.

Stanford University, Chem-H & SNI Building, Stanford, California: Special Inspector provided structural steel welding inspection in the shop and field. Chem-H & SNI Building project included construction of a 230,000 square foot, three story laboratory building with basement. It included a structural retaining wall designed to support the partial demolition of an existing ice storage tank on the northwest side of the project site as well as a below-grade tunnel that connected the existing Clark/RAF/Fairchild tunnel to the new Chem-H & SNI building. Services included project management, reinforcing steel inspection, concrete sampling and testing, non-shrink grout placement inspection, shotcrete sampling and testing, masonry inspection, ultrasonic testing for steel welding and shop and field welding inspections.

Stanford University, Center of Academic Medicine (CAM) Building, Stanford, California: Special Inspector for the structural steel welding and non-destructive testing, including ultrasonic and magnetic particle testing in the shop and field. Project consists of a four story, 170,000 square foot, office and administration building with four above-grade floors and a three-story underground parking structure below the building. Prepare and maintain a list of structural steel elements being inspected and in conformance along with a list of non conformances items and brings them to project team's attention.

Qualifications of Key Personnel

Blair R. Schleske, ACI, Caltrans

Field Technician



EDUCATION

B.A., Environmental Studies, 2013,
California State University East Bay,
Hayward, California

CERTIFICATIONS

ACI Concrete Field Testing Technician
Grade I, #01400982

Caltrans Concrete Test Methods
(CT: 231, 375, 504, 518, 539, 540, 543,
556, 557)

As a Field Technician for Ninyo & Moore, Mr. Schleske has 5 years of experience performing materials testing in a wide variety of construction projects including concrete and reinforcing steel, and geotechnical observation and testing. His experience involves projects that have included parking garages, data centers, large-scale commercial retail development, highway/roadway, hotels, infrastructure, school districts and wastewater treatment plants.

EXPERIENCE

Town of Los Gatos, Almond Grove Phase 2, Los Gatos, California: Field Technician for materials testing and inspection services project for the Almond Grove Street Reconstruction Project Phase 2 in Los Gatos, which included 10 residential streets. Project improvements consisted of increased disability access, new sidewalks, driveways and concrete paved roadways. Our services included trench backfill placement observation, moisture content testing of aggregate base, and compaction testing of trench backfill.

BART Extension to Berryessa, San Jose, California: Field Technician during materials testing and inspection services for construction of a new BART extension from Fremont to Berryessa in San Jose, California, with two stations and parking garages. Ninyo & Moore provided geotechnical earthwork observation, laboratory testing, and field compaction testing services during earthwork operations associated with railway tracks, ballast and subballast conformance testing in the laboratory, placement of utility trench backfill, preparation of pavement subgrade, and pavement section construction, sampling of concrete and testing them in the laboratory for compression testing, structural steel welding inspection and vibration and noise monitoring during pile driving operations.

City of South San Francisco Four Parks Project, South San Francisco, California: Field Technician for geotechnical observation and testing on the Four Parks Renovation Project. The four parks included Buri Buri Park, Winston Park, Francisco Terrace Park, and Clay Park. Related improvements included construction of pavement sections for parking lots, side walk, curb & gutter, access ramps, and new safety play surfaces. Geotechnical Observation and testing services consisted of qualification review of aggregate base to check for compliance with project specifications; and compaction testing of subgrade, aggregate base, and asphalt concrete. After project completion, Ninyo & Moore prepared the final report presenting the result on our field and laboratory testing services.

City of Cupertino, Cupertino, California: Field Technician for compaction testing under pavements and building pads, and observation of trench backfill for utility lines for McClellan Ranch in Cupertino, California.

City of Redwood City, Redwood City, California: Field Technician for construction materials testing services to the City of Redwood City for the Sanitary Sewer Replacement project which consisted of excavation and backfill for sewer mains. Services provided included laboratory testing for soils and aggregates, and field density testing of backfill material.

Stanford Old Chemistry Building, Stanford, California: Field Technician for pull testing and concrete sampling and testing for the Stanford Old Chemistry Building.

Stanford Hepl South End Station, Stanford, California: Field Technician performed concrete sampling and testing including slump test and casting of cylinders for laboratory compression testing.

Qualifications of Key Personnel

Jonathan F. Urmeneta, ACI

Field Technician



CERTIFICATIONS

ACI Concrete Field Testing Technician
Grade I

Radiation (Nuclear Gauge) User Safety
(Cert #18401)

As a Field Technician for Ninyo & Moore, Mr. Urmeneta has 2 years of experience providing quality control and quality assurance testing of soils, aggregates, asphalt and concrete materials in accordance with applicable ASTM, AASHTO, and ACI standards. He maintains current field and laboratory testing certifications from ACI as well as his nuclear gauge certification.

EXPERIENCE

City of Fremont, Central Park Large Group Picnic Area, Fremont, California:

Field Technician for project involving a geotechnical evaluation and materials testing and inspection for the City of Fremont's new large group picnic area. Project included a new main restroom and concessions building, bocce ball and volleyball courts, outdoor seating, shade structures, picnic areas, playground structure, sidewalks, hardscape, landscaping, and other miscellaneous improvements.

San Jose State University, South Campus Golf Complex, San Jose, California:

The project included the construction of a golf driving range, parking areas, and tall netting around a portion of the perimeter of the golf driving range with support post heights of up to 160 feet. Services provided included field technician geotechnical observations and compaction testing.

San Jose State University, Recreation & Aquatic Center, San Jose, California:

Field Technician for the construction of the 75,000 square foot recreation and aquatic center. The project included auger cast drilled displacement piles to mitigate the potential for foundation settlement. Services provided included field technician geotechnical observations and compaction testing.

City Center Bishop Ranch, San Ramon, California: Field Technician for the construction of a 300,000 square foot commercial retail shopping center being developed by Sunset Development Company. Services provided included field technician geotechnical observations and compaction testing.

Merlone, The Village at San Antonio Center, Mountain View, California: Field Technician performing concrete sampling and testing including slump test and casting of cylinders for laboratory compression testing. The project included the construction of six buildings.

Stanford University, Chem-H & SNI Building, Stanford, California: Field Technician for project which consisted of construction of a 230,000 square foot, three story laboratory building with basement. It included a structural retaining wall designed to support the partial demolition of an existing ice storage tank on the northwest side of the project site as well as a below-grade tunnel that connected the existing Clark/RAF/Fairchild tunnel to the new Chem-H & SNI building. Ninyo & Moore's services provided consisted of project management, reinforcing steel inspection, concrete sampling and testing, non-shrink grout placement inspection, shotcrete sampling and testing, masonry inspection, ultrasonic testing for steel welding and shop and field welding inspections.

Stanford University, 3181 Porter Drive Redevelopment, Stanford, California:

Field Technician responsible for providing materials testing services which included reinforcing steel inspection, concrete placement inspection and concrete sampling including testing and inspection of two approximately 5,000 cubic yard mat foundation concrete pours. Additional construction services included non-shrink grout placement and sampling, post-installed anchor installation inspection, high strength bolting inspection, non-destructive testing, and structural steel welding inspection onsite and in fabrication shops in California, Nevada, and Idaho.

Qualifications of Key Personnel

Peter Manchester, ACI, Caltrans

Field Technician



CERTIFICATIONS

ACI Concrete Field Testing Technician
Grade I, #01536810

Caltrans Concrete Test Methods
(CT: 125 AGG, 125 BIT, 125 GEN,
125 HMA, 231, 375)

Certified Pervious Concrete Technician,
#PCC062947

Radiation (Nuclear Gauge) User
Safety, #18538

As a Field Technician for Ninyo & Moore, Mr. Manchester is experienced in performing Concrete Testing, Soil/HMA Density Inspection and Geotechnical Observation in a wide variety of construction projects. He holds an ACI concrete testing certification and his experience includes universities, schools, airports, municipal structures, roadways, commercial and retail buildings.

EXPERIENCE

Town of Los Gatos, Almond Grove Street Reconstruction Project Phase 2, Los Gatos, California: Field Technician during materials testing and inspection services for project which included improvements consisting of increased disability access, new sidewalks, driveways and concrete paved roadways on 10 residential streets. Our services included trench backfill placement observation, moisture content testing of aggregate base, and compaction testing of trench backfill.

City of Fremont, Central Park Fields 9 and 10 Project, Fremont, California: Field and Laboratory Assistant responsible for providing materials testing services for the Central Park Fields 9 and 10 project located in Fremont, California. The project consisted of installation of synthetic turf for the sports field, drilled pier foundations for the sports lightning and concrete paving.

City of Fremont, Central Park Large Group Picnic Area, Fremont, California: Field Technician for project involving a geotechnical evaluation and materials testing and inspection for the City of Fremont's new large group picnic area. Project included a new main restroom and concessions building, bocce ball and volleyball courts, outdoor seating, shade structures, picnic areas, playground structure, sidewalks, hardscape, landscaping, and other miscellaneous improvements.

City of Millbrae, Hillcrest Boulevard Storm Drain Improvements, Millbrae, California: Field Technician during geotechnical observation and materials testing services for the Hillcrest Boulevard Storm Drain Improvements project. The project consisted of installing approximately 950 Linear Feet of the storm drain system along Ashton Avenue and Hillcrest Boulevard. Our services included trench backfill placement observation, moisture content testing of aggregate base, and compaction testing of trench backfill and asphalt concrete.

City of Cupertino, Cupertino, California: Field Technician for compaction testing under pavements and building pads, and observation of trench backfill for utility lines for McClellan Ranch in Cupertino, California.

City of Albany, Sewer Rehabilitation Project, Albany, California: Field Technician during geotechnical observation and compaction testing services on the rehabilitation of the city sewer lines along Washington Avenue, Gateview Avenue, Pierce Street, Solano Avenue, Hillside Avenue, Fillmore Street, and Taylor Street. These services consisted of earthwork observation, soil testing of subgrade and aggregate base for specified density and moisture content, laboratory testing of soils for maximum density, and preparation of final reports for field and laboratory testing services. Ninyo & Moore worked with the city's project manager to review project submittals, monitor construction activities, and coordinate field inspections.

Sub-Consultants

Sub-Consultants

Typically, the proposed scope of materials testing services is tailored to the project needs. Ninyo & Moore's considerable experience in both design and construction allows our staff of engineers, geologists, and materials technicians to react quickly to changing conditions so that potential construction down time is reduced or eliminated. Due to the size of Ninyo & Moore, we do not intend to utilize subcontractors for this contract. Therefore, 100% of the work performed on this contract will be provided by our firm, a California company with 35 years of expertise and experience with local laws, ordinances, regulations, policies, requirements, and permitting.

AnchorCM is included as a subconsultant to provide construction management and staffing assistance to the Town of Los Gatos. Company information and scope of services are provided below.

Company Name: AnchorCM

Address: 3685 Mt. Diablo Blvd, Suite 345, Lafayette, California 94549

Contact info: Chris Coles, PE, CCM, President, 925.385.0950 ccoles@anchorcm.com

DIR No.: 1000015352

Tax ID No.: 72-1549923

AnchorCM was founded in 2003 as Anchor Engineering, Inc. Our specialty is construction and project management and staff augmentation services for public infrastructure projects and programs throughout California. We support a broad and diverse array of planning and preconstruction, construction management and administration, and closeout/claims mitigation oversight and support. From specialized services such as scheduling and estimating for major programs to resident engineering of individual projects, AnchorCM can meet your needs for successful project delivery.

We are driven by the desire to provide exemplary service to our clients, while providing a professional work environment for our staff. By attracting the best and brightest to our firm, your projects get the attention they need. AnchorCM is a California Disabled Veteran Business Enterprise (DVBE) and Small Business Enterprise (SBE), as well as a Federal Government Service Disabled Veteran Owned Small Business (SDVOSB).

Scope of Services:

AnchorCM scope for Town of Los Gatos Parks and Public Works Department is to be provided as a subconsultant to Ninyo & Moore under an on-call contract. The initial scope is understood to be providing assistance to the CM/inspector and project manager as they procure and execute a federally funded guardrail project City right of way. Scope of work tentatively to be:

- Review E-76, design and bid documents, and procurement process for compliance with OLA and federal requirements. Provide feedback and/or staff work as needed.
- Help establish contract administration, quality assurance, and reporting practices in keeping with LAPM and other pertinent requirements.
- Assist as needed to close out and respond to Caltrans' or other inquiries regarding compliance with grant and administrative stipulations.

More general scope could in future include providing construction project management and inspection for other projects as directed.

References

ATTACHMENT 4 - REFERENCES

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

ON-CALL MATERIALS TESTING AND SPECIAL INSPECTION SERVICES

List three (3) references for work of a similar nature to the Services performed within the last five (5) years. Use additional sheets as necessary.

- Swinerton** *(on behalf of the City of South San Francisco)*

Name of Agency	Address
Mr. S. Peter Vorametsanti	Sr. Construction Manager
Contact Name	Contact Title
650.740.7368	peterv@swinerton.com
Contact Telephone	Contact Email Address
2016 – Ongoing	\$450,000+
Contract Period	Contract Amount

Deep and Shallow Foundation Observation, Soil Compaction Testing for Footings, Trench Backfill and Hot mix Asphalt Pavement, Materials Testing and Special Inspections for Concrete, Reinforcing Steel, Masonry, Post Installed Anchors, Structural Steel, Non Destructive Testing and Fireproofing.

Description of services performed including project cost estimates and actual costs.

- Gibane** *(on behalf of the City of Cupertino)*

Name of Agency	Address
Mr. Glenn Rock	Senior Project Manager
Contact Name	Contact Title
408.609.0424	grock@gilbaneco.com
Contact Telephone	Contact Email Address
2014 – Ongoing	\$300,000+
Contract Period	Contract Amount

Foundation Observation, Soil Compaction Testing for Footings, Trench Backfill and Pavement, Materials Testing and Special Inspections for Concrete, Reinforcing Steel, Masonry, Post Installed Anchors, Structural Steel and Fiber Reinforced Polymer (FRP).

Description of services performed including project cost estimates and actual costs.

- City and County of San Francisco**

Name of Agency	Address
Ms. Olivia Lee	49 So. Van Ness Ave., #700, San Francisco, CA 94103
Contact Name	Contact Title
415.816.3684	olivia.lee@sfdpw.org
Contact Telephone	Contact Email Address

References

<u>2006 – Ongoing</u>	<u>\$1,000,000</u>
Contract Period	Contract Amount
<u>Materials Testing and Special Inspections for Hot Mix Asphalt, Concrete, Reinforcing Steel, Masonry, Post Installed Anchors, Structural Steel, Non Destructive Testing and Shearwall Nailing, Floor Diaphragms and Holdowns.</u>	
Description of services performed including project cost estimates and actual costs.	

I hereby certify that the Proposer performed the work listed above.

	<u>Gregory J. Ruf, PE, GE</u>	<u>January 14, 2021</u>
Signature of Proposer	Name	Date

Insurance Coverage

Insurance Coverage

As a requirement of the Town's RFQ, provided below is a specimen copy of our Certificate of Insurance for reference of our carriers, and types and limits of insurance carried by our firm.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/26/2020

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

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

PRODUCER Dealey, Renton & Associates P. O. Box 12675 Oakland CA 94604-2675		CONTACT NAME: PHONE (A/C, No, Ext): 510-465-3090 E-MAIL ADDRESS: certificates@dealeyrenton.com FAX (A/C, No): 510-452-2193	
INSURED Ninyo & Moore Geotechnical & Environmental Sciences Consultants 2149 O'Toole Avenue, Suite 30 San Jose CA 95131		INSURER(S) AFFORDING COVERAGE INSURER A : Travelers Property Casualty Company of America INSURER B : Evanston Insurance Company INSURER C : Travelers Casualty and Surety Co of America INSURER D : INSURER E : INSURER F :	
License#: 0020739 NINY&MO-01		NAIC # 25674 35378 31194	

COVERAGES

CERTIFICATE NUMBER: 653216273

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> OCP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	6308986R247	10/3/2020	10/3/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	8107N033091	10/3/2020	10/3/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	Y	Y	CUP9J428527	10/3/2020	10/3/2021	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y/N/A N/A	UB6P428399	5/1/2020	5/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liab. & Contractor's Pollution Liab. Computer Network Security	Y		MKL7PL0004134	4/3/2020	5/1/2021	Per Claim 5,000,000 Annual Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Umbrella Liability policy is a follow-form to underlying General Liability/Auto Liability/Employers Liability.

CERTIFICATE HOLDER

CANCELLATION 30 Day Notice of Cancellation

SPECIMEN CERTIFICATE

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2016/03)

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Preliminary Fee Schedules

Schedule of Fees

Hourly Charges for Personnel

Professional Staff

Principal Engineer/Geologist/Environmental Scientist/Certified Industrial Hygienist	\$ 188
Senior Engineer/Geologist/Environmental Scientist	\$ 178
Senior Project Engineer/Geologist/Environmental Scientist	\$ 173
Project Engineer/Geologist/Environmental Scientist	\$ 165
Senior Staff Engineer/Geologist/Environmental Scientist	\$ 150
Staff Engineer/Geologist/Environmental Scientist	\$ 134
GIS Analyst	\$ 123
Technical Illustrator/CAD Operator	\$ 98

Field Staff

Certified Asbestos/Lead Technician	\$ 173
Field Operations Manager	\$ 119
Nondestructive Examination Technician (UT, MT, LP)	\$ 114
Supervisory Technician	\$ 104
Special Inspector (Concrete, Masonry, Structural Steel, Welding, and Fireproofing)	\$ 104
Senior Technician	\$ 103
Technician	\$ 98

Administrative Staff

Information Specialist	\$ 83
Geotechnical/Environmental/Laboratory Assistant	\$ 81
Data Processor	\$ 71

Other Charges

Concrete Coring Equipment (includes technician)	\$ 190/hr
Anchor Load Test Equipment (includes technician)	\$ 190/hr
GPR Equipment	\$ 180/hr
Inclinometer	\$ 100/hr
Hand Auger Equipment	\$ 80/hr
Rebar Locator (Pachometer)	\$ 25/hr
Vapor Emission Kit	\$ 65/kit
Nuclear Density Gauge	\$ 12/hr
X-Ray Fluorescence	\$ 70/hr
PID/FID	\$ 25/hr
Air Sampling Pump	\$ 10/hr
Field Vehicle	\$ 15/hr
Expert Witness Testimony	\$ 450/hr
Direct Expenses	Cost plus 15 %
Special equipment charges will be provided upon request.	

Notes

For field and laboratory technicians and special inspectors, overtime rates at 1.5 times the regular rates will be charged for work performed in excess of 8 hours in one day Monday through Friday and the first 8 hours on Saturday. Rates at twice the regular rates will be charged for all work in excess of 12 hours Monday through Friday, in excess of 8 hours on Saturday, all day Sunday and on holidays. Field technician and special inspection hours for day shift work are charged at a 4-hour minimum, and 8-hour minimum for hours exceeding 4 hours, and 1/2-hour increments thereafter. Field technician and special inspection hours for shift work (starting at or after 2 PM or before 4 AM) are charged at an 8-hour minimum. Field services are billed on a portal-to-portal basis from our base of operations. Cancellations made after 4 PM on the prior business day are subject to a 4-hour charge.

Our rates will be adjusted proportionally in conjunction with any increase in the Prevailing Wage Determination during the life of the project, as applicable. Prevailing wage adjustments are made July 1 annually. For non-prevailing wage projects our rates are subject to a cost-of-living adjustment based on the consumer price index (CPI-W) annually on a calendar year basis.

Preliminary Fee Schedule

Schedule of Fees for Laboratory Testing

SOILS

Atterberg Limits, D 4318, CT 204	\$ 170
California Bearing Ratio (CBR), D 1883	\$ 550
Chloride and Sulfate Content, CT 417 & CT 422	\$ 175
Consolidation, D 2435, CT 219	\$ 300
Consolidation, Hydro-Collapse only, D 2435	\$ 150
Consolidation – Time Rate, D 2435, CT 219	\$ 200
Direct Shear – Remolded, D 3080	\$ 350
Direct Shear – Undisturbed, D 3080	\$ 300
Durability Index, CT 229	\$ 175
Expansion Index, D 4829, IBC 18-3	\$ 190
Expansion Potential (Method A), D 4546	\$ 170
Geofabric Tensile and Elongation Test, D 4632	\$ 200
Hydraulic Conductivity, D 5084	\$ 350
Hydrometer Analysis, D 422, CT 203	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 120
Moisture Only, D 2216, CT 226	\$ 35
Moisture and Density, D 2937	\$ 45
Permeability, CH, D 2434, CT 220	\$ 300
pH and Resistivity, CT 643	\$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	\$ 220
Proctor Density with Rock Correction D 1557	\$ 340
R-value, D 2844, CT 301	\$ 375
Sand Equivalent, D 2419, CT 217	\$ 125
Sieve Analysis, D 422, CT 202	\$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 100
Specific Gravity, D 854	\$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	\$ 925
Triaxial Shear, C.D., D 4767, T 297	\$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	\$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	\$ 350
Triaxial Shear, U.U., D 2850	\$ 250
Unconfined Compression, D 2166, T 208	\$ 180

MASONRY

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	\$ 70
Brick Compression Test, C 67	\$ 55
Brick Efflorescence, C 67	\$ 55
Brick Modulus of Rupture, C 67	\$ 50
Brick Moisture as received, C 67	\$ 45
Brick Saturation Coefficient, C 67	\$ 60
Concrete Block Compression Test, 8x8x16, C 140	\$ 70
Concrete Block Conformance Package, C 90	\$ 500
Concrete Block Linear Shrinkage, C 426	\$ 200
Concrete Block Unit Weight and Absorption, C 140	\$ 70
Cores, Compression or Shear Bond, CA Code	\$ 70
Masonry Grout, 3x3x6 prism compression, C 39	\$ 45
Masonry Mortar, 2x4 cylinder compression, C 109	\$ 35
Masonry Prism, half size, compression, C 1019	\$ 120
Masonry Prism, Full size, compression, C 1019	\$ 200

REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615	\$ 135
Fireproofing Density Test, UBC 7-6	\$ 90
Hardness Test, Rockwell, A 370	\$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	\$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 175
Pre-Stress Strand (7 wire), A 416	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	\$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	\$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80

CONCRETE

Compression Tests, 6x12 Cylinder, C 39	\$ 35
Concrete Mix Design Review, Job Spec	\$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 850
Concrete Cores, Compression (excludes sampling), C 42	\$ 120
Drying Shrinkage, C 157	\$ 400
Flexural Test, C 78	\$ 85
Flexural Test, C 293	\$ 85
Flexural Test, CT 523	\$ 95
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 275
Lightweight Concrete Fill, Compression, C 495	\$ 80
Petrographic Analysis, C 856	\$ 2,000
Restrained Expansion of Shrinkage Compensation	\$ 450
Splitting Tensile Strength, C 496	\$ 100
3x6 Grout, (CLSM), C 39	\$ 55
2x2x2 Non-Shrink Grout, C 109	\$ 55

ASPHALT

Air Voids, T 269	\$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	\$ 4,500
Asphalt Mix Design Review, Job Spec	\$ 180
Dust Proportioning, CT LP-4	\$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	\$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	\$ 150
Film Stripping, CT 302	\$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	\$ 225
Marshall Stability, Flow and Unit Weight, T 245	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	\$ 150
Moisture Content, CT 370	\$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	\$ 1,000
Slurry Wet Track Abrasion, D 3910	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	\$ 4,900
Superpave, Gyration Unit Wt., T 312	\$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	\$ 1,000
Unit Weight sample or core, D 2726, CT 308	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	\$ 90
Voids filled with Asphalt, (VFA) CT LP-3	\$ 90
Wax Density, D 1188	\$ 140

AGGREGATES

Clay Lumps and Friable Particles, C 142	\$ 180
Cleaness Value, CT 227	\$ 180
Crushed Particles, CT 205	\$ 175
Durability, Coarse or Fine, CT 229	\$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	\$ 180
Flat and Elongated Particle, D 4791	\$ 220
Lightweight Particles, C 123	\$ 180
Los Angeles Abrasion, C 131 or C 535	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117	\$ 90
Organic Impurities, C 40	\$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	\$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	\$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 475
Sand Equivalent, T 176, CT 217	\$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	\$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	\$ 145
Sodium Sulfate Soundness, C 88	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	\$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	\$ 175

ROOFING

Roofing Tile Absorption, (set of 5), C 67	\$ 250
Roofing Tile Strength Test, (set of 5), C 67	\$ 250

Special preparation of standard test specimens will be charged at the technician's hourly rate.
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

AnchorCM

2021 Fee Schedule



Principal

Forensic Engineer/Expert Witness	\$	357.00
Principal Consultant	\$	326.00
Principal-in-Charge	\$	272.00

Engineer/Manager

Project Principal Engineer/CM	\$	239.00
Senior Engineer/CM	\$	217.00
Associate Engineer/CM	\$	191.00
Staff Engineer/CM Level 4 (PE or equivalent)	\$	175.00
Staff Engineer/CM Level 3 (PE or equivalent)	\$	162.00
Staff Engineer/CM Level 2 (EIT or equivalent)	\$	137.00
Staff Engineer/Deputy CM Level 1	\$	113.00
Junior Engineer/Assistant CM	\$	110.00

Engineering Technician

Senior Engineering Technician	\$	156.00
Mid Engineering Technician	\$	122.00
Engineering Technician	\$	98.00

Inspector

Construction Representative / Senior Inspector	\$	161.00
Prevailing Wage Building / Construction Inspector	\$	150.00
Prevailing Wage Soils / AC Inspector	\$	150.00

Project Administrative Staff

Senior Contract Administrator	\$	156.00
Bookkeeper	\$	156.00
Contract Administrator	\$	100.00
Contract Administration Assistant	\$	74.00

Notes:

1. Field vehicles will be billed at \$1,700/month; cell phone and mobile broadband service billed at \$90/mo.
2. Other direct costs (ODCs) and subconsultant fees are billed separately at ACM cost plus 10%.
3. Four- and eight-hour minimums apply for cancellations, tasks requiring travel, and legal appearances.
4. Contract project staff will be billed at the contract rate for legal work and appearances, with yearly escalation applied.
5. Inspector rates may vary due to prevailing wage requirements and determinations of the California Department of Industrial Relations and/or the Department of Labor.



2149 O'Toole Avenue, Suite 30 | San Jose, California 95131 | p. 408.435.9000 | f. 408.435.9006

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 15

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with Shaw Industries Inc. for Flooring Replacement at the Adult Recreation Center in an Amount of \$133,920.59 Including a 5% for Unanticipated Services, for a Total Agreement Amount Not to Exceed \$140,616.61

RECOMMENDATION:

Authorize the Town Manager to execute an Agreement for Services with Shaw Industries Inc. for flooring replacement at the Adult Recreation Center (Attachment 1) in an amount of \$133,920.59 including a 5% for unanticipated services, for a total agreement amount not to exceed \$140,616.61.

BACKGROUND:

This project will replace the flooring in the Adult Recreation Center to better provide comfortable, attractive, safer, and easier to maintain floor coverings throughout the facility. The new flooring products include vinyl plank for community rooms, lobby, and hallway, and non-slip material for the stairs. Commercial grade carpet squares will be installed in the offices. The existing floor coverings throughout the facility have exceeded their serviceable life.

On September 21, 2021, an Agreement for Services for this project was awarded by Town Council with a vendor, Harry L. Murphy. The Agreement for Services with Harry L. Murphy was not executed. During the process of completing the agreement, it was brought to staff's attention that the main contractor on this project would be Shaw Industries Inc., therefore, staff is now requesting a contract with Shaw Industries Inc. to provide materials and installation.

PREPARED BY: Dan Keller
Facilities and Environmental Services Manager

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with Shaw Industries Inc. for Flooring Replacement at the Adult Recreation Center in an Amount of \$133,920.59 Including a 5% Contingency, for a Total Agreement Amount Not to Exceed \$140,616.61

DATE: June 2, 2022

DISCUSSION:

Shaw Industries Inc. is a flooring contractor that is a member of Sourcewell, an organization that establishes competitive labor and materials costs. Sourcewell contractors are held to competitive industry labor and material costs. One quote was obtained based on this information as the Town's Purchasing Policy allows for the use of cooperative purchasing agreements.

Sourcewell awards contracts through cooperative purchasing which is a procurement conducted by one or more "Public Procurement Units" as defined by the American Bar Association Model Procurement Code for State and Local Governments.

Sourcewell holds hundreds of competitively solicited cooperative contracts ready for use by government, education, and nonprofit organizations. The contract between Sourcewell and Shaw Industries Inc. is shown in Attachment 2.

CONCLUSION:

Authorize the Town Manager to execute an Agreement for Services with Shaw Industries Inc. for flooring replacement at the Adult Recreation Center (Attachment 1) in an amount of \$133,920.59 including a 5% contingency, for a total agreement amount not to exceed \$140,616.61. Approval of the recommended action will allow this project to progress.

FISCAL IMPACT:

The Adopted FY 2021/22-2024/25 Capital Improvement Program has sufficient funding for the Adult Recreation Center – Floor Repair project. In addition, through the County's budgeting process, the Town may receive grant funding for a portion of this project. The County will be deciding its budget later in June. If the grant is approved, any unused Town funds would return to the General Fund Appropriated Reserve (GFAR) for Council allocation to other capital needs.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute an Agreement for Services with Shaw Industries Inc. for Flooring Replacement at the Adult Recreation Center in an Amount of \$133,920.59 Including a 5% Contingency, for a Total Agreement Amount Not to Exceed \$140,616.61

DATE: June 2, 2022

FISCAL IMPACT (continued):

Adult Recreation Center Floor Repair CIP No. 821-2206		
	Budget	Costs
GFAR	\$ 200,000	
Total Budget	\$ 200,000	
Shaw Industries Incorporated		\$ 140,616
Total Expenditures		\$ 140,616
Remaining Budget		\$ 59,384

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Agreement for Services
2. Contract between Sourcewell and Shaw Industries Inc.

AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 23rd day of May 2022, and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Shaw Industries Inc., ("Service Provider"), whose address is P O Box 208408, Dallas, TX 75320. 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 flooring installation services in the Adult Recreation Center.
- 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 the Proposal sent to the Town on January 24, 2022 and 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 through June 30, 2023, 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 the supplies and materials delivered and for supplier's professional services for an amount of \$133,920.59 including 5% for unanticipated services, for a total agreement amount not to exceed \$140,616.61. 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 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:
- | | |
|---------------------|----------------------|
| Town of Los Gatos | Shaw Industries Inc. |
| Attn: Town Clerk | Attn: Eric Taylor |
| 110 E. Main Street | P O Box 208408 |
| Los Gatos, CA 95030 | Dallas, TX 75320 |
- 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:

Shaw Industries Inc., by:

Laurel Prevetti, Town Manager

Recommended by:

Interim Director of Parks and Public Works

Title

Approved as to Form:

Gabrielle Whelan, Town Attorney

Attest:

Shelley Neis, MMC, CPMC, Town Clerk



Solicitation Number: 080819 CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Shaw Industries, Inc., 616 E. Walnut Avenue, Dalton, GA 30721 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to its members. Participation is open to all levels of governmental entity, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and its Members (Members).

For clarification and avoidance of doubt, this Contract entirely supersedes and replaces the prior Contract version, signed on October 8, 2019.

1. TERM OF CONTRACT

- A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.
- B. EXPIRATION DATE AND EXTENSION. This Contract expires October 11, 2023, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. SURVIVAL OF TERMS. Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. EQUIPMENT, PRODUCTS, OR SERVICES. Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Member in advance, Equipment or Products must be delivered as operational to the Member's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

- B. **LAWS AND REGULATIONS.** All Equipment, Products, or Services must comply fully with applicable federal laws and regulations, and with the laws of the state or province in which the Equipment, Products, or Services are sold.
- C. **WARRANTY.** Vendor warrants that all Equipment, Products, and, subject to the applicable generally-published manufacturer's limited product warranty, Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. Vendor's dealers and distributors must agree to assist the Member in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Member. EXCEPT AS EXPRESSLY SET FORTH HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, VENDOR MAKES NO OTHER WARRANTIES FOR ANY EQUIPMENT, PRODUCTS, SERVICES, OR MATERIALS PROVIDED UNDER THIS AGREEMENT AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE.
- D. **DEALERS AND DISTRIBUTORS.** Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized Distributors/Dealers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

Regardless of the payment method chosen by the Member, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Member at the time of purchase.

When providing pricing quotes to Members, all pricing quoted must reflect a Member's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Member's requested delivery location.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Members. Members reserve the right to inspect the Equipment and Products at a reasonable time after delivery where

circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcwell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Member.

B. SALES TAX. Each Member is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, Members must indicate if it is a tax-exempt entity. Unless exempt, Members shall be responsible for all applicable taxes arising from the provision of Products, Equipment, or Services under this Contract.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Members.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, Service, or price changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Product Change Request Form to the assigned Sourcwell Contract Administrator. Sourcwell's approval of such requests shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, Sourcwell will approve all Equipment, Product, and/or Service price increases without limitation if attributable to a material change to applicable duties, taxes, tariffs, similar charges, or other government action, and Sourcwell will use commercially reasonable efforts to expedite the effective implementation of such price increase. This form is available from the assigned Sourcwell Contract Administrator. At a minimum, the request must:

- ☐ Identify the applicable Sourcwell contract number
- ☐ Clearly specify the requested change
- ☐ Provide sufficient detail to justify the requested change
- ☐ Individually list all Equipment, Products, or Services affected by the requested

change, along with the requested change (e.g., addition, deletion, price change)

- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. MEMBERSHIP, CONTRACT ACCESS, AND MEMBER REQUIREMENTS

A. MEMBERSHIP. Membership in Sourcewell is open to public and nonprofit entities across the United States and Canada; such as municipal, state/province, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Members that can legally access the Equipment, Products, or Services under this Contract. A Member's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Member's use of this Contract is at the Member's sole convenience and Members reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell membership requirements and documentation and, where appropriate, will use commercially reasonable efforts to encourage potential members to join Sourcewell, unless such potential member is already a member of another group purchasing organization or similar organization. Sourcewell reserves the right to add and remove Members to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Member policies and procedures, and all applicable laws.

6. MEMBER ORDERING AND PURCHASE ORDERS

A. PURCHASE ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members and/or their authorized purchasing agent, contractor, or similar designee shall be solely responsible for noting the applicable Sourcewell contract number on all purchase orders. Members will be solely responsible for payment and Sourcewell will have no liability for

any unpaid invoice of any Member.

B. **ADDITIONAL TERMS AND CONDITIONS.** Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements. Any negotiated additional terms and conditions must never be less favorable to the Member than what is contained in Vendor's Proposal.

C. **PERFORMANCE BOND.** If reasonably requested by a Member, Vendor may provide a performance bond that meets the requirements set forth in the Member's purchase order.

D. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Member requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Member and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. **TERMINATION OF PURCHASE ORDERS.** Members may terminate a purchase order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Member fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal or state laws or regulations prohibit the purchase or change the Member's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Member.

F. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Member's purchase order will be determined by the Member making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- ☐ Maintenance and management of this Contract;
- ☐ Timely response to all Sourcewell and Member inquiries; and
- ☐ Business reviews to Sourcewell and Members, if applicable.

B. **BUSINESS REVIEWS.** Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to members, pricing and

contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

- A. **CONTRACT SALES ACTIVITY REPORT.** Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made). Except to the extent applicable law deems the Report and its underlying information public or requires its disclosure, the foregoing will be limited by Vendor's applicable confidentiality obligations, including without limitation any contractual obligations to Members.

The Report must contain the following fields:

- ☐ Customer Name (e.g., City of Staples Highway Department);
- ☐ Customer Physical Street Address;
- ☐ Customer City;
- ☐ Customer State;
- ☐ Customer Zip Code;
- ☐ Customer Contact Name;
- ☐ Customer Contact Email Address;
- ☐ Customer Contact Telephone Number;
- ☐ Sourcewell Assigned Entity/Member Number;
- ☐ Item Purchased Description;
- ☐ Item Purchased Price;
- ☐ Sourcewell Administrative Fee Applied; and
- ☐ Date Purchase was invoiced/sale was recognized as revenue by Vendor.

- B. **ADMINISTRATIVE FEE.** In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Members under this Contract. The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total net sales of all Equipment, Products, and Services purchased by Members under this Contract during each calendar quarter, less any applicable taxes, freight, fees, and discounts and less amounts attributable to any Services, freight, delivery installation, unpaid invoices, returned Products or materials, or credits issued. Orders under this Contract will only be eligible for the administrative fee if the Member notes the applicable Sourcewell contract number on the purchase order when submitting such purchase order. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to

ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date.

Sourcewell is solely responsible for notifying any Member or other entity participating hereunder of its Administrative Fee and for complying with all laws and regulations related or applicable to such Administrative Fee.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. ASSIGNMENT. Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. WAIVER. If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, master-servant, principal-agent, or any other relationship.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees brought against Sourcewell or its Member by a third party to the extent, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. AUDITS

- A. Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor pursuant to this Contract solely to the extent necessary to verify Vendor's compliance with its obligations hereunder for a minimum of six (6) years from the end of this Contract. This clause extends to Members as it relates to business conducted by that Member under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INTELLECTUAL PROPERTY

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Members against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Members by any person on account of the authorized use of any Equipment or Products by Sourcewell or its Members in accordance with their applicable specifications supplied by Vendor under this Contract in violation of applicable patent or copyright laws.

15. PUBLICITY, MARKETING, AND ENDORSEMENT

- A. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

B. **MARKETING.** Any direct advertising, marketing, or offers with Members must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

C. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. **Notification.** The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. **Escalation.** If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have not less than sixty (60) calendar days, unless otherwise approved in writing, to cure an outstanding issue or, in the event such issue cannot be cured within sixty (60) calendar days, to take material steps to cure such issue, provided that Vendor must continue to diligently pursue such cure until complete.
3. **Performance while Dispute is Pending.** Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue

without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Members as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Member order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- ☐ Exercise any remedy provided by law or equity, or
- ☐ Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. Workers' Compensation and Employer's Liability.

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. Commercial General Liability Insurance. Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition). At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury
\$2,000,000 aggregate for Products-Completed operations
\$2,000,000 general aggregate

3. Commercial Automobile Liability Insurance. During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer).

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. Umbrella Insurance. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. Network Security and Privacy Liability Insurance. During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without thirty (30) days' prior written notice to the Vendor.

Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within ten (10) days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. **ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE.** Vendor agrees to name Sourcewell and its Members, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. **SELF-INSURED RETENTIONS.** Any self-insured retention in excess of \$10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Members.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs

operated by the State of Minnesota, the United States federal government, or any Member. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Members that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Members may also require additional requirements based on specific funding specifications. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Member accesses Vendor’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person

employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in

the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of three (3) years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is

a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon sixty (60) days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Termination of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to termination.

[
Sourcewell
DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz
Title: Director of Operations &
Procurement/CPO
Date: 10/30/2019 | 8:29 AM CDT

Shaw Industries, Inc.
DocuSigned by:
By: Darrien Munroe
48D7E282A6BA405...
Darrien Munroe
Title: Contract Specialist
Date: 11/1/2019 | 7:42 AM CDT

Approved:
DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 10/30/2019 | 8:31 AM CDT

RFP#080819 - Flooring Materials with Related Supplies and Services

Vendor Details

Company Name: Shaw Industries, Inc.

Does your company conduct business under any other name? If yes, please state: Shaw Contract, Patcraft

Address: 616 East Walnut Avenue
Dalton, 30721 GA

Contact: Brande Poulnot

Email: brande.poulnot@shawinc.com

Phone: 770-387-7284

Fax: 770-387-7856

HST#: 35-2162582

Submission Details

Created On: Monday June 17, 2019 15:26:31

Submitted On: Thursday August 08, 2019 15:00:07

Submitted By: Chaz Wolfenbarger

Email: chaz.wolfenbarger@shawinc.com

Transaction #: 0644f85d-f95f-4d53-9a23-6fb9a5a93f35

Submitter's IP Address: 104.129.206.83

Specifications

Proposer Identity & Authorized Representatives

Line Item	Question	Response *	
1	Proposer Legal Name (and applicable d/b/a, if any):	Shaw Industries, Inc.	*
2	Proposer Address:	616 E. Walnut Ave. Dalton, GA 30721	*
3	Proposer website address:	www.shawinc.com	*
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer):	Robert M. Chandler, Executive Vice President, Commercial Division bob.chandler@shawinc.com 706.532.3470 616 E. Walnut Ave. Dalton, GA 30721	*
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Randa Thayer, VPSA, Government randa.thayer@shawinc.com 770-241-0910 616 E. Walnut Ave. Dalton, GA 30721	*
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Karen Kramer, VPSA, Government karen.kramer@shawinc.com 206-437-1540 616 E. Walnut Ave. Dalton, GA 30721	

Company Information and Financial Strength

Line Item	Question	Response *
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Shaw started in 1946 as Star Dye Company and transitioned to carpet manufacturing in 1967. Shaw emerged as a public company in 1971. Throughout the next decade, our strategy was to build a vertical supply chain so we could control our quality from start to finish. By 1989, we were the largest carpet manufacturer in the world. Because of our dominant market share, strong management team, innovative thinking, and quality performance, Berkshire Hathaway acquired us in 2001. Today, we are a full-service flooring company with 22,000 employees around the globe and products for every flooring category, including broadloom, carpet tile, resilient, hardwood, laminate, and tile and stone flooring products and synthetic turf. Our key values are honesty, integrity, and passion.
8	Provide a detailed description of the products and services that you are offering in your proposal.	We are providing products and installation services for those products. Additionally, we will be offering maintenance services through SOILD. Our products include broadloom, carpet tile, resilient, engineered wood, and hardwood.
9	What are your company's expectations in the event of an award?	We would meet with your staff to finalize the marketing plan and reporting. We want you to be comfortable with our staff and plan going forward.
10	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	We are a subsidiary of Berkshire Hathaway. Attached is Berkshire's annual report. In addition, we are happy to provide our Shaw specific financials upon receipt of a non-disclosure agreement from you. An NDA is attached for your signature.
11	What is your US market share for the solutions that you are proposing?	(Requested) Our US market share for commercial products is: Broadloom Carpet Tile Resilient Wood
12	What is your Canadian market share, if any?	(Requested) Our Canadian market share for commercial products is: Broadloom Carpet Tile Resilient Wood
13	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No
14	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Shaw is primarily a manufacturer of floorcovering products. We also provide installation services for those products. We have 22,000 employees globally involved in all aspects of production and sales. We have 300 sales representatives in the US and Canada who are employees. We also have an inhouse service team. The only services we outsource are installation and maintenance, although we manage their work through our Shaw Integrated Solutions division.
15	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Shaw has business licenses in each of our locations. When we hire an installation company, we vet their licenses.
16	Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.	There are none.
17	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	There are none.

Industry Recognition & Marketplace Success

Line Item	Question	Response *
18	Describe any relevant industry awards or recognition that your company has received in the past five years	<p>Patcraft</p> <p>2019:</p> <ul style="list-style-type: none"> - Best of Neocon Gold - Deconstructed Felt - Carpet Modular - Best of Neocon Gold - Handloom - Resilient - Metropolis Likes for Handloom - Buildings' Product Innovation for Deconstructed Felt - Interior + Sources HiP award for Subtle Impressions. - Coverage in Contract, Metropolis, Specify, Interior Design, Interiors + Sources, Archiproducts, Floor Covering News, Floor Covering Weekly, Floor Trends Magazine, Floor Focus, Green Operations, McMorro Reports, and Office Insight. <p>2018:</p> <ul style="list-style-type: none"> - Adex Platinum - Deconstructed Metal - Adex Platinum - Material Paradox - Adex Platinum - Subtractive Layers - Adex Gold - AdMix - Adex Gold - Isle of Skye - MetropolisLikes - Artefact - Best of NeoCon Silver - Dichroic - Carpet Modular - School Planning & Management and College Planning and Management New Product of the Year - Tangible Hue - Interior Design Best of Year Awards Honoree - Dichroic - HiP Honoree Manufacturer: Seller - Megghan Hoyt - HiP Honoree Workplace: Flooring: Hard Surface - Woodtone - Product Innovations Merit Award (2nd Place) - Artefact - Davey Award (Silver) Websites-Construction for Websites - Shaw Sound Advisor <p>2017:</p> <ul style="list-style-type: none"> - Best of Neocon Silver - Hardsurface - Subtractive Layers - Buildings Product Innovation Grand Award (1st place) - Subtractive Layers - HiP Product Designer "Rising Star" - Kelly Stewart <p>2016:</p> <ul style="list-style-type: none"> - Best of Neocon Silver - Healthcare - AdMix - Floor Covering Weekly's GreenStep Awards Honoree - Deconstructed Black - Nightingale Silver - Hard Surface - AdMix - Nightingale Silver - Resilient - Vinings <p>Shaw Contract</p> <p>2019:</p> <ul style="list-style-type: none"> - IIDA/HD Product Design Competition - Best Carpet/Rugs - Community -Contract's Best of NeoCon Award - Silver, Modular Flooring - Suited - Mixology Award - Product of the Year, Flooring - Inside Shapes - IIDA GlobalShop Product Design Competition - Best Flooring - Natural Choreography <p>2018:</p> <ul style="list-style-type: none"> - Metropolis Likes - Haven - Contract's Best of NeoCon Award - Gold, Modular Flooring - Haven - Healthcare Design's Nightingale Award - Gold, Modular Flooring - Haven - Interior Design Magazine HiP Award - Best Workplace Flooring - Inside Shapes - Interior Design Magazine's Best of the Year Award - Carpet - Inside Shapes - Dezeen's Product Award Longlist - Inside Shapes - IIDA/HD Product Design Competition - Best Resilient Flooring - Natural Choreography - Contract's Best of NeoCon Award - Silver, Hard Surface - Natural Choreography - Healthcare Design's Nightingale Award - Silver, Hard Surface - Natural Choreography - GlobalShop's Best Flooring and Best of Competition - Canvas <p>2017:</p> <ul style="list-style-type: none"> - IIDA/HD Product Design Competition Winner - Best in Flooring - Carpet - Off the Grid <p>2016:</p> <ul style="list-style-type: none"> - Best of NeoCon Silver Award - Carpet Broadloom - Modern Edit - NeoCon Editor's Choice Award - LVT - Modern Edit - Best of NeoCon Gold - Compose Design Tool - Architizer Award - The Studio/Painting - The Sleep Event BCFA - Product of the Year Award - Noble Materials - GlobalShop Best of Flooring - Noble Materials <p>In 2019, Shaw Industries as a whole was ranked #3 on Forbes list for the Best Employers in the state of Georgia. We also made the Official Shipper of the Choice list in 2019.</p> <p>Corporate awards in 2017 are:</p> <ul style="list-style-type: none"> - GE Ecomagination Leadership Award-Clear Path Recycling - GE Return on Environment Award-Clear Path Recycling - Sustainable Purchasing Leadership Council (SPLC) 2017 Purchasing Leadership Awards

		<ul style="list-style-type: none"> — Market Transformation Leadership Award — Supplier Leadership Award - Floor Covering News Awards of Excellence - Environmental Leadership Award - USGBC LEED Gold: Shaw Contract - New York Showroom - USGBC LEED Silver: Shaw Contract - Atlanta Showroom - Selling Power magazine - 50 Best Companies to Sell For - eLearning! magazine - Learning 100 - Training magazine - 2017 Training Top 125 	
19	What percentage of your sales are to the governmental sector in the past three years	2016: 7.9% 2017: 8.8% 2018: 9.1%	*
20	What percentage of your sales are to the education sector in the past three years	2016: 16.8% 2017: 18.1% 2018: 20.2%	*
21	List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	We are currently on contract with Sourcewell as well as 6 other cooperatives. KCDA Keystone Purchasing Network - KPN Massachusetts Higher Education Consortium - MHEC Panhandle Area Educational Consortium - PAEC Purchasing Association of Cooperative Entities - PACE Purchasing Cooperative of America - PCA We have the following state contracts which are: Kentucky, Massachusetts, Pennsylvania, Virginia, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, South Dakota, Tennessee, Utah, Vermont, Washington, and West Virginia. Our client information is confidential. We do not share their sales numbers. In turn, we would not share Sourcewell's numbers.	*
22	List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	We have the following Government Purchasing Contract: GSA Our client information is confidential. We do not share their sales numbers. In turn, we would not share Sourcewell's numbers.	*

References/Testimonials

Line Item 23.

Entity Name *	Contact Name *	Phone Number *	
Department of Management Services, Florida	Victoria Mitchell victoria.mitchell@dms.myflorida.com	850.921.6014	*
Cabarrus County	Monty Eudy mdeudy@cabarruscounty.us	704.920.3216	*
City of Port St. Lucie	Wendy Ritacco writacco@cityofpsl.com	772.873.6367	*

Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Sourcewell	Government	Minnesota - MN	Flooring Material and Full Turnkey material and installation services.	Confidential	Confidential	*
GSA	Government	District of Columbia - DC	Flooring Material and Full Turnkey material and installation services.	Confidential	Confidential	*
State of Oregon	Government	Oregon - OR	Flooring Material and Full Turnkey material and installation services.	Confidential	Confidential	*
State of Ohio	Government	Ohio - OH	Flooring Material and Full Turnkey material and installation services.	Confidential	Confidential	*
NASPO	Non-Profit	Kentucky - KY	Flooring Material and Full Turnkey material and installation services.	Confidential	Confidential	*

Ability to Sell and Deliver Service Nationwide

Describe your company's capability to meet the needs of Sourcewell Members across the US, and Canada if applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
25	Sales force.	We have more than 500 highly trained sales professionals throughout the US and Canada. Our qualified professionals are strategically located to best support our customers. They are equipped to provide our customers with best-in-class design, product, and overall customer support.
26	Dealer network or other distribution methods.	Your members will have easy access to products. We sell directly to customers or through dealers. We currently do business with thousands of dealers in the US and Canada.
27	Service force.	Surveys in Floor Focus rank Shaw as number one in service. Service is generally provided by our sales team; however, we have a technical services team of 39 employees, 18 of which can provide on-site support. These technical experts provide testing, installation support, and maintenance support.
28	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Our sales and technical service teams typically respond within 24 hours. We have general manufacturing times of carpet in 4 weeks, carpet tile in 6 weeks and resilient with no lead time (products are in stock). Standard delivery is typically within 5 days. When an order is placed, our customer service representatives provide specific delivery dates. As a vertically integrated company, we own and operate the largest private trucking fleet in the flooring industry. Additionally, we have hundreds of services providers throughout the U.S. These vital resources help us to meet our service goals.
29	Identify any geographic areas of the United States that you will NOT be fully serving through the proposed contract.	We service all areas.
30	Identify any Sourcewell Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	We will serve all sectors.
31	Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.	We do not provide installation or maintenance services in US territories.

Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Setting the correct price is a key part of our strategy: too low and our sales team is not motivated to sell, too high and our customers are not properly served. So we think very carefully about our pricing. Because we are the largest carpet manufacturer and one of the largest flooring manufacturers, we manage many contracts and understand what works. We have three brands on your contract and each has a marketing manager. Kieren Corcoran with Patcraft, Michelle Carpenter with Shaw Contract and Quentin Quathamier with Philadelphia Commercial will develop and implement the marketing plan for the Sourcewell contract. First, operationally, your contract will be available on our internal site 24/7 for our sales representatives to use and updated in all of our data systems. Then, our main marketing avenues are web calls, email blasts, Facebook, Twitter, Pinterest, Instagram, YouTube, flyers, and trade shows. Attached are some marketing materials we have used in the past.
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	We will consider all of our social media channels for your marketing plan: email blasts, Facebook, Twitter, Pinterest, Instagram, and YouTube. We track metadata for our media marketing outlets to determine our most effective messaging content.
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	We have been very pleased with our relationship. We appreciate your flexibility and responsiveness. This is the most important thing you bring to the sales process. As you know, we manage many contracts. You are one of our oldest and largest buying cooperatives and our sales representatives are already familiar with your contract. Your contract and marketing material will be available on-line for our sales teams. We will host a web call with our representatives outlining the contract, presenting the marketing materials and answering questions. Shaw's three marketing managers will alert sales representatives when we attend trade shows so they can participate. The marketing managers will be available to assist representatives with any questions along the way.
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers used it.	Yes, your members can order through EDI.

Value-Added Attributes

Line Item	Question	Response *
36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell Members. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	We have the most robust service team in the industry. We provide free installation and maintenance training to Sourcewell Members. First, we provide written instruction. Second, we provide video instruction. This is particularly helpful when bringing on new staff. Finally, we can arrange for on-site training.
37	Describe any technological advances that your proposed products or services offer.	Our EcoWorx carpet tile is PVC free, which is important to those members reducing their dependence on PVC. Our LokDots dry adhesive tabs make installation quicker and there is less waste than with wet adhesive. LokWorx dry adhesive tabs allow members to build their own rugs with carpet tile, a popular option for those installing hard surface flooring to reduce the noise. We offer a new wet adhesive that members can use for carpet or resilient flooring. and the pail is resealable. It can be reused up to 3 times. This saves storage space and simplifies the installation process. Our new, lightweight, StrataWorx carpet tiles are well suited when your members need a carpet tile at a broadloom price.
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>Our company green initiatives are:</p> <ul style="list-style-type: none"> - Products designed to be recyclable and to use less material - Manufacturing processes that continually reduce our impact on the environment - less water, less energy, and less waste. - Simple recycling services for our customers <p>Our progress is reported annually in our sustainability report at https://shawinc.com/Newsroom#Sustainability-Reports.</p> <p>Our carpet tile manufacturing facilities are ISO 14001 certified (environmental) and ISO 9001 certified (quality) by BSN. (environmental and quality respectively). Our commercial manufacturing facilities are carbon neutral.</p> <p>To help our customers assess our products, we provide:</p> <ul style="list-style-type: none"> *Health Product Declarations (health impact) *Environmental Product Declarations (environmental impact) *Declare Labels (showing our ingredients)
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>Our product certifications include:</p> <ul style="list-style-type: none"> *Cradle to Cradle Certification by the Innovation Institute (carpet) *NSF 140 certification from ANSI (carpet) *Green Label Plus (air quality) from The Carpet and Rug Institute *FloorScore certification from SCS Global Services (for resilient) *SmartWay certification for the efficient use of fuel
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	As a private company owned by a corporation Berkshire Hathaway, we do not qualify as a minority enterprise.
41	What unique attributes does your company, your products, or your services offer to Sourcewell Members? What makes your proposed solutions unique in your industry as it applies to Sourcewell members?	Dealers, designers and facility managers consistently rank Shaw's service and quality as the best in the industry. Our products are on the cutting edge of innovation and the 35 people in our service division are available to answer questions, provide testing or arrange training.
42	Identify your ability and willingness to provide your products and services to Sourcewell member agencies in Canada.	We provide Sourcewell agencies in Canada with the same level of service as the US with the exception of installation services.

Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
43	Do your warranties cover all products, parts, and labor?	Yes, we offer detailed warranties on each of our products, including lifetime warranties on our EcoWorx tile products. We also provide a workmanship warranty for our installation services.	*
44	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Yes, you must install the product according to instructions and you must maintain the products according to maintenance instructions. These instructions are available on the website, through the dealer, and through our customer service department.	*
45	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes.	*
46	Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell Members in these regions be provided service for warranty repair?	No.	*
47	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	We cover the warranty service for all of the products we sell.	*
48	What are your proposed exchange and return programs and policies?	If you cancel your running line product prior to shipping, there is no restock or cancellation fee. If your order has shipped, you will incur restocking and freight fees. For broadloom under 75 feet, the charge is 25% of the invoice plus freight. For broadloom over 75 feet, the charge is 15% of the invoice plus freight. For carpet tile, the charge is 25% plus freight. If we ship products in error or with defective material, your products will be returned at no charge. We will replace your order as soon as possible. If there are special circumstances related to the cancellation, we will work with you to minimize costs.	*
49	Describe any service contract options for the items included in your proposal.	We are only offering products in this proposal.	*

Payment Terms and Financing Options

Line Item	Question	Response *	
50	What are your payment terms (e.g., net 10, net 30)?	Net 30	*
51	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	No.	*
52	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell Members' purchase orders.	<p>We have a comprehensive ordering process for each type of flooring transaction: Material-only orders, Turnkey orders, and Dealer Material-only orders. The process for each of these is as follows:</p> <p>Material ONLY orders Customer emails SIS with order request listing: Customer Information, Bill to address, Job name, Shaw Product, and Adhesive. SIS - creates a proposal and sends it to the customer / end-user for review. If the customer accepts the proposal, the customer will need to issue a formal purchase order back to SIS. SIS - processes the order and emails customer with stock/backorder information, along with an order confirmation and live order tracking link. Material is shipped to the customer. SIS - Customer is invoiced and pays SIS per the invoice.</p> <p>Turnkey orders Customer emails SIS with order request listing: Customer Information, Bill to address, Job name, Shaw Product, Adhesive. (The Installation vendor can send this as well if they are working directly with the customer) Installation Vendor provides labor quote SIS - creates a turnkey proposal and sent to the Customer / End-user If the customer accepts the proposal, the customer will need to issue a formal purchase order back to SIS. SIS - processes the order and emails customer and installer with stock/backorder information, along with an order confirmation and live order tracking link. Material is shipped out to the Installation Vendor or customer. (Depends on storage at the job site) SIS - work order and customer work release forms are sent to installation vendor When the job is completed, the signed work order and customer work release are sent to SIS SIS - pays the installation vendor SIS - send the customer is invoiced and pays SIS per the invoice.</p> <p>Dealer Material ONLY The dealer sends the customer proposal for material and labor services (if needed). The dealer sends SIS a PO for "material only" (This is for reporting to Sourcewell) (Dealer must sign a dealer participation agreement, if one is not on file, SIS will provide) Dealer PO must have the following information: - Sourcewell Member number and member name - Shaw Industries Contract # 121715</p> <p>SIS processes the order and emails the dealer with stock/backorder information, along with an order confirmation and live order tracking link. Dealer is invoiced for Shaw material.</p> <p>We have four SIS points of contacts for different regions: - Melanie Taylor - Southeast, South Central, West Coast, HI & AK o Email: melanie.taylor@shawinc.com o Phone: 770-276-7502 - Rosio Hernandez - North Central, Northeast, and Northwest o Email: rosio.hernandez@shawinc.com o Phone: 770-276-7511 - Crystal Zachery - New York & Florida o Email: crystal.zachery@shawinc.com o Phone: 706-276-7509 - Farrah Finley - Canada o Email: farrah.finley@shawinc.com o Phone: 770-276-7505</p>	*
53	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell Members for using this process?	Yes, we do accept a P-card. There is a fee of 2%	*

Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *	
54	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	We are providing line-item discounts. On our submittal, we show the list price, the discount, and the agency price. We do show the product name and number but not a specific SKU. An SKU would be specific to the color level.	*
55	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Our discount is per item and on our pricing sheet, we show that discount percentage.	*
56	Describe any quantity or volume discounts or rebate programs that you offer.	We are not offering any quantity or volume discounts on this contract; however, it is a not-to-exceed price. On a case by case basis, we would extend a volume discount. That number varies based on the specific product, location, and delivery requirements.	*
57	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	If we source items for your members, there is no charge. If we source services, which are more involved, we charge our customer cost plus 12%.	*
58	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	This price is direct to your member. It does not include dealer handling cost, freight or taxes.	*
59	If freight, delivery, or shipping is an additional cost to the Sourcewell Member, describe in detail the complete freight, shipping, and delivery program.	Freight costs are not included in the member price and will be listed separately on purchase orders and invoices. Freight costs will be fully disclosed to your member prior to order placement and will be prepaid by the Contractor.	*
60	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Shaw uses partner carriers to deliver to Hawaii, Alaska, and Canada. For Hawaii customers, our Los Angeles distribution center delivers the product to our partner's dock and is shipped twice a week. For Alaska customers, our Seattle distribution center delivers the product to our partner's dock and ships twice weekly to Alaska. Shaw ships to Canada daily from our North Georgia hub distribution centers using our core partner carrier which has terminals in all major cities in Canada.	*
61	Describe any unique distribution and/or delivery methods or options offered in your proposal.	For customers on the west coast, we can offer rail delivery which is likely less expensive but may not be as timely.	*

Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
62	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Audit and Administrative Fee

Line Item	Question	Response *	
63	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	Darrien Munroe is your contract administrator and he verifies that the information submitted by our Shaw Integrated Solutions Team is correct.	*
64	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is a line-item addition to the Member's cost of goods. (See the RFP template Contract for additional details.)	2%	*

Industry Specific Questions

Line Item	Question	Response *
65	Describe how your products contribute to or promote the health, quality of life and well-being of our members and others.	We show our members how our products contribute to health, quality of life and wellbeing by certifying our products to the highest levels, including: Cradle to Cradle Certification (life cycle certification for carpet) NSF 140 certification (life cycle certification for carpet) Green Label Plus certification (low emissions for carpet) FloorScore certification (life cycle and low emissions for hard surface) For transparency, we also provide Health Product Declarations, Environmental Product Declarations and Declare labels for our products. These certifications are listed on our specifications.
66	Describe your capability to track and report sales to Sourcewell members by your dealer network.	Our sales team will work with your members to ensure that all of their orders go through Shaw Integrated Solutions (SIS). This team of 5 people ensures that the order is coded to Sourcewell. After this information is captured, SIS routes the order to: - the dealer as an order to the dealer to receive and deliver - Shaw as a direct order delivered to the member - Shaw as a turnkey project managed by SIS where the Shaw entity supplies material and installation.
67	Describe how your organization incorporates sustainability into the manufacture, installation and recycling of your products?	Shaw begins with the end in mind. We design our products on the front end to use less material and to be easier to recycle. Our manufacturing processes are continually refined to use less water, less energy and to produce less waste. We report this progress annually in our sustainability report which is available at https://shawinc.com/Newsroom#Sustainability-Reports
68	Describe your capability to report Sourcewell member purchases of products with environmentally preferred attributes (e.g., eco labeled, rated or certified).	Reporting is managed by Darrien Munroe. Darrien pulls the data and formats it for your reports. We can report purchases of environmentally preferred products; however, that includes most of our products.
69	Describe the extent to which your products contain recycled content or are recyclable.	All of our EcoWorx products are recyclable. They contain 27-47% recycled content. Our other broadloom carpet products contain up to 14% recycled content. The exact numbers are reflected on our specifications. LVT and vinyl sheet have no recycled content and are not recyclable. Wood products contain up to 50% recycled content and can be recycled. Tile and stone have no recycled content and are not recyclable; however, they are made from a plentiful natural resource. Sustainability metrics have moved away from recycled content because recycled content can introduce contaminants and the reclamation market is weak. The emphasis today is on healthy materials.

Exceptions to Terms, Conditions, or Specifications Form

Line Item 68. NOTICE: To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification
1st paragraph	This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and [Name and Address of Vendor to be Inserted Upon Contract Award] (Vendor).	This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Shaw Industries, Inc., 616 E.Walnut Avenue, Dalton, GA 30721 (Vendor).
Section 2C	C. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Member in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Member.	C. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and, subject to the applicable generally-published manufacturer's limited product warranty, are free from defects in design, materials, and workmanship. Vendor's dealers and distributors must agree to assist the Member in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Member. EXCEPT AS EXPRESSLY SET FORTH HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, VENDOR MAKES NO OTHER WARRANTIES FOR ANY EQUIPMENT, PRODUCTS, SERVICES, OR MATERIALS PROVIDED UNDER THIS AGREEMENT AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE.
Section 3(B)	B. SALES TAX. Each Member is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, Members must indicate if it is a tax-exempt entity.	B. SALES TAX. Each Member is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, Members must indicate if it is a tax-exempt entity. Unless exempt, Members shall be responsible for all applicable taxes arising from the provision of Products, Equipment, or Services under this Agreement.

Section 4	Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:	Vendor may request Equipment, Product, Service, or price changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. Sourcewell's approval of such requests shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, all Equipment, Product, and/or Service prices are subject to immediate increase without limitation in the event of a material change to applicable duties, taxes, tariffs, similar charges, or other government action. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:
Section 5(A)	Vendor is responsible for familiarizing its sales and service forces with Sourcewell membership requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Members to its roster during the term of this Contract.	Vendor is responsible for familiarizing its sales and service forces with Sourcewell membership requirements and documentation. Sourcewell reserves the right to add and remove Members to its roster during the term of this Contract.
Section 6(A)	A. PURCHASE ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Member.	A. PURCHASE ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members shall be solely responsible for noting the applicable Sourcewell contract number on all purchase orders. Members will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Member.
Section 6(B)	B. ADDITIONAL TERMS AND CONDITIONS. Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements. Any negotiated additional terms and conditions must never be less favorable to the Member than what is contained in Vendor's Proposal.	B. ADDITIONAL TERMS AND CONDITIONS. Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements.
Section 6(C)	C. PERFORMANCE BOND. If requested by a Member, Vendor will provide a performance bond that meets the requirements set forth in the Member's purchase order.	C. PERFORMANCE BOND. If reasonably requested by a Member, Vendor may provide a performance bond that meets the requirements set forth in the Member's purchase order.
Section 8(A)	"A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).	"A. CONTRACT SALES ACTIVITY REPORT. Subject to any applicable confidentiality obligations, including without limitation any contract obligations to Members, each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

Section 8(B)	<p>"B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Members. The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Members under this Contract during each calendar quarter. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.</p> <p>Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.</p> <p>In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date."</p>	<p>"B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Members under this Contract. The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total net sales of all Equipment, flooring Products, and Services purchased by Members under this Contract during each calendar quarter, less any applicable taxes, freight, fees, and discounts and less amounts attributable to any Services, freight, delivery installation, unpaid invoices, returned Products or materials, or credits issued. Orders under this Contract will only be eligible for the administrative fee if the Member notes the applicable Sourcewell contract number on the purchase order when submitting such purchase order. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.</p> <p>Vendor agrees to reasonably cooperate with Sourcewell in auditing transactions under this Contract to solely to the extent necessary to verify that the administrative fee is paid on all eligible items purchased under this Contract in accordance with the terms of this Contract.</p> <p>In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date.</p> <p>Any Products, Equipment, or Services sold under this Contract will not be eligible for the Administrative Fee if subject to any other rebate or group purchasing organization administrative fee. Sourcewell s is solely responsible for notifying any Member or other entity participating hereunder of its Administrative Fee and for complying with all laws and regulations related or applicable to such Administrative Fee. "</p>
Section 11	<p>Vendor must indemnify, save, and hold Sourcewell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.</p>	<p>Vendor must indemnify, save, and hold Sourcewell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, brought against Sourcewell or its Member by a third party to the extent arising out of the negligent performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.</p>
Section 12	<p>Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of six (6) years from the end of this Contract. This clause extends to Members as it relates to business conducted by that Member under this Contract.</p>	<p>"Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor pursuant to this Contract solely to the extent necessary to verify Vendor's compliance with its obligations hereunder for a minimum of six (6) years from the end of this Contract. This clause extends to Members as it relates to business conducted by that Member under this Contract.</p> <p>Sourcewell and its Members agree to receive and hold Confidential Information of Vendor in trust and in strictest confidence and shall not use, reproduce, distribute, disclose, or otherwise disseminate any Confidential Information except 1) as necessary to perform its obligations hereunder or 2) as required by applicable law. Disclosures of the Confidential Information may be made only to Sourcewell or its Member's employees and agents who have a specific need to know such Confidential Information and are subject to confidentiality restrictions at least as restrictive as those contained herein. "Confidential Information" means all disclosures under this Section 12 or Section 8 as well as any non-public, confidential or proprietary information of Vendor, disclosed to Sourcewell or its Member through any method or medium, whether or not marked, designated or otherwise identified as ""confidential"" in connection with this Contract. Upon Vendor's request, Sourcewell or its Member shall promptly return or destroy all documents and other materials containing Confidential Information. The obligations and restrictions of this Section shall survive the expiration or earlier termination of the Agreement."</p>

Section 14	As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Members against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Members by any person on account of the use of any Equipment or Products by Sourcewell or its Members supplied by Vendor in violation of applicable patent or copyright laws.	As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Members against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Members by any person on account of the authorized use of any Equipment or Products by Sourcewell or its Members in accordance with their applicable specifications supplied by Vendor under this Contract in violation of applicable patent or copyright laws.
Section 19(A)(2)	2. Escalation. If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have thirty (30) calendar days to cure an outstanding issue.	2. Escalation. If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have not less than ninety (90) calendar days to cure an outstanding issue or default identified under Section 19(B).

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- [Financial Strength and Stability](#) - 2018 Berkshire Hathaway Inc.pdf - Friday August 02, 2019 14:29:07
- [Marketing Plan/Samples](#) - Marketing Plan.pdf - Wednesday August 07, 2019 15:41:29
- WMBE/MBE/SBE or Related Certificates (optional)
- [Warranty Information](#) - SC PC PCC Warranties -.pdf - Wednesday August 07, 2019 10:47:26
- [Pricing](#) - Shaw Soucewell Pricing 8-9-19.xlsx - Thursday August 08, 2019 14:59:00
- [Additional Document](#) - Sourcewell Exception . Modification (Shaw 8.2).xlsx - Thursday August 08, 2019 11:41:09

Proposers Assurance of Comp

PROPOSER ASSURANCE OF COMPLIANCE

PROPOSER’S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the “Proposer”), swears that the following statements are true to the best of his or her knowledge.

- 1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to Sourcewell member agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
- 2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of Sourcewell, or any person, firm, or corporation under contract with Sourcewell, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
- 3. The contents of the Proposer’s proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals.
- 4. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted and included with the Proposer’s Proposal.
- 5. The Proposer will, if awarded a Contract, provide to Sourcewell Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
- 6. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
- 7. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
- 8. The Proposer understands that Sourcewell will reject RFP proposals that are marked “confidential” (or “nonpublic,” etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a “trade secret,” and thus nonpublic data under Minnesota’s Data Practices Act.

The Proposer understands that it is the Proposer’s duty to protect information that it considers nonpublic, and it agrees to defend and indemnify Sourcewell for reasonable measures that Sourcewell takes to uphold such a data designation.








☒ By checking this box I acknowledge that I am bound by the terms of the Proposer’s Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.
- Robert Chandler, Executive Vice President, Commercial Division

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☐ Yes ☒ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_7_RFP080819_Flooring Materials with Related Supplies and Services Fri July 26 2019 02:21 PM		--
Addendum_6_Flooring Materials with REalted Supplies and SErVICES_RFP080819 Mon July 22 2019 01:46 PM		--
Addendum_5_Flooring Materials with RElated Supplies and Services_RFP080819 Tue July 16 2019 04:11 PM		--
Addendum_4_Flooring Materials with Related Supplies and Services_RFP_080819 Tue July 16 2019 08:49 AM		--
Addendum_3_Flooring Materials with Related Supplies and Services_RFP_080819 Mon July 15 2019 03:56 PM		--
Addendum_2_Flooring Materials with Related Supplies and Services_RFP_080819 Wed July 10 2019 03:01 PM		--
Addendum_1_Flooring Materials with Related Supplies and Services_RFP#_080819 Tue July 2 2019 03:34 PM		--



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 6/7/2022

ITEM NO: 16

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Second Amendment to the Consultant Services Agreement with Dixon Resources Unlimited for the Comprehensive Downtown Parking Study to Extend the Contract Term

RECOMMENDATION:

Authorize the Town Manager to execute a second amendment to the consultant services agreement with Dixon Resources Unlimited (Dixon) for the Comprehensive Downtown Parking Study to extend the contract term.

BACKGROUND:

On March 19, 2019, the Town Council approved an agreement with Dixon for the Comprehensive Downtown Parking Study. The study scope includes a full review of existing conditions, past parking discussions and policies; outreach to stakeholders; data collection and analysis; and suggested strategies for managing parking.

In December 2019, Dixon completed the parking study and provided a document titled "Parking Roadmap" that provides a series of recommendations to guide the Town towards the effective management of the Downtown parking supply. The Parking Roadmap highlights opportunities to phase the implementation of improvements and adjustments over several years to allow for demonstrated effectiveness prior to embarking on subsequent efforts.

In June 2020, the first amendment to the consultant services agreement with Dixon was executed to extend the contract end date from June 30, 2020, to June 30, 2022.

PREPARED BY: WooJae Kim
Town Engineer

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

PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to Execute a Second Amendment to the Consultant Services Agreement with Dixon Resources Unlimited Resources for the Comprehensive Downtown Parking Study to Extend the Contract Term.

DATE: June 2, 2022

DISCUSSION:

In April 2021, the Town Council approved the implementation of the pilot Employee Parking Program as recommended in the Parking Roadmap. Staff is working with a striping and signage contractor to implement the pilot program by the end of this summer for business owners and employees who work in Downtown. Also, as presented to Council on March 15, 2022, staff is finalizing the design for the Downtown Wayfinding Signage and evaluating parking pay stations and mobile payment applications for the Downtown municipal parking lots.

A task remaining for Dixon as part of the Comprehensive Downtown Parking Study is the "Implementation Support" to the Town to provide technical support, assist in managing vendors, and support additional flexible solutions capable of growing and expanding with the Town's evolving needs. A second amendment (Attachment 1) to the consultant services agreement with Dixon is required to extend the contract period to June 30, 2023.

CONCLUSION:

Authorize the Town Manager to execute a second amendment to the consultant services agreement with Dixon Resources Unlimited to extend the contract term for the Comprehensive Downtown Parking Study to June 30, 2023.

COORDINATION:

This project has been coordinated with the Town Attorney

FISCAL IMPACT:

There are sufficient funds remaining in the contract balance for the term extension. There is no fiscal impact as a result of this report.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Second Amendment with Original Agreement

SECOND AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This SECOND AMENDMENT is dated for identification this 7th day of June 2022 and amends that certain AGREEMENT FOR CONSULTANT SERVICES for a Comprehensive Study of Downtown Parking, dated March 20, 2019, made by and between the Town of Los Gatos, ("Town,") and the Dixon Resources Unlimited ("Consultant.").

RECITALS

- A. Town and Consultant entered into an Agreement for Consultant Services on April 25, 2019, ("Agreement"), and the First Amendment to the Agreement dated June 22, 2020, was executed to extend the agreement term to June 30, 2022, and a copy of the Agreement and First Amendment is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to further amend the Agreement to extend the agreement term to June 30, 2023.

AMENDMENT

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

This contract will remain in effect until June 30, 2023.

- 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

Approved as to Consent:

By: _____
Laurel Prevetti, Town Manager

By: _____
Julie Dixon
President

Department Approval:

Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Shelley Neis, MMC, CPMC, Town Clerk

FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 22nd day of June 2020 and amends that certain agreement for Agreement for Consultant Services dated March 20, 2019, made by and between the Town of Los Gatos, ("Town") and Dixon Resources Unlimited ("Consultant").

RECITALS

- A. Town and Consultant entered into an Agreement for Consultant Services on March 20, 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 Consultant Services to extend the term of the agreement.

AMENDMENT

2.2 Term and Time of Performance is amended to remain in effect through June 30, 2022.

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

ATTACHMENT 1

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

Town of Los Gatos

Consultant by:

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

DocuSigned by:
Julie Dixon
2A27D58339BB4F3...

Julie Dixon / President
Name/Title

Department Approval:

DocuSigned by:
Matt Morley
BDA0B3B0D8F4484...
Matt Morley
Director of Parks and Public Works

Approved as to Form:

Attest:

DocuSigned by:
Robert W. Schultz
2FE09365558744C...
Robert Schultz, Town Attorney

DocuSigned by:
Shelley Neis
B9866F65B1F34F6...
Shelley Neis, MMC, CPMC, Town Clerk

AGR 19.044
HH

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on March 20, 2019 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Dixon Resources Unlimited, ("Consultant"), whose address is 3639 Midway Drive, Suite B345, San Diego, CA 92110. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desire to engage Consultant to provide a comprehensive study of downtown parking.
- 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 January 31, 2019 and with the supplement provided March 8, 2019, 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 March 20, 2019 to June 30, 2020. 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 **\$158,892**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor

and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

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

III. INSURANCE AND INDEMNIFICATION

- 3.1 Minimum Scope of Insurance:
- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: 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, 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 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 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 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.
- 3.4 Indemnification. The Consultant 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 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

Dixon Resources Unlimited
3639 Midway Drive, Suite B345
San Diego, CA 92110

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.

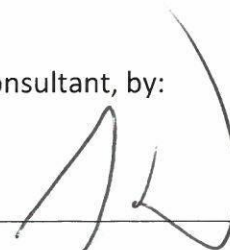
IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement.

Town of Los Gatos by:

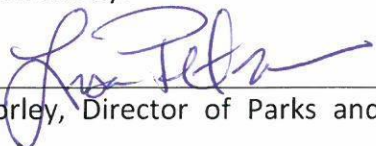


Laurel Prevetti, Town Manager

Consultant, by:



Recommended by:

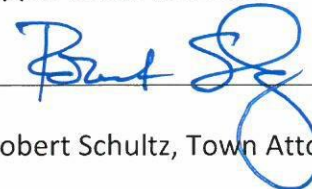


For Matt Morley, Director of Parks and Public Works




Title

Approved as to Form:



Robert Schultz, Town Attorney

Attest:

 4/25/19

Shelley Neis, CMC, Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 17

DATE: May 24, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Universal Site Services to Extend the Term through August 31, 2022, and Increase Compensation for Fiscal Year 2021/22 by \$500 and Fiscal Year 2022/23 by \$9,511.11 for a Total Amended Amount Not to Exceed \$197,748.11

RECOMMENDATION:

Authorize the Town Manager execute a First Amendment to the Agreement for Services with Universal Site Services (Attachment 1) to extend the term through August 31, 2022 and increase compensation for Fiscal Year (FY) 2021/22 by \$500 and FY 2022/23 by \$9,511.11 for a total amended amount not to exceed \$197,748.11.

BACKGROUND:

The Town of Los Gatos has utilized contractual services to provide enhanced downtown garbage collection and recycling on the weekends with additional weekday recycling collection since September 2018. The current agreement for services with Universal Site Services will expire on June 30, 2022. The Town issued a Request for Proposals (RFP) on May 4, 2022, for a new five-year term beginning September 1, 2022.

Implementation of the current service model of contracted recycle and enhanced trash hauling on weekends in the downtown, combined with an increase in recycling receptacles has significantly decreased the incidents of overflowing trash receptacles with a corresponding decrease to the amount of recyclable waste going to the landfill. Staff continues to increase the number of recycling receptacles to meet the needs of the downtown with the ultimate goal of

PREPARED BY: Dan Keller
Facilities and Environmental Services Manager

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Universal Site Services to Extend the Term through August 31, 2022, and Increase Compensation for Fiscal Year 2021/22 by \$500 and Fiscal Year 2022/23 by \$9,511.11 for a Total Amended Amount Not to Exceed \$197,748.11

DATE: May 24, 2022

BACKGROUND (continued):

completing one-to-one receptacle pairings. In FY 2020/21, the Town added 7 pizza box receptacles to mitigate the increase in large takeout containers that were causing overflow and jams in the trash receptacles. Currently, the service includes 61 trash receptacles, 50 recycling receptacles, 7 pizza box receptacles, and 3 big belly receptacles.

In addition to collection, Universal Site Services provides cleaning services of the receptacles. The receptacle design leads to soiled surfaces, which have historically been a nuisance downtown.

DISCUSSION:

On May 4, 2022, staff issued a Request for Proposals (RFP) for the following service categories:

- Downtown weekend garbage collection
- Downtown recycling collection on weekends and midweek
- Cleaning of all receptacles

Firms were asked to provide their capability and past experience with collection and recycling service and to provide pricing for each category. The Downtown Los Gatos Garbage, Recycling, and Pizza Box Receptacle Collection and Cleaning RFP had a deadline of May 27, 2022, at which time staff will determine the best qualified and most cost competitive firm to bring to Council for the new five-year term beginning September 1, 2022 through June 30, 2026.

Given the Town's contract with Universal Site Services expires on June 30, 2022, the Town is requesting an amendment to extend the term to August 31, 2022 to cover the time for RFP proposal review and council approval for a new five-year term beginning September 1, 2022.

This amendment would also add \$500 to FY 2021/22 for the addition of 7 pizza box receptacles requiring servicing and cleaning in Downtown Los Gatos beginning July 1, 2021. The amended amount of \$9,511.11 is for 2 additional months, July and August in 2022.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Universal Site Services to Extend the Term through August 31, 2022, and Increase Compensation for Fiscal Year 2021/22 by \$500 and Fiscal Year 2022/23 by \$9,511.11 for a Total Amended Amount Not to Exceed \$197,748.11

DATE: May 24, 2022

CONCLUSION:

Authorize the Town Manager execute a First Amendment to the Agreement for Services with Universal Site Services (Attachment 1) to extend the term through August 31, 2022 and increase compensation for Fiscal Year 2021/22 by \$500 and Fiscal Year 2022/23 by \$9,511.11 for a total amended amount not to exceed \$197,748.11.

FISCAL IMPACT:

Funds for the services for FY 2021/22 and FY 2022/23 have been appropriated in the Parks and Public Works Operating Budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. First Amendment to Agreement for Services
2. Original Agreement for Services

FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 8th day of June 2022 and amends that certain Agreement for Services dated September 1, 2018, made by and between the Town of Los Gatos ("Town") and the Universal Site Services ("Service Provider").

RECITALS

- A. Town and Supplier entered into an Agreement for Services on September 1, 2018, ("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 amend the term of agreement and increase compensation for the Scope of Services.

AMENDMENT

1. 2.2 Term of Performance is amended as follows:

The effective date of this Agreement is September 1, 2018 and will continue through August 31, 2022, subject to appropriation of funds, notwithstanding any other provision in this agreement.

2. 2.6 Compensation is amended as follows:

Compensation for services will increase **\$500** for FY 21/22 and **\$9,511.11** for FY 22/23 and for **total agreement amount not to exceed \$197,748.11**.

Year	Base Amount	10% for additional services	Total Amount
FY 21/22 Unforeseen Expenses	-	\$500	\$500
FY 22/23 (7/1/22-8/31/22)	\$8,646.46	\$864.65	\$9,511.11
Total Agreement Amount Not to Exceed			\$197,748.11

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

ATTACHMENT 1

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

Town of Los Gatos by:

Service Provider by:

Laurel Prevetti, Town Manager

Name/Title

Department Approval:

Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Shelley Neis, CMC, Town Clerk

AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 1st of September 2018 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and UNIVERSAL SITE SERVICES, ("Service Provider"), whose address is 760 E. Capitol Avenue, Milpitas, CA 95035. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Service Provider to provide garbage and recycling receptacle collection and cleaning services.
- 1.2 The Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 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 June 18, 2018, 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 on **September 1, 2018** and will continue through **June 30, 2022**, 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. Payment shall be based upon Town approval of each task. Compensation for services shall be as follows: ✓

Year	Base Amount	10% for additional services	Total Amount
2018-2019 (10 mos)	\$34,770	\$3,477	\$38,247
2019-2020	\$43,464	\$4,346.40	\$47,810.40
2020-2021	\$45,276	\$4,527.60	\$49,803.60
2021-2022	\$47,160	\$4,716	\$51,876
Total Agreement Amount Not to Exceed	\$170,670	\$17,067	\$187,737

Compensation shall be adjusted upward annually for the remaining term of this Agreement per this table and in lieu of any local Consumer Price Index (CPI) adjustments.

- 2.7 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 one hundred dollars (\$100.00) per location per scheduled service in liquidated damages for every missed service beyond three missed services in a month in addition to reducing the monthly payment by the cost of that 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.
- 2.8 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.

- 2.9 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:

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

- 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 Service Provider. 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 Service Provider and not an agent or employee of the Town. As an independent Service Provider 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 sub-service Providers 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 subService Providers 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 subService Provider.

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 Prevailing Wages. In accordance with the provisions of Sections 1770 *et seq.*, of the Labor Code, the Director of the Industrial Relations of the State of California has determined the general prevailing rate of wages applicable to the work to be done. Service Provider will be required to pay to all persons employed on the project by the Service Provider sums not less than the sums set forth in the documents entitled "General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code, part 7, Chapter 1, Article 2, Sections 1770, 1773, 1773.1." These documents may be obtained from the State of California.

Pursuant to Labor Code section 1725.5, no Service Provider or sub-service Provider may be awarded a contract for public works on a public works project unless registered with the Department of Industrial Relations.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations and/or the Town of Los Gatos.

The Service Provider is required to post notices on Public Works requirements.

- 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:

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

Universal Site Services
Attn: David Sanchez
760 E. Capitol Avenue
Milpitas, CA 95035

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:



Laurel Prevetti, Town Manager

Universal Site Services by:

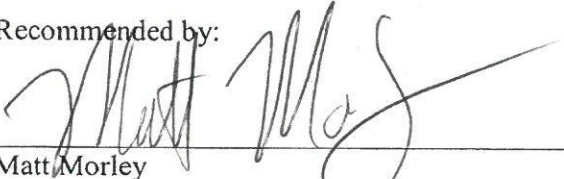
 David Sanchez



Regional Sales Manager


Title

Recommended by:



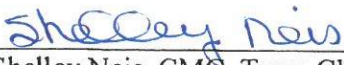
Matt Morley
Director of Parks and Public Works

Approved as to Form:



Robert Schultz, Town Attorney

Attest:

 9/27/18

Shelley Neis, CMC, Town Clerk Administrator

**UNIVERSAL SITE
SERVICES
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. DOWNTOWN LOS GATOS GARBAGE AND RECYCLING RECEPTACLE
COLLECTION AND CLEANING SERVICES BID SHEET**

	DESCRIPTION, WITH UNIT PRICE IN WORDS. (PRICE IS INCLUSIVE OF ALL APPLICABLE TAXES AND FEES)	PERIOD	COST	ESTIMATED HOURS
1.	Basic Collection and Cleaning Services Current inventory	Monthly	\$3,372.17	n/a
2.	2018-2019	Monthly	\$3,477.00	n/a
	2019-2020	Monthly	\$3,622.00	n/a
	2020-2021	Monthly	\$3,773.00	n/a
	2021-2022	Monthly	\$3,930.00	n/a
3.	Additional Cost per new garbage receptacle	Monthly	\$47.58	n/a
4.	Additional Cost per new recycling receptacle	Monthly	\$71.37	n/a
5.	Reduction in Cost for removal of garbage receptacle (per can)	Monthly	\$47.58	n/a
6.	Reduction in Cost for removal of recycling receptacle (per can)	Monthly	\$71.37	n/a
7.	Additional Collection and Cleaning Service day (one time)—Recycling Only	Daily	\$175.82	n/a
8.	Additional Collection and Cleaning Service day (ongoing)—Recycling Only	Monthly	\$570.32	n/a
9.	Additional Collection and Cleaning Service day (one time)—Garbage and Recycling	Daily	\$384.61	n/a
10.	Additional Collection and Cleaning Service day (ongoing)—Garbage and Recycling	Monthly	\$1,051.64	n/a
11.	Emergency Collection and Cleaning Service	Hourly	\$65.00	
12.	Scheduled Day porter cleaning and collection services	Hourly	\$45.00	



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Why Universal Site Services, Inc.

Dear Jim,

Points of interest that I would like to touch base why working with USS would be beneficial to Town of Los Gatos. Outside of having been the contractor for this same proposed work in the past, Universal Site Services has the equipment and infrastructure to provide professional, dedicated services with ample supervisions and manpower. Please review the details enclosed.

Service Plan

USS has been providing the Town of Los Gatos exterior maintenance services for the past 16 years in the capacity of sweeping, pressure washing and day porter services. USS has built a reputation on providing quality exterior maintenance services starting in San Jose moving to Stockton and now servicing the entire state of California and cities in Arizona & Nevada.

USS has a 24 hour answering service that will allow any one from the Town of Los Gatos to reach one of our account managers at anytime of the day or night. The Operations Manager and Regional Sales Manager for this account live in the San Jose area and have worked closely with the Town of Los Gatos while providing pressure washing service and on call day porter services for the past 8 years. More importantly the representatives of USS have prior experience with the scope of work the Town of Los Gatos is requesting USS provided these same services to the Town of Los Gatos a few years back but got let go due to going in house with the services. USS plans on providing (1) Driver/Day porter and (1) Day Porter to service Downtown Los Gatos Garbage and Recycling Receptacle Collection and Cleaning Services. They will start at 6am on Wednesday, Saturday & Sunday and end at 8am. USS provide each day porter a USS cell phone, USS uniform and a safety vest. USS will also provide a service truck to collect and remove the collected debris. The day porters will be equipped with gloves and cleaning products to clean each trash can receptacle. Our training and knowledge will offer The Town of Los Gatos a seamless transition in taking over the day porter services cleaning services. USS will meet frequently with the manager of the Town of Los Gatos to go the trash cleaning services, relocation of cans and any obstacles or changes that will improve the garbage and recycling receptacles collection and cleaning services.

On the following pages you will have additional information that can be useful to you. Universal Site Services has experience to be a proactive exterior maintenance company that offers an infrastructure more than Day Porter services.

We look forward to the opportunity to answer any questions that you may have.

David Sanchez

A handwritten signature in black ink that reads "David Sanchez".

Corporate Offices: 760 E. Capitol Avenue ~ Milpitas, CA.95035 ~ Ph: 800.647.9337 ~ Fax: 408.258.0122

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Downtown Los Gatos Garbage and Recycling Receptacle Collection and Cleaning Services Proposal

June 15, 2015

Presented To: Mr. Jim Harbin
Facilities and Environmental Programs Manage
Town of Los Gatos
Downtown Garbage and Recycling Services Proposal
41 Miles Avenue
Los Gatos, CA 95030
Phone: 408.395.5310
Email: jharbin@losgatosca.gov

Job Location: Town of Los Gatos
Downtown Los Gatos Garbage and Recycling Receptacle Collection and Cleaning Srvc

Presented By: David Sanchez
Regional Sales Manager
Universal Site Services
Mobile: 408.210.0836
Desk: 408.907.5848
Email: dsanchez@universalsiteservices.com

Table of Contents: Pricing & Service Schedule
Scope of Work
Brief Company Description/Availability of Services
Client References
Account Manager Contact Information
Qualifications and Experience
Certificate of Insurance (provided appropriately if awarded contract)

Notes: Thank you for considering Universal Site Services for this opportunity... we are eager to prove to you why, over the past 60 years, we have built a reputation of excellence among the industry and our customers alike.



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General Scopes of Work and Services (Includes but not limited to)

Day Porter Service:

- Garbage Receptacles Collection: working days Saturday & Sunday 6am to 8am.
- Recycling Receptacles Collection: working days Wednesday, Saturday & Sunday 6am to 8am.
- USS will pick up all litter and loose material within a 4ft radius of the trash can & recycle receptacle.
- USS shall remove any material placed on top of the receptacle.
- USS will remove all litter and loose material that has accumulated between the plastic insert and the decorative metal receptacle each service.
- USS will pick up all loose material collected shall be bagged and transported to the Town of Los Gatos South Corporate Yard located at 41 Miles Avenue and placed in the designated recycling bin. Any organic or putrescent material (e.g. food, pet waste, green waste, ect.), dirt, or other clearly non-recyclable material found around the recycling containers shall be separately bagged and disposed of as garbage.
- Check and make sure that the receptacles are in good working condition ie; latches work, locks work, missing lids, broken incerts lids don't need to be touched up with new paint, make sure all receptacles have a liner incert each service.
- Wipe down all Trash Can Receptacles Lids 1X per week.
- Notify Town of Los Gatos manager of any unsafe conditions or potential hazards.
- Notify Town of Los Gatos manager of any areas that are unable to be cleaned.
- USS will provide All Cleaning Supplies and Trash can liners.
- USS will Review of existing can locations; Relocation and/or additional of cans within 60 days following the start of this contract, USS will meet with the Town and provide recommendations regarding the needs for relocation or addition of garbage and recycling receptacles based on USS experience in servicing the cans.
- USS will relocate cans at no additinaol charge or cost to the Town of Los Gatos.
- USS Holiday Pay Rate ?
- USS costs for a single collection service day Rate ?
- USS emergency call-back Rate ?
- USS minimum hourly Rate ?
- USS will assign a Manager to act as a single point of contact for this service agreement. USS Managernshall at a minimum be available by cellphone to Town Staff during the hours of 7am to 5pm Wednesday through Sunday. USS will provide the Town with an emergency phone number that will be available 24 hours a day, 7 days per week, including holidays.

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Universal Site Services, Inc.

An exterior maintenance and beautification service provider. Whether you have one site or many, our solutions ensure consistently higher results while delivering budgetary savings. We offer true in-house expert services for the exterior maintenance requirements of your properties.

Our Mission

Our Mission is to provide a hands-on, pro-active approach toward the management of our accounts. We will facilitate the needs of our property managers, while maximizing budgetary requirements.

Founded on the principles of cleanliness and the importance cleanliness plays on the choices end consumers make, we take pride in our reputation for superior customer service, our attention to detail and that the work we do directly affects our client's reputation and success.

We understand that the needs of each of our clients are unique, so we cater our services to the characteristics of your property and your budget delivering consistently higher results while ensuring budgetary savings.

We are BASMA certified

Our Locations

Universal Site Services has expanded its brick and mortar operations throughout California, Arizona, and Nevada with offices in:

Corporate Office:	760 E Capitol Ave, Milpitas, CA 95035
Sacramento Office:	3174 Luyung Dr. #3, Rancho Cordova, CA 95742
Santa Rosa Office:	1599 Hampton Way Santa Rosa, CA 95407
Stockton Office:	1113 N Shaw Rd, Stockton, CA 95215
Los Angeles Office:	260 Avenida Vista Montana, San Clemente, CA 92672
Reno Office:	2000 Brierley Way, Sparks, Nv 89434
Arizona Office:	1940 West Durango, Phoenix, AZ 85009

USS' Philosophy and Delivery Approach

Founded in 1958 in the Bay Area, USS Inc. has grown into one of the largest Full Site Service companies on the West Coast, servicing clients throughout California, Nevada, and Arizona. With over 55 years of commitment to our customers, we have expanded our operation to offer comprehensive exterior property maintenance services, highway and municipal road and Construction Sweeping.

We work with *veteran associations* putting our soldiers to work while others won't and we are recognized as one of the top *Woman Owned Bay Area Companies*.





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We Manage:

- Downtown Centers
- Retail and Commercial/Industrial
- Portfolio Maintenance Packages
- Big Box Retailers
- Major Power Centers
- Commercial & Industrial Properties
 - C/O: Property Managers, Assets Managers & Private Investors, REIT's.
- Residential Sweeping Prgrms
- State highway Sweeping

Our Range of Services Include:

- Parking Lot Sweeping
- Day Porter/Janitorial Services
- Pressure Washing & Steam Cleaning
- Window Washing & Awning Cleaning
- Landscaping maintenance; including all irrigation capabilities & construction
- Graffiti Prevention and Abatement
- City Street Sweeping Services
- Landscaping
- Tenant Improvements (TI), including Vanilla Shell
- Painting
- Other Property Maintenance: Sign Removal, Bumper & Ballard Replacement
- Building Washing/ Window Washing
- Special Pick-ups/Special Service - Illegal Dump Pick Up
- Bin Hauling

What Differentiates Us:

- Our attention to detail matters
- In House Crews
- Arsenal of Equipment
- Our belief that the job is not done until the customer is satisfied
- We keep learning to do better and innovating ways to better accomplish the tasks at hand
- Rapid reaction to customer demands with Pro-Active Management
- Tailored services to target client's critical issues and concerns
- Depth of experience in the maintenance and sweeping industry
- Proven methods to ensure clients receive consistent services
- Superior rapport with client from the initiation and completion of the job
- Statewide experience for a balanced state and local perspective
- USS has "Feet on the Street"
- Corrective action plans
- Pictures provided before & after
- Quality assurance measures are in place to make sure the work was completed properly
- We offer work schedules on a yearly, monthly, weekly, daily basis
- We operate the latest in sweeping equipment and diesel exhaust technology
- We have full time mechanics operating out of each of our facilities and routinely maintain our equipment
- Experience staff 55 Years history afford confidence in dedication & reliability
- Compliant with all City, State and Federal laws for clean water conservation & pollution prevention

Corporate Offices: 760 E. Capitol Avenue ~ Milpitas, CA.95035 ~ Ph: 800.647.9337 ~ Fax: 408.258.0122
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Technical Proposal

We are a true leading in-house exterior maintenance company. Few companies have our experience, breadth of hard earned knowledge and real field experience or equipment.

Our philosophy of hard work, determination, customer satisfaction and open communication has been a winning combination for our company. Our philosophy to use the most modern and effective equipment has enabled us to stand out within the market place. Our fiscal responsibility and attention to the bottom line has ensured our success through both good and bad economic times enabling us to grow during strong economic conditions and expand and capitalize during economic downturns.

We have successfully implemented countless municipal, state, and private project roll outs. Our company has been structured to handle projects specifically like the Stoneridge Mall Parking Lot Sweeping Maintenance Program. We have an advanced phone system with 24 hour a day 7 day a week 365 days a year live coverage through our direct and 1-800 phone lines. Each of our companies and all divisions are tied into our emergency dispatch capabilities for fast turn around and deployment of the necessary equipment to handle any number of field emergencies and issues with LOCAL staff to ensure your project can always be manned with a full team.

Proposed Methodology

Our extensive experience with street level crews is second to none. USS understands the unquestionable need to working at the speed of business in the management and dispatch of our wide-ranging work crews throughout our different business segments and businesses. We've quite simply been in the business of dispatching work crews for over 55 years.

Following the initial contract set up and transition USS will appoint a primary sweeper operator that will be scheduled to maintain the parking lots. One of the benefits of working with USS and our sister organizations is we have access to additional sweepers with various sweeping results. Your assigned sweeper operator may request to his supervisor internally that we rotate a regenerative air machine for a broom machine. Perhaps due to gravel build up or local construction hampering the desired performance of our air machine. These services are all proactive seamless services at no additional costs.

The assigned manager works daily on quality assurance and follows up on inquiries. The designated managers record and organize all month end reports. These back end operations are all proactive and there is only positive future impact to for your site.

Inclement Weather issues are a constant concern in our line of work. We track weather patterns during the winter months to ensure proper scheduling and re-scheduling of work takes place to make certain any weather related scheduling issues are addressed immediately. Often times extra sweeps need to be scheduled to ensure a quick response to missed sweeps or additional equipment is routed to help offset missed service days on account of inclement weather. Fortunately the size and depth of our crews enables us to quickly and efficiently re-route the required crews and equipment to ensure all schedules are quickly amended and put back on track without ever being noticed by our clients.





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Work Plan

If Universal Site Services, Inc. is awarded our plan of action will involve firstly making introductions of all key players within our organization involved with the contract.

During this introduction, we will provide demonstrations of our equipment. In addition at this time we will be open for questions about our field procedures. Upon commencement of the contract throughout the entire rotation of each location there will be additional "hands-on" management in the field while they are working to ensure that all questions are answered and the field teams stay on track. Thereafter, management will be involved daily and follow up on reports, customer services, and field operations.

Work Force / Crews

A team of one lead sweeper operator along with 1 field manager will be assigned to the Parking Lot Sweeping contract. Our teams are professionally trained with uniformed operators and laborers, seasoned in the field of exterior maintenance and trained to handle any duties to meet the needs of Simon to guarantee a successful implementation and superior levels of service. Our managers report to our Director of Operations who reports directly to ownership.

Employee Absenteeism and the Unforeseen

We have a number of contingency plans in place to handle any number of incidences that can happen during a contract period. When you work with Universal Site Services you can be confident that we have the required back up in place to compensate for uncertain issues that do happen. Unforeseen sickness, holidays, and employee absences are not something our clients need to worry about when contracted with Universal. We have field leads operating our larger sweepers on constant rotation detailing out our properties under contract that step in to handle unforeseen employee absenteeism. We have a work force of cross-trained people from which to pull from to ensure coverage is seamless during the unexpected and holidays for our employees.

In the case of illness, vacations, holiday special events or changing weather or traffic conditions, USS employs approximately sixty qualified operators who could be available to provide sweeping services in the case of additional needs to complete routes or provide additional services. All of our operators have considerable experience with various types of sweeping and are flexible to fulfill their assignments.

Emergency Services

All managers are on duty 24//7. Our estimated time of arrival for emergency call out will be a minimum of 1 hour during working hours described at 7:00 AM to 5:00 PM Monday – Friday. Arrival for after hour call outs should not exceed 2 hours. A twenty-four (24) hour emergency number is available. All personnel are equipped with communication.

Quality Control Measures

The benefits of working with USS is our multiple tiers of management working to ensure that our contracts and our customer relations are all in-line with quality expectations set forth by our team as well as yours. When in partnership with USS you also have access to the benefits and service expertise of both Statewide Construction Sweeping and Contract Sweeping Services.



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Communication between Manager and Field Operations is through basic telephone communications, email, texts, and photos. Calling our company M-F 6am to 6pm will offer live communications and all parties involved have 24/7 cell phone and email access for after hours. Time to correct efficiencies during business hours will be handled within the same day occurrences. Information passed overnight will be handled next business day as a priority. Management will often work with the Field Operations in the field to ensure a need is addressed "full circle".

Client References

Josh Kalkhorst
Director of Operations
Stanford Shopping Center
660 Stanford Shopping Center
Palo Alto, CA 94303
Ph: (650) 617-8202
Email: JKalkhorst@simon.com

Jennifer Callenbach
Senior Property Manager
LBA Realty
160 W. Santa Clara St Suite 950
San Jose, CA 95113
Ph: (08) 654-8765
Email: jcallenbach@lbarealty.com

Nancy Williams
Director of Operations
Hillsdale Shopping Center
60 Hillsdale Mall
San Mateo, CA 94403
Ph: (650) 345-8222
Email: nancy.williams@hillsdale.com

Jeffrey Helmold
Facilities Manager
Westfield Valley Fair
2855 Stevens Creek Blvd, Suite 2178
Santa Clara, CA 95050
Ph: (408) 248-4450
Email: jhelmold@us.westfield.com

Dena Rosa
Senior Property Manager
De Aza Properties
960 N. San Antonio Road, Suite 114
Los Altos, CA 94022
Ph: (650) 209-3232
Email: dena@deanzaproperties.com

Municipal References

City of Pleasanton – Residential Street Sweeping
3333 Bush Street, Pleasanton, CA 94566.....Craig Higgins 925/931-5582

City of Saratoga – Residential Street Sweeping & Pressure Washing
19700 Allendale Ave. Saratoga, CA 95070.....Rick Torres 408/868-1244

Town of Los Gatos – On Grounds Maintenance and Downtown Sidewalk Washing
P.O. Box 655 Los Gatos, CA 95031.....Steve Regan 408/761-4547

City of Mountain View – Various Sweeping & Pressure Washing
231 N. Whisman Road MTV, CA 94039.....Bruce Hurlbert 650/903-6257

City of Campbell – Various Sweeping
70 N First Street Campbell, CA 95008Diana Johnson 408/866-2145

Corporate Offices: 760 E. Capitol Avenue ~ Milpitas, CA.95035 ~ Ph: 800.647.9337 ~ Fax: 408.258.0122

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Brief Resumes of Those Directly Involved with this Project

Gina Vella – President / Owner

Gina joined the Universal Site Services Team in 1990 after years of corporate politics and experience in owning her own clothing line. By clearly understanding the individual needs of each customer Gina has built a strong and attentive team to cater to individuality and partnership philosophy. Gina attributes her success in simple terms, "each customer has individual needs and requirements. Understand what they are and carry through."

Jerry Nunez. – Director of Operations (Direct Overseeing Operations for the Project)

Jerry's experience in the outdoor maintenance industry extends over 20 years, 13 with Universal Site Services, Inc.

Jerry's involvement with the project will be background operations. Jerry has the unique ability to facilitate Regional Managers and assist field personnel to offer seamless operations and the highest level of quality and expertise.

Chris Dickie – Director of Sales & Marketing

Dynamic self-starter with 17 years of accomplished professional experiences both in the corporate environment and as an entrepreneur. Both experiences have led to a successful business path of self-discovery, broadening experiences and professional skill sets to take on the never-ending challenges we are constantly faced with in order to develop win-win strategies for all involved.

Anthony Urbina – Regional Operations Manager (Direct Supervisor for the Project)

Anthony brings 12 years of customer service, employee management, and account management experience to the team. If awarded to USS, Anthony will provide oversight of services and apply his experience with the site maintenance towards a comprehensive service plan aimed at adapting to any changes needed to improve conditions and guarantee success.

David Sanchez, Regional Sales Manager – David delivers to our organization over twenty years' experience and knowledge of inside janitorial and outside sales and maintenance. His past experience working closely as an account representative for large organizations affords our customers the most efficient responsiveness to their every request and maintenance needs. David's capacity to speak Spanish is also a great asset as his ability to communicate and coordinate services with laborers in the field has proven to be of enormous value.



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Key Staff

First Name	Last Name	Phone Numbers	Ext	Cell Phone #	Title	Email
Anthony	Urbina	408-228-4572	4572	408-642-4339	Territory Manager	Aurbina@universalsiteservices.com
Chris	Dickie	408-228-4581	4581	408 930-9906	Director of Sales & Marketing	Cdickie@universalsiteservices.com
David	Sanchez	408-907-5848	5848	408-210-0836	Regional Sales Manager	Dsanchez@universalsiteservices.com
Gina	Vella	408-907-5850	5850	408-639-5711	President - Principle	Gvella@universalsiteservices.com
Jerry	Nunez	408-228-4570	4570	408-639-0736	Director of Operations	JNunez@universalsiteservices.com
Joe	Vella	408-228-4568	4568	408-639-6005	Vice President - Principle	JVella@universalsiteservices.com

Additional Information

Technology and Equipment have always been part of Universal Site Services road map of success. We invented the Parking Lot Sweeper, we modernized the industrial street sweeper by creating the high velocity air vacuum systems, and we have helped in the development and production of high volume pressure washing and reclamation systems.

We owned the manufacturing and distribution of parking lot, construction and municipal sweepers. We still have an equipment financing company, Sweep Lease, Inc., that offers financing on equipment. We put many people that would otherwise not qualify into positions of company ownership.

We feel it necessary to employ the most modern equipment available on the market for the SCCC parking lot maintenance program. This is an opportunity to use equipment that will leave a lasting impression with visitors and residence alike. We do things with more ingenuity, better and distinctive.

Graffiti Abatement

Unfortunately, graffiti is a situation that leaves your property looking degraded and unsafe. It is vital to get graffiti removed as quickly as possible. By having an effective and timely graffiti removal and abatement program in place, your property can be maintained in the original condition minus the unsightly graffiti.

Got Tagged, Call us (800) 647-9337

Abating Graffiti for Over 30 Years

We've been abating Graffiti for over 30 years. The good news is that our graffiti removal services are very effective in both restoring your property and deterring graffiti vandals by removing their handy-work quickly in short order.

Graffiti needs to be removed within 24 hours. As soon as you notice graffiti call us and we'll remove it.

Graffiti Prevention & Abatement

USS's Graffiti Prevention & Abatement Teams are trained to use best of class techniques and removal products. We provide surface analysis, consultation, demonstrations, testing and full warranted applications of Anti-Graffiti coatings. We offer full product performance warranties and ongoing service and maintenance programs to fit all budgets. We use cutting-edge technology to protect your property.



Municipal Street Sweeping

With Universal Site Services you will have one of the largest fleet of industrial street sweepers at your disposal 24 / 7. We Sweep Highways, Streets, Construction Sites and Parking Lots.

Universal Site Services is always ready to sweep for you and we guarantee our work. We offer construction sweeping, highway and street sweeping, parking lot sweeping, attenuator services and more. We can keep your downtown streets debris-free, the dust and dirt under control on your parking lots and construction sites, and the inspectors and the community happy with our attention to detail and our environmental protection.

We have truck-mounted attenuator services that help ensure your crews are safe and visible while on the job. Our professional operators are dependable and on time

If there is a need for supplemental street sweeping services, or *event clean up* services we are ready to serve.



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Construction & Maintenance Service

USS can offer Complete Property Maintenance with our Construction & Maintenance division. Maintaining your city property is a crucial aspect in keeping and increasing its value. USS understands your success is related to the proper maintenance of your property.



- Vacancy Clean Out and Move In Prep
- Minor Asphalt Repair & Maintenance
- Parking Lot Striping Services
- Anti Graffiti Coatings
- Graffiti Prevention & Removal
- Trash Receptacle Replacement
- Paint & Coating Services – Interior & Exterior Painting – Epoxy's & Stains
- Storm Drain Clean Out
- Bumper Install & Replacement
- Ballard Install & Replacement
- Roof & Gutter Cleanout
- Concrete Repairs & Install
- Signs Installation & Repair
- On Site Welding

Need Something Fixed, Call us and *consider it done*: (800) 647 – 9337

Our services are available 24 hours a day, seven days a week, and your satisfaction is guaranteed. We offer free estimates and personal service. Our equipment is professionally maintained to ensure consistent reliable service. Your complete satisfaction is our goal, we will treat your property as if it were our own.



Hauling Services

No time to clean up the junk and debris that has accumulated on your property? Are you feeling overwhelmed of handling such a big task?

Universal Site Services is committed to providing prompt and professional quality hauling services at a competitive price. Upon approval of removal, our hauling crews are dispatched during the week Monday – Friday 7am to 4pm. Our hauling crews are equipped with dump truck and large trailers for large hauling items of almost any type.

Items of Removal Include: Refrigerator, Tires, Microwaves, Cardboards, Plastic Containers, Televisions, Computers, Furniture, Mattresses, & whatever else they dump in your city



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Conclusion

Universal Site Services is honored to participate in this proposal process. We appreciate the opportunity to demonstrate to management and the partners *why* we believe we are best suited to handle the task at hand and to put our best foot forward in ensuring a successful partnership between all parties involved within a project of this magnitude.

We take each and every responsibility bestowed upon us very seriously and work diligently to ensure a job well done every time. Most importantly, when our clients expectations are not met we guarantee we will make it right immediately.

Thank you for the opportunity to present you with this proposal.

Presented By:

David Sanchez
Regional Sales Manager
Universal Site Services
Mobile: 408.210.0836
Desk: 408.907.5848
Email: dsanchez@universalsiteservices.com



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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/07/2018

ITEM NO: 7

DATE: JULY 27, 2018
TO: MAYOR AND TOWN COUNCIL
FROM: LAUREL PREVETTI, TOWN MANAGER
SUBJECT: AUTHORIZE THE TOWN MANAGER TO EXECUTE A FOUR-YEAR AGREEMENT FOR SERVICES WITH UNIVERSAL SITE SERVICES FOR ENHANCED DOWNTOWN GARBAGE AND RECYCLING RECEPTACLE COLLECTION AND CLEANING SERVICES IN AN AMOUNT NOT TO EXCEED \$38,247 FOR FISCAL YEAR 2018/19, PLUS ADJUSTMENTS ANNUALLY THEREAFTER FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$187,737

RECOMMENDATION:

Authorize the Town Manager to execute a four-year Agreement for Services (Attachment 1) with Universal Site Services for downtown garbage and recycling receptacle collection and cleaning services in an amount not to exceed \$38,247 for Fiscal Year 2018/19, plus adjustments annually thereafter for a total agreement amount not to exceed \$187,737.

BACKGROUND:

The Town of Los Gatos has utilized contractual services to provide enhanced downtown garbage collection and recycling on the weekends since August 2015 and the current agreement for services with Universal Site Services will expire on August 31, 2018.

This agreement supports the effort to augment trash collection in the downtown area on the weekends and to provide recycling services to the downtown. The Town's franchise hauler for trash and recycling is unable to meet all of the service needs of seven-day trash service and downtown recycling service.

PREPARED BY: JIM HARBIN
Facilities & Environmental Services Manager

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

PAGE 2 OF 3

SUBJECT: AUTHORIZE THE TOWN MANAGER TO EXECUTE A FOUR-YEAR AGREEMENT FOR SERVICES WITH UNIVERSAL SITE SERVICES FOR ENHANCED DOWNTOWN GARBAGE AND RECYCLING RECEPTACLE COLLECTION AND CLEANING SERVICES IN AN AMOUNT NOT TO EXCEED \$38,247 FOR FISCAL YEAR 2018/19 PLUS ADJUSTMENTS ANNUALLY THEREAFTER FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$187,737

JULY 27, 2018

BACKGROUND (cont'd):

Implementation of the current service model of contracted recycle and enhanced trash hauling on weekends in the downtown, combined with an increase in recycling receptacles, has significantly decreased the incidents of overflowing trash receptacles with a corresponding decrease to the amount of waste going to the landfill. Staff continues to increase the number of recycling receptacles to meet the needs of the downtown with the ultimate goal of completing one-to-one receptacle pairings. Currently, the service includes 61 trash receptacles paired with 50 recycling receptacles.

In addition to collection, Universal Site Services provides cleaning services of the receptacles. The receptacle design leads to soiled surfaces, which have historically been a nuisance downtown.

DISCUSSION:

Recently, staff prepared a Request for Proposals (RFP) for the following service categories:

- Downtown weekend garbage collection
- Downtown recycling collection on weekends and midweek
- Special cleanings and service as needed

Firms were asked to provide their capability and past experience with collection and recycling service and to provide pricing for each category. One proposal was received on June 18, 2018 from Universal Site Services. While only one proposal was received staff was comfortable moving forward in the process based on peer review, industry knowledge, and past experience.

Staff determined that Universal Site Services is the best qualified and the most cost competitive firm to provide the requested services. Universal provides similar services to multiple corporations, municipalities, and public agencies around the Bay Area and have been in business since 1958. The Town's experience with Universal providing enhanced garbage and recycling services as well as other related cleaning services for the Town has been very successful, with high quality service, great communication, and positive responses to issues.

The Agreement includes line item costs for special as-needed services and the addition of receptacles to the inventory. Staff anticipates potential extra service requests around events

PAGE 3 OF 3

SUBJECT: AUTHORIZE THE TOWN MANAGER TO EXECUTE A FOUR-YEAR AGREEMENT FOR SERVICES WITH UNIVERSAL SITE SERVICES FOR ENHANCED DOWNTOWN GARBAGE AND RECYCLING RECEPTACLE COLLECTION AND CLEANING SERVICES IN AN AMOUNT NOT TO EXCEED \$38,247 FOR FISCAL YEAR 2018/19 PLUS ADJUSTMENTS ANNUALLY THEREAFTER FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$187,737

JULY 27, 2018

DISCUSSION (cont'd):

and holidays, and an increase in recycling receptacles added to the inventory downtown to bring the garbage to recycling receptacle ratio equal.

The four-year agreement term allows for continuity of service and maximizes savings by engaging the firm for multiple years. The contract language provides for cancellation should the need arise during the contract term.

CONCLUSION:

Authorize the Town Manager to execute a four-year Agreement for Services with Universal Site Services for downtown garbage and recycling receptacle collection and cleaning services in an amount not to exceed \$38,247 for Fiscal Year 2018/19, plus adjustments annually thereafter for a total agreement amount not to exceed \$187,737.

FISCAL IMPACT:

Funds for the services for FY 2018/19 have been appropriated in the FY 2018/19 Parks and Public Works Operating Budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Agreement for Services



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 18

DATE: May 26, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Fourth Amendment to the Agreement for Services with Brightview Tree Care Services, Inc. to Increase Compensation for Fiscal Year 2021/22 in an Amount of \$30,000 for a Total Annual Amount Not to Exceed \$155,000, for a Total Agreement Amount Not to Exceed \$996,000

RECOMMENDATION:

Authorize the Town Manager to execute a fourth amendment (Attachment 1) to the Agreement for Services with Brightview Tree Care Services, Inc. to increase compensation for Fiscal Year (FY) 2021/22 in an amount of \$30,000 for a total annual amount not to exceed \$155,000, for a total agreement amount not to exceed \$996,000.

BACKGROUND:

The Town of Los Gatos utilizes contractual tree trimming and removal services to maintain the Town's urban forest. On June 5, 2018, the Town Council authorized the Town Manager to execute a five-year Agreement for Services (Attachment 2) with Brightview Tree Care Services, Inc. for tree trimming and maintenance services. The original agreement included \$247,000 for year one of the agreement and \$100,000 plus annual consumer price index adjustments annually thereafter.

On August 7, 2019, Council authorized the Town Manager to execute a first amendment to the Agreement for Services to provide for an additional \$100,000 for FY 2019/20.

On June 2, 2020, Council authorized the Town Manager to execute a second amendment (Attachment 2) to the Agreement for Services to increase compensation for FY 2019/20 and FY

PREPARED BY: Jim Harbin
Superintendent

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

SUBJECT: Authorize the Town Manager to Execute a Fourth Amendment to the Agreement for Services with Brightview Tree Services, Inc.

DATE: May 26, 2022

BACKGROUND (continued):

2020/21 in amounts of \$47,000 and \$147,000 respectively for total annual contract amounts not to exceed \$247,000.

On May 3, 2022, Council authorized the Town Manager to execute a third amendment (Attachment 2) to the Agreement for Services to increase compensation for FY 2021/22 in an amount of \$25,000 for a total annual contract amount not to exceed \$125,000. Compensation for years four and five of the agreement were to remain at \$100,000 annually.

DISCUSSION:

With the ongoing drought, high winds, and wildfire dangers continuing to affect the Town's urban forest, work requests for fallen branches, dead tree removals, and defensible space needs continue to be high. These maintenance needs can at times occur simultaneously and not seasonally as expected, as is the case this year. This amendment increases the Brightview Tree Service contract by \$30,000 to provide priority and emergency work to continue through the remainder of the fiscal year.

CONCLUSION:

Authorize the Town Manager to execute a fourth amendment to the Agreement for Services with Brightview Tree Care Services, Inc. to increase compensation for FY 2021/22 in an amount of \$30,000 for a total annual amount not to exceed \$125,000, for a total agreement amount not to exceed \$966,000.

FISCAL IMPACT:

The Adopted FY 2021/22 Operating Budget has sufficient funds for tree maintenance. This action will have no additional fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Fourth Amendment to the Agreement for Services
2. Original Agreement Including the First, Second, and Third Amendment to Agreement for Services

FOURTH AMENDMENT TO AGREEMENT

This FOURTH AMENDMENT TO AGREEMENT is dated for identification this 26th day of May 2022 and amends that certain Third Amendment to Agreement for Services dated June 2, 2022, made by and between the Town of Los Gatos, ("Town,") and Brightview Tree Services, Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into a Agreement for Services on June 5, 2018, ("Agreement"), a First Amendment to Agreement for Services on August 20, 2019, a Second Amendment to Agreement for Services on June 2, 2022, a Third Amendment to Agreement for Services on April 18, 2022, copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2021/22.

AMENDMENT

1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19 of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement was **\$247,000** 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.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement was **\$247,000** 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.

Compensation for year 4 (Fiscal Year 2021/22) of this agreement **shall increase \$30,000, for a total amount not to exceed \$155,000** 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.

ATTACHMENT 1

Compensation for year 5 (Fiscal Year 2022/23) of this agreement **shall remain the same: a total amount not to exceed \$100,000** 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.

The total agreement amount **shall not to exceed \$996,000**.

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:

Approved as to Consent:

Laurel Prevetti, Town Manager

Print Name, Title

Department Approval:

Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Shelley Neis, MMC, CPMC, Town Clerk

THIRD AMENDMENT TO AGREEMENT FOR SERVICES

This THIRD AMENDMENT TO AGREEMENT is dated for identification this 18th day of April 2022 and amends that certain Second Amendment to Agreement for Services dated June 2, 2020, made by and between the Town of Los Gatos, ("Town,") and BrightView Tree Care Services Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 5, 2018, ("Agreement"), and a First Amendment to Agreement for Services on August 20, 2019, and a Second Amendment to Agreement for Services on June 2, 2020, copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2021/22.

AMENDMENT

1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19) of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement was **\$247,000**, 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.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement was **\$247,000**, 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.


Compensation for year 4 (Fiscal Year 2021/22) of this agreement **shall increase \$25,000, for a total amount not to exceed \$125,000** 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 \$100,000.

Compensation for year 5 (Fiscal Year 2022/23) of this agreement **shall remain the same: a total amount not to exceed \$100,000** 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 \$100,000.

The total agreement amount **shall not to exceed \$966,000**.

2. 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

By: DocuSigned by:
 5/17/2022
853FEEA2EB39470...
 Laurel Prevetti, Town Manager


BrightView Tree Care Services Inc. by:

DocuSigned by:
 5/16/2022
DAA8BB6650F641E...

Michael Black / General Manager

Name/Title


Department Approval:

DocuSigned by:
 5/16/2022
9AC05166650A487...
 Timm Borden
 Interim Director of Parks and Public Works

Approved as to Form:

DocuSigned by:
 5/17/2022
EFD6736A5534428...
 Robert Schultz, Interim Town Attorney

Attest:

DocuSigned by:
 5/17/2022
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 Shelley Neis, CMC, Town Clerk

SECOND AMENDMENT TO AGREEMENT FOR SERVICES

This SECOND AMENDMENT TO AGREEMENT is dated for identification this 2ND day of June 2020 and amends that certain First Amendment to Agreement for Services dated August 20, 2019, made by and between the Town of Los Gatos, ("Town,") and BrightView Tree Care Services Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 5, 2018, ("Agreement"), and a First Amendment to Agreement for Services on August 20, 2019, copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2019/20 and 2020/21.

AMENDMENT

- 1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19) of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement **shall increase \$47,000, for a total annual amount not exceed \$247,000** 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.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement **shall increase \$147,000, for a total annual amount not exceed \$247,000** 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.

Compensation for years 4 and 5 (Fiscal Years 2021/22 and 2022/23) of this agreement **shall not exceed \$100,000** 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 \$100,000.

The total agreement amount **shall not to exceed \$941,000.**

2. 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

DocuSigned by:
By: Laurel Prevetti 6/22/2020
853FEEA2EB39470...
Laurel Prevetti, Town Manager

BrightView Tree Care Services Inc. by:

DocuSigned by:
Michael Black
F151B180ED294E3...

Department Approval:

DocuSigned by:
Matt Morley 6/18/2020
BBA0B3B6D0F4404...
Matt Morley
Director of Parks and Public Works

General Manager

Name/Title

Approved as to Form:

DocuSigned by:
Robert W. Schultz 6/22/2020
2FE0938555B744C...
Robert Schultz, Town Attorney

Attest:

DocuSigned by:
Shelley Neis 6/22/2020
B9666F65B1F34F6...
Shelley Neis, CMC, Town Clerk

AGR 19.156

IHH _____

FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 20th day of August 2019 and amends that certain Agreement for Services dated June 5, 2018, made by and between the Town of Los Gatos, ("Town,") and BrightView Tree Care Services Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on June 5, 2018, ("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 additional funds for FY 2019/20.

AMENDMENT

1. 2.6 Compensation shall read: Compensation for the first year **shall not exceed \$247,000**, inclusive of all costs. Payment shall be based upon Town approval of each task.

Compensation for year two of this agreement **shall not exceed \$200,000** 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.

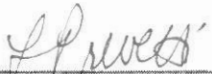
Compensation for years three through five of this agreement **shall not exceed \$100,000** annually and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, 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 \$100,000.

2. 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

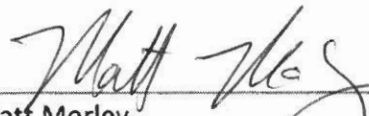
BrightView Tree Care Services Inc. by:

By: 
Laurel Prevetti, Town Manager

Kaela White


Department Approval:

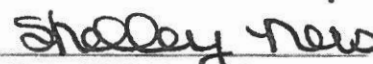
Branch Manager
Name/Title


Matt Morley
Director of Parks and Public Works

Approved as to Form:

Attest:


Robert Schultz, Town Attorney


Shelley Neis, CMC, Town Clerk

2 of 2

BrightView Tree Care Services Inc. – First Amendment to Agreement for Services

AGR 18.149
IHH _____**AGREEMENT FOR SERVICES**

THIS AGREEMENT is dated for identification this 5th of June 2018 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and BrightView Tree Care Services, ("Service Provider"), whose address is 530 Aldo Avenue, San Jose, CA 95054. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Service Provider to provide tree trimming maintenance services.
- 1.2 The Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 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 April 25, 2018, 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 on **July 1, 2018** and will continue through **June 30, 2023**, 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 \$247,000 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 not exceed \$100,000 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 \$100,000.
- 2.7 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 one hundred dollars (\$100.00) per location per scheduled service in liquidated damages for every missed service beyond three missed services in a month in addition to reducing the monthly payment by the cost of that 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.
- 2.8 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.
- 2.9 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

- 2.10 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 Service Provider. 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 Service Provider and not an agent or employee of the Town. As an independent Service Provider, 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 subService Providers 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 subService Providers 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 subService Provider.

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 Prevailing Wages. In accordance with the provisions of Sections 1770 et seq., of the Labor Code, the Director of the Industrial Relations of the State of California has determined the general prevailing rate of wages applicable to the work to be done. Service Provider will be required to pay to all persons employed on the project by the Service Provider sums not less than the sums set forth in the documents entitled "General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code, part 7, Chapter 1, Article 2, Sections 1770, 1773, 1773.1." These documents may be obtained from the State of California.

Pursuant to Labor Code section 1725.5, no Service Provider or subService Provider may be awarded a contract for public works on a public works project unless registered with the Department of Industrial Relations.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations and/or the Town of Los Gatos.

The Service Provider is required to post notices on Public Works requirements.

- 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:

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

BrightView Tree Care Services
530 Aldo Avenue
San Jose, CA 95054

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:




Laurel Prevetti, Town Manager

BrightView Tree Care Services, Inc. by:



Mike Carter

Recommended by:

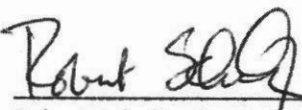


For Matt Morley, Director of Parks and Public Works

Vice President / General Manager

Title

Approved as to Form:



Robert Schultz, Town Attorney

ATTACHMENT D 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

	DESCRIPTION, WITH UNIT PRICE IN WORDS. (PRICE IS INCLUSIVE OF ALL APPLICABLE TAXES AND FEES)	UNIT PRICE	ESTIMATED UNITS	EXTENDED PRICE
1.	Annual routine trimming based on tree trimming in pre-designed districts, grids or parks on a set cycle, and includes all trees (small, medium, and large-sized).	Per-tree	700 @ \$95 each	\$ 66,500.00
2.	Service request tree trimming consist of trimming trees outside the grid trimming cycle.			
	0" - 6"	Per tree	3 @ \$72 each	\$ 216
	7" - 12"	Per tree	10 @ \$95 each	\$ 950
	13" - 18"	Per tree	10 @ \$144 each	\$ 1,450
	19" - 24"	Per tree	20 @ \$190 each	\$ 4,700
	25" and over	Per tree	10 @ \$210 each	\$ 2,850
3.	Tree removal (excludes stump removal)			
	0" - 6"	Per tree	5 @ \$95 each	\$ 475
	7" - 12"	Per tree	15 @ \$237 each	\$ 3,555
	13" - 18"	Per tree	20 @ \$522 each	\$ 10,440
	19" - 24"	Per tree	10 @ \$760 each	\$ 7,600
	25" and over	Per tree	5 @ \$1,920 each	\$ 9,600
4.	Stump removal			
	0" - 6"	Per stump	5 @ \$57 each	\$ 285
	7" - 12"	Per stump	15 @ \$114 each	\$ 1,710
	13" - 18"	Per stump	20 @ \$171 each	\$ 3,420
	19" - 24"	Per stump	10 @ \$228 each	\$ 2,280
	25" and over	Per stump	5 @ \$342 each	\$ 1,710
A.	SUB-TOTAL - GENERAL SERVICES			\$ 117,741.00

B. CREW RENTAL AND EMERGENCY SERVICES

	Fully equipped crew as defined. Includes all labor, equipment, tool, traffic control, disposal costs, and zero material markups	UNIT PRICE	ESTIMATED UNITS	EXTENDED PRICE
STRAIGHT TIME				
1.	4 Man crew with Equipment	Per hour	20 @ \$300	\$6,000
2.	3 Man crew with Equipment	Per hour	40 @ \$225	\$9,000
3.	2 Man crew with Equipment	Per hour	20 @ \$150	\$3,000
OVERTIME/WEEKENDS/EMERGENCY AFTER HOURS CALL OUT				
4.	4 Man crew with Equipment	Per hour	10 @ \$380	\$3,800
5.	3 Man crew with Equipment	Per hour	10 @ \$285	\$2,850
6.	2 Man crew with Equipment	Per hour	20 @ \$190	\$3,800
B.	SUB-TOTAL - CREW RENTAL & EMERGENCY SERVICES			\$ 28,450.00

C. OTHER COSTS

	DESCRIPTION, WITH UNIT PRICE IN WORDS. (PRICE IS INCLUSIVE OF ALL APPLICABLE TAXES AND FEES)	UNIT PRICE	ESTIMATED UNITS	EXTENDED PRICE
1.	Cost for crown, trees requiring trimming more than 25% of foliage at one time, or crown shaping or crown reduction. 0-6" 7-12" 13-18" 19-24" 25" and over	Per tree Per tree Per tree Per tree Per tree	3 @ \$72 each 10 @ \$95 each 10 @ \$145 each 10 @ \$235 each 20 @ \$285 each	\$ 216 \$ 950 \$ 1,450 \$ 2,350 \$ 5,700
2.	Specialty equipment - 50-ton crane per hour -95-foot aerial tower per hour	Per hour Per hour	5 @ \$265 each 15 @ \$250 each	\$ 1,325 \$ 3,750
3.	Tree planting and installation services: (Price includes labor, equipment, root irrigation device, and staking; assume trees to be provided by the Town) - 15" gallon - 24" box - 36" box - 48" box	Per tree Per tree Per tree Per tree	40 @ \$130 each 20 @ \$260 each 10 @ \$390 each 5 @ \$650 each	\$ 5,200 \$ 5,200 \$ 3,900 \$ 3,250
4.	Arborist services & report writing per hour	Per hour	10 @ \$120 each	\$ 1,200
5.	Tree watering per day (Assume 1 worker watering 8 hours)	Per day	40 @ \$600 each	\$ 24,000
6.	GPS tree inventory data collection	Per tree site	14,000 @ \$3 each	\$ 42,000
C.	SUB-TOTAL - OTHER COST			\$ 100,491.00
	GRAND TOTAL (A+B+C)			\$ 246,682.00



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 19

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

RECOMMENDATION:

Staff recommends that the Town Council approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association (POA) and authorize the Town Manager to execute the Memorandum of Understanding (Attachment 1).

BACKGROUND:

In accordance with the Town's Employer-Employee Relations Resolution No. 1974-41, representatives of the Town and POA have met and conferred in good faith and within the scope of representation in an effort to reach agreement for a successor Memorandum of Understanding (MOU). The revised agreement will be distributed and posted on June 3, 2022 as an Addendum. The MOU is a labor agreement that identifies specific terms and conditions of employment applicable to the employees represented by that agreement.

DISCUSSION:

The Town's current agreement with POA expired on September 30, 2021. On June 11, 2021, the Town and POA began negotiating for a successor agreement. A tentative agreement for a three-year term was reached in May which POA membership ratified on May 11, 2022.

Major provisions of the agreement are:

1. **Term:** October 1, 2021 to June 30, 2024

PREPARED BY: Salina Flores
Human Resources Director

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

SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

DATE: June 2, 2022

DISCUSSION (continued):

2. Salary:

- a. Effective the first full pay period of July 2022 or the first full pay period after Council approval of the MOU, whichever is later, all employees shall receive a one-time non-pensionable lump sum payment of \$5,000.
 - b. Effective the first full pay period after Council approval of this MOU, or as soon as practical thereafter, the salary rate for all classifications shall be increased by 2% (effective June 12, 2022) (Attachment 1).
 - c. Effective the first full pay period in July 2022 (effective July 10, 2022), the salary rate for all classifications shall be increased by 5.25% (Attachment 2).
 - d. The parties agree that the combined 2022 increases represent a 3% cost of living adjustment, a market increase of 3.15% and an additional 1.1% to address the passage of time since October 2021.
 - e. Effective in the first full pay period of July 2023, the Town will provide a 3% cost of living increase.
3. **Pandemic Related Bonus:** Effective the first full pay period of July 2022, or the first full pay period after Council approval, whichever is later, all employees who worked for the Town in 2021, who are employed at the Town as of the last day of the pay period will receive a one-time, lump sum payment of \$2,500.
4. **Juneteenth Holiday:** Effective the first pay period of July 2022 or the first pay period after Council approval of the MOU, whichever is later, in recognition of Juneteenth, holiday in lieu pay will be increased by 0.4%. to total 4.4%. Effective the first pay period of July 2022 or the first pay period after Council approval of the MOU, whichever is later, employees will receive a one-time non-pensionable lump sum payment of \$1,000.00 for foregoing the Juneteenth holiday prior to 2023.

The Town and POA have also agreed to various MOU language updates. The red-lined MOU will be distributed and posted on Friday, June 3, 2022 as an Addendum. These updates clarify existing language, delete obsolete language, and ensure compliance related to the Town's contract for retirement and medical benefits provided under the California Public Employees' Retirement System (CalPERS) and the Public Employees' Medical and Hospital Care Act (PEMHCA).

CONCLUSION:

The POA agreement has been prepared within the parameters provided to Town's negotiators by the Town Council and has been ratified by the POA membership. It is recommended that the proposal be approved, and the Town Manager be authorized to execute the MOU.

PAGE 3 OF 3

SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

DATE: June 2, 2022

FISCAL IMPACT:

The anticipated FY 2022/23 impact for the 3.00% COLA (\$252,000), 3.15% market rate adjustment (\$265,000), and the 1.1% COLA (\$85,000) for a total 7.25% salary increase is \$602,000. The anticipated fiscal impact of a \$1,000 non-pensionable one-time payment, the one-time, lump sum pandemic related bonus payment of \$2,500, and the \$5,000 non-pensionable FY 2021/22 make whole payment in FY 2022/23 is \$289,000.

The total cost impact for FY 2022/23 will be absorbed in the Town's existing operating budget. Funding to support the FY 2023/24 ongoing cost each year will be incorporated into the proposed future year budgets for Council approval

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Salary Schedule for POA effective June 12, 2022
2. Salary Schedule for POA effective July 10, 2022

Town of Los Gatos POA Classifications
Salary Schedule for Fiscal Year 2021/22
Effective June 12, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Range	Step	Hourly Rate
2520	Police Sergeant (Prior)	04-0721	1	\$66.43
	<i>Appointment before 03/01/2015</i>		2	\$69.75
			3	\$73.24
			4	\$76.90
			5	\$80.75

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant (New)	05-0721	1	\$66.43
	<i>Appointment after 03/01/2015</i>		2	\$69.75
			3	\$73.24
			4	\$76.90

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$55.12
			2	\$57.88
			3	\$60.77
			4	\$63.81
			5	\$67.00

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$52.50
			2	\$55.13
			3	\$57.89
			4	\$60.78
			5	\$63.82

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$49.88
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

Reflects General Increase of 2%.

ATTACHMENT 1

Town of Los Gatos POA Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Range	Step	Hourly Rate
2520	Police Sergeant (Prior)	04-0721	1	\$69.92
	<i>Appointment before 03/01/2015</i>		2	\$73.42
			3	\$77.09
			4	\$80.94
			5	\$84.99

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant (New)	05-0721	1	\$69.92
	<i>Appointment after 03/01/2015</i>		2	\$73.42
			3	\$77.09
			4	\$80.94

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$58.01
			2	\$60.91
			3	\$63.96
			4	\$67.16
			5	\$70.52

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$55.26
			2	\$58.02
			3	\$60.92
			4	\$63.97
			5	\$67.17

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$52.50
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

Reflects General Increase of 5.25%.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 19

ADDENDUM

DATE: June 3, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

REMARKS:

This Addendum transmits the draft Memorandum of Understanding (see Attachment 3).

Attachments Distributed with Staff Report:

1. Salary Schedule for POA effective June 12, 2022
2. Salary Schedule for POA effective July 10, 2022

Attachment Distributed with this Addendum:

3. Draft Memorandum of Understanding

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

TOWN OF LOS GATOS

AND

LOS GATOS POLICE OFFICERS' ASSOCIATION



MEMORANDUM OF UNDERSTANDING

October 1, 2021~~18~~ – ~~September~~ June 30, 2024~~1~~

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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 October 1, 2021~~18~~, 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:

FOR POA:

Laurel Prevetti, Town Manager

~~Bill Hoyt~~ Bryan Paul, President ~~Police Corporal~~

Arn Andrews, Assistant Town Manager

Kevin Elliott, Police Sergeant

~~Lisa Velasco~~ Salina Flores, Human Resources
Director

Kevin Baughn, Police Officer

~~Donna Williamson~~ Lisa S. Charbonneau,
Liebert Cassidy Whitmore

John Alldredge, Police Officer

APPROVED AS TO FORM:

Peter Hoffmann, Rains Lucia Stern St. Phalle
Silver, PC ~~Attorney for POA~~

~~Robert Schultz~~ Gabrielle Whelan
Town Attorney

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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 October 1, 20~~21~~¹⁸, and terminating on ~~September-June~~ June 30, 202~~4~~¹.

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 Americans with Disabilities Act

- A. Because the ADA requires accommodations for individuals protected under the Act, the Association recognizes the Town's obligation to comply with all provisions of the ADA on a case-by-case basis.
- B. 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.
- C. Any accommodation provided to an individual protected by the ADA 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 2018~~

~~Effective in the first full pay period of October 2018 the Town will provide a two and a half percent (2.5%) salary adjustment for all bargaining unit members.~~

~~5.3 Effective 2019~~

~~Effective in the first full pay period of October 2019 the Town will provide a two and one half percent (2.5%) salary increase for all bargaining unit members. Effective in the first full pay period of October 2019 bargaining unit members shall receive an additional increase of 1.5%.~~

~~5.4 Effective 2020~~

~~The parties agree to re-open on the subject of wages only.~~

~~5.5 Market Equity~~

~~Effective in the first full pay period in October 2018 market equity adjustments as follows:~~

~~Police Officer—5.0%~~

~~Corporal—5.0%~~

~~Sergeant—5.5%~~

5.2 Effective Upon Approval

Effective the first full pay period after Council approval of this MOU, or as soon as practical thereafter, the salary rate for all classifications shall be increased by two percent (2%).

5.3 Effective 2022

Effective the first full pay period in July 2022, the salary rate for all classifications shall be increased by five and one-quarter percent (5.25%).

The parties agree that the combined 2022 increases represent a ~~three percent (3%)~~ cost of living adjustment, a market increase of three and fifteen hundredths ~~percent (3.15%)~~, and an additional one and one tenths percent (1.1%) to address the passage of time since October 2021.

5.4 Effective 2023

Effective the first full pay period in July 2023, the salary rate for all classifications shall be increased by three percent (3%).

~~5.56 Salary Range~~

~~Effective October 1, 2014, the Sergeant rank became a 4-step range. Any new Sergeant appointed after that date is appointed to the 4-step range. Acting Sergeant pay will be paid at the top of the new range.~~

5.65 One-Time Lump Sum

Effective the first full pay period of July 2022 or the first full pay period after Council approval of the MOU, whichever is later, all employees shall receive a one-time non-pensionable lump sum payment of five thousand dollars (\$5,000).

5.76 Pandemic Related Bonus

Effective the first full pay period of July 2022 or the first full pay period after Council approval of the MOU, whichever is later, all employees who worked for the Town in 2021 who are employed at the Town ~~through as-of-the~~ last day of the pay period ~~the bonus is paid~~, will receive a one-time, non-pensionable lump sum payment of \$2,500.

Section 6. PERS Benefits

~~6.1 Town Contribution~~

~~Effective December 13, 1998, the Town ceased its participation in the Public Employee Retirement System "Employer Paid Member Contributions" (EPMC) provision. Concurrently, the Town began paying in salary to the employees covered by this memorandum of understanding the equivalent dollar amount of the former EPMC (9% of salary). These employees were then responsible for making their own member contributions. The POA acknowledged that implementation of this change had a cost impact to the Town which was equivalent to approximately 1.6% of total compensation.~~

~~Substantially concurrent with the adoption of the 1998-2000 memorandum of understanding, the Town Council adopted a Resolution materially the same as that recommended by the Public Employee Retirement System to implement the provisions of 414 (h) (2) of the Internal Revenue Code (IRC). The POA accepted the terms of this Resolution and acknowledged that the Resolution will apply to all current and future members of the POA during the term of this agreement.~~

The Town contracts with the California Public Employees' Retirement System (CalPERS or PERS) to provide Town employees with retirement benefits.

6.21 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," hired with reciprocity or CalPERS membership prior to 1/1/13 without a break in CalPERS service of six months or more or hired and enrolled in CalPERS membership prior to 9/15/12, the Town provides the Effective June 24, 2001, the Town amended its contract with the California Public Employees' Retirement System to include the 3% at 50 option for members of the bargaining unit. This retirement formula is applicable to employees hired prior to January 1, 2013 or Classic Members (as defined in the California Public Employees' Pension Reform Act or 2013 (PEPRA) and CalPERS guidance) hired on or after January 1, 2013 with reciprocity in the PERS retirement system.~~

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

~~Effective October 1, 2019 or as soon as administratively feasible following that date, Classic Members will contribute 12.3% more towards PERS (3% more than required by statute) in accordance with the requirements of Government Code section 20516(a).~~

6.3 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 ~~will provide~~ 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:~~

- ~~For employees hired on or after January 1, 2013 will use the 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 hired on or after January 1, 2013 shall pay~~ an amount that is equal to one half (1/2) the normal cost of ~~his/her~~his/her/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)).

~~Employees eligible for this retirement formulae retain the option of conversion of unused sick leave to service credit.~~

Section 7. Education Incentive Pay

7.1 Four-Year Degree Incentive Pay

~~Two and one-half percent (2.5%) of base salary shall be paid for any member who possesses a four-year degree. 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 ~~Grandfather Clause~~ 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

7.2.1

~~For employees hired prior to January 1, 2008, who qualify to participate in the Town's Education Incentive program prior to July 1, 2008; served a minimum of fifteen years with the Town of Los Gatos; and possess an Associates of Arts Degree or meet the minimum requirements to obtain an Associates of Arts Degree in a related field, shall be eligible for an additional 2.5% increase in base salary effective the first full pay period following their fifteenth anniversary date from his/her hire date (members with a four year degree are not eligible for this benefit).~~

7.2.2

~~For employees who are in the process of being hired prior to January 1, 2008; who qualify to participate in the Town's Education Incentive program within six months of hire; served a minimum of fifteen years with the Town of Los Gatos; and possess an Associates of Arts Degree or meet the minimum requirements to obtain an Associates of Arts Degree in a related field, shall be eligible for an additional 2.5% increase in base salary effective the first full pay period following their fifteenth anniversary date from his/her hire date (members with a four year degree are not eligible for this benefit).~~

7.2.3

~~Eliminate Retention Incentive pay for ten and fifteen years for members hired after January 1, 2008.~~

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.

Section 8. POST Certificate Pay

Qualified employees shall receive one of the following payment amounts in accordance with Exhibit A:

- A. Employees in their represented classifications who have been awarded an Intermediate POST Certificate: An additional 5% of base salary.
- B. 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%.

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 special assignment premiums are pensionable as determined by CalPERS.

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.

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.

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.

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. Special assignment premiums are pensionable as determined by CalPERS.

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 re-certification 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 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.

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. ~~During calendar year 2018, the Town will pay a maximum contribution of \$133 per month to CalPERS for each eligible active employee towards the purchase of medical insurance for those employees who enroll in and receive such insurance through the Town. Beginning January 1, 2019, t~~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 for the Employee Only~~ level of participation. ~~for all active employees.~~ 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

- A. 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.
- B. 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.

C. **Employee Assistance Program:** Premiums shall be paid by the Town.

D. **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.

~~Beginning October 1, 2018, the Town will pay a maximum contribution of \$133 per month to CalPERS for each eligible annuitant towards the purchase of medical insurance. Beginning January 1, 2019, t~~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 Health Reimbursement Account (HRA)~~ Benefit for Eligible Retirees Hired ~~On or before~~ 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~~ratification and approval of the 2018-2021 Memorandum of Understanding is agreement, is eligible for Health Reimbursement Account (HRA) retiree health benefits in accordance with this Section.

14.1.12

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,

14.1.23

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.

14.41.3

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) Bay Area Retiree Plus One level of participation. ~~For dependents, t~~The Town will pay ~~\$1,443.45 per month towards a Retiree Plus One plan and \$1,954.16 per month towards a Retiree Plus One or More plan, as of the 2022 plan year~~October 1, 2018. This amount will increase by \$100.00 each year until it is equal to the active employee contribution.

14.51.4

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 (14.14).

14.61.5

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 (14.41) 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.

14.71.6

The benefits described by this Section (14.14.4) will be provided to annuitants through CalPERS by means of a Health Reimbursement Account (HRA).

14.82 Retiree Health Benefit for Eligible Retirees Hired After October 1, 2018

The parties agree to add the PORAC Trust option requiring bargaining unit employees to contribute at least \$100 per month subject to reaching mutual agreement on the language. The parties agree that administrative fees required by the PORAC trust shall be split 50/50 by the Town and the POA.

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).

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 amount 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. The Town will replace authorized uniform items damaged in the performance of duty as approved by the Chief of Police.

~~Effective upon ratification and approval by the Council of this Agreement, t~~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.

Section 16. Mileage Reimbursement

Employees using personal vehicles on official Town business 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:

- A. 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.
- B. 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 ~~worked~~ 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	Accrual Days Per Year	Accrual Hours Per Pay Period
0 to 36	10	3.08
37 to 60	15	4.62

61 to 120	20	6.46
121 to 180	23	7.08
181 months	25	7.70

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 ~~Overtime-Compensatory Time Off~~ Cash-out

Employees who terminate from Town service shall have all accrued vacation and compensatory time off ~~overtime~~ cashed-out. This will terminate their status as an employee of the Town.

Section 24.5. 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.

Due to the Association's concerns regarding changes to the vacation selection procedure that arose due to sworn staffing shortages and its effect on officer access to vacation, the parties agree to meet to discuss shift and vacation selection procedures during the month of July 2022. Upon request by the Union, the parties will promptly meet and confer on the limited issue of the Department's vacation selection procedure. Any changes to the existing vacation selection procedure will be by mutual agreement.

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) shall receive compensation in-lieu of holiday time off equal to eighty (80) hours of base pay annually. Employees shall have the option of taking Holiday leave off equal to eighty hours (80) or receive in-lieu compensation. If the employee selects to receive in-lieu compensation, forty (40) hours of holiday pay will be received in the last payroll of November and the second forty (40) hours will be received in the last payroll of May, and will be included on the regular check. In-lieu holiday pay shall cease whenever an employee is reassigned to other than shift work. The employee shall observe holidays as described above. In the event that an additional holiday is observed by the Town during the term of this agreement, the in-lieu compensation shall be increased by the additional hours holiday time made available to non-uniform personnel (the language of this paragraph becomes null and void effective January 1, 2019).

~~Effective beginning January 1, 2019, the parties agree to pay holidays for bargaining unit employees through Holiday In-Lieu pay of 4.0%.~~

~~Effective the first full pay period of July 2022 or the first full pay period after Council approval of the MOU, whichever is later, in recognition of Juneteenth, holiday in-lieu pay will be increased by 0.4%, to total 4.4%.~~

~~Effective the first full pay period of July 2022 or the first full pay period after Council approval of the MOU, whichever is later, employees will receive a one-time, non-pensionable lump sum payment of one thousand dollars (\$1,000) for foregoing the Juneteenth holiday prior to 2023.~~

Section 276. 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 278. 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 298. Sick Leave Cash-Out Program

298.1 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.

298.2 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.

298.3 Unused Sick Leave Upon Retirement

Upon retirement, eligible employees may choose from the following options:

1. Eligible employees may convert unused sick time to service credit in accordance with provisions established by CalPERS.

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 28.2 Sick Leave Cash-Out Upon Termination.

3. 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 3029. 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 310. Bereavement/Compassion Leave

Up to 40 hours available per occurrence – use limited to spouse, parent, grandparent, child, or sibling by blood or marriage. It is recognized that bereavement/compassion leave is separate from employee's accumulated sick leave, vacation or CTO.

Section 321. 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 3~~3~~2. Accrual of Benefits

Benefits shall not accrue to employees on unauthorized leave, suspension without pay, or leave without pay.

Section 3~~4~~3. Workers' Compensation

Employees shall be provided benefits in compliance with State law.

Section 3~~5~~4. 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 work days.

Section 3~~6~~5. 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.

Section 3~~7~~6. Residency Requirement

There is no residency requirement for represented employees.

Section 3~~8~~7. 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 3~~9~~8. Vehicles

Town shall advise POA no later than sixty days prior to Town development of vehicle specifications for patrol vehicles. POA shall submit recommended specifications for vehicle purchase no later than thirty (30) days after receiving the notice from the Town.

Section ~~39~~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~~0. 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~~1. 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 [his/her/his/her/their](#) evaluation.

Section 423. 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 ~~his/her~~~~his/her/their~~ resignation to ~~his/her~~~~his/her/their~~ former position, if vacant. Upon reinstatement, the employee shall be considered as though ~~he/she~~~~they~~ had received an original appointment, unless other conditions are made a part of the reinstatement by the Town Manager.

Section 434. 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 445. 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 provision for the sixty (60) days "statute of limitations" shall not apply to probationary employees.

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 ~~his/her~~~~his/her/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, ~~he/she~~~~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 ~~his/her~~~~his/her/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, ~~he/she~~~~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 ~~his/her~~his/her/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, ~~he/she/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 456. 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 476. Completeness of MOU

The Town and the Association acknowledge and agree to abide by the provisions of the Meyers-Milias-Brown Act.

Section 478. Association Notification or Communications

The Town and the ~~d~~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.

Section 4850. 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 49. Reopener~~

~~If, for any reason, the Chief of Police decides it is in the best interest of the Department to discontinue the 4-10 Plan within the term of this agreement, the Town of Los Gatos agrees to reopen negotiations within 30 days on all provisions of the MOU.~~

Section 51~~0~~. 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.

~~Section 51. Update of Personnel Rules~~

~~The Town will be updating the Personnel Rules during the term of this agreement. The Town will provide notice and an opportunity to meet and negotiate any negotiable changes to the Personnel Rules. The parties agree to this process for this update.~~

Town of Los Gatos POA Classifications
Salary Schedule for Fiscal Year 2021/22
Effective June 12, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Range	Step	Hourly Rate
2520	Police Sergeant (Prior)	04-0721	1	\$66.43
	<i>Appointment before 03/01/2015</i>		2	\$69.75
			3	\$73.24
			4	\$76.90
			5	\$80.75

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant (New)	05-0721	1	\$66.43
	<i>Appointment after 03/01/2015</i>		2	\$69.75
			3	\$73.24
			4	\$76.90

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$55.12
			2	\$57.88
			3	\$60.77
			4	\$63.81
			5	\$67.00

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$52.50
			2	\$55.13
			3	\$57.89
			4	\$60.78
			5	\$63.82

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$49.88
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

Reflects General Increase of 2%.

ATTACHMENT 1

Town of Los Gatos POA Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Range	Step	Hourly Rate
2520	Police Sergeant (Prior)	04-0721	1	\$69.92
	<i>Appointment before 03/01/2015</i>		2	\$73.42
			3	\$77.09
			4	\$80.94
			5	\$84.99

Class Code	Classification Title	Range	Step	Hourly Rate
2521	Police Sergeant (New)	05-0721	1	\$69.92
	<i>Appointment after 03/01/2015</i>		2	\$73.42
			3	\$77.09
			4	\$80.94

Class Code	Classification Title	Range	Step	Hourly Rate
7500	Police Corporal	03-0715	1	\$58.01
			2	\$60.91
			3	\$63.96
			4	\$67.16
			5	\$70.52

Class Code	Classification Title	Range	Step	Hourly Rate
7510	Police Officer	02-0711	1	\$55.26
			2	\$58.02
			3	\$60.92
			4	\$63.97
			5	\$67.17

Class Code	Classification Title	Range	Step	Hourly Rate
9519	Police Trainee *	01-0710	1	\$52.50
	<i>* 95% of Step 1 of Police Officer Classification (Provisional Employee with Misc PERS)</i>			

Reflects General Increase of 5.25%.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 19

DESK ITEM

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Police Officers' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

REMARKS:

Attachment 4 contains public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

Attachments Previously Received with the Staff Report:

1. Salary Schedule for POA effective June 12, 2022
2. Salary Schedule for POA effective July 10, 2022

Attachments Previously Received with the Addendum:

3. Redlined LG POA MOU

Attachments Received with this Desk Item:

4. Public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

PREPARED BY: Salina Flores
Human Resources Director

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

From: Phil Koen

Sent: Tuesday, June 07, 2022 10:59 AM

To: Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>

Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Shelley Neis <sneis@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; jvannada; Rick Van Hoesen; Lee Fagot; Catherine Somers

Subject: Agenda items #19 - #22

Dear Honorable Mayor and Members of the Town Council,

The Los Gatos Community Alliance respectfully requests that Agenda items #19 through #22 be pulled from tonight's consent calendar to allow for public discussion and increased transparency. We acknowledge that the terms of the various labor agreements are the result of a long negotiation process and want to thank all parties for their efforts in finding a solution. We want to also thank the Town Council for their hard work on this matter.

Issue

The reason for pulling these items revolves around the lack of transparency in the Staff report. While we understand labor negotiations are confidential and therefore little was disclosed during the process, it is then extremely important that the Staff report be comprehensive and fully transparent in detailing how the Town arrived at these results. This is particularly important when the only benchmark the public had regarding possible increases in salary and benefit expenditures for FY 23 was what was included in the preliminary budget. Clearly, what is being approved tonight is materially greater than what was in the preliminary budget.

Request for more information

The LGCA requests that Staff disclose the following additional information prior to any vote on agenda items #19 through #22:

1. What will be the total salary and benefit expenditures for FY 23 as previously reported on Schedules C-8, C-9, C-10, C-11, C-12, and C-13 after taking into effect all salary adjustments recommended in Agenda items #19-#22?
2. How is the \$2,318,733 (increases to negotiated salary increases) being funded? Since the proposed FY 23 budget did not have an operating surplus, where are the additional sources of funds coming from to cover this increase? Please be specific.
3. A portion of the \$2,318,733 expenditures are one-time in nature. How much are the "one-time payments" and how much will be recurring expenditures beyond FY 23?
4. Please disclose the initial offer letter from the Town to each of the bargaining units so the public has full transparency to the negotiating process. For sake of clarity, the City of San Jose releases to the public all correspondence between bargaining units once agreements have been reached and voted on by the bargaining units. It appears we are at that point.
5. If the Town does not use \$902,579 of the OPEB 115 Trust Assets to "further balance the budget" what other funds could the Town tap to provide the required source of funding? Was this discussed and approved by the Town Council Trust Fund Committee?

Thank you.

Phil Koen
LGCA



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 20

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Town Employees' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

RECOMMENDATION:

Staff recommends that the Town Council approve a Labor Agreement Between the Town of Los Gatos and the Town Employees' Association (TEA) and Authorize the Town Manager to Execute the Memorandum of Understanding .

BACKGROUND:

In accordance with the Town's Employer-Employee Relations Resolution No. 1974-41, representatives of the Town and TEA have met and conferred in good faith and within the scope of representation in an effort to reach agreement for a successor Memorandum of Understanding (MOU). The revised agreement will be posted as an Addendum on June 3, 2022. The MOU is a labor agreement that identifies specific terms and conditions of employment applicable to the employees represented by that agreement.

DISCUSSION:

The Town's current MOU with TEA expires on June 30, 2022. In April 2022, the Town and TEA began negotiating for a successor agreement. A tentative agreement for a two-year term was reached in April and TEA membership ratified on June 2, 2022.

Major provisions of the agreement include and are not limited to:

1. **Term:** July 1, 2022 to June 30, 2024

PREPARED BY: Salina Flores
Human Resources Director

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

SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

DATE: June 2, 2022

DISCUSSION (continued):

2. Salary:

- a. Effective the first full pay period of July 2022 (Effective July 10, 2022), or the first full pay period after Council approval, whichever is later, the Town will provide a 3% cost of living adjustment (COLA) and a 5% market increase for a total of 8%. The market increase is intended to bring TEA classifications to or near market median based on data in a compensation survey of the relevant labor market completed by outside consultant Bryce & Associates in April 2022 .
 - b. Effective in the first full pay period of July 2023, the Town will provide a 3% cost of living salary increase.
3. **Pandemic Related Bonus:** Effective the first full pay period of July 2022, or the first full pay period after Council approval, whichever is later, all employees who worked for the Town in 2021, who are employed at the Town as of the last day of the pay period will receive a one-time, lump sum payment of \$2,500.00.
4. **Juneteenth Holiday:** Effective after Council approval of this MOU, June 19th (Juneteenth) shall be added to Section 29 of the MOU as an observed paid eight (8) hour holiday for employees represented by TEA.
5. **Market Adjustments:** On one occasion during the term of the MOU, upon request by the Union, the Parties agree to meet to discuss elements of future compensation surveys for TEA and ways to collaborate to obtain the best market data for TEA classifications. The parties agree this is not a reopener and any changes to the MOU on this issue would be by mutual agreement of the parties.
6. **Compensatory Time Off (CTO) for Non-Dispatchers:** Increase CTO accrual limit by twenty (20) hours to maximum of eight (80) hours.
7. **Bereavement Leave:** Add Stepchildren, foster children, stepparents/parents in law, and grandchildren.

The Town and TEA have also agreed to various MOU language updates. The red-lined MOU will be posted on Friday, June 3, 2022 as an Addendum. These updates clarify existing language, delete obsolete language, and ensure compliance related to the Town's contract for retirement and medical benefits provided under the California Public Employees' Retirement System (CalPERS) and the Public Employees' Medical and Hospital Care Act (PEMHCA).

CONCLUSION:

The TEA agreement has been prepared within the parameters provided to Town's negotiators by the Town Council and has been ratified by the TEA membership. It is recommended that the proposal be approved, and the Town Manager be authorized to execute the MOU.

PAGE 3 OF 3

SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

DATE: June 2, 2022

FISCAL IMPACT:

The anticipated fiscal impact for the 3% salary increase (\$215,000) and 5% market increase (\$290,000) in FY 2022/23 is \$505,000. The anticipated fiscal impact of the \$1,000 non-pensionable one-time payment and the one-time, lump sum pandemic related bonus payment of \$2,500.00 in FY 2022/23 is \$210,000.

The total cost impact for FY 2022/23 will be absorbed in the Town's existing operating budget. Funding to support the FY 2023/24 ongoing cost each year will be incorporated into the proposed future year budgets for Council approval.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Salary Schedule for TEA effective July 10, 2022

Town of Los Gatos TEA Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

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	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
3580	Administrative Assistant	Hourly	04	\$30.87	\$32.41	\$34.03	\$35.73	\$37.52	\$39.98
4620	Assistant Engineer	Hourly	25	\$49.12	\$51.58	\$54.16	\$56.87	\$59.71	\$63.28
4420	Assistant Planner	Hourly	12	\$42.71	\$44.85	\$47.09	\$49.44	\$51.91	\$55.09
4600	Associate Civil Engineer	Hourly	27	\$55.88	\$58.67	\$61.60	\$64.68	\$67.91	\$71.89
4661	Associate Engineering Technician	Hourly	14	\$43.02	\$45.17	\$47.43	\$49.80	\$52.29	\$55.48
4400	Associate Planner	Hourly	20	\$49.70	\$52.19	\$54.80	\$57.54	\$60.42	\$64.02
4410	Building Inspector	Hourly	24	\$47.82	\$50.21	\$52.72	\$55.36	\$58.13	\$61.62
4430	Code Compliance Officer	Hourly	10	\$42.76	\$44.90	\$47.15	\$49.51	\$51.99	\$55.17
4530	Communication Dispatcher	Hourly	17	\$45.31	\$47.58	\$49.96	\$52.46	\$55.08	\$58.41
4535	Communication Dispatcher Lead	Hourly	19	\$57.24	\$60.10	\$63.11	\$66.27	\$69.58	\$73.64
4540	Community Services Officer	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4615	Construction Project Manager	Hourly	26	\$53.61	\$56.29	\$59.10	\$62.06	\$65.16	\$69.00
4660	Engineering Technician	Hourly	13	\$39.05	\$41.00	\$43.05	\$45.20	\$47.46	\$50.41
4705	Environmental Programs Specialist	Hourly	08	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
4200	Events and Marketing Specialist	Hourly	06	\$32.53	\$34.16	\$35.87	\$37.66	\$39.54	\$42.10
3501	Executive Assistant	Hourly	08	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
4900	IT Systems Administrator	Hourly	23	\$53.24	\$55.90	\$58.70	\$61.64	\$64.72	\$68.54
4915	IT Technician	Hourly	07	\$39.91	\$41.91	\$44.01	\$46.21	\$48.52	\$51.53
4810	Librarian	Hourly	16	\$40.81	\$42.85	\$44.99	\$47.24	\$49.60	\$52.66
4830	Library Assistant	Hourly	03	\$30.13	\$31.64	\$33.22	\$34.88	\$36.62	\$39.03
4807	Library Customer Service Specialist	Hourly	01	\$28.23	\$29.64	\$31.12	\$32.68	\$34.31	\$36.61
4805	Library Customer Service Supervisor	Hourly	08	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
4825	Library Specialist	Hourly	06	\$32.53	\$34.16	\$35.87	\$37.66	\$39.54	\$42.10
4819	Library Tech Specialist	Hourly	15	\$39.55	\$41.53	\$43.61	\$45.79	\$48.08	\$51.06
3181	Office Assistant	Hourly	01	\$28.23	\$29.64	\$31.12	\$32.68	\$34.31	\$36.61
4640	Park Services Officer	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4560	Parking Control Officer	Hourly	01	\$28.23	\$29.64	\$31.12	\$32.68	\$34.31	\$36.61
4440	Permit Technician	Hourly	09	\$35.53	\$37.31	\$39.18	\$41.14	\$43.20	\$45.94

**Town of Los Gatos TEA Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022**

Class Code	Classification Title	Rate Type	Range TE1	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
4425	Planning Technician	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4550	Police Records Specialist	Hourly	05	\$31.60	\$33.18	\$34.84	\$36.58	\$38.41	\$40.91
4630	Public Works Inspector	Hourly	18	\$44.47	\$46.69	\$49.02	\$51.47	\$54.04	\$57.32
4450	Senior Building Inspector	Hourly	27	\$55.88	\$58.67	\$61.60	\$64.68	\$67.91	\$71.89
4525	Senior Communication Dispatcher	Hourly	29	\$50.76	\$53.30	\$55.97	\$58.77	\$61.71	\$65.38
4831	Senior Library Page	Hourly	02	\$19.85	\$20.84	\$21.88	\$22.97	\$24.12	\$25.91
4565	Senior Parking Control Officer	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4405	Senior Planner	Hourly	28	\$57.24	\$60.10	\$63.11	\$66.27	\$69.58	\$73.64
4610	Senior Public Works Inspector	Hourly	26	\$53.61	\$56.29	\$59.10	\$62.06	\$65.16	\$69.00
4662	Sr. Engineering Technician	Hourly	24	\$47.82	\$50.21	\$52.72	\$55.36	\$58.13	\$61.62

Reflects General Increase of 8%



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 20

ADDENDUM

DATE: June 3, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Town Employees' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

REMARKS:

Attachment 2 contains the Memorandum of Understanding (redline).

Attachment Distributed with Staff Report:

1. Salary Schedule for TEA effective July 10, 2022

Attachment Distributed this Addendum:

2. Memorandum of Understanding (redline)

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

TOWN OF LOS GATOS

AND

LOS GATOS TOWN EMPLOYEES' ASSOCIATION



MEMORANDUM OF UNDERSTANDING

JULY 1, 2022 – JUNE 30, 2024~~1~~

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**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TOWN OF LOS GATOS
AND
THE TOWN EMPLOYEES' ASSOCIATION (T.E.A.)**

THIS AGREEMENT IS ENTERED INTO AS OF JULY 1, 2022~~18~~, BETWEEN THE TOWN OF LOS GATOS, HEREINAFTER REFERRED TO AS THE "TOWN", AND THE LOS GATOS "TOWN EMPLOYEES' ASSOCIATION", HEREINAFTER REFERRED TO AS "T.E.A."

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 T.E.A., 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 TOWN EMPLOYEES' ASSOCIATION:

Christine Crosson
Communications Dispatcher Lead

~~Judy Coughlin~~
~~Library Specialist~~Sean Mullin
Senior Planner

Daniel Keough~~Jennifer Armer~~

Librarian
~~Senior Planner~~

Beca Muniz
~~Network Administrator~~IT Systems Administrator

~~Mike Weisz~~
~~Associate Civil Engineer~~

TOWN OF LOS GATOS:

Laurel Prevetti
Town Manager

Arn Andrews
Assistant Town Manager

~~Lisa Velasco~~Salina Flores
Human Resources Director

~~Donna Williamson~~Lisa S. Charbonneau
Liebert Cassidy Whitmore

APPROVED AS TO FORM:

~~Robert Schultz~~ Gabrielle Whelan
Town Attorney

Catherine Gildea
Librarian

Cheryl Schiele
Employee Representation Services, Inc.

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Appendix A – T.E.A. Salary Schedule

Appendix B – Placeholder for New Resolution

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**TOWN OF LOS GATOS
AND THE TOWN OF LOS GATOS EMPLOYEES' ASSOCIATION
MEMORANDUM OF UNDERSTANDING
ON SALARIES, FRINGE BENEFITS AND WORKING CONDITIONS**

Preamble

The authorized representatives of the Town of Los Gatos hereafter referred to as the "Town" and the authorized representatives of the Town of Los Gatos Employees' Association hereafter referred to as "T.E.A." do jointly accept and agree to all the terms and conditions of employment set forth in this Memorandum of Understanding pursuant to Town Resolution 1974-41 of the Town of Los Gatos and the Meyers-Milias-Brown Act, Section 3500 et. seq. of the Government Code.

This understanding shall apply to represented employees assigned to those classifications listed on Appendix A. When classifications are created which fall under the representation of T.E.A., this understanding shall also apply. This agreement supersedes all previous agreements between the Town and T.E.A.

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 [employees-T.E.A](#). T.E.A. agrees to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by T.E.A., 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

This Memorandum of Understanding shall commence on July 1, 2022 and terminate on June 30, 202~~41~~.

Goal

This Memorandum of Understanding (MOU) has been prepared in a spirit of cooperation between T.E.A. and the Town. The purpose of this MOU is to define all presently known issues concerning employment, foster a sense of [team-workteamwork](#) between T.E.A. and the Town, and create conditions under which the highest quality of public service is delivered.

Section 1. Scope of Representation

Employees represented by T.E.A. are those in permanent positions in the classifications listed in Appendix A.

If it should become necessary to reduce the hours of any employee whose classification is listed in Appendix A, such employee's representation by T.E.A. will not be affected. The Town agrees to notify T.E.A. before filling a vacated represented position with an hourly employee.

Section 2. Town Employer-Employee Relations

2.1 T.E.A. Rights

The Town recognizes the employees' right to join and participate in T.E.A. T.E.A. shall provide the Town with a list of T.E.A. officers and department representatives. T.E.A. shall distribute to all new unit employees materials furnished for such purposes by T.E.A.

Upon request of any employee represented by this Agreement, a T.E.A. representative shall be present during meetings involving the individual employee in disciplinary matters. Oral reprimands and performance evaluations are not included in the above. To the extent possible, disciplinary and grievance matters shall be considered during normal working hours and with pay.

T.E.A. representatives shall have access to its members, bulletin boards, and Town mail system on Town time.

During the term of the agreement, ~~as long as~~ if there is no disruption in work, up to five (5) T.E.A. members shall be allowed up to two (2) hours of release time off each month with pay for meeting and conferring, meeting and consulting, or the processing of grievances in accordance with the grievance procedure, Section 19 of this MOU. The T.E.A. President shall be allowed up to eight (8) hours for these same purposes. T.E.A. general membership meetings will continue to be held during lunch or after work. Town initiated meetings are not subject to release time limits. Such T.E.A. members shall first obtain permission from Department Directors before leaving their work or work locations.

2.2 Town Employer-Employee Relations Resolution

T.E.A. and the Town recognize the existing language in Town Resolution 1974-41, or its successor as it governs all aspects of labor relations in the Town. Any changes in Resolution 1974-41 which apply to T.E.A. will be made after meeting and consulting with T.E.A.

2.3 Employee Rights

The Town adopts, in principle, the following rights, duties and responsibilities of its employees:

2.3.1

Organize and select leaders and representatives.

2.3.2

Employee and Town actions shall be governed by the MOU, Personnel Rules and Town policies.

2.3.3

At T.E.A.'s request the Town Manager shall meet twice during the term of this Agreement with T.E.A. to discuss matters of employee interest.

2.3.4

Utilization of the Disciplinary Procedure (see Resolution 1974-41 or its successor, if any during the term of this MOU, and Ordinance No. 1593).

2.3.5

Right to request a review of [his/her/their](#) classification and receive a response to the request.

2.4 Management Rights

The rights of the Town include, but are not limited to the exclusive right to:

2.4.1

Determine the mission of its constituent departments, commissions and boards;

2.4.2

Set the standards of service;

2.4.3

Determine the procedures and standards of selection for employment and promotion;

2.4.4

Direct its employees;

2.4.5

Take disciplinary action in accordance with adopted disciplinary procedures, recognizing the employee's right to due process;

2.4.6

Relieve its employees from duty because of lack of work or for other legitimate reasons;

2.4.7

Maintain the efficiency of governmental operations;

2.4.8

Determine the methods, means and personnel by which government operations are to be conducted;

2.4.9

Determine the content of job classifications;

2.4.10

Take all necessary action to determine when an emergency exists and to carry out its mission in emergencies including the requirement that employees work overtime. Any question regarding the existence of an emergency is determined by the Town Manager, whose decision shall be final;

2.4.11

Exercise control over its organization and the technology of performing its work;

2.4.12

Refer any question regarding implementation or interpretation of the MOU to the Town Manager or the Human Resources Director for a determination.

Section 3. Comprehensiveness of Agreement**3.1**

The Town and T.E.A. agree that this Agreement represents all wages, hours, and working conditions subject to the meet and confer process and available to employees.

3.2

In the event that a local, State or Federal law significantly impacts the terms of this MOU, the Town will meet and consult with T.E.A. regarding its implementation. In some cases, this may occur after the law or rule has been adopted.

Section 4. Savings Clause

If any provision or the application of any provision of this Agreement as implemented should be rendered or declared invalid by any final 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 5. Association Membership

5.1

The Town recognizes the exclusive right of T.E.A. to represent members of the bargaining unit on all matters relating to employment conditions and employer-employee relations subject to an individual employee's right to self-representation as provided by Government Code Sections 3502 and 3503.

5.1.1 Check-Off

T.E.A. shall have the sole and exclusive right to have membership dues deducted from the pay of employees covered by this MOU.

The Town will deduct from the bi-weekly ~~pay-check~~paycheck and remit to T.E.A., the normal and regular T.E.A. membership dues. Every effort will be made to remit dues to T.E.A. within two (2) weeks of deduction from members' wages. T.E.A. agrees to indemnify, ~~defend~~defend, and hold the Town harmless against any claims made of any nature and against any suit instituted against the Town arising from the check-off for the dues, ~~insurance~~insurance, or benefit programs of T.E.A.

5.1.2 Maintenance of Membership

T.E.A. membership is not a mandatory condition of employment for any employee covered by this Agreement. However, any employee covered by this Agreement who is a T.E.A. member on or after the date this Agreement is ratified by the T.E.A. membership, shall continue to pay to T.E.A. those dues regularly charged members of T.E.A. in good standing while covered by this Agreement. Employees wishing to withdraw from T.E.A. membership may do so by giving written notice to T.E.A. during the thirty (30) days ~~immediately~~ prior to the expiration of this agreement.

Upon return from leaves of absence, the Town shall reinstate the payroll deduction of T.E.A. dues.

Enforcement of this Section shall be the responsibility of T.E.A., utilizing appropriate civil procedures. T.E.A. shall indemnify and hold the Town harmless from any and all claims, demands or suits, or any other action arising from this Section.

5.1.3 Disclosure and Reporting

T.E.A. shall provide financial documents to the Town as required by law.

5.1.4 Hold Harmless

T.E.A. shall promptly refund to the Town any amounts paid to T.E.A. in error under this Section. T.E.A. expressly agrees to indemnify and hold the Town, ~~it's~~sits officers, agents, and employees harmless from any and all claims, demands, costs (including any costs incurred by the Town in defense of a lawsuit) attorneys' fees, expenses, damages, or other monetary losses arising out of or in any way connected with the administration of Section 5. This hold harmless and Indemnity Agreement shall include but not be limited to legal actions of any sort or nature against the Town based upon or related to this Section, including but not limited to actions by employees or former employees.

5.1.5 Duty of Fair Representation

T.E.A. shall accord fair representation in all matters to all employees in the unit without regard to whether the ~~particular employee~~employee is a member of T.E.A. The duty of fair representation shall include but not be limited to all matters related to collective bargaining, contract administration and contractual grievance processing.

5.1.6 Change of Law

In the event there is a change of law whereby any provision contained herein becomes invalid, or for any reason any provision of this Section is rendered unlawful by any published Appellate Court Decision, this Section shall be amended to comply with the change or decision in question.

5.1.7 Non-Discrimination Against T.E.A. Activities

Town and T.E.A. agree not to discriminate against any employee for activity on behalf of, or for membership or lack thereof in T.E.A., provided however, such activity is conducted in accordance with this MOU. This shall not affect the right of the Town to discipline employees for cause in accordance with the Town Code and this MOU. It is understood that Town employees are accountable first and foremost for their duties of employment and T.E.A. activities are not to interfere with the carrying out of those obligations.

Section 6. Non-Discrimination

The Town and T.E.A. agree that all provisions of this Agreement shall be applied equally to all employees covered herein without favor or discrimination because of any protected class including but not limited to race, creed, color, ancestry, sex (sex, gender based pregnancy/childbirth), gender identity and expression, age (over 40), national origin, political or religious affiliation, military and veteran status, marital status, sexual orientation, medical condition or physical or mental disability or any other basis prohibited by applicable federal, State or Town law.

6.1

General Provision Regarding Americans with Disabilities Act (ADA).

6.1.1

Because the ADA requires accommodations for individuals protected under the Act, T.E.A. recognizes the Town's obligation to comply with all provisions of the ADA on a case-by-case basis.

6.1.2

T.E.A. recognizes that the Town has the legal obligation to meet with the individual employee to be accommodated through the interactive process before any adjustment is made in working conditions. T.E.A. will be notified of these proposed accommodations prior to implementation by the Town.

6.1.3

Any accommodation provided to an individual protected by the ADA shall not establish a past practice.

Section 7. Employment

7.1 Step Placement for New Hires

T.E.A. recognizes the sole right of the Town to determine the salary and wage rate for new hires.

7.2 Probationary Period

7.2.1

Probation for New Hires: The probationary period shall be twelve (12) months for all newly hired employees.

7.2.2

Probation for promoted employees: Promoted employees can be considered for satisfactory completion of the probationary period after twelve (12) or six (6) months at the discretion of the Department Director. Promoted probationary employees shall have all rights under this Agreement, full and complete access to the grievance procedure, including instances of suspension, ~~demotion~~~~demotion~~, and termination. Any permanent employee not satisfactorily completing the probationary period following a promotion will be reinstated to their previous classification in accordance with the Town Personnel Rules.

7.2.3

All probationary employees will be evaluated quarterly.

7.3 Performance Evaluations

The Town-authorized employee performance evaluation document and program shall be used for all employee evaluations.

7.3.1

It is intended that performance evaluations take place at least annually as follows:

- (a) For employees below top step: no later than 15 days prior to the anniversary date of the employee's date of hire or the date the employee entered their classification.
- (b) For employees at top step: between June 1st and October 1st of each year.

7.3.2

Employee evaluation forms shall include a section to be checked indicating whether an employee agrees or disagrees with [his/her/their](#) evaluation.

7.3.3

All performance evaluations shall be discussed with the employee prior to the evaluation being completed. Employees shall sign their individual performance evaluations as evidence of discussion having taken place; employee signature does not imply agreement with the evaluation. An employee may attach separate written comments to [his/her/their](#) evaluation.

7.3.4

If an employee does not receive an evaluation on the date it is due and the supervisor subsequently finds that the employee would have been entitled to a merit increase as of the anniversary date, the merit increase will become effective as of the first day of the pay period in which the anniversary date occurs.

7.3.5

The Town will make every attempt to see that performance evaluations are completed in a timely manner.

7.4 Pay and Classification System

7.4.1

Consideration for advancement from step-to-step within a range shall occur at intervals of one (1) year in length effective on each anniversary date. Each employee shall receive an annual performance evaluation. This evaluation will be the basis for step advancement. Such advancement to the next step shall be authorized if the supervisor and Department Director finds that the employee is satisfactorily performing the duties of their position as reflected on the annual evaluation form.

7.4.2

If the employee's performance is not satisfactory as determined by the supervisor's annual evaluation, the Department Director shall deny advancement to the next step. The Department Director has the option, at their discretion, based on a recommendation by the supervisor, to recognize improving performance by granting or denying a half-step increase in lieu of denying the advancement to the next step for unsatisfactory performance.

7.4.3

If the employee's performance is exceptional as determined by the annual evaluation of the supervisor on the performance evaluation form, the Department Director, with the approval of the Town Manager, has the discretion to grant a two-step or one-and-one-half step increase. It is intended that this be used sparingly so that it can be reserved to recognize the truly exceptional employee who is achieving journey-level status in their classification (i.e., fully capable of performing all duties of the position) and can perform at the same level as an employee with the years of experience required to achieve advancement to the new step if they had advanced one step each year.

7.5 Promotions

7.5.1

The Town and T.E.A. agree that it is in the best interest of both the Town and its employees to foster promotion of incumbent employees. The Town will consider the qualifications of incumbent personnel prior to determining whether an open or promotional examination shall be used to fill a vacancy in T.E.A. represented classifications.

7.5.2

The Town and T.E.A. recognize the Town's sole right to determine the method for the selection of Town employees through either an open or promotional examination process. If a determination is made by the Town that a promotional examination will be used to fill a vacant position, ~~any~~all qualified employees who participate in the examination process shall be allowed time off from regularly scheduled work ~~in order to~~to participate in the examination process if the examination process is scheduled during the employee's normal work period. There shall be no overtime paid for participation in the examination process.

7.6 Work Day/Week

7.6.1

The normal ~~work day~~workday is defined as no more than eight (8), nine (9), ten (10), eleven (11), or twelve (12) consecutive hours of work time, with a single lunch break. A normal ~~work day~~workday shall be followed by a minimum of ten (10) hours off.

7.6.2

The work week is defined as forty (40) hours of work during any consecutive seven (7) day period. A minimum of one (1) forty-eight (48) hour period without scheduled work shall be provided to each employee during any consecutive seven (7) day period with the exception that employees employed in the Town Library shall not be scheduled less than two (2) consecutive days off within a seven (7) day period more than thirteen (13) times in a calendar year.

7.6.3

Flex-time work schedules consistent with the definitions of normal ~~work day~~workday and normal work week may be assigned by the Town at its sole discretion. Flex scheduling is defined as an occasional adjustment to an employee's work schedule which does not alter the total number of hours scheduled to be worked per week, but simply alters the time of day those hours are worked. The Town shall provide no less than fourteen (14) calendar days' notice to affected employees regarding a change in regular work schedules. Flex-days shall be identified and approved by the Department Director and Town Manager as part of the approval of a flex-time work schedule as well as the designation of the forty-eight (48) hour period without scheduled work. (For holiday refer to 7.7.5.)

7.6.4

Employees may also make requests for temporary changes to their normal work schedule. In those cases, the employee's schedule may change with the approval of the employee's Department Director (e.g. an earlier start and end of shift or a change in the number of hours per day), so long as that change does not result in overtime liability to the Town.

7.6.5

The Town has the discretionary right to alter work schedules without notice during emergency situations.

7.7 Alternative Work Schedule

As an alternative to the normal schedule described in the above section, employees may be granted the option to participate in an Alternative Work Schedule under the following terms and conditions:

7.7.1

An Alternative Work Schedule (AWS) is defined as:

- (a) 9/80 Alternate Work Schedule: An employee schedule of nine separate work days for a total of 80 hours during a Town-designated fourteen-day pay period, for which the schedule includes working four 9-hour days and one 8-hour day in one week and working four 9-hour days in the other week. For payroll purposes, the work week will begin and end between 11:00 a.m. and at 1:00 p.m. on each alternating day off in the fourteen-day pay period.
- (b) 4/10 Alternate Work Schedule: An employee schedule of eight separate work days for a total of 80 hours during a Town-designated fourteen-day pay period, for which the schedule includes working four 10-hour days in one week and working four 10-hour days in the other week. For payroll purposes, the work week will begin and end at midnight Saturday.
- (c) 3/12 Alternative Work Schedule: An employee schedule of seven separate work days for a total of 80 hours during a Town-designated fourteen-day pay period, for which the schedule includes 3 twelve-hour days and 1 four-hour day in one week and 3 twelve-hour days and 1 four-hour day in the other week. For payroll purposes, each employee has a designated start and end time to begin and end their work week.

7.7.2

The Department Director, with the approval of the Town Manager, has the exclusive authority to designate positions eligible to participate in the AWS. The decision of the Department Director regarding designation of eligible positions is final and is not subject to any grievance procedure.

7.7.3

The Department Director and the Town Manager have the exclusive right to terminate the AWS for T.E.A represented employees, individually and/or collectively. The Town is in no way required to meet and confer with the T.E.A. prior to terminating the AWS and termination of the AWS is not subject to any grievance procedure. Participating employees will be provided written notification at least one (1) full pay period prior to termination of the AWS.

7.7.4

Employees who elect to participate in the AWS must receive authorization from their supervisor prior to working any regularly scheduled day off.

7.7.5

An employee assigned to an AWS may use accrued vacation time, accrued compensatory time off, floating holiday or personal leave to make up the difference between the provided eight (8) hours of holiday pay and the actual number of regularly scheduled working hours on a designated holiday. For example, if a holiday falls on a day the employee is scheduled to work nine (9) or ten (10) hours, ~~s/he~~the employee shall receive eight (8) hours of holiday pay and be required to use other accrued leaves to make up the extra one (1) or two (2) hours for that day to fulfill the regularly assigned schedule.

- (a) If a holiday occurs on a day that an employee is not scheduled to work, ~~s/he~~the employee shall receive eight (8) hours of floating holiday, which is not subject to cash-out.
- (b) An employee who elects to take a regularly scheduled AWS day off shall use accrued leave time (vacation time, accrued compensatory time off, floating holiday, or personal leave) for the number of hours they are regularly scheduled to work (nine (9) hours for 9/80 schedules and ten (10) hours for 4/10 schedules.)
- (c) There will be no change in the accrual schedule of maximum accrual level of any paid leaves.
- (d) Employees on an AWS will be provided 40 hours of Bereavement Leave, pursuant to the T.E.A. MOU.
- (e) A scheduled ~~work day~~workday will include an unpaid meal break of at least one-half hour.

- (f) T.E.A.-represented employees are integral to the success of the AWS and understand the ongoing need to meet the operational needs of the Town.

7.7.6

A participating employee may request that their AWS be discontinued by providing written notification to their supervisor at least one (1) full pay period in advance of the termination of the AWS. Changes to an employee's AWS will coincide with the beginning of a pay period.

7.8 Exempt Employees

7.8.1

"Exempt Employee" shall be defined as any executive, administrative, or professional employee as defined by Fair Labor Standards Act (FLSA) that are exempt from the provisions described in Section 11.3 (Overtime). Federal standards concerning exemptions from federal wage and hour laws shall be used as a guide in determining such exemptions.

7.8.2

Exempt Employees shall be designated by the Town.

7.8.3

Employees with the following job titles shall be designated Exempt Employees:

Senior Planner

7.8.4

Exempt Employees shall not be subject to the terms and conditions described in Sections 7.6 (Work Day/Week) and 7.7 (Alternative Work Schedule) or to any provisions of this MOU that are preempted by the Fair Labor Standards Act.

7.8.5

Notwithstanding this provision, exempt employees are eligible to work a flexible schedule including a 9/80 or 4/10 schedule subject to the approval of their supervisor.

7.8.6

The Fair Labor Standards Act (FLSA) allows exempt employees to track time on an hourly basis without disqualifying their exempt status. Therefore, exempt employees who work less than a minimum of 50% of their regularly scheduled hours in a given day shall utilize leave time for those hours not worked.

7.8.7

Exempt employees are expected to work whatever hours necessary in order to meet the performance expectations of their Supervisor or Department Head. With the express approval of the Department Head, employees may be permitted to flex their schedule within the same pay period when a ~~work day~~workday significantly exceeds normal working hours. Flex time is not to be considered compensatory time off. The Town shall not deduct from an exempt employee's accrued leave balances for infrequent partial day absences of less than 4 hours (other than this taken for FLSA intermittent leave purposes).

Section 8. Layoff Policy

8.1 Definitions

For the purposes of this section:

8.1.1

Layoff: Separation of employees from the active work force due to change in the duties, change in the organization or shortage of work or funds.

8.1.2

Temporary/Seasonal/Consultant Employee: An at-will non-benefitted employee who is hired on a temporary basis, usually not to exceed 180 days.

8.1.3

Hourly Employee: An at-will non-benefitted employee who works less than 20 hours per week and not more than 1,000 hours in a fiscal year.

8.1.4

Probationary Employee: Any employee tentatively appointed to a position who is continuing the testing process to determine [his/her/their](#) fitness for duty. Probationary employees are new employees of the Town or employees under probationary status because of promotion.

8.1.5

Regular Employee: Benefitted employees who successfully complete their probationary period and who regularly work a minimum of 20 to 40 hours per week.

8.1.6

Displaced Employee: A regular employee who is displaced by a more senior regular employee.

8.1.7

Service seniority: Consecutive time served (based upon number of hours worked) as a regular employee of the Town without the employee being reinstated as defined in the Town of Los Gatos Personnel Rules and Regulations, Section 10.6 "Reinstatement". Service seniority will not be earned for standby duty, overtime work, during periods of suspension without pay as a result of disciplinary action, or for non-medical leave without pay. Service Seniority for unpaid military leave will be considered in the manner prescribed by State and Federal law.

8.1.8

Classification Seniority: The length of time (based upon the number of hours worked) the employee has served as a regular employee in a classification including any time spent in a higher classification. Classification seniority will not be earned for standby duty, overtime work, during periods of suspension without pay as a result of disciplinary action, or for non-medical leave without pay. Classification Seniority for unpaid military leave will be considered in the manner prescribed by State and Federal law.

8.1.9

Higher classification: A job classification in the same classification series in which the maximum rate of pay is greater than the maximum rate of pay of the employee's current job classification.

8.2 Town - T.E.A. Cooperative Efforts**8.2.1**

When the Town determines that layoffs are imminent, it shall provide written notification to T.E.A. Further, in the spirit of cooperation, the Town or the T.E.A. may request a meeting to jointly discuss alternatives to layoff, including, but not limited to, attrition or a reduction in work hours. Every effort shall be made to fill any vacant position(s) in the Town with qualified laid-off employee(s).

8.2.2

Notwithstanding the effort to work cooperatively, the Town has the exclusive right to determine the methods, means, numbers and kinds of personnel by which services are to be provided. The Town's decision to make a reduction in force and/or layoff an employee(s) is not subject to the duty to meet and confer.

8.3 Order of Layoff & Procedure

8.3.1

Whenever it is determined that a layoff must occur within a job classification, the order of layoff shall be:

- (1) temporary/seasonal at-will
- (2) hourly at-will
- (3) probationary
- (4) regular employee

8.3.2

In each type of employment, the employee(s) with the least classification seniority in the affected job classification(s) shall be laid-off first.

8.3.3

In the event that two or more employees in a job classification have the same level of classification seniority, then the employee with the least service seniority with the Town shall be laid-off. If there is no distinction between the service seniority of two or more employees, then the employee with the lowest score on the eligibility list for the current classification shall be laid-off first.

8.4 Displacement Rights

8.4.1

An employee may displace any other employee in a lower classification which they previously occupied if they have more service seniority. For a job classification lower than that in which the employee holds regular status, seniority shall be calculated by adding: (1) classification seniority in higher classifications; (2) classification seniority in the job classification in which the employee previously worked, and (3) present time spent in the job classification in which the employee is currently working.

8.4.2

Employees who are designated for layoff or displacement may elect, in lieu of layoff or displacement, to be reassigned to a position in a lower classification. In order to displace an employee with less classification seniority, the employee noticed for layoff must have held regular status in the classification into which [he/she/they](#) is being reassigned. An employee who chooses to exercise their displacement rights must accept the salary, hours and working conditions of their new position. An employee will be allowed only one displacement.

8.4.3

An employee who exercises their displacement rights shall be paid in the new job classification the salary range step closest to the salary range step received immediately prior to displacement, providing there is no increase in salary. If the salary range step in the lower job classification is Step 5 or lower, future salary step adjustment opportunities shall be made in accordance with the Town's Personnel Rules. Time served in the job classification from which the displacement occurred shall count toward the interval required for consideration of salary step advancement.

8.4.4

If an employee with regular status is unable to displace an employee in a lower job classification in which [he/she/they](#) held a regular status, [he/she/they](#) shall be laid-off.

8.4.5

An employee may request layoff in lieu of the opportunity to displace by notifying the Human Resources Department in writing or email within ten (10) business days after receiving the Town's certified mailing of notice of layoff. If an employee requests layoff in lieu of displacement, [he/she/they](#) shall forfeit all recall rights except to a vacancy in the same classification from which the employee was laid-off. In this case, the employee shall be entitled to recall rights for a period of one (1) year from the effective date of the layoff.

8.4.6

A probationary employee who held regular status in [his/her/their](#) previous position, and is affected by a layoff or is displaced by an employee exercising [his/her/their](#) displacement rights, shall return to [his/her/their](#) former job classification where [he/she/they](#) held regular status. If a probationary employee does not have regular status in another job classification or has regular status in another job classification which no longer exists, [he/she/they](#) will be laid-off without any right of recall.

8.5 Seniority List

At least ten (10) business days prior to mailing a written notice of layoff, the Town shall provide a seniority list notice to affected employee(s) and the current President of the T.E.A. bargaining unit. The seniority list notice shall show the names, classification, classification seniority, service seniority, and the process for reporting discrepancies. The seniority list shall be deemed correct unless an employee or the T.E.A. notifies the Human Resources Director to the contrary in writing within ten (10) business days of the delivery and/or mailing of the seniority list.

8.6 Notification of Layoff

The Town shall send by certified mail, return receipt requested, written notice of layoff to all affected employee(s). Such notice shall be postmarked at least thirty (30) calendar days in advance of the effective date of layoff. The layoff notice shall be mailed to the employee's address currently on file in the Human Resources Department and shall be deemed appropriate notice. Any employee who is on a paid or unpaid leave shall be affected by the layoff in accordance with the provisions of this section and in the same manner as all other employees. With such notice, the employee shall be informed of the rights to which she/he is entitled and the procedure to be followed. A copy of the notice shall also be provided to the current President of T.E.A.

8.7 Re-Employment Following Layoff/Displacement

8.7.1

When a vacancy occurs in a job classification, the laid-off or displaced employee(s) eligible to return to that job classification shall be recalled in the inverse order of layoff. Employees with regular status who were laid-off or displaced are eligible to return to the job classification in which regular status is held, but shall have no recall rights to any job classification in which probationary status was held at the time of layoff or displacement.

8.7.2

Employee(s) shall be entitled to re-employment rights for a period of one (1) year from the effective date of layoff or displacement. To expedite re-employment, more than one (1) laid-off/displaced employee may be notified when an opening occurs. The laid-off/displaced employee(s) will be re-hired in inverse order of layoff. A laid-off/displaced employee shall be required to meet the qualifications of the classification to which [he/she/they](#) is recalled.

8.7.3

An employee who exercises their re-employment rights shall be paid the salary range step they received immediately prior to layoff/displacement. Future salary step adjustment opportunities shall be made in accordance with the Town's Personnel Rules. Time served in the job classification since the most recent step increase prior to when the layoff/displacement occurred, shall count toward the interval required for consideration of salary step advancement.

8.7.4

A laid-off/displaced employee shall lose their re-employment rights for: 1) resignation; 2) retirement; 3) failure to return to work when recalled by the Town; 4) when the Town has not recalled an employee to work for a period of one (1) year; or 5) termination for cause.

8.7.5 Laid-off Employees

The effective date of layoff shall be the employee's last day working at the Town. When a vacancy exists and employees are to be re-employed, notice of the opening(s) shall be sent by certified mail, return receipt requested, to the last known address on file in the Human Resources Department. It shall be incumbent upon the laid-off employee to advise the Human Resources Department in writing, via certified mail, return receipt requested, of any change in address. The laid-off employee shall have ten (10) business days, following the certified mailing to notify the Town in writing, via certified mail, return receipt requested, of their intent to return to work.

8.7.6

The laid-off employee shall have a reasonable period of time to return to work, not to exceed thirty (30) calendar days. If the laid-off employee fails to respond to the notice of re-employment within ten (10) business days, or fails to report to work within the reasonable time period as set forth above, [he/she/they](#) will forfeit all re-employment rights.

8.7.7 Displaced Employees

The effective date of displacement shall be the employee's last day of work in the classification from which [he/she/they](#) is displaced. When a vacancy exists and displaced employees are to be re-employed, notice of the opening(s) shall be sent by certified mail, return receipt requested, to the last known address on file in the Human Resources Department or by hand delivery. It shall be incumbent upon the displaced employee to advise the Human Resources Department in writing of any change in address. The displaced employee shall have five (5) business days, following receipt of certified mailing or hand delivery of notice, to advise the Town in writing of their intent to return to their former position. If the displaced employee fails to respond to the notice of re-employment to former position within five (5) business days of receipt of notice, [he/she/they](#) will forfeit all re-employment rights to [his/her/their](#) former position.

8.8 Fringe Benefits

Laid-off/displaced employees shall be paid accrued leaves and related benefits in accordance with this Memorandum of Understanding and applicable Town policies and rules. Employees being re-employed who received a sick leave pay off at the time of layoff/displacement, shall have the uncompensated portion of their sick leave balance restored; provided, however, that only those sick leave hours accrued after re-employment shall be applied to sick leave payoff or retiree medical related to a subsequent termination.

Section 9. Outside Employment

The Town and T.E.A. agree that outside employment of full time T.E.A.-represented employees shall be governed by California Government Code Sections 1125 -1128 and that the Town shall develop and apply regulations to assure compliance. Outside employment shall be reviewed and approved by the Department Director and Town Manager on an annual basis.

Section 10. Reclassification

T.E.A. recognizes the sole right of the Town to reclassify positions.

Section 11. Salary and Other Compensation

11.1 Equity Adjustments

[In previous contracts](#), the Town [has provided](#) equity adjustments for classifications that [were](#) still below market median after providing across-the-board [cost of living](#) increases. Eligible classifications received [a](#) market adjustment effective in the first full pay period of [the new contract term](#).

[Effective the first full pay period in July 2022, or the first full pay period after Council approval of this MOU, whichever is later, all classifications will receive an across-the-board market increase of five percent \(5.0%\), in addition to the cost of living increase described below in Section 11.3.](#)

11.2 Town Compensation Policies

Town and T.E.A. agree that ~~this Agreement has been negotiated to provide equity increases to bring positions that were below market median to the market median. Prior~~ contracts were negotiated consistent with ~~Town compensation policies. The~~ the following specific Town compensation policies are:

11.2.1

Total compensation to be utilized in the analysis of all Town compensation.

11.2.2

Marketplace consideration in establishing compensation.

11.2.3

Average or above-average total compensation for all Town classifications.

11.2.4

No reduction in individual employee total compensation levels.

11.2.5

On one occasion during the term of this MOU, upon request by the Union T.E.A., the Parties agree to meet to discuss elements of future compensation surveys for T.E.A. and ways to collaborate to obtain the best market data for T.E.A. classifications. The parties agree this is not a reopener and any changes to the MOU on this issue would be by mutual agreement of the parties.

11.3 Compensation

T.E.A. salaries are reflected in the salary schedules listed in Appendix A.

Effective the first full pay period in July 2022, or the first full pay period after Council approval of this MOU, whichever is later, the salary rate for all classifications shall be increased by a three percent (3%) cost of living adjustment (COLA).

Effective the first full pay period in July 2023, the salary rate for all classifications shall be increased by three percent (3%).

11.3.1 Contract Ratification Bonus

Effective the first full pay period in July 2022, or the first full pay period after Council approval of this MOU, whichever is later, all employees shall receive a one-time, non-pensionable lump sum payment of one thousand dollars (\$1,000).

11.3.2 Pandemic Related Bonus

Effective the first full pay period of July 2022 or the first full pay period after Council approval of the MOU, whichever is later, all employees who worked for the Town in 2021 who are employed at the Town as of last day the pay period will receive a one-time, lump sum payment of \$2,500.

11.4 Overtime

11.4.1

When necessary to perform essential work, a Department Director may require an employee to work at any time other than during regular working hours until such work is completed. Overtime is scheduled solely at the discretion of the Town.

11.4.2

An employee directed by [his/her/their](#) Department Director or the Town Manager to work in excess of forty (40) hours in a designated work week, shall be compensated at the rate of one and one-half times the employee's regular hourly rate. Hours charged to available paid leave, shall be counted as time worked for computation of overtime payments. Compensatory time cannot be used in the pay period in which it is earned. Compensatory time off shall not be regarded as hours worked for the purposes of overtime calculation.

11.4.3

The Department Director may permit an employee to take compensatory time in lieu of paid overtime. With Department Director approval, employees shall be permitted to accumulate compensatory time only to a maximum of eighty (80) hours. The maximum accumulated compensatory time for Communication Dispatchers only shall be one hundred (100) hours. When the maximum level of compensatory time is reached, overtime shall be paid.

11.4.4

The Town will attempt to avoid scheduling overtime that conflict with an employee's personal plans unless it cannot be avoided.

11.4.5

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 (in whole hour increments) which will be earned in the following calendar year at one and one half times (1.5) the employee's base rate of pay. On the pay day for the pay period which includes Thanksgiving in the following year, the employee will receive cash for the amount of CTO the employee irrevocably 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 CTO the employee has accrued at the time of the cash out.

11.5 Call Back

11.5.1

A minimum of three (3) hours pay or its equivalent in compensatory time off, at the rate of time and one-half, shall be guaranteed for every employee, who, after leaving [his/her/their](#) place of duty, is required to return to duty without advance notice of at least fourteen (14) calendar days.

11.5.2

There will be a three (3) hour minimum at the call back overtime rate for Town commission/council meetings which begin (2) two hours or more than either the start of or end of the employee's regularly scheduled shift. At the employee's option but with Department Director's approval, employees may flex their schedule at the straight-time rate in-lieu of the call back provision of this paragraph.

11.6 Deferred Compensation

A Town program of deferred compensation shall be available to T.E.A. represented employees. The Town makes no representation on the merit of the plan or any of the investment products or instruments which may be offered by the plan. The responsibility for evaluating the investment 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.

11.7 Out-of-Classification Pay

11.7.1

The Town and T.E.A. agree that it is the intent of Town management, whenever possible, to avoid working an employee out of classification for a prolonged period of time. Compensation for out-of-classification work shall be an additional 5% of the regular pay of the employee's permanent classification or the first step of the higher classification, whichever is greater. Out-of-Classification Pay applies only to actual time worked and does not apply to paid leaves.

11.7.2

Employees appointed to work out-of-class will receive out-of-classification pay beginning the first day of the out-of-classification assignment. Performance of duties as a vacation relief does not automatically qualify as out-of-classification.

11.7.3

For purposes of this section, an out-of-classification assignment is defined as the full time performance of the essential functions of an authorized, funded, permanent position in another classification by a qualified employee. "Essential functions" shall be as defined in the Essential Functions section of the appropriate job specification.

11.7.4

Any employee who believes they are working out-of-class may request a review of their classification.

11.7.5

Training programs mutually agreed to by the Town and T.E.A. which are designed to enhance and/or provide career development opportunities shall not be subject to this provision.

11.8 Tuition Reimbursement Program

11.8.1

The Town will reimburse T.E.A. employees up to \$3,000 per fiscal year toward the cost of books, university/school fees (except parking) and tuition.

11.8.2

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 State and Federal regulations.

11.8.3

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.

11.8.4

Any employee who terminates employment with the Town within one (1) 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. This section shall not apply in cases involving disability, layoff, or death of the employee, or other unforeseen circumstances as approved by the Appointing Authority on a case-by-case basis.

11.9 Bilingual Incentive Pay

11.9.1

Employees filling classifications specifically requiring bilingual ability and passing the Town's certified examination shall be compensated at 2.5% above the normal compensation range for the regular classification.

11.9.2

The provision of bilingual pay will be evaluated annually in a manner prescribed by the Town, and continued or discontinued based on operational need. The decision as to whether bilingual pay will continue or be discontinued shall be made by the Town Manager, is final and is not subject to grievance or appeal. If bilingual pay is discontinued, the effective date shall be the beginning of the first full pay period in January.

11.10 Uniform Allowance

11.10.1

An initial uniform consisting of all items on the Town-approved list shall be supplied by the Town to new Park Services Officer and Town-designated Community Services Officer and Parking Control Officer employees; thereafter the Town shall provide incumbent Park Services Officer employees with a uniform allowance of \$500 per year and designated Community Service Officer and Parking Control Officer employees with a uniform allowance of \$400 per year to be paid in the payroll check during January of each year.

The Town shall provide the Building Inspectors and Code Compliance Officers with five (5) polo style shirts bearing an approved Town logo in a brand and color approved by the Town. The Building Inspectors and Code Compliance Officers shall wear the supplied shirts each day at work with pants such as khakis or appropriate jeans.

11.10.2

The uniform allowance will be prorated for new employees, except that new employees shall receive a minimum of one-half (1/2) of the year's uniform allowance if hired after July 1.

In the event that the Police Department requires Communication Dispatchers to wear a uniform, the parties agree to meet and confer over the impacts and effects of this decision.

11.10.3

T.E.A. recognizes the Town's right to specify uniform and demand that employees be in proper uniform at all times.

11.10.4

In the event that an employee who does not receive a uniform allowance damages his/her/their clothing in the performance of his/her/their duties, the employee may submit a claim for reimbursement to his/her/their Department Director for the repair/replacement of damaged articles to the Town.

11.11 POST Certificate

Effective beginning in the first full pay period following ratification and approval, Dispatchers who attain the Dispatcher Advanced POST certification shall be eligible for five percent (5%) POST certificate pay. This certificate pay shall be PERSable or not PERSable as determined by PERS.

Section 12. Payroll/Pay Checks

12.1 Payroll Periods

The Town and T.E.A. agree that a biweekly payroll period shall be utilized subject to the following conditions:

12.1.1

Employee pay shall not be withheld more than seven (7) calendar days following the end of the payroll period; however, 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.

12.1.2

All Town employees shall be compensated on a biweekly basis.

12.2 Pay Checks

- (a) The Town shall provide an optional direct deposit system for use by employees.

- (b) Every effort will be made to make pay checks available to employees as soon as checks are signed and ready for distribution.

Section 13. Holidays

13.1

The following shall be observed as eight (8) hour holidays for members of the unit:

January 1st (New Year's Day)
The 3rd Monday in January (Martin Luther King's Birthday)
The 3rd Monday in February (President's Day)
The last Monday in May (Memorial Day)
July 19 (Juneteenth)*
July 4th (Independence Day)
The first Monday in September (Labor Day)
Thanksgiving Day
The Friday following Thanksgiving Day
December 25th (Christmas Day)
Four (4) hours each on December 24 and 31

Every day declared a holiday by the President or Governor, subject to the Mayor also proclaiming the day as a holiday.

*The Juneteenth holiday will go into effect in calendar year 2023. In recognition of Juneteenth 2022, employees in all classifications except Communications Dispatchers and Park Services Officers will receive a one-time, non-pensionable \$500 lump sum payment in the first full pay period in July 2022, or the first full pay period after Council approval of this MOU, whichever is later.

13.2

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.

13.3 Holiday Compensation

13.3.1

Employees will receive eight (8) hours of regular pay on a Town-recognized holiday. If the employee's scheduled day off occurs on a Town- recognized holiday, the employee will receive eight (8) hours of straight-time holiday pay. In lieu of receiving eight (8) hours of straight-time holiday pay, an employee may elect to receive eight (8) hours of floating holiday hours. This provision will apply to the Juneteenth holiday beginning in calendar year 2023.

13.3.2 Employees Assigned to Work on a Holiday

Employees who are required to work on a Town-recognized holiday will receive their regular salary, plus compensation of one and one-half (1.5) times their regular rate of pay. Employees shall have the option of accepting salary or compensatory time off. This provision will apply to the Juneteenth holiday beginning in calendar year 2023.

13.3.3 Communications Dispatchers and Park Services Officers

Effective the first full pay period of July 2022 or the first full pay period after Council approval of this MOU, whichever is later, Communications Dispatchers and Park Services Officers shall receive compensation in-lieu of holiday time off equal to four and six tenths percent (4.6%) of base salary.

Section 14. Insurance Programs

14.1 Life Insurance

Town to pay premiums on minimum coverage of \$50,000 Life and \$50,000 Accidental Death benefit. Additional life insurance may be purchased by the employee.

14.2 Disability Insurance

The Town will provide a Short Term Disability policy effective the 8th calendar day unless hospitalized; coverage of 60% of weekly earning up to maximum of \$1,300/week for 12 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.

14.3 Workers' Compensation

Workers' Compensation benefits shall be provided in accordance with State and Federal law. Effective the 31st day of disability, the employee may elect to supplement the State mandated benefits with the Town's Short Term/Long Term Disability Insurance (STD/LTD). STD/LTD benefits will be reduced by the amount of periodic payments the employee is entitled to through Worker's Compensation.

14.4 Liability Insurance

The Town shall continue to maintain a public officials' liability insurance policy covering all Town employees in the execution of their official duties.

14.5 Employee Assistance Program

Premium shall be paid by the Town.

14.6 Unemployment Insurance

The Town will provide State mandated benefits as required by law.

Section 15. Family Medical Insurance and Cash In Lieu Plan

Employees may participate in either the Family Medical Insurance Plan or the Cash In Lieu Plan. Employees shall select either the Family Medical Insurance Plan or the Cash In Lieu Plan annually during the Town's open enrollment period, or at any other time permitted by the Public Employees' Medical and Hospital Care Act (PEMHCA), such as a qualifying event (e.g., birth of a child, marriage, spouse losing medical insurance, etc.).

15.1 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 PEMHCA, currently \$149 per month, as may be adjusted by CalPERS from year to year.

15.2 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, and vision insurance.

15.3 Town Contribution to Medical Insurance

The Town will provide active employees with a medical allowance equal to 100% of the cost of the "Employee Only" Kaiser ~~Bay Area~~Region 1 Medical Insurance Program premium offered by PEMHCA. For dependents, Town will pay 90% of the difference between Kaiser Employee Only and Kaiser level of participation (Employee ~~Plus & One~~ Dependent or Employee ~~& Two+ Dependents~~Family, depending on family status). If the employee chooses medical coverage under a program more expensive than Kaiser ~~Region 1 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 15.1 (the PEMHCA minimum) will be deducted from the amount of contribution provided by this Section (15.3).

15.4 Dental Insurance

~~For~~ employees choosing this option in lieu of the cash in lieu plan, the Town will pay 100% of the Delta Dental ~~DPO-PPO~~ 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 deduction 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.

15.5 Vision Insurance

Vision insurance is available through Vision Service Plan (VSP). Employees shall be enrolled in the Town's vision care health plan. The Town shall pay for employee-only coverage. At their own cost, employees may enroll eligible dependents upon hire, during open enrollment and/or when a qualifying event occurs.

15.6 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).

15.6.1 Amounts

- (a) Employees hired prior to November 15, 2004 shall be provided cash in lieu of medical benefits in the amount of \$800 per month (\$9,600 annually).
- (b) Employees hired on November 15, 2004 or later shall be provided cash in lieu of medical benefits in the amount of \$400 per month (\$4,800 annually).

15.7 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.

15.8 ~~Health Reimbursement Account (HRA)~~ Retiree Health Benefit for Eligible Retirees Hired before August 22, 2018

An employee hired prior to August 22, 2018 ~~(this includes employees, or~~ provided with a final offer ~~and~~ confirmation of employment prior to ~~August 22, 2018)~~ ~~ratification and approval of this agreement~~, is eligible for HRA retiree health benefits in accordance with this Section.

15.8.1

The employee completed at least five years of continuous service with the Town; and

15.8.2

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,

15.8.3

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.

15.8.4

The amount of the supplemental retiree health benefit allowance will be equal to 100% of the cost of the premium for Kaiser ~~Bay Area~~ Region 1 Retiree Only ~~and 90% of the difference between the Kaiser Bay Area~~ Region 1 Retiree Only and Kaiser Bay Area Region 1 Retiree & Plus-One Dependent level of participation.. For the Retiree & Two Plus Dependents ~~One or More Plan,~~ the Town will pay \$1,947.16 per month, as of the 2022 plan year. This amount will increase by \$100.00 each year until it is equal to the active employee contribution. ~~dependents, the Town will pay \$1,443.45 per month towards a Retiree Plus One plan and \$1,547.16 per month towards a Retiree Plus One or More plan, as of August 22, 2018. This amount will increase by \$100.00 each year until it is equal to the active employee contribution.~~

15.8.5

The Town's contribution towards retiree health insurance set forth in Section 15.7 (the PEMHCA minimum) will be deducted from the amount of contribution provided by this Section (15.8.4).

15.8.6

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 (15.8.4) and will become eligible for Supplemental Medicare equal to the cost of Kaiser Senior Advantage ~~Bay Area~~ Region 1 Medicare rates up to a maximum of 100% Retiree Only, 90% for Retiree & Plus-One Dependent or 90% for Retiree & Two Plus One or More Dependents less the amount of the employee contribution provided under Section 15.7 (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.

15.8.7

The benefits described by this Section (15.8) will be provided to annuitants through CalPERS by means of a Health reimbursement Account (HRA).

Section 16. Public Employees' Retirement System (PERS)

16.1 Retirement Formulas

16.1.1

Effective December 16, 1992, the Town's contract with the Public Employees' Retirement System (PERS) provided the 2% at 55 retirement formula for eligible Miscellaneous Town employees (regular employees).

16.1.2 Tier 1

Effective July 1, 2008, the Town amended its contract with PERS to include a 2.5% at 55 PERS retirement benefit (Gov't Code 21354.4).

Employees in Tier 1 shall:

Contribute 8% towards the employee share of the PERS retirement benefit.

Use PERS single highest year compensation.

- Be eligible for PERS Fourth Level 1959 Survivor Benefits.

16.1.3 Tier 2

For employees hired on or after September 15, 2012, including employees hired after January 1, 2013 who do not meet the definition of "new member" under Gov't Code 7522.04(f) the Town will provide Tier 2 retirement benefits to include the 2% at 60 retirement benefit (Gov't Code 21353).

Employees in Tier 2 shall:

Contribute 7% towards the employee share of the PERS retirement benefit.

- Use PERS 36-month final average compensation.
- Be eligible for PERS Fourth Level of 1959 Survivor benefits.

16.1.4 Tier 3

For employees hired on or after January 1, 2013, who meet the definition of new member under Gov't Code 7522.04(f), the Town will provide Tier 3 benefits to include the 2% at 62 retirement benefit.

Employees in Tier 3 shall:

Contribute an amount that is equal to one half (1/2) the normal cost of ~~his/her~~his/her/their CalPERS pension, or the current contribution rate of similarly situated employees, whichever is greater (Gov't Code 7522.30(c)).

- Use the 36-month final average compensation (Gov't Code 20037).
- Be eligible for PERS Fourth Level of 1959 Survivor benefits.

16.2

The Town has adopted a Resolution materially the same as that recommended by the Public Employees' Retirement System to implement the provisions of 414 (h)(2) of the Internal Revenue Code (IRC). T.E.A. accepts the terms of this Resolution and acknowledges that this Resolution will apply to all current and future members of T.E.A.

Section 17. Benefits Accrual/Payment

There shall be no accrual or payment of benefits during unauthorized leave, suspension without pay, or leave without pay except as mandated by the state or federal law.

Section 18. Vacation and Leaves

18.1 Vacation Scheduling

All vacation scheduling is subject to the approval of the Town. Employees are required to request time off in advance. The earlier requests are submitted, the greater likelihood the request will be honored.

Every attempt will be made by the Town to honor pre-approved vacations. If a pre-approved vacation is canceled due to the scheduling needs of the Town, the Town will reimburse the employee for verified deposits for non-reimbursable reservations. All verifications must be submitted prior to the vacation formally being canceled.

18.2 Vacation Accrual

All employees hired by the Town and represented by T.E.A. during the term of this agreement shall accrue vacation hours as follows:

0 to 36 months	10 days per year (3.08 hours per pay period)
37 to 60 months	16 days per year (4.92 hours per pay period)
61 to 120 months	21 days per year (6.46 hours per pay period)
121 to 180 months	23 days per year (7.08 hours per pay period)
181 months & over	25 days per year (7.70 hours per pay period)

18.2.1

Maximum accrual shall be 310 hours. If an employee has reached the maximum accrual level, no more vacation will be accrued until the accrual level is reduced below the maximum amount.

18.2.2 Vacation Cash-Out

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 one hundred and sixty (160) hours of accrued vacation (in whole hour increments) which will be earned in the following calendar year at the employee's base rate of pay. On the pay day for the pay period which includes Thanksgiving in the following year, the employee will receive cash for the amount of the vacation the employee irrevocably elected to cash out in the prior year. However, if the employee's vacation 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 vacation leave the employee has accrued at the time of the cash out.

18.3 Sick Leave

Sick leave shall accumulate at the rate of eight (8) hours per month (3.70 hours per pay period); to a maximum of one-thousand (1,000) hours. The Town may require T.E.A. represented employees to provide a doctor's statement as proof of illness for any use of sick leave beyond one (1) working day.

18.4 Sick Leave Cash-Out Program

This program applies only to employees hired before August 22, 2018 or provided with a final offer confirmation of employment prior to ratification and approval of this agreement.

18.4.1

Employees who terminate employment with the Town, or once a year in the first payroll check of December, following compliance with this contract and the cash-out process for active employees may cash-out their accumulated sick leave as follows:

1 - 59 months of service at 25%
60 - 119 months of service at 37.5%
120 months or more of service at 50%

Cash out process for active employees: On or before the pay period which includes December 15 of each calendar year, an employee may make an irrevocable election to cash out sick leave in accordance with the above amounts and the requirements of section 18.4.2 below. Eligible cash out hours will be cashed out in whole hour increments which will be earned in the following calendar year at the employee's base rate of pay. In the first payroll check of December in the following year, the employee will receive cash for the amount of the eligible 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 contingent upon compliance with 18.4.2.

18.4.2

In order to be eligible for the sick leave cash-out program, an employee must have a sick leave accrual balance of at least 150 hours after the annual cash-out. Employees working less than full-time shall have the 150 hour balance pro-rated, based on hours worked. Employees who terminate with a sick leave balance of at least 150 hours may cash-out their entire balance pursuant to the schedule above.

18.4.3

All employees hired prior to November 15, 2004 who retire may convert up to 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 medical payment will be withheld from their monthly retirement payment by PERS. The Town agrees to pay the retiree quarterly on the first pay period of January, April, July, and October of each year after retirement. The first payment will be prorated to the nearest quarter. The retiree's portion of medical payments will be paid from this account by the Town until all monies are depleted from the account or the retiree dies, whichever occurs first.

18.4.4

This account will not accrue interest and will not be paid in cash to the retiree or any beneficiaries. The retiree shall be responsible for 100% of their share of future medical insurance payments once the account is exhausted.

18.5 Personal Leave

Twenty-four (24) hours will be available per calendar year. Personal leave may not be accumulated from year-to-year nor is it subject to cash-out at any time.

Exempt employees are eligible for an additional twenty-four (24) hours of personal leave for (a maximum of forty-eight (48) hours) each calendar year.

18.6 Medical/Maternity/FMLA/CFRA

The Town recognizes that State Government Code 12945 requires the recognition of maternity as a bona fide non-job-related disability with applicable leave benefits. The Town also recognizes State Government Code 12945.2 and Federal Government Code 29 regarding the Family and Medical Leave Act. The Town may, at its discretion, approve leave beyond the specific amount provided by the law.

18.7 Bereavement Leave

A maximum of forty (40) hours is available for death of each member of the immediate family. Immediate family is defined as parent, [step-parent](#), [parent in law](#), spouse/domestic partner, child, [step-child](#), [foster child](#), dependent, sibling, grandparent, [step-grandparent](#), and [grandchild](#).

18.8 Disaster Leave

Leave will be available for employees for disasters declared by Federal, State, County, or Town officials if those disasters affect all or a portion of the area within twenty (20) miles of Town Hall. Leave is subject to scheduling by the Town. Employees shall be allowed to charge time off to any accrued leaves.

18.9 Military Leave

Military leave and benefits shall be granted in accordance with State and Federal law, including the continuation of employee salary and benefits.

18.10 Jury Duty

Employee salary and benefits are to be continued during periods of Court-assigned jury duty. If an employee receives compensation from the Courts, the employee shall return to the Town all compensation received for jury duty, except mileage or travel related compensation.

18.11 Leave Without Pay

18.11.1

Leave without pay shall be subject to approval of the Department Director.

18.11.2

An employee who is on leave without pay for more than two (2) pay periods shall not earn any employment benefits (including, but not limited to such benefits as vacation leaves, medical benefits, sick leaves, retirement credits for time employed or seniority entitlement of any kind) for the duration of such leave. An employee who is on leave without pay for more than (2) pay periods will have the ability to continue medical, dental and vision coverage at their own expense in accordance with the Town's Administrative Policy on benefit retention.

18.11.3

Vacation, sick leave or time worked shall not be used intermittently during an extended leave to interrupt a determination that an employee is on leave with no pay. In accordance with State Government Code 12945 and 12945.2 and Federal Government Code 29, Section 26.01, 26.54, no employee on maternity or family leave will be disadvantaged with respect to seniority entitlement.

18.12 Leave Balances

18.12.1

Vacation, and compensatory time off will be paid ~~off~~ upon resignation, retirement, or dismissal at 100% value effective the last full work-day with the Town. This will terminate the employee's status as an employee of the Town. Sick leave shall be cashed out per Section 18.4.1.

18.12.2

In the event of an employee's death, accrued vacation and compensatory time leave balances shall be paid to the employee's estate. Sick leave shall be paid to the estate per Section 18.4.1.

18.13 Catastrophic Time Bank

If an employee, or an employee's spouse/domestic partner, or child becomes catastrophically ill or injured, the employee may request that a catastrophic time bank be established. If the employee is not capable, a Department Director, after consulting with and receiving approval from an employee's family member, may request that a catastrophic time bank be established. The request shall be in writing and shall be directed to the Human Resources Director. The bank will enable other employees to donate accrued CTO or vacation to the requesting employee. All donations must be made in writing on a form prescribed by the Town and shall be limited to no more than four (4) hours per donation, in one (1) hour increments. Time donated will be calculated at the donor's hourly rate of pay. Donations to an established catastrophic time bank are final and shall not be returned to the donor.

Section 19. Grievance Procedure

Grievances shall be defined as alleged violations of this Agreement or disputes regarding interpretations, application, or enforcement of this Agreement.

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 thirty (30) calendar days of the date the grievable activity occurred or the date the employee could reasonably have known such activity occurred.

19.1

The parties agree that all grievances will be processed in accordance with the following procedure:

Step 1

Any employee who has a grievance shall first try to get it settled informally through discussion with his/her/their immediate supervisor without undue delay. Every effort shall be made to find an acceptable solution at the lowest possible level of supervision. If the employee is not satisfied with the informal resolution, then a formal grievance must be filed within thirty (30) calendar days of the date the grievable activity occurred or the date the employee could reasonably have known such activity occurred.

Step 2

If, after such discussion the employee does not believe the grievance has been satisfactorily resolved, [he/she/they](#) may file a formal appeal in writing to [his/her/their](#) Department Director within ten (10) calendar days after receiving the informal decision of [his/her/their](#) immediate supervisor.

The Department Director receiving the formal appeal shall enter [his/her/their](#) written decision within ten (10) calendar days after receiving the appeal.

Step 3

If, after receipt of the written decision of the Department Director the employee is still dissatisfied, [he/she/they](#) may appeal the decision of the Department Director to the Town Manager. Such appeal shall be made by filing a written appeal to the Town Manager within fourteen (14) calendar days after receipt of the written decision of the Department Director. The Town Manager shall review the decision of the Department Director, and render [his/her/their](#) decision within thirty (30) calendar days after the appeal is made.

Step 4

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 fourteen (14) calendar days after receipt of the written decision of the Town Manager.

The Personnel Board shall establish a hearing date within thirty (30) calendar days of receipt of the written appeal. The Personnel Board shall conduct a closed hearing giving opportunity for presentation by the employee or [his/her/their](#) representative and the Town Manager. The Personnel Board shall render a written decision within thirty (30) calendar days after the appeal is made. If, after receipt of the written decision of the Personnel Board, the employee is still dissatisfied, [he/she/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 thirty (30) calendar 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 thirty (30) calendar 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.

19.2

The time limitations for filing and responding to grievances may be waived or extended by written mutual agreement of the parties. If either party to the grievance so requests, an informal hearing shall be conducted at the Department Director or Town Manager appeal levels. Employees may be represented by counsel or other person at any stage in the grievance process.

19.3

If the employee does not receive a response from the supervisor or Department Director within the time limits specified in steps 1 and 2 above, the grievance will proceed for review to the next level in the grievance procedure.

Section 20. Miscellaneous Issues

20.1 Benefit Application

Employee benefits shall be prorated to a level equal to the regularly scheduled hours. For example, an employee working a regular schedule of 32 hours per week will earn 80% of the benefits provided to an employee working a regular schedule of 40 hours per week.

20.2 Personnel Rules

It is the Town's intent to make the Personnel Rules readily available. In this regard the Rules will be available on line and in the Town Clerk's Office.

20.3 Disciplinary Rules

In regard to Disciplinary Rules, refer to Sections 12 and 13 of the Town's Personnel Rules.

20.4 Mileage Reimbursement

Employees using personal vehicles on official Town business shall be reimbursed at the mileage rate established by the I.R.S. Private vehicles used for Town business shall comply with all applicable California Vehicle Code Sections commencing with Section 16430 through 16484 pertaining to "Insurance or Proof of Ability to Respond to Damages."

Section 21. Terms Specific to Communications Dispatcher

Training pay: Communication Dispatchers assigned to train and evaluate newly hired Communication Dispatchers will receive a premium pay of 5% for the actual hours worked while providing authorized training.

In addition, sections in the agreement specific to Communications Dispatchers include (1) Overtime section 11.4.3 and (2) Holiday Compensation section 13.3.3.

Section 22. Town Vehicles

Town vehicles are not to be taken home.

Section 23. Closure Days with Paid Leave Allowed

T.E.A. understands that the Town Manager, for budgetary constraints or for operational efficiency, may close all nonessential services and permit employees to use paid leaves. For example, the Town Manager may institute the closure of nonessential services between the Christmas and New Years' holidays. [The Town Manager shall provide at least six-months advance notice prior to making the decision to institute closure of non-essential services between the Christmas and New Years' holidays. However, nothing in this section shall restrict the Town Manager's right to make the decision to institute the closure of non-essential services between Christmas and New Year's with less notice where unforeseen circumstances occur.](#)

In regards to these closure days:

23.1

Employees performing essential services and scheduled to work on the Closure Days will receive straight-time pay for hours worked, unless the hours worked represent overtime (more than forty [40] hours per week).

23.2

At their election, employees who are not scheduled to work may utilize accrued paid vacation, compensatory time off, or personal leave to cover the closure hours. Leave must be requested in the manner provided in the MOU. Employees who use paid leave will accrue sick leave, vacation and CalPERS credit while on leave.

23.3

While employees have the option to utilize paid vacation, compensatory time off, or personal leave, they are also permitted to take leave without pay (LWOP). Employees who take LWOP will maintain their health, life and disability insurance, as well as any medical cash allocations. Employees who utilize LWOP will not accrue sick leave, vacation or CalPERS credit while on LWOP.

23.4

If an employee requests to work during the closure days due to hardship (e.g., the employee is out of leave and is financially unable to take time without pay), the Department Director will first try to assign the employee in their own department. If a suitable assignment is not available in the employee's own department, the Town Manager maintains the management right to place the employee in an alternative assignment for the closure period.

If an employee requests to work during the closure days the Department Director will approve the request to work in their regular assignment unless there is a concern about the safety of the employee that cannot be adequately addressed. However, the Town Manager maintains the management right to place the employee in an alternative assignment for the closure period.

23.5

The Town Manager maintains the management right to determine essential and nonessential services.

Section 24. Complete Agreement

The parties acknowledge that during the negotiations that resulted in this MOU, each had the unlimited right and opportunity to make proposals with regard to the terms and conditions of employment, and that the understandings and agreements contained in this MOU were arrived at after that full opportunity. This MOU may only be amended during its term by the parties' mutual agreement in writing unless compelled by State or Federal law. This MOU is intended to encompass all matters subject to meeting and conferring between the Town and T.E.A., and it supersedes and replaces any and all past practices, whether directly referred to or otherwise addressed in any way in this MOU.

Section 25. Successor MOU

The Town and T.E.A. agree that an initial meet and confer regarding the negotiations for a successor MOU shall take place no later than 120 days prior to the termination date of the current Memorandum of Understanding.

The Town will pay for training in interest-based bargaining for the negotiating teams and to provide a neutral third-party facilitator, mutually agreed to by the parties.

Town of Los Gatos TEA Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

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	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
3580	Administrative Assistant	Hourly	04	\$30.87	\$32.41	\$34.03	\$35.73	\$37.52	\$39.98
4620	Assistant Engineer	Hourly	25	\$49.12	\$51.58	\$54.16	\$56.87	\$59.71	\$63.28
4420	Assistant Planner	Hourly	12	\$42.71	\$44.85	\$47.09	\$49.44	\$51.91	\$55.09
4600	Associate Civil Engineer	Hourly	27	\$55.88	\$58.67	\$61.60	\$64.68	\$67.91	\$71.89
4661	Associate Engineering Technician	Hourly	14	\$43.02	\$45.17	\$47.43	\$49.80	\$52.29	\$55.48
4400	Associate Planner	Hourly	20	\$49.70	\$52.19	\$54.80	\$57.54	\$60.42	\$64.02
4410	Building Inspector	Hourly	24	\$47.82	\$50.21	\$52.72	\$55.36	\$58.13	\$61.62
4430	Code Compliance Officer	Hourly	10	\$42.76	\$44.90	\$47.15	\$49.51	\$51.99	\$55.17
4530	Communication Dispatcher	Hourly	17	\$45.31	\$47.58	\$49.96	\$52.46	\$55.08	\$58.41
4535	Communication Dispatcher Lead	Hourly	19	\$57.24	\$60.10	\$63.11	\$66.27	\$69.58	\$73.64
4540	Community Services Officer	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4615	Construction Project Manager	Hourly	26	\$53.61	\$56.29	\$59.10	\$62.06	\$65.16	\$69.00
4660	Engineering Technician	Hourly	13	\$39.05	\$41.00	\$43.05	\$45.20	\$47.46	\$50.41
4705	Environmental Programs Specialist	Hourly	08	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
4200	Events and Marketing Specialist	Hourly	06	\$32.53	\$34.16	\$35.87	\$37.66	\$39.54	\$42.10
3501	Executive Assistant	Hourly	08	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
4900	IT Systems Administrator	Hourly	23	\$53.24	\$55.90	\$58.70	\$61.64	\$64.72	\$68.54
4915	IT Technician	Hourly	07	\$39.91	\$41.91	\$44.01	\$46.21	\$48.52	\$51.53
4810	Librarian	Hourly	16	\$40.81	\$42.85	\$44.99	\$47.24	\$49.60	\$52.66
4830	Library Assistant	Hourly	03	\$30.13	\$31.64	\$33.22	\$34.88	\$36.62	\$39.03
4807	Library Customer Service Specialist	Hourly	01	\$28.23	\$29.64	\$31.12	\$32.68	\$34.31	\$36.61
4805	Library Customer Service Supervisor	Hourly	08	\$36.88	\$38.72	\$40.66	\$42.69	\$44.82	\$47.64
4825	Library Specialist	Hourly	06	\$32.53	\$34.16	\$35.87	\$37.66	\$39.54	\$42.10
4819	Library Tech Specialist	Hourly	15	\$39.55	\$41.53	\$43.61	\$45.79	\$48.08	\$51.06
3181	Office Assistant	Hourly	01	\$28.23	\$29.64	\$31.12	\$32.68	\$34.31	\$36.61
4640	Park Services Officer	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4560	Parking Control Officer	Hourly	01	\$28.23	\$29.64	\$31.12	\$32.68	\$34.31	\$36.61
4440	Permit Technician	Hourly	09	\$35.53	\$37.31	\$39.18	\$41.14	\$43.20	\$45.94

**Town of Los Gatos TEA Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022**

Class Code	Classification Title	Rate Type	Range TE1	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
4425	Planning Technician	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4550	Police Records Specialist	Hourly	05	\$31.60	\$33.18	\$34.84	\$36.58	\$38.41	\$40.91
4630	Public Works Inspector	Hourly	18	\$44.47	\$46.69	\$49.02	\$51.47	\$54.04	\$57.32
4450	Senior Building Inspector	Hourly	27	\$55.88	\$58.67	\$61.60	\$64.68	\$67.91	\$71.89
4525	Senior Communication Dispatcher	Hourly	29	\$50.76	\$53.30	\$55.97	\$58.77	\$61.71	\$65.38
4831	Senior Library Page	Hourly	02	\$19.85	\$20.84	\$21.88	\$22.97	\$24.12	\$25.91
4565	Senior Parking Control Officer	Hourly	11	\$36.36	\$38.18	\$40.09	\$42.09	\$44.19	\$46.98
4405	Senior Planner	Hourly	28	\$57.24	\$60.10	\$63.11	\$66.27	\$69.58	\$73.64
4610	Senior Public Works Inspector	Hourly	26	\$53.61	\$56.29	\$59.10	\$62.06	\$65.16	\$69.00
4662	Sr. Engineering Technician	Hourly	24	\$47.82	\$50.21	\$52.72	\$55.36	\$58.13	\$61.62

Reflects General Increase of 8%



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 20

DESK ITEM

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the Town Employees' Association and Authorize the Town Manager to Execute the Memorandum of Understanding

REMARKS:

Attachment 3 contains public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

Attachment Previously Received with the Staff Report:

1. Salary Schedule for TEA effective July 10, 2022

Attachment Previously Received with the Addendum:

2. Redlined AFSCME MOU

Attachment Received with this Desk Item:

3. Public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

PREPARED BY: Salina Flores
Human Resources Director

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

From: Phil Koen

Sent: Tuesday, June 07, 2022 10:59 AM

To: Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>

Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Shelley Neis <sneis@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; jvannada; Rick Van Hoesen; Lee Fagot; Catherine Somers

Subject: Agenda items #19 - #22

Dear Honorable Mayor and Members of the Town Council,

The Los Gatos Community Alliance respectfully requests that Agenda items #19 through #22 be pulled from tonight's consent calendar to allow for public discussion and increased transparency. We acknowledge that the terms of the various labor agreements are the result of a long negotiation process and want to thank all parties for their efforts in finding a solution. We want to also thank the Town Council for their hard work on this matter.

Issue

The reason for pulling these items revolves around the lack of transparency in the Staff report. While we understand labor negotiations are confidential and therefore little was disclosed during the process, it is then extremely important that the Staff report be comprehensive and fully transparent in detailing how the Town arrived at these results. This is particularly important when the only benchmark the public had regarding possible increases in salary and benefit expenditures for FY 23 was what was included in the preliminary budget. Clearly, what is being approved tonight is materially greater than what was in the preliminary budget.

Request for more information

The LGCA requests that Staff disclose the following additional information prior to any vote on agenda items #19 through #22:

1. What will be the total salary and benefit expenditures for FY 23 as previously reported on Schedules C-8, C-9, C-10, C-11, C-12, and C-13 after taking into effect all salary adjustments recommended in Agenda items #19-#22?
2. How is the \$2,318,733 (increases to negotiated salary increases) being funded? Since the proposed FY 23 budget did not have an operating surplus, where are the additional sources of funds coming from to cover this increase? Please be specific.
3. A portion of the \$2,318,733 expenditures are one-time in nature. How much are the "one-time payments" and how much will be recurring expenditures beyond FY 23?
4. Please disclose the initial offer letter from the Town to each of the bargaining units so the public has full transparency to the negotiating process. For sake of clarity, the City of San Jose releases to the public all correspondence between bargaining units once agreements have been reached and voted on by the bargaining units. It appears we are at that point.
5. If the Town does not use \$902,579 of the OPEB 115 Trust Assets to "further balance the budget" what other funds could the Town tap to provide the required source of funding? Was this discussed and approved by the Town Council Trust Fund Committee?

Thank you.

Phil Koen
LGCA



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 21

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

RECOMMENDATION:

Staff recommends that the Town Council approve a Labor Agreement between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees (AFSCME) and authorize the Town Manager to execute the Memorandum of Understanding.

BACKGROUND:

In accordance with the Town's Employer-Employee Relations Resolution No. 1974-41, representatives of the Town and AFSCME have met and conferred in good faith and within the scope of representation in an effort to reach agreement for a successor Memorandum of Understanding (MOU). The revised agreement will be distributed and posted on June 3, 2022 as an Addendum to this report. The MOU is a labor agreement that identifies specific terms and conditions of employment applicable to the employees represented by that agreement.

DISCUSSION:

The Town's current MOU with AFSCME expires on June 30, 2022. In March 2022, the Town and AFSCME began negotiating for a successor agreement. A tentative agreement for a two-year term was reached in April and AFSCME membership ratified on April 29, 2022.

PREPARED BY: Salina Flores
Human Resources Director

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

SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

DATE: June 2, 2022

DISCUSSION (continued):

Major provisions of the agreement include and are not limited to:

1. **Term:** July 1, 2022 to June 30, 2024
2. **Salary:**
 - a. Effective the first full pay period of July 2022 (effective July 10, 2022), or the first full pay period after Council approval, whichever is later, the Town will provide a 3% cost of living adjustment (COLA) and a 4.5% market increase for a total of 7.5%. The market increase is intended to bring AFSCME classifications to or near market median.
 - b. Effective in the first full pay period of July 2023, the Town will provide a 3% salary increase.
3. **Pandemic Related Bonus:** Effective the first full pay period of July 2022, or the first full pay period after Council approval, whichever is later, all employees who worked for the Town in 2021, who are employed at the Town as of the last day of the pay period will receive a one-time, lump sum payment of \$2,500.
4. **Juneteenth Holiday:** Effective after Council approval of this MOU, June 19th (Juneteenth) shall be added to Section 29 of the MOU as an observed paid eight (8) hour holiday for employees represented by AFSCME.
5. **Tuition Reimbursement:** The Town will reimburse AFSCME employees up to \$3,000 per fiscal year toward the cost of books, university/school fees (except parking) and tuition for courses directly related to the employee's position as determined by the Town Manager. Prior to reimbursement, all course work must be completed with a passing grade of "C" or equivalent

The Town and AFSCME have also agreed to various MOU language updates. The MOU will be distributed and posted on June 3, 2022 as an Addendum to this report. These updates clarify existing language, delete obsolete language, and ensure compliance related to the Town's contract for retirement and medical benefits provided under the California Public Employees' Retirement System (CalPERS) and the Public Employees' Medical and Hospital Care Act (PEMHCA).

CONCLUSION:

The AFSCME agreement has been prepared within the parameters provided to Town's negotiators by the Town Council and has been ratified by the AFSCME membership. It is recommended that the proposal be approved, and the Town Manager be authorized to execute the MOU.

PAGE 3 OF 3

SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

DATE: June 2, 2022

FISCAL IMPACT:

The anticipated fiscal impact for the 3% cost of living increase (\$46,000) and, 4.5% market increase (\$133,000) in FY 2022/23 is \$179,000. The anticipated fiscal impact of \$1,000 non-pensionable one-time payment and the one-time, lump sum pandemic related bonus payment of \$2,500 in FY 2022/23 is \$38,500.

FISCAL IMPACT (continued):

The total cost impact for FY 2022/23 will be absorbed in the Town's existing operating budget. Funding to support the FY 2023/24 ongoing cost each year will be incorporated into the proposed future year budgets for Council approval.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Salary Schedule for AFSCME effective July 10, 2022

Town of Los Gatos AFSCME Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Rate Type	Range AF1	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
6619	Assistant Equipment Mechanic	Hourly	09	\$33.37	\$35.04	\$36.79	\$38.63	\$40.56	\$42.59
6620	Equipment Mechanic	Hourly	03	\$38.38	\$40.30	\$42.32	\$44.44	\$46.66	\$48.99
6618	Supervising Equipment Mechanic	Hourly	08	\$44.14	\$46.35	\$48.67	\$51.10	\$53.66	\$56.34
6670	Facility Technician	Hourly	02	\$35.71	\$37.50	\$39.38	\$41.35	\$43.42	\$45.59
6600	Lead Parks & Maintenance Worker	Hourly	07	\$40.75	\$42.79	\$44.93	\$47.18	\$49.54	\$52.02
6650	Parks & Maintenance Worker	Hourly	05	\$32.79	\$34.43	\$36.15	\$37.96	\$39.86	\$41.85
6660	Parks & Maintenance Worker Trainee	Hourly	04	\$26.78	\$28.12	\$29.53	\$31.01	\$32.56	\$34.19
6605	Senior Parks & Maintenance Worker	Hourly	06	\$35.68	\$37.46	\$39.33	\$41.30	\$43.37	\$45.54
6610	Town Arborist	Hourly	03	\$38.92	\$40.87	\$42.91	\$45.06	\$47.31	\$49.68

Reflects General Increase of 7.5%.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 21

ADDENDUM

DATE: June 3, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

REMARKS:

Attachment 3 contains the draft Memorandum of Understanding.

Attachment Distributed with the Staff Report:

1. Salary Schedule for AFSCME effective July 10, 2022

Attachment Distributed with this Addendum:

2. Memorandum of Understanding (redline)

PREPARED BY: Salina Flores
Human Resources Director

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

TOWN OF LOS GATOS

AND

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
(AFSCME)**



MEMORANDUM OF UNDERSTANDING

JULY 1, 2022 - JUNE 30, 2024

ATTACHMENT 2

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**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TOWN OF LOS GATOS
AND
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME)**

THIS AGREEMENT IS ENTERED INTO AS OF JULY 1, 2022, BETWEEN THE TOWN OF LOS GATOS, HEREINAFTER REFERRED TO AS THE "TOWN", AND THE LOS GATOS "AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES", HEREINAFTER REFERRED TO AS "AFSCME".

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 AFSCME, 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 AFSCME:

Carol McEwan
Business Agent

Sherrie Olsen
Parks & Maintenance Worker
AFSCME President

Thomas Lettiere
AFSCME Secretary Treasurer

TOWN OF LOS GATOS:

Laurel Prevetti
Town Manager

Arn Andrews
Assistant Town Manager

Salina Flores
Human Resources Director

Lisa S. Charbonneau
Liebert Cassidy Whitmore

APPROVED AS TO FORM:

Gabrielle Whelan
Town Attorney

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(to be updated with correct sections and page numbers after Town Council consideration)

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Appendix A – AFSCME Salary Schedule

TOWN OF LOS GATOS
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
MEMORANDUM OF UNDERSTANDING
ON SALARIES, FRINGE BENEFITS AND WORKING CONDITIONS

Section 1. Purpose

The Town and the Union agree that the purpose of this Memorandum of Understanding is to promote and provide harmonious relations, cooperation, and understanding between the Town and the employees represented by the Union; to provide an orderly and equitable means of resolving disputes that may arise concerning this Agreement; and to set forth the full agreements of the parties reached as a result of meeting and conferring in good faith regarding matters within the scope of representation pursuant to the State Government Code and the Town Employer-Employee Relations Resolution.

Section 2. Term

This Memorandum of Understanding shall commence on July 1, 2022 and terminate on June 30, 2024.

Section 3. Union Rights**3.1 Advance Notice**

Except in cases of emergency as provided in this subsection the Union, if affected, shall be given reasonable advance written notice, normally thirty (30) calendar days of any ordinance, policy resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted or amended by the Town and shall be given the opportunity to meet and confer as required by the Meyers Milias Brown Act with the appropriate management representatives prior to adoption.

In cases of emergency when the foregoing procedure is not practical or in the best public interest, the Town may adopt or put into practice immediately such measures as are required. At the earliest practicable date thereafter the Union shall be provided with the notice described in the preceding paragraph and be given an opportunity to meet with the appropriate management representatives. The Union shall timely raise any issues arising under this subsection

3.2 No Discrimination

The Town and Union agree that neither will discriminate in any way against employees covered by this Agreement because of their membership and/or activities on behalf of the Union.

3.3 Stewards

The Town agrees to recognize two (2) duly appointed Union Stewards and two (2) duly appointed alternate Stewards for purposes of Union representation. The Union shall provide the Town with a list of those duly appointed individuals. The Steward or Union Officer shall distribute to all new unit employees material(s) furnished for such purpose by the Union.

3.4 Representation

Upon request of an employee covered by this Agreement, the Steward and/or Union representative shall be present during meetings which the employee reasonably anticipates will involve that individual employee in disciplinary matters. To the extent possible, disciplinary and grievance matters affecting employees shall be considered during normal working hours and with pay.

3.5 Access to Premises

The designated Union business representative, for performance of official duties, shall not be denied access to Town premises subject to that representative first advising Town management that he/she/they/they is on the premises and subject to not interfering with the work duties of Town employees. The Union will be allowed reasonable use of Town facilities with advance notice and approval from the Town for meetings in accordance with Town policies and procedures.

3.6 Bulletin Boards and Union Literature

The Union shall have the right to use the Corporation Yard Bulletin Board and employee mailboxes for posting and distribution of Union materials.

3.7 Release Time

As long as there is no disruption of work, the Town shall provide two (2) AFSCME-authorized union representatives with up to 20 hours of release time each year for the purpose of attending Union conventions, conferences and union-sponsored training programs. The use of release time will have no impact on accrual of paid leave, seniority, completion of probation and eligibility for health and welfare benefits, or pension benefits.

3.8 New Hire Information

The Town will notify the Union of the name, classification, unit and work location of all new hires into the positions in the classifications represented by AFSCME within the first full pay period of the new hire's starting date.

3.9 Orientation

An AFSCME Union representative will be allowed 15 minutes of release time for the purpose of providing new member information to individuals newly-hired into classifications represented by AFSCME.

Section 4. Savings Clause

If any provision or the application of any provision of this agreement as implemented should be rendered or declared invalid by any final 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 5. Union Dues

5.1 Certification

The Town shall withhold Union dues from employees' salary transmit such dues to the Union, provided the Union certifies in writing to the City that the Union has and will maintain each employee's voluntary authorization for such deductions.

5.2 Payroll Deduction

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 the Union certifies such new, changed or discontinued deduction.

5.3 Indemnification and Hold Harmless

The Union 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 6. Management Rights

The Union recognizes that the rights of the Town include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set the standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means, and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary action to determine when an emergency exists and to carry out its mission in emergencies including the requirement that employees work overtime; and exercise complete control and discretion over its organization and the technology of performing its work.

Section 7. Town Employer-Employee Relations Resolution

The Union and the Town recognize the existing language in Town Resolution 1974-41 as it governs all aspects of labor relations in the Town. Any changes in Resolution 1974-41 which apply to AFSCME Local 101 will be made after meeting and conferring when required by the Meyers Milius Brown Act with the Union.

Section 8. Equal Employment Opportunity

The Union and Town support equal employment opportunity programs.

Section 9. Non-Discrimination

The Town and Union agree that all provisions of this Agreement shall be applied equally to all employees covered herein without favor or discrimination because of any protected class including but not limited to race, color, national origin, ancestry, religion, religious creed, physical disability, mental disability, medical condition, genetic information, marital status, sex, sexual orientation, gender, gender based pregnancy/childbirth, gender identity, gender expression, age (over 40), or political affiliation or any other basis prohibited by applicable Federal, State or Town law. The parties further agree that Section 9 and 9.1 shall not be subject to the Grievance Procedure provided in this Agreement.

9.1 General Provisions Regarding Americans with Disabilities Act

Because the ADA requires accommodations for individuals protected under the Act, the Union recognizes the Town's obligation to comply with all provisions of the ADA on a case by case basis.

9.1.1

The Union recognizes that the Town has the legal obligation to meet with the individual employee to be accommodated through the interactive process before any adjustment is made in working conditions. The Union will be notified of these proposed accommodations prior to implementation by the Town.

9.1.2

Any accommodation provided to an individual protected by the ADA shall not establish a past practice.

9.2 Non-Discrimination for Union Activity

The Town and Union agree that they, and each of them, shall not discriminate against any employee because of membership or lack of membership in the Union, or because of any authorized activity on behalf of the Union. The parties further agree that this Section 9.2 may be subject to the Grievance Procedure provided in this Agreement.

Section 10. Salary

10.1

Employees will receive pay adjustments as follows:

10.1.1

Effective the first full pay period in July 2022, or the first full pay period after Council approval of this MOU, whichever is later, the Town will provide a three percent (3%) cost of living adjustment (COLA) and a four and one half (4.5%) market increase, totaling a seven and one half percent (7.5%) salary adjustment for all bargaining unit members. The market increase is intended to bring AFSCME classifications to or near the market median based on data in a compensation survey of the relevant labor market completed by outside consultant Bryce & Associates in April 2022.

In addition, effective in the first full pay period of July 2022, or the first full pay period after Council approval of this MOU, whichever is later, bargaining unit employees shall receive a one-time (non-PERSable) payment of one thousand dollars (\$1000).

10.1.2

Effective the first full pay period of July 2023, the Town will provide a three percent (3%) salary increase for all bargaining unit members.

10.2 Pandemic Related Bonus

Effective the first full pay period of July 2022, or the first full pay period after Council approval of this MOU, whichever is later, the Town will provide a one-time, non-pensionable, lump sum payment of \$2,500 to all employees who worked for the Town in 2021 who are employed at the Town as of the last day of the pay period the payment is issued.

Section 11. Other Compensation**11.1 Out-of-Classification Pay**

Out-of-Classification pay is defined as employees who by written assignment perform the essential functions of a position with a higher salary classification than in which they are regularly employed shall receive higher compensation as set forth below. The Town and the Union agree that it is the intent of Town management, whenever possible, to avoid working an employee out of classification for a prolonged period of time.

An employee assigned to work out-of-classification shall be compensated from the first day of the out-of-classification assignment. Out-of-classification pay shall be a minimum of five percent (5%), above the employee's regular salary; or the lowest rate of the higher classification, whichever is greater.

Training programs mutually agreed to by the Town and the Union which are designed to enhance and/or provide career development opportunities shall not be subject to this provision.

Any employee who believes they are working out of classification may request a review of their classification.

11.2 Street-Sweeper Specialty Pay

Employees assigned to operate the street sweeper shall be paid a \$5 per hour differential above their base hourly rate. This special assignment pay shall be paid for actual time worked and does not apply to non-worked hours such as vacation, holidays, personal or sick leave.

In accordance with CalPERS regulations, this special assignment pay is reported as PERSable income for those employees who are assigned to operate the street sweeper on a routine and consistent basis. Thus, employees who operate the street sweeper on back-up basis shall be paid the premium in accordance with this agreement but the premium will not be reported as PERSable income.

The Department Director retains the right to determine street sweeper assignments in accordance with the needs of the department. Employees assigned to operate the street sweeper must meet the qualifications of the job and demonstrate proficiency to operate the equipment.

11.3 Class A Driver's License Pay and Tanker Endorsement Pay

Employees who maintain a valid California Commercial Class A Driver's License shall be paid \$30 per month.

Employees who maintain both a valid California Commercial Class A Driver's License and a Tanker Endorsement shall be paid \$75 per month.

11.4 Certificate Pay

Employees in the classifications of Parks and Maintenance Worker and Lead Parks and Maintenance Worker who possess a current Certified Pest Control Applicator Certificate shall receive \$50 per month in certificate pay. Employees in the classifications of Parks and Maintenance Worker and Lead Parks and Maintenance Worker who possess a current Backflow Tester Certification Certificate shall receive \$50 per month in certificate pay.

11.5 Cellphones

The Town's cellphone stipend program applies to AFSCME bargaining unit employees.

Section 12. Payroll Practices

12.1 Payroll Periods and Availability of Checks

Employees shall be compensated on a biweekly basis.

Employee pay shall not be withheld more than seven (7) days following end of payroll period; however, 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 paychecks. This may also occur at the end of the fiscal and calendar year.

Every effort will be made to make paychecks available to employees as soon as checks are signed and ready for distribution.

12.2 Automatic Deposit

The Town shall provide an optional direct deposit system for use by employees.

12.3 Deduction and Accrual Information

Payroll deductions and leave balances shall appear on paychecks and be current to the latest payroll period.

Section 13. Retirement Benefits

The Town contracts with the California Public Employees' Retirement System (CalPERS or PERS) to provide Town employees with retirement benefits.

13.1 2.5% at 55 (Classic Tier One Retirement)

For employees hired with reciprocity or CalPERS membership prior to 1/1/13 without a break in CalPERS service of six months or more or hired and enrolled in CalPERS membership prior to 9/15/12, the Town provides the 2.5% at 55 PERS retirement benefit (Gov't Code 21354.4).

Employees in this tier shall contribute 8% towards the retirement benefit.

Employees in this tier are subject to the CalPERS Single Highest Year compensation formula (Gov't Code 20042).

13.2 2% at 60 (Classic Tier Two Retirement)

For employees hired and enrolled on or after 9/15/12 with reciprocity or membership prior to 1/1/13 without a break in CalPERS service of six months or more, the Town provides the 2% at 60 retirement benefit (Gov't Code 21353).

Employees in this tier shall contribute 7% towards the retirement benefit.

Employees in this tier are subject to the CalPERS 36-month final average compensation (Gov't Code 20037).

13.3 2% at 62 (Public Employees' Pension Reform Act of 2013 [PEPRA])

For employees hired on or after January 1, 2013, who meet the definition of new member under Gov't Code 7522.04(f), the Town provides the 2% at 62 retirement benefit.

For new members hired on or after January 1, 2013, the Town will use the 36-month final average compensation (Gov't Code 7522.32(a)).

New members hired on or after January 1, 2013 shall pay an amount that is equal to one half (1/2) the normal cost of his/her/their CalPERS pension, or the current contribution rate of similarly situated employees, whichever is greater. (Gov't Code 7522.30(c)).

13.4 EPMC, 414(h)(2) IRC

Effective June 24, 2001, the Town ceased its participation in the Public Employees' Retirement System "Employer Paid Member Contribution" (EPMC) provision. Concurrently, the Town began paying in salary to the employees covered by this MOU the equivalent dollar amount of the former EPMC (7% of salary).

The Town has adopted a Resolution materially the same as that recommended by the Public Employees' Retirement System to implement the provisions of 414 (h) (2) of the Internal Revenue Code (IRC). AFSCME accepts the terms of this Resolution and acknowledges that this Resolution will apply to all current and future members of AFSCME.

13.5 Military Service Purchase

The Town shall permit employees to purchase PERS credit for military service time.

13.6 Retiree Health Benefit for Eligible Retirees Hired on or after July 1, 2018

The Town provides retiree health benefits in accordance with the Public Employees' Medical and Hospital Care Act (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 PEMCHA.

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 the PEMHCA will govern medical insurance coverage for annuitants.

13.7 Retiree Health Benefit For Eligible Retirees Hired before July 1, 2018.

An employee hired prior to July 1, 2018 is eligible for Health Reimbursement Account (HRA) retiree health benefits in accordance with this Section.

13.7.1

The employee completed at least five years of continuous service with the Town; and

13.7.2

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

13.7.3

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.

13.7.4

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 Bay Area Retiree Only Plus One levels of participation. The Town will pay up to \$1,947.16 per month as of the 2022 plan year. This amount will increase by \$100.00 each year until it is equal to the active employee contribution.

13.7.5

The Town's contribution towards retiree health insurance set forth in Section 13.6 (the PEMHCA minimum) will be deducted from the amount of contribution provided by this Section (13.7.)

13.7.6

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 (13.7) 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 employer contribution provided under section 13.6 above (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.

13.7.7

The benefits described by this Section (13.7) will be provided to annuitants through CalPERS by means of a Health Reimbursement Account (HRA).

13.7.8

Employees hired on and after July 1, 2018, who retire from the Town are not eligible to receive an HRA retiree health benefit allowance from the Town.

Section 14. 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 PEMHCA, currently \$149 per month, as may be adjusted by CalPERS from year to year.

14.1 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.

14.1.1 Dental

Employees choosing this option instead of Cash In Lieu will be provided 100% of the Delta Dental PPO 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 deduction 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.

14.1.2 Medical

The Town will provide active employees with a medical allowance equal to 100% of the cost of Kaiser Bay Area Medical Insurance Program premium at the Employee Only level of participation, offered by the Public Employees' Retirement System Health Benefit Medical Program. For dependents, Town will pay 90% of the cost for dependents at the level of Kaiser Bay Area and employee will pay 10% of the dependent cost.

As such, Town will pay 90% of the difference between Kaiser Bay Area Employee Only and Kaiser level of participation (Employee Plus One or Employee Plus One/More, depending on family status.)

Example: Employee Only Premium is \$800; and Employee Plus One Premium is \$1,400

Employee Plus One Premium (\$1400) minus Employee Only Premium (\$800) = \$600

Town pays 90% of \$600 = \$540

Employee pays 10% of \$600 = \$60

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 13.6 (the PEMHCA minimum) will be deducted from the amount of contribution provided by this Section (14).

14.1.3 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.

14.1.4 Cash In Lieu

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 a cash allocation equal to Four Hundred Twenty Dollars (\$420) per month.

Employees who choose to receive the cash 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).

14.2 ACA Reopener

The union agrees at the Town's request, to meet and confer on any changes that are within the mandatory scope of bargaining related to the Town's sponsored Family Medical Insurance and Cash In Lieu benefits that may be related to the compliance and implementation of the Affordable Care Act (ACA).

14.3 Supplemental Health and Welfare Benefits

14.3.1 Life Insurance

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 one to five times the employee's base salary, not to exceed \$300,000. Dependent life insurance is available at the employee's cost.

14.3.2 Disability Insurance

Short Term Disability Policy effective 8th calendar day; coverage of 60% of weekly earnings up to maximum of \$1,300 per week for 12 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.

14.3.3 Employee Assistance Program

Premiums shall be paid by the Town.

14.3.4 Unemployment Insurance

The Town will provide State-mandated benefits as required by law.

Section 15. Workers' Compensation

The Town and Union agree that employees who sustain illness or injury arising out of and in the course of their Town employment shall receive benefits equal to those mandated by the State of California, and the California Labor Code. Any difference between State mandated benefits and the individual's regular Town salary, if any, shall be charged to the employee's accrued sick leave balance. If sick leave is not available, other accrued leave balances shall be charged. If an employee does not have accrued leave balances, the employee shall receive only the State-mandated benefits.

The policies and procedures affecting the use of workers compensation will be developed and administered by the Town Personnel Officer in accordance with State law. There is a three day (calendar) waiting period to receive benefits, unless the employee is hospitalized or out for more than two weeks. In the event of a non-hospitalized on-the-job injury verified as such and eligible for worker's compensation disability payments, the Town will compensate employees for the first three day waiting period.

Section 16. Deferred Compensation

The Town shall continue to make a Deferred Compensation program available to employees. The Town makes no representation on the merit of the plan or any of the investment products or instruments which may be offered by the plan. The responsibility for evaluating the investment 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 17. Uniforms

Uniform shirts shall be provided to employees at the expense of the Town and shall be required to be worn during working hours. The Town shall determine appropriate shirt colors. Employees shall wear denim jeans as part of their uniform. Employees shall purchase jeans at their own expense. Employees are to report to work in uniforms that are neat, clean, and in good repair. In the event an employee's uniform is damaged or in need of replacement as determined by the supervisor, the item may be replaced in advance of the annual schedule.

17.1 Uniform Items for All Employees

On an annual basis, the Town will supply each employee with seven (7) shirts, one standard rain jacket, rain pants, rain boots and cold-weather jackets. Cold weather jackets will be replaced if needed as determined by the employee's supervisor. Uniform items will be provided annually by November 1. Employees shall be responsible to launder uniform items.

17.1.1 Optional Shorts

Upon employee request and supervisor approval, the Town will furnish each employee up to (2) pairs of shorts per year. Employees are permitted to wear shorts only when shorts do not pose a safety hazard. The supervisor has the authority to determine when shorts are acceptable.

17.1.2 Optional Weather-Protective Headwear

Upon request by the employee, the Town will supply up to two (2) approved caps or hats per year. No other type of headwear is permitted to be worn during work hours.

17.2 Uniform Items for Mechanics

In addition to the items listed above, the Town will provide coveralls to each mechanic. The coveralls will be laundered by the Town.

Section 18. Safety Equipment

The Town shall retain the right to establish minimum safety and quality standards for safety equipment, clothing and steel-toed safety shoes to be used while performing assigned tasks. If an employee is at work without the required clothing or safety equipment, that employee will not be paid until s/he is at the worksite with the required clothing and safety equipment.

18.1 Steel-Toed Safety Shoes

On an annual basis, the Town will provide one pair of steel-toed safety shoes per employee. The steel-toed safety shoes must be worn at all times except for classroom training or administrative assignments. In the event an employee's safety shoes are damaged, worn, or unsafe as determined by the supervisor, the shoes may be replaced in advance of the annual schedule. The not-to-exceed amount will be \$350 for AFSCME employees. If the safety shoe selected by the employee is less than the amount provided by the Town, the employee may apply the difference toward shoelaces, socks, ergonomic insoles, or other safety-shoe related accessories at the time of purchase.

Section 19. Mileage

Employees using personal vehicles on official Town business 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.

Section 20. Work Schedule

20.1 Standard Work Day

The standard workday shall be 8.5 consecutive hours including a 15-minute morning and a 15-minute afternoon work break, and a forty (40) minute lunch break, which shall include any wash-up time. The standard workday shall begin at 7:00 AM and end at 3:30 PM, the last ten (10) minutes of which shall be available for wash-up time. Minimum seventy-two (72) hours' notice will be provided by the Town for non-emergency changes in schedule.

20.2 Use of Town Vehicle

An employee whose lunch or break period begins at a work location other than the Corporation Yard may use the job site Town vehicle to go to lunch or obtain food. Travel time in connection with this privilege shall not extend the lunch period beyond the forty (40) minutes including wash-up time, nor extend a break period beyond fifteen (15) minutes.

20.3 Early Start Pay

Non-overtime work begun prior to 7:00 AM shall receive additional compensation of 5% above the employee's base hourly rate for the entire shift.

The Early Start premium will not apply if the employee's start time is adjusted at the request of the employee under a flexible work arrangement authorized by the department.

20.4 Work Week

The Town has no intention of changing existing work weeks at the present time.

The Town's decision to change existing work weeks will involve but not be limited to the following considerations:

- (a) Failure to meet the performance objectives of the work unit.
- (b) Change in service level.

Prior to a change in work week (except in the event of an emergency) the Town will give a minimum two weeks' notice to affected employees. Further, the Town agrees to meet in good faith to attempt to resolve any hardships caused by a change in work week.

20.5 4-10 Schedule for Vehicle Maintenance Shop

The Town agrees to maintain a 4/10 (4 day per week/10 hours per day) plan for the vehicle maintenance shop as long as Monday and Friday in each workweek can be covered by a mechanic. In addition, this program shall be evaluated quarterly to determine if productivity and coverage meet the Town's repair needs. This will determine if the program will continue.

20.6 Work Schedule and Holidays

Represented employees are entitled to eight (8) hours of paid time off in observation of each holiday listed in Section 29.

20.6.1 Hours Worked on an Observed Holiday

Employees assigned to work on an observed holiday shall be paid time-and-a-half for hours worked.

20.6.2 Hours Worked on the Actual Holiday

Employees assigned to work on an actual holiday that is different than the observed holiday shall be paid double time for the hours worked.

20.7 Flex Schedule

As an alternative to the normal schedule described in the above section, employees may be granted the option to participate in a Flex Schedule under the following terms and conditions:

The Department Director, with the approval of the Town Manager, has the exclusive authority to approve an employee's request for a flex schedule. The decision to implement or terminate a flex schedule is final and is not subject to meet and confer or any grievance procedure. Participating employees will be provided notification at least one (1) full pay period prior to termination of a flex schedule.

Employees on a flex schedule will receive no more than eight (8) hours of pay on a City observed holiday and will be required to use other accrued leaves or to re-arrange their schedule to maintain 80-hours of pay per pay period.

Section 21. Overtime

21.1 Scheduling

All overtime will be scheduled pursuant to the needs of the Town. Overtime shall be scheduled provided the individual is capable of performing the assignment. In the absence of volunteers, the Town shall assign overtime in rotation based on reverse seniority. Seniority for the purpose of this section is defined by total continuous service to the Town.

21.1.1

Overtime for work in progress shall be assigned to the employee(s) responsible for the assignment.

21.1.2

Overtime for special events shall be offered on a rotational basis in accordance with seniority.

21.2 Compensation

Overtime shall be compensated at the rate of time and one-half based upon either hours in excess of eight (8) per day or hours in excess of forty (40) per week. Overtime compensation shall accumulated as Compensatory Time Off or be paid in cash at the employee's option, subject to the scheduling needs of the Town. If an employee elects to receive compensatory time off in lieu of overtime pay, for each hour of overtime work they will receive one and one-half hour of compensatory time credit.

21.3 Use of Compensatory Time Off

Use of compensatory time off will be at the Town's discretion based on scheduling needs. The Town shall, to the best of its ability and subject to scheduling needs of the Town, make every effort to accommodate employee requests for compensatory time off.

21.4 Compensatory Time Off Cap

The maximum accrued compensatory time accumulation shall be eighty (80) hours. When an employee has reached the eighty (80) hour maximum accrual of compensatory time off, all overtime must be paid in cash until the employee's compensatory time off bank is reduced below the maximum cap.

Section 22. Call Back

Call back overtime is defined as Town-required return to work after an employee has completed his/her/their normal work shift and before his/her/their next scheduled normal workday. An employee notified of call back overtime that is not contiguous to his/her/their shift less than 72 hours in advance will be paid at the call back rate. An employee called back to work shall be reimbursed for mileage.

22.1

A subsequent call-back shall be considered to be within the initial call-back if the employee is notified within the original three-hour period. If two hours and forty-five minutes of the original three-hour period expires before the employee is notified, then a new three-hour minimum shall go into effect. This section also applies to employees on stand-by duty as provided in Sec. 23.

22.2

When additional assistance is needed on a call-back event, supervisor approval is required to call back in more than one additional employee.

Section 23. Standby

23.1 Assignment and Scheduling

The Union recognizes the Town right to schedule standby assignments for employees at Town discretion. Standby assignments shall be made in order to provide services outside the regular work schedule. Standby shall be assigned for the months of November through March, with additional standby periods to be determined on an as-needed basis at the discretion of the Department Director.

Standby assignments shall be scheduled on a volunteer basis, using a list of all employees and offered by rotation based on seniority. Each rotation will last for seven (7) days. Seniority for the purpose of this section is defined as total continuous service to the Town. In the absence of volunteers, the Town shall schedule standby. To the best of its ability, the Town shall schedule standby assignments as far in advance as possible. The Union recognizes the need for standby provision of services and further recognizes that employee failure to respond when assigned standby duty may be cause for disciplinary action including termination.

23.2 Compensation

Standby assignments shall be compensated at the rate of four (4) hours straight time pay for every twenty-four (24) hours of assignment. Assignments of standby duty for more or less than twenty-four (24) hours shall be compensated on a pro-rated basis (4 hours for each 24 hours). Specific call out of employees on standby assignments shall be compensated at the regular overtime rate. Town shall provide a cell phone to employees or those employees electing to receive a stipend may use their own cellphone while on standby assignment.

23.3

For an employee on standby: Minimum call-back pay shall be three (3) hours at the overtime rate with such three-hour period defined beginning with the time of the initial call and concluding thirty (30) minutes after the employee calls in to the Police Department dispatcher that the assignment has been completed.

23.4

For an employee not on standby: Minimum call-back pay shall be four (4) hours at the overtime rate with such three-hour period defined beginning with the time of the initial call and concluding thirty (30) minutes after the employee calls in to the Police Department dispatcher that the assignment has been completed.

23.5 Eligibility

Employees who can respond within a reasonable time period (i.e., 40 minutes on average) shall be eligible for standby duty regardless of where they reside. The Department Director shall qualify employees for standby duty by ascertaining that travel to standby assignments can be accomplished safely.

An employee who meets the above requirement, and whose work would not normally involve assignment to standby duty, may volunteer for such duty and will be assigned to the list of volunteer employees from which standby duty is assigned, at such time as he/she/they has received the necessary training in standby duties and skills. It is the intent of the parties that employees be notified by the Department as soon as possible after the execution of this Agreement that new volunteers will be accepted for training together with information for potential volunteers. If there are volunteers, the Labor-Management Committee shall be convened to discuss implementation of the appropriate training at the earliest practicable date.

23.6 Stand-By Training

The Town will provide additional training in stand-by duties for newly hired employees. Duration of training shall be evaluated by the employee's supervisor during the first year.

Section 24. Emergency Work

If an emergency work situation (as defined by the Supervisor) does not permit an employee to take their meal period and/or breaks, the missed meal period and/or breaks will be credited as compensatory time at time-and-a-half.

Section 25. Work Furlough Program

25.1 Town Participation

AFSCME recognizes the right of the Town to participate in the Work Furlough Program coordinated by the County of Santa Clara. The purpose of the program is to provide public service for local government through a sentencing alternative program for individuals to perform clean-up and maintenance-type duties.

25.2 Responsibilities

25.2.1

A regular Town employee at the level of Maintenance Worker or higher will be responsible to oversee work related to the Work Furlough Program.

25.2.2

An hourly employee at the level of Maintenance Assistant or higher will be assigned to assist the regular Town employee as necessary, at the discretion of the Department Director or designee.

25.3 Assignment and Scheduling

25.3.1

AFSCME employees will be provided ten (10) calendar days' notice prior to a Work Furlough Program assignment except when a fill-in is necessary due to an emergency or unusual circumstance.

25.3.2

Work Furlough Program assignments shall be first made on a voluntary basis. In the absence of volunteers, the Town will assign employees with the least seniority from employees hired on or after July 1, 2007.

25.4 Compensation

Maintenance Workers will receive a 5% out-of-class premium for supervision duties when assigned to the Work Furlough Program. This premium will be applied to the entire shift and is in addition to any overtime compensation.

25.5 Evaluation

Work performed by Town employees related to the Work Furlough Program is subject to inclusion in the employees' annual review.

25.6 Liability

Town employees assigned to the Work Furlough Program are covered for liability purposes by the Town of Los Gatos while performing duties within the scope of his/her/their job.

Section 26. Vacation Schedule

The following vacation schedule shall apply to all employees:

0 to 36 months	10 days per year - 3.08 hours per pay period
37 to 60 months	16 days per year - 4.92 hours per pay period
61 to 120 months	21 days per year - 6.46 hours per pay period
121 to 180 months	23 days per year - 7.08 hours per pay period
181 months and over	25 days per year - 7.70 hours per pay period

Maximum accrual of vacation hours shall be 320 hours.

Section 27. Vacation Cash-Out

27.1

Employees who terminate from Town service shall have all accrued vacation leave and compensatory time cashed out effective the last full work-day with the Town. This will terminate the employee's status as an employee of the Town.

27.2

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 eighty (80) hours of accrued vacation (in whole hour increments) earned in the following calendar year at the employee's base rate of pay. On the pay day for the pay period which includes Thanksgiving 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 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 leave the employee has accrued that year that is remaining at the time of the cash out.

27.3

All employees may apply vacation time cash-out to deferred compensation, so long as applicable law permits.

Section 28. Sick Leave

28.1 Accrual Rate

Accumulation rate shall be eight (8) hours per month (3.70 hours per pay period). Maximum accrual of sick leave hours shall be 1200 hours.

28.2 Sick Leave and Other Accrued Leaves

When an employee is absent for any of the purposes for which sick leave may be used, he/she/they may use other accrued leaves when sick leave has been exhausted, unless he/she/they has received a second consecutive written notice of counseling within an eighteen (18) month period regarding excessive or abusive use of sick leave with the exception of protected leave situations.

28.3 Sick Leave Cash-Out Program For Employees Hired Before July 1, 2018

Employees hired before July 1, 2018 who terminate employment with the Town for any reason other than retirement may cash out their accumulated sick leave as follows:

Months of Employment
1- 59 months at 25%
60 - 119 months at 37.5%
120 months or more at 50%

If an employee is terminated due to a layoff, the employee shall be eligible to cash out 100% of accrued sick leave at time of layoff. In order to be eligible for the terminating sick leave cash-out program, an employee must have a sick leave accrual balance of at least 150 hours at the time of termination. Employees who terminate employment with the Town after a prolonged period of illness or injury, may apply to the Town Manager for a waiver of the 150 hours requirement.

Employees hired on or after July 1, 2018 may not participate in the sick leave cash out program and are not eligible to cash out sick leave.

28.4 Sick Leave Conversion at Retirement to Town Trust

All employees hired prior to July 1, 2007 who retire may convert 100% of their accumulated sick leave to a dollar equivalent at their hourly rate of pay at the time of retirement. Employees hired after July 1, 2007 are not eligible for this Sick Leave Conversion option under this provision.

This amount shall be held in an account. The employee's portion of 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 prorated to the nearest quarter. The retiree's portion of medical payments will be paid from this account by the Town until all monies are depleted from the account or the retiree dies, whichever occurs first.

This account will not accrue interest and will not be paid in cash to the retiree or any beneficiaries, except that upon the death of a retiree whose sick leave account has not been exhausted, the retiree's spousal survivor shall be paid the full cash value of the remaining sick leave in the retiree's account.

The retiree shall be responsible for 100% of their share of future medical insurance payments once the account is exhausted, exclusive of the PEMCHA minimum.

Section 29. Holidays

The following shall be observed as paid eight (8) hour holidays:

- January 1st (New Year's Day)
- 3rd Monday in January (Martin Luther King's Birthday)
- the 3rd Monday in February (President's Birthday)
- the last Monday in May (Memorial Day)
- Juneteenth*
- July 4th (Independence Day)
- the first Monday in September (Labor Day)
- Thanksgiving Day
- the Friday following Thanksgiving Day.
- December 25th (Christmas Day)
- four (4) hours each on December 24 and December 31.
- every day declared a holiday by the President or Governor, subject to the Mayor also proclaiming the day as a holiday.

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.

*The Juneteenth holiday will go into effect in calendar year 2023. In recognition of Juneteenth 2022, all employees will receive a one-time, non-pensionable \$500 lump sum payment in the first full pay period in July 2022, or the first full pay period after Council approval of this MOU, whichever is later.

Section 30. Personal Leave

The employee shall be entitled to twenty-four (24) hours of personal leave per calendar year; such leave shall be non-cumulative with no cash value. Of the twenty-four (24) hours annually, the employee may take twelve (12) hours without prior notice and twelve (12) hours with prior notice. If an employee's use of Personal Leave without prior notice results in the Town having to change another employee's schedule without 72 hours' notice, the situation will be considered an emergency under Section 20 (Work Schedule) and will not result in penalty to the Town.

Section 31. Maternity Leave/Family Leave/Medical Leave

The Town recognizes State and Federal law regarding Maternity Leave and Family and Medical Leave. The Town will take action to inform employees of the current provisions of laws affecting these leaves. The Town may, at its discretion, approve leave beyond the specific amount provided above.

Section 32. Catastrophic Time Bank

If an employee, spouse or significant other, or child becomes catastrophically ill or injured, the employee may request in writing of the Town Manager that a catastrophic time bank be established. The bank will enable employees to donate accrued CTO or vacation to the requesting employee in accordance with Departmental policies to be developed.

Section 33. Bereavement Leave

A maximum of 40 hours of bereavement leave shall be provided to each employee for a death in his/her/their immediate family or the immediate family of their spouse/registered domestic partner. Immediate family for the purpose of this section includes spouse/registered domestic partner, parent, grandparent, child, or sibling.

Section 34. Military Leave

Military leave and benefits shall be granted in accordance with State and Federal Law, including the continuation of employee salary and benefits and employees will receive up to thirty (30) calendar days of pay.

Section 35. Personal Emergency Leave

Leave will be available for employees for disasters declared by Federal, State, County, or Town officials if those disasters affect all or a portion of the Town "urban service area". Leave is subject to scheduling by the Town. Employees shall be allowed to charge time off to accumulated Personal Leave, CTO, vacation hours, and sick leave hours (in that order). In the event of a Town emergency (e.g., flood, earthquake) employees are required to remain at work until released by their Supervisor.

Section 36. Jury Duty

An employee required to serve as a trial juror or an expert witness (expertise related to Town employment) shall have his/her/their salary and benefits continue; the employee shall turn over to the Town any compensation (other than travel related) from the courts or other source for jury duty.

Section 37. Leave Without Pay

Leave without pay shall be subject to approval of the Town Manager or designee.

An employee who is on leave without pay shall not earn any employment benefits (including, but not limited to such benefits as vacation sick leave, medical benefits, dental and other insurance benefits, retirement credits for time employed or seniority entitlements of any kind) for the duration of such leave. An employee who is on leave without pay will have the ability to continue all eligible COBRA benefits at their own expense in accordance with the Town's administrative policy on benefit retention.

Vacation, sick leave, or time worked shall not be used intermittently during an extended leave to interrupt a determination that an employee is on leave with no pay.

37.1 Voluntary Unpaid Time Off

Employee participation in this plan is contingent on the Town's agreement and understanding that employee participation cannot be interpreted as anything other than a temporary and limited good faith effort being made by the employee to do his/her/their part to help ease the Town's budget shortfall. This is not to be construed as a representation of employee commitment to a permanent program or an admission of any kind that the employee would not become harmed by such a plan becoming mandatory.

Employees may request voluntary unpaid time off under the following circumstances:

- A. No impact on accrual of paid leave, seniority, and completion of probation.
- B. No impact on benefit eligibility and Town contributions.
- C. Employees may cancel participation in the program at any time.

Section 38. Accrual of Benefits

There shall be no accrual of benefits during unauthorized leave, suspension, or leave without pay.

Section 39. Notice of Vacancies

Town job vacancies shall be posted on the Corporation Yard Bulletin Board for the duration of the recruitment period.

Section 40. Promotions

Subject to the needs of the Town, promotional examinations shall be used whenever possible to fill vacancies in the Town service.

Employees promoted to higher paying classifications shall receive a minimum five (5%) percent increase in salary or an amount which shall not exceed the highest step in the range of the higher classification.

Section 41. Probationary Period

The probationary period shall be twelve (12) months for all newly hired employees and six (6) months for employees receiving promotions. If at the end of a six month probationary period a promoted employee who has been routinely evaluated, trained and counseled is not meeting required performance standards, then the Town may extend the probationary period in three month increments, for a total maximum probationary period of 12 months.

An employee who is rejected during a promotional probation period shall have the right to return to his/her/their former classification, and the same right shall apply to an employee who is displaced as a result of such return, provided, however, that no such right shall apply - and no additional right shall be conferred hereby - to an employee who is serving his/her/their initial probationary period with the Town unit.

Section 42. Outside Employment

No full-time paid employee in the classified service shall hold any job other than employment by the Town without the written recommendation of his/her/their department manager and the written approval of the Town Manager. A copy of such approval shall be filed with the Personnel Officer. No employee, whether in the classified service or not, shall engage in other employment or activity which in any way involves a conflict with the interests of the Town or his/her/their responsibilities or duties as an employee.

Outside employment shall be reviewed and re-approved by the Department Director and Town Manager on a yearly basis.

Section 43. Attendance

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves.

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 Director of the reason the employee is absent and of the employee's availability for duty.

Section 44. Personnel Files

Employees shall have the right to review materials in their individual personnel files in accordance with State law.

Section 45. Performance Evaluations

45.1 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. Employee evaluation forms shall include a section with a box to be checked indicating whether an employee agrees or disagrees with his/her/their evaluation. Employees granted step increases shall receive those increases effective the closest pay period in which they are eligible.

All performance evaluations shall be discussed with the employee prior to the evaluation being completed. Employees shall sign their individual performance evaluations as evidence of discussion having taken place; employee signature does not necessarily imply agreement with the evaluation. An employee may attach separate written comments to his/her/their evaluation.

Performance evaluations shall be conducted annually from the employee's (1) date of hire, (2) date of last merit increase, or (3) date the employee entered his/her/their classification. The classification date shall supersede the hire date, and the date of the last merit increase shall supersede both the hire date and the classification date.

Performance evaluations shall be completed by an employee's immediate supervisor (i.e., PW Maintenance Supervisor or Parks Maintenance Supervisor). Written comments made by any other supervisor, superintendent or management personnel shall not change the numerical rating of the immediate supervisor.

The Town agrees to provide employees with a copy of both the initial and final versions of their quarterly and annual performance evaluations.

Sick leave usage shall not be directly evaluated on the performance evaluation. Performance categories that are affected by excessive or abusive use of sick leave shall be evaluated.

45.2 Counseling

In the event that a worker's performance or conduct appears to be unsatisfactory or needing improvement, informal verbal or written counseling shall be provided by the worker's immediate supervisor. Counseling should be separate from ongoing work site dialogue and should address performance or conduct which, if not improved, may eventually result in a negative evaluation or disciplinary action. Documentation of such counseling shall be given to the worker at the time of the counseling and will not be placed in a worker's personnel file. When the situation allows counseling, counseling shall be used prior to any unfavorable reports being issued. Counseling should normally take place between the worker and the immediate supervisor.

45.3 Unfavorable Reports On Performance Or Conduct

If upon such counseling a worker's performance or conduct does not improve and a negative evaluation or disciplinary action could result, the supervisor shall prepare a written report that includes specific suggestions for corrective action, if appropriate. A copy shall be given to the worker and a copy filed in his/her/their personnel file. Workers shall have the right to attach a written rebuttal to the report for inclusion in their personnel file.

Section 46. Seniority

Unpaid leaves of absence and breaks in continuous service shall not be credited to employee seniority.

Seniority will be a factor in determining vacation use.

Section 47. Layoff Policy

47.1 Definitions

As used in this Section, the following words and phrases shall be defined as follows:

47.1.1

Service Seniority shall be defined as the length of time an employee has served as a regular employee of the Town. Service seniority shall not be earned for standby duty, overtime work, during periods of suspension without pay as a result of disciplinary action, or for non-medical leave without pay. Service Seniority for unpaid military leave will be considered in the manner prescribed by State and Federal law.

47.1.2

Classification Seniority shall be defined as the length of time the employee has served as a regular employee in a classification including anytime spent in a higher classification. A higher classification shall mean a job classification with a higher salary range.

47.1.3

A lower class shall mean a job classification with a lower salary range.

47.2 Order of Layoff

When one or more employees in the same class are to be laid off for lack of work, purposes of economy, curtailment of positions or other reason, the order of layoff shall be as follows:

- (1) Temporary employees in the order to be determined by the appointing authority.
- (2) Probationary employees in the order to be determined by the appointing authority.
- (3) Permanent employees in inverse order of classification seniority.

47.3 Notice of Layoff

Employees subject to the provisions of this Section shall be given a minimum 30 calendar day notice in writing prior to the effective date of layoff. The Union shall receive concurrent notice, and upon written request within seven calendar days after the notice is given shall be afforded an opportunity to meet with the appropriate Town representatives to discuss the circumstances necessitating the layoff and any proposed alternatives to such layoff. Notwithstanding the effort to work cooperatively, the Town has the exclusive right to determine the methods, means, numbers and kinds of personnel by which by services are to be provided. The Town's decision to make a reduction in force or layoff an employee(s) is not subject to the duty to meet and confer.

47.4 Reassignment in Lieu of Layoff

In the event of layoff, any employee so affected may elect to:

- (1) Accept a position in a lower class in which the employee has attained permanent status, provided the employee is otherwise qualified and has more service seniority than other employee(s) in such lower class.
- (2) Accept a vacant position in a lower class for which the employee has the necessary education, experience, and training as determined by the Director of Human Resources or designee.
- (3) Any employee entitled to the options noted above, which involve assignment to a lower classification, may elect to be placed on layoff in lieu of accepting such assignment to the lower class. In the event the employee elects to be placed on layoff, such employee will only be recalled to the classification from which the employee elected to be placed on layoff.

Section 48. Layoff Reinstatement

48.1

The names of such persons who are laid off or who elect reassignment in lieu of layoff in accordance with the provisions of Section 47 of this Memorandum of Understanding shall be placed upon a Reinstatement Eligible List in inverse order of Service Seniority, i.e., the person with the greatest Service Seniority on the Reinstatement Eligible List for the classes affected shall be offered reinstatement when a vacancy exists in the affected class. Prior to reinstatement, an employee shall be required to meet the qualifications of the positions to which he/she/they is reinstated.

48.2

In the event an employee accepts reinstatement to a lower class to which the employee is entitled, such person's name shall remain on the Reinstatement Eligible List for reinstatement to higher class, provided such a person, except for lack of seniority, would have been otherwise entitled to such higher class at the time of the most recent layoff.

48.3

Any person who is reinstated to a class which is the highest class to which they would have been entitled at the time of the layoff shall have the employee's name removed from the Reinstatement Eligible List.

48.4

In the event a laid off employee cannot be contacted by the Town through usual and customary channels within 10 working days, such person's name shall be removed from the Reinstatement List, providing, however, that such person within the twenty-four month period specified herein may request that his/her/their name be returned to the Reinstatement Eligible List and such person's name may at the sole discretion of the Personnel Officer, or designee, be returned to the Reinstatement Eligible List. In this case, the decision of the Personnel Officer or designee shall be final and not subject to any grievance procedure contained herein.

48.5

In no event shall the names of any person laid off pursuant to the provisions of this Section remain on Reinstatement Eligible List for a period longer than twenty-four months from the effective date of such person's most recent layoff.

48.6

Upon reinstatement to any classification to which the employee is entitled pursuant to the provision of this Section, all benefits acquired by the employee prior to layoff shall also be reinstated. An employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

48.7

A laid-off employee shall lose their reinstatement rights for: (1) failure to return to work within 30 days of notice of reinstatement; (2) retirement; and (3) termination for cause.

48.8

Laid-off/displaced employees shall be paid accrued leaves and related benefits in accordance with this Memorandum of Understanding and applicable Town policies and rules. Employees being re-employed who received a sick leave pay off at the time of layoff/displacement, shall have the uncompensated portion of their sick leave balance restored; provided, however, that only those sick leave hours accrued after re-employment shall be applied to sick leave payoff or retiree medical related to a subsequent termination.

Section 49. Contracting Out

No bargaining unit employees shall be laid off as a result of the Town entering into a contract with any outside party.

Section 50. Safety Committee

Union shall encourage its member's participation in the Town-wide Safety Committee.

Section 51. Safety

The Town shall continue to comply with all applicable State rules and regulations relative to safety. The Town and Union agree to maintain a joint committee to investigate and make recommendations on safety issues identified by the Union and the Town.

Section 52. Physical Examinations and Tests

The Town agrees to provide full cost reimbursement for physical examinations and job-related tests that may be required of employees as a condition of continued employment with the Town.

Section 53. Grievance Procedure

Grievances shall be defined as alleged violations of this agreement or disputes regarding interpretations, application, or enforcement of this agreement or 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, probationary terminations and items subject to meet and confer. Nothing in these definitions shall be construed to limit "permanent" employees from appealing decisions affecting their employment to the Town Personnel Board.

No act or activity which may be grievable may be considered for resolution unless a grievance is submitted in accordance with the procedure contained herein within thirty (30) calendar days of the date the grievable activity occurred or the date the grievant could reasonably have known such activity occurred. This statute of limitations shall not apply to probationary employees.

The parties agree that all grievances will be processed in accordance with the following procedure:

Step 1

Any employee who has a grievance shall first try to get it settled through discussion with his/her/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, he/she/they may file a formal appeal in writing to his/her/their Department Director within ten (10) calendar days after receiving the informal decision of his/her/their immediate supervisor.

Step 2

The Department Director receiving the formal appeal shall render his/her/their written decision within ten (10) calendar days after receiving the appeal. If after receipt of the written decision of the Department Director the employee is still dissatisfied, he/she/they may appeal the decision of the Department Director to the Town Manager. Such appeal shall be made by filing a written appeal to the Town Manager within five (5) days after receipt of the written decision of the Department Director. The Town Manager shall review the decision of the Department Director and render a decision within twenty (20) working days after the appeal is made. The Town Manager's decision shall be final unless appealed to the Personnel Board by either the employee or the Department Director.

Step 3

The appealing party may file a written appeal of the decision, findings and conclusions of the Town Manager to the Personnel Board within ten (10) working days of the Town Manager's decision. Within sixty (60) calendar days of the filing of the appeal, the Personnel Board shall review the decision of the Town Manager and the appeal filed. The Personnel Board may ratify, modify or reverse the Town Manager's decision. The decision of the Personnel Board shall be final.

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 Department Director or Town Manager appeal levels. Employees may be represented by counsel, Union representative, Union steward or other person at any stage in the grievance process

Section 54. Disciplinary Procedure

54.1 Suspension

Suspension shall be a temporary separation (without pay) from Town service without pay for disciplinary purposes. The Department Director, with notice to the Personnel Officer, may suspend an employee without pay for disciplinary purposes.

54.2 Reduction in Pay

Reduction in pay is a decrease in compensation paid to an employee for a fixed period of time for disciplinary purposes. The Department Director, with notice to the Personnel Officer, may impose a reduction in pay to an employee for disciplinary purposes.

54.3 Demotion

The Department Director, with notice to the Personnel Officer, may demote an employee whose performance of his/her/their required duties is below standard, or for other disciplinary purposes. Demotion may be made to vacant position, if approved by the Personnel Officer, in lieu of layoff. No employee shall be demoted to a position for which he/she/they does not possess the minimum qualifications. Written notice of the demotion shall be given by the Department Director to the employee no less than three (3) days prior to the effective date of the demotion, and a copy filled with the Personnel Officer within the same period.

54.4 Termination

The Department Director, with notice to the Personnel Officer, may terminate an employee whose performance of his/her/their required duties is below standard, or for other disciplinary purposes. Written notice of the termination shall be given by the Department Director to the employee no less than ten (10) days prior the effective date of the termination, and a copy filed with the Personnel Officer within the same period.

54.5 Grounds for Discipline

Employees may be disciplined for, including but not limited to, any of the following grounds for discipline:

1. Fraud in securing employment or making a false statement on an application for employment.
2. Incompetency, i.e. inability to comply with the minimum standard of an employee's position for a significant period of time.
3. Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her/their position.
4. Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position.
5. Dishonesty, involving employment.
6. Being under the influence of alcohol or dangerous drugs or narcotics while on duty.
7. Excessive absenteeism.
8. In excusable absence without leave.
9. Abuse of sick leave, i.e., taking sick leave without a doctor's certificate when one is required, or misuse of sick leave.
10. The conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Personnel Officer may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline, or the determination if such conviction is an offense involving moral turpitude. A plea or verdict of guilty, of a conviction showing a plea of nolo contendere made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this Section. The Personnel Officer may suspend or dismiss said employee when the time for appeal has elapsed or the judgment of the conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code of the State of California allowing such person to withdraw his plea of guilty and enter a plea of not guilty, or setting aside a verdict of guilty, or dismissing the accusation or indictment.
11. Discourteous treatment of the public or other employees.
12. Improper or unauthorized use of agency property.
13. Refusal to subscribe to any oath or affirmation which is required by law in connection with agency employment.
14. Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the agency, the employee's department or division.
15. Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of agency property.
16. Violation of the rules and regulations published by the employee's department.
17. Outside employment not specifically authorized by the appointing authority in accordance with Town procedures.
18. Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of official duties in accordance with policy on Gifts, "Gratuities Or Rewards".
19. The refusal of any officer or employee of the agency to testify under oath before any Grand Jury having jurisdiction over any then pending cause of inquiry in which the investigation of government bribery or misconduct in agency office is involved shall constitute of itself sufficient ground for the immediate discharge of such officer or employee.
20. Willful violation of any of the provisions of the ordinances, resolutions or any rules, regulations or policies which may be prescribed by the agency.

21. Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or in an agency uniform on or off duty; or the dissemination of political material of any kind while on duty and/or working hours or in uniform.

54.6 Procedures for Taking Disciplinary Action

Disciplinary action shall be taken in compliance with the following procedures:

54.6.1 Notice of Intent

Whenever the Department Director intends to suspend an employee, demote the employee, reduce employee pay, or dismiss the employee, the Department Director shall give the employee a written notice of discipline which sets forth the following:

- a. The disciplinary action intended;
- b. The specific charges upon which the action is based;
- c. A factual summary of the grounds upon which the charges are based;
- d. A copy of all written materials, reports, or documents upon which the discipline is based;
- e. Notice of the employee's right to respond to the charges either orally or in writing to the appropriate authority;
- f. The date, time and person before whom the employee may respond in no less than (3) working days;
- g. Notice that failure to respond at the time specified shall constitute a waiver of right to respond prior to final discipline being imposed.

54.6.2 Response by Employee

The employee shall have the right to respond to the Department Director orally or in writing. The employee shall have a right to be represented at any meeting set by the appropriate authority to hear the employee's response. Such meeting will only be permitted once and continued for no more than two days. In cases of suspensions for three (3) days or more, demotions, reductions in pay or dismissal, the employee's response will be considered before final action is taken.

54.6.3 Final Notice

After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: (1) dismiss the notice of intent and take no disciplinary action against the employee, (2) modify the intended disciplinary action, or (3) implement the intended disciplinary action. If discipline is to be issued, the appropriate authority shall prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

- a. The disciplinary action taken;
- b. The effect of the disciplinary action taken;
- c. Specific charges upon which the action is based;
- d. A factual summary of the grounds upon which the charges are based;
- e. The written materials, reports and documents upon which the disciplinary action is based;
- f. The employee's right to appeal if any.

54.6.4 Termination

The Department Director, with permission from the Personnel Officer, may terminate an employee immediately if it is found that the employee is guilty of gross misconduct.

54.7 Disciplinary Appeals Hearing Procedure

The appeal procedure described herein shall apply only to cases of disciplinary suspensions, reductions-in pay, demotions and dismissals affecting regular part-time and full-time classified service employees.

1. An employee has five (5) working days after receipt of the Final Notice of Discipline, to appeal the decision by filing a written request for an appeal hearing with the Personnel Officer.
2. If, within the five-day (5) appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the Department Head shall take effect as prescribed.
3. If, within the five-day (5) appeal period, the employee involved requests an appeal hearing by filing a written request with the Personnel Officer, the Personnel Officer shall submit the appeal to the Town Manager.

4. A time for an appeal hearing shall be established which shall not be less than twenty (20) working days, from the date of the filing of the appeal. All interest parties shall be notified in writing of the date, time, and place of the hearing at least ten (10) working days prior to the hearing.
5. All hearings shall be private; provided, however, that the appellant may request a hearing open to the public. Any request for an open hearing shall be submitted (5) days prior to the hearing date or the hearing will be closed.
6. Five (5) working days prior to the date set for the hearing each party shall serve upon the other party and submit to the Town Manager list of all witnesses and all exhibits to the Personnel Officer.
7. The employer's exhibits shall be designated by number. The employee's exhibits shall be designated by alphabetical letter. Neither party will be permitted to call during the hearing a witness not identified pursuant to this section nor use any exhibit not provided pursuant to this section unless that party can show that they could no reasonably have anticipated the prior need for such witness or exhibit.
8. The hearing will not be conducted in accordance with technical rules related to evidence and witnesses but hearings hall be conducted in a manner most conducive to determination of the truth. Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explain any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over the objection in civil actions. The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the Town Manager shall not be invalidated by any informality in the proceedings.
9. The Town Manager shall rule on the admission or exclusion of evidence.
10. Each party shall have these rights: To be represented by legal counsel or other person of his or her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him/her. If the employee does not testify in his or her own behalf, he/she/they may be called and examined as if under cross-examination.
11. Oral evidence shall be taken only on oath or affirmation.
12. The hearing shall proceed in the following order, unless the Town Manager for special reason, otherwise directs:
13. The Town shall be permitted to make an opening statement.
14. The employee shall be permitted to make an opening statement.
15. The Town shall present its case in chief and offer evidence in support thereof.
16. The employee may then present his or her defense and offer his or her evidence in support thereof.
17. The parties may then, in order, respectively offer rebutting evidence only, unless the Town Manager for good reason, permits them to offer evidence upon their original case.
18. Closing arguments shall be permitted at the discretion of the Town Manager. If the Town Manager permits closing arguments, the party with the burden of proof shall have the right to close the hearing by making the last closing argument.
19. The Town Manager shall determine relevancy, weight, and credibility of testimony and evidence, and shall base its findings on the preponderance of evidence.
20. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
21. No still photographs, moving pictures, or television pictures hall be taken in the hearing chamber during a hearing.
22. The Town Manager, prior to or during a hearing, may grant a continuance for any reason he/she/they believes to be important to his/her/their reaching a fair and proper decision.
23. The Town Manager shall render his/her/their findings and decision as soon after the conclusion of the hearing as possible, and in no event, later than ten (10) working days after conducting the hearing unless otherwise stipulated by the parties. The Town Manager's decision shall set forth the recommendations as to each of the charges and the reasons therefore.
24. The Town Manager may recommend the sustaining or rejecting of any or all of the charges filed against the employee. The Town Manager may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee.
25. The Town Manager's proposed decision shall be filled with the charged employee and the Personnel Officer, and if the proposed decision is to reinstate, the decision shall set forth the recommended effective date the employee is to be reinstated, which may be any time on or after the date the disciplinary action went into effect. The decision of the Town Manager is final unless appealed to the Personnel Board.
26. Either party may appeal the Town Manager's decision by filing a written appeal with the Personnel Officer within ten (10) working days of the Town Manager's decision.

27. The party desiring to contest the decision of the Town Manager may request a transcript for review by the Personnel Board within ten (10) working days of the Town Manager's decision. If the appealing party requests a transcript, that party shall pay the cost of the transcript.
28. Within ten (10) working days of the filing of the appeal, the Personnel Board shall review the decision of the Town Manager, the appeal filed and the record. The Personnel Board shall review the decision of the Town Manager, the appeal filed and the record. The Personnel Board may ratify, modify or reverse the Town Manager's decision; the Personnel Board shall first obtain a transcript of the hearing. The decision of the Personnel Board shall be final.

Section 55. Unpaid Furloughs

AFSCME understands that the Town Manager has the unilateral authority to implement unpaid furloughs. Time will be tracked on timesheets and monitored to ensure that all employees meet the unpaid furlough requirement.

55.1

Town-wide Closures: The Town Manager will close Town services on designated days for which employees will take unpaid time. The closure schedule will be published for employees and the public in advance. In the event that the Town requires an employee to work on a designated furlough day, the employee shall not be furloughed on that day but shall take a different unpaid furlough day on a date mutually agreeable to the employee and his or her supervisor. Rescheduled furlough days must be pre-approved by a supervisor in advance and in accordance with standard operating and staffing requirements.

55.1.1

Rolling Furloughs: As an alternative to taking unpaid furlough on a Town-wide Closure day, employees may request to schedule unpaid furlough on a regularly scheduled workday. The request is subject to supervisory approval and subject to meeting operational needs. Furlough hours may be scheduled as a minimum of four (4) hours.

55.2

Supervisory Authority: The parties recognize the supervisor's authority to approve or deny paid or unpaid time off based upon the operational needs of the department. Time off will be granted in a manner that minimizes operational hardship.

55.3

Incomplete Furloughs: If an employee does not complete their unpaid furloughs by the last pay period of the fiscal year, the employee's accrued vacation hours will be forfeited for the balance of the unpaid furlough. The parties understand that furlough hours have no cash value.

55.4

Effect on Paychecks: To minimize fluctuations in paychecks, the furlough pay reduction will be taken in equal increments over the fiscal year, regardless of when the actual furlough day is taken.

55.5

No Limitation: The parties understand that paragraphs in this section are intended to provide a structure for unpaid furloughs and are not a limitation on the Town Manager's authority to implement unpaid furloughs.

Section 56. Closure Days with Paid Leave Allowed

AFSCME understands that the Town Manager, for budgetary constraints or for operational efficiency, may close all nonessential services and permit employees to use paid leaves. For example, the Town Manager may institute the closure of nonessential services between the Christmas and New Years' holidays. Where not in conflict with the provisions of Section 54 (Unpaid Furloughs), in regard to these closure days:

56. 1

Employees performing essential services and scheduled to work on the Closure Days will receive straight-time pay for hours worked up to forty per week, and overtime pay for hours worked in excess of forty per week.

56.2

At their election, employees who are not scheduled to work may utilize accrued paid vacation, compensatory time off, or personal leave to cover the Closure Days. Leave must be requested in the manner provided in the MOU. Employees who use paid leave will accrue sick leave, vacation and CalPERS credit while on leave.

56.3

While employees have the option to utilize paid vacation, compensatory time off, or personal leave, they are also permitted to take leave without pay (LWOP) to cover Closure Days. Employees who take LWOP will maintain their health, life and disability insurance, as well as any medical cash in lieu. Employees who utilize LWOP will not accrue sick leave, vacation or CalPERS credit while on LWOP.

56.4

If an employee requests to work during the closure days due to hardship (e.g., the employee is out of leave and is financially unable to take time without pay), the Department Director will first try to assign the employee in their own department. If a suitable assignment is not available in the employee's own department, the Town Manager maintains the management right to place the employee in an alternative assignment for the furlough period.

56.5

The Town Manager maintains the management right to determine essential and nonessential services.

57 Tuition Reimbursement Program**57.1**

The Town will reimburse employees up to \$3,000 per fiscal year toward the cost of books, university/school fees (except parking) and tuition.

57.2

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 State and Federal regulations.

57.3

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.

57.4

Any employee who terminates employment with the Town within one (1) 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. This section shall not apply in cases involving disability, layoff, or death of the employee, or other unforeseen circumstances as approved by the Appointing Authority on a case-by-case basis.

Section 58. Comprehensiveness of Agreement

Town and Union agree that this agreement represents all salary, wages, and fringe benefits subject to negotiation and available to employees.

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AFSCME MOU Exhibit A

For Fiscal year 2022/2023 – 7.5% Increase Effective First Full Pay Period in July

Town of Los Gatos AFSCME Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Rate Type	Range AF1	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
6619	Assistant Equipment Mechanic	Hourly	09	\$33.37	\$35.04	\$36.79	\$38.63	\$40.56	\$42.59
6620	Equipment Mechanic	Hourly	03	\$38.38	\$40.30	\$42.32	\$44.44	\$46.66	\$48.99
6618	Supervising Equipment Mechanic	Hourly	08	\$44.14	\$46.35	\$48.67	\$51.10	\$53.66	\$56.34
6670	Facility Technician	Hourly	02	\$35.71	\$37.50	\$39.38	\$41.35	\$43.42	\$45.59
6600	Lead Parks & Maintenance Worker	Hourly	07	\$40.75	\$42.79	\$44.93	\$47.18	\$49.54	\$52.02
6650	Parks & Maintenance Worker	Hourly	05	\$32.79	\$34.43	\$36.15	\$37.96	\$39.86	\$41.85
6660	Parks & Maintenance Worker Trainee	Hourly	04	\$26.78	\$28.12	\$29.53	\$31.01	\$32.56	\$34.19
6605	Senior Parks & Maintenance Worker	Hourly	06	\$35.68	\$37.46	\$39.33	\$41.30	\$43.37	\$45.54
6610	Town Arborist	Hourly	03	\$38.92	\$40.87	\$42.91	\$45.06	\$47.31	\$49.68

Reflects General Increase of 7.5%.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 21

DESK ITEM

DATE: June 7, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Labor Agreement Between the Town of Los Gatos and the American Federation of State, County, and Municipal Employees and Authorize the Town Manager to Execute the Memorandum of Understanding

REMARKS:

Attachment 3 contains public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

Attachment Previously Received with the Staff Report:

1. Salary Schedule for AFSCME effective July 10, 2022

Attachment Previously Received with the Addendum:

2. Redlined AFSCME MOU

Attachment Received with this Desk Item:

3. Public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

PREPARED BY: Salina Flores
Human Resources Director

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

From: Phil Koen

Sent: Tuesday, June 07, 2022 10:59 AM

To: Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>

Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Shelley Neis <sneis@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; jvannada; Rick Van Hoesen; Lee Fagot; Catherine Somers

Subject: Agenda items #19 - #22

Dear Honorable Mayor and Members of the Town Council,

The Los Gatos Community Alliance respectfully requests that Agenda items #19 through #22 be pulled from tonight's consent calendar to allow for public discussion and increased transparency. We acknowledge that the terms of the various labor agreements are the result of a long negotiation process and want to thank all parties for their efforts in finding a solution. We want to also thank the Town Council for their hard work on this matter.

Issue

The reason for pulling these items revolves around the lack of transparency in the Staff report. While we understand labor negotiations are confidential and therefore little was disclosed during the process, it is then extremely important that the Staff report be comprehensive and fully transparent in detailing how the Town arrived at these results. This is particularly important when the only benchmark the public had regarding possible increases in salary and benefit expenditures for FY 23 was what was included in the preliminary budget. Clearly, what is being approved tonight is materially greater than what was in the preliminary budget.

Request for more information

The LGCA requests that Staff disclose the following additional information prior to any vote on agenda items #19 through #22:

1. What will be the total salary and benefit expenditures for FY 23 as previously reported on Schedules C-8, C-9, C-10, C-11, C-12, and C-13 after taking into effect all salary adjustments recommended in Agenda items #19-#22?
2. How is the \$2,318,733 (increases to negotiated salary increases) being funded? Since the proposed FY 23 budget did not have an operating surplus, where are the additional sources of funds coming from to cover this increase? Please be specific.
3. A portion of the \$2,318,733 expenditures are one-time in nature. How much are the "one-time payments" and how much will be recurring expenditures beyond FY 23?
4. Please disclose the initial offer letter from the Town to each of the bargaining units so the public has full transparency to the negotiating process. For sake of clarity, the City of San Jose releases to the public all correspondence between bargaining units once agreements have been reached and voted on by the bargaining units. It appears we are at that point.
5. If the Town does not use \$902,579 of the OPEB 115 Trust Assets to "further balance the budget" what other funds could the Town tap to provide the required source of funding? Was this discussed and approved by the Town Council Trust Fund Committee?

Thank you.

Phil Koen
LGCA



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 22

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve Cost of Living Increases for Unrepresented Management, Confidential, and Temporary/Hourly Employees; One-Time Non-PERSable Bonuses for Confidential and Management; and a 5% Market Adjustment for Confidential and Temporary/Hourly Employees

RECOMMENDATION:

Approve cost of living increases for unrepresented Management, Confidential, and Temporary/Hourly Employees; one-time non-PERSable bonuses for Confidential and Management; and a 5% market adjustment for Confidential and Temporary/Hourly Employees.

BACKGROUND:

On June 7, 2022, Council will consider labor agreements with the Association of Federal, State, County and Municipal Employees (AFSCME), Town Employee's Association (TEA), and the Police Officers' Association (POA).

Unrepresented employees are those that are salaried Management, hourly Confidential, and Council Appointees'. Temporary/Hourly employees that work fewer than 20 hours per week are also in the unrepresented group and serve in an unbenefited capacity. All serve as at-will employees. Compensation and benefit changes for unrepresented employees are approved by Council and typically align with changes resulting from negotiations of successor agreements with the Town's represented bargaining groups to retain general parity with the exception of the Council Appointee positions of Town Manager and Town Attorney. Council Appointee compensation and benefit changes are determined directly by Council and are contained in individual Employment Agreements. Staff is not recommending a salary change for Council Appointee employees.

PREPARED BY: Salina Flores
Human Resources Director

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

SUBJECT: Unrepresented Management, Confidential, and Temporary/Hourly Employees

DATE: June 2, 2022

DISCUSSION:

The bargaining units settled with two-year agreements (see separate agenda items for each). Staff is recommending a 3% cost of living increase for FY 2022/23 and FY 2023/24 for unrepresented Management and Confidential employees and a one-time, non-PERSable bonus of \$2,500 for unrepresented Management and Confidential employees. In addition, Confidential employees would also receive a 5% market adjustment. A market adjustment for Management may be considered at a later date, once potential compaction issues have been analyzed.

Temporary/Hourly classification rates are generally benchmarked to the full-time counterpart positions and as such, staff is recommending a 3% cost of living increase for FY 2022/23 and FY 2023/24 and a 5% market adjustment. All parameters are effective with the first full pay period in July. These recommendations maintain parity with TEA.

CONCLUSION:

The recommendations contained in this report bring the unrepresented groups to general parity with the represented employees.

FISCAL IMPACT:

The anticipated fiscal impact for the 3.0% COLA increases in FY 2022/23 is \$65,000 for Confidential, \$216,000 for Management, and \$22,000 for Temporary classifications. The anticipated fiscal impact for FY 2022/23 market adjustments for Confidential is \$108,840 and \$37,000 for Temporary classifications. \$. In addition, the anticipated fiscal impact of onetime non-pensionable payments for Management and Confidential is \$108,500 for FY 2022/23. The total cost impact will be absorbed in the Town's existing operating budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Salary Schedule for Management Effective July 10, 2022
2. Salary Schedule for Confidential Classifications Effective July 10, 2022
3. Salary Schedule for Temporary/Hourly Classifications Effective July 10, 2022

Town of Los Gatos Town Council and Management Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Annual Salary Minimum	Annual Salary Maximum
2615	Assistant Parks & Public Works Director/Town Engineer	\$ 146,041	\$ 197,155
2110	Assistant Town Manager	\$ 173,596	\$ 234,355
2420	Chief Building Official	\$ 132,307	\$ 178,614
2400	Community Development Director	\$ 169,358	\$ 228,633
2180	Community Outreach Coordinator	\$ 91,353	\$ 123,326
2130	Economic Vitality Manager	\$ 125,930	\$ 170,005
2310	Finance and Budget Manager	\$ 132,307	\$ 178,614
2300	Finance Director	\$ 165,232	\$ 223,063
2200	Human Resources Director	\$ 153,434	\$ 207,136
2900	Information Technology Manager	\$ 132,307	\$ 178,614
2800	Library Director	\$ 153,434	\$ 207,136
2820	Library Division Manager	\$ 100,836	\$ 136,129
2600	Parks & Public Works Director	\$ 169,358	\$ 228,633
2645	Parks & Public Works Operations Manager	\$ 114,087	\$ 154,017
2630	Parks & Public Works Superintendent	\$ 132,307	\$ 178,614
2412	Planning Manager	\$ 132,307	\$ 178,614
2510	Police Captain	\$ 157,270	\$ 212,314
2500	Police Chief	\$ 177,936	\$ 240,213
2545	Police Records & Communication Manager	\$ 122,858	\$ 165,859
2140	Senior Administrative Analyst	\$ 98,376	\$ 132,808
2650	Senior Civil Engineer	\$ 125,930	\$ 170,005
2000	Town Attorney - Council Appointed (<i>Effective 9/19/21, Adopted by Town Council 11/16/21</i>)		\$ 249,900
2190	Town Clerk	\$ 132,307	\$ 178,614
2100	Town Manager - Council Appointed (<i>Effective 8/22/21, Adopted by Town Council 11/16/21</i>)		\$ 267,750
2655	Transportation & Mobility Manager	\$ 122,858	\$ 165,859
2905	Urban Forest Manager	\$ 114,087	\$ 154,017
1000	Town Council (<i>Effective 1/1/19 Pursuant to Ordinance Adopted by Town Council on 2/6/18</i>)	\$570 Stipend per month, for a total compensation of \$6,840 per year	

Management salaries reflect a spread of 35% to the top of the range.

Reflects a General Increase of 3%

ATTACHMENT 1

Town of Los Gatos Confidential Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Rate Type	Range CF1	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
3300	Accountant/Finance Analyst	Hourly	07	\$47.14	\$49.50	\$51.98	\$54.58	\$57.31	\$60.76
3000	Administrative Analyst	Hourly	07	\$47.14	\$49.50	\$51.98	\$54.58	\$57.31	\$60.76
3518	Administrative Assistant	Hourly	09	\$32.41	\$34.03	\$35.73	\$37.52	\$39.40	\$41.95
3115	Administrative Technician	Hourly	04	\$40.65	\$42.68	\$44.81	\$47.05	\$49.40	\$52.45
3190	Deputy Clerk	Hourly	08	\$38.69	\$40.62	\$42.65	\$44.78	\$47.02	\$49.95
3500	Executive Assistant to Chief of Police	Hourly	03	\$38.69	\$40.62	\$42.65	\$44.78	\$47.02	\$49.95
3100	Executive Assistant to Town Manager	Hourly	05	\$40.65	\$42.68	\$44.81	\$47.05	\$49.40	\$52.45
3015	Human Resources Technician	Hourly	02	\$36.83	\$38.67	\$40.60	\$42.63	\$44.76	\$47.58
3200	Legal Administrative Assistant	Hourly	02	\$36.83	\$38.67	\$40.60	\$42.63	\$44.76	\$47.58
3180	Office Assistant	Hourly	01	\$29.65	\$31.13	\$32.69	\$34.32	\$36.04	\$38.42
3301	Payroll Technician	Hourly	06	\$40.65	\$42.68	\$44.81	\$47.05	\$49.40	\$52.45

Reflects General Increase of 8% and includes 5% Confidential Premium

Town of Los Gatos Temporary Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022

Class Code	Classification Title	Rate Type	Range	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
9305	Account Clerk Temp/Hourly	Hourly	TE2-04	\$26.75	\$28.09	\$29.49	\$30.96	\$32.51	\$34.14
9310	Account Technician Temp/Hourly	Hourly	TE2-10	\$32.14	\$33.75	\$35.44	\$37.21	\$39.07	\$41.02
9300	Accountant Temp/Hourly	Hourly	TE2-17	\$38.82	\$40.76	\$42.80	\$44.94	\$47.19	\$49.55
9010	Admin Analyst Temp/Hourly	Hourly	TE2-17	\$38.82	\$40.76	\$42.80	\$44.94	\$47.19	\$49.55
9100	Admin Specialist Temp/Hourly	Hourly	TE2-10	\$32.14	\$33.75	\$35.44	\$37.21	\$39.07	\$41.02
9580	Administrative Assistant Temp/Hourly	Hourly	TE2-05	\$29.22	\$30.68	\$32.21	\$33.82	\$35.51	\$37.29
9105	Administrative Secretary Temp/Hourly	Hourly	TE2-09	\$30.70	\$32.24	\$33.85	\$35.54	\$37.32	\$39.19
9656	Assistant Engineer Temp/Hourly	Hourly	TE2-23	\$43.99	\$46.19	\$48.50	\$50.93	\$53.48	\$56.15
9655	Associate Civil Engineer Temp/Hourly	Hourly	TE2-24	\$50.65	\$53.18	\$55.84	\$58.63	\$61.56	\$64.64
9400	Associate Planner Temp/Hourly	Hourly	TE2-22	\$43.82	\$46.01	\$48.31	\$50.73	\$53.27	\$55.93
9410	Building Inspector Temp/Hrly	Hourly	TE2-23	\$43.99	\$46.19	\$48.50	\$50.93	\$53.48	\$56.15
9112	Clerical Aide Temp/Hourly	Hourly	TE2-01	\$16.20	\$17.01	\$17.86	\$18.75	\$19.69	\$20.67
9430	Code Compliance Officer Temp/Hourly	Hourly	TE2-16	\$37.82	\$39.71	\$41.70	\$43.79	\$45.98	\$48.28
9530	Communication Dispatcher Temp/Hourly	Hourly	TE2-19						
9545	Crime Analyst Temp/Hourly	Hourly	TE2-18	\$39.29	\$41.25	\$43.31	\$45.48	\$47.75	\$50.14
9540	CSO Intern Temp/Hourly	Hourly	TE2-03	\$24.02	\$25.22	\$26.48	\$27.80	\$29.19	\$30.65
9532	CSO Temp/Hrly	Hourly	TE2-12	\$34.43	\$36.15	\$37.96	\$39.86	\$41.85	\$43.94
9190	Deputy Clerk Temp/Hourly	Hourly	TE2-04	\$26.75	\$28.09	\$29.49	\$30.96	\$32.51	\$34.14
9660	Engineering Technician Temp/Hourly	Hourly	TE2-13	\$35.31	\$37.08	\$38.93	\$40.88	\$42.92	\$45.07
9621	Equipment Mechanic Temp	Hourly	AF2-01	\$35.68	\$37.46	\$39.33	\$41.30	\$43.37	\$45.54
9720	Facility Attendant Temp/Hourly	Hourly	TE2-01	\$16.20	\$17.01	\$17.86	\$18.75	\$19.69	\$20.67
9109	Human Resources Specialist Temp/Hourly	Hourly	TE2-09	\$30.70	\$32.24	\$33.85	\$35.54	\$37.32	\$39.19
9041	Intern I Temp/Hourly	Hourly	TE2-02	\$18.80	\$19.74	\$20.73	\$21.77	\$22.86	\$24.00
9040	Intern II Temp/Hourly	Hourly	TE2-03	\$24.02	\$25.22	\$26.48	\$27.80	\$29.19	\$30.65
9200	IT Technician Temp/Hrly	Hourly	TE2-14	\$35.37	\$37.14	\$39.00	\$40.95	\$43.00	\$45.15
9605	Lead Parks & Maint Worker	Hourly	AF2-06	\$37.37	\$39.24	\$41.20	\$43.26	\$45.42	\$47.69
9015	Legal Assistant Temp/Hrly	Hourly	TE2-17	\$38.82	\$40.76	\$42.80	\$44.94	\$47.19	\$49.55
9810	Librarian Temp/Hourly	Hourly	TE2-15	\$37.44	\$39.31	\$41.28	\$43.34	\$45.51	\$47.79
9820	Library Assistant Temp/Hourly	Hourly	TE2-06	\$28.54	\$29.97	\$31.47	\$33.04	\$34.69	\$36.42

**Town of Los Gatos Temporary Classifications
Salary Schedule for Fiscal Year 2022/23
Effective July 10, 2022
Adopted by Town Council June 7, 2022**

Class Code	Classification Title	Rate Type	Range	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
9840	Library Clerk Temp/Hourly	Hourly	TE2-04	\$26.75	\$28.09	\$29.49	\$30.96	\$32.51	\$34.14
9850	Library Page Temp/Hourly	Hourly	TE2-01	\$16.20	\$17.01	\$17.86	\$18.75	\$19.69	\$20.67
9830	Library Teen Services Specialist	Hourly	TE2-03	\$24.02	\$25.22	\$26.48	\$27.80	\$29.19	\$30.65
9600	Maintenance Assistant	Hourly	AF2-02	\$17.96	\$18.86	\$19.80	\$20.79	\$21.83	\$22.92
9900	Network Administrator	Hourly	TE2-21	\$41.89	\$43.98	\$46.18	\$48.49	\$50.91	\$53.46
9180	Office Assistant Temp/Hourly	Hourly	TE2-04	\$26.75	\$28.09	\$29.49	\$30.96	\$32.51	\$34.14
9645	Park Service Officer Aide Temp/Hourly	Hourly	TE2-03	\$24.02	\$25.22	\$26.48	\$27.80	\$29.19	\$30.65
9640	Park Service Officer Temp/Hourly	Hourly	TE2-12	\$34.43	\$36.15	\$37.96	\$39.86	\$41.85	\$43.94
9560	Parking Control Officer Temp/Hourly	Hourly	TE2-04	\$26.75	\$28.09	\$29.49	\$30.96	\$32.51	\$34.14
9620	Parks & Main Worker Temp	Hourly	AF2-04	\$30.06	\$31.56	\$33.14	\$34.80	\$36.54	\$38.37
9630	Parks & Main Worker Trainee Temp	Hourly	AF2-03	\$24.57	\$25.80	\$27.09	\$28.44	\$29.86	\$31.35
9440	Permit Technician	Hourly	TE2-11	\$33.12	\$34.78	\$36.52	\$38.35	\$40.27	\$42.28
9590	Police Officer Reserve (Top Step of Officer)	Hourly	TE2-25						
9520	Police Officer Temp/Hourly	Hourly	TE2-25						
9550	Police Records Specialist Temp/Hourly	Hourly	TE2-08	\$29.94	\$31.44	\$33.01	\$34.66	\$36.39	\$38.21
9000	Project Manager	Hourly	Mgmt						\$115.56
9650	Public Works Inspector Temp/Hourly	Hourly	TE2-20	\$41.57	\$43.65	\$45.83	\$48.12	\$50.53	\$53.06
9670	Senior Electrician Temp/Hourly	Hourly	TE2-23	\$43.99	\$46.19	\$48.50	\$50.93	\$53.48	\$56.15
9831	Senior Library Page	Hourly	TE2-02	\$18.80	\$19.74	\$20.73	\$21.77	\$22.86	\$24.00
9725	Special Event Attendant	Hourly	TE2-07	\$17.96	\$18.86	\$19.80	\$20.79	\$21.83	\$22.92
9610	Ticket Booth Attendant	Hourly	AF2-05	\$16.20	\$17.01	\$17.86	\$18.75	\$19.69	\$20.67

Reflects General Increase of 8%



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 22

DESK ITEM

DATE: June 7, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve Cost of Living Increases for Unrepresented Management, Confidential, and Temporary/Hourly Employees; One-Time Non-PERSable Bonuses for Confidential and Management; and a 5% Market Adjustment for Confidential and Temporary/Hourly Employees

REMARKS:

Attachment contains public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

Attachments Previously Received with the Staff Report:

1. Salary Schedule for Management Effective July 10, 2022
2. Salary Schedule for Confidential Classifications Effective July 10, 2022
3. Salary Schedule for Temporary/Hourly Classifications Effective July 10, 2022

Attachment Received with this Desk Item:

4. Public comments received between 11:00 a.m., Monday, June 6, 2022, and 11:01 a.m. Tuesday, June 7, 2022.

PREPARED BY: Salina Flores
Human Resources Director

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

From: Phil Koen

Sent: Tuesday, June 07, 2022 10:59 AM

To: Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>; Maria Ristow <MRistow@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>

Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Shelley Neis <sneis@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>; jvannada; Rick Van Hoesen; Lee Fagot; Catherine Somers

Subject: Agenda items #19 - #22

Dear Honorable Mayor and Members of the Town Council,

The Los Gatos Community Alliance respectfully requests that Agenda items #19 through #22 be pulled from tonight's consent calendar to allow for public discussion and increased transparency. We acknowledge that the terms of the various labor agreements are the result of a long negotiation process and want to thank all parties for their efforts in finding a solution. We want to also thank the Town Council for their hard work on this matter.

Issue

The reason for pulling these items revolves around the lack of transparency in the Staff report. While we understand labor negotiations are confidential and therefore little was disclosed during the process, it is then extremely important that the Staff report be comprehensive and fully transparent in detailing how the Town arrived at these results. This is particularly important when the only benchmark the public had regarding possible increases in salary and benefit expenditures for FY 23 was what was included in the preliminary budget. Clearly, what is being approved tonight is materially greater than what was in the preliminary budget.

Request for more information

The LGCA requests that Staff disclose the following additional information prior to any vote on agenda items #19 through #22:

1. What will be the total salary and benefit expenditures for FY 23 as previously reported on Schedules C-8, C-9, C-10, C-11, C-12, and C-13 after taking into effect all salary adjustments recommended in Agenda items #19-#22?
2. How is the \$2,318,733 (increases to negotiated salary increases) being funded? Since the proposed FY 23 budget did not have an operating surplus, where are the additional sources of funds coming from to cover this increase? Please be specific.
3. A portion of the \$2,318,733 expenditures are one-time in nature. How much are the "one-time payments" and how much will be recurring expenditures beyond FY 23?
4. Please disclose the initial offer letter from the Town to each of the bargaining units so the public has full transparency to the negotiating process. For sake of clarity, the City of San Jose releases to the public all correspondence between bargaining units once agreements have been reached and voted on by the bargaining units. It appears we are at that point.
5. If the Town does not use \$902,579 of the OPEB 115 Trust Assets to "further balance the budget" what other funds could the Town tap to provide the required source of funding? Was this discussed and approved by the Town Council Trust Fund Committee?

Thank you.

Phil Koen
LGCA



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 23

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider the Draft Site Inventory as Recommended by the Housing Element Advisory Board.

RECOMMENDATION:

Accept the Draft Site Inventory as recommended by the Housing Element Advisory Board (Attachment 1).

BACKGROUND:

The Housing Element of the General Plan must include an inventory of land suitable and available for residential development to meet the Town's Regional Housing Need Allocation (RHNA) by income level. The Department of Housing and Community Development (HCD), with input from the Association of Bay Area Governments (ABAG), and Metropolitan Transportation Commission (MTC), determined the total RHNA for the 2023-2031 period. On December 16, 2021, the ABAG Executive Board adopted the Final RHNA Plan: San Francisco Bay Area, 2023-2031. The allocation for the incorporated limits of Los Gatos is 1,993 units, which is distributed by income category, as shown in the table on the following page:

Income Group	Number of Units
Very Low (0-50% AMI)	537
Low (50-80% AMI)	310
Moderate (80-120% AMI)	320
Above Moderate (120%+ AMI)	826
TOTAL	1,993

*AMI is Area Median Income

PREPARED BY: Erin Walters and Jocelyn Shoopman
Associate Planner and Associate Planner

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

BACKGROUND (continued):

To ensure that sufficient capacity exists in the Housing Element to accommodate the RHNA throughout the eight-year planning period, HCD recommends that jurisdictions create a buffer in the Housing Element inventory of at least 15 percent more capacity than required, especially for capacity to accommodate the lower income RHNA groups. The amount of buffer can be relative to the degree of certainty of development for specific sites, among other potential factors. The chart below depicts the HCD recommended target numbers.

RHNA Allocation	1,993 units
Buffer (15 percent)	299 units
RHNA + Buffer Total	2,292 units

DISCUSSION:

At the April 21, 2022, and May 5, 2022, Housing Element Advisory Board (HEAB) meetings, the HEAB received public comments and began the review of identifying sites for potential inclusion in the Draft Site Inventory, including the following areas of the Town:

- A. Downtown
- B. North Santa Cruz Avenue
- C. Los Gatos Lodge
- D. Los Gatos Boulevard
- E. North Forty
- F. Lark Avenue
- G. Winchester Boulevard
- H. Pollard Road
- I. Union Avenue
- J. Harwood Road

The staff report and attachments for the April 21, 2022, HEAB meeting can be viewed in the following link:

<https://www.losgatosca.gov/AgendaCenter/ViewFile/Agenda/04212022-2071>

The staff report and attachment for the May 5, 2022, HEAB meeting can be viewed in the following link:

<https://www.losgatosca.gov/AgendaCenter/ViewFile/Agenda/05052022-2077>

Given the HCD guidance, sites were identified in three tiers. Tier 1 represented the most likely opportunities. Tier 2 represented possible back up sites. Tier 3 had additional constraints and were still worth considering as potential Housing Element sites.

DISCUSSION (continued):

Sites selected for the Tier 1 site list were based on the following criteria:

1. Gross lot area in excess of half an acre;
2. Zoning;
3. Draft General Plan land use designation;
4. Property Owner Interest Form;
5. Previous interest in residential development by the property owner; and
6. Sites included in the current Housing Element.

On May 19, 2022, the HEAB recommended that the sites included in the Tier 1 site list (Attachment 4), with the following three modifications be included in the Draft Site Inventory:

1. Reduce the number of housing units in the North Forty;
2. Add the site located at 206 Knowles Drive; and
3. Add the California Department of Transportation Right of Way land off of Oka Road.

An update of the Tier 1 site list with these modifications is included as Attachment 1 for the Town Council's consideration.

Since the May 19, 2022, HEAB meeting, the Town received one additional Property Owner Interest Form for the property located at 15795 Los Gatos Boulevard. The site had previously been included in the Tier 2 site list; however, based on the property owner's interest in a residential development, the Tier 1 site list and recommended Draft Site Inventory has been modified to include this site (Attachment 1). Staff expects the Tier 1 site list to be updated periodically throughout the Housing Element process based on additional Property Owner Interest Forms which may be submitted.

Staff also received a letter from the property owner for 15827 Los Gatos Boulevard requesting to be removed from the Draft Site Inventory as they have no interest in a future residential development. The Tier 2 site list has been modified to remove the site (Attachment 2).

The table below summarizes the total number of potential housing units (2,046 units) based on the Draft Site Inventory (Attachment 1). The table also includes the Town's average production of Accessory Dwelling Units (ADUs) over the eight-year planning period for an estimated total of 200 housing units as well as approximately 202 housing units associated with approved or pending Planning entitlements. Combined, this results in 2,448 units, exceeding the RHNA (1,993 units) and the recommended 15 percent buffer (299 units) by 156 units.

DISCUSSION (continued):

Draft Tier 1	
	Number of Units
Tier 1 Sites	2,046 units
ADUs	200 units
Pipeline Projects	202 units
Total	2,448 units

Tier 2 and Tier 3 Sites

The remaining sites identified through the initial HEAB discussions on April 21, 2022, and May 5, 2022, were further distributed into Tier 2 and Tier 3 categories. Tier 2 sites have been identified as possible sites to consider adding to Tier 1, if required, and generally fall into one or more of the following categories (Attachment 2):

1. Gross lot area in excess of half an acre (majority);
2. Shopping Centers with long-term tenants;
3. Churches;
4. Town Parking Lots;
5. Banks; and
6. Sites less likely to develop housing.

Additional sites that can be potentially considered by Council for inclusion in the Draft Site Inventory site list are highlighted in pink in Attachment 2.

Tier 3 sites have been identified as the least likely for new housing development based on the following criteria (Attachment 3):

1. Gross lot area less than half an acre;
2. Gross lot area greater than 10-acres;
3. Not zoned for residential use; and
4. Sites with active Planning applications for commercial development.

Income Distribution

The distribution of the income categories, as recommended by the HEAB was based on the following methodology:

1. For sites with a Draft 2040 General Plan maximum density of 40 dwelling units per acre, the income category was distributed at 50 percent for very-low income, 25 percent for low income, 25 percent for moderate income, and zero percent for above moderate income.

DISCUSSION (continued):

2. For sites with a Draft 2040 General Plan maximum density of less than 40 dwelling units, but result in more than 50 dwelling units, the income category was distributed at 25 percent for very-low income, 15 percent for low income, 15 percent for moderate income, and 45 percent for above moderate income.
3. Any other sites that do not meet the criteria described above have been placed in above moderate income.

While the Tier 1 initial income distribution assumptions do not result in sufficient sites for the above moderate-income category, staff expects through upcoming review the assumptions will be adjusted.

Council Discussion

The following questions are provided to guide the Council in their discussion of whether the sites identified in the Tier 1 site list are appropriate to include in the Draft Site Inventory:

1. What sites, if any, should be removed from Tier 1?
2. Are there additional sites that should be added to Tier 1?
3. Should the income category distribution for Tier 1 be modified?

NEXT STEPS:

On June 16, 2022, the HEAB will begin review and discussion of policy and program development for the Housing Element.

CONCLUSION:

Staff recommends that the Council accept the sites included in Tier 1 as recommended by the HEAB for the Draft Site Inventory (Attachment 1).

COORDINATION:

The Community Development Department coordinated with the Offices of the Town Attorney and Town Manager in the preparation of this report.

ENVIRONMENTAL ASSESSMENT:

Accepting the Draft Site Inventory is not a project as defined by CEQA. Environmental analysis relating to the entire Draft Housing Element, which will include the Draft Site Inventory, will be completed in accordance with CEQA requirements.

PAGE 6 OF 6

SUBJECT: Housing Element Draft Site Inventory

DATE: June 2, 2022

Attachments:

1. HEAB Recommended Draft Site Inventory
2. Revised Draft Tier 2 Sites
3. Draft Tier 3 Sites
4. May 19, 2022, Housing Element Advisory Board Staff Report (with Attachments 1-5)
5. May 19, 2022, Housing Element Advisory Board Desk Item Report (with Attachment 6)

Tier 1 - Los Gatos Housing Element Update - Draft Site Selection
6th Cycle (2023-2031)

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Capacity	Low-Income Capacity	Moderate- Income Capacity	Above Moderate Income Capacity	Total
	A - Downtown Area											
A-2	50 Park Ave.	52901040	0.18	24	Medium Density Residential	R-1D	Multi-family Residential				21	21
	61 Montebello Way	52901041	0.69	24	Medium Density Residential	R-1D	Multi-family Residential					
A-3	101 S. Santa Cruz Ave.	52901022	0.80	30	Central Business District	C-2	Post Office				24	24
A-7	165 Los Gatos Saratoga Rd.	52904083	0.37	30	Central Business District	C-2	Vacant Building				11	11
	B - North Santa Cruz Avenue Area											
B-1	404 N. Santa Cruz Ave.	52907099	0.84	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center	17	10	10	30	67
		52907003	0.25	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center					
	430 N. Santa Cruz Ave.	52907004	0.22	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center					
	432 N. Santa Cruz Ave.	52907094	0.93	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center					
	C - Los Gatos Lodge Area											
C-1	50 Los Gatos Saratoga Rd.	52924032	7.04	40	Mixed Use Commercial	CH:PD	Los Gatos Lodge	176	88	88		352
		52924001	1.49	40	Mixed Use Commercial	CH:PD	Los Gatos Lodge					
		52924003	0.28	40	Mixed Use Commercial	CH:PD	Los Gatos Lodge					
	D - Los Gatos Boulevard Area											
D-1	15300 Los Gatos Blvd.	42417036	1.60	40	Mixed Use Commercial	C-1	Ace Hardware	32	16	16		64
D-4	15349 Los Gatos Blvd.	42419049	0.34	40	Mixed Use Commercial	CH	Retail	57	29	29		115
	15367 Los Gatos Blvd.	42419048	1.20	40	Mixed Use Commercial	CH	Genuine Automotive					
	15405 Los Gatos Blvd.	42419069	1.34	40	Mixed Use Commercial	CH	Multi-Tenant Building					
D-5	15425 Los Gatos Blvd.	42419067	1.09	40	Mixed Use Commercial	CH	Multi-Tenant Building	22	11	11		44

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Capacity	Low-Income Capacity	Moderate- Income Capacity	Above Moderate Income Capacity	Total
D-9	Los Gatos Blvd.	52302005	0.53	40	Mixed Use Commercial	C-1	Nob Hill Shopping Center	68	33	33		134
	16535 Camellia Ter.	52302006	2.81	40	Mixed Use Commercial	C-1	Nob Hill Shopping Center					
D-16	15795 Los Gatos Blvd.	52915059	0.64	40	Mixed Use Commercial	CH	Affordable Treasures	14	6	6		26
D-26	16203 Los Gatos Blvd.	52916069	0.79	40	Mixed Use Commercial	CH	Multi-Tenant Building	16	8	8		32
D-29	16492 Los Gatos Blvd.	53207086	0.23	20	Neighborhood Commercial	C-1	LG Wines & Liquors				12	12
		53207085	0.38	20	Neighborhood Commercial	C-1	Vacant					
	E - North Forty Area											
E-1 N40 Phase II	14859 Los Gatos Blvd.	42407094	2.90	13	North Forty Specific Plan Area	North Forty Specific Plan Area		50	30	30	90	200
	16392 Los Gatos Blvd.	42407095	0.78	13	North Forty Specific Plan Area	North Forty Specific Plan Area						
	16260 Burton Rd.	42407053	0.44	13	North Forty Specific Plan Area	North Forty Specific Plan Area						
	16250 Burton Rd.	42407009	0.44	13	North Forty Specific Plan Area	North Forty Specific Plan Area						
	14917 Los Gatos Blvd.	42407081	3.74	13	North Forty Specific Plan Area	North Forty Specific Plan Area						
	14925 Los Gatos Blvd.	42407115	6.07	13	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407116	1.02	13	North Forty Specific Plan Area	North Forty Specific Plan Area						
E-2		42406115	1.17	20	North Forty Specific Plan Area	North Forty Specific Plan Area					26	26
		42406116	0.11	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
E-3		42407010	0.26	20	North Forty Specific Plan Area	North Forty Specific Plan Area					5	5
E-4		42407052	0.43	20	North Forty Specific Plan Area	North Forty Specific Plan Area					9	9
E-5		42407054	0.26	20	North Forty Specific Plan Area	North Forty Specific Plan Area					16	16
		42407063	0.56	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
E-6		42407064	0.93	20	North Forty Specific Plan Area	North Forty Specific Plan Area					19	19
E-7		42407065	0.37	20	North Forty Specific Plan Area	North Forty Specific Plan Area					7	7
	F - Lark Avenue Area											
F-1		42408057	2.97	12	Low Density Residential	R-1:8	Vacant	62	37	37	111	247
		42408029	0.31	12	Low Density Residential	R-1:8	Vacant					
		42408059	1.01	12	Low Density Residential	R-1:8	Vacant					
		42408060	1.29	12	Low Density Residential	R-1:8	Vacant					
		42408058	1.41	12	Low Density Residential	R-1:8	Single-Family Home					
		42408017	2.48	24	Medium Density Residential	R-M:5-12	Single-Family Home					
		42408021	4.32	24	Medium Density Residential	R-M:5-12	Vacant					
F-2		42408074	6.41	12	Low Density Residential	R-1:8	Vacant	19	12	12	34	77
F-3	Cal Trans Parcel	N/A	4.90	24	Medium Density Residential	Re-zone to R-M:5-12	Cal Trans ROW	29	18	18	53	118

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Capacity	Low-Income Capacity	Moderate- Income Capacity	Above Moderate Income Capacity	Total
	G- Winchester Boulevard Area											
G-1	110 Knowles Dr.	42432077	7.34	40	High Density Residential	CM:AHOZ	Office	59	59	88	88	294
G-3 (New)	206 Knowles Dr.	42432076	2.41	40	High Density Residential	CM	Office	48	24	24		96
	I - Union Avenue Area											
I-1	440 Los Gatos Alamden Rd.	52749048	0.52	20	Neighborhood Commercial	C-1	Chevron				16	16
	445 Leigh Ave.	52749049	0.29	20	Neighborhood Commercial	C-1	Office					
	J - Harwood Road Area											
J-1	14000 Blossom Hill Rd.	52732028	0.69	20	Neighborhood Commercial	C-1	Valero				14	14
	Subtotal							669	381	410	586	2,046
	ADUs							20	60	60	60	200
	Pipeline projects										202	202
	TOTAL							689	441	470	848	2,448
	RHNA Requirements							537	310	320	826	1,993
	Buffer (15 percent)							81	46	48	124	299
	RHNA + Buffer Total							618	356	368	950	2,292
	Difference							71	85	102	-102	156

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Tier 2 - Los Gatos Housing Element Update - Draft Site Selection
6th Cycle (2023-2031)

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	A - Downtown Area											
A-1	50 University Ave.	52902044	4.50	30	Central Business District	C-2:LHP:PD	Shopping Center	34	20	20	61	135
A-4		51044039	0.65	30	Central Business District	C-2	Town Parking Lot				20	20
A-5	16 Lyndon Ave.	51044044	0.23	30	Central Business District	C-2	Gym				7	7
A-6	W Main St.	51044069	0.37	30	Central Business District	C-2	Town Parking Lot				11	11
A-15	46 E. Main St.	52929005	0.78	30	Central Business District	C-2	Hotel				23	23
A-16	11 College Ave.	52929052	0.93	30	Central Business District	C-2	Multi-Tenant Building				28	28
A-17	15 Montebello Way	52901043	1.56	30	Central Business District	C-2	Frontier				47	47
A-18		52903029	0.94	30	Central Business District	C-2:LHP	Town Parking Lot				28	28
A-19		52903067	1.55	30	Central Business District	C-2	Town Parking Lot				47	47
A-21		52904101	0.77	30	Central Business District	C-2	Town Parking Lot				23	23
A-22		52904082	1.10	30	Central Business District	C-2	Town Parking Lot				33	33
A-23	170 Los Gatos Saratoga Rd.	52907060	1.45	30	Central Business District	C-2	Town Parking Lot				44	44
A-24	150 N. Santa Cruz Ave.	52903045	0.76	30	Central Business District	C-2	Wells Fargo				23	23
A-27	333 N. Santa Cruz Ave.	51014072	0.81	30	Central Business District	C-2	Bank of America				24	24
A-29	20 Univeristy Ave.	52902010	0.41	30	Central Business District	C-2:LHP	St. Luke's Church				23	23
		52902009	0.34	30	Central Business District	C-2:LHP	St. Luke's Church					
A-30	111 Church St.	52928029	2.37	24	Medium Density Residential	R-M:5-12	Methodist Church	14	9	9	25	57
A-31	219 Bean Ave.	51044083	0.97	24	Medium Density Residential	R-1D:PD	St. Mary's Church				23	23
A-32	238 E. Main St.	52934095	0.72	20	Neighborhood Commercial	C-1	First Church				14	14
A-33	57 Broadway	51045081	0.29	24	Medium Density Residential	R-1D:LHP	Seventh Day Adventist				7	7
A-34	540 N. Santa Cruz Ave.	52907095	0.87	20	Neighborhood Commercial	C-1	Sarah Shopping Center				17	17
A-37	120 S. Santa Cruz Ave.	51045064	0.45	30	Central Business District	C-2:PD	Toll House Hotel	14	8	8	24	54
	140 S. Santa Cruz Ave.	51045065	1.36	30	Central Business District	C-2:PD	Toll House Hotel					
	B - North Santa Cruz Avenue Area											
B2	421 N. Santa Cruz Ave.	41016011	1.29	30	Community Commercial	C-1	Walgreens Shopping Center	16	10	10	29	65
	421 N. Santa Cruz Ave.	41016014	0.08	30	Community Commercial	C-1	Walgreens Shopping Center					
	433 N. Santa Cruz Ave.	41016010	0.78	30	Community Commercial	C-1	Walgreens Shopping Center					
B3	600 N. Santa Cruz Ave.	52910122	1.55	30	Community Commercial	C-1	DMV				47	47
B4	101 Blossom Hill Rd.	52911036	1.07	40	Office Professoinal	O	Office Building	21	11	11		43

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	D - Los Gatos Boulevard Area											
D-2	15466 Los Gatos Blvd.	42415044	3.77	40	Mixed Use Commercial	CH	Los Gatos Village Square	75	38	38		151
D-3	15480 Los Gatos Blvd.	42414034	0.56	40	Mixed Use Commercial	CH	Car Dealership	90	44	44		178
	15500 Los Gatos Blvd.	42414035	3.88	40	Mixed Use Commercial	CH	Car Dealership					
D-6	15445 Los Gatos Blvd.	42419068	1.53	40	Mixed Use Commercial	CH	Trilogy Gym	31	15	15		61
D-7	15475 Los Gatos Blvd.	42419065	1.34	40	Mixed Use Commercial	CH	McDonald's	28	13	13		54
D-8	15495 Los Gatos Blvd.	42422030	3.85	40	Mixed Use Commercial	CH	Multi-Tenant Building	76	39	39		154
D-11	15665 Los Gatos Blvd.	42421056	0.90	40	Mixed Use Commercial	C-1	Jiffy Mart & Liquor	18	9	9		36
D-12	15721 Los Gatos Blvd.	42421058	0.93	40	Mixed Use Commercial	CH	Sunbelt Rentals	19	9	9		37
D-15	15771 Los Gatos Blvd.	42421049	0.51	40	Mixed Use Commercial	CH	Jack in the box	10	5	5		20
D-18	15920 Los Gatos Blvd.	52301011	1.05	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center	101	50	50		201
	15986 Los Gatos Blvd.	52301012	0.82	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center					
	16000 Los Gatos Blvd.	52301013	2.71	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center					
	16002 Los Gatos Blvd.	52301014	0.44	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center					
D-19	620 Blossom Hill Rd.	52916041	2.64	40	Mixed Use Commercial	CH	Luxury Car Dealers	54	26	26		106
D-20	16151 Los Gatos Blvd.	52916040	3.55	40	Mixed Use Commercial	CH	Los Gatos Acura Dealership	70	36	36		142
D-25	16185 Los Gatos Blvd.	52916074	0.88	40	Mixed Use Commercial	CH	Multi-Tenant Building	17	9	9		35
D-27	700 Blossom Hill Rd.	52306046	0.47	40	Mixed Use Commercial	C-1	Kings Court Shopping Center	156	78	78		312
	750 Blossom Hill Rd.	52306045	6.77	40	Mixed Use Commercial	C-1	Kings Court Shopping Center					
	16100 Los Gatos Blvd.	52306035	0.56	40	Mixed Use Commercial	C-1	Kings Court Shopping Center					
D-31	16330 Los Gatos Blvd.	53206075	7.48	20	Low Density Residential	R-1:8	Calvary Church	37	22	22	69	150
D-32	15166 Los Gatos Blvd.	42417042	2.36	40	Mixed Use Commercial	CH	Office Depot	46	24	24		94
D-34	15595 Los Gatos Blvd.	42422035	0.10	40	Mixed Use Commercial	C-1	Multi-Tenant Building	17	9	9		35
	15585 Los Gatos Blvd.	42422034	0.12	40	Mixed Use Commercial	C-1	Multi-Tenant Building					
		4242299	0.65	40	Mixed Use Commercial	C-1	Multi-Tenant Building					
D-35	15575 Los Gatos Blvd.	42422033	0.92	40	Mixed Use Commercial	CH	Multi-Tenant Building	19	9	9		37
D-36	15553 Los Gatos Blvd.	42422027	0.97	40	Mixed Use Commercial	CH	Wheel Works	19	10	10		39
D-37	15879 Los Gatos Blvd.	52915084	0.71	40	Mixed Use Commercial	CH	Citi Bank	14	7	7		28
	G- Winchester Boulevard Area											
G-2	14101 Winchester Blvd.	40630015	4.44	30	Community Commercial	C-1	Vasona Station Shopping Center	33	20	20	60	133
G-3	206 Knowles Dr.	42432076	2.41	40	High Density Residential	CM	Office					
	H - Pollard Road Area											
H-1	1514 Pollard Rd.	40733017	0.38	20	Neighborhood Commercial	C-1	Safeway Shopping Center				8	8
H-2	1500 Pollard Rd.	40733016	2.26	20	Neighborhood Commercial	C-1	Safeway Shopping Center				45	45

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
H-3	1440 Pollard Rd.	40733024	3.12	20	Neighborhood Commercial	C-1	Safeway Shopping Center	16	9	9	28	62
	I - Union Avenue Area											
I-2	15521 Union Ave.	52341035	0.50	30	Community Commercial	C-1	Downing Shopping Center	47	28	28	86	189
	15525 Union Ave.	52341036	5.80	30	Community Commercial	C-1	Downing Shopping Center					
I-3	15066 Los Gatos Almaden Rd.	52341012	0.61	20	Neighborhood Commercial	O	Office Building				19	19
		52341011	0.36	20	Neighborhood Commercial	O	Office Building					
	J - Harwood Road Area											
J-2	14010 Blossom Hill Rd.	52732031	4.15	20	Neighborhood Commercial	C-1	Blossom Hill Square Shopping Center	21	12	12	38	83
J-3	13980 Blossom Hill Rd.	56764010	0.53	20	Neighborhood Commercial	C-1	Physical Therapy Building				11	11
J-4	14184 Blossom Hill Rd.	52732030	1.69	20	Neighborhood Commercial	C-1	U.S. Bank				34	34
	K - E. Main Street Area											
K-2	10 Jackson St.	52934018	0.78	30	Community Commercial	C-1	Multi-Tenant Building				23	23
	L - Alberto Way Area											
L-1	475 Alberto Way	52921999	5.17	40	Office Professional	O:PD	Office Building	103	52	52		207
	M - Churches											
M-1	16575 Shannon Rd.	52305002	5.28	12	Low Density Residential	R-1:8	Presbyterian Church	16	10	10	27	63
M-2	16548 Ferris	53207127	2.24	12	Low Density Residential	R-1:8	Faith Lutheran Church				27	27
M-4	15985 Rose Ave.	41020045	3.90	12	Low Density Residential	R-1:8	The Church of Jesus Christ Latter Day Saints				47	47
M-5	15885 Los Gatos Almaden Rd.	42113056	2.30	40	Office Professional	R-1:8	Holy Cross Lutheran Church	46	23	23		92
M-6	15980 Blossom Hill Rd.	52309003	0.51	12	Low Density Residential	R-1:8	Unitarian Universalist Fellowship LG				6	6
	Subtotal							1278	664	664	1156	3762
	ADUs							20	60	60	60	200
	Pipeline projects										202	202
	TOTAL							1298	724	724	1418	4164
	RHNA Requirements							537	310	320	826	1993
	Buffer (15 percent)							81	46	48	124	299
	RHNA + Buffer Total							618	356	368	950	2292
	Difference							680	368	356	468	1872

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Tier 3 - Los Gatos Housing Element Update - Draft Site Selection
6th Cycle (2023-2031)

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	A - Downtown Area											
A-8	101 E. Main St.	52928007	0.24	30	Central Business District	C-2	Private Parking Lot				7	7
A-9	111 E. Main St.	52928006	0.17	30	Central Business District	C-2	Summit Bicycles				5	5
A-10	123 E. Main St.	52928005	0.29	30	Central Business District	C-2	LGS Recreation				9	9
A-11	E. Main St.	52928004	0.11	30	Central Business District	C-2	Private Parking Lot				3	3
A-12	131 E. Main St.	52928003	0.25	30	Central Business District	C-2	Masonic Hall Church				8	8
A-13	143 E. Main St.	52928002	0.29	30	Central Business District	C-2	Multi-Tenant Building				9	9
	151 E. Main St.	52928001	0.13	30	Central Business District	C-2	Multi-Tenant Building				4	4
A-14	66 E. Main St.	52929049	0.25	30	Central Business District	C-2	Gym				7	7
A-20		52903048	0.45	30	Central Business District	C-2	Town Parking Lot				14	14
A-25	127 N. Santa Cruz Ave.	51017090	0.38	30	Central Business District	C-2	US Bank				11	11
A-26	308 N. Santa Cruz Ave.	52904035	0.35	30	Central Business District	C-2	Bank of the West				10	10
A-28	275 Saratoga-Los Gatos Rd.	51014076	0.33	30	Central Business District	C-2	First Republic Bank				10	10
A-35	100 S. Santa Cruz Ave.	51045061	0.47	30	Central Business District	C-2	Multi-Tenant Building				14	14
A-36	110 S. Santa Cruz Ave.	51045089	0.33	30	Central Business District	C-2	Rural Supply				10	10
A-38	142 S. Santa Cruz Ave.	51045090	0.18	30	Central Business District	C-2	Office Building				5	5
	D - Los Gatos Boulevard Area											
D-13	15737 Los Gatos Blvd.	42421050	0.37	40	Mixed Use Commercial	CH	Classic Burgers	7	4	4		15
D-14	15751 Los Gatos Blvd.	42421048	0.39	40	Mixed Use Commercial	CH	Goodyear Auto Service	8	4	4		16
D-21	16165 Los Gatos Blvd.	52916050	0.25	40	Mixed Use Commercial	CH	Multi-Tenant Building	4	3	3		10
D-22		52916075	0.13	40	Mixed Use Commercial	CH	Private Parking Lot	3	1	1		5
D-23	16121 Los Gatos Blvd.	52916049	0.16	40	Mixed Use Commercial	CH	Single-Family Home	2	2	2		6
D-24	16905 Roberts Rd.	52916009	0.30	40	Mixed Use Commercial	CH	Multi-Tenant Building	9	4	4		17
	16905 Roberts Rd.	52916044	0.12	40	Mixed Use Commercial	CH	Multi-Tenant Building					
D-28	16250 Los Gatos Blvd.	53206057	0.28	40	Mixed Use Commercial	C-1	Orange Theory	5	3	3		11
D-30	15380 Los Gatos Blvd.	42417001	0.34	40	Mixed Use Commercial	C-1	Mobil Gas Station	8	3	3		14
D-33	15643 Los Gatos Blvd.	42422031	0.34	40	Mixed Use Commercial	CH	Speedee Oil Change				14	14
	F - Lark Avenue Area											
F-3	987 University Ave.	42431043	1.83	0	Light Industrial	CM	Multi-Tenant Building					
F-4	985 University Ave.	42431067	2.63	0	Light Industrial	CM	Multi-Tenant Building					
F-5	983 University Ave.	42430117	5.99	0	Light Industrial	CM	Multi-Tenant Building					

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
F-6	973 University Ave.	42430118	1.33	0	Light Industrial	CM	Silicon Valley Medical Development					
F-7	950 University Ave.	42431065	1.31	0	Light Industrial	CM:PD	Extra Space Storage					
F-8	980 University Ave.	42431027	4.20	0	Light Industrial	CM	Cryptic					
F-9	16780 Lark Ave.	42431035	2.20	0	Light Industrial	CM	Multi-Tenant Building					
F-10	16735 Lark Ave.	42408067	1.86	24	Medium Density Residential	R-1:8	Church				45	45
	K - E. Main Street Area											
K-1	6 Los Gatos Blvd.	5298033	0.29	30	Community Commercial	C-1	Dental Building				9	9
K-3	280 E. Main St.	52934063	0.22	30	Community Commercial	C-1	7-Eleven				7	7
	M - Churches											
M-3	16845 Hicks Rd.	56723043	13.07	1	Hillside Residential	HR-1	Venture Christian Church				13	13
								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	Subtotal							46	24	24	213	307
	ADUs							20	60	60	60	200
	Pipeline projects										202	202
	TOTAL							66	84	84	475	709
	RHNA Requirements							537	310	320	826	1,993
	Buffer (15 percent)							81	46	48	124	299
	RHNA + Buffer Total							618	356	368	950	2,292
	Difference							-552	-272	-284	-475	-1,583



MEETING DATE: 05/19/2022

ITEM NO: 1

TOWN OF LOS GATOS

HOUSING ELEMENT ADVISORY BOARD REPORT

DATE: May 13, 2022

TO: Housing Element Advisory Board

FROM: Joel Paulson, Community Development Director

SUBJECT: Review and Discussion of the Housing Element Site Inventory

BACKGROUND:

The Housing Element of the General Plan must include an inventory of land suitable and available for residential development to meet the Town's Regional Housing Need Allocation (RHNA) by income level. The purpose of the Housing Element's site inventory is to identify and analyze specific land (sites) that is available and suitable for residential development in order to determine the jurisdiction's capacity to accommodate residential development and reconcile that capacity with the Town's RHNA.

The Department of Housing and Community Development (HCD), with input from the Association of Bay Area Governments (ABAG), and Metropolitan Transportation Commission (MTC), determined the total RHNA for the 2023-2031 period. On December 16, 2021, the ABAG Executive Board adopted the Final RHNA Plan: San Francisco Bay Area, 2023-2031. Los Gatos's allocation is 1,993 units, which is broken down by income category, as shown in the table below:

Income Group	Number of Units
Very Low (0-50% AMI)	537
Low (50-80% AMI)	310
Moderate (80-120% AMI)	320
Above Moderate (120%+ AMI)	826
TOTAL	1,993

*AMI is Area Median Income

To ensure that sufficient capacity exists in the Housing Element to accommodate the RHNA throughout the eight-year planning period, HCD recommends that jurisdictions create a buffer in the Housing Element inventory of at least 15 percent more capacity than required, especially for

PREPARED BY: ERIN WALTERS AND JOCELYN SHOOPMAN
Associate Planner and Associate Planner

BACKGROUND (continued):

capacity to accommodate the lower income RHNA groups. The amount of buffer can be relative to the degree of certainty of development for specific sites, among other potential factors.

At the April 21, 2022, and May 5, 2022, Housing Element Advisory Board (HEAB) meetings, the HEAB received public comments and began the review of identifying sites for potential inclusion in the Initial Draft Site Inventory including the following districts:

- A. Downtown District
- B. North Santa Cruz Avenue District
- C. Los Gatos Lodge District
- D. Los Gatos Boulevard District
- E. North Forty District
- F. Lark Avenue District
- G. Winchester Boulevard District
- H. Pollard Road District
- I. Union Avenue District
- J. Harwood Road District

DISCUSSION:

In reviewing the HEAB's recommended sites and feedback, staff utilized the Housing Element Site Inventory Guidebook, created by HCD, a document designed to assist jurisdictions with the Site Inventory Analysis required by Housing Element law (Attachment 1). This initial work involves identifying sites that may have the potential for new residential development within the eight-year timeframe of the Housing Element planning period. Types of sites include:

- 1. Vacant and non-vacant sites zoned for residential use;
- 2. Vacant and non-vacant sites zoned for nonresidential use that allow residential development (mixed-use);
- 3. Nonresidential sites in the 2040 Draft General Plan Community Place Districts;
- 4. Projects that have residential planning entitlements and have not received building permits; and
- 5. Sites on which the property owner has expressed or previously expressed interest in residential or mixed-use redevelopment.

Staff divided the HEAB's Initial Draft Site Inventory into three tiers based on the HCD checklist, property size, Zoning, General Plan land use designation, recently developed, environmental constraints, public feedback, and Property Owner Interest forms that have been submitted to the Town.

DISCUSSION (continued):

Attachments 2 through 4 provide a comprehensive list of the sites included in each tier with the following information:

1. Address;
2. Assessor's Parcel Number;
3. Parcel size;
4. Proposed Draft 2040 General Plan density;
5. Number of potential housing units based on the proposed Draft General Plan density; and
6. Draft income category distribution of units for each site.

Tier 1 Sites

Based on the HEAB's recommendations, staff selected sites for Tier 1 based on the following criteria (Attachment 2):

- Gross lot area in excess of half an acre;
- Zoning;
- Draft General Plan land use designation;
- Property Owner Interest Form;
- Previous interest in residential development by the property owner; and
- Sites included in the current Housing Element.

The table below summarizes the total number of potential housing units utilizing the sites identified in Tier 1 (Attachment 2). The table also includes the Town's average production of Accessory Dwelling Units (ADU) over the eight-year planning period for an estimated total of 200 housing units. Lastly, the table includes approximately 202 housing units associated with approved or pending Planning entitlements.

Draft Tier 1	
	Number of Units
Tier 1 Sites	1,914 units
ADUs	200 units
Pipelines Projects	202 units
Total	2,316 units
RHNA Allocation	1,993 units
Buffer (15 percent)	299 units
RHNA + Buffer Total	2,292 units

The total number of housing units yielded from the Draft Tier 1 sites (1,914), the projected number of ADU's (200), and pipeline projects (202) combined meet the RHNA for the Town

DISCUSSION (continued):

for the sixth cycle Housing Element, including the 15 percent buffer, as recommended by HCD. The number of housing units included in Tier 1, ADU's, and pipeline projects exceeds the RHNA plus buffer by 23 units.

Tier 2 and Tier 3 Sites

Staff further distributed the sites recommended by the HEAB into two additional categories, Tier 2 and Tier 3.

Tier 2 sites have been identified as possible sites to consider adding to Tier 1, if necessary, and generally fall into one or more of the following categories (Attachment 3):

- Gross lot area in excess of half an acre (majority);
- Shopping Centers with long term tenants;
- Churches;
- Town Parking Lots;
- Banks; and
- Sites less likely to develop housing.

Staff has highlighted Tier 2 sites in Attachment 3 that can be potentially considered by the HEAB for inclusion in Tier 1.

Tier 3 sites have been identified as the least likely for new housing development based on the following criteria (Attachment 4):

- Gross lot area less than half an acre;
- Gross lot area greater than 10-acres;
- Not zoned for residential use; and
- Sites with active Planning applications for commercial development.

Income Distribution

Staff has preliminarily distributed the income categories for the draft Tier 1 sites based on the following methodology:

- For sites with a Draft 2040 General Plan maximum density of 40 dwelling units per acre, the income category was distributed at 50 percent for very-low income, 25 percent for low income, 25 percent for moderate income, and zero percent for above moderate income.
- For sites with a Draft 2040 General Plan maximum density of less than 40 dwelling units, but result in more than 50 dwelling units, the income category was distributed at 25 percent for

DISCUSSION (continued):

very-low income, 15 percent for low income, 15 percent for moderate income, and 45 percent for above moderate income.

- Any other sites that do not meet the criteria described above have been placed in above moderate income.

While the Tier 1 initial income distribution assumptions do not result in sufficient sites for the above moderate income category staff expects through upcoming review the assumptions will be adjusted.

The following questions are provided to guide the HEAB in their continued discussion of whether the sites identified in the Tier 1 site list are appropriate to recommend as the Draft Site Inventory to Town Council;

1. What sites, if any, should be removed from Tier 1?
2. Are there additional sites that should be added to Tier 1?
3. Should the income category distribution for Tier 1 be modified?

NEXT STEPS:

Following the HEAB's selection of sites to be included in the Draft Site Inventory, on Tuesday, June 7, 2022, the Town Council is tentatively scheduled to meet to discuss and consider the Draft Site Inventory and determine which sites should be included.

At the June 16, 2022, meeting, the HEAB will begin review and discussion of policy and program development.

PUBLIC COMMENTS:

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

ATTACHMENTS:

Attachments Received with this Staff Report:

1. Housing Element Site Inventory Guidebook, Department of Housing and Community Development
2. Draft Tier 1 Sites
3. Draft Tier 2 Sites
4. Draft Tier 3 Sites
5. Draft Tier 1 Map

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**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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June 10, 2020

MEMORANDUM FOR: Planning Directors and Interested Parties

FROM: Megan Kirkeby, Acting Deputy Director
Division of Housing Policy Development

**SUBJECT: Housing Element Site Inventory Guidebook
Government Code Section 65583.2**

The housing element of the general plan must include an inventory of land suitable and available for residential development to meet the locality's regional housing need by income level. The purpose of this Guidebook is to assist jurisdictions and interested parties with the development of the site inventory analysis for the 6th Housing Element Planning Cycle and identify changes to the law as a result of Chapter 375, Statutes of 2017 (AB 1397), Chapter 958, Statutes of 2018 (AB 686), Chapter 664, Statutes of 2019 (AB 1486), and Chapter 667, Statutes of 2019 (SB 6). The Guidebook should be used in conjunction with the site inventory form developed by the California Department of Housing and Community Development (HCD). These laws introduced changes to the following components of the site inventory:

- Design and development of the site inventory (SB 6, 2019)
- Requirements in the site inventory table (AB 1397, 2017 AB 1486, 2019)
- Capacity calculation (AB 1397, 2017)
- Infrastructure requirements (AB 1397, 2017)
- Suitability of nonvacant sites (AB 1397, 2017)
- Size of site requirements (AB 1397, 2017)
- Locational requirements of identified sites (AB 686, 2018)
- Sites identified in previous housing elements (AB 1397, 2017)
- Nonvacant site replacement unit requirements (AB 1397, 2017)
- Rezone program requirements (AB 1397, 2017)

The workbook is divided into five components: (Part A) identification of sites; (Part B) sites to accommodate the lower income RHNA; (Part C) capacity analysis; (Part D) non-vacant sites; and (Part E) determination of adequate sites.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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BACKGROUND AND PURPOSE

Housing Element Site Inventory Requirements

Scarcity of land with adequately zoned capacity is a significant contributor to increased land prices and housing development costs. A lack of adequately zoned sites exacerbates the already significant deficit of housing affordable to lower income households. An effective housing element provides the necessary conditions for conserving, preserving and producing an adequate supply of housing affordable at a variety of income levels and provides a vehicle for establishing and updating housing and land-use strategies to reflect changing needs, resources, and conditions. Among other things, the housing element establishes a jurisdiction's strategy to plan for and facilitate the development of housing over the five-to-eight year planning period by providing an inventory of land adequately zoned or planned to be zoned for housing and programs to implement the strategy.

The purpose of the housing element's site inventory is to identify and analyze specific land (sites) that is available and suitable for residential development in order to determine the jurisdiction's capacity to accommodate residential development and reconcile that capacity with the jurisdiction's Regional Housing Need Allocation (RHNA). The available and suitable sites are referred to as "adequate sites" throughout this Guidebook. The site inventory enables the jurisdiction to determine whether there are sufficient adequate sites to accommodate the RHNA by income category. A site inventory and analysis will determine whether program actions must be adopted to "make sites available" with appropriate zoning, development standards, and infrastructure capacity to accommodate the new development need.

Sites are suitable for residential development if zoned appropriately and available for residential use during the planning period. If the inventory demonstrates that there are insufficient sites to accommodate the RHNA for each income category, the inventory must identify sites for rezoning to be included in a housing element program to identify and make available additional sites to accommodate those housing needs early within the planning period.

Other characteristics to consider when evaluating the appropriateness of sites include physical features (e.g., size and shape of the site, improvements currently on the site, slope instability or erosion, or environmental and pollution considerations), location (e.g., proximity to and access to infrastructure, transit, job centers, and public or community services), competitiveness for affordable housing funding (e.g., Low Income Housing Tax Credit scoring criteria), and likelihood or interest in development due to access to opportunities such as jobs and high performing schools¹. When determining sites to include in the inventory to meet the lower income housing need, HCD recommends that a local government first identify development potential in high opportunity neighborhoods. This will assist the local government in meeting its requirements to affirmatively further fair housing and ensure developments are more competitive for development financing.

¹ Please Note: Significant increases in the housing capacity of the residential land inventory of the housing element could also warrant planning for updating of other elements, including the land use, safety, circulation elements and inclusion of an environmental justice element or environmental justice policies. The housing element must include a program describing the means by which consistency will be achieved with other general plan elements and community goals (GC 65583(c)(8)).

SITE INVENTORY GUIDEBOOK FRAMEWORK

The following is a Guidebook designed to assist a jurisdiction through the site inventory analysis required by Housing Element Law. Use of the Guidebook is not required for a determination of compliance by HCD. The Guidebook is intended to facilitate the jurisdiction in determining if adequate sites are available by income category to accommodate the jurisdiction's share of the RHNA or if rezoning or other program actions are needed. Areas of the law that are newly added since the beginning of the 5th housing element cycle are marked with the designation ***NEW***.

Guidebook Structure

PART A: IDENTIFICATION OF SITES

General characteristics of suitable sites identified in the inventory, including zoning, infrastructure availability, and environmental constraints, among others.



PART B: SITES TO ACCOMMODATE LOW AND VERY LOW- INCOME RHNA

Analysis to determine if sites are appropriate to accommodate the jurisdiction's RHNA for low- and very low-income households.



PART C: CAPACITY ANALYSIS

Description of the methodology used to determine the number of units that can be reasonably developed on a site.



PART D: NONVACANT SITES

Analysis to determine if nonvacant sites are appropriate to accommodate the jurisdiction's RHNA.



PART E: DETERMINATION OF ADEQUATE SITES

After consideration of the above analysis and any alternate methods to accommodate RHNA, the determination of whether sufficient sites exist to accommodate RHNA or if there is a shortfall requiring a program to rezone additional sites.

PART A: IDENTIFICATION OF SITES

Step 1: Identification of Developable Sites

Government Code section 65583.2(a)

Generally, a site is a parcel or a group of parcels that can accommodate a portion of the jurisdictions RHNA. A jurisdiction must identify, as part of an inventory, sites within its boundaries (i.e., city limits or a county's unincorporated area)² that could have the potential for new residential development within the eight- or five-year timeframe of the housing element planning period.

Types of sites include:

- Vacant sites zoned for residential use.
- Vacant sites zoned for nonresidential use that allow residential development.
- Residentially zoned sites that are capable of being developed at a higher density (nonvacant sites, including underutilized sites).
- Sites owned or leased by a city, county, or city and county.
- Sites zoned for nonresidential use that can be redeveloped for residential use and a program is included to rezone the site to permit residential use.

Pending, approved, or permitted development:

Projects that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development. For these projects, affordability is based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project (See Part E). For projects yet to receive their certificate of occupancy or final permit, the element must demonstrate that the project is expected to be built within the planning period.

Definition of Planning Period: The “Planning period” is the time period between the due date for one housing element and the due date for the next housing element (Government Code section 65588(f)(1).) For example, the San Diego Association of Governments’ 6th Cycle Planning Period is April 15, 2021 to April 15, 2029.

Definition of Projection Period: “Projection period” is the time period for which the regional housing need is calculated (Government Code section 65588(f)(2).). For example, the San Diego Association of Governments’ 6th Cycle Projection Period is June 30, 2020 to April 15, 2029.

Please note, sites with development projects where completed entitlements have been issued are no longer available for prospective development and must be credited towards the RHNA based on the affordability and unit count of the development. “Completed entitlements” means a housing development or project which has received all the required land use approvals or entitlements necessary for the issuance of a building permit. This

² In some cases, jurisdictions may want to include sites anticipated to be annexed in the planning period. Annexation is considered a rezoning effort to accommodate a shortfall of sites. For more information on annexation please see Part E, Step 3.

means that there is no additional action required to be eligible to apply and obtain a building permit.

Jurisdictions may choose to credit sites with pending projects since the beginning of the RHNA projection period towards their RHNA based on affordability and unit count within the proposed project but must demonstrate the units can be built within the remaining planning period. Affordability must be based on the projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.

Census definition of a unit: A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with other persons in the structure and which have direct access from the outside of the building or through a common hall. Living quarters of the following types are excluded from the housing unit definition: dormitories, bunkhouses, and barracks; quarters in predominantly transient hotels, motels, and the like, except those occupied by persons who consider the hotel their usual place of residence; quarters in institutions, general hospitals, and military installations, except those occupied by staff members or resident employees who have separate living arrangements.

Student/University Housing: Please be aware, college and university student housing may be considered noninstitutional group quarters and not a housing unit for purposes of meeting the RHNA. According to the census, college/university student housing includes residence halls and other buildings, including apartment-style student housing, designed primarily to house college and university students in group living arrangements either on or off campus. These facilities are owned, leased, or managed by a college, university, or seminary or can be owned, leased, or managed by a private company or agency. Residents typically enter into “by the bed” leases (i.e., single-liability leases). Another distinguishing factor is that the unit is not available for rent to non-students. For further information on whether university housing meets the definition of a housing unit, please contact the Department of Finance at (916) 323-4086.

Exempt entity-controlled sites (state excess sites, military, university, and tribal land)

HCD recognizes that the development of new housing on exempt entity sites (land controlled by exempt federal, state, or tribal entities) can meet a portion of a jurisdiction's RHNA. However, sites located on land controlled by exempt entities are analyzed differently because the jurisdiction may not have control over the planning, permitting, and decision-making processes of land owned by another public entity.

Sites controlled by exempt entities can be used to accommodate RHNA when documentation can be provided that demonstrates the likelihood that the planned housing will be developed within the current RHNA/housing element cycle. Adequate documentation can vary due to differences in the planning processes on land controlled by exempt federal, state, or tribal entities. The following are examples of documentation that demonstrates the likelihood of housing being developed on sites outside the control of a local government. In each of these examples, the units would have to meet the U.S. Census Bureau (Census) definition of a housing unit:

- Agreement with the entity controlling the land that grants the jurisdiction authority regarding approving, permitting, certifying occupancy, and/or reporting new units to the California Department of Finance.
- Documentation from the entity controlling the land that demonstrates planned housing has been approved to be built within the current RHNA cycle.
- Data pertaining to the timing of project construction and unit affordability by household income category.
- If the site is listed on the Department of General Services Real Estate Excess State Property map located [EO N-06-19 Affordable Housing Development webpage](#).

Step 2: Inventory of Sites

Government Code section 65583.2(b)

Provide a parcel specific inventory of sites that includes the following information for each site:

- ***NEW*** Assessor parcel number(s).
- Size of each parcel (in acres).
- General plan land use designation.
- Zoning designation.
- For nonvacant sites, a description of the existing use of each parcel (See Part D)
- ***NEW*** Whether the site is publicly owned or leased.
- Number of dwelling units that the site can realistically accommodate (See Part C)
- ***NEW*** Whether the parcel has available or planned and accessible infrastructure (Part A: Step 3).
- ***NEW*** The RHNA income category the parcel is anticipated to accommodate (See Part A: Step 5).
- ***NEW*** If the parcel was identified in a previous planning period site inventory (Part B: Step 1).

NEW Please note pursuant to Chapter 667, Statutes of 2019 (SB 6), the site inventory must be prepared using the standards, form, and definitions adopted by HCD. HCD has prepared a form and instructions for this purpose that includes space for the information above and commonly provided optional fields. Starting January 1, 2021, local governments will need to submit an electronic version of the site inventory to HCD on this form along with its adopted housing element.

NEW Pursuant to Chapter 664, Statutes of 2019 (AB 1486), at Government Code section 65583.2(b)(3), if a site included in the inventory is owned by the city or county, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act [Article 8 \(commencing with Section 54220\) of Chapter 5 of Part 1 of Division 2 of Title 5](#).

Step 3: Infrastructure Availability

Government Code section 65583.2(b)(5)(B)

Determine if parcels included in the inventory, including any parcels identified for rezoning, have sufficient water, sewer, and dry utilities available and accessible to support housing development or whether they are included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity to secure sufficient water, sewer, and dry utilities supply to support housing development on the site in time to make housing development realistic during the planning period. Dry utilities include, at minimum, a reliable energy source that supports full functionality of the

home and could also include access to natural gas, telephone and/or cellular service, cable or satellite television systems, and internet or Wi-Fi service.

If Yes: Provide an analysis in the housing element describing existing or planned water, sewer, and other dry utilities supply, including the availability and access to parcels on the site inventory, distribution facilities, general plan programs or other mandatory program or plan (including a program or plan of a public or private entity to secure water or sewer service) to support housing development on the site. The housing element must include sufficient detail to determine whether the service levels of water delivery/treatment systems and sewer treatment facilities are sufficient and have the capacity to accommodate development on all identified sites in order to accommodate the RHNA. For example, the water supply should be a reliable supply that meets federal and state drinking water standards.

Please note sites identified as available for housing for above moderate-income households can still be in areas not served by public sewer systems.

If No: Include a program in the housing element that ensures access and availability to infrastructure to accommodate development within the planning period. If this is not possible, the site is not suitable for inclusion in the site inventory or in a program of action identifying a site for rezoning.

Step 4: Map of Sites

Government Code section 65583.2(b)(7)

Provide a map that shows the location of the sites included in the inventory. While the map may be on a larger scale, such as the land use map of the general plan, the more detailed the map, the easier it will be to demonstrate the sites meet new requirements pursuant to Chapter 958, Statutes of 2018 (AB 686) as stated below.

Step 5: Determination of Consistency with Affirmatively Furthering Fair Housing

Government Code section 65583.2(a)

NEW Pursuant to AB 686, for housing elements due on or after January 1, 2021, sites must be identified throughout the community in a manner that affirmatively furthers fair housing opportunities (Government Code Section 65583(c)(10)).

Affirmatively Furthering Fair Housing means “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s³

³ Public Agencies include the state, including every state office, officer, department, division, bureau, board, and commission, including the California State University, a city, including a charter city, county, including a charter county, city and county, and a redevelopment successor agency, a public housing authority created pursuant to the Housing Authorities Law, a public housing agency, and any other political subdivision of the state that is a grantee or subgrantee receiving funds provided by the United States Department of Housing and Urban Development (Government Code section 8899.5(a)(2)).

activities and programs relating to housing and community development.” (Government Code section 8899.50(a)(1)).

For purposes of the housing element site inventory, this means that sites identified to accommodate the lower-income need are not concentrated in low-resourced areas (lack of access to high performing schools, proximity to jobs, location disproportionately exposed to pollution or other health impacts) or areas of segregation and concentrations of poverty. Instead, sites identified to accommodate the lower income RHNA must be distributed throughout the community in a manner that affirmatively furthers fair housing. One resource the jurisdiction could use when completing this analysis is the California Tax Credit Allocation/California Department of Housing and Community Development Opportunity Maps, which can be accessed at <https://www.treasurer.ca.gov/ctcac/opportunity.asp>. Particularly, the jurisdiction should consider the barriers and opportunities identified in its assessment of fair housing pursuant to Government Code section 65583(c)(10). HCD plans to release a technical assistance memo to assist jurisdictions in addressing AB 686 requirements in their housing element in the Summer of 2020.

Jurisdictions should also consider integrating this analysis with the requirements of Government Code 65302(h), as added by SB 1000 (Statutes of 2016), which requires the preparation and adoption of an Environmental Justice element or equivalent environmental justice-related policies, objectives, and goals throughout other elements of their general plan, to address the needs of disadvantaged communities. More information on Environmental Justice elements can be found on the [Governor’s Office of Planning and Research Website](#).

Step 6: Sites by RHNA Income Category

Government Code section 65583.2(c)

NEW Identify which RHNA income category that each site in the inventory is anticipated to accommodate. On the site inventory, specify whether the site or a portion of the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. Sites can accommodate units for more than one income category. However, the inventory should indicate the number of units of each income category, and together the total of units attributed to each income category may not exceed total units attributed to the site, so that no unit is designated for more than one income category. This requirement is particularly important because the No Net Loss Law (Government Code section 65863) requires adequate sites be maintained throughout the planning period to accommodate the remaining RHNA by income category. For more information, please consult the HCD’s memo on [No Net Loss Law](#).

HCD Best Practices for selecting sites to accommodate the lower income RHNA:

When determining which sites are best suited to accommodate the RHNA for lower income households, the jurisdiction should consider factors such as:

- Proximity to transit.
- Access to high performing schools and jobs.
- Access to amenities, such as parks and services.
- Access to health care facilities and grocery stores.
- Locational scoring criteria for Low-income Housing Tax Credit (TCAC) Program funding.
- Proximity to available infrastructure and utilities.

- Sites that do not require environmental mitigation.
- Presence of development streamlining processes, environmental exemptions, and other development incentives.

Step 7: Environmental Constraints

Government Code section 65583.2(b)(4)

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government. This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities. This information need not be identified on a site-specific basis. However, local governments will find it beneficial to describe site specific environmental conditions when demonstrating site suitability and realistic buildout capacity of each site, as these types of impediments to building must be considered when determining how many residential units can be developed on the site.

NEXT STEP:

- If the site is selected to accommodate its low or very-low income RHNA, move to Part B: Sites to Accommodate Low and Very-Low Income RHNA.
- If the site accommodates moderate or above-moderate RHNA, move to Part C: Capacity Analysis.

PART B: SITES TO ACCOMMODATE LOW AND VERY LOW- INCOME RHNA

Step 1: *NEW* Sites Used in Previous Planning Periods Housing Elements

Government Code section 65583.2(c)

Determine if the site identified to accommodate the low- and very low-income RHNA pursuant to Part A, Step 6 was used in the previous planning period⁴. Generally, previously identified sites refer to parcels that were identified in a previous housing element's site inventory to accommodate any portion of any income category of the jurisdiction's RHNA, as follows:

For a nonvacant site: Included in a prior planning period's housing element (e.g., 5th cycle housing element)

For a vacant site (see definition of vacant site on page 21): Included in two or more consecutive planning periods (e.g., 5th cycle and 4th cycle housing element)

If Yes: move to Step 1A

If No: move to Step 2

Unusual Circumstances

Sites rezoned or identified for rezoning to accommodate a RHNA shortfall

Previously identified sites can also include sites that were subject to a previous housing element's rezone program but that were ultimately not rezoned. For example: a previous housing element's rezone program to address a shortfall of sites for lower income households committed to rezone four acres to R-4 zoning, and identified five candidate sites for rezoning, A through E, and each site was two acres in size. If the program was completed in the prior planning period and four acres were rezoned, only those sites rezoned are considered "previously identified." However, if none or fewer than four acres were rezoned, all the non-rezoned sites identified as candidate sites would be considered as "previously identified."

Sites rezoned to a higher density as part of a general plan update (not needed to accommodate a shortfall)

Due to updates in the prior planning period to the general plan or other planning activities, such as the creation of a specific plan, some sites previously identified in the housing element may have been rezoned allowing a higher density, and therefore increasing the potential housing capacity of the site. Because the zoning characteristics of this site have changed, it can be considered a new site for the purposes of the housing element inventory. This is only the case if it was not utilized to accommodate a shortfall of sites to accommodate the RHNA.

⁴ Sites in unincorporated areas in a nonmetropolitan county without a micropolitan area are exempt from this step. This includes the unincorporated parts of Alpine, Amador, Calaveras, Colusa, Glenn, Mariposa, Modoc, Mono, Plumas, Sierra, Siskiyou, Trinity.

Step 1A:

Indicate in the housing element site inventory that this parcel was used in a prior housing element planning period.

Step 1B:

Include a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right at specified densities (see Step 2) for housing developments in which at least 20 percent of the units are affordable to lower income households. This program can be an overlay on these specific sites. Please be aware that the intent of this requirement is to further incentivize the development of housing on sites that have been available over one or more planning periods. The application of the requirement should not be used to further constrain the development of housing. As such, housing developments that do not contain the requisite 20 percent would still be allowed to be developed according to the underlying (base) zoning but would not be eligible for “by right” processing. However, the jurisdiction would have to make findings on the approval of that project pursuant to No Net Loss Law (Government Code section 65863) and proceed to identify an alternative site or sites pursuant to that law.

Definition of Use By Right (Government Code section 65583.2 (i))

By right means the jurisdiction shall not require:

- A conditional use permit.
- A planned unit development permit.
- Other discretionary, local-government review or approval that would constitute a “project” as defined in Section 21100 of the Public Resources Code (California Environmental Quality Act “CEQA”).

However, if the project requires a subdivision, it is subject to all laws, including CEQA.

This does not preclude a jurisdiction from imposing objective design review standards. However, the review and approval process must remain non discretionary and the design review must not constitute a “project” as defined in Section 21100 of the Public Resources Code. For example, a hearing officer (e.g., zoning administrator) or other hearing body (e.g., planning commission) can review the design merits of a project and call for a project proponent to make design-related modifications, but cannot exercise judgment to reject, deny, or modify the “residential use” itself. (See *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2019) 31 Cal.App.5th 80.)

For reference, CEQA applies when a governmental agency can exercise judgment in deciding whether and how to carry out or approve a project. This makes the project “discretionary” (CEQA Guidelines, §15357.) Where the law requires a governmental agency to act on a project using fixed standards and the agency does not have authority to use its own judgment, the project is called “ministerial,” and CEQA does not apply. (CEQA Guidelines, §§ 15268(a), 15369.)

Sample Program:

Provide Adequate Sites for Lower Income Households on Nonvacant and Vacant Sites Previously Identified

The City of X will rezone to allow developments by right pursuant to Government Code section 65583.2(i) when 20 percent or more of the units are affordable to lower income households on sites identified in Table A to accommodate the lower income RHNA that was previously identified in past housing elements. Specifically, the City will rezone the nonvacant sites identified on Table A previously identified in the 5th cycle housing element, and the vacant sites identified on Table A as previously identified for both the 5th and 4th cycle housing elements.

Objective: Create opportunity for at least X units of rental housing for lower income households

Responsible Agency: Community Development Department

Timeline: Sites rezoned by (a specific date, no more than three years from the beginning of the planning period)

Funding Source(s): General fund

Step 2: Zoning Appropriate to Accommodate Low- and Very Low- Income RHNA *Government Code section 65583.2(c)(3)*

Determine if the zoning on the site is appropriate to accommodate low- and very low-income (termed together as “lower”) housing.

The statute allows jurisdictions to use higher density as a proxy for lower income affordability, as long as certain statutory requirements are met. Parcels must be zoned to allow sufficient density to accommodate the economies of scale needed to produce affordable housing. To make this determination, the statute allows the jurisdiction to either demonstrate that the zoning allows a specific density set forth in the statute (default density)⁵ or to provide an analysis demonstrating the appropriateness of the zoned densities of the site identified to accommodate the lower RHNA.

Step 2A: Does the parcel’s zoning allow for “at least” the following densities?

- For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.
- For an unincorporated area in a nonmetropolitan county not included in the first bullet: sites allowing at least 10 units per acre.
- For a suburban jurisdiction: sites allowing at least 20 units per acre.
- For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

“At least” means the density range allowed on the parcel by the zone has to include the default density. For example, if a jurisdiction has a default density of 30 units per acre and the zone allows for range of 24 – 35 units per acre, the zoning is considered appropriate to accommodate the RHNA for lower income households. This is different than the program standard outlined in Part E which requires a minimum of a specific density in the allowed

⁵ Sometimes called “Mullin densities” after the author of AB 2348, Statutes of 2004, which originated these requirements.

density range in the zone. To determine the default density for jurisdictions, please refer to [HCD Memorandum: Default Density Standard Option \(2010 Census Update\)](#).

If Yes: Move to Step 3

If No: Move to Step 2B

Step 2B: Can the analysis demonstrate the appropriateness of the zoning to accommodate housing?

Provide an analysis demonstrating how the allowed densities facilitate the development of housing to accommodate the lower income RHNA. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, and information based on development project experience within a zone or zones, or at densities that accommodate housing for lower income households.

Information gathered from local developers on densities ideal for housing development in the community and examples of recent residential projects that provide housing for lower income households is helpful in establishing the appropriateness of the zone. Other information could include land costs, market demand for various types of affordable housing, and the gap between typical market rents and subsidized rents. It is recognized that housing affordable to lower income households requires significant subsidies and financial assistance. However, for this analysis, identifying examples of subsidized housing projects alone is not sufficient to demonstrate the adequacy of a zone and/or density to accommodate the housing affordable to lower income households. In particular, identification of older project(s) or one-off projects that cannot be easily duplicated is not sufficient to demonstrate a development trend.

The analysis of “appropriate zoning” should not include residential buildout projections resulting from the implementation of a jurisdiction’s inclusionary program or potential increase in density due to a density bonus, because these tools are not a substitute for addressing whether the underlining (base) zoning densities are appropriate to accommodate the RHNA for lower income households. Additionally, inclusionary housing ordinances applied to rental housing must include options for the developer to meet the inclusionary requirements other than exclusively requiring building affordable units on site. While an inclusionary requirement may be a development criterion, it is not a substitute for zoning. The availability of density bonuses is also not a substitute for an analysis, since they are not a development requirement, but are development options over the existing density, and generally require waivers or concessions in development standards to achieve densities and financial feasibility.

If Yes: Move to Step 3

If No: Site is not appropriate to accommodate lower income. Reclassify pursuant to Part A, Step 5.

Housing Overlays

Affordable housing or zoning overlays are a zoning tool that allows jurisdictions to modify existing zoning to allow for or require certain types of residential development, or development at certain densities, on a parcel without modifying the standards of the underlying zoning district. Usually, they have specific requirements and conditions (e.g., a percentage of the development must be deed-restricted as affordable to lower income households for a specific number of years) that must be met in order for a developer to take advantage of the overlay. These are often combined with incentives to encourage developers to utilize the overlay. Jurisdictions use overlays to help promote a specific type of development, and to increase densities without having to go through a rezoning procedure on the actual parcel and can be more useful when issues such as density and affordable housing become contentious. To ensure the overlay is considered zoning and not just a development incentive, the overlay must demonstrate the following:

- There is no additional discretionary action needed above what is required in the base zone (i.e., a conditional use permit or other review) for a developer to take advantage of overlay.
- Development standards are consistent with those needed to allow for the density allowed under the overlay. Development standards for use exclusively in the overlay may be needed in order to ensure maximum allowable densities can be achieved.
- The developer can access State Density Bonus Law in addition to using the densities allowed in the overlay. For example, if the underlying zoning allows a maximum density of 15 units per acre, but the overlay allows a maximum density of 25 units per acre, and if the developer is using the overlay and wants to use State Density Bonus Law, the density bonus is calculated assuming the base density is 25 units per acre.

If the overlay has conditions such as an affordability requirement, incentives should be sufficient and available to make development feasible and more profitable than the underlying zoning.

For an affordable housing overlay, the element should describe affordability threshold requirements to utilize the overlay (i.e., percentage of units and levels of affordability which must be met to develop at the increased densities). Please note, the jurisdiction should talk with for-profit and nonprofit developers to determine an appropriate mix of incomes that make development feasible in their community. For example, a 100 percent affordability requirement may act as a constraint to using the overlay depending on the level of subsidy required per unit and the availability of funding to support the level of affordability or available incentives.

Step 3: Size of Sites

Government Code section 65583.2(c)(2)(A), (B), and (C)

NEW Is the size of the site appropriate to accommodate housing for lower income households?

To achieve financial feasibility, many assisted housing developments using state or federal resources are between 50 to 150 units. Parcels that are too small may not support the number of units necessary to be competitive and to access scarce funding resources. Parcels that are large may require very large projects, which may lead to an over concentration of affordable housing in one location, or may add cost to a project by

requiring a developer to purchase more land than is needed, or render a project ineligible for funding. If the size of the site is smaller than one half acre or larger than 10 acres, the following analysis is required.

If the parcel is more than 0.5 acres or less than 10 acres, is the size of the site automatically considered appropriate to accommodate lower income RHNA?

Not necessarily. If the size of the parcel in combination with the allowable density and accompanying development standards cannot support a housing development affordable to lower income households, further analysis and programs may be needed to demonstrate the suitability of that site to accommodate the portion of the RHNA for lower income households.

Is the size of the parcel under 0.5 acres?

If Yes: Move to Step 3A

Is the size of the parcel over 10 acres?

If Yes: Move to Step 3B

If No to Both: Move to Part C: Capacity Analysis

Step 3A: Sites smaller than 0.5 acres

A parcel smaller than one half acre is considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on these sites is realistic or feasible. While it may be possible to build housing on a small parcel, the nature and conditions (i.e., development standards) necessary to construct the units often render the provision of affordable housing infeasible. The housing element must consider and address the impact of constraints associated with small lot development on the ability of a developer to produce housing affordable to lower income households. To demonstrate the feasibility of development on this type of site, the analysis must include at least one of the following:

- An analysis demonstrating that sites of equivalent size were successfully developed during the prior planning period with an equivalent number of lower income housing units as projected for the site.
- Evidence that the site is adequate to accommodate lower income housing. Evidence could include developer interest, potential for lot consolidation, densities that allow sufficient capacity for a typical affordable housing project, and other information that can demonstrate to HCD the feasibility of the site for development. For parcels anticipated to be consolidated, the housing element must include analysis describing the jurisdiction's role or track record in facilitating small lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for consolidation such as common ownership, and recent trends of lot consolidation. The housing element should include programs promoting, incentivizing, and supporting lot consolidations and/or small lot development.
- A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

The housing element must also describe existing and proposed policies or incentives the jurisdiction will offer to facilitate development of small sites. Examples of program incentives for lot consolidation include deferring fees specifically for consolidation, expediting permit processing, providing flexible development standards such as setback requirements, reduced parking or increased heights, committing resources for development of affordable housing on small sites, or increasing allowable density, lot coverage or floor area ratio.

Step 3B: Sites larger than 10 acres

Parcels larger than 10 acres are considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on such sites was successful during the prior planning period, or there is other evidence that the site is realistic and feasible for lower income housing.

Definition of a Large Site

For purposes of this requirement, “site” means that portion of the parcel designated to accommodate lower income housing needs. For example, a parcel greater than 10 acres in size could have to be split zoned, have an overlay zone with identified boundaries, or be identified in a specific plan that provides for subdivision of the parcel. If the specified boundaries of the site identified to accommodate the RHNA for lower income is less than 10 acres in size, then the large site analysis would not be required. However, the analysis must describe how the development will work on the site, including opportunities and timing for specific-plan development, further subdivision, or other methods to facilitate the development of housing affordable to lower income households on the identified site within the planning period.

To demonstrate the feasibility of development on this type of site, the analysis must include at least one of the following:

- An analysis demonstrating that sites of equivalent size were successfully developed during the prior planning period with an equivalent number of lower income housing units as projected for the site.
- Evidence that the site is adequate to accommodate lower income housing. Evidence may include developer interest, proposed specific-plan development, potential for subdivision, the jurisdiction’s role or track record in facilitating lot splits, or other information that can demonstrate to HCD the feasibility of the site for development. The housing element should include programs promoting, incentivizing, and supporting lot splits and/or large lot development.
- A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

Specific Plans, Master Plan, and other Subdivisions

To utilize residential capacity in Specific Plan areas, areas under a Master Plan, or a similar multi-phased development plan, the housing element must identify specific sites by parcel number and demonstrate that the sites are available and suitable for development within the planning period. The analysis should include the following information:

- Identify the date of approval of the plans and expiration date.
- Identify approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.).
Describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period.

The housing element must also describe existing and proposed policies or incentives the jurisdiction will offer to facilitate development of large sites. Examples of facilitation include expedited or automatic approval of lot splits or creation of new parcels, waivers of fees associated with subdivision, or expedited processing or financial assistance with the development of infrastructure required to develop the site.

NEXT STEP:

- Move to Part C: Capacity Analysis

PART C: CAPACITY ANALYSIS

Government Code Section 65583.2(c) requires, as part of the analysis of available sites, a local government to calculate the projected residential development capacity of the sites identified in the housing element that can be realistically be achieved. The housing element must describe the methodology used to make this calculation. Jurisdictions have two options to make this calculation.

- Utilize minimum densities (Step 1)
- Utilize adjustment factors (Step 2)

Step1: Utilizing minimum densities to calculate realistic capacity of sites

Government Code section 65583.2(c)(1)

If the jurisdiction has adopted a law, policy, procedure, or other regulation that requires the development of a site to contain at least a certain minimum residential density, the jurisdiction can utilize that minimum density to determine the capacity of a site. For purposes of this analysis, the use of either gross or net acreage is acceptable but should be consistent with the standard the jurisdiction typically uses for determining allowable units for a residential development project. For example:

Site Description	Value
Size of site (Gross acreage)	3 acres
Zoning	Residential Multifamily
Allowable density	20 (required minimum) – 30 dwelling units per acre
Realistic capacity utilizing minimum	3 X 20 = 60 units

Please note, to meet this standard on a zone that allows for multiple uses, the general plan or zoning must require the specified minimum number of residential units on the identified sites regardless of overlay zones, zoning allowing nonresidential uses, or other factors potentially impacting the minimum density. Otherwise, the capacity of the site must be calculated using the factors outlined in Step 2.

Step 2: Utilizing factors to calculate realistic capacity of sites

Government Code section 65583.2(c)(2)

The housing element must describe the methodology used to determine the number of units calculated based on the following factors:

- Land use controls and site improvements requirements,
- ***NEW*** The realistic development capacity for the site,
- ***NEW*** Typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction,
- ***NEW*** The current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Applicable land-use controls and site improvement requirements

The analysis must consider the imposition of any development standards that impact the residential development capacity of the sites identified in the inventory. When establishing realistic unit capacity calculations, the jurisdiction must consider the cumulative impact of standards such as maximum lot coverage, height, open space, parking, on-site improvements such as sidewalks or easements, and floor area ratios. The analysis should consider any development standards or the cumulative effect of development standards that would limit the achievable density on a site. For example, if a mixed-use zone requires commercial on the ground floor and has a height limit of three stories along with lot coverage and other development standards, the density that can actually be achieved on that site might be less than the maximum allowable density.

The capacity of a site should also be adjusted for areas that cannot be developed due to environmental factors such as hazards, wetlands, or topography that cannot be mitigated. The capacity of sites subject to specific plans, overlays or other modifications of the base zoning should be adjusted to reflect those factors. For purposes of this analysis, it is recommended that the jurisdiction start with the gross acreage and adjust the buildable acreage accordingly to reach net buildable acreage.

Form Based Codes

To estimate capacity for sites in jurisdictions that have adopted form-based codes, the element should describe the relationship between general plan land-use designation and the form-based code and density assumptions used to determine capacity. Specifically, describe where residential development is allowed, how density requirements found within the general plan are incorporated, how the zoning designations under the form-based code relate to the land-use designations of the general plan, identify potential densities, and consider development standards such as bulk, height, and build-to requirements, buildings types, and use requirements. The element could include examples of recently built projects and densities to support the analysis.

Realistic development capacity for nonresidential, nonvacant, or overlay zoned sites

The capacity calculation must be adjusted to reflect the realistic potential for residential development capacity on the sites in the inventory. Specifically, when the site has the potential to be developed with nonresidential uses, requires redevelopment, or has an overlay zone allowing the underlying zoning to be utilized for residential units, these capacity limits must be reflected in the housing element. Factors used to make this adjustment may include the following:

- Performance standards mandating a specified portion of residential development in mixed use or nonresidential zones (e.g., residential allowed only above first floor commercial).
- The likelihood for residential development such as incentives for residential use, market demand, efforts to attract and assist developers, or allowance of 100 percent residential development.
- Local or regional residential development trends in the same nonresidential zoning districts.
- Local or regional track records, past production trends, or net unit increases/yields for redeveloping sites or site intensification. This estimate may be based on the rate at which similar parcels were developed during the previous planning period, with

adjustments as appropriate to reflect new market conditions or changes in the regulatory environment. If no information about the rate of development of similar parcels is available, report the proportion of parcels in the previous housing element's site inventory that were developed during the previous planning period. For example, if past production trends indicate that two out of three similar sites were developed for residential use, and one out of three similar sites was developed for commercial use, an initial estimate of the proportion of new development which is expected to be residential would be two-thirds, i.e., 0.67.

- Local or regional track records, trends, or build out yields for redeveloping sites or site intensification.

In addition, the housing element should include monitoring programs with next-step actions to ensure sites are achieving the anticipated development patterns. The programs should identify modifications to incentives, sites, programs, or rezoning the jurisdiction will take should these strategies not yield the expected housing potential.

Typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction

While using typically built densities to determine realistic capacity has long been an option to be used as an adjustment factor, the statute now requires this factor to be adjusted based on approved project by affordability level. For example, if a site is identified to accommodate the lower income RHNA, it should use project densities for housing affordable to lower income households developed either locally or regionally to determine typical densities⁶. Using this adjustment factor may result in utilizing different capacity methodologies for above moderate-, moderate-, and lower income sites.

Current or planned availability and accessibility of sufficient water, sewer, and dry utilities

The capacity methodology must be adjusted to account for any limitation as a result of availability and accessibility of sufficient water, sewer, and dry utilities (i.e., if the capacity of the site could be limited because a development would have to use a septic system, if there are any septic tank requirements or restrictions that constrain capacity, or limitations on water hook-ups). See Part A, Step 3 for more information on infrastructure requirements.

Example Capacity Calculation

Here is an example of the actual capacity calculation for a particular site in the inventory. The methodology analysis must describe how each of these adjustments was generated per the analysis requirements above. The factors used below are based on the factors outlined in the statute. The percentages and how the factors are applied will vary depending on the unique circumstance in each jurisdiction.

⁶ In using this adjustment factor, because of the use of density bonus, it may be possible that trends demonstrate typical densities higher than the maximum allowable densities, especially for housing affordable to lower income households. On a case-by-case basis, it may be appropriate to utilize increased densities due to density bonuses when determining the adjustment factor in the capacity methodology.

Site Description	
Size of site	2.5 acres
Zoning	Residential Mixed-Use
Allowable density	20 – 45 dwelling units per acre
RHNA affordability	Lower income
Existing Use	Nonvacant, single storefront
Infrastructure availability	Yes, no constraints
Environmental constraints	None known

Capacity Factors	Adjustment	Reasoning
Land Use Controls and Site Improvements	95%	For net acreage due to on-site improvements including sidewalks, utility easement
Realistic capacity of the site	55%	55% adjustment based on past development trends for residential redevelopment in the residential mixed-use zones, and programs to incentivize development in this zone.
Typical densities	95%	Affordable housing projects are built out to almost maximum density
Infrastructure availability	No adjustment	Not applicable, no constraint
Environmental constraints	No adjustment	No known site constraint

Realistic capacity utilizing factors = $(2.5 \times 45)(.95)(.55)(.95) = 56$ units

Realistic Capacity = 56 Units

No Net Loss Law

In estimating realistic capacity on sites in the sites inventory, jurisdictions may want to consider No Net Loss Law. This law was amended by Chapter 367, Statutes of 2017 (Senate Bill 166), which requires sufficient adequate sites to be available at all times throughout the RHNA planning period to meet a jurisdiction's remaining unmet housing needs for each income category. To comply with the No Net Loss Law, as jurisdictions make decisions regarding zoning and land use, or development occurs, jurisdictions must assess their ability to accommodate new housing in each income category on the remaining sites in their housing element site inventories. A jurisdiction must add additional sites to its inventory if land use decisions or development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category. In particular, a jurisdiction may be required to identify additional sites according to the No Net Loss Law if a jurisdiction rezones a site or if the jurisdiction approves a project at a different income level than shown in the sites inventory. Lower density means fewer units than the capacity assumed in the site inventory.

To ensure that sufficient capacity exists in the housing element to accommodate the RHNA throughout the planning period, it is recommended the jurisdiction create a buffer in the housing element inventory of at least 15 to 30 percent more capacity than required, especially for capacity to accommodate the lower income RHNA. Jurisdictions can also create a buffer by projecting site capacity at less than the maximum density to allow for some reductions in density at a project level.

NEXT STEP:

- If the parcel is nonvacant, including underutilized sites (see definition of vacant site on page 22), move to Part D: Nonvacant Sites Analysis
- If not, move to Part E: Determination of Adequate Sites

PART D: NONVACANT SITES

Local governments with limited vacant land resources or with infill and reuse goals may rely on the potential for new residential development on nonvacant sites, including underutilized sites, to accommodate their RHNA. Examples include:

- Sites with obsolete uses that have the potential for redevelopment, such as a vacant restaurant.
- Nonvacant publicly owned surplus or excess land; portions of blighted areas with abandoned or vacant buildings.
- Existing high opportunity developed areas with mixed-used potential.
- Nonvacant substandard or irregular lots that could be consolidated.
- Any other suitable underutilized land.

Local governments can meet other important community objectives to preserve open space or agricultural resources, as well as assist in meeting greenhouse gas emission-reduction goals, by adopting policies to maximize existing land resources and by promoting more compact development patterns or reuse of existing buildings.

Definition of a Vacant Site

A vacant site is a site without any houses, offices, buildings, or other significant improvements on it. Improvements are generally defined as development of the land (such as a paved parking lot, or income production improvements such as crops, high voltage power lines, oil-wells, etc.) or structures on a property that are permanent and add significantly to the value of the property.

Examples of Vacant Sites:

- No improvement on the site (other than being a finished lot).
- No existing uses, including parking lots.
- Underutilized sites are not vacant sites.
- Sites with blighted improvements are not vacant sites.
- Sites with abandoned or unoccupied uses are not vacant sites.

If the inventory identifies nonvacant sites to address a portion of the RHNA, the housing element must describe the realistic development potential of each site within the planning period. Specifically, the analysis must consider the extent that the nonvacant site's existing use impedes additional residential development, the jurisdiction's past experience converting existing uses to higher density residential development, market trends and conditions, and regulatory or other incentives or standards that encourage additional housing development on the nonvacant sites.

Step 1: Description of the nonvacant site

Government Code Section 65583.2(b)

As stated in Part A, the site inventory must describe the specific existing use on the site, such as a surplus school site, auto shop, restaurant, single family residence, nursery, etc. Additional details, such as whether the use is discontinued, land to value information, age and condition of the structure, known leases, developer or owner interest, whether the property is currently being marketed, degree of underutilization, etc., are useful for demonstrating the potential for the site to be redeveloped within the planning period (See Step 2).

Step 2: Nonvacant site analysis methodology

Government Code section 65583.2(g)(1)

Provide an explanation of the methodology used to determine the development potential. This methodology can be done on a site-specific basis by utilizing factors (e.g., common ownership, valuation, age, etc.) in common that demonstrate the potential for residential development within the planning period, or a combination of both approaches. The methodology shall consider factors including:

Existing Uses:

Include an analysis that demonstrates the extent to which existing uses may constitute an impediment to additional residential development. Among other things, this analysis includes considerations for the current market demand for the existing use, ***NEW*** an analysis of any known existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and could include other market conditions that would encourage redevelopment of the property. For example, an analysis might describe an identified site as being developed with a 1960's strip commercial center with few tenants and expiring leases and, therefore, a good candidate for redevelopment, versus a site containing a newly opened retail center, an active Home Depot, the only grocery store in the city, etc. that is unlikely to be available for residential development within the planning period.

Development Trends:

The inventory analysis should describe development and/or redevelopment trends in the community as it relates to nonvacant sites, i.e., the rate at which similar sites have been redeveloped. This could include a description of the local government's track record and specific role in encouraging and facilitating redevelopment, adaptive reuse, or recycling to residential or more intensive residential uses. If the local government does not have any examples of recent recycling or redevelopment, the housing element should describe current or planned efforts (via new programs) to encourage and facilitate this type of development (e.g., providing incentives to encourage lot consolidation or assemblage to facilitate increased residential-development capacity). The results of the analysis should be reflected in the capacity calculation described in Part C, above.

Market Conditions:

Housing market conditions also play a vital role in determining the feasibility or realistic potential of nonvacant sites for residential development. The nonvacant sites analysis should include an evaluation of the impact of local market conditions on redevelopment or reuse strategies. For example, high land and construction costs, combined with a limited supply of available and developable land, may indicate conditions "ripe" for more intensive, compact and infill development or redevelopment and reuse.

Availability of Regulatory and/or other Incentives:

The analysis should describe existing or planned financial assistance, incentives or regulatory concessions to encourage residential development on nonvacant sites. Many local governments develop partnerships with prospective developers to assist in making redevelopment/reuse economically feasible. Examples of these incentives include:

- Organizing special marketing events geared towards the development community.
- Identifying and targeting specific financial resources.
- Allowing streamlined or by right development application processing for infill sites.
- Reducing appropriate development standards.

Absent a track record or development trends to demonstrate the feasibility of a recycling or redevelopment strategy, the housing element should describe existing or planned financial assistance or regulatory relief from development standards that will be provided sufficient to encourage and facilitate more intensive residential development on the identified nonvacant sites.

Step 3: *NEW* Reliance on nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households

Government Code Section 65583.2(g)(2)

Determine if more than 50 percent of the lower income RHNA is on nonvacant sites.

- Calculate the sum of lower income RHNA capacity on vacant sites and other alternatives not related to capacity on nonvacant sites (e.g., accessory dwelling units, vacant sites to be rezoned (see Part E)).
- Subtract that sum from the total lower income RHNA to get the amount of RHNA needed to be accommodated on nonvacant sites.
- Determine if this number is greater than 50 percent of the RHNA.

Example calculation for a jurisdiction with a lower income RHNA of 500:

Adjustment Factor	Number of units
Proposed Lower Income Project	50
Accessory Dwelling Unit Capacity (affordable to lower)	15
Capacity on Vacant Sites	100
Total Capacity (not related to non-vacant sites)	165
RHNA on Nonvacant sites	$500 - 165 = 335$
Percentage of Lower Income RHNA accommodated on Nonvacant sites	$335/500 = 77\%$

If Yes: Move to Step 3A

If No: Move to Step 4

Step 3A:

If a housing element relies on nonvacant sites to accommodate 50 percent or more of its RHNA for lower income households, the nonvacant site's existing use is presumed to impede additional residential development, unless the housing element describes findings based on substantial evidence that the use will likely be discontinued during the planning period. The housing element must include the following:

- As part of the resolution adopting the housing elements, findings stating the uses on nonvacant sites identified in the inventory to accommodate the RHNA for lower income is likely to be discontinued during the planning period and the factors used to make that determination. This can be included in the body or in the recital section of the resolution.

Example: WHEREAS, based on <name factors here (e.g., expiring leases, dilapidated building conditions, etc.)>, the existing uses on the sites identified in the site inventory to accommodate the lower income RHNA are likely to be discontinued during the planning period, and therefore do not constitute an impediment to additional residential development during the period covered by the housing element.

- The housing element should describe the findings and include a description of the substantial evidence they are based on.

In general, substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. An example of substantial evidence would be a nonvacant site with a grocery store and with a building lease expiring in a year, and evidence that the store has entered into a lease to relocate to another site subsequent to the lease expiring.

Examples of substantial evidence that an existing use will likely be discontinued in the current planning period include, but are not limited to:

- The lease for the existing use expires early within the planning period,
- The building is dilapidated, and the structure is likely to be removed, or a demolition permit has been issued for the existing uses,
- There is a development agreement that exists to develop the site within the planning period,
- The entity operating the existing use has agreed to move to another location early enough within the planning period to allow residential development within the planning period.
- The property owner provides a letter stating its intention to develop the property with residences during the planning period.

If multiple sites make up a common existing use and the same factors affect each of the sites, the same findings can be used for each of the sites (e.g., an abandoned shopping mall with sites under common ownership that will not be restored to commercial use located in an area where there is recent residential development). The "substantial evidence" would indicate the existing use will not impede further residential development or that the existing use will be discontinued during the planning period. In this type of situation, use of the same findings for each of the multiple sites would be appropriate.

However, the same finding for multiple sites in a specific area may not be appropriate if their characteristics widely vary. For example, nonvacant sites with differing existing uses and lacking in common ownership, whether contiguous or located in the same general area, may not rely on a generalized analysis. While the sites may be located in an area with common economic issues, individual owners may not wish to sell their property or redevelop their site with residential uses. In addition, each site's existing use, e.g., grocery store, retail shop, parking lot, and offices, may have lease agreements of different lengths of time or the owner may not wish to relocate or redevelop the site with a more intensive residential use. In this type of situation, use of the same findings for the multiple sites would not be appropriate.

Step 4: *NEW* Program and policy requiring replacement of existing affordable units
Government Code Section 65583.2(g)(3)

The housing element must include a program in the housing element and policy independent of the housing element requiring the replacement of units affordable to the same or lower income level as a condition of any development on a nonvacant site consistent with those requirements set forth in Density Bonus Law (Government Code section 65915(c)(3).) Replacement requirements shall be required for sites identified in the inventory that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, and:

- Were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income, or
- Subject to any other form of rent or price control through a public entity's valid exercise of its police power, or
- Occupied by low or very low-income households

For the purpose of this program "previous five years" is based on the date the application for development was submitted.

Please note, until 2025, pursuant to Government Code section 66300(d) (Chapter 654, Statutes of 2019 (SB 330)), an affected city or county shall not approve a housing development project that will require the demolition of residential dwelling units regardless of whether the parcel was listed in the inventory unless a) the project will create at least as many residential dwelling units as will be demolished, and b) certain affordability criteria are met. A listing of affected cities and counties can be found at <https://www.hcd.ca.gov/community-development/accountability-enforcement/statutory-determinations.shtml>.

SAMPLE PROGRAM

Program X: Replacement Unit Program

XXXX will adopt a policy and will require replacement housing units subject to the requirements of Government Code section 65915, subdivision (c)(3) on sites identified in the site inventory when any new development (residential, mixed-use or nonresidential) occurs on a site that is identified in the inventory meeting the following conditions:

- currently has residential uses or within the past five years has had residential uses that have been vacated or demolished, and
- was subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income, or
- subject to any other form of rent or price control through a public entity's valid exercise of its police power, or
- occupied by low or very low-income households

Funding: General Funds

Responsible Parties: Planning and Community Development Department

Objectives: In order to mitigate the loss of affordable housing units, require new housing developments to replace all affordable housing units lost due to new development.

Timeframes: The replacement requirement will be implemented immediately and applied as applications on identified sites are received and processed, and local policy shall be adopted by <DATE>. End of Sample Program

NEXT STEP:

- Move to Part E: Determination of Adequate Sites

PART E: DETERMINATION OF ADEQUATE SITES

The last step in this process is a determination of whether the housing element demonstrates sufficient land suitable and available for residential development to meet the locality's housing need for each designated income level or if further program actions are required to accommodate a shortfall.

Step 1: Consider any alternative means of meeting the RHNA

Government Code section 65583.1

The housing element may satisfy its RHNA requirement through a variety of methods other than identifying sites. The following is a description of those alternative methods.

- Units permitted, built, entitled or pending: (See Part A, Step 1)
- Potential for accessory dwelling units (ADU) or junior accessory dwelling units (JADU): The jurisdiction can count the potential for the development of ADUs within the planning period. The analysis is based on the following factors:
 - the number of ADUs or JADUs developed in the prior planning period
 - community need and demand for these types of housing units
 - the resources and/or incentives available that will encourage the development of ADUs
 - the availability of ADUs and JADUs for occupancy, rather than used as offices or guest houses
 - the unit must meet the Census definition of a housing unit, which can be found on the U.S. Census Bureau website, and be reported to the Department of Finance as part of the annual City and County Housing Unit Change Survey
 - the anticipated affordability of these units. The purpose of this analysis is to determine the appropriate RHNA income category to be accommodated through ADU and JADU development.

Affordability can be determined in a number of ways. As an example, a community could survey existing ADUs and JADUs for their current market rents and consider other factors such as square footage, number of bedrooms, amenities, age of the structure and general location, including proximity to public transportation. Another method could examine current market rents for reasonably comparable rental properties to determine an average price per square foot in the community. This price can be applied to anticipated sizes of these units to estimate the anticipated affordability of ADUs and JADUs. Available regional studies and methodology on ADU affordability can also be a resource to determine the likely affordability mix for ADUs and JADUs.

- other relevant factors as determined by HCD.

In addition, the housing element must describe and analyze any currently adopted ordinance and other factors that could affect ADU and JADU development within the planning period. At a minimum, the housing element should analyze whether the ordinance conforms with state ADU and JADU requirements and any additional development standards (i.e., setbacks, maximum unit sizes, lot coverage, etc.) adopted by the local government, zones allowing ADUs, fees and exactions, and any other potential constraints impacting the development of ADUs and JADUs.

Impact of New Accessory Dwelling Unit Laws

Since 2017, the Legislature has passed a series of new laws that significantly increase the potential for development of new ADUs and JADUs by removing development barriers, allowing ADUs through ministerial permits, and requiring jurisdictions to include programs in their housing element that incentivize their development. As a result, using trend analysis when estimating the potential for development may not accurately reflect the increased potential for these units. To account for this increased potential, HCD recommends the following options when performing this analysis:

- Use the trends in ADU construction since January 2018 to estimate new production. This is a conservative option to only account for the effect of the new laws without local promotional efforts or incentives (safe harbor option).
- Where no other data is available, assume an average increase of five times the previous planning period construction trends prior to 2018. This option is a conservative estimate based upon statewide data on ADU development since the implementation of the new laws (safe harbor option).
- Use trends from regional production of ADUs.
- Include programs that aggressively promote and incentivize ADU and JADU construction.
- Other analysis (reviewed on a case-by-case basis).

Potential affordability of these units must still be calculated per the analysis outlined on the previous page. In addition to the above options, the element should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle mid-point to evaluate if production estimates are being achieved. Depending on the finding of that review, amendments to the housing element may be necessary, including rezoning pursuant to Government Code 65583.2 (h) and (i).

- Alternative Adequate sites: Under limited circumstances, a local government may credit up to 25 percent of their adequate sites requirement per income category through existing units that will be:
 - substantially rehabilitated
 - in a multifamily rental or ownership housing complex of three or more units that are converted from non affordable to affordable rental
 - preserved at levels affordable to low- or very low-income households, where the local government has provided those units with committed assistance

For more information on this option, please refer to HCD's [Building Blocks Webpage](#)

- Manufactured housing, manufactured housing park hook-ups, floating homes/live aboard berths: In certain circumstances a jurisdiction can utilize the potential for new manufactured housing either in a manufactured housing park or on large properties in rural areas, or new floating home/liveaboard berths with sewer and water hook ups. In cases of a manufactured home park or in floating home/liveaboard berth marinas, the jurisdiction may count new spaces with infrastructure hook-ups intended for permanent residential occupancy and reported to the Department of Finance. Potential for manufactured homes in rural areas should be analyzed using the same factors as those

for potential ADUs, including establishing the market rate affordability of the units and crediting them to the appropriate RHNA category. In addition, the analysis should indicate if appropriate water and sewer infrastructure is available to support the development.

- Former military housing: Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the housing element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.
- In consultation with HCD, other alternatives may be considered, such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.

Step 2: Determine whether there is sufficient capacity to accommodate the RHNA for the jurisdiction by income.

Government Code Section 65583(a)(3)

The following table is an example of that calculation:

Adjustment Factor	Very Low	Low	Moderate	Above Moderate
RHNA	300	200	165	465
Entitled, Permitted, or Constructed Project Projects	50	50	0	200
Accessory Dwelling Unit Potential	10	15	15	10
Adequate Sites Alternative Preservation	20	16		
Multifamily Residential R-3 (Vacant)	75	50		
Mixed Use MU (Nonvacant)	75	50	50	
Multifamily Residential (Vacant) R-2			75	
Single-Family (Vacant) R-1				200
Spring Valley Specific Plan			150	250
Total	230	181	290	660
Shortfall/Surplus	-70	-19	+125	+195

While the jurisdiction has sufficient sites to accommodate its RHNA for moderate- and above moderate-income units, it has a shortfall of 89 units to accommodate its lower income need. The jurisdiction would be required to include a program in the housing element to accommodate that shortfall.

If Yes: Congratulations, the site inventory analysis is complete

If No: Move to Step 3

Step 3: Adequate Sites Program

Government Code section 65583(f) and Government Code section 65583.2(h)

Where the inventory of sites does not identify adequate sites to accommodate the RHNA for lower income households, a program must be included to identify sites that can be developed for housing within the planning period. The housing element should include an inventory of potential sites for rezoning. Those sites must meet the adequate sites requirements in terms of the suitability and availability outlined above.

General Program Requirements

A jurisdiction's adequate sites program must accommodate 100 percent of the shortfall of sites necessary to accommodate the remaining housing need for housing for very low- and low-income households during the planning period and include the following components:

- Permit owner-occupied and rental multifamily uses by right for developments in which 20 percent or more of the units are affordable to lower income households. By right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
- Permit the development of at least 16 units per site.
- Ensure sites within suburban and metropolitan jurisdictions — as defined by Government Code Section 65583.2(c)(3)(B)(iii) and (iv) — permit a minimum of 16 dwelling units per acre for incorporated cities within nonmetropolitan/rural counties and nonmetropolitan counties with micropolitan areas or 20 dwelling units per acre for suburban and metropolitan jurisdictions.
- Ensure a) at least 50 percent of the shortfall of low- and very low-income regional housing need can be accommodated on sites designated for exclusively residential uses, or b) if accommodating more than 50 percent of the low- and very low-income regional housing need on sites designated for mixed-uses, all sites designated for mixed-uses must allow 100 percent residential use and require residential use to occupy at least 50 percent of the floor area in a mixed-use project.

Timing

Rezoning due to a shortfall from the current planning period:

A locality's ability to accommodate needed housing during the planning period requires designating appropriate zoning as early as possible. Generally, however, a rezoning should occur no later than three years and 120 days from the beginning of the planning period. A one-year extension to the deadline to complete required rezoning may be allowed if a local government has completed rezoning at sufficient densities to accommodate at least 75 percent of the units for very-low and low-income households. Also, the jurisdiction must determine after a public meeting that substantial evidence supports findings and adoption of a resolution that the rezone deadline was not met due to one of the following reasons:

- Action or inaction beyond the control of the local government of any other state, federal, or local agency.
- Infrastructure deficiencies due to fiscal or regulatory constraints.

- The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The jurisdiction must provide HCD a copy of the resolution and findings along with: - a detailed budget and schedule for preparation and adoption of required rezoning within one year of the adoption of the resolution, - plans for citizen participation, and - expected interim actions to complete the rezoning, and any revisions to the general plan (Government Code section 65583(f)).

Consequences for Failing to Complete Rezoning Deadline:

If a local government fails to complete all rezoning's by the prescribed deadline, a local government may not disapprove a housing development project⁷, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project:

- Is proposed to be located on a site included in a housing element program to be rezoned.
- Complies with applicable objective general plan and zoning standards and criteria, including design review standards, described in the rezone program action.

However, any subdivision of the site is subject to the Subdivision Map Act.

A jurisdiction may disapprove a housing development or approve it upon the condition that the project be developed at a lower density only if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety⁸.
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact.

The local government may also be subject to enforcement actions by HCD, including a determination that the housing element no longer complies with the requirements of state law and referral to the Attorney General pursuant to Government Code section 65585(i) and (j).

⁷ "Housing development project" is defined a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate legal agency to ensure the continued availability and use of at least 49 percent of the housing units for very-low, low-, and moderate-income households with an affordable housing cost or affordable rent.

⁸ "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Housing Accountability Act and the Housing Element

The Housing Accountability Act (Government Code section 65589.5) establishes state overarching policy that a local government not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. Jurisdictions without a housing element in compliance with State Housing Element Law or without a complete site inventory are further limited in the ability to deny a housing development application.

Among other requirements (including those related to housing development regardless of affordability levels), the Housing Accountability Act states that a local agency shall not disapprove or condition approval in a manner that renders the housing development project infeasible, including through the use of design review standards, for development of an emergency shelter or a housing development project for very low, low-, or moderate-income households unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

- The jurisdiction has adopted a housing element in substantial compliance with Housing Element Law and the jurisdiction has met or exceeded its share of the RHNA for the planning period for the income category proposed for the housing development project.
- The project would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.
- The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable or rendering the development of the emergency shelter financially infeasible.
- The project is proposed on land zoned for agriculture or resource preservation, or which does not have adequate water or wastewater facilities to serve the project.
- The project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation, unless the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, or if the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584.

"Housing for very low, low-, or moderate-income households" means where at least 20 percent of the total units are or will be sold or rented to lower income households or 100 percent of the units will be sold or rented to persons and families of moderate income, or persons and families of middle income.

Rezoned due to an unaccommodated need from previous planning period⁹:

Pursuant to Government Code section 65584.09, if the jurisdiction failed to make adequate sites available to accommodate the regional housing need in the prior planning period, the jurisdiction must zone or rezone sites to accommodate any unaccommodated need within the first year of the planning period. If more than one year has lapsed since the beginning of the planning period, the housing element cannot be found in compliance with Housing Element Law until the required zoning or rezoning is complete and the housing element is amended to reflect the necessary rezoning.

Annexation

If the jurisdiction must rely on annexation to accommodate its RHNA, the housing element must include a program committing to completing the annexation within three years of the planning period. In addition, the housing element must also include an evaluation of the suitability of the annexed sites, including the following information:

- Consistency with Local Agency Formation Commission (LAFCO) policies
- Actions to pre-zone prior to annexation
- Descriptions of the zone, density, development standards and design requirements
- The anticipated housing capacity allowed by each site
- Timeline to complete annexation which is early enough in the planning period to facilitate development of annexed sites (e.g., within the first three years of the planning period)
- Analysis of the suitability and availability of sites, including identification of any sites currently under Williamson Act contracts
- Demonstrated compliance with the requirements of the adequate sites program requirements of Government Code section 65583.2, subdivisions (h) and (i)

Please note, if the potential for annexation was not included in the RHNA allocation methodology, a portion of the county's allocation may be transferred to the city pursuant to Government Code section 65584.07(d). This transfer of RHNA would require an amendment to the housing element to ensure that any additional RHNA can be accommodated on sites within the inventory.

⁹ Sometimes called the AB 1233 consequence.

Sample Rezone Program:

To accommodate the remaining lower-income RHNA of 89 units, the City of X will identify and rezone a minimum of 4.5 acres of vacant land to the R3 zoning district, allowing exclusively residential uses and a minimum of 20 units per acre to a maximum of 30 units per acre by June 30, 2024. Rezoned sites will permit owner-occupied and rental multifamily uses by right pursuant to Government Code section 65583.2(i) for developments in which 20 percent or more of the units are affordable to lower income households and will be selected from sites 20 through 30 in the parcel listing (Appendix A). As reflected in Appendix A, each site has the capacity to accommodate at least 16 units and will be available for development in the planning period where water, sewer, and dry utilities can be provided.

Objective: Create opportunity for at least 89 units of multifamily housing for lower income households

Responsible Agency: Community Development Department

Timeline: Sites rezoned by June 30, 2024

Funding Source(s): General fund

Other program ideas for increasing capacity or facilitating development on identified sites:

- Up-zone existing neighborhoods in areas of opportunity or in high quality neighborhood transit areas at appropriate densities to facilitate development of housing.
- Increase maximum allowable residential densities in existing residential, commercial, and mixed-use zones and modify development standards, such as height limitations to ensure maximum density can be achieved.
- Establish minimum densities — Designate minimum densities of development to ensure that existing available land is not underutilized.
- Allow and encourage mixed-use zoning — Permit housing in certain nonresidential zones either as part of a mixed-use project or as a standalone residential use.
- Rezone underutilized land from nonresidential to residential to expand the supply of available residential land.
- Institute flexible zoning — Allow various residential uses within existing nonresidential zones without requiring rezoning or conditional approvals.
- Redevelop and/or recycle underutilized existing land to more intensive uses.
- Convert obsolete, older public/institutional/commercial/industrial buildings to residential use through adaptive reuse and/or historic preservation.
- Over-zone — Create a surplus of land for residential development during the current planning period of at least 20 percent more than the locality's share of the regional housing need. Over-zoning compensates for urban land left vacant due to ownership and development constraints and creates a real surplus. A sufficient supply of land beyond the time frame of the housing element helps prevent land shortages from bidding up land costs.
- Allow and promote small and irregular-size lot development.

- Consolidate lots — Facilitate combining small residential lots into larger lots to accommodate higher-density development.
- Increase height limitations — At a minimum, allow three stories in multifamily zones.
- Increase Floor Area Ratios — Allow for larger buildings on smaller lots and/or more units per lot by reducing the floor area ratio (total lot area divided by the total building area).
- Identify publicly owned land suitable for affordable housing development and sell parcels for \$1 (with consideration of the Surplus Land Act as amended by AB 1486, Statutes of 2019).
- Facilitate development by encouraging staff outreach to owners of potential sites and affordable housing developers to discuss needs and constraints in the jurisdiction.
- Adopt incentives such as a super density bonus or by right approval for housing that meets community objectives, such as housing near transit, affordability, housing that meets the needs of special populations, etc.
- Adopt a specific plan that streamlines CEQA compliance.

Common Program Questions and Answers for Shortfall Zoning:

Q: How do I establish the density range for a rezone site?

A: The density range is set at the minimum density (either 16 or 20 dwelling units per acre, depending on the jurisdiction). While there is no specific maximum density requirement, the range must include the density that was identified as appropriate to accommodate housing affordable to lower-income households (Part B, Step 2).

However, jurisdictions should not set the minimum and maximum density range at the same density (e.g., 20 units per acre minimum as both a minimum and maximum density). If identifying a narrow density range, the housing element must analyze the range as a potential governmental constraint on housing development, including potential impacts resulting from site constraints, financial considerations, and other development factors.

Q: If a development is proposed with less than 20 percent affordability to lower income, can the jurisdiction approve it?

A: Yes, however, the project would not qualify for the by right provisions of this law unless the underlining zone already permitted housing by right. This, and all housing development projects, is subject to the Housing Accountability Act. In addition, the jurisdiction may be subject to No Net Loss Law provisions.

Q: How is the 20 percent calculated when State Density Bonus Law is added?

A: This 20 percent calculation is based upon the total number of units in the development including additional units provided by a density bonus. This calculation methodology is consistent with several other pieces of housing laws, including the Streamlined Ministerial Approval Process (Government Code section 65913.4) and the Housing Accountability Act.

ATTACHMENT 1: SUMMARY OF NEW LAWS REFERENCED IN THE GUIDEBOOK

[AB 1397, Low \(Chapter 375, Statutes of 2017\)](#): The law made a number of revisions to the site inventory analysis requirements of Housing Element Law. In particular, it requires stronger justification when nonvacant sites are used to meet housing needs, particularly for lower income housing, requires by right housing when sites are included in more than one housing element, and adds conditions around size of sites, among others.

[AB 686, Santiago \(Chapter 958, Statutes of 2018\)](#): The law ensures that public entities, including local governments, administer their programs relating to housing and urban development in a manner affirmatively to further the purposes of the federal Fair Housing Act and do not take any action that is materially inconsistent with its obligation to affirmatively further fair housing. It also requires that housing elements of each city and county promote and affirmatively further fair housing opportunities throughout the community for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act, Government Code Section 65008, and any other state and federal fair housing and planning law. AB 686 requires jurisdictions to conduct an assessment of fair housing in the housing element, prepare the housing element site inventory through the lens of affirmatively furthering fair housing, and include program(s) to affirmatively further fair housing.

[SB 6, Beall \(Chapter 667, Statutes of 2019\)](#): Jurisdictions are required to prepare the site inventory on forms developed by HCD and send an electronic version with their adopted housing element to HCD. HCD will then send those inventories to the Department of General Services by December 31 each year. The law (?) authorizes HCD to review, adopt, amend, and repeal the standards, forms, or definitions to implement this subdivision and subdivision (a) of Section 65583.

[AB 1486, Ting \(Chapter 644, Statutes of 2019\)](#): The law expanded the definition of surplus land and added additional requirements on the disposal of surplus land. In addition, local agencies must send notices of availability to interested entities on a list maintained by HCD. This list and notices of availability are maintained on HCD's website. Local agencies must also send a description of the notice and subsequent negotiations for the sale of the land, which HCD must review, and within 30 days submit written finding of violations of law. Violations of the Surplus Land Act can be referred to the Attorney General. Finally, it adds a requirement in Housing Element Law for the jurisdiction to identify which of the sites included in the inventory are surplus property.

ATTACHMENT 2: GOVERNMENT CODE SECTION 65583.2

As of January 1, 2020

(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the following standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by assessor parcel number.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low-income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on

Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for “suburban area” above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction’s population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city’s or county’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity’s valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right

for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marín Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(l) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

(Amended (as amended by Stats. 2018, Ch. 958, Sec. 3) by Stats. 2019, Ch. 664, Sec. 15.5. (AB 1486) Effective January 1, 2020. Repealed as of December 31, 2028, by its own provisions. See later operative version amended by Sec. 16.5 of Stats. 2019, Ch. 664.)

Tier 1 - Los Gatos Housing Element Update - Draft Site Selection
6th Cycle (2023-2031)

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Capacity	Low-Income Capacity	Moderate- Income Capacity	Above Moderate Income Capacity	Total
	A - Downtown Area											
A-2	50 Park Avenue	52901040	0.18	24	Medium Density Residential	R-1D	Multi-family Residential				21	21
	61 Montebello Way	52901041	0.69	24	Medium Density Residential	R-1D	Multi-family Residential					
A-3	101 S. Santa Cruz Ave.	52901022	0.80	30	Central Business District	C-2	Post Office				24	24
A-7	165 Los Gatos Saratoga Rd.	52904083	0.37	30	Central Business District	C-2	Vacant Building				11	11
	B - North Santa Cruz Avenue Area											
B-1	404 N. Santa Cruz Ave.	52907099	0.84	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center	17	10	10	30	67
		52907003	0.25	30	Neighborhood Commercial	C-1	Center					
	430 N. Santa Cruz Ave.	52907004	0.22	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center					
	432 N. Santa Cruz Ave.	52907094	0.93	30	Neighborhood Commercial	C-1	Los Gatos Shopping Center					
	C - Los Gatos Lodge Area											
C-1	50 Los Gatos Saratoga Road	52924032	7.04	40	Mixed Use Commercial	CH:PD	Los Gatos Lodge	176	88	88		352
		52924001	1.49	40	Mixed Use Commercial	CH:PD	Los Gatos Lodge					
		52924003	0.28	40	Mixed Use Commercial	CH:PD	Los Gatos Lodge					
	D - Los Gatos Blvd. Area											
D-1	15300 Los Gatos Blvd	42417036	1.60	40	Mixed Use Commercial	C-1	Ace Hardware	32	16	16		64
D-4	15349 Los Gatos Blvd	42419049	0.34	40	Mixed Use Commercial	CH	Retail	57	29	29		115
	15367 Los Gatos Blvd	42419048	1.20	40	Mixed Use Commercial	CH	Genuine Automotive					
	15405 Los Gatos Blvd	42419069	1.34	40	Mixed Use Commercial	CH	Multi-Tenant Building					
D-5	15425 Los Gatos Blvd	42419067	1.09	40	Mixed Use Commercial	CH	Multi-Tenant Building	22	11	11		44

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Capacity	Low-Income Capacity	Moderate- Income Capacity	Above Moderate Income Capacity	Total
D-9	Los Gatos Blvd	52302005	0.53	40	Mixed Use Commercial	C-1	Nob Hill Shopping Center	68	33	33		134
	16535 Camellia Ter	52302006	2.81	40	Mixed Use Commercial	C-1	Nob Hill Shopping Center					
D-26	16203 Los Gatos Blvd	52916069	0.79	40	Mixed Use Commercial	CH	Multi-Tenant Building	16	8	8		32
D-29	16492 Los Gatos Blvd	53207086	0.23	20	Neighborhood Commercial	C-1	LG Wines & Liquors				12	12
		53207085	0.38	20	Neighborhood Commercial	C-1	Vacant					
	E - North 40 Area											
E-1 N40 Phase II	14859 Los Gatos Blvd.	42407094	2.90	20	North Forty Specific Plan Area	North Forty Specific Plan Area		97	58	58	177	390
	16392 Los Gatos Blvd.	42407095	0.78	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
	16260 Burton Rd.	42407053	0.44	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
	16250 Burton Rd.	42407009	0.44	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
	14917 Los Gatos Blvd.	42407081	3.74	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42406115	1.17	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42406116	0.11	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407010	0.26	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407052	0.43	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407054	0.26	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407063	0.56	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407064	0.93	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407065	0.37	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		42407116	1.02	20	North Forty Specific Plan Area	North Forty Specific Plan Area						
		14925 Los Gatos Blvd.	42407115	6.07	20	North Forty Specific Plan Area	North Forty Specific Plan Area					
	F - Lark Area											
F-1		42408057	2.97	12	Low Density Residential	R-1:8	Vacant	62	37	37	111	247
		42408029	0.31	12	Low Density Residential	R-1:8	Vacant					
		42408059	1.01	12	Low Density Residential	R-1:8	Vacant					
		42408060	1.29	12	Low Density Residential	R-1:8	Vacant					
		42408058	1.41	12	Low Density Residential	R-1:8	Single-Family Home					
		42408017	2.48	24	Medium Density Residential	R-M:5-12	Single-Family Home					
		42408021	4.32	24	Medium Density Residential	R-M:5-12	Vacant					
F-2		42408074	6.41	12	Low Density Residential	R-1:8	Vacant	19	12	12	34	77

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Capacity	Low-Income Capacity	Moderate- Income Capacity	Above Moderate Income Capacity	Total
	G- Winchester Area											
G-1	110 Knowles Drive	42432077	7.34	40	High Density Residential	CM:AHOZ	Office	59	59	88	88	294
	I - Union Avenue Area											
I-1	440 Los Gatos Alamden Rd.	52749048	0.52	20	Neighborhood Commercial	C-1	Chevron				16	16
	445 Leigh Avenue	52749049	0.29	20	Neighborhood Commercial	C-1	Office					
	J - Harwood Area											
J-1	14000 Blossom Hill Rd.	52732028	0.69	20	Neighborhood Commercial	C-1	Valero				14	14
	Subtotal							625	361	390	538	1,914
	ADUs							20	60	60	60	200
	Pipeline projects										202	202
	TOTAL							645	421	450	800	2,316
	RHNA Requirements							537	310	320	826	1,993
	Buffer (15 percent)							81	46	48	124	299
	RHNA + Buffer Total							618	356	368	950	2,292
	Difference							27	65	82	-150	24

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Tier 2 - Los Gatos Housing Element Update - Draft Site Selection
6th Cycle (2023-2031)

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	A - Downtown Area											
A-1	50 University Ave.	52902044	4.50	30	Central Business District	C-2:LHP:PD	Shopping Center	34	20	20	61	135
A-4		51044039	0.65	30	Central Business District	C-2	Town Parking Lot				20	20
A-5	16 Lyndon Ave.	51044044	0.23	30	Central Business District	C-2	Gym				7	7
A-6	W Main St.	51044069	0.37	30	Central Business District	C-2	Town Parking Lot				11	11
A-15	46 E. Main St.	52929005	0.78	30	Central Business District	C-2	Hotel				23	23
A-16	11 College Ave.	52929052	0.93	30	Central Business District	C-2	Multi-Tenant Building				28	28
A-17	15 Montebello Way	52901043	1.56	30	Central Business District	C-2	Frontier				47	47
A-18		52903029	0.94	30	Central Business District	C-2:LHP	Town Parking Lot				28	28
A-19		52903067	1.55	30	Central Business District	C-2	Town Parking Lot				47	47
A-21		52904101	0.77	30	Central Business District	C-2	Town Parking Lot				23	23
A-22		52904082	1.10	30	Central Business District	C-2	Town Parking Lot				33	33
A-23	170 Los Gatos Saratoga Rd.	52907060	1.45	30	Central Business District	C-2	Town Parking Lot				44	44
A-24	150 N. Santa Cruz Ave.	52903045	0.76	30	Central Business District	C-2	Wells Fargo				23	23
A-27	333 N. Santa Cruz Ave.	51014072	0.81	30	Central Business District	C-2	Bank of America				24	24
A-29	20 Univeristy Ave.	52902010	0.41	30	Central Business District	C-2:LHP	St. Luke's Church				23	23
		52902009	0.34	30	Central Business District	C-2:LHP	St. Luke's Church					
A-30	111 Church St.	52928029	2.37	24	Medium Density Residential	R-M:5-12	Methodist Church	14	9	9	25	57
A-31	219 Bean Ave.	51044083	0.97	24	Medium Density Residential	R-1D:PD	St. Mary's Church				23	23
A-32	238 E. Main St.	52934095	0.72	20	Neighborhood Commercial	C-1	First Church				14	14
A-33	57 Broadway	51045081	0.29	24	Medium Density Residential	R-1D:LHP	Seventh Day Adventist				7	7
A-34	540 N. Santa Cruz Ave.	52907095	0.87	20	Neighborhood Commercial	C-1	Sarah Shopping Center				17	17
A-37	120 S. Santa Cruz Ave.	51045064	0.45	30	Central Business District	C-2:PD	Toll House Hotel	14	8	8	24	54
	140 S. Santa Cruz Ave.	51045065	1.36	30	Central Business District	C-2:PD	Toll House Hotel					
	B - North Santa Cruz Avenue Area											
B2	421 N. Santa Cruz Ave.	41016011	1.29	30	Community Commercial	C-1	Walgreens Shopping Center	16	10	10	29	65
	421 N. Santa Cruz Ave.	41016014	0.08	30	Community Commercial	C-1	Walgreens Shopping Center					
	433 N. Santa Cruz Ave.	41016010	0.78	30	Community Commercial	C-1	Walgreens Shopping Center					
B3	600 N. Santa Cruz Ave.	52910122	1.55	30	Community Commercial	C-1	DMV				47	47
B4	101 Blossom Hill Rd.	52911036	1.07	40	Office Professoinal	O	Office Building	21	11	11		43

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	D - Los Gatos Boulevard Area											
D-2	15466 Los Gatos Blvd.	42415044	3.77	40	Mixed Use Commercial	CH	Los Gatos Village Square	75	38	38		151
D-3	15480 Los Gatos Blvd.	42414034	0.56	40	Mixed Use Commercial	CH	Car Dealership	90	44	44		178
	15500 Los Gatos Blvd.	42414035	3.88	40	Mixed Use Commercial	CH	Car Dealership					
D-6	15445 Los Gatos Blvd.	42419068	1.53	40	Mixed Use Commercial	CH	Trilogy Gym	31	15	15		61
D-7	15475 Los Gatos Blvd.	42419065	1.34	40	Mixed Use Commercial	CH	McDonald's	28	13	13		54
D-8	15495 Los Gatos Blvd.	42422030	3.85	40	Mixed Use Commercial	CH	Multi-Tenant Building	76	39	39		154
D-11	15665 Los Gatos Blvd.	42421056	0.90	40	Mixed Use Commercial	C-1	Jiffy Mart & Liquor	18	9	9		36
D-12	15721 Los Gatos Blvd.	42421058	0.93	40	Mixed Use Commercial	CH	Sunbelt Rentals	19	9	9		37
D-15	15771 Los Gatos Blvd.	42421049	0.51	40	Mixed Use Commercial	CH	Jack in the box	10	5	5		20
D-16	15795 Los Gatos Blvd.	52915059	0.64	40	Mixed Use Commercial	CH	Affordable Treasures	14	6	6		26
D-17	15827 Los Gatos Blvd.	52915077	0.64	40	Mixed Use Commercial	CH	Multi-Tenant Building	14	6	6		26
D-18	15920 Los Gatos Blvd.	52301011	1.05	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center	101	50	50		201
	15986 Los Gatos Blvd.	52301012	0.82	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center					
	16000 Los Gatos Blvd.	52301013	2.71	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center					
	16002 Los Gatos Blvd.	52301014	0.44	40	Mixed Use Commercial	C-1	Cornerstone Shopping Center					
D-19	620 Blossom Hill Rd.	52916041	2.64	40	Mixed Use Commercial	CH	Luxury Car Dealers	54	26	26		106
D-20	16151 Los Gatos Blvd.	52916040	3.55	40	Mixed Use Commercial	CH	Los Gatos Acura Dealership	70	36	36		142
D-25	16185 Los Gatos Blvd.	52916074	0.88	40	Mixed Use Commercial	CH	Multi-Tenant Building	17	9	9		35
D-27	700 Blossom Hill Rd.	52306046	0.47	40	Mixed Use Commercial	C-1	Kings Court Shopping Center	156	78	78		312
	750 Blossom Hill Rd.	52306045	6.77	40	Mixed Use Commercial	C-1	Kings Court Shopping Center					
	16100 Los Gatos Blvd.	52306035	0.56	40	Mixed Use Commercial	C-1	Kings Court Shopping Center					
D-31	16330 Los Gatos Blvd.	53206075	7.48	20	Low Density Residential	R-1:8	Calvary Church	37	22	22	69	150
D-32	15166 Los Gatos Blvd.	42417042	2.36	40	Mixed Use Commercial	CH	Office Depot	46	24	24		94
D-34	15595 Los Gatos Blvd.	42422035	0.10	40	Mixed Use Commercial	C-1	Multi-Tenant Building	17	9	9		35
	15585 Los Gatos Blvd.	42422034	0.12	40	Mixed Use Commercial	C-1	Multi-Tenant Building					
		4242299	0.65	40	Mixed Use Commercial	C-1	Multi-Tenant Building					
D-35	15575 Los Gatos Blvd.	42422033	0.92	40	Mixed Use Commercial	CH	Multi-Tenant Building	19	9	9		37
D-36	15553 Los Gatos Blvd.	42422027	0.97	40	Mixed Use Commercial	CH	Wheel Works	19	10	10		39
D-37	15879 Los Gatos Blvd.	52915084	0.71	40	Mixed Use Commercial	CH	Citi Bank	14	7	7		28
	G- Winchester Boulevard Area											
G-2	14101 Winchester Blvd.	40630015	4.44	30	Community Commercial	C-1	Vasona Station Shopping Center	33	20	20	60	133
G-3	206 Knowles Dr.	42432076	2.41	40	High Density Residential	CM	Office					
	H - Pollard Road Area											
H-1	1514 Pollard Rd.	40733017	0.38	20	Neighborhood Commercial	C-1	Safeway Shopping Center				8	8
H-2	1500 Pollard Rd.	40733016	2.26	20	Neighborhood Commercial	C-1	Safeway Shopping Center				45	45

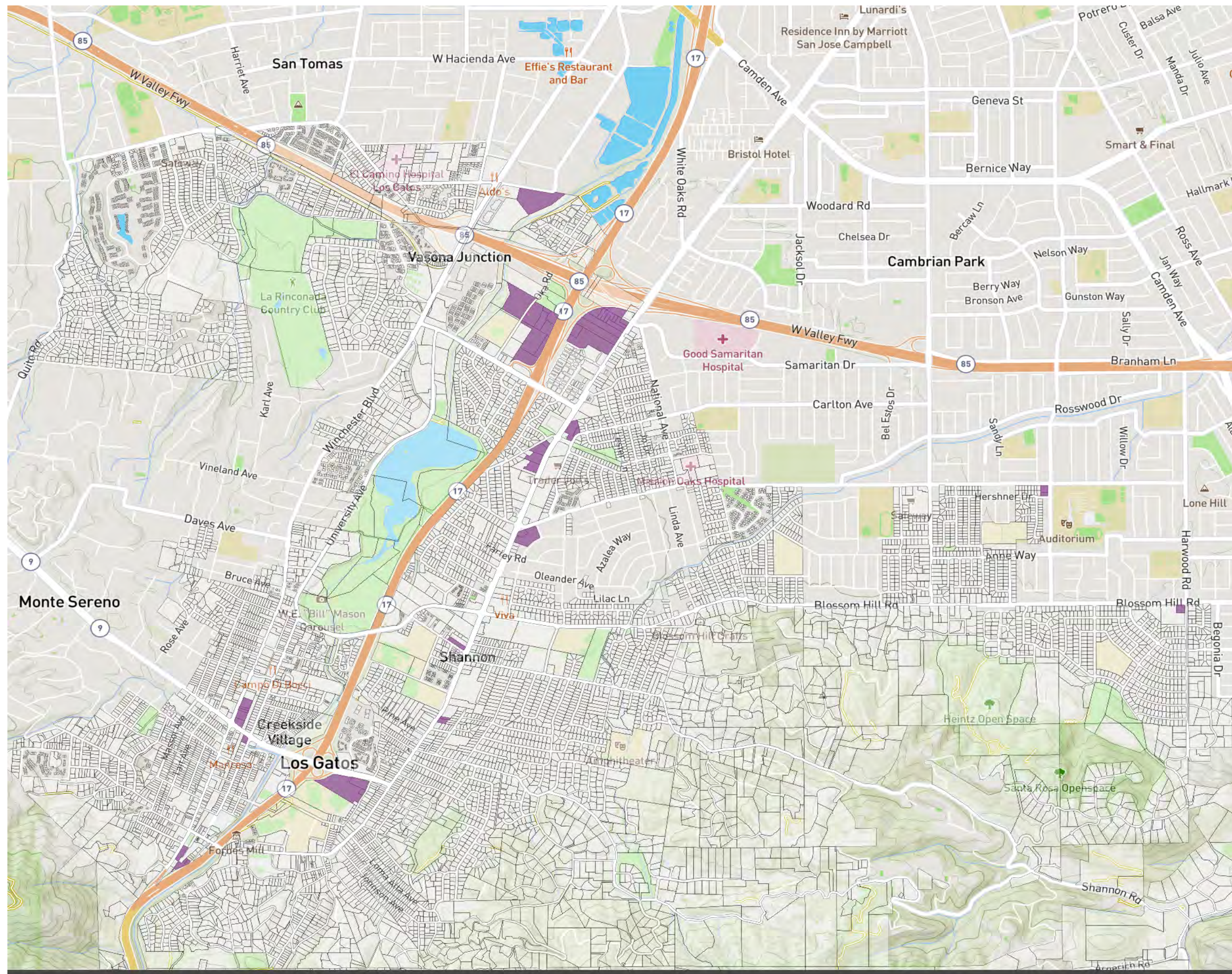
								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
H-3	1440 Pollard Rd.	40733024	3.12	20	Neighborhood Commercial	C-1	Safeway Shopping Center	16	9	9	28	62
	I - Union Avenue Area											
I-2	15521 Union Ave.	52341035	0.50	30	Community Commercial	C-1	Downing Shopping Center	47	28	28	86	189
	15525 Union Ave.	52341036	5.80	30	Community Commercial	C-1	Downing Shopping Center					
I-3	15066 Los Gatos Almaden Rd.	52341012	0.61	20	Neighborhood Commercial	O	Office Building				19	19
		52341011	0.36	20	Neighborhood Commercial	O	Office Building					
	J - Harwood Road Area											
J-2	14010 Blossom Hill Rd.	52732031	4.15	20	Neighborhood Commercial	C-1	Blossom Hill Square Shopping Center	21	12	12	38	83
J-3	13980 Blossom Hill Rd.	56764010	0.53	20	Neighborhood Commercial	C-1	Physical Therapy Building				11	11
J-4	14184 Blossom Hill Rd.	52732030	1.69	20	Neighborhood Commercial	C-1	U.S. Bank				34	34
	K - E. Main Street Area											
K-2	10 Jackson St.	52934018	0.78	30	Community Commercial	C-1	Multi-Tenant Building				23	23
	L - Alberto Way Area											
L-1	475 Alberto Way	52921999	5.17	40	Office Professional	O:PD	Office Building	103	52	52		207
	M - Churches											
M-1	16575 Shannon Rd.	52305002	5.28	12	Low Density Residential	R-1:8	Presbyterian Church	16	10	10	27	63
M-2	16548 Ferris	53207127	2.24	12	Low Density Residential	R-1:8	Faith Lutheran Church				27	27
M-4	15985 Rose Ave.	41020045	3.90	12	Low Density Residential	R-1:8	The Church of Jesus Christ Latter Day Saints				47	47
M-5	15885 Los Gatos Almaden Rd.	42113056	2.30	40	Office Professional	R-1:8	Holy Cross Lutheran Church	46	23	23		92
M-6	15980 Blossom Hill Rd.	52309003	0.51	12	Low Density Residential	R-1:8	Unitarian Universalist Fellowship LG				6	6
	Subtotal							1306	676	676	1156	3814
	ADUs							20	60	60	60	200
	Pipeline projects										202	202
	TOTAL							1326	736	736	1418	4216
	RHNA Requirements							537	310	320	826	1993
	Buffer (15 percent)							81	46	48	124	299
	RHNA + Buffer Total							618	356	368	950	2292
	Difference							708	380	368	468	1924

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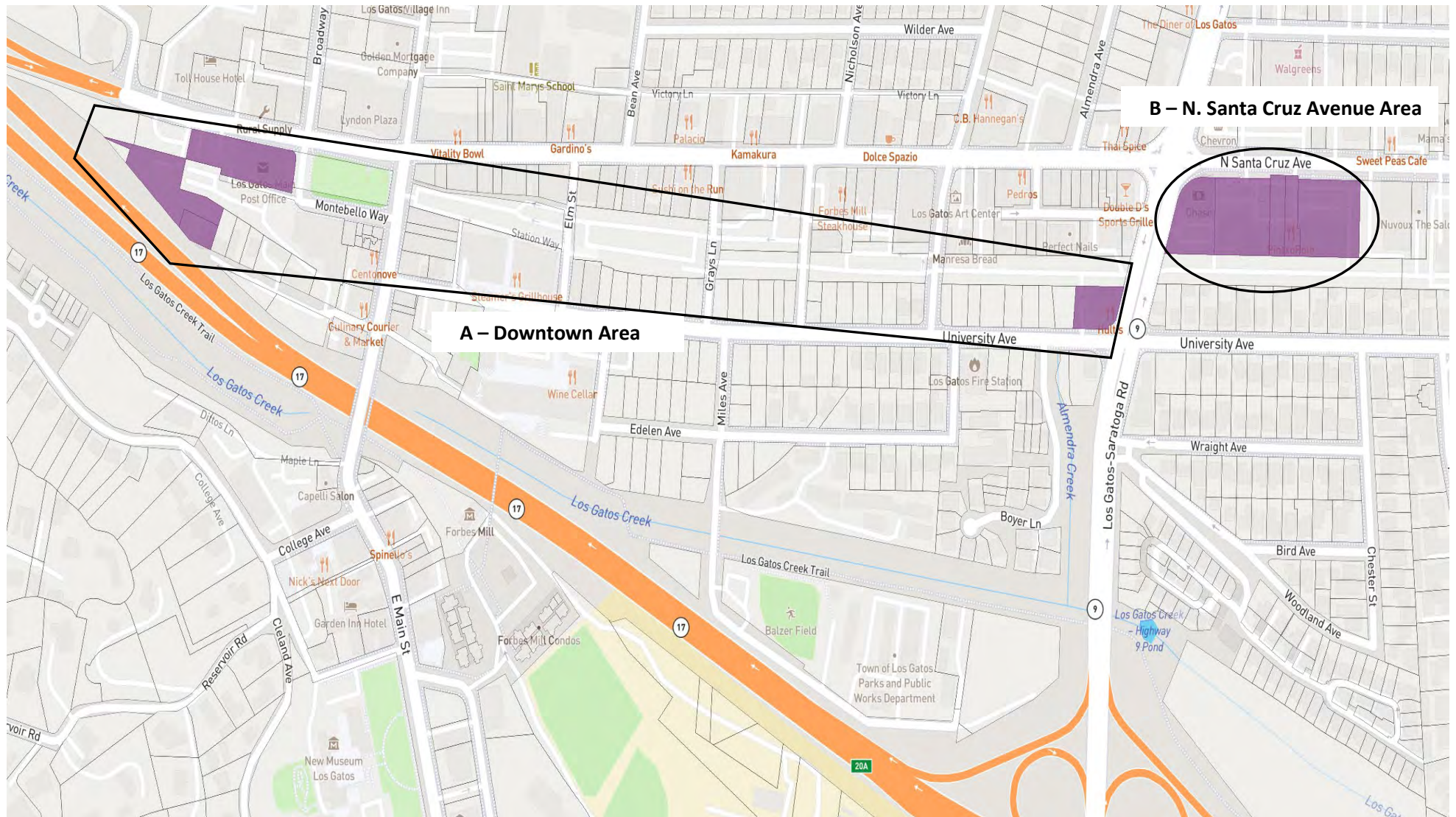
Tier 3 - Los Gatos Housing Element Update - Draft Site Selection
6th Cycle (2023-2031)

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	A - Downtown Area											
A-8	101 E. Main St.	52928007	0.24	30	Central Business District	C-2	Private Parking Lot				7	7
A-9	111 E. Main St.	52928006	0.17	30	Central Business District	C-2	Summit Bicycles				5	5
A-10	123 E. Main St.	52928005	0.29	30	Central Business District	C-2	LGS Recreation				9	9
A-11	E. Main St.	52928004	0.11	30	Central Business District	C-2	Private Parking Lot				3	3
A-12	131 E. Main St.	52928003	0.25	30	Central Business District	C-2	Masonic Hall Church				8	8
A-13	143 E. Main St.	52928002	0.29	30	Central Business District	C-2	Multi-Tenant Building				9	9
	151 E. Main St.	52928001	0.13	30	Central Business District	C-2	Multi-Tenant Building				4	4
A-14	66 E. Main St.	52929049	0.25	30	Central Business District	C-2	Gym				7	7
A-20		52903048	0.45	30	Central Business District	C-2	Town Parking Lot				14	14
A-25	127 N. Santa Cruz Ave.	51017090	0.38	30	Central Business District	C-2	US Bank				11	11
A-26	308 N. Santa Cruz Ave.	52904035	0.35	30	Central Business District	C-2	Bank of the West				10	10
A-28	275 Saratoga-Los Gatos Rd.	51014076	0.33	30	Central Business District	C-2	First Republic Bank				10	10
A-35	100 S. Santa Cruz Ave.	51045061	0.47	30	Central Business District	C-2	Multi-Tenant Building				14	14
A-36	110 S. Santa Cruz Ave.	51045089	0.33	30	Central Business District	C-2	Rural Supply				10	10
A-38	142 S. Santa Cruz Ave.	51045090	0.18	30	Central Business District	C-2	Office Building				5	5
	D - Los Gatos Boulevard Area											
D-13	15737 Los Gatos Blvd.	42421050	0.37	40	Mixed Use Commercial	CH	Classic Burgers	7	4	4		15
D-14	15751 Los Gatos Blvd.	42421048	0.39	40	Mixed Use Commercial	CH	Goodyear Auto Service	8	4	4		16
D-21	16165 Los Gatos Blvd.	52916050	0.25	40	Mixed Use Commercial	CH	Multi-Tenant Building	4	3	3		10
D-22		52916075	0.13	40	Mixed Use Commercial	CH	Private Parking Lot	3	1	1		5
D-23	16121 Los Gatos Blvd.	52916049	0.16	40	Mixed Use Commercial	CH	Single-Family Home	2	2	2		6
D-24	16905 Roberts Rd.	52916009	0.30	40	Mixed Use Commercial	CH	Multi-Tenant Building	9	4	4		17
	16905 Roberts Rd.	52916044	0.12	40	Mixed Use Commercial	CH	Multi-Tenant Building					
D-28	16250 Los Gatos Blvd.	53206057	0.28	40	Mixed Use Commercial	C-1	Orange Theory	5	3	3		11
D-30	15380 Los Gatos Blvd.	42417001	0.34	40	Mixed Use Commercial	C-1	Mobil Gas Station	8	3	3		14
D-33	15643 Los Gatos Blvd.	42422031	0.34	40	Mixed Use Commercial	CH	Speedee Oil Change				14	14
	F - Lark Area											
F-3	987 University Ave.	42431043	1.83	0	Light Industrial	CM	Multi-Tenant Building					
F-4	985 University Ave.	42431067	2.63	0	Light Industrial	CM	Multi-Tenant Building					
F-5	983 University Ave.	42430117	5.99	0	Light Industrial	CM	Multi-Tenant Building					

								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
F-6	973 University Ave.	42430118	1.33	0	Light Industrial	CM	Silicon Valley Medical Development					
F-7	950 University Ave.	42431065	1.31	0	Light Industrial	CM:PD	Extra Space Storage					
F-8	980 University Ave.	42431027	4.20	0	Light Industrial	CM	Cryptic					
F-9	16780 Lark Ave.	42431035	2.20	0	Light Industrial	CM	Multi-Tenant Building					
F-10	16735 Lark Ave.	42408067	1.86	24	Medium Density Residential	R-1:8	Church				45	45
	K - E. Main Street Area											
K-1	6 Los Gatos Blvd.	5298033	0.29	30	Community Commercial	C-1	Dental Building				9	9
K-3	280 E. Main St.	52934063	0.22	30	Community Commercial	C-1	44753				7	7
	M - Churches											
M-3	16845 Hicks Rd.	56723043	13.07	1	Hillside Residential	HR-1	Venture Christian Church				13	13
								Draft 2040 General Plan Density				
	Address	APN	Parcel Size (Gross Acres)	Draft 2040 General Plan du/ac	Draft 2040 General Plan Land Use Designation	Zoning	Use	Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate Income Units	Total
	Subtotal							46	24	24	213	307
	ADUs							20	60	60	60	200
	Pipeline projects										202	202
	TOTAL							66	84	84	475	709
	RHNA Requirements							537	310	320	826	1,993
	Buffer (15 percent)							81	46	48	124	299
	RHNA + Buffer Total							618	356	368	950	2,292
	Difference							-552	-272	-284	-475	-1,583



Draft Tier 1 Sites



Downtown Area Sites

A-2: 50 Park Avenue & 61 Montebello Way

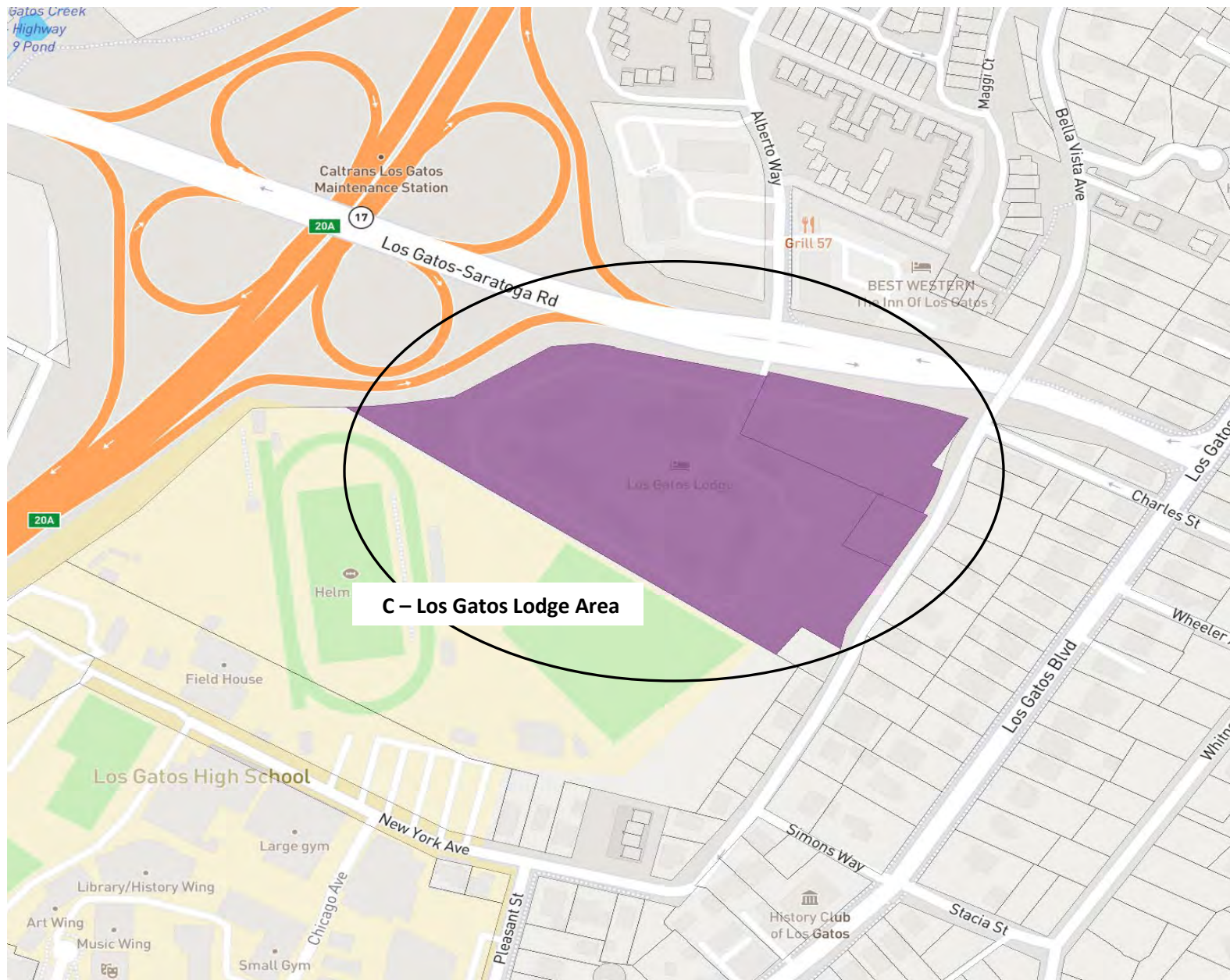
A-3: 101 S. Santa Cruz Avenue

A-7: 165 Los Gatos-Saratoga Road

N. Santa Cruz Avenue Area Sites

N. Santa Cruz Avenue, 430 N. Santa Cruz Avenue, 432 N. Santa Cruz Avenue, and APN 529-07-003

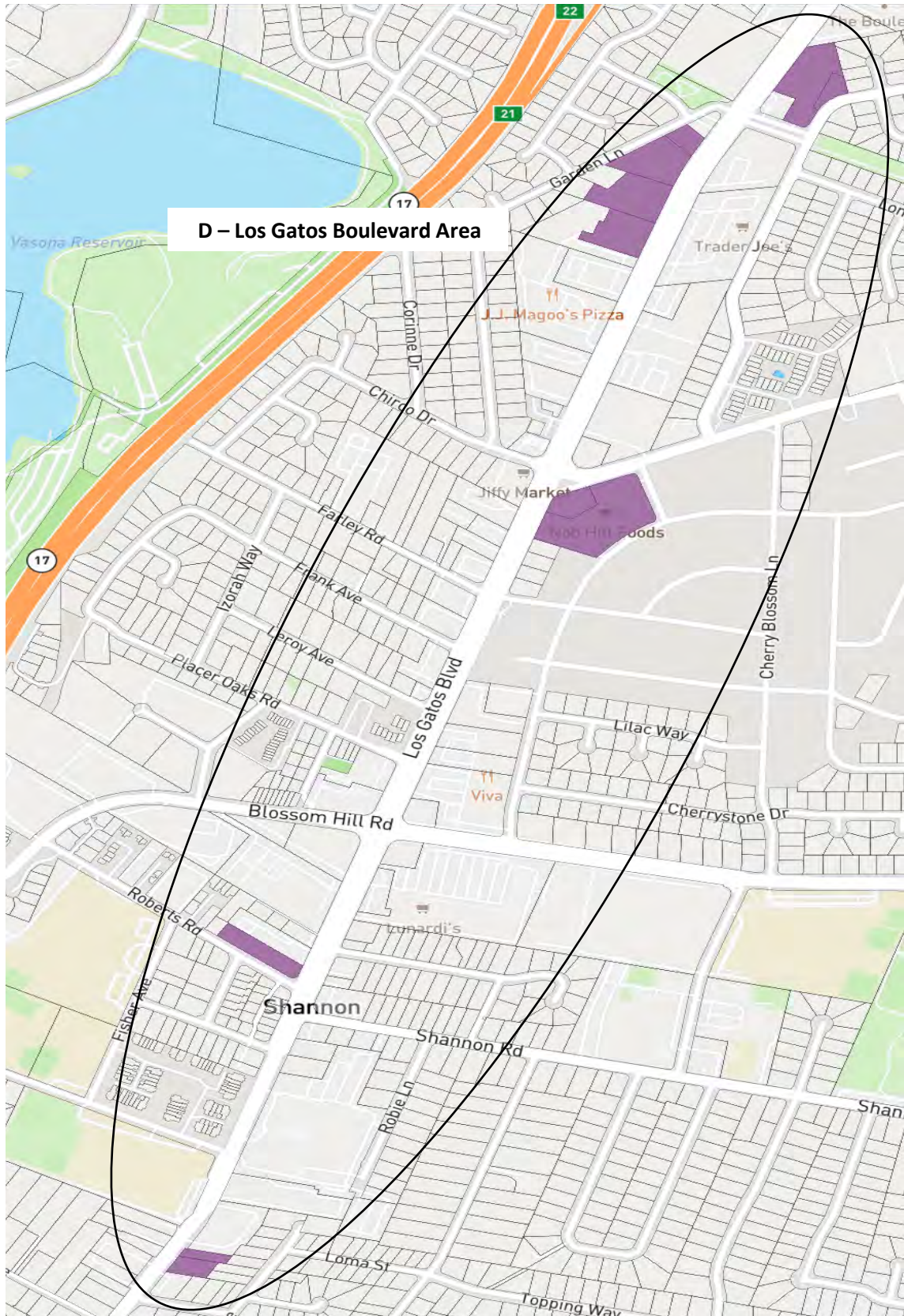
Draft Tier 1 Sites



Los Gatos Lodge Area Sites

C-1: 50 Los Gatos-Saratoga Road, APN 52904001, and APN 52904003

Draft Tier 1 Sites



Los Gatos Boulevard Area Sites

D-1: 15300 Los Gatos Boulevard

D-4: 15349 Los Gatos Boulevard, 15367 Los Gatos Boulevard, and 15405 Los Gatos Boulevard

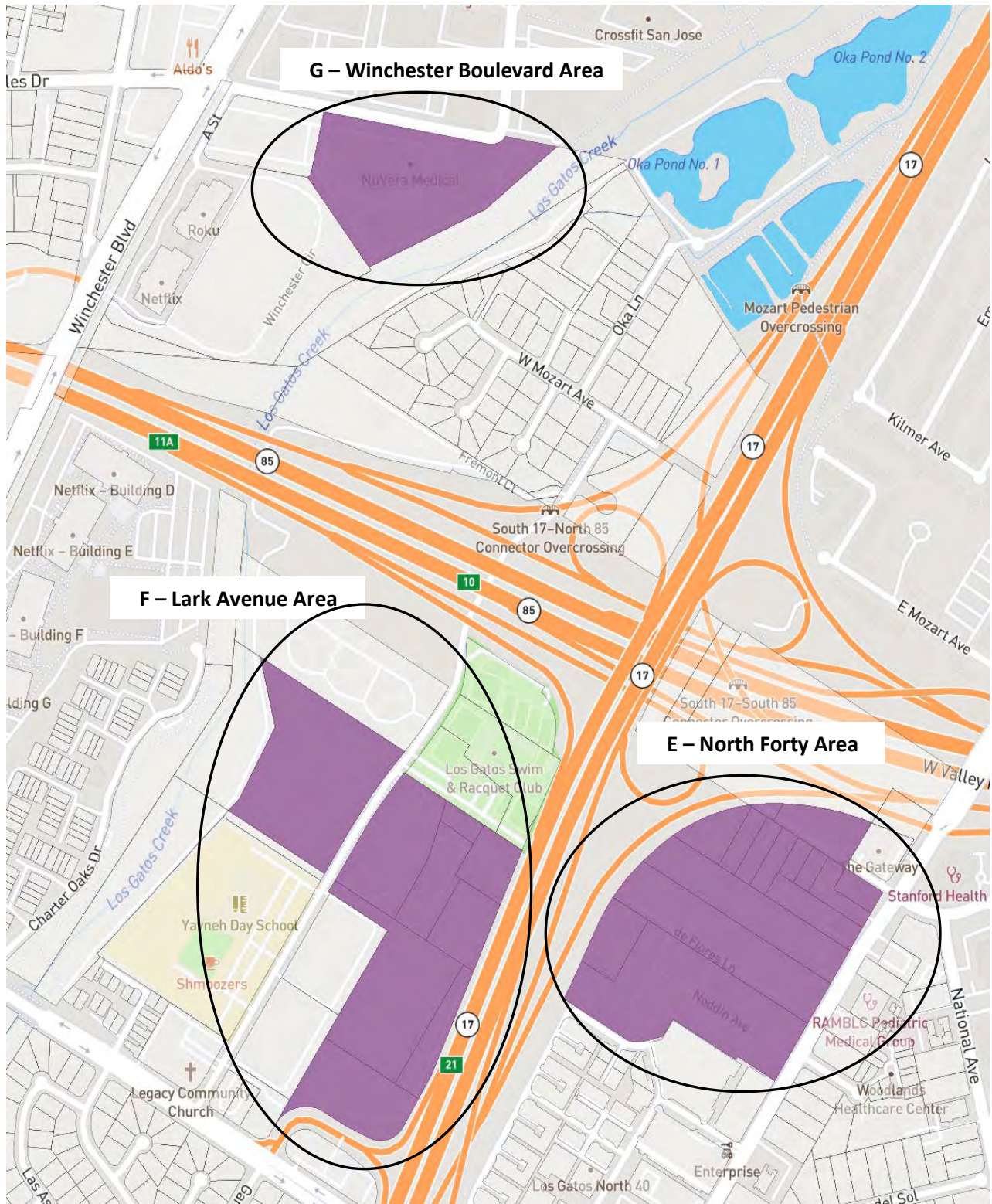
D-5: 15425 Los Gatos Boulevard

D-9: 16535 Camellia Terrace and APN 52302005

D-26: 16203 Los Gatos Boulevard

D-29: 16492 Los Gatos Boulevard and APN 53207085

Draft Tier 1 Sites



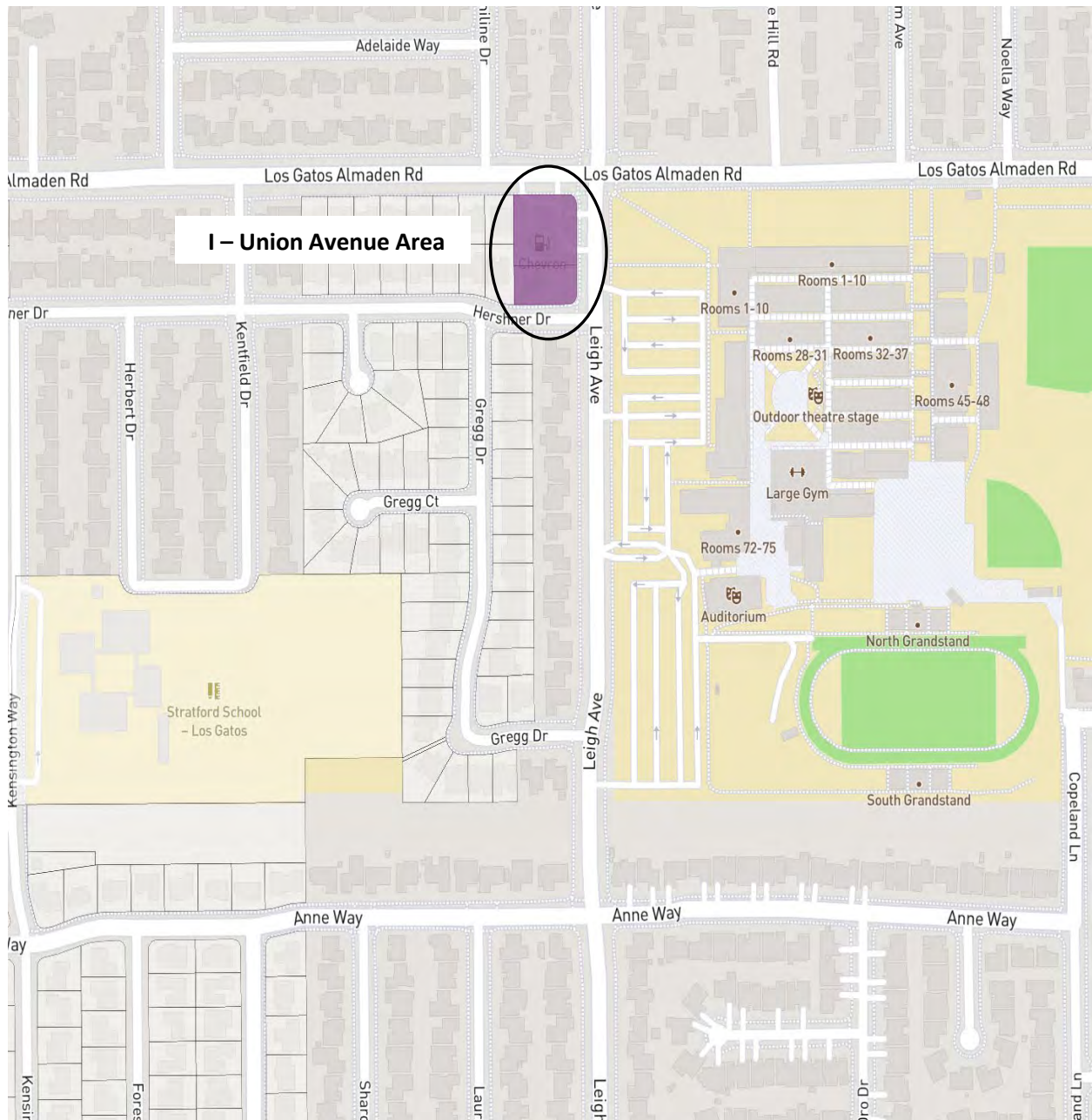
North Forty Area Sites

E-1: 14859 Los Gatos Blvd., 16392 Los Gatos Blvd., 16260 Burton Rd., 16250 Burton Rd., 14917 Los Gatos Blvd., 14925 Los Gatos Blvd., APNs 42406115, 42406116, 42407010, 42407052, 42407054, 42407063, 42407064, 42407065, and 42407116

Lark Avenue Area Sites

F-1: APNs 42408057, 42408029, 42408059, 42408060, 42408058, 42408017, and 42408021
F-2: APN 42408074

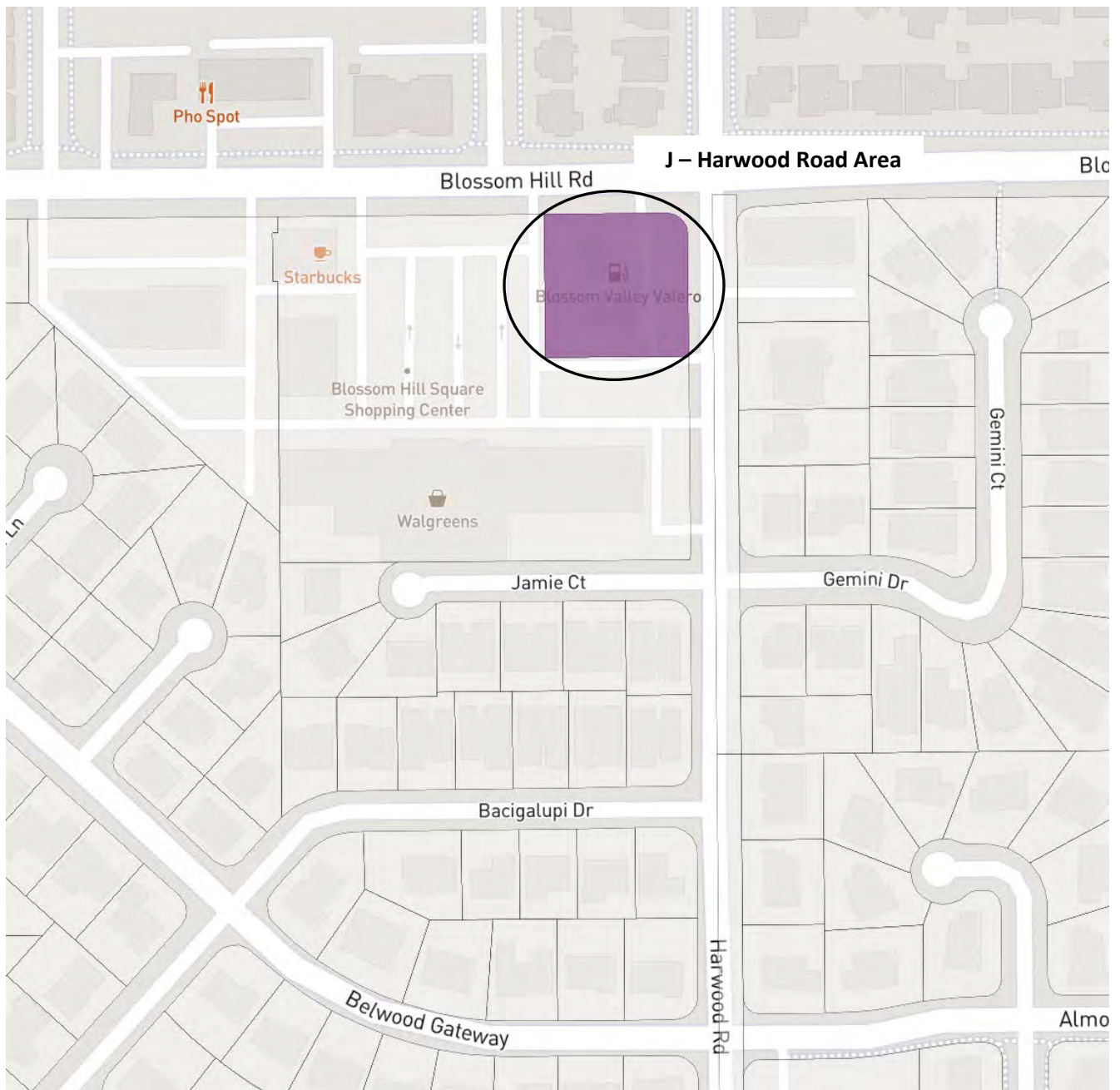
Draft Tier 1 Sites



Union Avenue Sites

I-1: 440 Los Gatos Almaden Road and 445 Leigh Avenue

Draft Tier 1 Sites



Harwood Road Area Site

J-1: 14000 Blossom Hill Road

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TOWN OF LOS GATOS
HOUSING ELEMENT ADVISORY BOARD REPORT

MEETING DATE: 05/19/2022

ITEM NO: 1

DESK ITEM

DATE: May 19, 2022

TO: Housing Element Advisory Board

FROM: Joel Paulson, Community Development Director

SUBJECT: Review and Discussion of the Housing Element Site Inventory

REMARKS:

In response to a Board Member request, staff has received Property Owner Interest Forms for the following sites:

Property Owner Interest Forms Submitted by Property Owner Included in Tier 1

1. 50 Park Avenue and 61 Montebello Way – Included as Site A-2
2. 101 S. Santa Cruz Avenue – Included as Site A-3
3. 165 Los Gatos Saratoga Road – Included as Site A-7
4. 50 Los Gatos Saratoga Road – Included as Site C-1
5. 15300 Los Gatos Boulevard – Included as Site D-1
6. 15349, 15367, 15405 Los Gatos Boulevard – Included as Site D-4
7. 15425 Los Gatos Boulevard – Included as Site D-5
8. 16492 Los Gatos Boulevard and APN 532-07-085 – Included as Site D-29
9. 440 Los Gatos Almaden Road and 445 Leigh Avenue – Included as Site I-1
10. 14000 Blossom Hill Road – Included as Site J-1

Property Owner Interest Forms Submitted by Property Owner Not Included in Tiers 1, 2, and 3

1. 9 Forrest Avenue – Zoned R-M:5-12
2. 128 Mary Way – Zoned R-1:8
3. 333 University Avenue – Zoned R-1D:LHP
4. APN 529-06-072 – Zoned RMH

Based on the site selection criteria utilized by staff, the four sites identified above were not included in Tiers 1, 2, or 3. Should the HEAB wish to include additional sites, staff would recommend including the site located at 9 Forrest Avenue to Tier 3 due to it having a lot size less than half an acre. Staff does not recommend including the sites located at 128 Mary Way

PREPARED BY: ERIN WALTERS AND JOCELYN SHOOPMAN
Associate Planner and Associate Planner

REMARKS (continued):

and 333 University Avenue due to their zoning, General Plan land use designation, and lot size less than half an acre. Additionally, staff does not recommend including the site located at APN 529-06-072 due to environmental constraints, with the location of the Los Gatos creek within the site.

Attachment 6 contains a public comment unintendedly omitted from the Staff Report, as well as additional public comments received after the completion of the Staff Report.

ATTACHMENTS:

Previously Received with the May 19, 2022, Staff Report:

1. Housing Element Site Inventory Guidebook, Department of Housing and Community Development
2. Draft Tier 1 Sites
3. Draft Tier 2 Sites
4. Draft Tier 3 Sites
5. Draft Tier 1 Map

Received with this Desk Item Report:

6. Public Comments Received Between 11:01 a.m., Friday, May 13, 2022, and 11:00 a.m., Thursday, May 19, 2022

From: Lee Fagot <[REDACTED]>

Sent: Friday, May 6, 2022 11:37 AM

To: Joel Paulson <jpaulson@losgatosca.gov>; Jennifer Armer <JArmer@losgatosca.gov>; Laurel Prevetti <LPrevetti@losgatosca.gov>; Housing Element <HEUpdate@losgatosca.gov>

Subject: Site selection for RHNA target

Folks,

Thanks for the work you are all doing on the HEAB team.

I did want to ask that before submitting the final list of sites, with densities and height limits, that you review the total number of new housing units to make sure we do NOT provide more sites than the 1993 units as mandated by ABAG, and in each affordability range. Not sure I understand the logic of a buffer of 15%, and recommend to keep the number lower, especially as we know there are more than two more RHNA cycles in the next 20 years that will also be challenging to our community, especially as regards the character of our Town that is being challenged to deal with what is "perceived" as a need for so much more housing that our population could be increased here by about 1/3 over the next 20 years. Is that logical, given the lack of infrastructure, water, reliable energy, etc.

Thanks for considering my thoughts and hope you will review and make available the total number of housing units by site and income levels before submitting to the Council. That would be the proper transparency Thanks Lee Fagot

[REDACTED] cell

From: Phil Koen <[REDACTED]>
Date: May 18, 2022 at 11:22:10 AM PDT
To: Joel Paulson <jpaulson@losgatosca.gov>, Shelley Neis <sneis@losgatosca.gov>
Cc: jak vannada <[REDACTED]>, Rick Van Hoesen <[REDACTED]>, David Weissman <[REDACTED]>, Lee Fagot <[REDACTED]>, Peter Hertan <[REDACTED]>, Jim Foley <[REDACTED]>, Catherine Somers <[REDACTED]>
Subject: lanhermosabeachadoptedout032322.pdf

Hello Shelley and Joel,

Would you please include the LGCA email below and the attached letter from HCD to the City of Hermosa Beach in the HEAB meeting package. Thank you.

Dear Members of the HEAB,

Attached please find an example of the comment letters local SCAG jurisdictions have recently received from the HCD after reviewing local jurisdictions adopted 6th cycle housing element updates. A carefully reading of the letter will hopefully further inform the HEAB with regard to the critical areas being analyzed by the HCD during the certification process. I am sure staff can vouch that the Hermosa Beach letter is typical of the comment letters bring issued by HCD.

Informed of HCD's focus areas, of particular note is the Town's draft site inventory relies on non-vacant sites to accommodate more than 50% of the RHNA for lower income households. Since it is more than 50%, the non-vacant site use is presumed by HCD to impede additional residential development, UNLESS there are findings based on substantial evidence that the use will be likely discontinued during the planning period.

This test raises questions in our mind whether at least 470 of the lower income sites (which account for nearly 50 % of the lower income sites identified) consisting of 145 units on the N40, 264 units at Los Gatos Lodge and 101 units at Nob Hill) can meet this high water test. If not, the identified sites should not be included in the site analysis.

Additionally we note that the site analysis uses land use densities proposed in the draft 2040 General Plan and not the current land use densities. Since the draft 2040 General Plan has not been adopted and continues to be of great public concern, we question whether it is appropriate to use these densities in the site analysis.

Regarding the income distribution of the 200 ADUs, the site analysis assumes 10% of the units will be very-low income, 30% will be low-income, 30% will be moderate income and 30% will be above moderate income. Has there been a study to confirm this income distribution and what is the assumption regarding one person and two person households? We are aware of a study prepared by SCAG which would suggest materially different income distributions for ADUs which could result in substantially less units in the VLI and MI categories and more units in the LI and AM categories.

One last point we would like to raise to the HEAB is the importance of performing a capacity analysis for each site to validate that the projected site capacity can be realistically achieved. There are new rules that govern the development of the effective site capacity. HCB's letter to Hermosa Beach discusses this issue in detail.

In closing, we greatly appreciate the hard work the HEAB is putting forth in developing a thoughtful site inventory that ultimately the HCD will certify. We hope you will find our comments constructive and will assist you as you continue to refine the site inventory analysis.

Thank you.

Phil Koen

Los Gatos Community Alliance

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



March 23, 2022

Suja Lowenthal, City Manager
City of Hermosa Beach
1315 Valley Drive
Hermosa Beach, CA 90254

Dear Suja Lowenthal:

RE: City of Hermosa Beach's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Hermosa Beach's (City) housing element adopted December 21, 2021 and received for review on December 22, 2021. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on March 14, 2022 with Ken Robertson, Christy Teague, and Carlos Luis.

The adopted housing element addresses some statutory requirements described in HCD's October 4, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill

(SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD is committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Molivann Phlong, of our staff, at molivann.phlong@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF HERMOSA BEACH

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The revised element provides (p. A-2) general information on the previous element's programs. However, this information does not provide further analysis other than implementation status of programs. A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As stated in the previous review, as part of this analysis, the element should describe the actual results of the prior element's programs with any metrics and numerical accomplishments, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation for programs that are incorporated into the current cycle programs.

In addition, as part of the review of programs in the past cycle, the element must provide an evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

Fair Housing Enforcement and Outreach: The revised element includes (p. III-16) general information on fair housing enforcement and outreach and states that the City

held a series of public hearings for the element. However, the element did not address this finding. The element must provide further analysis and describe ongoing fair housing outreach throughout the planning period or include a program. Outreach should include more robust actions in addition to housing flyers on the City's website. Please refer to HCD's October 4, 2021 review for more information.

Integration and Segregation: The element was not revised to address this finding. The element should describe the population including factors behind the block groups with the highest percentage of nonwhite residents located in the southern and eastern portions of the City, and analyze whether this area overlaps with other areas of the analysis. This analysis must include both local and regional data and analyze segregation and integration based on race and ethnicity, income, familial status and persons with disabilities. Please see HCD's October 4, 2021 review for more information.

Disparities in Access to Opportunity: The element was not revised to address this finding. Please see HCD's October 4, 2021 review for more information.

Disproportionate Housing Needs and Displacement: While this section of the element was revised (p. III-18), additional information and analysis is needed to comply. The element must include both local (comparing areas within the City) and regional (comparing the City to the region) data to analyze cost burden by tenure, overcrowding by tenure, substandard housing, homelessness, and displacement throughout the community. The element must also analyze factors of displacement in addition to at-risk properties, such as displacement due to investment, disinvestment and disaster. The analysis must also address trends, patterns, and other local knowledge and conclude with a summary of fair housing issues.

Contributing Factors: The revised element utilizes (p. III-19) the 2018 Analysis of Impediments to Fair Housing Choice (AI) for the County of Los Angeles as the list of contributing factors to fair housing issues. However, the contributing factors are regional and many do not pertain to the fair housing analysis of the City (such as addressing R/ECAPs within the City). The element should include a prioritized list of contributing factors and analyze the factors specific to the City that create, contribute to, perpetuate, or increase the severity of fair housing issues. Contributing factors are fundamental to adequate goals and actions. The analysis should result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Sites Inventory Affirmatively Furthering Fair Housing (AFFH) Analysis: While the element was revised to state that the sites inventory includes underutilized sites that do not contribute to displacement risk (p. III-18), additional data and analysis is needed. The element must include an analysis that addresses how the sites inventory AFFH. Sites must be identified and evaluated relative to the full scope of the AFFH (e.g. segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, etc.). The site inventory and accompanying analysis must identify and analyze selected sites, map the location of the sites including

affordability level, and evaluate sites relative to socio-economic patterns. The analysis should incorporate the City's projected housing development at all income levels and assess the extent to which that development will either further entrench or ameliorate existing patterns of segregation and/or exclusion of members of protected categories.

AFFH Goals, Policies, and Actions: The element was not revised to address this finding. Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. Please see HCD's October 4, 2021 review letter for more information.

- 2 *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a regional housing needs allocation (RHNA) of 558 housing units, of which 359 are for lower-income households. To address this need, the element mainly relies on rezoning sites and accessory dwelling units (ADUs) to meet the City's housing needs. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses.

Sites Inventory: Tables B-3 and B-4 (p. B-4) included additional information of the existing uses. However, this is not adequate or sufficiently detailed to demonstrate the potential for redevelopment in the planning period. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period (e.g. are commercial buildings vacant or leased, the status of residential units and utility switching stations, etc.). In addition, Table B-1 states that the City will be rezoning candidate sites to accommodate a shortfall of 446 units, including shortfall of 56 above moderate units. However, Table B-4 (Candidate Sites for Rezoning) does not identify any sites to accommodate the above moderate RHNA allocation. The element must indicate how the City will identify sufficient capacity to accommodate the shortfall.

For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Small Sites: The revised Table B-4 (p. B-5) lists small sites for lower income units. However, the element was not revised to address this finding. The element must demonstrate the adequacy of small sites to accommodate the lower income RHNA

including examples of lot consolidation and demonstrate that small sites in the rezone will accommodate 16 units per site. Please see HCD's October 4, 2021 review letter for more information on how to address the finding.

Realistic Capacity: The element continues to not support the capacity assumptions assumed in the element. The element states (p. B-2) that there are no recent examples of large-scale housing or mixed-use development in the City to support the assumptions of buildout for sites included in the inventory. The element can analyze examples of large- and small-scale development throughout the City and in neighboring jurisdictions with typical densities of existing or approved residential developments at a similar affordability level. In addition, the element states that due to high land values, developers are likely to maximize yields on these properties. The element must provide further support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions, such as developers maximizing yields on the properties. While the element assumes 100 percent development capacity of each site, the estimated number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, and typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction or regionally.

The element must also analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., mixed-use) and on underutilized nonresidential sites. If sites are rezoned to mixed-use, consider competing uses, the extent nonresidential uses are allowed, and environmental constraints limiting the usage. Also, there should be analysis on typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction or regionally. This analysis should consider the likelihood of 100 percent nonresidential development, performance standards, and development trends supporting residential development.

Suitability of Nonvacant Sites: While the element was revised to include a recent development of multifamily units developed in neighboring Redondo Beach on an existing commercial site as a comparable example for potential development within the City, this example alone does not demonstrate the potential for redevelopment and demonstrate the extent existing uses constitute an impediment to additional residential development. As stated in the previous review, the analysis shall consider factors including, but not limited to, the, recent developments, development trends, market conditions, the City's past experience converting existing uses to higher density residential development, analysis of existing leases or other contracts that would perpetuate the existing use or prevent additional residential development, and incentives or standards that encourage development. For example, the element could consider indicators such as age and condition of the existing structure, presence of expiring leases, expressed developer interest, low improvement to land value ratio, and other factors. Absent local development trends, the element can include trends from neighboring cities. However, those the element should indicate how those examples relate to characteristics of the sites in the inventory.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Accessory Dwelling Units: The revised element assumes (p. B-2) a build out of 104 ADUs in the planning period. It is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Specifically, in addition to other methods, HCD accepts the use of trends in ADU construction since January 2018 to estimate new production. Based on HCD's records of past production between 2018 to 2020, the City is averaging one unit per year. To support assumptions for ADUs in the planning period, the element could reduce the number of ADUs assumed per year or reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate.

Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). If necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Infrastructure: While the element was revised to include information on dry utilities, it must demonstrate sufficient existing or planned water and sewer supply capacity to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).)

Zoning for a Variety of Housing Types (Transitional and Supportive Housing): The revised element includes (p. III-6) a statement that current City definitions for transitional and supportive housing are in compliance with this requirement. However, a cursory review of the City's residential zoning code found limitations on the uses to just six or fewer residents. Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency

with Government Code section 65583, subdivision (a)(5) or add or revise programs which comply with the statutory requirements.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Local Processing and Permit Procedures: The element was not revised to address the analysis of the Precise Development Plan (PDP). While the element includes Program 11 to evaluate processing and permit procedures' impacts, an analysis must be completed to formulate an appropriate program to address identified constraints. For example, while the element provides a description (p. III-3) of the PDP required for housing developments, it must also analyze the PDP process, identify what is reviewed, list typical findings and approval procedures by zone and housing type. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability and should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

The revised element also includes a description of the City (p. III-11) within the Coastal Zone. However, the element should include an analysis of whether the City coastal preservation policies will potentially impact future or existing housing development within the designated coastal zone of the City especially for sites that require rezoning identified in Table B4. The element should also state when the City will receive approval for the Local Coastal Plan.

Constraints on Housing for Persons with Disabilities: The revised element states (p. III-11) that residential care facilities serving six or fewer persons are permitted in all residential zones and that large residential care facilities are conditionally permitted in most residential zones. However, residential care facilities serving seven or more persons are limited to the same zones with the approval of a conditional use permit. While the element states it will consider changing the review process, it must commit to revising the requirements to remove constraints on persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

In addition, while the element describes the City's reasonable accommodation process, it should evaluate impacts, including identifying and analyzing findings of approval. For example, Section (4)(b) of the City's Reasonable Accommodation (p. III-5) is a constraint to the provision of housing for persons with disabilities and the element must include a program to revise the reasonable accommodation procedure and specifically remove identified constraints.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

The element was not revised to address this requirement. Please see HCD's October 4, 2021 review letter for more information on how to address the finding. In addition, the element states (p. III-13) that the timeline of development projects from project approval to building permit application can vary from project to project. However, the element must include an estimate of the typical length of time between receiving approval for a housing development and the submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need. The element should also include an analysis of requests to develop housing at densities below those anticipated, including sites listed in the inventory. The element must also include a description of any program(s) that mitigate nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category.


5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

The element was not revised to address this finding. Please see HCD's October 4, 2021 review for more information.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- 
- *Program 4 (Affordable Housing Development Outreach and Assistance)*: Provide an implementation timeline (e.g., month and year) for incentives in addition to the timeframe that was included to provide information to affordable housing developers.
 - *Program 7 (Land Value Recapture)*: While the element included a date of the feasibility study, it must also provide an implementation timeline (e.g., month and year) to implement the results of the study.
 - *Program 8 (Housing Trust Funds)*: Provide a definitive implementation action and timeline (e.g., month and year) beyond investigating Housing Trust Funds.
 - *Program 11 (Streamline Housing Permit Processing)*: The Program must include specific implementation timelines to comply with SB 35.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, the element does not include a complete site analysis. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised, as follows;

- *Program 5 (Facilitate Efficient Use of Sites that Allow High-Density Residential Development)* should be strengthened to incentivize development of affordable units on small sites under 0.5 acres as the City relies on small sites to accommodate part of the lower income RHNA.
- *Program 9 (Adequate Sites to Accommodate Housing Needs)* identifies the rezoning necessary to accommodate the lower income RHNA. However, the program should be revised to also identify the number of acres specifically to be rezoned and identify the proposed zones for the rezoned sites. In addition, the program must identify and rezone to meet moderate and above moderate RHNA.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B4 and B5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised, as follows:

- *Program 10 (Housing for Persons with Special Needs)* should be revised from “will be reviewed” and “may” to objective, specific actions that the City will take during the planning period to create a meaningful program.
 - *Parking Requirements:* While the revised element states (p. III-7) that the City will reevaluate the appropriateness of the City’s parking requirements based on current conditions as part of the comprehensive Zoning Ordinance update, it must include a program with implementation actions to address or remove any identified constraints.
4. *Promote AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

The element was not revised to address this finding. Programs need to be based on identified contributing factors from localized AFFH analysis, include metrics and milestones, and be significant and meaningful. Please see HCD’s October 4, 2021 review letter for more information.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element’s ADU program (Program 6) should commit to additional incentives and strategies, frequent monitoring (every other year) of ADU production and affordability and specific commitment to adopt alternative measures such as rezoning or amending the element within a specific time (e.g., 6 months) if ADU assumptions for the number of units and affordability are not met.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

The element was revised to include a general summary of stakeholders outreach as part of the element update. However, these revisions are insufficient in demonstrating that all economic segments of the community, particularly low-and moderate-income households and organizations that represent them, were involved in the development of the housing element. In addition, the element did not include a summary of public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

Direct No.: [REDACTED]

May 18, 2022

Town of Los Gatos Housing Element Advisory Board
c/o Community Development Department
110 E. Main Street
Los Gatos, CA 95030

Re: Housing Element Site Inventory

Dear Advisory Board Members:

Our firm represents Grosvenor USA Limited ("Grosvenor") in connection with housing and land use matters for development of the North Forty Specific Plan Area in the Town of Los Gatos (the "Town"). As you are aware, Grosvenor controls a majority of the undeveloped property in the North Forty Specific Plan Area, which is titled "E. North Forty District" in the Town's Initial Draft Site Inventory that the Housing Element Advisory Board ("Advisory Board") will consider at its meeting on May 19, 2022.

Grosvenor is very interested in developing housing on the North Forty District site during the sixth RHNA cycle's upcoming eight-year planning period, and we agree that including the North Forty District in the Town's Housing Element Site Inventory makes sense. Unfortunately, the 390 units of housing shown in the Initial Draft Site Inventory is not a realistic number to plan for, because current economic conditions do not support a feasible residential development of this scale on the site.

Consistent with the community engagement process that Grosvenor and its development team have worked on with the Town over the past two years, Grosvenor envisions developing a mixed-use project on the approximately 14 acre portion of the North Forty District site it controls. Current projections contemplate developing approximately 190 housing units on this portion of the site, inclusive of housing dedicated to low and very low income households that complies with the Town's Below Market Price program.

Accordingly, we must ask that the Advisory Board reduce the unit allocation for the North Forty District. Grosvenor remains open to developing more housing on the site if market conditions change. It may be possible to deliver more units than expected, which would help the town demonstrate progress towards achieving its RHNA goals during the planning period. Therefore, we encourage the Town to maintain

Housing Element Advisory Board
May 18, 2022
Page 2

flexible density and development standards that will allow for the development to deliver the maximum amount of housing that is feasible when the site develops. Please note that Grosvenor does not control all of the land within the North Forty District Site, and we recognize that the Town may desire to continue planning for additional housing on the portion of the North Forty District site under separate ownership. Although this means that overall the North Forty District may still accommodate more than 190 units, it is not realistic to expect Grosvenor's portion of the North Forty District to develop at 20 du/ac on the entirety of its portion of the site as part of the Housing Element planning process. Therefore, the Initial Draft Site Inventory should be revised accordingly, with no more than 190 units attributed to the property under Grosvenor's control.

Thank you for your consideration and for your important work planning for how the Town will do its part to meet the state's housing needs. If you have any questions or would like to discuss realistic options for development of the North Forty District, please feel free to contact me or another member of the Grosvenor team at any time.

Sincerely,



Eric S. Phillips

cc: Whitney Christopoulos, Grosvenor USA
Don Capobres, Harmonie Park Development
Wendi Baker, Harmonie Park Development
Jennifer Renk, Sheppard, Mullin, Richter & Hampton LLP

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 23

DESK ITEM

DATE: June 7, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider the Draft Site Inventory as Recommended by the Housing Element Advisory Board.

REMARKS:

The following information is provided in response to Council Member questions:

- *Provide information on the decision-making process, criteria, and principles for the Draft Site Inventory.*

Town staff identified sites for potential inclusion in the Initial Draft Site Inventory and provided this information to the Housing Element Advisory Board (HEAB) at their meetings on April 21, 2022, May 5, 2022, and May 19, 2022. This initial work involved identifying sites that may have the potential for new residential development within the eight-year timeframe of the Housing Element planning period. Factors used for site consideration include, but are not limited to, the Department of Housing and Community Development (HCD) Housing Element Site Inventory Guidebook, property size, whether the site was recently developed, environmental constraints to the site, public feedback, and submittal of a Property Owner Interest Form. Based on the guidance of the HCD Housing Element Site Inventory Guidebook, the types of sites evaluated for inclusion in the Draft Site Inventory include:

1. Vacant and non-vacant sites zoned for residential use;
2. Vacant and non-vacant sites zoned for nonresidential use that allow residential development (mixed-use);
3. Nonresidential sites in the 2040 Draft General Plan Community Place Districts;
4. Projects that have residential planning entitlements and have not received building permits; and

PREPARED BY: Erin Walters and Jocelyn Shoopman
Associate Planner and Associate Planner

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

REMARKS (continued):

5. Sites on which the property owner has expressed or previously expressed interest in residential or mixed-use redevelopment.

Following HCD review and discussion of policy and program development, the Draft Site Inventory will be combined with updated policies and programs to create an initial draft Housing Element for public feedback and HCD review.

- *What were the HEAB's recommendations on the Draft Site Inventory.*

On May 19, 2022, the HEAB recommended the sites included in the Tier 1 site list, with the following three modifications to be included in the Draft Site Inventory:

1. Reduce the number of housing units in the North Forty;
2. Add the site located at 206 Knowles Drive; and
3. Add the California Department of Transportation Right of Way land off of Oka Road.

An update of the Tier 1 site list with these modifications was included as Attachment 1 for the Town Council's consideration.

- *Clarify the criteria for the sites selected for Tiers 1, 2, and 3.*

Based on the HEAB's recommendations, staff selected sites for Tier 1 based on the following criteria:

1. Gross lot area in excess of half an acre;
2. Zoning;
3. Draft General Plan land use designation;
4. Property Owner Interest Form;
5. Previous interest in residential development by the property owner; and
6. Sites included in the current Housing Element.

Staff further distributed the sites recommended by the HEAB into two additional categories, Tier 2 and Tier 3.

Tier 2 sites have been identified as possible sites to consider adding to Tier 1, if necessary, and generally fall into one or more of the following categories:

1. Gross lot area in excess of half an acre (majority);
2. Shopping Centers with long term tenants;
3. Churches;

REMARKS (continued):

4. Town Parking Lots;
5. Banks; and
6. Sites less likely to develop housing.

Tier 3 sites have been identified as the least likely for new housing development based on the following criteria:

1. Gross lot area less than half an acre;
2. Gross lot area greater than 10-acres;
3. Not zoned for residential use; and
4. Sites with active Planning applications for commercial development.

Refinement of the Draft Site Inventory will continue throughout the Housing Element Update process, in response to additional Property Owner Interest Forms, and feedback from HCD.

- *Why was the density for the North Forty reduced?*

On May 19, 2022, the HEAB recommended that the number of units in the North Forty Area be reduced. A letter was submitted by Eric S. Phillips with Burke, Williams & Sorensen, LLP, representing Grosvenor USA, requesting the number of units for the North Forty parcels under Grosvenor ownership be reduced. This letter was included in the Desk Item Report as Attachment 6 for the HEAB's May 19, 2022, meeting.

<https://www.losgatosca.gov/DocumentCenter/View/30711/Item1Desk-Item-with-Attachment-6>

- *Does the Town have projections for the number of units generated by Senate Bill 9?*

The Town does not have a projection for the number of units that could be generated by Senate Bill 9 (SB 9) projects at this time as there is not yet sufficient history to base projections on, and the Town has not received direction from HCD on alternative acceptable methods for inclusion in the Housing Element. To date, the Town has received five SB 9 Urban Lot Split Applications and one SB 9 Two-Unit Housing Development Application.

- *Why does the Draft Site Inventory exceed the Town's Regional Housing Needs Allocation (RHNA) plus the 15 percent buffer?*

The table on the following page summarizes the total number of potential housing units (2,046 units) based on the Draft Site Inventory as recommended by the HEAB. Since the May 19, 2022, HEAB meeting, the Town received one additional Property Owner Interest

REMARKS (continued):

Form for the property located at 15795 Los Gatos Boulevard. The site had previously been included in the Tier 2 site list; however, based on the property owner's interest in a residential development, the Tier 1 site list and recommended Draft Site Inventory has been modified to include this site (Attachment 1).

Draft Tier 1	
	Number of Units
Tier 1 Sites	2,046 units
ADUs	200 units
Pipeline Projects	202 units
Total	2,448 units

The table above also includes the Town's average production of Accessory Dwelling Units (ADUs) over the eight-year planning period for an estimated total of 200 housing units as well as approximately 202 housing units associated with approved or pending Planning entitlements. Combined, this results in 2,448 units, exceeding the RHNA (1,993 units) and the recommended 15 percent buffer (299 units) by 156 units. The Council may choose to reduce the number of sites included in the Draft Site Inventory to closer align with the Town's RHNA allocation and 15 percent buffer.

- *Provide an overview of the Housing Element Update process.*

The next steps in the Housing Element Update process include the next HEAB meeting on June 16, 2022, when the HEAB will begin review and discussion of policy and program development for the initial draft Housing Element. Pending completion of this work, the Draft Housing Element will be provided for public and initial HCD review. As part of the Housing Element Update process, HCD now requires that prior to submittal of a first draft of the Housing Element to HCD for their review and a comment, a jurisdiction must make the draft available for public comment for 30 days. Staff anticipates providing HCD the initial draft Housing Element in late August or mid-September.

- *Will zoning changes be required for the sites selected in the Draft Site Inventory?*

The site located at 206 Knowles Drive, included in the Winchester Boulevard Area is zoned Controlled Manufacturing (CM) with a General Plan Land Use designation of High Density Residential. The Zoning Ordinance does not permit a residential use in the CM zone; therefore, the Zoning designation would need to be amended to align with the General Plan Land Use designation. In addition, the North Forty Specific Plan would also need to be amended to permit additional units in excess of the maximum of 270 units. No other sites included in the Draft Site Inventory will require amendments to the Zoning designation.

REMARKS (continued):

- *What is the role of the property owners' intent in site inclusion?*

Pursuant to the HCD Housing Element Site Inventory Guidebook, if the Draft Site Inventory identifies nonvacant sites to address a portion of the RHNA, the Housing Element must describe the realistic development potential of each site within the planning period. One method the Town will utilize to fulfill the requirement of providing substantial evidence of a site's likelihood to redevelop, is the Property Owner Interest Form.

- *Will the Town's Housing Element consultant be available for questions?*

The Town's Housing Element Consultant will not be in attendance.

Attachment 6 includes public comment received between 11:01 a.m., Thursday, June 2, 2022, and 11:00 a.m., Tuesday, June 7, 2022.

ATTACHMENTS:

Previously Received with the June 7, 2022, Staff Report:

1. HEAB Recommended Draft Site Inventory
2. Revised Draft Tier 2 Sites
3. Draft Tier 3 Sites
4. May 19, 2022, Housing Element Advisory Board Staff Report (with Attachments 1-5)
5. May 19, 2022, Housing Element Advisory Board Desk Item Report (with Attachment 6)

Received with this Desk Item Report:

6. Public Comment received between 11:01 a.m., Thursday, June 2, 2022, and 11:00 a.m., Tuesday, June 7, 2022



June 7, 2022

Mayor Rob Rennie and
Los Gatos Town Council Members
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

Via Email: publiccomment@losgatosca.gov

SUBJECT: Public Comment Item #23 - Housing Element Site Inventory

Dear Mayor Rennie and Honorable Town Council Members:

I am writing representing the interests of Grosvenor Americas. As expressed in our counsel's May 18, 2022, letter to the Housing Element Advisory Board, Grosvenor is very interested in developing as much housing as is feasible on the property it controls within the "North Forty Area," which is designated as "Site E-1 N40 Phase II" on the Recommended Draft Site Inventory that you will consider at your June 7, 2022 council meeting.

We thank you for including Site E-1 in your "Tier 1 Sites" category for inclusion in the upcoming Housing Element update. We also appreciate that the Housing Element Advisory Board considered our request to reduce the allocation in the Housing Element update to Site E-1 from 390, and we support the current recommended allocation of 200 units for the area. As we have discussed with Staff, we wish to further clarify what maximum density the Town will assign to Site E-1 in the General Plan Land Use Element and the Housing Element. Although the current Recommended Draft Site Inventory shows a density of 13 du/ac, we do not believe it was the intent of Staff to reduce the proposed General Plan 2040 density for Site E-1 to 13 du/ac. Instead, the 13 du/ac figure is simply a mathematical exercise representing the average density across the entire site if 200 units were to develop. We request that the density remain at 20 du/ac or more as originally recommended, which we believe is consistent with Staff's intended recommendation.

Although we do not think that buildout of more than 200 units is feasible under current market conditions, we remain interested in providing additional housing should conditions change in the future. Designating Site E-1 for at least 20 du/ac will preserve the flexibility to deliver more than 200 units in the future, which would help take development pressure off of other sites in the Town's Housing Element site inventory. Moreover, to maintain the ability to create 200 units as part of a mixed-use development, it may be necessary to build at or above 20 du/ac on parts of the site, while devoting other parts of the site to commercial uses.

We also note that the Housing Element Advisory Board has recommended that 110 of the 200 units be planned as affordable for very low-, low-, and moderate-income households. The proposed 13 du/ac density would not support an assumption of affordability for lower income households. Under the Government Code's and HCD's current default densities appropriate to accommodate lower-income households, a density of 30 du/ac would be necessary to support the Town's affordability assumptions.

Finally, when the property develops, we fully expect to meet the Town's generally applicable affordability requirements, and we are open to possibly exceeding them to the extent feasible. Accordingly, we are agreeable to the Town continuing to assume 110 of the units will be affordable to very low-, low-, and

moderate-income households provided that the overall density level is at least 20 du/ac; however, we do not anticipate developing a project that includes the exact affordability mix shown. Therefore, if the Town elects to keep the affordability mix as shown to help with its current planning obligations, it likely will need to make "no net loss" findings when it takes action to approve residential development on Site E-1.

Thank you for your consideration and your efforts to ensure that the Town has a legally compliant and realistic Housing Element, and we look forward to continuing to work with the Town to deliver much needed housing in the coming years.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Capobres", with a long horizontal flourish extending to the right.

Don Capobres

cc: Steve Buster, Grosvenor Americas
Whitney Christopolous, Grosvenor Americas
Eric Phillips, BWS Law
Jennifer Renk, Sheppard Mullin



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 24

DATE: June 2, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on Proposed Electrification Reach Codes for the 2022 Green Building Standards Code.

RECOMMENDATION:

Discuss and provide direction on proposed electrification reach codes for the 2022 Green Building Standards Code.

BACKGROUND:

With the climate and environmental sustainability concerns at the forefront, many jurisdictions are looking to opportunities to reduce greenhouse gas emissions, focus growth in places with infrastructure, and protect communities from wildfire. The Town of Los Gatos demonstrated leadership in sustainability when the Town Council approved an ordinance in November 2019, requiring all new single-family residential buildings, accessory dwelling units (ADUs), and low-rise multi-family buildings to comply with all electric construction, and increased requirements for electric vehicle (EV) charging infrastructure and energy storage systems (ESS) infrastructure. In addition, Silicon Valley Clean Energy (SVCE) is providing 100% carbon-free electricity and is supporting the elimination of the use of fuel gas, which can greatly reduce greenhouse gas emissions from the building sector.

In alignment with the above, staff is exploring additional modifications to the California Green Buildings Standards Code (also known as CALGreen), and this report provides recommended language for additional reach codes for the 2022 California Building Standards Code cycle. The Council is being asked to provide specific direction to allow staff to complete the required work prior to the fall hearing on the Code adoption. Staff from SVCE will be at the Council meeting to provide a brief overview and assist with answering questions.

PREPARED BY: Robert Gray
Chief Building Official

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

BACKGROUND (continued):

A Statewide cost effectiveness study, funded by the California investor-owned utilities (IOUs), and the California Statewide Codes and Standards Program (Statewide Program), led to the development of cost-effectiveness studies for Energy Code reach codes that examined different performance-based approaches for new construction of specific building types. Staff have worked closely with SVCE consultants to determine what options may or may not be cost-effective for the building types that are prevalent in Los Gatos. SVCE have also provided consultant support to assist cities in understanding the Statewide Cost-Effectiveness Study results and adopting reach codes.

DISCUSSION:

Reach Code Adoption Process

Every three years, the State of California adopts new building standards that are organized in Title 24 of the California Code of Regulations, referred to as the California Building Standards Code. The 2019 Code became effective on January 1, 2020, and the 2022 Code will become effective on January 1, 2023. Cities and counties can adopt reach codes that set conditions above the minimum State Code requirements. These augmented reach codes must then be filed and approved by the California Building Standards Commission.

In the 2019 Building Standards Code adoption, reach codes took many forms from multiple jurisdictions. Below are the most common reach code types adopted for building appliance electrification, and EV Charging.

Building Appliance Electrification Options and Staff Recommendation

Building appliance electrification options in California can generally be broken into three categories:

- All-Electric Municipal Ordinance: Several cities, including the cities of Berkeley, Morgan Hill, San Francisco, and San Jose, have adopted All-Electric Municipal Ordinances (also referred to as gas prohibitions or no gas hookup allowed), that are more aggressive than the All-Electric and Electric-Preferred model reach codes. These ordinances eliminate the installation of gas infrastructure at the property with limited exceptions, and thus guarantee significant decreases in greenhouse gas emissions. This is not tied to the Building Code and can be adopted without the need of being re-adopted with every Code cycle.
- All-Electric Required Building Code Amendment: The All-Electric Required model requires specific end-users to install electric appliances, including space heating, water heating, clothes-drying, and cooking, with limited exceptions. This must be re-adopted with every Code cycle.

SUBJECT: Discuss and Provide Direction on Proposed Electrification Reach Codes for 2022 Green Building Standards Code.

DATE: June 2, 2022

DISCUSSION (continued):

- All-Electric Preferred Building Code Amendment: The All-Electric Preferred approach encourages electrification by giving builders two options: (1) Achieving a higher energy efficiency level than the Energy Code using mixed fuels (fuel gas and electricity), or (2) building an all-electric building at the minimum efficiency as required in the Energy Code. Must be submitted to the California Energy Commission (CEC) and re-adopted with every Code cycle.

The All-Electric Preferred model is NOT recommended by SVCE because the California Energy Code is already an electric-preferred model. There are limited incremental greenhouse gas emissions reductions that can be attained by pursuing this model, compared to the All-Electric Municipal Ordinance or All-Electric Required Building Code Amendment.

The staff recommended reach code for Newly Constructed Buildings is the All-Electric Required Building Code Amendment, which requires all newly constructed residential and non-residential buildings to be built all-electric. Buildings will have no fuel gas infrastructure installed, and electricity will be the sole source of energy for all space heating, water heating (including pools and spas), cooking, clothes drying appliances, and other features both interior and exterior.

Exceptions include:

- Commercial cooking equipment
- Industrial processes
- If there is not an all-electric prescriptive pathway for a building under the state Energy Code, and the building is unable to achieve the Energy Code's performance compliance pathway using commercially available technology and an approved calculation method, then the Building Official may grant a modification.

Buildings that invoke these exceptions would be required to prepare the location of fuel gas appliances for future electrification, to reduce future retrofit costs.

Electric Vehicle Charging and Infrastructure Reach Code Options and Recommendations:

Residents are showing a significant interest in electric vehicles. The number of registered plug-in vehicles in San Mateo, Santa Clara, and Alameda counties increased 30% from October 2018 to January 2020. In that same time frame, the total number of registered vehicles in these counties shrank by 0.2%.

It is widely known that availability of EV charging infrastructure is a critical component to EV adoption. Meanwhile, it is significantly more expensive to install charging infrastructure as a retrofit than it is during new construction. As such, ensuring that newly constructed residential and non-residential parking has ample EV charging capability will reduce long-term retrofit

DISCUSSION (continued):

costs of EV infrastructure installation, while helping to increase EV adoption and decrease transportation-related greenhouse gas emissions.

EV charging consists of the type of EV charging infrastructure along with the type of EV charging capacity. These two items combined make up the EV Charging reach code types. EV charging infrastructure requirements in California can generally be broken into three categories:

- EV Charging Station: All supply equipment is installed at a parking space, such that an EV can charge without additional equipment.
- EV Ready: Parking space is provided with all power supply and associated outlet, such that driver-provided supply equipment can be plugged in, and a vehicle can charge.
- EV Capable: Conduit is installed to the parking space and building electrical panel and transformers have reserved capacity to serve future load. An electrician would be required to complete the circuit and/or increase the gauge of upstream wiring before charging is possible.

EV charging capacity industry wide is broken into three categories:

- Level 1: Capable of charging at 110/120V, 16A. This is equivalent to a standard home outlet.
- Level 2: Installation of a 208/240V, 40A circuit or 208/240V, 20A circuit for low power. This is the service capacity typically used for larger appliance loads in homes.
- Level 3 (DC Fast Charging): Capable of charging at 20-400kW. This is the type of charger used for Tesla Superchargers and DC Fast Chargers at some parking lots and public locations.

The 2022 CALGreen increased requirements for electric vehicle charging infrastructure in new construction; including:

- New one- and two-family dwellings and townhouses with attached private garages must be Level 2 EV-capable.
- Multi-family dwellings:
 - 10% of parking spaces must be Level 2 EV Capable.
 - 25% must be Low Power Level 2 EV Ready; and
 - 5% must be Level 2 EV Charging Stations.
- Non-residential:
 - 15% of parking spaces must be Level 2 EV Capable; and
 - 5% must have Level 2 EV Charging Stations.

While California's new minimum requirements are a step forward, it is unlikely that the requirements for multi-family dwellings and non-residential buildings are enough to keep pace with expected EV growth.

SUBJECT: Discuss and Provide Direction on Proposed Electrification Reach Codes for 2022
Green Building Standards Code.

DATE: June 2, 2022

DISCUSSION (continued):

The staff recommended reach code for EV Charging and Infrastructure is as follows:

Residential

- Single-Family Dwelling:
 - 2 Level 2 EV ready-to-use plugs per garage.
- Multi-Family Dwelling:
 - 40% of units with parking spaces, Level 2 EV Charging Stations; and
 - 60% of units with parking spaces, Level 1 EV Ready.
- Multi-Family Dwelling, entirely affordable housing:
 - 15% of units with parking spaces, Level 2 EV Charging Stations
 - 25% of units with parking spaces, Low Power Level 2 EV Ready; and
 - 60% of units with parking spaces, Level 1 EV Ready.

Non-Residential, Office

- 20% of the parking spaces, Level 2 EV Charging Stations installed; and
- 30% of the parking spaces, Level 2 EV Capable.

Non-Residential, Non-Office

- 10% of the parking spaces, Level 2 EV Charging Stations installed; and
- 10% of the parking spaces, Level 2 EV Capable.

Definition of New Construction and Qualifying Alteration Projects.

Staff recommends the following definition for new construction and qualifying alteration projects. This proposed definition provides consistency between the Building Code definition of new construction and the Zoning Code definition of demolition within the Town.

All newly constructed buildings shall be all-electric buildings. Alterations that include replacement of over 50 percent of the existing foundation for purposes other than a repair or reinforcement; or where over 50 percent of the existing framing above the sill plate is removed or replaced for purposes other than repair, shall be all-electric buildings. If either of these criteria are met within a three-year period, measured from the date of the most recent previously obtained permit final date, the project shall be subject to the all-electric building's requirements.

Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of substantial reconstruction/alteration shall be made by the local enforcing agency.

CONCLUSION:

Staff recommends the Council review reach code options and staff's recommendations for Building Appliance Electrification Reach Codes, EV Infrastructure and Charging Reach Codes,

PAGE 6 OF 6

SUBJECT: Discuss and Provide Direction on Proposed Electrification Reach Codes for 2022
Green Building Standards Code.

DATE: June 2, 2022

CONCLUSION (continued):

and Definition of New Construction and Qualifying Alteration. Staff looks forward to Council's discussion and direction.

COORDINATION:

This report was drafted in collaboration with SVCE and the Town Manager's Office.

FISCAL IMPACT:

None.

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: 06/07/2022

ITEM NO: 25

DATE: May 23, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Provide Direction Regarding a Potential Land Acknowledgement Regarding Aboriginal Homeland

RECOMMENDATION:

Provide direction regarding a potential Land Acknowledgement regarding aboriginal homeland.

BACKGROUND:

On April 27, 2022, Town staff received a request from the Los Gatos Anti-Racism Coalition to read a Land Acknowledgement prior to each Town Council meeting as a way to honor and respect the Indigenous People, past and present, of Los Gatos land, and specifically, the Tamien Nation.

A Land Acknowledgement is a formal statement that recognizes and respects Indigenous Peoples as traditional stewards of the land and the enduring relationship that exists between Indigenous Peoples and their traditional territories. To recognize the land is an expression of gratitude and appreciation to those whose territory we reside on, and a way of honoring the Indigenous people who have been living and working on the land from time immemorial. Land Acknowledgments exist in a present tense, as opposed to a past or historical context.

DISCUSSION:

The Tamien Nation is traditionally and culturally affiliated with the land of Los Gatos and identifies as the tribe most directly indigenous to Santa Clara County. The Tamien people are one of eight linguistic divisions of the Indigenous people of this area. Enrolled tribal citizens are of several Tamien-speaking Santa Clara Valley villages collectively known as Tamien Nation.

PREPARED BY: Holly Zappala
Management Analyst

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

DISCUSSION (continued):

It should be noted that Tamien-speaking peoples are not Ohlone. There are two theories for the origin of the term “Ohlone.” The first is that it was named for a single village, Oljon, in the San Francisco Bay. The second theory is that it derived from the Bay Miwok word, Volvon. In either case, these names were not used for Tamien-speaking peoples.

The following Land Acknowledgement language is an example provided on the Tamien Nation website (Tamien.org) and was proposed for the Town to use by the Los Gatos Anti-Racism Coalition.

We acknowledge that Los Gatos is the aboriginal homeland of Tamien Nation since time immemorial and recognizes the continued persistence and resilience of culture and community despite the adverse impacts of settler colonialism. The Tamien Nation continue to have a relationship with the land; one of deep respect, agreement and reciprocity collaborating to help maintain balance. The Town of Los Gatos acknowledges and supports Tamien Nation in solidarity and commitment to partnership advocating for a more equitable and inclusive future.

Town staff reached out to Quirina Luna Geary, Tamien Nation Tribal Chairwoman, and Johnathan Costillas, Tribal Cultural Resource Officer, for their direct input on the proposed language and if any additional items might be considered to make it more meaningful. Staff heard back from Tribal Chairwoman Geary thanking the Town for asking and confirming that no changes to the proposed language are necessary.

Many educational institutions across the Bay Area have incorporated Land Acknowledgements in some form to recognize the Indigenous past, present, and future of the land, including Santa Clara University, Stanford University, San Jose State University, and UC Berkeley. Work on Land Acknowledgements is also underway in other local governments throughout the Bay Area (see Attachment 1). Of particular note:

- In November 2021, the City of Albany adopted a Land Acknowledgement to be read at the beginning of City Council meetings and Advisory Body meetings.
- Also in November 2021, the Palo Alto Library began reading either a long or short form Land Acknowledgement (depending on time constraints) at the start of Palo Alto Library programs and events, and it is often added to the chat box of virtual programs.
- Earlier this year, the City of San Jose Charter Review Commission recommended that a Land Rights Acknowledgment be formally included in the City of San Jose Charter and the Council directed the Land Acknowledgment to be developed. The City hired a Tribal mediator and work is currently underway with a goal of the proposed language being complete by this summer.

DISCUSSION (continued):

- The City of South San Francisco recently considered a Land Acknowledgement and its discussion will continue at a later date following Tribal engagement.

ALTERNATIVES:

There are different combinations of ways the Town could move forward with a Land Acknowledgment. Some options for consideration are as follows:

1. Modify the Town Council Agenda Format and Rules Policy to include a Land Acknowledgement Statement to be read aloud prior to each Town Council meeting and/or Board, Commission, and Committee meetings.
2. Modify Council and/or Board, Commission, and Committee agendas to include a Land Acknowledgment Statement without it being read at every meeting.
3. Create a Council Land Acknowledgment Proclamation. The Proclamation could be presented at a Town Council meeting on a recurring annual basis. For example, this could be done every November as part of celebrating National Native American Heritage Month.
4. Post a Land Acknowledgement Statement to the Town website including links for more information.
5. Deliver a Land Acknowledgement Statement at Town events such as Spring into Green, Fourth of July Symphony in the Park, Screen on the Green, Tree Lighting, etc.
6. Begin Library programs by reading a Land Acknowledgement Statement.

CONCLUSION:

Staff looks to direction from the Council regarding potentially moving forward with a Land Acknowledgement for the Indigenous People of the Tamien Nation.

COORDINATION:

This report was coordinated with the Community Development Department, Library, Town Attorney's Office, and Town Manager's Office.

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SUBJECT: Land Acknowledgement

DATE: May 23, 2022

FISCAL IMPACT:

There is no associated fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Land Acknowledgement Examples

LAND ACKNOWLEDGEMENT EXAMPLES

City of Albany, CA

The City of Albany recognizes that we occupy the land originally protected by the Confederated Villages of Lisjan. We acknowledge the genocide that took place on these lands and must make strides to repay the moral debt that is owed to this indigenous people, specifically the Ohlone Tribe. We thank them for their contributions which have transformed our community, and will continue to bring forth growth and unity. The City of Albany commits to sustaining ongoing relationships with the Tribe and together build a better future for all that now make this their home.

Palo Alto, CA

(full version): I want to acknowledge that this [event] takes place on the traditional indigenous territories of the Ramaytush, Muwekma Ohlone, and Tamien Nation. Many American families, going from now until our great-great-great-great grandparents, came to America from other countries and did not live here first. It is important for us to remember that the land we live on is the traditional land of Native American, or indigenous, nations. If you would like to learn more about whose land you live on from wherever in the world you are joining us, you can go to <https://usdac.us/nativeland>.

(short version): I want to acknowledge that this [event] takes place on the traditional indigenous territories of the Ramaytush, Muwekma Ohlone, and Tamien Nation.

Cal State University East Bay, Hayward, CA

(short version): Horše túuxi! (Hor-shehtroo-hee)

Cal State University East Bay recognizes that it is located on the ethnohistoric territory of the Jalquin (hal-keen) / Yrgin (eer-gen), the ancestral and unceded land of the Chochenyo Ohlone-speaking People, the successors of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to the Muwekma Ohlone Tribe and other familial descendants of the Verona Band. We recognize that every member of the Hayward community has, and continues to benefit from, the use and occupation of this land, since the institution's founding in 1957. Consistent with our values of community, inclusion, and diversity, we have a responsibility to acknowledge and make visible the university's relationship to Native peoples. As members of the Hayward community, it is vitally important that we not only recognize the history of the land on which we stand, but also, we recognize that the Muwekma Ohlone people are alive and flourishing members of the Hayward and broader Bay Area communities today.

This acknowledgement was created by the Muwekma Ohlone Tribe with the support of the CSUEB Indigenous Acknowledgment Collective and is a living document.

Chabot College, Hayward, CA

The Ohlone are located on the Northern California Coast. Ohlone was an umbrella term given to the collective of various tribes, bands, and territories. Chabot College sits on land recognized as Ohlone Muwekma, the Chochenyo speaking People. This land was and continues to be of great importance to the Muwekma Ohlone Tribe and other familial descendants of the Verona Band.

Holy Names University, Oakland, CA

We acknowledge that HNU sits on the traditional lands of the Muwekma Ohlone People, and pay respect to elders both past and present.

We would like to formally acknowledge the people and land of the Muwekma Ohlone Tribe. A Land Acknowledgment is a formal statement that recognizes the history and legacy of colonialism that impacted Indigenous Peoples, their traditional territories, and practices.

Acknowledgment is a simple, powerful way of showing respect and a step toward correcting the stories and practices that erase Indigenous people's history and culture and toward inviting and honoring the truth.

The ability to gather, learn, and establish our presence as an institution of higher education came at a great expense of the original inhabitants of this land, the Muwekma Ohlone Tribe (mah-wek-mah ah-lone-ee).

We would like to acknowledge that Holy Names University sits on the traditional lands of the Muwekma Ohlone people, and pay respect to elders both past and present.

The mission of HNU is to empower a diverse student body for leadership and service, guided by the core values of the Sisters. These Core values include Dedication to Justice, Service to People Who are Poor or Marginalized, and Commitment to Liberating Action. It is important to reflect on these commitments in relation to the very location of HNU: Our location in Oakland, CA, with all of its rich diversity and stark disparities, and our campus itself being located on the land first inhabited by the Ohlone people.

Long before Holy Names University was here on this hill, and even before the Sisters came to California, this area was home to the Ohlone. The Ohlone still have a presence today, in Oakland and throughout the Bay Area.

The present-day Muwekma Ohlone Tribe is comprised of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose; and who were also members of the historic Federally Recognized Verona Band of Alameda County. The aboriginal homeland of the Muwekma Ohlone Tribe includes the counties of San Francisco, San Mateo, most of Santa Clara, Alameda, Contra Costa, and portions of Napa, Santa Cruz, Solano, and San Joaquin.

Let us acknowledge with respect and reverence for the Muwekma Ohlone People, who have stewarded this land throughout the generations, while not forgetting the colonization of this land.

Stanford University, Palo Alto, CA

Stanford sits on the ancestral land of the Muwekma Ohlone Tribe. This land was and continues to be of great importance to the Ohlone people. Consistent with our values of community and inclusion, we have a responsibility to acknowledge, honor, and make visible the University's relationship to Native peoples.

Santa Clara University, Santa Clara, CA

We pause to acknowledge that Santa Clara University sits on the land of the Ohlone and the Muwekma Ohlone people, who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose. We remember their connection to this region and give thanks for the opportunity to live, work, learn and

pray on their traditional homeland. Let us take a moment of silence to pay respect to their Elders and to all Ohlone people past and present.

San Jose State University, San Jose, CA

The San José State University community recognizes that the present-day Muwekma Ohlone Tribe, with an enrolled Bureau of Indian Affairs documented membership of over 550, is comprised of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Santa Clara, San José, and Dolores, during the advent of the Hispano-European empire into Alta California; and who are the successors and living members of the sovereign, historic, previously Federally Recognized Verona Band of Alameda County.

Furthermore, the San José State University community recognizes that the university is established within the Tha'mien Ohlone-speaking tribal ethnohistoric territory, which based upon the unratified federal treaties of 1851-1852, includes the unceded ancestral lands of the Muwekma Ohlone Tribe of the San Francisco Bay Area. Some of the enrolled Muwekma lineages are descended from direct ancestors from the Tha'mien Ohlone tribal territory whose ancestors had affiliation with Mission Santa Clara. The San José State University community also recognizes the importance of this land to the indigenous Muwekma Ohlone people of this region, and consistent with our principles of community and diversity strives to be good stewards on behalf of the Muwekma Ohlone Tribe whose land we occupy.

UC Berkeley, Berkeley, CA

Native American Student Development recognizes that UC Berkeley sits on the territory of xucyun (Huichin), the ancestral and unceded land of the Chochenyo speaking Ohlone people, the successors of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to the Muwekma Ohlone Tribe and other familial descendants of the Verona Band.

We recognize that every member of the Berkeley community has, and continues to benefit from, the use and occupation of this land, since the institution's founding in 1868. Consistent with our values of community, inclusion and diversity, we have a responsibility to acknowledge and make visible the university's relationship to Native peoples. As members of the Berkeley community, it is vitally important that we not only recognize the history of the land on which we stand, but also, we recognize that the Muwekma Ohlone people are alive and flourishing members of the Berkeley and broader Bay Area communities today.

This acknowledgement was co-created with the Muwekma Ohlone Tribe and Native American Student Development and is a living document.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 25

DESK ITEM

DATE: June 7, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Provide Direction Regarding a Potential Land Acknowledgement Regarding
Aboriginal Homeland

REMARKS:

Since the initial publication of the report, staff has received questions from Council Members regarding acknowledging the Muwekma Ohlone Tribe in the proposed Land Acknowledgement language, as both the Tamien Nation and the Muwekma Ohlone claim Los Gatos land.

The present-day Muwekma Ohlone Tribe is comprised of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose; and who were also members of the historic Federally Recognized Verona Band of Alameda County. The aboriginal homeland of the Muwekma Ohlone Tribe includes the following counties: San Francisco, San Mateo, most of Santa Clara, Alameda, Contra Costa, and portions of Napa, Santa Cruz, Solano and San Joaquin. This large contiguous geographical area, which historically crosscuts aboriginal linguistic and tribal boundaries, fell under the sphere of influence of the aforementioned three missions between 1776 and 1836. The missionization policies deployed by the Catholic Church and militarily supported by the Hispanic Empire, brought many distantly related, and in some cases, already inter-married tribal groups together at the missions.

The request for the Town of Los Gatos to incorporate a Land Acknowledgement came from the Los Gatos Anti-Racism Coalition following their engagement with the Tamien Nation Tribal Chairwoman. Staff believed it was important to reach out directly to the Tamien Nation Tribal Chairwoman prior to submitting the report for Council consideration, as she had been previously involved with the discussion.

PREPARED BY: Holly Zappala
Management Analyst

Reviewed by: Town Manager and Assistant Town Manager

REMARKS (continued):

Before initiating a discussion with the Muwekma Ohlone Tribe, staff looks to direction from the Town Council on whether to move forward with a Land Acknowledgement.

The City of San Jose is currently working with both the Tamien Nation and Muwekma Ohlone on a Land Acknowledgement to be included in the San Jose City Charter. As discussions become more complex when working with more than one Tribe, the City of San Jose hired a Tribal Mediator to facilitate the work.

Should Council decide to pursue a Land Acknowledgement and recognize and honor the Muwekma Ohlone and Tamien Nation, staff recommends engaging the services of a Tribal Mediator. The approximate fee for this service is \$250 - \$450 per hour.

Due to current staff workloads, the increased attention that a Land Acknowledgement requires, and if Council decides to move forward, the Land Acknowledgement work could be considered in the context of the other recommendations resulting from the external Justice, Equity, Diversity, and Inclusion (JEDI) consultant report. Staff could return to Council with the Land Acknowledgement item in August in conjunction with the JEDI report and recommendations. Once Council sees all of the recommendations together, Council could decide if a Land Acknowledgement is the highest priority recommendation.

Since the initial publication of the Land Acknowledgement staff report, staff also received a question from a Council Member regarding what percentage of communities are using a Land Acknowledgment similar to the one proposed in the report. Staff is unable to provide a percentage, as the Land Acknowledgements are all very individualized. If the Council decides to move forward, the proposed language could potentially change depending on engagement with Muwekma Ohlone.

Attachments Previously Received with the Staff Report:

1. Land Acknowledgement Examples

Attachments Received with this Desk Item:

2. Public Comment

From: Pam Bond
Sent: Monday, June 6, 2022 7:22 PM
To: PublicComment <PublicComment@losgatosca.gov>
Subject: Public Comment Item 25

EXTERNAL SENDER

Dear Council Members of Los Gatos,
I am writing to you today to strongly urge you to vote in favor of the land acknowledgement for the Tamien Nation.
With recent DEI efforts by the Town Council and its current Listen, Learn, Change, Grow campaign, this land acknowledgment will provide a lot of educational value for our community. Most people aren't aware of the existence of the Ohlone people, even fewer are aware of the Tamien Nation. A land acknowledgement is a critical first step in establishing potential future correspondence and collaboration with the indigenous people of this land.
Therefore, I am in full support of passing this land acknowledgement.

Thank you for your consideration,

Pam Bond

From: Erica Rose
Sent: Monday, June 6, 2022 11:30 PM
To: PublicComment <PublicComment@losgatosca.gov>
Subject:

EXTERNAL SENDER

Dear Council Members of Los Gatos,
My name is Erica Weinstein. I am writing to you today to strongly urge you to vote in favor of the land acknowledgement in Los Gatos. The fact is that this land is unceded territory, forcibly taken by colonists. There is no greater injustice than *our* willingness to forget our past. There is no greater injustice than neglect. This is our history and we have a responsibility to teach it.
With recent DEI efforts by the Town Council and its current Listen, Learn, Change, Grow campaign, this land acknowledgment will provide a lot of educational value for our community. A land acknowledgement is a critical first step in establishing potential future correspondence and collaboration with the indigenous people of this land.
Therefore, I am in full support of passing a land acknowledgement.
Thank you for your consideration,
Erica Weinstein

From: Erin Quigley
Sent: Monday, June 6, 2022 7:39 PM
To: PublicComment <PublicComment@losgatosca.gov>
Subject: Public comment item #25

EXTERNAL SENDER

Dear Council Members of Los Gatos,
My name is **Erin Quigley**. I am writing to you today to strongly urge you to vote in favor of the land acknowledgement for the Tamien Nation.
With recent DEI efforts by the Town Council and its current Listen, Learn, Change, Grow campaign, this land acknowledgment will provide a lot of educational value for our community. Most people aren't aware of the existence of the Ohlone people, even fewer are aware of the Tamien Nation. A land acknowledgement is a critical first step in establishing potential future correspondence and collaboration with the indigenous people of this land.
Therefore, I am in full support of passing this land acknowledgement.
Thank you for your consideration,
Erin Quigley
Sent from my iPhone

From: Elizabeth
Sent: Monday, June 6, 2022 6:50 PM
To: PublicComment <PublicComment@losgatosca.gov>
Subject: Land Acknowledgement

EXTERNAL SENDER

My name is **Liz Meier**. I am writing to you today to strongly urge you to vote in favor of the land acknowledgement for the Tamien Nation.
With recent DEI efforts by the Town Council and its current Listen, Learn, Change, Grow campaign, this land acknowledgment will provide a lot of educational value for our community. Most people aren't aware of the existence of the Ohlone people, even fewer are aware of the Tamien Nation. A land acknowledgement is a critical first step in establishing potential future correspondence and collaboration with the indigenous people of this land.
Therefore, I am in full support of passing this land acknowledgement.
Thank you for your consideration,
Elizabeth Meier

Sent from my iPhone



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 26

DATE: May 25, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Identify the Town Council's Objectives for the Summer Promenade Event Series and Provide Direction as Necessary for Modifications to the Conditional Letter of Approval.

RECOMMENDATION:

Discuss and identify the Town Council's objectives for the summer promenade event series and provide direction as necessary for modifications to the Conditional Letter of Approval.

BACKGROUND:

On May 4, 2021, the Town Council allocated \$80,000 of America Rescue Plan Act (ARPA) funds to the Chamber of Commerce to host up to seven Summer Promenade events in Downtown Los Gatos to stimulate the downtown economy. At the time, the Chamber requested the funds to assist with the planning and implementation of the event series on Thursday afternoons. The events closed N. Santa Cruz Ave. with the intent to draw the community together to rediscover Downtown Los Gatos, shop, dine, and reconnect with the community as it weathered the COVID-19 pandemic. Event attractions included music and family entertainment. The 2021 event series was held on July 1, 8, 15, 22, and 29, and August 5 and 12. Under Town Code, the event series required a Special Event Permit, which was issued by the Town to the Chamber.

The Chamber requested the ability to have a "blanket" Alcohol Beverage Control (ABC) permit that allowed the community to essentially have open containers of alcohol at the event as a way to encourage event participants to patronize local businesses and take advantage of the ability for the establishments to sell the "to-go" style beer, wine, and cocktails. One parameter set forth in the Special Event Permit was that no outside alcohol was allowed, and establishments were not permitted to sell outside of their currently approved ABC dispensing areas.

PREPARED BY: Monica Renn
Economic Vitality Manager

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

BACKGROUND (continued):

As the event evolved over the weeks, Town and Chamber staff worked closely to make modifications and adjust the format as the summer progressed. As we learned together, Town staff worked with the Chamber to address concerns and modified the Special Event Permit to include increased signage that clearly stated the prohibition of outside alcohol and required restaurants to stay within their licenses premise for the sale and service of alcohol.

As the weeks continued, the number of event guests bringing beverages into the event increased as evidenced by the community feedback to staff. Staff also received complaints about the consumption of alcohol by guests that were not properly identified as being over 21 years.

At its August 17, 2021 meeting, the Town Council held a public discussion debriefing the event series. In general, there was support for the event series to continue in the future. The Chamber reported that they “learned a lot” to consider when planning future events. Comments from the Town Council also applauded the event series success and supported future events. Additional feedback included that there should be increased partnership with outside service organizations or other Los Gatos businesses not located downtown; however, the event organizers should limit participation and be sensitive to not overcrowding the streets with tents that hide or cover store fronts. Likewise, there was a suggestion from one Council member to not create an overcrowded environment or allow the event to become “too big.”

Of the \$80,000 granted to the Chamber of Commerce for the 2021 Promenades, about two-thirds was provided to the Chamber prior to the conclusion of the event, and the remaining funds will be allocated once the appropriate invoices, receipts, and other expenditure backup documentation is provided to the Town for ARPA audit purposes.

DISCUSSION:

At its February 15, 2022 meeting, the Town Council allocated an additional \$120,000 of ARPA funds to the Chamber of Commerce to fund a 2022 Summer Promenade event series. During this discussion, the Town Council asked staff about the amount of staff resources required to create an environment where multiple events, including the Promenades, Music in the Park, and Jazz on the Plazz, can take place safely and successfully for all stakeholders. Based on the staff response, the Council unanimously approved the following motion:

*Motion by Vice Mayor Ristow to allocate up to \$120,000 of ARPA funds to the Chamber of Commerce to produce a summer promenade series with the possibility of fewer events if there are limited Town staff resources and with the possibility of sponsorships.
Seconded by Council Member Sayoc.*

DISCUSSION (continued):

Prior to the meeting, the Chamber had submitted a Special Event Permit application and site map (see Attachment 1) for the 2022 Summer Promenades. Following the direction from the Council motion, staff took time to consider how staffing resources could be allocated to support all of the summer events and determined that seven Thursday Promenades could be supported with specific Conditions of Approval (Attachment 2). The approved dates are June 16 and 23; July 7, 14, 21, and 28; and August 4.,

One of the conditions of approval that varied from the request made in the Chamber's Special Event Permit application was the addition of beer/wine gardens, rather than allowing for an open format for alcohol consumption along the entire street as occurred in 2021. For clarification purposes, while these areas are being referred to as beer/wine gardens, these areas are more flexible in that they are designated areas where beer, wine, and cocktails may be dispensed and consumed in compliance with ABC provisions. In addition, the beer gardens are not age restrictive for entry, rather identification is confirmed for the sales, service, and consumption of alcoholic beverages.

Town staff believe that having more controlled environments where alcohol is sold and served provides better control and oversight to ensure that outside alcohol is not being brought into the event, and all those consuming the beverages have been properly identified as 21 years or older.

Additionally, the beer garden model provides an identified purchase and consumption location that achieves the ability to contain large groupings of people and monitor the supply and consumption of alcohol while supporting the Council Member's concern of preventing an overcrowded environment. This condition, noted on page 5 of Attachment 2, allows up to three beer gardens. The sizes and locations of the beer gardens were left up to the discretion of the Chamber of Commerce based on their volunteer resources. Town staff also saw this as an opportunity to create options for businesses located outside of downtown to participate in the event.

The Chamber disagreed with this condition and made several requests for it to be removed. On April 21, 2022, Town staff, including the Town Manager, Chief of Police, Police Captain, Economic Vitality Manager, and Events and Marketing Specialist, met with the Chamber of Commerce to discuss their concerns. At this meeting, staff heard from the Chamber that they had a difficult time preventing some guests from bringing their own alcohol in 2021 as the guests were used to bringing their own alcohol, chairs, etc. when attending music events in Town parks. The Chamber did not believe promotional material with guidance as to how to enjoy the Promenades would be effective. In addition, the Chamber stated that a beer garden model was more expensive and labor intensive to implement.

DISCUSSION (continued):

The Chamber suggested that the Town take on the enforcement issues pertaining to outside alcohol and underage drinking. The Police Chief clarified that the two Officers would be present for security purposes to keep the overall peace of the event. The Town does not have resources to enforce the provisions of the Special Event Permit. The Permit conditions are the responsibility of the event organizer. Given the 2021 experience, staff explained that the Chamber was responsible for ensuring necessary levels of volunteers at each event, providing educational signage related to approved alcohol consumption areas, and that the beer garden conditions would provide for controlled dispensing and consumption area(s) while enjoying music and the other event offerings.

In addition, staff discussed other events in Town and how these are permitted. For example, single events, such as weekend art and wine festivals, lend themselves better to having an open alcohol format within the full event area as most guests attend once during the event. For a weekly event series, momentum and awareness increases with each week, and creates opportunities for guest to come up with work arounds and creative ways to bring in their own alcohol. While Jazz on the Plazz and Music in the Park are also weekly events, by being held in a park, there is better containment and oversight. Also, these events are limited to guests bringing their own beer and wine, along with food, as permitted by the Town Code within Town Parks. Jazz on the Plazz offers a hospitality tent that essentially operates similar to a beer garden with a limited area where the alcohol is dispensed under the provisions of an ABC permit and may not be carried or transferred outside of the gated area.

In early May, the Chamber provided staff with input that they only had the volunteer and financial resources to have one beer garden per Promenade and thus submitted an ABC permit application to the Town to approve with an accompanying site map noting a single beer garden location (Attachment 3). Staff processed this ABC permit, and both the Town Manager and Chief of Police provided their approving signatures.

On Friday, May 20, 2022, the Chamber contacted staff to share that its Board of Directors met earlier in the week and considered cancelling the Promenades due to the restrictions of the beer gardens. Soon after, the Mayor agendaized this item for further review and discussion. Staff is concerned that the Chamber's acknowledgement of not having enough volunteers to staff one beer garden lends concern to the ability to monitor and oversee the entire event area with open alcohol consumption and no designated control parameters.

Staff has had conversations with the ABC and there are multiple ways that this event could be permitted, with nuances associated with each format; however, from a big picture perspective, the ABC only provides the license and permission for the expanded sales and service, and the agency relies on the Town to set the safety and security measures that are necessary for the

DISCUSSION (continued):

community. It is then the expectation that the applicant will follow all Town and ABC provisions completely and responsibly.

It is important to note that the Special Event Permit process is a consistent and transparent process that is applied equitably to applicants. There are many occasions where an application for an event permit contains activities, locations, or other elements that Town staff cannot support. As done with the Chamber's Promenade application, staff works internally to identify alternative options to offer to the applicants so that the event may still take place and be manageable from logistics, staffing, Town Code, and other policy perspectives.

CONCLUSION AND NEXT STEPS:

With this agenda item, staff is asking the Town Council to articulate its objectives for the Summer Promenade event series. While the Chamber of Commerce is the event applicant, the Town is allocating \$120,000 of ARPA funding for the event series, an increase of \$40,000 from the ARPA allocation in 2021, for the same number of number of events. Thus, it seems appropriate to understand the Town Council's objectives with the Promenades and the environment that is intended at the events so that the event permit may be reflective of the Town Council's objectives.

For example, is the intent to provide an outdoor "festival" environment with the primary focus on the event activities, such as music, food, alcohol, and entertainment that is all stationed along the street? Or, is the intent to close the road to create a pedestrian walkway to support an outdoor community gathering with musical entertainment while encouraging event guests to shop and dine within existing establishments?

If the intent is a festival experience, staff recommends that the total number and frequency of the Promenades be reduced to allow for a better allocation of staff resources, assessments, and modifications to address any concerns. With the pandemic impact expected to be significantly less than 2021, staff estimates a considerable increase in attendees at the 2022 Promenades.

The Town Council may also want to consider if this type of event series would be better suited in a park so that it has defined boundaries that can be better managed by the event organizer with its volunteer capacity.

If the intent is focused more on encouraging event guests to visit the local shops and restaurants by offering a closed street and outdoor enhancements that invite guests into merchant locations, then it is recommended that the alcohol consumption be limited to designated areas such as beer gardens as outside alcohol cannot be consumed while going in and out of downtown businesses, even those with an ABC permit.

CONCLUSION AND NEXT STEPS (continued):

ABC prohibits the mingling of licenses, meaning that the dispensing party and licensed boundary set forth by any single ABC license cannot be combined. Alcohol purchased within one licensed area may not cross over into another licensee's boundary, or a retail location without an ABC license. Thus, having an open form of consumption does not allow for guests to enter a retail or restaurant establishment with their beverage purchased at the event.

The Town Council is welcome to identify other objectives and staff will be prepared to support the conversation and suggest parameters that achieve the Council's objectives in a fun and safe event for all ages and meets the Chamber's intended outcomes.

Once the Council provides direction, Town staff will update the Conditions of Approval and issue the Special Event Permit. The first Promenade is scheduled for Thursday, June 16. A debrief of the first Promenade is scheduled at the June 21 Town Council meeting to provide the Council an opportunity to make any other changes to the event series.

PUBLIC COMMENT:

On May 31, 2022, the Chamber of Commerce provided a letter to the Town Council via email (Attachment 4) outlining their concerns and requested modifications to the Special Event Permit. The Chamber highlights that their intent with the event is to create a "COVID- friendly environment in which residents and visitors of all ages, were encouraged to walk up and down the street patronizing merchants and restaurants and socializing, thus boosting economic vitality." The "proposed constraints" of the Special Event Permit "hinder the spirit, intent and success of the event." By creating controlled areas for alcohol sales and consumption, staff's intention was to find a way for the event to maintain the ability to have alcohol sales and consumption, create clear boundaries for guests to purchase and consume alcohol, while patronizing local businesses and enjoying the other amenities of the event.

In addition, when staff met with Chamber staff in April, it was reiterated that the permit allowed up to three beer gardens without a size and location requirement. This permit condition provided flexibility for the Chamber to determine the beer garden placement throughout the event and to offer guests more space to move within the confined area. It was also discussed that this model could use wrist bands to identify those 21 and over, and guest of all ages could be inside the garden areas, providing an opportunity for beer gardens to be created with alcohol dispensing points, family entertainment, and other attractions within the defined area. The Chamber reported that this model was too expensive and labor intensive to implement.

PUBLIC COMMENT (continued):

On a high-level, staff remains concerned with the comments made both in the letter attached and verbally during meetings with staff regarding the Chamber's concerns with the cost and labor associated with alcohol consumption oversight. The Chamber has stated that they lack the ability to monitor smaller beer gardens yet request a format that is similar to one large beer garden with numerous ingress and egress locations and a less defined boundary.

The Chamber describes themselves as "untrained lay people, not capable of policing infractions." Regardless of the number and size of beer gardens or dispensing locations, as the event applicant, coordinator, and ABC licensee, the Chamber of Commerce is responsible to coordinate an event that meets the provisions set forth within the Town Code and Special Event Permit providing, to the best of their ability, a safe event environment. Likewise, it is the expectation of the ABC that the licensee is responsible for implementing and enforcing all ABC provisions. The Los Gatos-Monte Sereno Police Officers that are required to be onsite for the event are not intended to replace the Chamber's responsibility to manage the event, rather to provide more immediate public safety presence and assistance in a crowded event.

COORDINATION:

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

FISCAL IMPACT:

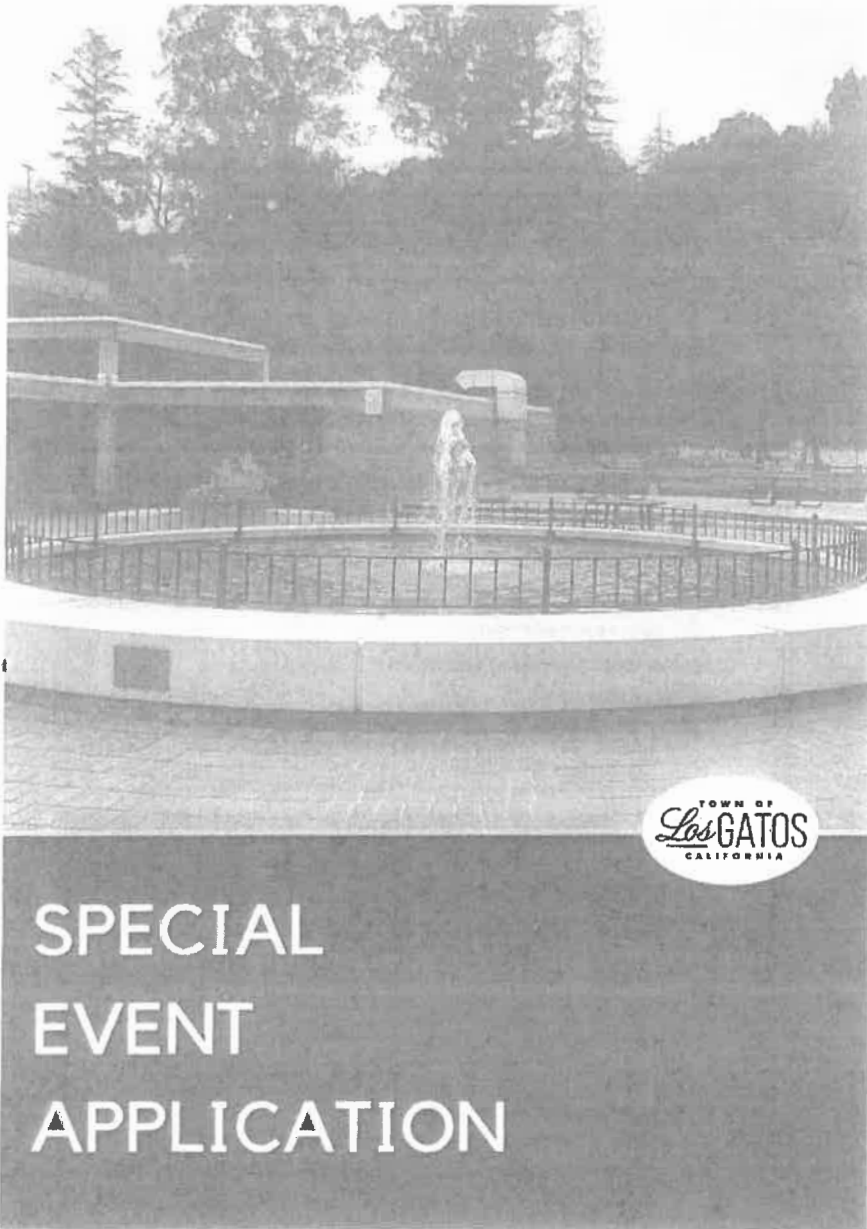
The Council discussion on this matter has no fiscal impact to the Town.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Permit Application with Initial Site Map
2. Conditional Letter of Approval
3. ABC Permit and Site Map
4. Public Comment received from the Chamber of Commerce on May 31, 2022





SPECIAL EVENT APPLICATION

APPLICATION INSTRUCTIONS

1

Carefully review the following documents at:
www.LosGatosCA.gov/2439/SpecialEventPermitInformation

- **Event Permit Flow Chart** to determine if your event requires a special event permit, parks use permit or no permit.
- **Special Event Timeline** for a better understanding of the special event permit timeline.
- **Special Event Guidelines & Procedures** for detailed information to assist you with completing this application and planning your event in Los Gatos.

2

Complete and submit this application and the following items no later than 60 days before your event. Applications will not be processed until all items are received.

Review the "Special Event Guidelines and Procedures," guide for more information on these documents.

- ☒ **Special Event Application Fee**
- ☒ **Completed Special Event Application**
- ☒ **Site Map of Event**
- ☒ **Timeline of Event**
- ☒ **Traffic Control Plan or diagram.** Only if event includes closure of a public right-of-way.

3

The following documents are not required now but may be required before receiving your final permit. If you have any of the items ready now you may include them with this application.

Review the "Special Event Guidelines and Procedures," guide for more information on these documents.

- ☐ **Certificate of Insurance**
- ☐ **Shuttle Route**
- ☒ **Neighborhood Notification Letter**
- ☒ **Alcoholic Beverage Control (ABC) Application & Authorization Form**
- ☒ **Encroachment Permit Application**

Town Manager's Office • 110 E. Main St., Los Gatos, CA 95030 • 408.354.6837

www.LosGatosCA.gov • www.facebook.com/LosGatosCA



SPECIAL EVENT APPLICATION

APPLICATION FEE

Application fees must be submitted with the application at least 60 days prior to the event date and paid via check. Applications will not be processed until payment has been received. Checks must be made out to the Town of Los Gatos.
All fees can be dropped off in person or mailed to:

Town of Los Gatos
110 E. Main St.
Los Gatos, CA, 95030
Attn: Special Event Application Fee

Applications may also be submitted via email to the Events Specialist at
chill@losgatosca.gov

For questions contact Christina Hill at chill@losgatosca.gov or 408-399-5734

For-Profit Applicants	New Event:	\$910.00
	Repeat Event:	\$680.00
Not-For-Profit Applicants	New Event:	\$227.00
	Repeat Event:	\$170.00

For other potential event related fees please reference the "Special Event Guidelines and Procedures," document.



SPECIAL EVENT APPLICATION

ORGANIZATION INFORMATION

Use the information of the organization primarily responsible for the event to complete the following fields.

TODAY'S DATE: 01/31/2022

ORGANIZATION: Los Gatos Chamber of Commerce

CHIEF OFFICER OF ORGANIZATION: Catherine Somers

PHYSICAL ADDRESS: 10 Station Way, Los Gatos, CA 95030

MAILING ADDRESS: same

EMAIL: catherine@losgatoschamber.com

MAIN PHONE: 408-354-9300

IS THIS ORGANIZATION A NON-PROFIT? ☐ NO ☒ YES If yes, proof of active tax-exempt status is required

CO-SPONSORING ORGANIZATION:

CHIEF OFFICER OF ORGANIZATION:

EMAIL:

PHONE:

EVENT COORDINATOR INFORMATION

The primary event coordinator will be the Town's main point of contact and will be listed on the permit.

PRIMARY COORDINATOR: Randi Chen

EMAIL: randi@losgatoschamber.com

PHONE: 408-354-9300

ALTERNATE/ADDITIONAL COORDINATOR INFORMATION

NAME:

EMAIL:

PHONE:

ON-SITE EVENT COORDINATOR CONTACT INFORMATION

NAME: Randi Chen

CELL PHONE: 408-858-1803

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SPECIAL EVENT APPLICATION

EVENT INFORMATION

EVENT NAME: **Summer Promenades**

EVENT TYPE: **street festival**

ESTIMATED EVENT ATTENDANCE: **2000**

ESTIMATED # OF VOLUNTEERS: **15**

EVENT LOCATION(S): A detailed site map showing the event location(s) and layout is required with this application. See the Town's Fee Schedule for parks use fees at: <https://www.losgatosca.gov/1252/Comprehensive-Fee-Schedule>

- ☐ Oak Meadow Park
- ☐ Town Plaza Park
- ☐ Civic Center
- ☒ N. Santa Cruz Ave
- ☐ Other

EVENT SCHEDULE

EVENT DATE(S): **Thursdays, June 23 - August 11, 2022 June 16 - Aug 4**

EVENT START TIME: **4pm**

EVENT END TIME: **9pm**

SET-UP DATE(S): **same as event days**

SET-UP START TIME: **1pm**

TEAR-DOWN DATE(S): **same as event days**

TEAR DOWN END TIME: **11pm**

EVENT DESCRIPTION

Provide a detailed but brief description of your event.

The Promenades are a way to entice residents downtown to hang out, shop & dine. We would close N. Santa Cruz Avenue, using an approved, contracted traffic company. The event gives residents more room to spread out and enjoy our downtown. We will have music from 2 bands each week from 5-9pm. There will likely be no stage, but the band would set up on the street or a low-profile platform. We would like to have vendor booths (not food), which would primarily be our members. We will get an ABC license so folks can buy to-go beverages from our restaurants and enjoy them at the event. We would like the option to have a wine/beer booth.

We will arrange for port-a-potties to be set up in parking lot 4. We are asking that these remain for the duration of the 8 weeks.



SPECIAL EVENT APPLICATION

EVENT ELEMENTS

Check all boxes that apply to your event. The permits mentioned below are not required at the time of submission of this application but any applicable permits will be required before receiving your final permit. Additional information on the requirements may be found in the Special Event Guidelines and Procedures guide. Click on the underlined sections to be taken directly to those permits.



Alcohol will be served or sold to the public.

A letter of authorization from the Los Gatos Monte Sereno Police Department and a permit from the California Alcohol Beverage Control (ABC) agency is required.



Food will be served or sold to the public.

A permit from the Santa Clara County Department of Environmental Health may be required.



Generators, cooking booths, and/or tents will be used.

A permit from the Santa Clara County Fire Department may be required.



Live music or voice amplification will be used.

Complete page 9 of this application.



Temporary banners or signs will be posted in the Town of Los Gatos.

A Temporary Sign Permit from the Community Development Department is required.



Placement of dumpsters, portable restrooms, or other event equipment will be placed in a public right-of-way outside of the event location and/or dates.

An encroachment permit from the Town of Los Gatos may be required.



The event will be filmed or photographed for commercial use.

A motion picture/television/commercial still photo permit may be required.



The event will include vendors.

Vendors must have a business license with the Town of Los Gatos or will be required to obtain one before providing any services at the event. This may include caterers, entertainers, rental companies, etc.



Temporary closure of public streets, parking lots, or other right-of-ways is requested.

Complete page 7 of this application. A traffic control plan is required for all temporary street closures.



SPECIAL EVENT APPLICATION

PUBLIC RIGHT-OF-WAY CLOSURES AND PARKING

Complete this section if are requesting temporary closure of any public street(s), parking spaces, parking lots, or other public right-of-ways for your event. The requested areas must be shown on your site map. All street closures will require a traffic control plan. For additional information on street closures please see the Special Event Guidelines and Procedures guide.

STREET CLOSURE INFORMATION

LIST ANY STREET(S) YOU ARE REQUESTING CLOSURE OF FOR YOUR EVENT:

N. Santa Cruz

DATE(S) OF CLOSURE: **Thursdays, June 16- July 28**

REQUESTED START TIME OF CLOSURE: **4pm**

REQUESTED STREET RE-OPENING TIME: **11pm**

PUBLIC PARKING SPACES AND/OR PARKING LOT(S) CLOSURE INFORMATION

LIST THE LOCATION(S) OF THE PUBLIC PARKING SPACES OR PARKING LOTS YOU ARE REQUESTING.

4 spaces in Lot 4 for portapotties, a few spots near Main St/N-Santa Cruz and by Dolce for sound set up.

DATE(S) OF CLOSURE: **June 23- August 12 for Lot 4 spaces. Day of events for sound set up.**

REQUESTED START TIME OF CLOSURE: **1pm (for sound set up spaces)**

REQUESTED RE-OPENING TIME: **11pm (when street opens for sound spaces)**

REASON FOR CLOSURE: **portapotties**

Parking spaces should generally be used for vendor parking, loading zones, or event equipment or programming. Parking spaces should not be requested for event attendee parking or VIP parking.

EVENT PARKING PLANS

DESCRIBE YOUR PLANS FOR EVENT PARKING.

public lots

WILL YOU BE USING SHUTTLES FOR OFFSITE PARKING?

☒ **NO** ☐ **YES** If yes, a shuttle route map will be required.



SPECIAL EVENT APPLICATION

EVENT SAFETY

The Town of Los Gatos may require private security and/or Los-Gatos Monte Sereno police officers based on the size and scope of your event.

SECURITY INFORMATION

EXPLAIN YOUR PLANS FOR BOTH CROWD CONTROL AND INTERNAL SECURITY.

We do not anticipate this to be a problem. We will have Town police officers as well as private security. Last year, we successfully did these without any crowd issues.

DO YOU PLAN ON HIRING ANY PROFESSIONAL SECURITY FOR YOUR EVENT?:

☐ NO ☒ YES If yes, complete the fields below.

All private security vendors must meet the criteria listed in the Special Events Guidelines and Procedures guide.

NAME OF ORGANIZATION: **Coleman Security & Investigations, Inc.**

ADDRESS: **5655 Silver Creek Valley Road, Suite 232 San Jose, CA,**

WEBSITE: **<https://usacsi.org/>**

PHONE NUMBER: **408) 532-8274**

NUMBER OF SECURITY PERSONNEL AT EVENT: **2**

SCHEDULE OF SECURITY PERSONNEL: **4-10pm**

FIRST AID PLAN

First aid equipment is required at all events. The Town may require a dedicated first aid booth and/or medical staffing based on the size and scope of your event.

DESCRIBE YOUR PLANS ARE FOR PROVIDING FIRST AID STAFFING AND EQUIPMENT AT YOUR EVENT.

We will have a Chamber booth with first aid supplies.



SPECIAL EVENT APPLICATION

ENTERTAINMENT, SOUND, AND ADVERTISING

ENTERTAINMENT AND AMPLIFIED SOUND

If amplified sound, including music, microphones, or other sound equipment will be used at any point during your event please carefully review and complete this section.

DESCRIBE THE TYPE OF SOUND EQUIPMENT THAT WILL BE USED AT YOUR EVENT.

Amplified sound managed by sound engineers

DESCRIBE HOW ELECTRONIC EQUIPMENT WILL BE POWERED (IE. GENERATORS, BUILDING POWER, ETC.)

If using generators please specify how many and include their location(s) in your site map.

Generators (2)

NUMBER OF STAGES: **2**

NUMBER OF BANDS: **2**

SOUND CHECK START TIME: **4:30pm**

SOUND CHECK FINISH TIME: **5pm**

MUSIC START TIME: **5pm**

MUSIC FINISH TIME: **9pm**

ADVERTISING/PROMOTION AND NOTIFICATIONS

HOW WILL YOU ADVERTISE YOUR EVENT?

Per the special events municipal code, sec. 14.100.010, the organizer may not advertise their event until the organizer has received a conditional letter of approval from the Town.

☐ RADIO ☒ TV ☒ SOCIAL MEDIA ☒ POSTERS ☒ ORGANIZATION'S WEBSITE

☒ **BANNERS** A banner permit from the Town's Community Development Department is required.

☐ OTHER

HOW WILL YOU NOTIFY SURROUNDING BUSINESSES AND RESIDENTS OF YOUR EVENT?

Large events that are likely to disrupt surrounding neighbors may be required to send notifications within a 500-foot radius of the event at least two weeks prior. Please attach a copy of your notification if you have it ready now.

We will send out a postcard.



SPECIAL EVENT APPLICATION

SPECIAL EVENT HOLD HARMLESS AGREEMENT

I hereby certify the foregoing statements to be true and correct. I agree to indemnify and hold harmless the Town of Los Gatos, its Town Council, officers, agents, and employees from and against any and all loss, damages, liability, claims, suits, costs, and expenses, whatsoever, including attorney's fees regardless of the merit or outcome of any such claim or suit arising from or in any manner connected to the requested activity.

I also agree, if approved, to comply with all permit conditions, and understand that failure to comply with any condition, or any violation of law may result in the immediate cancellation of the event, denial of future events, and/or criminal prosecution. I understand the Town Manager, Chief of Police and/or the Director of Parks & Public Works and/or Streets & Parks Superintendent has the right at any time to revoke permission for an event and no rebates or refunds of fees will be made because of such termination.

I understand that no advance promotional activities for a requested event may be made before a Special Event Conditional Letter of Approval is issued. I further understand that I or my organization must pay all costs associated with a permitted event. I understand that I or my organization may be billed for cleanup costs incurred by the Town if cleanup is not performed adequately, and/or future applications for a Special Event Permit and/or Special Use Permit may be denied.

If I am signing this application for an organization I represent, I hereby certify that I am legally authorized to make this agreement for such organization.

Randi Chen

Events & Marketing

PRINTED NAME

TITLE

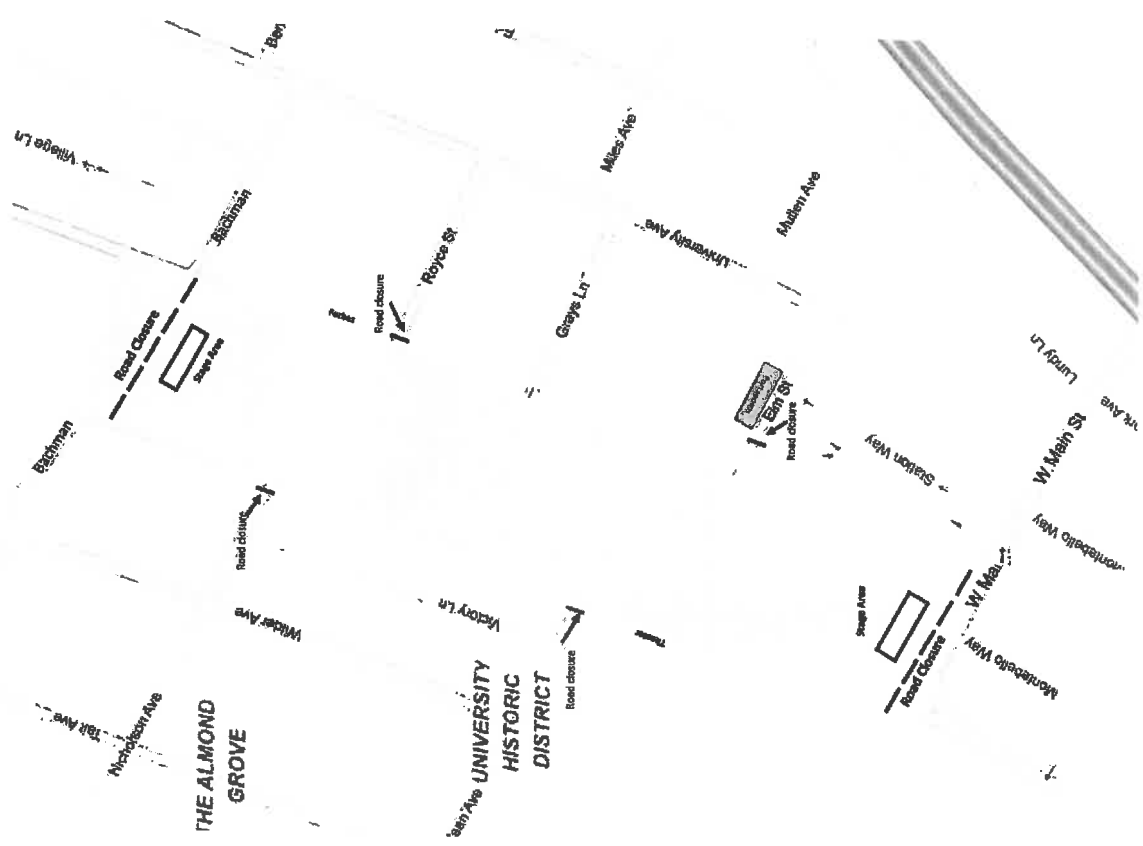
Los Gatos Chamber of Commerce

NAME OF ORGANIZATION

SIGNATURE

01/31/2022

DATE





LOS GATOS-MONTE SERENO POLICE DEPARTMENT

LETTER OF APPROVAL FOR A ONE-DAY LIQUOR PERMIT

Note: Your ABC Application, along with this Letter of Approval, must be submitted to the Chief of Police for signature prior to submitting to ABC for approval.

ORGANIZATION INFORMATION

Name of Organization: Los Gatos Chamber of Commerce		
Address of Organization: 10 Station Way		
City: Los Gatos	State: CA	Zip: 95030

EVENT/ACTIVITY INFORMATION

Event/Activity Name: Summer Promenades		Type of Event/Activity: Street Festival
Location of Event: Downtown Los Gatos - N. Santa Cruz Avenue		Number of Persons Attending Event: 2000
Dates(s)/Time(s) of Event/Activity: 6/23, 6/30, 7/7, 7/14, 7/21, 7/28, 8/4, 8/11	Dates(s)/Time(s) of Set-up: same days - 4pm	Dates(s)/Time(s) of Clean-up: same days - 9-11pm

PERMITTEE INFORMATION

Permit Obtained By: Randi Chen		
Permittee Address: 10 Station Way		
City: Los Gatos	State: CA	Zip: 95030
Day Phone: 408-354-9300	Cell Phone: 408-858-1803	Email Address: randi@losgatoschamber.com

PERSONS RESPONSIBLE FOR THE SALE OF ALCOHOLIC BEVERAGES DURING THE EVENT WILL BE

Name: Randi Chen	Address: 10 Station Way, LG	Day/Cell Phone: 408-858-1803
Name: Catherine Somers	Address: 10 Station Way, LG	Day/Cell Phone: 206-251-1011
Name: Kathy Granger	Address: 10 Station Way, LG	Day/Cell Phone: 630-890-3298
Name:	Address:	Day/Cell Phone:

It is understood that the permittee will conduct the sale of alcoholic beverages in strict accordance with the provisions of the application for the permit issued by the Department of Alcoholic Beverage Control or this permit may be suspended or revoked.

Signature of Applicant: 	Date: 2/1/2022
-----------------------------	-------------------

☐ We have no objection to the issuance of the One-Day Liquor Permit and waive the alcohol control zone.

☐ We have no objection to the issuance of the One-Day Liquor Permit and "with the alcohol zone" as specified in the attached Special Conditions.

Jamie Field, Chief of Police
Los Gatos-Monte Sereno Police Department
110 East Main Street, Los Gatos, California 95030

LGMSPD_FFW/PermitApplication.rev02/28/17

DAILY LICENSE APPLICATION/AUTHORIZATION - Non Transferable

Instructions: Complete all items. Submit to local ABC District Office with required fee (Cashier's Check or Money Order) payable to ABC. Once license is issued, fee cannot be refunded. For a listing of ABC District Offices please visit <http://www.abc.ca.gov/districts.html>. Pursuant to the authority granted by the organization named below, the undersigned hereby applies for the license(s) described below.

LICENSE NUMBER	ISSUE CODE
RECEIPT NUMBER	
FEE	
\$	

1. ORGANIZATION'S NAME
Los Gatos Chamber of Commerce

CONDITIONS REQUIRED

☐ Yes ☐ No

DIAGRAM REQUIRED

☐ Yes ☐ No

2. LICENSE TYPE (Check appropriate license type AND organization type)

a. ☒ **Daily General (\$75.00)** (Includes beer, wine and distilled spirits)

☐ Political Party/Affiliate Supporting Candidate for Public Office or Ballot Measure

☒ Organization Formed for Specific Charitable or Civic Purpose

☐ Other:

☐ Fraternal Organization In Existence Over Five Years with Regular Membership

☐ Religious Organization

☐ Vessel per Section 24045.10 B&P (\$50.00)

b. ☐ **Special Daily Beer & Wine (\$50.00)**

☐ Charitable

☐ Fraternal

☐ Social

☐ Political

☐ Other:

☐ Civic

☐ Religious

☐ Cultural

☐ Amateur Sports Organization

c. ☐ **Special Temporary License (\$100.00)** (Different privileges depending on statute)

☐ Television Station per Section 24045.2 or 24045.9 B&P

☐ Nonprofit Corporation per Sections 24045.4 and 24045.6 B&P

☐ Person conducting Estate Wine Sale per Section 24045.9 B&P

☐ Women's Educational and Charitable Organization per Section 24045.3 B&P

☐ Other Special Temporary License, per Section

License number

Amount \$

3. EVENT TYPE

☐ Dinner

☐ Dance

☐ Wedding

☐ Lunch

☐ Picnic

☐ Barbecue

☐ Social Gathering

☐ Festival

☐ Sports Event

☐ Concert

☐ Birthday

☐ Mixer

☐ Carnival

☐ Dinner Dance

☒ Other: **Street festival**

4. TOTAL # OF DAYS

8

5. ESTIMATED ATTENDANCE

2000

6. HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND/OR CONSUMPTION

From

5pm

To

9pm

7. EVENT DATE(S)

6/23, 10/30, 7/7, 7/14, 7/21, 7/28, 8/4, 8/11

8. EVENT IS OPEN TO THE PUBLIC

☒ Yes

☐ No

9. EVENT LOCATION (Give facility name, if any, street address and name, and city)

Downtown Los Gatos - N. Santa Cruz Avenue

10. LOCATION IS WITHIN THE CITY LIMITS

☒ Yes

☐ No

11. TYPE OF ENTERTAINMENT

live bands

12. SECURITY GUARDS

☒ Yes

☐ No

If yes, how many? 2

13. AUTHORIZED REPRESENTATIVE'S NAME

Randi Chen

14. REPRESENTATIVE'S TELEPHONE NUMBER

408-858-1803

15. REPRESENTATIVE'S ADDRESS

10 Station Way, Los Gatos, CA 95030

17. CONTACT EMAIL ADDRESS

randi@losgatoschamber.com

16. ORGANIZATION'S MAILING ADDRESS (if different from #15 above)

18. AUTHORIZED REPRESENTATIVE'S SIGNATURE

19. DATE SIGNED

02/01/2022

PROPERTY OWNER APPROVAL BY (Name), REQUIRED

PHONE NUMBER

PROPERTY OWNER SIGNATURE

DATE SIGNED

LAW ENFORCEMENT APPROVAL BY (Name), IF APPLICABLE

PHONE NUMBER

LAW ENFORCEMENT SIGNATURE

DATE SIGNED

DISTRICT OFFICE APPROVAL BY (Name)

ABC EMPLOYEE SIGNATURE

ISSUANCE DATE

The above-named organization is hereby licensed, pursuant to the California Business and Professions Code Division 9 and California Code of Regulations, to engage in the temporary sale of alcoholic beverages for consumption at the above named location for the period authorized above.

This license may be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State.

ABC-221 (rev. 07/21)



TOWN OF LOS GATOS PARKS & PUBLIC WORKS DEPT.
41 MILES AVE. LOS GATOS, CA 95030
(408) 399-5771 FAX: (408) 399-5763
WWW.LOSGATOSCA.GOV

ENCROACHMENT PERMIT APPLICATION

Application Date: 2/1/2002 Permit No. EN
Project Address: parking spots on N. Santa Cruz Ave. - see attached
Work Description: 3 parking spots in 2 places for sound set up
Location of Work (if not at address frontage): in front of owner's home - by D. Ave. - Thursdays June 23-
Cost of Work in the Public Right-of-Way (Required): _____ Depth of Trench: Aug. 11, 7-11 PM
Estimated Date of Completion of Work: _____ Your Job # _____

ADDITIONAL INFORMATION:

1. Property Owner/Applicant (circle one):
Name: Los Gatos Chamber of Commerce E-mail: randi@losgatoschamber.com
Address: 10 Station Way Phone: 408-354-9300
City: Los Gatos State: CA Zip: 95020

NOTE: The information on the contractor must be supplied to the Engineering Inspector prior to the start of construction.

2. General Contractor in charge of work at the site:
Name: _____ E-mail: _____
Firm: _____ Town Business License No: _____
License No.: _____ Class: _____ Exp. Date: _____
Address: _____ Phone: _____ Fax: _____
City: _____ State: _____ Zip: _____

Any questions regarding Encroachment Permits, please call Eric Christenson, Engineering Inspector at (408) 354-6824. All work in the Public Right-of-Way requires an Encroachment Permit. Failure to obtain a Permit may result in penalties per Town Code - Chapter 23, Article III, Encroachments. (It may take up to 10 working days to process this application)

SIGNATURE OF OWNER (REQUIRED): _____ Date: _____
Print Name: _____ Title: _____
SIGNATURE OF APPLICANT (IF OTHER THAN OWNER): _____
Date: 2/2/2002
Print Name: Randi Chen Title: Executive Administrator

FOR OFFICIAL USE ONLY:

Indemnity Agreement Required: Yes No
(circle one)
Approved by: _____ Date: _____

Notes:



Application Date: 2/1/2022 Permit No. EN
Project Address: LOT 4 - 4 parking spaces - see attached
Work Description: porch parties for Summer Promenades - June 20 - Aug 12
Location of Work (if not at address frontage): Lot 4 - spaces closest to elm st. + the back
Cost of Work in the Public Right-of-Way (Required): _____ Depth of Trench: _____
Estimated Date of Completion of Work: Aug. 12, 2022 Your Job # _____

1. Property Owner/Applicant (circle one):
 Name: Los Gatos Chamber of Commerce E-mail: randi@losgatoschamber.com
 Address: 10 Stanton Way Phone: 408-354-9300 Fax: _____
 City: Los Gatos State: CA Zip: 95030

2. General Contractor in charge of work at the site:

Name:	E-mail:	
Firm:	Town Business License No:	
License No.:	Class:	Exp. Date:
Address:	Phone:	Fax:
City:	State:	Zip:

SIGNATURE OF OWNER (REQUIRED): _____

Print Name: Town of Los Gatos Title: _____
SIGNATURE OF APPLICANT (IF OTHER THAN OWNER): _____

Date: 2/122

Print Name: Randi Chan Title: Events & Marketing

[illegible]

Approved by: _____ Date: _____

Notes:

Page 579

Encroachment Permits

Lot 4—Portapotties

June 22—August 12



Parking Spots on Event Days for Sound Set - 1pm-11pm

June 23, 30, July 7, 14, 21, 28, August 4, 11





FIRE DEPARTMENT SANTA CLARA COUNTY

14700 Winchester Blvd., Los Gatos, CA. 95032-1818
(408) 378-4010 • (408) 378-9342 (fax) • www.sccfd.org



SPECIAL EVENTS INFORMATION SHEET

The following information shall be provided in order to process the special events permit:

- Address of event: N. Santa Cruz Avenue
- Contact Person: Randi Chen
- Phone No.: 408-354-9300 Email: randi@losgatoschamber.com
- Address: 10 Station Way, Los Gatos Zip: 95030
1. Date of event: June 10, 23, July 7, 14, 21, 28 Hours of Operation: 5-9pm
Aug. 4
2. Type of event: street festival
3. Number of people anticipated: 1500
4. Size of tent or canopies: 10x10
5. Number of booths: Cooking ☒ Non-cooking: 10-15
6. Tent/Booth Supplier(s): each vendor brings own
7. Date tent/canopy being erected: day of event Date down: day of event
8. Entertainment - what type: bands
9. Stages/Platform(s): 0 - bands will be on street
10. Carnival Rides: 0
11. Cooking (how prepared): 0
12. Will there be deep frying? 0
13. Will there be BBQs or open flames? 0
14. Special Effects: 0
15. Source of power: Generator: yes x2 Electrical: one at each band
16. Source of heat: _____
17. Access Closure: _____
18. A Plot plan indicating the tents, canopies and/or booths dimensions, and distances from other tents, canopies, booths, buildings, vehicle parking areas and roadways shall be provided.
19. A seating/table arrangement plan, if applicable, indicating the number of seats, seat spacing, aisle locations and widths, exit widths/locations and exit sign locations shall be provided on a floor plan. (For tents and canopies only).

Special Event Info. Sheet/DM/05.20.10

1

Organized as the Santa Clara County Central Fire Protection District
Serving Santa Clara County and the communities of Campbell, Cupertino, Los Altos,
Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, and Saratoga

- Vendor Booths
- Wine/ beer booths

Band Bands are not on a stage or platform, but set up on the street with their instruments. All sound equipment is along the side in a parking space.

THE ALMOND GROVE

UNIVERSITY HISTORIC DISTRICT





TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

Name of Event:	Summer Promenades
Date(s) of Event:	June 16, 23, July 7, 14, 21, 28, August 4, 2022
Time(s) of Event:	5:00 p.m. – 9:00 p.m.
Location(s) of Event:	N. Santa Cruz Ave between W. Main St. and Bachman Ave
Permittee:	Los Gatos Chamber of Commerce
Event Contact:	Randi Chen
Event Contact Phone:	408-858-1803

This is a letter of conditional approval for the above specified event, issued to the Permittee and/or the organization the Permittee represents, named above by the Town of Los Gatos based on the information the Permittee has disclosed in the special event application and any written or verbal conversations with Town staff regarding the event.

The purpose of the Conditional Letter of Approval is to grant the Permittee the approval to move forward with the planning and logistics of the event under the conditions stated in this document. The Town will issue the Special Event Permit to the Permittee after all conditions set forth in this Conditional Letter of Approval have been addressed to the satisfaction of the Town Manager or his/her designee. Given the non-Town agencies that may need to work with the Permittee on specific conditions, the issuance of the final Special Event Permit may not occur until just prior to the event. If a Permittee needs additional clarification for its work with vendors, non-Town agencies, etc., please contact the Special Events Staff for assistance. Once the Special Even Permit is issued, the Permittee will be authorized to execute the event.

The conditions included in this document may include but are not limited to; requirements with completion timelines concerning the time, place, scope of the event, required permits from other government agencies, vendor provisions, payment of applicable fees and deposits, and other provisions including but not limited to conditions to protect the safety of persons and property, provide for adequate traffic control, and regulate the sale and service of food and/or alcohol. Specific details regarding each of these conditions can be found in this letter.

ADDITIONAL CONDITIONS MAY ARISE AFTER THE ISSUING OF THIS LETTER OF APPROVAL AS THE PLANNING OF THE EVENT PROGRESSES, THESE CONDITIONS WILL BE COMMUNICATED TO THE PERMITTEE AND ADDED TO THE FINAL SPECIAL EVENT PERMIT.

The Permittee must abide by all applicable conditions listed below. Failure to comply with all conditions, or any violation of law prior to the event will result in the denial of the Special Event Permit and therefore immediate cancellation of the event and possibly denial of future events, fines, and/or criminal prosecution. If during the planning of the approved event, the scope, intensity, location, type, or size of event deviates significantly from the description provided on the special event application this Conditional Letter of Approval will no longer be valid and the Permittee will need to submit a new application to reflect the deviation. The Town Manager, Chief of Police and/or the Director of Parks & Public Works and/or Streets & Parks Superintendent has the right at any time to revoke permission for an event and no rebates or refunds of fees will be made because of such termination. The Permittee or the organization they represent must pay all costs associated with a permitted event.



TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

I. STANDARD CONDITIONAL REQUIREMENTS:

- 1) Permittee shall obtain all required permits and submit copies of these permits to the Town Events Specialist prior to the event which may include but are not limited to; ABC permit, Banner permit, Fire permit(s), Parks Use permit and Environmental Health permit(s). A copy of each permit must be kept on file at the event.
- 2) Permittee or designated person shall be on-site at the event at all times to ensure compliance with the special event permit conditions.
- 3) Permittee shall ensure cleanliness of the event and surrounding area throughout the event by providing adequate trash and recycling receptacles and must submit a clean-up plan for large scale events. The Permittee understands that he/she or their organization may be billed for cleanup costs incurred by the Town if cleanup is not performed adequately, and/or future applications for a Special Event Permit and/or Special Use Permit may be denied.
- 4) Permittee shall provide a safe environment for event attendees as determined by the Santa Clara County Fire Department, Department of Environmental Health and Safety and/or the Los Gatos Monte Sereno (LGMS) Police Department.
- 5) The Permittee agrees to protect, defend, and hold harmless the Town of Los Gatos, its elective or appointed boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property. This applies to the Permittee, Permittee's agents, officers, or employees, subcontractors, or independent contractors hired by Permittee. This hold harmless agreement shall apply to all liability, regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Permittee. The person signing this Special Event Permit declares that he/she has the authority to bind the Permittee, and that Permittee is bound by all terms of this Special Event Permit. In the event that the signatory lacks such duly granted authority, said undersigned signatory personally assumes all liability for fees, costs and damages. The Permittee further agrees to repay the Town for any and all incurred costs; damage and clean-up to parks, streets, facilities, buildings or other property owned by the Town which results from the above-named event. The Permittee agrees to comply with these permit issuance conditions and any other requirements of the Town of Los Gatos.
- 6) Permittee shall obtain Town approved insurance. Permittee shall maintain comprehensive general liability insurance (including coverage for damages to rented property) with policy limits of at least \$1,000,000 per occurrence. For general liability insurance policies, Permittee agrees to the following terms and shall provide Town with a separate endorsement which states that the policy contains the following language:
 - a) The Town, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds; and,
 - b) The insurer waives the right of subrogation (the right of recovery against others) against Town elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and,
 - c) The insurance shall be primary non-contributing. If alcohol will be served or sold, host liquor liability must be stated within the insurance policy. Permittee shall maintain Workers' Compensation Insurance, as required by law. Permittee shall maintain Automobile Insurance, as required by law. No policy shall be canceled or materially changed except after thirty (30) days' notice by the insurer to Town.



TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

II. SPECIFIC CONDITIONS RELATED TO THIS EVENT

1) ARPA GRANT FUNDS

- a) On Tuesday, February 15, 2022, Town Council unanimously passed a motion to allocate up to \$120,000 of ARPA funds to the Los Gatos Chamber of Commerce (the Permittee) to produce a summer promenade series with the possibility of fewer events if there are limited Town staff resources and with the possibility of sponsorships. The payment terms and requirements of the grant are outlined in the attached agreement. All fees mentioned in this letter will be deducted from the approved grant funds following the payment and reimbursement terms outlined in the agreement.

2) PUBLIC NOTICE

- a) Permittee shall notify all residents and businesses in the list provided by the Town which includes the immediate areas and the Almond Grove area, at least two weeks prior to the event in the form of a letter, flyer or other form of documentation. A copy of this notification must be submitted to the town for approval prior to its distribution.
- b) The Permittee shall obtain a banner permit(s) from the Town for each temporary banner placed in Town prior to placing the banner(s). The banner(s) shall only be placed in the approved locations. Per the Los Gatos Municipal Code, no more than three banners may be used per event.

3) EVENT AREA USE PARAMETERS

- a) The Permittee shall have use of the following areas under the following use times, for the purposes of this permit:
 - i) N. Santa Cruz Ave between Main St. and Bachman Ave.
 - (1) Event dates and hours are permitted for Thursday, June 16, 23, July 7, 14, 21, 28, August 4 from 5:00 p.m. – 9:00 p.m.
 - (2) Event set-up may begin at 2:00 p.m. and event tear-down must conclude before 10:30 p.m. on the same day. The street re-opening time of 10:30 p.m. is designed to provide the Permittee with a maximum of 1.5 hours to tear-down event equipment. However, the Permittee shall make every effort to clear crowds and remove pedestrians off the street at the immediate conclusion of event programming at 9:00 p.m.
 - (3) There shall be no programming on the N. Santa Cruz Ave within 50 feet from the main closure points of Main St. and Bachman Ave.
 - (4) Band equipment may be placed on the street spanning the roadway, as shown on the event site map, per the approval of the Santa Clara County Fire Department (SCCFD). No stages or other similar structures may be used for the band unless they provide a 20' clearance for emergency vehicles to enter and exit the roadways, per SCCFD's requirements.
 - ii) Town Plaza Park
 - (1) The Permittee may use Town Plaza Park on the permitted event dates for no more than two consecutive hours, solely for the purposes of "yoga in the park." No additional event programming outside of that is permitted unless otherwise approved by the Town ahead of time.

ATTACHMENT 2



TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

- (2) Alcohol sales or service are prohibited in Town Plaza Park.
 - (3) The Permittee is required to pay the \$55 parks use fee as noted in the 2021/2022 Town of Los Gatos comprehensive fee schedule for the hours of use.
 - iii) Municipal Lot 4 & Street Parking
 - (1) The Permittee may use four spaces in municipal parking lot 4 for the location of portable restrooms with an approved encroachment permit from the Town of Los Gatos.
 - (2) The Permittee may have use of six public street parking spaces located on N. Santa Cruz Ave. and Bachman Ave. from 1:00 p.m. – 10:30 p.m. for sound technician vehicles with an approved encroachment permit from the Town of Los Gatos.
 - b) The Permittee shall be allowed to use amplified sound in the form of music until 9:00 p.m. but must comply with all noise level ordinances. However, if the Town receives complaints from the public the ending time of the music may be adjusted during the event series to address these complaints.
 - c) No event equipment may be placed on any open, public roadways during set-up without prior consent from the Town.
 - d) Permittee must remove all event equipment from the entire event area immediately following the event to allow for N. Santa Cruz Ave to re-open to through traffic no later than 10:30 p.m. on the evening of the event(s).
 - e) If any portion of the event is outside of the permitted areas or times it may result in termination of the event in those non-permitted areas or the entire event.
- 4) TRAFFIC CONTROL
- a) The Permittee may commence the road closure of N. Santa Cruz no earlier than 2:00 p.m. and must re-open the street no later than 10:30 p.m. on each event date.
 - b) The Town shall provide the Permittee with a traffic control plan as part of the N. Santa Cruz closure packet. The Permittee shall be responsible for obtaining and paying uniform traffic control devices and a traffic control vendor to implement the closure and re-opening according to the provided traffic control plan.
 - c) Town staff shall utilize anti-vehicle barricades at the road closure points of Main St. and North Santa Cruz Ave and Bachman Ave. and North Santa Cruz Ave. The barricades will be managed and deployed by the Los Gatos Parks and Public Works Department and LGMSPD. The Permittee shall be required to pay for all Town staff time required for the use of the barricades.
 - d) Roads are to remain open and unobstructed until the scheduled closure time, and only after traffic control devices are in place and the road is safely closed to through traffic.
 - e) Permittee shall be responsible for posting all approved, Police-issued, "No Parking Signs," in all roadways and parking lots that will be closed to the public for the event no later than 72 hours prior to the use of the space. The Permittee must use "blue tape" or other non-permanent adhesive material or tie so as not to damage or leave adhesive residue upon the fixture the sign is attached. Permittee shall remove all signs within two days after the event.
 - f) The Permittee shall be required to utilize two electronic message boards that should be in place a week before the event to notify the public of the upcoming road closure(s). The Town may supply these to the Permittee if the Town-owned boards are available at the time of the event. The Permittee may be required to reimburse the Town for staff time required to place the message boards.



TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

- g) Permittee shall staff all roadway closures and allow access to emergency personnel when necessary. Drive through private property egress areas shall be blocked to prevent vehicular access to N. Santa Cruz. Private property egress areas must be monitored by event staff.
- h) S. Santa Cruz Ave. and W. Main St. shall remain open and unobstructed at all times.
- i) University Ave. and adjacent side streets shall remain open and accessible to and from all municipal parking lots.
- j) All private property driveways/parking lots not leading to N. Santa Cruz Ave. shall remain open and unobstructed.
- k) Permittee shall provide staff or volunteers to monitor all points of ingress and egress, throughout the event to ensure that all barricades and signage remain in place and un-altered.

5) SAFETY & SECURITY

- a) The Permittee will be required to utilize two Los Gatos-Monte Sereno Police officers for each event between the hours of 5:30 p.m. and 10:30 p.m.
- b) LGMSPD may also require the use of a Parking Control Officer while the road closure is occurring to ensure pedestrian and vehicle clearance for a safe and controlled closure. The Permittee shall be required to pay for all LGMSPD personnel charges.
- c) The Permittee must obtain a special event permit from the Santa Clara County Fire Department and comply with all Santa Clara County Fire Department's outdoor festivals and carnivals, and any other relevant standards and specifications.
- d) Fire hydrants shall remain accessible with adequate clearance from any vehicles, structures, tents, or other barricades.
- e) The Permittee shall have volunteers or other staff onsite for the duration of the event to help maintain crowd control and an orderly program.

6) FOOD & ALCOHOL

- a) The Permittee may have up to three enclosed "beer gardens" at each event, within the permitted event area of N. Santa Cruz Ave. for the service and sales of alcohol with an approved permit from the State Alcoholic Beverage Control (ABC). The location of the beer gardens should be included on the event site map and shared with Town staff prior to the event date(s).
- b) The Permittee must post staff, volunteers, and/or event personnel as well as signage at all entry/exit points of the permitted alcohol service areas to ensure alcohol does not leave the designated areas.
- c) The Permittee shall include educational language on their event marketing materials and website explaining the rules of alcohol consumption at the event.
- d) It is recommended that the Permittee works with the participating businesses before the event to explain the conditions of alcohol sales, service, and consumption at the event.
- e) No alcohol consumption may occur anywhere else within the permitted event areas, including outside alcohol or "to go," drinks sold at businesses that have the appropriate license. Anyone consuming alcohol outside of the permitted beer garden areas may be cited.
- f) The Permittee must place signage measuring at least 11"x17" throughout the event that reads, "No Alcohol Consumption on Street."



TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

- g) The Permittee and their staff must ensure that alcohol is only served or sold to individuals possessing a valid ID verifying that they are over the legal drinking age of 21. The Permittee may choose to utilize an age-identification mechanism (after age has been verified) such as a wrist band or a designated beverage container.
- h) The Permittee shall be responsible for training staff and volunteers prior to the event to identify individuals who have consumed an excessive amount of alcohol and may be a danger to themselves or other individuals and shall not allow that individual to purchase any additional alcohol. The Permittee shall escalate to the appropriate authorities if the situation deems necessary, to ensure the safety of the public and the Permittee.

7) HEALTH & CLEANINESS

- a) This Conditional Letter of Approval is being issued under the assumption that the event named in this letter will be permitted to occur on the requested event date under State and County orders. In accordance with Town Code Section Sec. 14.100.045. the Town reserves the right to change or revoke this conditional letter, and thus cancel the event, if new federal or local guidelines or requirements are issued that would prohibit this event, or environmental factors at the time of the event persist or worsen from the current condition and the event would jeopardize the health and safety of the public.
- b) The Permittee must comply with all COVID-19 Federal, State, and County Public Health Orders, requirements, restrictions, and guidance pertaining to the event program and activities. Failure to comply with these measures may result in fines, and/or immediate cancelation of the event(s) from State, County or Town officials. Information on current COVID-19 requirements can be found at www.covid19.sccgov.org/home and www.covid19.ca.gov/safer-economy.
- c) The Permittee shall clean the entire event space immediately following the event. A pre and post event evaluation of the entire event space will be performed to determine any necessary clean-up or repair costs. If any charges are incurred a report and invoice will be provided to the Permittee by the Town within 30 days of the event.
- d) The Permittee shall be responsible for providing additional trash and recycling receptacles to accommodate for the additional traffic. They must also be responsible for emptying all trash and recycle bins, including Town bins, in the event area and placing them into a dumpster provided by the Permittee.
- e) The Permittee must ensure the number of toilets is adequate for the number of anticipated attendees and meets all Department of Environmental Health standards to ensure no public urination or the unauthorized use of adjacent private property restrooms without prior approval from the property owner. If using private restrooms, the Permittee must submit this in writing in their plan and indicate that they have received approval from the business owner to direct attendees to use their private restrooms.



TOWN OF LOS GATOS
SUMMER PROMENADES
LETTER OF CONDITIONAL APPROVAL

_____	_____
Permittee	Date

_____	_____
Laurel Prevetti, Town Manager	Date



LOS GATOS-MONTE SERENO POLICE DEPARTMENT

LETTER OF APPROVAL FOR A ONE-DAY LIQUOR PERMIT

Note: Your ABC Application, along with this Letter of Approval, must be submitted to the Chief of Police for signature prior to submitting to ABC for approval.

ORGANIZATION INFORMATION

Name of Organization: Los Gatos Chamber of Commerce		
Address of Organization: 10 Station Way		
City: Los Gatos	State: CA	Zip: 95030

EVENT/ACTIVITY INFORMATION

Event/Activity Name: Summer Promenades		Type of Event/Activity: Street Festival
Location of Event: Downtown Los Gatos - N. Santa Cruz Ave.		Number of Persons Attending Event: 2000
Dates(s)/Time(s) of Event/Activity: 6/16, 6/23, 7/7	Dates(s)/Time(s) of Set-up: Same Days - 4PM	Dates(s)/Time(s) of Clean-up: Same Days - 9-11PM

PERMITTEE INFORMATION

Permit Obtained By: Randi Chen		
Permittee Address: 10 Station Way		
City: Los Gatos	State: CA	Zip: 95030
Day Phone: 408-354-9300	Cell Phone: 408-858-1803	Email Address: randi@losgatoschamber.com

PERSONS RESPONSIBLE FOR THE SALE OF ALCOHOLIC BEVERAGES DURING THE EVENT WILL BE

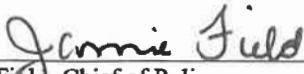
Name: Randi Chen	Address: 10 Station Way, LG	Day/Cell Phone: 408-858-1803
Name: Catherine Somers	Address: 10 Station Way, LG	Day/Cell Phone: 206-251-1011
Name: Kathy Granger	Address: 10 Station Way	Day/Cell Phone: 630-890-3298
Name:	Address:	Day/Cell Phone:

It is understood that the permittee will conduct the sale of alcoholic beverages in strict accordance with the provisions of the application for the permit issued by the Department of Alcoholic Beverage Control or this permit may be suspended or revoked.

Signature of Applicant: 	Date: 5.9.22
----------------------------------------------------------------------------------------------------------------	-----------------

☐ We have no objection to the issuance of the One-Day Liquor Permit and waive the alcohol control zone.

☒ We have no objection to the issuance of the One-Day Liquor Permit and "with the alcohol zone" as specified in the attached Special Conditions.


Jamie Field, Chief of Police
Los Gatos-Monte Sereno Police Department
1 Street, Los Gatos, California 95030

ATTACHMENT 3

DAILY LICENSE APPLICATION/AUTHORIZATION - Non Transferable

Instructions: Complete all items. Submit to local ABC District Office with required fee (Cashier's Check or Money Order) payable to ABC. Once license is issued, fee cannot be refunded. For a listing of ABC District Offices please visit <http://www.abc.ca.gov/distmap.html>
Pursuant to the authority granted by the organization named below, the undersigned hereby applies for the license(s) described below.

LICENSE NUMBER	GEO CODE
RECEIPT NUMBER	
FEE \$	

1. ORGANIZATION'S NAME Los Gatos Chamber of Commerce	CONDITIONS REQUIRED <input type="checkbox"/> Yes <input type="checkbox"/> No	DIAGRAM REQUIRED <input type="checkbox"/> Yes <input type="checkbox"/> No
----------------------------------------------------------------	---------------------------------------------------------------------------------	------------------------------------------------------------------------------

2. LICENSE TYPE (Check appropriate license type AND organization type)

a. ☒ **Daily General (\$75.00)** (Includes beer, wine and distilled spirits)☐ Political Party/Affiliate Supporting Candidate for Public Office or Ballot Measure☒ Organization Formed for Specific Charitable or Civic Purpose☐ Other: _____☐ Fraternal Organization in Existence Over Five Years with Regular Membership☐ Religious Organization☐ Vessel per Section 24045.10 B&P (\$50.00)b. ☐ **Special Daily Beer & Wine (\$50.00)**☐ Charitable☐ Fraternal☐ Social☐ Political☐ Other: _____☐ Civic☐ Religious☐ Cultural☐ Amateur Sports Organizationc. ☐ **Special Temporary License (\$100.00)**

(Different privileges depending on statute)

☐ Television Station per Section 24045.2 or 24045.9 B&P☐ Person conducting Estate Wine Sale per Section 24045.8 B&P☐ Nonprofit Corporation per Sections 24045.4 and 24045.6 B&P☐ Women's Educational and Charitable Organization per Section 24045.3 B&P☐ **Other Special Temporary Licenses, per Section**

License number _____

Amount \$ _____

3. EVENT TYPE <input type="checkbox"/> Dinner <input type="checkbox"/> Dance <input type="checkbox"/> Wedding <input type="checkbox"/> Lunch <input type="checkbox"/> Picnic <input type="checkbox"/> Barbeque <input type="checkbox"/> Social Gathering <input type="checkbox"/> Festival <input type="checkbox"/> Sports Event <input type="checkbox"/> Concert <input type="checkbox"/> Birthday <input type="checkbox"/> Mixer <input type="checkbox"/> Carnival <input type="checkbox"/> Dinner Dance <input checked="" type="checkbox"/> Other: Street Festival

4. TOTAL # OF DAYS 3	5. ESTIMATED ATTENDANCE 2000	6. HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND/OR CONSUMPTION From 5 PM To 9 PM
--------------------------------	----------------------------------------	-----------------------------------------------------------------------------------------------------

7. EVENT DATE(S) 6/16, 6/23, 7/7	8. EVENT IS OPEN TO THE PUBLIC <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------------------------	-------------------------------------------------------------------------------------------------------

9. EVENT LOCATION (Give facility name, if any, street number and name, and city)
Downtown Los Gatos - N. Santa Cruz Ave.



10. LOCATION IS WITHIN THE CITY LIMITS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	11. TYPE OF ENTERTAINMENT Live Bands	12. SECURITY GUARDS <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, how many? 2
---------------------------------------------------------------------------------------------------------------	------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------

13. AUTHORIZED REPRESENTATIVE'S NAME Randi Chen	14. REPRESENTATIVE'S TELEPHONE NUMBER (408) 858-1803
-----------------------------------------------------------	----------------------------------------------------------------

15. REPRESENTATIVE'S ADDRESS 10 Station Way, Los Gatos CA 95030

16. ORGANIZATION'S MAILING ADDRESS (If different from #15 above)	17. CONTACT EMAIL ADDRESS randi@losgatoschamber.com
------------------------------------------------------------------	---------------------------------------------------------------


18. AUTHORIZED REPRESENTATIVE'S SIGNATURE 	19. DATE SIGNED 05/09/2022
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PROPERTY OWNER APPROVAL BY (Name), REQUIRED Laurel Prevetti, Town Manager	PHONE NUMBER (408) 354-6832	PROPERTY OWNER SIGNATURE 	DATE SIGNED 5-17-2022
LAW ENFORCEMENT APPROVAL BY (Name), IF APPLICABLE Jamie Field, Chief of Police	PHONE NUMBER (408) 354-6840	LAW ENFORCEMENT SIGNATURE 	DATE SIGNED 5/17/22
DISTRICT OFFICE APPROVAL BY (Name)		ABC EMPLOYEE SIGNATURE	ISSUANCE DATE

The above-named organization is hereby licensed, pursuant to the California Business and Professions Code Division 9 and California Code of Regulations, to engage in the temporary sale of alcoholic beverages for consumption at the above named location for the period authorized above.

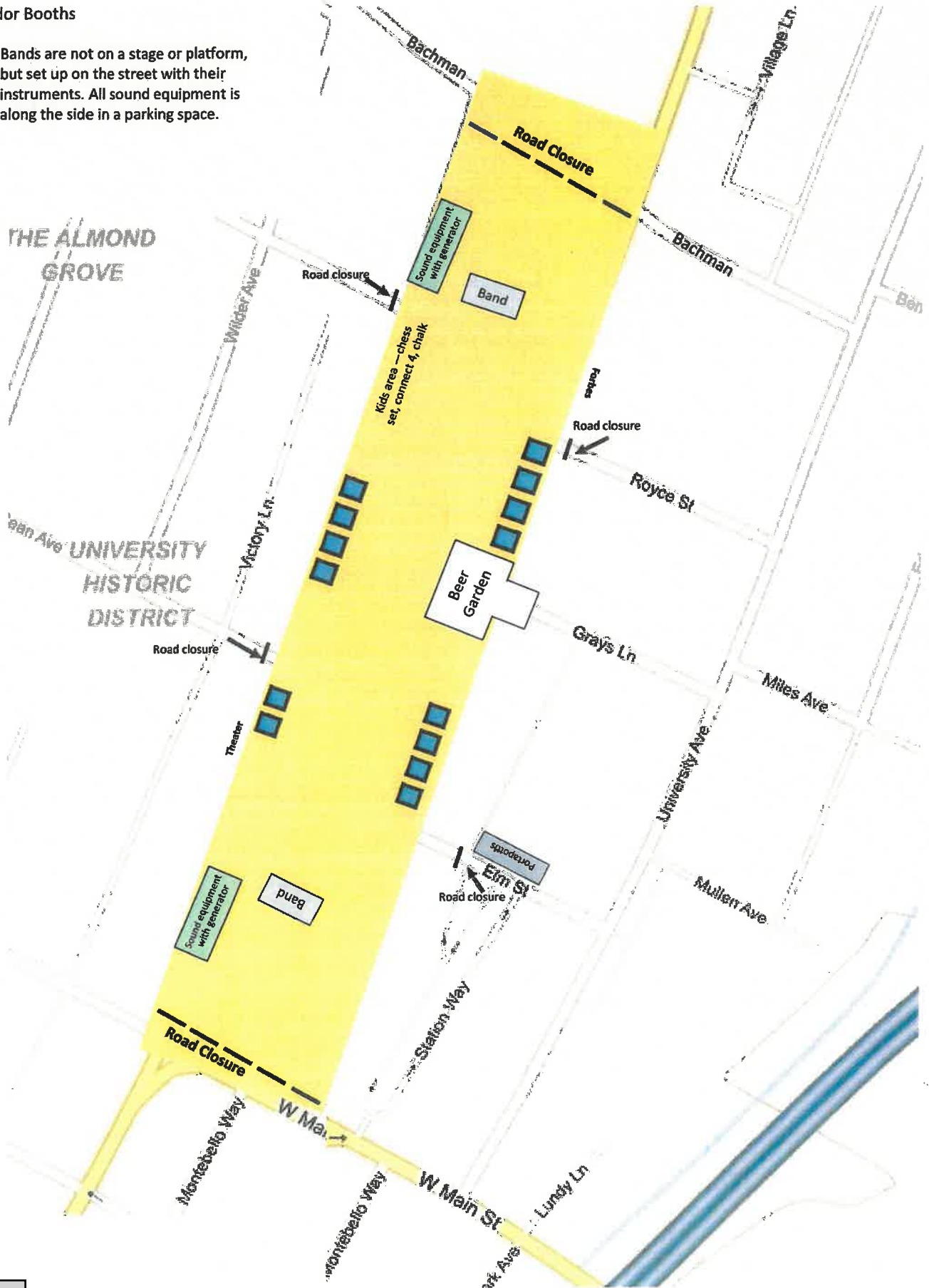
This license may be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State.

 Vendor Booths

 Band
Bands are not on a stage or platform, but set up on the street with their instruments. All sound equipment is along the side in a parking space.

THE ALMOND GROVE

UNIVERSITY HISTORIC DISTRICT





LOS GATOS-MONTE SERENO POLICE DEPARTMENT

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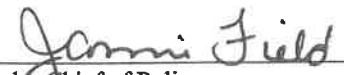
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Signature of Applicant: 	Date: 5.9.22
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Jamie Field, Chief of Police
Los Gatos-Monte Sereno Police Department
10 Station Way, Los Gatos, California 95030

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LICENSE NUMBER	GEO CODE
RECEIPT NUMBER	
FEE \$	

1. ORGANIZATION'S NAME Los Gatos Chamber of Commerce	CONDITIONS REQUIRED <input type="checkbox"/> Yes <input type="checkbox"/> No	DIAGRAM REQUIRED <input type="checkbox"/> Yes <input type="checkbox"/> No
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☐ Other:

☐ Fraternal Organization in Existence Over Five Years with Regular Membership

☐ Religious Organization

☐ Vessel per Section 24045.10 B&P (\$50.00)
b. ☐ **Special Daily Beer & Wine (\$50.00)**
☐ Charitable

☐ Fraternal

☐ Social

☐ Political

☐ Other:

☐ Civic

☐ Religious

☐ Cultural

☐ Amateur Sports Organization
c. ☐ **Special Temporary License (\$100.00)**

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☐ **Other Special Temporary Licenses, per Section**

License number

Amount \$

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4. TOTAL # OF DAYS 4	5. ESTIMATED ATTENDANCE 2000	6. HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE AND/OR CONSUMPTION From 5 PM To 9 PM
--------------------------------	----------------------------------------	-----------------------------------------------------------------------------------------------------

7. EVENT DATE(S) 7/14, 7/21, 7/28, 8/4	8. EVENT IS OPEN TO THE PUBLIC <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------------------------------	-------------------------------------------------------------------------------------------------------

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Downtown Los Gatos - N. Santa Cruz Ave.

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 Vendor Booths

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THE ALMOND GROVE

UNIVERSITY HISTORIC DISTRICT





May 27, 2022

Dear Council Members,

Thank you to the Town Staff - Laurel Prevetti, Chief Field, Monica Renn and Christina Hill for meeting with us a few weeks ago to discuss our concerns about the new rules and restrictions imposed on the Summer 2022 Promenade events. As you all know, we are discouraged with the final decision requiring us to sell alcoholic beverages in designated beer gardens. This plan completely defeats the purpose and does not at all honor the spirit or the intent of the "Promenades". We tried to stress this concern to staff, but no one seems to be listening. On February 15, the Council voted unanimously to give the Chamber an ARPA grant in the amount of \$120,000 to produce a series of Promenades that best reflected last year's events.

Thanks also to the Council members for meeting with us individually to listen to our concerns and special thanks to Mayor Rennie for putting this item on the June 7th agenda.

We feel strongly that Council needs to discuss this topic in a public forum so our merchants, restaurants and residents can weigh in with their thoughts. We believe the proposed constraints the staff has imposed will hinder the spirit, intent and success of the event. The intent, as you know, was to create a safe, COVID- friendly environment in which residents and visitors of all ages, were encouraged to walk up and down the street patronizing merchants and restaurants and socializing, thus boosting economic vitality.

To be collaborative and good stewards of the values in our community, we are open to entertaining alternative solutions that will appease the staff when it comes to managing the alcohol and beverage service at these weekly events. For starters, ABC rules have tightened since last year, so we must make adjustments to comply.

My staff and I were also concerned about alcohol overconsumption and underage drinking last summer. After the second Promenade, we hired LGMS police officers to ensure that the events were safe for all. As our debrief notes reflect, we had very few complaints.

We shared with the staff our ideas for additional safety protocols for this year's events. The ideas included but were not limited to the following:

- check individual IDs and issue wristbands (ABC)
- sell alcohol (sold streetside) via token or ticket (ABC)
- sell no more than two beverages at a time (ABC)
- post volunteers at each event egress and ingress (ABC)
- post signage on How to Promenade so everyone understands the expectations – social media, website, and day-of on site
- get a DEH permit as necessary
- end street side alcohol sales at 8 p.m. – one hour before end of event

After much deliberation with the Chamber Board and staff, stakeholders and the local ABC officials, here are the two options we hope the Council will consider and discuss on June 7.

1. The entire event is one enclosed beer garden as it was last year (Main Street-Bachman). Chamber agrees to follow all ABC rules and additional guidelines (as stated above), but attendees will be able to move about and promenade freely. We anticipate 5-6 dispensing points. This option also allows for off N. Santa Cruz restaurants the chance to participate. It also equals the playing field for all and does not give any one business an unfair advantage.
2. The Chamber does not get an ABC permit. Restaurants must follow the ABC rules in accordance with their licenses. Chamber will post signage explaining that open containers are not allowed on the public street. As untrained lay people, we are not capable of policing infractions if there are any. For all intents and purposes, choosing this option would make the Promenades alcohol-free events.

Of course, we think it is in the Council's best interest to go for option 1. This option will require more staff and administration for the Chamber, but we are willing to do it for the benefit of our businesses and for the enjoyment of our guests. This option preserves the integrity and spirit of last year's events.

If the staff insists, and the Council concurs with their recommendation that we silo the event into beer gardens, we will not do them at all.

Thank you for your time and we look forward to discussing these options and answering any questions.

Catherine, LG Chamber staff, LG Chamber Board



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 26

DESK ITEM

DATE: May 25, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Identify the Town Council's Objectives for the Summer Promenade Event Series and Provide Direction as Necessary for Modifications to the Conditional Letter of Approval.

REMARKS:

Attachment 5 contains public comment received from 11:01 a.m. June 2 to 11:00 a.m. June 6, 2022.

Attachments previously received with the Staff Report:

1. Permit Application with Initial Site Map
2. Conditional Letter of Approval
3. ABC Permit and Site Map
4. Public Comment received from the Chamber of Commerce on May 31, 2022

Attachment received with this Desk Item:

5. Public Comment received from 11:01 a.m. June 2 to 11:00 a.m. June 6, 2022.

PREPARED BY: Monica Renn
Economic Vitality Manager

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

From: randi@losgatoschamber.com <randi@losgatoschamber.com>
Sent: Monday, June 06, 2022 3:21 PM
To: Council <Council@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>
Cc: 'Catherine Somers' <catherine@losgatoschamber.com>; 'Donna McCurrie' <donna@losgatoschamber.com>
Subject: Letter for desk item for Council meeting June 7 - Agenda Item #26

EXTERNAL SENDER

Dear Mayor Rennie and Council Members –

For your consideration of Agenda Item #26 at the June 7, 2022 council meeting.

Thank you.

Randi Chen

ATTACHMENT 5



June 6, 2022

Dear Mayor and Council –

We would like to clarify a few items regarding the staff report associated with Item #26, the Promenade Summer Series, on the June 7 Council agenda.

The Chamber still believes that an ABC license encompassing the entire event is the appropriate way to proceed with the Promenades.

Regarding a few specific issues:

Staffing and administration:

- Regardless of whether the Chamber staffs an individual beer garden with various vendors or a street-long event, with the same various vendors, the Chamber will need to sell tokens, check IDs and wristband attendees who wish to purchase alcohol.
- In addition, we will have to count tokens and pay vendors after each event.

Have we agonized over the logistics of how to do this? Yes – and we have pivoted several times, and discussed this daily for the last month. We have reached out to all of you, as well as our merchants and our Food & Wine group. In the end, we have come to the conclusion that an individual beer garden will silo the attendees; and as we’ve said previously, negate the spirit and intent of the Promenades. We are prepared to hire additional staff and volunteers to make this event successful.

In the report, Staff questioned:

“Is the intent to provide an outdoor “festival environment” with the primary focus on the event activities, such as music, food, alcohol and entertainment stationed along the street? Or is the intent to close the road to create a pedestrian walkway to support an outdoor community gathering with musical entertainment while encouraging event guest to shop and dine within existing establishments?”

- The answer is the latter – if everyone is stationed in an individual beer garden, there will be no promenading, patronizing the stores, or listening to the bands.

ABC License:

- The staff is correct that ABC prohibits the mingling of licenses. Regardless of which iteration we choose, siloed beer gardens, street-long event or no ABC license at all, the restaurants must follow the rules of their own ABC licenses. This means that patrons who purchase alcohol at a restaurant, must consume it within the confines of that restaurant. Any to-go alcohol must be purchased with a meal.
- Whether we have an individual beer garden **OR** an ABC license that covers the street-long event, the restaurants, breweries and wineries will be vendors for the Chamber. Vendors will all have tents, tables, etc, take tokens as payment, and only serve wrist-banded attendees.
- If we have an ABC license that encompasses the entire length of the Promenade, patrons may buy a drink from a street-side vendor with a token, and promenade at will.

Security:

If we get an ABC license for the street-long event, the Chamber will hire private security to staff the egresses/ingresses to the event, so folks do not leave the event with open alcohol containers. We will have signage indicating that alcohol may not leave the event and that outside alcohol is not allowed.

In summary:

After much thoughtful discussion, the Chamber has determined that we have the capability to staff and administer the street-long event. Whether there is an individual beer garden or vendors on the street, the needs are similar. The number of vendors, and the ability to invite businesses off N. Santa Cruz Avenue, will be the same in either scenario. We think that forcing folks into a beer garden will compromise the event and not encourage promenading or the sense of community that the Promenades were originally envisioned to do.

Thank you.

Los Gatos Chamber Staff & Executive Director

From: Jennifer McRay

Sent: Monday, June 6, 2022 3:37 PM

To: Council <Council@losgatosca.gov>; Town Manager <Manager@losgatosca.gov>

Subject: Re: council meeting 6/7

EXTERNAL SENDER

Hello,

I am writing in reference to the agenda item on tomorrow's town council meeting regarding the Summer Promenades. I grew up in Los Gatos and have owned Kismet Boutique for the last 20 years. My hope is that the council will approve a street wide event like last year. The vibe and energy was so fun to see, especially after the horrific year we all had. Families were enjoying the downtown environment, dancing and strolling up and down the street. It was also good for business, because not only were people wandering around town who had never been in my store, they came back after and said how much fun they had. It was nice to see Los Gatos as a fun and vibrant town. As merchants we have received a lot of feedback from customers who say Los Gatos is a stuffy and sleepy town. I loved how the Promenades brought the community together and it felt like the way Los Gatos used to feel back in the 80s and 90s.

There are soooo many charming downtowns and places for people to shop and eat at in the Bay Area. I felt like Los Gatos was finally getting the attention it deserves. Those of us that live and/or work in town know what a special place it is. It was nice to share that with others, which in turn helps out the restaurants and businesses that have been struggling since the pandemic.

I had the worst year in business in 2020 and the best year in 2021 and I think that was due to an influx of new customers coming in to Los Gatos to shop. The marketing is working and I hear all the time what a beautiful area it is. Let's keep up the momentum that we have established in the last year that allows the local businesses to flourish and allow the Summer Promenades to continue like last year.

Thank you,

Jennifer McRay

Owner

Kismet Boutique