



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
APRIL 21, 2020
110 EAST MAIN STREET
LOS GATOS, CA**

*Marcia Jensen, Mayor
Barbara Spector, Vice Mayor
Rob Rennie, Council Member
Marico Sayoc, Council Member
Vacant, Council Member*

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Town Council. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

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

Deadlines for Public Comment and Presentations are as follows:

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

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

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

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
APRIL 21, 2020
7:00 PM**

IMPORTANT NOTICE REGARDING APRIL 21, 2020 COUNCIL MEETING

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29- 20 dated March 17, 2020, regarding the COVID- 19 pandemic. The live stream of the meeting may be viewed on television and/or online at <https://meetings.municode.com/PublishPage/index?cid=LOSGATOS&ppid=4bc370fb-3064-458e-a11a-78e0c0e5d161&p=0>. **In accordance with Executive Order N-29- 20, the public may only view the meeting on television and/or online and not in the Council Chamber.**

Submission of Public Comments in addition to the Town’s typical practice described on prior page: For those wishing to make public comments at the Council meeting, please submit your comments by email to be read aloud at the meeting using a time limit set by the Mayor consistent with Council Policy. **Email comments must be submitted to the Town Clerk at PublicComment@losgatosca.gov for all agenda items by 6:45 p.m. the day of the meeting.**

This includes requests to pull an item from the Consent Calendar or to make a comment under Verbal Communications. All email comments shall be subject to the same rules as would otherwise govern speaker comments at the Council meeting. Electronic comments may only be submitted via email and comments via text and social media (Facebook, Twitter, etc.) are not accepted.

Consideration of Public Comments: All email comments submitted after 11 a.m. and before 6:45 p.m. on the day of the meeting shall be provided to the Council for its consideration, included in the record of the Council meeting, read at the meeting, and placed on the screen for viewing during the broadcast. The reading of each comment shall not exceed three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for speakers at a Council meeting.

REMOTE LOCATION PARTICIPANTS

VICE MAYOR BARBARA SPECTOR, COUNCIL MEMBER ROB RENNIE, COUNCIL MEMBER MARICO SAYOC. All votes during the teleconferencing session will be conducted by roll call vote.

MEETING CALLED TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

COUNCIL / MANAGER MATTERS

CONSENT ITEMS (Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. **A member of the public may request to pull an item from Consent by sending an email with the reason(s) for the request to PublicComment@losgatosca.gov by 6:45 p.m. on the day of the meeting.** If an item is pulled, the Mayor has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)

1. Approve Closed Session Council Meeting Minutes of April 7, 2020.
2. Approve Council Meeting Minutes of April 7, 2020.
3. Modify the Youth Commission Recruitment by Extending Expiring Youth Commission Terms by One Year for All but Those in the Twelfth Grade (Five Positions), Extending the Recruitment Deadline to July 10, 2020, and Conducting Interviews on July 21, 2020 for the Five Vacancies.
4. Adopt an Ordinance, by Title Only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Family Daycare Home Regulations. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos.
5. Adopt an Ordinance, by Title only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units, Town Wide. Town Code Amendment Application A-20-001. Applicant: Town of Los Gatos.
6. Adopt a Resolution Describing Improvements and Directing Preparation of the Town Engineer's Report for Fiscal Year 2020/21 for Landscape and Lighting Assessment Districts No. 1 and 2.
7. Adult Recreation Center – New Air Conditioning Chiller
 - a. Authorize the Town Manager to Execute a Purchase and Service Agreement with Foothill Mechanical Inc. for Installation of a New Air Conditioning Chiller in the Adult Recreation Center in an Amount Not to Exceed \$55,600 Plus an Additional \$11,120 for Unanticipated Costs for a Total Agreement Amount Not to Exceed \$66,720.
 - b. Approve an expenditure budget adjustment in the Facilities Maintenance Fund of \$66,720.
8. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of FBD Vanguard Constructions, Inc., and Authorize the Recording by the Town Clerk for PPW Job No. 411-811-003 Almond Grove Street Reconstruction Project Phase 2
9. Authorize the Town Manager to Enter into an Agreement with Truepoint Solutions for Accela Software Support and Related Consulting Services Not to Exceed \$150,000 for a Five-Year Term.
10. Authorize the Town Manager to Purchase Replacement Police Department Mobile Data Computers from CDCE Incorporated for an Amount Not to Exceed \$122,089.55.
11. Adopt a Resolution Authorizing the Liquidation and Transfer of Assets to CalPERS California Employers' Pension Prefunding Trust (CEPPT) for Pension Prefunding Administration from Public Agency Retirement Services (PARS).
12. Approve the Waiver of Rent and Utilities for the Town of Los Gatos Lessees New Museum of Los Gatos (NUMU), Friends of the Library, Billy Jones Railroad, Soccer and Little Leagues, and Los Gatos-Saratoga Community Education and Recreation (LGS Rec) for the Duration of the Santa Clara County Shelter-in-Place Order Due to Significant Business Disruption.

13. Adopt a Resolution approving the Sale and Purchase Agreement for the sale of Town-owned property located on 14850 Winchester Boulevard, APN 424-31-055, authorizing the Town Manager to execute all documents needed to complete the transaction in a form acceptable to the Town Attorney, and authorize a revenue budget adjustment in the amount of \$1,200,000 to recognize the sale revenue.

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

PUBLIC HEARINGS (*Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for **opening statements by sending an email clearly marked as "opening statements" to PublicComment@losgatosca.gov by 6:45 p.m. on the day of the meeting.** Members of the public may be allotted up to three minutes to comment on any public hearing item, consistent with the "submission of public comments" guidance contained on page 2 of this agenda. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for **closing statements by sending an email clearly marked as "closing statements" to PublicComment@losgatosca.gov by 6:45 p.m. on the day of the meeting.** Items requested/recommended for continuance are subject to Council's consent at the meeting.*)

14. Authorize the Town Manager to Execute an Amendment to the Lease Agreement with the Los Gatos Museum Association (LGMA) also known New Museum Los Gatos (NUMU) to Eliminate Utility Payments and Increase Rent Obligations, and to Amend Their Conditional Use Permit (CUP) to Eliminate or Amend Certain Conditions to Allow LGMA to Generate Additional Revenue.

15. First reading and introduction of an ordinance of the Town of Los Gatos amending Los Gatos Town Code Chapter 14, Article X - Special Events.

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

16. Authorize the Town Manager to Negotiate and Execute an Amendment to the Agreement with Santa Barbara Transportation Corporation Doing Business as Student Transportation of America.

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

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection on the official Town of Los Gatos website.

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



**DRAFT
Minutes of the Town Council Special Meeting - Closed Session
April 7, 2020**

The Town Council of the Town of Los Gatos conducted a Special Meeting via Teleconference, due to COVID-19 Shelter in Place guidelines on Tuesday, April 7, 2020, to hold a Closed Session at 6:00 p.m.

MEETING CALLED TO ORDER AT 6:05 P.M.

ROLL CALL

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector (Remote Participant), Council Member Rob Rennie (Remote Participant), Council Member Marico Sayoc (Remote Participant).
Absent: None

VERBAL COMMUNICATIONS

None.

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

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

Town Negotiators:

Donna Williams, Liebert Cassidy Whitmore
Arn Andrews, Assistant Town Manager
Lisa Velasco, Human Resources Director

Employee Organizations:

American Federation of State, County and Municipal Employees (AFSCME)
Town Employees Association (TEA)
Police Officers' Association (POA)

ADJOURNMENT

Closed Session adjourned at 6:36 p.m.

PAGE 2 OF 2

SUBJECT: Draft Closed Session Minutes of the Town Council Special Meeting of April 7, 2020

DATE: April 21, 2020

Attest:

Submitted by:

Jenna De Long, Deputy Clerk

Laurel Prevetti, Town Manager



**DRAFT
Minutes of the Town Council Meeting
April 7, 2020**

The Town Council of the Town of Los Gatos conducted a regular meeting via Teleconference, due to COVID-19 Shelter in Place guidelines, on Tuesday, April 7, 2020, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:01 P.M.

ROLL CALL

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector (Remote Participant), Council Member Rob Rennie (Remote Participant), Council Member Marico Sayoc (Remote Participant).
Absent: None

CLOSED SESSION REPORT

Robert Schultz, Town Attorney, stated Council met in Closed Session as duly noted on the agenda and there is no action to report.

COUNCIL/TOWN MANAGER REPORTS

Manager Matters

- Encouraged residents to visit the dedicated COVID-19 webpage found on the Town website homepage for resources, information from the Public Health Department, and ways to help those affected by COVID-19.

Council Matters

- Vice Mayor Spector stated she anticipated attending a West Valley Sanitation District (WVSD) Board of Directors meeting remotely on April 8, 2020 and attended the Santa Clara County Health Department COVID-19 phone conferences.
- Council Member Rennie attended the Valley Transportation Authority (VTA) Board meeting and the Silicon Valley Clean Energy Authority (SVCEA) Risk Oversight Committee meeting.
- Council Member Sayoc attended weekly League of California Cities (LOCC) meetings.

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

1. Approve Council Meeting Minutes of March 17, 2020.
2. Approve Special Meeting Minutes of March 24, 2020.
3. Approve Closed Session Meeting Minutes of March 24, 2020.
4. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion Accepting the Completed Work of SummerHill Prospect Avenue, LLC, for Improvements in the Public Right-of-Way for 100 Prospect Avenue and Authorize Recording by the Town Clerk.

5. Authorize the Following Actions for the Retaining Wall Repair Project (19-815-9930):
 - a. Approve the Plans and Specifications;
 - b. Authorize the Town Manager to Advertise the Project for Bid;
 - c. Authorize the Town Manager to Award and Execute a Construction Agreement in an Amount not to Exceed \$201,300, Including Contingencies and Change Orders; and
 - d. Authorize Staff to Execute Future Change Orders in an Amount not to Exceed Ten Percent of the Contract Award Amount.
6. Winchester Boulevard Class IV Protected Bike Lanes
 - a. Accept a Transportation Fund for Clean Air Grant in the Amount of \$293,900 from the Bay Area Air Quality Management District for the Winchester Boulevard Class IV Protected Bike Lane Project; and
 - b. Authorize the Town Manager to Negotiate and Execute All Grant Agreements with the Bay Area Air Quality Management District.
7. Transportation Fund for Clean Air (TFCA) Grants for the School Bus Pilot Program and East Main Street Raised Crosswalk/Speed Table Project
 - a. Accept a Transportation Fund for Clean Air (TFCA) grant in the amount of \$174,000 from the Santa Clara Valley Transportation Authority (VTA) for the School Bus Pilot Program;
 - b. Accept a TFCA grant in the amount of \$86,200 from the VTA for the East Main Street Raised Crosswalk/Speed Table project;
 - c. Authorize the Town Manager to negotiate and execute all grant agreements with VTA (Attachment 1); and
 - d. Authorize a revenue budget adjustment in the amount of \$87,000 in the Fiscal Year 2019/20 Capital Improvement Program (CIP) Budget for the School Bus Pilot Program to recognize receipt of grant funds. The second year of the grant proceed will be incorporated in the FY 2020/21 capital project budget.
8. Direct the Town Manager to implement a temporary public parklet on a portion of Grays Lane to promote community vitality and continue to gather information on possible options for the future downtown streetscape improvements.
9. Fee and Fine Schedules for Fiscal Year 2020/21
 - a. Adopt a resolution approving the Comprehensive Fee Schedule for FY 2020/21 to continue certain department fees, rates, and charges, and amending certain fees, rates, and charges for FY 2020/21.
 - b. Adopt a resolution approving the Comprehensive Fine Schedule for FY 2020/21 to continue certain department fines.

Town Clerk Neis read the following electronic communications into the record:

Jim Foley

- Commented in support of item #8 – Grays Lane parklet.

Consent Items - continued

MOTION: Motion by Council Member Sayoc to approve the Consent Items. Seconded by Council Member Rennie.

VOTE: Motion passed unanimously for items 1 through 7, and 9. Vice Mayor Spector voting no on Item 8.

VERBAL COMMUNICATIONS

No items were received for verbal communication.

Council Member Sayoc recused herself from item #10 and left the meeting.

OTHER BUSINESS

10. Authorize the Town Manager to Amend Existing Human Services Grant Agreements with West Valley Community Services, Counseling and Support Services for Youth, Next Door Solutions, and Live Oak Senior Nutrition to Donate an Additional \$10,000 to Each Organization, for a Total of \$40,000, to assist Town Residents with Needed Services Due to COVID-19 and Related Public Health Orders.

Laurel Prevetti, Town Manager, presented the staff report.

Town Clerk Neis read the following electronic communications into the record:

Kathy Mlinarich, Executive Director of Live Oak Senior Nutrition Center

- Commented in support of the item.

Josh Selo, Executive Director of West Valley Community Services

- Commented in support of the item.

Council discussed the item.

MOTION: Motion by Vice Mayor Spector to approve the recommendation contained in the staff report. Seconded by Council Member Rennie.

VOTE: Motion passed 3/1. Council Member Sayoc recused.

Council Member Sayoc rejoined the meeting.

11. Introduce an Ordinance, by Title Only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Family Daycare Home Regulations. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos.

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

No public comment was received for this item.

Council discussed the item.

MOTION: Motion by Council Member Sayoc to introduce an ordinance, by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding Family Daycare Home Regulations. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos. **Seconded by Vice Mayor Spector.**

VOTE: Motion passed unanimously.

Town Clerk Neis read the title of the ordinance.

12. Introduce an Ordinance, by Title only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units, Town Wide. Town Code Amendment Application A-20-001. Applicant: Town of Los Gatos.

Joel Paulson, Community Development Director, presented the staff report and noted the public comment contained in the Desk Item.

Council discussed the item.

MOTION: Motion by Vice Mayor Spector to introduce an ordinance, by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding Accessory Dwelling Units, Town Wide. **Seconded by Council Member Sayoc.**

VOTE: Motion passed unanimously.

Town Clerk Neis read the ordinance title.

OTHER BUSINESS

13. Approve a Preferred Land Use Alternative Framework for the General Plan Update.

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

Other Business Item #13 - continued

Town Clerk Neis read the following electronic communications into the record:

Kim Vrjen

- Commented in opposition of option C and in support of option B.

Lee Quintana

- Commented in support of increasing the number of dwelling units as set forth in option C but opposed the option as a whole. Commented on the process, concern for internal consistency of the General Plan, consistency between the General Plan and Zoning Code, and other related issues.

Jim Foley

- Commented in support of the item.

Joel Paulson, Community Development Director, encouraged the community to submit input regarding the Los Gatos General Plan by visiting www.LosGatos2040.com

Council discussed the matter.

MOTION: Motion by Council Member Rennie to approve Preferred Land Use Alternative Framework Option C for the General Plan update. Seconded by Mayor Jensen.

VOTE: Motion passed unanimously.

ADJOURNMENT

The meeting adjourned at 8:21 p.m.

Submitted by:

Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 3

DATE: April 9, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Modify the Youth Commission Recruitment by Extending Expiring Youth Commission Terms by One Year for All but Those in the Twelfth Grade (Five Positions), Extending the Recruitment Deadline to July 10, 2020, and Conducting Interviews on July 21, 2020 for the Five Vacancies

RECOMMENDATION:

Modify the Youth Commission recruitment by extending expiring Youth Commission terms by one year for all but those in the twelfth grade (five positions), extending the recruitment deadline to July 10, 2020, and conducting interviews on July 21, 2020 for the five vacancies.

DISCUSSION:

The annual recruitment for the Youth Commission began mid-February with an application deadline of May 1, and interviews scheduled for May 12, 2020. At this time, no applications have been received for the Youth Commission, and with the COVID-19 Shelter in Place Public Health Order, outreach through the schools has been diminished.

Staff recommends extending the expiring terms of all but the five seniors to June 30, 2021, extending the application deadline to July 10, 2020, and conducting interviews on July 21, 2020 for the five vacancies. The five appointments would be considered by the Town Council on August 4, 2020 with terms extending from August 5, 2020 through June 30, 2021 for those five positions.

PREPARED BY: Shelley Neis
Town Clerk

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

PAGE 2 OF 2

SUBJECT: Modify Youth Commission Recruitment

DATE: April 9, 2020

ALTERNATIVES:

Council could extend the application deadline for all expiring terms (15 positions) to July 10 and conduct interviews on July 21. Appointments would be ratified at the August 4 Council meeting and the terms would be August 5, 2020 to June 30, 2021. Staff does not recommend this option because the current lack of applications and the diminished outreach indicates that it is unlikely that the Town would receive the amount of applications necessary to fill all 15 vacancies.

Council could extend the expiring terms of all but the five seniors to June 30, 2021 and not fill the five vacancies. This would mean the Youth Commission would have 15 members for the 2020/2021 term. Staff does not recommend this option because there typically is interest to serve on the Commission and the staff recommendation provides this opportunity.

COORDINATION:

This report was coordinated with the Town Manager's Office.

FISCAL IMPACT:

There is no fiscal impact.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Youth Commission Expiring Terms

YOUTH COMMISSION EXPIRING TERMS

Name	Current Grade	Length of Term	Date First Appointed	Date Current Term Expires
Braden Ankenbrandt	12	1 year	6/5/2018	6/30/2020
Emily Choi	11	1 year	6/4/2019	6/30/2020
Shreya Desai	11	1 year	6/4/2019	6/30/2020
Kamron Emami	9	1 year	6/4/2019	6/30/2020
Jake Hakim	8	1 year	6/4/2019	6/30/2020
Kelli Keady	12	1 year	6/4/2019	6/30/2020
Adam Moore	11	1 year	6/4/2019	6/30/2020
Jack Noymer	9	1 year	6/4/2019	6/30/2020
Jordan Okonkwo	12	1 year	6/4/2019	6/30/2020
Lucas Raspe	10	1 year	6/4/2019	6/30/2020
Faris Raza	9	1 year	6/4/2019	6/30/2020
Blythe Reynolds	12	1 year	6/6/2017	6/30/2020
Isabella Scott	12	2 years	6/7/2016	6/30/2020
Robert Stanley	11	1 year	6/4/2019	6/30/2020
Anjali Vaidya	11	1 year	6/4/2019	6/30/2020

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 4

DATE: April 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt an Ordinance, by Title Only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Family Daycare Home Regulations. Town Code Amendment Application A-20-002. Applicant: Town of Los Gatos.

RECOMMENDATION:

Adopt an Ordinance (Attachment 1), by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations.

DISCUSSION:

On April 7, 2020, the Town Council considered and voted to introduce an Ordinance amending Chapter 29 (Zoning Regulations) of the Town Code regarding family daycare home regulations. Adoption of the attached Ordinance (Attachments 1) would finalize this decision.

Attachment:

1. Draft Ordinance

PREPARED BY: Diego Mora
Assistant Planner

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

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE
REGARDING FAMILY DAYCARE HOME REGULATIONS**

WHEREAS, in 2019, Senate Bill 234 amended Government Code Sections 1596.72 through 1597.543 regarding family daycare homes; to address the current shortage of regulated childcare; and

WHEREAS, the current definition of large family daycare home within the Town Code is for seven (7) to twelve (12) children; and

WHEREAS, the new State law requires family daycare homes to allow up to fourteen (14) children; and

WHEREAS, the current regulations of family daycare homes within the Town Code would require a large family daycare home to obtain approval of a discretionary large family daycare home permit from the Development Review Committee; and

WHEREAS, the new State law requires large family daycare homes to be considered a residential use by right; and

WHEREAS, the Town Council wishes to amend the Town Code, to consider a small or large family daycare home as a residential use by right, to comply with the new State law; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on February 26, 2020; and

WHEREAS, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding family daycare home regulations and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on March 17, 2020; and

WHEREAS, on March 17, 2020, the Town Council continued this matter to the Town Council meeting on April 7, 2020; and

ATTACHMENT 1

WHEREAS, on April 7, 2020, the Town Council reviewed and commented on the proposed amendments regarding family daycare home regulations and the Town Council voted to introduce the Ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

SECTION I

Chapter 29 of the Town Code is hereby amended as follows:

ARTICLE I. DIVISION 1. - MISCELLANEOUS

Sec. 29.10.020. - Definitions.

...

Family ~~day care~~ daycare home means a dwelling where ~~day care~~ daycare is provided for children under eighteen (18) years of age who are unrelated to the licensee. A small family ~~day care~~ daycare home is for ~~six eight (6 8)~~ or fewer children and a large family day care home is for ~~seven nine (7 9)~~ to ~~twelve fourteen (12 14)~~ children. Both limitations include ~~the number of children residing in the dwelling unit~~ children under 10 years of age who reside at the home.

...

~~Sec. 29.10.09050. — Large family day care homes.~~

~~(a) Scope. Large family day care homes are allowed in all residential zones subject to the following regulations:~~

~~(1) All perimeter gates must be self-latching and the latches shall be a minimum of four (4) feet above grade.~~

~~(2) The rear yard must be enclosed with a minimum five-foot high fence.~~

~~(3) Use of the garage for day care must meet Uniform Building Code for living space.~~

~~(4) Two (2) off-street parking spaces must be provided, plus one (1) space for each employee.~~

~~(5) No double key deadbolts may be used on exterior doors.~~

~~(6) A minimum of two (2) exits must be provided.~~

- ~~(7) A minimum of one hundred (100) square feet of habitable space as defined by Section 409 of the Uniform Building Code shall be provided for each child.~~
- ~~(8) No child care space is permitted on the second floor unless approved by the Building Official.~~
- ~~(9) No signs may be displayed.~~
- ~~(10) A minimum lot size of six thousand (6,000) square feet is required.~~
- ~~(11) A minimum of five hundred (500) feet between large family day care homes is required.~~
- ~~(12) The day care home operator must be a resident of the home.~~
- ~~(13) The large family day care home shall not alter the single-family residential character of the premises.~~
- ~~(b) Permit. A large family day care permit must be obtained from the Development Review Committee and all conditions identified must be satisfied prior to issuance.~~
- ~~(c) Inspection. Prior to issuance of a permit, the large family day care home is subject to an on-site inspection to insure compliance with all regulations to the satisfaction of the Building Official and Planning Director.~~
- ~~(d) Notification. All property owners within one hundred (100) feet shall be notified prior to the issuance that a large family day care home permit will be issued and the notification shall include the conditions under which the permit shall operate.~~
- ~~(e) Affidavit. All property owners of the property where the large family day care home is to be located shall sign an affidavit certifying that the property shall remain in compliance with the requirements of subsection 29.10.09050(a).~~
- ~~(f) Denial. The Planning Director may not issue a large family day care home permit where he finds the day care home will not comply with the provisions of this chapter.~~
- ~~(g) Revocation. The Planning Director may revoke large family day care home permits for violations of this chapter. Before revoking a large family day care home permit, the Planning Director shall give the permittee ten (10) days' notice in writing that revocation is under consideration, shall consider whatever evidence the permittee~~

wishes to present to contest the revocation, and shall give the permittee written notice of this decision. Both notices shall be mailed to the address given by the permittee in his application for the large family day care home permit or such other address as the permittee has provided the Planning Director.

...

ARTICLE II. DIVISION 3. – APPROVALS

Sec. 29.20.185. – Table of conditional uses.

...

(4) Schools

...

Table of Conditional Uses		RC	HR	R1	RD	R-M	R-1D	RMH	O	C-1	C-2	CH	LM	CM
d.	Small family day care <u>daycare home</u>								X	X	X	X		
e.	Large family day care home <u>Reserved.</u>													

...

ARTICLE II. DIVISION 7. – ASSIGNMENT OF DUTIES

Sec. 29.20.745. – Development Review Committee.

...

(10) ~~Issue large family day care home permits~~ Reserved.

...

ARTICLE IV. DIVISION 2. – RC OR RESOURCE CONSERVATION ZONE

Sec. 29.40.160. – Permitted Uses.

...

(4) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 3. – HR OR HILLSIDE RESIDENTIAL ZONE

Sec. 29.40.235. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 4. – R-1 OR SINGLE-FAMILY RESIDENTIAL ZONE

Sec. 29.40.385. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 5. – R-D OR DUPLEX RESIDENTIAL ZONE

Sec. 29.40.510. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 6. – R-M OR MULTIPLE-FAMILY RESIDENTIAL ZONE

Sec. 29.40.610. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 7. – R-1D OR SINGLE-FAMILY RESIDENTIAL DOWNTOWN ZONE

Sec. 29.40.725. – Permitted Uses.

...

(3) ~~Small family day care home~~ Family daycare home.

...

ARTICLE IV. DIVISION 8. – RMH OR MOBILE HOME RESIDENTIAL ZONE

Sec. 29.40.835. – Permitted Uses.

...

(6) Family daycare home.

SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on

the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of April 2020, 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 21st day of April 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 5

DATE: April 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt an Ordinance, by Title only, Effecting Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Accessory Dwelling Units, Town Wide. Town Code Amendment Application A-20-001. Applicant: Town of Los Gatos

RECOMMENDATION:

Adopt an Ordinance, by title only, effecting amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling units.

DISCUSSION:

On April 7, 2020, the Town Council considered and voted to introduce an Ordinance amending Chapter 29 (Zoning Regulations) of the Town Code regarding accessory dwelling unit regulations. Adoption of the attached Ordinance (Attachments 1) would finalize this decision and include modifications described below regarding side and rear setbacks.

Attachment 2 contains additional public comments received following the April 7, 2020 meeting. Following Council questions and receipt of these additional comments, staff contacted Housing and Community Development (HCD) for further guidance. HCD clarified that the maximum side and rear setback for attached and detached accessory dwelling units is four feet. Staff has modified the draft Ordinance to reflect the necessary changes to the introduced Ordinance to meet this guidance in red font (see page 5 of Attachment 1).

Attachments:

1. Draft Ordinance
2. Public comments received between 11:01 a.m. Tuesday April 7, 2020 and 11:00 a.m. Thursday, April 16, 2020

PREPARED BY: Sally Zarnowitz, AIA, LEED AP
Planning Manager

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

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE
REGARDING ACCESSORY DWELLING UNITS**

WHEREAS, effective January 1, 2020, Assembly Bill 881, Assembly Bill 68, and Senate Bill 13 amended Government Code Section 65852 regarding accessory dwelling unit and junior accessory dwelling unit regulations, to further address barriers to the development of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the Town of Los Gatos 2015-2023 Housing Element Enhanced Second Unit Program identified amending the Town Code to allow new second units to be affordable to lower income households on nonconforming residential lots and in the Hillside Residential Zone (Action HOU-1.2) as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the Town Council wishes to amend the Town Code to comply with State law and to address Action HOU-1.2 of the Town of Los Gatos 2015-2023 Housing Element; and

WHEREAS, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Planning Commission for public hearing on February 26, 2020; and

WHEREAS, on February 26, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding accessory dwelling units and forwarded a recommendation to the Town Council for approval of the proposed amendments; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and come before the Town Council for public hearing on March 17, 2020; and

WHEREAS, on March 17, 2020, the Town Council continued this matter to the Town Council meeting on April 7, 2020; and

ATTACHMENT 1

WHEREAS, on April 7, 2020, the Town Council reviewed and commented on the proposed amendments regarding accessory dwelling units and the Town Council voted to introduce the Ordinance.

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

SECTION I

Chapter 29 of the Town Code is hereby amended to read as follows:

ARTICLE I. DIVISION 1. MISCELLANEOUS

Sec. 29.10.020. - Definitions.

.....

~~Accessory dwelling unit means a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as the primary dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.~~

~~(1) A detached accessory dwelling unit is physically separate from the primary dwelling unit.~~

~~(2) An attached accessory dwelling unit is physically attached to the primary dwelling unit.~~

.....

ARTICLE I. DIVISION 4. PARKING

Sec. 29.10.150 (c). Number of off-street spaces required.

.....

~~(2) Accessory dwelling units. One parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling unit. These spaces may be provided in a front setback on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.~~

~~When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary residence may be located in any~~

~~configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.~~

~~a. Exceptions. No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:~~

~~1. The accessory dwelling unit is located within one-half mile of a public transit stop.~~

~~2. The accessory dwelling unit is located within an architecturally and historically significant historic district.~~

~~3. The accessory dwelling unit is within the existing space of a primary residence or an existing accessory structure.~~

~~4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~

~~5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.~~

~~6. When the Director finds that the lot does not have adequate area to provide parking.~~

.....

ARTICLE I. DIVISION 7. ACCESSORY DWELLING UNITS

Sec. 29.10.305. Intent and authority.

This division is adopted to comply with amendments to State Law § 65852.2 and 65852.22 which mandates that applications for accessory dwelling units be considered ministerially without a public hearing; and sets Town standards for the development of accessory dwelling units in order to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

Sec. 29.10.310. Definitions.

Accessory dwelling unit. An accessory dwelling unit is a detached or attached dwelling unit. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and is generally smaller and located on the same parcel as a proposed or existing primary dwelling. An accessory dwelling unit also includes efficiency units and manufactured homes.

(1) A detached accessory dwelling unit is physically separate from a primary dwelling.

(2) An attached accessory dwelling unit is contained within the space of and/or physically attached to a proposed or existing primary dwelling.

.....

Junior accessory dwelling unit. A junior accessory dwelling unit is a dwelling unit that does not exceed a floor area of 500 square feet and is contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit. It shall include a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit. If the junior accessory dwelling unit is contained within the proposed or existing space of a primary dwelling, it may include separate sanitation facilities, or it may share sanitation facilities with the primary dwelling. If the junior accessory dwelling unit is contained within the proposed or existing space of a detached accessory dwelling unit, it shall include separate sanitation facilities.

.....

~~New accessory dwelling unit.~~ A new accessory dwelling unit is an attached (with either an interior or exterior entrance) or a detached unit, created after December 31, 1987, which includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and is generally smaller and located on the same parcel as the dwelling unit. An accessory dwelling unit also includes efficiency units and manufactured homes.

Sec. 29.10.315. Reserved.

Sec. 29.10.320. New accessory dwelling units.

(a) *Incentive program.* Any accessory dwelling unit developed under an Incentive Program which may be established by Resolution of the Town Council shall be made affordable to eligible applicants pursuant to the requirements of the Incentive Program. A deed restriction shall be recorded specifying that the accessory dwelling unit shall be offered at a reduced rent that is affordable to a lower income renter (less than 80 percent AMI) provided that the unit is occupied by someone other than a member of the household occupying the primary dwelling unit.

(b) *Design and development standards.*

(1) ~~Number.~~ Only Not more than one (1) junior accessory dwelling unit contained within the space of a proposed or existing primary dwelling or detached accessory dwelling unit, and one (1) accessory dwelling unit, may be permitted on a lot with a proposed or existing primary dwelling.

Not more than a number equal to 25 percent of the existing multi-family dwelling units rounded-up to the next whole number, within the portions of an existing multi-family dwelling not used as livable space, and two (2) detached accessory dwelling units, may be permitted on a lot with a proposed or existing multi-family dwelling. No additional accessory dwelling unit is allowed upon a lot with an existing accessory dwelling unit.

- (2) *Permitted zones.* Accessory dwelling units are allowed on lots in the R-1, R-D, R-M, R-1D, RMH, HR, and RC zones, or include an existing primary dwelling.
- (3) *Setbacks.* ~~Attached accessory dwelling units shall comply with the setbacks of the zone for a primary dwelling unit.~~

No accessory dwelling unit may be constructed in front of a primary dwelling that is a historic resource.

No detached accessory dwelling unit may be placed in front of the primary dwelling ~~unit~~ in the R-1, R-D, R-M, RMH, and R-1D zones.

~~Detached~~ Accessory dwelling units shall comply with the following minimum setbacks:

- a. Front ~~and side~~ setbacks ~~abutting a street~~ of the zone for a primary dwelling ~~unit~~.
- b. Rear and side setbacks of ~~five (5)~~ four (4) feet in the R-1, R-D, R-M, RMH, and R-1D zones.
- c. Setbacks from any other structure located on the same lot of five (5) feet.
- d. Setbacks for a primary dwelling ~~unit~~ and located within the Least Restrictive Development Area (LRDA), in the HR and RC zones.

~~An accessory dwelling unit with existing side and rear setbacks sufficient for fire safety shall be permitted if the accessory dwelling unit is contained within the existing space of a primary dwelling unit or accessory structure.~~

- (4) *Height.* Accessory dwelling units shall not exceed one (1) story ~~in height~~, and shall not exceed ~~fifteen (15)~~ sixteen (16) feet in height, unless the accessory dwelling unit is contained within the existing ~~two-second~~ story space of a primary dwelling ~~unit~~ or accessory structure; added to an existing ~~two-second~~ story of a primary dwelling unit that is not a historic resource; or added directly above an existing one-story accessory structure on a property with an existing two-story primary dwelling ~~unit~~ in the R-1, R-D, R-M, RMH, and R-1D zones.
- (5) *Maximum unit size and maximum number of bedrooms.* The maximum floor area of an accessory dwelling unit is 1,200 square feet. The maximum number of bedrooms is two (2).

Detached accessory dwelling units exceeding a combined square footage of 450 square feet in the R-1, R-D, R-M, RMH, and R-1D zones shall not be subject to the Administrative Procedure for Minor Residential Projects. Detached accessory dwelling units exceeding a combined square footage of 600 or 1,000 square feet in the HR and RC zones shall not be subject to Development Review Committee or Planning Commission approval.

- (6) *Floor area ratio (FAR) standards.* All accessory dwelling units (attached or detached) are allowed a ten (10) percent increase in the floor area ratio

standards for all structures, excluding garages; except, notwithstanding the FAR standards in this subsection, an accessory dwelling unit that does not exceed a floor area of 800 square feet shall be permitted.

- (7) *Lot coverage.* Accessory dwelling units must comply with lot coverage maximums for the zone; ~~except, with regard to the addition of a single efficiency unit.~~ notwithstanding the lot coverage standards in this subsection, an accessory dwelling unit that does not exceed a floor area of 800 square feet shall be permitted.
- (8) *Parking.* One (1) accessory dwelling unit parking space per unit or bedroom, whichever is less, shall be provided in addition to the required minimum number of parking spaces for the primary dwelling. These spaces may be provided in a front or side setback abutting a street on a driveway (provided that it is feasible based on specific site or fire and life safety conditions) or through tandem parking.

In addition to parking otherwise required for units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary dwelling ~~unit~~ shall be provided prior to the issuance of a building permit or final inspection, for a new accessory dwelling unit. When a garage is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, any lost off-street parking spaces required for the primary dwelling shall not be required to be replaced. ~~unit may be located in any configuration on the same lot as the accessory dwelling unit, including as tandem spaces, or by the use of mechanical automobile parking lifts.~~

- a. *Exceptions.* No parking spaces shall be required if the accessory dwelling unit meets any of the following criteria:
1. The accessory dwelling unit is located within one-half mile walking distance of a public transit stop.
 2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 3. The accessory dwelling unit or junior accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling unit or an existing accessory structure.
 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 5. When there is a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.
 6. When the Director finds that the lot does not have adequate area to provide parking.

- (9) *Design, form, materials, and color.* The design, form, roof pitch, materials, and color of a new accessory dwelling unit shall be compatible with the primary dwelling ~~unit~~ and the neighborhood. Entrances serving the accessory dwelling unit shall not be constructed on any elevation facing a public street. Accessory dwelling units shall retain the ~~single-family~~ residential appearance of the property. Detached junior accessory dwelling units shall be
- (10) *Town codes and ordinances.* All accessory dwelling units shall comply with all the provisions of this chapter and other applicable Town codes.
- (11) *Building codes.* The accessory dwelling unit shall comply with applicable building, health and fire codes. The accessory dwelling unit shall not be required to provide fire sprinklers if they are not required for the primary dwelling ~~unit~~.
- (12) *Denial.* An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:
 - a. Adverse impacts on health, safety, and/or welfare of the public.
- (13) *Conversion of existing floor area.* An accessory dwelling unit shall be permitted if the accessory dwelling unit is contained within the existing space of or constructed in substantially the same location and manner as an existing primary dwelling ~~unit~~ or accessory structure. The following provisions shall apply:
 - a. The accessory dwelling unit shall be located on a lot zoned to allow single-family, two-family, or multi-family residential ~~within a zone for a single-family~~ use.
 - b. The accessory dwelling unit shall have separate entrance from the primary dwelling ~~unit~~.
 - c. The accessory dwelling unit shall have existing side and rear setbacks sufficient for fire safety.
 - d. No parking spaces shall be required for the accessory dwelling unit.
 - e. An expansion of 150 square feet beyond the physical dimensions of an existing structure, limited to accommodating ingress and egress, shall be permitted.
 - f. When an existing structure is non-conforming as to setback standards and converted to an accessory dwelling unit, any expansion of that structure may not be nearer to a property line than the existing building in accordance with section 29.10.245.

.....

SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the

Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of April 2020, 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 21st day of April 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after

adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____

From: Maryann Berkowitz <maryann.berkowitz@yahoo.com>
Sent: Wednesday, April 8, 2020 4:40 PM
To: Marcia Jensen; BSpector; Rob Rennie; Marico Sayoc; Joel Paulson; Attorney
Subject: Fw: 104 Bella Vista Court- ADU Options 2020

Dear Town Council, we watched the meeting last evening and were chagrined to find the Town of Los Gatos unresponsive to the direction of the State of California as outlined in the letter attached. It sounded as if some issues were ignored and the concept that other municipalities are not following this guideline is of concern to us. The reason why this must be an attached dwelling is not an attempt to expand the footprint of our home. It is to ensure that we are providing a safe living quarter for my disabled 101 year old mother in her final years. Mr Rennie was correct in intimating that making detached ADU's easier to permit that attached will be less appealing to our neighborhoods. A detached ADU in our case would not allow a "reasonable accommodation" for my disabled mother who is sight, hearing and mobility impaired. Our proposed plan would have met all of her requirements, and would be hidden from the front and not imposing on our neighbors in any way. Please read the attached letter from California Department Of Housing & Community Development carefully and we would appreciate your replies. Thank you.

Respectfully, Laurence and MaryAnn Berkowitz

----- Forwarded Message -----

From: ADU <adu@hcd.ca.gov>
To: Maryann Berkowitz <maryann.berkowitz@yahoo.com>; ADU <ADU@hcd.ca.gov>; lauren@stefangeorge.com <lauren@stefangeorge.com>; abrams@bdplanning.com <abrams@bdplanning.com>; Nickless, Greg@HCD <Greg.Nickless@hcd.ca.gov>
Cc: R. Laurence Berkowitz <rberkowitz@gmail.com>
Sent: Monday, March 9, 2020, 11:20:24 AM PDT
Subject: RE: 104 Bella Vista Court- ADU Options 2020

Hi Maryann –

Please note that in the scenario you are describing, the 18-foot rear setback for an attached new ADU construction exceeds the burden placed by state ADU law and would be void and unenforceable.

The section of code outlining is 65852.2(a)(1)(D)(vii) which states “(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, **and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or**

ATTACHMENT 2

a new structure constructed in the same location and to the same dimensions as an existing structure.”

Attached new construction (which is what I believe you are describing) is subject to the four foot setbacks, regardless of the local zoning code.

With regards to the storm easement and the specs for a detached ADU, you can also note that as part of Government Code 65852.2(c)(2)(C), (2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following...“(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”

Best,



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 6

DATE: April 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Describing Improvements and Directing Preparation of the Town Engineer's Report for Fiscal Year 2020/21 for Landscape and Lighting Assessment Districts No. 1 and 2

RECOMMENDATION:

Adopt a resolution (Attachment 1) describing improvements and directing preparation of the Town Engineer's report for Fiscal Year 2020/21 for Landscape and Lighting Assessment Districts No. 1 and 2.

BACKGROUND:

The Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500) allows local government agencies to form Landscape and Lighting Maintenance Districts for financing the costs and expenses for landscaping and lighting public areas.

In the early 1990's the Town established two Landscape and Lighting Districts comprised of six zones, five of which are in District No. 1, and one in District No. 2. Diagrams of the six zones are included in this report (Attachments 2.1-2.6). Property owners in each District pay an annual assessment on their property tax bill for the maintenance of common area landscaping or lighting.

The majority of the landscape and lighting services within the Districts are provided by a contractor retained and managed directly by the Town on behalf of the property owners, with some maintenance services also provided by Town staff.

PREPARED BY: Stefanie Hockemeyer
Executive Assistant

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

PAGE 2 OF 3

SUBJECT: Adopt a Resolution Describing Improvements and Directing Preparation of the
Town Engineer's Report for Fiscal Year 2020/21 for Landscaping and Lighting
Assessment Districts No. 1 and 2

DATE: April 13, 2020

BACKGROUND (continued):

Each year, the Town Council levies the assessments and reconfirms the Districts by a series of Resolutions and a Public Hearing. The process, which is set by the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500), includes the following steps and their respective dates:

1. Council considers the adoption of a Resolution entitled Describing Improvements and Directing the Preparation of the Engineer's Report for FY 2020/21 – April 21, 2020.
2. Council considers the adoption of Resolutions Approving the 2020/21 Engineer's Report, Stating the Intention to Levy and Collect Assessments, and Setting a Public Hearing to Consider the Proposed Assessments – May 5, 2020.
3. Council conducts the public hearing and then considers the adoption of a Resolution Confirming the Assessment Diagrams and Levying and Authorizing Collection of Assessments for FY 2020/21 – June 16, 2020.

Provisions of SB 919 (the Proposition 218 Omnibus Implementation Act) adopted by the California State Legislature in 1997 (Chapter 38, Stats. 1997) are implemented during the renewal process. Proposition 218 becomes applicable only when increases in the current assessment rates are contemplated, due primarily to rising maintenance costs and increases in the costs of water and power. If that were to take place, the above noted process would be modified by introducing a mail-in balloting procedure for each zone that begins after the items in step 2 are approved by Council and concludes at the close of the public hearing.

At the conclusion of step 3, the Town Clerk transmits the assessment amounts to the County Assessor which appear as a separate item on the property tax bill for each parcel.

DISCUSSION:

Streets & Highways Code Section 22622 states, *"The legislative body shall adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and order the engineer to prepare and to file a report in accordance with Article 4 (commencing with Section 22565)."*

The attached Resolution describes the improvements (services) to be provided to the Districts and directs the preparation of the Engineer's Report.

PAGE 3 OF 3

SUBJECT: Adopt a Resolution Describing Improvements and Directing Preparation of the
Town Engineer's Report for Fiscal Year 2020/21 for Landscape and Lighting
Assessment Districts No. 1 and 2

DATE: April 13, 2020

CONCLUSION:

Adopt a Resolution describing improvements and directing preparation of the Town Engineer's report for Fiscal Year 2020/21 for Landscape and Lighting Assessment Districts No. 1 and 2.

FISCAL IMPACT:

The Town's Landscape and Lighting Assessment Districts do not impact the Town's General Fund. The impact of any proposed changes to District budgets on the assessments of individual property owners will be provided in the Engineer's Report.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Resolution Describing Improvements and Directing Preparation of Engineer's Report for Fiscal Year 2020/21.
2. Diagrams of Benefit Zones for Landscape and Lighting Districts No. 1 and 2 (labeled as Attachments 2.1 through 2.6)

RESOLUTION 2020-
RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
DESCRIBING IMPROVEMENTS AND
DIRECTING PREPARATION OF ENGINEER'S REPORT
FOR FISCAL YEAR 2020/21
TOWN OF LOS GATOS
LANDSCAPE AND LIGHTING ASSESSMENT DISTRICTS NO. 1 AND 2

WHEREAS, the Town Council did, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, conduct proceedings for the formation of the Town of Los Gatos Landscaping and Lighting Assessment Districts No. 1 and 2; and

WHEREAS, the public interest, convenience and necessity require, and it is the intention of said Council to undertake proceedings for the levy and collection of assessments upon the several lots or parcels of land in said Districts, for the construction or installation of improvements, including the maintenance or servicing, or both, thereof, for the fiscal year 2020/21; and

WHEREAS, the improvements to be constructed or installed, including the maintenance or servicing, or both, thereof, are more particularly described in (Exhibit A) hereto attached and by reference incorporated herein; and

WHEREAS, the costs and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon said Districts, the exterior boundaries of which Districts are the composite and consolidated area as more particularly shown on a map thereof on file in the Clerk Department of the Town of Los Gatos to which reference is hereby made for further particulars. Said map indicates, by a boundary line, the extent of the territory included in said Districts and of any zone thereof and shall govern for all details as to the extent of the assessment districts; and

NOW, THEREFORE, BE IT RESOLVED: The Engineer of said Town is hereby directed to prepare and file with said Town Clerk a report, in writing, referring to the assessment districts

by their distinctive designations, specifying the fiscal year to which the report applies, and, with respect to that year, presenting the following:

- a. Plans and specification of the existing improvements and for proposed new improvements, if any, to be made within the assessment districts or within any zones thereof;
- b. An estimate of the costs of said proposed new improvements, if any, to be made, the costs of maintenance or servicing, or both, thereof, and of any existing improvements, together with the incidental expenses in connection therewith;
- c. A diagram showing the exterior boundaries of the assessment districts and of any zones within said districts and the lines and dimensions of each lot or parcel of land within the districts as such lot or parcel of land is shown on the County Assessor's map for the fiscal year to which the report applies, each of which lots or parcels of land shall be identified by a distinctive number or letter on said diagram; and
- d. A proposed assessment of the total amount of the estimated costs and expenses of the proposed new improvements, including the maintenance or servicing, or both, thereof, and of any existing improvements upon the several lots or parcels of land in said districts in proportion to the estimated particular and distinct benefits to be received by each of such lots or parcels of land, respectively, from said improvements, including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto.

NOW, THEREFORE, BE IT FURTHER RESOLVED: The Office of the Engineer of said Town is hereby designated as the office to answer inquiries regarding any protest proceedings to be had herein and may be contacted during regular office hours at 41 Miles Avenue, Los Gatos, California 95030 or by calling (408) 399-5770.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 21st day of April 2020 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____

EXHIBIT A

DESCRIPTION OF IMPROVEMENTS TOWN OF LOS GATOS LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 1

1. General Description of Improvements:

The design, construction or installation, including the maintenance or servicing, or both, thereof, of landscaping, including trees, shrubs, grass or other ornamental vegetation, statuary, fountains or other ornamental structures and facilities, and public lighting facilities for the lighting of any public places, ornamental standards, luminaries, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, braces, transformers, insulators, contacts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, including the cost of repair, removal or replacement of all or any part thereof; providing for the life, growth, health and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; electric current or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; and the operation of any fountains or the maintenance of any other improvements.

2. Specific Descriptions of Improvements:

Blackwell Drive Benefit Zone - Maintenance of the landscaping in the median island on Blackwell Drive constructed as a part of the public improvements required of Tract No. 8306, and maintenance of the street lights installed along Blackwell Drive and National Avenue installed as a part of the public improvements required of Tract No. 8306.

Hillbrook Benefit Zone - The maintenance of trees, landscaping, irrigation systems, hardscape and fences as currently exist on APN 523-11-028, located at the southeast corner of Blossom Hill Road and Hillbrook Drive.

Kennedy Meadows Benefit Zone - The maintenance of trees, landscaping, irrigation systems, trail and street lights within the open space areas (Parcels A and B) and along Kennedy Court and Forrester Court, installed as a part of the public improvements required of Tract No. 8612, and the implementation of mitigation and enhancement measures within the riparian and wetlands areas of said Tract described in the report prepared by H.T. Harvey Associates, dated November 11, 1994.

Santa Rosa Heights Benefit Zone - The maintenance of trees, landscaping, trails and retaining walls constructed as a part of the public improvements required of Tract No. 8400.

Vasona Heights Benefit Zone - The maintenance of trees, landscaping, irrigation systems, trails, emergency access roads and retaining walls within the open space areas required as a part of the public improvements required of Tract No. 8280.

EXHIBIT A

DESCRIPTION OF IMPROVEMENTS TOWN OF LOS GATOS LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 2

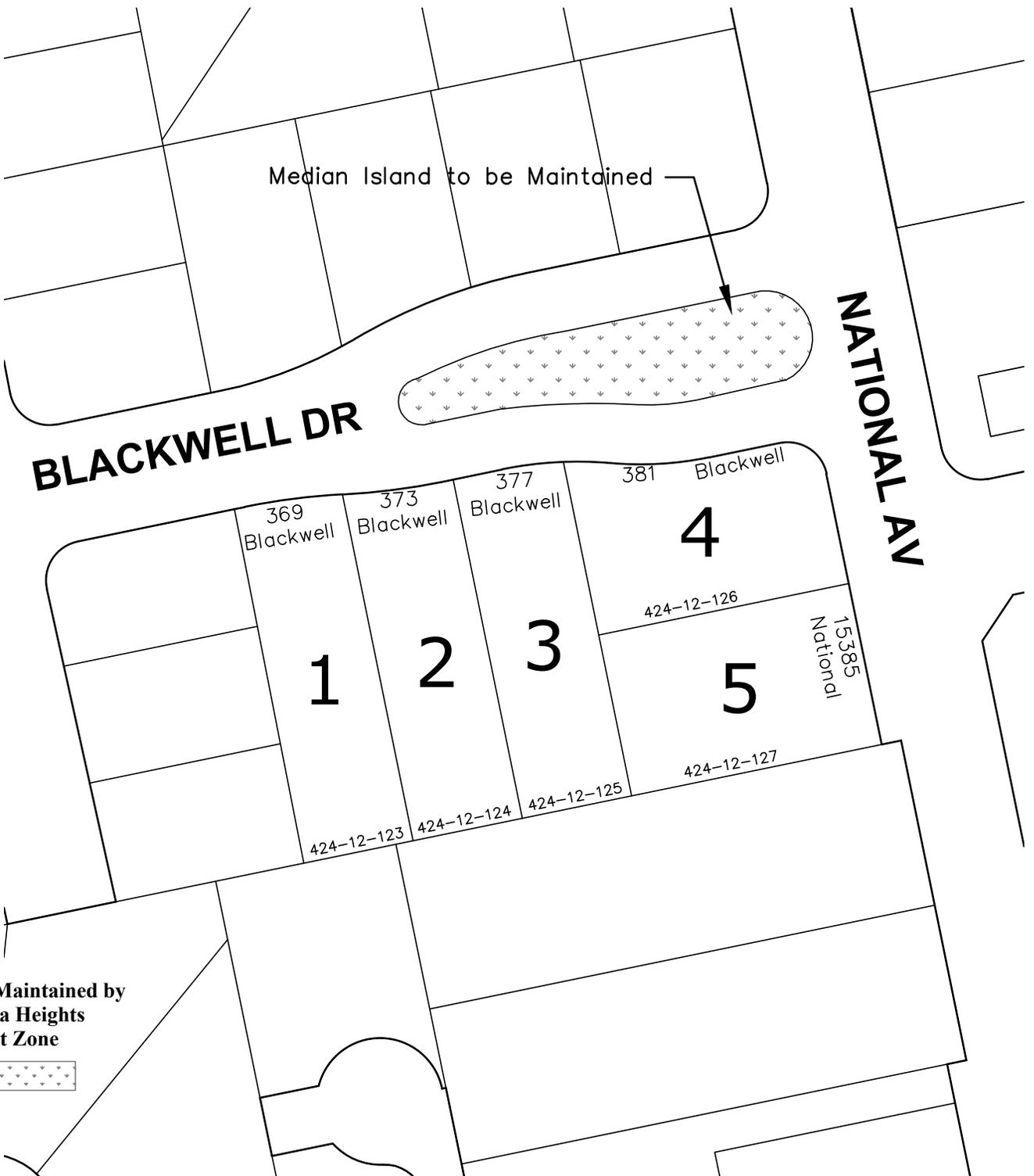
1. General Description of Improvements:

The design, construction or installation, including the maintenance or servicing, or both, thereof, of landscaping, including trees, shrubs, grass or other ornamental vegetation, statuary, fountains or other ornamental structures and facilities, and public lighting facilities for the lighting of any public places, ornamental standards, luminaries, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, braces, transformers, insulators, contacts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, including the cost of repair, removal or replacement of all or any part thereof; providing for the life, growth, health and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; the removal of trimmings, rubbish, debris and other solid waste; electric current or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; and the operation of any fountains or the maintenance of any other improvements.

2. Specific Description of Improvements:

Gemini Court Benefit Zone - The maintenance of trees, landscaping, irrigation systems, lighting, sound walls, and fences installed as a part of the public improvements required of Tract No. 8439.

PART "D"
Assessment Diagram



Area Maintained by
Vasona Heights
Benefit Zone



Not To Scale

Blackwell Drive Benefit Zone
Landscaping & Lighting Assessment District No. 1

PART "A"

Existing Improvements to be Maintained

BLOSSOM HILL RD

HILLBROOK
SIGN

HILLBROOK DR

EX.
OAK

523-11-028

LAWN

EX.
OAK

EX. SHRUBS

EX. SHRUBS



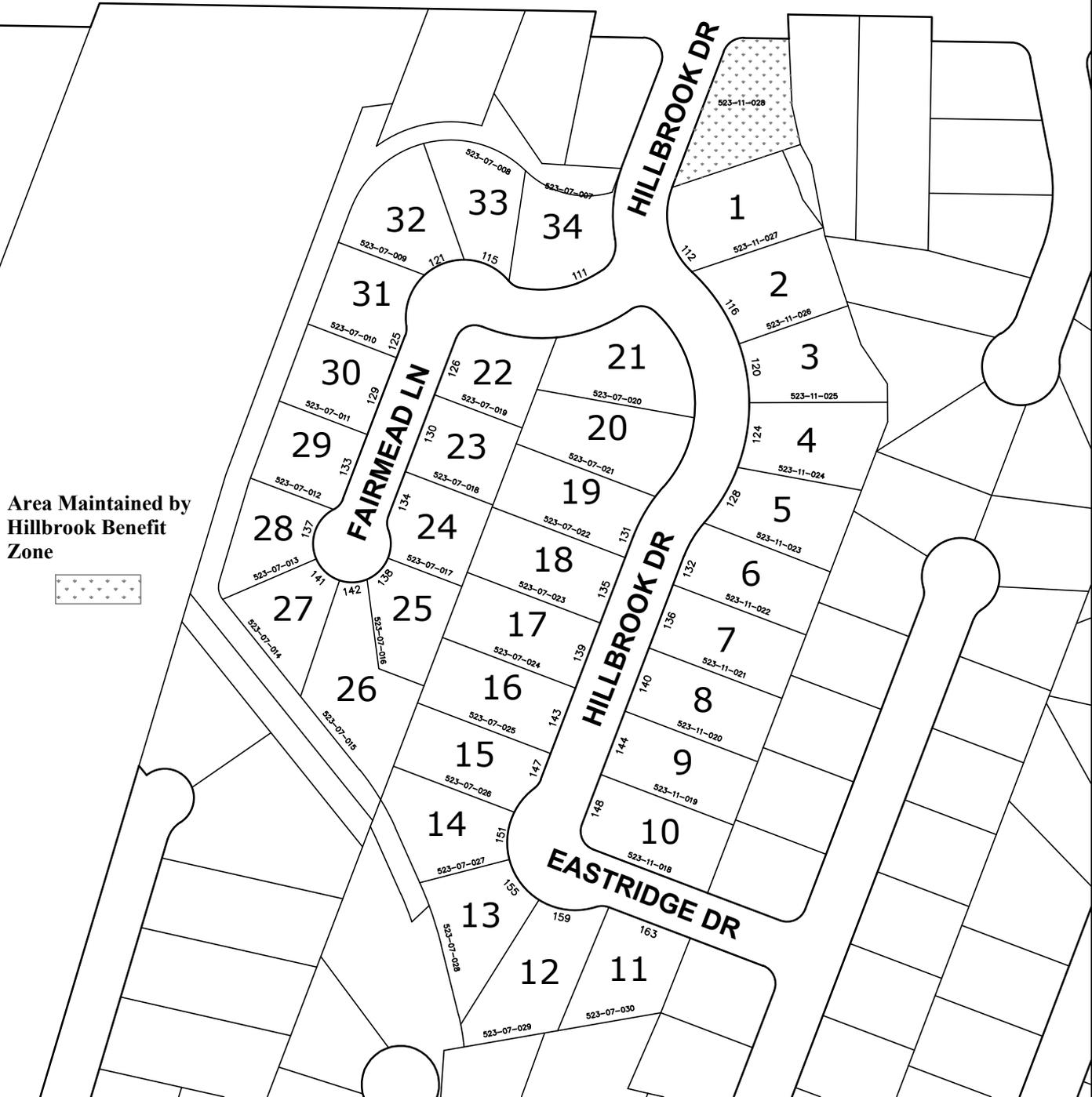
Not To Scale

Hillbrook Benefit Zone

Landscaping & Lighting Assessment District No. 1

PART "D"
Assessment Diagram

BLOSSOM HILL RD



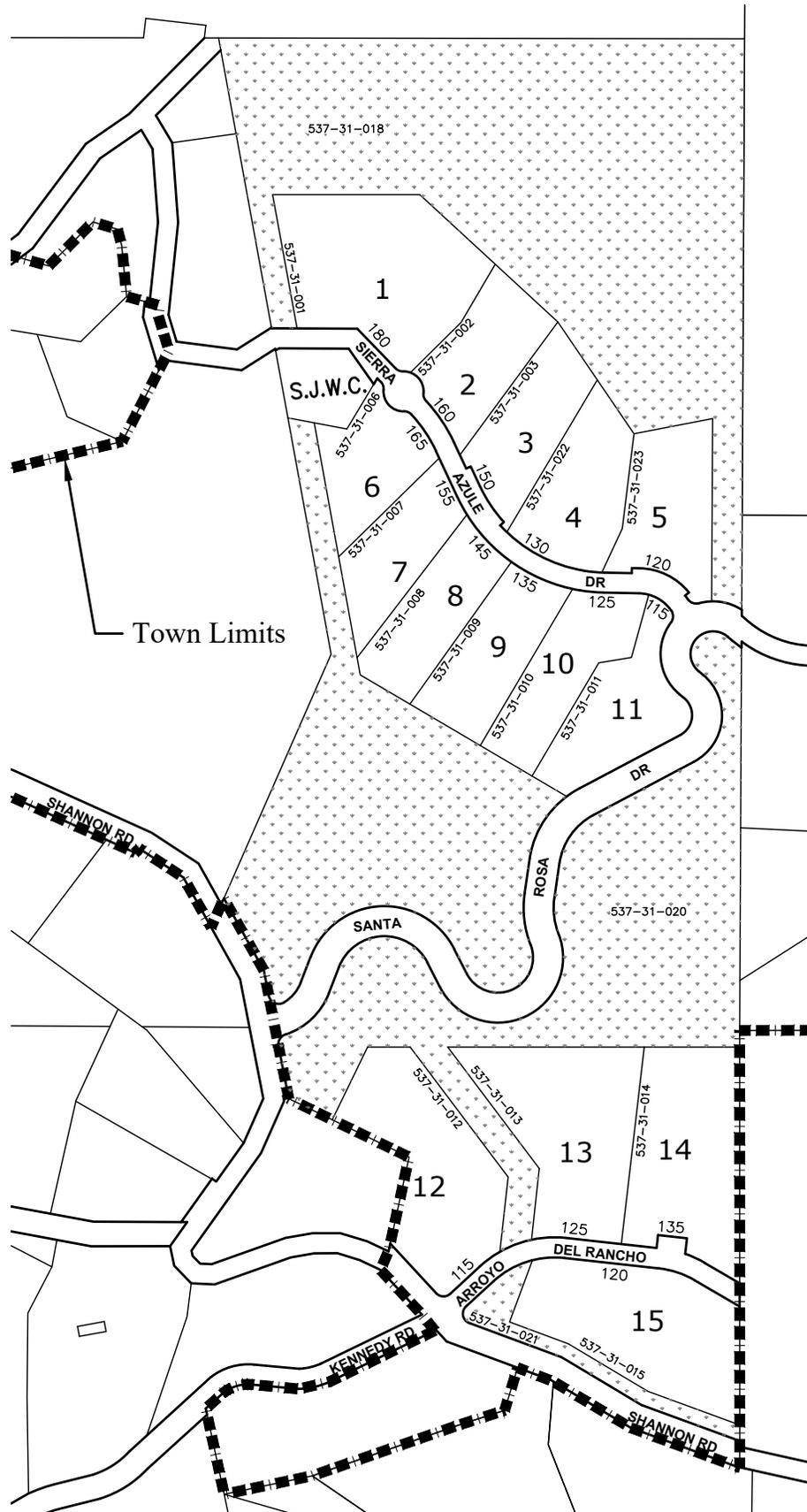
Area Maintained by
Hillbrook Benefit
Zone



Not To Scale

Hillbrook Benefit Zone
Landscaping & Lighting Assessment District No. 1

PART "D" Assessment Diagram



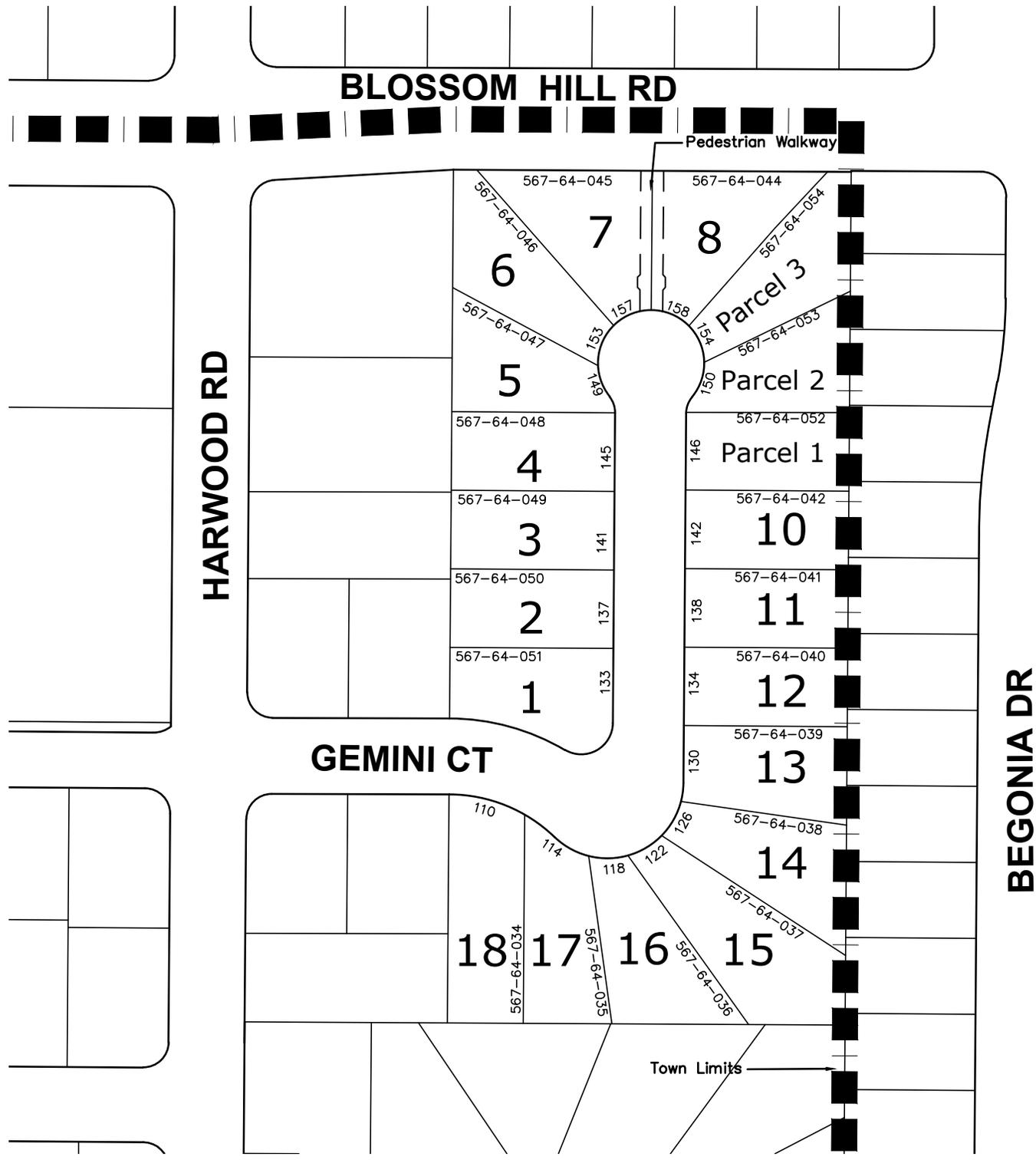
**Area Maintained by
Santa Rosa Heights
Benefit Zone**



Not To Scale

Santa Rosa Heights Benefit Zone Landscaping & Lighting Assessment District No. 1

PART "D"
Assessment Diagram



Not To Scale

Gemini Court Benefit Zone
Landscaping & Lighting Assessment District No. 2



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 7

DATE: April 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adult Recreation Center – New Air Conditioning Chiller
a. Authorize the Town Manager to Execute a Purchase and Service Agreement with Foothill Mechanical Inc. for Installation of a New Air Conditioning Chiller in the Adult Recreation Center in an Amount Not to Exceed \$55,600 Plus an Additional \$11,120 for Unanticipated Costs for a Total Agreement Amount Not to Exceed \$66,720.
b. Approve an expenditure budget adjustment in the Facilities Maintenance Fund of \$66,720.

RECOMMENDATION:

Staff recommends that the Town Council:

- a. Authorize the Town Manager to execute a Purchase and Service Agreement with Foothill Mechanical Inc. (Attachment 1) for installation of a new air conditioning chiller in the Adult Recreation Center in an amount not to exceed \$55,600 plus an additional \$11,120 for unanticipated costs for a total agreement amount not to exceed \$66,720.
- b. Approve an expenditure budget adjustment in the Facilities Maintenance Fund of \$66,720.

BACKGROUND:

The Town of Los Gatos utilizes contractual heating, ventilation, and air conditioning (HVAC) services for equipment maintenance and replacements in Town-owned facilities. Staff reviews these contracts and the performance of contractors to ensure that the services provided are being completed satisfactorily, competitively priced, and continue to meet the Town's expectations and contract terms. Staff has determined that contractual HVAC services are the most effective service delivery method for equipment replacements due to the high level of responsiveness required, the specialized expertise needed, and the essential operations housed in these facilities.

PREPARED BY: Dan Keller
Facilities & Environmental Services Manager

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

PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to Execute a Purchase and Service Agreement with Foothill Mechanical Inc. for Installation of a New Air Conditioning Chiller in the Adult Recreation Center in an Amount Not to Exceed \$55,600 Plus an Additional \$11,120 for Unanticipated Costs for a Total Agreement Amount Not to Exceed \$66,720

DATE: April 13, 2020

DISCUSSION:

Regular maintenance and multiple repairs have been performed on the air conditioning chiller unit at the Adult Recreation Center through staff efforts and contractual services for many years. The chiller has now reached its serviceable life and has failed, which leaves the facility with no cooling functionality. To repair this equipment at this stage would not be efficient or result in a reasonable long-term solution. Installation of a replacement chiller is necessary to properly air condition the facility and more adequately position the facility for the future.

A request for quotes was sent to four firms, two of which submitted cost proposals and the results are listed in Attachment 2.

Based on a review of the proposals and reference checks, staff determined that Foothill Mechanical Inc. is the best qualified and most cost competitive firm to provide the requested services. Foothill Mechanical Inc. is headquartered in Los Gatos and is a certified contractor in the HVAC industry.

CONCLUSION:

Authorize the Town Manager to execute a Purchase and Service Agreement with Foothill Mechanical Inc. (Attachment 1) for installation of a new air conditioning chiller in the Adult Recreation Center in an amount not to exceed \$55,600 plus an additional \$11,120 for unanticipated costs for a total agreement amount not to exceed \$66,720 and an expenditure budget adjustment in the Facilities Maintenance Fund of \$66,720.

FISCAL IMPACT:

Staff recommends an expenditure budget adjustment of \$66,720. The requested funds are available in the Facilities Maintenance Fund Balance to complete this work.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Draft Purchase and Service Agreement
2. Cost Proposals

PURCHASE AND SERVICE AGREEMENT

THIS AGREEMENT is dated for identification this 8th day of April 2020 and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and FOOTHILL MECHANICAL INC. ("Service Provider"), whose address is 17419 Farley Road West, Los Gatos, CA 95030. This Agreement is made with reference to the following facts. This contract will remain in effect upon execution date through December 31, 2020.

I. RECITALS

- 1.1 Town sought quotations for the purchase described in this Agreement, and Supplier was found to be the lowest responsible supplier for this purchase.
- 1.2 Supplier represents that it is a qualified and competent supplier of the items to be purchased under this Agreement.
- 1.3 The Town desires to engage Supplier to provide materials and labor to install to a roof top chiller unit at 208 E. Main Street.
- 1.4 The Supplier represents and affirms that it is qualified and willing to perform the desired work pursuant to this Agreement.

II. AGREEMENTS

- 2.1 Supplies and Terms. Supplier hereby agrees to deliver to Town the items and materials described in Exhibit A, which is attached hereto and incorporated by reference. The terms and conditions are as follows:
 - (1) Price. Town shall pay Supplier the amounts defined in Exhibit A, which include sales tax and delivery charges. Payment shall be net 30 days from delivery.
 - (2) Delivery. The delivery of the items and materials is anticipated to be installed no later than July 31, 2020. Delivery shall be made between 8:00 a.m. and 5:00 p.m. on weekdays that are not Town holidays or furlough days.
- 2.2 Time of the Essence. Prompt delivery of the items and materials is essential to this Agreement.
- 2.3 Scope of Services. Supplier shall provide services as described in that certain Proposal sent to the Town on February 21, 2020, which is hereby incorporated by reference and attached as "Exhibit A."

- 2.4 Time of Performance. Notwithstanding Section 2.1(2), this agreement will remain in effect until December 31, 2020.
- 2.5 Compliance with Laws. The Supplier shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Supplier represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Supplier to practice its profession. Supplier shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.6 Sole Responsibility. Supplier shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.7 Information/Report Handling. All documents furnished to Supplier by the Town and all reports and supportive data prepared by the Supplier under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Supplier's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Supplier in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Supplier shall not make any of the these documents or information available to any individual or organization not employed by the Supplier or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Supplier 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 Supplier in connection with other projects shall be solely at Town's risk, unless Supplier expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Supplier which is and has been confirmed in writing by Supplier to be a trade secret of Supplier.
- 2.8 Compensation. Compensation for the supplies and materials delivered and for supplier's professional services shall be \$55,600, plus \$11,120 for unanticipated repairs, for a total agreement not to exceed \$66.720, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.9 Billing. Billing shall be by invoice within thirty (30) days of the rendering of the services and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

Invoices:

Town of Los Gatos

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

- 2.10 Availability of Records. Supplier shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Supplier shall make these records available to authorized personnel of the Town at the Supplier's offices during business hours upon written request of the Town.
- 2.11 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Supplier. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.12 Independent Contractor. It is understood that the Supplier, 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 Supplier 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. Supplier agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Supplier 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 Supplier or is based on allegations of Supplier's negligent performance or wrongdoing.
- 2.13 Conflict of Interest. Supplier understands that its professional responsibilities are solely to the Town. The Supplier has and shall not obtain any holding or interest within the Town of Los Gatos. Supplier 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, Supplier 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. Supplier 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, Supplier discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Supplier shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.14 Equal Employment Opportunity. Supplier warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity.

Neither Supplier 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. Supplier agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Supplier 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. Supplier shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Supplier agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Supplier 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 Supplier for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Supplier; products and completed operations of Supplier, premises owned or used by the Supplier. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Supplier's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or

volunteers shall be excess of the Supplier'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 Supplier's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

3.3 Workers' Compensation. In addition to these policies, Supplier 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, Supplier shall ensure that all subcontractors employed by Supplier provide the required Workers' Compensation insurance for their respective employees.

3.4 Indemnification. The Supplier shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Supplier, or any of the Supplier's officers, employees, or agents or any sub-contractor.

IV. GENERAL TERMS

4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

4.2 Severability. If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.

4.3 Warranty. Supplier shall remedy any defects due to faulty materials and/or workmanship and pay for any damages to other work and/or existing facilities resulting therefrom which shall appear within a period of one year from the date of recording of final acceptance.

- 4.4 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.5 Termination of Agreement. The Town and the Supplier 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 Supplier shall deliver to the Town all supplies and services scheduled to be delivered to Town within that fifteen (15) day period.
- 4.6 Prevailing Wages. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a “public work” by the State of California. This includes: construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.
1. The applicable California prevailing wage rate can be found at www.dir.ca.gov and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be available to any interested party upon request. The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.
 2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
 3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.
 4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.

5. The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
 6. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
 7. In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
 8. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
 9. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
- 4.7 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Supplier.
- 4.8 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.

4.9 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

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

FOOTHILL MECHANICAL INC.
17419 FARLEY ROAD WEST
LOS GATOS, CA 95030

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

4.10 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.

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4.11 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Supplier. 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 Supplier have executed this Agreement.

Town of Los Gatos by:

Foothill Mechanical Inc., by:

Laurel Prevetti, Town Manager

Recommended by:

Matt Morley, Director of Parks and Public Works

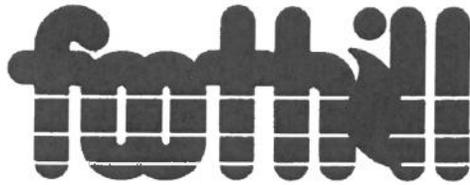
Title

Approved as to Form:

Robert Schultz, Town Attorney

Attest:

Shelley Neis, Town Clerk, MMC, CPMC



Mechanical, inc.

- Service
- Design
- Build

17419 Farley road west
 Los Gatos, ca 95030
 (408) 395-2500
 (fax) 395-2064
 Ca license #363862

To: Town of Los Gatos
 Attn: Joseph Gamboa
 Re: Los Gatos Rec Center

Date: February 21, 2020
 From: Steve Davies
 Email: Jgamboa@losgatosca.gov

Dear Joseph,

We are pleased to provide you with the proposal for the replacement of a chiller at the recreation center in Los Gatos. Our price is based on our walk through. Please see our breakout and price below and let me know if you have any questions.

We Include:

- Removal of Existing Chiller
- Installation of new Chiller
- Reconnection of water piping
- Insulation as needed
- Start and Test

Price: \$55,600

We Exclude:

- Structural Calculations or modifications
- Overtime, Permit

Sincerely,

Steve Davies

Copies have been sent to the following:

Job File:

Town of Los Gatos - Adult Recreation Center - Chiller replacement - Cost Proposals 2020

			Intent to Award			
Contractor Project Proposals			Foothill Heating & Air Cond. Inc.	Air Systems Inc.	LG Heating and Air	Atlas Trillo
Item	Location	Description	Bid	Bid	Bid	Bid
1	Adult Recreation Center 208 E. Main St., Los Gatos, CA	Chiller replacement	\$55,600	\$56,351	Non resp	Non resp
Total			\$ 55,600.00	\$ 56,351.00		



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 7

DESK ITEM

DATE: April 21, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adult Recreation Center – New Air Conditioning Chiller

- a. Authorize the Town Manager to Execute a Purchase and Service Agreement with Foothill Mechanical Inc. for Installation of a New Air Conditioning Chiller in the Adult Recreation Center in an Amount Not to Exceed \$55,600 Plus an Additional \$11,120 for Unanticipated Costs for a Total Agreement Amount Not to Exceed \$66,720.
- b. Approve an expenditure budget adjustment in the Facilities Maintenance Fund of \$66,720.

REMARKS:

The following question was received from a Council Member:

Question: Why is the HVAC replacement not part of the efficiency improvement project where we are able to save money through the program of replacing with more efficient and the power bill savings used to pay the project administrator?

Response: There were two reasons this chiller didn't make the program. First, it didn't pencil out for cost recovery from an energy savings perspective (cost versus energy savings). We tried to keep that program payback positive. Second, we don't pay the utility bills for the adult recreation center, those are paid for by Los Gatos Saratoga Recreation. Creating a deal where their bill showed the cost of the chiller over ten years wouldn't have made sense for them.

Attachments Previously Received with Staff Report:

1. Draft Purchase and Service Agreement
2. Cost Proposals

PREPARED BY: Dan Keller
Facilities & Environmental Services Manager

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 8

DATE: April 16, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of FBD Vanguard Constructions, Inc., and Authorize the Recording by the Town Clerk for PPW Job No. 411-811-003 Almond Grove Street Reconstruction Project Phase 2

RECOMMENDATION:

Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion (Attachment 1) accepting the work of FBD Vanguard Construction, Inc., and authorize the recording by the Town Clerk for PPW Job No. 411-811-0003, Almond Grove Street Reconstruction Project Phase 2.

BACKGROUND:

On February 21, 2017, the Town Council approved the plans and specifications for bidding the Almond Grove Phase 2 Street Reconstruction Project for the rehabilitation of Almendra, Bayview, Bean, Glen Ridge, Massol, Nicholson, Tait and Wilder Avenues. The project removed and replaced the deteriorated concrete pavement along with curbs, gutters and driveway approaches. Additionally, the project reconstructed sidewalks and installed accessibility ramps as needed to comply with federal ADA laws.

At the April 18, 2017 meeting, the Town Council awarded a construction contract to Vanguard Construction in the amount of \$6,940,332 plus a 15% construction contingency of \$1,041,049 and Additive Alternate Bid Item No. 1 in the amount of \$380,000 with a 15% construction contingency of \$57,000 for a total contract amount of \$7,320,332 and a construction contingency of \$1,098,049. The total project budget including contingencies was \$8,418,382.

PREPARED BY: Lisa Petersen
Assistant Parks and Public Works Director/Town Engineer

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion and Authorize Recording by the Town Clerk for PPW Job No. 411-811-0003

DATE: April 16, 2020

DISCUSSION:

The Almond Grove Street Reconstruction Project Phase 2 has been completed in accordance with the approved project plans, specifications, and within the allocated construction budget.

The major street paving work was completed in June of last year and a ribbon cutting ceremony was held on Wilder Avenue on June 22, 2019 to show appreciation for the community's patience and participation in the project. Since that time, all additional contract items and various corrective actions have been completed. Staff is now recommending the formal project acceptance.

The Town will retain five percent of the faithful performance bonds to remain in effect for a period of two years as a guarantee for any needed repair or replacement caused by defective materials and workmanship. The execution and recordation of the Certificate of Acceptance is now required to finalize the Town's acceptance of the project.

CONCLUSION:

Staff recommends that the Town Council authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion accepting the work of FBD Vanguard Construction, Inc., and authorize the recording by the Town Clerk for PPW Job No. 411-811-0003, Almond Grove Street Reconstruction Project Phase 2.

FISCAL IMPACT:

The project has been completed within the total allocated construction funding. The final construction cost for the project was \$10,326,462. The funds remaining after project completion of \$2,026,999 will be returned to the General Fund Allocated Reserve (GFAR) for programming on future projects.

Of the allocated construction contingency for the project, 56% or \$612,575 was used to complete the project. Contingency funds were expended to address a number of unforeseen issues, including the advanced deterioration of sidewalks in many areas, poor subgrade, addition of street trees, concrete panel cracking not covered by the contract, and repairs and replacements of deteriorated storm drain facilities.

The Parks and Public Works Department continues to plan and track costs associated with capital improvement projects. Where projects can be delivered within the workload of staff already budgeted in the Department's operating budget, no costs will be associated with the project. This project required the use of temporary staffing not included in the department

SUBJECT: Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion and Authorize Recording by the Town Clerk for PPW Job No. 411-811-0003

DATE: April 16, 2020

FISCAL IMPACT (continued):

budget in order to meet schedule and workload commitments. The cost of these temporary employees has been charged to the project and is shown in the below fiscal table.

Almond Grove Street Rehabilitation Project 811-0003		
	Budget	Costs
GFAR	\$ 14,062,090	
Total Project Budget	\$ 14,062,090	
Project Construction		\$ 10,326,462
Consultation Services		\$ 1,134,017
Staff Costs		\$ 963,294
Advertising		\$ 6,143
Blueprint/Copy/Postage		\$ 6,069
Misc. Project Expenses		\$ 189
Meeting Expenses		\$ 91
Supplies & Equipment		\$ 13
Total Project Costs		\$ 12,436,278
Project Savings Including Total Staff Costs		\$ 1,625,812
Staff Costs Not Charged to Project		\$ 401,187
Total Project Savings		\$ 2,026,999

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Certificate of Acceptance and Notice of Completion

Recording Requested by:

TOWN OF LOS GATOS

WHEN RECORDED MAIL TO:

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

(SPACE ABOVE BAR FOR RECORDER'S USE)

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

TYPE OF RECORDING
CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION
PPW JOB NO. 411-811-0003

TO WHOM IT MAY CONCERN:

I do hereby certify that **FBD VANGUARD CONSTRUCTION, INC.** completed the work called for in the agreement with the Town of Los Gatos dated April 18, 2017. The work is outlined in the Town's bid process prepared by the Town of Los Gatos and generally consisted of furnishing all labor, materials, tools, equipment, and services required for completion of the PPW Job No. 411-811-0003 located in the TOWN OF LOS GATOS, County of Santa Clara, State of California and was completed, approved and accepted **April 21, 2020.**

Bond No.: 106702070

Date: April 26, 2017

TOWN OF LOS GATOS

By: _____
Laurel Prevetti, Town Manager

Acknowledgement Required

AFFIDAVIT
To Accompany Certificate of Acceptance and Notice of Completion
PPW JOB NO. 411-811-0003 Almond Grove Street Reconstruction Project Phase 2

I, **LAUREL PREVETTI**, the Town Manager of the Town of Los Gatos, have read the foregoing CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION and know the contents thereof. The same is true of my own knowledge, except as to the matters which are therein alleged on information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on _____, 2020 at Los Gatos, California.

LAUREL PREVETTI, TOWN MANAGER
Town of Los Gatos

RECOMMENDED BY:

Matt Morley
Director of Parks and Public Works

Date: _____

APPROVED AS TO FORM:

Robert Schultz, Town Attorney

Date: _____

Notary Jurat Required



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 9

DATE: April 10, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Enter into an Agreement with Truepoint Solutions for Accela Software Support and Related Consulting Services Not to Exceed \$150,000 for a Five-Year Term.

RECOMMENDATION:

Authorize the Town Manager to enter into an agreement with Truepoint Solutions for Accela software support and related consulting services not to exceed \$150,000 for a five-year term.

BACKGROUND:

The Town has been working with Truepoint Solutions since 2011 to provide the Community Development and Parks and Public Works Departments with support for their land use and permit tracking software, Accela, Inc. Consulting services provided include assistance with updates to the embedded fees, adjustments stemming from version updates, user training, streamlining processes, utilizing increased system capabilities, and other miscellaneous needs as they arise.

DISCUSSION:

Truepoint is extremely familiar with the details of the Town's Accela configuration and unique customizations. Truepoint has a history of prompt and knowledgeable responses to inquiries from Town staff and their level of customer service has always met or exceeded staff expectations. Many local agencies, including the City of Sunnyvale, City of Palo Alto, and Santa Clara County have agreements with Truepoint for Accela consulting support.

PREPARED BY: Holly Zappala
Management Analyst

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

PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to enter into an agreement with Truepoint Solutions for Accela software support and related consulting services not to exceed \$150,000 for a five-year term.

DATE: April 21, 2020

DISCUSSION (continued):

Truepoint has been an Accela-certified implementation partner since 2005 and is a preferred vendor of Accela. In accordance with the Town's Purchasing Policy, Section 7c (Cooperative Purchasing), the proposed contract is based on pricing obtained through California Multiple Award Schedule (CMAS) Contract No. 3-16-70-3278A as stated in Attachment 1, Exhibit A.

CONCLUSION:

Truepoint's consulting services assist the Town in serving the land use needs of the community. Based on Truepoint's extensive knowledge of the Town's unique Accela implementation, excellent support history with the Town, and competitive pricing, staff recommends that Council authorize the Town Manager to enter into an agreement for software licensing and related services not to exceed \$150,000 for a five-year term.

COORDINATION:

This report was coordinated with the Community Development Department, Parks and Public Works Department, Information Technology Department, Town Manager's Office, Finance Department, and Town Attorney.

FISCAL IMPACT:

The funds are available in the Information Technology budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Draft Agreement for Consultant Services

DRAFT AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on July 1, 2020 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Truepoint Solutions, ("Consultant"), whose address is 3262 Penryn Road, Suite 100-B, Loomis, CA 95650. This Agreement is made with reference to the following facts.

I. RECITALS

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

II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Consulting Services Support Proposal dated February 27, 2020, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from July 1, 2020 to June 30, 2025. Consultant shall perform the services described in Exhibit A.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and

the Consultant shall not make any of 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 Compensation. Compensation for Consultant's professional services **shall not exceed \$150,000 for the five-year period**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

Invoices:

Town of Los Gatos

Attn: Accounts Payable

P.O. Box 655

Los Gatos, CA 95031-0655

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

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

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

III. INSURANCE AND INDEMNIFICATION

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

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

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
 - ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
 - iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
 - iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.
- 3.3 Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

- 3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

IV. GENERAL TERMS

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

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

TruePoint Solutions
Attn: Keith Hobday
3262 Penryn Road, Suite 100-B
Loomis, CA 95650

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

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

Town of Los Gatos, by:

Truepoint Solutions, by:

Laurel Prevetti, Town Manager

Keith Hobday, Partner

Recommended by:

Chris Gjerde, IT Manager

Recommended by:

Joel Paulson, Community Development Director

Approved as to Form:

Robert Schultz, Town Attorney

Town of Los Gatos, California

Consulting Services Support Proposal

2/27/2020

I. Vendor Background & Qualifications

TruePoint Company History

TruePoint Solutions, LLC is a privately held software and solutions company based in the Sacramento region. We bring an unparalleled level of experience designing, developing, implementing, and supporting complex government IT solutions. Our team has an average of 16+ years of public sector IT experience, with the minimum level of experience being over 10 years.

TruePoint Solutions was established in 2004 and became an Accela certified implementation partner in early 2005. Current implementation projects which TruePoint is involved include:

Cities	Cities	Counties	Counties
Albany, OR	Oakland, CA	Yuba City, CA	San Diego County, CA
Alameda, CA	Oklahoma City, OK	Adams County, CO	San Mateo County, CA
Atlanta, GA	Omaha, NE	Arapahoe County, CO	Santa Barbara County, CA
Asheville, NC	Ontario, CA	Bexar County, TX	Santa Clara County, CA
Aurora, CO	Papillion, NE	Boulder County, CO	Solano County, CA
Benecia, CA	Pleasant Hill, CA	Buncombe County, NC	Stanislaus County, CA
Berkeley, CA	Reno, NV	Clackamas County, OR	Weld County, CO
Boise, ID	Rochester, MN	Carroll County, MD	Washoe County, NV
Ceres, CA	Palo Alto, CA	Chesterfield County, VA	Yakima County, WA
Clearwater, FL	Peoria, AZ	Cobb County, GA	
Cleveland, OH	Pleasanton, CA	Contra Costa County, CA	Other State Agencies
Colorado Springs, CO	Ridgefield, WA	Douglas County, NV	Boston Public Health Commission
Concord, CA	Roseville, CA	Guilford County, NC	CA, Dept. of Water Resources
Corvallis, OR	Sacramento, CA	Gwinnett County, GA	CA - OSHPD
El Paso, TX	Salt Lake City, UT	Hillsborough County, FL	State of Massachusetts
Fort Collins, CO	San Antonio, TX	Jackson County, OR	State of Nevada, Taxicab Auth
Fountain, CO	Santa Clara, CA	King County, WA	State of New York
Fremont, CA	Santa Monica, CA	Lake County, CA	TRPA-Tahoe Regional Pln. Auth.
Grand Rapids, MI	Seattle, WA	Leon County, FL	CA State Lands Commission
Grass Valley, CA	Spokane, WA	Maricopa County, AZ	City & County of Denver
Hesperia, CA	Socorro, TX	Marion County, IN	City & County of San Francisco
Indianapolis, IN	Stockton, CA	Martin County, FL	University of Minnesota
Lincoln, NE	Sunnyvale, CA	Monterey County, CA	Unified Government, KC and Wyandotte
Livermore, CA	Tacoma, WA	Multnomah County, OR	
Madison, WI	Tigard, OR	Napa County, CA	Towns and Villages
Martinez, CA	Torrance, CA	Nevada County, CA	Elk Grove Village, IL
Maryland Heights, MO	Virginia Beach, VA	Olmstead County, MN	Town of Los Gatos, CA
McAllen, TX	Visalia, CA	Osceola County, FL	Town of Paradise, CA
Menlo Park, CA	Walnut Creek, CA	Pasco County, FL	Town of Queen Creek, AZ
Menlo Park Fire, CA	Watertown, WI	Placer County, CA	Town of Sahuarita AZ
Meridian, ID	West Sacramento, CA	Pima County, AZ	
Missoula, MT	Westminster, CO	Pinal County, AZ	
Moreno Valley, CA	Whistler, BC	Sacramento County, CA	
New York City, NY	Yorba Linda, CA	San Benito County, CA	

Legend	
TruePoint Accela Automation Projects/Clients	
●	Accela Legacy Upgrade - Tidemark
●	Accela Legacy Upgrade - Permits Plus
●	Hansen Upgrades
●	Accela Legacy Upgrade - Kiva



Consulting Services Understanding

II. TruePoint Staff

TruePoint has 20+ professionals that are dedicated to the Accela Automation product line and work all over the US on various aspects of Accela Automation implementations.

Keith Hobday will be the main point of contact for any of your consulting needs and either perform any requested work himself or assign the correct resource.

As Needed Expert Support and General Maintenance

TruePoint appreciates the opportunity to work with the Town of Los Gatos enhancing the utilization of your Accela products and supporting the day to day needs of your end users.

TruePoint has in depth knowledge of the Town’s current Accela Automation configuration. This service will provide day-to-day as needed on call support above and beyond what is provided by Accela CRC. It will also provide a budget to continually enhance and expand the County Accela configuration.

TruePoint Staff will assist the Town as requested for:

- Day to Day on-call support
- Accela Civic Platform Configuration
- Accela Civic Platform Training
- Accela Citizen Access Configuration
- Accela Upgrades for Platform 9.x
- Electronic Plan Review Integration
- DigEplan Support
- Report Creation

III. Cost Proposal

Our standard consulting rates are \$150/165 per hour plus expenses. We are only a few hours away so expenses would be minimal if any and not include any airfare.

Our GSA/CMAS Rates are:

CMAS Contract No.: 3-16-70-3278A

Task	Hours	Rate	Total	Comment
Project Manager		157.93		
Business Analyst		143.58		
Trainer		157.93		

IV. Billing Policies and Procedures

Services will be billed monthly as work is requested by the Town. The Town may terminate the services agreement at any time in writing. The City shall be responsible for payment for any effort expended prior to notification of termination.

Any activities based on this statement of work will be approved by the Town of Los Gatos prior to any action being taken.

V. Signatures and Approvals

Both parties acknowledge that it has read this SOW, understands it and agrees to be bound by its terms and conditions. The parties agree that this Agreement cannot be altered, amended or modified, except in writing that is signed by an authorized representative of both parties.

Accepted By: Town of Los Gatos	Accepted By: TruePoint Solutions, LLC.
By:	By:
Print Name:	Print Name: Keith Hobday
Title:	Title: Partner
Date:	Date: 2/27/2020



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 10

DATE: April 21, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Purchase Replacement Police Department Mobile Data Computers from CDCE Incorporated for an Amount Not to Exceed \$122,089.55.

RECOMMENDATION:

Authorize the Town Manager to purchase replacement Police Department Mobile Data Computers from CDCE Incorporated for an amount not to exceed \$122,089.55.

BACKGROUND:

Mobile Data Computers (MDCs) are a vital tool utilized by the Los Gatos-Monte Sereno Police Department (Police Department). MDCs route information and intelligence to Officers in the field based on data obtained and received by Dispatchers. Using MDCs, Officers are able to see the status, location, and priority of incoming calls, the location of other Officers in the field, and receive information regarding driver's licenses and registration, among other important capabilities.

The Police Department is currently using MDCs purchased in 2012. The MDCs are often down for repair, have been out of warranty for the last three years, are at the end of their useful life cycle, and need to be updated to run the new Police Records Management System software. As part of the computer replacement program, Information Technology staff has anticipated, planned, and budgeted for this MDC replacement.

PREPARED BY: Chris Gjerde
I.T. Manager

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

PAGE 2 OF 2

SUBJECT: Authorize the Town Manager to purchase replacement Police Department Mobile Data Computers from CDCE Incorporated for an amount not to exceed \$122,089.55.

DATE: April 21, 2020

DISCUSSION:

Police Department staff obtained three quotes for the replacement MDCs from CDCE Incorporated, LEHR, and L.A. Mobile Computing. The quote from CDCE Incorporated came back as the most cost-effective option. The Police Department purchased its existing MDCs from CDCE Incorporated in 2012. The company has an excellent history of supporting their MDCs with the Town and have even helped the Town diagnose problems with MDCs installed by other companies in the past.

CONCLUSION:

Based on the cost-effective quote and history of good technical support from CDCE Incorporated, staff recommends that the Town Council authorize the Town Manager to purchase replacement Police Department MDCs from them in an amount not to exceed \$122,089.55.

COORDINATION:

This report was coordinated with the Police Department, Information Technology, Finance Department, Town Attorney, and Town Manager's Office.

FISCAL IMPACT:

Sufficient funds are available and have been budgeted for in the Information Technology budget.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. CDCE Incorporated Sales Quote

CDCE, Inc.
 22641 Old Canal Road
 Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	114669
Customer No.	TOLOGATPD
Customer PO #	

Bill To

Ship To

Town of Los Gatos Police Department
 Attn: AP Vendor#1204 *2
 PO Box 655
 Los Gatos, CA 95031

Town of Los Gatos Police Dept.
 PO#
 110 E. Main Street
 Los Gatos, CA 95031

Contact: Jose Reyes
 Telephone: 408-399-5775

Contact: Jose Reyes
 Telephone: 408-354-6864

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
02/18/20	Drop Ship	Yorba Linda		NET 30
Entered By	Salesperson	Ordered By	Resale Number	
Casey Leff	Casey Leff	Jose Reyes		
Order Quantity	Approve Quantity	Item Number / Description	Unit Price	Extended Price
17	17	33-LE-02VM Panasonic CF-33 Tablet only Public Sector Specific - STD 3, Win10 Pro, Intel Core i5-7300U 2.60GHz, vPro, 12.0" QHD Gloved Multi Touch+Digitizer, 8GB, 256GB SSD, Intel WiFi a/b/g/n/ac, TPM 2.0, Bluetooth, Dual Pass (Upper:WWAN/Lower:dGPS), 4G LTE Multi Carrier (EM7455), dGPS, Infrared Webcam, 8MP Cam, Contactless SmartCard, Toughbook Preferred, 3 Year ProService Premier Deployment Service, TabletPC ProPlus Warranty, 256 SSD no return service, and Custom BIOS.	3,125.000	53,125.00
17	17	FEE-100001 Recycle Fee for Monitors 4"-15"	4.000	68.00
17	17	WR-105014 Panasonic : 4th and 5th years Public Safety Service Bundle Add on (Year 4 & 5 only). Must be purchased in conjunction with PS bundle base unit. Includes Premier, Protection Plus, Customer Portal, Disk Image Management. MFG PN: CF-SVCPSY5	545.000	9,265.00
14	14	NA-210048 Premium Keyboard for CF-33, Emissive Red Backlit (4 levels).Handle/kickstand - display can be opened to any angle.Compatible with Tablet, 33 Laptop Vehicle Dock, and 33 Desktop Dock.Ethernet, SDXC (full-size), HDMI, VGA, USB 2.0, USB 3.0 (2), Serial (USB) MFG PN: CF-VEK331LMP	550.000	7,700.00

Print Date	02/25/20
Print Time	08:40:33 AM
Page No.	1 of 3

CDCE, Inc.
 22641 Old Canal Road
 Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	114669
Customer No.	TOLOGATPD
Customer PO #	

Bill To

Ship To

Town of Los Gatos Police Department
 Attn: AP Vendor#1204 *2
 PO Box 655
 Los Gatos, CA 95031

Town of Los Gatos Police Dept.
 PO#
 110 E. Main Street
 Los Gatos, CA 95031

Contact: Jose Reyes
 Telephone: 408-399-5775

Contact: Jose Reyes
 Telephone: 408-354-6864

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
02/18/20	Drop Ship	Yorba Linda		NET 30
Entered By		Salesperson	Ordered By	Resale Number
Casey Leff		Casey Leff	Jose Reyes	
Order Quantity	Approve Quantity	Item Number / Description	Unit Price	Extended Price
14	14	PR-320088 Havis CF-33 Laptop 2-in-1 Dock, Dual RF MFG PN: DS-PAN-1111-2	765.000	10,710.00
14	14	PS-202013 Lind 120 Watt CF-33 DC Cig Adapter MFG PN: CF-LNDDC120	115.000	1,610.00
15	15	DM-400103 IBR1700 router with WiFi (1200Mbps modem) 5-yr NetCloud Mobile Essentials Plan, no AC power supply or antennas, North America MFG PN: MA5-1700120B-NNA	1,625.000	24,375.00
15	15	ANT-841015 9 in 1 Low Pro 4x LTE, 4x WiFi & GPS Blk MFG PN: LG-IN2293-B	385.000	5,775.00

Print Date	02/25/20
Print Time	08:40:33 AM
Page No.	2 of 3

CDCE, Inc.
 22641 Old Canal Road
 Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	114669
Customer No.	TOLOGATPD
Customer PO #	

Bill To

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Town of Los Gatos Police Department
 Attn: AP Vendor#1204 *2
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Town of Los Gatos Police Dept.
 PO#
 110 E. Main Street
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Contact: Jose Reyes
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Contact: Jose Reyes
 Telephone: 408-354-6864

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
02/18/20	Drop Ship	Yorba Linda		NET 30
Entered By		Salesperson	Ordered By	Resale Number
Casey Leff		Casey Leff	Jose Reyes	

Order Quantity	Approve Quantity	Item Number / Description	Unit Price	Extended Price
		<p>----- Quote is good for 30 days. Estimated Delivery 4-6 Weeks ARO.</p> <p>Panasonic & Cradlepoint NetCloud Entitlements: Jose Reyes jreyes@losgatosca.gov 408-354-6864</p> <p>By Signing, you are confirming not only your request to purchase, but also your authority to purchase the goods and services on this quote on behalf of the organization you represent. Signed quotes are de facto purchase orders and fall under the same terms and conditions of sale. If you choose to pay by credit card then you approve an additional 3% processing fee on total order.</p> <p>Signature _____ Printed Name _____ Date _____</p> <p style="text-align: center;">Approved By: _____ <input type="checkbox"/> Approve All Items & Quantities</p>		

Print Date	02/25/20
Print Time	08:40:33 AM
Page No.	3 of 3

Subtotal	112,628.00
Freight	165.00
9.000 % Sales Tax	9,296.55
Order Total	122,089.55



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 10

ADDENDUM

DATE: April 21, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Purchase Replacement Police Department Mobile Data Computers from CDCE Incorporated for an Amount Not to Exceed \$122,089.55.

REMARKS:

Since publication of the original staff report, staff continued to work with CDCE to refine their quote further. Attachment 2 contains a revised ~~New~~ quote from CDCE received April 16, 2020 with a lower purchase price of \$117,489.75.

Attachments Received with Staff Report:

1. CDCE Incorporated Sales Quote

Attachments Received with Addendum:

2. Revised~~New~~ CDCE Incorporated Sales Quote received April 16, 2020

PREPARED BY: Chris Gjerde
Information Technology Manager

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

CDCE, Inc.
 22641 Old Canal Road
 Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	114669
Customer No.	TOLOGATPD
Customer PO #	

Bill To

Ship To

Town of Los Gatos Police Department
 Attn: AP Vendor#1204 *2
 PO Box 655
 Los Gatos, CA 95031

Town of Los Gatos Police Dept.
 PO#
 110 E. Main Street
 Los Gatos, CA 95031

Contact: Jose Reyes
 Telephone: 408-399-5775

Contact: Jose Reyes
 Telephone: 408-354-6864

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
04/09/20	Drop Ship	Yorba Linda		NET 30
Entered By	Salesperson	Ordered By	Resale Number	
Casey Leff	Casey Leff	Jose Reyes		
Order Quantity	Approve Quantity	Item Number / Description	Unit Price	Extended Price
17	17	33-LE-02VM Panasonic CF-33 Tablet only Public Sector Specific - STD 3, Win10 Pro, Intel Core i5-7300U 2.60GHz, vPro, 12.0" QHD Gloved Multi Touch+Digitizer, 8GB, 256GB SSD, Intel WiFi a/b/g/n/ac, TPM 2.0, Bluetooth, Dual Pass (Upper:WWAN/Lower:dGPS), 4G LTE Multi Carrier (EM7455), dGPS, Infrared Webcam, 8MP Cam, Contactless SmartCard, Toughbook Preferred, 3 Year ProService Premier Deployment Service, TabletPC ProPlus Warranty, 256 SSD no return service, and Custom BIOS.	2,995.000	50,915.00
17	17	FEE-100001 Recycle Fee for Monitors 4"-15"	4.000	68.00
17	17	WR-105014 Panasonic : 4th and 5th years Public Safety Service Bundle Add on (Year 4 & 5 only). Must be purchased in conjunction with PS bundle base unit. Includes Premier, Protection Plus, Customer Portal, Disk Image Management. MFG PN: CF-SVCPSY5	545.000	9,265.00
14	14	NA-210048 Premium Keyboard for CF-33, Emissive Red Backlit (4 levels).Handle/kickstand - display can be opened to any angle.Compatible with Tablet, 33 Laptop Vehicle Dock, and 33 Desktop Dock.Ethernet, SDXC (full-size), HDMI, VGA, USB 2.0, USB 3.0 (2), Serial (USB) MFG PN: CF-VEK331LMP	550.000	7,700.00

Print Date	04/16/20
Print Time	01:38:19 PM
Page No.	1 of 3

Pr [redacted] Leff

CDCE, Inc.
 22641 Old Canal Road
 Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	114669
Customer No.	TOLOGATPD
Customer PO #	

Bill To

Ship To

Town of Los Gatos Police Department
 Attn: AP Vendor#1204 *2
 PO Box 655
 Los Gatos, CA 95031

Town of Los Gatos Police Dept.
 PO#
 110 E. Main Street
 Los Gatos, CA 95031

Contact: Jose Reyes
 Telephone: 408-399-5775

Contact: Jose Reyes
 Telephone: 408-354-6864

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method	
04/09/20	Drop Ship	Yorba Linda		NET 30	
Entered By		Salesperson	Ordered By	Resale Number	
Casey Leff		Casey Leff	Jose Reyes		
Order Quantity	Approve Quantity	Item Number / Description		Unit Price	Extended Price
14	14	PR-320088 Havis CF-33 Laptop 2-in-1 Dock, Dual RF MFG PN: DS-PAN-1111-2		765.000	10,710.00
14	14	PS-202013 Lind 120 Watt CF-33 DC Cig Adapter MFG PN: CF-LNDDC120		115.000	1,610.00
14	14	DM-400103 IBR1700 router with WiFi (1200Mbps modem) 5-yr NetCloud Mobile Essentials Plan, no AC power supply or antennas, North America MFG PN: MA5-1700120B-NNA		1,625.000	22,750.00
14	14	ANT-841015 9 in 1 Low Pro 4x LTE, 4x WiFi & GPS Blk MFG PN: LG-IN2293-B		385.000	5,390.00

Print Date	04/16/20
Print Time	01:38:19 PM
Page No.	2 of 3

Pr [Signature] Leff

CDCE, Inc.
 22641 Old Canal Road
 Yorba Linda, CA 92887



Sales Quote

Telephone: 800-373-5353

Sales Quote No.	114669
Customer No.	TOLOGATPD
Customer PO #	

Bill To

Ship To

Town of Los Gatos Police Department
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 PO Box 655
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Contact: Jose Reyes
 Telephone: 408-399-5775

Contact: Jose Reyes
 Telephone: 408-354-6864

Order Date	Ship Via	F.O.B.	Customer PO Number	Payment Method
04/09/20	Drop Ship	Yorba Linda		NET 30
Entered By		Salesperson	Ordered By	Resale Number
Casey Leff		Casey Leff	Jose Reyes	

Order Quantity	Approve Quantity	Item Number / Description	Unit Price	Extended Price
		<p>----- Quote is good for 30 days. Estimated Delivery 4-6 Weeks ARO.</p> <p>Panasonic & Cradlepoint NetCloud Entitlements: Jose Reyes jreyes@losgatosca.gov 408-354-6864</p> <p>By Signing, you are confirming not only your request to purchase, but also your authority to purchase the goods and services on this quote on behalf of the organization you represent. Signed quotes are de facto purchase orders and fall under the same terms and conditions of sale. If you choose to pay by credit card then you approve an additional 3% processing fee on total order.</p> <p>Signature _____ Printed Name _____ Date _____</p> <p style="text-align: center;">Approved By: _____ <input type="checkbox"/> Approve All Items & Quantities</p>		

Print Date	04/16/20
Print Time	01:38:19 PM
Page No.	3 of 3

Subtotal	108,408.00
Freight	165.00
9.000 % Sales Tax	8,916.75
Order Total	117,489.75

Pr _____ Leff



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 11

DATE: April 14, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Authorizing the Liquidation and Transfer of Assets to CalPERS California Employers' Pension Prefunding Trust (CEPPT) for Pension Prefunding Administration from Public Agency Retirement Services (PARS).

RECOMMENDATION:

Adopt a Resolution Authorizing the Liquidation and Transfer of Assets to CalPERS California Employers' Pension Prefunding Trust (CEPPT) for Pension Prefunding Administration from Public Agency Retirement Services (PARS).

BACKGROUND:

On September 17, 2019, the Town Council directed staff to terminate the PARS agreement, consistent with the Town Pension and OPEB Trusts Oversight Committee recommendation, and to return to Council with an agreement to initiate a California Employers' Pension Prefunding Trust (CEPPT). On November 5, 2019, the Town Council voted unanimously to enter into an agreement to participate in the CalPERS California Employers' Pension Prefunding Trust (CEPPT) Program and delegate authority to the Town Manager to request disbursements.

DISCUSSION:

To complete the transfer of assets to CEPPT, PARS needs to be removed as Trust Administrators, and this action requires a resolution to be approved by the Town Council (Attachment 1).

PREPARED BY: Stephen Conway
Finance Director

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

PAGE 2 OF 2

SUBJECT: Adopt a Resolution Authorizing the Liquidation and Transfer of Assets to CalPERS California Employers' Pension Prefunding Trust (CEPPT) for Pension Prefunding Administration from Public Agency Retirement Services (PARS).

DATE: April 7, 2020

CONCLUSION:

Staff recommends the adoption of the Resolution removing PARS as Trustee and enabling the Town to participate in the CalPERS California Employers' Pension Prefunding Trust (CEPPT) Program.

COORDINATION:

This item was coordinated with the Town Manager and the Town Attorney.

FISCAL IMPACT:

If the Town Council authorizes the transfer of the qualified assets to CEPPT for prefunding administration, this will represent a cost savings compared to the previous PARS account.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Draft Resolution Authorizing the Liquidation and Transfer of Assets to CEPPT

RESOLUTION 2020-

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
FOR PENSION PREFUNDING ADMINISTRATION**

WHEREAS, the Town of Los Gatos (“Town”) participates in the PARS Public Agencies Post-Employment Benefits Trust, organized under Section 115 of the Internal Revenue Code and irrevocably dedicated to prefunding the Town’s Pension Obligations; and

WHEREAS, on April 14, 2020, the Town gave notice of its intent to terminate the Town’s participation in the PARS Public Agencies Post-Employment Benefits Trust; and

WHEREAS, on or around October 24, 2019, Council authorized the Town to enter into an agreement with CalPERS California Employers’ Pension Prefunding Trust (CEPPT) for Pension prefunding administration.

NOW, THEREFORE, BE IT RESOLVED:

1. The Town has entered into an agreement with CalPERS California Employers’ Pension Prefunding Trust (CEPPT) for Pension prefunding administration, on January 31, 2020; and
2. The Town certifies that the successor trust satisfies the requirements of Section 115 of the Internal Revenue Code and that all assets held by that trust shall qualify as “plan assets” that are irrevocably dedicated to the prefunding of pension obligations; and
3. This transfer is contingent upon the successor trustee agreeing to accept that transfer of the qualified assets held in the PARS Public Agencies Post-Employment Benefits Trust; and
4. The Town hereby authorizes the liquidation and transfer of assets to the successor trustee; CalPERS California Employers’ Pension Prefunding Trust (CEPPT), effective as soon as administratively practicable; and
5. Upon the complete transfer of assets, on or around May 15, 2020, Public Agency Retirement Services (PARS) is hereby removed as trust administrator and U.S. Bank N.A. is hereby removed as trustee; and
6. The Town’s Plan Administrators, the Town Manager and the Director of Finance, or their successors or designees, are hereby authorized to execute all legal documents

and take whatever additional actions as necessary or appropriate to accomplish the intentions of this resolution.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 21th day of April 2020, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 12

DATE: April 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve the Waiver of Rent and Utilities for the Town of Los Gatos Lessees New Museum of Los Gatos (NUMU), Friends of the Library, Billy Jones Railroad, Soccer and Little Leagues, and Los Gatos-Saratoga Community Education and Recreation (LGS Rec) for the Duration of the Santa Clara County Shelter-in-Place Order Due to Significant Business Disruption

RECOMMENDATION:

Approve the waiver of rent and utilities for the Town of Los Gatos lessees New Museum of Los Gatos (NUMU), Friends of the Library, Billy Jones Railroad, Soccer and Little Leagues, and Los Gatos-Saratoga Community Education and Recreation (LGS Rec) for the duration of the Santa Clara County shelter-in-place order due to significant business disruption.

DISCUSSION:

On March 16, 2020, the Health Officer of Santa Clara County issued an Order directing all individuals living in the County to shelter at their place of residence beginning March 17, 2020. Per the County Health Officer, the Order is to ensure that the maximum number of people self-isolate in their places of residence in order to slow the spread of the COVID-19 coronavirus. In addition, the Order identified many business types as non-essential services requiring their complete closure.

On March 17, 2020, the Town Council of the Town of Los Gatos ratified and continued a Proclamation of Local Emergency due to the increasing spread of the COVID-19 coronavirus in Santa Clara County. Among other things, a Proclamation of Local Emergency allows jurisdictions to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.

PREPARED BY: Arn Andrews
Assistant Town Manager

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

PAGE 2 OF 2

SUBJECT: Waiver of Rent and Utilities for Town Lessees

DATE: April 13, 2020

DISCUSSION (continued):

One result of these public health efforts is the significant business disruption to Town lessees New Museum of Los Gatos (NUMU), Friends of the Library, Billy Jones Railroad, Soccer and Little Leagues, and Los Gatos-Saratoga Community Education and Recreation (LGS Rec). All of these organizations were identified as non-essential businesses and have remained shuttered throughout the shelter-in-place. With the exception of some limited virtual capabilities, the organizations primarily function on revenue derived from paid in-person classroom and sporting activities, book sales, ticketed sales, and/or paid social/fundraising events.

CONCLUSION:

The waiver of rent and utilities for Town Lessees for the duration of the County mandated shelter-in-place, will help position the organizations to remain viable once they are able to resume normal revenue generating activities.

COORDINATION:

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

FISCAL IMPACT:

The waiver of rents and utilities will be absorbed through Town wide budgetary savings.

ENVIRONMENTAL ASSESSMENT:

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 12

ADDENDUM

DATE: April 20, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve the Waiver of Rent and Utilities for the Town of Los Gatos Lessees New Museum of Los Gatos (NUMU), Friends of the Library, Billy Jones Railroad, Soccer and Little Leagues, and Los Gatos-Saratoga Community Education and Recreation (LGS Rec) for the Duration of the Santa Clara County Shelter-in-Place Order Due to Significant Business Disruption

REMARK:

Attachment 1 contains public comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020.

Attachment received with Addendum:

1. Public Comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020

PREPARED BY: Arn Andrews
Assistant Town Manager

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

From: Nancy Rollett
Sent: Saturday, April 18, 2020 4:28 PM
To: PublicComment <PublicComment@losgatosca.gov>
Subject: Public Comment 4/21/2020 Council Meeting

Dear Madam Mayor, Town Council Members, Town Manager and Staff.
Good evening. My name is Nancy Rollett; as Executive Director of Los Gatos-Saratoga Recreation, I'm reaching out to you on behalf of our Board of Directors, Leadership Team and the Agency Staff. We are the leaseholders of the Adult Recreation Center and Youth Recreation Center buildings here on Main Street and we greatly appreciate your consideration of rent forgiveness during this shelter in place.

We serve the community with fee-based recreation, senior services and childcare. Since March 13th we have been without revenue due to the COVID19 shelter in place requirement. Most Staff have been furloughed, some have been laid off, the buildings are empty and the financial hardship is great. In fact, by the end of Q2 we will draw down over 60% of our available cash reserves. As a team, we're making sacrifices now in the hope that the quarantine will be lifted soon, we have jobs to come back to and we can return to serving the community. Your approval of rent forgiveness will provide time for us to rebuild the organization.

In this time of uncertainty we appreciate the spirit of community and collective support for all that we cherish about our Town. Thank you in advance for your consideration.

Regards,

Nancy Rollett
Executive Director
Los Gatos-Saratoga Recreation

ATTACHMENT 1



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 13

DATE: April 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution approving the Sale and Purchase Agreement for the sale of Town-owned property located on 14850 Winchester Boulevard, APN 424-31-055, authorizing the Town Manager to execute all documents needed to complete the transaction in a form acceptable to the Town Attorney, and authorize a revenue budget adjustment in the amount of \$1,200,000 to recognize the sale revenue.

RECOMMENDATION:

Adopt a Resolution (Attachment 1) approving the Sale and Purchase Agreement for the sale of Town-owned property located on 14850 Winchester Boulevard, APN 424-31-055, authorizing the Town Manager to execute all documents needed to complete the transaction in a form acceptable to the Town Attorney, and authorize a revenue budget adjustment in the amount of \$1,200,000 to recognize the sale revenue.

BACKGROUND:

The property on Winchester Boulevard at the corner of Lark Avenue has been owned by the Town for many years, with Town records going back to the 1950's and 1960's. The parcel is currently separated into two lots (14800 and 14850) with one lot occupied by County Fire (14850) since 1981 in a long-term lease that expires in the year 2036.

Prior to offering a property for sale publicly, the California Government Code §54222 requires Government agencies to offer properties for potential sale to specific entities, including:

- Housing providers for low or moderate income housing.
- Parks, recreation, and open space providers.
- School districts.
- Infill or transit village interests – not applicable in Los Gatos

PREPARED BY: Arn Andrews
Assistant Town Manager

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

BACKGROUND (continued):

- Enterprise zone interests – not applicable in Los Gatos

In March Of 2016, pursuant to Government Code section 37421 and Resolution 2016-010 (Attachment 2), the Town notified the citizens of its intention to sell the Town-owned property referenced above. At the March 6, 2016 Council Meeting, having received no protests to the sale of the property, the Council deemed the property surplus and authorized staff to proceed with procuring a buyer for the property.

In May of 2019, the Town completed the sale of 14800 Winchester Boulevard to the Santa Clara County Fire District ("County Fire") for \$1.9 million. At the time, the Town and County Fire also discussed the future potential sale of 14850 Winchester Boulevard.

DISCUSSION:

On October 24, 2019, Town Manager Prevetti received a statement of interest from Fire Chief Bowden to initiate discussions for the sale of 14850 Winchester Boulevard to County Fire. The communication from Chief Bowden included a draft description of the type of facility and equipment County Fire would like to construct and house on the conjoined property (Attachment 3). As detailed in the draft facility description document, County Fire is seeking to build a state-of-the-art facility on the conjoined property with an approximate construction value of between \$12.0 and \$15.0 million. In addition to the essential fire services programmed out of the updated facility, County Fire would have the ability to house critical wildfire specific emergency vehicles at the site.

With the consummation of this transaction, the Town will have secured a state-of-the-art facility to serve the future growth of the community and help ward against the annual threat the wildfire season poses.

CONCLUSION:

Staff recommends that Council adopt a Resolution (Attachment 1) approving the Sale and Purchase Agreement for the sale of Town-owned property located on 14850 Winchester Boulevard, APN 424-31-055.

PAGE 3 OF 3

SUBJECT: Sale and Purchase Agreement for 14850 Winchester Boulevard

DATE: April 13, 2020

COORDINATION:

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

FISCAL IMPACT:

The Sale and Purchase Agreement that is attached to the Resolution would result in a one-time surplus of funds in the approximate amount of \$1,200,000 from the sale of this property.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Draft Resolution with Exhibit A, Draft Purchase and Sale Agreement
2. Resolution 2016-010 declaring Winchester Surplus Property
3. Draft Winchester Station Vision

RESOLUTION 2020-

RESOLUTION OF THE TOWN COUNCIL APPROVING THE PURCHASE AND SALE AGREEMENT FOR THE SALE OF TOWN-OWNED PROPERTY LOCATED AT 14850 WINCHESTER BOULEVARD, APN 424-31-055 AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ALL DOCUMENTS NEEDED TO COMPLETE THE TRANSACTION IN A FORM ACCEPTABLE TO THE TOWN ATTORNEY

WHEREAS, the Town has owned the property located at the corner of Winchester and Lark for many years, with Town records going back to the 1950's and 1960's; and

WHEREAS, said property is leased to Santa Clara County Fire Protection District (County Fire) since 1981 in a long-term lease that expires in the year 2036; and

WHEREAS, pursuant to Government Code section 37350, the Town desires to sell the Town-owned real property located at 14850 Winchester Boulevard, APN 424-31-055 for the common benefit and protection of the community; and

WHEREAS, pursuant to Government Code section 37421, and Resolution 2016-010, the Town notified its citizens of its intention to sell Town-owned property located on Winchester Boulevard at Lark Avenue, APN 424-31-055, Los Gatos California; and

WHEREAS, the Town designated the real property on Winchester Boulevard at Lark Avenue, APN 424-31-055, Los Gatos California as surplus and for sale at the Open Session Council Meeting on March 6, 2016, and after receiving no protests passed and adopted Resolution 2016-010; and

WHEREAS, In May of 2019, the Town completed the sale of 14800 Winchester Boulevard to the Santa Clara County Fire District for \$1.9 million and at the time, the Town and County Fire also discussed the future potential sale of 14850 Winchester Boulevard.

WHEREAS, attached as Exhibit A is the Purchase and Sale Agreement that the Town has negotiated with Santa Clara County Central Fire Protection District for \$1,200,000;

NOW, THEREFORE, be it resolved that the Town Council of the Town of Los Gatos does hereby approve the attached Purchase and Sale Agreement for the sale of the Town-owned real property located at 14850 Winchester Boulevard, APN 424-31-055, Los Gatos California and authorizes the Town Manager to execute the Purchase and Sale Agreement in substantially the form presented to the Town Council and to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents, and other instruments or documents) as the Town Manager deems necessary or appropriate in order to consummate the sale contemplated by the Purchase and Sale Agreement or to otherwise effectuate the purpose and intent of this Resolution, and in a form acceptable to the Town Attorney.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 21st day of April 2020 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: _____

RESOLUTION 2016-010

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DECLARING REAL PROPERTY AT 14650 WINCHESTER BOULEVARD AND AT DITTOS LANE SURPLUS TO THE NEEDS OF THE TOWN

RESOLVED, by the Town Council of the Town of Los Gatos California, that:

WHEREAS, the Town of Los Gatos owns certain real property on Dittos Lane identified by assessor's parcel number (APN) 529-29-034 (Exhibit 1); and

WHEREAS, the Town of Los Gatos owns certain real property at 14650 Winchester Boulevard identified by APN 424-31-055 (Exhibit 2); and

WHEREAS, the Dittos Lane property and the Winchester Avenue property are no longer necessary for municipal use.

NOW, THEREFORE, IT IS HEREBY ORDERED:

- 1. That the Dittos Lane Property be deemed surplus to the needs of the Town; and
2. That the Winchester Avenue property be deemed surplus to the needs of the Town; and
3. That Town staff conduct required notifications per California Government Code §54222; and
4. Staff undertake opportunities to sell the properties, bringing offers with terms to the Town Council for review as allowed by code.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the 15th day of March 2016, by the following vote:

COUNCIL MEMBERS:

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

NAYS:

ABSENT:

ABSTAIN:

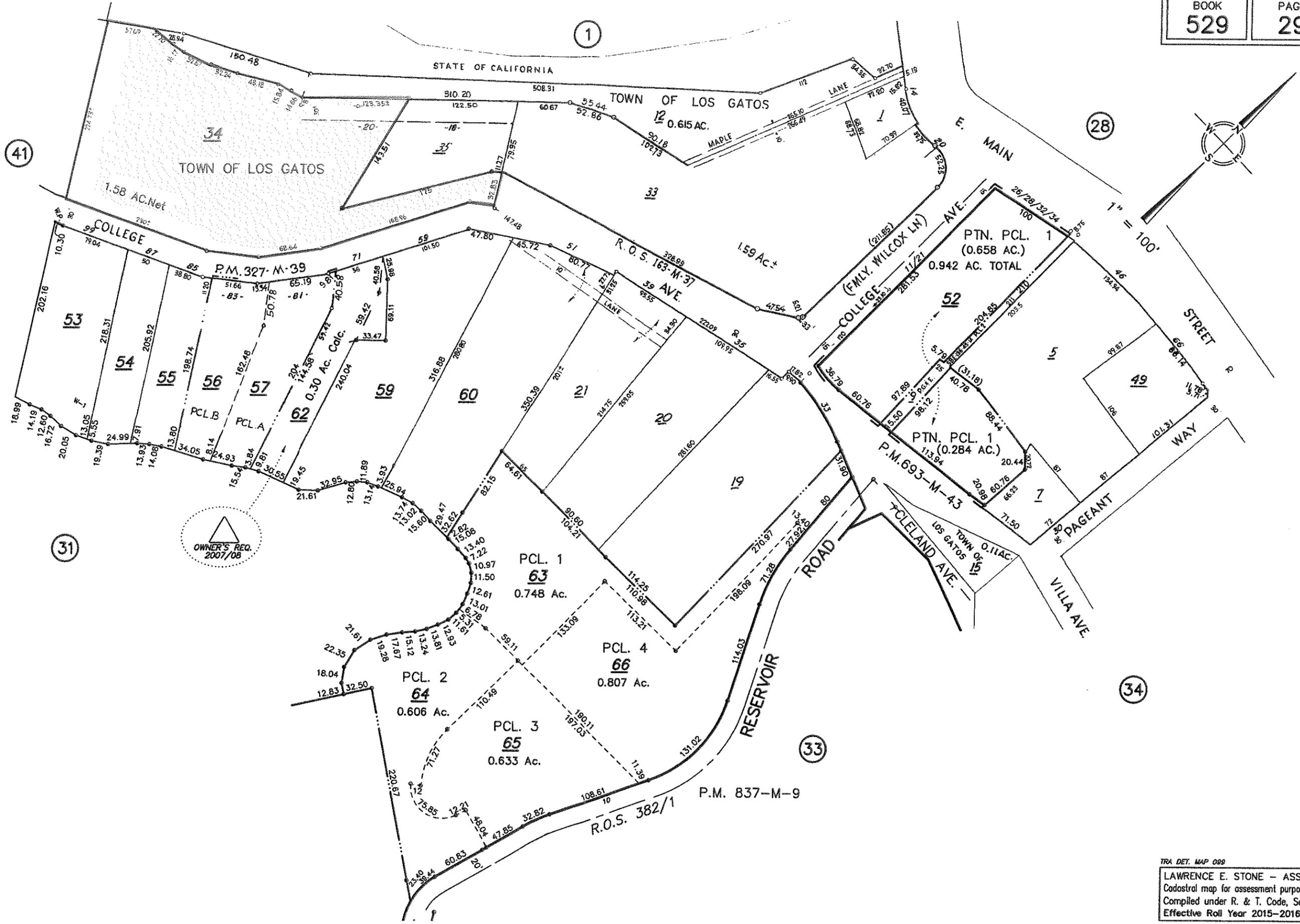
SIGNED:

Handwritten signature of Barbara Spector, Mayor of the Town of Los Gatos, California, dated 3/16/16.

ATTEST:

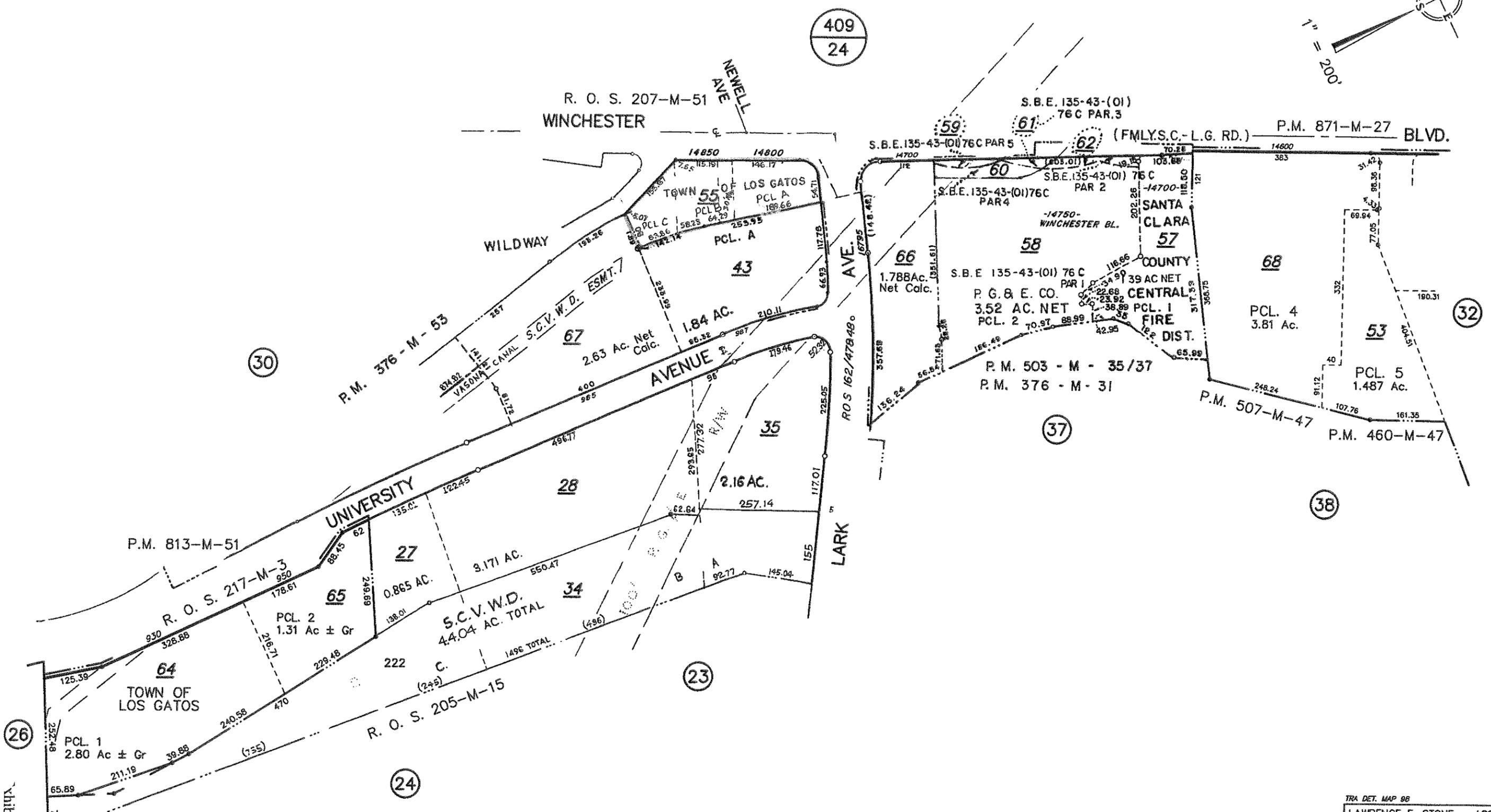
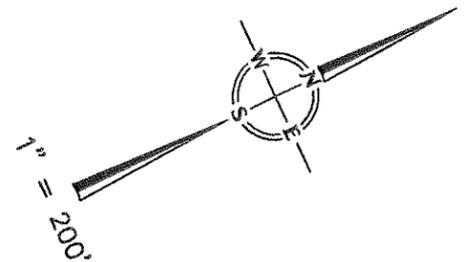
Handwritten signature of Shelley Neis, Clerk of the Town of Los Gatos, California.

DATE: 3/17/16



OWNER'S REQ. 2007/08

Exhibit 1



WINCHESTER STATION

Serving Los Gatos Since 1965



**SANTA CLARA COUNTY FIRE DEPARTMENT
TOWN OF LOS GATOS MONUMENT SIGN**

Executive Summary

The Santa Clara County Central Fire Protection District is proposing to negotiate the purchase of the last two lots (lots B & C), located under the current Winchester station on the corner of Lark Ave and Winchester Blvd. The District recently contracted with Valbridge Property Advisors (Attachment A) to conduct an up-to-date appraisal of the two parcels which show the current appraised value of both parcels. With the new appraisal in mind, the District would like to move forward with the Town in negotiations for the sale of Parcels B and C to the District. This will allow the district to build a modern fire station capable of housing critical resources for the Town of Los Gatos. This includes the ability to house wildfire specific resources that protect the wildland urban interface areas of the town.

BACKGROUND

The Santa Clara County Central Fire Protection District has been proudly serving the town or Los Gatos since 1970. Over the years, the Fire District has evolved with the town and the changing needs of the citizens we serve. Some highlights include moving District headquarters to the town in the 1980's, the addition of



paramedics on all apparatus in the 1990's, increased staffing levels for both emergency operations staff and support staff, becoming the first department in the county to staff an all-district wildfire response strike team and becoming the first internationally accredited fire agency within the county of Santa Clara.



*Type III Wildland Engine

Currently, Fire District administration is focused on replacing critical infrastructure and equipment for the communities we serve. This includes the recent purchase of six new wildland firefighting type III engines, a new water tender, and three new quick

response wildland fire type VI engines. We currently have five new type I engines, a new hazardous materials unit, and a new aerial tiller unit on order. In addition to increasing the response capability of the fleet, the Fire District is in the permitting phase to build two new fire stations; one in Redwood Estates and one in Monte Sereno.



*Type VI Quick Response Engine

*2500 Gallon Water Tender

On the horizon is the replacement of the current Winchester Fire Station. This station serves the northern part of the town of Los Gatos and houses a truck company and a urban search and rescue (USAR) unit, which is part of our special operations task force. The current station was built in 1965 and was designed to house a single company (4 or less personnel). A lot has changed in the town since 1965 and the current station needs to be rebuilt to better support our community and house the critical resources needed for today's risks.

COMMUNITY INVESTMENT

The new Winchester fire station will represent a 12-15 million dollar investment into the town of Los Gatos for critical infrastructure that will support emergency operations today and into the future. This investment will provide the town with a state of the art fire station designed to support and house additional personnel and equipment. This includes the ability to house wildfire specific emergency vehicles designed to address the growing needs of wildfire protection in the town's wildland urban interface area. The new station will be built to essential facility standards ensuring the station will be in service and available for the public after a large area disaster such as an earthquake.



rrm design group | SANTA CLARA COUNTY FIRE DEPARTMENT
TOWN OF LOS GATOS MONUMENT SIGN

The District would seek input from the town on final station design elements to ensure the overall look and feel of the new station represents the town it protects. Once the additional two lots are purchased and consolidated into one parcel, the District will contract with an architectural firm to begin programming and design of the new station. The District estimates the new station will be built within 2-3 years after the procurement of the architectural firm.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made by and between the SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT (“**Buyer**”), and the TOWN OF LOS GATOS (“**Seller**”) is dated for reference purposes as of the later of the dates set forth by Seller and Buyer on the signature page of this Agreement (the “**Effective Date**”).

RECITALS

A. Seller owns that certain real property located at 14850 Winchester Boulevard, Town of Los Gatos, County of Santa Clara, State of California, referred to as Parcels B and C of APN: 424-31-055, which is more particularly described on Exhibit A attached hereto (the “**Land**”), together with any improvements located thereon, and all rights, privileges, easements and appurtenances to the Land, including without limitation all development rights, mineral and water rights, appurtenant easements, rights-of way and other appurtenances used in connection with or relating to the Land (the Land and all such rights, privileges, easements and appurtenances being collectively referred to herein as the “**Property**”).

B. Pursuant to that certain “Annexation Agreement” between Seller and Buyer dated March 2, 1970 and that certain “Agreement for Sale of Land, For Leaseback of Part of It and Coordinating the Termination Date of the Lease with that of an Earlier Lease” dated [July 22, 1980] (the “**Ground Lease**”), Buyer is the current tenant of the Property and has approximately 16 years remaining under the Ground Lease.

C. Buyer desires to purchase the Property to facilitate a long-term investment by Buyer in the Property for the construction of a new fire station, and Seller desires to sell the Property to Buyer, subject to the terms and conditions of this Agreement.

NOW THEREFORE, for valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Purchase and Sale. In consideration of their mutual covenants set forth in this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Property for the Purchase Price (defined in Section 2), subject to and on the terms and conditions set forth herein.

2. Purchase Price. The purchase price for the Property is One Million Two Hundred Thousand Dollars (\$1,200,000) (the “**Purchase Price**”), payable as follows:

(a) Within five (5) business days after the Effective Date, Buyer shall deposit, as earnest money, in immediately available funds, the amount of Fifty Thousand Dollars (\$50,000.00) (such amount and any interest earned thereon, the “**Deposit**”) into escrow number [Would like to use Chicago Title or Old Republic]_____ (the “**Escrow**”) opened with _____ with _____ as the designated escrow officer (telephone no.:

_____, email: _____) (the “**Escrow Holder**”). Buyer may, upon delivery of the Deposit into Escrow, instruct the Escrow Holder to invest the Deposit in an interest-bearing money market or savings account with a national banking association or federally chartered savings and loan association. If the Closing does not occur, the Deposit shall be returned to Buyer unless the provisions of Section 14 are applicable, in which case the disposition of the Deposit shall be governed by the provisions of Section 14; and

(b) In sufficient time for the Close of Escrow to occur on the Closing Date (defined below), Buyer shall deposit into Escrow, in immediately available funds, a sum equal to the Purchase Price less the Deposit, and plus or minus adjustments to account for Seller’s and Buyer’s prorations and costs set forth in this Agreement (the “**Net Purchase Price**”).

Notwithstanding anything to the contrary in this Agreement, a portion of the Deposit, in the amount of One Hundred Dollars (\$100) (the “**Independent Consideration**”) shall be earned by Seller upon execution and delivery of this Agreement by Seller and Buyer. The Independent Consideration represents adequate bargained for consideration for Seller’s execution and delivery of this Agreement and Buyer’s right to have inspected the Property pursuant to the terms hereof. The Independent Consideration is in addition to and independent of any other consideration or payment provided for herein and is nonrefundable in all events. Upon the Closing (defined below), or earlier termination of this Agreement, the Independent Consideration shall be paid to Seller, and in the case of a termination of this Agreement in which the Deposit is required to be returned to Buyer, the Deposit shall be returned to Buyer less the Independent Consideration, which shall be paid to Seller.

3. Inspections.

Subject to this Section below, until the earlier to occur of the Close of Escrow or termination of this Agreement, Buyer shall have the right to inspect, investigate and conduct tests upon the Property at its sole cost and expense. Buyer shall keep the Property free and clear of any and all liens related to Buyer’s inspections, tests and investigations. All entry onto and inspections of the Property shall be subject to the following:

(a) Buyer shall have until 5:00 pm PST on the date that is thirty (30) days after the Effective Date to review and approve each and every aspect of the Property (the “**Due Diligence Period**”). If Buyer elects, in Buyer’s sole and absolute discretion, to proceed with the purchase of the Property, then Buyer shall, before the end of the Due Diligence Period, notify Seller in writing (such notice, the “**Approval Notice**”) that Buyer elects to proceed with the purchase of the Property, subject to such title objections made by Buyer that Seller has agreed to remove on or before the Closing Date, if any. If before the end of the Due Diligence Period Buyer fails to give Seller such Approval Notice, then Buyer shall be deemed to have elected to terminate this Agreement, the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except for those obligations of Buyer or Seller which are expressly stated in this Agreement to survive Close of Escrow, Closing or other termination of this Agreement (the “**Surviving Obligations**”).

4. Property Materials. To the extent not already provided to Buyer, not later than two (2) business days after the Effective Date, Seller shall deliver to Buyer for Buyer’s review and copying

the following documents relating to the Property to the extent in the possession or control of Seller or Seller's agents (such documents being collectively, the "**Property Materials**"): (i) all soils, groundwater, environmental, property inspection and other reports and test results relating to the physical condition of the Property, including without limitation engineers', consultants' plans, reports and studies relating to the physical condition of the Property; (ii) all notices of violation of laws, if any, from any governmental or quasi-governmental authorities related to the Property; (iii) other correspondence and notices from any governmental or quasi-governmental authorities related to the Property; (iv) all current leases, rental agreements, service contracts, and other agreements pertaining to use of, service to or the management or operation of the Property; (v) a rental statement including names of tenants and subtenants, period of rental and rental rights, if any; (vi) all permits and other approvals or licenses concerning the Property obtained from any governmental entity, including but not limited to, certificates of occupancy, conditional use permits, development plans, and license and permits pertaining to the operation, management or use of the Property, further including those pertaining to any and all water rights or claims; (vii) information related to any material facts or defects affecting the Property, including insurance claims within the past five years; and (viii) any and all other disclosures required by law.

5. Title.

(a) At Closing, title to the Property shall be conveyed to Buyer subject to only the following exceptions (collectively, the "**Permitted Exceptions**"): (i) non-delinquent real property taxes and assessments, (ii) the standard pre-printed exceptions and exclusions contained in an ALTA extended coverage owner's policy of title insurance, (iii) liens and encumbrances to which Buyer has waived pursuant to 5(b) below or otherwise consented in writing, and (iv) liens and encumbrances directly caused by the acts of Buyer or any of Buyer's Representatives. Notwithstanding anything to the contrary in this Agreement, Seller shall pay or discharge, or cause to be removed, whether or not specifically objected to by Buyer, all monetary liens or encumbrances affecting the Property prior to the recording of the Grant Deed (including all liens evidencing any deed of trust (and related documents) securing financing for or through Seller, all delinquent tax liens, all mechanics' and/or materialmen's' liens relating to work performed by or on behalf of Seller, and all judgment liens against Seller) (collectively, "**Existing Liens**"); and in no event shall Seller be allowed to elect or be deemed to have elected not to pay, discharge or cause to be removed such matters.

(b) Buyer may advise Seller by written notice, not later than five (5) business days prior to the end of the Due Diligence Period (the "**Title Objection Deadline**"), what exceptions to title, if any, will not be accepted by Buyer. Seller shall have two (2) business days after receipt of Buyer's objections to give Buyer: (A) notice that Seller will remove the objectionable exceptions on or before the Closing Date (as defined below); or (B) subject to the obligation to remove the Existing Liens, notice that Seller elects not to cause some or all of such exceptions to be removed. If Seller gives Buyer notice under clause (B), Buyer may elect on or before the expiration of the Due Diligence Period to (X) waive its objections to title (other than Existing Liens) and proceed with the purchase without offset or credit against the Purchase Price, or (Y) terminate this Agreement, in which event the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except as provided in the Surviving Obligations. If Seller fails to give Buyer notice within two (2) business days after receipt of Buyer's objections, then Seller shall be deemed to have elected to give Buyer notice under clause (B). If Buyer fails to give

Seller notice of its election to terminate this Agreement pursuant to (Y) above or Buyer has elected not to make any objections to title prior to the Title Objection Deadline, then, assuming Buyer has delivered an Approval Notice, Buyer shall be deemed to have elected to waive its objections to title except for any objections which Seller has agreed in writing to remove prior to Closing.

(c) Whether or not Buyer shall have furnished to Seller any notice of title objections pursuant to the foregoing provisions of this Agreement, Buyer may, at or prior to Closing, notify Seller in writing of any objections to title first raised by the Title Company between (a) the expiration of the Title Objection Deadline, and (b) the Closing Date, and which: (1) are not the result of Buyer's acts, (2) do not constitute exceptions which Buyer has approved or waived pursuant to Sections 5(a) and/or (b) above, and (3) have a material adverse effect on the marketability, use, value or operation of the Property, as reasonably determined by Buyer. Buyer shall advise Seller of its additional title objections by written notice within two (2) business days of learning of the additional title matter. Seller shall have until the earlier of (x) two (2) business days after receipt of Buyer's objections, or (y) the Closing Date, to give Buyer notice that (i) Seller will remove such objectionable exceptions, or (ii) Seller elects not to cause such exceptions to be removed. If Seller gives Buyer notice under clause (ii), Buyer may elect within two (2) business days after receipt of Seller's notice to (A) waive its objections to title and proceed with the purchase without offset or credit against the Purchase Price, or (B) terminate this Agreement. If Seller fails to give Buyer timely notice as required in this subparagraph (c), then Seller shall be deemed to have elected to give Buyer notice under clause (y)(ii). If Seller gives (or is deemed to have given) Buyer notice under clause (y)(ii), and Buyer fails to give Seller notice of its election within two (2) business days after receipt of Seller's notice, then Buyer shall be deemed to have elected to have elected to waive its objections under clause (A) above. If Buyer elects to terminate this Agreement under this Section 5(c), the Deposit shall be returned to Buyer, and neither party shall have any further rights or obligations hereunder except as provided in the Surviving Obligations.

6. Conditions to Closing.

(a) Buyer's Conditions. In addition to all other conditions to the completion of the transaction described in this Agreement, Seller and Buyer agree that the Closing is subject to satisfaction, approval or waiver by Buyer of the matters specified in this Section 6(a), below, which conditions are solely for the benefit of Buyer and can be unilaterally waived by Buyer:

(i) The Title Company shall be irrevocably committed to issue to Buyer at the Closing an extended coverage ALTA owner's policy of title insurance in the amount of the Purchase Price, insuring the Property is vested in Buyer subject to no exceptions other than the Permitted Exceptions, in the form and with endorsements to be approved by Buyer prior to the end of the Due Diligence Period (the "**Title Policy**");

(ii) There shall have been no material adverse change in the physical condition of the Property from the Effective Date through the Closing Date; and

(iii) Seller shall not be in default of Seller's obligations under this Agreement, and all of Seller's express representations and warranties set forth in this Agreement shall be true and correct when made and as of the Closing.

(b) Seller's Conditions. In addition to all other conditions to the completion of the transaction described in this Agreement, Seller and Buyer agree that the Closing of the sale and purchase contemplated by this Agreement is subject to satisfaction, approval or waiver by Seller of the matters specified in this Section 6(b), below, which conditions are solely for the benefit of Seller and can be unilaterally waived by Seller:

(1) Buyer shall not be in material default of Buyer's obligations under this Agreement, and that all of Buyer's express representations and warranties set forth in this Agreement continue to be true, correct and unchanged in all materials respects as of the Closing.

7. Closing.

(a) The consummation of the purchase and sale of the Property (the "**Closing**" or "**Close of Escrow**") shall take place on the Closing Date, through Escrow. The "**Closing Date**" shall be ten (10) business days from the receipt by Seller of the Approval Notice, or such other date as the parties may mutually agree (without expectation or obligation to so agree). Notwithstanding the foregoing, either Buyer or Seller may elect, with two (2) business days' prior notice to the other party, to extend the Closing Date for up to thirty (30) additional days.

(b) In sufficient time prior thereto to allow Closing to occur on the Closing Date, Seller shall cause to be delivered into the Escrow:

(1) A grant deed executed by Seller, with signature(s) notarized for recording in the official records of Santa Clara County, California ("**Official Records**"), conveying to Buyer title to the Property, in the form of Exhibit B attached hereto ("**Grant Deed**");

(2) An affidavit in compliance with the Foreign Investment and Real Property Tax Act and a California Tax Withholding Form 593-C, executed by Seller (the "**Non-Foreign Status Certificate**" and "**Form 593-C**", respectively), certifying that Seller is not subject to withholding under federal or state law; and

(3) Such additional instruments or documents reasonably required by Escrow Holder in order to consummate the purchase and sale of the Property in accordance with the terms and conditions of this Agreement, to the extent consistent with this Agreement, including without limitation escrow instructions and an owner's affidavit reasonably required by the Title Company to enable the Title Company to issue the Title Policy to Buyer at the Closing (including without limitation certifications or other assurances relating to mechanics' or materialmen's liens, parties in possession and the status and capacity of Seller and persons signing on behalf of Seller).

(c) Prior to Closing, in sufficient time prior thereto to allow Closing to occur on the Closing Date, Buyer shall cause to be delivered into Escrow the following:

(1) The Net Purchase Price;

(2) A Certificate of Acceptance substantially in the form set forth on Exhibit C attached hereto; and

(3) Such additional instruments or documents reasonably required in order to consummate the purchase and sale of the Property in accordance with the terms and conditions of this Agreement, to the extent consistent with this Agreement, including without limitation escrow instructions.

8. Representations, Warranties and Covenants.

(a) Representations By Seller. Seller represents and warrants to Buyer as follows:

(1) This Agreement (i) is and at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) is and at the time of Closing will represent the legal, valid and binding obligations of Seller, and (iii) does not and at the time of Closing will not violate or conflict with any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. All other documents executed by Seller which are to be delivered to Buyer at Closing (i) are or at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) are or at the time of Closing will represent the legal, valid and binding obligations of Seller, and (iii) do not and at the time of Closing will not violate or conflict with any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. No consent or approval is required for the execution and delivery of this Agreement by Seller or the performance by Seller of its obligations hereunder other than those already obtained by Seller.

(2) Seller is not a “foreign person” within the meaning of Section 1445(f)(3) of the Federal Code.

(3) The Property Materials delivered to Buyer are complete copies of the originals of such documents in the possession or control of Seller or Seller’s agents and are all of the Property Materials in the possession or control of Seller or Seller’s agents. The Property Materials constitute all of the documents affecting the Property that disclose potential defects or problems with respect to the condition, use or operation of the Property which remain uncured and there are no documents not in the possession or under the control of Seller or Seller’s Representatives or property manager that disclose defects or problems with respect to the condition, use or operation of the Property which remain uncured. Prior to the Closing, Seller agrees to promptly deliver to Buyer any additional documents received by Seller relating to the physical condition, use and operation of the Property. “**Seller's Representatives**” shall mean, collectively and individually, the agents, employees, officers, directors, property managers, contractors, subcontractors, attorneys, consultants and representatives of Seller.

(4) Seller has not received written notice from any governmental or quasi-governmental authority of existing violations of any laws or other legal requirements applicable to the Property, which remain uncured.

(5) Seller has not received written notice of any action, suit or proceeding pending, and Seller has no actual knowledge of anything threatened against or affecting all or any portion of the Property, or relating to or arising out of the ownership, management, development, proposed development or operation of the Property, or which would affect Seller’s ability to perform its obligations under this Agreement in any court or arbitration or other quasi-judicial

proceeding or before or by any governmental or quasi-governmental authority. Seller has not received written notice from any applicable governmental authority of any pending or, or Seller's knowledge, threatened special assessments or condemnation actions with respect to the Property.

(6) As of the Closing, there shall be no outstanding contracts made by Seller for any improvements to the Property which have not been fully paid for, and Seller shall cause to be discharged and removed as an exception to Title all mechanics' and materialmen's liens arising from any labor and material furnished prior to the Closing (other than those caused by work performed by Buyer).

(7) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any interest in any of the Property or to occupy the Property. There are no contracts, leases or other agreements relating to the ownership, operation and maintenance of the Property that will survive the Closing and which will be binding on Buyer or the Property, other than the Permitted Exceptions. No party, other than Seller, has any right to occupy the Property or any portion thereof.

(8) To Seller's knowledge, the Property Materials delivered to Buyer include all reports relating to whether any Hazardous Materials have been located on the Property or have migrated onto the Property or have been released into the environment, or discharged, placed or disposed of at, on or under the Property. To Seller's knowledge there are no Hazardous Materials on, under, about or affecting the Property in violation of any applicable laws. As used in this Agreement, "Hazardous Materials" shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides; asbestos and asbestos-containing materials, PCBs and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act of 1954, 42 U.S.C. Section 2011 et seq. or the Nuclear Waste Policy Act of 1982, 42 U.S.C. 10101 et seq.; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. Section 1910.1200 et seq.; mold; industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; and any other substance, waste or material which has been determined to be injurious to health, public safety or the environment.

(9) Seller represents and warrants to Buyer that: (i) Seller and Seller's Representatives are not acting, and shall not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation enforced or administered by the federal Office of Foreign Assets Control; and (ii) Seller and Seller's Representatives are not entering into this Agreement, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity, or nation.

The representations and warranties of Seller set forth in this Section 8(a) shall survive the Close of Escrow.

(b) Representations By Buyer. Buyer represents and warrants to Seller that no consent or approval from anyone other than Buyer's Board of Directors is required for the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

The representations and warranties of Buyer set forth in this Section 8(b) shall survive the Close of Escrow.

(c) Covenants of Seller. Seller hereby agrees as follows:

(1) After the Effective Date and prior to the Closing, no part of the Property, or any interest therein, shall be sold, leased, licensed, encumbered or otherwise transferred without Buyer's prior written consent.

(2) Prior to Closing, Seller shall promptly notify Buyer of any fact or circumstance of which Seller becomes aware or should be aware which would make any of Seller's representations and warranties untrue in any material respect, or any covenant of Seller under this Agreement incapable or improbable of being cured or performed.

(3) Seller shall not accept, consider or entertain any offers to acquire or purchase the Property from any third parties as of the Effective Date of this Agreement.

(4) Seller shall cooperate with Buyer in connection with the merger of the Land and Parcel A of 424-31-055 ("**Parcel A**"), as the circumstances may require for the Buyer's future use or sale of the Land or the Buyer's potential combined development of the Land and Parcel A. This subsection (4) will survive the Close of Escrow.

9. Prorations.

(a) Subject to this Section 9 below, all revenues and expenses of the Property, including without limitation real property taxes, special taxes, assessments (if any) shall be prorated and apportioned between Buyer and Seller as of 12:01 a.m. on the Closing Date, so that Seller bears all expenses with respect to the Property, and has the benefit of all income with respect to the Property, through and including the date immediately preceding the Closing Date, and Buyer bears all expenses with respect to the Property, and has the benefit of all income with respect to the Property on and after the Closing Date. If any portion of the Property is affected by any assessment or other charge, whether for taxes or bonds, or interest thereon, which is or may become payable in installments, and an installment payment of such assessment is then a lien due and payable as part of the annual ad valorem property tax bill received for the Property, then such installment shall be prorated as of the Closing Date; and if any such assessment or other charge is not payable in installments or are not billed as part of the annual ad valorem property tax bill for the Property, shall be paid in full (if any) by Seller at the Closing. Notwithstanding the foregoing, Seller shall be solely responsible for clearing all possessory interest taxes, if any, from the Property not later than the Closing. Any necessary adjustment due either party on receipt of a supplemental tax bill will be made by the parties outside of this Escrow within the time required by Section 9(b) below.

(b) Subject to Section 9(a) above, if any of the items to be prorated as of Closing cannot be finally determined as of Closing, the prorations shall be made at Closing based on the last available information, and post-closing adjustments between Buyer and Seller shall be made within twenty (20) days after the date that the actual amounts are determined and the owing party is provided with notice of the amount due, and if payment is not made within this twenty (20) day period the party owing such sums shall pay interest thereon, at the rate of ten percent (10%) per annum, from date of delivery of the notice of amount due to the date of payment. This subsection (b) shall survive the Closing.

10. Title Charges; Other Closing Costs. If this transaction is terminated before Close of Escrow by either party for any reason other than a breach or default by either party hereunder, Buyer and Seller shall share equally all escrow costs billed by the Escrow Holder and Title Company. If this transaction closes as provided in this Agreement, (i) Seller shall pay that portion of the premium for the Title Policy attributable to standard ALTA coverage (exclusive of endorsements), and the escrow fees; (ii) Buyer shall pay recording fees (if any) for the recording of the Grant Deed and shall pay the portion of the premium for the Title Policy attributable to extended ALTA coverage and endorsements issued with the Title Policy; and (iii) all other Closing costs, if any, shall be allocated between Seller and Buyer in accordance with the custom in Santa Clara County, California.

11. Close of Escrow. Upon the Close of Escrow, Seller and Buyer shall instruct Escrow Holder to deliver all funds, instruments and documents as follows:

(a) Escrow Holder shall be instructed to deliver to Seller:

(i) Copies of the fully executed Grant Deed, showing recording information, and certified by the Escrow Holder as being a true and complete copies recorded in the Official Records;

(ii) A copy of the fully executed Non-Foreign Status Certificate, and the Form 593-C;

(iii) A copy of all other documents deposited into Escrow; and,

(iv) The Purchase Price, less the costs and prorations chargeable to Seller pursuant to this Agreement.

(b) Escrow Holder shall be instructed to deliver to Buyer following the Close of Escrow the following:

(i) Copies of the fully executed Grant Deed showing recording information, and certified by the Escrow Holder as being a true and complete copies recorded in the Official Records;

(ii) A copy of the fully executed Non-Foreign Status Certificate and Form 593-C;

(iii) The original Title Policy; and

(iv) A copy of all other documents deposited into Escrow.

(c) Escrow Holder shall be designated the “real estate reporting person” for purposes of Section 6045 of Title 26 of the United States Code and Treasury Regulation 1.6045-4 and any instructions or settlement statement prepared by Escrow Holder shall so provide. Upon the consummation of the transaction contemplated by this Agreement, Escrow Holder shall be directed to file a Form 1099 information return and send the statement to Seller as required under the aforementioned statute and regulation.

12. Condemnation. If between the date of this Agreement and the Closing Date any condemnation or eminent domain proceedings are initiated which would result in the taking of any portion of the Property, then Buyer may terminate this Agreement by written notice to Seller. Seller shall promptly notify Buyer in writing upon receiving written notice of the commencement or occurrence of any condemnation or eminent domain proceedings affecting the Property. If such proceedings are initiated for the taking of any part of the Property, Buyer shall then notify Seller, within ten (10) business days after Buyer’s receipt of Seller’s notice (provided that the Closing Date shall be extended to the extent necessary to accommodate such period), whether or not Buyer elects to terminate this Agreement. If Buyer elects not to terminate this Agreement or fails to make an election within such ten (10) business day period, whichever is earlier, then Buyer shall be deemed to have elected to proceed with the Closing without any reduction to the Purchase Price, in which event Seller shall assign to Buyer at Closing all of Seller’s right, title and interest in and to any award made in connection with such condemnation or eminent domain proceedings, or if such payment has been received by Seller such payment shall be credited to Buyer at the Closing, and Closing shall be delayed, if necessary, until the later to occur of (i) the Closing Date, or (ii) ten (10) days after the expiration of the ten (10) business day period. If this Agreement is terminated in accordance with this Section 12, then the Deposit shall be released to Buyer, and Seller and Buyer shall thereupon be released from all further obligations under this Agreement other than the Surviving Obligations.

13. Risk of Loss. If prior to the Closing, the Property is materially damaged or destroyed, Buyer has the right, exercisable by giving written notice to Seller within ten (10) business days of such damage or destruction (but in any event no later than the Closing Date), either (A) to terminate this Agreement, in which case the Deposit shall be returned to Buyer, and any other money or documents in escrow shall be returned to the party depositing the same, and neither party shall have any further rights or obligations under this Agreement other than the Surviving Obligations, or (B) to accept the Property in its then condition and to proceed with the Closing and all of Seller’s right to insurance proceeds (if any) shall be transferred and assigned to Buyer at the Closing. A failure by Buyer to notify Seller in writing within such ten (10) business day period or the Closing Date, whichever is earlier, will be deemed an election to proceed under clause (B) above. If Buyer elects (or is deemed to elect) to proceed under clause (B) above, then thereafter, Seller shall not compromise, settle or adjust any claims to such insurance proceeds without Buyer’s prior written consent, which consent shall not be unreasonably withheld or delayed.

14. Default.

(a) DEFAULT BY BUYER; LIQUIDATED DAMAGES.

IF CLOSING FAILS TO OCCUR SOLELY BECAUSE OF BUYER'S DEFAULT UNDER THIS AGREEMENT, SELLER SHALL, AT ITS ELECTION, HAVE THE OPTION TO TERMINATE THIS AGREEMENT IN WHICH CASE SELLER AND BUYER SHALL THEREUPON BE RELEASED FROM THEIR RESPECTIVE OBLIGATIONS HEREUNDER (OTHER THAN THE SURVIVING OBLIGATIONS), AND AS LIQUIDATED DAMAGES HEREUNDER, THE DEPOSIT SHALL BE PAID TO AND RETAINED BY SELLER. THE PARTIES ACKNOWLEDGE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT BY BUYER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR SIGNATURES OR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNT DESIGNATED AS LIQUIDATED DAMAGES IN THIS SECTION 14(a) HAS BEEN AGREED UPON AFTER NEGOTIATION AS REASONABLE LIQUIDATED DAMAGES PURSUANT TO THE TERMS HEREOF, CALIFORNIA CIVIL CODE SECTIONS 1671 AND 1677 AND ANY OTHER APPLICABLE LAW, AND TERMINATION OF THIS AGREEMENT AND RETENTION OF LIQUIDATED DAMAGES AS A RESULT THEREOF SHALL CONSTITUTE SELLER'S ONLY AND EXCLUSIVE REMEDY AGAINST BUYER IN THE EVENT OF A DEFAULT ON THE PART OF BUYER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES. THE PROVISIONS OF THIS SECTION 14(a) SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389 WITH RESPECT TO ANY DEFAULT BY PURCHASER OF ITS OBLIGATIONS TO CLOSE THE TRANSACTION. SELLER HEREBY WAIVES THE RIGHT OF SPECIFIC PERFORMANCE WITH RESPECT TO ANY BREACH OR DEFAULT BY PURCHASER UNDER THIS AGREEMENT.

SELLER'S INITIALS: _____

BUYER'S INITIALS: _____

NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL THIS SECTION 14 LIMIT THE DAMAGES RECOVERABLE BY EITHER PARTY AGAINST THE OTHER PARTY DUE TO THE OTHER PARTY'S OBLIGATION TO INDEMNIFY SUCH PARTY IN ACCORDANCE WITH THIS AGREEMENT.

(b) Default by Seller.

If the Closing fails to occur due to Seller's default in the performance of its obligations hereunder or is otherwise in breach of the terms hereof, Buyer shall, at its election, have the right to: (i) specific performance of Seller's obligations under this Agreement, and Seller agrees that, because of the unique nature of the Property, specific performance is an appropriate remedy for enforcement of Seller's obligations under this Agreement; (ii) terminate this Agreement, upon which termination Buyer's remedy shall be the return of the Deposit and recovery of all out of pocket expenses incurred by Buyer in connection with this Agreement and Buyer's due diligence investigations relating to the Property, and all other rights available to Buyer by law or in equity. The provisions of this Section 14(b) shall survive the Close of Escrow or the termination of this Agreement.

15. Notice. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following address:

If to Seller: Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030
Attention: Laurel Prevetti
Phone No.: (408) 354-6832
Email: lprevetti@logatosca.gov

With a copy to: Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030
Attention: Robert Schultz
Phone No.: (408) 354-6818
Email: rschultz@logatosca.gov

If to Buyer: Santa Clara County Central Fire Protection District
14700 Winchester Boulevard
Los Gatos, CA 95032
Attention: Fire Chief Tony Bowden
Phone No.: (408) 341-4411
Email: tony.bowden@sccfd.org

With a Copy to: Office of County Counsel
70 W. Hedding Street, East Wing, 9th Floor
San Jose, CA 95110
Attention: Karen M. Willis, Deputy County Counsel
Phone No.: (408) 299-5982
Email: karen.willis@cco.sccgov.org

Subject to this Section below, any such notices shall be sent either (a) by certified mail, return receipt requested, postage prepaid in the U.S. mail, (b) by personal delivery, or (c) by a nationally recognized overnight courier, or (d) by email, provided that a copy is also sent out not later than one (1) business day thereafter by certified mail, personal delivery or overnight courier as described in (a), (b) or (c) immediately above. The above addresses may be changed by written notice to the other party; provided, however, that in no event shall a change of address include a P.O. Box. Notwithstanding this Section above, if a notice is sent in the manner required by this Section above, it shall be deemed given upon receipt, refusal of delivery by the intended recipient or failure of delivery due to incorrect delivery information provided by the intended recipient to the noticing party.

16. Time of Essence. Time is of the essence of this Agreement.

17. Governing Law and Venue. This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the law of

the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Agreement, including arbitration proceedings, shall be brought only in Santa Clara County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN SANTA CLARA COUNTY, CALIFORNIA.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. Captions. The captions in this Agreement are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

20. Assignability. Neither party shall assign this Agreement without the prior written consent of all parties.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of both the parties hereto and their respective legal representatives, successors and permitted assigns.

22. Modifications; Waiver. No waiver, modification, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by both parties.

23. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations or statements, oral or written, are superseded hereby.

24. Partial Invalidity. Any provision of this Agreement which is void, unenforceable or invalid or the inclusion of which would adversely affect the validity, legality or enforcement of this Agreement shall be of no effect, but all the remaining provisions of this Agreement shall remain in full force and effect.

25. Submission of Agreement. The submission of this Agreement by one party to the other or their agents or attorneys for review will not be deemed an offer to sell or purchase the Property, and no agreement with respect to the purchase and sale of the Property will exist unless and until this Agreement is executed and delivered by both Seller and Buyer.

26. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included, and the last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday recognized as such in California, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday. As used in the Agreement, “**business day**” shall mean a day which is not a Saturday, Sunday or legal holiday recognized as such in California.

27. Waiver. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute

a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

28. Number and Gender; Joint and Several Liability. When required by the context of this Agreement, each number (singular and plural) shall include all numbers, and each gender shall include all genders.

29. Negotiated Terms. Each party has had the opportunity to be advised by legal counsel and other professionals in connection with this Agreement, and each party has obtained such advice as each party deems appropriate. The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its professionals participated in the preparation of this Agreement. In the event either party hereto now or hereafter shall consist of more than one person, firm, or corporation, then and in such event, all such persons, firms, or corporations shall be jointly and severally liable as such party under this Agreement.

30. Signatures. Signatures and initials to this Agreement created by the signer by electronic means and/or transmitted by telecopy or other electronic transmission shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an execution original to this Agreement with its actual signature and initials to the other party, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own electronically created and/or telecopied or electronically transmitted signature and initials and shall accept the electronically created and/or telecopied or electronically transmitted signature and initials of the other party to this Agreement.

31. Relationship of Parties. The parties acknowledge and agree that nothing set forth in this Agreement shall be deemed or construed to render the parties as affiliates, joint-venturers, partners, associations, master-servant, agents, representatives, a joint enterprise, employer-employee, lender-borrower or contractor. Seller shall have no authority to employ any person as employee, agent or representative on behalf of Buyer for any purpose. Neither Seller nor any person using or involved in or participating in any actions or inactions relating to the Agreement, or the Property shall be deemed an affiliate, employee, representative or agent of Buyer, nor shall any such person or entity represent himself, herself or itself to others as an employee, affiliate, agent or representative of Buyer.

32. No Third-Party Rights. The parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of or to this Agreement or of any duty, covenant, obligation, or undertaking established herein. This Agreement shall not be construed as nor 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 herein for any cause whatsoever.

33. Headings. The captions appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Agreement or in any way affect this Agreement.

34. Brokers. The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction for such party and that there are no

claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement.

35. No Permitted Use of Buyer Name. Except as allowed herein or by another written agreement entered into by and between the parties, Seller shall not publicize or use, or allow anyone else to use, the name, trade name, trade dress, seal, logo or other proprietary information of Buyer in any manner.

36. Conflict of Interest. Seller shall, and Seller shall ensure that Seller's Representatives, comply with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so will constitute a material breach of this Agreement and is grounds for immediate termination of this Agreement by the Buyer. A violation of Government Code 1090 may make this Agreement void on its face. In accepting this Agreement, Seller covenants, warrants, represents and agrees that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Seller further covenants that, in the performance of this Agreement, it will not employ any contractor, consultant or person having such an interest.

37. Non-Discrimination. Seller shall comply with all applicable Federal, State and local laws and regulations including the County of Santa Clara's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964, as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code Sections 12900 et sea.); California Labor Code sections 1101 and 1102. Seller shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organization affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Seller or any of Seller's Representatives discriminate in the fulfillment of any of the Agreement terms because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

38. California Public Records Act. All documents and records provided to or made available to Buyer under this Agreement become the property of the Buyer, which is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If proprietary information is contained in documents submitted by Seller or Seller's Representatives to Buyer, and Seller expressly claims that such information falls within one or more CPRA exemptions, Seller must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the confidential information. In the event of a request for such information, the Buyer will make reasonable efforts to provide notice to Seller prior to such

disclosure. If Seller contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required at its own cost, liability and expense to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County at least two (2) days before Buyer's deadline to respond to the CPRA request. If Seller fails to obtain such a remedy before the Buyer responds to the CPRA request, Buyer will disclose the requested information and shall not be liable or responsible for such disclosure. Seller represents, warrants and agrees that it shall defend, indemnify and hold Buyer harmless for, from and against any and all Claims that may or do result from denial by Buyer of a CPRA request for any information arising from any representation, or any action (or inaction), by Seller or Seller's Representatives.

39. Survival. Paragraphs 14 through and including 40 shall survive the Closing or earlier termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as follows:

SELLER:

TOWN OF LOS GATOS

By: _____
Title: _____
Date: _____

BUYER:

SANTA CLARA COUNTY CENTRAL FIRE
PROTECTION DISTRICT, a dependent special
district

CINDY CHAVEZ, President of the Board of
Directors

Date: _____

Signed and certified that a copy of this
document has been delivered by electronic
or other means to the President of the Board of
Directors.

ATTEST:

Name:
Title:

APPROVED AS TO FORM AND LEGALITY:

Karen M. Willis, Deputy County Counsel

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B

GRANT DEED

**RECORD WITHOUT FEE UNDER CALIFORNIA
GOVERNMENT CODE SECTIONS 27383 AND 6103**

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

[INSERT]

Space above this Line for Recorder's Use

A.P.N. _____

Transfer is exempt from documentary transfer tax pursuant to R&T Code Section 11922

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, _____, a _____ ("Grantor"), hereby **GRANTS** to the Santa Clara County Central Fire Protection District, a dependent special district ("Grantee"), all right, title, fee, and interest in and to that real property situated in the City of Los Gatos, County of Santa Clara, State of California, described on Exhibit A attached hereto, together with all buildings and other improvements located on said real property, and all rights, privileges, easements and appurtenances thereto, including without limitation all mineral and water rights, appurtenant easements, rights-of way and other appurtenances used in connection with or relating to such real property, buildings, structures and other improvements.

In Witness Whereof, Grantor has caused this instrument to be executed.

GRANTOR: _____

_____, a _____

Dated: _____

By: _____

Its: _____

Mail tax statements to: Same as above address.

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

(Government Code Section 27281)

Certificate of Acceptance

by

Santa Clara County Central Fire Protection District

THIS IS TO CERTIFY that the interest in real property conveyed by the Grant Deed dated _____, ____ from the Town of Los Gatos, to the Santa Clara County Central Fire Protection District, a fire district authorized by the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Santa Clara County Central Fire Protection District pursuant to authority conferred by Resolution No. _____ of the Board of Directors of the Santa Clara County Central Fire Protection District adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

In witness whereof, I have hereunto set my hand on _____ day of ____.

By: _____

TONY BOWDEN, Fire Chief

Santa Clara County Central Fire Protection District

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

_____ (Seal)
(Signature)



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 13

ADDENDUM

DATE: April 20, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution approving the Sale and Purchase Agreement for the sale of Town-owned property located on 14850 Winchester Boulevard, APN 424-31-055, authorizing the Town Manager to execute all documents needed to complete the transaction in a form acceptable to the Town Attorney, and authorize a revenue budget adjustment in the amount of \$1,200,000 to recognize the sale revenue.

REMARKS:

Attachment 4 contains public comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020.

Attachments received with Staff Report:

1. Draft Resolution with Exhibit A, Draft Purchase and Sale Agreement
2. Resolution 2016-010 declaring Winchester Surplus Property
3. Draft Winchester Station Vision

Attachment received with Addendum:

4. Public Comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020

PREPARED BY: Arn Andrews
Assistant Town Manager

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

From: John Shepardson

Date: Friday, April 17, 2020 at 11:34 PM

To: Wasserman Mike <Mike.Wasserman@bos.sccgov.org>, Marcia Jensen <MJensen@losgatosca.gov>, BSpector <BSpector@losgatosca.gov>, Marico Sayoc <MSayoc@losgatosca.gov>, Rob Rennie <RRennie@losgatosca.gov>, Laurel Prevetti <LPrevetti@losgatosca.gov>

Subject: Sirens

Leaders:

Will the projected new fire station station carry siren equipment?

<https://www.google.com/amp/s/www.sfchronicle.com/california-wildfires/amp/In-disaster-prone-California-emergency-sirens-14938016.php>

JS

ATTACHMENT 4



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 14

DATE: April 14, 2020
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Authorize the Town Manager to Execute an Amendment to the Lease Agreement with the Los Gatos Museum Association (LGMA) also known New Museum Los Gatos (NUMU) to Eliminate Utility Payments and Increase Rent Obligations, and to Amend Their Conditional Use Permit (CUP) to Eliminate or Amend Certain Conditions to Allow LGMA to Generate Additional Revenue.

RECOMMENDATION:

Authorize the Town Manager to execute an amendment to the lease agreement with Los Gatos Museum Association (LGMA) and approve amendments to their Conditional Use Permit (CUP) to eliminate or amend certain conditions.

BACKGROUND:

Los Gatos Museum Association (LGMA) also known as New Museum Los Gatos (NUMU) and staff have been discussing renegotiating their Lease Agreement to minimize and/or eliminate utility and rent obligations. In exchange for the elimination of utilities, NUMU is willing to accelerate rent payments, provide in-kind services for residents of Los Gatos, and reconfigure the lower level of their staff office area for use by Town employees.

Based upon direction from Town Council in closed session, the Town Attorney has drafted an Amendment to the Lease. Attachment 1 is a redline of the proposed changes to the Lease. Attachment 2 is a clean version of the Amendment to the Lease to be executed by the Town Manager if authorized by the Town Council.

NUMU has also requested that certain conditions of their CUP be eliminated or amended in order to facilitate additional revenue generating programming. Attachment 3 is a redline of the proposed changes to their CUP. Attachment 4 is a clean version of the Amended CUP.

PREPARED BY: Robert Schultz
Town Attorney

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

DISCUSSION:

Section 3.1 of the Lease Agreement requires NUMU to pay “Base Rent” with an “Annual Increase”. However, the lease further stipulates that in no event shall the base rent exceed \$2,000 per month during the initial 10-year period. Using the methodology set forth in the Lease Agreement, the following annual payment schedule for the term of the lease is derived with NUMU currently in its fourth year of the Lease:

YEAR	1	2	3	4	5	6	7	8	9	10
ANNUAL RENT	0	0	0	4352	8703	13055	17406	21758	24000	24000

In addition, Section 7.1 of the Lease Agreement also requires NUMU to pay a pro-rated share based on square footage for gas, water, sewer, electricity, garbage service, and other public utilities provided by or through the Town. NUMU’s average monthly utility Invoice is \$4,200 per month and approximately 50,000 per year. NUMU has been consistently behind in paying its pro-rated share of utilities and is currently behind in the amount of approximately \$23,000.

Based upon Town Council direction in closed session, the proposed Amendment to the Lease would eliminate the payment of utilities and instead, require NUMU to begin making monthly rent payments of \$2,083 beginning July 1, 2020.

NUMU has also requested certain conditions in their Lease and CUP related to the hours of operation, the number of private events, the number of attendees, and the number of staff allowed onsite be eliminated or amended. According to NUMU Executive Director, these conditions are onerous and make it difficult to generate revenues for the museum. The proposed amended Conditional Use Permit (CUP) eliminates or amends these conditions.

CONCLUSION:

Staff recommends that Council authorize the Town Manager to execute an amendment to the lease agreement with NUMU and approve the amendments to their Conditional Use Permit (CUP) to eliminate or amend certain conditions.

COORDINATION:

This report was coordinated with the office of the Town Manager and Finance Department.

PAGE 3 OF 3

SUBJECT: NUMU Amended Lease and CUP

DATE: April 15, 2020

FISCAL IMPACT:

The Town currently budgets \$50,000 in revenue per year for rent and utility payments from NUMU. With the amendments to the Lease and CUP, the Town would reduce the budget revenues to \$25,000.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Redline of the proposed changes to the Lease.
2. Amendment to the Lease to be executed by the Town Manager.
3. Redline of the proposed changes to their CUP.
4. Amended CUP.
5. Public Comment

**FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN TOWN OF LOS GATOS
AND THE LOS GATOS MUSEUM ASSOCIATION**

This FIRST AMENDMENT to LEASE AGREEMENT is effective on March 1, 2020 and amends the Lease Agreement between the Town of Los Gatos, a California municipal corporation (herein "Town") and Los Gatos Museum Association, a California nonprofit corporation (herein "Lessee") entered into on December 9, 2013.

RECITALS

- A. Town and Lessee entered into a Lease Agreement ("Agreement"), executed by the Town Manager on December 9, 2013, a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town and Lessee desire to amend certain terms and conditions of the Lease Agreement. Therefore, the following paragraphs are deleted in their entirety and replaced as set forth herein as follows:

AMENDMENT

1. PREMISES.

Town hereby leases to Lessee, certain real property located in the Town of Los Gatos, County of Santa Clara, State of California, commonly known as 106 East Main Street (herein the "Premises") and more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Premises consists of approximately ~~eleven~~ Ten thousand six hundred and ~~four~~ thirty (~~11,604~~10,630) square feet of space for museum exhibits, ~~staff offices, storage, art studio, MakerSpace classroom areas, lounge and meeting area, visitor reception areas, Collection room, educational program room/spaces, kitchen facilities, restrooms, elevators and an attached outside deck.~~ Town offices, storage, educational lab, kitchen facilities, bathrooms, and a deck. Lessee accepts the Premises "as-is" on the date of execution of this Lease.

2. TERM.

2.1 Original Term. The term of this Lease shall be for ten (10) years ~~plus the initial period of Town construction and improvements to the Premises, as set forth in paragraph 2.5, commencing on July 1, 2013~~ January 1, 2016 and ending ~~on December 31, 2026.~~ ten (10) years from the Delivery Date, as defined below ("Term"). Lessee shall, at the expiration of the term of this Lease, ~~or the end of any option period set forth in Paragraph 2.2,~~ or upon its earlier termination, surrender the Premises in as good condition as it is now at the date of this lease. The Parties expect reasonable wear and tear.

ATTACHMENT 1

3. **RENT and MONETARY and PERFORMANCE OBLIGATIONS.**

3.1 Base Rent. The rent to be paid by Lessee shall be in the amount of twenty-five thousand dollars (\$25,000.00) per year payable in monthly installments of \$ 2,083.33.

3.2 Payment Date. Rent shall be payable on the first day of each month commencing on July 1, 2020 and thereafter during the term of the Lease and any Lease extension at Town Hall Finance Department.

~~The base rent shall be in the amount of Fair Market Rate (FMR) of \$2.50 per square foot per month without deduction or offset based on 11,604 square feet, not including the conference room, Town office space, and exterior decks as shown on Exhibit A or as memorialized in an Addendum to Lease following the determination regarding the actual space needed for the new HVAC system, which shall occur prior to the Delivery Date. For the first three (3) years after the Delivery Date, Lessee shall pay no Base Rent for the Premises. The FMR shall be updated no less than once every ten (10) years and at each Option Period using an appraisal methodology satisfactory to the Parties.~~

3.2 ~~Annual Increase.~~ ~~During the Term of this Lease, including each Option Period if an option is exercised, the Base Rent shall be increased effective on each anniversary of the Delivery Date as follows:~~

- ~~(a) Years 1-3 Not Applicable, No Rent~~
- ~~(b) Year 4 1.25% of FMR~~
- ~~(c) Years 5 Year 4 + 1.25% of FMR~~
- ~~(d) Year 6 Year 5 + 1.25% of FMR~~

~~Despite the foregoing, in no event shall Base Rent shall exceed Two Thousand Dollars (\$2,000) per month during the initial 10-year period.~~

Prior to the extension of the Lease under the Option Periods of this Lease, Paragrah 2.2, if an option is exercised, the Town reserves the right to review the accounts and financial records of the Lessee and open negotiations for an adjustment in rent or performance obligatoions under Paragargh 3.6-potential increase in Base Rent.

3.6 ~~Reimbursement for Downstairs Restroom Project.~~ ~~Lessee shall contribute 50% of the costs of downstairs restroom improvements, but in no event more tthan the sum of Twenty~~

~~Eight Thousand Dollars (\$ 28,000) for Lessee' s share of the restroom project for the Premises. Such Payment shall be made commencing on the fourth anniversary of the Delivery Date and on each anniversary of the Delivery Date thereafter at the rate of Four Thousand Dollars (\$ 4,000) per year until the entire sum has been paid to the Town.~~

3.6 Lessee Programs & Services to Town Residents & Non-Profit Organizations. Lessee shall provide the following services and programs to Los Gatos Residents:

1. Free Museum Admission to art and history exhibitions, opening receptions, and select events and programs.
2. Priority Registration/Admission for select programs and events.
3. Facility Rental Discounts (meetings, private events, fundraisers):

- a. 10 % discount for private rentals
- b. 15 % discount for non-profits rentals
- 4. Curate and install one Art in the Council Chambers exhibition.
- 5. Curate one Council Chambers display case per year.
- 6. Support Arts & Culture Commission in efforts to fund public projects through fiscal agency and curatorial support.
- 7. Support Los Gatos Town Events at request of organizers, based upon Museum capacity and resources.
- 8. Host GBAO/Los Gatos Art Association biennial exhibition (excludes soliciting exhibition sponsors, exhibition installation and and deinstallation exhibition management).
- 9. Continue to source funding and volunteer support for Los Gatos History Project (archiving collection, programming)

3.7 Annual Statements. On or before September 1, of each calendar year, beginning in 2021, Lessee shall furnish to the Town a statement (the "Annual Report"), setting forth in reasonable detail a listing of completed or in progress milestones ; attendance report (residents and non-residents) ; the current budget; a financial statement (revenues, expenses and endowment) for the prior year; provide a collections management report and a listing of the Museum's Board of Directors.

3.8 Books and Records. Lessee shall keep and maintains full, complete and appropriate books, records and accounts relating to the Premises, including all such books, records and accounts necessary or prudent to evidence and substantiate in full all revenues and expenses incurred in the performance of this Agreement. All such books, records and accounts shall be open to and available for inspection by the Town, its auditors or other authorized representatives at reasonable intervals during normal business hours.

3.9 Sponsorship. Lessee acknowledge Town as a major sponsor on all press releases and other written materials available to the public. Such acknowledgement will substantially read: "Major funding for this program is made possible in part by the Town of Los Gatos." Said language will be in proportional type size to the total advertisement area.

5. **USE OF PREMISES and OPERATING HOURS.**

5. 1. 2 4,335 square feet of space on the upper level and 7,260 6295 square feet of space on the lower level of the old Town of Los Gatos Library located at 106 E. Main Street, Los Gatos, CA, as shown on Exhibit A and Exhibit B. Exhibit B is detailed plan of the new configuration on the lower level. The Town will be responsible for all costs associated with the new configuration on the lower level. ~~or as memorialized in an Addendum to Lease following determination regarding the space needed for the new HVAC system, which shall occur prior to the Delivery Date.~~

5. 2 Hours of Operations.

5. 2. 1 Public Hours. ~~The Premises shall be closed to the Public on Wednesdays until~~

~~1: 00 P.M.~~ Public hours shall not exceed Monday through Sunday from ~~11~~9: 00 A.M. to ~~7~~9: 00 P.M. Additional ~~evening~~ hours are allowed for special events, programs, private events receptions, and Board /Committee meetings so long as no Town meeting or event is scheduled. ~~Additional morning hours are allowed for visits by school children when those school children are transported by a bus or other vehicles that do not park in any of the Civic Center lots or on the streets immediately adjacent to the Civic Center.~~ The Premises shall be open to the public a minimum of 25 hours per week, unless Lessee is in the process of changing exhibits.

~~5. 2.2 Schedule. Lessee shall submit a calendar in advance of all scheduled events on a quarterly basis to Town Manager in order to avoid conflicts with Town events and meetings.~~

~~5. 2. 3 Staff Hours. The Premises shall remain closed to the public, but available for use for up to five (5) staff members on Wednesdays prior to 1: 00 P.M.~~

5. 5 Parking. Lessee shall be obligated to purchase Olive Zone parking permits annually from Town for all Lessee employees and shared parking permits for volunteers working 20 hours or more during weekdays. Lessee' s employees and volunteers will comply with the same parking requirements consistent with Town employees. ~~In no event shall any buses or oversized vehicles associated with visitors to the Premises park in any of the Civic Center lots or on the streets immediately adjacent to the Civic Center.~~

5. 7 Use of Alcohol. Any use of alcohol will be subject to approval and conditions contained in any Conditional Use Permit obtained by Museums of Los Gatos ~~and, limited to beer and wine only.~~ If any use of alcohol requires additional regulatory permits, including an ABC license, Lessee shall be responsible for obtaining such permit, paying all associated costs, and notifying Town in writing of receipt of such permit.

7. UTILITIES AND OPERATING EXPENSES.

7. 1 Lessee Obligations. ~~Lessee at Lessee' s sole expense Town is responsible shall fully and promptly pay~~ for all expenses associated with ~~the operation of the Premises, including but not limited to~~ the furnishing of gas, water, sewer, electricity, ~~telephone service,~~ garbage pickup and disposal, ~~other public utilities and custodial service~~ that relate to the Premises. ~~Lessee shall be obligated to pay a pro-rated share based on square footage for gas, water, sewer, electricity, garbage service and other public utilities provided by or through the Town.~~ Lessee shall be obligated to pay their own direct costs for telephone, technology, audio - visual, custodial and other specialized services, including any initial costs for those services. Town shall maintain all exterior landscaping and integrated building HVAC system.

Lessee acknowledges that pursuant to the terms of the Lease before this Amendment, that there is due and owing to the Town the sum \$ \$24,417.58 for utilities and operating expenses under this Paragraph. If Lessee performs satisfactorily pursuant to the Agreement and this Amendment, Town Council, in its own and sole discretion, shall consider, prior to July 2022, whether to waive the amount past due. Until such time as Council makes a determination, no amount shall due form the Lessee to the Town for the amove referenced amount.

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

IN WITNESS WHEREOF, the TOWN and LOS GATOS MUSEUM ASSOCIATION have executed this Amendment.

TOWN OF LOS GATOS

LOS GATOS

By: _____

Laurel Prevetti

Town Manager

By: _____

Maureen Cappon-Javey

Executive Director

APPROVED AS TO FORM:

Robert Schultz
Town Attorney

**FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN TOWN OF LOS GATOS
AND THE LOS GATOS MUSEUM ASSOCIATION**

This FIRST AMENDMENT to LEASE AGREEMENT is effective on April 21, 2020 and amends the Lease Agreement between the Town of Los Gatos, a California Municipal Corporation (herein "Town") and Los Gatos Museum Association, a California Nonprofit Corporation (herein "Lessee") entered into on December 9, 2013.

RECITALS

- A. Town and Lessee entered into a Lease Agreement (“Agreement”), executed by the Town Manager on December 9, 2013, a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.

- B. Town and Lessee desire to amend certain terms and conditions of the Lease Agreement. Therefore, the following paragraphs are deleted in their entirety and replaced as set forth herein as follows:

AMENDMENT

1. PREMISES.

Town hereby leases to Lessee, certain real property located in the Town of Los Gatos, County of Santa Clara, State of California, commonly known as 106 East Main Street (herein the "Premises") and more particularly described in Exhibits A and B attached hereto and incorporated herein by reference. The Premises consists of approximately Ten thousand six hundred and thirty (10,630) square feet of space for museum exhibits, staff offices, storage, art studio, MakerSpace classroom areas, lounge and meeting area, visitor reception areas, Collection room, educational program room/spaces, kitchen facilities, restrooms, elevators and an attached outside deck.. Lessee accepts the Premises “as-is” on the date of execution of this Lease.

2. TERM.

2.1 Original Term. The term of this Lease shall be for ten (10) years commencing on January 1, 2016 and ending on December 31, 2026. Lessee shall, at the expiration of the term of this Lease, or the end of any option period set forth in Paragraph 2.2, or upon its earlier termination, surrender the Premises in as good condition as it is now at the date of this lease. The Parties expect reasonable wear and tear.

3. **RENT and MONETARY and PERFORMANCE OBLIGATIONS.**

3.1 **Base Rent.** The rent to be paid by Lessee shall be in the amount of twenty-five thousand dollars (\$25,000.00) per year payable in monthly installments of \$ 2,083.33.

3.2 **Payment Date.** Rent shall be payable on the first day of each month commencing on July 1, 2020 and thereafter during the term of the Lease and any Lease extension at Town Hall Finance Department.

Prior to the extension of the Lease under the Option Periods of this Lease, Paragraph 2.2, if an option is exercised, the Town reserves the right to review the accounts and financial records of the Lessee and open negotiations for an adjustment in rent or performance obligations under Paragraph 3.6.

3.6 **Lessee Programs & Services to Town Residents & Non-Profit Organizations.** Lessee shall provide the following services and programs to Los Gatos Residents:

1. Free museum admission to art and history exhibitions, opening receptions, and select events and programs.
2. Priority Registration/Admission for select programs and events.
3. Facility Rental Discounts (meetings, private events, fundraisers).
 - a. 10 % discount for private rentals.
 - b. 15 % discount for non-profits rentals.
4. Curate and install one Art in the Council Chambers exhibition.
5. Curate one Council Chambers display case per year.
6. Support Arts & Culture Commission in efforts to fund public projects through fiscal agency and curatorial support.
7. Support Los Gatos Town Events at request of organizers, based upon Museum capacity and resources.
8. Host GBAO/Los Gatos Art Association biennial exhibition (excludes soliciting exhibition sponsors, exhibition installation and and deinstallation exhibition management).
9. Continue to source funding and volunteer support for Los Gatos History Project (archiving collection, programming).

3.7 **Annual Statements.** On or before September 1, of each calendar year, beginning in 2021, Lessee shall furnish to the Town a statement (the "Annual Report"), setting forth in reasonable detail a listed of completed or in progress milestones ; attendance report (residents and non-residents) ; the current budget; a financial statement (revenues, expenses and endowment) for the prior year; provide a collections management report and a listing of the Lessee's Board of Directors.

3.8 Books and Records. Lessee shall keep and maintains full, complete and appropriate books, records and accounts relating to the Premises, including all such books, records and accounts necessary or prudent to evidence and substantiate in full all revenues and expenses incurred in the performance of this Agreement. All such books, records and accounts shall be open to and available for inspection by the Town, its auditors or other authorized representatives at reasonable intervals during normal business hours.

3.9 Sponsorship. Lessee acknowledge Town as a major sponsor on all press releases and other written materials available to the public. Such acknowledgement will substantially read: "Major funding for this program is made possible in part by the Town of Los Gatos." Said language will be in proportional type size to the total advertisement area.

5. **USE OF PREMISES and OPERATING HOURS.**

5. 1. 2 4,335 square feet of space on the upper level and 6295 square feet of space on the lower level of the old Town of Los Gatos Library located at 106 E. Main Street, Los Gatos, CA, as shown on Exhibit A and Exhibit B. Exhibit B is detailed plan of the new configuration on the lower level. The Town will be responsible for all costs associated with the new configuration on the lower level.

5. 2 Hours of Operations.

5. 2. 1 Public Hours. Public hours shall not exceed Monday through Sunday from 9: 00 A.M. to 9: 0 P.M. Additional hours are allowed for special events, programs, private events receptions, and Board /Committee meetings so long as no Town meeting or event is scheduled. The Premises shall be open to the public a minimum of 25 hours per week, unless Lessee is in the process of changing exhibits.

5. 5 Parking. Lessee shall be obligated to purchase Olive Zone parking permits annually from Town for all Lessee employees and shared parking permits for volunteers working 20 hours or more during weekdays. Lessee' s employees and volunteers will comply with the same parking requirements consistent with Town employees.

5. 7 Use of Alcohol. Any use of alcohol will be subject to approval and conditions contained in any Conditional Use Permit obtained by Lessee. If any use of alcohol requires additional regulatory permits, including an ABC license, Lessee shall be responsible for obtaining such permit, paying all associated costs, and notifying Town in writing of receipt of such permit.

7. **UTILITIES AND OPERATING EXPENSES.**

7. 1 Lessee Obligations. Town is responsible for all expenses associated with the furnishing of gas, water, sewer, electricity, garbage pickup and disposal that relate to the Premises. Lessee shall be obligated to pay their own direct costs for telephone, technology, audio - visual, custodial and other specialized services, including any initial costs for those services. Town shall maintain all exterior landscaping and integrated building HVAC system.

7.2 Past Utilities Due. Lessee acknowledges that pursuant to the terms of the Lease before this Amendment, that there is due and owing to the Town the sum \$ \$24,417.58 for utilities and operating expenses under this Paragraph. If Lessee performs satisfactorily pursuant to the Agreement and this Amendment, Town Council, in its own and sole discretion, shall consider, prior to July 2022, whether to waive the amount past due. Until such time as Council makes a determination, no amount shall be due from the Lessee to the Town for the above referenced amount.

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

IN WITNESS WHEREOF, the TOWN and LOS GATOS MUSEUM ASSOCIATION have executed this Amendment.

TOWN OF LOS GATOS

LOS GATOS MUSEUM ASSOCIATION

By: _____
Laurel Prevetti
Town Manager

By: _____
Maureen Cappon-Javey
Executive Director

APPROVED AS TO FORM:

Robert Schultz
Town Attorney

AMENDED CONDITIONS OF APPROVAL-~~January 20, 2015~~April 21, 2020

106 E. Main Street

Conditional Use Permit U-13-017

**Requesting approval to operate a museum (Los Gatos Museum Association (LGMA)
formerly known as Museums of Los Gatos) on property zoned C- 1:PD. APN 529-34-108.
PROPERTY OWNER: Town of Los Gatos
APPLICANT: Museums of Los Gatos**

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as received by the Town on July 22, 2014. Any changes or modifications to the approved plans shall be approved by the Community Development Director, the Development Review Committee, the Planning Commission, or Town Council, depending on the scope of the changes.
2. EXPIRATION: The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. USE: The approved use is the operation of an art and history museum.
4. HOURS OF OPERATION: Maximum hours of operation are:
 - a. Monday ~~through Sunday~~ 11:00 a.m. to 7:00 p.m.
 - ~~b. Tuesday 11:00 a.m. to 7:00 p.m.~~
 - ~~c. Wednesday 1:00 p.m. to 7:00 p.m. (up to five staff are permitted before 1:00 p.m.)~~
 - ~~d. Thursday 11:00 a.m. to 8:00 p.m.~~
 - ~~e. Friday 11:00 a.m. to 7:00 p.m.~~
 - ~~f. Saturday 11:00 a.m. to 7:00 p.m.~~
 - ~~g. Sunday 11:00 a.m. to 7:00 p.m.~~
 - ~~h. Staff may be onsite as early as 9:00 a.m. and up to 10:00 p.m. for exhibit preparations and meetings, and as permitted elsewhere in these conditions.~~
5. MUSEUM EVENTS: Museum events, such as committee meetings, exhibit openings, fundraisers, and private art/history receptions, are permitted. Museum events may require a special event permit from the Los Gatos-Monte Sereno Police Department, or a Park Permit from the Los Gatos Parks and Public Works Department.
 - ~~a. OCCURANCE: Museum events may not occur after 4:30 p.m. on Sundays in June through August (for Music in the Park), after 6:00 p.m. on Wednesdays in June through August (for Jazz on the Plazz), after 6:30 p.m. on the first and third Tuesdays of each month (for Town Council meetings), or after 6:30 p.m. on the second and fourth Wednesdays of each month (for Planning Commission meetings). The applicant must coordinate with the Town Manager's Office for events that may affect parking at the Civic Center.~~
 - ~~b.a.~~ b.a. HOURS: Museum events may occur past 7:00 p.m. when coordinated with and approved by the Town Manager's Office, and must end by 11:00 p.m.
 - ~~e.b.~~ e.b. NUMBER OF ATTENDEES: The maximum number of attendees is 253 based on maximum occupancy inside the space leased from the Town.

- ~~d.c.~~ **COORDINATION:** Coordination with the Town Manager's Office consists of the Executive Director of the Museums, or designee, sending a letter to the Town Manager summarizing the proposed event, proposed date, proposed start and end times, and estimated attendance at least three weeks prior to the proposed event and prior to any publicity regarding the proposed event. The Town Manager, or designee, shall respond in writing within five business days regarding any potential conflicts with Civic Center, Town Library, and/or Adult Recreation Center operations.
6. **ALCOHOLIC BEVERAGE SERVICE:** The service of ~~beer and wine~~ Alcohol is permitted prior to 11:00 p.m.
 7. **PRIVATE EVENT RENTAL:** The space may be rented out for private events and receptions, including weddings.
 - a. ~~OCCURANCE: Private events are permitted up to 26 times per year. Private events may not occur after 4:30 p.m. on Sundays in June through August (for Music in the Park), after 6:00 p.m. on Wednesdays in June through August (for Jazz on the Plazz), after 6:30 p.m. on the first and third Tuesdays of each month (for Town Council meetings), or after 6:30 p.m. on the second and fourth Wednesdays of each month (for Planning Commission meetings).~~ The applicant must coordinate with the Town Manager's Office for events that may affect parking at the Civic Center.
 - b. **HOURS:** Private events may occur past 7:00 p.m. when coordinated with and approved by the Town Manager's Office, and must end by 12:00 p.m.
 - c. **NUMBER OF ATTENDEES:** The maximum number of attendees is 253 based on maximum occupancy inside the space leased from the Town.
 - d. **COORDINATION:** Coordination with the Town Manager's Office consists of the Executive Director of the Museums, or designee, sending a letter to the Town Manager summarizing the proposed event, proposed date, proposed start and end times, and estimated attendance at least three weeks prior to the proposed event and prior to any publicity regarding the proposed event. The Town Manager, or designee, shall respond in writing within five business days regarding any potential conflicts with Civic Center, Town Library, and/or Adult Recreation Center operations.
 8. **FOOD AND BEVERAGE SERVICE:** Food and beverage service is permitted.
 9. **SCULPTURE GARDEN:** A sculpture garden between the west parking lot and the west entrance is permitted. An Architecture and Site application may be required for an enclosure for the sculpture garden.
 - ~~10. **EDUCATIONAL:** Educational events and activities, such as an education lab, the Explorer program, Family Art Day, and life drawing classes, are permitted.

 - a. ~~NUMBER OF ATTENDEES:~~ Educational events and activities are limited to 100 attendees and/or participants.
 - b. ~~HOURS:~~ Educational events and activities may occur outside of regular hours of operation, but not before 1:00 p.m. on Wednesdays, only if the school children are transported by bus or other vehicles neither of which may park in any Civic Center Parking lot or on streets immediately adjacent to the Civic Center.
 - c. ~~BUSES:~~ No buses or oversized vehicles may park in any Civic Center Parking lot or on streets immediately adjacent to the Civic Center.~~

11. ENTERTAINMENT: Art and history performances are permitted. Other entertainment must be consistent with Town Codes and policies, as amended.
12. DELIVERIES: Deliveries are permitted from 9:00 a.m. to 7:00 p.m. seven days a week to align with staff attendance provided a staff member is present to receive the delivery. Deliveries vehicles shall not block access to the parking lot, parked vehicles, or Civic Center buildings. Deliveries shall not occur during Town meetings or events.
13. SIGNS: A Sign Permit from the Los Gatos Community Development Department is required for any permanent or temporary signs. Approval by the Town Council is required prior to issuance of a Sign Permit per the lease with the Town.
14. TOWN COUNCIL CHAMBERS: The Town Council Chambers may be used for lectures if the lectures do not conflict with Town events or meetings and the lectures are approved by the Town Manager prior to occurring. The applicant is subject to the Town's policy and fee requirements for the use of the Town Council Chambers.
15. CIVIC CENTER, PAGEANT GROUNDS, AND FRONT LAWN: The applicant is subject to the Town's policy and fee requirements for the use of the Civic Center, Pageant Grounds, and Front Lawn.

~~16. CONFERENCE ROOM: The conference room shown on Exhibit A of the lease shall be made available by the Town to the applicant on a shared basis. The Town shall have exclusive right to schedule the conference room on all week days during Town business hours. The applicant shall have priority of use of the conference room on Saturday, Sunday, and Town holidays.~~

~~17. NUMBER OF STAFF: When the museum is open to the public, and during activities and events, the number of staff, including but not limited to museum staff, interns, volunteers, and docents, shall be limited to nine onsite at any given time. Additional staff, interns, volunteers, and docents may be onsite if those additional staff, interns, volunteers, and docents arrive and depart by means that do not require additional parking spaces, such as walking, biking, or carpooling. On Wednesdays, up to five staff are permitted before 1:00 p.m. regardless of their transportation method.~~

~~18.~~ 16. TOWN INDEMNITY: Applicants are notified that Town Code Section 1. I 0.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval, and may be secured to the satisfaction of the Town Attorney.

~~19.~~ 17. LAPSE FOR DISCONTINUANCE: If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year, the approval lapses pursuant to Section 29.20.340 of the Zoning Ordinance.

~~20.~~ 18. MODIFICATIONS TO THE SPACE: Any future modifications to the space must be consistent with the lease with the Town and obtain all required permits.

~~21.~~ 19. LEASE: The lease shall be modified to incorporate all of the conditions of approval prior to commencement of use.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

~~22.~~ 20. ALCOHOLIC BEVERAGE SERVICE NOTIFICATION: The applicant shall notify, in writing, the Los Gatos-Monte Sereno Police Department of any intentioned service of

alcohol at least two weeks prior of any anticipated event that includes alcohol beverage service. The Los Gatos-Monte Sereno Police Department shall have the authority to designate how, when, and where alcoholic beverages are served.

~~23.21.~~ 23.21. UNIFORMED SECURITY: Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.

~~24.22.~~ 24.22. CONSULTATION AND TRAINING: At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.

AMENDED CONDITIONS OF APPROVAL-April 21, 2020

106 E. Main Street

Conditional Use Permit U-13-017

Requesting approval to operate a museum (Los Gatos Museum Association (LGMA) formerly known as Museums of Los Gatos) on property zoned C- 1:PD. APN 529-34-108.
PROPERTY OWNER: Town of Los Gatos
APPLICANT: Museums of Los Gatos

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as received by the Town on July 22, 2014. Any changes or modifications to the approved plans shall be approved by the Community Development Director, the Development Review Committee, the Planning Commission, or Town Council, depending on the scope of the changes.
2. **EXPIRATION:** The approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **USE:** The approved use is the operation of an art and history museum.
4. **HOURS OF OPERATION:** Maximum hours of operation are:
 - a. Monday through Sunday 9:00 a.m. to 9:00 p.m.
5. **MUSEUM EVENTS:** Museum events, such as committee meetings, exhibit openings, fundraisers, and private art/history receptions, are permitted. Museum events may require a special event permit from the Los Gatos-Monte Sereno Police Department, or a Park Permit from the Los Gatos Parks and Public Works Department.
 - a. **HOURS:** Museum events may occur past 9:00 p.m. when coordinated with and approved by the Town Manager's Office, and must end by 12:00 a.m.
 - b. **NUMBER OF ATTENDEES:** The maximum number of attendees is 253 based on maximum occupancy inside the space leased from the Town.
 - c. **COORDINATION:** Coordination with the Town Manager's Office consists of the Executive Director of the Museums, or designee, sending a letter to the Town Manager summarizing the proposed event, proposed date, proposed start and end times, and estimated attendance at least three weeks prior to the proposed event and prior to any publicity regarding the proposed event. The Town Manager, or designee, shall respond in writing within five business days regarding any potential conflicts with Civic Center, Town Library, and/or Adult Recreation Center operations.
6. **ALCOHOLIC BEVERAGE SERVICE:** The service of Alcohol is permitted prior to 11:00 p.m.

7. **PRIVATE EVENT RENTAL:** The space may be rented out for private events and receptions, including weddings.
 - a. The applicant must coordinate with the Town Manager ' s Office for events that may affect parking at the Civic Center.
 - b. **HOURS:** Private events may occur past 9:00 p.m. when coordinated with and approved by the Town Manager's Office, and must end by 12:00a.m.
 - c. **NUMBER OF ATTENDEES:** The maximum number of attendees is 253 based on maximum occupancy inside the space leased from the Town.
 - d. **COORDINATION:** Coordination with the Town Manager's Office consists of the Executive Director of the Museums, or designee, sending a letter to the Town Manager summarizing the proposed event, proposed date, proposed start and end times, and estimated attendance at least three weeks prior to the proposed event and prior to any publicity regarding the proposed event. The Town Manager, or designee, shall respond in writing within five business days regarding any potential conflicts with Civic Center, Town Library, and/or Adult Recreation Center operations.
8. **FOOD AND BEVERAGE SERVICE:** Food and beverage service is permitted.
9. **SCULPTURE GARDEN:** A sculpture garden between the west parking lot and the west entrance is permitted. An Architecture and Site application may be required for an enclosure for the sculpture garden.
10. **ENTERTAINMENT:** Art and history performances are permitted. Other entertainment must be consistent with Town Codes and policies, as amended.
11. **DELIVERIES:** Deliveries are permitted from 9:00 a.m. to 7:00 p.m. seven days a week to align with staff attendance provided a staff member is present to receive the delivery. Deliveries vehicles shall not block access to the parking lot, parked vehicles, or Civic Center buildings. Deliveries shall not occur during Town meetings or events.
12. **SIGNS:** A Sign Permit from the Los Gatos Community Development Department is required for any permanent or temporary signs. Approval by the Town Council is required prior to issuance of a Sign Permit per the lease with the Town.
13. **TOWN COUNCIL CHAMBERS:** The Town Council Chambers may be used for lectures if the lectures do not conflict with Town events or meetings and the lectures are approved by the Town Manager prior to occurring. The applicant is subject to the Town' s policy and fee requirements for the use of the Town Council Chambers.
14. **CIVIC CENTER, PAGEANT GROUNDS, AND FRONT LAWN:** The applicant is subject to the Town's policy and fee requirements for the use of the Civic Center, Pageant Grounds, and Front Lawn.
15. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1. I 0.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval, and may be secured to the satisfaction of the Town Attorney.

16. **LAPSE FOR DISCONTINUANCE:** If the activity for which the Conditional Use Permit has been granted is discontinued for a period of one (1) year, the approval lapses pursuant to Section 29.20.340 of the Zoning Ordinance.
17. **MODIFICATIONS TO THE SPACE:** Any future modifications to the space must be consistent with the lease with the Town and obtain all required permits.
18. **LEASE:** The lease shall be modified to incorporate all of the conditions of approval prior to commencement of use.

TO THE SATISFACTION OF THE CHIEF OF POLICE:

19. **ALCOHOLIC BEVERAGE SERVICE NOTIFICATION:** The applicant shall notify, in writing, the Los Gatos-Monte Sereno Police Department of any intentioned service of alcohol at least two weeks prior of any anticipated event that includes alcohol beverage service. The Los Gatos-Monte Sereno Police Department shall have the authority to designate how, when, and where alcoholic beverages are served.
20. **UNIFORMED SECURITY:** Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
21. **CONSULTATION AND TRAINING:** At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.

April 15, 2020

Dear Mayor Jensen, Vice Mayor Spector, and Council Members, Rennie and Sayoc,

On behalf of the NUMU Board and staff, I want to thank you all for the time, attention and thoughtfulness that you have extended to me and my colleagues - staff and Board - during the past year. You may not have been keeping track of the many meetings, memos, proposals, and plans a, b, c... that it took to get here, but we sure have! And it's been a pleasure, an honor and an education. The museum and the community have benefited from your guidance, leadership and creative approaches to resolving challenges and finding opportunities to ensure the long-term success of NUMU.

It is my hope that after these many months of negotiations, you are in agreement with the terms of the amended lease and the new programs and services we're excited to offer Town residents. With your support the museum is well positioned to build on the success and experiences of our 55 years as the Museums of Los Gatos and now as New Museum Los Gatos.

I am also especially excited about the opportunities to deepen our partnership with the Town - officials and departmental staff - to continue to explore new opportunities to collaborate for the benefit of everyone. Rest assured that the NUMU team is working full steam ahead to deliver on our mission and continue to shine a creative light on our town plaza and throughout our community.

Of course if you have any questions or concerns, now and going forward, please don't hesitate to get in touch with me or any member of the staff and Board. You know where to find us!

With appreciation,

Maureen

Maureen Cappon-Javey

Executive Director



NEW MUSEUM LOS GATOS

ART ■ INNOVATION ■ HISTORY ■ BAY AREA

408.354.2646 | 106 E. Main Street, Los Gatos CA 95030 | numulosgatos.org



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 14

ADDENDUM

DATE: April 14, 2020
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Authorize the Town Manager to Execute an Amendment to the Lease Agreement with the Los Gatos Museum Association (LGMA) also known New Museum Los Gatos (NUMU) to Eliminate Utility Payments and Increase Rent Obligations, and to Amend Their Conditional Use Permit (CUP) to Eliminate or Amend Certain Conditions to Allow LGMA to Generate Additional Revenue.

REMARKS:

Attachment 6 contains public comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020.

Attachments Received with Staff Report:

1. Redline of the proposed changes to the Lease.
2. Amendment to the Lease to be executed by the Town Manager.
3. Redline of the proposed changes to their CUP.
4. Amended CUP.
5. Public Comment

Attachment Received with Addendum:

6. Public Comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020

PREPARED BY: Robert Schultz
Town Attorney

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

From: Heidi Owens

Sent: Friday, April 17, 2020 7:56 AM

To: PublicComment <PublicComment@losgatosca.gov>

Subject: Comments on Public Hearing Items for April 21, 2010 Los Gatos Town Council Meeting

Hello Town of Los Gatos,

I would like to make the following comments on agenda items for the April 21, 2020 meeting.

Having toured NUMU and spoken with the executive director at great length about the challenges with the existing lease agreement and the substantive benefits provided to the community by NUMU, I would like to speak in support of item 14. The new agreement not only addresses the high cost of utility bills for NUMU, but also expands the partnership between the organization and the Town. This is an arrangement that benefits all parties involved, and especially benefits the residents of Los Gatos. Our Town must navigate these challenging times, not only due to Covid, but also due to mounting pressures that threaten our small-town charm and way of life on so many fronts. A focus on the arts is one way Los Gatos can differentiate itself from surrounding areas and draw much-needed tourism and foot traffic into our Town. I applaud the Council and staff for working constructively with NUMU leadership to bring increased focus on the arts to Los Gatos. Bravo, and let's do even more in the future.

Thank you!

Heidi Owens

Los Gatos Resident and Community Organizer

ATTACHMENT 6



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 14

ADDENDUM B

DATE: April 20, 2020
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Authorize the Town Manager to Execute an Amendment to the Lease Agreement with the Los Gatos Museum Association (LGMA) also known New Museum Los Gatos (NUMU) to Eliminate Utility Payments and Increase Rent Obligations, and to Amend Their Conditional Use Permit (CUP) to Eliminate or Amend Certain Conditions to Allow LGMA to Generate Additional Revenue.

REMARKS:

Attachment 7 contains public comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020.

Attachments Received with Staff Report:

1. Redline of the proposed changes to the Lease.
2. Amendment to the Lease to be executed by the Town Manager.
3. Redline of the proposed changes to their CUP.
4. Amended CUP.
5. Public Comment

Attachment Received with Addendum:

6. Public Comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020

Attachment Received with Addendum B:

7. Public Comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020

PREPARED BY: Robert Schultz
Town Attorney

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

From: Barney Davidge
Sent: Friday, April 17, 2020 5:24 PM
To: PublicComment <PublicComment@losgatosca.gov>
Subject: Item 14 NUMU Lease

Town Council,

I write this letter as an individual who loves our town. For 45 years my local company has illustrated environments all over the world from Italy, Norway, Japan and Los Gatos to see how other areas value the arts and culture where they live. Having been on the NUMU board for 8 years, plus bringing my kids to the original natural museum which became the Arts and History Museum to NUMU to know how important the arts and culture contributes greatly to the “Sense of Place’ to our community. The Museum would love your support for agenda item 14 to show your support of a gift to our town, NUMU.

Take Care,

Barney Davidge

ATTACHMENT 7



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 14

DESK ITEM

DATE: April 20, 2020
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Authorize the Town Manager to Execute an Amendment to the Lease Agreement with the Los Gatos Museum Association (LGMA) also known New Museum Los Gatos (NUMU) to Eliminate Utility Payments and Increase Rent Obligations, and to Amend Their Conditional Use Permit (CUP) to Eliminate or Amend Certain Conditions to Allow LGMA to Generate Additional Revenue.

REMARKS:

Attachment 8 contains public comment received 11:01 a.m. April 20, 2020 to 11:00 a.m. April 21, 2020.

Attachments Received with Staff Report:

1. Redline of the proposed changes to the Lease.
2. Amendment to the Lease to be executed by the Town Manager.
3. Redline of the proposed changes to their CUP.
4. Amended CUP.
5. Public Comment

Attachment Received with Addendum:

6. Public Comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020

Attachment Received with Addendum B:

7. Public Comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020

Attachment Received with Desk Item:

8. Public Comment received 11:01 a.m. April 20, 2020 to 11:00 a.m. April 21, 2020

PREPARED BY: Robert Schultz
Town Attorney

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

From: Catherine Somers <catherine@losgatoschamber.com>
Sent: Tuesday, April 21, 2020 10:48 AM
To: Clerk <Clerk@losgatosca.gov>
Subject: Item #14 - NUMU - and its future

Three Cheers to the Mayor and the Town Council for supporting the health and welfare of our great Museum in Los Gatos. Maureen Cappon Javey and her crew have done an outstanding job bringing curated exhibitions, interesting classes for all ages and a level of creativity much needed in this Town.

Working at the Los Gatos Visitor and Information Center, NUMU is always one of the highlights that we suggest people visit when staying in our Town.

Thanks to the Council for your leadership, your wisdom and your appreciation of the cultural gems we have here.

Keep up the great work.

Sincerely,

Catherine Somers

ATTACHMENT 8



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 15

DATE: April 7, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: First reading and introduction of an ordinance of the Town of Los Gatos amending Los Gatos Town Code Chapter 14, Article X - Special Events.

RECOMMENDATION:

Staff recommends that Town Council accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Town Code Chapter 14, Article X. - Special Events.

BACKGROUND:

Since June of 2017, staff has been working to streamline the special event permit process. This course of action has included reviewing and evaluating the Town's special event permit process, benchmarking other jurisdictions, collaborating with community stakeholders, and working cross departmentally to develop a permit process that is efficient and focused on a positive customer experience.

At its February 6, 2018 meeting, the Town Council adopted a series of comprehensive Code amendments to Town Code Chapter 14, Article X – Special Events. The most notable changes clarified the permit fee structure, the approving body, the approval process, and timeline for permit submittal.

One amendment included increasing the timeline for the special event permit application submittal from no less than 60 days before the proposed event to 90 days. This allowed for a more thorough review of the event permit application and the ability for events to modify their plans to meet the conditions of approval set forth in the permit. The submittal timeline for Block Parties was left at 60 days.

PREPARED BY: Christina Hill
Marking and Events Specialists

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

PAGE 2 OF 3

SUBJECT: First reading and introduction of an ordinance of the Town of Los Gatos amending Los Gatos Town Code Chapter 14, Article X. - Special Events.

DATE: April 7, 2020

DISCUSSION:

Since the 2018 Code amendments were adopted, staff has continued to augment and streamline the special event permit process by developing a comprehensive “Special Events Guidelines and Procedures FAQs” document, posting an updated streamlined application packet, adding resources to the Town’s website to assist event coordinators, and working closely with event coordinators to educate them on the new process. Through this process of redesigning, streamlining, and collaborating, staff has had the opportunity to further evaluate the special event process and is now recommending that the Town Council discuss and adopt the proposed amendments to the Town Code Chapter 14, Article X redlined in Attachment 1 to modify the timeline for submittal and provide needed clarification as noted.

The proposed changes are minor and provide event coordinators with more flexibility by decreasing the application lead time and clarifying other Code language. Event coordinators have expressed interest in some of the proposed modifications and have been notified of the proposed amendments via email prior to this scheduled Town Council meeting. The changes will be clearly communicated to event coordinators should the amendments be adopted.

The amendment that will be most notable to stakeholders is the proposed modifications to Section 14.100.0025 (a) *Time for filing*. This includes reducing the timeline for special event permit application submittals from 90 days to 60 days and reducing block party application submittals from 60 days to 30 days. Staff has found that since implementing the new streamlined event process, applications may be processed more efficiently, event coordinators have become familiar with the process, and most event applications are for repeat events thus reducing the time required for processing the permit.

Other proposed amendments include changing the *Time for action* from 45 to 30 days to reflect the shortened time for filing period and altering the language in the *Fees* section by removing the requirement for the event coordinator to pay 50% of the estimated fees prior to the event. Occasionally adjustments need to be made to the original event estimate due to changes or requests from the event coordinator, such as modifications to Police staffing time, requests for additional no parking signs, or the need for new encroachment permits for event equipment that may not have been included in the original application. Therefore, staff has found that it is most efficient to invoice the event coordinator immediately prior to or after the event. In addition, staff has included the requirement for event coordinators to pay all deposits in full prior to the event, a practice which is already taking place.

PAGE 3 OF 3

SUBJECT: First reading and introduction of an ordinance of the Town of Los Gatos amending Los Gatos Town Code Chapter 14, Article X. - Special Events.

DATE: April 7, 2020

CONCLUSION:

Staff is recommending that the Town Council accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Town Code Chapter 14, Article X. - Special Events.

COORDINATION:

Coordination for this report included the Town Manager's Office, Town Attorney's Office, and Police Department.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Redline and blueline version of Town Code Chapter 14 Article X. – Special Events
2. Proposed ordinance

ARTICLE X. - SPECIAL EVENTS^[7]

Footnotes:

--- (7) ---

Editor's note— Ord. No. 2271, § I, adopted Feb. 6, 2018, repealed the former Art. X, §§ 14.100.010—14.100.085, and enacted a new Art. X as set out herein. The former Art. X pertained to similar subject matter and derived from Ord. No. 1904, § I, 6-1-92; Ord. No. 1907, § I, 7-20-92; Ord. No. 1999, § I, 4-17-95; Ord. No. 1980, § IIA, 5-23-94; Ord. No. 2026, § XVII, XVIII, 2-18-97.

Cross reference— Offenses against public peace, § 18.50.010 et seq.

Sec. 14.100.010. - Purpose and intent.

The Town of Los Gatos recognizes the social, cultural and economic enrichment that special events bring to the Town and recognize that those coordinated by non-profit organizations that provide proceeds to charitable organizations provide a community benefit. These events enhance the Town's lifestyle and provide benefits to the citizens and businesses. It is incumbent upon the Town to establish policies and procedures which allow for the advance planning and management of Town personnel and financial resources. It is the intent of the Town to protect the rights of its citizens by establishing the least restrictive and most reasonable manner of regulation to maximize the benefits and minimize the burdens of special events. This article is intended to be interpreted in a manner compatible with the Constitutions and laws of the State of California and the United States.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.015. - Definitions.

- (a) *Advance promotional activity* . Posting, display, or distribution of signs, banners, leaflets, mailing and publications promoting a future special event.
- (b) *Applicant* . A person or organization who seeks a permit to conduct a special event governed by this article.
- (c) *Block party* . An outdoor neighborhood gathering coordinated by the residents of that neighborhood that includes the closure of a public right of way within an area zoned for residential use. Block parties may not include the closure of arterial streets and may not be for commercial, for-profit, or advertising purposes.
- (d) *Conditions of approval or letter of conditional approval* . Requirements with completion timelines concerning the time, place, scope of the event, required permits from other government agencies, vendor provisions, payment of applicable fees and deposits, and other provisions including but not limited to conditions to protect the safety of persons and property, provide for adequate traffic control, and regulate the sale and service of food and/or alcohol. Such criteria shall be set forth by the Town Manager to the permittee in writing outlining specifics that must be met prior to the final approval for and issuance of the special event permit.
- (e) *Free speech event* . An event, at which the expression of free speech rights is the principal purpose. "Free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution.
- (f) *Permittee* . Any applicant to whom a special events permit is issued.
- (g) *Special event* . Any event, which is scheduled to take place on or contiguous to a Town street, sidewalk, alley or other right-of-way or on Town property including its parks and the grounds of its buildings, which in the judgment of the Town Manager is likely either:
 - (1) To obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic; or
 - (2) To attract participants or spectators who are not likely to comply with traffic laws or controls; or

- (3) To generate a crowd of sufficient size likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, or to restrict access to parks, recreation areas or other public areas;
or
- (4) To require police regulation, monitoring, or control to maintain public safety.

Examples of special events [may](#) include, but are not limited to: athletic events such as runs, walkathons, bicycle races, etc., parades, street fairs, festivals, carnivals, car rallies, farmers markets, sidewalk sales, outdoor music concerts, and gatherings of merchants, craftsmen, artists or other sellers of goods for the primary purpose of display and sale to the public of arts, crafts or goods.

- (h) *Special event permit* . Written approval issued by the Town Manager for the permittee to conduct the special event as described and conditioned within the conditions of approval. The special event permit is issued after all conditions of approval have been addressed to the satisfaction of the Town Manager.
- (i) *Town Manager* . The Town Manager or his or her designee
- (j) *Vendors* . Entities that are hired or contracted by the permittee to carry out a service associated with the proposed event.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.020. - Permit.

- (a) *Required* : Any person intending to conduct a special event in the Town of Los Gatos shall obtain a special events permit. No advance promotional activities for a special event shall be commenced before obtaining a letter of conditional approval.
 - (1) Series events, special events applying to operate as a series on Town property may obtain one special event permit for a period not to exceed twelve (12) months, and require consent of landlord by the Town Manager, or the Town Council at the discretion of the Town Manager. (Examples include: Summer Concert Series, Farmer Market, etc.)
 - (2) An executed contract for an event or series event does not replace the requirement of the special event permit.
- (b) *Exceptions* : A special events permit is not required for the following events:
 - (1) Funeral processions.
 - (2) Activities conducted by a governmental agency acting within the scope of its authority.
 - (3) A special event organized, implemented, and led by the Town of Los Gatos.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.025. - Application for special events permit.

- (a) *Time for filing* . Application for a permit shall be filed with the Town Manager no later than thirty-six (36) hours before a Free Speech Event, no later than ~~sixty (60)~~ [thirty \(30\)](#) days before a block party, and no later than ~~ninety (90)~~ [sixty \(60\)](#) calendar days and no sooner than one (1) year before a special event.
- (b) *Form for application* . An official Town of Los Gatos special event permit application must be completed and submitted to the Town Manager within the time for filing.
- (c) *Application fee* . A nonrefundable administrative fee set by Council resolution shall be charged for each application, except that any fee for a permit for a free speech event shall be waived upon a showing to the satisfaction of the Town Manager on appeal, that the fee is so burdensome to the sponsor and/or the applicant that it is likely to interfere with the exercise of constitutional rights of speech or assembly.

- (d) Unless changes are at the request of the Town Manager, any "significant deviation" in an event plan as proposed within the original special event permit will require submittal of a new special event permit application. "Significant deviations" include but are not limited to a change in the scope, intensity, location, type, or size of an event, and is at the discretion of the Town Manager.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.030. - Action on application.

- (a) *Consultation* . The Town Manager shall consult with all Town departments which may be affected by the proposed special event.
- (b) *Time for action* . Within ~~thirty (30) forty-five (45)~~ days of submittal of a complete application for a special event permit, and within one (1) working day of submittal of a complete application for a free speech event, the Town Manager shall approve, conditionally approve or deny the application. The times for action may be extended by mutual consent of the applicant and the Town Manager, or if the Town Manager does not have enough information to approve, conditionally approve, or deny the application. The Town Manager, if possible, shall expedite action on an application for a free speech event when it is apparent that the purpose of the demonstration would be frustrated if not conducted at a certain date and time.
- (c) At the Town Manager's discretion, any event may be escalated to the Town Council for review or approval.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.035. - Denial.

- (a) *Grounds for denial* . Applications for special events permits may be denied for any of the following reasons:
- (1) Information contained in the application or supplemental information requested from the applicant is found to be materially false or misleading.
 - (2) The application was incomplete or supplemental information or documents were not provided in a timely manner.
 - (3) A permit for another special event at a time and place that would conflict with the proposed event, or cause undue traffic congestion, or create excessive demands for police or other Town services has already been approved.
 - (4) The time, route, or size of the event is likely to substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or to disrupt the use of a street at a time when it is usually subject to significant traffic congestion.
 - (5) The concentration of persons, animals and vehicles at the site or assembly and disbanding area is reasonably likely to prevent proper police, fire or ambulance services to areas contiguous to the event.
 - (6) The size of the event is likely to unreasonably compromise normal police protection to the rest of the Town.
 - (7) The location of the event is likely to substantially interfere with construction or maintenance work previously scheduled to take place upon or along Town streets, or to interfere with a previously granted encroachment permit.
 - (8) The special event is likely to occur at a time when a school is in session, at a route or location adjacent to a school, and the noise created by the activities of the event would substantially disrupt the educational activities of the school.

- (9) The special event will occur on a route or location adjacent to a hospital or extended care facility and the noise created by the event would substantially disrupt the operation of the hospital or extended care facility or disturb the patients within.
 - (10) The special event has a prior history of creating conditions that jeopardize the peace and safety of the citizenry.
 - (11) The applicant has previously violated special event permit conditions.
 - (12) The applicant refuses to indicate in writing that he or she will comply with all terms and conditions if the permit.
 - (13) The scope, intensity, location, type, or size of event deviates from the description provided on the special event application. A new application may be submitted to reflect the deviation given the provisions of this Chapter 14, Section 100 may be met.
- (b) *Limitation on denial of free speech event permits* . In determining whether or not a free speech event permit should be denied, the Town Manager shall resolve all doubts in favor of approval or conditional approval. If the grounds for denial are specified in (a)(3) through (9) of this section, the Town Manager may alter the date, time, place, duration, route, or location of the of free speech event and conditionally approve the application instead of denying it. The conditions imposed shall modify the proposed event only to the extent necessary to avoid the grounds for denial.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.040. - Fees.

Fees shall be set by Council resolution shall be charged for each application,

- (a) *Fees* . The conditions of approval shall provide a reasonable estimate of fees to be collected by the Town for Town resources required by the event. **Any required deposits shall be paid in full prior to the event date. ~~Fifty (50) percent of the estimated fees shall be collected no less than twenty-one (21) days before the event date.~~** Within twenty-one (21) days after the completion of the event, the Town will provide an invoice for the **remaining** fees to be collected by the Town. The Town reserves the right to fully invoice the event sponsor after the event for any and all Town resources required before, during and after the event, **or for damages to Town property** directly related to the event activities.
- (b) At times, poor planning by event organizers may result in circumstances requiring an extraordinary public safety response for the immediate protection of public health and welfare. Such incidents result in unanticipated costs and divert critical Town resources, which may be passed along to the event sponsor.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.045. - Revocation of permit before special event.

(a) *Reasons* . The Town Manager may revoke a permit at any time if:

- (1) An emergency arises making it impossible to assign sufficient or appropriate personnel to the event to protect public safety; or
- (2) Information is obtained after the permit is issued from which it may be reasonably concluded that the permit should have been denied under section 14.100.040.
- (3) **Environmental factors, such as a natural disaster or public health emergency arises that would jeopardize the health and safety of the public if the event were held.**

(b) *Notice of revocation* . The applicant shall be informed in writing of the grounds for any such revocation.

- (c) *Appeal of permit revocation* . The applicant may appeal a revocation in the manner provided for in section 14.100.055 in all cases except where the revocation is based on emergency and there is insufficient time available to present or schedule an appeal.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.050. - Revocation of permit during special event.

The Town Manager may revoke the permit during a special event for either of the following reasons:

- (a) That the event has deviated from or will deviate from its approved route or area; or
- (b) The event and/or its participants or vendors are violating the law or permit conditions.
- (c) The permittee has been advised of and given an opportunity to control such deviation or violation and refused or failed to do so.
- (d) If fire or another emergency requires the event to be terminated to protect public safety. When a permit is revoked for this reason, all event participants must immediately comply with the instructions of public safety or the Town Manager.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.055. - Appeal process.

- (a) *Normal appeal* . Any applicant aggrieved by the denial or conditional approval of a special event permit may appeal the decision to the Town Council by filing a notice of appeal with the Town Clerk within ten (10) days of the delivery of the decision. The Town Clerk shall set the date and time for the public hearing within forty-five (45) days of the filing date and shall give notice to such person of the time and place of hearing as prescribed by law.
- (b) *Expedited appeal for free speech event* . If there is insufficient time for a timely appeal of denial or conditional approval of a free speech event events permit to be heard by the Town Council prior to the date on which a free speech event is scheduled, the applicant may request that the Town Clerk schedule the appeal before the Town Manager. The Town Manager shall hold hearing no later than twelve (12) hours prior to the time the event is scheduled to commence and will render a decision as soon as practicable and in no case later than the time the event is scheduled to commence. The Town Manager's decision shall be final.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.060. - Posting of special event permit.

The special event permits and any other required Town licenses and permits shall be maintained at the site during the special event and exhibited upon request of any Town police officer or Town event staff if it is determined that the event is in violation of the special event permit conditions or if an emergency requires termination of the special event to protect public safety. Notices of revocation shall be in writing with the reasons for revocation specifically set forth, unless time does not permit, in which case the notification shall be verbal and followed, at a later date, by written notice explanation.

([Ord. No. 2271, § I, 2-6-18](#))

Sec. 14.100.065. - Violations.

- (a) It shall be unlawful for any persons to sponsor or conduct a special event without a special event permit.
- (b) It shall be unlawful for any person to participate in a special event with the knowledge a special event permit has not been issued.

- (c) It shall be unlawful for a permittee or sponsor to willfully violate the terms and conditions of a special event permit, or for any special event participant to knowingly and willfully violate the terms or conditions of the special event permit.
- (d) It shall be unlawful for any person to hamper, interfere with, obstruct or impede any special event which has been permitted under this ordinance or to park or leave a vehicle unattended in violation of parking control signs posted regarding a special event.
- (e) It shall be unlawful for any person to drive a vehicle, bicycle or other moving object or propellant, between the persons or vehicles comprising any permitted special event, unless such activity is undertaken at the direction of a Town peace officer, an authorized security person, or event monitor.
- (f) In addition to fees covering Town resources, permit violations may result in fines at the discretion of the Town Manager. All permit violations and fines shall be provided to the event sponsor in writing within twenty-one (21) days after the completion of the event.
- (g) It shall be a misdemeanor for any special event participant to fail or refuse to comply with a revocation order made pursuant to section 14.100.070.

([Ord. No. 2271, § 1, 2-6-18](#))

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING
TOWN CODE CHAPTER 14, ARTICLE X. - SPECIAL EVENTS**

WHEREAS, the Town recognizes the substantial community benefit that may result from community events, which can provide cultural enrichment and economic vitality and can enhance community identity; and

WHEREAS, the purpose of this ordinance is to provide a coordinated process for managing community events to ensure the public health, safety and welfare of event patrons, residents and other visitors, and to provide for fees, charges and procedures required to administer the permit process;

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

SECTION I

Los Gatos Town Code Chapter 14, Article X - "Special Events" is hereby amended to read:

ARTICLE X. - SPECIAL EVENTS

Sec. 14.100.010. - Purpose and intent.

The Town of Los Gatos recognizes the social, cultural and economic enrichment that special events bring to the Town and recognize that those coordinated by non-profit organizations that provide proceeds to charitable organizations provide a community benefit. These events enhance the Town's lifestyle and provide benefits to the citizens and businesses. It is incumbent upon the Town to establish policies and procedures which allow for the advance planning and management of Town personnel and financial resources. It is the intent of the Town to protect the rights of its citizens by establishing the least restrictive and most reasonable manner of regulation to maximize the benefits and minimize the burdens of special events. This article is intended to be interpreted in a manner compatible with the Constitutions and laws of the State of California and the United States.

Sec. 14.100.015. - Definitions.

- (a) *Advance promotional activity* . Posting, display, or distribution of signs, banners, leaflets, mailing and publications promoting a future special event.
- (b) *Applicant* . A person or organization who seeks a permit to conduct a special event governed by this article.

- (c) *Block party* . An outdoor neighborhood gathering coordinated by the residents of that neighborhood that includes the closure of a public right of way within an area zoned for residential use. Block parties may not include the closure of arterial streets and may not be for commercial, for-profit, or advertising purposes.
- (d) *Conditions of approval or letter of conditional approval* . Requirements with completion timelines concerning the time, place, scope of the event, required permits from other government agencies, vendor provisions, payment of applicable fees and deposits, and other provisions including but not limited to conditions to protect the safety of persons and property, provide for adequate traffic control, and regulate the sale and service of food and/or alcohol. Such criteria shall be set forth by the Town Manager to the permittee in writing outlining specifics that must be met prior to the final approval for and issuance of the special event permit.
- (e) *Free speech event* . An event, at which the expression of free speech rights is the principal purpose. "Free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution.
- (f) *Permittee* . Any applicant to whom a special events permit is issued.
- (g) *Special event* . Any event, which is scheduled to take place on or contiguous to a Town street, sidewalk, alley or other right-of-way or on Town property including its parks and the grounds of its buildings, which in the judgment of the Town Manager is likely either:
 - (1) To obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic; or
 - (2) To attract participants or spectators who are not likely to comply with traffic laws or controls; or
 - (3) To generate a crowd of sufficient size likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, or to restrict access to parks, recreation areas or other public areas; or
 - (4) To require police regulation, monitoring, or control to maintain public safety.

Examples of special events may include, but are not limited to: athletic events such as runs, walkathons, bicycle races, etc., parades, street fairs, festivals, carnivals, car rallies, farmers markets, sidewalk sales, outdoor music concerts, and gatherings of merchants, craftsmen, artists or other sellers of goods for the primary purpose of display and sale to the public of arts, crafts or goods.

- (h) *Special event permit* . Written approval issued by the Town Manager for the permittee to conduct the special event as described and conditioned within the conditions of approval. The special event permit is issued after all conditions of approval have been addressed to the satisfaction of the Town Manager.
- (i) *Town Manager* . The Town Manager or his or her designee
- (j) *Vendors* . Entities that are hired or contracted by the permittee to carry out a service associated with the proposed event.

Sec. 14.100.020. - Permit.

- (a) *Required* : Any person intending to conduct a special event in the Town of Los Gatos shall obtain a special events permit. No advance promotional activities for a special event shall be commenced before obtaining a letter of conditional approval.
 - (1) Series events, special events applying to operate as a series on Town property may obtain one special event permit for a period not to exceed twelve (12) months, and require consent of landlord by the Town Manager, or the Town Council at the discretion of the Town Manager. (Examples include: Summer Concert Series, Farmer Market, etc.)
 - (2) An executed contract for an event or series event does not replace the requirement of the special event permit.
- (b) *Exceptions* : A special events permit is not required for the following events:
 - (1) Funeral processions.
 - (2) Activities conducted by a governmental agency acting within the scope of its authority.
 - (3) A special event organized, implemented, and led by the Town of Los Gatos.

Sec. 14.100.025. - Application for special events permit.

- (a) *Time for filing* . Application for a permit shall be filed with the Town Manager no later than thirty-six (36) hours before a Free Speech Event, no later than thirty (30) days before a block party, and no later than sixty (60) calendar days and no sooner than one (1) year before a special event.
- (b) *Form for application* . An official Town of Los Gatos special event permit application must be completed and submitted to the Town Manager within the time for filing.
- (c) *Application fee* . A nonrefundable administrative fee set by Council resolution shall be charged for each application, except that any fee for a permit for a free speech event shall be waived upon a showing to the satisfaction of the Town Manager on appeal, that the fee is so burdensome to the sponsor and/or the applicant that it is likely to interfere with the exercise of constitutional rights of speech or assembly.
- (d) Unless changes are at the request of the Town Manager, any "significant deviation" in an event plan as proposed within the original special event permit will require submittal of a new special event permit application. "Significant deviations" include but are not limited to a change in the scope, intensity, location, type, or size of an event, and is at the discretion of the Town Manager.

Sec. 14.100.030. - Action on application.

- (a) *Consultation* . The Town Manager shall consult with all Town departments which may be affected by the proposed special event.

- (b) *Time for action* . Within thirty (30) days of submittal of a complete application for a special event permit, and within one (1) working day of submittal of a complete application for a free speech event, the Town Manager shall approve, conditionally approve or deny the application. The times for action may be extended by mutual consent of the applicant and the Town Manager, or if the Town Manager does not have enough information to approve, conditionally approve, or deny the application. The Town Manager, if possible, shall expedite action on an application for a free speech event when it is apparent that the purpose of the demonstration would be frustrated if not conducted at a certain date and time.
- (c) At the Town Manager's discretion, any event may be escalated to the Town Council for review or approval.

Sec. 14.100.035. - Denial.

- (a) *Grounds for denial* . Applications for special events permits may be denied for any of the following reasons:
 - (1) Information contained in the application or supplemental information requested from the applicant is found to be materially false or misleading.
 - (2) The application was incomplete or supplemental information or documents were not provided in a timely manner.
 - (3) A permit for another special event at a time and place that would conflict with the proposed event, or cause undue traffic congestion, or create excessive demands for police or other Town services has already been approved.
 - (4) The time, route, or size of the event is likely to substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or to disrupt the use of a street at a time when it is usually subject to significant traffic congestion.
 - (5) The concentration of persons, animals and vehicles at the site or assembly and disbanding area is reasonably likely to prevent proper police, fire or ambulance services to areas contiguous to the event.
 - (6) The size of the event is likely to unreasonably compromise normal police protection to the rest of the Town.
 - (7) The location of the event is likely to substantially interfere with construction or maintenance work previously scheduled to take place upon or along Town streets, or to interfere with a previously granted encroachment permit.
 - (8) The special event is likely to occur at a time when a school is in session, at a route or location adjacent to a school, and the noise created by the activities of the event would substantially disrupt the educational activities of the school.
 - (9) The special event will occur on a route or location adjacent to a hospital or extended care facility and the noise created by the event would substantially disrupt the operation of the hospital or extended care facility or disturb the patients within.

- (10) The special event has a prior history of creating conditions that jeopardize the peace and safety of the citizenry.
 - (11) The applicant has previously violated special event permit conditions.
 - (12) The applicant refuses to indicate in writing that he or she will comply with all terms and conditions if the permit.
 - (13) The scope, intensity, location, type, or size of event deviates from the description provided on the special event application. A new application may be submitted to reflect the deviation given the provisions of this Chapter 14, Section 100 may be met.
- (b) *Limitation on denial of free speech event permits* . In determining whether or not a free speech event permit should be denied, the Town Manager shall resolve all doubts in favor of approval or conditional approval. If the grounds for denial are specified in (a)(3) through (9) of this section, the Town Manager may alter the date, time, place, duration, route, or location of the of free speech event and conditionally approve the application instead of denying it. The conditions imposed shall modify the proposed event only to the extent necessary to avoid the grounds for denial.

Sec. 14.100.040. - Fees.

Fees shall be set by Council resolution shall be charged for each application,

- (a) *Fees* . The conditions of approval shall provide a reasonable estimate of fees to be collected by the Town for Town resources required by the event. Any required deposits shall be paid in full prior to the event date. Within twenty-one (21) days after the completion of the event, the Town will provide an invoice for the fees to be collected by the Town. The Town reserves the right to fully invoice the event sponsor after the event for any and all Town resources required before, during and after the event, or for damages to Town property directly related to the event activities.
- (b) At times, poor planning by event organizers may result in circumstances requiring an extraordinary public safety response for the immediate protection of public health and welfare. Such incidents result in unanticipated costs and divert critical Town resources, which may be passed along to the event sponsor.

Sec. 14.100.045. - Revocation of permit before special event.

- (a) *Reasons* . The Town Manager may revoke a permit at any time if:
 - (1) An emergency arises making it impossible to assign sufficient or appropriate personnel to the event to protect public safety; or
 - (2) Information is obtained after the permit is issued from which it may be reasonably concluded that the permit should have been denied under section 14.100.040.-
 - (3) Environmental factors, such as a natural disaster or public health emergency arises that would jeopardize the health and safety of the public if the event were held.

- (b) *Notice of revocation* . The applicant shall be informed in writing of the grounds for any such revocation.
- (c) *Appeal of permit revocation* . The applicant may appeal a revocation in the manner provided for in section 14.100.055 in all cases except where the revocation is based on emergency and there is insufficient time available to present or schedule an appeal.

Sec. 14.100.050. - Revocation of permit during special event.

The Town Manager may revoke the permit during a special event for either of the following reasons:

- (a) That the event has deviated from or will deviate from its approved route or area; or
- (b) The event and/or its participants or vendors are violating the law or permit conditions.
- (c) The permittee has been advised of and given an opportunity to control such deviation or violation and refused or failed to do so.
- (d) If fire or another emergency requires the event to be terminated to protect public safety. When a permit is revoked for this reason, all event participants must immediately comply with the instructions of public safety or the Town Manager.

Sec. 14.100.055. - Appeal process.

- (a) *Normal appeal* . Any applicant aggrieved by the denial or conditional approval of a special event permit may appeal the decision to the Town Council by filing a notice of appeal with the Town Clerk within ten (10) days of the delivery of the decision. The Town Clerk shall set the date and time for the public hearing within forty-five (45) days of the filing date and shall give notice to such person of the time and place of hearing as prescribed by law.
- (b) *Expedited appeal for free speech event* . If there is insufficient time for a timely appeal of denial or conditional approval of a free speech event events permit to be heard by the Town Council prior to the date on which a free speech event is scheduled, the applicant may request that the Town Clerk schedule the appeal before the Town Manager. The Town Manager shall hold hearing no later than twelve (12) hours prior to the time the event is scheduled to commence and will render a decision as soon as practicable and in no case later than the time the event is scheduled to commence. The Town Manager's decision shall be final.

Sec. 14.100.060. - Posting of special event permit.

The special event permits and any other required Town licenses and permits shall be maintained at the site during the special event and exhibited upon request of any Town police officer or Town event staff if it is determined that the event is in violation of the special event permit conditions or if an emergency requires termination of the special event to protect public safety. Notices of revocation shall be in writing with the reasons for revocation specifically set forth, unless time does not permit, in which case the notification shall be verbal and followed, at a later date, by written notice explanation.

Sec. 14.100.065. - Violations.

- (a) It shall be unlawful for any persons to sponsor or conduct a special event without a special event permit.
- (b) It shall be unlawful for any person to participate in a special event with the knowledge a special event permit has not been issued.
- (c) It shall be unlawful for a permittee or sponsor to willfully violate the terms and conditions of a special event permit, or for any special event participant to knowingly and willfully violate the terms or conditions of the special event permit.
- (d) It shall be unlawful for any person to hamper, interfere with, obstruct or impede any special event which has been permitted under this ordinance or to park or leave a vehicle unattended in violation of parking control signs posted regarding a special event.
- (e) It shall be unlawful for any person to drive a vehicle, bicycle or other moving object or propellant, between the persons or vehicles comprising any permitted special event, unless such activity is undertaken at the direction of a Town peace officer, an authorized security person, or event monitor.
- (f) In addition to fees covering Town resources, permit violations may result in fines at the discretion of the Town Manager. All permit violations and fines shall be provided to the event sponsor in writing within twenty-one (21) days after the completion of the event.
- (g) It shall be a misdemeanor for any special event participant to fail or refuse to comply with a revocation order made pursuant to section 14.100.070.

SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds that these Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidly shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 21st day of April, 2020, 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 5th day of May, 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

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

DATE: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 15

ADDENDUM

DATE: April 7, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: First reading and introduction of an ordinance of the Town of Los Gatos amending Los Gatos Town Code Chapter 14, Article X - Special Events.

REMARKS

Attachment 3 contains public comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020.

Attachments received with Staff Report:

1. Redline and blueline version of Town Code Chapter 14 Article X. – Special Events
2. Proposed ordinance

Attachment received with Addendum:

3. Public Comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020

PREPARED BY: Christina Hill
Marking and Events Specialists

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

From: Heidi Owens

Sent: Friday, April 17, 2020 7:56 AM

To: PublicComment <PublicComment@losgatosca.gov>

Subject: Comments on Public Hearing Items for April 21, 2010 Los Gatos Town Council Meeting

Hello Town of Los Gatos,

I would like to make the following comments on agenda items for the April 21, 2020 meeting.

Special Events are such a critical aspect of the culture that makes Los Gatos unique. Along with our beautiful setting, extraordinary schools, quaint downtown, youth sports leagues, and expansive parks and public spaces; special events are woven into the fabric of our community charm. I support the changes proposed by staff to streamline the special event permitting process. We must make it as easy as possible for our service organizations, community groups, and the Chamber to bring residents together for lively shared experiences.

Thank you!

Heidi Owens

Los Gatos Resident and Community Organizer

ATTACHMENT 3



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 15

ADDENDUM B

DATE: April 20, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: First reading and introduction of an ordinance of the Town of Los Gatos amending Los Gatos Town Code Chapter 14, Article X - Special Events.

REMARKS

Attachment 3 contains public comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020.

Attachment 4 contains public comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020.

Attachments received with Staff Report:

1. Redline and blue line version of Town Code Chapter 14 Article X. – Special Events
2. Proposed ordinance

Attachment received with Addendum:

3. Public Comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020

Attachment received with Addendum B:

4. Public Comment received 11:01 a.m. April 17, 2020 to 11:00 a.m. April 20, 2020

PREPARED BY: Christina Hill
Marking and Events Specialists

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

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From: Randi Chen [<mailto:randi@losgatoschamber.com>]

Sent: Friday, April 17, 2020 11:01 AM

To: Christina Hill <CHill@losgatosca.gov>

Subject: Re: Proposed Special Event Code Amendments Staff Report Now Available

Hi Christina -

All changes look good. Thank you!

Randi Chen

408-354-9300, 408-502-9821 (direct)



Randi Chen

(408) 354-9300
(408) 502-9821 Direct

randi@losgatoschamber.com

10 Station Way, Los Gatos, California 95030
losgatoschamber.com

ATTACHMENT 4

From: Teri Hope <terihope@losgatoscoffee.com>

Sent: Monday, April 20, 2020 10:47 AM

To: Teri Hope <terihope@losgatoscoffee.com>; PublicComment <PublicComment@losgatosca.gov>

Subject: Comments on Special Events - Section 14.100.0025 (a) Time for filing

To: Los Gatos Town Council

Re: *Special Events Amendment "Time for filing"*

"The amendment that will be most notable to stakeholders is the proposed modifications to Section 14.100.0025 (a) Time for filing. This includes reducing the timeline for special event permit application submittals from 90 days to 60 days and reducing block party application submittals from 60 days to 30 days. Staff has found that since implementing the new streamlined event process, applications may be processed more efficiently, event coordinators have become familiar with the process, and most event applications are for repeat events thus reducing the time required for processing the permit"

Comment from the Los Gatos Music & Arts:

The Los Gatos Music & Arts organization is in support of shortening the time for filing applications submittals for special events. This is a timely move as we feel the proposed shorter filing periods will be very helpful for community organizations like ours who are up in the air about scheduling their events due to the Carona-19 pandemic situation.

Los Gatos Music & Arts organizations' number one priority is the wellbeing of our community members. At this time, we are evaluating our calendar of activities with health and wellness foremost in our minds. We are committed continuing to providing music scholarships, virtual streaming concerts and other creative projects at this point in time. Meanwhile, we will rely on the State, County and Town Government to guide us in scheduling any of our live concert events, most notably our Jazz on the Plazz summer concert series.

Respectfully,

Teri Hope, President
Los Gatos Music & Arts



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 16

DATE: April 16, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Negotiate and Execute an Amendment to the Agreement with Santa Barbara Transportation Corporation Doing Business as Student Transportation of America

RECOMMENDATION:

Authorize the Town Manager to negotiate and execute an amendment to the agreement with Santa Barbara Transportation Corporation doing business as Student Transportation of America (STA).

BACKGROUND:

COVID-19 has created a situation where the Town's service provider for the school bussing program, STA, has had to lay off or furlough employees due to a lack of work. Staff brings this item for Council consideration as an opportunity to increase the likelihood the service provider is available and has staffing to allow for regular service to the Town when school activities resume for the 2020/21 academic year. On March 3, 2020, the Town Council directed that the Town continue the school bus program for one more school year and bring back options to transition the service to a different model for future years.

As staff was rolling out this program, there were limited contractors interested in the Town's program (only one vendor provided a proposal). And as the program has progressed, STA has had difficulty finding and retaining drivers.

DISCUSSION:

STA has expressed an interest in retaining employees on the payroll as a way of enhancing business continuity when services resume. STA has offered that some operational savings may be achieved through areas such as fuel savings. A letter from STA is provided as Attachment 1.

PREPARED BY: Matt Morley
Parks and Public Works Director

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Negotiate and Execute an Amendment to the Agreement with Santa Barbara Transportation Corporation Doing Business as Student Transportation of America
DATE: April 16, 2020

DISCUSSION (continued):

The total amount due under the agreement for the 53 student attendance days between March 16, 2020 and June 5, 2020 would equal approximately \$60,000 should school have continued as originally scheduled. The agreement with STA (Attachment 2) contains language in Section 5 b. iii. that relieves the Town from the obligation to pay:

The Town is not obligated to accept or pay for services agreed to be furnished by the Provider on those days when, by direction of the School District, classes served under this Contract are closed to ensure the health and safety of the students or for any other lawful reason. The decision as to the need for closing at the start of the day or for early dismissal during the day shall be made by the Superintendent of the School District.

An amendment to the agreement could stipulate the Town's expectations of service once school is back in session in exchange for payment while schools are closed for the remainder of the 2019/20 academic year.

In consideration of this item, the Town Council may want to provide policy guidance on the following questions:

- Should the Town negotiate with the vendor to make partial payments or should the Town notice the vendor that payment following the school closures will not occur?
- Should partial payments include payments with guarantees the funds are to retain drivers on payroll?
- Should partial payments include other normal business costs such as administrative and maintenance costs including staff, exclusive of actual savings (e.g. fuel)?
- If the school year is delayed in starting next fall, is there additional guidance the Council would provide?

CONCLUSION:

If approved by the Town Council, the recommendation would authorize the Town Manager to negotiate modifications to the agreement with STA.

FISCAL IMPACT:

Funds for these programs are budgeted in the Fiscal Year 2019-20 Operating and Capital Budgets. Any savings achieved would be reflected in the year end fund balance and be available for future programming by the Town Council.

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Negotiate and Execute an Amendment to the Agreement with Santa Barbara Transportation Corporation Doing Business as Student Transportation of America

DATE: April 16, 2020

ALTERNATIVE:

Alternatively, the Council could direct staff to discontinue payments for the balance of the school year and resume the program when school resumes, presumably in the fall of 2020.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Letter from STA.
2. Agreement with STA.



April 13, 2020

Ying Smith
Transportation and Mobility Manager
Town of Los Gatos
41 Miles Avenue
Los Gatos, CA 95030

Re: Student Transportation of America

Dear Ms. Smith,

Thank you for taking my call and for your commitment to support our operations throughout this unprecedented and unpredictable event. Enclosed is our invoice for March 2020 based on the days we were contracted to run.

As the full magnitude of the Coronavirus pandemic is just beginning to be felt, and difficult decisions are having to be made without much time for reflection or planning, we thank you for the support to help maintain your transportation infrastructure. While at this writing there is no definitive time when life may return to normal, we know that at some point it will, and when that day comes, your community will want to be able to rely on the same level and quality of service it enjoyed before our routines were so suddenly disrupted.

We are working hard, against many odds, to have the same dedicated work force, who are members of your community ready to roll when schools reopen. Therefore, it is critical the revenue stream we have contracted for and rely on to pay our employees and maintain our fleet continues without interruption through the remainder of the previously scheduled school year.

Based on our conversation we are expecting payments for all past invoices, the invoice attached, and for all future previously scheduled school days. As stated above, our employees are members of your community who not only transport your children to and from school but participate in your community in many ways. A lengthy interruption in their income will have short and long-term devastating effects to them, to your community and to the service we provide.

Since we will use less fuel during this period, we will work closely with your office to develop a credit for unused fuel for your ongoing invoices.

We are asking you to review all invoices and pay promptly, so we can be ready to begin safe, reliable, and efficient service to your children without delay as soon as school is called back into session.



Pursuant to your conversation with Thomas San Miguel, our San Jose Operations Manager, please accept this letter as confirmation of the following:

1. Following payment confirmation of the March 2020 invoice, drivers currently assigned to the Los Gatos school bus contract will be returned to our payroll rosters. These drivers will no longer need to collect unemployment.
2. These drivers will remain on actively employed for the subsequent months of April, May and June, provided invoicing and payments remain uninterrupted.

Should require any additional information or clarification, please contact myself, Thomas, or Ken Pittman, VP of California Operations.

Sincerely,

Igor S. Avanto
Area General Manager
Student Transportation of America
iavanto@ridesta.com
Cell: 916.247.7492

AGR 18.235 ✓
IHH 18.324

CONTRACT FOR FURNISHING STUDENT TRANSPORTATION SERVICES

This contract ("Contract"), is entered into this ____ day of September, 2018 ("Effective Date"), between the Town of Los Gatos ("TOWN" or "Town") and Santa Barbara Transportation Corp. doing business as Student Transportation of America, a California C corporation ("Provider").

Recitals

WHEREAS, in order to reduce traffic congestion in the Town of Los Gatos, TOWN desires to obtain student transportation services for students attending targeted schools within a geographic area under the terms and conditions of this contract.

WHEREAS, Provider states and declares that it can furnish this student transportation in accordance with the terms and conditions of this Contract; and

WHEREAS, this Contract was awarded by TOWN to Provider, and Provider has provided the requisite insurance certificates and other documentation required by TOWN.

NOW, THEREFORE, the parties agree as follows:

1. General Provisions

a. Incorporation by Reference; Hierarchy of documents the following documents constitute this Contract:

- i. Contract
- ii. Request for Proposals (RFP)
- iii. Provider's Proposal and supplemental written responses dated August 21, 2018

In the event of any conflict in the various terms of these documents, the terms of this Contract shall control over the other documents, while the terms of the Request for Proposals shall control over the Provider's Proposal.

b. Compensation

Compensation for the Provider's services **shall not exceed \$328,189**, inclusive of all costs, based on the Cost Proposal in Exhibit 1, according to Basis for Provider Compensation on Section 5.

c. Contract Term

The initial term of this Contract is for two (2) years beginning on the Effective Date noted above, for service provided between January 1, 2019 and June 30, 2020.

d. Amendments to this Contract

The Contract may be amended by mutual written agreement of the parties. Amendments may be proposed by either party in writing and delivered to the address for the giving of notices provided elsewhere in this Contract.

e. Option Terms for Renewal Beyond Contract Term

The Contract is renewable by mutual agreement of the parties for a maximum of three (3) additional one-year terms. The negotiation of the terms and conditions of any option extension shall occur on or before June 15th of the preceding contract year. The Contract, as renewed, shall include all the terms and conditions of this Contract

not expressly modified during negotiations.

f. Termination

i. Termination for Cause

If the Provider fails to comply with a term or condition in this Contract, or if the Town determines that the Provider is in any other way unfit, unqualified, or unable to perform the transportation needs of the Town under this Contract, except due to circumstances described in Section I.4.D. Force Majeure, above, the Town shall notify the Provider, in writing, as to the nature of the deficiency. If the deficiency is not remedied, or arrangements satisfactory to the Town for the correction are not made within thirty (30) days from the date of the notice, the Town may terminate the Contract by providing the Provider with fifteen (15) days' notice of termination. If the deficiency is a loss of certification or a loss of insurance coverage, the Town may terminate without providing a thirty (30) day cure period.

ii. Damage Provisions

If the Town terminates this Contract for cause, the Town may secure replacement services described in this Contract from another firm or provide service itself for the remainder of the Contract's duration. If the cost of the replacement service exceeds the cost of services under the rates in the Contract, the reasonable excess cost shall be charged to and collected from the Provider.

iii. Termination or Modification of Service due to Budget Decisions

Provider understands that during the term of this contract, the Town adopts a budget annually effective July 1 of each year. Payments by the Town to Provider under this contract are subject to the annual appropriation of funds through the budget process. The Town may terminate, reduce or modify Provider's services without further obligation upon giving Provider seventy (70) day's written notice.

g. Legal Compliance

i. Provider will comply with any and all applicable federal, state, county, municipal, and local laws, statutes, ordinances, policies, regulations, and/or prohibitions currently in force or that may come into force during the term of this Contract that pertain to the provision of student transportation services to TOWN. Vehicle equipment and services covered by this Contract must comply with applicable laws, ordinances and other legal requirements, including, but not limited to the Federal and California Laws, rules and regulations governing the operation of school transportation vehicles, the pertinent provisions of the California Vehicle Code and California Education Code, the pertinent provisions of the California Code of Regulations, pertinent provisions of the California Highway Patrol and Motor Vehicles Rules and Regulations, and policies, regulations and directives of the State Board of Education and the Santa Clara County Office of Education and County Superintendent of Schools, and the Town. School bus fuel storage tanks must be DOT certified. Provider shall comply with California Education Codes 45125.1, which requires, in part, that employees having any contact with students while performing a contract with a school district, must submit or shall show evidence of current acceptance of their fingerprints in a manner authorized by the Department of Justice. Provider shall provide the Town with evidence of compliance with the California Education Code fingerprinting requirements prior to performing any services under this Contract.

ii. This obligation of compliance extends to every aspect of student transportation service provision including, but not limited to: school buses and related vehicles; school bus equipment; school bus licensing; employee training; employee certification; driver licensing; employee background checks; employee drug and alcohol testing; first aid certification; emergency preparedness; environmental compliance; fueling;

traffic and parking; and others.

iii. Provider is responsible for having full knowledge of all such laws, statutes, ordinances, as well as any applicable policies or regulations at all times over the term of this Contract.

iv. This contract is made in Santa Clara County and shall be constructed in accordance with the laws of the State of California. Venue for any litigation shall be Santa Clara County.

v. Nonexclusive Contract

Nothing in this Contract limits the rights of TOWN to contract separately with other vendors for transportation services of any kind, provided however, Provider shall be the exclusive vendor for the regular education school transportation services provided under this contract.

vi. Failure to Enforce a Default or Other Right

The failure by either party at any time to enforce a default or right reserved to it, or to require performance of a term, covenant, or provision by the other party at the time designated, is not a waiver of any such default or right to which the party is entitled nor shall it in any way affect the right of the party to enforce such a provision later.

vii. Severability

Should any part of this Contract be found illegal or invalid for any reason, that part alone shall be severed and such invalidity shall not affect other provisions of this Contract which can be given effect without the invalid provision, and the remainder of this Contract shall remain in full force and effect.

viii. Dispute Resolution

The parties agree to meet and confer in good faith on all matters and disputes under this Contract.

ix. Paragraph Headings

Paragraph headings are for convenience and are not to be considered as included in the Contract language.

x. Survival

All obligations arising prior to the termination of this contract and all provisions of this contract allocating liability between TOWN and Provider survive the termination of this contract.

xi. Entire Contract

The Contract includes all the documents referred to in paragraph 2.a. All agreements between the parties are included and no warranties, expressed or implied, representations, promises or statements have been made by either party unless endorsed in writing and no change or waiver of a provision shall be valid unless made in writing and signed by the parties.

h. Provider's Licensing, Insurance and Indemnity Obligations

i. Permits and Licenses

Provider shall obtain and maintain in force the licenses and permits required by law for furnishing K-12 student transportation services.

ii. Insurance Requirements

Provider shall furnish evidence of insurance covering all operations under this Contract in a form and with companies acceptable to TOWN as follows:

Liability Insurance- LIMITS OF LIABILITY (MINIMUM): \$5,000,000 combined single limit per occurrence/aggregate for automobile liability, including bodily injuries and property damage;
\$10,000,000 combined single limit per occurrence/aggregate for general liability, including personal injury;

Provider shall provide for a minimum of \$5,000,000 of this insurance with a company or companies admitted to conduct business in the State of California by the State Commissioner of Insurance. Provider may provide the excess \$5,000,000 through \$10,000,000 in coverage with a reputable insurance company through a surplus lines broker. Self-insurance is not acceptable. All insurance is subject to approval by TOWN.

Insurance shall provide coverage for passengers from the time they are delivered into the custody of Provider or the custody of Provider's employees, when being picked up at home, school, or other designated location, until Provider or Employees release them to the school or designated location;

Provider shall not begin work under this Contract until Provider has obtained at its own expense all the insurance required under this section, and until such insurance has been approved by TOWN. Approval of the insurance by TOWN does not relieve or decrease the liability of Provider under the terms of the Contract; and

Provider shall furnish to TOWN by the effective date of the Contract and by June 15th of each year thereafter in which the Contract is in force proof of the insurance coverage described above in a form and with companies acceptable to TOWN.

The Policy shall contain the following provisions:

- The Town of Los Gatos, Los Gatos Union School District and Los Gatos – Saratoga Union High School District are additional insureds for all liability arising out of the operations by or on behalf of the named insured, and protects the additional insured, their officers, agents, and employees against liability for bodily injuries, deaths or property damage or destruction arising in any respect directly or indirectly from the performance of the Contract;
- The inclusion of more than one additional insured will not operate to impair the rights of one insured against another insured and the coverage's afforded will apply as though separate policies have been issued to each insured. The inclusion of more than one additional insured does not increase the limit of liability under the policy;
- The insurance supplied by Provider is primary, but only with respect to liability arising out of the performance under this Contract. Insurance held or owned by TOWN, Los Gatos Union School District and Los Gatos – Saratoga Union High School District is not contributory.
- Coverage provided by the policy will not be reduced or canceled without sixty (60) days written notice given to TOWN by certified mail; and
- The insurance must be occurrence based, and not a claim made policy (policies). Certificates of insurance must be evidence this.

The following documentation of insurance shall be submitted to TOWN and approved before beginning work:

- Certificates of insurance showing the limits of insurance provided; and
- Signed copies of the specified endorsements for each policy

Workers Compensation Insurance- Provider shall maintain in effect during the entire life of the Contract Workers Compensation and Employer's Liability Insurance providing full statutory coverage, or shall undertake self-insurance in accordance with applicable statutory requirements of the State of California. In signing this Contract, Provider makes the following certifications, required by sections 1861 of the California Labor Code:

"I am aware of the provisions of Section 3700 of the California Labor Code which requires every employee to be insured against liability for workers' compensations or to undertake self- insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Property Insurance -Provider shall maintain a policy, or obtain coverage through its landlord's policy, for property insurance covering the shop buildings and related personal and real property. Such insurance shall be sufficient at minimum to repair or pay the depreciated value of the damaged property.

iii. Hold Harmless/Indemnification

Provider agrees to indemnify, hold harmless and defend (with legal counsel of their choosing) TOWN, Los Gatos Union School District and Los Gatos – Saratoga Union High School District, their officers, agents, and employees from and against all claims, damages, losses and expenses, including reasonable costs and attorneys' fees arising out of or resulting from the performance of the Contract. Such indemnification obligation also includes, but is not limited to, claims of injury to Provider's employees (and their heirs) while in the course and scope of their employment under this Contract. Notwithstanding the foregoing, Provider will not be required to indemnify, hold harmless, or defend TOWN from any claims, demands, or causes of action arising from the sole gross negligence or intentional misconduct of TOWN.

2. Student Transportation Service Requirements

a. Transportation Service Provision – Programs, Types, and Volume

- Provider will furnish school transportation services to and from destinations assigned to Provider by TOWN under this Contract. Transportation services may also include, at TOWN's sole discretion, training runs, mid- and/or post-day routing between schools and specific educational programs before, during, or after the regular school day.
- TOWN reserves the right at any time during the term of this Contract to alter rider eligibility policies and other parameters that may increase or decrease the amount of service to be provided in accordance with this requirement.
- Scope of Work. The transportation services shall be provided by buses and at such times and places and in such manner as shall be specified by the Town. As the School District may change class hours and adjust starting times, the Town may increase or decrease service. Such increase or decrease may result from service demand, budgetary needs, or other factors. These service level adjustments may result in periodic increases or decreases in the number of days of the school year requiring student transportation.
- The Town reserves the right to increase or decrease the number of routes, school days, stops and other operational elements, during which the TOWN would operate student transportation service within the contract period. Should the Town increase or decrease the scope of services, then the Town will enter into negotiations with the Provider to establish a mutually agreeable daily base rate to reflect the

incremental increase or decrease in operating days.

b. Transportation Service Provision – Operating Parameters

i. Provider will furnish the required services in conjunction with the parameters established by the terms of this Contract as may be amended from time to time by mutual written agreement of the parties hereto, and pursuant to all established federal, state and local laws, rules and regulations.

ii. Route Development

The draft routes and schedules will be provided by the Town. Verification of transportation routes and schedules shall be the responsibility of the Provider and proposed changes furnished to TOWN for review not later than one (1) month prior to the commencement of service in each Contract year. TOWN shall provide written approval of the routes no later than two (2) weeks prior to the commencement of service in each Contract year. It will be the mutual responsibility of Provider and TOWN to resolve any issues and concerns with the transportation routes.

iii. Provider is to perform the routes and route packages agreed upon, except that:

- Deviations may occur based upon:
 - a. A particular day's schedule or weather;
 - b. Unforeseen traffic situations or incidents;
 - c. The bus driver or Provider's concern that following the prescribed route creates an unsafe circumstance; or
 - d. An emergency.
- Provider will immediately report to TOWN, in accordance with the designated communication plan, the following exceptions associated with performing the routes as designed:
 - a. Zero (0) riders at morning or afternoon bus stops;
 - b. Late arrival at a particular school in the morning of five (5) minutes or more; or
 - c. Late departure from a particular school in the afternoon of five (5) minutes or more.
- Provider will immediately report, in a manner acceptable to TOWN, the following exceptions associated with performing the routes as designed:
 - a. Road closure causing a route deviation;
 - b. Any route turns, turnarounds or route paths that should be altered to reduce unnecessary travel or minimize potentially unsafe circumstances;
 - c. Any bus ridership that is beyond the parameters established as acceptable by TOWN;
- Provider will make every effort to notify TOWN of route changes at least three (3) school days before the change is to occur.
- Provider will comply with route change orders from TOWN within three (3) school days of notification.

3. Provider Accountabilities & Responsibilities

- a. Safe Service
 - i. Student, constituent, and Provider employee safety is paramount and will be the highest priority consideration in the delivery of services under this Contract.
 - ii. Provider shall immediately inform TOWN of any current policies, regulations, procedures, or practices that may conflict with safety prioritization.
 - iii. Provider shall not intentionally compromise safety in order to achieve any of the requirements of this Contract.
 - iv. Provider shall not intentionally perform an unsafe act to achieve contractual or related performance criteria.
 - v. Provider will immediately perform any service necessary to address a safety concern whether or not it is specifically required by this Contract.
- b. Appearance of Provider Resources
 - i. The appearance of Provider's vehicles, facilities, work areas, and employees will meet customary and reasonable standards for the student transportation industry.
 - ii. Provider shall require all drivers wear uniform with the company's name and logo at all times when performing duties.
- c. Provider Employee Conduct
 - i. The conduct of Provider's employees will meet the customary and reasonable standards for the student transportation industry.
 - ii. Provider will be responsive to written direction provided by TOWN as to any personnel or conditions deemed to be insufficient relative to these standards.
 - iii. TOWN may, at its sole discretion and at any time over the term of this Contract, mandate a change to Provider's management personnel if TOWN determines that Provider's repeated and progressive efforts to resolve a specific and documented shortcoming identified by TOWN have been unsuccessful.
 - iv. Provider must comply with any TOWN request for the removal of an employee providing service under this Contract if such removal is deemed to be in the best interest of TOWN, and on submission of written documentation to Provider documenting the reasons for the request.
- d. School Bus Driver Requirements
 - i. General Requirements

The Provider shall provide qualified drivers for each vehicle, employed, trained and licensed in accordance with the California laws, rules and regulations governing the operation of school transportation vehicles, and experienced with the regulations and handling and supervision of students. All drivers shall be certified by the California Highway Patrol. It is the Town's intent to provide high-quality transportation services and to ensure the safety and comfort of the School District's students. Toward that end, the Provider shall uphold the following standards for personnel:

Provider shall take reasonable steps to prevent its employees from exposing any pupil to impropriety of word or conduct. Provider shall not knowingly permit its drivers to smoke on the bus, to drink any intoxicating beverage, or to be under the influence of drugs or alcohol while operating any bus. Provider shall at all times abide by applicable local, state and federal laws and regulations in its hiring practices.

The use of tobacco and the possession or use by any person of alcohol, controlled substances, illegal

drugs, firearms, knives, or other weapons on school buses is prohibited.

ii. Pre-employment Screening

The Provider shall develop and implement an employment screening program for all candidates for employment. Provider has identified its screening programs in its proposal. These screening programs shall be at least adhere to state screening requirements and California Highway Patrol screening requirements and shall be designed to assist the Provider in determining the candidate's suitability for assignment to student transportation services. All drivers shall meet Town training, safety, and operational requirements, as specified herein and/or specified in the RFP.

iii. Credentials and Related Requirements

- Licenses and Permits

Every driver employed by the Provider to provide service to the Town must have and maintain a valid Class B or other legally required California Commercial Driver's License, a valid Passenger Endorsement, a valid California School Bus Driver's Certificate, and any other applicable license or permit. Every driver shall possess all other licenses and certifications required by federal, state and local law. Upon request of Town, Provider shall provide evidence that all personnel meet these requirements.

- Health Requirements

Each school bus driver employed by the Provider to provide service to the Town shall pass physical exams per the State's licensing requirements. Provider shall establish and maintain a record-keeping system to assure that each driver meets the requirements per the Provider's employment contract. This system shall be available for review by the Town or its designee upon request.

- Background Checks

Provider shall perform criminal and driving record background checks of all personnel employed in the operation of the service, and shall provide evidence that no employee utilized in the operation of service is listed in the Child Abuse Registry or Sex Offender Registry.

iv. Training Requirements

- The Provider shall provide or arrange for all legally required and other training as is needed to ensure that qualified drivers are available to provide transportation services described in this Contract.

- Before a driver may transport students for the Town, the driver, whether permanent, temporary, or substitute, must have completed original training as specified by California Vehicle Code and other training as required by law. In addition, every driver must each year complete such in-service training as is required by the California Code of Regulations and the California Education Code in order to maintain a valid School Bus Driver's Certificate.

- At least once each year before beginning service for each school year, all drivers, whether permanent, temporary, or substitute, shall participate in a Town-approved, Provider-provided orientation program. The driver orientation shall include, but not be limited to: student management; communication with parents, schools and the general public; discipline on the school bus; defensive driving; first aid; use of all safety equipment for the school bus; plan for emergency evacuation students; use of two-way radio; orientation in the routing and scheduling system used by the Town. This orientation program may count towards the driver's mandated in-service training for the year.

- The Town reserves the right to call periodic bus driver training meetings requiring mandatory attendance of all drivers servicing students. Such meetings may not exceed three (3) hours per year

per driver, not including travel time. The Provider shall assume the costs associated with drivers' wages as a result of these meetings.

- Each driver shall have had CPR training and First Aid Training and shall hold valid First Aid Certificate and CPR Certificate issued by the American Red Cross or an organization of comparable status.
- Safety is of paramount concern to the Town. In recognition of this priority, the Provider shall plan and implement a comprehensive safety program and shall ensure the availability of a state certified School Bus Driver Instructor to conduct the program. The program shall include regularly scheduled safety meetings for drivers. The agenda of the meetings shall be available to the Town. Time spent in safety meetings may be counted toward annual in-service training requirements.
- The Provider's management staff shall evaluate all drivers on their routes for the purpose of observing their driving practices with respect to safety, mechanical operation, compliance with laws, policies and regulations, adherence to established routes and schedules, handling of students, and other factors inherent in the transportation of students. The Provider shall evaluate all drivers once every six (6) months during their first year of employment with the Provider and one (1) time per year thereafter. A copy of each evaluation report shall be made available to the Town upon request.

v. Other Requirements

- Identification Badges
Each driver shall be well-groomed, appropriately dressed in Provider uniform shirts with the company name and logo and shall wear a company identification badge with name and photo at all times while driving students for the Town.
- Time Pieces
Provider shall require each driver to have an accurate time piece while on duty to maintain established scheduled route times.
- Radios
Each driver shall have knowledge of the operation of the mobile two-way radio and all Federal Regulations covering its use.
- Messages
Each driver shall be required to check in with Provider for messages via radio each morning and afternoon as the driver begins a route.
- Unsafe Equipment
In addition to all other safety requirements, each driver shall also be responsible for notifying the Safety Program Supervisor of equipment suspected to be unsafe for transportation use. A driver shall not continue to operate a school bus if safety is compromised until the unsafe condition is sufficiently remedied.
- Policies and Procedures
Each driver shall be familiar with and shall abide by the rules, policies and procedures of student transportation as provided by the State of California and the Town.
- Temporary Removal of a Driver
If a concern arises regarding appropriateness of a driver's conduct on a route, the Provider shall, upon receipt of notice from the Town, immediately temporarily remove the driver from the duty of

conveying a student until such time as the concern is resolved to the satisfaction of the Town.

- Change of Route Assignment

The Town reserves the right to change the route assignment of a driver if the best interest of student transportation will be served, according to the Town.

- Student Transfers

A driver may not transfer a student to or from another vehicle going to or coming from school except in case of emergency or equipment breakdown, or unless the bus schedule specifically calls for such transfer.

- Lateness

A driver shall contact the dispatcher immediately upon determination that the bus will be in excess of five (5) minutes late in the pickup or delivery of students. Dispatch shall immediately notify all necessary persons, including parents, schools and the Transportation and Mobility Manager in a manner previously agreed by the Town.

- vi. Discipline on the School Bus

- For the purpose of passenger safety, the bus driver shall require that bus riders comply with the Safety Rules established by the Town.

A driver who experiences a discipline problem and cannot identify an individual for citation shall file an incident report with the Provider. The Provider will report serious or persistent student misconduct to the Transportation and Mobility Manager.

- vii. Drug and Alcohol Detection and Use Prevention

The Provider shall implement a comprehensive drug and alcohol detection and use prevention policy designed to be used for all employees of the Provider who will be performing services under this Contract, including both drivers and mechanics. The Policy shall be submitted to the Town and approved before Provider begins work.

- e. Provider Vehicles

- i. Provider shall provide buses per the requirements in the RFP, equipped with engines meeting current California air quality standards for the Contract. Each bus must be properly certified by the California Highway Patrol, and meet all requirements of the California Code of Regulations and the California Vehicle Code.

- Provider will adhere to a minimum spare vehicle requirement of ten percent of all regular daily routes operated from the Provider's facility.

- Provider will repair and maintain all vehicles, at a minimum, in accordance with vehicle manufacturer recommendations and California regulations.

- All vehicles used in furtherance of this Contract shall be model year 2015 or newer at the start of the Contract.

- ii. Provider will submit an inventory of their vehicle fleet to be assigned to the provision of services under this section of the Contract, with content and in a format acceptable to TOWN, a minimum of 15 days prior to the commencement of services under this Contract, and at least one-month prior to each subsequent annual anniversary date of the Contract.

- iii. Provider will supply all of the vehicle equipment required for service delivery.

- iv. Provider vehicles will be equipped with seat belts as required by State statute and two-way voice communications to Provider's dispatch facility.
- v. All vehicles shall be kept in a safe, clean, and sanitary condition, and open for examination at all times by TOWN. Buses will maintain an acceptable level of physical appearance as determined by TOWN, including but not limited to, seat condition, exterior paint, and clean windows and mirrors.
- vi. Each Provider vehicle will be equipped with Automatic Vehicle Location (AVL/GPS) devices of a type and quality sufficient to interface with, and/or transfer data to TOWN. The data available to TOWN must, at a minimum, enable calculation of the Minimum Service Level Criteria of this Contract, and adequately support the Town's Performance and Staffing Management Program. If deemed necessary, Provider will conduct calculations for Minimum Service Level Criteria for TOWN.
- vii. TOWN, may call for the removal, with written cause, from service under this Contract of any bus used as part of this Contract that in their opinion does not meet the requirements of this Contract. Provider, upon written notification by TOWN, shall immediately cease to utilize the specific bus for any work, direct or indirect, that relates to this contract.
- viii. Provider shall provide and maintain only certified school buses which meet applicable regulations and laws relating to student transportation in California, including relevant requirements of the California Vehicle Code and the California Code of Regulations and applicable rules, regulations, and orders of the California Highway Patrol and the California Education Code. The Provider shall furnish to the Town certificates of compliance and copies of California Highway Patrol inspections certifying that all buses furnished under this Contract are in compliance with the Vehicle Code and the Regulations of the State Board of Education. All fuel tanks must be DOT certified.
- ix. Inspection and Maintenance of Buses

The Provider shall maintain regular and standby school buses in good and safe mechanical and operating condition. The school buses shall be maintained in accordance with all applicable regulations and laws relating to student transportation in California, including all relevant requirements of the California Vehicle Code and the California Code of Regulations, all applicable rules, regulations, and orders of the California Highway Patrol, and the California Education Code. The Provider agrees to submit the completed inspection schedule forms. Each bus shall be maintained in clean and sanitary condition and shall have good interior and exterior appearance. The Town reserves the right to access the Provider's terminal facility at any time and inspect buses to ensure that they are maintained in good, safe, clean and sanitary condition.
- f. Software, Hardware and Related Technologies
 - i. Provider will provide the software, hardware, and technical services necessary to:
 - Provide TOWN with direct electronic access, via electronic file transfer or direct data system access, to Provider's AVL/GPS data.
 - Ensure all buses are outfitted with functioning video recording cameras.
 - View required data from digital video recording cameras and store data up to seven (7) days.
 - ii. If providing direct data system access to Provider systems, TOWN's access to data will be restricted so as not to interfere with the integrity of the data system or with Provider's operations, and can be limited to ensure the privacy of Provider information unrelated to this Contract.
- g. Pre-service Route Verification

- i. Provider will perform one dry run, defined as operating each bus at the scheduled times on a regular school day but without students on board, for each assigned route and route package not less than ten (10) days preceding the first day of school in each school year falling within the term of this Contract.
 - ii. Provider shall obtain approval of the date and time of the dry run from the TOWN. This process will be coordinated with TOWN who may monitor the process without restriction. TOWN and Provider will meet within seven (7) day following completion of each dry run to assess the outcome of the dryrun.
 - iii. Provider shall not be separately compensated for the dry run.
 - iv. If TOWN deems, at its sole discretion, that an additional dry run is necessary, TOWN may require one additional partial or full dry run to be performed for any route or route package. In that event, TOWN will be responsible for compensating Provider at the rate(s) included in Exhibit 1.
- h. Other Provider Responsibilities
- i. Provider will be responsible for providing all services related to the provision of Transportation Service not otherwise noted in, and not specifically reserved for TOWN by this Contract. No additional compensation shall be provided for these services. These services include, but shall not belimited to:
 - Coordination of student behavior management on school buses with school officials;
 - State and TOWN-mandated data collection, reporting of accident investigations;and
 - Customer service activities to TOWN, school officials, parents and guardians. This shall include providing information to parents about bus schedules and stop times, tracking lost items, accepting and resolving bus transportation complaints, concerns and compliments. Provider's main telephone line may be published on Town's website and communications to encourage its use for these purposes.
 - Provider shall submit to Town a monthly performance report that will include the number of bus riders each day by route, the on-time performance of each route, the number of bus accidents, a summary of service complaints received and their resolution and any other information as agreed upon by Town and Provider.
 - Provider's staff will perform an in-the-field safety review of all proposed bus stops and bus routes at least one month prior to the start of service each year. Provider will notify Town of any concerns regarding the location of any of the proposed bus stops, the roads travelled to get to each bus stop on the route or the timing of the bus stops. At the request of the Town, Provider will drive each bus route with Town's designated representative before the start of service each year to review the bus stops and discuss any concerns related to them.
- i. Cooperation with TOWN
- i. Provider will work cooperatively with TOWN to ensure safe, effective, and efficient Transportation Services throughout the term of this Contract.
 - ii. If other services or issues arise that are previously unaddressed by TOWN, Provider will make a good faith effort to address or resolve such until the matter can be referred to TOWN.
- j. Strike by School District or Town Employees

In the event of a strike or work stoppage by any employee(s) of the Town of Los Gatos or the School Districts, the Provider shall continue to fully perform all duties¹² as set forth in this Contract.

k. Implementation of Service

The Provider, within thirty (30) days after the Effective Date above, shall furnish the Town with a time line schedule detailing the following:

- i. Provision of Equipment;
- ii. Provision of Facilities;
- iii. Hiring of Supervisory Personnel;
- iv. Hiring and Training of Drivers and Mechanics;
- v. Driver Route Orientation; and
- vi. Provider Field Service Personnel Assignments.

This time line schedule is subject to approval by the Town.

l. Assignment of the Contract: Subcontracts

The Provider may not subcontract, sell, assign, transfer, or encumber the Contract, any right or interest in or under the Contract, or permit any sale, assignment, transfer, or encumbrance to occur by operation of law without the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed. However, at its sole discretion, the Town may assign this Contract if the assignment is made to a parent, subsidiary, or related company. Any attempt to subcontract or transfer this Contract or any interest in it without such consent shall be violable by the Town and, at the Town's election, shall constitute a material default under the Contract.

A subcontract or assignment of the Contract by the Provider with the approval of the Town is subject to the terms and conditions of this Contract and to the rights of the Town contained in the Contract. No transfer or assignment of the Contract by the Provider shall release it from its obligations.

m. Provider as an Independent Contractor

The Provider is an independent contractor and not an officer, agent, or employee of the Town. Further, the Provider's employees, expressly including but not limited to drivers, are employees of the Provider and are not employees of the Town.

n. Covenant Against Contingent Fees

The Provider warrants that no person or selling Town has been employed or retained to solicit or secure this Contract on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide established commercial or selling agencies maintained by the Provider for the purpose of securing business. For breach or violation of this warranty, the Town may terminate this contract and, in Town's sole discretion, may deduct from the Contract price or consideration, or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

o. Nondiscrimination

It is the policy of the Town that in connection with all work performed under this Contract, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, handicap, religious creed, sex, age or marital status. Provider agrees to comply with applicable Federal and California laws including the California Fair Employment Practice Act, beginning with Labor Code Section 1410.

4. Provider Performance

a. Contract Performance and Staffing Management Program

- i. Exhibit 2 to this Contract provides a description of the Contract Performance and Staffing Management Program. Provider will be an active participant in, and will be responsive to the requirements of this program.
- ii. The Contract Performance and Staffing Management Program is a non-punitive, joint, supportive program of contract compliance monitoring and performance measurement designed to enhance and improve transportation service delivery in a continuous improvement cycle.

b. Minimum Service Levels and Standards of Performance

- i. In addition, and as a supplement to the Contract Performance and Staffing Management Program, the Provider will be responsible for meeting or exceeding certain Minimum Service Levels and Standards of Performance as described below. If the standards below are not met, the Provider will be considered non-compliant. Provider will monitor, track, account for, and report to TOWN the data and information required to determine Provider's success in meeting or exceeding the established standards.
- ii. The Town reserves the right to collect, analyze and track data provided by the Provider or obtained from other sources.
- iii. Provider will comply with the following Minimum Service Level Standards of Performance. For the purposes of this Contract, a Bus Trip is defined as the service from the first pick up point to the last drop off point. The morning and afternoon trips are considered separate trips.
 - No more than four (4) percent of all bus trips operated by the Provider in each 4-week service period shall be delayed as a result of mechanical problems with the Provider's assigned vehicle or the Provider's inability to provide an adequate number of qualified bus drivers as defined within this Contract. A delayed trip is defined as any route component that begins operation after its scheduled time five (5) minutes or later, or that must be serviced by another means as a result of the Provider's failure to provide a qualified driver in a timely manner, or that is delayed five (5) minutes or more over the course of its scheduled trip as a result of a mechanical problem with the assigned vehicle.
 - Provider shall report every occurrence of delay as defined in the above subparagraph of this section to TOWN within fifteen (15) minutes of occurrence in a manner and format acceptable to TOWN. This is a zero-tolerance standard of performance.
- iv. Provider is responsible for recording and tracking all data and information required to calculate Provider performance relative to the Minimum Service Levels and Standards of Performance. This data will be provided to TOWN not later than the 15th of each month for service completed in the prior service month. The data and information will be submitted in a verifiable manner and format acceptable to TOWN.
- v. Upon receiving a formal written notice from TOWN, Provider shall cure a non-compliance condition within thirty (30) days of its initial occurrence; otherwise a Minimum Service Level Performance Withholding may be imposed. Provider will comply with TOWN directives to improve operations and outcomes that fall below the established standards.

c. Force Majeure

The Provider will be excused from performance during the time and to the extent that it is prevented from obtaining or performing the service by natural disaster, acts of God, acts of war, fire, flood, riot, terrorism, civil disturbance, loss of transportation facilities, oil or fuel shortage or embargo, commandeering of materials,

equipment, products, plants or facilities by the federal or state government, labor dispute, strike or lockout. Satisfactory evidence must be presented to the Town demonstrating that the non- performance was not due to the fault or negligence of the Provider.

d. Minimum Service Level Performance Withholding

- i. TOWN may impose a Minimum Service Level Performance Withholding factor for non-compliance with the Minimum Service Levels and Minimum Standards of Performance, as follows:
 - TOWN may withhold payment of up to one (1) percent of the Provider's next regular monthly Transportation Services invoice for any single occurrence of non-compliance within a 4-week service period.
 - TOWN may withhold payment of up to three (3) percent of Provider's next regular monthly Transportation Services invoice should non-compliance continue for two consecutive 4-week service periods.
- ii. The number of withholding instances is unlimited, and may be repeated for each instance of non-compliance with the Minimum Service Levels and Minimum Standards of Performance requirements.
- iii. The withheld amount may be paid in full to the Provider if the non-compliance factor resulting in the Performance Withholding instance is cured to the satisfaction of TOWN following the deferral decision.
- iv. Grace Periods: the TOWN may allow a grace period of up to two (2) calendar weeks starting from the first service day of this Contract and grace periods of up to one (1) calendar week each at the beginning of each school semester, during which time performance withholding is not imposed.
- v. If the non-compliance factor is not cured to the satisfaction of TOWN following the deferral decision, TOWN may retain the withholding without obligation to pay the Provider the withheld amounts.
- vi. TOWN will notify the Provider in formal letter delivered via a traceable method to the address of record for the Provider contained in this Contract if a decision to retain a Performance Withholding is reached.

e. Liquidated Damages

- i. In the event that standards of service defined in this agreement are continually deemed unsatisfactory, TOWN's board may choose to implement the Liquidated Damages contingency outlined in this section. If the Liquidated Damages contingency is initiated, section 4d Minimum Service Level Performance Withholding of this contract, will be null and void.
- ii. It is agreed by the Provider and TOWN that if the Provider fails to deliver services under this Contract, TOWN is damaged. Due to the nature of the services rendered, it is impractical and extremely difficult to fix the actual damage to the Town. When deficiencies occur TOWN and the Provider agree that a schedule of liquidated damages may, at TOWN's discretion, be imposed upon the Provider as a remedy for Inconveniences. The Provider will be notified in writing within 20 days of such deficiencies by TOWN. Notification shall identify the type of infraction along with information that clearly details the date, time, location, route number, school, driver (if known), and vehicle number. Billing for such infractions are to occur within 60 days of its assessment. Failure to either timely notify or bill the Provider shall relieve the Provider of its obligations to pay liquidated damages for the particular event.
- iii. The following schedule details the liquidated damage charges that may be assessed for the failure to perform the services as expected by TOWN. All damage charges are assessed based on each occurrence, calculated as a percentage of the daily rate for each route.

(1)	Late Bus 15 min.	Each bus trip which is fifteen (15) minutes late or more to or from home or school shall be assessed liquidated damages of 50% of the daily rate.	50% of daily rate
(2)	Late Bus 30 min.	Each bus trip which is thirty (30) minutes late or more to or from home or school shall be assessed liquidated damages of 100% of the daily rate.	100% of daily rate per run
(3)	Failure to furnish vehicle and driver (missed trip)	If the Provider fails to furnish a vehicle and driver for any trip, liquidated damages shall be assessed at 150% of the daily rate. The assessment of damages does not relieve the Contractor of its obligation to provide sufficient buses and drivers including spares or substitutes, or perform such service.	150% of daily rate
(4)	Failure to Seek Approval to Drive	Managers, dispatchers and field representatives shall not drive school buses except in emergency or as approved by the Transportation and Mobility Manager. Failure to seek approval shall result in liquidated damages of 50% of the daily rate.	50% of daily rate
(5)	Missed Bus Stop	If a driver misses a bus stop and fails to pick up or drop off a student, liquidated damages shall be assessed in the amount of 25% of the daily rate.	25% of daily rate
(6)	Failure to complete a run due to vehicle or fuel problems	If the Provider fails to complete a trip after starting due to vehicle malfunction or running out of fuel, and a backup vehicle is not made available to complete the trip within 30 minutes of scheduled time, liquidated damages shall be assessed in the amount of 150% of the daily rate.	150% of daily rate
(7)	Failure to Notify – Late Buses	Failure of the Contractor to provide the Transportation and Mobility Manager immediately, or within a reasonable time as dictated by the nature of the occurrence or incident, complete and accurate information relating to early or late buses shall be assessed 25% of the daily rate.	25% of daily rate
(8)	Failure to Notify Schools of Late Buses	Failure of the Provider to notify the applicable schools of a late trip immediately or within a reasonable time as dictated by the nature of the occurrence or incident shall result in liquidated damages of 25% of the daily rate.	25% of daily rate
(9)	Failure to Notify of a Bus Accident	Failure of the Provider to notify the Transportation and Mobility Manager as soon as possible and in no event later than one hour after becomes informed of a school bus accident or an incident in which a child may have sustained injury shall be assessed liquidated damages in the amount of 100% of the daily rate.	100% of daily rate

(10)	Failure to Provide Equipment	Failure to provide the appropriate equipment required for each bus, including but not limited to, two-way radios, fire extinguishers, etc., shall result in the assessment of liquidated damages in the amount of 25% of the daily rate and continuing at this rate for so long as the Provider fails to provide such equipment.	25% of daily rate
(11)	Operating a Bus in an Unsafe or Illegal Manner	If a driver operates a school bus in an illegal manner, including but not limited to operating an overloaded bus, boarding and deboarding passengers at an unsafe location, creating a traffic hazard, liquidated damages shall be assessed in the amount of 100% of the daily rate.	100% of daily rate

Example: If a morning trip is late for 30 minutes or more, the Provider will be charged 100% of the daily rate for that route. If the afternoon trip is also late for 30 minutes or more, the Provider will be charged 100% of the daily rate for that route. The cumulative damages for these two occurrences will be 200% of the daily rate for that route.

Payment for damages will be deducted from the Provider's next invoice. In the event that there are unknown or extenuating circumstances, the Provider shall have the right of appeal. Appeals are to be made in writing within ten (10) school days and sent to TOWN for review. The Town Council shall have the sole right to review the appeal and will have the option to maintain, reduce, or eliminate the proposed penalty. The Town Council will be required to rule on any appeal within 45 days of receiving a written notice of appeal from Provider.

f. Provider Fiscal Efficiency

- i. Provider will make an ongoing good-faith effort to identify opportunities to improve the efficiency and effectiveness of the bus routes and route packages on a quarterly basis. Where feasible, Provider will identify opportunities to modify, pair, combine, or repackage bus routes with the objective to perform transportation services in the most efficient and effective manner possible. If identified, such opportunities will be communicated to TOWN not later than one (1) week following the identification. At a minimum, Provider will submit a written report to TOWN, to accompany each regular invoice submission, summarizing the opportunities identified in the period covered by the invoice or, if no opportunities were identified, making an affirmative statement attesting to this fact.
- ii. Provider will immediately notify TOWN, in a manner deemed acceptable by TOWN, of any new programs or services that are requested of Provider by school officials or representatives, including any school building or program bell time changes. Provider shall not fulfill such requests until and if authorized by TOWN.

5. Basis for Provider Compensation

a. Pricing

- i. Contract pricing shall be on a cost per bus per day basis. The pricing form included as Exhibit 1 shall govern the calculation of Provider compensation.

b. Dates for Student Transportation Service

- i. From the Effective Date of executed contract, the Provider shall mobilize, coordinate and undertake all activities, including but not limited to, those specified herein in order to be able to provide student transportation services as specified herein, commencing on January 7, 2019. During the term of the Contract, student transportation services are required during the following periods:
 - ii. School Calendar Year - The school calendar year covers the months of August through June, inclusive. During the school calendar year, the total number of buses contracted for are estimated to be required for each of the one hundred eighty (180) school days as defined by the individual School District calendars and verified by the Town; and
 - iii. Unscheduled Closing of Schools
 - The Town is not obligated to accept or pay for services agreed to be furnished by the Provider on those days when, by direction of the School District, classes served under this Contract are closed to ensure the health and safety of the students or for any other lawful reason. The decision as to the need for closing at the start of the day or for early dismissal during the day shall be made by the Superintendent of the School District.
 - The Town agrees to notify the Provider no later than 5:30 a.m. on such days of school closures and as early as possible on such days of early dismissals. The Town agrees to provide partial payment for student transportation service for days when Provider is notified of school closures after 5:30 a.m. in the amount of 50% of the daily rate per bus for a complete cancellation, and in a prorated amount for partial service.
6. Invoicing and Compensation Adjustments
- a. Invoicing
 - i. Provider shall submit an invoice to TOWN no later than the 5th business day following the month in which services have been provided. The invoice shall be based upon the actual number of days of service within that calendar month. Payment shall be made to Provider within thirty (30) after receipt of a valid invoice. The form of the invoice shall be approved by the Transportation and Mobility Manager. A "daily bus report" ("DBR") shall be submitted for each separate bus/driver combination and shall be available to the Transportation and Mobility Manager for review. A DBR is a driver's report of mileage, departure and arrival times, number of students transported, names of school sites serviced, and the beginning and end times for each trip made. Monthly invoices shall summarize home-to-school DBRs for each route during each day of the invoice period. Summaries shall be submitted to the Transportation and Mobility Manager monthly.
 - b. Fuel Cost
 - i. Provider shall be responsible for the acquisition of all fuel necessary for service. The cost of fuel shall be incorporated into the daily rate for services provided included in the RFP.
 - c. Town Provided Parking for Provider Vehicles
 - i. Town may elect to provide parking on Town property for a certain number of Provider's vehicles to be used in the provision of services under this Contract. Provider shall utilize the space provided for parking only and will not perform vehicle maintenance or any other activities on Town property. In the event Town parking is provided, Town shall be entitled to a lower price for services as outlined in Provider's proposal. The Parties will execute a Contract Amendment with a separate property lease agreement prior to any Provider vehicles being parked on Town property.

d. Ancillary Services and Costs

- i. Provider's price proposal includes all ordinary and extraordinary costs of operation, and the Town is not responsible for any additional costs. Provider will bear all costs associated with performing services not identified in this Contract or in the Exhibits.
- ii. Provider will bear all penalties, fines, damages, levies, taxes, etc. that may arise from performing transportation services.

The Town shall pay the Provider for services provided on a monthly basis. Payment shall be made within thirty (30) calendar days following receipt of a properly documented invoice. Payment may be adjusted by an incentive or liquidated damage reduction as provided in the Contract and the Town's document damage reports. Notwithstanding the foregoing, in no event shall any payment owed by the Town which is not being disputed in good faith, be delinquent for more than sixty (60) days. In the event of any delinquency beyond sixty (60) days, Provider may give the Town written notice of the delinquency.

7. Notices

All notices to be given by the parties shall be in writing and served by depositing same in the United States Post Office, postage prepaid and registered to the address(es) shown below or such other persons, addresses or telephone numbers as may be designated in writing by the parties from time to time.

Notices to the Town shall be sent to:

Ying Smith, Transportation and Mobility Manager
Town of Los Gatos
Department of Parks & Public Works
41 Miles Avenue, Los Gatos CA 95030

8. Provider's Records and Reporting Requirements

a. Operating Records

The Provider shall maintain daily records indicating route numbers, bus numbers, driver names, the number of students transported to each site, and the number of miles and hours driven. These records shall be kept for a minimum of three (3) years. A copy of these records shall be submitted to the Transportation and Mobility Manager on a weekly basis.

b. Personnel Records

The Provider shall maintain records that include documentation of all drivers, management personnel, and support staff in compliance with legal requirements and standards and requirements set forth in the Contract. Operator shall provide records of operator experience, training and performance, if required by Town.

c. Fleet Records

The Provider shall maintain preventive maintenance policies, records, and schedules, all bus maintenance records, and copies of all California Highway Patrol, and California Department of Transportation Vehicle Inspection reports for buses servicing this Contract. The Provider shall make these records available for review by the Town upon request.

d. Reports to be Submitted to the Town

The Provider shall submit the following reports or studies to the Town upon request and on an occurrence basis:

i. Accident Reports

Every school bus accident or incident involving a school bus collision shall be verbally reported immediately to the Transportation and Mobility Manager and the California Highway Patrol. A written report shall be submitted to the Transportation and Mobility Manager as soon as possible, but in no event later than three (3) working days after the accident.

The school bus accident report shall be clear and provide at a minimum the following:

- Number of students on board at the time of the accident and the names of each;
- Whether injuries occurred;
- The date and time of the accident;
- The route number, driver's name, location of accident, involvement of other vehicles, and nature and extent of property damage;
- The Provider's assessment of liability.
- Reports completed by the Provider's management and by the driver; and
- Reports obtained from the California Highway Patrol or from any other law enforcement.

ii. Route Driver Assignments

- A list, continually updated, of routes and names of drivers assigned to those routes. In addition, the Provider shall provide a daily report of all routes covered by substitute drivers.

iii. Student Citations

- A copy of each student bus citation must be provided to the Transportation and Mobility Manager. ~~and to school personnel.~~

iv. Summary of Late or Missed Trips

- Weekly written reports on each late or missed trip, with cause of problem and corrective action taken.

v. Notification of Hazards

- Notification of a hazard or obstacle observed by Provider's personnel along routes.

vi. Complaints

- Weekly written reports on the disposition of all complaints regarding the service provided by the Provider, whether received in writing, over the phone, or listed on the liquidated damage report. The Provider shall investigate these reports and shall provide a written reply to the complainant with a copy to the Town, within 10 school days. Each reply shall describe any corrective action in response to the complaint.

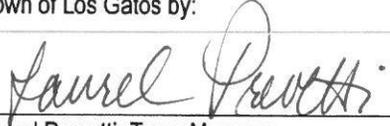
vii. Ridership

- Weekly written reports on student ridership levels for each run for each day of the week.

viii. Other reports or studies as requested by the Town.

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

Town of Los Gatos by:



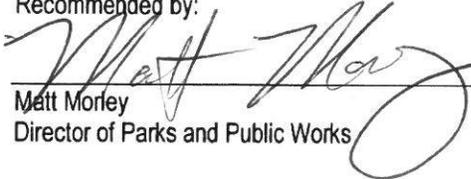
Laurel Prevetti, Town Manager

Service Provider, by:



10/3/18

Recommended by:

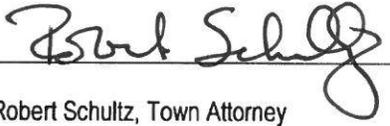


Matt Morley
Director of Parks and Public Works

SR VP of Operations

Title

Approved as to Form:



Robert Schultz, Town Attorney

**EXHIBIT 1
Cost Proposal**

Proposer shall provide a cost proposal in the tables below:

Table 1 – Price Quote, buses parked at vendor’s facility
Refer to Attachment B for route and schedule descriptions

	Route #	2018-19	2019-20	2020-21	2021-22	2022-23
Large bus		\$566.90	\$583.91	\$601.43	\$619.47	\$644.25
Standard bus		\$539.90	\$556.10	\$572.78	\$589.96	\$613.56
<i>Add more row if necessary</i>						

Note:

Large bus: 80-90 seats, standard bus: 60-70 seats

Table 3 – Price Quote for Dry Runs
Refer to Attachment B for route and schedule descriptions

	Route #	2018-19	2019-20	2020-21	2021-22	2022-23
All Groups		\$539.90	\$556.10	\$572.78	\$589.96	\$613.56
<i>Add more row if necessary</i>						

Table 2 – Price Quote, buses parked Town’s facility (optional)
Refer to Attachment B for route and schedule descriptions

	Route #	2018-19	2019-20	2020-21	2021-22	2022-23
Large bus		\$545.90	\$562.28	\$579.15	\$596.52	\$620.38
Standard bus		\$518.90	\$534.47	\$550.50	\$567.02	\$589.70
<i>Add more row if necessary</i>						

**The mobile phone app for parents of bus riders, SafeStop, is included in the above pricing.

**On-board camera systems can be provided at an additional cost of \$2.75 per bus per day.

**The pricing quoted above includes 2.75 hours of live time, per bus, per day. Any excess hours will be billed at \$20.00 per quarter hour or part thereof.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 14

ADDENDUM

DATE: April 14, 2020
TO: Mayor and Town Council
FROM: Robert Schultz, Town Attorney
SUBJECT: Authorize the Town Manager to Execute an Amendment to the Lease Agreement with the Los Gatos Museum Association (LGMA) also known New Museum Los Gatos (NUMU) to Eliminate Utility Payments and Increase Rent Obligations, and to Amend Their Conditional Use Permit (CUP) to Eliminate or Amend Certain Conditions to Allow LGMA to Generate Additional Revenue.

REMARKS:

Attachment 6 contains public comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020.

Attachments Received with Staff Report:

1. Redline of the proposed changes to the Lease.
2. Amendment to the Lease to be executed by the Town Manager.
3. Redline of the proposed changes to their CUP.
4. Amended CUP.
5. Public Comment

Attachment Received with Addendum:

6. Public Comment received 11:01 a.m. April 16, 2020 to 11:00 a.m. April 17, 2020

PREPARED BY: Robert Schultz
Town Attorney

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

From: Heidi Owens

Sent: Friday, April 17, 2020 7:56 AM

To: PublicComment <PublicComment@losgatosca.gov>

Subject: Comments on Public Hearing Items for April 21, 2010 Los Gatos Town Council Meeting

Hello Town of Los Gatos,

I would like to make the following comments on agenda items for the April 21, 2020 meeting.

I support the continuation of partial payment to Student Transportation Inc, which is noteworthy to mention is headquartered out of state. The payment should be earmarked as applicable for driver payment only, and not to cover administrative and managerial costs. I am hearing from my community of friends and family that the EDD unemployment office is overwhelmed with requests and they are having trouble processing claims and making payments. I would like to see the local drivers who presumably live within commute distance of Los Gatos paid because I'm not certain that they will be able to get State unemployment assistance in a timely manner. The Town staff report mentions high turnover and difficulty recruiting drivers, so one may presume that whoever was most recently driving may not meet the minimum time of employment to receive EDD payments. This is not a high paying job and the money may be a critical source of income for the drivers. In terms of small business support, there are programs at the Federal and State level that will support ongoing operations of Student Transportation Inc for other administrative and managerial costs. One of the requirements of the Federal program is that small business keep a percentage of their employees on the payroll, so a partial payment from the Town to keep the driver on staff will help the company achieve that requirement. However, I support whatever decision the Council makes because this is not a clear-cut issue and well-argued counterpoints could easily sway my position.

Thank you!

Heidi Owens

Los Gatos Resident and Community Organizer