

# TOWN OF LOS GATOS COUNCIL MEETING AGENDA SEPTEMBER 17, 2024 110 EAST MAIN STREET AND TELECONFERENCE TOWN COUNCIL CHAMBERS 7:00 PM

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

#### **IMPORTANT NOTICE**

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

#### **HOW TO PARTICIPATE**

The public is welcome to provide oral comments in real-time during the meeting in three ways: **Zoom Webinar (Online)**: Join from a PC, Mac, iPad, iPhone or Android device. Please use this URL to join: https://losgatosca-

gov.zoom.us/j/82232739012?pwd=1zlbRu029\_33oyBb9l3AyTZQ7D2MEQ.kN8FbuOklNsmz-Jj Passcode: 793054 You can also type in 822 3273 9012 in the "Join a Meeting" page on the Zoom website at zoom.us/join and use passcode 793054.

When the Mayor announces the item for which you wish to speak, click the "raise hand" feature in Zoom. If you are participating by phone on the Zoom app, press \*9 on your telephone keypad to raise your hand.

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

If you are participating by calling in, press #2 on your telephone keypad to raise your hand. **In-Person**: Please complete a "speaker's card" located on the back of the chamber benches and return it to the Town Clerk before the meeting or when the Mayor announces the item for which you wish to speak.

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

- (2) If you are unable to participate in real-time, you may email to Clerk@losgatosca.gov the subject line "Public Comment Item #\_\_ " (insert the item number relevant to your comment). All comments received will become part of the record.
- (3) Deadlines to submit written comments are:
  - 11:00 a.m. the Thursday before the Council meeting for inclusion in the agenda packet.
  - 11:00 a.m. the Monday before the Council meeting for inclusion in an addendum.
  - 11:00 a.m. on the day of the Council meeting for inclusion in a desk item.
- (4) Persons wishing to make an audio/visual presentation must submit the presentation electronically to Clerk@losgatosca.gov no later than 3:00 p.m. on the day of the Council meeting.

#### **CALL MEETING TO ORDER**

#### **ROLL CALL**

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

#### **PLEDGE OF ALLEGIANCE**

consent Items (Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Council may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Mayor asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 1 of this agenda. If an item is removed, the Mayor has the sole discretion to determine when the item will be heard.)

- 1. Approve the September 3, 2024 Closed Session Meeting Minutes.
- 2. Approve the September 3, 2024 Study Session Meeting Minutes.
- 3. Approve the September 3, 2024 Regular Session Meeting Minutes.
- 4. Receive the Monthly Financial and Investment Report for July 2024.
- 5. Authorize the Interim Town Manager to Execute an Agreement with Rotary Club of Los Gatos for Acceptance of a Gift of an "Oak Grove" at Live Oak Manor Park.
- <u>6.</u> Appoint Mayor Mary Badame as the Town's "Director" Representative to the Silicon Valley Animal Control Authority (SVACA) Joint Powers Authority Board; and Appoint Councilmember Rob Moore as the Town's "Alternate Director" Director Representative.
- 7. Authorize the Interim Town Manager to Execute the Third Amendment to the Consultant Services Agreement with Mott MacDonald Group Inc. to Provide Additional Construction Support Services in an Amount Not to Exceed \$49,901, For a Total Contract Not to Exceed Amount of \$833,019, for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505), Federal Project No. CML-5067(021).
- 8. Authorize the Interim Town Manager to Execute an Agreement with Kimley-Horn and Associates, Inc. in the Amount of \$37,135 to Assess and Evaluate Artificial Turf and Natural Grass at Creekside Sports Park (CIP Project 831-4404).
- Receive Interim Community Center Improvement Cost Estimates and Implementation Update.
- <u>10.</u> Adopt a Resolution Approving the Town of Los Gatos Local Hazard Mitigation Plan (LHMP) Annex to the County of Santa Clara Multi-Jurisdictional Hazard Mitigation Plan (MJHMP).

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

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

11. Consider Adoption of a Resolution of Necessity to Authorize Acquisition of Private Property Through Eminent Domain for the Shannon Road Capital Improvement Project (CIP No. 811-0008).

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

- 12. Receive an Update on the Downtown Restroom Feasibility Study (CIP No. 821-2011) and Provide Direction to Town Staff.
- 13. Provide Direction on a Potential Senior Services Coordinator, Approve an Expenditure and Revenue Budget Adjustment in the Amount of \$74,135 to Allocate Fiscal Year 2023/24 Carryforward Grant Funding, and Approve Any Other Necessary Expenditure Budget Adjustments.
- 14. Adopt a Commission Events Policy and Revised Town Council Policy 5-03 "Commission Budgets."

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

15. Adopt a Resolution to Renew an Ordinance Approving a Military Equipment Funding, Acquisition, and Use Policy Pursuant to Assembly Bill 481.

#### **COUNCIL / MANAGER MATTERS**

#### **CLOSED SESSION REPORT**

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

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

MEETING DATE: 09/17/2024

ITEM NO: 1

# DRAFT Minutes of the Town Council Special Meeting – Closed Session Tuesday, September 3, 2024 4:15 P.M.

The Town Council of the Town of Los Gatos conducted a special meeting in-person.

#### MEETING CALLED TO ORDER AT 4:15 P.M.

#### ROLL CALL

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

Absent: None.

**VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)**None.

#### THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEMS:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
 Significant exposure to litigation pursuant to paragraph (2) of Subdivision (d) of Government Code Section 54956.9: 1 case

The Town Council reconvened in open session. There was no reportable action.

#### **ADJOURNMENT**

	1.1			
ını	a maating adiniirna	tc na	approximately 5:05 p.m.	
1115	z IIICCIIIE auluuliic	:u aı	. abbioxillialtiv 3.03 b.iii	

Attest:	Submitted by:
Wendy Wood, Town Clerk	Katy Nomura, Interim Town Manager

MEETING DATE: 09/17/2024

ITEM NO: 2

# DRAFT Minutes of the Town Council Special Meeting – Study Session Tuesday, September 3, 2024 5:15 P.M.

The Town Council of the Town of Los Gatos conducted a special meeting in-person and utilizing teleconferencing means.

#### STUDY SESSION CALLED TO ORDER AT 5:15 P.M.

#### **ROLL CALL**

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

Absent: None.

#### **STUDY SESSION**

1. Conduct a Study Session to Receive Information on and Discuss Senate Bill 330, Builder's Remedy, Density Bonus Law, Existing Litigation Outcomes, Proposed State Laws, and the Town Planning Application Review Process.

Gabrielle Whelan, Town Attorney, gave brief overview of the topics to be discussed and introduced consultant Barbara Kautz.

Barbara Kautz, consultant, gave a presentation on state housing laws.

Mayor Badame opened public comment.

#### Peter Locastro

- Commented on concerns with proposed development projects.

#### Tom Johnson

- Asked if the Town can require a certain density on a parcel.

#### Sophie Kao

 Commented on concerns with proposed development projects and asked a clarifying question.

#### Rich Stephens

- Commented on concerns with proposed development projects.

#### Bill Walker

Commented on concerns with development projects greater than three stories.

#### PAGE 2 OF 3

SUBJECT: Draft Minutes of the Town Council Study Session Special Meeting of September

3, 2024

DATE: September 6, 2024

#### Dan Brown

- Commented on concerns with proposed development projects and asked clarifying questions.

#### Carin Yamamoto

 Commented on concerns with proposed development projects and asked clarifying questions.

#### Angela Boles King

 Commented on concerns with proposed development projects and asked clarifying questions.

#### Jak Van Nada

 Asked a clarifying question regarding the Housing Element adopted on January 30 and commented on concerns with proposed developments projects.

#### Susan Burnet

- Asked about the legal status of the Housing Element adopted on January 30.

#### Allan Butler

Commented on concerns with proposed development projects.

#### Rick Guidice

- Asked a clarifying question on the CEQA exemptions.

#### Joanne Rodgers

- Commented on concerns with proposed development projects.

#### John Eichinger

- Commented on concerns with proposed development projects and asked clarifying questions.

#### Sandy Decker

- Commented on concerns with proposed development projects.

#### Michael Silva

Commented on concerns with proposed development projects.

#### Karen Dilullo

- Commented on concerns with proposed development projects.

#### **Praveen Chang**

Commented on concerns with proposed development projects.

ITEM NO. 2.

#### PAGE **3** OF **3**

SUBJECT: Draft Minutes of the Town Council Study Session Special Meeting of September

3, 2024

DATE: September 6, 2024

#### **Amy Despars**

- Commented on concerns with proposed development projects and asked clarifying questions.

#### Lee Fagot

- Commented on concerns with state legislation and urged everyone to inform county and state officials of its impacts.

#### Zoom Caller

- Commented on concerns with proposed development projects.

Mayor Badame closed public comment.

Barbara Kautz, consultant, responded to questions raised during public comment.

Council Members asked questions and discussed the item.

Barbara Kautz, consultant, and Gabrielle Whelan, Town Attorney, responded to Council Member questions.

#### STUDY SESSION ADJOURNED

Study Session adjourned at 6:54 p.m.

Wendy Wood, Town Clerk	 

MEETING DATE: 09/17/2024

ITEM NO: 3

## DRAFT Minutes of the Town Council Meeting Tuesday, September 3, 2024

The Town Council of the Town of Los Gatos conducted a regular meeting in-person and utilizing teleconferencing means on Tuesday, September 3, 2024, at 7:00 p.m.

#### MEETING CALLED TO ORDER AT 7:04 P.M.

#### **ROLL CALL**

Present: Mayor Mary Badame, Vice Mayor Matthew Hudes, Council Member Rob Moore,

Council Member Rob Rennie, Council Member Maria Ristow.

Absent: None

#### PLEDGE OF ALLEGIANCE

Grace Sulzmann led the Pledge of Allegiance. The audience was invited to participate.

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

- 1. Approve the Study Session Meeting Minutes of August 20, 2024.
- 2. Approve the Closed Session Meeting Minutes of August 20, 2024.
- 3. Approve the Meeting Minutes of August 20, 2024.
- 4. Adopt an Ordinance Titled: "An Ordinance of the Town Council of the Town of Los Gatos Amending Town Code Section 1.10.075, 'Official Town Holidays Designated; Exceptions' to Add Veterans Day as a Town Holiday." **ORDINANCE 2361**
- 5. Modify the Town Council Meeting Schedule for Fiscal Year 2024/2025 to Cancel the Regular Council Meeting of November 5, 2024.
- 6. Adopt a Resolution Rescinding Resolution 2022-057 and Amending the Appendices to the Town Conflict of Interest Code Section 2.30.610. **RESOLUTION 2024-046**
- 7. Appoint Vice Mayor Matthew Hudes as the Town's Voting Delegate for the League of California Cities Annual Conference scheduled for October 16 18 in Long Beach.
- 8. Authorize the Town Manager to Negotiate and Execute an Agreement with the County of Santa Clara to Provide Unhoused Engagement Services in an Amount Not to Exceed \$92,777 of Grant Funds and Authorize an Expenditure and Revenue Budget Adjustment in the Amount of \$92,777 to Receive and Use County Grant Funding (\$42,777 FY 2023/24 Carryforward Grant and \$50,000 FY 2024/25 Grant).
- 9. Authorize the Town Manager to Execute an Agreement with Rotary Club of Los Gatos for Acceptance of a Gift of an "Oak Grove" at Live Oak Manor Park.
- 10. Approve the Revised Temporary Classifications Salary Schedules for FY 2024/25, FY 2025/26, and FY 2026/27.

#### PAGE 2 OF 4

SUBJECT: Draft Minutes of the Town Council Meeting of September 3, 2024

DATE: September 3, 2024

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

Item 9 was continued as stated in the Desk Item.

**MOTION:** Motion by Council Member Ristow to approve consent items 1 through 8, and 10.

Seconded by Council Member Moore.

**VOTE:** Motion passed unanimously.

#### **VERBAL COMMUNICATIONS**

Gus

- Read a passage from a book, provided information on the World Cup, and commented on the Police Department being understaffed.

Joe Enz, Friends of the Los Gatos Creek

Provided positive comments for the Parking Control Officer Dimiceli and Officer Demont,
 Officer Frizzel, and Town Manager Laurel Prevetti.

Walker Peirce Percy, Veteran's Memorial Support Foundation

- Stated the Veterans Memorial Support Foundation will host a 9- 11 event at the Flame of Liberty Memorial from 8-9 a.m.

#### COUNCIL/TOWN MANAGER REPORTS Council Matters

- Vice Mayor Hudes participated in the Community Health and Senior Services Commission meeting, the Council Policy Committee meeting, and participated in meetings concerning the efforts to get a new Community Center.
- Council Member Rennie stated he met with residents concerned about a Builders Remedy project and met with a developer on a non-Builder's Remedy project.
- Mayor Badame stated met with the Executive Director of KCAT regarding several topics including Oktoberfest which is scheduled on September 29 from 12 p.m. to 6 p.m. at the Civic Center lawn; met with the Executive Director of the Los Gatos Education Foundation; participated in a Ribbon Cutting event for KPCR 92.9 FM Pirate Cat Radio.

#### **Town Manager Matters**

 Town Manager Prevetti announced that Screen on the Green will be held on September 20<sup>th</sup> at Oak Meadow starting at 6:15 p.m. with a short film. The feature film, Disney's Wish, begins at 7:15 p.m. and invited all to join.

#### PAGE 3 OF 4

SUBJECT: Draft Minutes of the Town Council Meeting of September 3, 2024

DATE: September 3, 2024

#### **CLOSED SESSION REPORT**

Gabreille Whelan, Town Attorney, stated the Town Council met in closed session pursuant to Government Code Section 54956.9 to discuss anticipated litigation and there was no reportable action.

#### OTHER BUSINESS

11. Recognize Outgoing Town Manager Laurel Prevetti.

Mayor Badame presented Town Manager Laurel Prevetti with a Commendation from the Town of Los Gatos, a Commendation from the County Board of Supervisors. Representatives from Senator Pellegrin's Office and Senator Cortese's Office presented a Resolution to Town Manager Laurel Prevetti. Mayor Badame presented Town Manager Laurel Prevetti with a key to the Town.

Mayor Badame opened public comment.

Alex Kobayashi, State Senator Josh Becker's Office

- Commended outgoing Town Manager Prevetti for her service.

#### Arn Andrews

Commended outgoing Town Manager Prevetti for her service.

#### Karen Briones

Commended outgoing Town Manager Prevetti for her service.

#### Gus

Commended outgoing Town Manager Prevetti for her service.

Dave Cortese, Senator District 15

Commended outgoing Town Manager Prevetti for her service.

Mike Wasserman, former County of Santa Clara Board Supervisor and former Los Gatos Mayor.

- Commended outgoing Town Manager Prevetti for her service.

Marcia Jensen, former Los Gatos Mayor and Marico Sayco, former Los Gatos Mayor

- Commended outgoing Town Manager Prevetti for her service.

Jan Schwartz and Kimberely Schnider, NUMU

- Commended outgoing Town Manager Prevetti for her service.

Jo Greiner, St. Luke's Episcopal Church

Commended outgoing Town Manager Prevetti for her service.

ITEM NO. 3.

#### PAGE 4 OF 4

SUBJECT: Draft Minutes of the Town Council Meeting of September 3, 2024

DATE: September 3, 2024

#### Matt Morley

- Commended outgoing Town Manager Prevetti for her service.

#### Lee Fagot

Commended outgoing Town Manager Prevetti for her service.

Jennifer Lin, Chief Executive Officer of the Los Gatos Chamber of Commerce

Commended outgoing Town Manager Prevetti for her service.

Mayor Badame closed public comment.

Council Members spoke and commended outgoing Town Manager Prevetti for her service.

Town Manager Laurel Prevetti spoke and thanked everyone for their generosity and kind words.

#### **ADJOURNMENT**

The meeting adjourned at 8:12 p.m.

Respectfully Submitted:
Keara Johnson, Deputy Town Clerk



MEETING DATE: 09/17/2024

ITEM NO: 4

DATE: September 10, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Receive the Monthly Financial and Investment Report for July 2024

#### **RECOMMENDATION:**

Receive the Monthly Financial and Investment Report for July 2024.

#### **BACKGROUND**:

California Government Code Section 41004 requires that the Town Treasurer submit to the Town Clerk and the legislative body a written report and accounting of all receipts, disbursements, and fund balances. The Finance Director assumes the Town Treasurer role. Attachment 1 contains the July 2024 Monthly Financial and Investment Report which fulfills this requirement.

The July 2024 Monthly Financial and Investment Report was received by the Finance Commission at its September 9, 2024 meeting.

#### **DISCUSSION:**

The July 2024 Monthly Financial and Investment Report includes a Fund Balance Schedule, representing estimated funding available for all funds at the end of the respective month. The fund balances were estimated at a point in time and will be finalized at the final close of the fiscal year.

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

PREPARED BY: Eric Lemon

Finance and Accounting Manager

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

#### PAGE 2 OF 3

SUBJECT: Monthly Financial and Investment Report for July 2024

DATE: September 10, 2024

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

Reconciling Cash to Fund	Balance - Jo	uly 31, 2024
Total Cash	\$	72,350,241
Plus: Assets	\$	17,113,938
Less: Liabilities	\$	(31,885,507)
Estimated Fund Balance	\$	57,578,672

As of July 31, 2024, the Town's financial position (Assets \$89.47M, Liabilities \$31.89M, and Fund Equity \$57.58M) remains strong and the Town has sufficient funds to meet the cash demands for the next six months.

As of July 31, 2024, the Town's weighted portfolio yield for investments under management was 4.46% which was 6 basis points below the Local Agency Investment Fund (LAIF) yield of 4.52% for the same reporting period. As of June 30, 2024, the LAIF portfolio's weighted average maturity (WAM) is 217 days versus the Town's longer July 31, 2024 WAM of 673 days. The longer WAM for Town assets under management reflects the Town's strategy to take advantage of higher yields associated with longer maturities balanced with shorter term yields available on investments held with the State's LAIF. The Town's weighted average rate of return on investments under management of 4.46% at the close of July was 1 basis point higher when compared to the prior month's return of 4.45% reported as of June 30, 2024.

Since July 2023, LAIF yields had climbed from 331 basis points (3.31%) to 452 basis points (4.52%) through the end of July 2024.

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

On March 22, 2023, the Federal Reserve voted to approve a ¼ percentage basis point increase from 4.75% to 5.00%. This action was followed with additional hikes in May 2023 from 5.00% to 5.25% and July from 5.25 % to 5.5 %. Through these actions over time, the Federal Open Market Committee's (FOMC) goal is to bring year to year inflation to its targeted level of 2%. On May 1, 2024, the Federal Reserve Chair commented that the 2% target may take longer than expected to achieve and the central bank is prepared to keep rates unchanged as long as appropriate.

#### PAGE 3 OF 3

SUBJECT: Monthly Financial and Investment Report for July 2024

DATE: September 10, 2024

The labor market remained relatively robust. The unemployment rate increased slightly from 4% to 4.1% remaining historically low. Meanwhile, wage growth fell from 4.1% to 3.9%.

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

#### **CONCLUSION**:

Receive Monthly Financial and Investment Report for July 2024.

#### Attachments:

1. Financial and Investment Report (July 2024)

## Town of Los Gatos Summary Investment Information July 31, 2024

Weighted Average YTM Portfolio Yield on Investments under Management

4.46%

Weighted Average Maturity (days)

673

	This Month	Last Month	One year ago
Portfolio Allocation & Treasurer's Cash Balances	\$72,350,241	\$81,368,410	\$71,462,894
Managed Investments	Ć40 002 4F0		
Managed Investments	\$49,892,459		
Local Agency Investment Fund	\$16,702,446		
Reconciled Demand Deposit Balances	\$5,755,337		
Portfolio Allocation & Treasurer's Cash Balances	\$72,350,241		
Benchmarks/ References:			
Town's Average Yield	4.46%	4.45%	3.53%
LAIF Yield for month	4.52%	4.48%	3.31%
3 mo. Treasury	5.29%	5.36%	5.42%
6 mo. Treasury	5.09%	5.33%	5.47%
2 yr. Treasury	4.26%	4.75%	4.88%
5 yr. Treasury (most recent)	3.91%	4.38%	4.18%
10 Yr. Treasury	4.03%	4.40%	3.96%



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

## Town of Los Gatos Portfolio Allocation & Treasurer's Cash Balances July 31, 2024

Cash & Investment Balances - Beginning of Month/Period Receipts Disbursements Cash & Investr Cash & Investment Balances - End of Month/Period

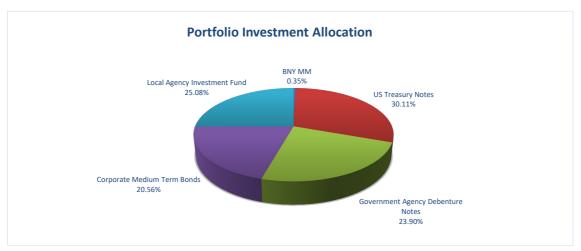
	Month	YTD
\$	81,368,409.88	\$ 81,368,409.88
	3,843,628.10	3,843,628.10
	(12,861,796.74)	(12,861,796.74)
	\$72,350,241.24	\$72,350,241.24

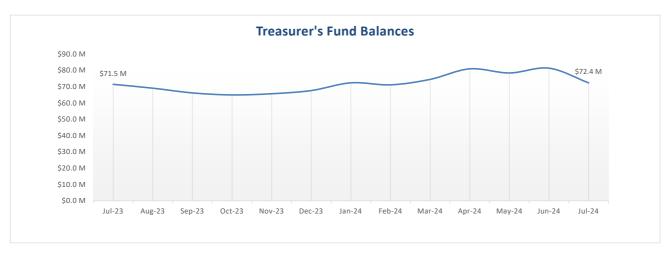
Portfolio Allocation
BNY MM
US Treasury Notes
Government Agency Debenture Notes
Corporate Medium Term Bonds
Local Agency Investment Fund
Subtotal - Ir Subtotal - Investments
Reconciled Demand Deposit Balances

Total Portfolio Allocation & Treasurer's Cash Balances

		Max. % or \$ Allowed
Amount	% of Portfolio	per State Law or Policy
\$232,771.24	0.35%	20% of Town Portfolio
\$20,054,713.77	30.11%	No Max. on US Treasuries
\$15,913,075.60	23.90%	No Max. on Non-Mortgage Backed
\$13,691,898.00	20.56%	30% of Town Portfolio
\$16,702,445.78	25.08%	\$75 M per State Law
66,594,904.39	100.00%	
5,755,336.85		

rces \$72,350,241.24





Page 16

# Town of Los Gatos Non-Treasury Restricted Fund Balances July 31, 2024

	Beginning Balance	Re	July 2024 Deposits alized Gain/Adj.	July 2024 Interest/ Earnings	July 2024 Withdrawals	Ending Balance	
Non-Treasury Funds:							
Cert. of Participation 2002 Ser A Reserve Fund	\$ 700,282.13	\$	-	\$ 2,750.02	\$ -	\$ 703,032.15	Note 1
Cert. of Participation 2010 Ser Lease Payment Fund	102.07		1,134,060.43	0.36	-	1,134,162.86	Note 2
Cert. of Participation 2002 Ser A Lease Payment Fund	29,656.86		545,843.14	116.43	-	575,616.43	Note 1
Cert. of Participation 2010 Ser Reserve Fund	 1,388,894.83		-	5,903.87	-	1,394,798.70	Note 2
Total Restricted Funds:	\$ 2,118,935.89	\$	1,679,903.57	\$ 8,770.68	\$ -	\$ 3,807,610.14	
CEPPT IRS Section 115 Trust	2,188,658.95		-	55,797.70	-	\$ 2,244,456.65	Note 3
Grand Total COP's and CEPPT Trust	\$ 4,307,594.84	\$	1,679,903.57	\$ 64,568.38	\$ -	\$ 6,052,066.79	

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

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

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

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

# Town of Los Gatos Statement of Interest Earned July 31, 2024

July 2024	\$ 247,221.75
August 2024	\$ -
September 2024	\$ -
October 2024	\$ -
November 2024	\$ -
December 2024	\$ -
January 2025	\$ -
February 2025	\$ -
March 2025	\$ -
April 2025	\$ -
May 2025	\$ -
June 2025	\$ -
	\$ 247,221.75

Page 18

#### Town of Los Gatos Investment Schedule July 31, 2024

Institution	CUSIP#	Security	Coupon		Deposit Date	Par Value	Original Cost	Original Issue (Discount) Premium	Market Value	Market Value Above (Under) Cost	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
Apple	037833DB3	Corporate Bond			12/20/2022	1,300,000.00	1,228,591.00	(71,409.00)	1,244,477.00	15,886.00		6/21/2027	4.19% \$	46,287.22 \$	81,871.88 \$	4,548.44	1055
Home Depot US Treasury	437076BM3 912828ZW3	Corporate Bond US Treasury Note		3.00% 0.25%	8/4/2022 8/9/2022	1,000,000.00 350,000.00	991,960.00 322,096.88	(8,040.00) (27,903.12)	973,170.00 335.888.00	(18,790.00) 13,791.12		1/1/2026 6/30/2025	3.04% \$ 3.16% \$	49,750.00 \$ 1,654.89 \$	61,696.52 \$ 19,915.08 \$	2,747.98 893.44	519 334
FFCB	3133EN5V8	Gov. Agency Debenture		4.13%	1/17/2023	236,000.00	239,174.20	3,174.20	235,454.84	(3,719.36)		1/11/2027	3.76% \$	14,440.25 \$	12,979.52 \$	759.18	894
US Treasury	91282CBT7	US Treasury Note		0.75%	9/30/2022	800,000.00	712,565.18	(87,434.82)	752,656.00	40,090.82		3/31/2026	4.14% \$	9,000.00 \$	54,221.52 \$	2,630.46	608
FFCB	3133ENP95	Gov. Agency Debenture		4.25%	9/30/2022	900,000.00	900,939.60	939.60	895,905.00	(5,034.60)		9/30/2025	4.14% \$	57,375.00 \$	66,415.88 \$	3,222.05	426
JP Morgan Chase	46625HRS1	Corporate Bond		3.20%	9/23/2022	500,000.00	474,660.00	(25,340.00)	485,645.00	10,985.00		3/15/2026	4.70% \$	27,644.44 \$	41,217.45 \$	1,977.93	592
Honeywell Int'l. FFCB	438516BW5 3133EKQA7	Corporate Bond Gov. Agency Debenture			11/20/2019 10/21/2019	1,000,000.00 1,000,000.00	1,014,660.00 1,019,780.00	14,660.00 19,780.00	998,730.00 996,150.00	(15,930.00) (23,630.00)		8/15/2024 9/10/2024	1.64% \$ 1.66% \$	96,983.33 \$ 91,231.11 \$	91,844.87 \$ 78,691.92 \$	1,690.73 1,423.25	15 41
FHLB	3135EKQA/ 3135G05X7	Gov. Agency Debenture		0.38%	6/10/2022	1,200,000.00	1,019,780.00	(97.047.60)	1.146.228.00	43.275.60		8/25/2025	3.04% \$	7.687.50 \$	78,691.92 \$ 71.445.55 \$	2.949.15	390
US Treasury	912828ZL7	US Treasury Note		0.38%	4/12/2022	1,700,000.00	1,583,927,57	(116,072.43)	1.643.526.00	59.598.43		4/30/2025	2.72% \$	13.066.99 \$	98.544.63 S	3,771.46	273
FHLB	3130AQF65	Gov. Agency Debenture			11/30/2022	1,300,000.00	1,160,559.40	(139,440.60)	1,212,848.00	52,288.60		12/21/2026	4.15% \$	25,322.92 \$	80,116.59 \$	4,296.91	873
FHLB	3130АРЈН9	Gov. Agency Debenture		1.00%	1/17/2023	1,000,000.00	907,010.00	(92,990.00)	944,260.00	37,250.00		10/28/2026	4.17% \$	13,354.17 \$	50,234.10 \$	2,938.22	819
FFCB	3133EN5N6	Gov. Agency Debenture		4.00%	2/8/2023	1,700,000.00	1,706,732.00	6,732.00	1,694,458.00	(12,274.00)		1/6/2028	3.91% \$	95,955.56 \$	92,733.76 \$	5,658.95	1254
Freddie Mac	3137EAEX3	Gov. Agency Debenture		0.38%	5/1/2023	750,000.00	689,032.50	(60,967.50)	713,895.00	24,862.50		9/23/2025	3.97% \$	2,515.62 \$	32,931.11 \$	2,396.40	419
American Honda US Treasury	02665WED9 91282CEF4	Corporate Bond US Treasury Note		4.70% 2.50%	5/11/2023 6/9/2023	600,000.00 1,500,000.00	608,856.00 1,416,626.12	8,856.00 (83,373.88)	601,434.00 1,437,540.00	(7,422.00) 20,913.88		1/12/2028 3/31/2027	4.34% \$ 4.09% \$	32,978.33 \$ 30,327.87 \$	29,982.05 \$ 62,956.31 \$	2,234.24 5,043.01	1260 973
US Treasury	91282CEF4 91282CGA3	US Treasury Note		4.00%	6/20/2023	2,100,000.00	2,080,558.59	(19,441.41)	2,083,599.00	3,040.41		12/15/2025	4.40% \$	82,852.46 \$	94,573.28 \$	7,797.26	502
Colgate-Palmolive	194162AR4	Corporate Bond		4.60%	7/14/2023	500,000.00	504,655.00	4,655.00	504,605.00	(50.00)		2/1/2028	4.37% \$	14,502.79 \$	21,195.52 \$	1,866.65	1280
FannieMae	3135G06G3	Gov. Agency Debenture		0.50%	7/14/2023	500,000.00	455,157.00	(44,843.00)	474,545.00	19,388.00		11/7/2025	4.63% \$	2,034.72 \$	21,047.01 \$	1,853.57	464
FFCB	3133EPQC2	Gov. Agency Debenture		4.63%	7/17/2023	500,000.00	501,957.50	1,957.50	502,040.00	82.50		7/17/2026	4.48% \$	23,125.00 \$	21,487.97 \$	1,908.67	716
FFCB	3133EPBM6	Gov. Agency Debenture		4.13%	7/14/2023	600,000.00	596,220.00	(3,780.00)	598,716.00	2,496.00		8/23/2027	4.29% \$	15,056.25 \$	24,754.94 \$	2,180.12	1118
PNC Bank	69353RFJ2	Corporate Bond		3.25%	7/25/2023	1,000,000.00	921,490.00	(78,510.00)	948,450.00	26,960.00		12/23/2027	5.23% \$	32,229.17 \$	46,970.90 \$		1240
US Treasury	91282CFU0	US Treasury Note		4.13%	7/31/2023	1,300,000.00	1,290,660.60	(9,339.40)	1,300,455.00	9,794.40		10/31/2027	4.31% \$	40,218.75 \$	51,232.08 \$	4,740.88	1187
Toyota Motor Credit	89236TKL8 912810FE3	Corporate Bond		5.45% 5.50%	8/25/2023 10/3/2023	1,600,000.00 1,200,000.00	1,617,168.00 1,238,207.14	17,168.00 38,207.14	1,641,824.00 1,269,840.00	24,656.00 31,632.86		11/10/2027 8/15/2028	5.16% \$ 4.76% \$	61,766.67 \$ 24,211.96 \$	70,599.88 \$ 43,179.27 \$	7,059.99 4,939.33	1197 1476
US Treasury Pepsico Inc	713448DF2	US Treasury Note Corporate Bond			10/3/2023	1,000,000.00	947,570.00	(52,430.00)	973,130.00	25,560.00		11/24/2025	5.24% \$	10,133.33 \$	43,179.27 \$ 37,712.66 \$	4,531.37	481
FFCB	3133EPUW3	Gov. Agency Debenture			10/10/2023	1,000,000.00	994,338.00	(5,662.00)	1,007,440.00	13,102.00		9/1/2026	4.96% \$	18,208.33 \$	35,367.82 \$	4,200.78	762
Freddie Mac	3137EAEP0	Gov. Agency Debenture			10/13/2023	1,000,000.00	951,540.00	(48,460.00)	981,320.00	29,780.00		2/12/2025	5.32% \$	4,958.33 \$	36,644.18 \$	4,352.37	196
US Treasury	91282CEW7	US Treasury Note			10/16/2023	1,000,000.00	950,039.06	(49,960.94)	975,820.00	25,780.94		6/30/2027	4.73% \$	22,961.96 \$	32,499.52 \$	3,904.98	1064
US Treasury	91282CEN7	US Treasury Note			10/31/2023	1,300,000.00	1,214,336.39	(85,663.61)	1,252,160.00	37,823.61		4/30/2027	4.82% \$	17,875.00 \$	40,101.59 \$	5,115.84	1003
US Treasury	912828YV6	US Treasury Note			11/15/2023	700,000.00	673,667.97	(26,332.03)	691,327.00	17,659.03		11/30/2024	5.26% \$	5,680.33 \$	22,316.65 \$	3,034.28	122
US Treasury	91282CAB7	US Treasury Note			11/15/2023	675,000.00	623,900.39	(51,099.61)	645,664.50	21,764.11		7/31/2025	4.92% \$	1,196.84 \$	19,725.12 \$	2,681.92	365
US Treasury	91282CGU9	US Treasury Note			11/30/2023	1,000,000.00	983,515.62	(16,484.38)	992,890.00	9,374.38		3/31/2025	5.17% \$	12,916.67 \$	29,822.81 \$	4,340.41	243
US Treasury FNMA	91282CCH2 3135G0Q22	US Treasury Note Gov. Agency Debenture			12/21/2023 12/21/2023	900,000.00	798,647.55 845,676.00	(101,352.45) (54,324.00)	809,154.00 854,685.00	10,506.45 9,009.00		6/30/2028 9/24/2026	3.99% \$ 4.22% \$	5,930.71 \$ 4,359.38 \$	17,690.14 \$ 19,224.14 \$	2,856.22 3,103.90	1430 785
US Treasury	91282CFB2	US Treasury Note		2.75%	1/2/2024	1,000,000.00	960.354.91	(39,645.09)	960.900.00	545.09		7/31/2027	3.95% \$	15.917.12 \$	19,025.75 S	3,276.66	1095
US Treasury	91282CHE4	US Treasury Note		3.63%	1/17/2024	1,800,000.00	1,775,185.72	(24,814.28)	1,772,298.00	(2,887.72)		5/31/2028	3.97% \$	24.067.63 \$	32.061.96 S	6.023.76	1400
JP Morgan Chase	46647PDG8	Corporate Bond		4.85%	2/1/2024	1,400,000.00	1,396,528.00	(3,472.00)	1,399,202.00	2,674.00		7/25/2027	4.93% \$	32,825.10 \$	28,319.94 \$	5,852.79	1089
US Bancorp	91159HJF8	Corporate Bond		4.55%	2/5/2024	1,000,000.00	989,200.00	(10,800.00)	988,060.00	(1,140.00)		7/22/2027	4.89% \$	21,097.67 \$	19,440.46 \$	4,127.77	1086
Treasury	91282CHB0	US Treasury Note		3.63%	2/23/2024	1,175,000.00	1,151,962.92	(23,037.08)	1,159,031.75	7,068.83		5/15/2026	4.56% \$	9,595.30 \$	18,568.45 \$	4,497.05	653
FHLB	3130AXB31	Gov. Agency Debenture		4.88%	2/27/2024	1,000,000.00	1,003,060.00	3,060.00	1,005,890.00	2,830.00		3/13/2026	4.72% \$	2,979.17 \$	16,052.33 \$	4,013.08	590
FFCB	3133EP5U5 9128285M8	Gov. Agency Debenture US Treasury Note		4.13% 3.13%	3/28/2024 4/30/2024	1,700,000.00 1,200,000.00	1,687,981.00 1.123.832.14	(12,019.00)	1,705,440.00 1.156.692.00	17,459.00 32,859,86	1,558.33	3/20/2029 11/15/2028	4.28% \$ 4.69% \$	(1,558.33) \$ 1.545.34 \$	18,681.03 \$ 9.066.06 \$	6,160.77 4,607.34	1693 1568
US Treasury Cisco Systems	17275RBR2	Corporate Bond		4.85%	5/15/2024	1,000,000.00	999,130.00	(76,167.86) (870.00)	1,156,692.00	16,460.00	10,643.06	1/26/2028	4.69% \$ 4.87% \$	(10,643.06) \$	6,135.64 \$		1640
Home Depot	437076CW0	Corporate Bond		4.90%	5/17/2024	1,000,000.00	1,001,790.00	1,790.00	1,016,470.00	14,680.00	4,355.56	3/15/2029	4.86% \$	(4,355.56) \$	5,862.18 \$	4,130.17	1688
Treasury	91282CJR3	US Treasury Note		3.75%	5/31/2024	1,200,000.00	1,154,629.02	(45,370.98)	1,186,452.00	31,822.98	-1,555.50	12/31/2028	4.68% \$	3,708.79 \$	4,511.24 \$	4,661.62	1614
American Honda	02665WEY3	Corporate Bond		4.95%	6/27/2024	1,000,000.00	995,640.00	(4,360.00)	1,000,980.00	5,340.00		1/9/2026	5.25% \$	1,787.50 \$	430.16 \$	4,445.04	527
FHLB	3130B1BT3	Gov. Agency Debenture		4.88%	7/2/2024	1,150,000.00	1,150,966.00	966.00	1,159,292.00	8,326.00	8,720.83	6/12/2026	4.82% \$	(8,720.83) \$	- \$	4,414.82	681
Subtotal						\$ 51,236,000.00 \$	49,659,687.37	\$ (1,576,312.63)	50,346,227.09	\$ 686,539.72	\$ 25,277.78		\$	1,104,039.69 \$	1,892,099.45 \$	184,266.18	
BNY MM		Money Market					232,771.24		232,771.24	0.00			0.00%				1
LAIF		State Investment Pool					16,702,445.78		16,640,914.67	(61,531.11)			4.52%			62,856.87	1
							66,594,904.39		\$67,219,913.00	\$625,008.61	\$25,277.78		\$	1,104,039.69 \$	1,892,099.45 \$	247,123.05	•
Matured Assets FNMA	3135G0V75	Gov. Agency Debenture		1.75%	10/17/2019	1,100,000.00	1,105,833.30	5,833.30				7/2/2024	1.63% \$	90,956.25 \$	84,780.33 \$	98.70	
Total Investments "Matu	red"														\$	98.70	
Total Interest FY 24_25	Matured and Curre	nt													\$	247,221.75	ı
Maturity Profile							Amount		Percent								
		0-1 year				Ş	24,108,305.45		36%								
		1-2 years 2-3 years					\$13,158,981.69 \$12,302,433.08		20% 18%								
		3-5 years					\$12,302,433.06		26%								
		,				_	\$66,594,904.39	=	100%								

#### Town of Los Gatos Investment Transaction Detail July 31, 2024

Date	Cusip/ld	Description	Transaction Type	Settlement Date	Par	Coupon	Maturity Date	Price	Principal	Interest	Transaction Total
		FEDERAL HOME LOAN BANK 4.875%									
7/2/2024	3130B1BT3	12JUN2026	PURCHASE	7/2/2024	1,150,000.00	4.875%	6/12/2026	100.08	1,150,966.00	8,720.83	1,159,686.83
	3135G0V75	FANNIE MAE 1.75% 02JUL2024	BOND INTEREST	7/2/2024	1,100,000	1.750%	7/2/2024	-	-	9,625.00	9,625.00
7/2/2024	3135G0V75	FANNIE MAE 1.75% 02JUL2024	REDEMPTION	7/2/2024	1,100,000	1.750%	7/2/2024	100.00	1,100,000.00	-	1,100,000.00
7/2/2024	Cash-USD	Cash-USD	SHORT TERM INVESTMENT FUND INCOME	7/2/2024	147.2	0.000%		100.00	-	-	147.20
7/8/2024	3133EN5N6	FEDERAL FARM CREDIT BANK 4% 06JAN2028	BOND INTEREST	7/6/2024	1,700,000	4.000%	1/6/2028	-	-	34,000.00	34,000.00
7/9/2024	02665WEY3	AMERICAN HONDA FINANCE 4.95% 09JAN2026	BOND INTEREST	7/9/2024	1,000,000	4.950%	1/9/2026	-	-	24,612.50	24,612.50
7/11/2024	3133EN5V8	FEDERAL FARM CREDIT BANK 4.125% 11JAN2027	BOND INTEREST	7/11/2024	236,000	4.125%	1/11/2027	-	-	4,867.50	4,867.50
7/12/2024	02665WED9		BOND INTEREST	7/12/2024	600,000	4.700%	1/12/2028	-	-	14,100.00	14,100.00
7/17/2024	3133EPQC2		BOND INTEREST	7/17/2024	500,000	4.625%	7/17/2026	-	-	11,562.50	11,562.50
7/22/2024	91159HJF8	US BANCORP 4.548% 22JUL2028 (CALLABLE 22JUL27)	BOND INTEREST	7/22/2024	1,000,000	4.548%	7/22/2028	-	-	22,740.00	22,740.00
7/22/2024	69353RFJ2	PNC BANK NA 3.25% 22JAN2028 (CALLABLE 23DEC27)	BOND INTEREST	7/22/2024	1,000,000	3.250%	1/22/2028	-	-	16,250.00	16,250.00
	46647PDG8	JPMORGAN CHASE & CO 4.851% 25JUL2028 (CALLABLE 25JUL27)	BOND INTEREST	7/25/2024	1,400,000	4.851%	7/25/2028	-	-	33,957.00	33,957.00
	91282CAB7	USA TREASURY 0.25% 31JUL2025	BOND INTEREST	7/31/2024	675,000	0.250%	7/31/2025	-	-	843.75	843.75
7/31/2024	91282CFB2	USA TREASURY 2.75% 31JUL2027	BOND INTEREST	7/31/2024	1,000,000	2.750%	7/31/2027	-	-	13,750.00	13,750.00

#### **Town of Los Gatos**

#### Insight ESG Ratings as of July 31, 2024

Security Description	Maturity Date	Par/Shares	S&P Rating	Moody Rating	Insight ESG Rating	Environment	Social	Governance
HONEYWELL INTERNATIONAL 2.3% 15AUG2024 (CALLABLE 15JUL24)	8/15/2024	\$ 1,000,000	А	A2	4	3	4	4
AMERICAN HONDA FINANCE 4.95% 09JAN2026	1/9/2026	\$ 1,000,000	A-	A3	3	3	3	3
PEPSICO INC 2.85% 24FEB2026 (CALLABLE 24NOV25)	46077	\$ 1,000,000	A+	A1	2	2	2	2
HOME DEPOT INC. 3% 01APR2026 (CALLABLE 01JAN2026)	46113	\$ 1,000,000	А	A2	3	3	2	3
JPMORGAN CHASE & CO 3.2 15JUN2026 (CALLABLE 15MAR26)	6/15/2026	\$ 500,000	A-	A1	3	1	3	4
APPLE INC. 2.9% 12SEP2027 (CALLABLE 12JUN27)	9/12/2027	\$ 1,300,000	AA+	Aaa	4	1	4	5
TOYOTA MOTOR CREDIT CORP 5.45% 10NOV2027	11/10/2027	\$ 1,600,000	A+	A1	3	2	3	4
AMERICAN HONDA FINANCE 4.7% 12JAN2028	1/12/2028	\$ 600,000	A-	A3	3	3	3	3
PNC BANK NA 3.25% 22JAN2028 (CALLABLE 01 FEB28)	1/22/2028	\$ 1,000,000	А	A2	3	2	3	3
COLGATE-PALMOLIVE CO 4.6% 01MAR2028 (CALLABLE 01FEB28)	3/1/2028	\$ 500,000	A+	Aa3	3	3	3	3
US BANCORP 4.548% 22JUL2028 (CALLABLE 22JUL27)	7/222028	\$ 1,000,000	А	A3	4	3	4	4
JPMORGAN CHASE & CO 4.851% 25JUL2028 (CALLABLE 25JUL28)	7/25/2028	\$ 1,400,000	A-	A1	3	1	3	4
CISCO INC. 4.85% 26FEB2029 (CALLABLE 26JAN2029)	47175	\$ 1,000,000	AA-	A1	2	1	3	3
HOME DEPOT INC. 4.9% 15APR2029 (CALLABLE 15MAR2029)	4/15/2029	\$ 1,000,000	А	A2	3	3	2	3
Total/Average		\$13,900,000			3.1	2.2	3.0	3.4

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

Fund Number	Fund Description	Prior Year Carryforward 7/1/2024*	Current Revenue	Current Expenditure	Transfer In	Transfer Out	Estimated Fund Balance 7/31/2024*
	GENERAL FUND						
	Non-Spendable:						
	Loans Receivable	159,000	-	-	-	-	159,00
	Restricted Fund Balances:						
	Pension	1,400,163	-	-	-	-	1,400,1
	Land Held for Resale	44,338	-	-	-	-	44,3
	Committed Fund Balances:						
	Budget Stabilization	6,129,774	-	-	-	-	6,129,7
	Catastrophic	6,129,775	-	=	=	-	6,129,7
	Pension/OPEB	300,000	-	=	=	-	300,0
	Measure G District Sales Tax	590,581	-	=	=	-	590,5
	Assigned Fund Balances:						
	Open Space	410,000	-	=	=	-	410,0
	Sustainability	140,553	-	=	=	-	140,5
	Capital/Special Projects	10,359,577	-	-	-	-	10,359,5
	Carryover Encumbrances	37,698	-	-	-	-	37,6
	Compensated Absences	1,580,623	-	-	-	-	1,580,6
	ERAF Risk Reserve	689,608	-	-	-	-	689,6
	Council Priorities - Economic Recovery	1,556,614	-	-	-	-	1,556,6
	Unassigned Fund Balances:						
111	Other Unassigned Fund Balance Reserve (Pre YE distribution)	3,651,089	470,646	(2,787,393)	-	-	1,334,3
	General Fund Total	33,179,393	470,646	(2,787,393)	_	_	30,862,6

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

	Fund Description	Prior Year		July 2024			Fatimental Frond	
Fund Number		Carryforward	Current	Current		Transfer	Estimated Fund Balance 7/31/2024*	
		7/1/2024*	Revenue	Expenditure	Transfer In	Out		
	SPECIAL REVENUE		•	-			-	
211/212	CDBG	166,653	-	-	-	-	166,65	
222	Urban Runoff (NPDES)	737,192	-	(14,298)	-	-	722,89	
231-236	Landscape & Lighting Districts	181,204	219	-	-	-	181,42	
251	Los Gatos Theatre	119,446	9,922	-	-	-	129,36	
711-716	Library Trusts	580,447	(8,750)	(2,866)	-	-	568,83	
	Special Revenue Total	1,784,942	1,391	(17,164)	-	=	1,769,16	
	CAPITAL PROJECTS							
411	GFAR - General Fund Appropriated Reserve	19,155,188	26,247	(2,205)	-	-	19,179,23	
412	Community Center Development	866,281	-	-	-	-	866,28	
421	Grant Funded Projects	(2,875,096)	1,403,796	-	-	-	(1,471,30	
461-463	Storm Basin Projects	3,414,935	853	-	-	-	3,415,78	
471	Traffic Mitigation Projects	431,079	-	-	-	-	431,07	
472	Utility Undergrounding Projects	3,463,834	-	-	-	-	3,463,83	
481	Gas Tax Projects	1,907,003	(81,090)	-	-	-	1,825,91	
	Capital Projects Total	26,363,224	1,349,806	(2,205)	-	-	27,710,82	
	INTERNAL SERVICE FUNDS							
611	Town General Liability	(730,197)	-	-	-	-	(730,19	
612	Workers Compensation	(174,089)	20,883	(477,021)	-	-	(630,22	
621	Information Technology	2,553,540	6,341	(351,184)	-	-	2,208,69	
631	Vehicle & Equipment Replacement	3,286,552	-	(54,492)	-	-	3,232,06	
633	Facility Maintenance	1,015,683	2,083	(14,925)	=	-	1,002,84	
	Internal Service Funds Total	5,951,489	29,307	(897,622)	-	-	5,083,17	
	Trust/Agency							
942	RDA Successor Agency	(6,135,628)		(1,711,514)			(7,847,14	
	Trust/Agency Fund Total	(6,135,628)	-	(1,711,514)	-	-	(7,847,14	
	Total Town	61,143,420	1,851,150	(5,415,898)			57,578,67	

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

#### **Deposit Accounts of Interest:**

111-23541 General Plan Update deposit account balance \$727,895.88

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



MEETING DATE: 09/17/2024

ITEM NO: 5

DATE: August 29, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Authorize the Interim Town Manager to Execute an Agreement with Rotary

Club of Los Gatos for Acceptance of a Gift of an "Oak Grove" at Live Oak

Manor Park

#### **RECOMMENDATION:**

Authorize the Interim Town Manager to execute an Agreement (Attachment 1) with Rotary Club of Los Gatos for acceptance of a gift of an "Oak Grove" at Live Oak Manor Park.

#### **BACKGROUND:**

Rotary Club of Los Gatos (Rotary) contacted staff in early 2024 and proposed a donation to the Town to celebrate their centennial. On June 18, 2024, Town Council received a presentation from Los Gatos Rotary and their consultant regarding the concept design for the donation. Town Council voted unanimously to accept the donation.

#### **DISCUSSION:**

Town staff has worked with Rotary to develop an agreement to allow for the donation to be constructed on Town property. The agreement addresses requirements for insurance and the parameters for the donated work. Rotary has continued to move forward with development of their project plans.

Exhibit A of the agreement in Attachment 1 contains project plans as of August 14, 2024. These plans are in draft form, representing the full scope of construction to be performed. Staff will continue to work with Rotary representatives to finalize the plans.

Exhibit B of the agreement in Attachment 1 is a fundraising plan provided by Rotary Los Gatos. The exhibit outlines those project elements for which Rotary will solicit donations, the dollar values of the project elements, and the method by which the donor will be honored.

PREPARED BY: Nicolle Burnham

Parks and Public Works Director

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

#### PAGE 2 OF 2

SUBJECT: Authorize Town Manager to Execute an Agreement with Los Gatos Rotary

**Charities Foundation** 

DATE: August 29, 2024

#### **CONCLUSION:**

Authorizing the Town Manager to enter this agreement would allow Rotary Los Gatos to move forward with fundraising while continuing to work with staff to finalize the project plans.

#### **COORDINATION:**

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

#### **FISCAL IMPACT**:

Rotary is proposing to donate the materials and labor required to construct the project. Staff time to support the construction project and its ongoing maintenance will be via the Town's Operating Budget.

#### **ENVIRONMENTAL ASSESSMENT:**

This is a project as defined under CEQA but is Categorically Exempt (Section 15304). A Notice of Exemption will be filed.

#### Attachment:

1. Agreement with Rotary, including Exhibits A and B

#### AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification on September 3, 2024 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Rotary Club of Los Gatos ("Donor), a 501(c)4 Corporation, whose address is PO Box 1018 Los Gatos, California 95031. This Agreement is made with reference to the following facts.

#### I. RECITALS

- 1.1 Donor has offered and Town agrees to accept the gift of an "Oak Grove" at Live Oak Manor Park.
- 1.2 The Donor represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Donor warrants it will provide the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement.
  Donor acknowledges Town has relied upon these warranties to retain Donor.

#### II. AGREEMENTS

- 2.1 Scope of Services. Donor shall provide the labor, material and resources required to deliver the donation as shown on the project plans, which is hereby incorporated by reference and attached as Exhibit A as a donation that is free of charge to the Town. Town understands that Donor may seek donated services from professional firms to complete the work. Donor warrants that all work will be performed to professional construction standards using volunteer labor, equipment and materials. If Donor pays any workers, Donor agrees to pay prevailing wages as required by state law and to require that the employer of the paid workers be registered with the Department of Industrial Relations
- 2.2 <u>Term and Time of Performance</u>. This contract will remain in effect upon execution to September 30, 2025. Donor shall perform or otherwise provide the services described in this agreement and as required to complete the work shown on Exhibit A. If, for any reason, Donor is unable to complete the work shown in Exhibit A, Donor will restore the site to its original condition. Town and Donor reserve the right to terminate this Agreement upon 30 days' notice.
- 2.3 <u>Compliance with Laws</u>. The Donor shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Donor represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Donor to practice its profession. Donor shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.

- 2.4 <u>Sole Responsibility</u>. Donor 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 Donor by the Town and all reports and supportive data prepared by the Donor under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Donor's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Donor in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Donor shall not make any of the these documents or information available to any individual or organization not employed by the Donor or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Donor 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 Donor in connection with other projects shall be solely at Town's risk, unless Donor expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Donor which is and has been confirmed in writing by Donor to be a trade secret of Donor.
- 2.6 <u>Compensation</u>. Compensation by the Town for Donor's professional services **shall be \$0**, inclusive of all costs.
- 2.7 <u>Fundraising</u>. Town acknowledges that Donor will perform private fundraising activities to support construction of the project in accordance with the schedule outlined in Exhibit B. Funds raised shall be used for capital construction only. No money shall be provided to the Town by the Donor.
- 2.7 <u>Responsibility of the Town</u>: The Town agrees to work with the Donor throughout the course of project development, providing technical design guidance to ensure the completed Project meets the Town's design standards and maintenance requirements. Town agrees to periodically observe and guide the project during construction, and provide minor construction support (e.g., locating existing irrigation, etc.) if requested.
- 2.8 <u>Availability of Records</u>. Donor shall maintain the records supporting the donation for not less than three years following completion of the work under this Agreement. Donor shall make these records available to authorized personnel of the Town at the Donor's offices during business hours upon written request of the Town.
- 2.9 <u>Assignability and Subcontracting</u>. The services to be performed under this Agreement are unique and personal to the Donor.
- 2.10 <u>Independent Contractor</u>. It is understood that the Donor, 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 Donor 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. Donor agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Donor 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 Donor or is based on allegations of Donor's negligent performance or wrongdoing.

- 2.11 Conflict of Interest. Donor understands that its professional responsibilities are solely to the Town. The Donor has and shall not obtain any holding or interest within the Town of Los Gatos. Donor 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, Donor 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. Donor 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, Donor discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Donor 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. Donor warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Donor 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. Donor agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: two million dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
  - ii. Donor agrees to provide evidence of and maintain for the duration of the contract, non-owned 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. Donor shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Donor agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

#### General Liability:

- i. The Town, its elected and appointed officials, employees, and, agents are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the Donor; products and completed operations of Donor, premises owned or used by the Donor.
- ii. The Donor's insurance coverage shall be primary insurance as respects the Town, its elected and appointed officials, employees, and agents. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Donor'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 Donor'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 <u>All Coverages</u>. 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 <u>Workers' Compensation</u>. In addition to these policies, Donor 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, Donor shall ensure that all subcontractors employed by Donor provide the required Workers' Compensation insurance for their respective employees.
- 3.4 <u>Indemnification</u>. The Donor shall save, keep, hold harmless and indemnify and defend the Town its elected and appointed officials, agents, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time

arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a an act or omissions of the Donor, or any of the Donor's officers, employees, or agents or any sub-Donor.

#### IV. GENERAL TERMS

- 4.1 <u>Waiver</u>. 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 <u>Governing Law</u>. 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 <u>Termination of Agreement</u>. The Town and the Donor 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 Donor shall deliver to the Town all plans, files, documents, reports, performed to date by the Donor. In the event of such termination, Town shall pay Donor 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 <u>Amendment</u>. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Donor.
- 4.5 <u>Disputes</u>. 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 <u>Notices</u>. 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 Rotary Club of Los Gatos

110 E. Main Street PO Box 1018

Los Gatos, CA 95030 Los Gatos, CA 95031

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

- 4.7 <u>Order of Precedence</u>. 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 <u>Entire Agreement</u>. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Donor. 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 Donor have executed this Agreement.

Town of Los Gatos by:	Donor by:
	( Am Oleo
Laurel Prevetti, Town Manager	Doug Brent, President
Recommended by:	Recommended by:
	09/03/2024 Michael Norcia
Nicolle Burnham Director of Parks and Public Works	Mike Norcia
Approved as to Form:	
Gabrielle Whelan, Town Attorney	
Attest:	
Wendy Wood, CMC, Town Clerk	

### LANDSCAPE ARCHITECTURAL DRAWINGS

#### LIVE OAK MANOR PARK

TOWN OF LOS GATOS, CALIFORNIA

#### PLANS WERE DESIGNED BY REFERENCING:

GRADING PLANS PREPARED BY HMH DATED: AUGUST 2, 2024.
 NO GEOTECHNICAL REPORT PROVIDED.

#### NOTES

SOIL MANAGEMENT REPORT SHALL BE PROVIDED BY LANDSCAPE CONTRACTOR AND SOIL AMENDMENTS SHALL BE FOLLOWED PER THE REPORT, PHYSICAL COPIES OF THE SOIL MANAGEMENT REPORT SHALL BE PROVIDED TO CLIENT, PROJECT LANDSCAPE ARCHITECT AND LOCAL AGENCY AS REQUIRED, SOIL MANAGEMENT REPORT SHALL CONFORM TO STATE AB1881 WATER EFFICIENT LANDSCAPE ORDINANCE OR AGENCY ADOPTED WELD AS FOLLOWS.

(1) SUBJIT SOIL SAMPLES TO A LAGORATORY FOR ANALYSIS AND RECOMMENDATIONS. (A) SOIL SAMPLING SHALL BE CONDUCTED BHACORDANCE WITH LABORATORY PROTOCOL, INCLUDING PROTOCOLS REGARDING ADEQUATE SAMPLING DEPTH FOR THE INTENDED PLANTS. (B) THE SOIL AMAYSISM ANY INCLUSE SOIL TEXTURE INFITATION RATE DETERMINED BY LABORATORY TEST OR SOIL.

(B) THE SOIL ANALYSIS MAY INCLUDE: SOIL TEXTURE, INFILTRATION RATE DETERMINED BY LABORATORY TEST OR SO TEXTURE INFILTRATION RATE TABLE, PH, TOTAL SOLUBLE SALTS, SODIUM, PERCENT ORGANIC MATTER, AND RECOMMENDATIONS.

(2) THE PROJECT APPLICANT, OR HISHER DESIGNEE, SHALL COMPLY WITH ONE OF THE FOLLOWING:

(A) IF SIGNIFICANT MASS GRADING IS NOT PLANNED, THE SOIL ANALYSIS REPORT SHALL BE SUBMITTED TO THE LOCAL

AGENCY AS PART OF THE CLAMDSCAPE DOCUMENTATION PACKAGE; OR

(B) IF SIGNIFICANT MASS GRADING IS PLANNED, THE SOL ANALYSIS REPORT SHALL BE SUBMITTED TO THE LOCAL
AGENCY AS PART OF THE CERTIFICATE OF COMPLETION.

AGENCY AS PART OF THE CENTIFICATE OF COMPLETION.

(3) THE SOIL ANALYSIS REPORT SHALL BE MADE AVAILABLE, IN A TIMELY MANNER, TO THE PROFESSIONALS PREPARING
THE LANDSCAPE DESIGN PLANS AND IRRIGATION DESIGN PLANS TO MAKE ANY NECESSARY ADJUSTMENTS TO THE DESIGN
PLANS.

(4) THE PROJECT APPLICANT, OR HISHER DESIGNEE, SHALL SUBMIT DOCUMENTATION VERIFYING IMPLEMENTATION OF SOIL ANALYSIS REPORT RECOMMENDATIONS TO THE LOCAL AGENCY WITH CERTIFICATE OF COMPLETION.

CONTRACTOR MUST PROVIDE AN IRRIGATION AUDIT IN ACCORDANCE WITH TITLE 23 BY THE STATE DEPARTMENT OF WATER RESOURCES SECTION 492-12, OR LOCAL AGENCY APPROVED ORDINANCE: IRRIGATION AUDIT, IRRIGATION SURVEY, AND IRRIGATION WATER USE AMALYSIS PRIOR OF PROJECT ACCEPTANCE,

CONTRACTOR IS RESPONSIBLE FOR ENSURING THAT THE WORK IS COMPLETE AND IN COMPLIANCE WITH THE MOST CURRENT CODES, ORDHANGES AND REQUIREMENTS OF THE GOVERNING AGENCY, HIMH IS NOT RESPONSIBLE FOR CHANGES WHICH OCCUR TO THE CODES, ORDHANGES OR REQUIREMENTS AFTER THE GOVERNING AGENCY'S APPROVAL OR DURING INSTALLATION.

CONTRACTOR IS SOLELY RESPONSIBLE FOR CONSTRUCTION MEANS, METHODS, TECHNOLISES, SEQUENCES OR PROCEDURES, OR FOR SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE WORK, MAIN IS NOT RESPONSIBLE FOR THE CONTRACTOR'S FAILURE TO CARRY OUT THE WORK IN ACCORDANCE WITH THE CONSTRUCTION CONTRACT DOCUMENTS, NOR RESPONSIBLE FOR ACTS OR COMISSIONS OF THE CONTRACTOR, SUBCONTRACTORS, OR THEIR ACENTS OR BEINCYEES, OR OF ANY OTHER PRESPONS PERFORMING PORTIONS OF THE WORK IN

AS REQUESTED BY THE OWNER, HMH WILL VISIT THE SITE AT INTERVALS APPROPRIATE TO THE STAGE OF CONSTRUCTION TO THE WORK SAW TO DETERMINE IN GENERAL IF THE WORK IS BEING PERFORMED IN A MANNER RIDIOATION THAT THE WORK, WHEN COMPETED, WILL BE IN SUBSTANTIAL CONFORMACE WITH THE CONSTRUCTION DOCUMENTS, HOWEVER, HMH WILL NOT MAKE EXHAUSTIVE OR CONTINUOUS ON-SITE OBSERVATIONS TO CHECK QUALITY OF THE WORK.

THERE IS NO WARRANTY OR GUARANTEE EITHER EXPRESSED OR IMPLIED BY HMH FOR THE COMPLETION OF THE WORK OR THE QUALITY OF PERFORMANCE OF THE CONSTRUCTION CONTRACTOR(S).

CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK, USING THE CONTRACTOR'S BEST SKILL AND ATTENTION, CONTRACTOR'S BEST SKILL AND ATTENTION, CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR AND HAVE CONTROL OVER CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES AND FOR COORDINATING ALL PORTIONS OF THE WORK.

CONTRACTOR SHALL BE RESPONSIBLE TO THE OWNER FOR ACTS AND OMISSIONS OF THE CONTRACTOR'S EMPLOYEES, SUBCONTRACTORS AND THEIR AGENTS AND EMPLOYEES, AND OTHER PERSONS PERFORMING PORTIONS OF THE WORK LINDER A CONTRACT WITH CONTRACTOR.

IN THE EVENT OWNER CONSENTS TO, ALLOWS, AUTHORIZES OR APPROVES OF CHANGES TO ANY PLANS, SPECIFICATIONS, OR OTHER CONSTRUCTION DOCUMENTS, AND THESE ALTERATIONS ARE NOT THE RESPONSIBILITY OF HIME! OWNER RECOGNIZES THAT SUCK ALTERATION AND THE RESULTS THEREOF ARE NOT THE RESPONSIBILITY OF HIME! IN ADDITION, OWNER AGREES, TO THE FULLEST EXTENT FERMITTED BY LAW, TO INDEMNITY AND HOLD HIME HARBLESS FROM ANY DAMAGE, LIRBLITY OR COST IN CHOOSING RESOURCES. LATTORNEYS FEES AND COSTS OF DEPENEES, RATING FROM SUCH

THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES SHOWN ON THE PLANS WERE GRITANED FROM AVAILABLE RECORDS AT THE TIME THE ALMS WERE DRAFFED AND DO NOT CONSTITUTE A REPRESENTATION AS TO THE ACCURACY OR COMPLETENESS OF THE LOCATION OR THE EXISTENCE OR NONESISTENCE OF SUCH UTILITIES. IN NORTHERN CALIFORM, CONTRACTOR SHALL CONTACT UNDERGROUND SERVICES ALERT AT 14 MORAL PREPAYMENT ON THE CONSTRUCTION WORK, IN OTHER AREAS, CONTRACTOR SHALL CONTACT A SIMILAR ARREPTLY/SEADLITHOUT ON THE CONTRACTOR SHALL CONTACT AS SIMILAR ARREPTLY/SEADLITHOUT ON THE CONTRACTOR SHALL CONTACT A SIMILAR ARREPTLY/SEADLITHOUT ON THE CONTRACTOR SHALL CONTRACTOR SHALL CONTACT A SIMILAR ARREPTLY/SEADLITHOUT ON THE CONTRACTOR SHALL CONTRACTOR SHALL

CONTRACTOR SHALL PROVIDE PROPER PROJECT MAINTENANCE AFTER THE PROJECT IS COMPLETE. ANY LACK OF OR IMPROPER MAINTENANCE MAY RESULT IN DAMAGE TO PROPERTY OR PERSONS. CONTRACTOR SHALL BE RESPONSIBLE FOR THE RESULTS OF ANY LACK OF OR IMPROPER MAINTENANCE.



#### INDEX OF DRAWINGS

GRADING AND DRAINAGE PLAN

IRRIGATION DETAILS

IRRIGATION LEGEND AND NOTES

LANDSCAPE SPECIFICATIONS

#### GOVERNING AGENCY

#### TOWN OF LOS GATOS:

14.2

143

PARKS DEPARTMENT 110 E, MAIN STREET LOS GATOS, CA 95030 (408) 354-6876

#### CONSULTANTS

#### LANDSCAPE ARCHITECT

HMH LANDSCAPE ARCHITECTU 1570 OAKLAND ROAD SAN JOSE, CA 95131 (408) 487-2200

#### CIVIL ENGINEER:

HMH CIVIL ENGINEER 1570 OAKLAND ROAD SAN JOSE, CA 95131

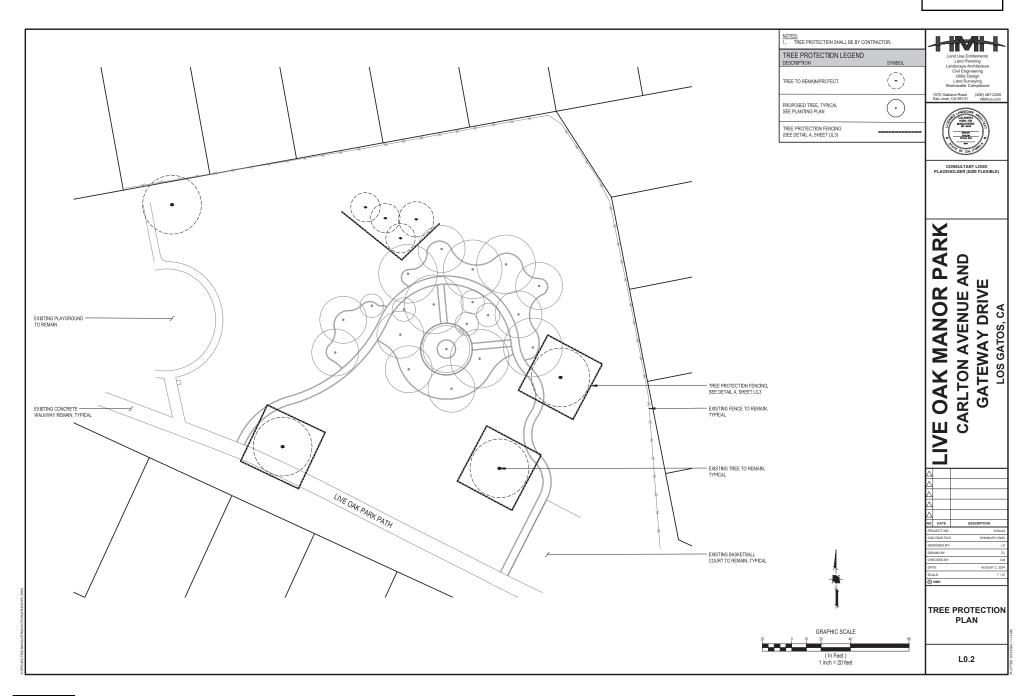


# OAK MANOR PARK ARLTON AVENUE AND GATEWAY DRIVE

DATE DESCRIPTION
BINGS
B

COVER SHEET

L0.1



#### TREE PROTECTION NOTES SITE PREPARATION:

ALL EXISTING TREES SHALL BE FENCED WITHIN OR AT THE DRIP LINE (FOLIAR SPREAD) OF THE TREE. DEPENDING ON THE LOCATION OF THE TREE THE FENCING MAY NOT BE ABLE TO BE AT THE DRIPLINE EXAMPLES OF THIS WOULD BE PUBLIC RIGHT OF WAY NEAR PROPERTY LINES OR AROUND EXISTING STRUCTURES TO REMAIN, WHERE COMPLETE DRIP LINE FENCING IS NOT POSSIBLE, THE ADDITION OF STRAW WADDLES AND ORANGE SNOW FENCING WRAPPING THE POSSIBLE, THE ADDITION OF STRAW WADDLES AND DRAWNES SNOW PENDING WREAPFING THE TRUNK SHALL BE INSTALLED PER THE TREE PROTECTION DETAIL. THE FENCE SHOULD BE A MINIMUM OF SIX FEET HIGH, MADE OF GALVANIZED 11-GAUGE WIRE MESH WITH GALVANIZED POS OR ANY MATERIAL SUPERIOR IN QUALITY. A TREE PROTECTION ZONE (TPZ) SIGN SHALL BE AFFIXED TO FENCING AT APPROPRIATE INTERVALS AS DETERMINED BY THE ARBORIST ON SITE.

SEE TREE PROTECTION DETAIL FOR ADDITIONAL INFORMATION, INCLUDING TREE PROTECTION ZONE SIGN IF THE FENCE IS WITHIN THE DRIP LINE OF THE TREES. THE FOLIAR FRINGE SHALL BE RAISED TO OFFSET THE CHANCE OF LIMB DAMAGE FROM ACTIVE CONSTRUCTION.

#### ACTIVE CONSTRUCTION:

ALL CONTRACTORS, SUBCONTRACTORS AND OTHER PERSONNEL SHALL BE WARNED THAT ENCROACHMENT WITHIN THE FENCED AREA AND DRIPLINE IS PROHIBITED WITHOUT THE CONSENT OF THE CERTIFIED ARBORIST ON THE JOB. THIS INCLUDES, BUT IS NOT LIMITED TO, STORAGE OF LIMITED AND OTHER MATERIALS, DISPOSAL OF PAINTS, SOLVENTS OR OTHER NOXIOUS MATERIALS. PARKED CARS, GRADING EQUIPMENT OR OTHER HEAVY EQUIPMENT. IF CONSTRUCTION ACTIVITY NEEDS TO HAPPEN IN THE TPZ THE FENCE CAN BE MOVED TEMPORARILY FOR DELIVERY OF CONSTRUCTION MATERIALS, THE CONTRACTOR SHOULD MAKE ACCOMMODATIONS TO OFF LOAD ITEMS SLICH AS TRUSSES, TIMBER, PLASTERBOARD, WALLBOARD, CONCRETE, GYPSLIM BOARD FLOORING, ROOFING OR ANY OTHER HEAVY CONSTRUCTION MATERIAL OUTSIDE THE FOLIAR SPREAD OF THE TREE SO THERE IS NO HEAVY EQUIPMENT NEEDED THAT COULD CAUSE DAMAGE TO THE CANOPY OF THE TREE OR COMPACT THE ROOT ZONE. THE TREE PROTECTION FENCING. SHOULD BE REESTABLISHED PER THE PLANS AND DETAILS IMMEDIATELY AFTER ANY ACTIVITY
THROUGH THE TPZ. PENALTIES. BASED ON THE COST OF REMEDIAL REPAIRS AND THE EVALUATION GUIDE PUBLISHED BY THE INTERNATIONAL SOCIETY OF ARBORICULTURE. SHALL BE ASSESSED FOR

GRADING/EXCAVATING:
ALL GRADING PLANS THAT SPECIFY GRADING WITHIN THE DRIP LINE OF ANY TREE, OR WITHIN THE DISTANCE FROM THE TRUNK AS OUTLINED IN THE SITE PREPARATION SECTION ABOVE WHEN SAID DISTANCE IS OUTSIDE THE DRIP LINE, SHALL FIRST BE REVIEWED BY A CERTIFIED ARBORIST, PROVISIONS FOR AERATION, DRAINAGE, PRUNING, TUNNELING BENEATH ROOTS, ROOT PRUNING OR OTHER NECESSARY ACTIONS TO PROTECT THE TREES SHALL BE OUTLINED BY AN ARBORIST. II TRENCHING IS NECESSARY WITHIN THE AREA AS DESCRIBED ABOVE, SAID TRENCHING SHALL BE UNDERTAKEN BY HAND LABOR AND DUG DIRECTLY BENEATH THE TRUNK OF THE TREE. ALL ROOTS 2 INCHES OR LARGER SHALL BE TUNNELED LINDER AND OTHER ROOTS SHALL BE CUT SMOOTHLY TO THE TRUNK SIDE OF THE TRENCH. THE TRUNK SIDE SHOULD BE DRAPED IMMEDIATELY WITH TWO LAYERS OF UNTREATED BURLAP TO A DEPTH OF 3 FEET FROM THE SURFACE, THE BURLAP SHALL BE SOAKED MIGHTLY AND LETT IN PLACE UNTIL THE TRENCH IS BACK FILLED TO THE ORIGINAL LEYEL. AN ARBORIST SHALL EXAMINE THE TRENCH PRIOR TO BACK FILLING TO ASCERTAIN THE NUMBER AND SIZE OF ROOTS CUT, SO AS TO SUGGEST THE RECESSARY REMEDIAL

#### REMEDIAL REPAIRS:

AN ARBORIST SHALL HAVE THE RESPONSIBILITY OF OBSERVING ALL ONGOING ACTIVITIES THAT MAY AFFECT THE TREES AND PRESCRIBING NECESSARY REMEDIAL WORK TO ENSURE THE HEALTH AND STABILITY OF THE TREES. THIS INCLUDES, BUT IS NOT LIMITED TO, ALL ARBORIST ACTIVITIES BROUGHT OUT IN THE PREVIOUS SECTIONS. IN ADDITION, PRINING, AS OUTLINED IN INTERNATIONAL SOCIETY OF ARBORICULTURE BEST MANAGEMENT PRACTICES: PRUNING AND ANSI INTERNATIONAL SOCIETY OF ARBUNDLUCKEE BEST INMINESEMENT PART TICES. PROVING A300 PART 1 STANDARD PRACTICES: PRUNING, SHALL BE PRESCRIBED AS NECESSARY. FERTILIZING, AERATION, IRRIGATION, PEST CONTROL AND OTHER ACTIVITIES SHALL BE PRESCRIBED ACCORDING TO THE TREE NEEDS, LOCAL SITE REQUIREMENTS, AND STATE AGRICULTURAL PEST CONTROL LAWS, ALL SPECIFICATIONS SHALL BE IN WRITING, FOR PEST CONTROL OPERATIONS, CONSULT THE LOCAL COUNTY AGRICULTURAL COMMISSIONER'S OFFICE FOR INDIVIDUALS LICENSED AS PEST CONTROL ADVISORS OR PEST CONTROL OPERATORS,

LIPON COMPLETION OF THE PROJECT. THE ARRORIST SHALL REVIEW ALL WORK LINDERTAKEN THAT MAY IMPACT THE EXISTING TREES. SPECIAL ATTENTION SHALL BE GIVEN TO CUTS AND FILLS.

COMPACTING, DRAINAGE, PRUNING AND FUTURE REMEDIAL WORK, AN ARBORIST SHOULD SUBMIT A FINAL REPORT IN WRITING OUTLINING THE ONGOING REMEDIAL CARE FOLLOWING THE FINAL



CONSULTANT LOGO EHOLDER (SIZE FLEXIBLE)

#### 꼿 4 **ARLTON AVENUE AND** Δ. **GATEWAY DRIVE** Ă A X C

LOS GATOS, CA

L	_		
$\triangle$			
$\triangle$			
$\triangle$			
$\triangle$			
NO	DATE	DESCRIPTION	
PR	DJECT NO:	•	6784.01

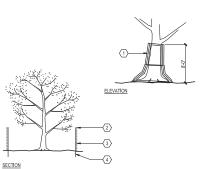
TREE PROTECTION NOTES AND TREE PROTECTION **FENCING DETAIL** 

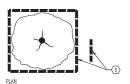
L0.3

- NOTES:

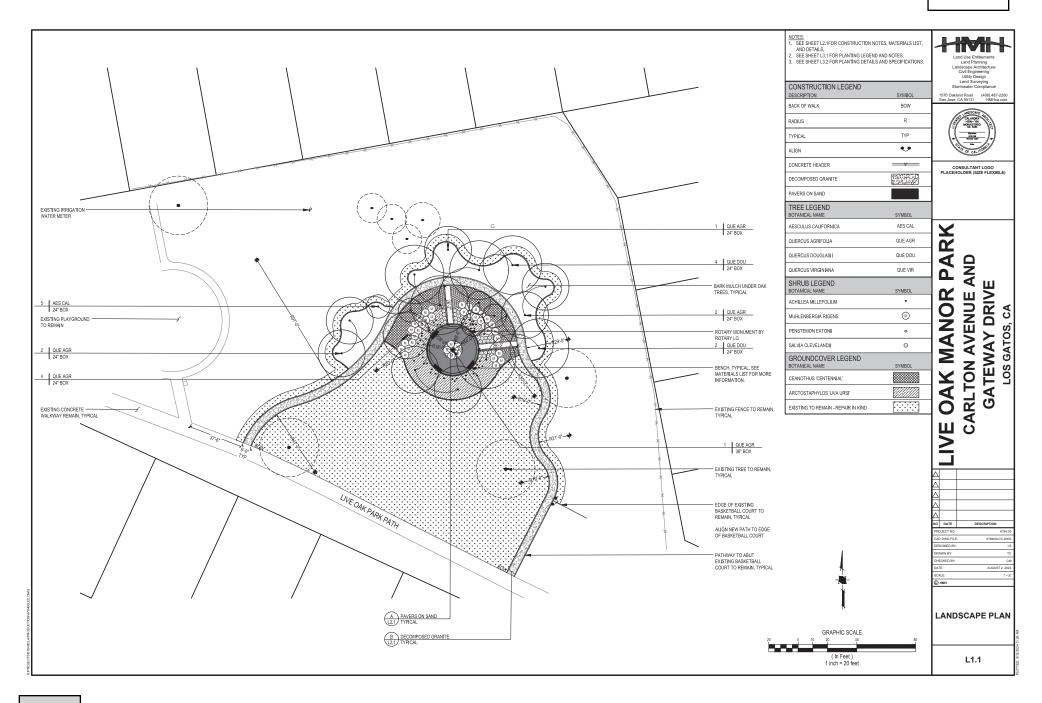
  1. CONSTRUCTION PERIOD PROTECTION
  FOR TREES SHOULD BE PROVIDED REFORE GRADING OR OTHER EQUIPMENT IS ALLOWED ON THE
- PROPERTY.

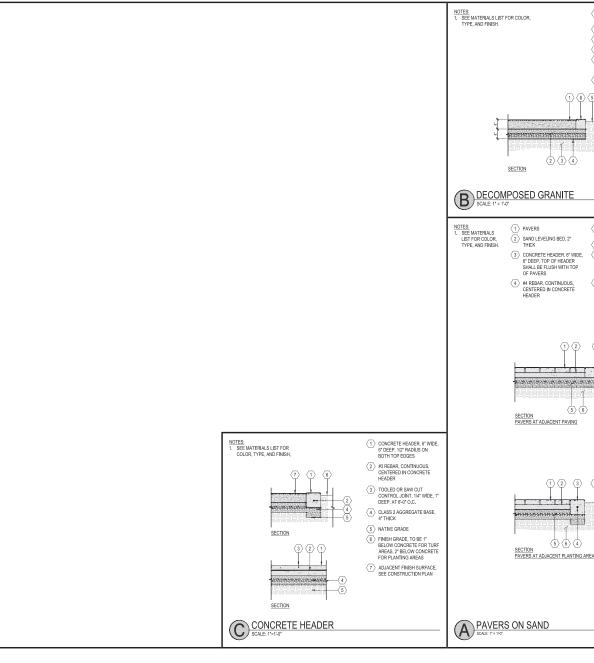
  2. WHEN CONSTRUCTION IS TO TAKE PLACE BENEATH A TREE CANOPY ON ONE SIDE, THE FENCE SHOULD BE SITED 2 TO 3 FEET BEYOND THAT CONSTRUCTION, BUT BETWEEN CONSTRUCTION AND THE TREE
- TRUNK.
  3. IF CONSTRUCTION OR PAVING IS TO TAKE PLACE THROUGHOUT THE AREA BENEATH CANOPY, AND DRIP LINE FENCING IS NOT PRACTICAL, SNOW FENCING SHOULD BE USED TO PROTECT THE TRUNKS FROM DAMAGE
- 1 SNOW FENCING THREE LAYERS OF WIRE AND LATH SNOW FENCING TO 8
  FEET ABOVE GROUND ON TREES WHERE CONSTRUCTION WILL TAKE PLACE BENEATH THE CANOPY.
- 2 TOP OF FENCE WITH FLUORESCENT FLAGGING TAPE HUNG EVERY 10 FEET (3) 6' CHAIN LINK OR WELDED WIRE MESH
- 8' FENCE POST OF 2" DIAMETER GI PIPE
- OR T-ANGLE POST 5 FENCE PLACED AT DRIP LINE OR 50% GREATER THAN THE TREE CANOPY RADIUS WHERE POSSIBLE





TREE PROTECTION FENCING



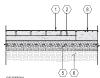


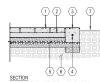
1 DECOMPOSED GRANITE, COMPACTED IN 2\* LIFTS 2 CLASS 2 AGGREGATE BASE 3 NATIVE GRADE 4 WEED BARRIER FABRIC 5 FINISH GRADE, TO BE 1" BELOW DECOMPOSED GRANITE (6) CONCRETE HEADER, SEE DETAIL  $\langle 1 \rangle \langle 6 \rangle \langle 5 \rangle$ 

> 5 CLASS 2 AGGREGATE BASE, 4" THCIK 6 NATIVE GRADE

7 FINISH GRADE, 1" BELOW CONCRETE FOR TURF AREAS. 2" BELOW CONCRETE FOR PLANTING AREAS

8 ADJACENT PAVING, SEE CONSTRUCTION PLAN





### CONSTRUCTION PLAN NOTES

CONTRACTOR SHALL PROVIDE ALL LABOR, MATERIALS, AND EQUIPMENT FOR THE INSTALLATION OF ALL IMPROVEMENTS AS SHOWN ON THE DRAWINGS AND AS DESCRIBED

CONTRACTOR SHALL REVIEW ALL EXISTING SITE CONDITIONS PRIOR TO SUBMITTING BID AND PRIOR TO COMMENCING INSTALLATION. IF ANY DISCREPANCIES EXIST, THEY SHOULD BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE OWNER'S AUTHORIZED REPRESENTATIVE

CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING AND STAKING ALL SEWER, WATER AND LITHITY LINES ABOVE OR BELOW GRADE THAT MIGHT BE DAMAGED AS A RESULT OF AND OTHER THESE ABOVE ON BELOW OWNER HAVE THE WINDSHIP BE DANINGED AS A RESULT OF CONSTRUCTION OPERATIONS. CONTRACTOR SHALL ASSUME SOLE RESPONSIBILITY FOR ANY COST INCURRED FOR REPAIR, RESTORATION, OR REPLACEMENT OF AFOREMENTIONED UTILITIES DAMAGED AS A RESULT OF CONSTRUCTION OPERATIONS.

DEVIATIONS BETWEEN THE DRAWINGS AND ACTUAL FIELD CONDITIONS SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE OWNER'S AUTHORIZED REPRESENTATIVE.

HARDSCAPE AND STRUCTURAL ELEMENTS SHALL BE PLACED PER GEOTECHNICAL SOILS REPORT. IF SUCH REPORT IS UNAVAILABLE, CONTRACTOR SHALL DISCUSS PLACEMENT ON SUITABLE GRADE WITH THE OWNER'S AUTHORIZED REPRESENTATIVE.

UNLESS DESIGNATED ON THE DRAWINGS OTHERWISE, ALL MATERIALS DESIGNATED FOR REMOVAL SHALL BE DISPOSED OF OFF-SITE,

COSTS INCURRED DUE TO REPAIR, RESTORATION, OR REPLACEMENT OF EXISTING IMPROVEMENTS WHICH ARE DESIGNATED "TO BE PROTECTED" OR "TO REMAIN" WHICH ARE DAMAGED AS A RESULT OF CONSTRUCTION OPERATIONS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.

UNLESS DESIGNATED ON THE DRAWINGS OTHERWISE, MATERIALS TO BE PURCHASED AND FURNISHED BY THE CONTRACTOR SHALL BE NEW.

CONCRETE INDICATED FOR SAWCUTTING AND REMOVAL SHALL BE CUT TO A TRUE LINE WITH NEATLY SAWED EDGES. IF A SAWCUT IS WITHIN THREE FEET (3') OF AN EXISTING EXPANSION OR CONTROL JOINT, CONCRETE SHALL BE REMOVED TO THAT NEAREST

CONTRACTOR SHALL SUBMIT SHOP DRAWINGS, MANUFACTURER'S CUT OR DATA SHEETS FOR APPROVAL PRIOR TO ORDERING MATERIALS. CONTRACTOR SHALL FURNISH TO THE OWNER'S AUTHORIZED REPRESENTATIVE A CERTIFICATE OF COMPLIANCE FOR SUCH

ABANDONED PIPES SHALL BE CAPPED OR PLUGGED IN A MANNER APPROVED BY THE OWNER'S AUTHORIZED REPRESENTATIVE.

## MATERIALS LIST

CONCRETE HEADER: SHALL BE NATURAL GREY WITH SMOOTH TROWEL FINISH,

PAVERS ON SAND: CONCRETE HEADER SHALL BE NATURAL COLOR WITH SMOOTH TROWEL FINISH. PAVER STONES SHALL BE BELDEN BRICK COMPANY 4X8 TAN BRICK, DONOR ENGRAVING BY POLAR ENGRAVING, WWW.POLARENGRAVING.COM

DECOMPOSED GRANITE: SHALL BE LYNGSO CALIFORNIA GOLD WITH POLYPAVEMENT STABILIZER: INSTALL PER MANUFACTURER'S RECOMMENDATIONS. ADD ADDITIONAL SURFACE BINDER: SURFACE BINDER: SHALL BE POLYPAVEMENT, INSTALL PER MANUFACTURER'S RECOMMENDATIONS.

BENCH: VICTOR STANLEY MODEL 8, WOOD SLAT, 6' LENGTH, CENTER ARMREST, 3 TOTAL PER PLAN.

MONUMENT ITEM: PER ROTARY LOS GATOS



# R X PA **ARLTON AVENUE AND** GATEWAY DRIVE 2 MANO OAK

LOS GATOS,

L			
Δ			
Δ			
Δ			
Δ			
Δ			
NO	DATE	DESCRIPTION	
PRI	DJECT NO:		6784.00
CAL	OWO CE C	679400	NO DUMO

DATE	DESCRIPTION
OJECT NO:	6784.00
D DWG FILE:	678400DSC:DWG
SIGNED BY:	LS
AWN BY:	нмн
ECKED BY:	CM
TE:	AUGUST 2, 2024
ALE:	AS NOTED

CONSTRUCTION NOTES, MATERIALS LIST AND DETAILS

L2.1

### PLANTING PLAN NOTES

CONTRACTOR SHALL PROVIDE ALL LABOR, MATERIALS, AND EQUIPMENT NECESSARY TO FURNISH AND INSTALL PLANT MATERIAL AS SHOWN ON THE DRAWINGS AND AS DESCRIBED IN THE SPECIFICATIONS,

UNLESS DESIGNATED ON THE DRAWINGS OTHERWISE, STRUCTURAL IMPROVEMENTS AND HARDSCAPE SHALL BE INSTALLED PRIOR TO PLANTING OPERATIONS.

PLANT LIST ON THE DRAWINGS SHALL BE USED AS A GUIDE ONLY. CONTRACTOR SHALL TAKEOFF AND VERIFY SIZES AND QUANTITIES BY PLAN CHECK,

A SOIL MANAGEMENT REPORT SHALL BE PROVIDED BY LANDSCAPE CONTRACTOR AND SOIL AMENDMENTS SHALL BE FOLLOWED PER THE REPORT, PHYSICAL COPIES OF THE SOIL MANAGEMENT REPORT SHALL BE PROVIDED TO THE CLIENT, PROJECT LANDSCAPE ARCHITECT AND LOCAL AGENCY AS REQUIRED. THE SOIL MANAGEMENT REPORT SHALL CONFORM TO STATE AB1881 WATER EFFICIENT LANDSCAPE ORDINANCE (WELO) OR LOCAL AGENCY ADOPTED WELO. CONTRACTOR SHALL OBTAIN A SOILS MANAGEMENT REPORT AFTER GRADING OPERATIONS AND PRIOR TO PLANT INSTALLATION,

SAMPLES OF FERTILIZERS, ORGANIC AMENDMENT, SOIL CONDITIONERS, AND SEED SHALL BE SUBMITTED PRIOR TO INCORPORATION, CONTRACTOR SHALL FURNISH TO THE OWNER'S AUTHORIZED REPRESENTATIVE A CERTIFICATE OF COMPLIANCE FOR SUCH FURNISHED MATERIALS.

ALL WORK ON THE IRRIGATION SYSTEM, INCLUDING HYDROSTATIC, COVERAGE, AND OPERATIONAL TESTS AND THE BACKFILLING AND COMPACTION OF TRENCHES SHALL BE PERFORMED PRIOR TO PLANTING OPERATIONS.

LOCATIONS OF PLANT MATERIAL SHALL BE REVIEWED ON SITE BY THE OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO INSTALLATION.

TREES SHALL BE PLANTED NO CLOSER THAN TEN FEET (10') FROM UTILITIES.

TREES PLANTED WITHIN FIVE FEET (5') OF HARDSCAPE OR STRUCTURES SHALL BE INSTALLED WITH A ROOT BARRIER AS APPROVED BY THE OWNER'S AUTHORIZED REPRESENTATIVE.

CONTRACTOR MUST CONTACT THE TOWN OF LOS GATOS ARBORIST TO VERIFY SPECIES (EVEN IF SHOWN ON THE PLANS), LOCATIONS, AND QUANTITIES OF ALL STREET TREES PRIOR TO ORDERING MATERIAL. IF STREET TREES ARE TO BE PLANTED IN TREE WELLS, FINAL LOCATION OF TREE WELLS SHALL BE DETERMINED BY THE ARBORIST PRIOR TO

ALL PLANTING AREAS TO RECEIVE 3" THICK BARK MULCH LAYER, CONTRACTOR SHALL PROVIDE SAMPLE OF PROPOSED. BARK MULCH FOR APPROVAL, BARK MULCH SHALL BE LYNGSO SMALL FIR BARK (3/4" TO 1-1/2") OR APPROVED EQUAL.

ALL PLANT MATERIAL SHALL BE SELECTED IN ACCORDANCE WITH THE AMERICAN STANDARD FOR NURSERY STOCK (ANSI

ZOU,1)
FOR STANDARD FORM TREES, CALIPER SIZE SHALL BE MEASURED 6" ABOVE THE SOIL LINE FOR CALIPERS EQUAL TO OR
LESS THAN 4" FOR CALIPERS GREATER THAN 4", CALIPER SHALL BE MEASURES 12" ABOVE THE SOIL LINE. FOR
MULTIFICH, TREES THE CALIPER SHALL BE ESTRAIGHED BY TAKING THE AVERAGE OF THE CALIPER OF THE TWO

CALIFER IS MEASURED 6" ABOVE ORIGINATION POINT OF THE SECOND LARGEST TRUNK OR 6" ABOVE GROUND IF ALL TRUNKS ORIGINATE FROM THE SOIL.

CALIPER SIZES STANDARDS: CALIPER SIZES STAND 15 GALLON: 0.75-1.25" 24" BOX: 1.25-2" 36" BOX: 2-3.5" 48" BOX: 3.5-5" 60" BOX: 4-6"

WATER NEEDS CATEGORY BASED ON WUCOLS IV (JANUARY 2014) LANDSCAPE COEFFICIENT METHOD:

PERCENTAGE OF ETO 0.7-0.9 0.4-0.6

CATEGORY (H) HIGH: (M) MEDIUM: (L) LOW: (VL) VERY LOW: 0.1-0.3

### PROPOSED PLANT PALETTE

SYMBOL	QTY.	BOTANICAL NAME	COMMON NAME	CONTAINER SIZE	HxW	WUCOLS	NOTES
TREES							
AES CAL	05	AESCULUS CALIFORNICA	CALIFORNIA BUCKEYE	24" BOX	20'X20'	VL	STANDARD FORM
QUE AGR	09	QUERCUS AGRIFOLIA	COAST LÎVE OAK	24" BOX	50'X40'	VL	STANDARD FORM
QUE DOU	06	QUERCUS DOUGLASII	BLUE OAK	24" BOX	40'X50'	VL	STANDARD FORM
SHRUBS							
•	52	ACHILLEA MILLEFOLIUM	YARROW	1 GALLON	1' X 2'	L	
M	38	MUHLENBERGIA RIGENS	DEERGRASS	1 GALLON	3" X 5"	L	
•	176	PENSTEMON EATONII	FIRECRACKER PENSTEMON	1 GALLON	3" X 3"	L	
0	28	SALVIA CLEVELANDII	CLEVELAND SAGE	5 GALLON	3' X 5'	L	
GROUNDCOVERS							
	1552 SF	CEANOTHUS 'CENTENNIAL'	CENTENNIAL CEANOTHUS	1 GALLON	SPREADING	L	
	1996SF	ARCTOSTAPHYLOS 'UVA URSI'	RED BEARBERRY	1 GALLON	SPREADING	L	
	AS NEEDED	EXISTING TURF TO REMAIN - REPAIR IN KIND AS NEEDED					



# PARK **ARLTON AVENUE AND GATEWAY DRIVE OAK MANOR**

VE VE

© нмн

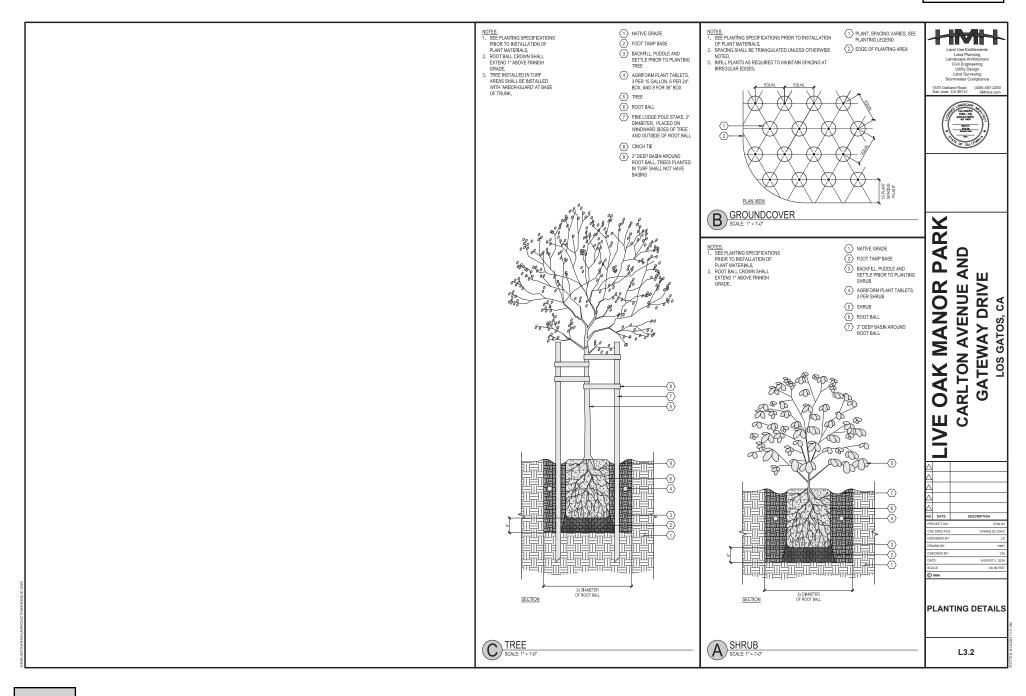
LOS GATOS, CA

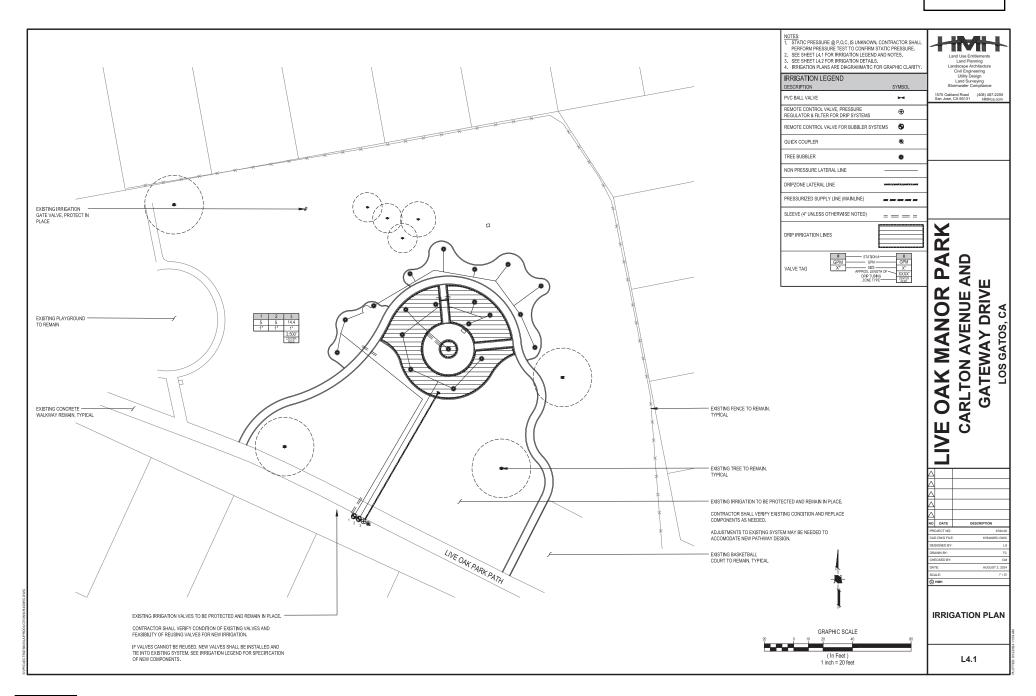
-			
Δ			
Δ			
Δ			
Δ			
Δ			
NO	DATE	DESCRIPTION	
PR	DJECT NO:		6784.00

DATE	DESCRIPTION
DJECT NO:	6784.00
D DWG FILE	678400LDC.DWG
SIGNED BY:	LS
AWN BY:	НМН
ECKED BY:	CM
TE:	AUGUST 2, 2024
ALE:	NONE

PLANTING LEGEND AND NOTES

L3.1





#### IRRIGATION NOTES

- 1. CONTRACTOR SHALL CONNECT P.O.C. FROM DOWNSTREAM OF WATER METER AND COMPLETE THE ENTIRE SYSTEM AS SHOWN ON THE PLANS AND SPECIFICATIONS.
- 2. DRAWINGS ARE DIAGRAMMATIC AND DO NOT NECESSARILY INDICATE ALL THE OFFSETS AND FITTINGS REQUIRED FOR A COMPLETE IRRIGATION SYSTEM. THE IRRIGATION SYSTEM SHALL BE INSTALLED WITHIN A PLANTING AREA WHEREVER POSSIBLE. CONTRACTOR SHALL BE RESPONSIBLE FOR ADJUSTMENTS NECESSARY TO CONFORM TO ACTUAL FIELD CONDITIONS.
- 3. EQUIPMENT INCLUDING MAIN, LATERALS, AND VALVES SHOWN IN HARDSCAPE AREAS ARE FOR DESIGN CLARIFICATION ONLY AND SHALL BE INSTALLED WHENEVER POSSIBLE WITHIN PLANTED AREAS A REASONABLE, REACHABLE DISTANCE FROM HARDSCAPE OR TURF AREAS UNLESS OTHERWISE NOTED ON THE DRAWINGS.
- 4. CONTRACTOR SHALL INSTALL WIRE AND PIPE UNDER HARDSCAPE AREAS IN SEPERATE P.V.C. SCHEDULE 40 SLEEVES. CONTRACTOR SHALL COORDINATE PIPING AND SLEEVING LOCATION PRIOR TO HARDSCAPE INSTALLATION. SLEEVING SHALL BE INSTALLED IN ACCORDANCE WITH APPLICABLE CODES. WHEREVER POSSIBLE, CONTROL WIRES SHALL OCCUPY THE SAME TRENCH AS PIPES. EACH CONTROLLER SHALL HAVE AN INDEPENSENT GROUND WIRES.
- 5. "I HAVE COMPLIED WITH THE CRITERIA OF THE ORDINANCE AND APPLIED THEM ACCORDINGLY FOR THE EFFICIENT USE OF WATER IN THE IRRIGATION DESIGN PLAN." INSTALL IRRIGATION SYSTEM IN ACCORDINGCE WITH ALL LOCAL AND STATE CODES AND ORDINANCES,
- 6. THE EXISTING WATER PRESSURE AT THE PROPOSED WATER METER LOCATION RANGES FROM XX TO XX P.S.I. THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS AND WATER PRESSURE. IF ANY DISCREPANCY EXISTS BETWEEN DESIGN AND ACTUAL FIELD CONDITIONS NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY IN WRITING FOR A DECISION BEFORE PROCEEDING WITH THE INSTALLALION.
- 7. SYSTEM DESIGN IS BASED ON A MINIMUM OPERATING PRESSURE (P.S.I.) AND A MAXIMUM DEMAND (G.P.M.) AS SHOWN AT EACH POINT OF CONNECTION ON THE DRAWINGS. CONTRACTOR SHALL VERIFY PRESSURE AND DEMAND AT EACH POINT OF CONNECTION PRIOR TO COMMENCING INSTALLATION AND SUBMIT SUCH IN WRITING TO THE OWNERS AUTHORIZED REPRESENTATIVE, IF ANY DISCREPANCIES EXIST. THEY SHOULD BE BROUGHT TO THE IMMEDIAT ATTENTION OF THE OWNERS AUTHORIZED REPRESENTATIVE.
- 9. CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLETE AND EFFECTIVE COVERAGE OF ALL PLANTING AREAS, DURING THE MAINTENANCE PERIOD, IT IS THE RESPONSIBILITY OF THE LANDSCAPE MAINTENANCE CONTRACTOR TO ENSURE ALL PLANT MATERIAL RECEIVES AS MUCH WATER AS IS NECESSARY FOR ESTABLISHMENT AND TO SUSTAIN GOOD PLANT HEALTH.
- 10. CONTRACTOR SHALL FLUSH ALL LINES AND ADJUST IRRIGATION SYSTEM FOR OPTIMUM PERFORMANCE IN ACCORDANCE WITH THE SPECIFICATIONS, COSTS INCURRED DUE TO ANY ADJUSTMENTS FOR 100% COVERAGE, INCLUDING THOSE REQUESTED BY THE OWNER'S AUTHORIZED REPRESENTATIVE SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- 11. CONTRACTOR SHALL COORDINATE INSTALLATION OF THE IRRIGATION SYSTEM WITH THE LAYOUT AND INSTALLATION OF THE PLANT MATERIAL. TO ENSURE THAT THERE WILL BE COMPLETE AND INSTALLATION OF THE PIRAL THE REPORT OF CONSTRUCTION OF THE PIRAL STALLATION WHERE AS LITTLE REPORT OF CONSTRUCTION TO DETERMINE IF ANY CHANGES, DELETIONS, OR ADDITIONS ARE REQUIRED. THE RINGIATION SYSTEM SHALL BE INSTALLED AND ITS STED PRIOR TO THE INSTALLATION OF ANY PLANT MATERIALS.
- 12. TRENCHING DEPTHS FOR IRRIGATION PIPES SHALL BE AS FOLLOWS: MAIN = 24°, ALL LATERALS = 12°. ALL DIMENSIONS ARE FROM THE TOP OF THE PIPE, PROVIDE A MINIMUM 3° SAND ENVELOPE APOILING A LI MAIN INFE PIPE.
- 13. MINIMUM LATERAL SIZE SHALL BE 3/4", SEE PIPE SIZING CHART FOR SIZING,
- 14. IF SETTLEMENT OCCURS ALONG TRENCHES AND ADJUSTMENT(S) TO PIPES, VALVES, OR HEADS IS REQUIRED, THE CONTRACTOR, AS PART OF WORK UNDER THIS CONTRACT, SHALL MAKE ALL ADJUSTMENTS WITHOUT FATEA COSTS TO THE OWNER.
- 15. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO FILL AND REPAIR ALL DEPRESSIONS AND REPLACE ALL NECESSARY LAWN ANDIOR PLANTING DUE TO THE SETTLEMENT OF IRRIGATION FOR ONE YEAR FOLLOWING THE ACCEPTED COMPLETION OF MAINTENANCE,
- 18. CONTRACTOR SHALL GUARANTEE THAT ALL MATERIAL, EQUIPMENT, AND WORKMANSHIP FURNISHED BY HIM BE FREE OF DEFECTS FOR ONE YEAR FOLLOWING THE ACCEPTED COMPLETION OF MAINTENANCE, CONTRACTOR SHALL BE LIABLE FOR REPAIRS AND REPLACEMENT OF FAILED MATERIAL DURING THIS GUARANTEE PERIOD,
- 17. ALL PLASTIC FITTINGS SHALL BE A MINIMUM OF 18" APART TO FACILITATE REMOVAL AND REPLACEMENT OF INDIVIDUAL FITTINGS
- (8) SPLICING OF 24 VOLT WIRES WILL NOT BE PERMITTED EXCEPT IN VALVE BOXES, CONTRACTOR TO LEAVE A 24" COIL OF EXCESS WIRE AT EACH SPLICE AND EVERY 100" ON CENTER ALONG WIRE RINL. TAPE WIRE BUNDLES 10" ON CENTER, NO TAPING WILL BE PERMITTED INSIDE SLEEVES, WIRE CONNECTORS SHALL BE SCOTCH DBY OR APPROVED EQUAL, INSTALLED IN ACCORDANCE WITH MANUFACTURES INSTRUCTIONS.
- 19. CONTROL VALVES SHALL BE SIZED AS DESIGNATED ON THE DRAWINGS AND SHALL BE INSTALLED IN VALVE BOXES AS INDICATED IN THE DETAILS. BOXES SHALL BE SET FLUSH WITH THE FINISH GRADE OR SURFACE AND PERMANENTLY MARKED AS INDICATED IN THE DETAILS.
- 20. EXACT LOCATION OF CONTROLLERS TO BE DETERMINED AT JOB SITE BY PROJECT MANAGER, USE THIN WALL METAL CONDUIT ABOVE GRADE AND IN GARAGES, PAINT ALL CONDUIT TO MATCH BUILDING OR WALL COLOR. USE WATERPROOF CONNECTIONS FOR OUTDORN INSTALL ALTION, INSTALL PER MANUPACTURERS SPECIFICATIONS. SEAL ALL CONDUIT HOLES WITH SILLCOME OR EQUAL, PROGRAM CONTROLLER OF IRRIGATE USING MULTIPLE REPEAT CYCLES OF SHORT DURATION, CARE SHALL BE TAKEN TO PREVENT RUNOFF OF WATER AND SIO-PEISOLL REPOSION DUE TO PROLONGED APPLICATIONS OF WATER, FOR CONTROL WIRE INSTALLED IN GARAGE, COORDINATE WITH ELECTRICAL ENGINEER AND PROJECT ELECTRICIAN FOR CONNECTIONS BETWEEN POOLING OR WALL PENETRATIONS TO IRRIGATION CONTROLLER LOCATIONIS).
- 21. CONTROL WIRES SHALL BE 14 GAUGE (RED). SEPARATE WIRES SHALL RUN FROM THE CONTROLLER TO EACH VALVE. COMMON GROUND WIRES SHALL BE 12 GAUGE (WHITE) ALL CONTROL WIRES LEADING FROM VALVES TO CONTROLLER.
- 22. CONTRACTOR TO COORDINATE CONTROLLER POWER HOOK-UP WITH PROJECT ELECTRICIAN, THE GENERAL CONTRACTOR SHALL COORDINATE HIS PORTION OF WORK WITH THE UNDERGROUND ELECTRICAL CONTRACTOR TO MINIMIZE CONFLICTS.
- 23. FINAL LOCATION FOR BACKFLOW PREVENTION DEVICES SHALL BE APPROVED BY THE OWNERS AUTHORIZED REPRESENTATIVE PRIOR TO INSTALLING, CONTRACTOR SHALL NOTIFY ALL LOCAL JURISDICTIONS FOR INSPECTION AND TESTING OF INSTALLED BACKFLOW PREVENTION DEVICE.
- 24. BUBBLERS SHALL BE LOCATED ON THE UPHILL SIDE OF TREES,
- 25. ALL WATER TO DRAIN AWAY FROM BUILDING PER LOCAL BUILDING CODE.
- 31. DO NOT WILLFULLY INSTALL THE SPRINKLER SYSTEM AS SHOWN ON THE DRAWINGS WHEN IT IS OBVIOUS IN THE FIELD THAT OBSTRUCTIONS, GRADE DIFFERENCES OR DIFFERENCES IN THE AREA DIMENSIONS EXIST THAT MIGHT NOT HAVE BEEN CONSIDERED IN THE ENGINEERINS. SUCH OBSTRUCTIONS OF DIFFERENCES SHOULD BE BROUGHT TO THE ATTENTION OF THE OWNER'S AUTHORIZED REPRESENTATIVE. IN THE EVENT HIS NOTHERATION IS NOT PERFORMED, THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ANY REVISIONS NECESSARY.
- 32. A LAMINATED, COLOR CODED, REDUCED SIZE IRRIGATION PLAN SHALL BE FURNISHED TO THE OWNER AFTER FINAL ACCEPTANCE. PLACE ANOTHER LAMINATED COPY INSIDE THE CONTROLLER CABINET DOOR.
- 33. LANDSCAPE CONTRACTOR TO COORDINATE WITH GENERAL CONTRACTOR PRIOR TO DEMOLITION OR PROTECTION OF EXISTING MAINLINE AND CONTROLLER WIRE FOR FUTURE USE.
- 34. IF THE INTENT IS TO DEMO ANY IRRIGATION EQUIPMENT IN NEW CONSTRUCTION AREA, LANDSCAPE CONTRACTOR SHALL SUPPLY ALL NEW MAINLINE AND CONTROLLER WIRE TO NEW REMOTE CONTROL VALVE AS DESIGNED PER THIS PLAN. TYPICAL,
- 35. CONTRACTOR SHALL INSTALL DRIPLINE ON SLOPES PER MANUFACTURERS RECOMMENDATIONS WITH 25% INCREASED SPACING AT BOTTOM 1/3 OF SLOPE.
- CONTRACTOR MUST PROVIDE AN IRRIGATION AUDIT IN ACCORDANCE WITH LOCAL WELD AND TITLE 23 DEPARTMENT OF WATER RESOURCES SECTION 492.12: IRRIGATION AUDIT, IRRIGATION
  SURVEY, AND IRRIGATION WATER USE ANALYSIS PRIOR TO PROJECT ACCEPTANCE.
- 37. CONTRACTOR SHALL PROVIDE A CERTIFICATE OF COMPLETION AS REQUIRED TO THE LOCAL REVIEWING AGENCY. SEE CALIFORNIA CODE OF REGULATIONS TITLE 23 WATERS DIVISION 2
  DEPARTMENT OF WATER RESOURCES CHAPTER 2.7 MODEL WATER EFFICIENT LANDSCAPE ORDINANCE APPENDIX C.
- 8. SOIL MANAGEMENT REPORT SHALL BE PROVIDED BY LANDSCAPE CONTRACTOR AND SOIL AMENDMENTS SHALL BE FOLLOWED PER THE REPORT. PHYSICAL COPIES OF THE SOIL MANAGEMENT REPORT SHALL BE PROVIDED TO CLIENT, PROJECT LANDSCAPE ARCHITECT AND LOCAL AGENCY AS REQUIRED, SOIL MANAGEMENT REPORT SHALL CONFORM TO STATE AB1881 WATER EFFICIENT LANDSCAPE ORDINANCE OR AGENCY ADDITED WELLO.
- 39. CONTRACTOR IS RESPONSIBLE FOR HAND WATERING INCLUDING BUT NOT LIMITED TO THE FOLLOWING AREAS DURING PLANT ESTABLISHMENT: BIO-CELL AREAS, SODDED AREAS, THESE AREAS WILL NEED SUPPLEMENTAL HAND WATERING IF THEY ARE IRRIGATED BY ORIP UNTIL ROOTS ARE ESTABLISHED AS DRIP IRRIGATION MAY NOT PROVIDE SUFFICIENT WATER TO THESE AREAS FOR HEALTHY PUMPLET

DESCRIPTION ON GRADE TREE BUBBLER  DESCRIPTION ON-GRADE TORO DRIP TUBING NOTE: INSTALL TORO DL2000 PER	R FOR DRIP	NIBCO PVC BALL VALVE 4660-S OR EQUAL, LINE SIZE  RAINBIRD XCZLF-100-PRF-LOW FLOW CONTROL KIT (,2-10,4  RAINBIRD 100PGA INLET INLINE PLASTIC VALVE (2-150 GPA  RAINBIRD 33DLRC 34" QUICK COUPLING VALVE WITH LOCK  MODEL  RAINBIRD PCT05 MOUNTED ON RAINBIRD SHRUB ADAPTERS IN QUANTITIES AS FOLLOWS: 2 PER 15 GALLON RG 24" BOX TREE 4 PER 36" BOX AND LARGER TREE  MODEL  RAINBIRD LDQ0812100 EMITTER TUBING (ET83918-100)	1	
VALVE, PRESSURE REQULATOR & FILTER AND TREE BUBBLER VALVE  REMOTE CONTROL VALVE FOR BUBBLER  1° QUICK COUPLER VALVE WITH YELLOW VINYL COVER  DESCRIPTION  ON GRADE TREE BUBBLER  DESCRIPTION  ON-GRADE TORO DRIP TUBING NOTE: INSTALL TORO DL2000 PER	OPERATING PRESSURE  OPERATING PRESSURE  OPERATING PRESSURE	RAINBIRD 100PGA INLET INLINE PLASTIC VALVE (2-150 GPM RAINBIRD 33DLRC 34" QUICK COUPLING VALVE WITH LOCK  MODEL RAINBIRD PCT05 MOUNTED ON RAINBIRD SHRUB ADAPTERS IN QUANTITIES AS FOLLOWS: 2 PER 15 GALLON OR 24" BOX TREE 4 PER 36" BOX AND LARGER TREE  MODEL RAINBIRD LDQ0812100 EMITTER TUBING (ET83918-100)	I KING COVER NOZZLE GPM	
1" QUICK COUPLER VALVE WITH YELLOW VINVL COVER  DESCRIPTION ON GRADE TREE BUBBLER  DESCRIPTION ON-GRADE TORO DRIP TUBING NOTE: INSTALL TORO DL2000 PER	OPERATING PRESSURE 20-75 PSI OPERATING PRESSURE	RAINBIRD 33DLRC 34" QUICK COUPLING VALVE WITH LOCK MODEL RAINBIRD PCT05 MOUNTED ON RAINBIRD SHRUB ADAPTER IN QUIANTITIES AS FOLLOWS: 2 PER 15 GALLON OR 24" BOX TREE 4 PER 36" BOX AND LARGER TREE  MODEL RAINBIRD LD00812100 EMITTER TUBING (ET83918-100)	KING COVER	
WITH YELLOW VINYL COVER  DESCRIPTION ON GRADE TREE BUBBLER  DESCRIPTION ON-GRADE TORO DRIP TUBING NOTE: INSTALL TORO DL2000 PER	PRESSURE 20-75 PSI OPERATING PRESSURE	MODEL RANBIRD PCT05 MOUNTED ON RAINBIRD SHRUB ADAPTERS IN QUANTITIES AS FOLLOWS: 2 PER 15 GALLON OR 24' BOX TREE 4 PER 36" BOX AND LARGER TREE  MODEL RAINBIRD LDQ0612100 EMITTER TUBING (ET63915-100)	NOZZLE GPM	
DESCRIPTION ON GRADE TREE BUBBLER  DESCRIPTION ON-GRADE TORO DRIP TUBING NOTE: INSTALL TORO DL2000 PER	PRESSURE 20-75 PSI OPERATING PRESSURE	RAINBIRD PCT05 MOUNTED ON RAINBIRD SHRUB ADAPTERS IN QUANTITIES AS FOLLOWS: 2 PER 15 GALLON OR 24' BOX TREE 4 PER 36' BOX AND LARGER TREE  MODEL RAINBIRD LDQ0812100 EMITTER TUBING (ET63918-100)		
DESCRIPTION ON-GRADE TORO DRIP TUBING NOTE: INSTALL TORO DL2000 PER	OPERATING PRESSURE	ADAPTERS IN QUANTITIES AS FOLLOWS: 2 PER 15 GALLON OR 24' BOX TREE 4 PER 36' BOX AND LARGER TREE  MODEL RAINBIRD LDQ0812100 EMITTER TUBING (ET63918-100)	(0.25 GPM EACH)	
DESCRIPTION  ON-GRADE TORO DRIP TUBING  NOTE: INSTALL TORO DL2000 PER	PRESSURE	RAINBIRD LDQ0812100 EMITTER TUBING (ET63918-100)		
NOTE: INSTALL TORO DL2000 PER	30 PSI	* * * * * * * * * * * * * * * * * * * *		
INSTALL TORO DL2000 PER				
MANUFACTURER'S SPECIFICATIONS		FOR GROUND COVER & SHRUB AREAS: DRIPLINE SPACING = 12' EMITTER SPACING = 12' DRIPPER FLOW = 0,53 GPH		
ENT NOT GRAPHICALLY DEPICTED ON PLANS 'URER'S RECOMMENDATIONS.)	<u>S:</u>			
FLUSH VALVE FOR DRIP SYSTEM		MINIMUM ONE PER VALVE		
AIR VACUUM RELIEF VALVE FOR DRIP SYSTEM		RAINBIRD ARV050 MINIMUM ONE PER VALVE		
OPERATION INDICATOR FOR DRIP SYSTE	M	RAINBIRD OPERND MINIMUM ONE PER VALVE		
DRIP TUBE FITTINGS		RAINBIRD FITTINGS		
ES DESCRIPTION		MODEL	NOTES	
NONPRESSURE DRIP IRRIGATION LATERAL, SIZED PER PIPE SIZING CHART		SCHEDULE 40 PVC PIPE	12" COVER	
NONPRESSURE IRRIGATION SUPPLYLINE	-3/4" MIN,	CLASS 200 PVC PIPE	12" COVER	
PRESSURE SUPPLY MAINLINE		1120 SCHD. 40 PVC PIPE FOR SIZES 1-1/2" AND SMALLER 1120 CLASS 315 PVC PIPE FOR SIZES 2" AND LARGER	24" COVER	
SLEEVE: 2x ENCLOSED PIPE DIAMETER C	OR AS INDICATED	1120/SCHEDULE 40 PVC PIPE	24" COVER	
SPRAY, ROTOR, AND BUBBLER VALVES  CONTROLLER STATION NUMBER  GALLONS PER MINUTE THROUGH VALVE  CONTROL VALVE SIZE	#	ING VALVES  CONTROLLER STATION NUMBER GALLONS PER MINUTE THROUGH VALVE CONTROL VALVE SIZE LENGTH OF DEIPI TUBING, IF APPLICABLE ZONE TYPE, IF APPLICABLE		
	MANUFACTURER'S SPECIFICATIONS  ENT NOT GRAPHICALLY DEPICTED ON PLAN URER'S RECOMMENDATIONS.) FLUSH YALVE FOR DRIP SYSTEM AIR VACUUM RELIEF VALVE FOR DRIP SYSTE DIP TUBE FITTINGS  SD DESCRIPTION  NONPRESSURE DRIP IRRIGATION LATERAL, SIZED PER PIPE SIZING CHARTI NONPRESSURE IRRIGATION SUPPLYLINE PRESSURE SUPPLY MAINLINE SLEEVE: 2x ENCLOSED PIPE DIAMETER O SPRAY, ROTOR, AND BUBBLER VALVES CONTROLLER STATION NUMBER CALLONS PER INJUTE THROUGH YALVE	INSTALL TORO DL 2000 PER MANUFACTURERS SPECIFICATIONS  ENT NOT GRAPHICALLY DEPICTED ON PLANS; URERS RECOMMENDATIONS.)  FLUSH VALVE FOR DRIP SYSTEM AIR VACUUM RELIEF VALVE FOR DRIP SYSTEM OPERATION INDICATOR FOR DRIP SYSTEM DRIP TUBE FITTINGS  IS DESCRIPTION  NONPRESSURE DRIP IRRIGATION LATERAL, SIZED PER PIPE SIZING CHART NONPRESSURE IRRIGATION SUPPLYLINE-34* MIN, PRESSURE SUPPLY MAINLINE  SLEEVE: 22 ENCLOSED IPISE DIAMETER OR AS INDICATED SPRAY ROTOR, AND BUBBLER VALVES CONTROLLER STATION HUMBER  GALLONS PER MINUTE THROUGH VALVE COLOTROL VALVE SIZE  GOLTROL VALVE SIZE	INSTALL TORO DL2000 PER MANUFACTURERS SPECIFICATIONS  BORTLINE SPACING 127 EMITTER SPA	

CONDUIT & SLEEVE SIZING GUIDE						LATERAL PIPE	
MAXIMUM	MINIMUM	Π	MAXIMUM LATERAL	MINIMUM SLEEVE	IÌ	FLOW RATE	PIPE SIZE
NUMBER OF	CONDUIT SIZE	Ш	OR MAINLINE PIPE	SIZE REQUIRED	Ш	(GPM)	(DIAMETER)
WIRES	(SCH 40 PIPE)	Ш	SIZE	(SCH 40 PIPE)	I	0 TO 9	.75"
4	1"	П	1/2*	1-1/2"	П	9.1 TO 18	1"
8	1-1/4"	Щ	3/4*	2"	li	18.1 TO 30	1.25"
12	1-1/2"	Ш	1" TO 1-1/4"	2-1/2"	н	10,1 10 30	1,20
17	2"	П	1-1/2"	3"	Ш	30.1 TO 40	1.5"
25	2-1/2"	Щ	2" TO 2-1/2"	4"	П	40.1 TO 60	2*
35	3"	Ш	3*	6"	lł		
50	4"	Ш	4"-6"	8"	П	60.1 TO 70	2.5"
>50	6"	Ш					

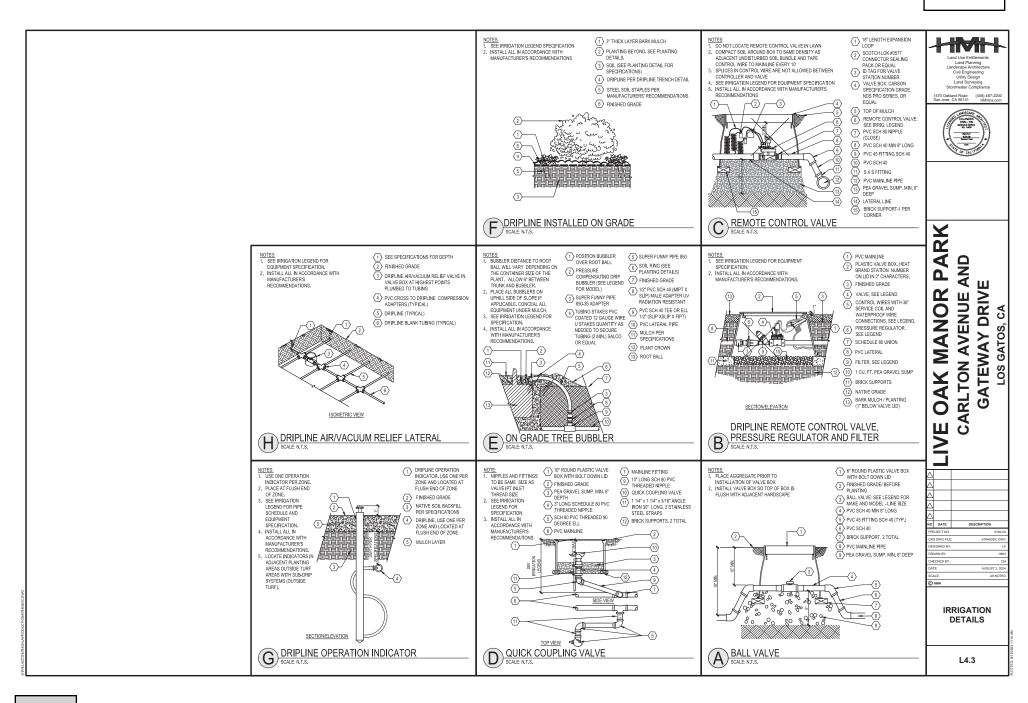
IDDICATION LECEND

LIVE OAK MANOR PARK
CARLTON AVENUE AND
GATEWAY DRIVE

		4
		Δ
		Δ
		Δ
		Δ
DESCRIPTION	DATE	10
6784.00	JECT NO:	PRO
678400IDC.DWG	DWG FILE:	CAE
678400IDC.DWG LS	DWG FILE:	
		DES
LS	IGNED BY:	DES
L8 HMH	IGNED BY: WN BY: CKED BY:	DES
LS HMH CM	IGNED BY: WIN BY: CKED BY:	DES DRA

IRRIGATION LEGEND AND NOTES

L4.2



#### INSTRUCTIONS TO BIDDERS

#### SUBMITTALS

- Bids shall be submitted in sealed envelopes bearing on the outside the name of the bidder. e bidder's address and the name of the project for which the bid is being submitted. Bids shall be delivered to Owner or general contractor responsible for reviewing and processing
- EXAMINATION OF CONSTRUCTION DOCUMENTS AND SITE
- Each bidder shall inspect the construction documents (drawings and specifications) and site of the proposed project. The submission of a bid shall constitute and acknowledge that the bidder is familiar with all conditions which might affect the contemplated project.
- Any discrepancies shall be brought to the immediate attention of the Owner. Contractor shall assume all necessary revisions due to failure to give such notification

The Owner reserves the right to any time prior to the award, to reject all bids. The Owner also reserves the right to accept other than the lowest bidder, to accept one (1) part of a proposal and to waive any technical informalities in any proposal.

#### WITHDRAWAL OF BID

A bidder may withdraw the bid without prejudice, provided a written request for such withdrawal is delivered to the Owner prior to the commencement of the opening of bids,

### GENERAL CONDITIONS

- Unless otherwise specifically defined herein, or unless the context requires a different eviations, symbols, terms and phrases having a well known or technical meaning shall be so construed,
- Whenever in these specifications, or in any documents or instruments where these specifications govern, the following terms are used, the intent and meaning thereof shall be as follows

CONTRACT - Represents the entire and integrated agreement between the Owner and the Contractor, The contract documents form the Contract for construction

CONTRACT DOCUMENTS - These specifications, the drawings, addenda issued prior to execution of the Contract, and the Contract between the Owner and the Contractor

CONTRACTOR - The person or entity whose bid is accepted and to whom the Contract is

LANDSCAPE ARCHITECT - The professional services firm who prepared the project drawings and specifications for the Owner.

OWNER - Is the person or entity identified as such in the Contract

WORK - The term "work" or "project" means the construction and services required by the Contract Documents and includes providing all labor, materials, equipment, transportation, tools, and incidentals necessary to complete the work in a satisfactory manner by licensed contractor and experienced workers.

#### CONSTRUCTION PROCEDURE

Contractor shall not be relieved of obligations to perform the work in accordance with the Contract Documents either by activities or duties of the Owner, Landscape Architect, or by tests, inspections or approvals required or performed by persons other than the Contractor.

#### C. SUBCONTRACTS

- Contractor shall set forth in the bid the name and the location of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the
- Contractor must have the written consent of the Owner to substitute a subcontractor other than that designated in the bid,

#### D. DRAWINGS AND SPECIFICATIONS

- The contractor shall keep at the project site a copy of the drawings and specifications. In the event a discrepancy exists between figures and/or drawings, the discrepancy shall be immediately submitted to the Owner for clarification. Any adjustment made by the Contractor without obtaining such clarification from the Owner shall be at the Contractor's risk and expense and be subject to removal if said adjustment does not meet the approval of the
- The Contract documents, as defined herein, are intended to be read together to describe a complete and finished piece of work, including all labor, materials and equipment necessary for the proper execution of the project. Anything in the specifications and not on the drawings, or on the drawings and not in the specifications, shall be as though shown or mentioned in both.

#### E. SHOP DRAWINGS OR PRODUCT DATA AND SAMPLES

- Shop drawings product data samples and similar submittals are not contract documents. The purpose of their submittals is to demonstrate for those portions of the work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the drawings.
- The Contractor shall review, approve, and submit such submittals required by the contract documents with reasonable promptness and in such sequence or to cause no delay in the

 Landscape Architect shall review and approve or take other appropriate action on the contractor submittals, such as shop drawings, product data, samples and other dat the contractor is required to submit, but only for the limited purpose of checking for conformance with the design concept and the information shown in the construction documents. This review shall not include review of the accuracy or completeness of details such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the contractor, review of a specific item shall not indicate that the landscape architect has reviewed the entire assemble of which the item is a component, Landscape Architect shall not be responsible for any deviations from the construction documents not brought to the attention of the Landscape Architect in writing by the contractor.

#### CHANGE ORDERS

- The Owner may at any time prior to acceptance of the work, by written order to Contractor and without notice to sureties, increase or decrease the estimated quantity of work or material, make alterations, deviations, additions to or omissions from the drawings and specifications, and make changes in the project as may be deemed necessary or advisable within the general scope thereof.
- No claim for additional work or material will be allowed unless supported by a written Change Order signed by the Owner and the Contractor stating their agreement upon all of the following:
- Change in the work.
- Amount of the adjustment in the Contract sum, and
- Extent of the adjustment in the Contract time, if any,

### G. CONTROL OF MATERIALS

- Materials, parts and equipment to be furnished by the Contractor shall be new, unless otherwise specified in these specifications or noted on the drawings. The materials shall be manufactured, handled, and used in a workmanlike manner.
- All materials shall be subject to rigid inspection and if, in the opinion of the Owner the same do not comply with the contract documents, said materials shall be rejected and immediately removed from the premises at the expense of the Contractor,
- Manufacturers warranties, guaranties, instructions sheets and parts lists, which are furnished with certain articles or materials incorporated in the work, shall be delivered to the Owner

#### H, SAMPLES AND TESTS

■ The Contractor shall furnish such samples of all materials as requested by the Owner without charge. Labor and equipment necessary for the furnishing of such samples shall be the responsibility of the Contractor,

#### I. SUBSTITUTION OR EQUIVALENTS

- For convenience in designation on the drawings or in the specifications, certain articles or materials to be incorporated in the work may be designated under a trade name or the name of a manufacturer and catalogue number. Subject to approval by the Owner or Landscape Architect, an alternative article or material may be utilized.
- The burden of proof as to the quality and suitability of alternatives shall be upon the

#### CERTIFICATES OF COMPLIANCE

■ When requested, Contractor shall furnish the Owner with a Certificate of Compliance stating that the material substantially meets the specifications

#### INDEMNIFICATION

 The obligations of the Contractor under this section shall not extend to the liability of the Landscape Architect, the Landscape Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Landscape Architect, the Landscape Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

#### SAFETY OF PERSONS AND PROPERTY

- The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract
- The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: employees on the work and other persons who may be affected thereby, the work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's subcontractors, and other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- The Contractor shall give notices and comply with applicable laws, ordinances, rules. regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss,
- The Contractor shall so conduct operations as to offer the least possible obstruction and enience to the public. The Contractor shall have under construction no greater amount of work than can be performed properly with due regard to the rights of the public.

### M, PROJECT SITE MAINTENANCE

- Throughout all phases of construction, and until acceptance of the work, the Contractor shall
- Costs incurred due to cleanup operations shall be as included in the prices bid for the various items of work and no separate payment will be made therefor.

#### AIR POLLUTION

■ Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the Contract and shall not discharge smoke, dust or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.

#### O. NOISE CONTROL

■ Contractor shall comply with all local sound control and noise level regulations and ordinances which apply to any work performed pursuant to the Contract, and shall make every effort to control an undue noise resulting from the construction operation.

#### PESTICIDES/HERBICIDES

■ Contractor shall comply with all rules and regulations of the Department of Food and Agriculture, the Department of Health, the Department of Industrial Relations and all other agencies which govern the use of pesticides/herbicides required in the performance of the

### Q. DUST CONTROL

■ The Contractor shall abate dust nuisance by cleaning, sweeping and sprinkling with water, or other means as necessary, and shall save the Owner free and harmless from any claim for loss or damage sustained by others and resulting from operations on the project site.

#### R. UTILITIES

 When placing concrete around or contiguous to any utility, the Contractor shall assume responsibility for costs to furnish and install a cushion of expansion joint material, clear opening or sleeve, or by other suitable means shall prevent embedment in or bonding with

#### PATENTS AND ROYALTIES

■ The Contractor shall absorb in its bid, the patent fees or royalties on any patented article or process which may be furnished or used in the work. The Contractor shall indemnify and hold the Owner harmless from any legal actions that may be brought from infringement of

#### REPAIRS AND REPLACEMENT

Costs incurred due to repair or replacement of defective or damaged work shall be the

### PROJECT MAINTENANCE

■ Project maintenance is required after the project is complete. A lack of maintenance in area such as, but not limited to irrigation and planting operations may result in damage to property and/or persons. Contractor acknowledges and agrees that, as between parties to the contract, the contractor is solely responsible for the results of any lack of or improper

#### CLEARING and GRUBBING

#### GENERAL

- Contractor shall provide all labor, materials, and equipment for clearing and grubbing operations performed in advance of grading operations
- Clearing and grubbing shall consist of removing all natural and artificial objectionable
- Except as indicated on the drawings, materials removed shall not be incorporated in the
- compacted with materials equal to the surrounding soil.

#### PRESERVATION OF PROPERTY

- Costs incurred due to renair of replacement of existing improvements which are not designated for removal and which are damaged as a result of construction operations shall be the responsibility of the Contractor.
- Replacements shall be at least equal to the conditions when Contractor entered upon the work, and shall match them in finish and dimension. Plant material shall be replaced with the same species, size, and in the original location (unless otherwise designated).

## REMOVAL and DISPOSAL OF MATERIAL

- All materials removed shall be disposed of off-site. Burning shall not be permitted. No accumulation of flammable material shall remain on or adjacent to the project site.
- Abandoned pipes shall be capped or plugged in a manner suitable to site supervisor or agency inspector.

#### FINE GRADING GENERAL

- Contractor shall provide all labor, materials and equipment to perform all fine grading operations as indicated on the drawings and specified herein, See geotechnical, civil, and structural drawings for other earthwork specifications/recommendations,
- The Contractor shall provide all lines and grades necessary to properly carry on the work. Any work which is not found to comply with the lines and grades shown on the drawings shall be altered or removed and replaced by, and at the expense of, the Contractor.
- All bench marks, monuments and other reference points shall remain undisturbed.

#### GRADING OPERATIONS

- Finished surfaces in all cases shall conform to the lines, grades, cross sections and dimensions indicated on the drawings.
- Finish grades shall be well compacted, reasonably smooth, ensuring positive drain of abrupt grade changes, irregularities, water pockets or discontinuities in surface level. Grades shall flow away from structures and in accordance with local jurisdictional
- Finish grade adjacent to paved areas, curbs, valve hoxes and similar features shall be one inch (1") below the finished surface for furf areas, and two to three inches (2" - 3") below the finished surface for ground cover areas. Areas adjacent to hardscape should be graded so 3" layer of mulch does not over spill onto adjacent surface.
- No grading shall be done when the moisture content of the soil is so great that excessive compaction will occur, nor when it is so dry that dust will form in the air or that clods will not
- Grading shall be completed prior to weed abatement operations and soil preparation
- Grading shall be to the dimensions and elevations indicated on the drawings, of sufficient idth to provide clearances for setting of forms and inspection of the various classifications of
- Concrete for footings shall be placed against native grade or certified compacted subgrade prepared per geotechnical report,
- Grading excavations shall be level, free from loose material, and free from standing water.

■ Fill material shall be composed of satisfactory excavated material or approved imported soil and shall be evenly spread in uniform continuous horizontal layers per geotechnical report.

- Excavated material, approved for backfilling by geotechnical engineer, shall be free from large clods, stones and other objectionable materials, exceeding three inches (3") in neter, and deposited in accordance with the requirements for compacted fill as specified
- Trenches that settle below grade shall be reopened to a depth required for proper
- Compaction of backfill by ponding and jetting will not be permitted,

#### UNSUITABLE MATERIALS

 Unsuitable materials as determined by the Owner shall be removed from the project site.
 Arrangements for disposal of the material at off-site locations shall be made with the City's/Owner's written consent of the property upon which such material will be disposed,

#### DRAINAGE

## A. GENERAL

- Contractor shall provide all labor, materials, and equipment to furnish and install drainage systems as indicated on the drawings and as specified herein. Cross reference civil engineering drawings for connections and coordinated drainage systems.
- Contractor shall maintain the project site throughout the progress of the work in a reasonable,
- Contractor shall be responsible for all cutting and patching of new or existing walks, curbs and pavements required for proper installation of drainage systems
- In order to make any necessary adjustments, connections that are to be made to an existing pipe, catch basin or other appurtenances shall be exposed and inspected before laying new

#### B. HORIZONTAL SUBDRAINS

- Drainage systems shall be as indicated and installed as detailed on the drawings.
- Pipe shall be as indicated on the drawings and laid and jointed in accordance with generally accepted practice and to line and grade as designated on the drawings.
- Interior of pipe shall be thoroughly cleaned of all foreign matter prior to, during, and after installation in the trench,

Land Surv



## Χ AND 4 <u>∩</u> Ш 2 AVENUE RΝ 0 Ž

**M** M

AK

O

ш

**EWAY** RLTON SO ATE Ö

C

HECKED BY AUGUST 2, 202

LANDSCAPE **SPECIFICATIONS** 

⊕ нмн

#### NON-VEGETATIVE SITE MATERIALS

#### WEED ABATEMENT AND SOIL TREATMENT

- Contractor shall apply in areas to be installed with subbase materials, a selective pre-emergent, surface-applied herbicide. Rates and application method shall be as recommended by manufacturer,
- Visible weeds shall be sprayed with a non-selective, post-emergent herbicide, Application method shall be as recommended by manufacturer.
- Contractor shall apply spray chemicals when air currents are still; preventing drifting onto adjoining property and preventing any toxic exposure to persons whether or not they are in,

#### AGGREGATE SURBASE MATERIAL

- Aggregate subbase material shall be as specified in the project geotechnical report,
- form a firm, stable base that is spread in one (1) operation, free from pockets of large fine material.

#### C. SAND SUBBASE MATERIAL

■ Sand utilized for subbase material shall be as specified in the project geotechnical report OR consist of natural or manufactured granular material free of clay, deleterious amounts of organic material broken glass, cans or other substances not suitable for the purposes intended. Samples should be submitted prior to project order for approval.

#### SAND FOR SURFACE AREAS

 Sand for surface areas shall consist of natural or manufactured granular material free of clay. deleterious amounts of organic material, broken glass, cans or other substances not suitable for the purposes intended, Washed concrete sand shall be thoroughly and uniformly washed, Plaster sand is unacceptable for play areas, Samples should be submitted prior to project order for approval.

#### E. DECOMPOSED GRANITE

- Decomposed granite shall be the product of crushing rock or gravel; clean, hard, sound, durable, uniform in quality, and free of any detrimental quantity of soft, friable, thin, elongated or laminated pieces, disintegrated material, organic matter, oil, or other deleterious substances. Color shall be as indicated on the drawings or selected by Landscape Architect
- Geotextile fabric, if applicable, shall be TenCrate Mirifi Type N-Series, nonwoven polypropylene geotextile fabric or equal, unless otherwise noted in detail or materials list.

#### TEMPORARY ASPHALTIC CONCRETE PAVING

- Contractor shall provide all labor, materials and equipment for furnishing, spreading compacting and finishing asphaltic concrete paving as indicated on the drawings and specified herein.
- Prior to placement of asphaltic concrete. Contractor shall be responsible for establishing subgrade and providing drainage in accordance with the Fine Grading Section, and performing weed abatement operations as specified herein.

### WEED ABATEMENT AND SOIL TREATMENT

- Contractor shall apply an approved selective pre-emergent, surface-applied herbicide. Rates and application method shall be as recommended by the manufacturer.
- Visible weeds shall be sprayed with an approved non-selective, post-emergent herbicide.
   Rates and application method shall be as recommended by the manufacturer.
- Contractor shall apply spray chemicals when air currents are still; preventing drifting onto adjoining property and preventing any toxic exposure to persons whether or not they are in,

- Asphaltic concrete shall be the product of mixing coarse and fine aggregate with paving asphalt at a central mixing plant until all aggregate particles are uniformly coated.
- Paving asphalt shall be steam-refined, produced from crude asphaltic petroleum or a mixture of refined liquid asphalt and refined solid asphalt. Paving asphalt shall be homogeneous and free from water and residues obtained by the artificial distillation of coal, coal tar or paraffin
- Aggregates shall be clean and free from decomposed or organic materials, and other deleterious substances.

#### REPAIR AND REPLACEMENT

Costs incurred due to repair or replacement of defective or damaged work shall be the responsibility of the Contractor.

#### CONCRETE GENERAL

- Contractor shall provide all labor, materials and equipment to construct concrete items as indicated on the drawings and specified herein.
- Concrete shall consist of portland cement, fine aggregate (sand), coarse aggregate and water, proportioned and mixed to attain a twenty-eight (28) day compressive strength of at least 2,500 pounds per square inch with a slump not to exceed three inches (3"). Concrete shall not contain reactive aggregate or calcium chloride.
- In addition to complying with all pertinent codes and regulations of local governing agencies Contractor shall comply with all perlinent recommendations contained in "Recommended Practice for Concrete Formwork", publication #347-78 of the American Concrete Institute.

#### B MATERIALS

- Cement shall be Type II low alkali portland cement conforming to ASTM C-150. Cement shall
- Sand shall consist of natural or manufactured granular material, free of deleterious amounts of organic material, mica, loam, clay, and other substances not suitable for portland cement crete. Sand shall be thoroughly and uniformly washed.
- Coarse aggregate shall be composed of gravel or a blended mixture of crushed rock and gravel containing no more than fifty (50) percent of crushed rock particles having all faces graves oritinally and not less than twenty-live persont (25%) of gravel. Agreedates a half not exceed a diameter of one and one-half inches (1 1/2"). Blending shall produce a uniform, consistent percentage of each. Rock products shall be clean, hard, sound, durable, uniform in quality and free of any detrimental quantity of soft, friable, thin, elongated or laminated pieces, disintegrated material, organic matter, oil, alkali, or other deleterious substances
- Water shall not contain deleterious substances or any amount of impurities that will cause a change in the time of setting. The amount of water used in the mixture shall not exceed the amount necessary to permit material placement and consolidation.

- Forms shall be free of warp, set plumb and true to line and grade with upper edges flush with specified grade or finished surface of the constructed improvement, and not more than one-half inch (1/2") less in depth than the specified thickness of the edge of the concrete to he placed
- Wooden forms shall have a net thickness of at least one and one-half inches (1 1/2") and shall be free of imperfections which would impair the strength for the use intended. Forms shall be secured by nailing to side stakes of sufficient length and cross-sectional area to adequately resist lateral displacement during placement of concrete. Forms shall be clean and shall receive a coat of light oil immediately prior to placing concrete. Benders or thin plank forms may be used on curves.
- Metal forms shall have sufficient rigidity to resist springing during placement of concrete, Forms shall be secured by means of metal stakes designed so as to be driven below the top of the forms through openings, locking them into position,

#### REINFORCEMENT

- Reinforcement shall conform to the dimensions and details shown on the drawings and shall be cleaned thoroughly of all rust, mill scale, mortar, oil, dirt, or coating of any character which would be likely to destroy or impair its proper bonding with the concrete
- Reinforcing steel, where indicated on the drawings, shall be Grade 40 or Grade 60 billet steel, conforming to ASTM A-615.
- Wire mesh reinforcement, where indicated on the drawings, shall conform to ASTM A-185.

## PLACING CONCRETE

- Install embedded items accurately in their proper locations, secured against displacement. prior to placing concrete.
- Concrete shall be placed on native grade, certified compacted subgrade, or subbase material, free of all loose and extraneous material, sufficiently dampened to ensure that no moisture will be absorbed from the fresh concrete.
- Concrete shall be distributed uniformly and thoroughly vibrated in a manner that will encase the reinforcement, fill the forms and bring the surface true to grade and cross-sec
- Equipment used shall not have any aluminum components coming into direct contact with the

#### E EMISHING

- Concrete surfaces shall be floated prior to steel troweling. Formed edges shall be rounded to a radius of one-half inch (1/2"). Edges at expansion joints shall be rounded to a radius of one-half inch (1/2\*)
- Concrete finishes shall be as indicated on the drawings and specified herein.
- No advertising impressions, stamp or mark of any description will be permitted on surface of concrete.
- Concrete shall not be covered with plastic sheeting.
- Broom finish, where indicated on the drawings, shall be performed after finish troweling by drawing the following broom types across the narrowest width of the concrete or in the direction as indicated on the drawings.
- Fine Broom Push with fine or soft textured bristles
- Medium Broom Push with medium or medium stiff bristles.
- Heavy Broom Push with coarse or stiff bristles,
- Rock salt finish, where indicated on the drawings, shall be performed by applying rock salt. veerly over a tribudate or the transport of the transport of the surface with sufficient trowel pressure so that salt is embedded just barely below surface leaving the tops of the crystals exposed. Cure finished surface in accordance with generally accepted
- Colored concrete, where indicated on the drawings and per materials list and installed per
- Stamped concrete, where indicated on the drawings, shall be performed by applying special forming tools while concrete is still in the plastic stage of set. Desired pattern shall be as indicated on the drawings. Contractor shall be licensed, tooled, and trained for stamping product being used

 Sandhlasted Einish, where indicated on the drawings, shall be performed after finish. troweling by blowing the surface granules with an air-pressure hose and fine grain silicon sand. Contractor shall do a test sample for approval prior to completing entire area to be sandblasted.

#### JOINTS

- Expansion joints shall be as indicated on the drawings and at corners, radius points and at regular intervals not to exceed twelve feet (12') on center. Set premolded expansion joint strip below finished surface, temporarily secured to top of expansion strip or use a removable plastic filler strip. Expansion joints shall be sealed per detail callout.
- Scored control joints shall be tooled to a minimum depth of three-quarters inch (3/4\*) and a radius of one-eighths inch (1/8") at five foot (5") intervals or per plan
- Saw cut inints, where specified shall be as indicated on the drawings or at intervals not to exceed twelve feet (12') on center, and shall be cut to a minimum depth of three-quarters inch (3/4") and a width not to exceed one-quarter inch (1/4").

#### H. CURING

- Curing compound shall form an impervious membrane and shall be a blend of pure waxes resistant pigments in a solvent emulsion and installed per manufacture recommendation.
- Spraving of curing compound shall commence as soon as free water leaves the surface but no later than three (3) hours following placement of concrete

### GENERAL

 Contractor shall provide all labor, materials and equipment to construct masonry structures conforming to the dimensions and details indicated on the drawings and

#### MATERIALS

- Hollow load bearing (CMU) masonry units shall be made with sand-gravel aggregate and shall conform to ASTM C-90 for Grade N-1 units, free of cracks or defects. Net size of units shall be shown on the drawings.
- Brick shall be whole, sound, hard burned, give a clear ringing sound when struck together, and be uniform in quality. Brick shall be clean and free of dust or other foreign materials. Net size, color and texture of units shall be as shown on the
- Stone shall be uniform in quality; clean and free of dust or other foreign materials.
- Mortar used in masonry construction shall be one (1) part portland cement to two and one-half (2 1/2) parts of sand, to which one-quarter (1/4) to one-half (1/2) part hydrated lime or lime putty has been added. Color shall be as indicated on the drawings or as selected by Landscape Architect.
- Grout for use in spaces less than two inches (2\*) clear in dimension shall be one (1) part portland cement and two and one-quarter (2 1/4) to three (3) parts sand. For ices four inches (4\*) or larger add one and one-quarter (1 1/4) to two (2) parts of
- Water shall be free of any amount of impurities that will cause change in the time of setting of portland cement. Quantity of water shall be the minimum required to produce a mixture sufficiently workable for the purpose intended,
- Cement shall be Type II low alkali portland cement conforming to ASTM C-150 Cement shall be of the same brand and type used throughout the project,
- Sand shall consist of natural or manufactured granular material, free of deleterious amounts of organic material, mica, loam or clay, conforming to ASTM G-404 for grout and ASTM C-144 for mortar, Sand shall be thoroughly and uniformly washed,
- Coarse aggregate shall be composed of gravel or a blended mixture of crushed rock and gravel. Rock products shall be clean, hard, sound, durable, uniform in quality and free of any detrimental quantity of soft, friable, thin, elongated or laminated pieces disintegrated material, organic matter, oil, alkali or other deleterious substance.
- Reinforcing steel shall be Grade 40 or Grade 60 billet steel conforming to ASTM A-615. Varying grades shall not be used interchangeably in any one wall.

### INSTALLATION

- All work shall be performed in compliance with applicable local building ordinances and Uniform Building Code and Masonry Design Manual,
- All walls shall be laid true, level, and plumb, and unless otherwise indicated on the drawings. Brick and concrete block shall be laid in a running bond pattern.
- Brick and stone shall be clean, wetted immediately before laying and shall be laid on a ■ Concrete block which becomes wet shall be permitted to dry before commencing
- Mortar joints for brick and concrete block shall be straight, clean, uniform in thickness of not less than three-eighths of an inch (3/8"), tooled to produce a slightly concave surface, and well bonded at edges.

- Mortar joints for stone shall be tooled to produce a slightly concave surface, and
- Contractor shall provide expansion joints at corners and at thirty feet (30') on center or as required by local code.
- All bolts and anchors to be inserted in the wall shall be solidly grouted in place,
- Contractor shall provide weep holes in first or second layer of brick as indicated in details on drawings or as required.

#### D REINFORCEMENT

- Reinforcement shall be placed as indicated on the drawings and as required by building codes.
- Horizontal steel for concrete block walls shall be laid in a course of bond beam block filled with grout.
- For concrete block walls, a vertical dowel shall be provided in the foundation for each vertical bar. Vertical cores containing steel shall be filled solid with grout.

#### E. LAYING PAVERS

- Spread and screed setting bed to a uniform thickness, except for minor variations required to produce a true surface, level in plane or uniformly spread for drainage as shown on drawings
- Setting bed shall be three-quarter inch (3/4") minimum and one and one-quarter inch (1.1/4\*) maximum
- Apply a thin layer of cement paste (1/32" to 1/16") by brushing or troweling over setting bed or to bottom of brick, Set and level each brick.

#### E GRAFFITI CONTROL

- Product shall be Graffiti Control as manufactured by Sure Klean or an approved equal.
- Deliver materials in manufacturer's original unopened containers
- Rates and application method shall be as recommended by the manufacturer.

#### A. GENERAL

 Contractor shall provide all labor, materials and equipment to construct wooden structures conforming to the dimensions and details indicated on the drawings and as specified herein.

#### B MATERIALS

- Lumber shall be straight; free from large, loose or unsound knots or knot clusters, scars, decay, holes, insect damage, and other defects or imperfections that would materially impair the strength or durability. Splits shall be no longer than the butt dimension. No cracks will be permitted. No nails, spikes, or other metal shall be
- Douglas fir where indicated on the drawings, shall conform in all particulars to the Standard Grading Rules for Western Lumber published by the Western Wood Products Association.
- Cedar, where indicated on the drawings, shall conform in all particulars to the Standard Grading Rules for West Coast Lumber.
- Redwood, where indicated on the drawings, shall conform in all particulars to the Standard Specifications for Grades of California Redwood of the Redwood Inspection Service.
- Plywood, where indicated on the drawings, shall be manufactured and graded in accordance with the rules of the American Plywood Association and the latest Product Standard for Softwood Plywood, Construction and Industrial, of the National Bureau of Standards. Each sheet of plywood shall bear the official stamp of a quality control agency stating the grade of the sheet.
- Poles, where indicated on the drawings, shall be cut from sound, live, close-grained ees, machine peeled with all branch stubs and overgrown knots trimmed flush with

## TREATMENTS AND PRESERVATIVES

- Type of pressure treatment or preservative shall be as indicated on the drawings and hall conform with the applicable standards contained in the Manual of Re Practice of the American Wood Preservers Association, Contractor shall furnish a Certificate of Compliance for each load of pressure treated lumber to Owner,
- Where a particular method of pressure treatment is not indicated on the drawings, the where a particular institution of pressure treatments into indicated on the drawings, the lumber shall be conditioned, seasoned, prepared and treated by the empty cell pressure process with pentachlorophenol with six-tenths (0.60) pounds per cubic foot retention. Penetration shall be determined by the pentor check method.
- Where practical, treated wood shall be cut to final size and trimmed prior to treatment. If site sawing or drilling is necessary, cut surfaces shall be thoroughly brushed with vo (2) coats of the same kind of preservative in conformance with AWPA
- Portions of posts which are to be embedded in earth or concrete shall be brushed. before installation with two (2) coats of coal tar bitumen, or approved equal.

  Applications shall extend a minimum of one inch (1") above finish grade or surface. Spraying will not be permitted,

Land Surv



## Χ AND 4 <u>∩</u> Ш 2

0

ž

**M** M

OAK

ш

R AVENUE GATOS, **EWAY** RLTON OS A Ö

HECKED BY AUGUST 2, 202 ⊕ нмн

LANDSCAPE **SPECIFICATIONS** 

#### WORKMANSHIP

- Framing shall be true and exact, All lumber shall be cut and framed to a close fit and shall have even bearing over the entire contact surface. Shimming will not be
- Lumber shall be well nailed or bolted together as indicated on the drawings. Nails shall not be driven closer together than one-half (1/2) their length. Care shall be taken to avoid hammer marks, moons, or saw cuts,
- Lumber shall be stored neatly in piles on skids in such manner that they may be readily inspected, and shall be handled in a manner that will avoid injury or breakage

#### PAINTING and STAINING

#### GENERAL

- Contractor shall provide all labor, material, tools, equipment and incidentals for sanding, priming, painting and staining of improvements as indicated on the drawings
- Contractor shall be responsible for the location, alignment, layout, dimensions and application of paint and stains.
- Costs incurred for repair or replacement of defective or damaged work, rejected materials or workmanship shall be the responsibility of the Contractor.

- Paints and stains shall be of colors and tints as indicated on the drawings, and shall be applied in accordance with the manufacturer's recommendations and these specifications. Contractor shall submit color samples to the City for approval before applying any paint materials.
- Paint shall be homogeneous, free of contaminants and of a consistency suitable for use in the capacity for which it is specified. Finished paint shall be well ground and the pigment shall be properly dispersed in the vehicle according to the requirements of the paint. The dispersion shall be of such nature that the pigment does not settle appreciably, does not cake or thicken in the container or become granular or curdled. Paints shall possess properties which in all respects effect satisfactory application adhesion and curing. Thinning will not be permitted
- Paint shall be delivered to the project site in new, unopened, round, airtight containers, appropriately identified with the manufacturer's name, date of manufacture, type of material and lot or batch number.

#### WORKMANSHIP AND PROTECTION

- Paint shall be applied on thoroughly dry surfaces and during periods of favorable
- Surfaces being covered shall be free from moisture, dust, grease or other deleterious substance which would prevent bonding. Painting shall be done in a neat and workmanlike manner, applied by brush, roller or
- spray methods. Finished surfaces shall be uniform, free of brush marks, roller stipple texture, runs or skips. Each application of paint shall be thoroughly cured and any skips, holidays, thin areas or other deficiencies corrected before the succeeding ■ Contractor shall protect all adjacent improvements against disfigurement as a result of
- painting operations

- Galvanized surfaces which are to be painted shall be prepared by hand-scraping brushing with stiff fiber or wire brushes or cleaning with alkaline solution followed by a fresh water rinse. After washing, surfaces shall be roughened by abrasive blasting. Galvanizing shall not be removed during preparation operations.
- After preparation, apply one (1) coat of zinc dust-zinc oxide primer followed by a vinyl
  wash pre-treatment and two (2) finish enamel paint coats.

## PAINTING CONCRETE

- Prior to painting concrete surfaces, a brush coat or surface film of thin cement mortar shall be applied. When the film has set sufficiently the surface shall be rubbed by hand or mechanical means necessary to remove excess mortar and produce a smooth surface of even texture. Finished surfaces shall be washed with water and then with a ten percent (10%) to fifteen percent (15%) muriatic acid wash, Concrete surfaces shall be thoroughly dry and free of dust at time of painting.
- Paint for concrete surfaces shall be of either enoxy ename! type or acrylic emulsion type applied in not less than two (2) applications producing a uniform appearance

#### PAINTING WOOD SURFACES

- Wood surfaces shall be prepared for painting by removing any foreign matter by wire brushing, scraping or sanding, All surfaces shall be wiped or dry brushed to remove any dust or chalky residue resulting from preparation operations.
- Paints stains or sealers shall be applied prior to assembling

#### MISCELLANEOUS METAL

### GENERAL

- Contractor shall provide all labor materials and equipment to furnish and install
- This section does not include reinforcing steel for concrete and masonry or items required in connection with irrigation or electrical work.

### B WORKMANSHIP

- Workmanship and finish shall be equal to the best general practice in steel fabricating
- Portions of work exposed to view shall be finished neatly. All sharp corners and edges that are marred, cut or roughened during erection shall be slightly rounded.

#### MATERIALS.

- All materials, prior to fabrications, shall be thoroughly wire brushed and cleaned of all scale and rust. Finished members shall be free from twists, bends or open joints
- Miscellaneous metal items shall conform to the dimensions and details as indicated on

#### D. BOLTS, NUTS AND FASTENERS

- Unless specified otherwise in the details on the drawings, nails and spikes shall be
- Bolts shall be long enough to extend entirely through the nut but not more than one-quarter inch (14") beyond. Unless otherwise specified on the drawings, bolts, nuts and lag screws shall be galvanized square head. Carriage bolts shall have truss heads with square shoulder. Washers shall be over-sized of "cut" type. Holes shall be either punched full size, drilled full size, or sub-punched and reamed.
- Anchor bolts, where applicable, shall be carefully installed to permit true positioning of the bearing assemblies
- Framing anchors, where applicable, shall be sixteen (16) gauge, zinc-coated, corrosion resistant sheet steel.

- Galvanizing shall be performed after fabrication and prior to assembling component
- Zinc used for galvanizing shall be grade Prime Western conforming to ASTM B-6. Materials shall be galvanized by the hot-dip method or electrodenositing process
- Galvanized surfaces that are abraded or damaged after zinc coating application shall be thoroughly stripped and cleaned and repaired by a coating of "galvalloy", or approved equal. Finish coat to match existing finish

#### F. WROUGHT IRON OR TUBULAR STEEL FENCING

- Material shall be manufactured from coil steel having a minimum yield strength of 50,000 psi. Steel shall be galvanized to meet the requirements of ASTM A-526 with a minimum zinc coating weight of nine-tenths (.90) ounces per square foot hot-dit
- Contractor shall submit detail shop drawings indicating material thickness, type grade, and class; dimension; construction details; and other pertinent data for review and approval by engineer prior to fabrication, drawings shall include catalog cuts, erection details, manufacturer's descriptive data and installation instructions and templates.
- Contractor shall verify all measurements and shall take all field measurements necessary before fabrication. Exposed fastenings shall be compatible materials, shall generally batch in color and finish, and shall harmonize with the material to which fastenings are applied. Materials and parts necessary to complete each item, even though such work is not definitely shown or specified, shall be included. Poor matching of holes for fasteners shall be cause for rejection. Fastenings shall be concealed where practical. Thickness of metal and details of assembley and supports shall provide strength and stiffness. Joints exposed to weather shall be formed to
- Anchorage shall be provided where necessary for fastening miscellaneous metal. items securely in place. Anchorage not otherwise specified or indicated shall include slotted inserts made to engage with the anchor, expansion shields, and power-driven fasteners when approved for concrete; toggle bolts and through bolts for masonry; machine and carriage bolts for steel; and lag bolts and screws for wood.

#### IRRIGATION SYSTEM

#### A GENERAL

- Contractor shall provide all labor, materials, and equipment necessary to furnish and nstall the irrigation system as indicated on the drawings and as specified her
- Coordinate the installation of all irrigation materials with the construction of site
- All work on the irrigation system, including hydrostatic, coverage, and operational ests and the backfilling and compaction of trenches shall be performed before planting operations.
- Drawings are diagrammatic and shall be adjusted as necessary to conform to actual field conditions. Costs incurred due to any adjustment for coverage, including those requested by the Owner relative to the location of irrigation heads as shown on the drawings shall be the responsibility of the Contractor.
- the drawings. Contractor shall verify the location and size of water source. PSI, and electrical supply prior to commencing installation. In case of discrepancy, Contractor shall immediately notify the Owner.

#### OHALITY ASSURANCE

 All local and state laws, rules and regulations governing or relating to any portion of the irrigation system are hereby incorporated into and made a part of these specifications. However, if these specifications call for or describe materials workmanship or construction of a better quality, higher standard or larger size than is required by the above rules, regulations or requirements, these specifications and the

- In the event any equipment or methods indicated on the drawings or specified herein conflict with applicable regulations. Contractor shall immediately notify the Owner of Landscape Architect in writing prior to installation. In case of discrepancy, Contractor shall immediately notify the Owner.
- Due to the scale of the drawings, it is not possible to indicate all offsets, fittings, sleeves, and related other equipment, which may be required, Contractor shall carefully investigate the structural and finished conditions affecting the work and install a complete irrigation system within the intent of the drawings and specifications.
- Manufacturer's warranties shall not relieve the Contractor of liability under the provisions for guarantees

#### MATERIALS LIST

- within fifteen (15) calendar days after award of Contract and prior to installation, the Contractor shall submit to the Owner a list of materials including the manufacturer description, model number and installation data.
- Equipment or materials installed or furnished without prior written acceptance may be rejected and such materials removed from the site at the Contractor's expense.

#### PRODUCT DELIVERY STORAGE AND HANDLING

■ Contractor shall exercise care in handling, loading, unloading and storing of irrigation materials and equipment.

#### PLASTIC PIPE

- Plastic pipe, where indicated on the drawings, shall be injection molded, rigid, unplasticized polyvinyl chloride (PVC), NSF approved, of high tensile strength, chemical resistant and impact strength, and depending on class and grade, conform o ASTM 2241 or ASTM D-1785,
- Fittings and couplings shall be threaded PVC Schedule 80 conforming to ASTM D-2464, or slip-fitting, tapered socket, solvent-weld type, PVC Schedule 40 conforming to ASTM D-2466 or PVC Schedule 80 conforming to ASTM D-2467.
- Solvent cement and primer for rigid PVC solvent-weld pipe and fittings shall be of commercial quality. IAPMO approved, conforming to ASTM D-2564

#### RRASS PIPE

- Brass pipe, where indicated on the drawings, shall be 86% red brass, American National Standards Institute, Schedule 40 screwed pipe, conforming to Federal Specifications WW-P-351
- Fittings shall be medium brass, screwed 125 pound class, conforming to Federal Specifications WW-P-460

#### GALVANIZED PIPE

- Galvanized steel pipe, where indicated on the drawings, shall be ASA Schedule 40 mild steel screwed pipe. Fittings shall be medium galvanized screwed beaded
- All galvanized pipe and fittings installed below grade shall be painted with two (2) coats of Koppers #50 Bitumastic, or approved equal. Pipes may be wrapped with an

#### H UVR-PVC PIPE

UVR-PVC pipe, where indicated on the drawings, shall be ultra-violet resistant.
 Schedule 40 PVC pipe. Fittings shall be UVR-PVC fittings.

#### BACKFLOW PREVENTION UNIT

■ Backflow prevention unit shall be factory assembled and shall be as indicated in the Irrigation Legend on the drawings, or approved equal. Contractor shall install backflow prevention unit as indicated in the details on the drawings and in accordance with manufacturer's recommendation

- Gate valves and remote control valves, except for anti-siphon valves, shall be installed below grade as indicated in the details on the drawings, in lockable valve boxes nufactured by Carson, Brooks, Fraser, Ametek, or approved equal.
- Valve box lids shall be per Irrigation Legend. Gate valves shall be identified by stamping "CV" on the valve box cover. Remote control valves shall be identified by stamping "RCV" and station number on the valve box cover.
- Valve boxes shall be set one inch (1\*) above finish grade, with valves set at sufficient depth to provide appropriate clearance between the cover and valve.

### ISOLATION VALVES

the drawings and in accordance with manufacturer's recommendation

#### QUICK COUPLING VALVES

Quick coupling valves shall be as indicated in the Irrigation Legend on the drawings

#### ANTI-DRAIN VALVES

■ Where indicated on the drawings, and as needed for field conditions, anti-drain valves shall be as indicated in the Irrigation Legend on the drawings,

## REMOTE CONTROL VALVES

Remote control valves shall be solenoid activated, of the type, manufacturer and size as indicated in the Irrigation Legend on the drawings.

#### CONTROLLERS AND WIRING

- Controller shall be of the type and manufacturer as indicated in the Irrigation Legend on the drawings, or approved equal. Contractor shall install controller as indicated in the details on the drawings and in accordance with manufacturer's recommendations
- For traditional wire systems connections between the controller and the remote control valves shall be made with direct burial solid copper wire. Control wire shall be #14 AWG, Type U.F., 600 volt, Common wire shall be #12 AWG, Wire shall be PVC insulated of single conductor type, underground feeder cable, U.L. approved.
- For traditional wire systems, as practical, pilot wires shall be a different color for each valve. Common wires shall be white with a different color stripe for each automatic controller. For 2wire systems, each controller shall have a different wire color.
- Wire shall be buried a minimum of eighteen inches (18") in depth and whenever possible shall occupy the same trench as the mainline, bundled and secured to irrigation pipelines at ten foot (10") intervals with plastic electrical tape, providing sufficient slack for expansion and contraction.
- Wire for slope systems shall be installed in a UVR PVC sleeve laid adjacent to the on-grade pipes
- Provide a separate ground wire for each controller
- An expansion curl shall be provided within three feet (3') of each wire connection and change of direction, and at least every 100 feet of wire length on longer ru
- For traditional wire systems, all splices shall be made with Scotch-Lok #3576 Connector Sealing Packs, Rain Bird Pen-Tite, Sears DS-400 wire connectors, 3M DBY wire sealing packs, or approved equal. Use one (1) splice per connector sealing pack. Wire splices shall be located in pull boxes set one inch (1") above finish grade
- For two wire systems, all splices shall be made with 3M DBY-6 direct bury splice kits or approved equal. Use one (1) splice per connector sealing pack. Wire splices shall be located in pull boxes set one inch (1\*) above finish grade
- Field splices between the controller and remote control valves will not be permitted,
- For traditional wire systems, install a spare control wire of a different color along entire mainline. Loop thirty-six inches (36") excess wire into each single box and into one valve box in each group of valves.
- All controller wires installed within the garage shall be run in corrosion resistant thin
  metal wall electrical conduit and labeled as "Irrigation Control Wires,"
- For two wire systems, surge protection against surge damage due to lightening or other electrical surge events is required. All installations shall conform to manufacturer's instructions, and must meet or exceed the American Society of Irrigation Consultants (ASIC) Earth Grounding Guideline 100-2002. In all cases where it does not conflict with appropriate grounding grid design for the project, Ground Rods or Plates as referred to in this specification shall conform to the following standards:

  1. All grounding rods shall be bare copper of 5/8" diameter or greater, and 8' length or

greater. 2. All grounding plates shall be 5 square feet, typically 4" by 96", as outlined in ASIC

Earth Grounding Guideline 100-2002. 3, A measured resistance reading of no more than 25 ohms is necessary at each

TW-I A-1 (Lightning Arrestor). ASIC Spec: Section 7.0 - Measuring resistance, item A.

Ground rods and plates shall be located at a minimum distance to assure that the two-wire path is outside of the electrode sphere of influence for the grounding rod. For

an 8' grounding rod, this
means that the grounding rod must be connected at least 8' away from the two-wire path, at a right angle to the two-wire path. See the section below for details on connecting the

rod or plate to the device or lightning arrestor, (Under no circumstance should a ground plate be installed in or under a valve box, meter box or electrical box,)

#### P. IRRIGATION HEADS

- Irrigation heads shall be of the manufacturer, size, type, and rate of precipitation with the diameter (or radius) of throw, pressure, and discharge as specified in the Irrigation Legend.
- Riser units shall be oriented perpendicular to the finish grade with nipples of the same size as the riser opening in the irrigation head.
- Spacing of heads and drip irrigation tubing shall not exceed the maximum shown on the drawings and in no case exceed the maximum spacing recommended by the manufacturer. Contractor responsible to insure complete coverage

- Pine shall be cut square and the ends reamed out to the full inside diameter of the pipe and thoroughly cleaned of dirt, dust and moisture before in
- PVC pipe shall be protected from tool damage during assembly. Plastic pipe which has been nicked, scarred or damaged shall be removed and replaced at the Contractor's expense. PVC solvent-weld joints shall be made in accordance with ASTM D-2855. Pipe shall
- not be exposed to water for twenty-four (24) hours after solvent-weld joints are completed. Trenches shall be of open vertical construction to appropriate depths as indicated on the drawings and specified herein. PVC pipe shall be laid on native grade or certified compacted subgrade, free of rocks or sharp-edged objects and snaked from side to
- side in the trench to allow for expansion and contraction. ■ Teflon tape shall be used on all threaded PVC to PVC and on all threaded PVC to
- Brass pipe and fittings shall be assembled using Teflon dope, applied to the male
- Galvanized pipe threads shall be cut with clean, sharp dies, conforming to American Standards Association Specification. Male pipe threads shall be coated with a non-toxic, non-hardening, non-corrosive joint compound

Land Surv



## Χ 4 AND <u>∩</u> Ш 2 AVENUE ₽N MANO TEWAY LOS GATOS RLTON / OAK ATE Ö ⋖ Ш O $\leq$

GATOS,

HECKED BY:

⊕ нмн

LANDSCAPE **SPECIFICATIONS** 

- Galvanized pipe or ultra-violet resistant (UVR) PVC installed on grade shall be anchored at intervals not to exceed ten feet (10"), with #4 rebar, with a "J" hooked
- Rubber Ring Seal Joint:
- ■Use factory-made male end or prepare field-cut male end to exact specifications of factory-made
- ■Carefully clean bell or coupling and insert rubber ring without lubricant. Position ring carefully according to manufacturers recommendations.
- ■Lubricate male end according to manufacturers recommendations and insert male end to specified depth, Use hands only when inserting PVC pipe,
- ■Thrust blocks shall be provided where necessary to resist system pressure on ring-tite pipe and fittings. Blocks shall be concrete and the size shall be based on an average soil safe bearing load of 1000 pounds per square foot,
- ■Form thrust blocks in such a manner that concrete comes in contact only with the fittings. Thrust blocks shall be between solid soil and the fitting.
- Irrigation lines and control wiring shall be installed under paving in separate PVC Schedule 40 sleeves. Sleeves shall be installed with the coverage depths as specified herein
- Piping under existing pavement may be installed by jacking, boring or hydraulic driving, except that no hydraulic driving will be permitted under asphaltic concrete pavement. Where cutting or breaking of existing payement is necessary, obtain permission from the Owner before cutting or breaking pavement and then make all necessary repairs and replacements to the satisfaction of the Owner, and at no additional cost to the Owner.
- All lines shall have a minimum horizontal clearance of six inches (6") from each other and from lines of other trades. Parallel lines shall not be installed directly over one another,
- ovide the following minimum coverage (where lines occur under paved areas, these coverage depths shall be considered below subgrade):

Pressure mainline		1
Non-pressure lateral lines		1
Control wiring		1

#### ADJUSTING AND TESTING THE SYSTEM

- Contractor shall furnish all equipment, materials and labor to conduct pipeline pressure tests, coverage tests and operational tests. All tests shall be made in the presence of the Owner prior to planting operations. Trenches shall not be backfilled until the pipeline pressure tests have been performed to the satisfaction of the Owner.
- After completion of pipeline assembly, prior to installation of terminal fittings, including but not limited to remote control valves and quick coupler valves, entire system shall be thoroughly flushed to remove dirt, scale or other deleterious material
- With open ends capped, prior to installing valves, test pressure supply lines for six (6) hours at 125 PSI, Center load PVC pipe with a small amount of backfill to prevent arching and whipping
- Contractor shall be responsible for correcting any portions of the work twenty (24) hours in advance for the following inspections,
  - system lavout

  - coverage tests
- operational tests (prior to commencing planting operations)
- Coverage test shall demonstrate that each station area is balanced to provide uniform and
- Operational test shall demonstrate the performance and operation of all components of the controller system. Remote control valves shall be properly balanced, heads adjusted for coverage and system shall be workable, clean and efficient,
- Contractor shall be responsible for correcting any portions of the work that are not properly installed and retesting until installation has been accepted by the Owner

#### MATERIALS TO BE FURNISHED

■ Contractor shall furnish the Owner the following materials at the end of construction, prior to the Post-Installation Maintenance Period

> Two (2) sets of special tools required for removing, disassembling and adjusting each type of sprinkler and valve supplied on the project,

Two (2) five foot (5') valve keys for operating isolation valves

Two (2) keys for each controller.

One (1) quick coupler key and matching hose swivels for each quick coupler valve installed,

One (1) set each approved as-built and record drawings.

Two (2) sets each approved controller charts.

### AS-BUILT AND RECORD DRAWINGS

- Contractor shall maintain and keep up to date one (1) set of bluelines showing the "as-built" location of major features of the project and indicating changes that may occur during installation,
- Prior to acceptance of the work, Contractor shall furnish the Owner with one (1) set of reproducible transparencies as the Record Set showing the as-built data, of a quality satisfactory to the Owner. Transfer as-built data in ink (no ball point pen) and eradicate outdated items.
- Dimension from two (2) permanent points of reference (buildings, monuments, sidewalks, curbs, pavement) the location of the following items:

Point of connection to existing water lines. Point of connection to existing electrical power,

Irrigation valves.

Routing of irrigation pressure lines (dimensions, maximum 100' along route).

Remote control valves. Routing of control valves

Quick coupling valves, Other related equipment as requested by the Owner Contractor shall submit As-built/Record Drawings to Owner for review prior to completing

■ Contractor shall provide two (2) controller charts for each controller supplied. The controller charts shall show the area controlled and shall

be the maximum size which the controller door will allow. The controller charts shall be a photographic print with a different color indicating the area of coverage for each station. When completed and approved, the controller charts shall be hermetically sealed between two (2) pieces of transparent plastic, each being a minimum of twenty (20) mils thick,

#### OPERATION AND MAINTENANCE MANUALS.

■ Prepare and deliver four (4) individually bound copies of the Operation and Maintenance Manual to the Owner at least ten (10) calendar days prior to acceptance of the work. The Manual shall include descriptive material of equipment installed and shall be in sufficient detail for maintenance personnel to understand, operate and maintain all equipment. Each complete bound manual shall include the following:

> Index sheets stating Contractor's address and telephone number, list of equipment with names and addresses of local manufacturers representatives

Catalog and parts sheets on all material and equipment installed, Guarantee statement.

Complete operating and maintenance instructions.

#### GUARANTEE

■ Contractor shall guarantee all materials and equipment for one (1) year from the date of acceptance of the work. Should any trouble develop within the time specified due to inferior or faulty materials or workmanship, the Contractor shall be responsible for costs incurred due to

#### GENERAL PLANTING

#### A GENERAL

- Contractor shall provide all labor, materials and equipment for the installation of plant material as indicated on the drawings and as specified herein
- Contractor shall coordinate planting with other site improvements. Unless otherwise specified, structural improvements shall be installed prior to planting operations.
- Contractor shall be responsible for locating and staking existing sewer, water and utility lines above or below grade that might be damaged as a result of planting operations. Contractor shall assume sole responsibility for any cost incurred due to damage and for replacement of aforementioned utilities
- All work on the irrigation system, including hydrostatic, coverage, and operational tests, and the backfilling and compaction of trenches shall be performed prior to planting operations.
- Samples of fertilizers, soil conditioners, seed, or other materials shall be submitted to Owner forty-eight (48) hours prior to incorporation in the work.
- An agricultural suitability and fertility analysis soils report shall take precedence over these

#### PLANT MATERIAL QUALITY

- Plant material shall be in accordance with the State Department of Agriculture's regulations for nursery inspections, rules and grading. All plants shall be of No. 1 Grade and have a normal habit of growth, and shall be sound, healthy, vigorous and free of insect infestations plant diseases, sun scalds, fresh bark abrasions or other objectionable disfigurements. All plants shall have a normal, well-developed branch system and vigorous and fibrous root system which is not root bound and is free of kinked or girdling roots.
- Nursery growth stock shall be selected from high quality, well-shaped stock, grown under climatic conditions similar to those in the project locale. Minimum acceptable size of plants as indicated in the drawings shall correspond with that normally expected for the species and riety of commercially available nursery stock,
- Where applicable, caliper shall be the diameter of the trunk one foot (1') above the ground
- Oversize plants may be used if not root bound, but shall not increase the Contract price. Up to ten percent (10%) of undersized plants in any one (1) variety and grade may be used, provided they are larger than the average size of the next smallest grade,
- Scientific and common names conform to customary nursery usage.
- Types and sizes of plant materials shall be as indicated on the drawings. Quantities shown are a guide only, Contractor shall verify quantities by plan check.
- The Owner reserves the right to refuse or reject any unsuitable plant material. Unsuitable plants shall be removed from the project site and replaced at the Contractor's expense Replacement plants shall be the same species, variety, size and conditions as specified.
- Pruning of plant materials shall not be done prior to delivery. After planting, pruning shall be limited to the minimum necessary to remove injured twigs and branches, dead wood and eurkare
- Plant material is subject to substitution based upon availability. Substituted material shall be approved in advance by the Owner,

#### C FERTILIZERS

■ Fertilizers shall comply with applicable requirements of the State Agricultural Code and shall be packaged, first grade, commercial quality products identified as to source, type of material, weight and manufacturer's guaranteed analysis. Fertilizers shall not contain toxic ingredients in quantities harmful to human, animal, or plant life. When requested, Contractor shall furnish the Owner with Certificate of Compliance stating that the material substantially meets the

- Commercial fertilizer shall be a pelleted, beaded, or granular product having the chemical analysis specified herein and shall be free-flowing material delivered in original unopened containers. Use of material which becomes caked or otherwise damaged shall not be
- Organic base fertilizer shall be comprised of decomposed animal, fish and vegetable matter with humic acids and a bacterial stimulant, manufactured as Gro-Power by Southern California Organic Fertilizer Co., Glendale, California, or approved equal.

#### AMENDMENTS

- Nitrogen stabilized organic amendment shall be a ground or processed wood product derived from wood of redwood, fir or cedar, treated with a non-toxic agent to absorb water quickly. Nitrogen content, based on dry weight, shall be 0.5% for redwood and 0.7% for fir and cedar Iron content, based on dry weight, shall be 0.1%. Pine sawdust is not acceptable.
- When requested, Contractor shall furnish the Owner with a delivery receipt and Certificate of Compliance stating that the material substantially meets the specifications.

#### E. TOPSOIL

- Topsoil shall consist of fertile, friable soil of loamy character, and shall contain an amount of organic matter normal to the area. It shall be reasonably free from weeds, refuse, roots, heavy or stiff clay, stones larger than one inch (1") in diameter, sticks, brush, litter and other deleterious substances. Topsoil may be obtained from the site if approved by the Owner,
- When required, imported topsoil shall be subject to inspection and testing at the source of supply prior to delivery to the project.

#### MATERIAL DELIVERY AND INSPECTION

- Plant material shall be delivered with legible identification labels, handled and stored adequately to maintain a healthy condition, protecting them from drying out, windburn or any other injury.
- Inspection of plant materials required by Owner, County, State or Federal authorities shall be the responsibility of the Contractor, When requested, Contractor shall furnish copies of such permits or certificates to Owner,

#### SOIL PREPARATION

- Areas to receive "soil preparation" include turf, groundcover from rooted cuttings and non-slope hydroseeded areas,
- Fertilizing and conditioning materials shall be as specified in the project agricultural suitability report, Wash off fertilizer from plant,
- If an agricultural suitability report is not available, the following amendments, or approved equal, shall be mechanically spread and uniformly cultivated into the upper six inches (6") per 1,000 square feet of soil by suitable equipment operated at approximately right angles in at
  - 3 CY Nitrogen stabilized organic amendmen 125 LBS Gro-Power Plus soil conditioner/fertilizer 30 LBS Agricultural gypsum
- Resulting soil shall be clean, in a friable condition and suitable for planting.

### WEED ABATEMENT OPERATIONS

- The irrigation system and finish grade shall be completed prior to weed abatement
- Contractor shall operate the irrigation system to keep planting areas uniformly moist for a period of three (3) weeks (21 consecutive calendar days). At the end of the three (3) week period, Contractor shall spray all visible weeds with a contact herbicide. Application method shall be as recommended by manufacturer. After spraying, planting areas shall remain unwatered for a minimum of forty-eight (48) hours. Remove weeds from site.
- Water seven (7) additional consecutive calendar days from the first application, and apply a contact herbicide as may be necessary. After second spraying, water shall not be applied for an additional forty-eight (48) hour period. Applications shall continue at seven (7) day intervals as determined by the Owner.
- Contractor shall apply spray chemicals when air currents are still, preventing drifting onto adjoining property and preventing any toxic exposure to persons whether or not they are in or near the project.
- Weeds and debris shall be disposed of off-site.

- Backfill shall be as specified in the project agricultural suitability report, machine-mixed and approved by the Owner prior to incorporation in planting pits
- If a agricultural suitability report is not available, the following amendments or approved equal, shall be incorporated:
  - parts by volume On-site soil
  - Nitrogen stabilized organic amendment 3 parts by volume
  - 16 LBS per CY of mix Gro-Power Plus soil conditioner/fertilizer
  - LB per CY of mix 2 LBS per CY of mix Agricultural gypsum

## INSTALLATION -SHRUBS VINES AND TREES

- Stake plant locations and secure approval from the Owner before excavating pits, Excavated pits shall be as indicated in the details on the drawings. Dust sides of pits with gypsum before backfilling.
- Containers shall be opened and removed such that the rootball is not injured.
- Water all planting areas thoroughly after installation of plant materials. Additional backfill shall be added to fill voids caused by water settlement.

- Trees shall be staked at time of planting as indicated in the details on the drawings.
- All nursery stakes shall be removed after tree has been planted and staked according to

#### K BIOTREAMENT SOIL

- Biotreatment soil shall conform to the most current regional permit based on project location
- Biotreament soil for projects located within the MRP (Municipal Regional Permit) boundary including but not limited to portions of Contra Costa County, Alameda County, San Mateo County and Santa Clara County shall conform to California Regional Water Quality Control Board San Francisco Bay Region Municipal Stormwater NPDES Permit No. CAS6120058 Attachment L "Specification of Soils for Biotreament or Bioretention Facilities."
- Biotreament soil for projects located within the Small MS4s (Municipal Separate Storm Sewer System) General Permit Boundary including but not limited to portions of Santa Clara County (southern), Santa Cruz County, San Benito County and Monterey County shall conform to the provisions in the permit. If none exists, soil shall conform to California Regional Water Quality Control Board San Francisco Bay Region Municipal Stormwater NPDES Permit No. CAS6120058 Attachment L "Specification of Soils for Biotreament or Bioretention Facilities."

#### GUARANTEE

- Contractor shall guarantee plant material through one (1) full year after the date of
- Replacement plant material shall be of the same species, variety, & size as originally planted and shall be guaranteed for one (1) full year from the date of re-planting,
- Cost incurred due to replacement of dead or dying plant material shall be the responsibility of

#### INSTALLATION - HYDROSEEDING

■ An agricultural suitability report that has been prepared for the specific site shall take ent over the following materials. If such report is not available, the following materials shall be of such a character that when dispersed in a uniform slurry shall form an absorbent

> 3000 gallons per acre 1500 to 3000 pounds per acre, Wood cellulose fiber, Conwed 2000 or approved equal depending on slope

Organic stabilizer, ECO E-Tac or approved equal

5 to 15 pounds per acre, depending on slope 1000 pounds per acre Grow-Power Plus, or approved equal

- Seed mixture shall be as indicated on the drawings.
- Water shall be fresh, free of impurities, excess chlorine and salts, Fiber shall be clean, weed-free mulch of wood cellulose containing no germination or
- growth-inhibiting factors. Fiber shall contain a harmless, temporary green dye. Mixing shall be performed in a tank, with a built-in continuous agitation and recirculation system, of sufficient operating capacity to produce a homogeneous slurry and a discharge system which will apply the slurry to the designated areas at a continuous and uniform rate.
- The slurry preparation shall take place at the project site and shall begin by adding water to the tank when the engine is at half throttle. When the water level has reached the height of the agitator shaft, good recirculation shall be established, and at this time the seed shall be added. Fertilization shall then be added followed by the wood cellulose fiber, when the tank is at least one-third (1/3) filled with water, Spraving shall commence immediately when the tank is full
- Contractor shall spray designated areas with the slurry in a sweeping motion, in an arched stream, until a uniform coat is achieved and the material is spread at the required rate pe
- A slurry mixture which has not been applied within four (4) hours after mixing shall be rejected
- Slopes shall be hydroseeded after weed abatement operations and planting of trees and shrubs.
- Costs incurred for repair or replacement of bare, sparse or damaged areas shall be the responsibility of the Contractor

### INSTALLATION - SOD

- Prepare soil and provide weed abatement operations in accordance with the General Planting Section. Rake, cultivate, float and roll until areas to receive turf are in a smooth and uniform
- Finish grade for turf areas shall be one inch (1\*) below the finish surface of walks, curbs, or related hardscape.
- Prior to sodding, soil shall be moist to a minimum depth of one inch (1"). Prior to installation, area to be sodded shall receive sulphate of ammonia at the rate of one
- Sod shall be laid and tamped with butt joint in a staggered "running bond" pattern. After installation, sod shall be rolled with a 200-pound water-filled lawn roller,
- Sod shall be as indicated on the drawings

(1) pound per 200 square fee



Land Surv

1570 Oakland Road (408) 487-2200 San Jose, CA 95131 HMHea com



CONSULTANT LOGO PLACEHOLDER (SIZE FLEXIBLE)

## ~ AND 4 Δ. ш 2 **8** ≥ 0 Z **M** M

Y

OAK

ш

(C) нмн

AVENUE GATOS, > **EWA** RLTON, os AT Ö C

/		
7		
\		
7		
\		
0	DATE	DESCRIPTION
R	DJECT NO:	6784.00
A	DWG FILE	678400SPC.DWG
E	SIGNED BY:	LE

LANDSCAPE **SPECIFICATIONS** 

AUGUST 2, 202

POST-INSTALLATION MAINTENANCE PERIOD

### A. GENERAL

- Contractor shall provide all labor, materials and equipment to perform work during the Post-Installation Maintenance Period, as specified herein, including but not limited to, adequate watering of plant material, replacing unsuitable plant material and controlling weeds, rodents and other pests.
- Contractor shall maintain the project on a continuous basis from the first day after planting is completed, until acceptance of the work.
- Costs incurred due to damage or replacement during Post-Installation Maintenance Period shall be the responsibility of the Contractor.
- Unless stipulated otherwise by the Owner, the Post-Installation Maintenance Period shall
  consist of a minimum of ninety (90) consecutive calendar days, once all parties agree the
  Maintenance Period can start,
- Post-Installation Maintenance Period may be extended by the Owner if the project is improperly maintained, appreciable replacement is required, or other corrective work becomes percessary.

#### B. EXECUTION

- a All areas including, but not limited to, turf, ground cover, and concrete flatwork, shall be kept clean and free of weeds, litter and debris.
- Subsurface drains and catch basin grates shall be kept clear of leaves, litter and debris to
  ensure unimpeded passage of water. Drainlines shall be periodically flushed with clear water
  to avoid build-up of slit and debris.
- Before weeds exceed two inches (2") in height, they shall be removed and disposed of off-site. All weeds shall be spot sprayed and left in place for seven (7) calendar days, Areas sprayed shall remain unwatered for a minimum of forty-eight (48) hours. Dead weeds shall be removed seven (7) calendar days after application and disposed of off-site.
- If the Owner notifies the Contractor of failure to control weeds as specified herein, the Contractor shall kill all weeds within ten (10) calendar days of such notification. The Post-Installation Maintenance Period will be extended for every day after the ten (10) calendar days until such weeds have been killed.
- Contractor shall take appropriate steps to eliminate rodents.

#### C. IRRIGATION SYSTEM

- Contractor shall operate the irrigation system automatically and shall properly and completely maintain all parts of the irrigation system.
- Contractor shall provide for delivery of water in sufficient quantities and adjust water application to compensate for seasonal conditions and shall ensure full and complete coverage.
- Costs incurred due to repair or replacement of equipment shall be the responsibility of the Contractor. Replacement parts shall be identical to the material and as indicated on the drawings and specified herein.

#### D. TURF

- Prior to acceptance of the project and maintenance period, turf areas shall be established with a uniform 80% coverage, healthy vigorous growth and to a minimum of two inches (2") in height. Costs incurred for repair or replacement of bare, sparse or damaged areas shall be the resonshilly of the Contractor,
- If an agricultural suitability soils report is not available, turf areas shall be fertilized with Gro-Power Plus or approved equal every seventy (70) calendar days, at a rate recommended by the manufacturer,
- First mowing of turf shall be performed when the grass is two and one-half inches (2-1/2") in height. After initial mowing, turf shall be cut as often as necessary to maintain the turf at a height of two inches (2") for bluegrass and fescues and one inch (1") for bermuda.
- Contractor shall trim around irrigation heads to allow for unimpeded spray, at the base of trees, and at borders along walks, mowstrips and curbs.
- Contractor shall remove all grass clippings from project site.

### E. SPECIALTY SODS INCLUDING NATIVE, MOW FREE, AND BIOFILTRATION SOD

- Prior to acceptance of the project and maintenance period, turf areas shall be established with a uniform 80% coverage, healthy vigorous growth and to a minimum of four inches (4") in height. Costs incurred for repair or replacement of bare, sparse or damaged areas shall be the resconsibility of the Contractor.
- If an agricultural suitability soils report is not available, specialty sod areas shall be fertilized with Gro Power Plus or approved equal two or three times per year in early spring, late spring, or fall depending on grower recomendations and sod type and sod health. Specialty sods do not require as much fertilization as tradional fescue sod.
- Mow free and specialty sods shall be allowed to grow without regular mowing or line trimming. No more than 13 of the leaf blade shall be removed, nowed or trimmed in any trim or mow cycle. Specialty sod shall never be mowed or trimmed to a height less than 4\*. Mowing or trimming shall be done once a year in the late spring to remove florets or seed heads.
- Contractor shall trim around irrigation heads to allow for unimpeded spray, at the base of trees, and at borders along walks, mowstrips and curbs,
- Contractor shall remove all grass clippings from project site.

### F. GROUND COVER AREAS

If an agricultural suitability soils report is not available, ground cover areas shall be fertilized with Gro Power Plus or approved equal every seventy (70) calendar days, at a rate recommended by the manufacturer.

#### G, TREES

- If required, or at the direction of the Owner, trees planted as part of the Contract shall be pruned or headed back, to eliminate diseased or damaged growth, reduce toppling or wind damage, maintain growth within space limitations, maintain natural appearance, due to vandalism, and to balance the crown with the root structure.
- Staking of trees shall be checked frequently for damage, and to prevent chaffing or girdling.
   Costs incurred due to damage or replacement due to improper staking materials shall be the responsibility of the Contractor.
- At the request of the Owner, wounds over one and one-half inch (1-1/2\*) in diameter may be sealed with an approved tree seal.
- Dead or dying trees shall be immediately replaced at the Contractor's expense with material
  of the same species and size and guaranteed as described in these specifications.
- Contractor shall exercise preventive measures when using stringline trimmers near tree trunks. Costs incurred due to damage or replacement of trees due to improper measures shall be the responsibility of the Contractor.

#### I. SLOPES

- Prior to acceptance of the project and maintenance period, slopes shall be established with a uniform 80% coverage, healthy vigorous growth. Costs incurred for repair or replacement of bare, sparse or dramaged areas shall be the responsibility of the Contractor.
- Seed for replacement shall be of the same type and quantity ratio as specified in the Plant List on the drawings.
- If a soils report is not available, slopes shall be fertilized with Gro Power Plus or approved equal every seventy (70) calendar days, at a rate recommended by the manufacturer.

#### I. BIOTREAMENT AREAS

Biotreatment areas and facilities including but not limited to planting, irrigation, soils, impermeable liner, drain rock, mulch, underground storm drain piping, and tree filter boxes shall be monitored and maintained throughout the life of the project in accordance with local regulations and requirements.

#### J. INSPECTION

■ Upon completion of the Post-Installation Maintenance Period, Contractor shall request a final observation and letter of acceptance of the work performed in accordance with the Contract Documents. The request shall be made to the Owner, a minimum of seven (7) calendar days prior to the date for inspection.

# 1 IIVIII

Land Use Entitlements
Land Planning
Landscape Architectur
Civil Engineering
Utility Design
Land Surveying

1670 Onlined Bond (40



CONSULTANT LOGO

# X X

# E OAK MANOR PAI CARLTON AVENUE AND GATEWAY DRIVE LOS GATOS, CA

Δ			
Δ			
Δ			
Δ			
Δ			
NO	DATE	DESCRIPTION	
PR	DJECT NO:		6784.00
_			

 D
 DATE
 DESCRIPTION

 PROJECT NO
 6794.00

 CAD DWG FLE
 6784009PC DWF

 LS SEGIGNED BY
 LS

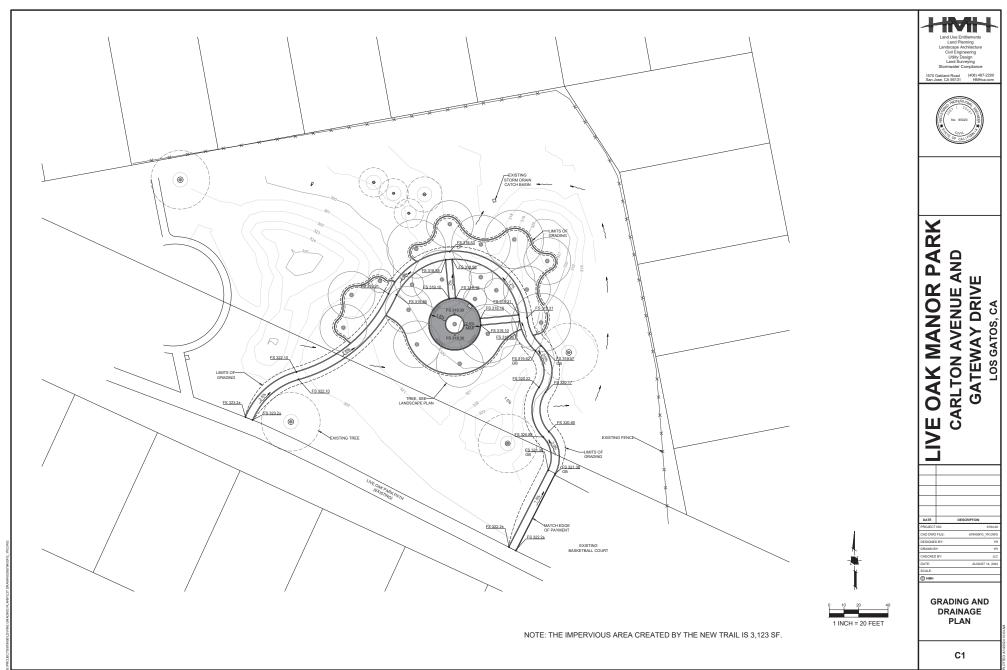
 DHECKED BY
 CM

 ATE
 AUGUST 2, 2024

 COVER
 AUGUST 2, 2024

LANDSCAPE SPECIFICATIONS

© нмн



# EXHIBIT B ROTARY TREE GROVE DONATON LEVELS

Mature Oak Tree at center of Grove (1)

\$5,000

• Name on largest sized paver in front of center tree.

Other Oak Trees

\$1,500

• Name on second largest paver.

Bench (5 available)

\$3,000

- 10 year donation; After 10 years bench will be replaced as Town deems necessary. Replacement will be requested by Rotary to Parks and Public Works. Replacement will follow Town practice in place at time of replacement.
- Name on plaque on bench

Pavers (depending on size)

\$300, \$500, \$800

- Name on the paver
- Pavers will remain in place for life of paver. Replacement will be requested by Rotary to Parks and Public Works. Replacement will follow Town practice in place at time of replacement.

Rotary would open donations to all of club members, other service clubs and then to the community at large including the neighbors to the grove. Rotary would also be open to businesses being sponsors, as well. The approval of sponsors would be at the discretion of Rotary Centennial Committee. We do not foresee declining any but would want that option.

Town reserves the right to decline placement of the names of any business or any personal messaging from donors that it deems to be immoral, unethical or in conflict with the values of the Town.



MEETING DATE: 09/17/2024

ITEM NO: 6

DATE: September 3, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Appoint Mayor Mary Badame as the Town's "Director" Representative to the

Silicon Valley Animal Control Authority (SVACA) Joint Powers Authority Board; and Appoint Councilmember Rob Moore as the Town's "Alternate Director"

**Director Representative** 

## **RECOMMENDATION:**

Appoint Mayor Mary Badame as the Town's "Director" Representative to the Silicon Valley Animal Control Authority (SVACA) Joint Powers Authority Board; and appoint Councilmember Rob Moore as the Town's "Alternate Director" Representative.

## **REMARKS:**

On June 4, 2024, Town Council unanimously voted to execute an agreement for animal services with the Silicon Valley Animal Control Authority (SVACA) and to become a participating member agency of the SVACA Joint Powers Authority Board (JPA). As a participating member agency of the SVACA JPA, each participating agency is required to appoint a "Director" and "Alternate Director" from their local legislative body to serve as voting board member representatives. Member agencies of SVACA JPA include the City of Campbell, City of Monte Sereno, City of Santa Clara, City of Mountain View, and the Town of Los Gatos.

Attached is the revised 2024 SVACA Joint Exercise of Powers Authority Board Agreement (Attachment #1) which outlines the purpose, authority, and responsibilities of members. Consistent with past practice and mayoral authority, the recommendation for the appointment of JPA member representatives from the Town Council is made by the Town's Mayor.

The Mayor is recommending an appointment of herself as the Town of Los Gatos SVACA JPA "Director" representative and an appointment of Councilmember Rob Moore as the Town of Los Gatos SVACA JPA "Alternate Director" representative. While the Mayor has the authority to make recommendations for appointments, the Council is required to vote to approve them.

PREPARED BY: Clinton Tada

**Support Services Captain** 

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

# PAGE **2** OF **2**

SUBJECT: Appoint Mayor Mary Badame as the "Director" Representative and

Councilmember Rob Moore as the "Alternate Director" Representative to the

Silicon Valley Animal Control Authority Joint Powers Authority Board

DATE: September 4, 2024

# **FISCAL IMPACT**:

This action does not have a fiscal impact.

# **ENVIRONMENTAL ASSESSMENT:**

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

# Attachments:

1. SVACA Joint Exercise of Powers Authority Agreement – Revised Animal Services Agreement

# REVISED THIRD RESTATED AND AMENDED JOINT EXERCISE OF POWERS AGREEMENT FOR THE SILICON VALLEY ANIMAL CONTROL AUTHORITY

**THIS AGREEMENT** is made and entered into as of the Effective Date (set forth in Section 2.3) by and among the Member Agencies (defined in Section 1.12 below) signatory hereto, each of which is a public entity duly organized and existing under the Constitution and other laws of the State of California.

**WHEREAS,** on March 22, 2012, the original member agencies consisting of the Cities of Santa Clara, Campbell, and Monte Sereno approved a Revised Second Restated and Amended Joint Exercise of Powers Agreement for the Silicon Valley Animal Control Authority ("Second Restated Agreement") to add the City of Mountain View as a Member Agency; and

**WHEREAS,** the Member Agencies now desire to amend the Second Restated Agreement to add the Town of Los Gatos as a Member Agency;

**WHEREAS**, Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing at Section 6500) authorizes the Member Agencies to enter into an agreement for the joint exercise of any power common to them and, by that agreement, create an entity that is separate from each of the Member Agencies; and

WHEREAS, each of the Member Agencies possess the power to provide for the Animal Control Services (defined in Section 1.3), including animal field services, animal shelter services, and dead animal services within their respective Jurisdictional Area (defined in Section 1.4 herein below); and

**WHEREAS**, the Member Agencies possess the authority to issue bonds, expend bond proceeds, and borrow and loan money for certain public purposes pursuant to the Government Code of the State of California: and

WHEREAS, this Agreement is an appropriate means through which the Member Agencies may provide the Animal Control Services because the Jurisdictional Areas of the Member Agencies are in close proximity to one another and are susceptible of being served by the Animal Control Services and related Joint Facilities (defined in Section 1.10) under common administration and management and with the same equipment, resources and personnel; and

**WHEREAS**, the Member Agencies desire to share their animal control expertise and to optimize their expenditures in connection with the provision of the Animal Control Services and related Joint Facilities; and

WHEREAS, the separate provision, management and administration of the Animal Control Services and related Joint Facilities in each Jurisdictional Area by each of the respective Member Agencies and using separate facilities, resources and personnel may result in duplication of effort, inefficiencies in administration and excessive costs, all of which, in the judgment of the Member Agencies, can be eliminated or substantially reduced, all to the substantial advantage and benefit of the citizens and taxpayers of all of the Member Agencies, if the provision of the Animal Control Services and the administration and management of the related Joint Facilities employing common equipment, resources

and personnel, were to be performed by and through a single public entity and the creation of such a single public entity is the purpose of this Agreement;

**NOW, THEREFORE**, for and in consideration of the facts stated above, the mutual advantages to be derived, and the mutual covenants contained herein, it is agreed by and among the Member Agencies hereto as follows:

# ARTICLE I DEFINITIONS

- **Section 1.** Unless the context otherwise requires, the words and terms defined in this Article shall have the meanings specified.
  - **Section 1.1.** Act. "Act" means Article 1, Article 2, Article 3, and Article 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code, as it may be amended from time to time.
  - **Section 1.2.** Agreement. "Agreement" means this joint exercise of powers agreement as it now exists or as it may from time to time be amended, supplemented or as it may be modified by the addition of signatory parties or by any other supplemental agreement or amendment entered into pursuant to the provisions of this Agreement.
  - **Section 1.3.** <u>Animal Control Services</u>. "Animal Control Services" means those services enumerated on "Exhibit A," entitled "Animal Control Services," attached hereto and incorporated herein by this reference.
  - **Section 1.4.** Area. "Area" and "Jurisdictional Area" mean that area within the respective jurisdictions of the Member Agencies.
  - **Section 1.5.** <u>Authority</u>. "Authority" means the Silicon Valley Animal Control Authority created pursuant to this Agreement.
  - **Section 1.6.** <u>Board of Directors.</u> "Board of Directors" means the governing board of the Authority referred to in Section 1.5 and more particularly described in Section 2.5 herein below. "Director" means an individual member of the Board of Directors.
  - **Section 1.7.** <u>Bond Law.</u> "Bond Law" means Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, as the same may have been or may hereinafter be amended from time to time, or any other law hereafter legally available for use by the Authority in the authorization and issuance of bonds to finance needed public facilities. "Bonds" means any bonds issued pursuant to Bond Law.
  - **Section 1.8.** Executive Director. "Executive Director" means the employee of the Authority directly responsible to the Board of Directors and primarily responsible for the managerial oversight of the operations of the Authority as further described in Section 3.6.

- **Section 1.9.** Fiscal Year. "Fiscal Year" means the period from July 1st to and including the following June 30th.
- **Section 1.10.** <u>Joint Facilities</u>. "Joint Facilities" means the animal control facilities, equipment, resources, and property to be owned, leased, managed and operated by the Authority pursuant to Article V and Section 7.1, and, if and when acquired or constructed, any improvements and additions thereto.
- **Section 1.11.** <u>Legislative Bodies</u>. "Legislative Bodies" means the city or town councils of the Member Agencies of the Authority. "Legislative Body" means any such individual city or town council.
- **Section 1.12.** Member Agencies or Member Agency. "Member Agencies" means all of the public agencies signatory to this Agreement, which, as of the initial Effective Date of this Agreement, are the City of Campbell, the City of Monte Sereno, the City of Santa Clara, the City of Mountain View and the Town of Los Gatos. "Member Agency" means any such individual public entity. "Originating Member Agency" refers to City of Campbell, the City of Monte Sereno, and the City of Santa Clara. "New Member Agency(ies)" refers to the City of Mountain View and the Town of Los Gatos.
- **Section 1.13.** Quorum. Except as may otherwise be required hereunder or by law, "quorum" means the presence of the Santa Clara Director and three Directors of the other Member Agencies.
- **Section 1.14.** Rules of the Board. "Rules of the Board" means the bylaws, rules, regulations and other operational and organizational directives of the Board of Directors for the conduct of its meetings and other affairs as further described in Section 2.9.
- **Section 1.15.** <u>Secretary</u>. "Secretary" means the Secretary of the Board of Directors as further described in Section 3.2.
- **Section 1.16.** <u>Treasurer</u>. "Treasurer" means the financial director and finance manager of the Authority having the responsibility and accountability for the Authority's funds as further described in Section 3.3.

# ARTICLE II GENERAL PROVISIONS

Section 2.1. Purpose. Subject to the terms herein, particularly Section 6.3, the purpose of this Agreement is to create the Authority to provide for the joint exercise of powers by the Member Agencies to own, manage, operate and/or maintain the Joint Facilities and to implement the financing, acquisition and construction of additions and improvements thereto and any additional facilities and property later acquired, owned or managed by the Authority and included in the Joint Facilities and thereafter to manage, operate and maintain the Joint Facilities, as so added to and improved, all to the end that the residents of the Area are provided with a more efficient and economical provision of the Animal Control Services and related services consistent with the purposes of this Agreement, and, if necessary, to issue and repay revenue bonds of the Authority pursuant to the Bond Law. Each of the Member Agencies is authorized to exercise all powers (except the power to issue and repay revenue bonds of the Authority)

pursuant to its organic law and the Authority is authorized to issue and provide for the repayment of revenue bonds pursuant to the provisions of the Bond Law.

- **Section 2.2.** <u>Creation of Authority</u>. Pursuant to the Act, there is hereby created a public entity to be known as the "Silicon Valley Animal Control Authority," to be called the "Authority" pursuant to Section 1.5. The Authority, which shall administer this Agreement, is a public entity separate and apart from the Member Agencies and each of them.
- **Section 2.3.** Effective Date of Agreement. This Agreement shall become effective when signed and executed by all Member Agencies listed in Section 1.12 (the "Effective Date") and shall supercede any prior agreements executed.
- Section 2.4. Term. This Agreement shall become effective on the Effective Date set forth in Section 2.3 and shall continue in effect until such time as all Bonds (if any) and the interest thereon issued by the Authority under the Bond Law or the Act shall have been paid in full or provision for such full payment shall have been made, and thereafter until such time as the Authority and the Member Agencies shall have paid all sums due and owing pursuant to this Agreement or pursuant to any contract executed pursuant to this Agreement, and thereafter until terminated pursuant to Article IX.
- **Section 2.5.** Governing Board. The Authority shall be administered by a Board of Directors consisting of **five (5)** Directors, as follows: one (1) Director appointed by each of the Legislative Bodies of the cities of Campbell, **Los Gatos**, Monte Sereno, Mountain View, and Santa Clara.
  - **Section 2.5.1.** All voting power of the Authority shall reside with the Board of Directors.
  - **Section 2.5.2.** The Board of Directors shall be called the "Board of Directors of the Silicon Valley Animal Control Authority."
  - **Section 2.5.3.** Each Director shall be a member of the Legislative Body of the Member Agency that appointed that Director.
  - **Section 2.5.4.** Each Legislative Body shall appoint an alternate Director for that Member Agency. The alternate Director may act as the Director in the absence of the Director appointed by that Legislative Body. The alternate Director shall also be a member of the Legislative Body that appointed the alternate Director.
  - **Section 2.5.5.** All Directors and their alternates shall serve at the pleasure of the Member Agency that appointed them.
  - **Section 2.5.6.** All vacancies on the Board of Directors shall be filled by the respective Legislative Body within thirty (30) days of the effective date of the vacancy or as soon thereafter as the Legislative Body may legally act. Any Director or alternate Director shall cease to be a Director when such person ceases to hold office as a council member of the respective appointing Legislative Body.

- **Section 2.5.7.** Each Director may receive reimbursement for the reasonable and necessary expenses incurred in the performance of their duties, as provided in the Rules of the Board.
- **Section 2.6.** <u>Meetings of the Board of Directors</u>. All meetings of the Board of Directors shall be public meetings unless a specified closed session is held in accordance with the California Government Code.
  - **Section 2.6.1.** Regular Meetings. The Board of Directors shall provide for regular meetings at a date, time, and place fixed by the Rules of the Board.
  - **Section 2.6.2.** <u>Special Meetings</u>. Special meetings and emergency meetings of the Board of Directors may be called in accordance with State law.
  - **Section 2.6.3.** Call, Notice, and Conduct of Meetings. All meetings of the Board of Directors, including without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of Section 54950, *et seq.*, of the California Government Code, as may be amended from time to time.
- **Section 2.7.** Required Votes; Approvals. For all actions, the Director from Santa Clara will have two (2) votes at each meeting and the Directors from Campbell, Los Gatos, Monte Sereno, and Mountain View shall each have one (1) vote. Five (5) affirmative votes of the Board of Directors shall be required for the Board of Directors to take any action provided a quorum is present as set forth in Section 1.13.
- **Section 2.8.** Rules of the Board. The Board of Directors shall adopt and from time to time amend the Rules of the Board as are necessary or convenient in the determination of the Board of Directors to achieve or facilitate the purposes hereof.
- New Members. It is the intent of the Originating Member Agencies to provide, to the extent permitted by law, for the inclusion at a subsequent date of such additional public entities, organized and existing under the Constitution or laws of the State of California, as may desire to become parties to this Agreement and members of the Authority. The Board shall review all applications for participation in the Authority. Those entities seeking membership must be approved by five (5) affirmative votes of the Board of Directors. A new Member Agency shall be required to (a) contribute funds commensurate to the expenses incurred by the Authority to accommodate the new Member Agency's inclusion in the Authority. Examples include, but are not limited to, improvements to the facility, additional personnel expenses, marketing expenses, contractual services, and/or vehicles; (b) pay its share of annual Operating Costs and other expenses pursuant to Section 6.3 and (c) contribute to the Capital Fund (see Section 5.4) as determined by the Board. It is the intent of the Originating Member Agencies that any new Member Agency shall proportionally contribute and share in the Authority's operations, but shall not have any proportional ownership in fee of the Authority's real property interests. For entities joining the Authority at other than the beginning of the Authority's fiscal year, cash contributions for Operating Costs and the Capital Fund shall be prorated for the remainder of the fiscal year.

# ARTICLE III ORGANIZATIONAL STRUCTURE OFFICERS AND EMPLOYEES

- **Section 3.1**. <u>Chairperson and Vice-Chairperson</u>. The Board of Directors shall elect a Chairperson and Vice-Chairperson from among its members. The Chairperson and Vice-Chairperson shall each serve a one year term. In the event of the disqualification or permanent inability of the Chairperson to serve as the Chairperson during their term, the Vice-Chairperson shall assume the duties of the Chairperson for the remainder of that term and the Board of Directors shall elect a new Vice-Chairperson for the remainder of that term.
  - **Section 3.1.1.** The Chairperson shall be authorized to sign all resolutions of the Board of Directors and all contracts on behalf of the Authority and shall perform such other duties as may be imposed by the Board of Directors, consistent with the terms and provisions of this Agreement and the Rules of the Board.
  - **Section 3.1.2**. The Vice-Chairperson shall be authorized to act as the Chairperson, exercise all of the powers of the Chairperson, and perform all of the duties of the Chairperson in the temporary absence of the Chairperson.
  - **Section 3.1.3.** The Board of Directors, as a part of its approval of any contract, may authorize the Executive Director to execute the contract on behalf of the Authority.
- **Section 3.2.** Secretary. The Executive Director shall be the Secretary to the Board of Directors, perform such other duties as may be imposed upon the Secretary by the Board of Directors, and cause a copy of this Agreement to be filed with the California Secretary of State and the State of California pursuant to Section 6503.5 of the Act.
- **Section 3.3.** <u>Treasurer</u>. The Board shall designate the Treasurer. The Treasurer shall be the depository and shall have custody of all of the accounts, funds and money of the Authority from whatever source. The Treasurer shall have the duties and obligations set forth in Section 6505 and 6505.5 of the Act, and shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of the Authority.
- Section 3.4. Officers in Charge of Property. Pursuant to Section 6505 of the California Government Code, the Treasurer shall have charge of, handle, and have access to all accounts, funds, and money of the Authority and all records of the Authority relating to such accounts, funds and money; and the Secretary shall have charge of, handle, and have access to all other records of the Authority, and the Executive Director shall have charge of, handle, and have access to all physical properties of the Authority.

- **Section 3.5.** Bonding Persons Having Access to Property. From time to time, the Board of Directors may designate persons, such as the Treasurer or Executive Director, as the Authority officer(s) who shall have charge of, handle, or have access to any property of the Authority. The Board of Directors shall also fix the respective amounts of the official bonds of the Treasurer, Executive Director or such other designated persons pursuant to Section 6505.1 of the Act, which bonds shall be filed with the Secretary of the Authority. The actual cost of such bonds shall be a proper charge against the Authority.
- **Section 3.6.** <u>Management</u>. The regular management of the operations and activities of the Authority shall be vested in the Executive Director. The Executive Director shall be appointed by the Board of Directors. Unless otherwise provided by the Rules of the Board or resolution of the Board of Directors, the Executive Director shall have the following powers:
  - **Section 3.6.1.** To provide for the planning, design, and construction of any additions or improvements to the Joint Facilities; leasing or remodeling of any existing facilities, or any new facilities to be operated by the Authority as authorized by the Board of Directors;
  - **Section 3.6.2.** Except as otherwise provided in Section 3.6.8, to execute any contracts for capital costs, costs of special services, equipment, materials, supplies, maintenance, or repair that involve an expenditure by the Authority within the limits and in accordance with procedures to be established by the Authority in the manner provided for local agencies pursuant to Article 7, commencing with Section 54201 of Chapter 5 of Part 1 of Division 2 of Title 5 of the California Government Code;
  - **Section 3.6.3.** To appoint and employ all personnel of the Authority required for maintenance and operation of the Joint Facilities, and all other employees authorized by the Authority's budget and by the Board of Directors;
  - **Section 3.6.4.** To retain any consultants, including labor relations consultants or certified public accountants, as authorized in the Authority's budget and by the Board of Directors;
  - **Section 3.6.5.** Subject to approval of the Board of Directors, to appoint and employ all personnel of the Authority or consultants required to be employed or retained in connection with the design of any additions or improvements of the Joint Facilities or construction of new facilities;
  - **Section 3.6.6.** To expend funds of the Authority and enter into contracts, whenever required, or for the immediate preservation of the public peace, health, or safety, subject to the subsequent ratification of the Board of Directors;
  - **Section 3.6.7.** To dispose of any personal property of the Authority as may be provided in the Rules of the Board or otherwise authorized by the Board of Directors;
  - **Section 3.6.8.** To approve and pay demands for payments by the Authority of Ten Thousand Dollars (\$10,000.00), or less, which are authorized in the Authority's budget;

**Section 3.6.9.** To prepare and submit to the Board of Directors in time for revision and adoption by the Authority prior to June 1 of each year, the annual preliminary budget for the next succeeding Fiscal Year referred to in Section 6.1;

**Section 3.6.10.** Generally, to supervise the acquisition, construction, management, maintenance, and operation of the Joint Facilities and personnel of the Authority;

**Section 3.6.11.** To perform such other duties as directed by the Board of Directors and report to the Board of Directors at such times and on such matters as the Board of Directors may direct.

**Section 3.7.** <u>Legal Advisor</u>. The legal advisor of and provider of legal advice and services to the Authority shall be designated by the Board of Directors.

**Section 3.8.** Other Services. The Board of Directors shall have the power to appoint and employ such other consultants and independent contractors as may be necessary for the purposes of and pursuant to this Agreement.

Section 3.9. Non-Liability of Agencies. None of the officers, agents, or employees directly employed by the Authority shall be deemed, solely by reason of their employment by the Authority, to be employed by any Member Agency or, by reason of their employment by the Authority, to be subject to any of the requirements of any Member Agency. All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activities of the officers, agents, or employees of Member Agencies when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties under this Agreement. Except as expressly provided for in this Agreement, nothing contained in this Article III is intended to nor shall it restrict or limit the rights or abilities otherwise available to the Authority to enter into agreements or other arrangements with any Member Agency in accordance with the terms and conditions of this Agreement and the Rules of the Board regarding the use of employees of the Member Agency in the operations and activities of the Authority.

Section 3.10. Indemnity and Insurance. The Authority shall defend, indemnify and save harmless each Member Agency to this Agreement and its respective council members, officers and employees, from all claims, losses, damages, costs, injury and liability arising out of the Authority's performance of its powers, duties and responsibilities under this Agreement. The Authority shall obtain and keep in force policies of insurance with coverage and limits sufficient to protect the Authority and its Member Agencies from claims for damages arising from the activities of the Authority, its Board of Directors, officers and employees. It is the intent of this Section 3.10 that the policies of insurance described herein include coverage for automobile liability, comprehensive general liability, public officials errors and omissions, workers' compensation, and excess liability and other perils as the Board of Directors shall, from time to time, direct and that the coverage limits of these policies be maintained at levels as the Board of Directors shall direct. Each Member Agency shall be named an "additional insured" on the liability coverages or shall receive equivalent treatment or status under the Authority's insurance program.

**Section 3.11.** Agreement Not for Benefit of Third Parties. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever. Any services performed or expenditures made in connection with this Agreement by any Member Agency shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property in the respective Area of such Member Agency.

# ARTICLE IV POWERS OF THE AUTHORITY

- Section 4.1. General Powers. The Authority shall exercise in the manner herein provided the powers common to each of the Member Agencies, as provided by the Constitution and laws of the State of California, and all incidental, implied, expressed, or necessary powers for the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 4.4. As provided in the Act, the Authority shall be a public entity separate from the Member Agencies. The Authority shall have the power to finance, acquire, construct, manage, maintain, and operate the Joint Facilities. The Authority shall have all of the powers provided in Article 2 and Article 4 of the Act, unless specifically prohibited or restricted by this Agreement.
- **Section 4.2.** <u>Specific Powers</u>. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of the foregoing powers, including but not limited to, any of the following:
  - **Section 4.2.1.** To make and enter into contracts;
  - **Section 4.2.2.** To employ agents or employees;
  - **Section 4.2.3.** To acquire, construct, manage, maintain, or operate any buildings, works or improvements;
  - **Section 4.2.4.** To acquire, hold, or dispose of property;
  - **Section 4.2.5.** To sue and be sued in its own name;
  - **Section 4.2.6.** To incur debts, liabilities or obligations, subject to the provisions of this Agreement, provided that no debt, liability or obligation shall constitute a debt, liability or obligation upon any Member Agency;
  - **Section 4.2.7.** To apply for, accept, receive, and disburse grants, loans, and other aids from any agency for the United States of America or of the State of California;
  - **Section 4.2.8.** To invest any money in the treasury pursuant to Section 6505.5 of the Act that is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to Section 53601 of the California Government Code;
  - **Section 4.2.9.** To carry out and enforce all the provisions of this Agreement.

- **Section 4.3.** Bonds. The Authority shall have all of the powers provided in Article 4 of the Act, including the power to issue Bonds under the Bond Law.
- **Section 4.4.** Restrictions on Exercise of Powers. The Authority shall exercise in the manner herein provided the powers common to all Member Agencies as appropriate to the accomplishment of the purposes of this Agreement. For purposes of Govt. Code § 6509, the powers of the Authority shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed upon the City of Campbell, a general law city.
- **Section 4.5.** <u>Obligations of Authority</u>. The debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of any Member Agency.

# ARTICLE V METHODS OF PROCEDURE

# **Section 5.1.** Reserved.

- **Section 5.2.** <u>Delegation of Powers</u>. Each Member Agency hereby delegates to the Authority the power to purchase and the power and duty to maintain, operate, and manage any animal control equipment, resources, and real property acquired and identified by the Member Agencies, including the site of the Authority's animal control facility, and to employ the necessary personnel to do any and all other things necessary or desirable to provide efficient, economical and lawful Animal Control Services to the Member Agencies.
- **Section 5.3.** <u>Joint Maintenance and Operation Fund</u>. The Board of Directors shall have a joint maintenance and operation fund (herein called the "Operating Fund"). The Authority shall assume responsibility for the maintenance and operation of the Operating Fund and shall pay the administrative and operational expenses of the Authority and all maintenance and operation costs of the Joint Facilities from said Operating Fund. Each of the Member Agencies shall pay into said Operating Fund its proportionate share of the maintenance and operation costs of the Joint Facilities, computed on the basis set forth in Section 6.3 of this Agreement.
- Section 5.4. Capital Acquisition, Improvement and Replacement Fund. The Board of Directors may create a capital acquisition and replacement fund ("Capital Fund") for the purpose of creating a fund for the acquisition and construction of the Joint Facilities and any other capital improvements owned or controlled by the Authority, and the replacement and acquisition of capital equipment and property of the Authority. Each Originating Member Agency shall annually pay into said Capital Fund its proportionate share of capital costs, including principal and interest payments on outstanding Bonds, if any, as provided in Section 6.3. If there is a future need for contributions to the Capital Fund by any new Member Agency, all members shall contribute a proportionate share that is commensurate with each member's proportional operating expenses.

# ARTICLE VI BUDGET/COSTS, MAINTENANCE AND OPERATION COSTS AND OTHER COSTS

**Section 6.1.** Annual Budget. The Board of Directors shall adopt a preliminary budget for maintenance and operation costs, capital costs, costs of special services, and debt service payments or redemption expenses on Bonds (if any), annually prior to June 1 of each year and shall adopt a final budget prior to June 30 of each year.

Each Member Agency shall approve the contribution of its allocated proportional share of the total estimated annual costs and expenses in the budget, as set forth in Section 6.3, prior to final adoption of the budget by the Board of Directors on or before June 30 of each year.

Section 6.2. Records and Accounts. The Authority shall cause to be kept accurate and correct books of account, showing in detail the capital costs, costs of special services and maintenance, operation costs of the Joint Facilities and the provision of the Animal Control Services, and all financial transactions of the Member Agencies relating to the Joint Facilities and the provision of the Animal Control Services, which books of account shall correctly show any receipts and also any costs, expenses, or charges paid or to be paid by each of the Member Agencies. Said books and records shall be open to inspection at all times during normal business hours by any representative of a Member Agency, or by any accountant or other person authorized by a Member Agency to inspect said books or records. The Controller/Treasurer shall, in accordance with Sections 6505 and 6505.6 of the Act, cause the books of account and other financial records of the Authority to be audited annually by an independent public accountant or certified public accountant.

## **Section 6.3.** Allocation of Costs and Expenses: Generally.

**Section 6.3.1.** Annual Estimate. After adoption of the preliminary budget and prior to June 1 of each year, the Authority shall promptly furnish to each of the Member Agencies an estimate of the total annual maintenance and operation costs, capital costs, costs of special services, and debt service payments or redemption expenses on Bonds (if any).

Section 6.3.2. Operating Costs. The proportion of Operating Costs to be borne by each Member Agency shall be determined by the Executive Director each year prior to April 1, and the Executive Director shall submit these percentages to the Board of Directors for review, modification and/or approval on or before June 1 of each year. The Board of Directors may modify the manner in which each Member Agency's contribution to Operating Costs is determined or calculated by five (5) affirmative votes of the Board of Directors.

**Section 6.3.3.** <u>Capital Acquisition Costs, Costs of Special Services, Bond Expenses</u>. Costs of acquiring new equipment or constructing new facilities, costs of special services and Bonds interest and redemption expenses (if any) shall be borne by each Member Agency in the same proportion as Operating Costs determined, pursuant to Section 6.3.2, for the Fiscal Year in which the cost is incurred.

- **Section 6.3.4.** Capital Costs. The proportion of capital replacement costs to be borne by each Member Agency annually shall be the same proportion as Operating Costs borne by that Member Agency for that Fiscal Year as determined pursuant to Section 6.3.2.
- **Section 6.3.5.** <u>Insurance Costs.</u> The premiums for the insurance policies described in Section 3.10 shall be apportioned among the Member Agencies in the same manner as each Member Agency's yearly percentage of Operating Costs, as determined pursuant to Section 6.3.2. In the event of any claim for damages which is not covered by insurance, or which exceeds the limits of any applicable policy of insurance, the Member Agencies agree to allocate among themselves the uninsured costs of defending such claim, and the uncovered costs of settlement or judgment, if any, in the same proportions as the percentage share of Operating Costs of each Member Agency as established pursuant to Section 6.3.2 at the time the claim is filed with the Authority.
- **Section 6.4.** Payment of Costs. Beginning on the Effective Date of this Agreement, and quarterly in advance thereafter for each Fiscal Year, each Member Agency agrees to pay the Authority its allocated proportional share of the total estimated annual costs and expenses, as set forth in Section 6.3.
- **Section 6.5.** Sources of Funds. Each Member Agency shall provide the funds required to be paid by it to the Authority under this Agreement from any source of funds legally available to such Member Agency for such purpose.
- **Section 6.6.** Level of Services and Charges to Member Agencies. All Member Agencies shall receive the same level of service for their contributions, regardless of the amount of their contribution. The levels of service are reflected in Exhibit A, and these services may be amended from time to time.
  - **Section 6.6.1.** Level of Service Adjustment Due to New Member Agency. No later than four (4) years after the effective date of this Agreement, the Authority will conduct an internal review of its level of service for any new Member Agency to determine if the initial estimate of the necessary level of service for that jurisdiction is appropriate. In the event a higher or lower level of service is warranted based upon such audit, the Member Agencies may adjust the Operating Costs accordingly, pursuant to Section 6.3.2.
- Section 6.7. New Member Agency Contribution and Payment Terms. This Agreement was created to accommodate the inclusion of a new Member Agency, the Town of Los Gatos. Pursuant to Section 2.10, the Town of Los Gatos will contribute the following amounts pursuant to the terms stated herein as consideration for its Member Agency status. The Town of Los Gatos will pay a total of One Hundred Thousand Dollars (\$100,000.00), payable to the Authority on the Effective Date of this Agreement. This contribution amount is based upon the purchase of one animal rescue vehicle for Authority staff use as well as miscellaneous transitional costs. Los Gatos agrees that any new asset and/or equipment purchased with these funds are the property of the Authority, not of Los Gatos.

Section 6.7.1. Early Termination. Los Gatos also agrees that in the event its Legislative Body votes to terminate its status as a Member Agency prior to five (5) years from the Effective Date of this Agreement, then Los Gatos will be liable for early termination liquidated damages. The Member Agencies agree that, in the event Los Gatos terminates this Agreement prior to five (5) years from the Effective Date of this Agreement, the Authority and its remaining Member Agencies will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Member Agencies agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, Los Gatos shall pay to the Authority liquidated damages of a sum equivalent to two-thirds (2/3) of its annual contribution for the remaining balance of that five (5) year period and any unpaid initial contribution amount, as described in Section 6.7. In the event that said liquidated damages are not paid, Los Gatos agrees that the Authority or any of its remaining Member Agencies may use all available legal remedies to obtain the amount of said unpaid damages. In the event of any litigation resulting from such a dispute as to liquidated damages, Los Gatos agrees to waive any affirmative defense as to the reasonableness and/or imposition of the liquidated damages.

# ARTICLE VII ENFORCEMENT

**Section 7.1.** Enforcement by Authority. The Authority is hereby authorized to take any or all legal or equitable actions, including but not limited to injunction and specific performance, necessary or permitted by law, to enforce this Agreement.

# ARTICLE VIII WITHDRAWAL OF A MEMBER AGENCY

- **Section 8.1.** Agreement Continues. Notwithstanding the provisions of Section 9.1, each Member Agency agrees that the withdrawal of a Member Agency pursuant to this Article VIII is not intended to and will not terminate this Agreement or affect the ability of the Board of Directors or the remaining Member Agencies to carry out and fulfill the purposes of this Agreement.
- **Section 8.2**. Withdrawal. A Member Agency may withdraw from the Authority and this Agreement by filing written notice thereof with the Authority. Withdrawal will take effect on July 1 of any year provided there is a least six months advance notice. The withdrawal of any Member Agency from the Authority shall in no way affect the rights and obligations of the remaining Member Agencies. A withdrawing Member Agency is still obligated for all payments due from it for the fiscal year of the withdrawal, and in the case of the Town of Los Gatos, it is also obligated for all payments specified in Section 6.7 in the event of early termination. Further, in the event of withdrawal of a Member Agency, the following terms and conditions will apply:
  - **Section 8.2.1.** Withdrawal shall not relieve the party of its proportionate share of any debts, liabilities or other contractual commitments incurred by the Authority prior to the effective date of the party's withdrawal; and

- **Section 8.2.2.** If Bonds have been issued and the withdrawing Member Agency benefits directly or indirectly from the Bonds issued and outstanding, the Member Agency shall not withdraw from the Authority until such time as all of those Bonds and the interest thereon shall first have been paid in full or provision for such full payment shall first have been contractually made with the Authority and approved by the Board of Directors; and
- **Section 8.2.3.** The obligations of the withdrawing Member Agency shall have been paid in full and provision for repayment of any other indebtedness which may exist shall be covered by an agreement made between the Authority and the Member Agency and approved by the Board of Directors.
- **Section 8.3.** <u>Non-Distribution of Assets Upon Withdrawal or Subsequent Dissolution</u>. A withdrawing Member Agency will have no entitlement to any Assets or Cash Reserves (See Section 9.3 for definition of term) of the Authority nor any distribution or reimbursement of any kind from the Authority upon withdrawal or in the event of the Authority's subsequent dissolution.
- **Section 8.4.** Restrictions. Any withdrawal from participation in this Agreement is subject to the restrictions on withdrawal contained in Sections 8.2 and 8.3, above. In addition, each withdrawing Member Agency, upon its withdrawal, waives any right to seek a judicial apportionment of any interest it may have in the Authority, including any interest in any Assets or Cash Reserves of the Authority.

# ARTICLE IX TERMINATION OF THE AGREEMENT AND DISSOLUTION OF THE AUTHORITY

- **Section 9.1.** Termination. This Agreement shall terminate and the Authority shall be dissolved upon an agreement of all Member Agencies. Upon termination of this Agreement, any obligation of the Authority which continues following dissolution shall be borne by the Member Agencies based on the percentages determined pursuant to Section 9.3.
- **Section 9.2.** Effective Date of Termination. Termination shall not under any circumstances become effective until June 30 next succeeding a minimum of twelve (12) months following the effective date of a written notice of termination to the Board of Directors approved by all Legislative Bodies of the current Member Agencies.
- Section 9.3. <u>Disposition of Assets</u>. Upon dissolution of the Authority, each Originating Member Agency shall receive its proportionate share of the assets of the Authority as defined in this Section within a reasonable amount of time after dissolution, and each Originating Member Agency shall contribute its proportionate or otherwise defined share toward the discharge of any enforceable liabilities incurred by the Authority as the same appear on the books of the Authority. Upon the termination of this Agreement, any assets acquired by the Authority during the period of its existence and still on hand and all unencumbered cash reserves (collectively, "Assets and Cash Reserves") shall be distributed to the Originating Member Agencies in the following manner: The total amount of maintenance and operating costs paid by each Originating Member Agency into the Operating Fund during the entire existence of the Authority shall be added together and the percentage which each Agency's total bears to the whole shall be determined. The Assets and Cash Reserves shall be divided among the current Member Agencies

based on the above percentage, based on appraised value of the assets at the time of termination. In the event the Originating Member Agencies cannot agree on how the distribution of Assets and Cash Reserves pursuant to the distribution method set forth in this Section should be implemented, the City Managers of all of the Originating Member Agencies, or their respective designees, shall meet promptly to develop a method for distributing the Assets and Cash Reserves among the Originating Member Agencies. New Member Agencies shall receive only their proportional share of the cash reserves they contributed to during their membership, if any.

- **Section 9.4.** The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to the Member Agencies at the time of dissolution after the discharge of all enforceable liabilities.
- **Section 9.5.** Continued Existence of Authority. Upon dissolution, this Agreement and the Authority shall continue to exist as required or necessary for the limited purpose of distributing the Assets and Cash Reserves and winding up and closing out the business, accounts and affairs of the Authority.

# ARTICLE X MISCELLANEOUS

- **Section 10.1.** <u>Section Headings</u>. All section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing language in the section referred to or to define or limit the scope of any provision of this Agreement.
- **Section 10.2.** Consent. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.
- **Section 10.3.** <u>Law Governing</u>. This Agreement is made under the Constitution and laws of the State of California and is to be so construed.
- **Section 10.4.** Amendments. This Agreement may be amended at any time, except as limited by Bond covenants, if any. All amendments to the Agreement must be in writing, and must be approved by the Legislative Bodies of the Member Agencies prior to becoming effective.
- **Section 10.5.** Severability. In the event any provision of this Agreement is determined to be illegal or invalid for any reason, all other provisions and articles of this Agreement shall remain in full force and effect unless and until otherwise determined. The illegality of any provision of this Agreement shall in no way affect the legality and enforceability of any other provisions of this Agreement.
- **Section 10.6.** <u>Successors</u>. This Agreement shall be binding upon and shall inure to the benefit of the successors of the respective Member Agencies. No Member Agency may assign any right or obligation hereunder without written consent of the other Member Agencies.
- **Section 10.7.** <u>Notice</u>. Any notice required to be given or delivered by any provision of this Agreement shall be personally delivered or deposited in the U.S. mail, postage prepaid, addressed to the Authority and to the Member Agencies at their addresses as reflected in the records of the Authority, and shall be

deemed to have been received by the party to which the notice is addressed upon the earlier of receipt or 72 hours after mailing.

**Section 10.8.** Counterparts. This Agreement may be signed in counterparts, which together shall constitute one agreement. If this Agreement is signed in counterparts, no signatory hereto shall be bound until all Parties named below have duly executed, or caused to be duly executed, a counterpart of this Agreement.

[Signatures on next page.]

# **EXECUTION OF AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereupon duly authorized and their official seals to be hereto affixed on the dates as shown herein.

# **MEMBER AGENCIES**

APPROVED AS TO FORM:	CITY OF CAMPBELL, a municipal corporation
By:	By:
Its:	Its:
Date:	Date:
ATTEST:	
Ву:	
Its:	
Date:	
APPROVED AS TO FORM:	CITY OF MONTE SERENO, a municipal corporation
By:	By:
Its:	T.
Date:	_
ATTEST:	
By:	
Its:	
Date:	
APPROVED AS TO FORM:	CITY OF SANTA CLARA, a municipal corporation
Ву:	By:
Its:	Its:
Date:	Date:
ATTEST:	
Ву:	
Its:	
Date:	

APPROVED AS TO FORM:	CITY OF MOUNTAIN VIEW, a municipal corpor
By:	By:
Its:	τ.
Date:	
ATTEST:	
Ву:	
Its:	
Date:	
APPROVED AS TO FORM:	TOWN OF LOS GATOS, a municipal corporation
By:	By:
Its:	Its:
Date:	
ATTEST:	
By:	
By:	

# EXHIBIT "A" ANIMAL CONTROL SERVICES

The term "Animal Control Services" in the Agreement to which this Exhibit "A" is attached means all of the following services:

## A. Field Services

Field services means all of the following services, including any vehicles, communications equipment, office supplies, field and administrative personnel, and any other personnel, supplies and equipment, reasonably required to perform the following services (the "Field Services"):

- Pick up of confined stray dogs, cats, and other small animals, including, rabbits, chickens, turkey, geese, and ducks, and excluding confined wildlife as defined in Section 711.2 of the California Fish and Game Code, such as opossums, raccoons, skunks, or squirrels
- Pick up confined stray livestock, including horses, pigs, goats, sheep, and donkeys
- Pick up of deceased animals, including wildlife, as described in more detail below under the description of Deceased Animal Services
- Pick up of injured stray dogs or cats and other small animals, without regard to weight, and
  injured wildlife weighing fifty pounds (50 lbs.) or less, that are located on public property or
  readily accessible on private property with the permission of the property owner or occupant
  or the property owner's or occupant's authorized agent
- Respond to emergency calls such as animals requiring rescue or animals attacking people
- Investigating complaints of animal bites or attacks on humans, including the completion of a
  report interviewing the parties involved, quarantining animals which have bitten humans,
  preparing and transporting biting animals for rabies testing, and investigating alleged
  violations of a quarantine
- Response to calls for removal of venomous snakes in a private residence and on private property
- Investigating complaints of vicious dogs and provide administrative hearings
- Investigating complaints of dangerous animals and provide administrative hearings
- Responding to complaints of animals running at large
- Responding to complaints of domestic animals causing a nuisance, except domestic animals making noise, and provide follow-up patrol

- Respond to police assist calls on animal-related issues, which service may include taking control of an animal on the scene
- Investigate complaints regarding the lack of proper care, condition, or attention of domestic animals by their owners
- Investigate complaints regarding cruelty to animals
- Investigate complaints regarding exceeding the limit of the maximum number of animals
- Investigate complaints regarding unsanitary conditions
- Provide Community Outreach Humane Education programs to local schools as well as presenting programs to civic groups and organizations, Neighborhood Watch, homeowners groups and more
- Provide animal safety training for service workers (i.e. postal employees, meter readers)
- Issue administrative and criminal citations as necessary
- Participate in Santa Clara County Disaster Preparedness Team

## B. Shelter Services

Shelter Services means all of the following services, including shelter facilities, supplies, animal care specialists, supervisors and administrative personnel, and any other personnel, supplies and equipment reasonably required to perform the following services (the "Shelter Services"):

- Shelter of abandoned, impounded, lost or stray domestic animals brought to the shelter by a Member Agency, a resident residing in a Jurisdictional Area, or shelter personnel
- Quarantine of biting animals
- Rabies testing of suspect animals
- Provision for surrender and reclaim of abandoned, lost or stray domestic animals during established business hours
- Provide adoption program to include offsite adoption events
- Provide after hours receiving kennels for stray healthy animals
- Save all healthy or treatable animals by return to owner, placement with a placement partner, or adoption

- Hold periodic adoption events at the animal care center
- Euthanasia and disposal of unhealthy domestic animals that fail to meet the written health and temperament standards of the shelter

# C. Medical Services

Medical Services means all of the following services, including office facilities, supplies, and professional and trained personnel necessary to perform the following services (the "Medical Services") by staff or through contracts:

- Provision of veterinarian services by staff or through contracts twenty-four (24) hours per day to treat and provide veterinarian care to stray dogs, cats, and other impounded animals that may be sick or injured
- Monitor quarantined biter animals
- Conduct vaccination clinics and have available, free of charge to the public, rabies control information.
- Operate public low cost spay/neuter clinic

# D. Deceased Animal Services

Deceased Animal Services means all of the following services, including any vehicles, storage facilities, disposal mechanisms, field, and administrative personnel, and any other personnel, supplies, contracts and equipment required to perform the following services (the "Deceased Animal Services"):

- Pick up of deceased animals, including wildlife and except livestock, from streets and public property within Jurisdictional Areas, or from private property within Jurisdictional Areas with the permission of the property owner, occupant or a representative of the property owner or occupant
- Identification of and notification to the owner of the deceased animal, whenever possible
- Disposal of the body of the deceased animal

## E. Animal Licensing Services

Animal Licensing Services means all of the following services, including any vehicles, office facilities, supplies, equipment and personnel necessary to perform the following services (the "Animal Licensing Services"):

- Computerized animal licensing including up to two delinquent notices on license renewals
- Animal Control Officer contact for delinquent licenses when necessary
- Provide licenses at animal care center
- Comprehensive community outreach program, to include issuing licenses at vaccination and spay/neuter clinics
- Distribute licensing information through local veterinarians and on web site
- Issue assistance animal identification tags to qualified residents as required by state law

#### F. Other Services For Which a Fee May Be Charged

- Pick up owned animals
- Provide humane traps to the public to capture sick, injured, or nuisance domestic animals
- Provide volunteer opportunities
- Provide onsite dog training



MEETING DATE: 09/17/2024

ITEM NO: 7

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Authorize the Interim Town Manager to Execute the Third Amendment to the

Consultant Services Agreement with Mott MacDonald Group Inc. to Provide

Additional Construction Support Services in an Amount Not to Exceed

\$49,901, For a Total Contract Not to Exceed Amount of \$833,019, for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-

4505), Federal Project No. CML-5067(021).

#### **RECOMMENDATION:**

Authorize the Interim Town Manager to execute the third amendment to the consultant services agreement with Mott MacDonald Group Inc. to provide additional construction support services in an amount not to exceed \$49,901 (Attachment 1), bringing their total contract not to exceed amount to \$833,019, for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-4505), Federal Project No. CML-5067(021).

#### **BACKGROUND:**

The Los Gatos Creek Trail to Highway 9 Trailhead Connector Project will provide access for bicycles and pedestrians between Highway 9 and the Los Gatos Creek Trail. The project will construct a pedestrian switchback trail access between the north side of Highway 9 and the Los Gatos Creek Trail and a bicycle/pedestrian trail access on the south side of Highway 9 leading from University Avenue that includes a new bridge over Los Gatos Creek.

Construction of the project began in November 2023 and is ongoing. The current schedule anticipates construction to be completed in December 2024.

On October 1, 2019, the Town Council authorized the Town Manager to execute a Consultant Services Agreement (Agreement) with Mott MacDonald Group Inc. (Mott MacDonald) for

PREPARED BY: Sean Rose

Special Projects Manager

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

#### PAGE 2 OF 4

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-

4505), Federal Project No. CML-5067(021)

DATE: September 12, 2024

#### **BACKGROUND** (continued):

engineering design services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (Project) in an amount not to exceed \$486,747.

On August 17, 2021, the Town Council authorized the Town Manager to execute the First Amendment to the Agreement (Attachment 2) with Mott MacDonald for the Project, for additional design services in an amount not to exceed \$90,000 for a total contract not to exceed amount of \$576,747.

On August 1, 2023, the Town Council authorized the Town Manager to execute the Second Amendment to the Agreement with Mott MacDonald, for construction support services in an amount not to exceed \$206,371, for a total contract not to exceed amount of \$783,118.

#### **DISCUSSION**:

Since the beginning of construction, Mott MacDonald and their structural engineering subconsultant Biggs Cardosa Associates (BCA), as the design engineers of record for the project, have provided construction engineering support for the project on an as-needed, time and materials basis, in accordance with the terms of the Agreement and the Second Amendment. Work completed by Mott MacDonald/BCA has included reviewing and approving construction submittals, evaluating and responding to contractor Requests for Information (RFIs), field engineering inspections, value engineering, and other engineering support activities. Mott MacDonald/BCA have now expended the original construction engineering support budget of \$206,371 that was approved with the Second Amendment and are requesting an additional \$49,901 to provide additional construction engineering support services through the completion of the project (Attachment 1). The additional work includes, but is not necessarily limited to, project management and coordination, submittal review and response, RFI evaluation and response, and preparation of as-built plans.

The proposed amendment amount includes a \$3,000 credit to the Town for services that were previously billed incorrectly. In addition, \$15,997 of the requested amount will be reimbursed by the contractor Granite Construction via a deduction to a future construction progress payment, for services that Granite requested of Mott MacDonald/BCA related to an unforeseen construction change by Granite.

Staff has negotiated the scope and amount of the additional construction engineering support services proposal and finds the amount reasonable and necessary to complete the project. The services will be performed on an as-needed, time and materials basis in accordance with the terms of the original contract.

#### PAGE **3** OF **4**

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-

4505), Federal Project No. CML-5067(021)

DATE: September 12, 2024

#### **CONCLUSION**:

The recommended action will provide the additional budget necessary to allow Mott MacDonald to continue to provide construction engineering support for the project through the completion of project construction, currently anticipated in December 2024.

#### **FISCAL IMPACT**:

The fiscal table below reflects the updated costs and budget sources for the construction phase of the project, which will be sufficient to fund the project.

Los Gatos Creek Trail to Highway 9 Trailhead Connector Project  CIP No. 832-4505				
CII 110. 032-4303				
SOURCE OF FUNDS*				
GFAR	\$	1,428,127		
OBAG Cycle II Grant - CMAQ	\$	6,536,000		
Measure B (2016 Program Bicycle and Pedestrian Program)	\$	693,500		
TFCA Grant Funds	\$	755,921		
TDA 3 Grant Funds	\$	68,884		
TOTAL SOURCE OF FUNDS	\$	9,482,432		
USE OF FUNDS				
USE OF FUNDS				
Design Phase				
Consultant Services (Mott MacDonald Group)	\$	576,747		
Part-time Staff	\$	99,297		
Misc. Project Delivery Costs	\$	490		
DESIGN TOTAL - (Completed)	\$	676,534		
Construction Phase				
Construction Contract (Granite Construction)	\$	6,529,396		
Construction Contingency	\$	652,940		
Construction Management, Inspection and Materials Testing (Zoon Eng.)	\$	1,220,822		
Town Project Management	\$	127,000		
Construction Support Services (Mott MacDonald Group)	\$	206,371		
Construction Support Services (Mott MacDonald Group) (Requested with this Staff Report)	\$	49,901		
Misc. Project Delivery Costs	\$	19,468		
CONSTRUCTION TOTAL	\$	8,805,898		
TOTAL USE OF FUNDS	\$	9,482,432		
REMAINING BUDGET	\$	-		

#### PAGE 4 OF 4

SUBJECT: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project (CIP No. 832-

4505), Federal Project No. CML-5067(021)

DATE: September 12, 2024

#### **ENVIRONMENTAL ASSESSMENT:**

This is a project as defined under CEQA but is Categorically Exempt Class 1 (CEQA Section 15301) (PRC 21084;14 CCR 15300 et seq).

The project has been determined to be Categorically Excluded under NEPA 23 CRF 771.117(c) activity (c)(3).

#### Attachments:

 Third Amendment to Consultant Services Agreement with Mott MacDonald with Exhibit A (Cost Proposal) and Exhibit B (Scope and Fee) and the Original Agreement with the First and Second Amendments

# THIRD AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES

# LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505

This Third Amendment to the Agre	eement for Consultant Services for the Los Gatos Creek Trail to
Highway 9 Trailhead Connector Pr	oject CIP No. 18-832-4505 that is dated for identification this
day of	, 2024 ("THIRD AMENDMENT") and amends that certain
AGREEMENT FOR CONSULTANT SE	RVICES LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD
CONNECTOR PROJECT 18-832-450	5 dated the 1st of October, 2019 the FIRST AMENDMENT executed on
September 13, 2021, and the SECC	OND AMENDMENT executed on August 1, 2023 by and between the
Town of Los Gatos (LOCAL AGENC	Y) and Mott MacDonald Group, Inc. (CONSULTANT).

#### **RECITALS**

- A. LOCAL AGENCY and CONSULTANT entered into an Agreement for Consultant Services Agreement on October 1, 2019, ("Agreement"), and executed the First Amendment to the Agreement for Consultant Services on September 13, 2021, and the Second Amendment to the Agreement for Consultant Services on August 1, 2023, copies of which are attached hereto and incorporated by reference as Exhibit A to this THIRD AMENDMENT.
- B. The LOCAL AGENCY desires to amend the Agreement to increase the scope of services and increase compensation for Task C Construction Support Services.

#### **AMENDMENT**

- 1. Article II STATEMENT OF WORK is hereby modified to include the attached EXHIBIT B COST PROPOSAL AMENDED 08-29-24, PROPOSAL FOR ADDITIONAL CONSTRUCTION SUPPORT SERVICES for Task C Construction Support Services.
- 2. ARTICLE V ALLOWABLE COSTS AND PAYMENTS TASK B AND TASK C Paragraph J is revised to read: "The total amount payable by LOCAL AGENCY for Task B and Task C shall not exceed \$284,272."
- 3. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the LOCAL AGENCY and CONSULTANT have executed this THIRD AMENDMENT, effective as of the date first set forth above.

TOWN OF LOS GATOS by:	CONSULTANT by:
Katy Nomura, Interim Town Manager	Mohamed Basma, Senior Vice President – Division Manager
Approved as to Form:	Departmental Approval:
Gabrielle Whelan, Town Attorney	Nicolle Burnham, Parks & Public Works Director
Attest:	
_	
Wendy Wood, Town Clerk	

## EXHIBIT A— COST PROPOSAL Amended 08-29-24

## **COST PROPOSAL BY TASK**

SUB TASK	DESCRIPTION	NOT TO EXCEED COST
	TASK A – BASIC SERVICES	
Task A.1	Project Management and Coordination	\$26,960
Task A.2	Data Collection, Review and Site Visit	\$9,212
Task A.3	Surveys and Mapping	\$27,154
Task A.4	Utility Coordination	\$11,336
Task A.5	Preliminary Engineering	\$27,231
Task A.6	Environmental Studies and Documentation	\$42,991
Task A.7	Geotechnical Investigations and Reports	\$54,489
Task A.8	Right of Way Certification	\$4,400
Task A.9	Final Design	\$198,438
Task A.10	Coordination with Adjacent Agencies	\$6,601
SUBTOTAL B	ASIC SERVICES	\$408,812
Task A.11	Supplemental Reports and Services	\$ 49,935
Amendment	No. 1	\$ 90,000
AMENDED TO	TAL TASK A.11	\$139,935
TOTAL NOT TO	D EXCEED TASK A	\$548,747
	TASK B – BID SUPPORT SERVICES	
TOTAL NOT T	O EXCEED TASK B	\$ 28,000
	TASK C – CONSTRUCTION SUPPORT SERVICES	
AMENDMENT	Γ No. 2 -CONSTRUCTION SUPPORT SERVICES	\$206,371
AMENDMENT	No. 3 – ADD'L CONSTRUCTION SUPPORT SERV	ICES \$49,901
TOTAL AMEN	DED CONTRACT AMOUNT NOT TO EXCEED	\$833,019

# EXHIBIT B – PROPOSAL FOR ADDITIONAL CONSTRUCTION SUPPORT SERVICES

From Mott MacDonald dated August 6, 2024



2077 Gateway Pl. Suite 550 San Jose, CA 95110 T 408-572-8800 www.mottmac.com ITEM NO. 7.

August 6, 2024

Sean Rose, Special Projects Manager Town of Los Gatos, Parks & Public Works Department 41 Miles Avenue, Los Gatos CA 95030

#### RE: Los Gatos Creek Trail to Highway 9 Trailhead Connector Project Additional Fee Request

Dear Mr. Rose:

Mott MacDonald has exhausted current contract budget and is requesting additional budget for providing design support during construction services until completion of project construction slated for December 2024.

The additional fee request includes professional services which include project management and coordination, reviewing submittals, responding to RFI's, and preparing as-built plans.

#### **SERVICES FEE**

Firm	Amount
Mott MacDonald	\$32,898
Biggs Cardosa Associates	\$20,003
Credit	(\$3,000)
Total Additional Fee	\$49,901

Our total estimated <u>Not-to-Exceed</u> fee for the proposed additional engineering services is \$49,901. Mott MacDonald accounted \$3,000 credit for efforts spent to clarify additional tree impacts identified during construction of the project. The budget will be billed on a Time and Materials (T&M) basis according to the terms and conditions of the original contract agreement. If you have any questions regarding this proposal or need additional information, please contact me at your convenience.

Thank you for the opportunity to assist you with this project.

Sincerely,

Mollamed Basma
Mohamed Basma, PE
Senior Vice President

Attachment A
Los Gatos Creek Trail to Highway 9 Trailhead Connector Project

	Mott MacDo				
Project Work Task	Principal Project Manager-	Senior Project Manager -	Engineer III- Lisette	Engineer II - Jack Friedman	Total
	Teferi Abere	Bindu Samudrala	Abad		Fee
	\$301	\$274	\$155	\$130	
Project admin and meetings (5 months)	20				\$6,020
Review Submittals & RFI (15)	4	16	20	20	\$11,288
Prepare As-Built	2	12	40	40	\$15,290
ODC					\$300
			To	otal Cost:	\$32,898

#### LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT

#### **Prefabricated Pedestrian Bridge and 3 Retaining Walls**

Town of Los Gatos

Staff Person-Hour Breakdown: Biggs Cardosa Associates, Inc.

Updated August 5, 2024

#### **Construction Phase Contract Amendment**

				Bridge			Sr Computer	Admin		
		Principal	Associate	Architect	_	Project Engr	Drafter	Services	Total	Total
		MMH	AWR	RP	EL	BT	SMH	JD		
	Const Support Rate	\$359.88	\$251.92	\$274.46	\$194.34	\$160.74	\$166.34	\$131.16	Hours	Dollars
C - Construction Support									1	
Assist with Response to RFI's	Allow for 5 RFI's		20			10	2	2	34	\$7,
									0	
Review Submittals:									0	
Erection Plan for the Steel Truss Bridge			4		ļ				4	\$1
									0	
Retaining Wall Stains and Pigments	Additional Markups of Wall Colors		0.5	16					16.5	\$4
Retaining Wall Formliner Sample/Product Submittal	Approval of Class 1 Finish			1					1	9
									0	
Project Closeout									0	
Final Walkthrough and Generate Punchlist	One site visit	1	8						9	\$2
Verify Punchlist Items Completed	No BCA Scope								0	
As-Built Plans	Draft Based on CM Markups		8			16	i		24	\$4
	Subtotal Labor (hr)	1	40.5	17	0	26	2	2	88.5	
	Subtotal Labor (\$)	\$ 359.88	\$10,202.76	\$ 4,665.82	\$ -	\$ 4,179.24	\$ 332.68	\$ 262.32		\$20
	Remaining Budget									\$1
	Escalation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
S			•						<b>Grand Total</b>	\$18

#### Notes

- > The above fees are limited to the structural components of the pedestrian bridge and retaining walls.
- > Other submittals not listed above are assumed to be reviewed by others and are not included in BCA scope and fee.
- > Review of the pedestrian bridge is limited to a review of calculations and plans prepared by the bridge manufacturer. We will not prepare additional, check or alternative calculations
- > Submittals will be provided to BCA by MM or the Town's CM and will be returned to that party. BCA will not coordinate directly with the Contractor or Caltrans.
- > Review of contractor's Value Engineering Cost Proposals is excluded.
- > Review of routine inspection reports, progress reports, progress payments, etc is excluded.

#### **ATTACHMENT 1**

AGREEMENT FOR CONSULTANT SERVICES LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505 dated the 1st of October, 2019 and the

FIRST AMENDMENT executed on September 13, 2021

And the

SECOND AMENDMENT executed on August 1, 2023

# SECOND AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES

## LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505

This Second Amendment to the Agreement for Consultant Services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project CIP No. 18-832-4505 that is dated for identification this 1<sup>st</sup> day of August 2023 ("SECOND AMENDMENT") and amends that certain AGREEMENT FOR CONSULTANT SERVICES LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505 dated the 1<sup>st</sup> of October, 2019 and the FIRST AMENDMENT executed on September 13, 2021 by and between the Town of Los Gatos (LOCAL AGENCY) and Mott MacDonald Group, Inc. (CONSULTANT) identified as a C Corporation and whose address is 12674 Alcosta Blvd. #275, San Ramon, CA 94583.

#### **RECITALS**

- A. LOCAL AGENCY and CONSULTANT entered into an Agreement for Consultant Services Agreement on October 1, 2019, ("Agreement"), and executed the First Amendment to the Agreement for Consultant Services on September 13, 2021, copies of which are attached hereto and incorporated by reference as Attachment 1 to this SECOND AMENDMENT.
- B. The LOCAL AGENCY desires to amend the Agreement to increase the scope of services and increase compensation for Task B Bid Support Services and Task C Construction Support Services, extend the term of the Agreement, and modify required insurance coverages as described below.

#### **AMENDMENT**

- 1. Article I INTRODUCTION is hereby modified to identify the Contract Administrator for the LOCAL AGENCY to be Nicolle Burnham, Parks and Public Works Director.
- Article II STATEMENT OF WORK is hereby modified to include the attached EXHIBIT A.2 SCOPE OF SERVICES Amended 07-03-23, EXHIBIT B.2.1 – COST PROPOSAL - Amended 07-03-23 COST PROPOSAL BY TASK, and EXHIBIT B.2.2 – COST PROPOSAL – Caltrans Exhibits 10-H3 for Task C – Construction Support Services.
- 3. Article IV PERFORMANCE PERIOD Paragraph A is hereby amended to extend the Agreement end date to 06/20/25.
- 4. ARTICLE V ALLOWABLE COSTS AND PAYMENTS TASK B AND TASK C Paragraph J is revised to read: "The total amount payable by LOCAL AGENCY for Task B and Task C shall not exceed \$234,371."
- 5. ARTICLE XIX INSURANCE is hereby replaced with the following:

#### **ARTICLE XIX INSURANCE**

Without limiting CONSULTANT's obligation to indemnify and hold harmless LOCAL AGENCY and VTA, CONSULTANT must procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by CONSULTANT, its agents, representatives, employees, or subconsultants. The cost of such insurance must be borne exclusively by CONSULTANT. In the event of any material change in the AGREEMENT Scope of Services, LOCAL AGENCY AND VTA reserve the right to change the insurance requirements set forth herein, upon advance written notice to CONSULTANT. CONSULTANT must furnish evidence of all required insurance policies, within three (3) business days of any request for such by LOCAL AGENCY or VTA.

#### A. Liability and Workers' Compensation Insurance

#### 1. Minimum Scope of Coverage

Coverage must be at least as broad as:

- a. General Liability coverage; Insurance Services Office "occurrence" form CG 0001.
   General Liability insurance written on a "claims made" basis is not acceptable.
   Completed Operations coverage must be continuously maintained for at least two (2) years after Final Acceptance of the Work.
- b. Business Auto Coverage, Insurance Services Office form number CA 0001, covering Automobile Liability, code 1 "any auto." Auto Liability written on a "claims-made" basis is not acceptable.
- c. Workers' Compensation insurance, as required by the Labor Code of the State of California, and Employer's Liability insurance.
- d. Professional Liability, including limited contractual liability coverage, covering liability arising out of any negligent act, error, mistake or omission in the performance of CONSULTANT'S services under this AGREEMENT. This coverage must be continuously maintained for a minimum of two (2) years following completion of this AGREEMENT. This coverage may be written on a "claims made" basis, if so, please see special provisions in Section C.
- e. CONSULTANT'S Pollution/Environmental Impairment Liability: covering liability arising out of the treatment, handling, storage, transportation, or accidental release of any hazardous material, to the extent applicable to CONSULTANT'S scope of services.

#### 2. Minimum Limits of Insurance

- a. CONSULTANT must maintain limits no less than:
  - 1. General Liability (including umbrella/excess liability): \$5,000,000 limit per occurrence for bodily injury, personal injury, and property damage. If General Liability Insurance or other form with a general aggregate limit is used, either the

general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. This requirement may be satisfied by a combination of General Liability with Excess or Umbrella, but in no event may the General Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying General Liability policy, "Follow Form" coverage, and a "Drop Down" provision.

- 2. Automobile Liability (including umbrella/excess liability): \$4,000,000 limit per accident for bodily injury and property damage. This requirement may be satisfied by a combination of Auto with Excess or Umbrella, but in no event may the Automobile Liability primary policy limit per occurrence be less than \$2,000,000, unless Excess policies feature inception and expiration dates concurrent with the underlying auto liability policy, "Follow Form" coverage, and a "Drop Down" provision.
- 3. Workers' Compensation and Employer's Liability: Statutory Workers' Compensation limits and Employer's Liability limits of \$1,000,000 per accident.
- 4. Professional Liability: \$2,000,000 per claim/aggregate minimum limit per claim. This requirement may be satisfied by a combination of Professional Liability insurance with Excess or Umbrella policies, but in no event may the Professional Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying policy, "Follow Form" coverage, and a "Drop Down" provision.
- 5. If applicable, CONSULTANT'S Pollution/Environmental Impairment Liability: \$3,000,000 per occurrence. This requirement may be satisfied by a combination of Pollution Liability insurance with Excess or Umbrella policies. Umbrella/Excess policies must feature inception and expiration dates concurrent with the underlying policy, "Follow Form" coverage, and a "Drop Down" provision.

#### 3. Self-Insured Retention

The certificate of insurance must disclose the actual amount of any deductible or self-insured retention for all coverages required herein. Any self-insured retention or deductible must be declared to and approved by LOCAL AGENCY and VTA. To apply for approval for a level of retention or deductible CONSULTANT must provide a current financial report including balance sheets and income statements for the past three years, so that LOCAL AGENCY and VTA can assess CONSULTANT's ability to pay claims falling within the self-insured retention or deductible. Upon review of the financial report, if deemed necessary by LOCAL AGENCY and VTA in their sole discretion, LOCAL AGENCY and VTA may elect one of the following options: to accept the existing self-insured retention or deductible; require the insurer to reduce or eliminate the self-insured retention or deductible as respects LOCAL AGENCY and VTA, its directors, officers, officials, employees and volunteers; or to require CONSULTANT to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Applicable costs resulting therefrom will be borne solely by CONSULTANT. CONSULTANT may request execution of a nondisclosure

agreement prior to submission of financial reports.

#### B. Reserved.

#### C. Claims Made Provisions

Claims-made coverage is never acceptable for General Liability or Auto Liability. Claims-made may be considered for Professional, Environmental/Pollution, or Cyber. For coverage written on a claims-made basis, it must be clearly stated on the Certificate of Insurance. In addition to all other coverage requirements, such policy must provide that:

- The policy retroactive date must be no later than the date of this AGREEMENT.
- 2. If any policy is not renewed or the retroactive date of such policy is to be changed, CONSULTANT must obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision must cover at least two (2) years.
- 3. No prior acts exclusion may be added to the policy during the AGREEMENT period.
- 4. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

#### D. Other Provisions

The specified policies must contain, or be endorsed to contain, the following provisions:

#### 1. General Liability and Automobile Liability

- a. The LOCAL AGENCY and VTA, its directors, officers, officials, and employees are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of CONSULTANT, including LOCAL AGENCY'S general supervision of CONSULTANT; products and completed operations of CONSULTANT and its subconsultants; premises owned, occupied or used by CONSULTANT; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage must contain no special limitations on the scope of protection afforded to LOCAL AGENCY and VTA, its directors, officers, officials, employees. Additional Insured endorsements must provide coverage at least as broad as afforded by the combination of ISO CG 20 10 10 01 and CG 20 37 10 01.
- Any failure to comply with reporting provisions of the policies may not affect coverage provided to LOCAL AGENCY and VTA, its directors, officers, officials, employees, or volunteers.
- c. CONSULTANT's required insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. The General Liability General Aggregate limit must apply per project, not per policy.

#### 2. All Coverages

- Excluding Professional Liability, The insurer must agree to waive all rights of subrogation against LOCAL AGENCY and VTA, its directors, officers, officials, and employees for losses arising from work performed by CONSULTANT and its subconsultants for LOCAL AGENCY and VTA.
- b. CONSULTANT's insurance coverage must be primary insurance as respects LOCAL AGENCY AND VTA, its directors, officers, officials, employees, and volunteers. Self-insurance or insurance that may be maintained by LOCAL AGENCY AND VTA, its directors, officers, officials, employees, or volunteers may apply only as excess to CONSULTANT's insurance. CONSULTANT's insurance must not seek contribution from LOCAL AGENCY or VTA's insurance programs.
- c. Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after a thirty (30) calendar days prior written notice by certified mail, return receipt required, has been given to LOCAL AGENCY.
- d. LOCAL AGENCY will not be responsible for any premiums or assessments on the CONSULTANT'S policies.
- e. In the event CONSULTANT employs subconsultants as part of the work covered by this AGREEMENT, it shall be the responsibility of CONSULTANT to ensure that all subconsultants are included as additional insured under the CONSULTANTS policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein and shall comply with the same insurance requirements that are stated in this AGREEMENT.

#### 3. Other Insurance Provisions

- a. If any coverage forms or endorsements required by this AGREEMENT are updated by their publishers, whether they be the insurance carrier(s), the Insurance Services Office, or the American Association of Insurance Services, during the duration of this AGREEMENT, LOCAL AGENCY AND VTA reserves the rights to require CONSULTANT to procure said coverage forms or endorsements using the updated versions upon the next renewal cycle.
- b. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event that said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing the insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of the LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in

- addition to any other remedies it may have, terminate the AGREEMENT upon occurrence of such event.
- c. Approval of the insurance by LOCAL AGENCY or acceptance of the Certificate of Insurance by LOCAL AGENCY shall not relieve or decrease the extent to which CONSULTANT may be held responsible for payment of damages resulting from CONSULTANT'S services or operation pursuant to this AGREEMENT, nor shall it be deemed a waiver of LOCAL AGENCY'S rights to insurance coverage hereunder.

#### E. Acceptability of Insurers

Insurance and bonds must be placed with insurers with an A.M. Best's rating of no less than A VII (financial strength rating of no less than A and financial size category of no less than VII), unless specific prior written approval has been granted by LOCAL AGENCY and VTA.

#### F. Certificates of Insurance

CONSULTANT must furnish LOCAL AGENCY with Certificates of Insurance and with original endorsements effecting coverage required. The certificates and endorsements for each insurance policy must be signed by an authorized representative of that insurer. The certificates must be issued on a standard ACORD Form. CONSULTANT must instruct their insurance broker/agent to submit all insurance certificates and endorsements and required notices electronically in PDF format to the LOCAL AGENCY. All endorsements must be attached to the ACORD certificate in a single PDF document. All insurance must be in effect for the duration of the AGREEMENT. The absence of insurance or a reduction of the stated limits shall cause all work on the project to cease. Any delays shall not increase costs to LOCAL AGENCY or increase the duration of the project. The LOCAL AGENCY reserves the right to require additional evidence of all required insurance policies, at any time.

The certificates must (1) identify the insurers, the types of insurance, the insurance limits, the deductibles or lack thereof, and the policy term, (2) include copies of all the actual policy endorsements required herein, and (3) in the "Certificate Holder" box include:

Town of Los Gatos 41 Miles Avenue Los Gatos, CA 95030

Santa Clara Valley Transportation Authority ("VTA") 3331 North First Street San Jose, CA 95134-1906

In the Description of Operations/Locations/Vehicles/Special Items Box, the LOCAL AGENCY and VTA for any relevant property leased must appear, the list of policies scheduled as underlying on the Umbrella/Excess policy must be listed, excluding Professional Liability. Certificate Holder must be named as additional insured, and Waiver of Subrogation must be indicated as endorsed to all policies as stated in the AGREEMENT documents., excluding Professional Liability.

ITEM NO. 7.

It is a condition precedent to granting of this AGREEMENT that all insurance certificates and endorsements be received and approved by LOCAL AGENCY and VTA before AGREEMENT execution. No occupancy may be taken until required insurance is in full compliance.

#### G. Maintenance of Insurance

If CONSULTANT fails to maintain insurance as required herein, LOCAL AGENCY, at its option, may suspend the AGREEMENT until a new policy of insurance is in effect.

#### H. Hold Harmless

Subject to California Civil Code Section 2782.8, CONSULTANT hereby agrees to and shall hold LOCAL AGENCY and VTA, its elective and appointive boards, commissions, officers, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage and any other claims of any sort what so ever, including, but not limited to, any liabilities, claims, losses, or expenses to the extent caused by the negligent acts, errors, or omissions or willful misconduct of CONSULTANT or CONSULTANT's SUBCONSULTANTs, agents, or employee operations in the performance of services under this AGREEMENT, whether such operations by CONSULTANT or by any of CONSULTANT's SUBCONSULTANTs, or by any one or more persons directly or indirectly employed by, or acting as agent for CONSULTANT or any of CONSULTANT's SUBCONSULTANTS during the progress of the work or at any time before its completion and final acceptance, excepting suits and actions brought by the CONSULTANT for default of this AGREEMENT or arising from the negligence or willful misconduct of the LOCAL AGENCY or VTA. To the extent applicable to CONSULTANT'S indemnity obligations hereunder, the Local Agency Council may retain as much of the money due to the CONSULTANT as shall be reasonably necessary to protect the LOCAL AGENCY, until disposition has been made of any such suits or claims for damages as aforesaid.

To the extent applicable to CONSULTANT'S indemnity obligations hereunder, CONSULTANT agrees to and shall reimburse LOCAL AGENCY's reasonable cost of defense (or, at the sole option of the LOCAL AGENCY, CONSULTANT shall defend with counsel reasonably approved by the LOCAL AGENCY Attorney) and indemnify LOCAL AGENCY and its elective and appointive boards, commissions, officers, and employees from any suits or actions at law or in equity (exclusive of any such actions brought by CONSULTANT), such indemnification to include all reasonable costs of defense, judgments, and any awards of reasonable attorneys' fees.

Should any accident or incident causing death, personal injury or property damage occur between the date CONSULTANT is notified that its General Liability and/or Workers Compensation Insurance is canceled and the effective date of such cancellation, CONSULTANT's obligation to indemnify, defend and save harmless the LOCAL AGENCY, as provided for hereinabove, shall in no manner be affected by the fact that the LOCAL AGENCY had not received the notice of cancellation prior to the date of such accident or incident.

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

IN WITNESS WHEREOF, the LOCAL AGENCY and CONSULTANT have executed this SECOND AMENDMENT, effective as of the date first set forth above.

TOWN OF LOS GATOS by:

laurel Prevetti

Laurel Prevetti, Town Manager

Approved as to Form:

Gabrielle Whelan

Gabrielle Whelan, Town Attorney

Attest: Bocusigned by:

Wendy Wood Wendy Wood, Town Clerk

Mohamed Basma, Senior Vice President – **Division Manager** 

<u>Departmental</u> Approval:

Meolle Burnham

Nicolle Burnham, Parks & Public Works Director

# EXHIBIT A.2 – SCOPE OF SERVICES Amended 07-03-23

Task C – Construction Support Services is hereby amended to include the following:

Task C.1.1 – Construction Support Services Project Management and Administration – Mott MacDonald will provide construction support project management related tasks on a cost per unit of work payment basis for the duration of the construction contract. The current construction contract includes 270 working days. Project management services are based on exercising prudent control of project scope, schedule, and quality of services and deliverables to be provided. This includes coordinating the work of the Mott MacDonald team, sub consultants and communications with the Town of Los Gatos and Caltrans.

- Task C.2 Preparing Responses to Requests for Information, Submittal Reviews and As-Built plans:
  - C2.1 Attend in person meetings as requested. (Approximately 50 team hours).
  - C2.2 Prepare responses to contractor's Request for Information (RFI) and Request for Solution (RFS) as requested. (Approximately 283 team hours)
  - C2.3 Review and provide responses to Contractor's submittals as requested. (Approximately 230 team hours).
  - C2.4 Site Observations including on-site visits by the engineering team to observe construction operations at critical milestones to determine whether the design intent is met during construction. (Approximately 30 team hours).
  - C2.5 Maintain Records including logs of RFIs, Submittals, Shop Drawings and Requests for Solutions (RFS). Logs will be included in monthly progress reports. (Approximately 22 team hours).
  - C2.6 Complete final walkthrough as requested to determine whether the intent of construction plans has been met. (Approximately 9 team hours)
  - C2.7 Assist in resolution/inspection of construction issues as requested. (Approximately 30 team hours)
  - C2.8 Upon completion of the construction work, Mott MacDonald will prepare record drawings based on red lines provided by the Resident Engineer. (Approximately 270 team hours).

## EXHIBIT B.2.1 – COST PROPOSAL Amended 07-03-23

## **COST PROPOSAL BY TASK**

SUB TASK	DESCRIPTION	NOT TO EXCEED COST			
	TASK A – BASIC SERVICES				
Task A.1	Project Management and Coordination	\$26,960			
Task A.2	Data Collection, Review and Site Visit	\$9,212			
Task A.3	Surveys and Mapping	\$27,154			
Task A.4	Utility Coordination	\$11,336			
Task A.5	Preliminary Engineering	\$27,231			
Task A.6	<b>Environmental Studies and Documentation</b>	\$42,991			
Task A.7	Geotechnical Investigations and Reports	\$54,489			
Task A.8	Right of Way Certification	\$4,400			
Task A.9	Final Design	\$198,438			
Task A.10	Coordination with Adjacent Agencies	\$6,601			
SUBTOTAL B	ASIC SERVICES	\$408,812			
Task A.11	Supplemental Reports and Services	\$ 49,935			
Amendment I	No. 1	\$ 90,000			
AMENDED TO	TAL TASK A.11	\$139,935			
TOTAL NOT TO	EXCEED TASK A	\$548,747			
	TASK B – BID SUPPORT SERVICES				
TOTAL NOT T	O EXCEED TASK B	\$ 28,000			
TASK C – CONSTRUCTION SUPPORT SERVICES					
AMENDMENT	No. 2 - TOTAL NOT TO EXCEED TASK C	\$206,371			
TOTAL AMEN	DED CONTRACT AMOUNT NOT TO EXCEED	\$783,118			

ITEM NO. 7.

# EXHIBIT B.2.2 – COST PROPOSAL Caltrans Exhibits 10-H3 For Task C – Construction Support Services Amended 07-03-23

#### EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS (GEOTECHNICAL AND MATERIAL TESTING)

	(GEOTECHNICAL AND I	WATERIAL TESTING)	
Note: Mark-ups are Not Allowed	☑ Prime Consultant	□ Subconsultant	☐ 2 <sup>nd</sup> Tier Subconsultant
Consultant Mott MacDonald			
Project No. <u>TLG 18-832-4505</u>	Contract No	)	Date <u>07/12/2023</u>
Unit/Item of Work: (Example: Log of Test Bori Study) Include as many Ite	•	ADL Testing for Haza	rdous Waste Material
DIRECT LABOR	Hours	Billing Hourly F	Rate (\$) Total (\$)
Professional (Classific	cation)* <u>374</u>		73,429
Sub-professional/Tec	hnical**	_	
EQUIPMENT 1 (with Operate	or)	_	_
EQUIPMENT 2 (with Operate	or)	<del>-</del>	

Consultant's Other Direct Costs (ODC) - Itemize:

Quantity	Unit	Unit Cost	Total
			\$ 0.00
			\$ 0.00
			\$ 0.00
			\$ 0.00
			\$ 0.00
			\$ 123,931.00
			\$ 9,011.00
	Quantity	Quantity Unit	Quantity Unit Unit Cost

Note: Attach additional pages if necessary.

#### TOTAL COST PER UNIT OF WORK

\$ 206,371.00

#### NOTES:

- 1. Key personnel <u>must</u> be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- 2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- 3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- 4. ODC items shall be based on actual costs and supported by historical data and other documentation.
- 5. ODC items that would be considered "tools of the trade" are not reimbursable.
- 6. Billing Hourly Rates must be actual, allowable, and reasonable.

#### EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

#### **Certification of Direct Costs:**

- I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal (s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:
  - 13. Generally Accepted Accounting Principles (GAAP)
  - 14. Terms and conditions of the contract
  - 15. Title 23 United States Code Section 112 Letting of Contracts
  - 16.48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
  - 17. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
  - 18. <u>48 Code of Federal Regulation Part 9904 Cost Accounting Standards Board</u> (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

#### Prime Consultant or Subconsultant Certifying:

Mohamed Basma Name:	Sr. Vice President Title*:
Signature: Mohamud Basma	Date of Certification (mm/dd/yyyy): 07/12/2023
Email: Mohamed.basma@mottmac.com	Phone Number: 408-807-0481
Address: 2077 Gateway Place, Suite 550 San Jose C	A 95110

\* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

#### List services the consultant is providing under the proposed contract:

- Project Management and administration, Attend in person meetings as requested.
- Prepare responses to contractor Request for Information (RFI)
- Review and provide responses to Contractor's submittals as requested
- Site Observations including on-site visits by the engineering team
- Maintain Records including logs of RFIs, Submittals, Shop Drawings and Requests for Solutions (RFS).
- Complete final walkthrough and assist in resolution/inspection of construction issues as requested.
- Prepare record drawings

#### EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS (GEOTECHNICAL AND MATERIAL TESTING)

	(GEOTECHNICAL AND I	WATERIAL TESTING)		
Note: Mark-ups are Not Allowed	☐ Prime Consultant	☑ Subconsultant	☐ 2 <sup>nd</sup> Tier Su	ubconsultant
Consultant Biggs Cardosa Ass	ociates			
Project No. <u>TLG 18-832-4505</u>	Contract No	·	Date <u>07/0</u>	7/2023
Unit/Item of Work: (Example: Log of Test Bori Study) Include as many Iter		ADL Testing for Hazar	dous Waste	Material
DIRECT LABOR	Hours	Billing Hourly Ra	ate (\$)	Total (\$)
Professional (Classific	cation)* 512	<u>\$242 *</u>	- \$	123,931
Sub-professional/Ted	nnical**			
EQUIPMENT 1 (with Operato	or)	<u> </u>	<u> </u>	
EQUIPMENT 2 (with Operato	or)			

Consultant's Other Direct Costs (ODC) - Itemize:

Consultant's Other Direct Costs (ODC) - Itemize.					
Description of Item	Quantity	Unit	Unit Cost	Total	
Mileage Costs		-4		\$ 0.00	
Equipment Rental and Supplies				\$ 0.00	
Permit Fees				\$ 0.00	
Plan Sheets				\$ 0.00	
Test				\$ 0.00	
Subconsultant 1:			tii		
Subconsultant 2:					
Subconsultant 3:					
Subconsultant 4:					
Subconsultant 5:					

Note: Attach additional pages if necessary.

#### TOTAL COST PER UNIT OF WORK

\$ 123,931.00

#### NOTES:

- 1. Key personnel <u>must</u> be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- 2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- 3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- 4. ODC items shall be based on actual costs and supported by historical data and other documentation.
- 5. ODC items that would be considered "tools of the trade" are not reimbursable.
- 6. Billing Hourly Rates must be actual, allowable, and reasonable.
  - \* \$242 is an average billing rate. Work will be billed at actual rates for each staff member.

#### EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

#### **Certification of Direct Costs:**

- I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal (s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:
  - 13. Generally Accepted Accounting Principles (GAAP)
  - 14. Terms and conditions of the contract
  - 15. Title 23 United States Code Section 112 Letting of Contracts
  - 16. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
  - 17. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
  - 18. <u>48 Code of Federal Regulation Part 9904 Cost Accounting Standards Board</u> (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:	
Name:	Title*:
Signature : Malwash Hamm	Date of Certification (mm/dd/yyyy): 07/07/2023
Email: MHarms@BiggsCardosa.com	Phone Number: 408-839-8878
Address: 865 The Alameda San Jose CA	
a level no lower than a Vice President or a Cauthority to represent the financial information contract.	of the consultant's or subconsultant's organization at Chief Financial Officer, or equivalent, who has on utilized to establish the cost proposal for the
<u>list services the consultant is providing under the p</u>	
Biggs Cardosa will provide limited construction support :	services relating to structural components.

#### EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)

	(GEOTECHNICAL AND I	WATERIAL TESTING)		
Note: Mark-ups are Not Allowed	☐ Prime Consultant	☑ Subconsultant	□ 2 <sup>nd</sup> Tier Su	bconsultant
Consultant ActiveWayz Engin	eering			
Project No. <u>TL 18-832-4505</u>	Contract No	)	Date <u>07/12</u>	2/2023
Unit/Item of Work: (Example: Log of Test Bori Study) Include as many Ite	• •	ADL Testing for Haza	ardous Waste I	Vaterial
DIRECT LABOR	Hours	Billing Hourly F	Rate (\$) T	otal (\$)
Professional (Classifi	cation)* 48	\$187.73	3* \$	9,011
Sub-professional/Ted	hnical**			
EQUIPMENT 1 (with Operate	or)		<u>u</u>	
EQUIPMENT 2 (with Operate	or)			

Consultant's Other Direct Costs (ODC) - Itemize:

Consultant's Other Direct Costs (ODO) - Itemize.				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs		-4		\$ 0.00
Equipment Rental and Supplies				\$ 0.00
Permit Fees				\$ 0.00
Plan Sheets				\$ 0.00
Test				\$ 0.00
Subconsultant 1:			121	
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Attach additional pages if necessary.

#### TOTAL COST PER UNIT OF WORK

\$ 9,011.00

#### NOTES:

- 1. Key personnel <u>must</u> be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- 2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- 3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- 4. ODC items shall be based on actual costs and supported by historical data and other documentation.
- 5. ODC items that would be considered "tools of the trade" are not reimbursable.
- 6. Billing Hourly Rates must be actual, allowable, and reasonable.
- \* \$187.73 is an average billing rate. Work will be billed at actual rates for each staff member.

#### EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

#### **Certification of Direct Costs:**

- I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal (s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:
  - 13. Generally Accepted Accounting Principles (GAAP)
  - 14. Terms and conditions of the contract

Prime Consultant or Subconsultant Certifying:

Admas Zewdie

- 15. Title 23 United States Code Section 112 Letting of Contracts
- 16. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 17. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 18. <u>48 Code of Federal Regulation Part 9904 Cost Accounting Standards Board</u> (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

President

Name:	Intle*:
Signature : Admand Boda	Date of Certification (mm/dd/yyyy): 07/12/2023
Email: admas@activewayz.engineering	Phone Number: 408-219-5678
Address: 2170 The Alameda, San Jose, CA 95126	
a level no lower than a Vice President or a	of the consultant's or subconsultant's organization at Chief Financial Officer, or equivalent, who has on utilized to establish the cost proposal for the proposed contract:
ActiveWayz Engineering will provide limited construction	7 ave
relocations.	, so, visus is indicated to mater penduon control and dainty

ITEM NO. 7.

#### **ATTACHMENT 1**

AGREEMENT FOR CONSULTANT SERVICES LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505 dated the  $\mathbf{1}^{\text{st}}$  of October, 2019 and the FIRST AMENDMENT executed on September 13, 2021

# FIRST AMENDMENT TO AGREEMENT TO THE AGREEMENT FOR CONSULTANT SERVICES

## LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505

This First Amendment to Agreement for Consultant Services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project CIP No. 18-832-4505 amends that certain Agreement for Consultant Services dated October 1, 2019, made by and between the Town of Los Gatos, ("LOCAL AGENCY") and Mott MacDonald Group, Inc. ("CONSULTANT").

#### **RECITALS**

- A. The LOCAL AGENCY and CONSULTANT entered into an Agreement for Consultant Services on October 1, 2019, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. The LOCAL AGENCY desires to amend the agreement to increase the scope of work, increase compensation, and extend the term of the agreement.

#### <u>AMENDMENT</u>

- ARTICLE I Introduction is amended to read:
   The Contract Administrator for LOCAL AGENCY will be WooJae Kim, Town Engineer.
- 2. <u>ARTICLE IV Performance Period (A.)</u> is amended to read: The AGREEMENT shall end on 12/31/23, unless extended by AGREEMENT amendment.
- 3. <u>ARTICLE V Allowable Costs and Payments Task A Item E</u> is amended to read: The total amount payable by Local Agency for Task A shall not exceed \$576,747.
- 4. Exhibit B Cost Proposal is revised per the attached Exhibit B dated 06-30-21. The amount for Task A.11 Supplemental Reports and Services is hereby increased from \$49,935 to \$139,935 for additional reports and services to be performed as outlined in the Scope of Services.

Compensation shall be payable as outlined in the terms of the original Agreement.

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

9/3/2021

IN WITNESS WHEREOF, the LOCAL AGENCY and CONSULTANT have executed this Amendment.

CONSULTANT by:

DocuSigned by:

Molianed Basma

Senior Vice President - Division Manager

Name

Title

LOCAL AGENCY	
Town of Los Gatos by:	
Laurel Prevetti	9/13/2021
Latifel Prevetti, Town Man	ager
Department Recommenda	ation:
DocuSigned by:	
Matt Molly	9/3/2021
Matt Morley	
Director of Parks and Publ	ic Works
A d t . F	
Approved as to Form:	
DocuSigned by:	
Robert W. Schultz	9/12/2021
Robert Schultz, Town Atto	rney
Attest:	
DocuSigned by:	
Shelley Neis	9/13/2021

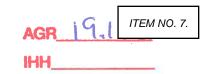
Shelley Neis, MMC, CPMC, Town Clerk

Page 2 of 3

#### **REVISED EXHIBIT B – COST PROPOSAL**

# COST PROPOSAL BY TASK (for progress payment purposes)

SUB TASK	DESCRIPTION	NOT TO EXCEED COST
	TASK A – BASIC SERVICES	
Task A.1	Project Management and Coordination	\$26,960
Task A.2	Data Collection, Review and Site Visit	\$9,212
Task A.3	Surveys and Mapping	\$27,154
Task A.4	Utility Coordination	\$11,336
Task A.5	Preliminary Engineering	\$27,231
Task A.6	<b>Environmental Studies and Documentation</b>	\$42,991
Task A.7	Geotechnical Investigations and Reports	\$54,489
Task A.8	Right of Way Certification	\$4,400
Task A.9	Final Design	\$198,438
Task A.10	Coordination with Adjacent Agencies	\$6,601
SUBTOTAL BASIC SERVICES		\$408,812
Task A.11	Supplemental Reports and Services	\$49,935
Addendum N	o. 1	\$90,000
AMENDED TO	TAL TASK A.11	\$139,935
TOTAL NOT TO EXCEED TASK A		\$548,747
TOTAL NOT TO EXCEED TASK B AND TASK C		\$28,000
TOTAL AMEN	DED CONTRACT AMOUNT NOT TO EXCEED	\$576,747



#### **AGREEMENT FOR CONSULTANT SERVICES**

# LOS GATOS CREEK TRAIL TO HIGHWAY 9 TRAILHEAD CONNECTOR PROJECT 18-832-4505 TABLE OF CONTENTS

	Subject	Page
Article I	Introduction	
Article II	Statement of Work	
Article III	Consultant's Reports or Meetings	
Article IV	Performance Period	
Article V	Allowable Costs and Payments	
Article VI	Termination	
Article VII	Cost Principles and Administrative Requirements	
Article VIII	Retention of Records/Audit	
Article IX	Audit Review Procedures	
Article X	Subcontracting	
Article XI	Equipment Purchase	
Article XII	State Prevailing Wage Rates	11
Article XIII	Conflict of Interest	
Article XIV	Rebates, Kickbacks or other Unlawful Consideration	
Article XV	Prohibition of Expending Local Agency State or Federal Funds for Lobb	ying16
Article XVI	Non-Discrimination Clause and Statement of Compliance	
Article XVII	Debarment and Suspension Certification	
Article XVIII	Disadvantaged Business Enterprises (DBE) Participation	
Article XIX	Insurance	20
Article XX	Funding Requirements	22
Article XXI	Change in Terms	23
Article XXII	Contingent Fee	23
Article XXIII	Disputes	23
Article XXIV	Inspection of Work	24
Article XXV	Safety	24
Article XXVI	Ownership of Data	25
Article XXVII	Claims Filed by LOCAL AGENCY'S Construction Contractor	25
Article XXVIII	Confidentiality of Data	26
Article XXIX	National Labor Relations Board Certification	26
Article XXX	Evaluation of Consultant	26
Article XXXI	Retention of Funds	27
Article XXXII	Notification	27
Article XXXIII	AGREEMENT	28
Article XXXIV	Signatures	28
	ATTACHMENTS:	
Exhibit A	Scope of Services	
Exhibit B	Cost Proposals	
Exhibit C	Caltrans Forms	

• Exhibit 10-02 – Consultant Contract DBE Commitment

• Exhibit 17-F - Final Report- Utilization of DBE and First Tier Subcontractors

#### **ARTICLE I - INTRODUCTION**

This AGREEMENT is made and entered into on <u>October 1, 2019</u> (<u>DATE</u>) by and between the TOWN OF LOS GATOS, a California municipal corporation, hereinafter referred to as, **LOCAL AGENCY** and **Mott MacDonald Group, Inc.**, hereinafter referred to as, **CONSULTANT**, whose address is 2077 Gateway Place, Suite 550, San Jose, CA 95110. The CONSULTANT is incorporated in the State of <u>Delaware</u>.

The Project Manager for the CONSULTANT will be Teferi Abere, Principal Project Manager.

The Contract Administrator for LOCAL AGENCY will be Lisa Petersen, Assistant Public Works Director/Town Engineer.

This AGREEMENT is made with reference to the following facts.

The LOCALAGENCY desires to engage CONSULTANT to provide professional engineering design services for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project.

The CONSULTANT represents and affirms that it is willing to perform the desired work pursuant to this AGREEMENT.

The CONSULTANT represents to LOCAL AGENCY that it possesses the professional skills, qualifications, experience, and resources necessary and has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONSULTANT to practice its profession and to timely perform the services described in this AGREEMENT. The services performed by CONSULTANT will be in a manner consistent with that level of care and skill ordinarily exercised by other professional consulting firms providing similar services under similar circumstances at the time, and in the general vicinity where, the services are performed. CONSULTANT acknowledges LOCAL AGENCY has relied upon these representations to retain the CONSULTANT.

CONSULTANT shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws.

CONSULTANT shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.

- A. The work to be performed under this AGREEMENT is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated <u>August 29</u>, <u>2019</u>. The approved CONSULTANT's Scope of Services (Exhibit A) and Cost Proposal (Exhibit B) is attached hereto and incorporated by reference. If there is any conflict between the approved Scope of Services or Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- B. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, penalties, costs, losses and expenses, in law or equity, including without limitation, court costs and

- reasonable attorneys' and expert witness fees, to the extent caused by the negligent acts, errors, oromissions, recklessness or willful misconduct on the part of CONSULTANT, or any of the CONSULTANT'S officers, employees, or agents or any sub-consultants. The provisions of this section shall survive termination or suspension of this AGREEMENT.
- C. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this AGREEMENT, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY. As an independent contractor it or its employees or agents shall not obtain any rights to retirement benefits or other benefits which accrue to LOCAL AGENCY employee(s).
- D. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of this AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- E. Anythird party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCALAGENCY harmless from any and all claims that may be made against LOCALAGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- F. 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 LOCAL AGENCY. 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 reasonably cooperate with LOCAL AGENCY regarding litigation brought regarding the subject of CONSULTANT's work to be performed under this AGREEMENT. CONSULTANT shall be compensated for its time, and any costs and expenses 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.
- G. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or Subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- H. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

#### **ARTICLE II STATEMENT OF WORK**

CONSULTANT agrees to perform the services as outlined in "Exhibit A-Scope of Services" within the time frames specified therein, and "Exhibit B - Consultant's Cost Proposal" which are hereby incorporated by reference and attached.

#### **ARTICLE III CONSULTANT'S REPORTS OR MEETINGS**

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

#### ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on insert award'date; contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on 06/20/21, unless extended by AGREEMENT amendment.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

#### ARTICLE V ALLOWABLE COSTS AND PAYMENTS TASK A-

- A. The method of payment for TASK A of this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article II Statement of Work of this AGREEMENT. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall

be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this AGREEMENT. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work, unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works Department
ATTN: Lisa Petersen, Assistant
Public Works Director/Town Engineer Los
Gatos Creek Trail to Highway 9 Trailhead
Connector Project
41 Miles Avenue Los Gatos, CA 95030

E. The total amount payable by LOCAL AGENCY for TASK A shall not exceed \$458,747

#### TASK B and TASK C

- A. The method of payment for TASK B and TASK C shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be
  \$0.00 per approved Cost Proposal. This rate shall be for a fully equipped
  - vehicle(s) specified in Article II Statement of Work, as applicable. The specified rate to be paid for equipment shall be, as listed in Exhibit B- Consultant's Cost Proposal.
- C. The method of payment for TASK B and TASK C of this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as

- specified in Paragraph "J," of this Article shall not be exceeded unless authorized by AGREEMENT amendment.
- D. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of
  - <u>\$0.</u> The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- E. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- F. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- G. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article II Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- H. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- I. CONSULTANT will be reimbursed within thirty (30) days of receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY'S Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works
Department ATTN: Lisa Petersen, Assistant
Public Works Director/Town Engineer
Los Gatos Creek Trail to Highway 9 Trailhead
Connector Project 41 Miles Avenue
Los Gatos, CA 95030

- J. The total amount payable by LOCAL AGENCY including the fixed fee for TASK B and TASK C shall not exceed \$ 28,000.
- K. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.
- L. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the

prevailing wage rates are reimbursable.

#### **ARTICLE VI TERMINATION**

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY.
- B. LOCALAGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCALAGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this Section.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT, except as provided in Article XI C. Upon termination, and upon receipt of payment by CONSULTANT, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

# ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

# **ARTICLE VIII RETENTION OF RECORDS/AUDIT**

For the purpose of determining compliance with California Gov. Code§ 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the CONSULTANT's work and services for audits. examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

#### **ARTICLE IX AUDIT REVIEW PROCEDURES**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by agreement of LOCAL AGENCY and CONSULTANT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and Subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and

- disallowance of prior reimbursed costs.
- E. CONSULTANT'S Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by California's Department of Transportation (Caltrans) Audit and Investigation (A&I). Caltrans A&I, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
  - 1. During a Caltrans A&I review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans A&I will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans A&I identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I.

Accepted rates will be as follows:

- a. If the proposed rate is less than 150% the accepted rate reimbursed will be 90% of the proposed rate.
- If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be 85% of the proposed rate.
- If the proposed rate is greater than two hundred percent (200%) the accepted rate will be 75% of the proposed rate.
- 2. If Caltrans A&I is unable to issue a cognizant letter per paragraph E.1. above, Caltrans A&I may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans A&I will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
- 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if Caltrans A&I is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
- 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the

following items have occurred: (1) Caltrans A&I accepts or adjusts the original or revised independent CPA- audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans A&I has issued its final ICR review letter. The CONSULTANT MUSTSUBMITITS FINAL INVOICETO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other AGREEMENTs executed between LOCAL AGENCY and the CONSULTANT, either as a prime or Subconsultant, with the same fiscal period ICR. The ICR period shall extend beyond the one-year period and shall be fixed for the life of the contract.

#### ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between LOCAL AGENCY and any Subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its Subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its Subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this AGREEMENT shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. All subcontracts entered into as a result of this AGREEMENT shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within fifteen (15) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY for the work performed by such Subconsultants.
- E. Any substitution of Subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator in advance of assigning work to a substituted Subconsultant(s).

# **ARTICLE XI EQUIPMENT PURCHASE**

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator;

- three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
  - 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and issold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
    - Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

# **ARTICLE XII STATE PREVAILING WAGE RATES**

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (http://www.doi.ca.gov/hg/construc/LaborCompliance/documents/DistrictRegion\_Map\_Construction\_7-8-15.pdf)

These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCALAGENCY construction sites, at LOCALAGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <a href="http://www.dir.ca.gov">http://www.dir.ca.gov</a>.
- D. Payroll Records
  - 1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
    - a. The information contained in the payroll record is true and correct.
    - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
- 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representative's at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
  - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
  - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
  - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
- 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
- 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be

- marked or obliterated.
- 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
- 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.

# F. Penalty

- 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
  - 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
  - 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
  - 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the

prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

- a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code§§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
- b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
- c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public worksproject.
- d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
- 5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen {15} calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
- 6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

# G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

# H. Employment of Apprentices

- 1. Where either the prime AGREEMENT or the sub agreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any Subconsultants under him or her shall comply with all applicable requirements of Labor Code§§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
- 2. CONSULTANTs and Subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and Subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at https://www.dir.ca.gov/das/, for additional information regarding the employment of apprentices and for the specific journey-to-apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all Subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

# **ARTICLE XIII CONFLICT OF INTEREST**

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or Subconsultant and any firm affiliated with the CONSULTANT or Subconsultant that bids on any construction contract or on any AGREEMENT to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

# ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY

shall have the right in its discretion; to terminate this AGREEMENT without liability; to pay only for the value of the work actually performed; or to deduct from this AGREEMENT price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

# ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
  - No state, federal or LOCAL AGENCY appropriated funds have been paid, or will be paid by- or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any local, State or Federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
  - 2. If any funds other than Federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lowertier subcontracts, which exceed one hundred thousand dollars (\$100,000) and that all such sub recipients shall certify and disclose accordingly.

# ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California

- that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code§ 12990 and Title 2 CCR§ 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its Subconsultants shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- C. CONSULTANT and Subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT and Subconsultants shall comply with the provisions of the Fair Employment and Housing Act (California Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of California Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing California Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT, with regard to its work performed under this Agreement and to the extent the California Fair Employment and Housing Commission regulations are applicable to such work, shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its Subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49

CFR Part 21- Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

# ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
  - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
  - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
  - 3. Does not have a proposed debarment pending; and
  - 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the FHWA.

# **ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- A. This AGREEMENT is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is 15%.
  Participation by DBE Consultant or Subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-01), or in the Consultant Contract DBE Information (Exhibit 10-02) attached hereto and incorporated as part of the AGREEMENT. If a DBE Subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE Subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal,

- complete and submit Exhibit 15-H: DBE Information Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The LOCAL AGENCY, CONSULTANT or Subconsultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted contracts. Failure by CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as LOCAL AGENCY deems appropriate which may include:
  - 1) Withholding monthly progress payments;
  - Disqualifying the CONSULTANT from future bidding as nonresponsive.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f). If a DBE Subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE Subconsultant, if the goal is not otherwise met.
- F. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of the LOCAL AGENCY's ContractAdministrator.
- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar

- transactions, particularly those in which DBEs do not participate.
- If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. Upon completion of the AGREEMENT; a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
- L. If a DBE Subconsultant is decertified during the life of the AGREEMENT, the decertified Subconsultant shall notify CONSULTANT in writing with the date of decertification. If a Subconsultant becomes a certified DBE during the life of the AGREEMENT, the Subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

# **ARTICLE XIX INSURANCE**

A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance in compliance with the following:

Minimum Scope of Insurance:

 i. CONSULTANT agrees to have and maintain, for the duration of the AGREEMENT, General Liability insurance policies insuring it 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 AGREEMENT, an Automobile Liability insurance policy ensuring it 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 LOCAL AGENCY all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the LOCAL AGENCY before work commences.
- iv. CONSULTANT agrees to have andmaintain, for the duration of the A'GREEMENT, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure CONSULTANT for professional errors or omissions in the performance of the particular scope of work under this AGREEMENT.

# **General Liability:**

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

<u>All Coverages</u>. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after

thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the LOCAL AGENCY. Current certification of such insurance shall be kept on file at all times during the term of this AGREEMENT with the Town Clerk.

Workers' Compensation. In addition to these policies, CONSULTANT shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the LOCAL AGENCY before beginning services under this AGREEMENT. Further, CONSULTANT shall ensure that all subcontractors employed by CONSULTANT provide the required Workers' Compensation insurance for their respective employees.

<u>Indemnification</u>. CONSULTANT shall save, keep, hold harmless and indemnify and defend the LOCAL AGENCY 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 the negligent act or omissions of the CONSULTANT, or any of the CONSULTANT's officers, employees, or agents or any Subconsultant.

B. CONSULTANT agrees that the insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

#### **ARTICLE XX FUNDING REQUIREMENTS**

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition,

- this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to void the AGREEMENT under the 30-day termination clause pursuant to Article VI, or by mutual agreement of the parties to amend the AGREEMENT to reflect any reduction of funds.

#### **ARTICLE XXI CHANGE IN TERMS**

- A. No modification, waiver, mutual termination, or amendment of this AGREEMENT is effective unless made in writing and signed by the LOCAL AGENCY and the CONSULTANT.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY'S Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY'S Contract Administrator.

#### ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

# **ARTICLE XXIII DISPUTES**

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after thirty (30) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

A. Any dispute, other than audit, concerning a question of fact arising under this

- AGREEMENT that is not disposed of by AGREEMENT shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.
- D. In any dispute over any aspect of the AGREEMENT, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.

# ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any Subconsultant shall permit LOCAL AGENCY, the state, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT including review and inspection on a daily basis.

### **ARTICLE XXV SAFETY**

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Division 1, Section 591 of the California Vehicle Code, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all applicable requirements set forth in Divisions 11, 12, 13, 14, and 15 of the California Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Any subcontract entered into as a result of this AGREEMENT, shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

# **ARTICLE XXVI OWNERSHIP OF DATA**

- A. It is mutually agreed that subject to CONSULTANT's receipt of payment for its services under this AGREEMENT all materials prepared by CONSULTANT under this AGREEMENT shall become the property of LOCAL AGENCY, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, LOCAL AGENCY shall be entitled to, and CONSULTANT shall deliver to LOCAL AGENCY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to LOCAL AGENCY which is in CONSULTANT's possession . Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by LOCAL AGENCY.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of LOCAL AGENCY without restriction or limitation upon its use or dissemination by LOCAL AGENCY.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this AGREEMENT. Any reuse by LOCAL AGENCY for another project or project location shall be at LOCAL AGENCY's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the AGREEMENTs as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other AGREEMENT products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

# ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to reasonably cooperate with LOCAL AGENCY.
- B. CONSULTANT's consultation or testimony will be reimbursed at CONSULTANT's then current hourly rates of compensation plus any costs and expenses.

# **ARTICLE XXVIII CONFIDENTIALITY OF DATA**

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCALAGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this AGREEMENT are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of LOCAL AGENCY or except as may be required by any law, regulation or government or court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this AGREEMENT, LOCAL AGENCY has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, LOCAL AGENCY's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

#### ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

# ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

### **ARTICLE XXXI RETENTION OF FUNDS**

- A. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.
- B. No retainage will be held by the LOCAL AGENCY from progress payments due the CONSULTANT. Any retainage held by the CONSULTANT or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within thirty (30) calendar days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR §26.29) requires that any delay or postponement of payment over thirty (30) calendar days may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of this provision shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Business and Professions Code §7108.5. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT and subconsultants.

#### **ARTICLE XXXII NOTIFICATION**

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

# **CONSULTANT:**

MOTT MACDONALD GROUP, INC. ATTN: Chris Metzger, Senior Vice President 2077 GATEWAY PLACE, SUITE 550 SAN JOSE, CA 95110

# **LOCAL AGENCY:**

Town of Los Gatos - Parks and Public Works Department
ATTN: Lisa Petersen, Assistant Public Works Director/Town Engineer
41 Miles Avenue
Los Gatos, CA 95030

# **ARTICLE XXXIII AGREEMENT**

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCALAGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

# **ARTICLE XXXIV SIGNATURES**

**Recommended by Department Head:** 

WHEREOF, THE LOCAL AGENCY AND CONSULTANT HAVE EXECUTED THIS AGREEMENT.

**TOWN OF LOS GATOS by:** 

Laurel Prevetti, Town Manager

**CONSULTANT** by:

Chris Metzger, Senior Vice President

**Printed Name and Title** 

Approved as to Form:

Synu Jampson Deputy Jam Cittorney for Robert Schultz, Town Attorney

Attest:

ITEM NO. 7.

# EXHIBIT A SCOPE OF SERVICES

# **EXHIBIT A - SCOPE OF SERVICES**

We have prepared the following scope of services to address the Town's requested scope in the RFP and additional requirements we anticipate from Caltrans for the successful completion of the project. The design services scope of work is divided into 11 major tasks as follows:

# TASK A - Design Services

Mott MacDonald will provide all design services, including but not limited to:

- Project management
- Preliminary engineering
- Environmental studies and documentation
- Utility coordination and right-of-way
- Permits and coordination with other agencies
- Surveys and mapping
- Geotechnical investigations and reports
- Structural and final design and development of all contract documents
- Obtaining the authorization to proceed to construction from Caltrans for the Los Gatos Creek Trail to Highway 9 Trailhead Connector Project as described below.

All work for Task A is to be completed within 18 months from the execution of this agreement. Monthly progress payments shall be made based on the percent complete of each task and shall be based on the not to exceed cost per task as shown in Exhibit B – Cost Proposals by Task.

### BASIC SERVICES (Tasks A.1 – A.10)

# Task A.1 Project Management and Coordination

The Town will serve as the contract manager and direct liaison between Mott MacDonald and Caltrans District 4 Division of Local Assistance; however, Mott MacDonald will provide support to the Town regarding the project steps necessary to deliver the federally funded project consistent with Caltrans and federal reimbursement requirements.

Mott MacDonald will provide project management for each task for the entire duration of the project. Management activities will consist of planning and supervision of all project development tasks, project administration, project meetings, project coordination, and maintaining quality control as stated below.

# Supervision

- Oversee technical work by Mott MacDonald Team members, including subconsultants
- Ensure compliance with Town of Los Gatos, Caltrans, Santa Clara Valley Water District processes, codes and standards
- Interface with Caltrans staff to maintain format consistency of all deliverables
- Establish and maintain project files
- Create, monitor, and update the project schedule, including reporting monthly on progress and recommending and implementing adjustments as required

- Develop a work plan so that the project remains on budget and schedule
- Create and implement a Risk Management Plan in accordance with Caltrans requirements

#### Administration

- Prepare and submit monthly progress reports that identify work performed on each task from the preceding month
- Engage subconsultants contractually to ensure all contractual obligations are met by all team members
- Provide monthly invoices by task that identify percentage complete of each task, expense charges, and subconsultant charges, with support documentation for direct expenses and other charges

# **Project Meetings**

The Mott MacDonald Team will be responsible for planning, leading, and preparing documentation for project meetings, including preparing and submitting agendas, meeting materials, and meeting minutes for each meeting. The team will attend the following meetings:

- One (1) kick-off meeting with the Project Team to review and refine the scope of work, work plan, and schedule
- In-person PDT meetings with Caltrans and SCVWD staff and subconsultant team members, as required, to review deliverables and resolve comments
- Monthly in-person or teleconference meetings with Town staff, key stakeholders, or other agencies
- Conducting field reviews/meetings as needed

A total of ten (10) meetings are budgeted for this project.

#### Coordination

- Develop a list of project stakeholders for coordination during project design
- Provide and distribute contact information for all project team members
- Track action items for the Town
- Prepare all submissions for the Town to submit to Caltrans Local Assistance

# **Quality Control**

- Perform a thorough review and verification of correction by an independent reviewer
- Take corrective actions to rectify findings of non-compliance by a QA/QC review
- Document quality reviews, and make findings and corrective actions available for Town's review

#### **Deliverables:**

- Meeting agenda and minutes
- Field review logs
- Submittal, Action and Decision documentation logs
- Tracking spreadsheets
- Caltrans submissions
- Project Schedule
- Project Work Plan
- Risk Management Plan
- Progress Reports

Invoices

# Task A.2 Data Collection, Review, and Site Visit

The Mott MacDonald Team will review all available information provided by Town of Los Gatos, Caltrans, Santa Clara Valley Water District, and other agencies, which will include the following items:

- Previous studies, reports, and documents
- As-built plans
- Utility information
- Aerial photos and mapping
- Survey control data
- Existing right-of-way information
- Geotechnical reports
- Town's adopted Bicycle and Pedestrian Master Plan and other documents related to the project
- Funding parameters and obligations
- Review Town of Los Gatos Standard Specifications and Details for Construction, 2018 Caltrans
   Standard Specifications and Standard Plans, California Manual of Uniform Traffic Control Devices (CA MUTCD 2014 Revision 3) and other controlling design standards as appropriate

Although the team has already visited the project site multiple times and is very familiar with the project area, we will conduct a field review with the Project Manager and key project staff, to envision the project issues, identify and document concerns, and photograph key aspects that will affect the overall project development effort. The team will produce field notes, photos, and field measurements for use in the project development.

# **Deliverables:**

- Field notes
- -- Photos
- Video of existing site conditions
- Location of utilities within project area
- Summary or diagram of existing conditions highlighting any special/potential conditions that may affect the final design
- Summary of ADA standards and trail guidelines applicable to the project

# Task A.3 Surveys and Mapping

The Mott MacDonald Team, with R.E.Y Engineers leading the surveying effort, will perform design topographic surveys and right-of-way mapping for the project. The topographic information will be compiled to create an existing conditions base map in AutoCAD.

#### **Right-of-way Mapping**

R.E.Y. will provide record right-of-way mapping of the project area. Right of way will be based upon preliminary title reports, record maps, deeds, Caltrans right-of-way maps, SCVWD right-of-way maps, and assessor maps. The Town will provide preliminary title reports, if required.

# **Topographic Mapping**

R.E.Y. will perform a topographic survey for design purposes of the project site. R.E.Y. will conduct a detailed field survey to review and record existing conditions in the project area to identify any unusual or special conditions that may affect the design or construction of the project. The field survey for the project area shall include at a minimum, the location of existing facilities, including but not limited to:

- Los Gatos Creek
- The Los Gatos Creek Trail and adjacent land area
- Roadways
- Sidewalks
- Curbs
- Gutters
- Ramps
- Highway 9 overcrossing including the embankments and structural components
- Utilities (above, below, and attached to bridge structure if any).
- Flood control facilities
- Waterways
- Outfalls
- Trees greater than 6" DBH with tree species identified
- Any existing irrigation facilities
- Fences and Gates

Survey shall extend sufficiently beyond the project area to demonstrate proper post project drainage. R.E.Y. will prepare topographic and aerial mapping at a scale of 1"=20' for use in the project design.

### Deliverables:

- Base map(s) in AutoCAD format and survey data sheets
- Right of Way Mapping

# **Task A.4 Utility Coordination**

The complete effort related to utilities for this project includes accurately identifying and mapping existing utilities, identifying and defining any relocations or modifications required by the project, and documenting utilities (those affected and those not affected) in accordance with Caltrans policies.

Mott MacDonald will coordinate early with utility companies to confirm any potential conflicts with existing overhead and underground utilities within the project area. This effort will include the following tasks:

- Develop utility contacts lists and relocation tracking database
- Prepare Utility "A" letters for the Town's signature requesting existing utility information from utility owners within the project vicinity during the preliminary design phase
- Schedule and conduct utility coordination meetings with utility owners. Prepare/distribute meetings
  agendas in advance of each meeting and prepare/distribute meeting minutes within three working days
- Prepare Utility "B" letters (Notice to Utility Owners of Conflict) for the Town's Signature at the 65% submittal milestone
- Prepare Utility Conflict Maps clearly delineating existing and proposed utilities in current and final locations. Location of proposed utilities in final locations will be based upon design information provided by the affected utility companies

- Prepare Utility "C" letters (Notice to Utility Owners to Relocate Conflicting Facilities) for the Town
   Signature at the 95% submittal milestone
- Provide support to the Town to determine liability for utility relocation costs and certify that all utility conflicts are addressed so that Utility Certification (part of ROW Certification) is obtained
- Prepare Utility Agreements to be executed with affected utility companies

#### Deliverables:

- 'A'+'B'+'C' Letters for Town signature requesting utility information
- AutoCAD basemap of existing utilities
- Encroachment Permit Applications for site access

# **Task A.5 Preliminary Engineering**

Upon completion of the above and preparation of the base map, Mott MacDonald will develop a preliminary design for up to three alternatives of the project consistent with the project's goals and budget. The preliminary plans will be to roughly a 15% design level and will include plan and profile exhibits over the project base mapping and aerials. The exhibits will allow the Town, stakeholders, and permitting agencies to understand the relative spatial impacts and design elements of the layout. We anticipate up to two (2) iterations of the preliminary design addressing the Town staff comments. The preliminary geometry will be developed considering cost, accessibility and connectivity, safety, design exceptions, environmental impacts, required permits, grading/drainage, right of way, utility relocation, geotechnical/retaining wall, ADA, extent of required demolition activities, construction phasing/staging, and future maintenance considerations.

The Mott MacDonald team will present final preliminary design at two (2) public meetings.

# Deliverables:

- Preferred preliminary design and order of magnitude cost estimate for review with Town staff
- Up to three preliminary design alternatives developed to approximately 15% complete
- Presentation of preliminary design at two public meetings Town to arrange meetings (assume three hours each)

# Task A.6 Environmental Studies and Documentation

The Mott MacDonald Team expects that the suitable environmental clearance documents will be a NEPA Categorical Exclusion (CE) and a CEQA Categorical Exemption (CE). It is assumed that Caltrans will serve as the NEPA lead agency and approve the NEPA CE and that the Town will serve as the CEQA lead agency and adopt the CE...

#### **NEPA Environmental Technical Memos and Studies**

To support the environmental analysis of the project, the Mott MacDonald team, led by David J. Powers & Associates (DJP&A), will prepare the following technical memos:

- Traffic Technical Memo
- Air Quality (MTC PM2.5 exemption email)
- Water Quality Technical Memo (BMPs during construction)
- Biological Technical Memo:
  - Natural Environmental Study (Minimal Impacts)

- Section 4(f) Enhancement Concurrence Letter
- Cultural Resources Technical Memo
  - Archaeological/Historical Consultants (subconsultant):
    - Area of Potential Effects (APE) Map
    - Historic Property Survey Report (HPSR)
    - Archaeological Survey Report (ASR)
    - Equipment Staging Technical Memo

DJP&A will prepare the traffic, equipment staging, and water quality memo based on information provided by the Project Team. The memos will be prepared based on Caltrans' Standard Environmental Reference (SER) and submitted to the Town for review. DJP&A will revise the memos once and submit them back to the Town for submittal to Caltrans.

Based on review comments by Caltrans, DJP&A, with concurrence from the Town, will revise the memos once for resubmittal to Caltrans. Once the memos are deemed complete by Caltrans, they will issue the NEPA Categorical Exclusion (CE) for use by the City in obtaining federal funding. We believe that the project will qualify as a Categorical Exclusion under NEPA (23 CFR 771.117; (c) (3): Construction of bicycle and pedestrian lanes, paths, and facilities).

### **CEQA Environmental Clearance**

Given the nature of the improvements proposed, we believe the project falls under a Class I Categorical Exemption under CEQA. The Class I exemption as identified in CEQA Section 15301, Existing Facilities (c), "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes)." DJP&A will prepare a Categorical Exemption (CE) for the project and submit to Town staff for one round of review. Once approved, DJP&A will file the CE at the Santa Clara County Clerk's office and pay the \$50 filing fee on behalf of the Town.

# Deliverables:

- Environmental studies and reports for Categorical Exclusion under NEPA
- Environmental studies and reports for Categorical Exemption under CEQA
- Documentation of activities required by the State Water Resources Control Board
- Incorporation of mitigation measures, if any, into final contract documents
- Location Hydraulic Study Form
- Summary Floodplain Encroachment Report Form

# Task A.7 Geotechnical Investigations Reports

Mott MacDonald includes in this scope of services a geotechnical investigation and analysis, geotechnical analyses and preparation of Structures Preliminary Geotechnical Report (SPGR), Preliminary Foundation Report (PFR), and Foundation Report (FR) to support the preparation of the design and construction documents. The scope of geotechnical work includes coordination of an on-site geotechnical investigation, laboratory testing of retrieved soil samples, analysis and reporting of geologic and geotechnical conditions, and providing preliminary and final foundation and construction recommendations. The SPGR will be completed to support Caltrans type selection

process, prior to completion of the geotechnical investigation. The results of the geotechnical investigation will be incorporated in the PFR and FR documents as appropriate for Caltrans procedures.

The geotechnical investigation aims to collect data and soil samples enabling development of geotechnical design parameters for the proposed bridge and retaining wall structures. Mott MacDonald has reviewed previous geotechnical information available for the site by others. Those studies indicate that the subsurface soil comprises dense to very dense silty sand mixed with gravel. The existing highway bridge is founded on shallow spread footings near the creek and the abutments are supported on driven H-pile foundations approximately 40 feet deep. The geotechnical field investigation will comprise a program of near-surface utility clearance activity and drilling of two geotechnical boreholes shown at the proposed locations in Figure 16.



Figure 1: Proposed Borehole Locations (Imagery from GoogleEarth Pro)

Mott MacDonald will coordinate and provide subcontractors to complete the following services:

- Utility Clearance: In compliance with California law, Mott MacDonald will file a utility clearance ticket
  with Underground Service Alert (USA). This will require a site visit to identify proposed excavation and
  drilling locations. A utility locating subcontractor will complete utility clearance activities (electromagnetic
  detection) at the proposed locations for geotechnical investigation.
- Geotechnical Drilling: Mott MacDonald will procure the services of Pitcher Drilling, a union drilling contractor. Pitcher Drilling will complete one borehole to a maximum depth of 75 feet below site grades at the southerly abutment location of the proposed bridge. The intent of this borehole is to confirm that conditions are similar to those encountered and described in the contract documents for the construction of the adjacent Highway 9 bridge. Because of poor access, a similar borehole will not be completed at the northerly abutment. A second borehole will be completed on the shoulder of southbound Highway 9 at the location of the start of the existing wooded trail. This borehole will extend to a maximum depth of 50 feet (likely shallower) to characterize the subsurface stratigraphy for support of retaining structures and earthwork fills for construction of the proposed bicycle trail. Soil samples will be retrieved from the boreholes, visually characterized and logged in the field, and stored for transportation to a geotechnical laboratory. The soil boring data collected are used to identify stratigraphic details, soil strength parameters, and soil behavior. Mott MacDonald will obtain drilling permits as required by Santa Clara Valley Water District (SCVWD) and Caltrans requirements, and the explorations will be backfilled with neat cement grout in accordance with SCVWD requirements. To complete the geotechnical investigation, Mott MacDonald will rely on the Town to provide and coordinate access to the existing bicycle trail; Mott MacDonald will provide traffic control and safe working areas to minimize impacts to bicycle traffic.

- Laboratory Testing: Mott MacDonald will transport the soil samples obtained to the facility of Inspection Services, Incorporated (ISI), our geotechnical laboratory subcontractor. The soil samples will be tested for corrosivity (using a secondary corrosion specialist laboratory consultant), strength, and physical classification.
- Analysis and Reporting: Mott MacDonald will complete geotechnical analyses to develop design parameters and recommendations for deep foundations supporting the proposed bridge and retaining wall structures. The results of the geotechnical investigation, analysis, and recommendations will be documented within PFR, and FR in accordance with Caltrans geotechnical report guidance. An additional Geotechnical Design Report will be prepared in the form of a design memorandum documenting the analyses completed to prepare the PFR and FR. The recommendations in these reports will be directed to the design team for their preparation of plans and specifications for the project and include recommendations for foundation types, seismic information, and construction considerations. It will also include preliminary scour and corrosion evaluations, lateral earth pressure parameters, and seismic design parameters developed from simplified code procedures in AASHTO 2014 with Caltrans Amendments. No site-specific seismic hazard, site response analyses, or numerical pile-soil interaction analyses are anticipated as part of this work.

The preparation of this scope of services above relies on several assumptions documented below. Should the conditions encountered or project requirements vary from our assumptions, we would not embark on additional services without written authorization of the Town.

#### **Deliverables:**

- Geotechnical site investigation comprising two boreholes
- Structure Preliminary Geotechnical Report (for structural type selection)
- Preliminary Foundation Report
- Foundation Report
- Geotechnical Design Report (in technical memorandum format)

# **Task A.8 Right of Way Certification**

We do not anticipate that right of way will be required for the project. Mott MacDonald will verify and prepare the appropriate right-of-way certification documents, in accordance with forms and guidelines in Chapter 14 of Caltrans Right of Way Manual. We will evaluate the right of way requirements for the Project. All project improvements including those necessary to accommodate stage construction and temporary access will be included in the evaluation. We will identify staging areas and temporary construction easements for use by the general contractor during construction.

#### **Deliverables:**

Right-of-Way Certification, Utility Certification

# Task A.9 Final Design

The Mott MacDonald team will develop and prepare the final design of the project improvements that include but are not limited to trail alignment and profiles, pre-fabricated pedestrian bridge, retaining wall, ramp structure, signing and striping, drainage improvements and stormwater treatment.

Improvements will be designed in accordance with the latest editions of the following Town of Los Gatos, Caltrans, and federal policies, procedures, practices, regulations, manuals and standards:

- Town of Los Gatos Standard Specifications and Details
- Caltrans Highway Design Manual
- Caltrans Standard Plans and Specifications (2018)
- California Manual of Uniform Traffic Control Devices (MUTCD)
- AASHTO "Green Book" A Policy on Geometric Design of Highways and Street
- AASHTO Roadside Design Guide
- Accessibility Guidelines for Outdoor Recreation and Trails
- Americans with Disabilities Act Accessibility Guidelines
- California Access Compliance Reference Manual
- Santa Clara Valley Urban Runoff Pollution Prevention Program

Mott MacDonald will prepare Plans, Specifications, and Estimates for final design of the preferred alternative at 35%, 65%, 95% and bid set milestone submittals. Comments received at each submittal will be incorporated into subsequent submittals. At each milestone level, we will monitor the cost estimate to ensure the project stays within the design completion budget and schedules. The following tasks will be performed.

- 35% Submittal: Mott MacDonald will prepare 20-scale preliminary plans intended to allow the Town to review and comment upon the basic design concepts early in the process. At a minimum, plans include the Town's Standard Cover Sheet and Title Sheet and all plan sheets that will be included in the final plan set at a 35% completion stage. A listing of all required details will also be provided. Existing conditions and base maps will be developed fully at this stage. The Standard Specifications and Special Provisions will be prepared at a 35% completion level, and the construction cost estimate will include all anticipated cost items with a 20% estimating contingency.
- Biggs Cardosa will prepare Structure Type Selection documents for the proposed bridge including a brief description of key design issues. Bridge General Plan, and Engineer's Estimate of Probable Construction Costs.
- 65% submittal: The Mott MacDonald Team will incorporate comments received from the preliminary plan review and prepare 65% PS&E which include all plan sheets developed to a 65% completion stage. It is anticipated that the 65% plan set will include the following plans:
  - Title sheet
  - General Notes
  - Survey Control Data
  - Typical Sections
  - Demolition Plan
  - Layout and Profile
  - Construction Details
  - Structures Plan
  - Structures Details
  - Retaining Walls
  - Drainage & Utility
  - Signing and Pavement Delineation
  - Water Pollution Control Plan

- Construction Staging and Traffic Handling Plan
- Log of Test Borings
- Specifications and Special Provisions at the 65% level will include a complete table of contents with all special provisions necessary for the construction of the project identified. The construction cost estimate will be prepared and will include a 15% estimating contingency.
- 95% submittal: The Mott MacDonald team will incorporate comments received from the 65% submittal. The 95% PS&E will be the fully developed set of contract documents including all plans sheets, Specifications and Special Provisions, details, and other contract documents necessary for the construction of the project. The construction cost estimate will be finalized and will include a 10% estimating contingency. Mott MacDonald will conduct an internal quality control review of the plans, Specifications, Special Provisions, and construction cost estimate prior to submitting the 95% complete set to coordinate contract documents and make information consistent between all documents.
- Following submission and review of the 95% submittal, Mott MacDonald will prepare and provide the Town
  with the final contract documents for use in the construction bid process. All contract documents (plans,
  Specifications, Special Provisions, and estimates) will be signed by the licensed professional engineer in
  charge of the design.

#### **Deliverables:**

- Five hard copy sets of D-size (24"x36") plans and three hard copy sets of B-size (11"x17") Plans
- Five hard copies of the Specifications, Special Provisions
- Five hard copies of Cost Estimates
- MS Word copy of Technical Specifications
- Excel spreadsheet copy of construction cost estimates
- Electronic copies (PDF format) of plans, Technical Specifications and cost estimates
- Plans AutoCAD files
- A signed and stamped mylar copy of the final approved plans
- Final contract documents

#### Task A.10 Coordination with Stakeholder Agencies

Mott MacDonald will coordinate with Caltrans and Santa Clara Valley Water District to determine the need for and obtain the necessary permits to allow for the construction of the project, including access and staging areas for the anticipated construction stages.

Mott MacDonald will prepare a Standard Encroachment Permit Application form TR-0100 and a Permit Engineering Evaluation Report form TR-0112. The Town will be responsible for Caltrans fees. This task includes budget for two rounds of revisions (Town and Caltrans comments) between application submittal and encroachment permit issuance. Note that supplemental forms and reports that will be submitted with the encroachment permit may change as a result of meetings with Caltrans staff throughout the permit approval process.

#### **Utility and ADA Certification**

Caltrans is likely to require several forms, signed by an agent of the Town, to show the project doesn't require major utility relocations, and meets the current ADA design standards. These forms would be prepared by and signed by the Town. However, Mott MacDonald would provide guidance and support in filling out these forms.

Lane Closure Report (LCR) — A LCR will be prepared to determine the duration of Highway 9 lane closures during construction of the Project. Lane closure calculations per Caltrans standard methodology will be performed and submitted to Caltrans for review and approval. This will also include Late Lane Closure Pickup calculations. It is assumed that 7 day 24 hour traffic counts will be provided, and no counts will be performed by the Mott MacDonald Team.

#### Deliverables:

- Standard Encroachment Permit Application Package and PEER
- ADA Certification
- Lane Closure Report
- Valley Water Encroachment Permit Application

#### SUPPLEMENTAL REPORTS AND SERVICES - Task A.11

These services or subtasks listed may or may not be required by Caltrans during the design phase process. Should any of the following sub tasks be required, the Consultant will provide the required cost proposal for the work and upon agreement, the Town will provide a written authorization to proceed with the subtask, with deliverables and lump sum payment identified.

There is no guarantee, either expressed or implied, that the services and costs shown for Task A.11 will be authorized in full.

#### A.11-1 Construction Phase Authorization

Mott MacDonald will support the Town in the preparation of the Request for Authorization to proceed (E-76) forms and exhibits for construction funding applications using procedures outlined in the Caltrans Local Assistance Procedures Manual. Forms include:

- Exhibit 3-D: Request for Authorization to Proceed with Construction
- Exhibit 3-E: Request for Authorization to Proceed Data Sheet
- Exhibit 3-O: Sample Federal-aid Project Finance Letter
- Exhibit 9-D: DBE Contract Goal Methodology
- Exhibit 12D: PS&E Checklist
- Exhibit 13A: Right of Way Certification for Local Assistance Project
- Exhibit 15A: Local Agency Construction Contract Administration Checklist
- Copy of FTIP/FSTIP Reference
- Completed Field Review Form 7B
- Approved NEPA document

#### **Deliverables:**

Authorization from Caltrans to proceed with construction (E-76)

#### A.11-2 Wetland Technical Assessment

Field Surveys. Impacts will occur to potentially regulated habitats on-site, thus H. T. Harvey & Associates will conduct the field work necessary to prepare a full report representing a delineation of Waters of the U.S./State on the site, which would serve as the Wetland Delineation/Wetland Technical Assessment for the NES. Data on the soils, vegetation, and hydrology within potential wetlands on the site are necessary in order to complete the assessment. H. T. Harvey & Associates propose to delineate the boundaries of Los Gatos Creek and the tributary that runs parallel and adjacent to the proposed trail ramp from eastbound Highway 9 according to methodologies outlined in the USACE Wetland Delineation Manual and other USACE guidance. To that end, a routine, on-site delineation of wetlands that occur in the project area will be conducted. In addition to wetlands, any other potentially jurisdictional features, including "other waters" of the U.S./State, will be delineated and described per USACE and RWQCB requirements. The extent and distribution of "riparian" habitats as defined by CDFW will also be mapped and described within the report and presented on accompanying figures.

Wetland Technical Assessment. H. T. Harvey & Associates will prepare a technical report summarizing the methods and results of the field survey of regulated habitats. This report will be prepared to report specifications developed by the Caltrans, USACE, RWQCB and CDFW and thus will be of sufficient detail for agency review and a jurisdictional determination (in the case of the USACE). It will include a brief description of existing conditions, description of field techniques employed in the delineation, wetland data sheets, and copies of aerial photographs and maps which show the extent of regulated habitats on the project site. This task includes time for HTH senior staff to attend a field site visit with the USACE to verify the delineation.

# A.11-3 Extended Phase I Archaeological Survey Report

XPI Fieldwork. Because the project area is sensitive for prehistoric archaeological sites, it is possible that Caltrans will require an Extended Phase I (XPI) Archaeological Survey Report for this project. XPI reports are used in situations where ordinary surface survey is insufficient to determine the presence or absence of cultural resources in a project area. An XPI proposal detailing the aims and methodology of the study is first prepared for Caltrans approval. After approval of the proposal, XPI fieldwork may begin. This proposal assumes that XPI fieldwork, if necessary, will be limited to hand excavation due to access constraints for heavy equipment in the project area. Hand excavation will include 50x50cm surface transect units and hand augering to identify the presence or absence of archaeological deposits. After completion of fieldwork, the XPI Report will be prepared and submitted to Caltrans PQS for review and approval.

Extended Phase I Archaeological Survey Reports. Draft and Final Extended Phase I Archaeological Survey Reports for submission by the City of Los Gatos to Caltrans will be prepared, following the guidelines in the Caltrans Standard Environmental Reference, Volume 2, Exhibit 5.2.

#### **Deliverables:**

- Wetland Technical Assessment Report
- Extended Phase I Archaeological Survey Report

# A.11-4 Phase I ISA

PARIKH will prepare Phase I Initial Site Assessment study report for the proposed project. ASTM recommends a 1.0-mile radius for the data search. Environmental Data Research Inc. (EDR Inc.) report study will be ordered using an approximate center of the project. The ISA study will be prepared to identify potential hazardous waste sites and evaluate environmental factors that may have impacted the soil groundwater quality within the project limits. The study will include data collection and documents research including historical land use based on study of aerial

photographs and other relevant documents. No field exploration and/or testing are included in this phase of the work.

#### **Deliverables:**

Phase I ISA Report

#### A.11-5 Additional Studies, Reports, Activities

#### **Design Exception Fact Sheets**

Caltrans may require supplemental reports to seek approval of improvements that don't meet all of Caltrans design requirements. These studies include:

- Fact Sheet Exception for Mandatory Design Standards Includes design standards that require Caltrans headquarters to approve
- Fact Sheet Exception for Advisory Design Standards These are standards that the local district (District 4)
   can approve

During the meeting with Caltrans, Mott MacDonald will discuss potential elements that will require design exceptions and prepare a design exception fact sheet if needed. Mott MacDonald will work with Caltrans to minimize the amount of additional work needed for these fact sheets.

#### Storm Water Data Report (SWDR)

Caltrans may require a supplemental report to document the project's measures to mitigate the project's construction-related impacts to the regional water system. Depending on the project impact to Caltrans right of way, a SWDR Will be prepared if required by Caltrans.

#### A.11-6 Additional Plan Reviews or Design Services

Additional budget request will be submitted in the instance that Caltrans or the Town provide more than one round of review comments to the different reports submitted for Caltrans review or request additional design services.

#### TASK B - Bid Support Services

#### Task B.1 Bid Services

Mott MacDonald will respond in writing to questions that arise during the bid phase and will prepare addendums, if necessary, which will be distributed by the Town of Los Gatos - Parks and Public Works Department. Each addendum will address cost implications to the project construction cost estimate. Mott MacDonald will prepare written responses to questions received and addenda in a format that can be easily posted to the Town's website. Following completion of bid stage, Mott MacDonald will incorporate any addenda into the final contract documents and will prepare the final "Conformed Contract Documents." Mott MacDonald will provide an electronic copy of the final Conformed Contract Documents, a signed and stamped mylar copy of the final conformed plans, and a hard copy of the final signed, approved, and stamped conformed Specifications, Special Provisions, and cost estimate. The electronic copy of the plans will be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications and estimate will be provided in both Microsoft Word/Excel format and PDF format.

A separate Notice to Proceed shall be issued by the Town prior to any work proceeding on Task B. All work on Task B shall be completed based on the project bid and award schedule in effect at the time of the Notice to Proceed.

# **TASK C – Construction Support Services**

# **Task C.1 Construction Support Services**

Mott MacDonald will provide the following construction support services as requested:

- Review of submittals and shop drawings for compliance with Contract Documents
- Review and response to Requests for Information, Requests for Change Orders, Quotes from Contractor
- Review of Contract Change Orders
- Review and tracking of results from materials testing for conformation to Contract Documents
- Field review and geotechnical monitoring during bridge installation
- Structural review and field monitoring during bridge installation
- Prepare design modifications if necessary due to unforeseen conditions

A separate Notice to Proceed shall be issued by the Town prior to any work proceeding on Task C. All work on Task C shall be completed based on the project construction schedule in effect at the time of the Notice to Proceed.

### **General Assumptions**

- The Town will furnish any available documents, as-builts, electronic files or information that may be required to complete the design aspect of this scope, including survey monument data and preliminary title reports.
- Town to provide Town's standard CAD border drawing to use for the project.
- Inspection and construction management services are not included in the scope of services.
- Scope does not include right-of-way engineering and right-of-way acquisitions.
- Drilling spoils must be off-hauled but are assumed to be nonhazardous for the purposes of disposal.
- Scour analysis is not required for the bridge supports as the channel is concrete-lined.
- Access to the proposed sites (particularly the bicycle trail) can be provided by the Town between the hours of 7am and 7pm, Monday-Friday (see Figure 6 for proposed locations).
- No point of investigation has been included on the north side of Highway 9 and conditions will be extrapolated from those represented in historical documents for the construction of the highway bridge.
- The Mott MacDonald Team will consider a variety of superstructure types and shapes in the preliminary phase but for the final design, a standard type prefabricated truss is assumed. The Mott MacDonald Team assumes that the superstructure will be designed by the manufacturer and the Construction Documents will include a prefabricated bridge option.
- Mott MacDonald also assumes that Caltrans will accept a prefabricated bridge option in their ROW and will approve the use of a prefabricated steel pedestrian bridge option that will be designed by the manufacturer.
- Mott MacDonald will prepare the design and calculations for the supports of the bridge and the walls.
- The scope of work and fees include a retaining wall at two locations as well as slab on grade ramps.
- Independent check of structural plans will be a red, yellow, and green check of the construction documents and structural calculations that will be performed after the 65% PS&E submittal.

- PS&E Submittals will be provided at 35%, 65%, 95% and 100% completion levels. Agency reviews are
  limited to one round of comments consolidated to one set of redline plans, specifications and estimate
  redline comments per agency. Project Reports will be limited to one draft and one final version of each
  report. Additional PS&E submittal, agency reviews, and report submittals will be considered Extra Work
  unless submittals are deemed incomplete.
- Plans and specifications shall be prepared following standard Caltrans format as outlined in "Ready-to-List and Construction Contract Award Guide" published by Caltrans.
- The Consultant will prepare technical specifications (Caltrans Division 2 through 10) using the 2018
   Caltrans Standard Special Provisions (SSPs). The 2018 Caltrans Standard Specifications and the 2018
   Caltrans Standard Plans will be referenced in the design documents as applicable. The Town will provide all necessary boilerplate specifications.
- Construction Cost Estimates will be prepared based on readily available industry standards and past
  project experience. Construction Cost Estimates are the Consultant's estimate of the probable
  construction costs. Actual construction costs may vary based on varying industry trends and competitive
  Contractor bids and understanding of the project.
- Town reviews will be provided concurrently with other Agency reviews.
- The Construction Support Services scope of work and fee is assumed based on anticipated project development.
- In the event the project design changes and impacts jurisdictional or regulated habitats, a Wetland Technical Assessment (WTA) will be included as an optional task.
- In the event Caltrans requires an Extended Phase I (XPI) Archaeological Survey Report, this service will be
  included as an optional task. Note that if an XPI is needed, an additional 12-16 weeks would be added to
  the project schedule.
- Design scope and fee are based on an assumed maximum design duration of 18 months.

ITEM NO. 7.

# EXHIBIT B COST PROPOSALS

# COST PROPOSAL BY TASK (for progress payment purposes)

SUB TASK	DESCRIPTION	NOT TO EXCEED COST
TASK A - BA	ASIC SERVICES:	
Task A.1	Project Management and Coordination	\$26,960
Task A.2	Data Collection, Review and Site Visit	\$9,212
Task A.3	Surveys and Mapping	\$27,154
Task A.4	Utility Coordination	\$11,336
Task A.5	Preliminary Engineering	\$27,231
Task A.6	<b>Environmental Studies and Documentation</b>	\$42,991
Task A.7	Geotechnical Investigations and Reports	\$54,489
Task A.8	Right of Way Certification	\$4,400
Task A.9	Final Design	\$198,438
Task A.10	Coordination with Adjacent Agencies	\$6,601
SUBTOTAL	BASIC SERVICES	\$408,812
Task A.11	Supplemental Reports and Services	\$49,935
	TOTAL NOT TO EXCEED TASK A	\$458,747
	TOTAL NOT TO EXCEED TASK B AND TASK C	\$28,000
	TOTAL CONTRACT AMOUNT NOT TO EXCEED	\$486,747

ITEM NO. 7.

# TASK A - BASIC SERVICES

# EXHIBITS 10-H1 COST PROPOSALS

EXHIBIT 10-H1 Cost Proposal

#### EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

# ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

170028, CML-5067 (021)

Prime Consultant

■ Subconsultant

Consultant Mott MacDonald LLC

Project No. TLG 18-832-4505, SCL

Contract No.

Date 8/29/2019

**DIRECT LABOR** 

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)	Teferi Abere	174	\$ 82.97	\$ 14,436.78
(QA/QC)	Mohammed Basma	16	\$ 115.4	\$ 1,846.40
(Sr. Project Engineer)	Tommy Cho	277	\$ 69.72	\$ 19,312.44
(Project Engineer)	Damtew Ayele	60	\$ 68.0	\$ 4,080.00
(Geotech Lead)	Martin Walker	25	\$ 78.13	\$ 1,953.25
(Geotech Engineer)	Faustas Buskevicius	56	\$ 52.0	\$ 2,912.00
(Geotech Engineer)	Morteza Khorshidi	153	\$ 42.3	\$ 6,471.90
(Engineer IV)	Jared Murphy	40	\$ 58.0	\$ 2,320.00
(Engineer III)	Lauren Sotir	202	\$ 40.87	\$ 8,255.74
(CAD Specialist)	Paola Burk	178	\$ 48.00	\$ 8,544.00

#### LABOR COSTS

a) Subtotal Direct Labor Costs

\$ 70,132.51

b) Anticipated Salary Increases (see page 2 for calculation)

\$ 1257.29

c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 71,389.80

#### INDIRECT COSTS

d) Fringe Benefits (Rate: 57.6%)

e) Total Fringe Benefits [(c) x (d)] \$ 41,120.52

f) Overhead (Rate: 95.5%)

g) Overhead [(c) x (f)] \$ 68 177.26

h) General and Administrative (Rate:0%)

i) Gen & Admin [(c) x (h)] \$ 0

j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ 109,297.78

#### FIXED FEE8

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10%] \$ 18.068.76

1) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			\$	\$352
Geotechnical Drilling			\$	\$16,675
Permit Fees			\$	\$1,850
Plan Sheets			\$	\$250
Laboratory Test			\$	\$4,400

1) TOTAL OTHER DIRECT COSTS \$ 23.527

EXHIBIT 10-H1 Cost Proposal

m) SUBCONSULTANTS'	COSTS	(Add additional	pages if necessary)
--------------------	-------	-----------------	---------------------

Subconsultant 1: Biggs Cardosa Associates	\$105,020.00
Subconsultant 2: Active Wayz Engineering	\$ 41,000.18
Subconsultant 3: David J. Powers & Associates	\$ 64,065.68
Subconsultant 4: R.E.Y Engineers	\$ 26.378.03

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(1)+(m)] \$ 259990.71

**TOTAL COST** [(c) + (j) + (k) + (n)] 458747.05

- 1. All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- 2. The cost proposal format shall not be amended. Indirect cost rates should be based on consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- 3. Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 Cost Proposal

# EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

# ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

# 1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor	Total Hours per		Avg	5 Year
Subtotal per Cost	Cost Proposal		Hourly	Contract
Proposal			Rate	Duration
\$70,132.51	1181	=	\$59.38	Year 1 Avg
				Hourly Rate

# 2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$59.38	+	3%	=	\$61.16	Year 2 Avg Hourly Rate
Year 2	\$61.16	+	3%	_	\$63.00	Year 3 Avg Hourly Rate
Year 3	\$63.00	+	3%	=	\$64.89	Year 4 Avg Hourly Rate
Year 4	\$64.89	+	3%	=	\$66.84	Year 5 Avg Hourly Rate

# 3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	1181	=	472	Estimated Hours Year 1
Year 2	60.0%	*	1181	=	709	Estimated Hours Year 2
Year 3	0%	*	0	=	0	Estimated Hours Year 3
Year 4	0%	alc	0	=	0	Estimated Hours Year 4
Year 5	0%	*	0	=	0	Estimated Hours Year 5
Total	100%		Total	Name of Street	1181	

# 4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate		Estimated hours		Cost per	
	(calculated above)		(calculated above)		Year	
Year 1	\$59.38	*	472	=	\$28,027.36	Estimated Hours Year 1
Year 2	\$61.16	#	709	=	\$43,362.44	Estimated Hours Year 2
Year 3	\$63.00	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$64.89	*	0	===	\$0.00	<b>Estimated Hours Year 4</b>
Year 5	\$66.84	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labor C	ost wit	h Escalation	=	\$71,389.80	
	Direct Labor Subtota	l befor	re Escalation	=	\$70,132.51	
	Estimated total of	Direct	Labor Salary	=	-	Transfer to Page 1
			Increase		\$1257.29	

- 1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.
   (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
- 3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 Cost Proposal

# EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

# **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. Title 23 United States Code Section 112 Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 6. 48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

# Prime Consultant or Subconsultant Certifying:

Name: Chris Metzger	Title *: Sr. Vice President
Signature: Lisis Metgy	Date of Certification (mm/dd/yyyy): 08/29/2019
Email:Chris.Metzger@mottmac.com	Phone Number: 408-876-6039

Address: 2077 Gateway Place, Suite 550 San Jose CA 95110

\*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

Prepare Plans, Specification & Estimates for Los Gatos Creek Trail to Highway 9 Trailhead Connector Proje

EXHIBIT 10-H1

**Cost Proposal** 

# EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

	ACTUAL	COST-PLUS-FIXED FEE	OR LUMP SU	M (FIRM FIX	ED PRICE) CONTI	RACTS
		(DESIGN, ENGINEER	ING AND ENV	TRONMENTA	L STUDIES)	
Note: Mark-	ups are Not Allowe	đ	□ Pri	me Consultant	X Subconsultant	$\square$ 2 <sup>nd</sup> Tier Subconsultant
Consultant	Biggs Cardosa Ass	sociates, Inc.				
		EK TRAIL TO HIGHWAY ONNECTOR PROJECT	Contract No.		Date	8/20/2019
DIRECT L	ABOR					
Classid	ication/Title	Name		Hours	Actual Hourly Rate	Total
Struct. Pr	oject Manager*	M. Harms		38	\$101.54	\$3,858.52
A:	ssociate	Varies		0	\$69.52	\$0.00
Enginee	ring Manager	Varies		44	\$65.19	\$2,868.36
Senior Str	actures Engineer	Varies		216	\$61.16	\$13,210.56
Structures	Project Engineer	Varies		140	\$53.08	\$7,431.20
Structures	Staff Engineer	Varies		101	\$43.56	\$4,399.56
Structures A	asistant Engineer	'Varies		0	\$39.23	\$0.00
Senior Co	mputer Drafter	Varies		72	\$51.35	\$3,697.20
Adm	in Services	Varies		0	\$46.15	\$0.00
LABOR CO	STS			611		
a) Subtotal I	Direct Labor Costs			5	\$35,465.40	
<ul><li>b) Anticipate</li></ul>	ed Salary Increases	(see page 2 for sample)			\$2,145.66	
MOTOR OF	COOTO		c) TOTAL DI	RECT LABOR	COSTS [(a) + (b)]	\$37,611.06
INDIRECT d) Fringe Be		0.00% ) e) Total	Fringe Benefit	[(c) x (d)]	\$0.02	
f) Overhead	nents (Nat	(Rate: 152.03%	•	head [(c) x (f)]	\$57,180.09	
-	nd Administrative	(Rate: 0.00%		lmin [(c) x (h)]	\$0.00	
II) General a	M WHITING	(Mate. O.0078	I) Gen & A	anni ((c) x (n)]	<b>\$0.00</b>	
			j) T	otal Indirect C	Costs [(e) + (g) + (i)]	\$57,180
FIXED FEE		<b>k</b> )	TOTAL FIXE	<b>D FEE [(c) + (</b>	j)] x fixed fee <u>10 %</u> ]	\$9,479
) CONSULT	TANT'S OTHER I	DIRECT COSTS (ODC) - I	TEMIZE (Add	additional pag	es if necessary)	
	Description	of Item	Quantity	Unit(s)	Unit Cost	Total
Plotting & Re	production (22x34)		40	EA	\$10.00	\$400.00
Plotting & Re	production (11x17	)	80	EA	\$2.00	\$160.00
Overnight Ma	ail Service (Submitt	als)	5	EA	\$30.00	\$150.00
Overnight Ma	ail Service (Docume	ents)	5	EA	\$8.00	\$40.00
			,	TAL OTHER	DIRECT COSTS	\$750
•		STS (Add additional pages i	f necessary)			
Subconsulta						
Subconsulta	nt 2:		m) TOTA	LSUBCONSU	LTANTS' COSTS	\$0
	m) TOTA	AL OTHER DIRECT COST	IS INCLUDIN	G SUBCONSU	LTANTS [(1)+(m)]	\$750
			т	OTAL COST [	[(c) + (j) + (k) + (n)]	\$105,020
NOTES:					-	
		with an asterisk (*) and employe e Federal cost principles. Subco	-		-	marked with two asterisks
-	roposal format shall n cy or accepted by Cal	ot be amended. Indirect cost rate trans.	s should be based	on consultant's a	nnual accounting period	l and established by a
3. Anticipated	salary increases calcu	lation (page 2) must accompany.				

Page 1 of 9 January 2018

EXHIBIT 10-H1 Cost Proposal

#### EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

# ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal	<b>Total Hours</b>		Avg Hourly	5 Year Contract
per Cost Proposal	per Cost Proposal		Rate	Duration
\$35,465.40	611	==	\$58.04	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation?

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$58.04	+	5.0%	=	\$60.95	Year 2 Avg Hourly Rate
Year 2	\$60.95	+	5.0%	-	\$63.99	Year 3 Avg Hourly Rate
Year 3	\$63.99	+	5.0%	-	\$67.19	Year 4 Avg Hourly Rate
Year 4	\$67.19	+	5.0%		\$70.55	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

Estimated %			<b>Total Hours</b>		<b>Total Hours</b>	
	Completed Each Ye	ar	per Cost Proposal		per Year	
Year 1	0.00%		611.0	==	0.0	Estimated Hours Year 1
Year 2	80.00%		611.0	Minute ******	488.8	Estimated Hours Year 2
Үеаг 3	20.00%		611.0	=	122.2	Estimated Hours Year 3
Year 4	0.00%	*	611.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	611.0	=	0.0	Estimated Hours Year 5
Total	100%		Total	=	611.0	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate Estimated hours (calculated above) (calculated above)			Cost per Year		
			(calculated above)	(calculated above)		
Year 1	\$58.04	#	0	==	\$0.00	Estimated Hours Year 1
Year 2	\$60.95	*	489	=	\$29,790.94	Estimated Hours Year 2
Year 3	\$63.99	w	122	=	\$7,820.12	Estimated Hours Year 3
Year 4	<b>\$67.19</b>	18	0	22	\$0.00	Estimated Hours Year 4
Year 5	\$70.55	wir	0	or new o	\$0.00	Estimated Hours Year 5
	Total Direc	t Labor Cost w	=	\$37,611.06		
Direct Labor Subtotal before Escalation			-	\$35,465.40		
Estimated total of Direct Labor Salary Increase			=	\$2,145.66	Transfer to Page 1	

#### NOTES

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.

- 2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.
- (i.e.  $$250,000 \times 2\% \times 5 \text{ yrs} = $25,000 \text{ is not an acceptable methodology})$
- 3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4. Calculations for anticipated salary escalation must be provided.

Page 2 of 9 January 2018

EXHIBIT 10-H1 Cost Proposal

# EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

# **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. Title 23 United States Code Section 112 Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 5. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of

#### Engineering and Design Related Service

6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

#### Prime Consultant or Subconsultant Certifying:

Name:	Mahvash Harms	Title *:	Principal / V	ice President			
Signature:	MHanns	Date of Certification (mm/dd/yyyy):		ld/yyyy):	8/20/2019		
Email:	mharms@biggscardosa.com	Phone Numb	er:	408-296-5515			
Address:		nancial officer of the consultant's or subconsultant's organization at a level t or a Chief Financial Officer, or equivalent, who has authority to represent					
Project Man	es the consultant is providing under the propagement ngineering-design and bid support	oosed contract;					

Page 3 of 9 January 2018

EXHIBIT 10-H1 Cost Proposal

# EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

# ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Al	lowed Prime C	onsultant		Subconsultant	□ 2 <sup>nd</sup> 7	Tier Subconsultant
Consultant ActiveWa	yz Engineering, Inc.					
Project No Contract No				Date	05/29/	2019
DIRECT LABOR	,					
Classification/Title	Name	H	Iours	Actual Hourly	Rate	Total
(Project Manager)*	Admas Zewdie	92		<sub>\$</sub> 75		6,900.00
(Sr. Civil Engineer)	Project Engineer	70		\$ 60		4,200.00
(Envir. Scientist)	Ermias Gebremedhin	152	2	\$ 40		6,080.00
(Inspector)**				\$	1	
INDIRECT COSTS d) Fringe Benefits (Rate Overhead (Rate: 110	c) TOTAl e:%) e) Total Fringe l%) g) O strative (Rate:%) i) Gen &	Benefits [( verhead [( Admin [( AL INDIF	(c) x (d)] (c) x (f)] (c) x (h)] RECT C	\$ 19,468.66 \$ COSTS [(e) + (g)	+ (i)] \$	19,468.66
	THER DIRECT COSTS (ODC) – I	TEMIZE	(Add a		f necessa	
	iption of Item Q	uantity	Unit	Unit Cost		Total
Mileage Costs		200	mile	\$0.58	\$ 116.00	
Equipment Rental and S Permit Fees	supplies			\$	\$	
Plan Sheets				\$	\$	
Test				\$	\$	
Lost	1) TO	OTAL OT	THER D	RECT COSTS		
m) SUBCONSULTANT	'S' COSTS (Add additional pages i	f necessar	ry)			
Subconsultant 1:					\$	
Subconsultant 2:					\$	
Subconsultant 3:					\$	
Subconsultant 4:					\$	
_	-			ANTS' COSTS	\$ 146	00
n) TOTAL OTHI	ER DIRECT COSTS INCLUDING				\$ 116.	
NOTES:				(j) + (k) + (n)] \$		
1. Key personnel must be	marked with an asterisk (*) and employe	ees that are	subject to	o prevailing wage n	equiremer	nts must be marked

- Key personnel <u>must</u> be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- 3. Anticipated salary increases calculation (page 2) must accompany.

# EXHIBIT 18-H1 COST PROPOSAL PAGE 2 OF 3 ACTUAL COST-PLUS-PIXED FEE OR LUMP SUM (FIRM FIXED PERCE) CONTRACTS (CALCULATIONS FOR ANTICIPATED SALARY INCREASES) Contract No.

الشاقسة السحاب	70	(CALCULATIONS F	OR ANTICIPATED SALARY INCREASES)		_	
onsultant ActiveWa	yz Engineeding		. Contract	No		Date: 5/29/2019
Culculate Average life	unly Rate for lot year of the contract (Direct L	aher Subtetul divided l	ry total hours)			
	Direct Labor <u>Subsetal</u> per Cost Proposal		Total Hours per Cost Proposal		Avg Hourly Rate	3 Year Contract Duration
	\$17,680.00		;	314 =	\$ 54.	71 Year 1 Avg Hourly Rate
. Celculate hourly rate:	for all years (increase the Average Hearly Rat	s for a year by propose	d cacadation %)			
	Avg Hearly Rate		Proposed Escalation			
earl	\$34.71	+	3,0%	-	\$96.35	Year 2 Avg Bourly Rate
cor 2	\$56.35	+	3.0%	=	\$58.05	Year 3 Avg Hourly Rate
car 3	\$58.03	+	3.0%	-	\$59.79	Year 4 Avg Houdy Rate
ar4	\$59,79	+	3,0%	**	\$61,50	Your 5 Avg Hously Rate
Calculate estimated he	ours per year (Mohitiply cutimate % ench year h	y tetal hours)				9
	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
2019	33.33%	•	314,0	-	104.7	Estimated Hours Y
2020	33.33%	•	314,6	-	104,7	Estimated Hours Ye
2021	33.33%	•	314.0	=	104.7	*Estimated Hours Yo
spir 4	0.00%	•	314.0		0.0	Estimated Hours Ye
ear 5	0.00%	•	314.0	-	0.0	Bstimated Hours Yo
Total	100%		Total	*	314.0	
Calculate Total Costs i	actuding Escalation (Makiply Average Hourly	Rate by the number of	hours)			
	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
ter 1	\$54.71		105	pat .	25,726,09	Estimated Hours Ye
ar 2	\$56.33		105	=	\$5,897.88	,Estimated Hours Ye
ngr 3	\$58.95		105		26,074.81	:Retinented Hours Ye
nex 4	\$59,79	•	•	-	\$0,00	Estimated House Yo
ar5	\$61.58		0	-	\$0.00	Estimated Hours Yo
		Direct Labor	abor Cost with Escalation Subtotal before Escalation	0.00	\$17,690.78 \$17,180.00	
		COLUMNICA INSTITUTION OF IN	rect Labor Salary Increase	=	2512.78	Transfer to Page 1

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the centract, and a brankdown of the labor to be performed each year.

  An estimation that is based on direct labor analytically by salary increases % multiplied by the # of years is not acceptable.

  (i.e. \$150,000 x 25 x 5 yx x 52,000 is not an acceptable extended on the salary increases were granted.

  Calculations for entiripated salary constation must be provided.

EXHIBIT 10-H1 Cost Proposal

### EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

#### **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract

Prime Consultant or Subconsultant Certifying:

- 3. Title 23 United States Code Section 112 Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 6. 48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Name: Admas Zewdie, P.E.	Title *: President
Signature: Adminut boli	Date of Certification (mm/dd/yyyy):
Email: admas@activewayz.engineering	Phone Number: 408-219-5678
114 Woodhams Road, Santa C	Clara, CA 95051

\*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Utility coordination

Address:

Right of Way certification

Quality control review

Construction staging and traffic handling plans

Water pollution control plans

Design exception fact sheet

Storm water data report; lane closure report

#### Exhibit 10-H1 Cost Proposal Page 1 of 3

# Actual Cost-Plus-Fixed Fee or lump sum (Firm Fixed Price) contracts

(Design, Engineering and Environmental Studies) Note: Mark-ups are Not Allowed Prime Consultant Subconsultant 2nd Tier Subconsultant Consultant David J. Powers & Associates Project No. Contract No. Date:

DERECT LABOR

Classification/Title	Name	Hours	Ac	ctual Hourly Rate	Total
Principal	TBD	33	s	101.07	3335.3
Project Manager	TBD	100	s	33.00	3300.00
Graphic Artist	TBD	9	s	36.05	324.45
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00

LABOR COSTS

FRINGE BENEFITS

f) Overbead (Rate:

d) Fringe Benefits (Rate:

h) General and Administrative (Ra

a) Subtotal Direct Labor Costs b) Anticipated Salary Increases (see page 2 for calculation) \$ 6,959.76 2

c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$

e) Total Fringe Benefits  $[(c) \times (d)]$  \$ g) Overhead [(c) x (f)]

i) Gen & Admin [(c) x (h)] \$

8,204.86

August 29, 2019

6,959.76

j) TOTAL INDIRECT COSTS [(c) + (g) + (i)] \$ 11,718.84

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10.00% 1.867.86 FIXED FEE

D) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

0.00%

117.89%

Description of Item	Quantity	Unit	Unit Cost	Total	
Milcage Costs	119.34	mile	0.58	\$	69.22
Permit Foes	1	units	50	\$ .	50.00
Graphics	1	voits	50	5	50.00
				\$	-
				-	

I) TOTAL OTHER DIRECT COSTS \$ 169.22

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: Archaeological/Historical Consultants \$ 17,845.00 \$ 25,505.00 Subconsultant 2: H.T. Harvey & Associates \$ Subconsultant 3: Subconsultant 4:

m) TOTAL SUBCONSULTANTS' COSTS S 43,350.00

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(I) + (m)] \$ 43,519.22

TOTAL COST [(c) + (j) + (k) + (n)] \$ 64,065,68

#### NOTES:

1. Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with an asterisk (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.

3. Anticipated salary increases calculation (page 2) must accompany.

#### Exhibit 10-H1 Cost Proposal Page 2 of 3

#### Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts

(Calculations for Anticipated Salary Increases)

# 1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Labor <u>Subtotal</u> Cost Proposal		Total Hours per Cost		Avg Hourly Rate	10 Year Contract Duration
\$ 6,959.76	1	Proposal 142	=	\$49.01	Year 1 Avg Hourly Rate

#### 2. Calculate hourly rate for all years (increase the Average hourly rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 2	\$49.01	+	3%	=	\$50.48	Year 2 Avg Hourly Rate
Year 3	\$50.48	+	3%	=	\$52.00	Year 3 Avg Hourly Rate
Year 4	\$52.00	+	3%	=	\$53.56	Year 4 Avg Hourly Rate
Year 5	\$53.56	+	3%	=	\$55.16	Year 5 Avg Hourly Rate

#### 3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

			Total			
	Estimated %		Hours per		Total Hours per	
	Completed Each Year		Cost		Year	
			Proposal			
Year 1	100.00%	*	142	=	142	Estimated Hours Year 1
Year 2	0.00%	*	142	=	0	Estimated Hours Year 2
Year 3	0.00%	*	142	**	0	Estimated Hours Year 3
Year 4	0.00%	*	142	=	0	Estimated Hours Year 4
Year 5	0.00%	*	142	=	0	Estimated Hours Year 5
Total	100%		Total	-	142	

# 4. Calculate Total Costs including Escalation (multiply average hourly rate by the number of hours)

	Avg Hourly Rate		Estimated hours		Cost per Year	
	(calculated above)		(calculated above)		7000 par 2 300	
Year 1	\$49.01	*	142	=	\$6,959.76	Estimated Hours Year 1
Year 2	\$50.48	*	0	=	\$0.00	Estimated Hours Year 2
Year 3	\$52.00	*	0	==	\$0.00	Estimated Hours Year 3
Year 4	\$53.56	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$55.16	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Lab	or Cost w	ith Escalation	=	\$6,959.76	
	Direct Labor Sui	btotal bei	fore escalation	=	\$ 6,959.76	
	Estimated total of Direct	t Labor S	alary Increase	=	\$0.00	Transfer to Page 1

- 1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the #of years of the contract, and a breakdown of the labor to be performed each year.
- 2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.(i.e.  $$250,000 \times 2\% \times 5 \text{ yrs} = $25,000 \text{ is not an acceptable methodology}$ )
- 3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4. Calculations for anticipated salary escalation must be provided.

#### Exhibit 10-H1 Cost Proposal Page 2 of 3

#### **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. Title 23 United States Code Section 112 Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 5. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 6. 48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

# Prime Consultant or Subconsultant Certifying:

Name: Judy W. Shanley

Title \*: President

Date of Certification (mm/dd/yyyy): 8/29/2019

Bmail: jshanley@davidpowers.com

Phone Number: 408-454-3431

Address:

\*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Complete NEPA (CE) and CEQA (CE) environmental review process.

# Exhibit 10-H1 Cost Proposal Page 1 of 3

#### Actual Cost-Plus-Fixed Fee or Jump sum (Firm Fixed Price) contracts

(Design, Engineering and Environmental Studies) Note: Mark-ups are Not Allowed **☑** Subconsultant 2nd Tier Subconsults Consultant Archaeological/Historical Consultants Project No. Contract No. Date:

#### DIRECT LABOR

Classification/Ditle	Name	Hours	Actual	Hourly Rate	Total
Principal	Daniel Shoup	58	s	65.00	3770.00
Archaeologist I	Kimberly Wong	38	s	37.50	1425.00
Historian I	Jennifer Ho	17	\$.	40.00	680.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					0.00
					<b>0</b> .00
					0.00
					0.00
					0.00

# LABOR COSTS

a) Subtotal Direct Labor Costs \$ 5,875.00 b) Anticipated Salary Increases (see page 2 for calculation) \$ 73.44

c) TOTAL DERECT LABOR COSTS [(z) + (b)] \$ 5,948.44

#### FRINGE BENEFITS

d) Fringe Benefits (Rate: -45,00% a) Total Fringe Benefitz [(c) x (d)] \$ 2,676.80 f) Overhead (Rate: 65.00% g) Overhead [(c) x (f)] 3,866.48 h) General and Administrative (Rate: [Included in Overhead Rate] i) Gen & Admin [(c) x (b)] \$\_

> j) TOTAL INDIRECT COSTS [(c) + (g) + (i)] \$ 6,543.28

> > 4,103.82

FIXED FEE k) TOTAL FIXED FER [(c) + (j)] x fixed fee 10.00% 1,249.17

# h CONSULTANT'S O'THER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quantity	Cult	Unit Cast	Total	
NWIC Record Search	1	Search	·528.32	\$	528.32
Mileago	500	miles	0.58	\$	290.00
Postage	10	stamps	0.55	\$	5.50
Traffic Control	24	hours	120	\$	2,880.00
Private Utility Locator	4	hours	100	\$	400.00
			I) TOTAL O	THER DI	RECT COSTS \$

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:

m) TOTAL SUBCONSULTANTS' COSTS \$

m) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(I) + (m)] \$ 4,103.82 TOTAL COST [(c)+(j)+(k)+(n)] \$ 17,844.71

- 1. Key personnel must be warked with an asterials (\*) and employees that are subject to prevailing wage requirements must be marked with two asterials (\*). All costs
- must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

  2. The cost proposal format shall not be smeaded. Indirect outs rates shall be updated on an annual best in accordance with the consultant's assual accounting period and established by a cognizant agency or accepted by Caltrans.

  3. Anticipated salary increases calculation (page 2) must accompany.

# Exhibit 10-H1 Cost Proposal Page 2 of 3

# Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts ( Calculations for Anticipated Salary Increases)

#### 1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

		Total			
Labor <u>Subtotal</u> ost Proposal		Hours per Cost		Avg Hourly Rate	10 Year Contract Duration
		Proposal			
\$ 5,875.00	1	113	=	\$51.99	Year 1 Avg Hourly Rate

# 2. Calculate hourly rate for all years (Increase the Average hourly rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 2	\$51.99	+	5%	=	\$54.59	Year 2 Avg Hourly Rate
Year 3	\$54.59	+	5%	=	\$57.32	Year 3 Avg Hourly Rate
Year 4	\$57.32	+	5%	=	\$60.19	Year 4 Avg Hourly Rate
Year 5	\$60.19	+	5%	=	\$63.20	Year 5 Avg Hourly Rate

#### 3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

			Total			
	Estimated %		Hours per		Total Hours per	
	Completed Each Year		Cost		Year	
			Proposal			
Year 1	75.00%	*	113	=	84.75	Estimated Hours Year 1
Year 2	25.00%	*	113	=	28.25	Estimated Hours Year 2
Year 3	0.00%		113	=	0	Estimated Hours Year 3
Year 4	0.00%	*	113	=	0	Estimated Hours Year 4
Year 5	0.00%		113	=	0	Estimated Hours Year 5
Total	100%		Total	=	113	

#### 4. Calculate Total Costs including Escalation (multiply average hourly rate by the number of hours)

	Avg Hourly Rate		Estimated hours (calculated		Cost per Year	
	(calculated above)		above)			
Year 1	\$51.99	*	84.75	-	\$4,406.25	Estimated Hours Year 1
Year 2	\$54.59	*	28.25	=	\$1,542.19	Estimated Hours Year 2
Year 3	\$57.32	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$60.19	*	0	=	\$0.00	Estimated Hours Year 4
Year 5	\$63.20	*	0	=	\$0.00	Estimated Hours Year 5
	Total Direct Labo	r Cost w	ith Escalation	=	\$5,948.44	
	Direct Labor Sub	total be	Fore escalation	==	\$ 5,875.00	
	Estimated total of	of Direc	t Labor Salary Increase	=	\$73.44	Transfer to Page 1

- 1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the #of years of the contract, and a breakdown of the labor to be performed each year.
- 2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.(i.e.  $$250,000 \times 2\% \times 5 \text{ yrs} = $25,000 \text{ is not an acceptable methodology}$ )
- 3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4. Calculations for anticipated salary escalation must be provided.

#### Exhibit 10-H1 Cost Proposal Page 3 of 3

#### **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. Title 23 United States Code Section 112 Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 5. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 6. 48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Name: Daniel Shoup	Title *: Principal
Signature:	Date of Certification (mm/dd/yyyy): 5/20/2019
Email: daniel.shoup@ahc-heritage.com	Phone Number: 510-654-8635
Address: 609 Aileen Street, Oakland CA 94609 *An individual executive or financial officer of the consultant's or subconsultant	
*An individual executive or financial officer of the consultant's or subconsultant Chief Financial Officer, or equivalent, who has authority to represent the financial contract.	
*An individual executive or financial officer of the consultant's or subconsultant Chief Financial Officer, or equivalent, who has authority to represent the financial contract.	
*An individual executive or financial officer of the consultant's or subconsultant Chief Financial Officer, or equivalent, who has authority to represent the financia contract.  List services the consultant is providing under the proposed contract:	

#### Exhibit 10-H1 Cost Proposal Page 1 of 3

#### Actual Cost-Pins-Fixed Fee or Instrument (Firm Fixed Price) contracts

(Design, Engineering and Environmental Studies) Prime Con Subconsultant 2nd Tier Subconsultant Note: Mark-ups are Not Allowed Consultant H. T. Harvey & Associates Project No. Contract No. Date:

DIRECT LABOR

Cincutification/Fide	Name	Жория	Actual	Hourly Rate	Total
Principal	Steve Rottenhorn	5	s	87.50	437.50
Principal	Kelly Hardwicke	11	s	62.98	692.79
Senior Associate Ecologist			s	57,45	0.00
Associate Ecologist			s	50.72	0.00
Senior Ecologist 2	Mark Bibbo	29.25	s	45.19	1321.88
Senior Ecologist 1			s	40.99	0.00
Ecologist 2	Craig Fosdick	37	s	36.54	1351.92
Ecologist 1	Matthew Mosher	81	s	32,45	2628.61
Field Biologist 2			s	28,73	0.00
Field Biologist 1			s	25.48	0.00
Senior GIS Analyst	Mark Lagarde	1.25	s	50.00	62,50
GIS Analyst	Michele Childs	18.75	s	36.06	676.08
Technical Editor	Jessicca Hughes	6	s	36.30	217.79
Senior Technical Support	Liesl Bross	1	s	38.70	38.70
Technical Support	Liza Bodistow	.5	s	22.50	112.50

LABOR COSTS

a) Subtotal Direct Labor Costs

b) Anticipated Salary Increases (see page 2 for calculation) c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 7,540.26

FRINGE BENEFITS

100.70% c) Total Fringe Benefits [(c) x (d)] \$ 7,592.79 d) Pringe Benefits (Rate: g) Overhead [(c) x (f)] 7,871.71 f) Overhead (Rate: 104,40% istrative (Rate: [Included in Overhead Rate] i) Gen & Admin [(c) x (h)] \$\_ \_NA\_ b) General and Adm

> 15,464,50 i) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$

7,540.26

k) TOTAL FIXED FEE [(c) + (j)] x fixed fee 10.00% 2,386,48 FIXED FER

D CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additio

Umit Description of Item Mileage Costs

Motion-Sending Cameras mile 0.58 \$ units 10 Per Diem Lodging, Meals and Incidenta night GIS Charges 10 200.00

I) TOTAL OTHER DIRECT COSTS \$

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: Subconsultant 2: \$ \$ colleged 3: \$ Subconsultant 4: m) TOTAL SUBCONSULTANTS' COSTS \$

> a) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(I) + (m)] \$ 200.00

TOTAL COST [(c)+(j)+(k)+(n)] \$

25,505,24

May 28, 2019

- 1. Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.

  2. The cost proposal format shall not be amended. Endirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accopied by Caltrans.

  3. Anticipated salary increases calculation (page 2) must accompany.

#### Exhibit 10-H1 Cost Proposal Page 2 of 3

#### Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts

(Calculations for Anticipated Salary Increases)

# 1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

		Total			
 Labor <u>Subtotal</u> ost Proposal		Hours per Cost		Avg Hourly Rate	10 Year Contract Duration
		<b>Proposal</b>			
\$ 7,540.26	1	195.25	==	\$38.62	Year 1 Avg Hourly Rate

#### 2. Calculate hourly rate for all years (Increase the Average hourly rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 2	\$38.62	+	3%	=	\$39.78	Year 2 Avg Hourly Rate
Year 3	\$39.78	+	3%	=	\$40.97	Year 3 Avg Hourly Rate
Year 4	\$40.97	+	3%	=	\$42.20	Year 4 Avg Hourly Rate
Year 5	\$42.20	+	3%	=	\$43.47	Year 5 Avg Hourly Rate

#### 3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Homs per Year	
Year 1	100.00%	*	195.25	=	195.25	Estimated Hours Year 1
Year 2	0.00%	*	195.25	==	0	Estimated Hours-Year 2
Year 3	0.00%	*	195.25	=	0	Estimated Hours Year 3
Year 4	0.00%		195.25	=	0	Estimated Hours Year 4
Year 5	0.00%		195.25	=	0	Estimated Hours Year 5
Total	100%		Total	=	195.25	

#### 4. Calculate Total Costs including Escalation (multiply average hourly rate by the number of hours)

	Avg Hourly Rate		Estimated hours		c	ost per Year	
	(calculated above)		(calculated above)				
Year 1	\$38.62	*	195.25	=		\$7,540.26	Estimated Hours Year 1
Year 2	\$39.78	*	0	=		\$0.00	Estimated Hours Year 2
Year 3	\$40.97	*	0	==		\$0.00	Estimated Hours Year 3
Year 4	\$42.20	*	0	=		\$0.00	Estimated Hours Year 4
Year 5	\$43.47	*	0	=		\$0.00	Estimated Hours Year 5
	Total Direct Lab	or Cost w	vith Escalation	-	:	\$7,540.26	
	Direct Labor Su	btotal be	fore escalation	=	\$	7,540.26	
	Estimated total of Direct	t Labor S	alary Increase	=		\$0.00	Transfer to Page 1

- 1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the #of years of the contract, and a breakdown of the labor to be performed each year.
- 2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.(i.e.  $$250,000 \times 2\% \times 5 \text{ yrs} = $25,000 \text{ is not an acceptable methodology})$
- 3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4. Calculations for anticipated salary escalation must be provided.

#### Exhibit 10-H1 Cost Proposal Page 2 of 3

#### **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1. Generally Accepted Accounting Principles (GAAP)
- 2. Terms and conditions of the contract
- 3. Title 23 United States Code Section 112 Letting of Contracts
- 4. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 5. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 6. 48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

#### Prime Consultant or Subconsultant Certifying:

Name: Karin Hunsicker

Title \*: CEO

Signature:

unione the accompliant in any siding and or the assessed on

Date of Certification (mm/dd/yyyy): 8/12/2019

Email: kshunsicker@harveyecology.com

Phone Number: 408.458.3206

Address: 983 University Ave, Bldg D, Los Gatos, CA 95032

\*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

Last services the consultant is providing thater the proposed contract.	
Preparing a Natural Environment Study - Minimal Impacts (NES-MI), including a site and tree survey. Performing a wetland	Ī
delineation.	

EXHIBIT 10-H1 Cost Proposal

		EXHIBIT 10-H1 CO						
Note: Mark-ups are	: Not Allowed	AL COST-PLUS-FIXED FEE OR 1 (DESIGN, ENGINEERING, Prime Consultant	AND ENVIRONME	-	CONTR	acts		Fier Subconsultant
Consultant R.E.Y	. Engineers, Inc.				-			
Project No.		Contract No	D		_	Date		
DIRECT LABOR							_	
Clas	sification/Title	Name		Hours	Actu	al Hourly Rate		Total
Survey	Project Manager*	Dan Bustamant	te, PLS	15.0	s	64.58	S	968.70
Seni	ior Technician	Coung Voo	ing	50.0	\$	47.32	S	2,366.00
Chi	ief of Party**	TBD		48.0	\$	49.07	\$	2,355.36
Chaim	man/Rodman**	TBD		48.0	\$	39.06	\$	1,874.88
							\$	
							\$	-
							\$	-
					1		S	
				-	-		\$	-
					-		\$	-
					+		\$	-
				161.0			3	A CONTRACTOR
NDIRECT COST:  () Fringe Benefits  Overhead  () General and Ad		Rate: 60.25% Rate: 122.43%	e) Total fringe	DIRECT LABO  benefits {(c) x (d  Overhead [(c) x (t)  & Admin [(c) x (t)	()] \$ ()] \$	4,557.88 9,261.76	\$	7,564.94
				L INDERECT O		(e) + ( <del>p</del> ) + (i)]	s	13,819.63
FIXED FEE		k) TOT	AL FIXED FEE [(		-		\$	2,138.46
) CONSULTANT	S OTHER DIRECT CO			annone mark	_			
		OSTS (ODC) - ITEMIZE (Add a	dditional pages if i	eccessary)				
	Description of		Quantity	Unit		Juit Cost		Total
	Description of AR (TLS) Equipment			Unit Hour	\$	75.00	-	
Mobile LiDAR	Description of AR (TLS) Equipment (MTLS) Equipment	Item	Quantity	Unit Hour Hour	\$	75.00 600.00	\$	-
Mobile LiDAR Arial Photogram	Description of AR (TLS) Equipment	Item		Unit Hour Hour n/a	\$ \$ \$	75.00 600.00 2,855.00	\$	
Mobile LiDAR	Description of AR (TLS) Equipment (MTLS) Equipment	Item	Quantity	Unit Hour Hour	\$	75.00 600.00	\$	2,855.00
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment numetric Acquisition & Co	Trem coopilation	Quantity 1	Unit Hour Hour n/a	\$ \$ \$ \$	75.00 600.00 2,855.00 1.80	\$ \$ \$	2,855.00
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment ametric Acquisition & Ca	Item ompilation dditional pages if necessary)	Quantity 1	Unit Hour Hour n/a Sheet	\$ \$ \$ \$	75.00 600.00 2,855.00 1.80	\$ \$ \$ \$	2,855.00 -
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment ametric Acquisition & Ca  ANTS COSTS (Add as Subconsultar	Item compilation  dditional pages if necessary)  at 1:	Quantity 1	Unit Hour Hour n/a Sheet	\$ \$ \$ \$	75.00 600.00 2,855.00 1.80	\$ \$ \$ \$ \$	2,855.00 -
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment ametric Acquisition & Ca	Item compilation  dditional pages if necessary)  at 1:  at 2:	Quantity 1	Unit Hour Hour n/a Sheet	\$ \$ \$ \$	75.00 600.00 2,855.00 1.80	\$ \$ \$ \$	2,855.00 -
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment nmetric Acquisition & Ca  ANTS' COSTS (Add as Subconsultar Subconsultar	Item compilation  dditional pages if necessary) at 1: at 2: at 3:	Quantity 1	Unit Hour Hour n/a Sheet  TOTAL OTH	S S S S ER DIR	75.00 600.00 2,855.00 1.80	\$ 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	2,855.00 -
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment numetric Acquisition & Co  ANTS' COSTS (Add as Subconsultar Subconsultar Subconsultar	Item compilation  dditional pages if necessary) at 1: at 2: at 3:	Quantity 1	Unit Hour Hour n/a Sheet	S S S S ER DIR	75.00 600.00 2,855.00 1.80	\$ 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	2,855.00 -
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment numetric Acquisition & Co  ANTS' COSTS (Add as Subconsultar Subconsultar Subconsultar	Item compilation  dditional pages if necessary) at 1: at 2: at 3:	Quantity 1	Unit Hour Hour n/a Sheet  TOTAL OTH	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	75.00 600.00 2,855.00 1.80 ECT COSTS	\$ 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	2,855.00 -
Mobile LiDAR Arial Photogram Plan Sheets Test	Description of AR (TLS) Equipment (MTLS) Equipment numetric Acquisition & Co  ANTS' COSTS (Add as Subconsultar Subconsultar Subconsultar	Item compilation  dditional pages if necessary) at 1: at 2: at 3: at 4:	Quantity 1	Unit Hour Hour n/a Sheet  TOTAL OTH	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	75.00 600.00 2,855.00 1.80 ECT COSTS	\$ 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	- 2,855.00 - - 2,855.00

EXHIBIT 10-H1 Cost Proposal

# EXHIBIT 10-H1 COST PROPOSAL (Page 2 of 3)

# ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (FIRM FIXED PRICE) CONTRACTS (CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

#### 1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor <u>Subtotal</u> per Cost Proposal		Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$7,564.94	/	161.0	==	\$46.99	Year 1 Avg Hourly Rate

#### 2. Calculate hourly rate for all years (Increase the Average hourly rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$46.99	+	5.0%	=	\$49.34	Year 2 Avg Hourly Rate
Year 2	\$49.34	+	5.0%	=	\$51.80	Year 3 Avg Hourly Rate
Year 3	\$51.80	+	5.0%	=	\$54.39	Year 4 Avg Hourly Rate
Year 4	\$54.39	+	5.0%	=	\$57.11	Year 5 Avg Hourly Rate

#### 3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed		Total Hours per Cost		Total Hours per	
	Each Year		Proposal		Year	
Year 1	100%		161.0	=	161.0	Estimated Hours Year 1
Year 2		*	161.0	=	0.0	Estimated Hours Year 2
Year 3		址	161.0	-	0.0	Estimated Hours Year 3
Year 4		*	161.0	=	0.0	Estimated Hours Year 4
Year 5		*	161.0	=	0.0	<b>Estimated Hours Year 5</b>
Total	100%		Total	=	161.0	

#### 4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate			Estimated hours		Cost per	
	(calculated above)			(calculated above)		Year	
Year 1	\$ 4	16.99	*	161.0	=	\$7,564.94	Estimated Hours Year 1
Year 2	\$ 4	9.34	*	0.0	=	\$0.00	Estimated Hours Year 2
Year 3	\$ 5	51.80	*	0.0	=	\$0.00	Estimated Hours Year 3
Year 4	\$ 5	4.39	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$ 	7.11		0.0	=	\$0.00	Estimated Hours Year 5
		Tota	al Dire	ct Labor Cost with Escalation	=	\$7,564.94	
		Dir	ect La	bor Subtotal before escalation	200	\$7,564.94	
	. Estimate	d tota	l of Di	rect Labor Salary Increase	=	\$0.00	Transfer to Page 1

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the #
  of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
- 3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
- 4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 Cost Proposal

#### EXHIBIT 10-H1 COST PROPOSAL (Page 3 of 3)

#### **Certification of Direct Costs**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 1 Generally Accepted Accounting Principles (GAAP)
- 2 Terms and conditions of the contract

Prime Consultant or Suconsultant Certifying:

- 3 Title 23 United States Code Section 112 Letting of Contracts
- 4 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 5 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Services
- 6 48 Code of Federal Regulations Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

# Name: Mike Shoup, PLS Title\* Bay Area Regional Manager, Survey Principal Signature: Date of Certification (mm/dd/yyyy): 8/20/2019 Email: mshoup@revengineers.com Phone Number: 408-219-3236 Address: 505 14th Street, Suite 900, Oakland, CA 94612 \*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract. List services the consultant is providing under this proposed contract: Land Surveying

Page 3 of 9 January 2018

Yeese Note: Consultant completes all Herns in yellow highlight

e Phil DAN, "() o Projo Dana Bano, "Versitanto Landaro Dana Bano) o Ban Pirena (Versitanto Hara Pirena). Pante de Versita de Parto de Carlos (Aras Haras Bano) o Bana Pirena de Banado Dana Pirena (Versitanto Paras de Parto de Parto Dana Pirena (Parto de Parto Dana Pirena).

ŝ

0110

š

Ŧ

Ē

₫

ş

ğ.

ş

£

Ē

₽.

3

爹

š

#

8

菱

ğ š

隻

ğ

ğ

£ \$

₫

š

ş

AKTE

Loaded Hourly Stating Place

EXHIBIT 10-H4 COST PROPOSAL FOR CONTRACTS WITH PREVAILING WAGES

WANTED WARD WORK

3

11111

THE RESERVE A SECOND OF SECOND SECOND

14361

TERE F

RESE

TEEL !

ESSE S

FEEE E

备

ŝ

ŝ

8

ğ

ĕ

Ē

16558

PRES BEEF

FEE . S

1 133

11111

125 E

E165

星

菱

ĕ

8

TERE !

1101

E

1111

FREEE

HIER

2000

HOLD S

ğ.

š

8

ş

姜

€

100 M

----

£255 5

Ē

#W202018 #W2020 #W2021 #W2022

11111

8

ğ

≸

ğ

ğ.

ş

š

ğ

\$

ŝ

ş

委

랿

#

黄

Ŧ

3

ş

Œ.

#

ቜ

豪

ğ

ş

ş

ŝ

菱

HILL HILL

25522 25525

9999 ----

\$

1000

3

# TASKS B & C

# EXHIBITS 10-H3 COST PROPOSALS

EXHBIT 10-H3 Cost Proposal

# EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed	☐ Prime Consultant	☐ Subc	onsultant	
Consultant Mott MacDonald				
Project No. <u>TLG 18-832-4505</u> , <u>SCL 170028</u> , <u>CML - 5067 (021)</u>	Contract No.		Date 8	/13/2019
Unit/Item of Work: (Example: Log of Test Boring for Soils Include as many Items as necessary.	Report, or ADL Testi	ng for Haz	ardous Waste	Material Study)
DIRECT LABOR	Hours	Billing	Hourly Rate (\$	) Total (\$
Professional (Classification)*	126		\$150.79	\$19,000
Sub-professional/Technical**				-
EQUIPMENT 1 (with Operator)	***	-		·
EQUIPMENT 2 (with Operator)	-	_		
Consultant's Other Direct Costs (ODC	– Itemize:			
Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobiliz	zation		\$	S

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
Subconsultant 1: Biggs Cardosa Associates	17			\$ 9,000
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$
Subconsultant 5:				\$
Inter Attach additional names if necessary				4

# TOTAL COST PER UNIT OF WORK

\$ 28,000

- All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- 2. Hourly billing rates should be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- 3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- 4. ODC items shall be based on actual costs and supported by historical data and other documentation.
- 5. ODC items that would be considered "tools of the trade" are not reimbursable.
- 6. Billing Hourly Rates must be actual, allowable, and reasonable.

EXHBIT 10-H3 Cost Proposal

# EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

# **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 13. Generally Accepted Accounting Principles (GAAP)
- 14. Terms and conditions of the contract
- 15. Title 23 United States Code Section 112 Letting of Contracts
- 16. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 18. 48 Code of Federal Regulation Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Name: Chris Metzger	Title*: Sr. Vice President
Signature: Lis Hoyges	Date of Certification (mm/dd/yyyy): 08/13/2019
Email: Chris.Metzger@mottmac.com	Phone Number: 408-876-6039
Address: 2077 Gateway Place, Suite 550 San Jo	ose CA 95110
	• •

EXHBIT 10-H3 Cost Proposal

EXHIBIT	10-	-H3	Cost	PROPOSAL.	Done I	-63

	COST FER UNIT OF WORK	CONTRACTS			
	(GEOTECHNICAL AND MATER	RIAL TESTING)			
Note: Mark-ups are Not Allowed	☐ Prime Consultant	☑ Subconsultant	2nd Tier Subconsultant		
Consultant Biggs Cardosa	Associates				
Project No. TLG 18-832-45	TLG 18-832-4505 Contract No.		Date May 20, 2019		
Unit/Item of Work: (Example: Log of Test Boring for Sinclude as many Items as necessary)	Soils Report, or ADL Testi y.	ing for Hazardous Was	te Material Study)		
DIRECT LABOR	Hours	Billing Hourly Rate (	\$) Total (\$)		
Professional (Classification)	50 max.	180	\$9,000		
Sub-professional/Technical**	ķ				

Consultant's Other Direct Costs (ODC) - Itemize:

**EQUIPMENT 2 (with Operator)** 

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			\$	S
ODC Example: Mobilization/De-mobilization			S	S
ODC Example: Supplies/Consumables			S	S
ODC Example: Report			S	S
ODC (List more ODCs as applicable)			S	\$
Subconsultant 1:	2			
Subconsultant 2:	\$			
Subconsultant 3:	\$			
Subconsultant 4:	\$			
Subconsultant 5:				\$
ote: Attach additional pages if necessary.	_			Ψ

# TOTAL COST PER UNIT OF WORK

\$9,000

- 1. Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
- 2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
- 3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
- ODC items shall be based on actual costs and supported by historical data and other documentation.
   ODC items that would be considered "tools of the trade" are not reimbursable.
   Billing Hourly Rates must be actual, allowable, and reasonable.

EXHBIT 10-H3
Cost Proposal

#### EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

#### **Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

- 13. Generally Accepted Accounting Principles (GAAP)
- 14. Terms and conditions of the contract

Prime Consultant or Subconsultant Certifying:

- 15. Title 23 United States Code Section 112 Letting of Contracts
- 16. 48 Code of Federal Regulations Part 31 Contract Cost Principles and Procedures
- 17. 23 Code of Federal Regulations Part 172 Procurement, Management, and Administration of Engineering and Design Related Service
- 18. 48 Code of Federal Regulation Part 9904 Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Name:	Mahvash Harms	Title*: Vice President
Signature	Signality organist by Mahrasah Hanna Dit cenalismasah Japana, endagan Cardina Alsandalas, su, providentemus (Bibligget Indonessor), cortus Dans: 2018 (65:20 1445:eq2019)	Date of Certification (mm/dd/yyyy): May 20, 2019
Email: _	mharms@biggscardosa.com	Phone Number: 408-839-8878
Address:	865 The Alameda San Jose	

List services the consultant is providing under the proposed contract:

Respond to questions that arise during the bid phase, prepare addendums, Review of submittals and shop drawings, Structural reviews, Review and response to Requests for Information.

<sup>\*</sup> An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

ITEM NO. 7.

### **EXHIBIT C**

# ADDITIONAL CALTRANS FORMS

#### **Consultant Contract DBE Commitment**

#### **EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT**

1. Local Agency: Town of Los Gatos Pa	arks and Public Works D	De 2. Contract DBE Goal: 15%	
3. Project Description: Design and constr	uction documents for the	e Los Gatos Creek Trail to Hwy 9 Trailhead	d Connector
4. Project Location: Los Gatos Creek Trai	l at Highway 9		
5. Consultant's Name: Mott MacDonald, L	LC 6. Prime Certifi	ed DBE: D 7. Total Contract Award Amount:	486,747
8. Total Dollar Amount for ALL Subconsultants;	\$245,464	9. Total Number of ALL Subconsultants: 6	
10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Utility coordination, right of way certification, plan review and coordination	043754	ActiveWayz Engineerin (510)989-2420, admas@activewayz.engineering.com	\$41,000
Environmental documentation	38205	David J Powers, (408) 454-3422, dloukas@davidjpowers.com	\$20,716
Cultural Resources Consulting	6JN00016	AHC (510) 654-8635, info@ahc-heritage.com	\$17,845
20. Local Agency Contract Number	ils Section	14. TOTAL CLAIMED DBE PARTICIPATION	\$79,561
21. Federal-Ald Project Number: 22. Contract Execution			16.3 %
Local Agency certifies that all DBE certifications a this form is complete and accurate.	re valid and information on	IMPORTANT: Identify all DBE firms being claimed regardless of tier. Written confirmation of each liste required.	
23. Local Agency Representative's Signature	24. Date	9/19/20 15. Preparer's Signature 16. Date Chris Metzger (408) 8	019
25. Local Agency Representative's Name	26. Phone	17. Preparer's Name 18. Phone	
27 Lord Agency Demonstrative to Title		Senior Vice President	
27. Local Agency Representative's Title		19. Preparer's Title	

DISTRIBUTION: 1. Original - Local Agency

2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For Individuals with sensory disabilities, this document is available in alternate formatis. For Information call (916) 654-6410.or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**Consultant Contract DBE Commitment** 

#### INSTRUCTIONS - CONSULTANT CONTRACT DBE COMMITMENT

#### **CONSULTANT SECTION**

- 1. Local Agency Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name Enter the consultant's firm name.
- 6. Prime Certified DBE Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants Enter the total dollar amount for all subcontracted consultants.
- SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of <u>ALL</u> subconsultants Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information Good Faith Efforts of the LAPM).
- 15. Preparer's Signature The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- Preparer's Title Enter the position/title of the person signing the consultant's DBE commitment form.

#### LOCAL AGENCY SECTION

- 20. Local Agency Contract Number Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number Enter the Federal-Aid Project Number.
- 22. Contract Execution Date Enter the date the contract was executed.
- 23. Local Agency Representative's Signature The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone Enter the area code and phone number of the person signing the consultant's DBE commitment form,
- 27. Local Agency Representative Title Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

# Local Assistance Procedures Manual

Final Report-Utilization of Disadvantaged Business Enterprises (DBE) and First-Tier Subcontractors

EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

1. Local Agency Contract Number	I Number	2. Federal-Ald Project Number 3. Loos	3. Local Agency			4. Contract Completion Date	mpletion Date
5. Contractor/Consultant		6. Business Address			7. Final Con	7. Final Contract Amount	
8. Contract Item	9. Description of Work, Service, or	10. Company Name and	11. ĎBE	12. Contract Payments	Payments	13. Date	14. Date of
Number	Malerials Supplied	Business Address	Number	Non-DBE	DBE	Work	Finat Payment
. ORIGINAL DE	15. ORIGINAL DBE COMMITMENT AMOUNT		16. TOTAL			1	

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or them of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subconfractors/subconsultants were used on the confract, indicate on the form,

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

17. Contractor/Consultant Representative's Claustine			
BIRD O ONIDER STATE OF THE STAT	to. Contraction/Consultant Representative's Name		20. Date
I CERTIFY THAT	I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITOBED	CHACTINON	
21. Local Agency Representative's Signature	22 Local Actions, Denmeanted to Alexander		
	23. Phone		24. Date
The state of the s			

BUTION: Original - Local Agency, Copy - Caltrans District Local Assistance Engineer, Include with Final Report of Expenditures

ADA NOTICE: For Individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 93814.

Page 1 of 2 July 23, 2015 and First-Tier Subcontractors

#### INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

- 1. Local Agency Contract Number Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number Enter the Federal-Aid Project Number.
- 3. Local Agency Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date Enter the date the contract was completed.
- 5. Contractor/Consultant Enter the contractor/consultant's firm name.
- 6. Business Address Enter the contractor/consultant's business address.
- 7. Final Contract Amount Enter the total final amount for the contract.
- 8. Contract Item Number Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 10. Company Name and Business Address Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name Enter the name of the person preparing and signing the form.
- 19. Phone Enter the area code and telephone number of the person signing the form.
- 20. Date Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name Enter the name of the Local Agency Representative signing the
- 23. Phone Enter the area code and telephone number of the person signing the form.
- 24. Date Enter the date the form is signed by the Local Agency Representative.



MEETING DATE: 09/17/2024

ITEM NO: 8

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Authorize the Interim Town Manager to Execute an Agreement with Kimley-

Horn and Associates, Inc. in the Amount of \$37,135 to Assess and Evaluate Artificial Turf and Natural Grass at Creekside Sports Park (CIP Project 831-

4404)

#### **RECOMMENDATION:**

Authorize the Interim Town Manager to execute an agreement with Kimely-Horn and Associates, Inc. (Attachment 1) in the amount of \$37,135 to assess and evaluate artificial turf and natural grass at Creekside Sports Park (CIP Project 831-4404).

#### **BACKGROUND**:

The Town of Los Gatos Capital Improvement Programs calls for the replacement of the artificial turf at Creekside Sports Park. Replacement of artificial is required approximately every 10 years as the synthetic material wears down over time. The synthetic material at this field is now 12 years old and its condition is deteriorating.

This project was partially funded in 2023. During development of the proposed Capital Budget for Fiscal Year 2024/25, staff noted that additional funding was needed for the work to move forward. Town Council heard concerns from the community regarding the potential health and environmental impacts of the materials used in the fabrication of artificial turf. Additional funding was not added to the project.

#### **DISCUSSION:**

Staff sought cost proposals from three firms on the Parks and Public Works list of on-call consultants to provide an assessment of the use of artificial turf versus natural grass for

PREPARED BY: Nicolle Burnham

Parks and Public Works Director

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

#### PAGE **2** OF **3**

SUBJECT: Authorize the Town Manager to Execute an Agreement with Kimley-Horn

DATE: September 12, 2024

Creekside Sport Park. Kimley-Horn was the only respondent of the three firms from which proposals were sought.

Kimley-Horn and Associates, Inc. (Kimley-Horn) provided a comprehensive proposal to evaluate the pros and cons of the two field types, provide a comparison of construction costs for replacing the artificial turf versus reconstructing the field with natural grass, and to assess the long-term operating cost of the two field types. Staff is recommending that the Town enter into agreement with Kimley-Horn to complete this analysis. Result of their work will be presented to Town Council for consideration.

#### **CONCLUSION:**

Executing the agreement will allow staff to present an evaluation to Town Council regarding the use of artificial turf versus natural grass for the Creekside Sports Park.

#### **COORDINATION:**

This report has been coordinated with the Town Manager's Office and the Finance Department.

#### FISCAL IMPACT:

There is sufficient funding in the Adopted Fiscal Year (FY) 2024/25 – 2028/29 Capital Improvement Program (CIP) Budget to cover the agreement with Kimley Horn for the Creekside Turf Replacement Project. The total projected cost to replace the artificial turf was \$1 million in 2022. At this time the cost is estimated to be \$1.2 million.

Creekside Turf Replacement CIP No. 831-4404						
		Budget		Costs		
GFAR	\$	500,000				
Total Budget	\$	500,000				
				Costs		
Agreement with Kimley Horn (Requested with this Staff						
Report)			\$	37,135		
Total Expenditures			\$	37,135		
Available Balance			\$	462,865		

#### **ENVIRONMENTAL ASSESSMENT:**

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

ITEM NO. 8.

#### PAGE **3** OF **3**

SUBJECT: Authorize the Town Manager to Execute an Agreement with Kimley-Horn

DATE: September 12, 2024

#### Attachment:

1. Agreement for Consultant Services

#### AGREEMENT FOR CONSULTANT SERVICES

#### PREAMBLE

THIS AGREEMENT is dated for identification on September 17, 2024 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") Kimley-Horn and Associates, Inc., ("Consultant"), identified as a C Corporation and whose address is 10 S. Almaden Blvd, Suite 1250, San Jose CA 95113. This Agreement is made with reference to the following facts.

#### I. RECITALS

- 1.1 The Town desires to engage Consultant to provide Evaluation of artificial turf versus natural grass at Creekside Sports Pak.
- 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 <u>Scope of Services</u>. Consultant shall provide services as described in that certain Proposal sent to the Town on August 14, 2024, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 <u>Term and Time of Performance</u>. This contract will remain in effect upon execution to September 17, 2024 through June 30, 2025. Consultant shall perform the services described in this agreement as described in Exhibit A.
- 2.3 <u>Compliance with Laws</u>. 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 <u>Sole Responsibility</u>. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 <u>Information/Report Handling</u>. 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

ITEM NO. 8.

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 the 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 <u>Compensation</u>. Compensation for Consultant's professional services **shall be \$37,135**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 <u>Billing</u>. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service. Invoices shall be based on percentage of work complete for each task. Invoices shall include the total fee for the task, the percentage of work complete, the charge for the current invoice and the overall charges to date for the project. A summary of tasks completed shall be provided.

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

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

Email (preferred): AP@losgatosca.gov

- 2.8 <u>Availability of Records</u>. 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 <u>Assignability and Subcontracting</u>. 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 <u>Independent Contractor</u>. 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 <u>Conflict of Interest</u>. 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 <u>Equal Employment Opportunity</u>. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

#### III. INSURANCE AND INDEMNIFICATION

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

- ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

#### General Liability:

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

evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees. As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease.

3.4 <u>Indemnification</u>. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its elected and appointed officials, agents, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

#### IV. GENERAL TERMS

- 4.1 <u>Waiver</u>. 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 <u>Governing Law</u>. 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 <u>Termination of Agreement</u>. 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 <u>Amendment</u>. 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 <u>Disputes</u>. 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 <u>Notices</u>. 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

Kimley-Horn and Associates, Inc. Attn: Matthew Morgan 10 S. Almaden Blvd, Suite 1250 San Jose CA 95113

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

- 4.7 <u>Order of Precedence</u>. 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 <u>Entire Agreement</u>. 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.

Town of Los Gatos by:	Kimley-Horn and Associates, Inc. by:
	adam Dankberg, P.E.
Katy Nomura, Interim Town Manager	Name and Title Adam Dankberg, P.E.
	Vice President
Recommended by:	
Nicolle Burnham,	
Director of Parks and Public Works	
A	
Approved as to Form:	
Gabrielle Whelan, Town Attorney	
Attest:	

#### ARTIFICIAL TURF REPLACEMENT ASSESSMENT AT CREEKSIDE SPORTS PARK

(CIP 831-4404)

ITEM NO. 8.

August 14, 2024

Ms. Nicolle Burnham, Director Parks and Public Works 41 Miles Avenue Los Gatos, CA 95030 30 S. Almaden Blvd. Suite 1250 San Jose, CA 95113 TEL 669.800.4130

## RE: Task Order Proposal for the Artificial Turf Replacement Assessment at Creekside Sports Park (CIP 831-4404)

Dear Ms. Burnham and Members of the Selection Committee:

The Town of Los Gatos (Town) has used artificial turf from AstroTurf at Creekside Sports Park since 2013. However, since this turf is nearing the end of its life and new concerns regarding the environmental and health impacts of artificial turf fields have been raised by community members, the Town seeks to evaluate the advantages and risks of using synthetic versus natural turf. In order to achieve this goal, the Town requires the support of a qualified partner to assist in this evaluation. Kimley-Horn is excited about the opportunity this project presents for the community and is confident our approach, experience, and expertise will make this project a success.

Kimley-Horn's landscape architects have extensive experience assessing and designing playing fields using both synthetic and natural materials. For example, we assisted with the design of the **Home Depot Backyard**, located in the existing Georgia Dome footprint north of the Mercedes-Benz Stadium in Atlanta, Georgia. As part of this project, our landscape architects designed a natural turf field to accommodate youth soccer, multi-use recreation, 800 tailgate parking spaces for game days, flex spaces for picnics, and pedestrian circulation to the stadium. To provide the best recommendations for a drivable grass lot, a test site was constructed and evaluated for six months. Three different base treatment solutions paired with the same turf were tested, which evaluated the sod layer infiltration rate, rootzone layer infiltration rate, and rootzone uniformity coefficient. We also assisted Albemarle County, Virginia with a **Synthetic Turf Study at Darden Towe Park** in which we presented findings and observations from research and case studies relating to the pros and cons associated with the installation and maintenance of synthetic turf fields for their athletic facilities.

As a supplement to our in-house capabilities, we have partnered with Berry, Dunn, McNeil, & Parker, LLC (BerryDunn), a leading consulting firm with a specialization in parks and recreation master plans, strategic plans, needs analyses, financial analyses, cost recovery, and quality assessments. BerryDunn's team members have worked for multiple agencies in California and around the country, managed organizations (specifically facilities operations and maintenance), and are familiar with what it takes to manage and maintain sports fields. Most recently, BerryDunn worked on the Indoor Sports Facility Feasibility Study and Operational Costs project for the Grand Forks Park District in Grand Forks, North Dakota. For this project, BerryDunn conducted a feasibility study assessing a new 300,000 square foot indoor sports complex that would host indoor lacrosse, football, and soccer practices and tournaments. The BerryDunn team conducted nine stakeholder focus groups with 75 stakeholders and an open public webinar that had 77 participants, for a total of 152 community members included in the public engagement meetings. Additionally, their team conducted a complete feasibility study including site analysis, indoor sports facility and aquatic facility development, operations and maintenance costs, funding mechanisms, financing opportunities and other funding alternatives, most cost-effective operating model, and the most productive mixture of

#### ARTIFICIAL TURF REPLACEMENT ASSESSMENT AT CREEKSIDE SPORTS PARK

ITEM NO. 8

(CIP 831-4404)

programs/facilities/amenities. Coupling our nationwide expertise with BerryDunn's, we will provide an accurate assessment and recommendation for the best path forward for the Town to consider.

When Kimley-Horn is involved in a project, we become the client's advocate. We don't just look at what it takes to "check the boxes" on a project—we look at what it takes to help our clients surpass their initial goals while remaining on schedule and within budget. We appreciate your consideration of the Kimley-Horn team, and we are excited about the opportunity to bring our experience and expertise to assist the Town with this important project.

If you have any questions about our experience or scope of services and fee proposal provided on the following pages, please do not hesitate to contract project manager **Matthew Morgan**, **PLA**, **ASLA**, **CLARB** directly at 408.785.3518 or <a href="matthew.morgan@kimley-horn.com">matthew.morgan@kimley-horn.com</a>.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Matthew Morgan, PLA, ASLA, CLARB

Project Manager

#### **SCOPE OF SERVICES**

#### Task 1. Assessment of Capital Costs & Environmental Impacts

#### 1.1: Concept Level Cost Estimate for Artificial Turf Replacement

Kimley-Horn will prepare one (1) concept-level cost estimate for the replacement of the existing artificial turf with new artificial turf. At present there are no known issues or concerns with the underdrainage.

#### 1.2: Concept Level Cost Estimate for Artificial Turf Removal

Kimley-Horn will prepare one (1) concept-level cost estimate to remove the artificial turf field and construct a new natural grass field. The cost estimate will include design costs and appropriate contingencies.

Kimley-Horn will coordinate with the Town to confirm typical contingencies used by the Town for costing exercises. This task assumes up to one (1) round of revisions in response to consolidated and reasonable Town comments. Additional rounds of revisions shall be accommodated as an additional service at our then-current hourly rates.

#### 1.3: Environmental and Planning Constraints and Benefits Assessment

Kimley-Horn will assess planning and environmental considerations associated with the use and construction of artificial turf fields versus natural grass fields. This information will be based on a literature search on the subject and CEQA analyses conducted by Kimley-Horn staff for similar projects (such as a proposed artificial turf facility in Portola Valley). Issues and concerns raised by decision makers and the public on similar projects have included:

- Project visibility, appearance and color as seen from public viewpoints
- Toxicity of materials used in turf and crumb rubber fill materials
- VOCs and off gassing
- Water quality and drainage controls
- Heat generation
- Greenhouse gasses
- General Plan policy consistency
- Material renewability and lifespan/lifecycle
- Pathogens and allergies

In our experience many of these issues are likely to be insignificant based on the results of available studies and continuous improvements to turf products. This information will be compiled for planning-level consideration. Detailed studies and/or CEQA review of the project will be scoped and budgeted separately upon request.

#### Task 2. Assessment of Operating Costs

#### 2.1: Discovery

#### 2.1.1: Virtual Kick-Off Meeting

The Kimley-Horn team will facilitate one (1) virtual initial kick-off meeting with the full project team to identify stakeholders, project team members, project milestones, and expectations. We will discuss our proposed project schedule, project work plan, and roles and responsibilities.



#### ARTIFICIAL TURF REPLACEMENT ASSESSMENT AT CREEKSIDE SPORTS PARK

ITEM NO. 8.

(CIP 831-4404)

#### 2.1.2: Data Review

The Kimley-Horn team will submit an information request to the Town's project team to gather applicable documents and data related to scheduling, maintenance, field use, and other pertinent information. All information gathered will be reviewed by our team to inform our understanding of the current environment, glean insights from work completed to date, and minimize impacts to Town staff during the work effort.

#### 2.2: Assessment of Operating Costs

#### 2.2.1: Operations Assessment

The Kimley-Horn team will assess the operational and maintenance costs of the sports field for a 20-year lifecycle for artificial turf versus grass. For each option, we will assess staffing cost versus contractor costs, maintenance, field striping, and routine and periodic maintenance costs.

#### Task 3. Letter Report

Kimley-Horn will prepare the following deliverables as part of this task:

#### 3.1: Letter Report

Kimley-Horn will prepare a letter report that documents the result of Tasks 1 and 2. The report will include a comparison table of the advantages and disadvantages of the two field types, including hours of available play per year, maintenance requirements, and potential revenue generation (provided by Town staff), etc.

This task assumes up to one (1) round of revisions in response to consolidated and reasonable Town comments. Additional rounds of revisions shall be accommodated as an additional service at our then-current hourly rates.

#### Task 4. Meetings

Kimley-Horn will attend the following meetings:

#### 4.1: Data Collection/Kick-off Meeting

One (1) data collection/kick-off meeting with Town staff, attended by one (1) Kimley-Horn staff member. Kimley-Horn has assumed a duration of up to two (2) hours, with limited supplemental preparation effort performed by junior staff.

#### 4.2: Analysis Review with Town Staff Meeting

One (1) meeting with Town staff to review the results of the analysis, attended by one (1) Kimley-Horn staff member. Kimley-Horn has assumed a duration of up to two (2) hours, with limited supplemental preparation effort performed by junior staff.

#### 4.3: Parks and Sustainability Commission and Town Council Meetings

One (1) meeting each of the Parks and Sustainability Commission and Town Council (two (2) meetings total) to discuss the results of the analysis. Each meeting will be attended by one (1) Kimley-Horn staff member. Kimley-Horn has assumed a duration of up to two (2) hours for each meeting for a total of four (4) hours of effort, with limited supplemental preparation effort performed by junior staff.

This task assumes up to one (1) round of revisions in response to consolidated and reasonable City comments. Additional rounds of revisions shall be accommodated as an additional service at our then-current hourly rates.



(CIP 831-4404)

#### **Additional Assumptions**

- Construction of either option would occur in 2025
- The underdrain system of existing artificial turf is in good condition and no repairs are needed
- Town staff will provide hourly rates for staffing time

#### **Additional Services**

- Schematic Design and Design Development Drawings
- Construction Documents
- CEQA and Environmental Studies other than the limited assessment scope noted in this agreement
- Survey
- Geotechnical Studies
- Additional meetings beyond those noted in the scope above
- Illustrative Graphics and 3D Visual Simulations
- Any services not specifically noted in the scope above

#### **FEE PROPOSAL**

The Kimley-Horn team's proposed cost to complete the Artificial Turf Replacement Assessment at Creekside Sports Park is \$37,135. The table below provides further detail. We welcome the opportunity to discuss our proposed fee with the Town and are flexible to scope adjustments and refinements as necessary to better accommodate your needs on this project.

		Kimley-Horn and Associates, Inc.										
	Category/Title	Sr. Professional II	Sr. Professional I	Analyst II	Analyst II	Kimley-Horn Total Hours		ley-Horn		rryDunn tal Cost	F	Total Project
	Billing Rate	\$350	\$325	\$205	\$180	Total Hours	101	ai Cost	10	tai Cost		Cost
	Assessment of Capital Costs	8	4	6	16	34	\$	8,210	\$	-	\$	8,210
1.1	Concept Level Cost Estimate for Artificial Turf Replacement		2	3		5	\$	1,265			\$	1,265
1.2	Concept Level Cost Estimate for Artificial Turf Removal		2	3		5	\$	1,265			\$	1,265
1.3	Environmental and Planning Constraints and Benefits Assessment	8			16	24	\$	5,680			\$	5,680
Task 2	Assessment of Operating Costs		2			2	\$	650	\$	15,556	\$	16,206
2.1	Discovery						\$	-	\$	3,500	\$	3,500
2.2	Assessment of Operating Costs		2			2	\$	650	\$	12,056	\$	12,706
Task 3	Letter Report		17	5	10	32	\$	8,350	\$	-	\$	8,350
3.1	Letter Report		17	5	10	32	\$	8,350			\$	8,350
Task 4	Meetings		8	4		12	\$	3,420	\$	-	\$	3,420
4.1	Data Collection/Kick-off Meeting with Town Staff		2	2		4	\$	1,060			\$	1,060
4.2	Meeting with Town Staff to Review Results of Analysis		2	1		3	\$	855			\$	855
4.3	Parks and Sustainability Commission and Town Council Meetings (2)		4	1		5	\$	1,505			\$	1,505
	TOTAL HOURS	8	31	15	26	80						
	Subtotal Labor:	\$2,800	\$10,075	\$3,075	\$4,680		\$	20,630	\$	15,556	\$	36,186
	Other Direct Costs						\$	949	\$	-	\$	949
	Internal Reimbursable Expenses	·	·				\$	949			\$	949
	TOTAL COST:						\$	21,579	\$	15,556	\$	37,135



MEETING DATE: 09/17/2024

ITEM NO: 9

DATE: September 11, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Receive Interim Community Center Improvement Cost Estimates and

Implementation Update

#### **RECOMMENDATION:**

Receive Interim Community Center improvement cost estimates and implementation update.

#### **BACKGROUND:**

On August 15, 2023, the Town Council allocated \$866,281 to a Community Center Development Fund to design and construct near-term improvements to the Adult Recreation Center to achieve two major purposes. The Adopted Fiscal Year (FY) 2024/25 Budget programmed an additional \$11,333, increasing the total available funding to \$877,614. One purpose is to facilitate the use of space for a variety of non-profit agencies to provide services to the community. The second purpose is to reconfigure the existing space to make it more open and inviting to the community. This effort is referred to as the Interim Community Center.

On November 21, 2023, the Town Council provided additional feedback on the Interim Community Center effort which involves the following steps:

- 1. (Completed January 25, 2024) Host Community Meeting to receive community input on:
  - a. Preferred types of community partners/services;
  - b. Community partner selection criteria; and
  - c. Ideas for near-term improvements to the ARC/Community Center.

PREPARED BY: Robert Gray

**Chief Building Official** 

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

#### PAGE **2** OF **5**

SUBJECT: Interim Community Center

DATE: September 10, 2024

(Completed February 15, 2024) Receive the Community Health and Senior Services
 Commission's (CHSSC) recommendation on items relevant to a Request for Interest
 (RFI) for community partners, such as the types of community partners and selection
 criteria.

- 3. (Completed March 5, 2024) Return to Council with CHSSC's recommendation for Council input and approval on items relevant to the Request for Interest (RFI) for community partners, such as the types of community partners and selection criteria.
- 4. (Completed March 29, 2024) Issue the RFI.
- 5. (Completed May 7, 2024) Return to Council with the final selection of community partners.
- 6. (Completed May/June 2024) Discuss any potential physical near-term improvements and operational support needed by selected community partners with Los Gatos Saratoga Recreation (LGS Recreation).
- 7. (Completed June 11, 2024) Receive CHSSC's recommendation on near-term improvements and operational support for Council's consideration, taking into account ideas shared at the community meeting and budget constraints.
- 8. (Completed June 18, 2024) Return to Council with CHSSC's recommendation on near-term improvements and operational support for consideration.
- 9. (Item not needed) Hire an architect (if needed) to provide cost estimates for the prioritized items.
- 10. (We are here.) **Return to Council with cost estimates** for selection of which prioritized items to move forward for implementation, design, and bidding, as applicable.

#### **DISCUSSION:**

Staff has continued working with the selected Community Partners, LGS Recreation, and outside vendors to determine more accurate costs of upgrades and enhancements for the Interim Community Center. On June 18, 2024, Town Council provided direction to implement the following Interim Community Center Improvements: furniture and enhancements for the designated shared office space to make the space more inviting and welcoming, a keypad lock to secure the shared office space, a divider in the large hall of the Adult Recreation Center, one portable hybrid meeting equipment system, and improved safety lighting in the restrooms and exterior of the building.

#### **Hybrid Meeting Equipment**

On Thursday, September 5, 2024, the Community Health and Senior Services Commission (CHSSC) Chair and Vice Chair participated in a hands-on demonstration of the hybrid meeting equipment system currently in use at the Police Operations Building (POB). The feedback received was positive overall and staff was able to clarify any questions. This is the same type of system that LGS Recreation is interested in implementing. Staff will coordinate with LGS Recreation for the final determination and purchase of the necessary equipment. The cost is estimated to be \$11,000.

PAGE **3** OF **5** 

**SUBJECT: Interim Community Center** 

DATE: September 10, 2024

LGS Recreation plans to use the hybrid meeting system to expand the capabilities of some of their existing programs and offerings to allow for remote participation. This will improve the community's accessibility to these programs. LGS Recreation currently has a standard rental process that can be found at <a href="https://www.lgsrecreation.org">https://www.lgsrecreation.org</a>. They do not currently offer free use of space and use of the hybrid meeting system will be subject to availability and discretion of LGS Recreation staff.

#### Office for Shared Desk Space for Community Partners

On June 18, 2024, the Town Council authorized up to \$20,000 to be used to furnish the Community Partner office and lobby areas to make them more welcoming and inviting. The designated Community Partners have met with staff to tour and discuss furnishings to the rotational office space. Discussions and suggestions were centered on making the space functional and inviting for the intended use of each provider. Recommendations included new chairs, couch, desk, and wall decorations, all of which are expected to be well under the \$20,000 authority. West Valley Community Services (WVCS) has decided not to use this rotational desk space at the current time to focus on the mobile food pantry service. They are in the process of purchasing a new, smaller mobile food pantry vehicle and intend to provide services outside in two parking spaces in the parking lot to the side of the Library.

As directed by Town Council on June 18, 2024, a programable keypad lock for the rotational office has been identified that is similar to the keypads currently in use throughout the building. The cost is estimated to be \$2,000.

As directed by Town Council on June 18, 2024, staff is actively working with LGS Recreation to determine an alternative cost recovery model for the use of the rotational office space so that the Community Partners do not have to pay LGS Recreation's reduced fee of \$24 per hour.

#### **Room Divider for Large Hall**

During the process of securing interest from vendors for the replacement of the non-motorized room divider, staff located the installer of the original divider from 1979. It was determined that attempting to motorize the replacement divider would require structural and electrical modifications that would render the replacement infeasible structurally. A non-motorized divider will still be a significant benefit as the current divider is in need of repair and difficult to use. As a result, staff recommends moving forward with a non-motorized divider which is estimated to cost \$70,000.

#### Interior/Exterior Safety Lighting

Staff evaluated the building's existing exterior lighting and determined that reconfiguration and upgrades of existing exterior lighting will enhance visibility and provide an increased level of safety for visitors to the Interim Community Center.

#### PAGE **4** OF **5**

**SUBJECT: Interim Community Center** 

DATE: September 10, 2024

Emergency lighting has been installed in the existing restrooms under a separate maintenance purchase order and will not require upgrading as part of this project. As part of this Interim Community Center project, emergency lighting will be added to the new ADA compliant restroom to provide the same level of visibility as the other restrooms in the event of a power outage. The interior and exterior lighting improvements are estimated to cost \$15,000.

#### **CONCLUSION:**

Staff communicated to the Town Council that an item would return once more precise cost estimates had been secured. This item serves to provide those updates. No action is required at this time given that estimated cost of the recommended improvements are within the budget for the Interim Community Center Project. Staff will continue to implement these improvements as previously directed. The Town Council may provide any further direction as it sees fit.

#### **COORDINATION:**

The preparation of this report was coordinated with the Town Manager's Office, Parks and Public Works, and the Town Attorney.

#### FISCAL IMPACT:

The \$877,614 allocated to the Community Center Development Fund can be used for near-term improvements to the Adult Recreation Center/Community Center.

Adult Recreation Center - Interim Community Center							
CIP No. 821-2208							
		Budget		Costs			
GFAR	\$	877,614					
Total Budget	\$	877,614					
				Costs			
Enhancement of Shared Office Space			\$	20,000			
Keypad Lock			\$	2,000			
Large Hall Divider			\$	70,000			
Portable Hybrid Meeting Equipment	table Hybrid Meeting Equipment		\$	11,000			
Safety Lighting			\$	15,000			
Total Costs			\$	118,000			
Available Balance			\$	759,614			

#### PAGE **5** OF **5**

SUBJECT: Interim Community Center

DATE: September 10, 2024

#### **ENVIRONMENTAL ASSESSMENT**:

This project is exempt from CEQA, because it involves improvements to an existing facility. (CEQA Guidelines Section 15301.)



MEETING DATE: 09/17/2024

**ITEM NO: 10** 

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Adopt a Resolution Approving the Town of Los Gatos Local Hazard Mitigation

Plan (LHMP) Annex to the County of Santa Clara Multi-Jurisdictional Hazard

Mitigation Plan (MJHMP)

#### **RECOMMENDATION:**

Adopt a resolution (Attachment 1) approving the Town of Los Gatos Local Hazard Mitigation Plan (LHMP) Annex to the County of Santa Clara Multi-Jurisdictional Hazard Mitigation Plan (MJHMP).

#### **BACKGROUND**:

In 2000, the United States Congress adopted the Disaster Mitigation Act of 2000 as an amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to authorize a program for pre-disaster mitigation efforts. Congress realized that disasters posed a great danger to human life and property. Congress determined a larger emphasis needed to be placed on identifying these natural and human-caused hazards and proactively assessing the risks posed to communities. The Disaster Mitigation Act of 2000 provides guidance to local jurisdictions to develop a Local Hazard Mitigation Plan (LHMP). A LHMP is not required by law, but for a jurisdiction to be eligible for pre- and post-disaster mitigation funds or to receive Federal disaster relief through the Stafford Act, a jurisdiction must maintain an LHMP.

The Town of Los Gatos Town Manager's Office has prepared its Annex to the County of Santa Clara Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) to ensure compliance with the Disaster Mitigation Act of 2000 and the requirements of the latest Federal Emergency Management Agency's (FEMA) State Mitigation Planning Policy Guide. This LHMP Annex has been coordinated with the County of Santa Clara's MJHMP. The MJHMP has been approved by

PREPARED BY: Paul Horvat

**Emergency Services Coordinator** 

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

#### PAGE 2 OF 3

SUBJECT: Adoption of a Resolution Approving the Town of Los Gatos Local Hazard Mitigation Plan (LHMP) Annex to the County of Santa Clara Multi-Jurisdictional Local Hazard

Mitigation Plan (MJLHMP)

DATE: January 4, 2024

FEMA and California Office of Emergency Services on behalf of the County and participating cities.

#### **DISCUSSION:**

Hazard mitigation planning is the basis for a community's long-term strategy to reduce disaster risk and losses through the ongoing evaluation and analysis of an ever-changing environment. This LHMP Annex identifies the Town's known natural and human-caused disaster risks. It provides a plan for departments, stakeholders, and the community to decrease risk and loss through various mitigation efforts. This LHMP Annex creates the framework for risk-based decision making to reduce loss of life and injuries as well as lessen damage to property and the economy from future disasters.

As the costs of disaster management and recovery continue to rise, jurisdictions must find ways to reduce hazard risks to their communities. Hazard mitigation efforts are essential both before and after a disaster. Often following a disaster, repairs and reconstruction are completed to simply restore damaged property to pre-disaster conditions. These efforts may get the community back to normal for a time, but the replication of pre-disaster conditions may result in a repetitive cycle of damage and reconstruction. Hazard mitigation breaks this cycle using a long-term view of rebuilding and recovering after a disaster, by looking at what happened and how the impacts can be lessened if a disaster reoccurs. The implementation of these mitigation actions builds stronger, safer, and smarter communities that are better able to reduce future loss of life and property.

The Town's comprehensive approach to mitigation employs the following varied techniques:

- Prevention: the Town utilizes administrative and regulatory actions, such as planning and zoning requirements, that influence the way land and buildings are developed to reduce hazard losses.
- Natural Resource Protection: actions minimize hazard loss and preserve or restore the functions of natural systems via vegetation management and post-wildfire watershed management.
- Property Protection: modification of structures, such as seismic retrofit or bolt and brace projects, decrease the physical damage to property.
- Public Education and Awareness: informing the public, residents and businesses about hazards and ways to reduce their own loss and to lower risk in the community.

This LHMP Annex is designed to be used as a hazard identification and analysis reference document to help the Town reduce or eliminate long-term risk from identified hazards or disasters. It should be considered during pre- and post-disaster planning efforts. This LHMP

#### PAGE 3 OF 3

SUBJECT: Adoption of a Resolution Approving the Town of Los Gatos Local Hazard Mitigation

Plan (LHMP) Annex to the County of Santa Clara Multi-Jurisdictional Local Hazard

Mitigation Plan (MJLHMP)

DATE: January 4, 2024

Annex will be a companion document to the Town of Los Gatos General Plan – Hazards and Safety Element.

This LHMP Annex shall be reviewed internally on an annual basis and will follow the County's update cycle which occurs every five years in accordance with the requirements of the Disaster Mitigation Act of 2000. Future five-year updates will return to the Town Council for approval while periodic revisions will be managed by the Town Manager's Office operationally to ensure the document remains relevant and useful.

#### CONCLUSION:

This LHMP Annex is a vital component of the Town's emergency management goals. Staff recommends adoption of the attached resolution (Attachment 1).

#### **COORDINATION:**

This LHMP Annex has been coordinated with the Parks and Public Works Department, Town Manager's Office, Town Attorney's Office, County of Santa Clara Department of Emergency Management, and the Federal Emergency Management Agency.

#### FISCAL IMPACT:

This LHMP Annex was prepared with Town staff resources and did not result in any additional costs.

#### **ENVIRONMENTAL ASSESSMENT:**

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

#### Attachments:

- 1. Resolution
- 2. Town of Los Gatos Local Hazard Mitigation Annex to the County of Santa Clara Multi-Jurisdictional Hazard Mitigation Plan

#### DRAFT RESOLUTION

# RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ADOPTING THE TOWN OF LOS GATOS LOCAL HAZARD MITIGATION PLAN (LHMP) ANNEX TO THE COUNTY OF SANTA CLARA MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

**WHEREAS**, the preservation of life and property is an inherent responsibility of local, State, and Federal government; and

**WHEREAS**, reasonable plans carried out by knowledgeable and well-trained personnel can and will mitigate hazards despite the fact that no plan can completely prevent death and destruction; and

**WHEREAS**, the Town of Los Gatos is subject to various earthquake-related hazards such as ground shaking, liquefaction, landslides, and fault surface rupture; and

**WHEREAS**, the Town of Los Gatos is subject to various weather-related hazards including wildfires, floods, and landslides; and

WHEREAS, the Town of Los Gatos seeks to maintain and enhance a disaster-resilient Town by reducing the potential loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters; and

**WHEREAS**, the Town of Los Gatos is committed to increasing the disaster resilience of the infrastructure, health, housing, economy, government services, education, environment, and land use systems in the Town of Los Gatos; and

**WHEREAS**, the Federal Disaster Mitigation Act of 2000 requires all cities, counties, and special districts to have adopted a Local Hazard Mitigation Plan to receive disaster mitigation funding from FEMA; and

WHEREAS, the Town of Los Gatos, in cooperation with County of Santa Clara has prepared this Town Local Hazard Mitigation Plan (LHMP) Annex to the County of Santa Clara Multi-Jurisdictional Hazard Mitigation Plan (MJLHMP), in compliance with California Government Code Sections 8685.9 and 65302.6, in alignment with Federal and State mitigation priorities; and

**WHEREAS**, this plan must be reviewed and updated annually, with minor improvements and adjustments made as necessary and appropriate—by the Director of Emergency Services/Town Manager or his/her designee to satisfy changing conditions and needs.

#### NOW, THEREFORE, BE IT RESOLVED, that:

- 1. The Town of Los Gatos Council hereby adopts the Town of Los Gatos Local Hazard Mitigation Plan (LHMP) Annex, hereby incorporated as Exhibit A, to the County of Santa Clara Multi-Jurisdictional Hazard Mitigation Plan (MJLHMP).
- 2. The Town of Los Gatos Council designates the Director of Emergency Services/Town Manager or his/her designee, to make minor improvements and adjustments to this Local Hazard Mitigation Plan (LHMP) as necessary and appropriate to satisfy changing conditions and needs.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on September 17, 2024, by the following vote:

COUNCIL MEMBERS:	
AYES:	
NAYS:	
ABSENT:	
ABSTAIN:	
	SIGNED:
	MAYOR OF THE TOWN OF LOS GATOS
	LOS GATOS, CALIFORNIA
	DATE:
	DATE:
ATTEST:	
TOWN CLERK OF THE TOWN OF LOS GATOS LOS GATOS, CALIFORNIA	
LUS GATUS, CALIFURNIA	

## Town of Los Gatos Local Hazard Mitigation Plan Annex

#### Hazard Mitigation Plan Points of Contact

The point of contact during the Santa Clara County Multijurisdictional Hazard Mitigation Plan (MJHMP) planning process for the Town of Los Gatos was the Director of Parks and Public Works. This annex within the MJHMP was developed using information provided by the Local Planning Team of the Town of Los Gatos.

Table 1: Town of Los Gatos Local Planning Team Members for the 2023 Santa Clara County MJHMP

Name	Position	Department	Role on Team and in Planning Process
Nicolle Burnham	Director of Parks and Public Works/Floodplain Administrator	Parks and Public Works	General oversight, hazard identification, and plan development
Holly Young	Senior Analyst	Office of Town Manager	Hazard identification and plan development

The Town's Local Planning Team Members participated in the MJHMP by attending meetings on the Plan Kick-Off, Risk Assessment, Capabilities Assessment, Mitigation Strategy, Wrap-up, and two one-on-one meetings with the planning consultant. In addition, the Town filled out the requested forms on each section or provided the requested information verbally to the planning consultant. The Town also shared information regarding public opportunities to participate in the draft plan update utilizing the digital survey and seven in-person and virtual public outreach meetings. Further, the Town was provided the opportunity to review the draft plan prior to submittal to Cal OES and FEMA.

Table 2: External Stakeholders Invited to Be Involved in Planning Process

Agency or Organization	Agency or Organization
American Red Cross	Pacific Gas and Electric (PG&E)
American Red Cross – Silicon Valley Chapter	Purissima Water District
Amateur Radio Emergency Service (ARES)	Ravenswood Family Health Center
Avenidas	Regional Water Quality Control Board
CADRE - Collaborating Agencies' Disaster Relief Effort	Rotating Safe Car Park
California Office of Emergency Services (Cal OES)	San Francisquito Creek Joint Powers Authority

**ATTACHMENT 2** 

Agency or Organization	Agency or Organization
Cal OES	Silicon Valley Animal Control Authority (SVACA)
California Department of Forestry and Fire Protection	Silicon Valley Clean Energy
California Department of Transportation	St. Louise Hospital (Santa Clara County Hospital System)
Cattlemen's Association	Stanford Healthcare
City of Menlo Park	Stanford University
Cooper-Garrod Estate Vineyards	Stanford University Board of Trustees
Department of Homeland Security	Stanford University Office of Emergency Management
Department of Toxic Substances	Stanford University, IT Facilities, Infrastructure, and Resilience
Downtown Streets Team	Stanford University, Water Resources and Civil Infrastructure
Emergency Medical Services	Stanford University/Real Estate
Emergency Services Volunteer Representative	The Villas
Federal Aviation Administration	Valley Water Flood Information Team
Fellowship Plaza	Vista Center for the Blind and Visually Impaired
Foothill - De Anza Community College District	West Valley Clean Water Program Authority
Foothill - De Anza Community College District Police Department	West Valley College
Gavilan College	West Valley Sanitation District
Google	Westwind Barn
Hidden Villa farm	
Intel Corporation	
Kaiser Permanente—Santa Clara	
Life Moves	
Loma Prieta Volunteer Fire Department	
Los Altos Hills County Fire District	
Los Altos School District	
Loma Prieta Resource Conservation District	
Moffett Park Ames Research Center, National Aeronautics and Space Administration (NASA)	
National Weather Service, National Oceanic and Atmospheric Administration (NOAA)	
Pacheco Pass Water District	

The Town supported a "whole community" approach to this plan update. Neighboring communities, local and regional agencies involved in mitigation activities, agencies that have the authority to regulate development as well as businesses, academia, and other private and non-profit interests were invited to be involved in the planning process by participating in planning meetings, public meetings, or reviewing

the draft plan. The Town identified community stakeholders as shown in Table 281, Additional stakeholders that were able to participate is include in Volume 1 of this plan.

In addition to inviting a wide range of stakeholders, the Town supported public outreach and engagement through distributing a digital survey utilizing social media. This survey reached members of underserved populations, including primarily non-English speaking households. The public was also provided the opportunity to comment on the draft plan.



The 2023 Multi-Jurisdictional Hazard Mitigation Plan Update Survey is now Open to the Public!

Santa Clara County, including the Town of Los Gatos and other nearby cities, towns, and special districts, are working together to update the Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) which is now open for public participation.

Community members are encouraged to participate in the public survey to share their experiences, knowledge, and concerns about local hazards by going to www.PrepareSCC.org/MJHMPSurvey.

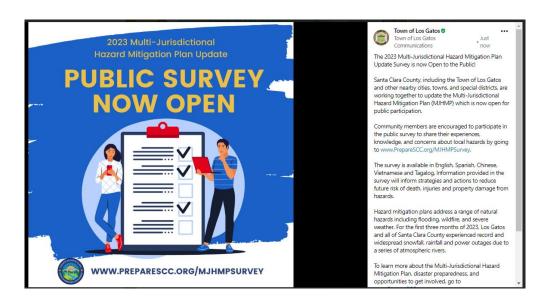
The survey is available in English, Spanish, Chinese, Vietnamese and Tagalog. Information provided in the survey will inform strategies and actions to reduce future risk of death, injuries and property damage from hazards.

Hazard mitigation plans address a range of natural hazards including flooding, wildfire, and severe weather. For the first three months of 2023, Los Gatos and all of Santa Clara County experienced record and widespread snowfall, rainfall and power outages due to a series of atmospheric rivers.

To learn more about the Multi-Jurisdictional Hazard Mitigation Plan, disaster preparedness, and opportunities to get involved, go to www.PrepareSCC.org.

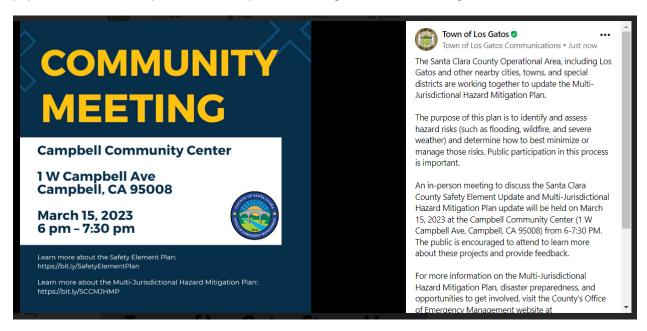


Figure 1 Town of Los Gatos Public Survey Records



#### **Figure 2 Los Gatos Public Survey Nextdoor Post**

In addition, the MJHMP was discussed at two virtual and five in-person public meetings across Santa Clara County. These in-person meetings were targeted towards areas with socially vulnerably populations. These meetings were also designed to be accessible for AFN (access and functional needs) populations. The Town promoted the in-person meetings on LinkedIn, Instagram, Twitter, and Facebook.



**Figure 3: Los Gatos Community Meeting Nextdoor Post** 

The participation of the Town of Los Gatos and its stakeholders helped inform the development of the MJHMP and this annex in accordance with current priorities. The new plan continues to expand upon the work of the prior plan including emphasizing partnerships both within jurisdictions and special districts as well as with external stakeholders. Further, there is an increased emphasis on climate change, reflecting the increased understanding of the risk this hazard poses to the OA. The Town did not identify additional changes in priorities to be highlighted in their annex.

#### Jurisdiction Profile

The following is a summary of key information about the jurisdiction and its history:

Date of Incorporation: August 10, 1887

Current Population: 33,062 as of January 1, 2022

**Population Growth:** The Town of Los Gatos has experienced a 0.4 percent decline in the population between 2021 (33,193) and 2022 (33,062), according to the California Department of Finance. However, the Town has seen a steady increase in population over the last decade, from 29,413 in 2010, to 32,402 in 2022, as reported by the U.S. Census Bureau.

Location and Description: The Town of Los Gatos, California, is nestled at the base of the Sierra Azules, approximately 60 miles south of San Francisco, in the southwestern portion of Santa Clara County, where the Santa Clara Valley meets the lower slopes of the Santa Cruz Mountains. Los Gatos is bounded by the City of San José to the north and east, the City of Campbell to the north, the Cities of Monte Sereno and Saratoga to the west, and the unincorporated County of

Santa Clara and the County of Santa Cruz to the south. Los Gatos encompasses a wide variety of terrain, both the valley and hillsides are interspersed with creeks, streams, and riparian habitat.

**Brief History:** The name Los Gatos comes from "El Rancho de Los Gatos," a ranch established in 1839 by a Mexican land grant and so named because of the large number of mountain lions in the area. Wheat production in the mid-1800s gave way to orchards, and rapid growth ensued when the railroad reached Los Gatos in 1878. Residential subdivisions were built and by 1887, the population had grown to 1,500, and Los Gatans voted to incorporate. Highway 17 was constructed through the center of Town, opening in 1940. Los Gatos grew slowly over the first 80 years, but today Los Gatos covers nearly 15 square miles and has a population of over 30,000.

**Climate:** Los Gatos enjoys a mild Mediterranean climate. Summers are dry and warm in the 80- to 100-degree Fahrenheit (°F) range. Winters are temperate and semi-moist in the 40-60°F range. Los Gatos receives most of its precipitation in December through March. The average annual precipitation is 30.7 inches, making Los Gatos wetter than most places in California.

Governing Body Format: The Town of Los Gatos is governed by a five-member Town Council that sets policy that the Town Manager is responsible for administering. The Town Council assumes responsibility for the adoption of this Plan, and the Town Manager will oversee its implementation. The Town consists of nine departments: the Town Manager's Office, Clerk, Town Attorney, Finance, Human Resources, Library, Police, Community Development, and Parks and Public Works. The Town is served by 14 Boards, Commissions, and Committees, which are all advisory to the Town Council.

### **Development Trends**

According to the 2020 Land Use Element of the Los Gatos General Plan, preserving the small-town heritage, natural setting, and architectural diversity is important to this community. Anticipated residential and commercial development levels for Los Gatos are low to moderate, consisting primarily of residential remodels and commercial renovations. The Town's Housing Element, adopted in 2015, identifies strategies to meet the Town's share of the regional housing needs, including a focus on affordable housing and increasing the number of second units on existing properties. The Town of Los Gatos 2040 General Plan was adopted on June 30, 2022, and includes elements relating to racial, social, and environmental justice, community design, public facilities, open spaces, and hazard safety. Future growth and development in Los Gatos are managed in accordance with this plan.

The Town of Los Gatos has increased its population since the previous plan was developed, but most developments were remodels and commercial renovations. All new development was subject to the regulatory capabilities identified in this annex.

For those hazards that have townwide impacts (including Earthquake, Drought, Inclement Weather – Heavy Precipitation/Atmospheric River/High Winds/Extreme Heat/Extreme Cold) the Town estimated that vulnerability had increased due to new development and the annexation of unincorporated County land which has occurred. More details regarding recent and future developments are outlined in Table 282. Hazards with a more clearly identified extent and location (Wildfire, Flood, Dam/Levee Failure, Landslide/Mass Movement) are harder to define. No significant development was noted downstream of a high hazard potential dam. Residential development may have occurred in the SFHA, high landslide susceptibility zones, or areas at high risk of wildfire, but the town cannot estimate the precise impact this would have on its vulnerability. Given that most of the town is already built out with limited vacant property that is even buildable, it is anticipated the change in vulnerability to these hazards due to increased development has been minimal to none.

**Table 3: Recent and Expected Future Development Trends** 

Criterion			Respo	nse			
Has your jurisdiction annexed any land since the development of the previous hazard mitigation plan?  If yes, give the estimated area annexed and estimated number of parcels or structures.	Yes, in June 2019 the Town annexed 23 County unincorporated pockets-116 acres total. This included 308 single family parcels.						
Is your jurisdiction expected to annex any areas during the performance period of this plan?  If yes, please describe land areas and dominant uses.  If yes, who currently has permitting authority over these areas?	Yes, the Town will continually annex unincorporated county lands. This land will be 90% residential. The Town has permitting authority.						
Are any areas targeted for development or major redevelopment in the next five years?  If yes, please briefly describe, including whether any of the areas are in known hazard risk areas.	Yes, Valley Floor, North 40. Plan adopted in 2014; construction continuing (currently in phase 2). Sites have been identified for potential redevelopment in the sites inventory of the Town's Housing Element.						
How many building permits were issued in your jurisdiction since the development of the previous hazard mitigation plan?	Year  Total Number of Permits	<b>2017</b> 1348	<b>2018</b> 1402	<b>2019</b> 1519	<b>2020</b> 1339	<b>2021</b> 1590	<b>2022</b> 1478
Please provide the number of permits for each hazard area or provide a qualitative description of where development has occurred.	Development has occurred throughout the Town during the performance period for this plan. For hazards with a clearly defined extent and location, the Town cannot estimate development impacts. For hazards with impacts Town-wide, it is safe to assume that this new development could be subject to impacts from those hazards. However, it is important to note that all new development was subject to the regulatory capabilities identified in this annex.						
Please describe the level of buildout in the jurisdiction, based on your jurisdiction's buildable lands inventory. If no such inventory exists, provide a qualitative description.	The Town is larg property that is b			there is	very lin	nited vac	cant

### Capability Assessment

### Resources for the 2023 Planning Initiative

The following technical reports, plans, and regulatory mechanisms were reviewed to provide information for inclusion into the 2023 Multi-Jurisdiction Hazard Mitigation Plan for both Volume 1 and Volume 2 (Town of Los Gatos Annex). All the below items were additionally reviewed as part of the full capability assessment for the Town of Los Gatos.

- **General Plan:** The General Plan, including the Land Use, Transportation and Safety Elements, was reviewed for information regarding goals and policies consistent with hazard mitigation to carry over as goals and objectives.
- **Capital Improvements Plan:** The Capital Improvements Plan was reviewed to identify cross-planning initiatives.
- **Emergency Operations Plan:** The EOP Base Plan was reviewed to identify existing and potential mitigation planning strategies.
- Other Plans: The Stormwater Management Plan, Community Wildfire Protection Plan, Ad Hoc Wildfire Committee Report, Green Stormwater Infrastructure, Green City Plans, and even the Parks and Recreation Master Plan were reviewed to identify possible integrative mitigation planning initiatives.
- **Municipal Code:** The Municipal Code was reviewed for a full capability assessment and for identifying opportunities for action plan integration.
- **Ordinances:** The Flood Damage Prevention, Zoning, Subdivision, Stormwater Pollution Prevention and Watershed Protection, and Open Space ordinances were analyzed for alignment with natural hazard planning efforts.

#### Full Capability Assessment

An assessment of legal and regulatory capabilities is presented in **Table 4** and **Table 5**. An assessment of fiscal capabilities is presented in **Table 6**. An assessment of staffing capabilities is presented in **Table 7**. An assessment of administrative and technical capabilities is presented in **Table 8**. Information on National Flood Insurance Program (NFIP) compliance is presented in **Table 9**. An assessment of education and outreach capabilities is presented in **Table 10**. Classifications under various community mitigation programs are presented in **Table 11**. Development and permitting capabilities are presented in **Table 12**, and the community's adaptive capacity for the impacts of climate change is presented in **Table 13**.

Table 4: Legal and Regulatory Capabilities: Codes, Ordinances, and Requirements

Legal and Regulatory Capability	Local Authority	Other Jurisdiction Authority	State Mandated	Integration Opportunity?		
<b>Building Code</b>	Yes	Yes	Yes	Yes		
	<b>Comment:</b> Town Code, Chapter 6 was amended in 2022. The 2022 California Building Code Title 24, Part 1 and Part 2, Volumes 1 and 2 are adopted by reference.					
Zoning Ordinance	Yes	No	Yes	No		
Comment: Town	Comment: Town Code, Chapter 29					
Subdivision Ordinance	Yes	No	Yes	No		
Comment: Town	Code, Chapter 24					
Stormwater Management Ordinance	Yes	No	No	Yes		
Comment: Town Code, Chapter 22						

Legal and Regulatory	Local Authority	Other Jurisdiction	State Mandated	Integration Opportunity?		
Capability	,	Authority				
Other Natural Hazard- Specific Ordinances	Yes	No	Yes	Yes		
Comment: Town	n Code, Chapter 8,	9, and 12				
Post-Disaster Recovery	Yes	Yes	Yes	No		
Comment: Town	n Code, Chapter 8					
Real Estate Disclosure	No	No	Yes	No		
Comment : Cal.	Civ. Code §1102 e	t seq.				
Growth Management	Yes	Yes	Yes	Yes		
Comment: Town seq.	Code Chapter 29,	2016 and Town's Ger	neral Plan, 2010; Ca	al. Gov. Code §65300 et		
Site Plan Review	Yes	Yes	Yes	No		
Comment: Town	n Code, Chapter 29					
Environmental Protection	Yes	Yes	Yes	Yes		
Comment: Lead	Agency for project	level CEQA review				
Flood Damage Prevention	Yes	Yes	Yes	Yes		
Comment: Town	n Code, Chapter 29					
Emergency Management	Yes	Yes	Yes	Yes		
Comment: Town	n Code Chapter 8					
Climate Change	Yes	Yes	Yes	Yes		
Comment: Town	Comment: Town Code, Chapter 9					
Acquisition of land for open space and public recreation uses	No	No	No	No		
Comment: None	e Identified.					

Table 5: Planning, Legal, and Regulatory Capabilities

Planning, Legal, or Regulatory Capability	Local Authority	Other Jurisdiction Authority	State Mandated	Integration Opportunity?
General Plan	Yes	Yes	Yes	Yes
Is the plan compliant with Assembly Bill 21. Element	<b>40?</b> Yes, the	e General Plan o	contains a Ha	zard and Safety
Comment: Los Gatos 2040 General Plan was	adopted Jur	ne 30, 2022		
Capital Improvement Plan	Yes	No	No	Yes
How often is the plan updated? Annually				
Comment: Los Gatos Capital Improvement P	rogram			
Floodplain or Watershed Plan	Yes	Yes	No	No
Comment: Santa Clara Valley Water District				
Stormwater Management Plan	Yes	Yes	Yes	Yes
<b>Comment:</b> West Valley Clean Water Program Valley Urban Runoff Pollution Prevention Prog		a County Draina	ige Manual, S	Santa Clara
Urban Water Management Plan	No	Yes	Yes	Yes
Comment: West Valley Clean Water Program				
Habitat Conservation Plan	No	No	No	No
Comment: None Identified				
Green Infrastructure Plan	Yes	No	No	Yes
Comment: Town of Los Altos Green Stormwa	ter Infrastruc	ture Plan, 2019		
Parks or Open Space Plan	Yes	No	Yes	Yes
Comment: General Plan 2040, Element 7				
<b>Economic Development Plan</b>	No	No	No	No
Comment: None identified.				
Transportation Plan	Yes	No	Yes	Yes
Comment: General Plan 2040, Mobility Eleme	ent			
Shoreline Management Plan	No	No	No	No
Comment: None identified.				
<b>Community Wildfire Protection Plan</b>	No	Yes	Yes	Yes
Comment: Santa Clara County Community W	ildfire Protec	tion Plan, Anne	x 9	
Forest Management Plan	No	No	No	No
Comment: None identified.				
Climate Action Plan	Yes	Yes	No	Yes
Comment: Sustainability Plan, 2012				
Comprehensive Emergency Management Plan	No	No	No	No
Comment: None identified.				
Local Emergency Operations Plan	Yes	Yes	Yes	Yes

Planning, Legal, or Regulatory Capability	Local Authority	Other Jurisdiction Authority	State Mandated	Integration Opportunity?
Comment: Los Gatos Emergency Operations	Plan ( EOP),	2015		
Threat and Hazard Identification and Risk Assessment (THIRA)	Yes	Yes	Yes	Yes
Comment: The THIRA is included in the Emergency Operations Plan, Page 14.				
Post-Disaster Recovery Plan	Yes	No	No	Yes
Comment: Emergency Operations Plan, 2015 Page 34				
Continuity of Operations Plan	Informal	No	No	No
Comment: Informal plan				
Public Health Plan	No	Yes	No	Yes
Comment: Santa Clara County Department of Public Health				
Other: Hillside Protection Plan	Yes	No	No	Yes
<b>Comment:</b> The Hillside Development Standards and Guidelines were adopted by the Town Council in January 2004.				

**Table 6: Financial Capabilities** 

Financial Capability	Could the resource be used to fund future mitigation activities?	Has the funding resource been used in the past for mitigation activities? If yes, for what type of mitigation activities?
Community Development Block Grants	Yes	No
Other Federal Funding Programs	Yes	Yes Vegetation Management
Capital Improvements Project Funding	Yes	Yes Vegetation Management
Authority to Levy Taxes for Specific Purposes	Yes	No
User Fees for Water, Sewer, Gas or Electric Services	No	No
Stormwater Utility Fee	No	No
Incur Debt through General Obligation Bonds	Yes	No
Incur Debt through Special Tax Bonds	Yes	No
Incur Debt through Private Activity Bonds	No	No
Withhold Public Expenditures in Hazard-Prone Areas	No	No
State Funding Programs	Yes	Yes Fuel Load Reduction

Financial Capability	Could the resource be used to fund future mitigation activities?	Has the funding resource been used in the past for mitigation activities? If yes, for what type of mitigation activities?
Development Impact Fees for Homebuyers or Developers	Yes	No
Public or Private Partnership Funding Sources	No	No
Other Funding Sources	No	No

**Table 7: Staffing Capabilities** 

Staffing Capability	Have Capability?	Is staffing adequate to enforce regulations?	Is staff trained on natural hazards and mitigation?
Chief Building Official	Yes Full Time Community Development Department, Building Division	Yes	Yes
Parks and Recreation Director	Yes Full Time Parks and Public Works Department	Yes	Yes
Emergency Manager	Yes Part Time Town Manager's Office	Yes	Yes
Community Planner	Yes Full Time Parks and Public Works Department, Community Development Department	Yes	Yes
Civil Engineer	Yes Full Time Parks and Public Works Department, Community Development Department	Yes	Yes
Engineers or professionals trained in building or infrastructure construction practices	Yes Full Time Parks and Public Works Department, Community Development Department	Yes	Yes

Staffing Capability	Have Capability?	Is staffing adequate to enforce regulations?	Is staff trained on natural hazards and mitigation?
Planners or engineers with knowledge of land development and land management practices	Yes Full Time Parks and Public Works Department, Community Development Department	Yes	Yes
Planners or engineers with an understanding of natural hazards	Yes Full Time Parks and Public Works Department, Community Development Department	Yes	Yes
Surveyors	No	No	No
GIS Coordinator or personnel skilled or trained in GIS applications	Yes Contracted Parks and Public Works Department, Community Development Department	Yes	Unknown
Public Works Director	Yes Full Time Parks and Public Works Department	Yes	Yes
Fire Chief	Yes Contracted Santa Clara County Fire Department	Yes	Yes
Environmental Director	Yes Full Time Parks and Public Works Department, Environmental Services	Yes	Yes
Staff with training in benefit/cost analysis	Yes Full Time Parks & Public Works Department	Yes	Yes
Scientist familiar with natural hazards in local area	No	No	No

**Table 8: Administrative and Technical Capabilities** 

Administrative or Technical Capability	Have Capability?	Has the capability been used to assess or mitigate risk in the past? If yes, what type of hazard event?
Maintenance programs to reduce risk	Yes	Yes, tree pruning and removal
Mutual aid agreements	Yes	Yes, agreements have been made with police and fire departments.
Hazard data and information	No	No
Hazus analysis or GIS software	Yes	GIS has been utilized in building and development review, as well as permitting.
Grant writing	No	N/A
Does your jurisdiction have any established warning systems or services for hazard events?	Yes	AlertSCC and Nixle

Table 9: National Flood Insurance Program (NFIP) Compliance

Торіс	Response
What department in your jurisdiction is responsible for floodplain management?	Parks and Public Works
Who acts as your jurisdiction's floodplain administrator?	Director of Parks and Public Works
Is the floodplain administrator or NFIP Coordinator certified?	No
Is floodplain management an auxiliary function in your jurisdiction?	No
What is the date of adoption of your flood damage prevention ordinance?	2003
Provide an explanation of the permitting process for development within the floodplain.	See Town Code Chapter 29 Zoning Regulations, Article IX. Floodplain Management, Division 2. Administration.
Does your floodplain management program meet or exceed minimum requirements?	Yes
How are the substantial improvement/substantial damage provisions implemented?	The Floodplain Administrator is responsible for making substantial improvement/substantial damage determinations including determining how to calculate market value in accordance with Sec. 29.90.030 of the town's Code. In addition to physical assessments, the town's permitting process can be used to assess potential SI/SD structures. The Floodplain Administrator is responsible for reviewing all development permits.
When did your jurisdiction enter the NFIP?	January 17, 1979

Topic	Response
Is your jurisdiction in good standing with the NFIP?	Yes
Are the jurisdiction's Flood Insurance Rate Maps (FIRMs) digital, paper, or both?	Digital Adopted effective FIRMs dated 5/18/2009
Explanation of NFIP administration services within your jurisdiction.	Permit application review for floodplains, Valley Water runs CRS outreach (Town is not in CRS, but uses the resources)
Barriers to running an effective NFIP program in your jurisdiction.	None
When was the most recent Community Assistance Visit (CAV) or Community Assistance Contact (CAC)?	Unknown
Is a CAV or CAC scheduled or needed?	No
Does your jurisdiction have any outstanding NFIP compliance violations that need to be addressed?	No
Do your flood hazard maps adequately address the flood risk within your jurisdiction?	Yes
Does your floodplain management staff need any assistance or training to support its floodplain management program?	No
Does your jurisdiction participate in the Community Rating System (CRS)?	No
How many structures are exposed to flood risk within your jurisdiction?	In 10% annual chance flood hazard area: 9 In 1% annual chance flood hazard area: 36 In 0.2% annual chance flood hazard area: 9,400
How many flood insurance policies are in	66 policies in force
force in your jurisdiction? What is the insurance in force?	\$20,606,800 insurance in force
What is the premium in force?	\$39,411 premium in force
Areas of flood risk with limited NFIP policy coverage.	None
How many total loss claims have been filed in	13 total loss claims have been filed
your jurisdiction?  How many claims were closed without	8 claims closed without payment
payment or are still open?	\$31,535 total payments for losses
What is the total amount of paid claims?	
How many claims were for substantial damage?	
How NFIP compliance will be continued during	Review floodplain management regulations
the next 5 years.	Regulate in SFHAs Continue public education

**Table 10: Education and Outreach Capabilities** 

Education or Outreach Capability	Response	How does the personnel, program, or organization relate to disaster resilience and mitigation?	Could the personnel, program, or organization help implement future mitigation activities?
Does your jurisdiction have a Public Information Officer or Communications Office?	Yes	Town Manager's Office staff currently acts as the Public Information Officer and assists with communicating hazard and disaster related information.	Yes
Does your jurisdiction have personnel skilled or trained in website development?	Yes	Personnel can include or design hazard information on websites.	Yes
Does your jurisdiction have hazard mitigation information available on your website?	Yes	The General Plan, Flood Plain Ordinance, Hillside Development Standards & Guidelines, Los Gatos Prepared Webpage all communicate hazard mitigation information and is available to the public.	Yes
Does your jurisdiction utilize social media for hazard mitigation education and outreach?	Yes	Facebook, Instagram, Twitter, Nextdoor, LinkedIn, a weekly Town newsletter, and "News and Updates" information on the homepage of the Town website are utilized.	Yes
Does your jurisdiction have any citizen boards or commissions that address issues related to hazard mitigation?	Yes	The Planning Commission performs duties and exercises power and authority with regard to planning, subdivisions, zoning, zoning administration, and other land use regulatory controls as prescribed by ordinance and state law.	Yes

Education or Outreach Capability	Response	How does the personnel, program, or organization relate to disaster resilience and mitigation?	Could the personnel, program, or organization help implement future mitigation activities?
Does your jurisdiction have any ongoing public education or information programs that could be used to communicate hazard-related information?	Yes	Information available on the Town's website, weekly newsletter. social media platforms, and response team groups provide public education related to hazard mitigation.	Yes
Does your jurisdiction have local citizen groups or non-profit organizations focused on environmental protection, emergency preparedness, and/or underserved populations?	Yes	The Los Gatos-Monte Sereno Disaster Aid Response Team and CERT Team are part of mitigation efforts in the community.	Yes
Does your jurisdiction have ongoing public education or information programs?	Yes	N/A	N/A
Does your jurisdiction have natural disaster or safety related school programs?	No	N/A	N/A
Does your jurisdiction have public/private partnership initiatives addressing disaster-related issues	No	N/A	N/A

**Table 11: Community Classifications** 

	Participating?	Classification	Date Classified
Community Rating System	No	N/A	N/A
Building Code Effectiveness Grading Schedule	No	N/A	N/A
Insurance Services Office (ISO) Fire Rating	Yes	2	2015
National Weather Service StormReady Program®	No	N/A	N/A
Firewise USA® Program Aldercroft Heights, Chemeketa Park, and Wilderfield/Whiterock/Bear Mountain Roads	Yes	N/A	N/A

**Table 12: Development and Permitting Capabilities** 

Development or Permitting Capability	Response
Does your jurisdiction issue development permits? If no, who does? If yes, which department?	Yes, the Building Division.
Does your jurisdiction have the ability to track permits by hazard area?	Technically, yes. However, our computer system is not set up to track in that manner.
Does your jurisdiction have a buildable lands inventory?	No

**Table 13: Adaptive Capacity for Climate Change** 

Adaptive Capacity Assessment Question	Jurisdiction Rating				
Technical Capacity					
Jurisdiction-level understanding of potential climate change impacts	Medium				
Comment: The library is offering programming specifically targeted to incre	easing understanding.				
Jurisdiction-level monitoring of climate change impacts	Low				
Comment: None Provided.					
Technical resources to assess proposed strategies for feasibility and externalities	Low				
Comment: None Provided.					
Jurisdiction-level capacity for development of greenhouse gas emissions inventory	Low				
Comment: None Provided.					
Capital planning and land use decisions informed by potential climate impacts	Medium				
Comment: None Provided.					
Participation in regional groups addressing climate risks	Low				
Comment: None Provided.					
Implementation Capacity					
Clear authority/mandate to consider climate change impacts during public decision-making processes	Low				
Comment: None Provided.					
Identified strategies for greenhouse gas mitigation efforts	Low				
Comment: None Provided.					
Identified strategies for adaptation to impacts	Low				
Comment: None Provided.					
Champions for climate action in local government departments	Medium				
Comment: None Provided.					

Adaptive Capacity Assessment Question	Jurisdiction Rating
Political support for implementing climate change adaptation strategies	Medium
Comment: None Provided.	
Financial resources devoted to climate change adaptation	Low
Comment: None Provided.	
Local authority over sectors likely to be negatively impacted	Low
Comment: None Provided.	
Public Capacity	
Local residents' knowledge of and understanding of climate risk	Medium
Comment: None Provided.	
Local residents' support of adaptation efforts	Medium
Comment: None Provided.	
Local residents' capacity to adapt to climate impacts	Medium
Comment: None Provided.	
Local economy's current capacity to adapt to climate impacts	Low
Comment: None Provided.	
Local ecosystems capacity to adapt to climate impacts	Low
Comment: None Provided.	

### Opportunities to Expand Upon and Improve Existing Capabilities

The hazard mitigation planning process presented the opportunity for the community to discuss and evaluate their current capabilities however, building mitigation capabilities is an ongoing process. New capabilities can be added which will support mitigation. Current capabilities can also be enhanced to actively support mitigation and reduce risk. Significant efforts have been made to increase the capabilities of jurisdictions across the OA. By participating in this plan update, each community is reinforcing their support for mitigation and understanding of the capabilities they need to successfully implement mitigation measures. Actions that can expand and improve existing authorities, plans, policies, and resources for mitigation include:

- Developing a Climate Action Plan which incorporates hazard data and actions to adapt to a changing climate.
- Budgeting and passing policies and procedures for mitigation actions.
- Adopting and implementing stricter mitigation regulations.
- Approving the training of staff for mitigation activities.
- Approving mitigation updates to existing plans as new needs are recognized.
- Continuing to update plans as necessary to ensure they are current and reflect the needs of the community or special district.
- Further developing warning systems and messaging.
- Creating and implementing additional public education and outreach offerings and increasing the volume of translated materials.

Ensuring grant opportunities are capitalized upon to meet mitigation goals.

Each type of the four FEMA-identified capabilities were evaluated, in addition to OA-priority capabilities like adaptive capacity. Gaps and limitations, if any, are discussed in the tables above. Additional jurisdiction-specific opportunities to expand on and improve capabilities for reducing risk include:

- Hire staff to implement fuel reduction programs and to manage related grants.
- Train staff on hazards and reviewing developmental projects.
- Expand and hire new grant writing and grant administration staff.
- Expand the CERT program and volunteer management staff. The community supports the staff and the program, but there is no current funding.
- Expand emergency alerts and hazard alarm systems (outdoor warning siren) for wildfire, and all other hazards.
- Increase funding and opportunities for mitigation action implementation through programs like BRIC and ICARP.

Since the last plan update, multiple new grant programs that support mitigation measures have been established. FEMA's annual BRIC grant program funds a variety of mitigation actions including infrastructure projects, nature-based solutions, climate adaptation, hazard resistant building codes, and projects benefitting disadvantaged communities. This program is funded annually, meaning jurisdictions can apply on a consistent basis, rather than waiting for a disaster declaration to make additional mitigation funds available. Within California, the Governor's Office of Planning and Research has established the Integrated Climate Adaptation and Resiliency Program (ICARP) which funds multiple grants related to climate adaptation and resilience. Types of projects that could be funded under ICARP grants include adaptation planning, capacity building, climate resilience measures, and reducing the impacts of extreme heat.

### Integration with Other Planning Initiatives

This section describes the process for integrating the hazard mitigation plan into local planning mechanisms.

### Existing Integration

The following plans and programs currently integrate the goals, risk assessment and/or recommendations of the 2017 hazard mitigation plan:

- General Plan: The General Plan includes a Hazard and Safety Element that directly addresses mitigation capabilities and initiatives.
- Community Wildfire Protection Plan: The Community Wildfire Protection Plan outlines many mitigation strategies for the town, and they have been reviewed for incorporation.
- Ad Hoc Wildfire Committee Report: Town Council approved the creation of a Town Council Ad Hoc Committee to study wildfire mitigation in the Wildland Urban Interface (WUI). The Committee studied a broad variety of wildfire mitigation policy and project options to improve the Town's wildfire resiliency. The Committee examined best practices of similar WUI communities, lessons learned from recent fires, and other relevant areas of wildfire science.
- Emergency Operation Plan: The Emergency Operation plan integrates many pieces of the Hazard Mitigation Plan through a Hazard Analysis, Preparedness, Response, Recovery, and Mitigation sections.

- Sustainability Plan: The Adaptive Capacity for Climate Change section of the Hazard Mitigation Plan integrates into the Sustainability Plan.
- **Ordinances:** The Zoning, Subdivision, and other natural hazard specific ordinances have been reviewed for cross integration of mitigation strategies.
- Land Development Regulations: They all consider climate adaptation and hazard mitigation in the updates, especially subdivision regulations.
- **Building Code:** The Building Code currently integrates the Hazard Mitigation Plan by enforcing codes that will mitigate disaster damages.

These plans and programs will continue to integrate the 2023 hazard mitigation plans and goals and will be updated to match new information as each of these plans and programs are updated.

#### Opportunities for Future Integration

The following plans and programs do not currently integrate the goals, risk assessment and/or recommendations of the hazard mitigation plan, but provide an opportunity for future integration:

 Green Stormwater Infrastructure Plan: Green Stormwater Infrastructure Plan does not currently address natural hazards but has been identified to implement mitigation actions in the future.

Information that could be incorporated into the Green Stormwater Infrastructure Plan include hazard risk data, the history of previous events, GIS data, and related mitigation actions. This plan was prepared in conjunction with the West Valley Clean Water Authority, a collaborative partnership between the Cities of Campbell, Monte Sereno, Saratoga, and Los Gatos. The Town staff who participated in this plan update will be responsible for integrating this 2023 MJHMP into other planning mechanisms.

The Director of Parks and Public Works/Floodplain Administrator, as well as the city's Senior Analyst from the Office of Town Manager, participated in this plan update. They, along with the city's other team members, will be responsible for disseminating information on this plan and ensuring it's integration into other planning mechanisms moving forward.

### Jurisdiction-Specific Natural Hazard Event History

Table 14 lists all past occurrences of natural hazards within the jurisdiction.

**Table 14: Natural Hazard Events** 

Type of Event	FEMA Disaster # (if applicable)	Date	Preliminary Damage Assessment
Flood	DR-4683	01/14/2023	Trees, roadways, concrete, roofs, fencing all due to wind damage

### Jurisdiction-Specific Vulnerabilities

• Five earthquake scenarios were generated using the Hazus modeling program. \$469 million (5.2% of total value) in losses were estimated for Los Gatos in the 100-year probabilistic scenario, and \$1.94 billion (21.33% of total value) for a 500-year probabilistic scenario. Of the 3

fault-based scenarios, the highest loss estimates for Los Gatos were from the Hayward Fault scenario, with an estimated \$470 million in losses, or 5.23% of the total replacement value. Some private structures may be "soft-story" in need of hardening.

- 8,311 people, 24.8% of the total population, are in wildfire hazard areas. Over \$2 billion in structural value (19.75% of the total) are also in moderate to high wildfire hazard areas. 11 essential facilities are near wildfire hazard.
- Potential inundation areas from dam failure could impact 5,721 people in Los Gatos. Property valued at \$1.6 billion is within the potential inundation area of J Lenihan Dam. The proximity of the dam to Los Gatos would contributes to velocity and depth of the floodwaters impacting the town coupled with limited warning time. Over 2 miles of Hwy 17 below J Lenihan dam is in a potential inundation zone. Los Gatos Saratoga Rd and Norman Y Mineta Hwy are also major routes that could be impacted. 25 bridges, 4 schools and the city Emergency Operations Center. are also in potential inundation boundaries.
- Hazus flood models estimate 1,216 people (3.6%) in Los Gatos are at risk to a 1% annual chance flood hazard area, and 1,485 people (4.4%) are within the 0.2% annual chance flood hazard area. Losses estimated for the 1% flood hazard are almost \$170 million, and over \$210 million for a 0.2% chance flood.
- Los Gatos has a large area at moderate to high potential for landslide. 7,527 people (22.5%) are
  exposed to landslide hazards. An estimated \$2.2 billion worth of structures are within the
  moderate to high landslide potential area. Numerous roads and structures are in moderate to high
  landslide susceptibility areas, primarily across the south portion of the town. Roads in the hills
  may have dead-end spurs and a landslide could severely limit road access. Heavy rain can
  contribute to landslide activity.
- Drought is a hazard that has similar conditions over broad areas. It is anticipated that the impacts of drought will be fairly consistent across the OA. Drought impacts vegetation and can make it more vulnerable to disease and wildfire. Extended drought may necessitate limits on landscape irrigation or higher costs for irrigation, which can have economic impacts. Although agriculture is not a primary economic sector in the OA, drought can have severe negative impacts on growth of crops and gardens. Climate change is expected to contribute to more days with extreme heat and more days without precipitation, which may increase the impacts of drought. Any restrictions on water supply or increases in cost for water may be a financial hardship for low income households.
- Impacts from inclement weather such as heavy rain, hail, and wind are likely to be very similar
  across the OA. Individual events may impact only limited areas, but the entire OA is at risk to
  similar conditions. Climate change may increase the frequency or severity of these events.
- Heavy rain may cause localized flooding on roadways and low-lying areas which may disrupt transportation for the general public and can also delay emergency response. Heavy rain can also have cascading impacts on landslide potential or strain the capacity of dams.
- High winds can disrupt power, communication and other services and cause damage to structures. Downed trees from high winds can have potential transportation impacts and requires debris removal and contributes to loss of tree canopy.
- Extreme heat or cold can be harmful to health, particularly those with inadequate housing with adequate warming and cooling systems. The library currently serves as a heating and cooling center.
- Tsunami was not profiled for the Town of Los Gatos due to distance from the shoreline and no direct risk.
- Critical facilities need evaluation to determine if they need of retrofitting or hardening against hazards.

#### Repetitive loss records are as follows:

- Number of Federal Emergency Management Agency (FEMA)-identified Repetitive-Loss Properties (RL): 0
- Number of FEMA-identified Severe-Repetitive-Loss (SRL) Properties: 0
- Number of RL Properties or SRL Properties that have been mitigated: 0

#### Other noted vulnerabilities include:

- The increasing frequency and intensity of drought and extreme heat due to climate change has resulted in a lengthening of the fire season. Dry spells during the winter months, especially when combined with winds and dead fuels, may result in fires that burn with a high intensity and rate. Extreme rain events are increasing in frequency. Climate change is also causing changes in flora and fauna, changes in ecosystems due to extreme heat, and higher temperatures.
- In the case of a dam or levee breach, vulnerabilities include potential damage to downtown, which is downstream from Lexington Dam. Potential damage would extend down Los Gatos Creek to the City of Campbell. The second dam in that area that could also be breached (Vasona Dam). Homes, buildings, and infrastructure within the 100-year FEMA floodplain are at risk.
- A secondary Town water supply has not been identified or developed, which poses a risk in longterm drought conditions.
- Buildings with very high or high collapse potential include residential and commercial buildings constructed prior to 1990 that have not had seismic retrofits. Downtown has older structures, and the Town Hall is older. Three major bridges over Highway 17 owned by CalTrans could be vulnerable. Los Gatos Creek Trail and pedestrian bridges are vulnerable. The trail is a major transportation thoroughfare.
- Street flooding occurs within the Town, and Loma Street floods frequently.
- Steep slopes are present throughout the Town, some are close to roadways. Ground saturation may present an issue.
- Vulnerabilities related to inclement weather include tree impacts (debris removal, potential transportation impacts), loss of tree canopy, and no sheltering capacity in Town (the daytime heating and cooling center is at the Library).
- According to the 2017 MJHMP, 24% of the population lives in a wildfire severity zone. There are
  concerns related to inadequate evacuation infrastructure, as the roadway system is more rural,
  especially in hills and wildfire zones. There is an ongoing need for vegetation management in the
  very high severity zone. Populations living or working within the wildland-urban interface and
  people with chronic lung problems and other preexisting health conditions, children, pregnant
  women, and older adults are vulnerable.

### Social Vulnerability

**Figure 4** shows that Los Gatos mostly has low levels of social vulnerability. The characteristics of the population in Los Gatos indicate they will likely be more resilient to the effects of hazards than communities with higher vulnerability scores. An area of increased vulnerability in the north-central area of the city has higher indicator scores for household characteristics such as persons over age 65, persons under 17, and persons with disabilities. This area also has higher vulnerability for housing type and transportation indicators, such as households with no vehicle available and a higher percentage of multi-unit housing. The northern census tract also has a higher percentage of Hispanic or Latino persons, and a higher percentage of Asian residents. Hazards risk areas that have some overlap with these areas of higher vulnerability include flood, dam failure, and higher liquefaction susceptibility.

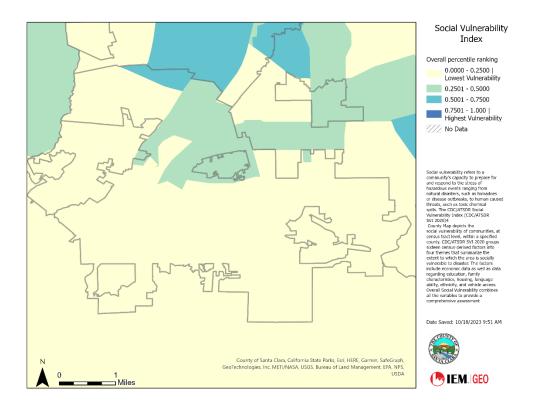


Figure 4: Los Gatos Social Vulnerability

### Hazard Risk Index

**Table 15** presents the hazards of concern from highest risk index number to lowest, as assigned by the Town of Los Gatos.

**Table 15: Hazard Risk Index** 

Hazard	Probability	Life Impact	Property Impact	Percentage of Area Impacted	Maximum Probable Extent
Drought	Occasional	Minor	Minor	Extensive	Weak
Inclement Weather - Heavy Precipitation/Atmospheric River,	Likely	Limited	Minor	Significant	Moderate
Inclement Weather - Extreme Heat	Likely	Limited	Minor	Significant	Moderate
Inclement Weather - High Wind	Limited	Limited	Limited	Significant	Moderate
Dam and levee failure	Unlikely	Limited	Minor	Negligible	Weak
Landslide/Mass movement	Occasional	Limited	Minor	Negligible	Moderate
Climate change	Highly Likely	Minor	Minor	Extensive	Moderate

Hazard	Probability	Life Impact	Property Impact	Percentage of Area Impacted	Maximum Probable Extent
Flood	Unlikely	Limited	Minor	Negligible	Weak
Wildfire/smoke/air quality	Highly Likely	Critical	Catastrophic	Significant	Major
Earthquake	Occasional	Critical	Limited	Significant	Major

### Future Needs to Better Understand Risk/Vulnerability

A Town-wide inspection of all critical facilities is needed to determine if hardening or retrofit projects are required. An analysis of soft story private structures that may need hardening will provide a better understanding of the risk.

### Status of Previous Plan Actions

Participants were asked to report the status of their mitigation actions listed in the previous plan as a part of this plan update. Where further information isn't provided, the answers are defined as follows:

- Completed work on this action is totally complete.
- Completed and ongoing work on this action is complete; however, it is an ongoing project that
  will continue to be implemented. An example is a public outreach campaign that was created and
  will continue to be implemented.
- In progress work on this action has begun and is in progress, but the action is not yet complete.
- Retain work on this action has not begun yet, the action is still relevant, and it should be in the 2023 MJHMP.
- No longer relevant Action item is no longer relevant due to reduce or eliminated risk, it no
  longer being feasible, there has been a change in jurisdictional or organizational priorities, or
  another reason as stated.

Unless specifically requested otherwise, only those actions listed as "retain" are incorporated into the 2023 action plan.

Table 16: Status of Action Items from the 2017 MJHMP

Action Item Number*	Action Item Description	Hazard(s) Mitigated	Current Status and Comments
LGT-1	Periodically update the Town's geologic, seismic, and geotechnical maps	All Hazards	Ongoing
LGT-2	Periodically identify and retest, if needed, those bridges whose destruction would cause serious access problems after an earthquake	Earthquake	Completed and ongoing
LGT-3	Work with facility owners to periodically ensure that all buildings and structures in Town whose uses and functions are essential in response to a major earthquake are safe	All Hazards	Retain

Action Item Number*	Action Item Description	Hazard(s) Mitigated	Current Status and Comments
LGT-4	Amend the Town Code to reduce the permitted gradient for roads in areas determined to be high risk landslide or fault zones.	Flood, Earthquake	Retain
LGT-5	Update the Town's earthquake preparedness information packet, keep it current on an ongoing basis and develop and implement effective means to disseminate it to Town residents and businesses	Earthquake	Completed and ongoing
LGT-6	Create and adopt a Geologic Hazards Checklist to be utilized during the development review process	Flood, Earthquake	Future
LGT-7	Adopt procedures whereby the public will continually be made aware of the Town's policies regarding safety hazards and be conveniently supplied with information, including notification of residents of fire emergency plans for their area	All Hazards	Completed and ongoing
LGT-8	Coordinate with Santa Clara Valley Water District (SCVWD) FEMA, and/or the State Department of Water Resources to develop and distribute flood hazard preparedness education information, including evacuation plans, for residents	Flood	Completed and ongoing

<sup>\*</sup> Number given to action item in 2017 Santa Clara County Operational Area Hazard Mitigation Plan

# Hazard Mitigation Action Plan and Evaluation of Recommended Actions

#### **EXHIBIT A**

#### Santa Clara County Multijurisdictional Local Hazard Mitigation Plan

**Table 17** lists the actions that make up the Town of Los Gatos hazard mitigation action plan. The maps in **Figure 5** through Figure 12 present the Town's critical infrastructure, facilities, and identified hazard areas.

The description of the expected time frames for actions are defined below:

- Short term- 1-5 year
- Medium term- 5-10 years
- Long term- Over 10 years
- Ongoing Currently being funded and implemented under existing programs.

The planning partners utilized the following criteria to prioritize action items into the categories of high, medium, or low.

High Priority— A project that:

- Meets multiple goals and objectives (i.e., multiple hazards);
- Addresses multiple hazards;
- Has benefits that exceed cost;
- Has funding secured or is an ongoing project;
- Meets eligibility requirements for Hazard Mitigation Assistance grants;
- Can be completed in the short term (1 to 5 years);
- Addresses immediate short-term impacts of climate change;
- Benefits underserved and/or socially vulnerable populations; AND
- Considers the Multi-Benefit Criteria utilized by the Santa Clara County Climate Collaborative, including equity, long-term value, ecosystem benefit, community benefit, and cross-jurisdictional alignment.

Medium Priority— A project that:

- Meets multiple goals and objectives;
- Addresses multiple hazards;
- Has benefits that exceed costs;
- Has funding has not been secured, but that is grant eligible under Hazard Mitigation Assistance grants or other grant programs;
- Project can be completed in the short term (1-5 years), once funding is secured. Medium priority projects will become high priority projects once funding is secured;
- Addresses immediate short-term impacts of climate change;
- Benefits underserved and/or socially vulnerable populations; AND
- Considers the Multi-Benefit Criteria utilized by the Santa Clara County Climate Collaborative, including equity, long-term value, ecosystem benefit, community benefit, and cross-jurisdictional alignment.

Low Priority— A project that:

Will mitigate the risk of at least one hazard;

#### EXHIBIT A

- Has benefits that do not exceed the costs or are difficult to quantify:
- Does not have secured funding;
- Is not eligible for Hazard Mitigation Assistance grant funding;
- Has a timeline for completion that is long term (greater than 5 years). Low priority projects may be eligible for other sources of grant funding from other programs;
- May address impacts of climate change;
- May benefit underserved and/or socially vulnerable populations; AND
- Considers the Multi-Benefit Criteria utilized by the Santa Clara County Climate Collaborative, including equity, long-term value, ecosystem benefit, community benefit, and cross-jurisdictional alignment.

**Table 17: Town of Los Gatos 2023 Action Items** 

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
LGT-3*	Work with facility owners to periodically ensure that all buildings and structures in Town whose uses and functions are essential in response to a major earthquake are safe. After an earthquake greater than 5.0 magnitude, major floods and fires, the Community Development Department is tasked with conducting damage surveys of high hazard occupancies and critical infrastructure facilities. The PPW Department will conduct an assessment of all non-facility critical infrastructure (roads, bridges, culverts, drainage, traffic signals and signs) And coordinate with the Water and WWTP jurisdictional agency providers.	All Hazards	Community Development Department (CDD), Fire, Schools and other critical infrastructure and high hazard occupancies.	HMGP, PDM, FMA	Ongoing	Medium
LGT-4*	Amend the Town Code to reduce the permitted gradient for roads in areas determined to be high risk landslide or fault zones.	Flood, Earthquake, Landslide	CDD	HMGP, General Funds	Long term	Low
LG-FR (CWPP)	Continue to implement and update the Town's Roadside Vegetation Management Program. Work with the Santa Clara County Fire Safe Council and Santa Clara County Fire to update the CWPP and prioritize Vegetation Management projects.	Wildfire	Town of Los Gatos; County Fire.	HMGP-PF, California Fire Safe Council (CA FSC), Wildland Fire Mitigation and Management Commission;	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
				US Forest Service; others as made available		
LG-FR (CWPP)	Work collaboratively with County Fire and the Fire Safe Council to identify fire buffer zones. Identify vegetation management fire buffer zone grant funding projects for areas deemed high risk per the CWPP.	Wildfire	Town of Los Gatos; County Fire; Fire Safe Council.	Federal Emergency Management Agency (FEMA),HMGP- PF, California Fire Safe Council (CA FSC), Wildland Fire Mitigation and Management Commission; US Forest Service; others as made available	Long term	Low
LG-FR (CWPP)	Identify private roadways in the WUI and evaluate methods for fuel load reduction. Work with homeowners, County Fire and Fire Safe Council on home hardening community educational outreach efforts and County Chipper program opportunities.	Wildfire	Town of Los Gatos; County Fire; Fire Safe Council.	HMGP-PF, California Fire Safe Council (CA FSC), Wildland Fire Mitigation and Management Commission; US Forest Service; others as made available	Long term	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
LG-FR (CWPP)	Ensure utility providers monitor and move equipment that may pose risk to increase likelihood of a wildland fire.	Wildfire	Town of Los Gatos.	Utility Fees	Short term	Low
LG-FR (CWPP)	Incorporate the CWPP Annex 9 in the Los Gatos Local Hazard Mitigation Plan section of the Countywide Local Hazard Mitigation Plan.	Wildfire	Town of Los Gatos.	Internal Budget,	Short term	High
LG-FR (CWPP)	Incorporate all goals and objectives identified in the Countywide CWPP into the Los Gatos Plan.	Wildfire	Town of Los Gatos.	Internal Budget	Short term	High
LG-FR (CWPP)	Designate a Town representative to work with the Fire Safe Council and County Fire on updates to the LHMP and CWPP.	Wildfire	Town of Los Gatos; Fire Safe Council; County Fire.	Internal Budget	Short term	Low
LG-FR (CWPP)	Conduct annual defensible space inspections and enforce compliance with state and local fire codes. Work with Santa Clara County and Cal Fire to provide residents with public educational information on home hardening and defensible space.	Wildfire	County Fire.	Internal, community, and Fire Safe Council funding	Ongoing	High
LG-FR (CWPP)	Carefully review and consider new development and redevelopment in Fire Hazard Areas. Partner with the Community Development Department to assure that new construction includes reviews for wildland fire safety in the rural mountain areas.	Wildfire	Town of Los Gatos; County Fire.	Internal and County Fire Budget	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
LG-FR (CWPP)	Encourage fire safety improvements to existing homes and commercial buildings. Partner with the Firewise Communities of Los Gatos to provide outreach educational materials to the residents in the rural areas. Partner with County Fire to provide fire safety educational materials to local businesses.	Wildfire	Town of Los Gatos; County Fire	Internal and County Fire Budget	Ongoing	High
LG-FR (CWPP)	Develop systems and strategies to ensure residents receive emergency communications in a timely manner. Promote Alert Santa Clara County at public events to promote awareness on the importance of residents signing up for cell phone emergency notifications	Wildfire	Town of Los Gatos; County Fire; CERT.	County Fire, Fire Safe Council, and internal staff budget	Short term	High
LG-FR (CWPP)	Continue to implement the Weed Abatement Program to address hazardous fuel reduction and defensible space throughout the community in partnership with Firewise groups, County Fire and Fire Safe Council.	Wildfire	Private Property Owners; County of Santa Clara; County Fire; Fire Safe Council; Firewise Communities.	County Budget	Ongoing	Medium
LG-FR (CWPP)	Support residents in their need to retain Homeowners Insurance.	Wildfire	Homeowner's associations; Town of Los Gatos; County Fire	Community and Fire Safe Council	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
LG-FR (CWPP)	Amplify educational resources provided by County Fire at public events.	Wildfire	Town of Los Gatos; County Fire	Internal and County Budget	Ongoing	Medium
LG-FR (CWPP)	Explore additional funding sources for wildfire mitigation and Town emergency response. Update the CWPP and LHMP to prioritize projects based on risk.	Wildfire	Town of Los Gatos	Internal Budget	Short term	Medium
LG-FR (CWPP)	Provide annual evacuation simulations in WUI neighborhoods.	Wildfire	CERT volunteers; Town of Los Gatos; County Fire. Fire Safe Council. Firewise Communities.	Internal and County Fire Budget	Long term	High
LG-FR (CWPP)	Partner with County Fire to identify safety zones and temporary evacuation points in the WUI. GIS this information and provide to residents through the Fire Safe Council, Firewise Communities and Public Education events.	Wildfire	County Fire; Fire Safe Council; Firewise Communities and Town Manager's Office.	FEMA, CA FSC, DHS	Short term	High
LG-FR (CWPP)	Develop and implement a vegetation management plan for increasing visibility in high fire prone areas.	Wildfire	Town of Los Gatos	Town internal funds and private residents	Long term	Low
LG-FR (CWPP)	Evaluate feasibility of providing 20 feet wide evacuation feeder routes within WUI. Work with County/Town Public Works, County Fire and Cal Trans to coordinate.	Wildfire	County Fire	CA FSC, DHS	Short term	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
LG-FR (CWPP)	Partner with County Fire and Water Agencies to address water shortage concerns in WUI area.	Wildfire	County Fire; Water Agencies.	County Fire	Long term	High
LG-FR (CWPP)	Installation of water tanks on Town- owned Open Space property for fire suppression purposes. Identify locations and size of Water tanks in coordination with County Fire.	Wildfire	County Fire in partnership with Town of Los Gatos	County Fire Budget	Long term	Low
1	Identify vulnerable populations in the WUI and entire Town through the development of a EOP Annex for Access and Functional Needs Individuals. (GP HAZ1-5)	All Hazards	ТМО	HMGP; General Funds.	Long term	Medium
2	Preserve open space portions of properties that are unbuildable due to geologic and seismic conditions as per the locally adopted building code.	Earthquake	CDD	HMGP, General Funds	Long term	Medium
3	Require that all buildings and structures needed for emergency services and other essential services exceed California Building Code for seismic strengthening to withstand a major earthquake. The CDD and PPW departments to develop a plan of action to assess critical infrastructure. (GP HAZ4-6)	Earthquake	CDD/Parks and Public Works (PPW)	HMGP, General Funds	Long term	Medium
4	Work with regional, state, and federal organization and agencies to incentivize seismic retrofit of structures. (GP HAZ4-7).	Earthquake	CDD/PPW	HMGP, General Funds	Long term	Medium

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
5	Require that a licensed geologic/geotechnical engineer complete the Town Geologic Hazards Checklist for all new proposed development to demonstrate that potential hazards have been identified and that proposed structures, including grading cuts and fills, will be designed to resist potential earthquake effects. (GP HAZ4-8)	Earthquake, Landslide	PPW	HMGP, General Funds	Short term	High
6	Require that new public utilities, communication infrastructure, and transportation facilities be located, designed, and constructed in a manner that minimizes risk and maximizes functionality during and after an earthquake. (GP HAZ4-9)	Earthquake	PPW	HMGP, General Funds	Long term	Medium
7	Require New Development to be sited away from high risk geologic and seismic hazard zone or use construction techniques and technologies to reduce risk; restrict new development based on level of risk and potential severity of geologic hazards. (GP HAZ 4-1)	Earthquake, Landslide	CDD	HMGP, General Funds	Long term	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
8	The Town shall implement all minimum requirements from appropriate State of California and Santa Clara County agencies relative to declared public health emergencies. The Town shall also consider the needs of the community and expand the Town's response beyond these minimum requirements, as appropriate. (GP HAZ6-1)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	High
9	Work closely with the State of California and Santa Clara County health officials to make certain that Town needs are considered and addressed and to make sure the residents are made aware of programs and resources in a timely manner. (GP HAZ6-2)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	High
10	Partner with organizations responsible for essential health care and human services to ensure those services are provided as early as possible to respond during and recover after a public health emergency or event. (GP HAZ6-3)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	High
11	Promote training initiatives for community partners and other stakeholders within public health, health care, human services, mental/behavioral health, and environmental health sectors. (GP HAZ6-4)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
12	Continue to maintain and enhance the Town's communications and education resources to provide timely and up-to-date information concerning public health emergencies. (GP HAZ6-5)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	High
13	Work with the State of California and Santa Clara County to maintain a supply of resources necessary to respond to and recover from a public health emergency. (GP HAZ6-6)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	Low
14	During and following any public health emergency, Town staff should work with the community to identify ways to improve preparation and responses necessary to recover and return to normal following a public health emergency. (GP HAZ6-7)	Epidemic and Pandemic	Town Manager	HMGP, General Funds	Ongoing	Low
15	Obtain fee title to all land required to be dedicated for flood protection. (GP HAZ5-3)	Flood	PPW	HMGP, General Funds	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
16	Flood hazards from heavy rain events are not a major hazard to the Town of Los Gatos. However, due to climate change, the Town will require new development and redevelopment to provide design solutions to control the cumulative rate of peak stormwater run-off to no higher than predevelopment levels. (GP HAZ5-4)	Heavy rain events	PPW	HMGP, General Funds	Ongoing	Medium
17	Cooperate with the Santa Clara Valley Water District to develop and maintain additional stormwater retention facilities in areas where they are needed or where the design capacity of existing retention facilities cannot be restored. (GP HAZ5-5)	Heavy rain events	PPW	HMGP, General Funds	Ongoing	Low

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
18	Monitor and respond to the risk of flooding caused by climate change-related precipitation patterns and groundwater levels. Track stream level gages and weather patterns to identify potential for flooding during storms events through the EOC Technical Specialist function. While flooding is not a major hazard for the Town, the EOC will monitor flood inundation zones and provide advanced notification to residents, including all AFN persons. If residents are required to evacuate, the EOC will work with its local shelter services providers (Churches, Red Cross, CERT Volunteers and County Health Servies) to shelter evacuees and make AFN accommodations at each shelter site. (GP HAZ5-6)	Heavy rain events	PPW	HMGP, General Funds	Ongoing	Low
19	Require Phase I site assessments for new development proposed on land that may be contaminated with hazardous materials or waste. (GP HAZ7-2)	Hazardous Materials	CDD / PPW	HMGP, General Funds	Short term	High
20	Support Santa Clara County Fire Department in monitoring the storage of hazardous materials located in City Facilities. (GP HAZ7- 3)	Hazardous Materials	CDD / PPW	HMGP, General Funds	Ongoing	Medium

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
21	Require all businesses that use, store, or transport hazardous materials or waste to prepare a Hazardous Materials and Waste Management Business Plan through County Environmental Health Agency. (GP HAZ7-4)	Hazardous Materials	CDD	HMGP, General Funds	Long term	Low
22	The Town shall develop and distribute educational materials and conduct educational outreach to inform the public about household hazardous waste, proper disposal methods, and proper use and storage of these materials in partnership with the County Household Hazardous Waste Program. (GP HAZ7-5)	Hazardous Materials	PPW	HMGP, General Funds	Long term	Medium
23	Work with County Environmental Health and private organizations to prevent the introduction of hazardous materials into the air and the water supply. (GP HAZ7-1)	Terrorism, Hazardous Materials, Transportation Incidents	Town Manager	HMGP, General Funds	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
24	The most common inclement weather events from climate change that impact the Town of Los Gatos are heavy rains/atmospheric rivers, extreme weather (hot and cold), high wind, and space weather. The impacts from inclement weather are described in the Flood, Landslide/Mass movement and drought hazard analysis sections. Hardening infrastructure, Providing advanced community notifications and care and shelter for individuals impacted these events are the response and mitigation actions described in the specific hazards.	Inclement Weather. Landslide	Town Manager, Parks and Public Works, Community Development, Police, County Fire and MAC partners.	HMGP, General Funds	Ongoing	High
25	The Town of Los Gatos will partner with its water provider to identify water shortage impacts during drought. Provide advanced community notification for conservation requirements set forth by the Water provider. Provide drought tolerant planting information to residents at public education events, on social media sites and through the Community Development Department.	Drought	Community Development, Parks and Public Works, Town Managers Office, Operational Area, Santa Clara Valley Water District, Businesses, and residents.	General Fund	Ongoing	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
26.	Provide advanced warning notifications to residents during periods of heavy rain about potential landslide movement prior to large storms events through social media, TV, Radio, Websites and direct automated notification. Work with internal and external shelter providers to shelter impacted residents. GIS properties at risk through landslide maps with property overlays. Target outreach to those areas.	Landslide and Mass Movement.	Town Manager's Office, Parks and Public Works, Police, Operational Area, residents, geologist technical expert, business and GIS mapping provider.	General Fund, EMPG.	June 2024	Medium
27.	AFN and socially vulnerable persons impacted from inclement weather are included in planning, response, and recovery strategies for the Town of Los Gatos through its drat AFN EOP annex. The annex will mirror the County's DEM AFN Annex to assure consistent coordinated planning, response and recovery to AFN and socially vulnerable populations in a disaster.	Inclement Weather	Town Manager's Office, Operational Area, EOC Care and Shelter staff, HHS and ARC.	General Fund	June 2024	High

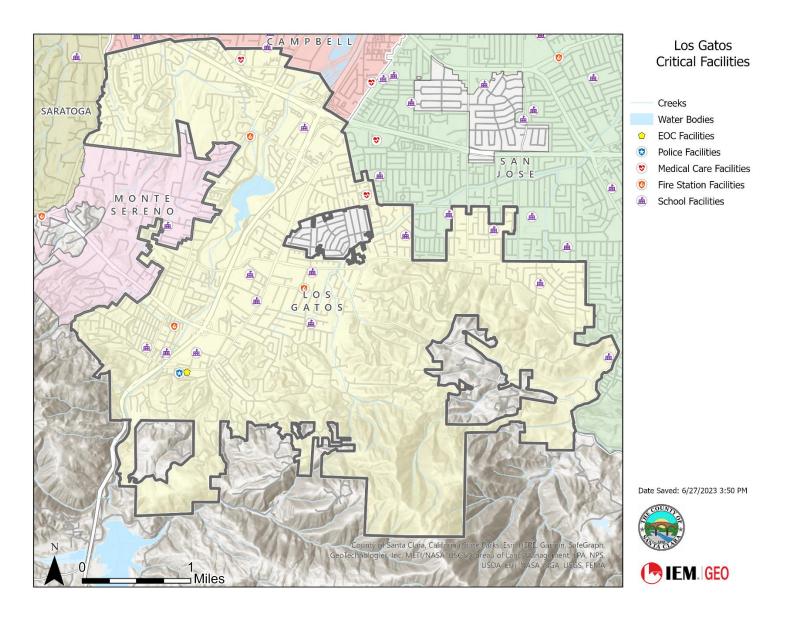
Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
28.	The Town's Emergency Services Coordinator will provide National Weather Service alerts to the Town Managers Office for high wind events that surpass the Homeless Motel Program High wind threshold of sustained winds of 40 MPH. Motels will be offered to registered Town of Los Gatos homeless individuals when the threshold is forecast to be surpassed. The Town will post notifications and work with the local churches and homeless service providers to notify homeless individuals of high wind events. The Town will reserve hotels for homeless individuals.	High Wind Event	Emergency Services Coordinator	Town general fund	On-going	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
29.	The Town's Emergency Services Coordinator will provide National Weather Service alerts to the Town Managers Office for high heat events that surpass forecast temperatures at or above 100 degrees Fahrenheit for at least two days and overnight temperatures that will not drop below 75 degrees Fahrenheit. Motels will be offered to registered Town of Los Gatos homeless individuals when the high heat threshold is forecast to be surpassed. The Town will post notifications and work with the local churches and homeless service providers to notify homeless individuals of high wind events. The Town will reserve hotels for homeless individuals. The Town will also open their library as a cooling center for the general public.	High Heat Event	Emergency Services Coordinator	General Fund	On-going	High

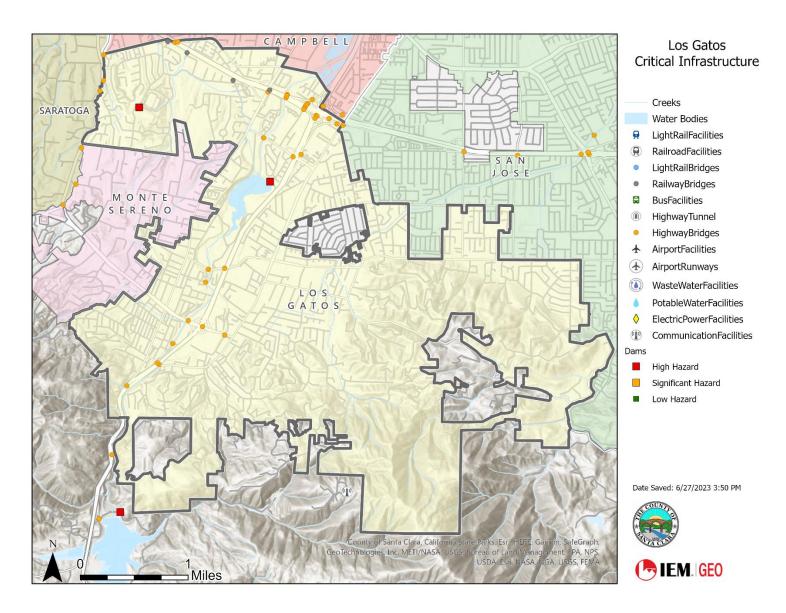
Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
30.	Due to climate change and increasingly larger storms, and the need to protect the Access and Functional Needs Community, the Town will complete a National Weather Storm Ready program and application. As a part of the program, the Town will establish a 24-hour warning point and emergency operations center; have more than one way to receive severe weather warnings and forecasts to alert the public; create a system that monitors weather conditions locally; promote the importance of public readiness through community seminars Develop a formal hazardous weather plan, which includes training severe weather spotters and holding emergency exercises. Evaluate and if merited, deploy NOAA radios to Town residents to strengthen emergency notifications and communications capabilities	Alert and protect the Access and Functional Needs Community in large winter storm events.	Emergency Services Coordinator	General Fund and Grants	January 2025	High

Action Item Number	Action Item Description	Hazard(s) Mitigated	Lead position, office, department, or division responsible for implementation	Potential Funding Sources	Expected Timeline for Completion	Priority
31.	The Town is cognizant of "Urban heat islands" that occur when land cover is replaced with dense concentrations of pavement, buildings, and other surfaces that absorb and retain heat. The Town of Los Gatos will include Urban heat islands impacts planning within Town limits.	High heat	Community Development	No Cost	January 2025	Low
32.	The Town has been impacted by power outages from high wind events in the past. There are many trees in the Town of Los Gatos. The Town will work with utility partners, Parks and Public Works, Police and Fire, Contractors and the EOC to coordinate down trees from roadways so that utility restoration can began in a prioritized and expeditious manner. The Town will notify the community of road closures through its PIO function in the EOC with current updates. The Town will provide assistance to the AFN Community per the draft AFN EOP Annex under development.	Power Outages	Parks and Public Works	General Fund and FEMA cost recovery	On-going winter tree removal response. AFN Annex completion date is June 2024	High

<sup>\*</sup> Number given to action item in 2017 Santa Clara County Operational Area Hazard Mitigation Plan
Note: references are included throughout to the CWPP – Community Wildfire Protection Plan – and GP-HAZ – General Plan Hazards & Safety Element



**Figure 5: Town of Los Gatos Critical Facilities** 



**Figure 6: Town of Los Gatos Critical Infrastructure** 

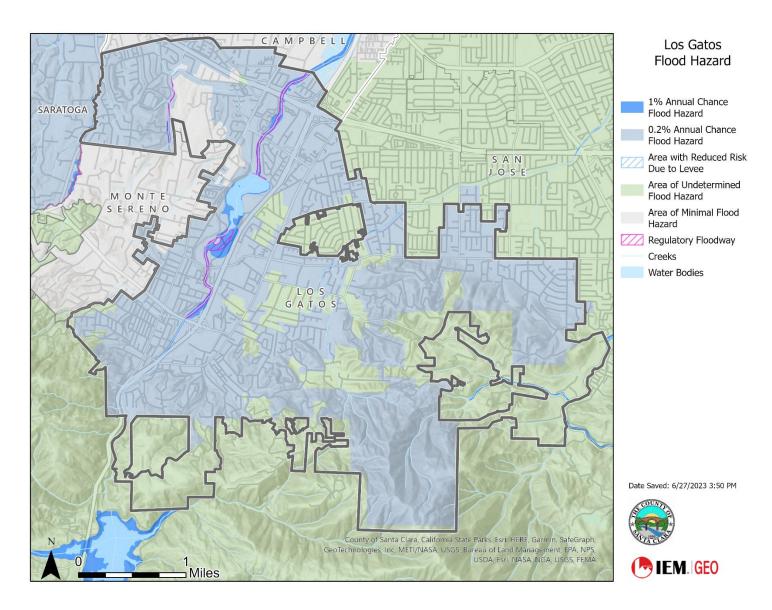


Figure 7: Town of Los Gatos Flood Hazard Area Map

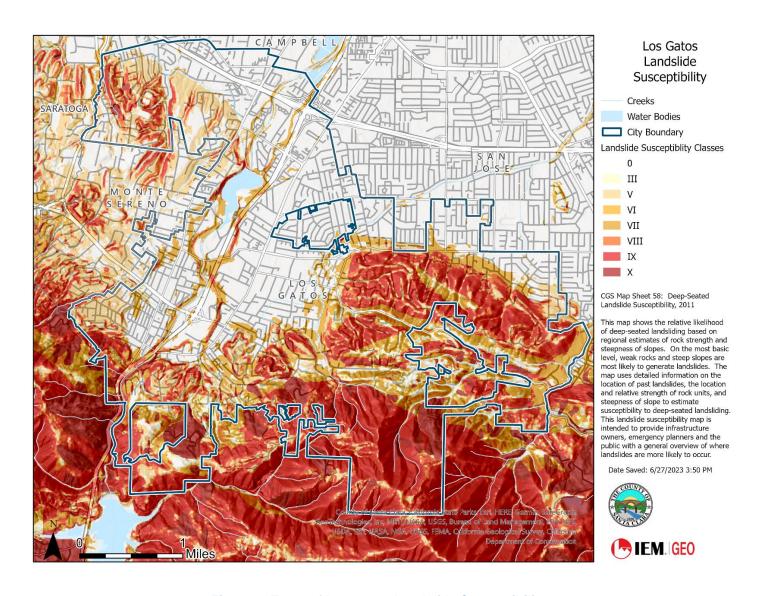


Figure 8: Town of Los Gatos Landslide Susceptibility

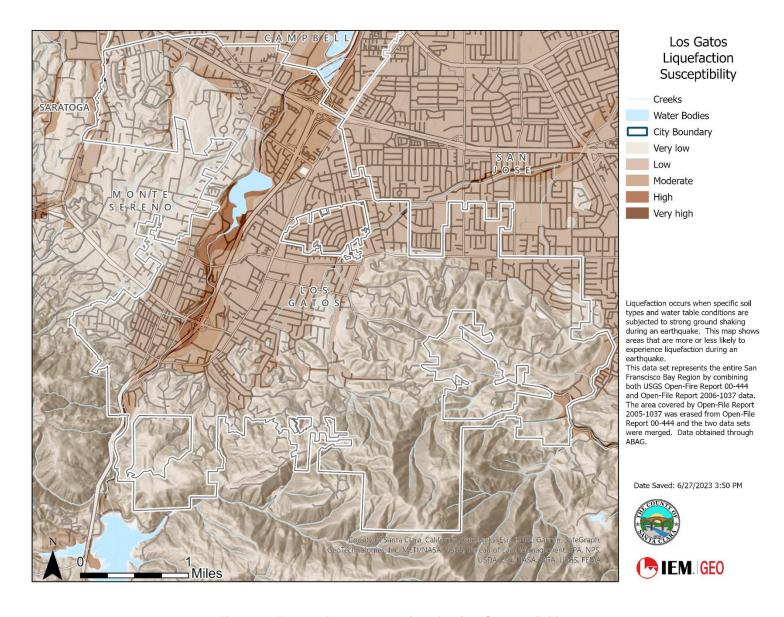


Figure 9: Town of Los Gatos Liquefaction Susceptibility

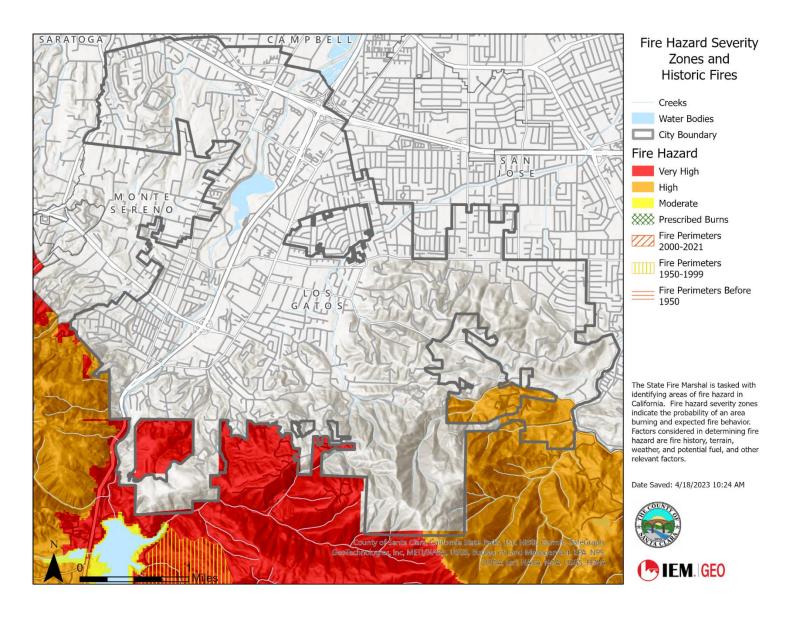


Figure 10: Town of Los Gatos Fire Hazard Severity Zones and Historic Fires

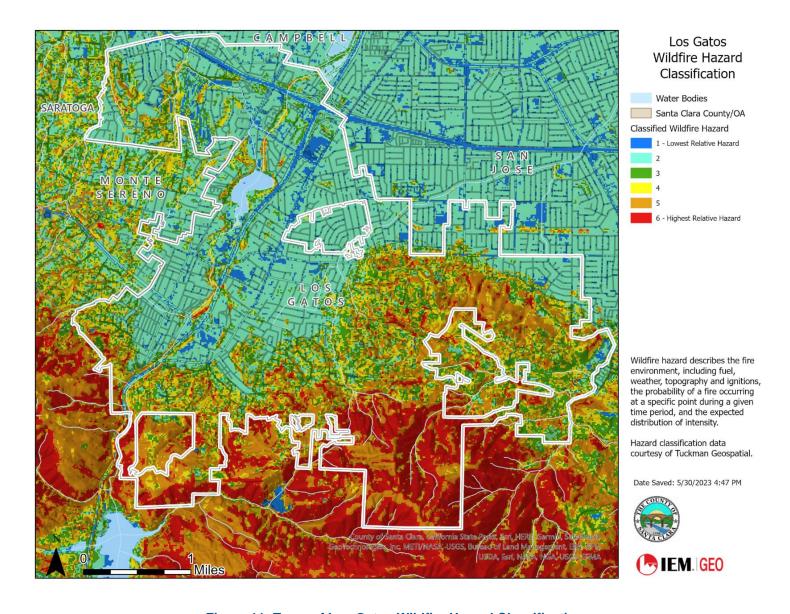


Figure 11: Town of Los Gatos Wildfire Hazard Classification

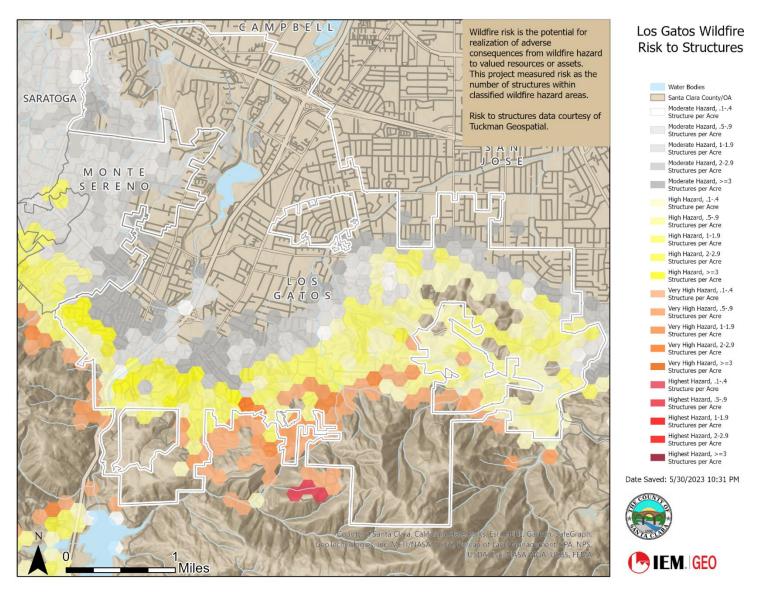


Figure 12: Town of Los Gatos Wildfire Risk to Structures



MEETING DATE: 09/17/2024

ITEM NO: 11

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Gabrielle Whelan, Town Attorney

SUBJECT: Consider Adoption of a Resolution of Necessity to Authorize Acquisition of

Private Property Through Eminent Domain for the Shannon Road Capital

Improvement Project (CIP No. 811-0008)

#### **RECOMMENDATION:**

Consider adoption of a Resolution of Necessity (Attachment 2) to authorize acquisition of private property through eminent domain for the Shannon Road Capital Improvement Project (CIP No. 811-0008).

#### **EXECUTIVE SUMMARY:**

This staff report is submitted for review by the Town Council of the Town of Los Gatos in connection with a hearing to consider adoption of a Resolution of Necessity (Attachment 2). Under California law, the Town cannot acquire private property via eminent domain unless and/or until the Council has adopted a Resolution of Necessity by a four-fifths majority vote. The statutory requirement that a public entity adopt a Resolution of Necessity before initiating a condemnation action is designed to ensure that public entities will verify and confirm the validity of their intended use of the power of eminent domain prior to the application of that power in any one particular instance.

Staff recommends that the Council adopt a Resolution of Necessity (Attachment 2) to authorize the acquisition by eminent domain of a fee interest in a portion of 14915 Shannon Road, Los Gatos, CA (APN 537-27-047) (the "Larger Parcel") for the Shannon Road Capital Improvement Project (the "Project"). Specifically, an approximately 29,807 square foot portion of the Larger Parcel (the "Subject Property") comprised of (a) an approximately 21,929 square foot strip of land within the existing Shannon Road right of way; and (b) an approximately 7,878 square foot strip of land along the Larger Parcel's frontage on Shannon Road. The Subject Property is more

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

#### PAGE 2 OF 8

SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024

particularly described and depicted in the attachments to the Resolution of Necessity. As described in more detail below, the Project is necessary to repair the roadbed, increase Shannon Road's pavement width, install guardrails, and install retaining walls on the north side of Shannon Road.

The hearing on the Resolution of Necessity affords the property owner the opportunity to address the Town Council on the necessity of acquiring the Property for the Project. However, the amount of compensation the property owner is entitled to receive should not be discussed at the hearing. That does not mean that negotiations for the acquisition of the Subject Property are at an end. If the Town adopts the Resolution of Necessity, after the hearing, negotiations for the acquisition of the Subject Property may continue.

#### **BACKGROUND**:

#### The Larger Parcel and the Subject Property

The Larger Parcel is comprised of approximately 27.09 acres that is improved with a single-family home, barn, and outbuildings. The Larger Parcel is mostly raw, vacant land on the north side of Shannon Road. The buildings are along the Larger Parcel's frontage on Shannon Road and will not be impacted by the proposed acquisition. The first approximately 150 feet of the Larger Parcel immediately north of Shannon Road is relatively level to moderately sloping. The rest of the Larger Parcel is relatively steeply sloped (30-50%) as the Larger Parcel extends north up a hillside. Shannon Road runs along the Larger Parcel's southern property line. The Shannon Road right of way is 40-feet-wide, 20 feet of which are on the Larger Parcel in a road easement. Figure 1 depicts the Larger Parcel.

#### PAGE 3 OF 8

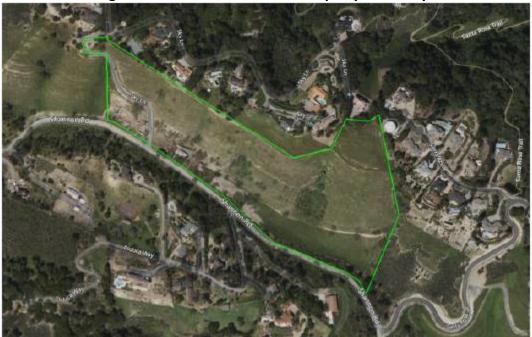
SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024





As mentioned above, the Subject Property is comprised of (a) an approximately 21,929 square foot strip of land within the existing Shannon Road right of way (i.e., within the Town's existing roadway easement); and (b) an approximately 7,878 square foot strip of land along the Larger Parcel's frontage on Shannon Road. Figure 2 depicts the approximately 21,929 square foot portion of the Subject Property that is within the Town's existing right of way (green) and the approximately 7,878 square foot portion of the Subject Property that is along the Larger Parcel's Shannon Road frontage. The properties depicted on Figure 2 are those that are required for implementation of the Shannon Road Repair project and the subject of this hearing.

#### PAGE 4 OF 8

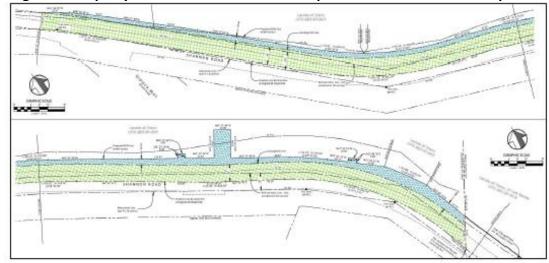
SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024

Figure 2. Property of 14915 Shannon Road Required for Shannon Road Repair





The location of the proposed acquisition in relation to the Larger Parcel is depicted in Figure 3.

Figure 3. Location of Proposed Acquisition



#### A. The Project

The Town annexed the relevant portion of Shannon Road from the County of Santa Clara in 2018. This section of Shannon Road has failed repeatedly in the past. Before Shannon Road was annexed, the County repaired the relevant section Shannon Road by injecting epoxy foam

#### PAGE **5** OF **8**

SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024

into the roadbed. However, that repair has since failed, and the roadbed has continued to deteriorate.

The Project will implement a permanent repair to Shannon Road. The Project will install retaining walls, increase the pavement width from 22 to 23 feet, and install guardrails and provide area for a shoulder on the south side of Shannon Road.

### B. <u>Negotiations to Date</u>

The Town obtained an appraisal of the Subject Property from appraiser Terry Larson, MAI. On June 4, 2024, the Town sent the property owner a Government Code offer letter (Attachment 1) offering the full amount of that appraisal as just compensation for the proposed acquisition.

Mr. Elam indicated that he would obtain his own appraisal. However, to date, the Town has not received a counter offer from Mr. Elam. Therefore, staff recommends that the Town Council adopt a resolution of necessity to initiate eminent domain proceedings.

#### **DISCUSSION**:

As described above, to adopt a resolution of necessity, the Council must make the following findings<sup>1</sup>:

- 1. The public interest and necessity require the proposed project;
- The property described in the resolution is necessary for the proposed project;
- 3. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and
- 4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record or the offer has not been made because the owner cannot be located with reasonable diligence.

This staff report provides data and information addressing each of these issues.

#### A. The Public Interest and Necessity Require the Project

First, the Town Council must find that the public interest and necessity require the Project. The Town acquired the relevant section of Shannon Road from the County of Santa Clara in 2018 and immediately identified areas of pavement failure. Various engineering studies and analysis revealed that the subbase below the northern travel lane (westbound travel) has numerous voids and is unstable.

<sup>&</sup>lt;sup>1</sup> Code Civ. Proc. § 1245.230.

#### PAGE 6 OF 8

SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024

As a Hillside Collector Street (See General Plan Page 5-16), Shannon Road is a critical transportation route between San José and Los Gatos. It is a primary emergency evacuation route for areas of east Los Gatos. If repairs are not made, the westbound travel lane may need to be closed for safety reasons. The Project, which will repair the roadway and upgrade it to meet current roadway design safety standards, is in the public interest.

#### B. The Interests Sought to be Acquired are Necessary for the Project

Second, the Town Council must find that the interests sought to be acquired are necessary for the Project. As previously described, the Subject Property is necessary for the Project. The Project could not be constructed as designed without the acquisition of the Subject Property.

### C. <u>The Project is Located in such a Manner as to Offer the Greatest Public Benefit</u> with the Least Private Detriment

Third, the Town Council must find that the Project is located in such a manner as to offer the greatest public benefit with the least private detriment. In connection with the Project's design, staff and the Town's consultants evaluated a variety of options. For example, the Town considered shifting the roadway south to reduce or eliminate the need to acquire private property on the north side of Shannon Road. However, that alternative would have required the Town to "cut" into the hillside on the south side of the existing roadway. That design would have required two retaining walls — one on the south side of Shannon Road to support the cut, and second on the north side. That design would have significantly increased project costs and environmental impact.

The Project, as currently proposed, offers the greatest public benefit with the least private detriment because: (a) it requires the acquisition of the least possible amount of private property required to permanently repair the impacted section of Shannon Road and upgrade it to meet current roadway design safety standards; (b) the majority of the Subject Property is already within a Town-owned road easement; and (c) it avoids a substantial excavation and installation of a retaining wall on the south side of Shannon Road.

#### D. <u>A Government Code Offer Has Been Delivered To the Property Owner</u>

Fourth, the Council must find that the Town has extended an offer for the Subject Property pursuant to Government Code section 7267.2 to the property owner. On June 4, 2024, the Town sent an offer in conformance with Government Code section 7267.2(a) to the property

#### PAGE **7** OF **8**

SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024

owner (Attachment 1).<sup>2</sup> Since sending the offer, the Town has reached out to the property owner to ascertain whether a negotiated purchase is possible. To date, these efforts have been unsuccessful.

On August 29, 2024, the Town mailed the property owner a Notice of Intent to consider adoption of a Resolution of Necessity to acquire the Property by eminent domain at its regular meeting of September 17, 2024. A copy of the notice provided to the property owner is in Attachment 3.

### E. <u>Statutory Authority for Acquiring the Subject Property through Eminent</u> Domain

The Town is authorized to acquire the Subject Property for the Project pursuant to statutes including, but not limited to, California Constitution, Article 1, Section 19; the California Eminent Domain Law, Code of Civil Procedure Section 1230.010 *et seq.*, including, but not limited to, sections 1240.010 through 1240.050 inclusive, and sections 1240.110, 1240.120, 1240.150, 1240.220, 1240.320, 1240.330, 1240.350, 1240.410, 1240.510, 1240.610, 1240.650, and 1240.660; Government Code section 37350.5; Streets & Highway Code section 10102; and other provisions of law.

#### F. Environmental Assessment

The Town fully complied with the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, for acquiring the Subject Property when on September 4, 2024, the Town determined that the Project is categorically exempt from CEQA pursuant to 14 California Code of Regulation, sections 15301 (Existing Facilities Exemption) and 15061(b)(3) (Common Sense Exemption). The County filed the Notice of Exemption in accordance with Public Resources Code section 21152 on September 10, 2024. No further environmental review is required.

#### **COORDINATION:**

This report was coordinated with the Town Attorney's Office and Department of Public Works.

<sup>&</sup>lt;sup>2</sup> The Town's offer included an informational pamphlet describing the eminent domain process and the property owner's rights under the Eminent Domain Law. The Town's offer also (1) contained a written statement of, and summary of the basis for, the amount it established as just compensation; and (2) offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000, for an independent appraisal of the Property. (Gov. Code § 7267.2.)

#### PAGE **8** OF **8**

SUBJECT: Consider Adoption of Resolution of Necessity to Authorize Acquisition of Private

Property Through Eminent Domain for the Shannon Road Capital Improvement

Project (CIP No. 811-0008)

DATE: September 12, 2024

#### **FISCAL IMPACT:**

If this property acquisition proceeds to trial as an eminent domain action, the fiscal impact to the Town will be the property acquisition cost plus attorney fees and costs, which could be up to \$200,000. There is sufficient funding in the project budget to pay for the property acquisition.

#### Attachments:

- 1. Government Code Offer Letter
- 2. Resolution of Necessity
- 3. Notice of Hearing on Resolution of Necessity



### **TOWN OF LOS GATOS**

### PARKS & PUBLIC WORKS DEPARTMENT PHONE (408) 399-5770

SERVICE CENTER 41 MILES AVENUE LOS GATOS, CA 95030

#### VIA EMAIL AND CERTIFIED MAIL

June 4, 2024

Ray M. Elam, III Trustee, Elam Family Trust 1432 Sea Ridge Drive Newport Beach, CA 92660 E-mail: budelam@gmail.com

Re: Offer Pursuant to Government Code Section 7267.2 to Acquire a Portion of 14915 Shannon

Road, Los Gatos, CA (APN 537-27-047)

Dear Mr. Elam:

The Town of Los Gatos ("Town") is offering to purchase a portion of your property located at 14915 Shannon Road, Los Gatos, CA (APN 537-27-047) ("Larger Parcel"). The purpose of this letter is to transmit a formal offer to acquire a portion of the Larger Parcel from you pursuant to Government Code section 7267.2.

The Town proposes to acquire an approximately 29,807 square foot portion of the Larger Parcel comprised of:

- (a) an approximately 21,929 square foot strip of land within the existing Shannon Road right of way; and
- (b) an approximately 7,878 square foot strip of land along the Larger Parcel's frontage on Shannon Road (the "Subject Property").

A detailed legal description of the Subject Property is attached hereto as **Exhibit 1**. The Town needs to acquire the Subject Property for the Shannon Road Capital Improvement Project (CIP No. 811-0008) (the "Project"). The Project will repair the roadbed, increase Shannon Road's pavement width, install guardrails, and install retaining walls on the north side of the road. The Subject Property is within the area of the Project, and acquisition of the Subject Property is necessary for the Project.

The Town would prefer to resolve this matter by negotiated purchase. Section 7267.2 of the Government Code requires the Town to make you an offer which represents the appraised fair market value of the property necessary for the Project. The Town offers the sum of Thirty-Nine

Thousand Four Hundred and no/100 Dollars (\$39,400.00) for the Subject Property, which is more particularly described and depicted in the exhibits attached to the Summary Statement and Summary of the Basis for Just Compensation ("Summary Statement"), attached hereto as **Exhibit 2**. The Summary Statement demonstrates the value of the Subject Property. As provided in Government Code Section 7267.2, the offer is conditioned upon the Town Council's approval of the offer by either execution of a contract of acquisition or adoption of a Resolution of Necessity.

Furthermore, pursuant to Code of Civil Procedure Section 1263.025(a), the Town will pay the reasonable costs, not to exceed Five Thousand Dollars (\$5,000.00), of an independent appraisal of the Subject Property, ordered by you. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers. In addition, pursuant to Code of Civil Procedure Section 1263.615, the Town is unable to offer you continued use of the fee interest after acquisition because the Town will begin the Project within two years of the acquisition. Finally, attached hereto as **Exhibit 3** is an informational pamphlet describing the eminent domain process and your rights under the Eminent Domain Law.

As indicated, the Town would like to resolve this matter with you by agreement, as the Town believes that a negotiated purchase best serves everyone's interests. If you ultimately elect to reject the Town's offer for the Subject Property, and the Town chooses to proceed with acquiring the Subject Property through the eminent domain process, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California. Please do not hesitate to contact me if you have any questions.

Sincerely,

Town of Los Gatos

Nicolle Burnham

Director of Parks and Public Works

#### **Exhibits**

- 1. Final Grant of Right of Way Description
- 2. Appraisal Summary Statement
- 3. Eminent Domain Information Pamphlet

CC: Gabrielle Whelan (via email only to gwhelan@losgatosca.gov)

Jennifer Armer (via email only to jarmer@losgatosca.gov)

Gary Heap (via email only to gheap@losgatosca.gov)

Nicholas Muscolino (via email only to nmuscolino@bwslaw.com)

# EXHIBIT A LEGAL DESCRIPTION Shannon Road Grant of Right of Way

All that certain real property situate in the Town of Los Gatos, County of Santa Clara, State of California, being a portion of the lands granted to Diane Barnett and Ray M. Elam, III as Co-Trustees of the Elam Family Trust A by deed filed for record May 29, 2015 as Document 22970019 in the office of the Santa Clara County Recorder, being more particularly described as follows:

Commencing at an iron pipe in monument box located at the northerly terminus of that certain course shown as "N 46° 11' 21" W, 394.60" on the map entitled "Record of Survey of the Monument Line of Shannon Road..." filed for record July 13, 1978 in Book 422 of Maps at Pages 39-46 in said Recorder's office; said course being depicted on sheet 4 of 8 therein, thence from said point of commencement North 07°12′24" West, 26.58 feet to the true Point of Beginning of this description; thence South 55°48'03" East, 31.91 feet; thence South 48°26'38" East, 45.97 feet; thence South 46°41'49" East, 107.02 feet; thence South 45°34'03" East, 124.07 feet to the beginning of a curve concave northeasterly having a radius of 500.00 feet; thence southeasterly along the arc of said curve 74.81 feet through a central angle of 08°34'21 to the beginning of a non-tangent curve concave northeasterly having a radius of 350.00 feet, from which point the radius bears North 34°44'06" East; thence southeasterly along the arc of said curve 99.18 feet through a central angle of 16°14′09"; thence South 71°30′03" East, 57.32 feet to the beginning of a curve concave southerly having a radius of 375.00 feet; thence easterly along the arc of said curve 38.43 feet through a central angle of 5°52'20"; thence South 65°37'44" East, 153.47 feet; thence North 24°22'16" East, 5.00 feet; thence South 65°37'44" East, 9.00 feet; thence South 24°22'16" West, 5.00 feet; thence South 65°37'44" East, 33.94 feet; thence North 24°22'16" East, 33.00 feet; thence South 65°37'44" East, 20.00 feet; thence South 24°22'16" West, 33.00 feet; thence South 65°37'44" East, 68.97 feet to the beginning of a curve concave southerly having a radius of 325.00 feet; thence southeasterly 44.19 feet through a central angle of 07°47'28"; thence South 57°50' 15' East, 25.21 feet; thence North 32°09'45" East, 5.00 feet; thence South 57°50'15" East, 10.00 feet; thence South 32°09'45" West, 5.00 feet; thence South 57°50'15" East, 33.40 feet to the beginning of a non-tangent curve concave southwesterly having a radius of 335.00 feet, from which point the radius bears South 43°55'48" West; thence southerly along the arc of said curve 54.96 feet through a central angle of 09°24'00"; thence South 25°59'14" East, 57.73 feet to a point in the westerly line of that certain 72.14 acre tract granted to Manuel F. Escover by deed dated November 27, 1922, filed for record in Book 566 of Deeds at Page 403 in said Recorder's office, from which point an iron pipe in monument box located at the southerly terminus of that certain course shown as "N 30°09'05" W, 240.63" on sheet 4 of said Record of Survey bears South 16°54'19" East, 167.68 feet; thence along said westerly line South 23°40'51" West, 38.50 feet to an iron pipe set at the southwesterly corner of said 72.14 acre tract; said corner being further described as

### LEGAL DESCRIPTION (cont.) Shannon Road Grant of Right of Way

lying in the center of Shannon Road; thence along the southwest line of said lands of Elam et. al., said southwest line also being the centerline of Shannon Road, the following courses and distances, each as shown on that certain map entitled "Record of Survey of a portion of Shannon Road" filed for record May, 28, 2024 in Book 962 of Maps at Page 10 in said Recorder's office, North 24°21'16" West, 20.92 feet to the beginning of a curve concave southwesterly having a radius of 285.00 feet; thence northwesterly along the arc of said curve 214.93 feet through a central angle of 43°12'32"; thence North 67°33'47" West, 69.26 feet to the beginning of a curve concave northerly having a radius of 500.00 feet; thence northwesterly along the arc of said curve 25.95 feet through a central angle of 02°58'26"; thence North 64°35'21" West, 150.28 feet to the beginning of a curve concave southerly having a radius of 750.00 feet; thence westerly along the arc of said curve 90.05 feet through a central angle of 06°52'46"; thence North 71°28'07" West, 42.02 feet to the beginning of a curve concave northerly having a radius of 360.00 feet; thence northwesterly along the arc of said curve 161.26 feet through a central angle of 25°39'54"; thence North 45°48'13" West, 199.08 feet to the beginning of a curve concave southwesterly having a radius of 2,500.00 feet; thence northwesterly along the arc of said curve 127.44 feet through a central angle of 02°55'14"; thence leaving said centerline of Shannon Road North 41°16'33" East, 20.00 feet to the point of beginning.

Containing 29,807 square feet, more or less.

Bearings used in this description are based upon the California Coordinate System of 1983 (CCS83), Zone 3.

Prepared under the direction of:



Charles M. Weakley, L.S. 6421



### **DATUM NOTE:**

Bearings shown are based upon the California Coordinate System of 1983 (CCS1983), Zone 3, epoch 2021.3.

CURVE DATA TABLE							
NO. DELTA LENGTH RADIUS							
C1	08° 34' 21"	74.81'	500.00'				
C2	16° 14' 09"	99.18'	350.00'				
C3 05° 52' 20" 38.43' 375.00'							

LINE DATA TABLE							
NO.	BEARING	DISTANCE					
L1	N07° 12' 24"W	26.58'					
L2	S55° 48' 03"E	31.91'					
L3	S48° 26' 38"E	45.97'					
L4	S71° 30' 03"E	57.32'					
L5	S65° 37' 44"E	153.47'					
L23	N71° 28' 07"W	42.02					
L24	N41° 16' 33"E	20.00'					

Point of Commencement, Fnd. monument per R-1 145. 40 X 35 W N: 1,907,166.93

**Point of Beginning** 

E: 6,145,747.40

DIDUC (private Road) WAY

New R/W Line

### **LEGEND**

C1 or L1 See curve or line data table

Rad **Radial Bearing** 

Bk. 422 Maps, Pg. 39-46 R-1

#### **EXHIBIT B** Plat to Accompany Legal Description

1735 Enterprise Dr, Suite 109 PH (707) 425-6234 Fairfield, CA 94533 FAX (707) 425-1969 | Scale: 1"=60'

Occupational & per 2023 Survey (Property Line per **Deed Reference)** 

**GRAPHIC SCALE** 60 1 inch = 60 ft.

Date: April 19, 2024

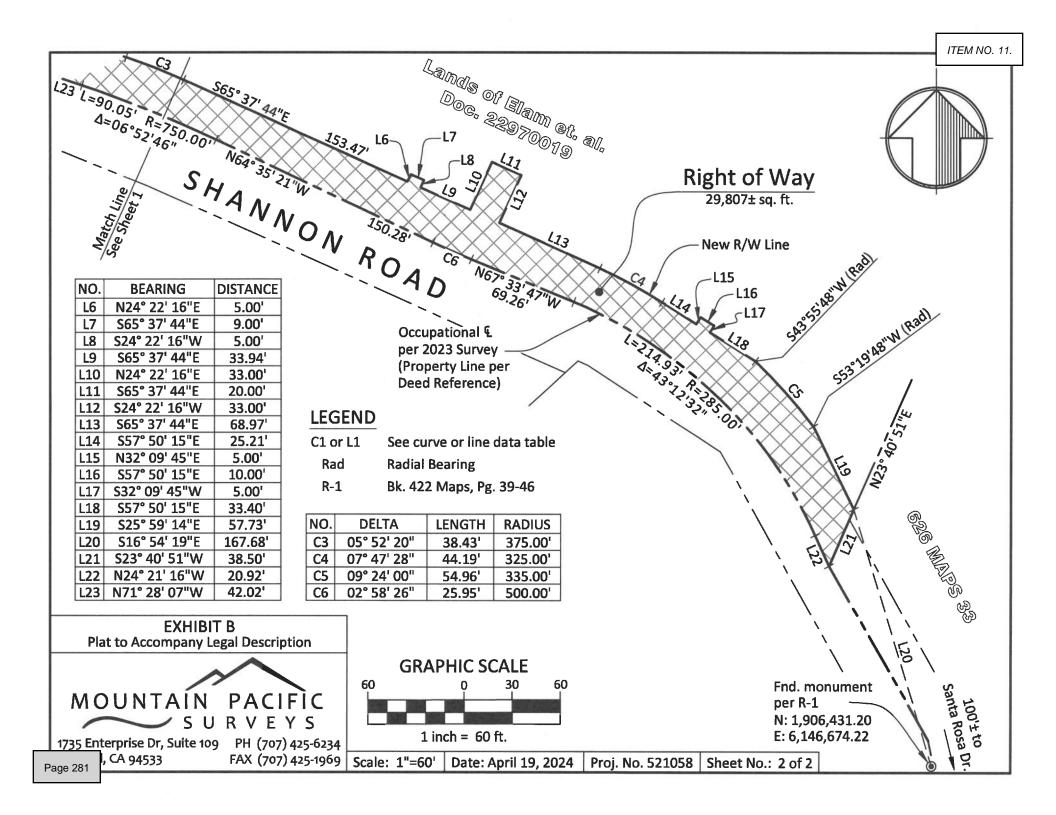
Proj. No. 521058

A=25°38,360.007

Sheet No.: 1 of 2

30.05, R=750.00, 4=06°52'46"

Right of Way 29,807± sq. ft.



#### **APPRAISAL SUMMARY STATEMENT**

1 ITEM NO. 11.

#### PROPERTY AND PROJECT INFORMATION

Project: Shannon Road Capitol Improvement Project

Parcel No.: 521058

APN: 537-27-047

Owner: Elam

Date Acquired: Many years ago

Property Address: 14915 Shannon Road

Locale: Los Gatos, Santa Clara County, California

Total Property Area: 27.09 acres of land

Property to be Acquired: Part\_x\_\_ All\_\_\_\_

Including Access Rights: Yes\_\_\_\_\_ No\_\_x\_\_\_

Development Application: A Development Application has been submitted to Los Gatos to create

nine residential lots on the property. According to City Planning, it has received negative feedback. Concerns include challenges developing on the hillside and the proposed density or number of housing units. At this time, it is unknown if the application will be approved or not, and if it is approved, it is unknown how many residential lots there will be. The Larger Parcel has no development entitlements and is appraised as

unentitled residential land.

#### **BASIS OF VALUATION**

The market value for the property to be acquired is based upon an appraisal prepared in accordance with accepted appraisal principles and procedures.

Code of Civil Procedure Section 1263.320 defines Fair Market Value as follows:

- (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
- (b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

California Government Code Section 7267.2 sets forth the obligations for a public entity to appraise and attempt to negotiate the purchase of real property that is sought to be acquired for a public project. Section 7267.2(a)(1) provides in pertinent part: A decrease or increase in the fair market value of property to be acquired prior to the date of valuation caused by the public improvement for which property is acquired, or by the likelihood that the property would be acquired for the improvement,

EXHIBIT 2

#### APPRAISAL SUMMARY STATEMENT

Page 2 ITEM NO. 11.

other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation of the property.

#### **BASIC PROPERTY ACQUISITON DATA**

Interest Valued:

Fee Simple Estate, partially encumbered by Public Right of Way

Effective Date of Value Opinion:

April 22, 2024

Applicable Zoning:

RC, Resource Conservation

Area to be Acquired:

29,807 Square Feet of land in Fee consisting of

21,929 Square Feet of land Encumbered by Public Right of Way

7,878 Square Feet of land Unencumbered

Highest and Best Use:

Residential

Current Use:

Mostly vacant land with a home, barns, corral, and horse arena

**VALUATION** 

Sales Comparison Approach

In this approach, the local market was investigated for land sales of size, condition, and utility similar to the Larger Parcel. The Larger Parcel is suitable for residential development and the comparable sales are similar. I also considered the marketing history of the property.

The property has a long history of being marketed for sale and the following table summarizes the listing activity from the Santa Clara County Multiple Listing Service (MLS). The property was originally listed for sale in September 2018 for \$14,000,000. The property was re-listed for sale several times over the past six years with listings expiring or being cancelled. The asking price has been reduced several times to the most recent asking price of \$5,998,000 (\$5.08 per square foot). This most recent listing was canceled February 21, 2024. Four different real estate brokerage firms have listed the property.

	HISTORY OF MARKETING ACTIVITY										
	Entry	Cancelled	Expired	Original	Per	Revised	Per				
MLS No	Date	Date	Date	Price	Sq Ft	Price	Sq Ft	Realtor			
81723111	9/12/2018		3/11/2019	\$14,000,000	\$11.86	\$12,000,000	\$10.17	Cushman & Wakefield			
81756346	6/12/2019		9/30/2020	\$10,400,000	\$8.81	\$7,995,000	\$6.78	Christie's			
81756442	6/13/2019		9/30/2020	\$10,400,000	\$8.81	\$7,995,000	\$6.78	Christie's			
81831602	2/26/2021	7/13/2021		\$7,999,888	\$6.78			Intero Real Estate			
81853717	8/5/2021	9/14/2022		\$7,998,000	\$6.78			Boyenga Team			
81871839	12/5/2021	9/14/2022		\$7,998,000	\$6.78			Boyenga Team			
81929202	5/22/2023		10/30/2023	\$7,998,000	\$6.78			Boyenga Team			
81951068	1/10/2024	2/21/2024		\$5,998,000	\$5.08			Boyenga Team			

Page 3 o

			LAND	SALES			
					Zoning		
Sale	Address	Sale Date	Grantor	Acres	General Plan	Sale Price	Terms &
No	APN	Doc No	Grantee	Sq Ft	Specific Plan	Per Sq Ft	Circumstances
	Subject Property	Asking	N/A	27.090	RD Resource	\$7,998,000	N/A
	Los Gatos	Price		1,180,040	<u>Conservation</u>	(Original)	
	Santa Clara County				<u>Agricultural</u>	\$6.78	
	537-27-047				Hillside Specific Plan	\$5,998,000	
					2.5-10 acres per dwelling		t)
					min lot size one acre	\$5.08	
1	401 Surmont Dr	12/5/23	Laurie Bate	12.430	HR Hillside	\$3,000,000	Grant Deed available
	Los Gatos	25571085	Srikanth Kasa &	541,451	Residential 2.5 (2.5-10)	\$5.54	at County Recorders
	Santa Clara County		Swetha Poreddy		Hillside Residential		Office during normal
	527-20-002				2.5-10 acres per dwelling		business hours
					Hillside Specific Plan		
					2.5-10 acres per dwelling		
					min lot size one acre		
2	300 Mountain Laurel Ln	10/21/20	The Dagney Group	8.137	HR Hillside	\$1,700,000	Grant Deed available
	Los Gatos	24664405	Kunling Wu	354,448	Residential 2.5 (2.5-10)	\$4.80	at County Recorders
	Santa Clara County				Hillside Residential		Office during normal
	567-24-023				2.5-10 acres per dwelling		business hours
					Hillside Specific Plan		
					2.5-10 acres per dwelling		
					min lot size one acre		
3	Mireval Rd	7/13/23	Catherine Sturla	15.060	HR Hillside	\$1,120,000	Grant Deed available
	Los Gatos	25500141	Rupinder Singh Rahal &	656,014	Residential 5 (5-40)	\$1.71	at County Recorders
	Santa Clara County		Balwinder Kaur Brar		Hillside Residential		Office during normal
	532-25-027				2.5-10 acres per dwelling		business hours
					Hillside Specific Plan		
					2.5-10 acres per dwelling		
					min lot size one acre		
4	15435 Blackberry Hill Rd	9/3/21	Triumph REO Assets	10.067	<u>Hillside</u>	\$1,170,000	Grant Deed available
	Los Gatos	25089194	Robert & Yaffa	438,519	<u>Hillside</u>	\$2.67	at County Recorders
	Santa Clara County		Scranton		In Santa Clara County		Office during normal
	532-25-015				Sphere of Influence		business hours
	10% interest -014				Los Gatos		
5	11041 Stevens Canyon Rd	12/2/22	Viray Properties	19.670	RHS Residential	\$2,100,000	Grant Deed available
	Cupertino	25411063	Victor Zuniga Cabrera &	856,825	<u>Hillside</u>	\$2.45	at County Recorders
	Santa Clara County		Hortencia Gonzalez Rodroguez		Very Low Density		Office during normal
	342-19-002, 003				Residential 5-20 Acres		business hours
	342-20-005						
6	22315 Regnart Rd	2/7/22	Robert & Punita Bigler	5.270	RHS Residential	\$1,450,000	Grant Deed available
	Cupertino	25235151	Gangaswamy Kempahonnaiah &	229,561	<u>Hillside</u>	\$6.32	at County Recorders
	Santa Clara County		Latha Govindaraju		Very Low Density		Office during normal
	366-02-032				Residential 5-20 Acres		business hours

After analyzing the comparable land sales and considering the marketing history of the Larger Parcel, I conclude to \$5.00 per square foot for the Larger Parcel land outside of the Shannon Road public right of way.

The Larger Parcel includes 21,929 square feet of land encumbered by the Shannon Road public right of way. The California Department of Transportation Right of Way Manual, Section 7.04.10.00 defines "underlying fee" as the portion of ownership encumbered by a public road easement. The public has virtually full control over the use of the land within this easement and the only right the underlying fee owner has is one of reversion. The underlying fee is typically valued at \$1.00, which is the value I placed on the Larger Parcel land within the Shannon Road public right of way.

#### **APPRAISAL SUMMARY STATEMENT**

#### A. Value of the Whole Before the Acquisition

The unencumbered land is valued at \$5.00 per square foot and the land encumbered by the public right of way is valued at \$1.00.

Fee Land	1,158,111	sq ft x \$5.00	per sq ft =	\$5,790,555
<b>Public Road Easement</b>	21,929	sq ft	=	\$1
Total	1,180,040	sq ft	7	\$5,790,556

#### B. Value of the Part Acquired as Part of the Whole

The unencumbered fee acquisition land is valued at the same \$5.00 per square foot value as the unencumbered Larger Parcel. The acquisition of the land encumbered by the public right of way is valued at \$1.00.

Fee Land	7,878	sqft x \$5.00 per sqft =	\$39,390
Public Road Easement	21,929	_nominal value	\$1
Total	29,807	sq ft	\$39,391

#### C. Value of the Remainder as Part of the Whole

The value of the Remainder is the value of the Larger Parcel less the Part Acquired. The Remainder land is unencumbered and is valued at \$5.00 per square foot. All of the public right of way land is included in the acquisition.

#### D. Value of the Remainder After the Acquisition and Before Consideration of Benefits

The value of the remainder after the acquisition and before consideration of benefits is considered to be the same as the value of the remainder as part of the whole.

#### **E. Severance Damages**

No severance damages were identified.

#### F. Value of the Remainder After the Acquisition and After Consideration of Benefits

The Value of the Remainder After the Acquisition and Considering Damages, but *After* Considering Benefits is enhanced compared to the Value of the Remainder After the Acquisition and Considering Damages, but *Before* Considering Benefits.

#### G. Benefits

The remainder property benefits from construction of the Project that will make repairs to Shannon Road. Benefits can only be used to offset damages, and no damages are identified. Therefore, benefits are not quantified as this time.

#### FINAL VALUE OF THE PROPOSED ACQUISITION

Based on the investigation and analysis, it is my opinion that the Fair Market Value of the Fee Simple Estate in the Proposed Partial Acquisition, as of April 22, 2024 is \$39,400. I declare under penalty of perjury that the foregoing is true and correct. Executed at San Ramon, California, this 8<sup>th</sup> day of May 2024.

Terry S Larson, MAI

Certified General Real Estate Appraiser

State of California #AG007041, Exp. 11/30/2024

#### EMINENT DOMAIN INFORMATIONAL PAMPHLET

#### Introduction

California Government Code Section 7267.2 requires that a public entity provide property owners with an informational pamphlet describing the eminent domain process and the property owners' rights under the Eminent Domain Law at the time the public entity offers to purchase the owners' property or portions of their property. This informational pamphlet provides a general overview of the eminent domain process and answers questions commonly asked by property owners regarding their rights. This is an informational pamphlet only and is <u>not</u> intended to give a complete statement of all state or federal laws and regulations regarding eminent domain or to provide property owners with any form of legal advice.

#### **Overview of The Eminent Domain Process**

#### What is eminent domain?

Eminent domain is the acquisition of private property by a public entity for a public use. Public entities, such as the state and the federal government, counties, cities, redevelopment agencies, and school districts, may acquire real property for a public use if they meet all legal requirements, including the payment of just compensation to the property owners or into the court for the benefit of the owners. (California Constitution, art. I, sec. 19). Public uses include, but are not limited to roads, sewer lines, parks, public facilities, police stations, fire stations, libraries, and schools. The acquisition of real property to remedy blight consistent with the Redevelopment Law is also a public use (Health and Safety Code Section 33000 *et seq.*).

A public entity may acquire any interest in real property such as a fee interest, permanent easement, slope easement, or temporary construction easement. A public entity may acquire only the real property interests that are needed for the public use. If a public entity acquires a portion of a parcel and this results in damage to the remainder parcel, the owner is entitled to be compensated for the loss of value, if any, to the remainder parcel. This is called severance damages. If the appraiser determines that the remainder parcel will be left in a size, shape or condition to be of little or no value to the owner, the public entity will offer to purchase the entire parcel. The property owners can decide whether they want the public entity to acquire such uneconomic remnants.

The law requires a public entity to make every reasonable effort to acquire property expeditiously by negotiated purchase. As discussed more fully below, there are several steps that a public entity must take prior to acquiring property by eminent domain. These legal prerequisites are meant to protect property owners and to ensure that they have an opportunity to participate in the acquisition process. These preacquisition steps include the appraisal process, offers and negotiations.

### Appraisal Process

The public entity is required to obtain a fair market value appraisal of the real property before it can acquire it by eminent domain.

# Notice Informing Owners of Public Entity's Decision to Appraise Their Property

When a public entity identifies a real property or real property interest ("subject property") that it may need for a proposed project, it sends to the property owners a notice informing the owners that it intends to appraise the subject property. This notice informs the owners that the public entity has decided to appraise the subject property and notifies them that an appraiser will be contacting them. An appraiser licensed by the Office of Real Estate Appraisers will contact the owners and request permission to inspect the subject property. The appraiser will also invite the property owners to accompany the appraiser on the inspection of the subject property and to provide to the appraiser any information that the owners consider relevant to the value of the property. Permitting the inspection and accompanying the appraiser on the site inspection will allow the appraiser to fully assess the value of the subject property. If the owners do not allow the appraiser to inspect the subject property, the appraiser will inspect it from the public right of way.

#### **Appraisal**

After the appraiser inspects the property, the appraiser prepares an appraisal of the fair market value of the property.

#### What is fair market value?

The Eminent Domain Law defines fair market value as the highest price on the date of value that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for selling the property, and a buyer, ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available. (Code of Civil Procedure Section 1263.320). The appraisal will take into consideration the highest and best use of the property. It can take several weeks or months for an appraisal to be completed, depending on the appraiser's workload.

After the appraisal is completed, staff will review the appraisal to see if it complies with the requirements of the Eminent Domain Law. Staff will then recommend that the governing body of the public entity approve the appraisal and set just compensation. Just compensation must be at least the fair market value of the property as set forth in the appraisal.

### Offer

#### When will the property owners receive an offer to purchase the property?

The public entity will provide the owner with a written offer to purchase the property after it sets just compensation. The public entity generally sends the written offer within thirty (30) days from the date on which the public entity sets just compensation. The public entity cannot offer to purchase the property for less than the fair market value of the property as determined by the appraisal. (Government Code Section 7267.2).

# What must the public entity include in the written offer to purchase the property?

Government Code Section 7267.2 requires that the offer include a written statement of, and summary of the basis for, the amount the public entity established as just compensation. The offer must also include the following:

- The date of value, highest and best use, and applicable zoning of property;
- The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value; and
- Where appropriate, a separate statement of the just compensation for the real property acquired and for damages to the remainder, including the calculations and narrative explanation supporting the compensation and any offsetting benefits.

If the property is owner-occupied residential property and contains no more than four residential units, the owners are entitled to review a copy of the appraisal.

### Negotiations

The public entity will negotiate with the property owners for the sale of the property after it sends the offer letter

### Do the property owners have the right to obtain their own appraisal of the property?

Yes. Property owners have always had the right to obtain their own appraisal of their real property. As of January 1, 2007, however, the public entity must offer to pay the property owners' reasonable costs, up to \$5,000.00, for an independent appraisal of their property. The law requires that an appraiser licensed by the Office of Real Estate Appraisers prepare the independent appraisal. The public entity will inform the owners

of their rights to be reimbursed for these appraisal costs at the time it sends the offer letter.

# Are the property owners required to accept the public entity's offer to purchase the property?

No. The property owners are encouraged to contact the public entity to negotiate the sale of the property. The owners can negotiate the amount they believe to be the fair market value of the property and the terms and conditions of the offer.

#### Are there any advantages to selling the property to a public entity?

Yes. The property owner will receive at least the fair market value of the property and will not be responsible for real estate commissions, title fees, title insurance, escrow fees, closing costs, and other fees and costs. Some acquisitions by public entities in lieu of condemnation may result in tax benefits to the property owners. The Internal Revenue Service will look at specific criteria to determine whether the acquisition by the public entity qualifies for tax benefits. Accordingly, property owners are encouraged to discuss any such tax benefits with their tax advisors.

### **Negotiated Acquisition**

If a negotiated agreement for the sale of the property is reached, the public entity will prepare a purchase and sale agreement. In such cases, the conveyance of the property is handled through an escrow.

#### Resolution of Necessity

If the public entity and the property owners do not reach an agreement for the sale of the property, the public entity can hold a hearing to determine whether it will acquire the real property by eminent domain.

#### Notice of Hearing on Resolution of Necessity

If the public entity has determined that it is necessary to consider the acquisition of the real property by eminent domain, it will send a written notice to the property owners informing them of the date, time and location of the public entity's hearing at which it will consider the adoption of a resolution of necessity. (Code of Civil Procedure Section 1245.235). The notice informs the property owners of their right to be heard at this hearing and of their right to present evidence and to preserve their objections to the public entity's right to take the property.

The Eminent Domain Law requires that a public entity make all of the following findings pursuant to Code of Civil Procedure Section 1245.230 to adopt a resolution of necessity authorizing the public entity to acquire the property by eminent domain:

- That the public interest and necessity require the project;
- That the project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
- That the subject property is necessary for the project; and
- That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

A public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized assessment roll notice and a reasonable opportunity to appear and be heard on the above matters.

The governing body of the public entity will consider all written and oral evidence before it at the hearing, including any objections to the adoption of the resolution of necessity. The public entity can adopt a resolution of necessity authorizing the acquisition of property by eminent domain if at least two-thirds of the all of the members of the governing body vote to adopt the resolution. If the governing body consists of five members, the adoption of a resolution of necessity requires at least four out of five affirmative votes.

### **Eminent Domain Proceeding**

The resolution of necessity is the document that authorizes the public entity's attorneys to commence an eminent domain proceeding. Accordingly, if the governing body of the public entity adopts a resolution of necessity, its attorneys will prepare a complaint in eminent domain and related pleadings to acquire the property by eminent domain. Generally, the complaint in eminent domain will name as defendants any parties that have a recorded interest in the parcel, including the record owners, tenants, easement holders whose interests may be impacted by the acquisition of the property or beneficiaries under deeds of trust. The public entity will serve the property owners and other named defendants with a copy of the summons, complaint and related documents filed with the court. The defendants served with the summons and complaint have thirty (30) days from the date that they are served with the summons and complaint to file an answer or responsive pleading with the court. (Code of Civil Procedure Section 412.20). Property owners should consider retaining an attorney with experience in eminent domain proceedings to represent them in such proceedings. The parties can continue to negotiate after the eminent domain proceeding is filed.

### Orders for Prejudgment Possession and Deposit of Probable Compensation

### Can the public entity take possession of the property before trial?

A public entity may request an order from the court for early possession of the property. This is called an order for prejudgment possession.

#### Deposit of Probable Compensation

To obtain an order for prejudgment possession, the public entity must show that it is entitled to acquire the property by eminent domain and that it has deposited with the court for deposit into the county treasury or directly with the State Treasury the amount of probable compensation for the real property. The public entity must submit a summary of the basis for the appraisal when it applies to deposit the amount of probable compensation with the court. The date on which the public entity deposits the probable amount of compensation is generally the date of value in the proceeding. This means that the appraisers for the public entity and property owners will determine the fair market value of the real property in the eminent domain proceeding as of the date of value.

#### Objection to Motion for an Order for Possession

Property owners have the right to oppose a public entity's motion for an order for prejudgment possession. The public entity's motion for an order for prejudgment possession notifies property owners that they have the right to oppose the motion and that they must serve the public entity and file with the court the opposition to the motion within thirty (30) days from the date on which the property owner was served with the motion. If the property owners' opposition asserts a hardship, it has to be supported by a declaration signed under penalty of perjury stating facts supporting the hardship. The public entity can file a reply to the opposition not less than fifteen (15) days before the hearing. At the hearing, if the motion is opposed, the court may enter an order for possession of the property after considering the relevant facts and any opposition if it finds each of the following:

- The public entity is entitled to take the property by eminent domain;
- The public entity has deposited the amount of probable compensation pursuant to Code of Civil Procedure Section 1255.010 *et seq.*;
- There is an overriding need for the public entity to possess the property prior to the issuance of final judgment in the case and the public entity will suffer a substantial hardship if the application for possession is denied or limited; and
- The hardship that the public entity will suffer if possession is denied or limited outweighs any hardship on the defendant or occupant that would

be caused by the granting of the order for possession. (Code of Civil Procedure Section 1255.410).

#### Withdrawal of Deposit of Probable Compensation

Property owners can apply to withdraw the funds on deposit with the court. Property owners must serve a copy of their application to withdraw the funds on the public entity. The court cannot order the disbursement of the funds on deposit until twenty (20) days after the date on which the application for withdrawal was served on the public entity. The public entity may file an objection to the withdrawal if, for example, other parties to the proceeding are known or believed to have an interest in the just compensation. Property owners waive any challenges to the public entity's right to take if they withdraw the funds on deposit with the court. Property owners do not, however, waive their claims for greater compensation for the property if they withdraw the funds on deposit.

#### **Exchange of Valuation Data**

The parties can agree to exchange statements of valuation data containing the information required by Code of Civil Procedure Section 1258.260 or appraisal reports containing that information on a mutually-agreed to date. If the parties do not mutually agree to exchange valuation data on a specific date, the date of exchange is ninety (90) days before the commencement of trial on the issue of just compensation. This gives the parties the opportunity to analyze the fair market value opinions of the other party's expert and sales data or appraisal methodology relied on by the other party's expert. The parties will generally take the depositions of the other party's appraiser. After the parties exchange valuation data, the parties often negotiate a settlement at a mediation, during informal settlement negotiations, or during a mandatory settlement conference.

#### Trial

In eminent domain proceedings, the judge decides legal issues, such as the right to take, the issue of what constitutes a larger parcel, and the issue of entitlement to certain damages. Property owners are entitled to have the jury determine the amount of just compensation. The parties resolve the majority of eminent domain proceedings prior to trial.

# Vacating the Property

# When will property owners and tenants be required to move from the property?

If the public entity and property owners reach a negotiated settlement, the public entity will attempt to determine a mutually agreeable date for owners to move. If the property is condemned, the public entity cannot require the owners to move without a

court order. If the subject property is lawfully occupied, the public entity must serve the property owners with a motion for an order for prejudgment possession ninety (90) days before the court hearing. Orders for prejudgment possession are discussed more fully above. If the order for prejudgment possession is granted, the public entity must serve the property owners with the order thirty (30) days before it intends to take possession of the subject property. If the subject property is unoccupied, the public entity must serve the property owners with a motion for an order for possession sixty (60) days before the court hearing. If the order for prejudgment possession is granted, the public entity must serve the property owners with the order for prejudgment possession ten days before it intends to take possession of the subject property.

#### **Relocation Assistance**

Property owners and occupants of property (tenants) that are displaced as the result of a public project, may be entitled to relocation assistance and benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*), if applicable, or under Title 1, Division 7, Chapter 1 of the Government Code of the State of California (Section 7260 *et seq.*) and the Relocation Assistance and Real Property Acquisition Guidelines (Chapter 6 of Title 25 of the California Code of Regulations). Benefits may include moving expenses, reestablishment costs, rent differential payments, or interest differential payments. A relocation consultant, hired by the public entity, will meet with the property owners and or tenants to determine their eligibility and potential benefits.

#### Loss of Business Goodwill

Goodwill is the benefit that accrues to a business as a result of its location, reputation, skill and other factors that contribute to a business maintaining and acquiring patrons. Public entities are required to compensate owners of a business conducted on the property, or on the remainder parcel, if the business owners prove all of the following:

- The loss is caused by the taking of the property or the injury to the remainder;
- The loss cannot reasonably be prevented by taking steps and adopting
  procedures that a reasonably prudent person would take and adopt in
  preserving the goodwill;
- Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
- Compensation for the loss will not duplicated in the compensation otherwise awarded to the owner.

Eminent Domain Informational Pamphlet Page 9 of 9

Business owners must raise their claim for loss of business goodwill in their answer to the public entity's complaint. The public entity will engage a business valuation expert to determine the value of the goodwill of the business in the eminent domain proceeding. Business owners also generally engage a business valuation expert in the eminent domain proceeding.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS TO DETERMINE THE NECESSITY TO ACQUIRE PROPERTY BY EMINENT DOMAIN FOR THE SHANNON ROAD CAPITAL IMPROVEMENT PROJECT; TO AUTHORIZE COMMENCEMENT OF LITIGATION TO ACQUIRE PROPERTY BY EMINENT DOMAIN; AND TO SEEK AN ORDER OF PREJUDGMENT POSSESSION (CODE OF CIVIL PROCEDURE SECTION 1245.220)

Property Owner: Ray M. Elam, III, Trustee, Elam Family Trust Property Address: 14915 Shannon Road, Los Gatos, CA (portion)

APN: 537-27-047

WHEREAS, the Town of Los Gatos proposes to acquire a portion of that certain real property located in the Town of Los Gatos, County of Santa Clara, State of California that is designated Assessors Parcel No. 537-27-047 ("Larger Parcel"). Specifically, an approximately 29,807 square foot portion of the Larger Parcel comprised of (a) an approximately 21,929 square foot strip of land within the Town's existing Shannon Road right of way; and (b) an approximately 7,878 square foot strip of land along the Larger Parcel's frontage on Shannon Road, as more particularly described and depicted in Exhibit A incorporated herein by reference (the "Subject Property") for the Shannon Road Capital Improvement Project ("Project");

WHEREAS, the Project will repair the roadbed and bring the road into compliance with existing Town standards, including by increasing the width of the paved road surface, installing guardrails, and installing retaining walls on the north side of Shannon Road;

WHEREAS, the Town is vested with the power of eminent domain to acquire real property interests by eminent domain for the public use set forth herein in accordance with the California Constitution, Article 1, Section 19; the California Eminent Domain Law, Code of Civil Procedure Section 1230.010 *et seq.*, including, but not limited to, sections 1240.010 through 1240.050 inclusive, and sections 1240.110, 1240.120, 1240.150, 1240.220, 1240.320, 1240.330, 1240.350, 1240.410, 1240.510, 1240.610, 1240.650, and 1240.660; Government Code section 37350.5; Streets & Highway Code section 10102; and other provisions of law;

WHEREAS, the Town fully complied with the requirements of the California Environmental Quality Act (Public Resources Code sections 21000 *et seq.*) for acquiring the Subject Property when on September 4, 2024, the Town determined that the Project is categorically exempt from CEQA pursuant to 14 California Code of Regulation, sections 15301 (Existing Facilities Exemption) and 15061(b)(3) (Common Sense Exemption). The Town filed the Notice of Exemption in accordance with Public Resources Code section 21152 on September 10, 2024. No further environmental review is required;

**WHEREAS**, the Subject Property was appraised by an independent real estate appraiser and an amount believed to be probable just compensation for the Subject Property was established by the Town;

**WHEREAS**, a written offer for the full appraised value was mailed to the owner or owners of record for the Subject Property, pursuant to Government Code section 7267.2;

WHEREAS, on August 29, 2024, the Town mailed a Notice of Intention to Consider Adoption of a Resolution of Necessity ("Notice") for acquisition by eminent domain of the Subject Property. As required by Code of Civil Procedure section 1245.235, the Notice was mailed to all persons whose name(s) appear on the last County of Santa Clara Equalized County Assessment Roll as having an interest in the Subject Property, and to the addresses appearing on the Roll. The Notice advised the persons of their right to be heard on the matters referred to in the Notice on the date and at the time and place stated;

WHEREAS, the Notice informed the owner of its right to appear and to be heard by the Board of Supervisors on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property sought to be acquired is necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record; and

**WHEREAS**, the hearing referenced in the Notice was held on September 17, 2024, at the time and place stated in said notice, and all interested parties were given an opportunity to be heard on the following matters:

- A. Whether the public interest and necessity require the Project;
- B. Whether said Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
  - C. Whether the Subject Property is necessary for the Project; and
- D. Whether the offer required by Government Code section 7267.2 has been made to all owners of record.

# NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY FIND, RESOLVE, AND DETERMINE AS FOLLOWS BY A VOTE OF FOUR-FIFTHS OR MORE OF ITS MEMBERS:

- 1. The recitals contained herein are true and correct;
- 2. The Subject Property is situated in the Town;
- 3. The public interest and necessity require the Project;
- 4. The interests in the Subject Property described and depicted in <u>Exhibit A</u> sought to be acquired by eminent domain are necessary for the Project;
- 5. The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

- 6. The Town has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Subject Property, as well as any other matter regarding the right to take said Subject Property by eminent domain, including but not limited to, making the offer required by Government Code section 7267.2;
- 7. Insofar as any portion of the Subject Property has heretofore been appropriated for public use, the proposed use set forth herein constitutes a compatible use under Code of Civil Procedure section 1240.510 or alternatively a more necessary public use to which the Subject Property is appropriated pursuant to Code of Civil Procedure sections 1250.410, 1240.610, and 1240.650. The Town is, thus, empowered to acquire the Subject Property for a compatible public use pursuant to Code of Civil Procedure section 1240.510 *et seq.*, and a more necessary public use pursuant to Code of Civil Procedure section 1240.610 *et seq.*;
  - 8. All environmental review required by law has been prepared and adopted; and
- 9. The Town Attorney is hereby authorized to acquire in the name of the Town the Subject Property described in this Resolution in accordance with the provisions of California Eminent Domain Law, to commence an action in eminent domain, to deposit the probable amount of just compensation with the State Condemnation Fund, to apply to the Superior Court for an order permitting the Town to take immediate possession and make immediate use of the Subject Property for the Project, to take all necessary steps to acquire the Subject Property under the law, and to take such actions as he or she may deem advisable or necessary in connection therewith.

PASSED AND ADOPTED, by the Town Council of the Town of Los Gatos, State of California on September 17, 2024, by the following vote:

COUNCIL MEMBERS	
AYES:	
NOES:	
ABSTAIN:	
ABSENT:	
	SIGNED:
	MANUAR OF THE TOWN OF LOG CATOO
	MAYOR OF THE TOWN OF LOS GATOS,
	CALIFORNIA
	DATE.
	DATE:

	ITEM NO. 11.
ATTEST:	

TOWN CLERK

## Exhibits:

A. Legal Description and Plat Map of the Subject Property

# EXHIBIT A LEGAL DESCRIPTION Shannon Road Grant of Right of Way

All that certain real property situate in the Town of Los Gatos, County of Santa Clara, State of California, being a portion of the lands granted to Diane Barnett and Ray M. Elam, III as Co-Trustees of the Elam Family Trust A by deed filed for record May 29, 2015 as Document 22970019 in the office of the Santa Clara County Recorder, being more particularly described as follows:

Commencing at an iron pipe in monument box located at the northerly terminus of that certain course shown as "N 46° 11' 21" W, 394.60" on the map entitled "Record of Survey of the Monument Line of Shannon Road..." filed for record July 13, 1978 in Book 422 of Maps at Pages 39-46 in said Recorder's office; said course being depicted on sheet 4 of 8 therein, thence from said point of commencement North 07°12′24" West, 26.58 feet to the true Point of Beginning of this description; thence South 55°48'03" East, 31.91 feet; thence South 48°26'38" East, 45.97 feet; thence South 46°41'49" East, 107.02 feet; thence South 45°34'03" East, 124.07 feet to the beginning of a curve concave northeasterly having a radius of 500.00 feet; thence southeasterly along the arc of said curve 74.81 feet through a central angle of 08°34'21 to the beginning of a non-tangent curve concave northeasterly having a radius of 350.00 feet, from which point the radius bears North 34°44′06" East; thence southeasterly along the arc of said curve 99.18 feet through a central angle of 16°14′09"; thence South 71°30′03" East, 57.32 feet to the beginning of a curve concave southerly having a radius of 375.00 feet; thence easterly along the arc of said curve 38.43 feet through a central angle of 5°52'20"; thence South 65°37'44" East, 153.47 feet; thence North 24°22'16" East, 5.00 feet; thence South 65°37'44" East, 9.00 feet; thence South 24°22'16" West, 5.00 feet; thence South 65°37'44" East, 33.94 feet; thence North 24°22'16" East, 33.00 feet; thence South 65°37'44" East, 20.00 feet; thence South 24°22'16" West, 33.00 feet; thence South 65°37'44" East, 68.97 feet to the beginning of a curve concave southerly having a radius of 325.00 feet; thence southeasterly 44.19 feet through a central angle of 07°47'28"; thence South 57°50' 15' East, 25.21 feet; thence North 32°09'45" East, 5.00 feet; thence South 57°50'15" East, 10.00 feet; thence South 32°09'45" West, 5.00 feet; thence South 57°50'15" East, 33.40 feet to the beginning of a non-tangent curve concave southwesterly having a radius of 335.00 feet, from which point the radius bears South 43°55'48" West; thence southerly along the arc of said curve 54.96 feet through a central angle of 09°24'00"; thence South 25°59'14" East, 57.73 feet to a point in the westerly line of that certain 72.14 acre tract granted to Manuel F. Escover by deed dated November 27, 1922, filed for record in Book 566 of Deeds at Page 403 in said Recorder's office, from which point an iron pipe in monument box located at the southerly terminus of that certain course shown as "N 30°09'05" W, 240.63" on sheet 4 of said Record of Survey bears South 16°54'19" East, 167.68 feet; thence along said westerly line South 23°40'51" West, 38.50 feet to an iron pipe set at the southwesterly corner of said 72.14 acre tract; said corner being further described as

# LEGAL DESCRIPTION (cont.) Shannon Road Grant of Right of Way

lying in the center of Shannon Road; thence along the southwest line of said lands of Elam et. al., said southwest line also being the centerline of Shannon Road, the following courses and distances, each as shown on that certain map entitled "Record of Survey of a portion of Shannon Road" filed for record May, 28, 2024 in Book 962 of Maps at Page 10 in said Recorder's office, North 24°21'16" West, 20.92 feet to the beginning of a curve concave southwesterly having a radius of 285.00 feet; thence northwesterly along the arc of said curve 214.93 feet through a central angle of 43°12'32"; thence North 67°33'47" West, 69.26 feet to the beginning of a curve concave northerly having a radius of 500.00 feet; thence northwesterly along the arc of said curve 25.95 feet through a central angle of 02°58'26"; thence North 64°35'21" West, 150.28 feet to the beginning of a curve concave southerly having a radius of 750.00 feet; thence westerly along the arc of said curve 90.05 feet through a central angle of 06°52'46"; thence North 71°28'07" West, 42.02 feet to the beginning of a curve concave northerly having a radius of 360.00 feet; thence northwesterly along the arc of said curve 161.26 feet through a central angle of 25°39'54"; thence North 45°48'13" West, 199.08 feet to the beginning of a curve concave southwesterly having a radius of 2,500.00 feet; thence northwesterly along the arc of said curve 127.44 feet through a central angle of 02°55'14"; thence leaving said centerline of Shannon Road North 41°16'33" East, 20.00 feet to the point of beginning.

Containing 29,807 square feet, more or less.

Bearings used in this description are based upon the California Coordinate System of 1983 (CCS83), Zone 3.

Prepared under the direction of:



Charles M. Weakley, L.S. 6421



## **DATUM NOTE:**

Bearings shown are based upon the Callington Of State all California Coordinate System of 1983 (CCS1983), Zone 3, epoch 2021.3.

CURVE DATA TABLE			
NO.	DELTA	LENGTH	RADIUS
C1	08° 34' 21"	74.81'	500.00'
C2	16° 14' 09"	99.18'	350.00'
C3	05° 52' 20"	38.43'	375.00'

Right of Way 29,807± sq. ft.

LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	N07° 12' 24"W	26.58'
L2	S55° 48' 03"E	31.91'
L3	S48° 26' 38"E	45.97'
L4	S71° 30' 03"E	57.32'
L5	S65° 37' 44"E	153.47'
L23	N71° 28' 07"W	42.02'
L24	N41° 16' 33"E	20.00'

Point of Commencement, Fnd. monument per R-1

N: 1,907,166.93 E: 6,145,747.40

DIDUC (private Road) D WAY

Point of Beginning

New R/W Line

# **LEGEND**

See curve or line data table C1 or L1

Rad

**Radial Bearing** 

R-1

Bk. 422 Maps, Pg. 39-46

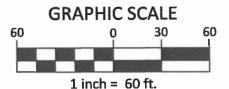
### **EXHIBIT B**

Plat to Accompany Legal Description



1735 Enterprise Dr, Suite 109 PH (707) 425-6234 Fairfield, CA 94533 FAX (707) 425-1969 Occupational & per 2023 Survey (Property Line per Deed Reference)

POAD

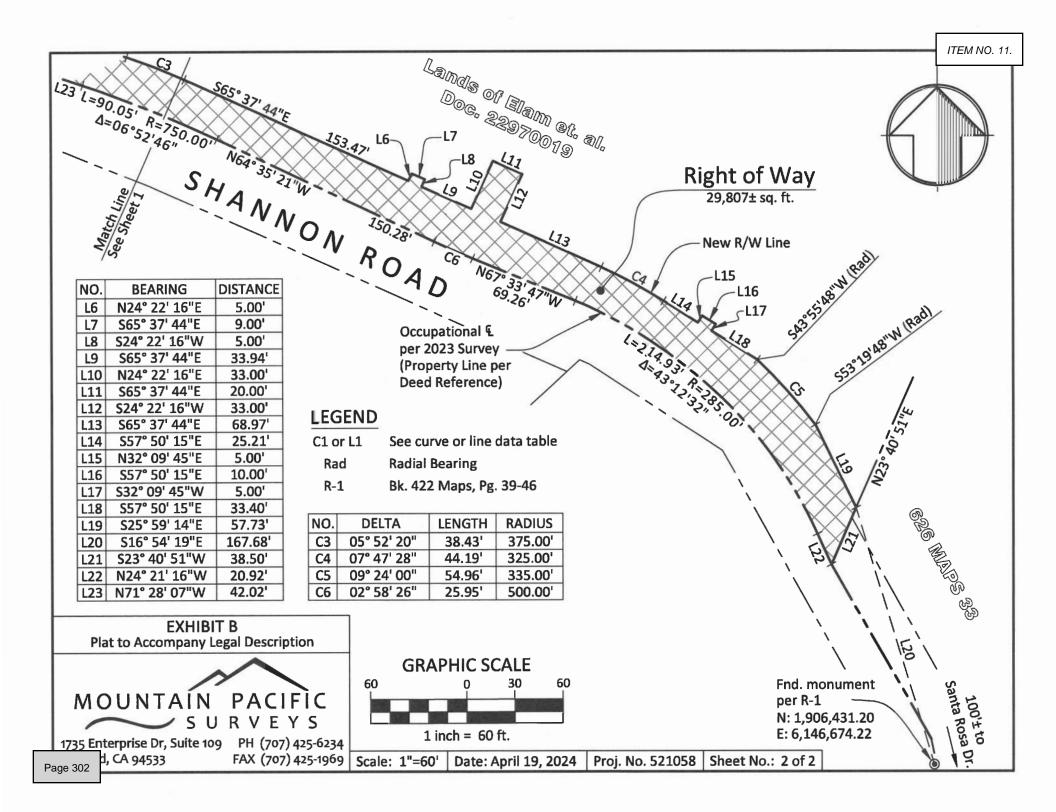


Scale: 1"=60'

Date: April 19, 2024

A=25°38,360.007

Proj. No. 521058 | Sheet No.: 1 of 2





# TOWN OF LOS GATOS OFFICE OF THE TOWN ATTORNEY

(408) 354-6880 Attorney@LosGatosCA.gov

#### CERTIFIED MAIL RETURN RECEIPT REQUESTED AND EMAIL

August 29, 2024

Ray M. Elam, III Trustee, Elam Family Trust 1432 Sea Ridge Drive Newport Beach, CA 92660 E-mail: budelam@gmail.com

Ray M. Elam, III Trustee, Elam Family Trust 2549 Eastbluff Drive, Unit 361 Newport Beach CA 92660

NOTICE OF INTENTION TO CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY TO ACQUIRE PROPERTY BY EMINENT DOMAIN; AUTHORIZING COMMENCEMENT OF LITIGATION TO ACQUIRE PROPERTY AND FOR ORDER OF POSSESSION

Town of Los Gatos Shannon Road Capital Improvement Project 14915 Shannon Road, Los Gatos, CA (Portion) APN: 537-27-047

Re: Notice of Hearing to Consider Adoption of a Resolution of Necessity to Acquire Property by Eminent Domain. (Code Civ. Proc. § 1245.235.)

1. Notice of Hearing where the Town Council of the Town of Los Gatos will Consider Adopting a Resolution of Necessity. The Town Council of the Town of Los Gatos ("Council") intends to hold a hearing to consider whether a Resolution of Necessity should be adopted that, if adopted, will authorize the Town of Los Gatos ("Town") to acquire a portion of your property located at 14915 Shannon Road, Los Gatos, CA (APN 537-27-047) ("Larger Parcel") by eminent domain for the Shannon Road Capital Improvement Project ("Project"). Specifically, an approximately 29,807 square foot portion of the Larger Parcel comprised of (a) an approximately 21,929 square foot strip of land within the existing Shannon Road right of way; and (b) an approximately 7,878 square foot strip of land along the Larger Parcel's frontage on Shannon Road (collectively, the "Subject Property"). Attached hereto as Exhibit A is a legal description and map of the Subject Property.

The Town is sending you this notice of a public hearing because your name appears on the last equalized State Board of Equalization Assessment Roll for the Larger Parcel.

DATE OF HEARING:

September 17, 2024

TIME OF HEARING:

7:00 p.m., or as soon as the matter may be heard

PLACE OF HEARING:

Town Hall

110 E. Main Street Los Gatos, CA 95030

- 2. Notice of Your Right to Appear and Be Heard. You have the right to appear and be heard before the Council at the above-scheduled hearing on the following matters and issues and to have the Council give consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:
  - a) Whether the public interest and necessity require the Project;
  - b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
  - c) Whether the Subject Property sought to be acquired is necessary for the Project;
  - d) Whether the Town has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Subject Property, as well as any other matter regarding the right to take said property by eminent domain, including but not limited to, making the offer required by Government Code Section 7267.2(a); and
  - e) Whether the Town has fully complied with the California Environmental Quality Act, Public Resources Code section 21000 *et seq*.

The statutes that authorize the Town to acquire the Subject Property by eminent domain for the Project include, but are not limited to, California Constitution, Article 1, Section 19; the California Eminent Domain Law, Code of Civil Procedure Section 1230.010 *et seq.*, including, but not limited to, sections 1240.010 through 1240.050 inclusive, and sections 1240.110, 1240.120, 1240.150, 1240.220, 1240.320, 1240.330, 1240.350, 1240.410, 1240.510, 1240.610, 1240.650, and 1240.660; Government Code section 37350.5; Streets & Highway Code section 10102; and other provisions of law.

3. Failure to File a Written Request to Be Heard Within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard. If you desire to be heard, or to present information to the Council on the proposed Resolution of Necessity, you are required by law to file a written request with the Town Clerk no later than fifteen (15) days from the date that this notice was mailed. You must file your request to be heard with the Town Clerk, at Town Hall, 110 E. Main Street, Los Gatos, CA 95030 Attn.: Wendy Wood.

If you mail a request to be heard, please keep in mind that it must be actually received by the Town Clerk no later than fifteen (15) days after the date this notice is mailed. (See Code Civ. Proc. § 1245.235(b)(3).)

If you elect not to appear and be heard at the hearing on the proposed Resolution of Necessity, your decision not to appear and be heard will constitute a waiver of your right to challenge the Town's right to acquire the Subject Property by eminent domain. (Code Civ. Proc. § 1245.235(b)(3).) Thus, the matters described in the Resolution of Necessity will be deemed to be established.

4. You Will Not Waive the Right to Claim Greater Compensation if You Do Not Appear at the Hearing. The amount of compensation to be paid for the Subject Property will not be decided or heard at this hearing. Your nonappearance at this noticed hearing will not prevent you from claiming compensation in an amount to be determined by a court of law under the laws of the State of California. This notice is not intended to foreclose further ongoing negotiations between you and Town representatives on the amount of compensation to be paid to you for the Subject Property. At this hearing, the Council will not make any determination about the amount of money to be paid or to be offered to you for the Subject Property.

However, if you elect not to appear and be heard, you will be foreclosed from raising in a court of law the issues which are the subject of this noticed hearing and which are concerned with the right to take the Subject Property by eminent domain.

If the Council elects to adopt the proposed Resolution of Necessity, then within six months of the adoption of the Resolution, the Town will commence eminent domain proceedings in Superior Court to acquire the Subject Property. The amount of compensation to which you are entitled for the Subject Property will be determined in that court proceeding.

Town of Los Gatos

Laurel Prevetti, Town Manage

Dated, mailed, and emailed on: August 29, 2024

Enclosure:

Exhibit A – Legal Description and Plat Map of the Subject Property

# EXHIBIT A LEGAL DESCRIPTION Shannon Road Grant of Right of Way

All that certain real property situate in the Town of Los Gatos, County of Santa Clara, State of California, being a portion of the lands granted to Diane Barnett and Ray M. Elam, III as Co-Trustees of the Elam Family Trust A by deed filed for record May 29, 2015 as Document 22970019 in the office of the Santa Clara County Recorder, being more particularly described as follows:

Commencing at an iron pipe in monument box located at the northerly terminus of that certain course shown as "N 46° 11' 21" W, 394.60" on the map entitled "Record of Survey of the Monument Line of Shannon Road..." filed for record July 13, 1978 in Book 422 of Maps at Pages 39-46 in said Recorder's office; said course being depicted on sheet 4 of 8 therein, thence from said point of commencement North 07°12′24" West, 26.58 feet to the true Point of Beginning of this description; thence South 55°48'03" East, 31.91 feet; thence South 48°26'38" East, 45.97 feet; thence South 46°41'49" East, 107.02 feet; thence South 45°34'03" East, 124.07 feet to the beginning of a curve concave northeasterly having a radius of 500.00 feet; thence southeasterly along the arc of said curve 74.81 feet through a central angle of 08°34'21 to the beginning of a non-tangent curve concave northeasterly having a radius of 350.00 feet, from which point the radius bears North 34°44′06" East; thence southeasterly along the arc of said curve 99.18 feet through a central angle of 16°14′09"; thence South 71°30′03" East, 57.32 feet to the beginning of a curve concave southerly having a radius of 375.00 feet; thence easterly along the arc of said curve 38.43 feet through a central angle of 5°52'20"; thence South 65°37'44" East, 153.47 feet; thence North 24°22'16" East, 5.00 feet; thence South 65°37'44" East, 9.00 feet; thence South 24°22'16" West, 5.00 feet; thence South 65°37'44" East, 33.94 feet; thence North 24°22'16" East, 33.00 feet; thence South 65°37'44" East, 20.00 feet; thence South 24°22'16" West, 33.00 feet; thence South 65°37'44" East, 68.97 feet to the beginning of a curve concave southerly having a radius of 325.00 feet; thence southeasterly 44.19 feet through a central angle of 07°47'28"; thence South 57°50' 15' East, 25.21 feet; thence North 32°09'45" East, 5.00 feet; thence South 57°50'15" East, 10.00 feet; thence South 32°09'45" West, 5.00 feet; thence South 57°50'15" East, 33.40 feet to the beginning of a non-tangent curve concave southwesterly having a radius of 335.00 feet, from which point the radius bears South 43°55'48" West; thence southerly along the arc of said curve 54.96 feet through a central angle of 09°24'00"; thence South 25°59'14" East, 57.73 feet to a point in the westerly line of that certain 72.14 acre tract granted to Manuel F. Escover by deed dated November 27, 1922, filed for record in Book 566 of Deeds at Page 403 in said Recorder's office, from which point an iron pipe in monument box located at the southerly terminus of that certain course shown as "N 30°09'05" W, 240.63" on sheet 4 of said Record of Survey bears South 16°54'19" East, 167.68 feet; thence along said westerly line South 23°40'51" West, 38.50 feet to an iron pipe set at the southwesterly corner of said 72.14 acre tract; said corner being further described as

# LEGAL DESCRIPTION (cont.) Shannon Road Grant of Right of Way

lying in the center of Shannon Road; thence along the southwest line of said lands of Elam et. al., said southwest line also being the centerline of Shannon Road, the following courses and distances, each as shown on that certain map entitled "Record of Survey of a portion of Shannon Road" filed for record May, 28, 2024 in Book 962 of Maps at Page 10 in said Recorder's office, North 24°21'16" West, 20.92 feet to the beginning of a curve concave southwesterly having a radius of 285.00 feet; thence northwesterly along the arc of said curve 214.93 feet through a central angle of 43°12'32"; thence North 67°33'47" West, 69.26 feet to the beginning of a curve concave northerly having a radius of 500.00 feet; thence northwesterly along the arc of said curve 25.95 feet through a central angle of 02°58'26"; thence North 64°35'21" West, 150.28 feet to the beginning of a curve concave southerly having a radius of 750.00 feet; thence westerly along the arc of said curve 90.05 feet through a central angle of 06°52'46"; thence North 71°28'07" West, 42.02 feet to the beginning of a curve concave northerly having a radius of 360.00 feet; thence northwesterly along the arc of said curve 161.26 feet through a central angle of 25°39'54"; thence North 45°48'13" West, 199.08 feet to the beginning of a curve concave southwesterly having a radius of 2,500.00 feet; thence northwesterly along the arc of said curve 127.44 feet through a central angle of 02°55'14"; thence leaving said centerline of Shannon Road North 41°16'33" East, 20.00 feet to the point of beginning.

Containing 29,807 square feet, more or less.

Bearings used in this description are based upon the California Coordinate System of 1983 (CCS83), Zone 3.

Prepared under the direction of:



Charles M. Weakley, L.S. 6421



## **DATUM NOTE:**

Bearings shown are based upon the Callington Of State all California Coordinate System of 1983 (CCS1983), Zone 3, epoch 2021.3.

CURVE DATA TABLE			
NO.	DELTA	LENGTH	RADIUS
C1	08° 34' 21"	74.81'	500.00'
C2	16° 14' 09"	99.18'	350.00'
C3	05° 52' 20"	38.43'	375.00'

LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	N07° 12' 24"W	26.58'
L2	S55° 48' 03"E	31.91'
L3	S48° 26' 38"E	45.97'
L4	S71° 30' 03"E	57.32'
L5	S65° 37' 44"E	153.47'
L23	N71° 28' 07"W	42.02
L24	N41° 16' 33"E	20.00'

Right of Way 29,807± sq. ft.

Point of Commencement, Fnd. monument per R-1 N: 1,907,166.93

E: 6,145,747.40

DIDUC (private Road) D WAY

Point of Beginning

New R/W Line

# **LEGEND**

See curve or line data table C1 or L1

Rad

**Radial Bearing** 

R-1

Bk. 422 Maps, Pg. 39-46

### **EXHIBIT B**

Plat to Accompany Legal Description



1735 Enterprise Dr, Suite 109 PH (707) 425-6234 Fairfield, CA 94533 FAX (707) 425-1969 Occupational & per 2023 Survey (Property Line per Deed Reference)

POAD

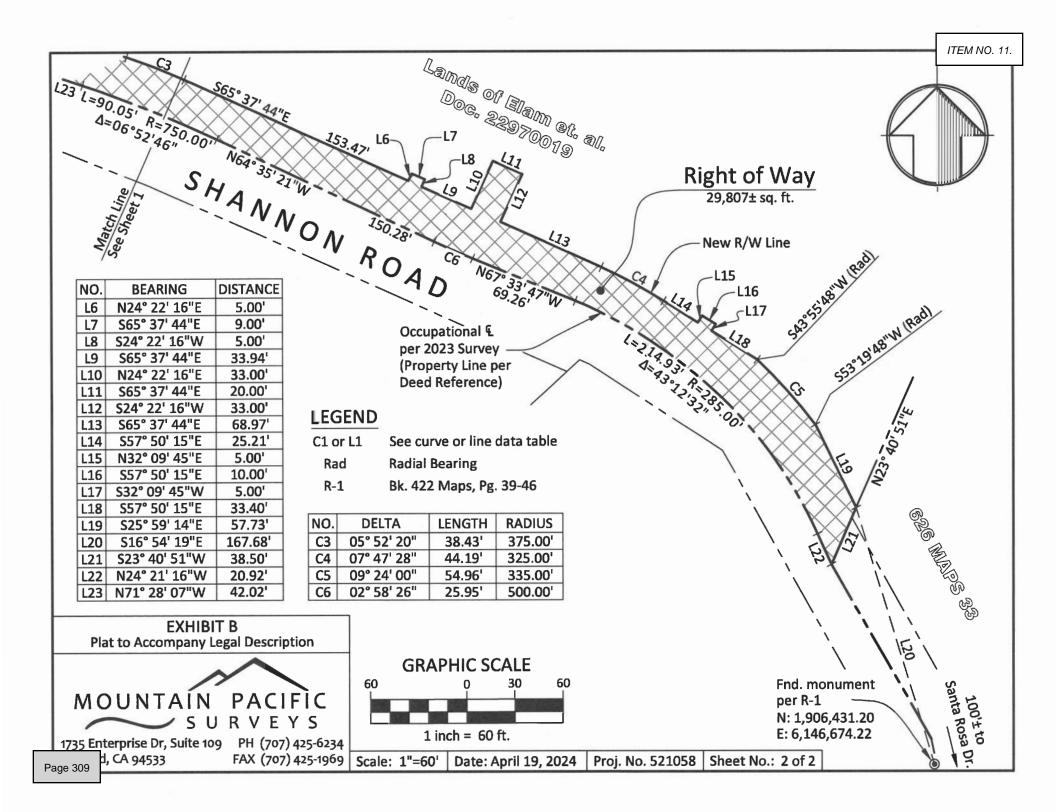
**GRAPHIC SCALE** 60 1 inch = 60 ft.

Scale: 1"=60' Date: April 19, 2024

A=25°38,360.007

Proj. No. 521058 | Sheet No.: 1 of 2

Page 308





# TOWN OF LOS GATOS COUNCIL AGENDA REPORT

MEETING DATE: 09/17/2024

**ITEM NO: 12** 

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Receive an Update on the Downtown Restroom Feasibility Study (CIP No.

821-2011) and Provide Direction to Town Staff

#### **RECOMMENDATION:**

Receive an Update on the Downtown Restroom Feasibility Study (CIP No. 821-2011) and Provide Direction to Town Staff.

#### **BACKGROUND**:

Per the direction of Town Council, funding for the Downtown Restroom Feasibility Study (CIP No. 821-2011) was provided in the Fiscal Year (FY) 2023/2024 Capital Budget. The purpose of this project is to analyze locations for a public restroom facility in the Downtown.

On May 7, 2024, Town staff presented the Downtown Restroom Feasibility Study to Town Council<sup>1</sup> (Item 14). This study evaluated potential sites for consideration for a new downtown restroom facility. The primary factors for site selection included: proximity and value to the downtown area, financial efficiency, utility adjacency, accessibility, safety, and flexibility. From these criteria, the consultant assessed four potential sites (some with various options for placement) for consideration for the new restroom facility:

- Site 1: Northwest corner of Town Plaza Park
- Site 2: Southeast corner of Parking Lot #6 (West Main Street & Victory Lane)
- Site 3: North edge of Parking Lot #5 (Elm Street)
- Site 4: South edge of Parking Lot #5 (West Main Street)

 $\frac{https://meetings.municode.com/adaHtmlDocument/index?cc=LOSGATOS\&me=7f5087ff8d7a4bffa21c7f33e58fa2dee\&ip=True$ 

PREPARED BY: Marina Chislett

**Environmental Programs Specialist** 

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

<sup>&</sup>lt;sup>1</sup> Restroom Report May 2024:

#### PAGE 2 OF 4

SUBJECT: Receive an Update on the Downtown Restroom Feasibility Study (CIP No. 821-

2011) and Provide Direction to Town Staff

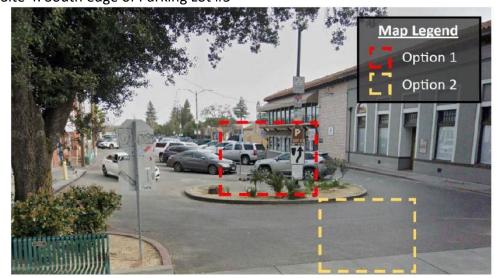
DATE: September 12, 2024

After consideration of the four sites, Town Council identified Site 1 (Options 1 and 2) and Site 4 (Option 1) as being the most optimal locations for a new downtown restroom facility. Site 1, Option 1 is in Plaza Park at the location of a raised planter bed along South Santa Cruz Avenue near Main Street. Site 1, Option 2 is in Plaza Park adjacent to the existing bus shelter. Site 4, Option 1 is at the south end of Parking Lot 5, across the street from Plaza Park. Town staff was directed to continue to review the options, review safety concerns with the Police Department and consider whether Site 4 is visible enough.

Figure 1. Site 1: Northwest corner of Plaza Park



Figure 2. Site 4: South edge of Parking Lot #5



#### PAGE 3 OF 4

SUBJECT: Receive an Update on the Downtown Restroom Feasibility Study (CIP No. 821-

2011) and Provide Direction to Town Staff

DATE: September 12, 2024

#### **DISCUSSION**:

Town staff met with the Police Department in the field to evaluate both locations on June 10, 2024. After a thorough evaluation of both sites, the Police Department recommends a new restroom facility at Site 1 Option 1 or Option 2. Site 4 was not recommended for the following reasons:

- The addition of a new restroom facility will block a major thoroughfare through a highly trafficked area resulting in bottlenecking at the southside of Parking Lot #5.
- There are concerns about crime being tucked away in a parking lot and not in the immediate line of site.
- Potential odors, vandalism, or nefarious behavior, should that occur, could negatively
  impact the surrounding businesses that would be within close proximity of the new
  restroom facility.

Site 1, Option 2 is the current location for the temporary downtown restroom facility. The single-occupancy porta potty was installed on August 31, 2023. Due to heavy usage, servicing of this facility was increased from two times per week to three times per week in February 2024. Additional temporary facilities or servicing are required to accommodate events at Plaza Park. Aside from special events, the temporary facility continues to require monitoring and follow-up to ensure proper servicing. Town staff recommends a two single-occupant restroom facility that is serviced daily on the same schedule as other Town restroom facilities to ensure it is providing the most civic value to the community.

#### **CONCLUSION:**

After evaluation with the Police Department of the locations identified by Town Council, and feedback from staff regarding current usage and maintenance of the temporary restroom facility, staff recommends a two single-occupant restroom facility at Plaza Park at the location of the existing porta potty (Site 1, Option 2) . This would provide the most civic value to the community with consideration to space and size limitations as well as usage and maintenance needs.

If the Town Council wishes to move forward, it should direct staff to include the project for consideration in the upcoming Capital Improvement Program.

#### **FISCAL IMPACT**:

This feasibility study was allocated \$25,000 (CIP No. 821-2011) and the funding has been expended. There is no current funding allocation for the design of a permanent restroom. Staff

#### PAGE 4 OF 4

SUBJECT: Receive an Update on the Downtown Restroom Feasibility Study (CIP No. 821-

2011) and Provide Direction to Town Staff

DATE: September 12, 2024

expects design and permitting costs of approximately \$100,000. Construction may range from \$450,000 to \$550,000.

Following construction of this new building, there will be an operating budget impact to Parks and Public Works to manage and maintain the structure. The Facilities Team would manage the building and day to day cleaning would require additional contract services for the janitorial vendor.

#### **ENVIRONMENTAL ASSESSMENT:**

This is not a project defined under CEQA.



MEETING DATE: 09/17/2024

**ITEM NO: 13** 

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Provide Direction on a Potential Senior Services Coordinator, Approve an

Expenditure and Revenue Budget Adjustment in the Amount of \$74,135 to Allocate Fiscal Year 2023/24 Carryforward Grant Funding, and Approve Any

Other Necessary Expenditure Budget Adjustments

#### **RECOMMENDATION:**

Provide direction on a potential Senior Services Coordinator, approve an Expenditure and Revenue Budget Adjustment in the amount of \$74,135 to allocate Fiscal Year 2023/24 Carryforward County Grant funding, and approve any necessary other expenditure budget adjustments.

#### **BACKGROUND:**

On May 21, 2024, the Town Council directed staff to look into the cost of either hiring or contracting for a 0.4 full time equivalent (FTE) for a Senior Services Coordinator.

On June 11, 2024, the Community Health and Senior Services Commission (CHSSC) discussed the 0.4 FTE Senior Services Coordinator position and made a motion to recommend to Town Council that the Town hire a full-time Senior Services Coordinator with duties as described in the Commission's Annual Report (page 30) (Attachment 1).

On August 6, 2024, the Town Council considered options for the Senior Services Coordinator position that can be found as part of the agenda materials for Item 19.<sup>1</sup> Town Council directed staff to return to CHSSC for a recommendation on the options provided, with the following

PREPARED BY: Katy Nomura

**Assistant Town Manager** 

Reviewed by: Town Attorney and Finance Director

<sup>&</sup>lt;sup>1</sup> August 6, 2024 Town Council Agenda:

#### PAGE 2 OF 4

**SUBJECT: Senior Services Coordinator** 

DATE: September 12, 2024

suggested working parameters: look at the elements of options one and two; work in collaboration with LGS Rec; and start the position as a contract service in the range of about \$110,000 for around one full-time position.

On August 22, 2024, the CHSSC considered the options and felt the Analyst position was the most appropriate level. The CHSSC recommended that the Town Council, as a pilot program, hire a contracted 0.8 FTE Senior Services Coordinator with the job responsibilities found in the core ideas contained in the duties as described in the Commission's Annual Report (page 30) (Attachment 1) and the supplemental duties found in Attachment 2. It was recommended that the contract should emphasize a collaborative and collegial relationship between the contractor and service providers to ensure an integrated senior services model.

#### **DISCUSSION:**

On August 6, 2024, the Council considered options for duties for a Senior Services Coordinator at the levels of an Administrative Assistant, Analyst, or Case Manager.

#### **Analyst Duties**

Given the direction from the Town Council and the recommendations from the CHSSC, staff recommends that the duties of the potential Senior Services Coordinator align with the Analyst level and include:

- Act as a Town liaison to senior services providers by serving as a key point of contact, communicating any feedback from users regarding their services, and sharing other information that might be useful to the providers.
- Coordinate among senior services providers and assess service gaps/unmet needs.
  - Note: The coordination could involve sharing what other providers are doing, suggesting synergies and opportunities to collaborate among different providers, and to have a general pulse on service provider activities and needs. This would not be the same as directing the providers as they are not under the purview of the Town.
- Collect information from and about senior service providers and share them with the senior community.
- Provide suggestions on potential changes in service delivery or ways the Town/providers could better support seniors.
  - Note: Providers would not need to implement any suggestions as the Town does not have authority over them.
- Support implementation of the Senior Roadmap.
  - o This could include elements of encouraging volunteering as appropriate.
  - Note: The amount of support provided would be limited by the number of hours per week and bandwidth after completing other duties. It is also worth noting that not all of the Senior Roadmap actions are for the Town to implement;

#### PAGE 3 OF 4

SUBJECT: Senior Services Coordinator

DATE: September 12, 2024

however, the Senior Services Coordinator could facilitate and monitor the implementation actions of other groups in some instances.

While these examples of duties do not incorporate every element of what was recommended, they attempt to capture the most appropriate duties with flexibility to expand or evolve. Certain duties that were recommended may not be appropriate or feasible. For example, the 55+ HUB website is hosted and maintained by LGS Recreation and it would not be appropriate or necessary for another contractor to have access. In addition, while measuring service provider performance could be enlightening, the Town does not have authority over their performance and would be better served focusing on service gaps. It is also worth noting that while this position, if approved, would undoubtedly interact with the CHSSC in the course of business, the position would not report to the CHSSC and would conduct work as directed by the Town Manager or their designee.

If the position is contracted out, staff would conduct a Request for Proposals (RFP)/Request for Qualifications (RFQ) to determine actual costs. For reference, a 0.75 FTE benefited Analyst with the Town would cost an estimated \$182,000. If the Town Council would like to proceed with a contracted position, it may be most appropriate to set a not-to-exceed dollar amount and staff would issue an RFP/RFQ with that information and direction, allowing respondents to determine how many hours that level of funding would support.

#### **Administrative Assistant/Navigator Duties and Case Manager Duties**

In the context of potential Administrative Assistant and Case Manager duties, the Town Council previously discussed the \$74,135 in one-time County grant funding that the Town has available for senior case management and/or senior services navigation support, which align with the duties explored at the Administrative Assistant level. Since the proposed duties at the Analyst level do not cover these functions, this funding would not be able to be used for the position.

Staff confirmed that senior services navigation support is already being provided by LGS Recreation as expressed in the information LGS Recreation provided regarding the Senior Services Coordinator options (Attachment 3). LGS Recreation indicated that if enhancements to their senior services navigation support are desired, such as an additional level of follow up, this could be implemented with additional funding. Regarding non-medical case management, LGS Recreation expressed interest (Attachment 4) in partnering with the Town to bring non-medical case management to the senior community. LGS Recreation committed to contributing \$10,000 of the grant funding they received through Assemblymember Pellerin's office for this fiscal year to support this effort should the Town wish to collaborate with them to provide senior case management. When combined with the Town's grant funding, this results in approximately \$84,135 to support senior case management. LGS Recreation is uniquely positioned to provide these services as they operate the Adult Recreation Center, the existing 55+ program, and have a willingness and interest in providing case management services to the community at the ARC.

#### PAGE 4 OF 4

SUBJECT: Senior Services Coordinator

DATE: September 12, 2024

Unless directed otherwise, staff will proceed to enter into an agreement with LGS Recreation to provide non-medical senior case management for the Town for the remainder of the fiscal year.

#### **CONCLUSION:**

Staff looks forward to Town Council's direction on this topic. If the Town Council wishes to proceed with a contracted Senior Services Coordinator with the proposed Analyst level duties, a motion to approve a budget adjustment in the desired not-to-exceed amount will be necessary.

#### FISCAL IMPACT:

On December 19, 2023, the Town Council directed staff to use the \$125,000 grant from the County to fund one FTE for Adult Day Services and to contract for senior case management services with the rest of the funds. Of these funds, \$74,135 remains available for senior case management services. To recognize these funds in the current fiscal year, revenue and expenditure budget adjustments in the amount of \$74,135 are required. These grant funds are sufficient to contract for case management services, and when combined with LGS Recreation's proposed contribution of \$10,000, would result in \$84,135 available for senior case management services.

If the Town Council wishes to add a contracted Senior Services Coordinator, a budget adjustment in the desired amount will be needed and would come from the available Capital/Special Projects Reserve.

Since the County grant funding cannot be used for this position, the funds would come from the Town's General Fund. If the position is contracted, the use of funds could be for one year to limit the fiscal impact and allow the Town Council to evaluate whether or not to continue funding such a position at the same level. In previous Town Council discussions on this topic, questions were raised in terms of how to fund this position. If Town Council desired, staff could return with options for offsetting budget cuts for Town Council's consideration.

#### **ENVIRONMENTAL ASSESSMENT**:

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

#### Attachments:

- 1. CHSSC's Recommendation for Senior Services Coordinator Duties
- 2. CHSSC's Supplemental Duties of Senior Services Coordinator
- 3. LGS Recreation Senior Service Coordination Information
- 4. LGS Recreation Case Manager Interest

#### CHSSC Recommends: Appointment of an Age Friendly/Senior Services Coordinator

Vibrant communities provide opportunities for older members to become volunteers and/or to find needed assistance from volunteers. Promoting and supporting volunteerism allows the community to marshal the expertise of older adults and to increase engagement of older adults for the benefit of the entire community. Our Committee found that many older adults want to volunteer, and many others need volunteers for help. With volunteer time in California currently estimated at approximately \$30hr by the Independent Sector organization, the many 1000's of hours available locally represents an important resource for the Town to take advantage of as much as possible.

#### An Age-Friendly Coordinator could address many of these goals:

- •Integrate the delivery of services to older adults
- Assist with implementing the Senior Services Committee's Road Map
- •Report and make recommendations to the Town Council about his/her observations concerning the delivery of services and how best to streamline the services provided by service providers
- •Act as the point of contact for the Commissions, Service Provider organizations, Los Gatos Foundation For Older Adults To Thrive, and regional nonprofits providing services for Los Gatos older adults
- •Be the point of contact for the key provider of recreational services to older adults (currently LGS Recreation)
- Receive information from the three CHSSC activities coordinators involving Communication & Engagement, Roadmap Tracking, and Annual Assessments
- Serve as the point of contact for questions about volunteer opportunities as Roadmap projects advance in support of this goal
- Facilitate review and presentation to Town Council of the Annual Assessment of Senior Services provided by the CHSSC for receipt by the Town Council
- •Provide information and support for the Town Council review of the Roadmap progress and governance on a semiannual basis

As the Roadmap successes accrue in future years and senior services delivery advances, there may be considerable leverage gained by increasing the fractional 0.5 FTE allocation to the Town's Age-Friendly Coordinator. This graded approach could facilitate the transition of Los Gatos senior services governance from a fragmented model to an integrated partnership model.

#### **Next steps:**

- 1. An Age-Friendly Coordinator is hired
- 2. Funding: Town of Los Gatos, Los Gatos Thrives Foundation, Grants,
- 3. Purposed: Ensure the Coordinator is briefed on the senior services landscape. This position would provide an important step to realizing the Roadmap vision of a coordinated partnership for senior services between the Town, Town commissions and boards, the Los Gatos Foundation For Older Adult to Thrive, community service providers, and other nonprofits and regional providers.

#### I. DUTIES OF COORDINATOR:

**Senior Services Landscape Assessment:** The Senior Coordinator shall conduct a comprehensive assessment of the senior services landscape in Los Gatos, including:

- Identifying existing service providers and their offerings
- Assessing service gaps and unmet needs
- Understanding the demographic characteristics of the senior population

**HUB Access:** The Senior Coordinator shall have full access to the HUB for all purposes related to senior services coordination.

**Metric Development and Monitoring:** The Senior Coordinator shall establish and monitor key performance indicators (KPIs) to measure the effectiveness of senior services, including:

- Service utilization rates
- Participant satisfaction
- Cost-effectiveness
- Accessibility
- Collaboration among providers

**Service Integration and Streamlining:** The Senior Coordinator shall conduct analysis to identify overlaps in service delivery, integrate services where appropriate, and make recommendations to streamline the services provided by service providers.

Community Engagement: The Senior Coordinator shall:

- Attend and participate in meetings of the Community Health and Senior Services Commission (CHSSC)
- Report to the CHSSC on the progress of senior services initiatives
- Assist with the implementation of the Senior Services Road Map
- Serve as the point of contact for the provider of recreational services to older adults
- Receive information from the CHSSC on its activities
- Be the point of contact for questions about volunteer activities
- Facilitate the review and presentation of the annual assessment of senior services to the Town Council

Page 319 ATTACHMENT 2

From: Emily Sprugasci
To: Katy Nomura

Subject: Senior Service Coordination

Date: Friday, August 16, 2024 2:32:25 PM

Attachments: image001.png

image002.png image003.png image004.png

#### [EXTERNAL SENDER]

#### Hi Katy,

On August 6, 2024, a series of scenarios were presented to Council regarding Senior Service Coordination. It was Council's direction that the CHSSC connect with LGS Recreation to understand our current and potential role in these efforts. Three options were presented initially, and additional discussion highlighted what may be considered a "Navigator" position and a "Case Manager" position. We courteously provide clarification and suggestions toward an even richer collaboration, submitted as a longstanding prominent and favorable community partner to the Town of Los Gatos.

#### Option 1: Administrative Assistant

- Examples of potential Senior Services Coordinator duties:
  - Answer phone calls regarding senior services
  - Respond to requests for information regarding senior services.
  - Serve as a navigator to help seniors access the appropriate senior services from outside agencies and non-profits, providing some follow up if needed.
  - Compile information from senior services providers that is publicly available or provided directly (does not include analysis or recommendations on such information).
- Cost (calculated using FY 2023/24 salary schedules):
  - 0.4 FTE (unbenefited): \$35,636
  - 1 FTE (benefited including pension costs): \$146,871

This role, as specifically described above, is fulfilled by our 55 Plus team and with additional support by LGS Recreation administration. The 55 Plus office receives hundreds of calls, web visits, emails, and in person visits each month specifically for senior services, responds to requests for information, serves as navigator to help seniors access appropriate senior services from outside agencies and non-profits, and provides onsite resources and support. Information from senior service providers is compiled and publicly available both online, by phone, and onsite at the Adult Recreation Center. Specifically, the HUB online resource has been developed, vetted, and maintained by LGS Recreation and continues to scale to the requests and needs of the community. Should Council seek duties beyond what is currently in place, further follow up for example, this effort can be addressed with expanded staffing via Town support. For high-level reference, a full-time assistant position is approximately \$98,540 (benefited) mid-range.

#### Option 2: Administrative Analyst

- Examples of potential Senior Services Coordinator duties:
  - Act as a Town liaison to senior services providers by serving as a key point of

contact, communicating any feedback from users regarding their services, and sharing other information that might be useful to the providers.

- Coordinate among senior services providers.
  - Note: The coordination could involve sharing what other providers are doing, suggesting synergies and opportunities to collaborate among different providers, and to have a general pulse on service provider activities and needs. This would not be the same as directing the providers as they are not under the purview of the Town.
- Provide suggestions on potential changes in service delivery or ways the Town/providers could better support seniors.
  - Note: Providers would not need to implement any suggestions as the Town does not have authority over them.
- Support implementation of the Senior Roadmap.
  - Note: The amount of support provided would be limited by the number of hours per week and bandwidth after completing other duties. It is also worth noting that not all of the Senior Roadmap actions are for the Town to implement; however, the Senior Services Coordinator could facilitate and monitor the implementation actions of other groups in some instances.
- This higher-level position could also perform duties included in Option 1: Administrative Assistant. If the Council would like the Senior Services Coordinator to perform the duties of Option 1 and Option 2, a full-time position will be necessary for the workload.
- Cost (calculated using FY 2023/24 salary schedules):
  - 0.4 FTE (unbenefited): \$47,322
  - 1 FTE (benefited including pension costs): \$212,042

This position may best be appointed to a consultant or contracted individual and though not an LGS appointed individual, we'd continue to seek a high level of engagement. While LGS Recreation is not solely responsible for the CHSSC Senior Roadmap implementation, we do serve as a key organization and resource for the senior and greater community. Our agency mission and efforts continue to align with the strategic priorities of the Town.

#### Option 3: Senior Case Manager

Note: The Town does not have the internal expertise to manage the responsibilities and liability that come with a position at this level and would need to contract out these duties to an outside organization.

- Examples of potential Senior Services Coordinator duties:
  - Provides casework services to individuals in the areas of crisis intervention, stabilization, and goal planning.
  - Conducts intakes, assessments and follow up appointments with individuals and family members to obtain information for formulating program/service eligibility and case plans.
  - Identifies social, economic and physical needs and barriers with clients; and assesses client's support systems, available community resources and other factors to develop an appropriate case plan.

- Determines client eligibility for services offered by other organizations; collects client information; evaluates and verifies applicable client information.
- Ensures compliance with all Federal, State, local, and department laws, regulations, and requirements.
- Cost: If this option is chosen, staff would conduct a Request for Proposals (RFP)/Request for Qualifications (RFQ) to determine actual costs.

The LGS Recreation 55 Plus program has advocated and previously proposed to Town Council the need for a non-medical Case Manager hosted at the Adult Recreation Center with Town support. This role would improve social service navigation in complex cases. We are very motivated to revisit this opportunity for LGS to contract/onboard this role as part of an expanded negotiation. While the 55 Plus program currently provides support and referrals, this addition would take it even further via individualized appointments, follow up, need identification, eligibility, and compliance oversight. Our vision was that an onsite case manager, enmeshed with the 55 Plus program, would be able to build rapport with the senior community and further community support by hosting requested support groups and providing educational presentations. This effort supports our program mission to offer recreation programs and services to Older Adults to increase connectedness and improve physical, cognitive, and psychological health, as well as Town initiatives. Our previous study identified that a 0.5 FTE Case Manager may cost anywhere from \$54K to \$135K annually. Pellerin grant funding is allocated to support aligned and supplementary efforts to the Case Manager position, but funds will also be broadly allocated in agency-wide efforts to support the objectives of the grant award. Our hope and expectation is that the Case Manager position may be supported in collaboration with all stakeholders.

We look forward to continuing the discussion and appreciate the consideration.

#### Kind regards,



**Emily Sprugasci** 

Recreation Manager

Direct: 408.207.4921 LGS Recreation

Main Office: 408.354.8700







#### **Katy Nomura**

From: Emily Sprugasci

Sent: Thursday, September 12, 2024 11:27 AM

To: Katy Nomura
Cc: Nancy Rollett

**Subject:** Case Manager proposal

#### [EXTERNAL SENDER]

Hi Katy,

LGS Recreation continues to prioritize the Case Manager position as an important collaborative community benefit. After continued consideration and evaluation, LGS Recreation will allocate 10k of Pellerin funds to support the effort. This amount allocation will be for the current budget cycle, not to exceed June 30, 2025. It is our hope and intention that LGS Recreation and the Town of Los Gatos collaborate in this process to secure this trial position, a non-medical Case Manager as proposed.



Emily Sprugasci Recreation Manager Direct: 408.207.4921 LGS Recreation

Main Office: 408.354.8700







1



MEETING DATE: 09/17/2024

ITEM NO: 14

DATE: September 12, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Adopt a Commission Events Policy and Revised Town Council Policy 5-03

"Commission Budgets"

#### **RECOMMENDATION:**

Adopt a Commission Events Policy (Attachment 1) and revised Town Council Policy 5-03 "Commission Budgets" (Attachment 2).

#### **BACKGROUND**:

In an effort to provide consistent guidance to Commissions regarding events and to ensure the appropriate use of staff resources, the Policy Committee considered a potential Commission Events Policy at its June 25, 2024 meeting. The Committee discussed that Commissions should be encouraged to have self-sufficient tabling at existing Town events, rather than separate events, to minimize the use of staff resources. The Committee also discussed a requirement that if a Commission wanted to hold a unique event, as an exception and not the norm, the Commission would submit a recommendation to the Town Council for consideration and approval. It was suggested that if staff support was necessary, that it should not be on the weekends. The draft Commission Events Policy (Policy) in Attachment 1 includes these elements and was considered by the Committee at its August 27, 2024 meeting. Additional background can be found in the staff report provided at that meeting for Item 2.<sup>1</sup>

https://meetings.municode.com/adaHtmlDocument/index?cc=LOSGATOS&me=e87cc1ca17cb426e9eef752c7ed5a 5c0&ip=True

PREPARED BY: Katy Nomura

Interim Town Manager

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

<sup>&</sup>lt;sup>1</sup> August 27, 2024 Policy Committee Staff Report Regarding Draft Commission Events Policy: https://mccmeetingspublic.blob.core.usgovcloudapi.net/losgatos-meete87cc1ca17cb426e9eef752c7ed5a5c0/ITEM-Attachment-003-1f75387fb2e74caaa8a774171eea8019.pdf August 27, 2024 Policy Committee Agenda:

#### PAGE 2 OF 2

SUBJECT: Commission Events Policy and Commission Budget Policy

DATE: September 12, 2024

#### **DISCUSSION:**

On August 27, 2024, the Policy Committee recommended that the proposed Commission Events Policy (Attachment 1) be brought to the Town Council for consideration and approval. The Committee also recommended that amendments to the Town Council Policy 5-03 "Commission Budgets" be considered to ensure both policies are aligned.

The proposed amendments to the Commission Budgets Policy broaden appropriate uses of a Commission's Budget to include purchasing giveaway items for any event authorized under the Commission Events Policy and hosting Town Council approved Commission Events in accordance with the Commission Events Policy.

## **ALTERNATIVES**:

- 1. Council may direct staff to make specific changes to either policy.
- 2. Council may take no action.

#### **CONCLUSION:**

Staff recommends adopting the proposed Commission Events Policy (Attachment 1) and the revised Commission Budgets Policy 5-03 (Attachment 2).

#### **FISCAL IMPACT**:

Adopting a consistent Commission Events Policy and corresponding edits to the Commission Budgets Policy will help ensure that Town funds and staffing are used appropriately and towards Town Council directed objectives.

#### **ENVIRONMENTAL ASSESSMENT:**

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

#### Attachments:

- 1. Proposed Commission Events Policy
- 2. Proposed Amendments to Town Council Policy 5-03 "Commission Budgets" (Redline)



## **COUNCIL POLICY MANUAL**

Small Town Service

Community Stewardship

Future Focus

TITLE: COMMISSION EVENTS		POLICY NUMBER:
EFFECTIVE DATE:		PAGES: 3
ENABLING ACTIONS:	REVISED DATES:	
APPROVED:		

#### I. PURPOSE:

The Town Boards, Commissions, and/or Committees (hereafter, Commissions) may have interest in engaging the public through community events. This Policy sets forth the criteria for Commission participation in events and the use of Town resources for such activities. For the purposes of this Policy, participation in events refers to serving in a formal Town Commission role in an event for purposes of engaging the attendees and does not refer to simply attending an event. This Policy pertains to a Commission's participation in events in its official capacity and does not apply when a Commissioner is not acting in their official capacity.

This Policy works in concert with the Town's Purchasing Policy and other policies and procedures.

#### II. COMMISSION EVENTS

### A. Applicability

a. The following sections of this Policy will apply to all Commissions with the exception of the Youth Commission. In the Youth Commission's enabling resolution, one of its duties is to hold forums. In addition, youth may not be able to operate as independently as adult Commissioners and different considerations may need to be made for safety and successful event participation. Due to this specific duty and the additional considerations for participating youth, Youth Commission events may occur with the approval of the Police Chief to ensure adequate consideration of budget, safety, liability, logistics, and staffing resources, unless otherwise requested by the Town Council.

#### B. **General Guidelines:**

a. A Commission's participation in an event must directly relate to its enabling resolution and be within the scope of the Commission.

Page 326 ATTACHMENT 1

			ITEM NO. 44
TITLE: Commission Events	PAGE:	POLICY NUMBER:	ITEM NO. 14.
TITLE: Commission Events	2 of 3		

- b. Participation and activities must be appropriate for the type of event and provide meaningful interaction with the event attendees.
- c. Commissions may not participate in events that are:
  - i. Related to lobbying or for endorsing political candidates or parties; or
  - ii. Expressly in opposition to the Town's Vision Statement, Guiding Principles, and Core Values.
- d. A Commission's budget must be used to fund any necessary expenditures for a Commission event and must be done in accordance with Council Policies 5-03, "Commission Budgets" and 4-06 "Purchasing Policy." Any additional funds require Council approval and allocation.
- e. Commissioners are responsible for preparing for and staffing their portion of any event and Town staff is not expected to participate. Exceptions may be made by the Town Council when the use of staff time has been considered and approved by Town Council; exceptions may only be granted if staffing resources are available, budget is available to cover any necessary overtime, and the event is approved by the Town Council and is found to be in compliance with this Policy.

### C. Guidelines Specific to the Type of Event:

#### a. Commission Participation at Existing Town Hosted Events:

- i. Existing Town Hosted Events are events hosted by the Town that are already part of a Town Department's planned work, independent of Commission interest in the event. These events could include annual Town events (e.g. Spring into Green), public meetings, workshops, or similar activities.
- ii. Where there is a nexus between the work of a Commission and the intent of an event, or the Commission can provide an activity that creates this nexus, staff may invite Commissions to participate in an event and will provide guidance on how Commissions may participate, should they choose to do so. The guidance will be designed to ensure the success of the event for both Commissioners and staff and will vary depending on the nature of each event. If the provided guidance is followed, no additional Town Council approval is required for Commissioners to participate, unless otherwise requested by Town Council.
- iii. Not all Town Hosted Events are suitable for Commission participation due to limitations including timing, logistics, space requirements, event intent, and staff bandwidth. Staff will strive to provide Commissions opportunities to participate in Existing Town Hosted Events to the extent reasonably practicable and appropriate.

#### b. Commission Participation at an Externally Hosted Event:

i. Externally Hosted Events are events hosted by entities other than the Town and not hosted by a Town Commission. For example, these events may be

			ITEM NO. 44
TITI E. Commission Events	PAGE:	POLICY NUMBER:	ITEM NO. 14.
TITLE: Commission Events	3 of 3		

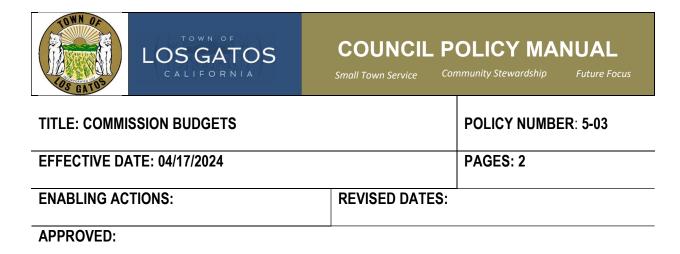
implemented by non-profits, businesses, community groups, and other community and neighborhood stakeholders.

- ii. In their official capacity, Commissions may only participate in Externally Hosted Events that:
  - a. Serve a public benefit or purpose in alignment with the Commission's purpose as stated in the enabling resolution.
  - b. Are hosted by a non-profit organization, government organization, or official Town partner;
  - c. Are located in the Town of Los Gatos or targeted for the Los Gatos community; and
  - d. Are free to attendees.
- iii. If these provisions and the General Guidelines are met, no additional Town Council approval is required for Commissioners to participate, unless otherwise requested by Town Council. Exceptions to these provisions require Town Council approval.

#### c. Commission Hosted Events:

- i. Commission Hosted Events are events hosted, funded, and implemented by the Commission.
- ii. Commissions are advisory bodies to Council and do not typically host or produce events, unless requested by Town Council. Therefore, Commissions are encouraged to participate in existing Town Hosted or Externally Hosted Events as outlined above, rather than hold Commission Hosted Events. If no Town Hosted or Externally Hosted Event exists, alternatives could be for an appropriate non-profit to develop an Externally Hosted Event or to pursue the event outside of the Commission's or Commissioner's official capacity.
- iii. In the rare instance a Commission is interested in holding a Commission Hosted Event, the Commission should make a recommendation to the Town Council for its consideration.
- iv. All Commission Hosted Events require Town Council approval prior to implementation to ensure adequate staff and financial resources are available, alignment with Town Council priorities, and consideration of liability and logistics. If staff attendance is necessary, events past 8:00 p.m. or on weekends should be avoided whenever possible and staff availability should be taken into account when planning the date and time.

	should be avoided whenever possible and staff availability should be account when planning the date and time.
APPROVED AS	TO FORM:
Gabrielle Whel	an, Town Attorney



#### I. PURPOSE:

The Town Council may allocate funding to Town Boards, Commissions, and/or Committees (hereafter, Commissions) for the purpose of communicating the work of the Commission to the Los Gatos community. This Policy sets forth the criteria for the use of these funds, should they be allocated.

This Policy works in concert with the Town's Purchasing Policy and other procedures.

#### II. USE OF COMMISSION BUDGET

- A. **Appropriate Uses**: Appropriate uses of a Commission's budget, include:
  - 1. Purchasing supplies and materials for Commission activities
  - 2. Printing flyers or other materials for distribution to the community
  - 3. Purchasing give away items at Town events (e.g., the Youth Commission giving away succulents at Spring into Green) or events as authorized by the Commission Events Policy
  - 4. Paying for the registration for a table or booth at a non-Town event in conformance with State law
  - 5. Attending relevant workshops (registration only)
  - 6. <u>Hosting a Town Council approved "Commission Hosted Event" in accordance with</u> the Commission Events Policy and the Town's Purchasing Policy
- B. **Inappropriate Uses**: Inappropriate uses of a Commission's budget, include:
  - 1. Hiring a vendor to perform services
  - 2. Paying Town employees or other individuals
  - 3. Granting or donating funds to a third-party organization(s), including being a sponsor or financially supporting a third-party organization's activities and/or events

Page 329 ATTACHMENT 2

TITLE: Commission Budgets  PAGE: 2 of 2  POLICY NUMBER: 17EM NO. 7
--

C. **Modification of Appropriate Uses**: Should a Commission identify a new use for its Town funds, this Policy must be updated by the Town Council.

#### III. PROCEDURE FOR EXPENDITURES

- A. **Prior to Expenditure**: Prior to any expenditure that is an appropriate use, the following procedure must be followed:
  - 1. The request for use of the Commission's budget must be agendized for Commission consideration.
  - 2. The staff liaison to the Commission would verify that the intended use of the funds meets this Policy.
  - 3. The staff liaison would verify available funds for the expenditure.
  - 4. If approved by the Commission, the staff liaison would explain how the purchase would occur.
- B. **Expenditure**: The staff liaison would be responsible for the expenditure, following the Town's Procurement Policy, State law, and local regulations.
- C. **Post-Expenditure**: The staff liaison would be responsible for submitting all receipts and documentation associated with the expenditure to the Finance Department, and retaining the documentation consistent with Town policies, procedures, and practices.

APPROVED AS TO FORM:
Gabrielle Whelan, Town Attorney



MEETING DATE: 09/17/2024

**ITEM NO: 15** 

DATE: September 17, 2024

TO: Mayor and Town Council

FROM: Katy Nomura, Interim Town Manager

SUBJECT: Adopt a Resolution to Renew an Ordinance Approving a Military Equipment

Funding, Acquisition, and Use Policy Pursuant to Assembly Bill 481

#### **RECOMMENDATION:**

Adopt a resolution (Attachment 5) to renew an ordinance approving a military equipment funding, acquisition, and use policy pursuant to Assembly Bill 481.

#### **BACKGROUND**:

On September 30, 2021, Governor Newsom signed into law several major peace officer reform bills, including Assembly Bill 481 (AB 481). AB 481 (Attachment 1) was authored by Assemblymember David Chiu (D-San Francisco) to address the funding, acquisition, and use of items deemed to be "military equipment." This bill requires law enforcement agencies, including the Los Gatos-Monte Sereno Police Department, "to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined." Furthermore, AB 481 requires similar approval for the continued use of "military equipment" acquired by the Los Gatos-Monte Sereno Police Department prior to September 17, 2024, and allows the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards.

#### **DISCUSSION**:

AB 481 requires the governing body that oversees a law enforcement agency to approve and renew an ordinance adopting a military equipment use policy at a regular meeting of the governing body held in accordance with the Brown Act. The Assembly Bill has designated

PREPARED BY: Rebecca Albin

**Operations Captain** 

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

#### PAGE **2** OF **3**

SUBJECT: Adopt a Resolution to Renew Ordinance Approving Military Equipment Use

**Policy** 

DATE: September 17, 2024

certain types of law enforcement equipment as "military equipment." Out of the fifteen categories of "military equipment" listed under AB 481, Los Gatos-Monte Sereno Police Department has items in four of the categories. These items include: a robot; an unmanned aerial vehicle (UAV); rifles and ammunition; noise flash diversionary devices; tear gas and munitions; and 40mm less lethal weapon and munitions.

The resolution proposed for adoption would renew the Town's existing ordinance approving the military equipment funding, acquisition, and use policy pursuant to Assembly Bill 481. A resolution renewing the ordinance must be adopted before Los Gatos-Monte Sereno Police Department may request, seek funds, acquire, collaborate to deploy, use, or solicit a proposal for any type of military equipment. AB 481 requires that the resolution renewing the ordinance be adopted annually. AB 481 outlines the requirements of the Police Department so that ongoing access to the items mentioned can continue and for future acquisition process and the transparency requirements. Los Gatos-Monte Sereno Police contracts with Lexipol, a public safety policy and training organization, for policy development and implementation. Lexipol policy 704-Military Equipment outlines purpose, scope, definitions, and categories deemed as military equipment (See Attachment 2). Each type of military equipment identified in the military equipment use report continues to meet the following standards for approval contained in Government Code Section 7071:

- A. The "military equipment" identified in Los Gatos-Monte Sereno Police Department Lexipol Policy 704 is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.
- B. Los Gatos-Monte Sereno Police Department Lexipol Policy 704 will safeguard the public's welfare, safety, civil rights, and civil liberties.
- C. The "military equipment" identified in Los Gatos-Monte Sereno Police Department Lexipol Policy 704 is reasonably cost effective compared to available alternatives that can achieve the same objectives of officer and civilian safe.
- D. Prior military equipment use has complied with the Town's military equipment use policy.

In addition to posting the "military equipment" use policy on the law enforcement agency's website, each agency must submit an annual "Military Equipment" Report to the governing body detailing the equipment used in the preceding year. This report must include a summary of how the equipment was used, a summary of complaints received, the result of any internal audit and actions taken in response, the total annual cost and the quantity possessed of each type of "military equipment," and any additional equipment the agency intends to acquire in the next year. This "Military Equipment" report is attached as Attachment 3.

Each year the governing body must review the annual report and determine whether each type of military equipment identified in that report has complied with the standards for approval set

#### PAGE 3 OF 3

SUBJECT: Adopt a Resolution to Renew Ordinance Approving Military Equipment Use

**Policy** 

DATE: September 17, 2024

forth above and vote on whether to renew it, in accordance with Government Code Section 7071 (e)(2).

Los Gatos-Monte Sereno Police Department will be holding a community outreach meeting to discuss AB 481 on September 25, 2024. Lexipol policy 704 and the detailed list of our military equipment is posted on the Police Department website.

#### **CONCLUSION:**

Staff recommends adopting a resolution (Attachment 5) renewing Ordinance 2329 (Attachment 4) adopting the military equipment use policy as set forth in the Los Gatos Police Department's Lexipol Policy 704.

#### **ALTERNATIVES**:

If the resolution (Attachment 5) is not approved, Los Gatos-Monte Sereno Police Department will cease the use of equipment designated by AB 481 as military equipment. Los Gatos-Monte Sereno Police Department will be required to redesign policies, procedures, and operations for critical incident response; this includes our ability to provide and receive mutual aid, address an immediate threat, or have a more expansive de-escalation option. Public safety may be negatively impacted with diminished access to the resources currently in the Police Department's inventory.

#### FISCAL IMPACT:

There is no fiscal impact in renewing this ordinance and the military equipment use policy.

#### Attachments:

- 1. Assembly Bill 481
- 2. LGMSPD Lexipol Policy 704 inclusive of a hyperlink to AB 481 Defined list of Military Equipment in LGMSPD possession
- 3. LGMSPD Military Equipment Inventory 2024
- 4. Ordinance
- 5. Resolution to Renew Ordinance



#### Assembly Bill No. 481

#### **CHAPTER 406**

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

#### legislative counsel's digest

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

ITEM NO. 15.

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

#### SECTION 1. The Legislature finds and declares all of the following:

- (a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.
- (b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.
- (c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

\_\_3 \_\_ Ch. 406

ITEM NO. 15.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public's welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

- (e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.
- SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

# Chapter 12.8. Funding, Acquisition, and Use of Military Equipment

7070. For purposes of this chapter, the following definitions shall apply:

- (a) "Governing body" means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff's department or a district attorney's office, "governing body" means the board of supervisors of the county.
  - (b) "Law enforcement agency" means any of the following:
- (1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.
  - (2) A sheriff's department.
  - (3) A district attorney's office.
  - (4) A county probation department.
  - (c) "Military equipment" means the following:
  - (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
  - (6) Weaponized aircraft, vessels, or vehicles of any kind.
- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

Ch. 406 —4—

ITEM NO. 15.

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

- (8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.
- (16) Notwithstanding paragraphs (1) through (15), "military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
- (d) "Military equipment use policy" means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:
- (1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
- (2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
- (3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
  - (4) The legal and procedural rules that govern each authorized use.
- (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
- (6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

\_5\_ Ch. 406

ITEM NO. 15.

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

- (7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.
- (e) "State agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.
- (f) "Type" means each item that shares the same manufacturer model number.
- 7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:
- (A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
- (B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.
- (E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
- (F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.
- (G) Acquiring military equipment through any means not provided by this paragraph.
- (2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

Ch. 406 — 6 —

ITEM NO. 15.

the military equipment until it receives the approval of the governing body in accordance with this section.

- (b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.
- (c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.
- (d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:
- (A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- (B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- (C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
- (2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.
- (e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.
- (2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

—7— Ch. 406

ITEM NO. 15.

to the military equipment use policy in a manner that will resolve the lack of compliance.

- (f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.
- 7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:
- (1) A summary of how the military equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns received concerning the military equipment.
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
  - (5) The quantity possessed for each type of military equipment.
- (6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.
- (b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.
- 7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:
- (1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
- (2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

- (4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.
- (5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
- (6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.
- (7) Acquiring military equipment through any means not provided by this subdivision.
- (b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.
- (c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:
- (1) Publish the military equipment use policy on the agency's internet website.
- (2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.
- 7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.
- 7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.
- SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

\_9 \_ Ch. 406

ITEM NO. 15.

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

O

## Los Gatos-Monte Sereno Police Department

Los Gatos-Monte Sereno Police Department Policy Manual

ITEM NO. 15.

## **Military Equipment**

#### 704.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

#### 704.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

**Governing body** – The elected or appointed body that oversees the Department.

**Military equipment** – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

ATTACHMENT 2

Los Gatos-Monte Sereno Police Department Policy Manual

ITEM NO. 15.

#### **704.2 POLICY**

Military Equipment

It is the policy of the Los Gatos-Monte Sereno Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

#### 704.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- Collaborating with any allied agency that may use military equipment within the jurisdiction of Los Gatos-Monte Sereno Police Department (Government Code § 7071).
- Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
  - Publicizing the details of the meeting. 1.
  - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- Preparing the annual military equipment report for submission to the Chief of Police (f) and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

#### 704.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

[Insert attachment here] See attachment: Military equipment inventory 2023 reporting.pdf

#### 704.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

#### Los Gatos-Monte Sereno Police Department Policy Manual

## Military Equipment

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

#### 704.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

#### 704.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

#### 704.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

ITEM NO. 15.

## **Attachments**



ITEM NO. 15.

Los Gatos-Monte Sereno Police Department Policy Manual

Military equipment inventory 2023 reporting.pdf

## **MILITARY EQUIPMENT INVENTORY**

#### 1. Robot (Category 1)

### a. **Description, quantity, capabilities, and purchase cost:**

This equipment is a battery powered, remote operated device. Equipped with two cameras and two-way radio capabilities. This equipment is for (potential) use during high-risk incidents. Use is limited to members of the Departments Crisis Response Unit. Incidents that may qualify for its use include, but are not limited to, a high-risk warrant service, barricaded subject, and hostage negotiation/rescue. Before entering a structure, particularly in a tactically compromised and dangerous situation, knowledge of a subject's location is very important, and the robot can provide that without placing anyone at risk. Cameras can also help determine if a subject is armed and if there are other subjects inside that need assistance. The two-way speakers can be used to deescalate and determine resistance level.

I. Robotex Avatar Tactical Robot, cost: \$12,389.21 quantity: 1.

#### b. **Purpose:**

To be used to remotely gain visual/audio data, deliver Crisis Negotiation Team (CNT) phone, disrupt packages, and clear buildings.

#### c. **Authorized Use:**

Only assigned operators who have completed the required training shall be permitted to operate the robot. Use is established by the Incident Commander. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 309 – Search and Seizure, LGPD Policy 404 – Crisis Response Unit (CRU) Team.

#### d. **Expected Lifespan:**

10-15 years

#### e. Fiscal Impact:

No known annual maintenance cost.

#### 2. Unmanned Aerial Vehicles (Category 1)

#### a. **Description, quantity, capabilities, and purchase cost:**

The Skydio 2 pro is a small non- commercial grade UAV. This UAV is a battery powered, remote operated device. Controller: Apple I pad. The controller allows the operators to control UAV and view live feed from UAV-mounted camera. Camera: Sony IMX577 camera. The camera provides operators ability to switch between standard Flight time of approximately 25-30 minutes per battery, depending on weather and flight conditions. The UAV has also proven to be useful to public safety agencies in firefighting, search and rescue, pre-operational surveillance, and other tactical situations where aerial views enhance the safety and efficiency of law enforcement and fire personnel. I. Skydio 2 Pro unmanned aerial vehicle (UAV), cost: \$6,902.35 quantity: 1.

#### b. **Purpose:**

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- I. major collision investigations.
- II. search for missing persons.
- III. natural disaster management.
- IV. crime scene photography.
- V. CRU, tactical or other public safety and life preservation missions.
- VI. In response to specific requests from local, state or federal fire authorities for fire response and/or prevention.

#### c. **Authorized Use:**

Only assigned operators who have completed the required training shall be permitted to operate the Skydio 2 pro during approved missions. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 309 – Search and Seizure, LGMSPD Policy 314 – Missing Persons, LGMSPD Policy 608 – Unmanned Aerial System Operations, LGMSPD Policy 404 – Crisis Response Unit (CRU).

### d. **Expected Lifespan:**

5 years

#### e. Fiscal Impact:

No known annual maintenance cost.

3. Specialized Firearms and Ammunition (Equipment Category 10)

#### a. <u>Description, quantity, capabilities, and purchase cost:</u>

The Carbine Rifle is a firearm, capable of accurately stopping an armed subject at various distances. The Carbine Rifle is a lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapon, designed for semi-automatic & selective fire. The Carbine Rifle does not have an expiration and will need to be serviced or replaced when the rifle fails or breaks. The .223 / 5.56 cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.

I. Colt AR-15/M4, Lewis Machine & Tool AR-15, and Aero Precision AR-15, cost: \$54,635 quantity:49

The Speer .223 Remington, 62 grain, GDSP cartridge is the primary duty ammunition deployed during potential lethal encounters.

II. Speer .223 Remington, 62 grain GDSP cartridge, cost: \$4,182.64, quantity: 7,000.

The Federal .223 Remington, 55 grain cartridge is the primary training ammunition for the Department.

III. Federal .223 Remington, 55 grain cartridge, cost: \$3,913.11, quantity: 9,000.

The Los Gatos-Monte Sereno Police Department Crisis Response Unit (CRU) was formed in 1985, in response to very dangerous or violent tactical encounters. The Sniper element deploys with precision rifles, which enables the stopping of an armed subject at a safe distance. The Sniper Rifle does not have an expiration and will need to be serviced or replaced when the Rifle fails or breaks. The .308 Winchester cartridge: is a rimless, bottlenecked rifle cartridge. The .308 WIN. cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.

IV. Aero Precision 308 Rifle, cost: \$5,362.80, quantity: 2.

The Federal .308 WIN., 168 grain tactical tip, cartridge is ammunition deployed during potential lethal encounters at longer distances. The 168-grain projectile maintains accuracy, while resulting in higher impact velocities, less drop, less wind drift, and more energy on target.

V. Federal .308 WIN., 168 grain tactical tip, cost: \$1,716.00, quantity: 2,000.

The Federal .308 WIN., 168 grain tactical bonded cartridge is ammunition deployed during potential lethal encounters, when shooting through barriers. The 168-grain Tactical Bonded projectile is capable of accurately striking targets behind an angled window or windshield, without the risk of unpredictable bullet deflection. Conventional bullets break apart or fragment when penetrating glass, which does not allow an accurate impact.

VI. Federal .308 WIN., 168 grain tactical bonded cartridge, cost: \$1,520.00, quantity: 1,000.

#### b. **Purpose:**

To be used as precision weapons to address a threat with more precision and/or greater distances than a handgun, if present and feasible.

#### c. **Authorized Use:**

Only members that are POST certified are authorized to use a particular rifle. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force, LGMSPD Policy 305 – Firearms Training and Qualifications, LGMSPD Policy 404 – Crisis Response Unit (CRU)

### d. **Expected Lifespan:**

- I. Carbine Rifle No expiration
- II. The Speer .223 Remington, 62 grain, No expiration
- III. The Federal .223 Remington, 55 grain, No expiration
- IV. Sniper Rifles No expiration
- V. The Federal .308 WIN. Tactical Tip, 168 grain No expiration
- VI. The Federal .308 WIN Tactical Bonded Tip, 168 Grain- No expiration

#### e. Fiscal Impact:

- I. Carbine Rifle Annual cost between \$0-\$3,000
- II. The Speer .223 Remington, 62 grain- Annual cost between \$0-\$6,000.
- III. The Federal .223 Remington, 55 grain Annual cost between \$0 -\$9,000.
- IV. Sniper Rifle Annual cost between \$0-unknown for maintenance.
- V. The Federal .308 WIN. Tactical Tip, 168 grain Annual cost between \$0 \$2,000.
- VI. The Federal .308 WIN Tactical Bonded Tip, 168 Grain-Annual cost between \$0-\$2000.

#### 4. Flashbangs (Category 12)

## a. **Description, quantity, capabilities, and purchase cost:**

A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations. Def Tech 11 Gr mini NFDD emits a loud "bang" and a flash of light

I. Def Tech 11 Gr mini NFDD, cost: \$2,612.50, quantity: 50

### b. **Purpose:**

To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.

#### c. **Authorized Use:**

Diversionary Devices shall only be used:

- I. By CRU officers who have been trained in their proper use.
- II. In hostage and barricaded subject situations.
- III. In high-risk warrant (search/arrest) services where there may be extreme hazards to officers.
- IV. During other high-risk situations where their use would enhance officer safety.
- V. During training exercises.

All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force, LGMSPD Policy 404 – Crisis Response Unit.

#### d. **Expected Lifespan:**

Def Tech 11-gram mini NFDD – 5 years

#### e. **Fiscal Impact:**

Def Tech 11 Gram mini NFDD – Annual cost between \$0 - \$2,612.50

#### 5. Tear Gas (Category 12)

### a. **Description, quantity, capabilities, and purchase cost:**

Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Los Gatos-Monte Sereno Police Department as a non-lethal tool to disperse rioting subjects and on barricaded suspects. The Los Gatos-Monte Sereno Police Department uses chemical agents which are used by law enforcement across the United States: CS (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum) CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS. OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

I. Def Tech handheld OC/CS canisters, model #1050 Cost: \$ 361.50, quantity: 6

#### b. **Purpose:**

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to:

- I. Self-destructive, dangerous and/or combative individuals.
- II. Riot/crowd control and civil unrest incidents.
- III. Circumstances where a tactical advantage can be obtained.
- IV. Potentially vicious animals.
- V. Training exercises or approved demonstrations.

#### c. **Authorized Use:**

Only officers who have received POST certification in the use of chemical agents are authorized to use chemical agents. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force, LGMSPD Policy 404 – Crisis Response Unit (CRU).

#### d. **Expected Lifespan:**

Def Tech handheld OC/CS canisters, model #1050 – 5 years

#### e. Fiscal Impact:

Def Tech handheld OC/CS canisters, model #1050 – estimated between \$0 and \$450 annually

6. Projectile Launch platforms and associated munitions (Category 14)

#### a. <u>Description, quantity, capabilities, and purchase cost:</u>

The Lewis Machine & Tool Launcher is not a firearm, but a Less-Lethal systems that uses smokeless powder to deliver 40MM projectiles from a safe distance. The Less-Lethal launcher is capable of launching 40MM munitions at a subject up to 25 yards. The Less-Lethal launcher is a single launcher, which allows the Officer to assess after every spent munition. Less-Lethal launcher does not have an expiration and will need to be serviced or replaced when the launcher fails or breaks. The 40MM munition is a Direct Impact Spin Stabilized Smokeless Sponge Munition. The Sponge Baton and Impact OC munition is used as a Less-Lethal weapon designed to de-escalate a potentially violent encounter. Liquid Ferret Barricade munition are a less lethal 40mm round that is used to penetrate barriers such as windows, hollow core doors, wallboard, and thin plywood.

- I. Lewis Machine & Tool Launcher, cost: \$4,514.55. quantity: 5
- II. Def Tech 40mm Direct Impact Sponge #6325, cost: \$360.00 quantity: 20
- III. Def Tech 40mm Direct Impact OC #6320LE, cost: \$315.00, quantity: 15
- IV. Def Tech 40mm CS liquid ferret rounds, model #1262, cost: \$72.00, quantity: 3
- V. Def Tech 40mm CS powder rounds, model #1292, cost: \$ 120.00, quantity: 5

#### b. **Purpose:**

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

#### c. **Authorized Use:**

Situations for use of the less lethal weapon systems may include, but are not limited to:

- I. Self-destructive, dangerous and/or combative individuals.
- II. Riot/crowd control and civil unrest incidents.
- III. Circumstances where a tactical advantage can be obtained.
- IV. Potentially vicious animals.
- V. Training exercises or approved demonstrations.

All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force.

#### d. **Expected Lifespan:**

I. 40mm Launcher: No expirationII. 40mm Sponge Round: 5 years

III. 40mm OC: 5 years

IV.40mm CS liquid ferret rounds: 5years

V. 40mm CS powder: 5 years

## e. **Fiscal Impact:**

- I. 40mm Launcher: estimated between \$0 and \$5,000.00 annually
- II. 40mm Sponge Round: estimated between \$0 and \$500.00 annually
- III. 40mm Direct Impact OC: estimate between \$0 and \$300.00 annually
- IV. 40mm CS liquid ferret rounds: estimate between \$0 and \$360.00 annually
- V. 40mm CS powder rounds: estimate between \$0 and \$360.00



## 2024 MILITARY EQUIPMENT INVENTORY

Los Gatos Monte Sereno Police Department

Prior year (April 1, 2023 to September 17, 2024) usage summary, complaints received, audits and actions taken as a result.

The quantities associated with each item may have changed from the previous year due to training usage. The drone was used for critical incident infrastructure reconnaissance, missing persons cases and to assist with perimeter checks of expansive locations. There were no complaints received regarding this equipment. No internal or external audits were conducted or required as a result of not receiving complaints. There were no actions taken as a result. The items categories and types remain the same from the previous year.

## 1. Robot (Category 1)

a. Description, quantity, capabilities, and purchase cost:

The Robotex Avatar Tactical Robot is a battery powered, remote operated device. Equipped with two cameras and two-way radio capabilities. This equipment is for (potential) use during high-risk incidents. Use is limited to members of the Departments Crisis Response Unit. Incidents that may qualify for its use include, but are not limited to, a high-risk warrant service, barricaded subject, and hostage negotiation/rescue. Before entering a structure, particularly in a tactically compromised and dangerous situation, knowledge of a subject's location is very important, and the robot can provide that without placing anyone at risk. Cameras can also help determine if a subject is armed and if there are other subjects inside that need assistance. The two-way speakers can be used to de-escalate and determine resistance level.

i. Robotex Avatar Tactical Robot, cost: <u>\$12,389.21</u> quantity:

1

## b. Purpose:

To be used to remotely gain visual/audio data, deliver Crisis Negotiation Team (CNT) phone, disrupt packages, and clear buildings.

## c. Authorized Use:

Only assigned operators who have completed the required training shall be permitted to operate the robot. Use is established by the Incident Commander. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 309 – Search and Seizure, LGPD Policy 404 – Crisis Response Unit (CRU) Team.

## d. Expected Lifespan:

10-15 years

## e. Fiscal Impact:

No known annual maintenance cost.

## 2. Unmanned Aerial Vehicle (Category 1)

a. Description, quantity, capabilities, and purchase cost:

The Skydio 2 is a small non- commercial grade UAV. This UAV is a battery powered, remote operated device. Controller: Apple I pad. The controller allows the operators to control UAV and view live feed from UAV-mounted camera. Camera: Sony IMX577 camera. Flight time of approximately 25-30 minutes per battery, depending on weather and flight conditions. The UAV has also proven to be useful to public safety agencies in firefighting, search and rescue, pre-operational surveillance, and other tactical situations where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

i. Skydio 2 unmanned aerial vehicle (UAV), cost: \$6,902.35 quantity: 1.

### b. Purpose:

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- i. Major collision investigations.
- ii. Search for missing persons.
- iii. Natural disaster management.
- iv. Crime scene photography.
- v. Crisis Response Unit (CRU), tactical or other public safety and life preservation missions.
- vi. In response to specific requests from local, state or federal fire authorities for fire response and/or prevention.

## c. Authorized Use:

Only assigned operators who have completed the required training shall be permitted to operate the Skydio 2 during approved missions. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 309 – Search and Seizure, LGMSPD Policy 314 – Missing Persons, LGMSPD Policy 608 – Unmanned Aerial System Operations, LGMSPD Policy 404 – Crisis Response Unit (CRU).

d. Expected Lifespan:

5 years

e. Fiscal Impact:

No known annual maintenance cost.

## 3. Unmanned Aerial Vehicle (Category 1)

a. Description, quantity, capabilities, and purchase cost:

The DJI Mavic 3T is a small non-commercial grade UAV. This UAV is battery powered, remote operated device. Controller: DJI RC Pro. The controller allows the pilots to control the UAV and view live feed from a UAV-mounted camera. Camera: DJI wide/zoom/thermal camera.

The camera provides the pilots the ability to switch between a wide camera view, zoom camera view, and a thermal camera view. UAV flight time of approximately 25-35 minutes depending on weather and flight conditions. The DJI Mavic 3T has been proven to be useful to public safety in firefighting, search and rescue, per-operation surveillance, and other tactical situation where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

i. The DJI Mavic 3T unmanned aerial vehicle (UAV), cost: \$8,702.35 quantity: 3.

### b. Purpose:

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- i. Major collision investigations.
- ii. Search for missing persons.
- iii. Natural disaster management.
- iv. Crime scene photography.
- v. Crisis Response Unit (CRU), tactical or other public safety and life preservation missions.
- vi. In response to specific requests from local, state or federal fire authorities for fire response and/or prevention.

#### c. Authorized Use:

Only assigned operators who have completed the required training shall be permitted to operate the DJI Mavic 3T during approved missions. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 309 – Search and Seizure, LGMSPD Policy 314 – Missing Persons, LGMSPD Policy 608 – Unmanned Aerial System Operations, LGMSPD Policy 404 – Crisis Response Unit (CRU).

### d. Expected Lifespan:

5 years

### e. Fiscal Impact:

No known annual maintenance cost.

## 4. Unmanned Aerial Vehicle (Category 1)

a. Description, quantity, capabilities, and purchase cost:

The DJI Mini 3 Pro is a small non-commercial grade UAV. This UAV is battery powered, remote operated device. Controller: Google Pixel phone. The controller allows the pilots to control the UAV and view live feed from a UAV-mounted camera. Camera: DJI wide/zoom. The camera provides the pilots the ability to switch between a wide camera view and zoom camera view. UAV flight time of approximately 35-45 minutes depending on weather and flight conditions. The Mini 3 Pro has been proven to be useful to public safety in interior tactical situations where unmanned views enhance the safety and efficiency of law enforcement personnel.

i. The DJI Mini 3 Pro unmanned aerial vehicle (UAV), cost: \$1,584.35 quantity: 3.

## b. Purpose:

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- i. Search for missing persons.
- ii. Natural disaster management.
- iii. Crime scene photography.
- iv. Crisis Response Unit (CRU), tactical or other public safety and life preservation missions.

### c. Authorized Use:

Only assigned pilots who have completed the required training shall be permitted to operate the DJI Mini 3 Pro during approved missions. All other applicable LGMSPD policies remain in effect, to include, but are not limited to, LGMSPD Policy 309 – Search and Seizure, LGMSPD Policy 314 – Missing Persons, LGMSPD Police 608 – Unmanned Aerial System Operations, LGMSPD Policy 404 – Crisis Response Unit (CRU).

#### d. Expected Lifespan:

5 years

# e. Fiscal Impact:

No known annual maintenance cost.

# 5. Unmanned Aerial Vehicle – Proposed Purchase (Category 1)

a. Description, quantity, capabilities, and purchase cost:

The DJI Matrice 30T is a medium commercial grade UAV. This UAV is battery powered, remote operated device. Controller: DJI RC Plus w/ 7" screen. The controller allows the pilots to control the UAV and view feed from **UAV-mounted** live а camera. Camera: DJI wide/zoom/thermal. The camera provides the pilots the ability to switch between a wide camera view, zoom camera view, and thermal view. UAV flight time of approximately 35-45 minutes depending on weather and flight conditions. The Matrice 30T has been proven to be useful to public safety in firefighting, search and rescue, peroperation surveillance, and other tactical situation where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

i. The DJI Matrice 30T unmanned aerial vehicle (UAV), cost: \$14,063.99 quantity: 1.

#### b. <u>Purpose:</u>

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- i. Flying in all weather conditions.
- ii. Major collision investigations.
- iii. Search for missing persons.
- iv. Natural Disaster Management.
- v. Crime scene photography.
- vi. Crisis Response Unit (CRU), tactical or other public safety and life preservation missions.

vii. In response to specific requests from local, state or federal fire authorities for fire response and/or prevention.

#### c. Authorized Use:

Only assigned pilots who have completed the required training shall be permitted to operate the DJI Matrice 30T during approved missions. All other applicable LGMSPD policies remain in effect, to include, but are not limited to, LGMSPD Policy 309 – Search and Seizure, LGMSPD Policy 314 – Missing Persons, LGMSPD Police 608 – Unmanned Aerial System Operations, LGMSPD Policy 404 – Crisis Response Unit (CRU).

#### d. Expected Lifespan:

5 years

#### e. Fiscal Impact:

This is a proposed purchase to replace the Skydio 2 as the Skydio 2 has been determined to be antiquated and this asset has all the same functionality, and much more: including accident and crime scene reconstruction as well as improved imaging capabilities and the ability to fly in all weather conditions. There is no known annual maintenance cost.

# 6. Unmanned Aerial Vehicle – Proposed Purchase (Category 1)

# a. Description, quantity, capabilities, and purchase cost:

The DJI Avata is a small non-commercial grade UAV. This UAV is battery powered, remote operated device. Controller: Virtual goggles and motion controller. The controller allows the pilots to control the UAV and view live feed from a UAV-mounted camera. Camera: DJI 4K wide view. UAV flight time of approximately 15-18 minutes depending on weather and flight conditions. The Avata has been proven to be useful to public safety in interior tactical situations where unmanned views enhance the safety and efficiency of law enforcement personnel.

i. The DJI Avata unmanned aerial vehicle (UAV), cost: \$1,934.00 quantity: 1.

#### b. Purpose:

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- i. Search for missing persons.
- ii. Natural Disaster Management.
- iii. Crime scene photography.
- iv. Crisis Response Unit (CRU), tactical or other public safety and life preservation missions.

#### c. Authorized Use:

Only assigned pilots who have completed the required training shall be permitted to operate the DJI Avata during approved missions. All other applicable LGMSPD policies remain in effect, to include, but are not limited to, LGMSPD Policy 309 – Search and Seizure, LGMSPD Policy 314 – Missing Persons, LGMSPD Police 608 – Unmanned Aerial System Operations, LGMSPD Policy 404 – Crisis Response Unit (CRU).

#### d. Expected Lifespan:

5 years

#### e. Fiscal Impact:

This is a proposed purchase to replace the DJI Mini 3 Pro as the DJI Mini 3 Pro has been determined to be antiquated and this asset has all the same functionality, and much more including improved maneuverability. There is no known annual maintenance cost.

# 7. Specialized Firearms and Ammunition (Category 10)

# a. Description, quantity, capabilities, and purchase cost:

The Carbine Rifle is a firearm, capable of accurately stopping an armed subject at various distances. The Carbine Rifle is a lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapon, designed for semi-automatic & selective fire. The Carbine

Rifle does not have an expiration and will need to be serviced or replaced when the rifle fails or breaks. The .223 / 5.56 cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects.

- i. Colt AR-15/M4, Lewis Machine & Tool AR-15, and Aero Precision AR-15, cost: \$55,750 quantity: 50
- ii. The Speer .223 Remington, 62 grain, GDSP cartridge is the primary duty ammunition deployed during potential lethal encounters. Speer .223 Remington, 62 grain GDSP cartridge, cost: \$6572.64, quantity: 11,000.
- iii. The Federal .223 Remington, 55 grain cartridge is the primary training ammunition for the Department. Federal .223 Remington, 55 grain cartridge, cost: \$4,782.69 quantity: 11,000.
- iv. The Los Gatos-Monte Sereno Police Department Crisis Response Unit (CRU) was formed in 1985, in response to very dangerous or violent tactical encounters. The Sniper element deploys with precision rifles, which enables the stopping of an armed subject at a safe distance. The Sniper Rifle does not have an expiration and will need to be serviced or replaced when the Rifle fails or breaks. The .308 Winchester cartridge: is a rimless, bottlenecked rifle cartridge. The .308 WIN. cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor being worn by armed subjects. Aero Precision 308 Rifle, cost: \$5,362.80, quantity: 2.
- v. The Federal .308 WIN., 168 grain tactical tip, cartridge is ammunition deployed during potential lethal encounters at longer distances. The 168-grain projectile maintains accuracy, while resulting in higher impact velocities, less

drop, less wind drift, and more energy on target. Federal .308 WIN., 168 grain tactical tip, cost: \$2,145.00, quantity: 2,500.

vi. The Federal .308 WIN., 168 grain tactical bonded cartridge is ammunition deployed during potential lethal encounters, when shooting through barriers. The 168-grain Tactical Bonded projectile is capable of accurately striking targets behind an angled window or windshield, without the risk of unpredictable bullet deflection. Conventional bullets break apart or fragment when penetrating glass, which does not allow an accurate impact. Federal .308 WIN., 168 grain tactical bonded cartridge, cost: \$1,216.00, quantity: 800.

# b. Purpose:

To be used as precision weapons to address a threat with more precision and/or greater distances than a handgun, if present and feasible.

#### c. Authorized Use:

Only members that are POST certified are authorized to use a particular rifle. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force, LGMSPD Policy 305 – Firearms Training and Qualifications, LGMSPD Policy 404 – Crisis Response Unit (CRU)

#### d. Expected Lifespan:

- i. Carbine Rifle No expiration
- ii. Speer .223 Remington, 62 grain, No expiration
- iii. Federal .223 Remington, 55 grain, No expiration
- iv. Sniper Rifles No expiration
- v. Federal .308 WIN. Tactical Tip, 168 grain No expiration
- vi. Federal .308 WIN Tactical Bonded Tip, 168 Grain- No expiration

#### e. Fiscal Impact:

- i. Carbine Rifle Annual cost between \$0-\$3,000
- ii. Speer .223 Remington, 62 grain- Annual cost between \$0-\$6,000.
- iii. Federal .223 Remington, 55 grain Annual cost between \$0 -\$9,000.
- iv. Sniper Rifle Annual cost between \$0-unknown for maintenance.
- v. Federal .308 WIN. Tactical Tip, 168 grain Annual cost between \$0 \$2,000.
- vi. Federal .308 WIN Tactical Bonded Tip, 168 Grain-Annual cost between \$0-\$2000.

# 8. Flashbangs (Category 12)

a. Description, quantity, capabilities, and purchase cost:

A Noise Flash Diversionary Devices (NFDD) is a device that creates a bright flash and loud sound to temporarily divert the attention of subjects in the immediate area. NFDD are used to distract and temporarily incapacitate dangerous suspects by overwhelming their senses of vision and hearing. The distraction allows officers to seize a moment of opportunity to take control of high-risk situations. Def Tech 11 Gr mini NFDD emits a loud "bang" and a flash of light.

i. Def Tech 11 Gr mini NFDD, cost: \$2,403.50, quantity: 46

# b. Purpose:

To produce atmospheric over-pressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological / psychological sensory deprivation to give officers a tactical advantage.

#### c. Authorized Use:

Diversionary Devices shall only be used:

i. By CRU officers who have been trained in their proper use.

- ii. In hostage and barricaded subject situations.
- iii. In high-risk warrant (search/arrest) services where there may be extreme hazards to officers.
- iv. During other high-risk situations where their use would enhance officer safety.
- v. During training exercises.

All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force, LGMSPD Policy 404 – Crisis Response Unit.

# d. Expected Lifespan:

Def Tech 11-gram mini NFDD – 5 years

# e. Fiscal Impact:

Def Tech 11 Gram mini NFDD – Annual cost between \$0 - \$2,403.50

# 9. Tear Gas (Category 12)

a. Description, quantity, capabilities, and purchase cost:

Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Los Gatos-Monte Sereno Police Department as a non-lethal tool to disperse rioting subjects and on barricaded suspects. The Los Gatos-Monte Sereno Police Department uses chemical agents which are used by law United CS enforcement across the States: (2-Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum) CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS. OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5oz or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

i. Def Tech handheld OC/CS canisters, model #1050 Cost: \$ 301.25, quantity: 5

# b. Purpose:

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

#### c. Authorized Use:

Only officers who have received POST certification in the use of chemical agents are authorized to use chemical agents. All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force, LGMSPD Policy 404 – Crisis Response Unit (CRU).

# d. Expected Lifespan:

i. Def Tech handheld OC/CS canisters, model #1050 – 5 years

#### e. Fiscal Impact:

Def Tech handheld OC/CS canisters, model #1050 – estimated between \$0 and \$450 annually

# 10. Projectile Launch Platforms and Associated Munitions (Category 14)

# a. Description, quantity, capabilities, and purchase cost:

The Lewis Machine & Tool Launcher is not a firearm, but a Less-Lethal systems that uses smokeless powder to deliver 40MM projectiles from a safe distance. The Less-Lethal launcher can launch 40MM munitions at a subject up to 25 yards. The Less-Lethal launcher is a single launcher, which allows the Officer to assess after every spent munition. Less-Lethal launcher does not have an expiration and will need to be serviced

or replaced when the launcher fails or breaks. The 40MM munition is a Direct Impact Spin Stabilized Smokeless Sponge Munition. The Sponge Baton and Impact OC munition is used as a Less-Lethal weapon designed to de-escalate a potentially violent encounter. Liquid Ferret Barricade munition is a less lethal 40mm round that is used to penetrate barriers such as windows, hollow core doors, wallboard, and thin plywood.

- i. Lewis Machine & Tool Launcher, cost: \$9,932.01. quantity: 11
- ii. Def Tech 40mm Direct Impact Sponge #6325, cost: \$1710.00 quantity: 95
- iii. Def Tech 40mm Direct Impact OC #6320LE, cost: \$525.00, quantity: 25
- iv. Def Tech 40mm CS powder ferret rounds, model #1262, cost: \$192.00, quantity: 8
- v. Def Tech 40mm CS powder rounds, model #1292, cost: \$192.00, quantity: 8

# b. Purpose:

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

#### c. Authorized Use:

Situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

All other applicable LGMSPD policies remain in effect, to include, but not limited to, LGMSPD Policy 300 – Use of Force.

#### d. Expected Lifespan:

i. 40mm Launcher: No expiration

ii. 40mm Sponge Round: 5 years

iii. 40mm OC: 5 years

- iv. 40mm CS powder ferret rounds: 5 years
- v. 40mm CS powder: 5 years

# e. Fiscal Impact:

- i. 40mm Launcher: estimated between \$0 and \$11,473.00 annually
- ii. Def Tech 40mm Direct Impact Sponge #6325: estimated between \$0 and \$1,710.00 annually
- iii. Def Tech 40mm Direct Impact OC #6320LE: estimated between \$0 and \$525.00 annually
- iv. Def Tech 40mm CS powder ferret rounds, model #1262: estimated between \$0 and \$192.00 annually
- v. Def Tech 40mm CS powder rounds, model #1292: estimated between \$0 and \$192.00 annually

#### **ORDINANCE 2329**

# AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS, STATE OF CALIFORNIA, ADDING ARTICLE III TO CHAPTER 21 TO THE TOWN CODE GOVERNING THE USE OF MILITARY EQUIPMENT BY THE POLICE DEPARTMENT

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, (creating Government Code Section 7070, et seq.) relating to the use of military equipment by law enforcement agencies; and

WHEREAS, Assembly Bill No. 481 ("AB 481"), requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a "military equipment" use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term "military equipment" is defined in California Government Code section 7070; and

WHEREAS, AB 481 allows the governing body of a Town to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations; and

WHEREAS, the proposed Military Equipment Use Policy is attached hereto as Exhibit "A" and incorporated herein by this reference (the "Military Equipment Use Policy"); and

WHEREAS, the proposed Military Equipment Use Policy was published on the Los Gatos Police Department's internet website on March 3, 2022, more than 30 days before the Military Equipment Use Policy was considered at a public hearing before the Town Council on April 5, 2022; and

WHEREAS, the Military Equipment Use Policy meets the requirements of California Government Code section 7070, subdivision (d).

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

**SECTION I:** That a new Article III is added to Chapter 21 (entitled "Police") of the Town Code of the Town of Los Gatos to read as follows:

CHAPTER 21, ARTICLE III. - MILITARY EQUIPMENT USE POLICY.

Sec. 21.30.010 - Findings and Purpose.

(a) The Town Council has made the following determinations:

- (1) The military equipment inventoried and presented to the Town Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and
- (2) The Military Equipment Use Policy ("Policy") will safeguard the public's welfare, safety, civil rights, and civil liberties; and
- (3) The military equipment identified in the Military Equipment Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objective of Officer and civilian safety; and
- (4) Prior military equipment use complied with the applicable Equipment Use Policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses did not comply with the accompanying Military Equipment Use Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
- (b) The Police Department has submitted a proposed Policy to the Town Council and has made those documents available on the Police Department's website for at least 30 days prior to the public hearing concerning the military equipment at issue.
- (c) The Policy was considered by the Town Council as an agenda item in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act, at which public comment was permitted.
- (d) The Policy shall be made publicly available on the Police Department's website for as long as the military equipment is available for use.
- (e) The Police Department shall submit an annual military equipment report to the Town Council, containing the information required in Government Code Section 7072, and the Town Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in (a)(1)-(4) above.
- (f) The Town Council shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting, in accordance with Government Code Section 7071(e)(2)
- (g) The Town Council approves the use of the Policy and finds that it satisfies the requirements of Government Code Section 7070(d)."

**SECTION II. CEQA FINDINGS.** This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

2 of 3

SECTION III. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The Town Council of the Town of Los Gatos declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION IV. EFFECTIVE DATE AND PUBLICATION. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 5th day of April 2022 and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 19th day of April 2022. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 19<sup>th</sup> day of April 2022, by the following vote:

AYES

Mary Badame, Matthew Hudes, Maria Ristow, Marico Sayoc, Mayor Rob Rennie

NAYS:

None

ABSENT:

None

ABSTAINING: None

0.01.5

MAYOR OF THE TOWN OF LOS GATOS

LOS GATOS, CALIFORNIA

DATED: 4/20/22

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS

LOS GATOS, CALIFORNIA

DATE: 4/20/2022

#### RESOLUTION \_\_\_\_\_

# RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS, RENEWING ITS ORDINANCE GOVERNING THE USE OF MILITARY EQUIPMENT

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 ("AB 481"), adding Chapter 12.8, "Funding, Acquisition and Use of Military Equipment", to Division 7 of Title 1 of the Government Code (sections 7070 - 7075), relating to the use of military equipment by California law enforcement agencies; and

**WHEREAS,** AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used; and

WHEREAS, AB 481 requires, inter alia, the Police Department submit to the Town Council an annual military equipment report for each type of military equipment approved by the Town Council; and

**WHEREAS,** the Town has codified its "Military Equipment Use Policy" in Chapter 21, Article III, of the Town Code; and

**WHEREAS,** Town Code Section 21.30.010 sets forth the standards for approval of the use of military equipment; and

**WHEREAS,** the Town Council shall review its Ordinance approving the funding, acquisition, or use of military equipment at least annually and vote on whether to renew the Ordinance at a regular meeting; and

**WHEREAS,** the Town Council shall determine, based on the annual military equipment report submitted, whether each type of military equipment identified in that report has complied with the standards for approval set forth in its Ordinance; and

**WHEREAS,** the Town Council has reviewed the annual military report submitted by the Police Department and determined the military equipment has complied with the standards for approval set forth in its Ordinance; and

#### NOW, THEREFORE, BE IT RESOLVED:

**SECTION 1.** The above recitals are true and correct and are substantial part of this resolution.

1 of 2

**ATTACHMENT 5** 

**SECTION 2.** The Town Council determines that the military equipment identified in the annual military equipment report complies with the standards for approval set forth in Town Code Section 21.30.010.

**SECTION 3.** Town of Los Gatos Ordinance No. 2329 is hereby renewed.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 17<sup>th</sup> day of September, 2024, by the following vote:

COUNCIL MEMBERS:	
AYES:	
NAYS:	
ABSENT:	
ABSTAIN:	
	SIGNED:
	MAYOR OF THE TOWN OF LOS GATOS LOS GATOS, CALIFORNIA
	DATE:
ATTEST:	
TOWN CLERK OF THE TOWN OF LOS GATOS LOS GATOS, CALIFORNIA	
DATE:	

2 of 2