



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
AUGUST 18, 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, following the participation instructions contained on page 2 of this agenda. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

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

Deadlines for Public Comment and Presentations are as follows:

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

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

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

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

www.LosGatosCA.gov/TownYouTube

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

**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
AUGUST 18, 2020
7:00 PM**

IMPORTANT NOTICE REGARDING THE AUGUST 18, 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 www.LosGatosCA.gov/TownYouTube. **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.**

PARTICIPATION

If you are not interested in providing oral comments real-time during the meeting, you can view the live stream of the meeting on television (Comcast Channel 15) and/or online at www.LosGatosCA.gov/TownYouTube.

If you are interested in providing oral comments real-time during the meeting, you must join the Zoom webinar at <https://zoom.us/j/95055895496>. Password: 942424.

During the meeting:

- When the Mayor announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand. If you are participating by calling in, press #2 on your telephone keypad to raise your hand.
- When called to speak, please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for speakers at a Council meeting.

If you are unable to participate in real-time, you may email PublicComment@logatosca.gov with the subject line “Public Comment Item #__” (insert the item number relevant to your comment) or “Verbal Communications – Non Agenda Item.” Comments will be reviewed and distributed before the meeting if received by 5:00 p.m. on the day of the meeting. All comments received will become part of the record. The Mayor has the option to modify this action on items based on comments received.

REMOTE LOCATION PARTICIPANTS

The following Council Members are listed to permit them to appear electronically or telephonically at the Town Council meeting: MAYOR MARCIA JENSEN, 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

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 following the Participation instructions contained on page 2 of this agenda. 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 Minutes of the August 4, 2020 Closed Session Town Council Meeting.
2. Approve Minutes of the August 4, 2020 Regular Town Council Meeting.
3. Receive the Fourth Quarter Investment Report (April through June 2020) for Fiscal Year 2019/20.
4. Authorize the Town Manager to Execute a First Amendment to the Agreement with Whitlock & Weinberger Transportation, Inc. dba W-Trans, Modifying the Scope of Service, Extending the Term, and Increasing the Total Compensation by \$75,000 for a Total Contract Amount not to Exceed \$200,000 for Consultant Services for the Project Management Function of the Traffic Signal Modernization Project (Project 813-0227).
5. Authorize the Town Manager to Enter into a Five-Year Agreement for Cablecasting and Livestreaming Services with KCAT-TV, a Non-Profit Access Television Station.
6. Authorize the Following Actions for the Corporation Yard Building Replacement and Engineering Tenant Improvement Project (18-821-2302):
Approve the Plans and Specifications for the Corporation Yard Building Replacement and Engineering Tenant Improvement Project and Authorize the Town Manager to Advertise the Project for Bid; and
Authorize the Town Manager to Award and Execute a Construction Agreement in an Amount not to Exceed \$750,315, Including Contingencies; and
Authorize Staff to Execute Future Change Orders in an Amount not to Exceed Ten Percent of the Contract Award Amount.
7. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of DeSilva Gates Construction and Authorize Recording by the Town Clerk for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project.
8. Adopt a Resolution Authorizing the Town Manager to Execute the North 40 In Lieu Traffic Fee Credit Agreement and North 40 Transportation Demand Management Agreement for Phase 1 of the North 40 Development.

VERBAL COMMUNICATIONS (*Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda consistent with the Participation instructions contained on page 2 of this agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per comment. In the event additional comments 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, their representatives, and members of the public wishing to address the Council on any Public Hearing item should register in advance to obtain the Zoom link for this meeting by following the Participation instructions contained on page 2 of this agenda. Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.*)

- [9.](#) Introduction by Title Only of an Ordinance of the Town of Los Gatos Amending Chapter 18, by Adding Article IX, Sections 18.90.010- 18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems.

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. Copies of desk items distributed to members of the Council at the meeting are available for review on the official Town of Los Gatos website.

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/18/2020

ITEM NO: 1

**DRAFT
Minutes of the Town Council Special Meeting - Closed Session
August 4, 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, August 4, 2020, to hold a Closed Session at 5:30 p.m.

MEETING CALLED TO ORDER AT 5:36 P.M.

ROLL CALL

Present (all participating remotely): Mayor Marcia Jensen, Vice Mayor Barbara Spector, Council Member Rob Rennie, Council Member Marico Sayoc.

Absent: None

VERBAL COMMUNICATIONS

None.

THE TOWN WILL MOVE 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 6:00 p.m.

Attest:

Submitted by:

Jenna De Long, Deputy Clerk

Laurel Prevetti, Town Manager



**DRAFT
Minutes of the Regular Town Council Meeting
August 4, 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, August 4, 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, Council Member Rob Rennie, Council Member Marico Sayoc. (All remote participants)

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 report.

COUNCIL/TOWN MANAGER REPORTS

Town Manager Matters

- Provided update on the Town's services available during the shelter in place.
- Announced the Library is exploring a pilot program to provide computer and internet access to the public during the shelter in place.
- Announced the Library has launched a "Represent Los Gatos Oral History Project" and encouraged Black, Indigenous, and people of color (BIPOC) to share their stories by visiting the Represent Los Gatos webpage.
- Announced community workshops are being organized to discuss racism and potential police reforms.

Council Matters

- Vice Mayor Spector stated she participated in the Santa Clara County COVID-19 remote public health calls, General Plan Advisory Committee meetings, Youth Commission interviews with Mayor Jensen, and the Council Policy Committee meeting.
- Council Member Rennie stated he participated in the Silicon Valley Clean Energy Authority (SVCEA) Risk Oversight Committee and the Emergency Operating Area Council (EOC) meetings.

Council Matters – Continued

- Council Member Sayoc stated she attended via teleconference the League of California Cities webinars on upcoming propositions and encouraged the Council Members to join, Cities Association teleconference meetings regarding COVID-19 testing and emergency operations, and local Black Lives Matter (BLM) and Me Too events.
- Mayor Jensen stated she attended the General Plan Advisory Committee (GPAC) meetings, Council Policy Committee meeting, Mayors Committee for Economic Recovery from COVID-19 meetings, and BLM and BIPOC protests to monitor and/or speak; and is working to implement community listening events.

CONSENT ITEMS

1. Approve Draft Minutes of the June 16, 2020 Closed Session Town Council Meeting.
2. Approve Draft Minutes of the June 16, 2020 Town Council Meeting.
3. Ratify the Town Council Selection Committee’s Recommended Youth Commissioner Appointments.
4. Appoint Council Member Marico Sayoc as the Town’s Voting Delegate and Council Member Rob Rennie as the Town’s Alternate for the League of California Cities Annual Conference Scheduled for October 7-9, 2020.
5. Accept Report on Town Manager Approved Actions During the 2020 Town Council Legislative Recess.
6. Authorize the Town Manager to Execute Long Term Lease Agreements with Tait Firehouse LLC and Forbes Mill LLC for the Property Located at 4 Tait Avenue and 75 Church Ave, Los Gatos.
7. Adopt a Resolution Establishing the FY 2020/21 GANN Appropriations Limit for the Town of Los Gatos. **RESOLUTION 2020-034**
8. Adopt Amendments to Chapter 29 (Zoning Regulations) of the Town Code Regarding Vehicle Sales, Town Wide. Town Code Amendment Application A-20-003. Applicant: Town of Los Gatos. **ORDINANCE 2310**
9. Authorize the Town Manager to Amend an Agreement for Employee Safety Compliance and Training Consultant Services with BSI EHS Services and Solutions (West) Inc., in an Amount not to Exceed \$175,350.
10. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Chrisp Company and Authorize Recording by the Town Clerk for PPW Job No. 18-813-0234 One-Way Downtown Street Pilot.
11. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Rosas Brothers Construction and Authorize Recording by the Town Clerk for PPW Job No. 19-813-9921 Annual Curb, Gutter, and Sidewalk Maintenance Project.

Consent items – continued

12. Authorize the Town Manager to Execute a Fourth Amendment to the Agreement for Services with St. Francis Electric to Increase Compensation for Unforeseen Services in FY 2019/20 in an Amount of \$12,818 and Extend Services for Four Months in FY 2020/21 in an Amount Not to Exceed \$50,000.
13. Authorize the Following Actions for the Massol Intersection Improvements Project (19-813-0236):
 - a. Authorize the Town Manager to Award and Execute a Construction Agreement with Tennyson Electric in an Amount of \$328,792, and Authorize \$65,758 as a Construction Contingency for a Total Amount Not to Exceed \$394,550;
 - b. Authorize Staff to Execute Future Contract Change Orders in an Amount Not to Exceed Twenty Percent of the Agreement Amount;
 - c. Approve a Budget Transfer of \$57,148 in FY 2020/21 from the School Bus Pilot Program.

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

VOTE: Motion passed unanimously with Council Member Sayoc recused from item #3.

VERBAL COMMUNICATIONS

Sasha Ryu

- Requested the Council consider a special meeting to discuss a high-level budget overview of the Los Gatos Monte Sereno Police Department (LGMSPD) and give residents the opportunity to address racism in the community. Thanked Mayor Jensen and Council Member Sayoc for attending the most recent BLM gathering.

Julie Anne Smith

- Requested the Town review the improvements occurring at 200 Prospect Avenue.

Lee Fagot

- Requested the Town agendaize and consider contracting professional mental health services as first responders to certain calls of service.

Bill Kraus

- Did not address the Council and the Mayor requested that he send an email to her to obtain his public comment.

Kristen Dryden

- Requested the Town review the improvements occurring at 200 Prospect Avenue.

Verbal Communications – continued

Casey Kamali

- Requested the Council consider reviewing a high-level budget overview of the LGMSPD and consider implementing a policy prohibiting the LGMSPD from hiring officers that have demonstrated use of excessive force.

Mairin Culwell

- Requested the Council review the 16% increase to the Los Gatos Monte Sereno Police Department (LGMSPD) budget during the overview.

Lani Harr

- Requested the Town review the permits for 200 Prospect Road.

Ali Miano

- Commended Council for allowing more affordable housing and asked to facilitate ways to make the Town more inclusive.

Jeffrey Suzuki, Los Gatos Anti-Racism Coalition

- Requested review of the Police Department budget and asked for more affordable housing in Town.

Emeric Bisbee

- Requested a review of the Police budget and practices, more affordable housing, and asked the Town consider citing persons who do not wear masks in public where social distancing is not feasible.

Barbara McInerney

- Requested the Town review the improvements occurring at 200 Prospect Road and expressed concerns regarding increased traffic.

Donya Behroozi

- Requested review of the Los Gatos Monte Sereno Police Department budget, decrease gentrification, increase affordable housing, welcome BIPOC businesses, and implement a zero tolerance for threats.

Dollas

- Did not speak and left the meeting.

PUBLIC HEARINGS

14. Open and Close a Public Hearing to Consider Objections to the 2020 Weed Abatement Program Assessment Report and Adopt a Resolution Confirming the Report and Authorizing Collection of the Assessment Charges. **RESOLUTION 2020-035**

Stefanie Hockemeyer, Executive Assistant, presented the staff report.

Mayor Jensen opened public comment.

Arvin Khosravi

- Opposed the assessment charges.

Mayor Jensen closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Rennie to consider objections to the 2020 Weed Abatement Program Assessment Report, adopt a resolution confirming the report, and authorizing collection of the assessment charges. **Seconded by Vice Mayor Spector.**

VOTE: Motion passed unanimously.

15. Introduction by Title Only of an Ordinance of the Town of Los Gatos Amending Chapter 18, by Adding Article IX, Sections 18.90.010- 18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems.

Lynne Lampros, Deputy Town Attorney, presented the staff report.

Mayor Jensen opened public comment.

No one spoke.

Mayor Jensen closed public comment.

Council discussed the item.

MOTION: Motion by Mayor Jensen to continue the item to a date certain of August 18, 2020, with additional information on drone racing, sight distance, Police and emergency incidents and drone usage, and consideration of reasonable person's standard of harassment and annoyance. **Seconded by Council Member Rennie.**

Public Hearing Item #15 – continued

VOTE: Motion passed unanimously.

OTHER BUSINESS

16. Adopt a Resolution Authorizing the Town Manager to Execute the North 40 In Lieu Traffic Fee Credit Agreement, North 40 Transportation Demand Management Agreement (Bellterra), and North 40 Transportation Demand Management Agreement (Market Hall) for Phase 1 of the North 40 Development.

Mike Weisz, Senior Civil Engineer, presented the staff report.

Other Business item #16 – continued

Mayor Jensen opened public comment.

Matthew Hudes

- Commented on concerns regarding Transportation Demand Management (TDM) measures that will be paid by fees and requested Council consider the way traffic impacts are assessed.

Mayor Jensen closed the public hearing.

Council discussed the item.

MOTION: Motion by Vice Mayor Spector to continue the item to August 18, 2020 with stronger language to protect the Town in the agreements and include the draft TDM plan for Council review. Seconded by Mayor Jensen.

VOTE: Motion passed unanimously.

17. Approve the Santa Clara County Fire District Emergency Route Recommendation for Alpine Avenue and Remove Parking on One Side of the Street.

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

Mayor Jensen opened public comment.

John Witty, spoke for 50 residents of Alpine Avenue

- Commented in opposition of the recommendation.

Other Business Item #17 – continued

Bret Knudsen

- Commented in opposition to the recommendation and requested the item be continued 30 days to allow the residents, Town, and Fire Department to discuss alternatives.

Jeff Gallinat

- Requested the item be delayed for 30 days to form a working group and expressed concerns regarding the potential for speeding.

Rob Stump

- Commented in support of the recommendation, due to Alpine Avenue being the primary wildfire evacuation route.

Peter Rehon

- Commented in opposition to the recommendation and the likely increase of speeding.

Ernie Boitano

- Commented in opposition and requested the item be continued to allow for additional time to consider solutions.

Dirk Franklin

- Commented in opposition to the recommendation and speeding being an issue on Alpine Avenue; requested Town consider a parking plan and enforce the parking; and requested Council continue the item for thirty (30) days to consider solutions.

L Roberts

- Commented in opposition to the recommendation and concerns of inadequate community outreach; and requested Council continue the item for thirty (30) days to consider solutions.

Anne Moelgaard

- Commented in opposition to the recommendation and requested continuance of the item.

Julie Gallinat

- Requested continuance of the item and a study of Alpine Avenue to ensure the best solution.

Cheryl Ryan

- Commented in opposition to the recommendation.

Other Business Item #17 – continued

Ann Atkinson

- Commented in opposition to the recommendation due to concerns about parking availability, speeding, and lack of parking enforcement; and requested current parking restrictions be enforced.

Ted Geredes

- Commented regarding pedestrian safety if cars are only parked on one side.

Mayor Jensen closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Rennie to continue to date certain of September 1, 2020 and asked staff to work with the neighbors on options. **Motion failed for lack of a second.**

MOTION: Motion by Council Member Sayoc to approve the Santa Clara County Fire Department recommendation contained in the staff report and staff to remove parking on one side of Alpine Avenue. **Seconded by Mayor Jensen.**

VOTE: Motion failed 2/2. Vice Mayor Spector and Council Member Rennie voting no.

MOTION: Motion by Council Member Sayoc to implement the recommendation of the Santa Clara County Fire Department and asked staff to work in parallel with the Alpine neighborhood on traffic mitigation issues. **Seconded by Council Member Rennie.**

VOTE: Motion passed 3/1. Vice Mayor Spector voting no.

ADJOURNMENT

The meeting adjourned at 10:00 p.m.

Submitted by:

Jenna De Long, Deputy Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 8/18/2020

ITEM NO: 3

DATE: August 5, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Fourth Quarter Investment Report (April through June 2020) for Fiscal Year 2019/20.

RECOMMENDATION:

Receive the Fourth Quarter Investment Report (April through June 2020) for Fiscal Year 2019/20.

DISCUSSION:

As of June 30, 2020, the Town's weighted portfolio yield was 1.86% which trended above the Local Agency Investment Fund (LAIF) yield of 1.22%. This favorable yield differential was primarily due to the LAIF portfolio's weighted average maturity (WAM) of 208 days and the Town's longer June 2020 WAM of 608 days. For the fourth quarter, the Town's weighted average rate of return decreased by 4 basis points (0.04%) from 1.90% to 1.86%.

In the months prior to the COVID-19 outbreak, staff in consultation with the Town's investment advisor had been extending maturities to capture higher yields currently associated with longer dated securities. In recent months, the economic fallout associated with the pandemic has led to Treasury yields falling dramatically. For example, on June 30, 2020 ten-year US Treasury notes were yielding 0.66% versus 2.04% on June 30, 2019.

During the fourth quarter, staff in coordination with the Town's investment advisor started investing most maturing investments into the State LAIF pool to capture the higher short-term yields. The State LAIF pool typically lags the market when current market yields are either increasing or decreasing. However, with LAIF's WAM of 208 days staff is expecting a steady decline in LAIF portfolio yields until the LAIF portfolio reflects the low short-term investment yields available in the market.

PREPARED BY: Stephen Conway
Finance Director

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

PAGE 2 OF 2

SUBJECT: Receive the Fourth Quarter Investment Report (April through June 2020) for
Fiscal Year 2019/20

DATE: August 5, 2020

For the quarter ending June 30, 2020, the US recorded an unprecedented drop in Gross Domestic Product (GDP) of minus 32.9%. This reduction was reported as the largest percentage reduction since records began in 1947.

The Federal Reserve (Fed) met in July and affirmed its support of the economy by extending its new and unprecedented loan programs and maintaining interest rates at near zero. Fed Chairman Jerome Powell stated the Fed is “not even thinking about thinking...about raising interest rates.” For now, with historical low yields across the yield curve, staff expects to maintain shorter maturity lengths until economic indicators translate into a gradual rise in interest rates.

CONCLUSION:

Staff recommends that the Town Council receive the Fourth Quarter Investment Report (April through June 2020) for Fiscal Year 2019/20.

Attachment:

1. Fourth Quarter Investment Report for FY 2019/20 (April through June 2020)

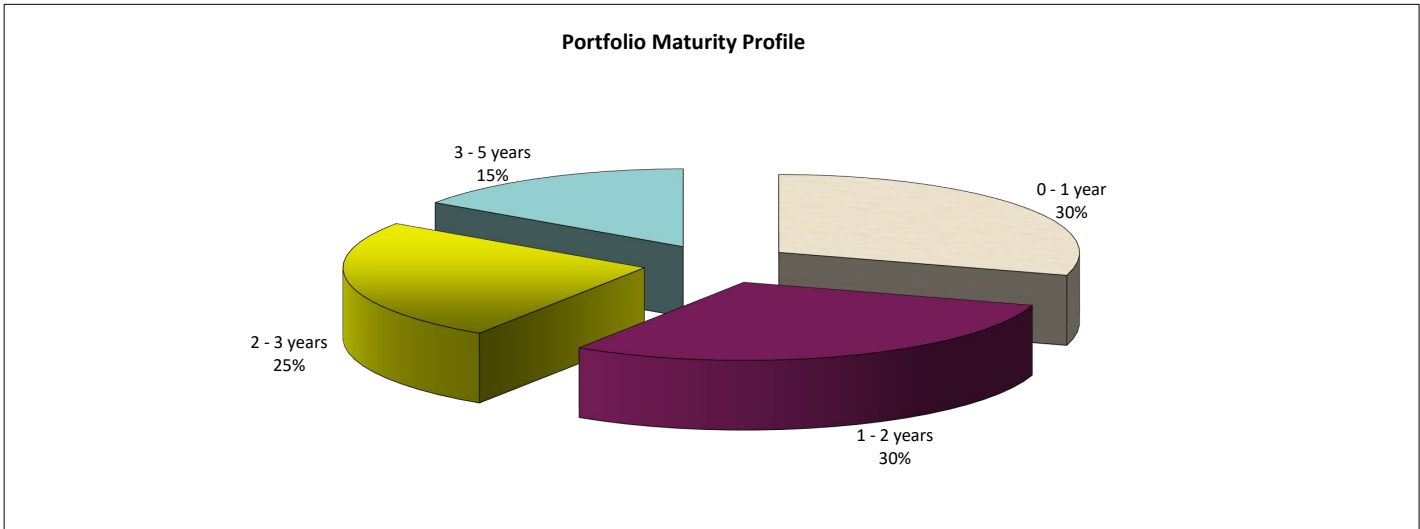
Town of Los Gatos
Summary Investment Information
June 30, 2020

Weighted Average YTM Portfolio Yield: 1.86% **Weighted Average Maturity (days) 608**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$72,729,892	\$69,817,884	\$72,013,634

Benchmarks/ References:

Town's Average Yield	1.86%	1.87%	2.05%
LAIF Yield for month	1.22%	1.36%	2.43%
3 mo. Treasury	0.15%	0.15%	2.09%
6 mo. Treasury	0.19%	0.19%	2.10%
2 yr. Treasury	0.15%	0.16%	1.76%
5 yr. Treasury (most recent)	0.29%	0.30%	1.77%
10 Yr. Treasury	0.66%	0.65%	2.01%

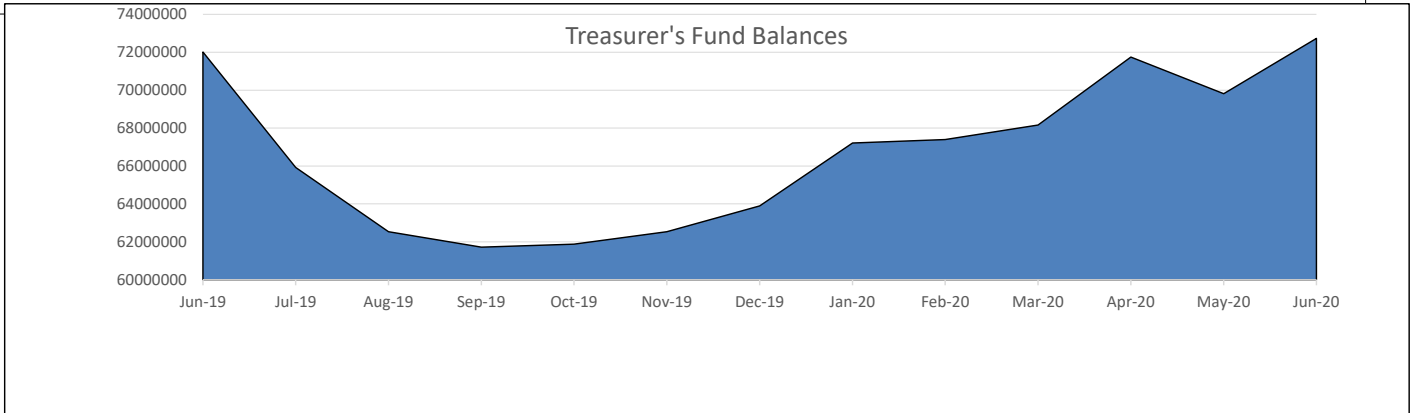
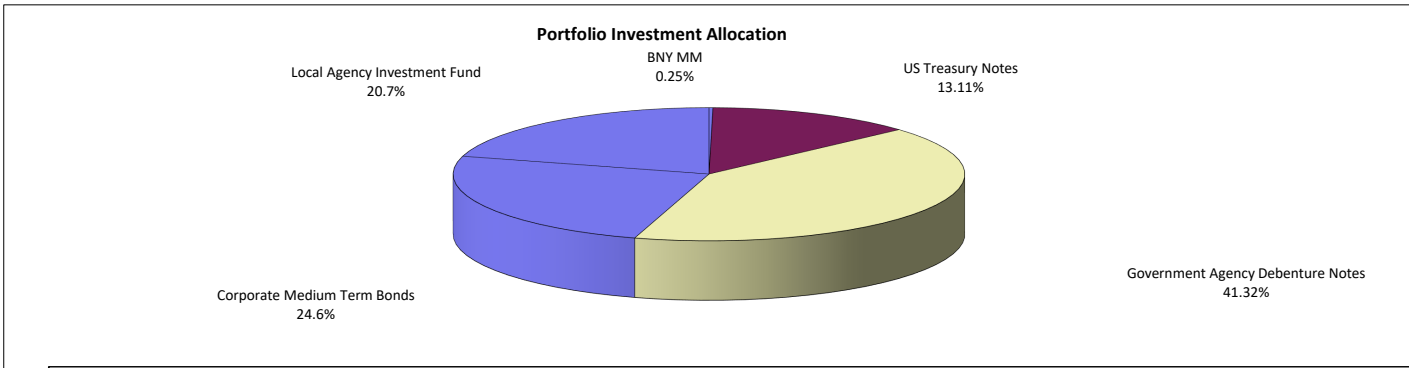


Compliance: The Town's investments are in compliance with the Town's investment policy dated September 3, 2019 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
June 30, 2020

	<u>Month</u>	<u>YTD</u>
Fund Balances - Beginning of Month/Period	\$69,817,884.22	\$72,013,633.77
Receipts	8,584,629.88	52,198,499.88
Disbursements	<u>(5,672,621.67)</u>	<u>(51,482,241.22)</u>
Fund Balances - End of Month/Period	<u>\$72,729,892.43</u>	<u>\$72,729,892.43</u>

<u>Portfolio Allocation:</u>	<u>% of Portfolio</u>	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$145,919.90	0.25%
US Treasury Notes	\$7,723,416.42	13.11%
Government Agency Debenture Notes	\$24,340,417.75	41.32%
Corporate Medium Term Bonds	\$14,514,839.51	24.64%
Local Agency Investment Fund	<u>12,185,729.51</u>	20.69%
Subtotal - Investments	58,910,323.09	100.00%
Reconciled Demand Deposit Balances	<u>13,819,569.34</u>	
 Total Treasurer's Fund	 <u>\$72,729,892.43</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
June 30, 2020

	Beginning Balance	JUNE 20 Deposits Realized Gain/Adj.	JUNE 20 Interest/ Earnings	JUNE 20 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 688,889.20		\$ 5.89	\$ 2,638.20	\$ 686,256.89	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	732.21	0.05			732.26	Note 1
Cert. of Participation 2002 Lease Payment Fund	84.03	2,638.20			2,722.23	Note 1
Cert. of Participation 2010 Series Reserve Fund	<u>1,297,787.28</u>		<u>122.76</u>	<u>0.00</u>	<u>1,297,910.04</u>	Note 2
Total Restricted Funds:	<u>\$ 1,987,492.72</u>	<u>\$2,638.25</u>	<u>\$128.65</u>	<u>\$2,638.20</u>	<u>\$1,987,621.42</u>	
CEPPT IRS Section 115 Trust	272,454.58	393,400.24	4,123.31		669,978.13	
PARS IRS Sectioh 115 Trust	<u>\$ 3,400.24</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 3,400.24</u>	<u>\$ (0.00)</u>	Note 3
Grand Total COP's and PARS Trust	<u>\$ 2,263,347.54</u>	<u>\$ 396,038.49</u>	<u>\$ 4,251.96</u>	<u>\$ 6,038.44</u>	<u>\$ 2,657,599.55</u>	

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

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

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

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

**Town of Los Gatos
Statement of Interest Earned
June 30, 2020**

Interest by Month

July 2019	\$103,310.93
August 2019	101,993.86
September 2019	99,668.91
October 2019	100,474.14
November 2019	96,912.19
December 2019	100,785.87
January 2020	97,263.82
February 2020	88,967.87
March 2020	83,480.41
April 2020	95,000.42
May 2020	87,454.01
June 2020	<u>80,477.20</u>
	<u><u>\$1,135,789.63</u></u>

Town of Los Gatos Investment Schedule June 2020

Institution	CUSIP #	Security	Deposit Date	Par Value	Original Cost	Market Value	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
Treasury	912828WR7	US Treasury Note	4/2/2019	1,000,000.00	995,625.00	1,019,335.94		6/30/2021	2.33%	\$ 26,474.45	\$ 5,656.35	\$ 23,260.96	365
Toyota Motor Credit	89236TDP7	Corporate Bond	05/20/19	1,100,000.00	1,102,596.00	1,133,957.18		1/11/2022	2.50%	\$ 18,351.67	\$ 3,102.53	\$ 27,695.80	560
Toyota Motor Credit	89236TCZ6	Corporate Bond	3/13/2020	500,000.00	504,440.00	505,727.58		4/8/2021	1.06%	\$ 659.72	\$ -	\$ 1,599.24	282
FFCB	3133EKMXX1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	1,068,417.95		2/23/2024	1.90%	\$ 18,025.83	\$ -	\$ 17,466.66	1333
FFCB	3133ELVV3	Gov. Agency Debenture	4/8/2020	1,600,000.00	1,600,000.00	1,603,034.08		4/8/2022	0.93%	\$ -	\$ -	\$ 3,456.44	647
FNMA	3133EHYM9	Gov. Agency Debenture	9/21/2017	1,300,000.00	1,295,866.00	1,304,284.11		9/14/2020	1.61%	\$ 48,370.83	\$ 37,021.86	\$ 20,942.81	76
FNMA	3136G0AW1	Gov. Agency Debenture	12/13/2017	2,000,000.00	2,017,900.00	2,012,739.00		10/16/2020	2.02%	\$ 110,058.33	\$ 62,898.65	\$ 40,817.21	108
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00	1,029,310.63		8/1/2022	2.05%	\$ 9,010.42	\$ -	\$ 18,296.32	762
Oracle	68389XBL8	Corporate Bond	7/8/2019	1,000,000.00	1,008,880.00	1,045,650.20		7/15/2023	2.18%	\$ 16,466.67	\$ -	\$ 21,374.17	1110
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	520,390.63		4/30/2023	1.77%	\$ 6,734.04	\$ -	\$ 8,819.78	1034
American Express	0258M0EB1	Corporate Bond	2/11/2020	1,000,000.00	1,007,210.00	1,013,740.91		4/4/2021	1.66%	\$ 5,250.00	\$ -	\$ 6,215.30	278
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	2,149,729.32		6/19/2023	1.79%	\$ 50,416.67	\$ -	\$ 34,741.74	1084
FFCB	3133EKVFO	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	1,040,172.28		1/17/2023	1.89%	\$ 9,114.58	\$ -	\$ 17,771.06	931
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40	1,242,515.63		9/30/2022	2.09%	\$ 14,516.39	\$ -	\$ 20,385.25	822
Freddie Mac	3137EADB2	Gov. Agency Debenture	1/17/2020	2,100,000.00	2,132,039.70	2,170,007.85	554.16	1/13/2022	2.12%	\$ (554.16)	\$ -	\$ 15,274.50	562
US Treasury	912828Y20	Gov. Agency Debenture	1/31/2020	1,000,000.00	1,016,601.56	1,025,351.56	1,153.84	7/15/2021	1.47%	\$ (1,153.84)	\$ -	\$ 6,138.62	380
American Honda	02665WCZ2	Corporate Bond	11/27/2019	1,000,000.00	1,012,410.01	1,051,135.62		6/27/2024	2.12%	\$ 12,733.34	\$ -	\$ 12,601.45	1458
JP Morgan Chase	46625HJE1	Gov. Agency Debenture	2/11/2020	900,000.00	934,587.00	950,359.76		9/23/2022	1.74%	\$ 3,412.50	\$ -	\$ 6,148.83	815
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	1,064,024.41		7/15/2024	1.64%	\$ 4,983.33	\$ -	\$ 12,127.88	1476
Disney	254687CK0	Corporate Bond	3/4/2020	1,000,000.00	1,029,080.00	1,025,252.90	2,375.00	2/15/2021	1.39%	\$ (2,375.00)	\$ -	\$ 4,687.49	230
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,000,000.00	1,105,833.30	1,161,310.98		7/2/2024	1.63%	\$ 4,331.25	\$ -	\$ 12,682.51	1463
US Bancorp	91159HHV5	Corporate Bond	12/24/2019	1,000,000.00	1,049,040.00	1,092,997.90		1/5/2024	2.12%	\$ 3,843.75	\$ -	\$ 11,183.73	1284
FFCB	3133EKCS3	Gov. Agency Debenture	3/21/2019	1,400,000.00	1,403,262.00	1,422,334.51		3/11/2021	2.43%	\$ 34,708.33	\$ 9,421.68	\$ 34,141.92	254
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	1,069,667.34		9/10/2024	1.66%	\$ 8,031.11	\$ -	\$ 11,615.55	1533
PNC Financial	693476BN2	Corporate Bond	8/15/2019	1,000,000.00	1,029,280.00	1,043,147.43		2/6/2022	2.12%	\$ 18,608.33	\$ -	\$ 18,589.78	586
FHLB	313379Q69	Gov. Agency Debenture	7/22/2019	1,000,000.00	1,006,960.00	1,035,928.43		6/10/2022	1.87%	\$ 18,770.83	\$ -	\$ 17,755.82	710
FNMA	3135G0V59	Gov. Agency Debenture	11/27/2019	1,540,000.00	1,562,924.44	1,596,313.12		4/12/2022	1.61%	\$ 12,993.75	\$ -	\$ 14,793.93	651
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,552,205.84		2/1/2024	2.39%	\$ 19,288.89	\$ -	\$ 26,688.85	1311
American Honda	02665WDH1	Corporate Bond	2/14/2020	600,000.00	603,756.00	617,574.13		5/10/2023	1.75%	\$ 4,745.00	\$ -	\$ 3,955.80	544
FHLB	3130AABG2	US Treasury Note	4/15/2019	1,000,000.00	988,250.00	1,024,268.02		11/29/2021	2.34%	\$ 21,041.67	\$ 4,835.29	\$ 23,285.73	1017
FNMA	3135G0Q89	Gov. Agency Debenture	2/10/2020	1,000,000.00	998,702.00	1,014,980.59		10/7/2021	1.38%	\$ 2,177.08	\$ -	\$ 5,614.15	464
FNMA	3135G0J20	Gov. Agency Debenture	2/10/2020	1,000,000.00	998,882.00	1,007,349.96		2/26/2021	1.48%	\$ 611.11	\$ -	\$ 5,724.31	241
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	1,044,023.44		11/30/2022	1.81%	\$ 17,158.47	\$ -	\$ 17,118.04	883
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	1,065,625.00		11/30/2023	1.84%	\$ 17,708.33	\$ -	\$ 16,990.40	1248
BankAmerica Corp	06051GGS2	Corporate Bond	4/30/2020	1,300,000.00	1,302,314.00	1,305,289.64	2,437.92	10/1/2020	1.21%	\$ (2,437.92)	\$ -	\$ 4,141.23	93
Treasury	912828X70	US Treasury Note	12/30/2019	1,000,000.00	1,010,589.29	1,068,125.00		4/30/2024	1.75%	\$ 7,703.30	\$ -	\$ 9,805.98	1400
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	1,069,375.00		5/31/2024	1.64%	\$ 11,639.34	\$ -	\$ 11,040.77	1431
Wells Fargo	94988J6A0	Corporate Bond	6/24/2020	1,350,000.00	1,370,749.50	1,371,780.29	8,197.87	9/9/2021	0.80%	\$ (8,197.87)	\$ -	\$ 16,739.99	436
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,631,288.09		12/21/2023	2.12%	\$ 35,098.96	\$ -	\$ 19,226.80	1269
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,628,619.35		2/8/2023	1.82%	\$ 30,418.75	\$ 468.29	\$ 28,565.41	953
Subtotal				\$ 45,940,000.00	\$ 46,578,673.68	\$ 47,797,341.60	\$ 14,718.79			\$ 608,738.23	\$ 123,404.64	\$ 612,906.19	
BNY MM					145,919.90	145,919.90			0.00%				1
LAIF		N/A			12,185,729.51	12,185,729.51			1.22%			123,712.57	1
					\$58,910,323.09	\$60,128,991.01				\$ 608,738.23	\$ 123,404.64	\$ 736,618.76	

Matured Assets													
Treasury	912828WS5	US Treasury Note	5/2/2017	500,000.00	503,339.84			7/1/2019	1.31%	\$ 17,574.24	\$ 14,227.74	\$ 18.03	
Oracle	68389XAG0	Corporate Bond	5/3/2018	1,000,000.00	1,028,370.00			7/8/2019	2.54%	\$ 59,027.78	\$ 30,101.79	\$ 569.30	
FHLB	3130AEJU73	Gov. Agency Debenture	8/27/2018	1,000,000.00	999,180.00			7/22/2019	2.46%	\$ 23,750.00	\$ 20,741.19	\$ 1,486.34	
Treasury	912828F39	US Treasury Note	4/17/2018	1,200,000.00	1,190,343.75			7/22/2019	2.32%	\$ 30,524.59	\$ 34,452.97	\$ 1,726.57	
FHLB	313383VN8	Gov. Agency Debenture	5/25/2018	2,000,000.00	1,989,800.00			7/22/2019	2.40%	\$ 52,000.00	\$ 53,614.71	\$ 2,941.46	
FHLMC	3137EAEB1	Gov. Agency Debenture	3/14/2017	2,000,000.00	1,970,180.00			7/19/2019	1.52%	\$ 41,076.39	\$ 69,336.96	\$ 1,572.08	
Treasury	912828K25	US Treasury Note	7/2/2018	1,000,000.00	989,218.75			7/31/2019	2.39%	\$ 14,851.52	\$ 23,607.64	\$ 2,016.08	
FNMA	3135G0N33	Gov. Agency Debenture	04/17/13	1,000,000.00	981,984.01			8/2/2019	2.17%	\$ 12,322.92	\$ 28,416.36	\$ 1,945.52	
Microsoft	594918BN3	Corporate Bond	8/8/2016	1,000,000.00	999,470.00			8/8/2019	1.12%	\$ 33,000.00	\$ 32,335.78	\$ 1,194.22	
Berkshire Hathaway	084664CK5	Corporate Bond	1/22/2018	1,100,000.00	1,086,305.00			8/15/2019	2.11%	\$ 22,363.61	\$ 33,119.10	\$ 2,907.40	
FNMA	3135G0P49	Gov. Agency Debenture	11/15/2016	1,500,000.00	1,487,505.00			8/28/2019	1.31%	\$ 41,791.66	\$ 51,098.17	\$ 3,150.25	
JP Morgan Chase	48125LRG9	Corporate Bond	3/28/2017	1,400,000.00	1,393,196.00			9/23/2019	1.86%	\$ 57,429.17	\$ 58,316.80	\$ 6,015.69	
FFCB	3133EGYP4	Gov. Agency Debenture	10/28/2016	1,000,000.00	997,507.00			10/17/2019	1.14%	\$ 31,179.17	\$ 30,290.27	\$ 3,386.30	
FFCB	3133EJPU7	Gov. Agency Debenture	6/1/2018	1,000,000.00	1,001,454.00			10/21/2019	2.38%	\$ 36,511.11	\$ 25,640.48	\$ 7,353.74	
Treasury	912828F62	US Treasury Note	6/30/2017	1,000,000.00	1,002,148.44			10/31/2019	1.41%	\$ 35,013.59	\$ 28,161.36	\$ 4,745.00	
American Honda	02665WBZ3	Corporate Bond	4/11/2018	1,000,000.00	990,620.00			11/13/2019	2.61%	\$ 31,944.44	\$ 31,567.90	\$ 9,647.72	
FNMA	3135G0ZY2	Gov. Agency Debenture	12/20/2017	1,550,000.00	1,545,642.95			11/26/2019	1.90%	\$ 52,441.67	\$ 44,831.00	\$ 11,992.49	
Pfizer	717081EB5	Corporate Bond	6/30/2017	1,000,000.00	1,002,280.00			12/15/2019	1.60%	\$ 41,791.67	\$ 32,146.55	\$ 7,398.11	
US Bancorp	90331HN85	Corporate Bond	10/19/2018	1,000,000.00	986,540.00			12/24/2019	3.09%	\$ 25,277.78	\$ 21,850.15	\$ 15,226.29	
FNMA	3136G3TW5	Gov. Agency Debenture	7/25/2018	1,000,000.00	980,540.00			12/30/2019	2.54%	\$ 16,451.39	\$ 23,363.19	\$ 12,574.89	
FreddieMac	3137EAEE5	Gov. Agency Debenture	12/20/2017	1,000,000.00	991,200.00			1/17/2020	1.93%	\$ 31,125.00	\$ 29,356.90	\$ 10,593.78	
FreddieMac	3137EAEE5(A)	Gov. Agency Debenture	12/18/2018	1,000,000.00	987,160.00			1/17/2020	2.71%	\$ 16,208.33	\$ 14,278.83	\$ 14,794.05	
Treasury	912828H52	US Treasury Note	6/30/2017	1,000,000.00	994,726.56			1/31/2020	1.46%	\$ 32,320.44	\$ 29,073.66	\$ 8,562.	

Town of Los Gatos Investment Schedule June 2020

FFCB	3133EJB81	Gov. Agency Debenture	10/9/2018	1,700,000.00	1,697,331.00	3/25/2020	2.84%	\$	67,810.17	\$	34,889.76	\$	35,550.55
FFCB	3133EHEZ2	Gov. Agency Debenture	9/20/2017	1,600,000.00	1,602,304.00	4/6/2020	1.54%	\$	65,137.78	\$	43,841.67	\$	19,011.59
Pepsico	713448CS5	Corporate Bond	5/15/2017	1,250,000.00	1,249,600.00	4/30/2020	1.86%	\$	68,411.46	\$	49,451.53	\$	19,436.49
FHLB	3130AECJ7	Gov. Agency Debenture	9/14/2018	1,000,000.00	998,101.00	5/28/2020	2.46%	\$	44,260.42	\$	21,666.58	\$	24,965.30
US Treasury	912828VF4	US Treasury Note	9/21/2017	1,000,000.00	997,109.38	5/31/2020	1.48%	\$	37,004.78	\$	26,275.86	\$	13,645.58
FHLB	3133834H1	Gov. Agency Debenture	9/20/2017	1,785,000.00	1,776,432.00	6/12/2020	1.56%	\$	66,949.90	\$	49,147.92	\$	26,394.25
Chevron	166764AG5	Corporate Bond	11/9/2017	1,350,000.00	1,366,834.50	5/24/2020	1.94%	\$	86,006.81	\$	42,820.12	\$	23,558.23
Freddie Mac	3134GBN40	Gov. Agency Debenture	9/29/2017	1,000,000.00	998,900.00	6/29/2020	1.67%	\$	44,687.50	\$	29,148.73	\$	16,649.90
Freddie Mac	3134GVHB7	Corporate Bond	3/30/2020	1,800,000.00	1,800,000.00	6/30/2020	1.05%	\$	9,450.00	\$	-	\$	4,763.84

Total Investments "Matured"				<u>44,584,352.60</u>					<u>1,488,114.46</u>		<u>1,217,597.45</u>		<u>399,170.86</u>
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Total Interest FY 19_20 Matured and Current													<u>\$ 1,135,789.63</u>
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Maturity Profile		Amount
0-1 year		\$22,886,228.41
1-2 years		\$12,808,103.20
2-3 years		\$9,879,938.72
3-5 years		<u>\$ 13,336,052.76</u>
		<u>\$58,910,323.09</u>

Market to Cost Position Report

	Amortized
<u>Institution</u>	<u>Cost</u>
BNY Assets	\$46,578,673.68
BNY MM	145,919.90
LAI	12,185,729.51
<u>Totals:</u>	<u>\$58,910,323.09</u>

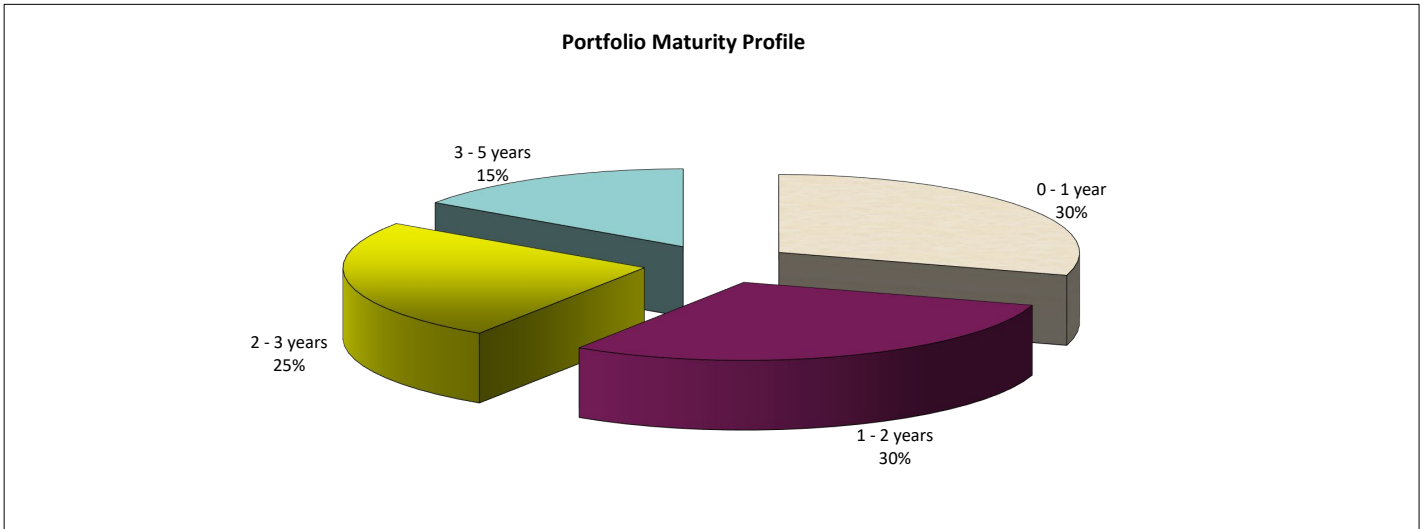
**Town of Los Gatos
Summary Investment Information
May 31, 2020**

Weighted Average YTM Portfolio Yield: 1.87% **Weighted Average Maturity (days) 613**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$69,817,884	\$71,749,285	\$70,576,201

Benchmarks/ References:

Town's Average Yield	1.87%	1.87%	2.08%
LAIF Yield for month	1.36%	1.65%	2.45%
3 mo. Treasury	0.15%	0.12%	2.34%
6 mo. Treasury	0.19%	0.11%	2.35%
2 yr. Treasury	0.16%	0.20%	1.92%
5 yr. Treasury (most recent)	0.30%	0.36%	1.91%
10 Yr. Treasury	0.65%	0.64%	2.13%

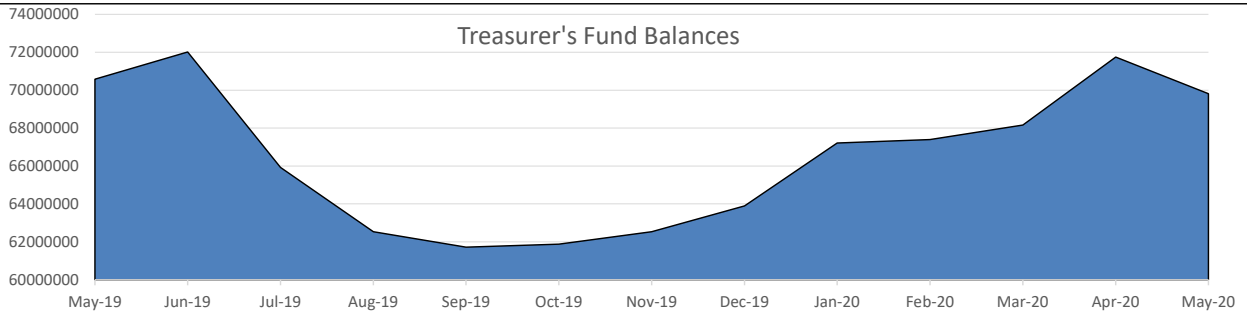
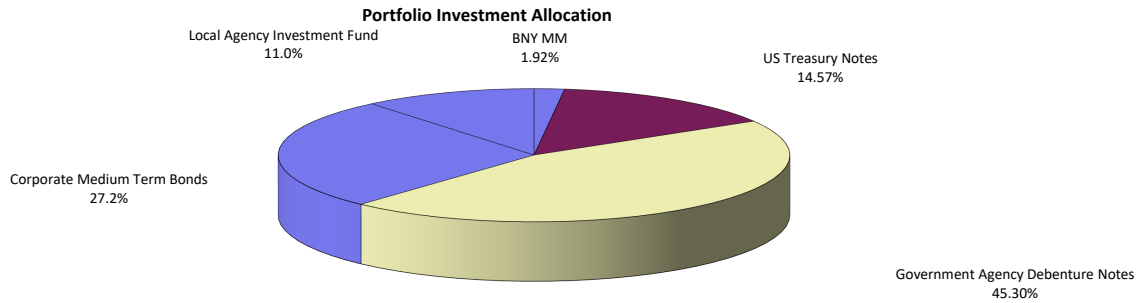


Compliance: The Town's investments are in compliance with the Town's investment policy dated September 3, 2019 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
May 31, 2020

	<u>Month</u>	<u>YTD</u>
Fund Balances - Beginning of Month/Period	\$71,749,285.32	\$72,013,633.77
Receipts	3,054,965.17	43,613,870.00
Disbursements	<u>(4,986,366.27)</u>	<u>(45,809,619.55)</u>
Fund Balances - End of Month/Period	<u>\$69,817,884.22</u>	<u>\$69,817,884.22</u>

<u>Portfolio Allocation:</u>	<u>% of Portfolio</u>	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$1,148,526.94	1.92%
US Treasury Notes	\$8,720,525.80	14.57%
Government Agency Debenture Notes	\$27,115,749.75	45.30%
Corporate Medium Term Bonds	\$16,310,924.51	27.25%
Local Agency Investment Fund	<u>6,565,729.51</u>	10.97%
Subtotal - Investments	59,861,456.51	100.00%
Reconciled Demand Deposit Balances	<u>9,956,427.71</u>	
 Total Treasurer's Fund	 <u>\$69,817,884.22</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
May 31, 2020

	Beginning Balance	MAY 20 Deposits Realized Gain/Adj.	MAY 20 Interest/ Earnings	MAY 20 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 688,883.50		\$ 5.70	\$ -	\$ 688,889.20	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	732.04		0.17		732.21	Note 1
Cert. of Participation 2002 Lease Payment Fund	84.03		0.00		84.03	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,297,490.26		297.02	0.00	1,297,787.28	Note 2
Total Restricted Funds:	<u>\$ 1,987,189.83</u>	<u>\$0.00</u>	<u>\$302.89</u>	<u>\$0.00</u>	<u>\$1,987,492.72</u>	
CEPPT IRS Section 115 Trust		268,000.00	4,454.58		272,454.58	
PARS IRS Sectioh 115 Trust	<u>\$ 271,208.87</u>	<u>\$ -</u>	<u>\$ 191.37</u>	<u>\$ 268,000.00</u>	<u>\$ 3,400.24</u>	Note 3
Grand Total COP's and PARS Trust	<u>\$ 2,258,398.70</u>	<u>\$ 268,000.00</u>	<u>\$ 4,948.84</u>	<u>\$ 268,000.00</u>	<u>\$ 2,263,347.54</u>	

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

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

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

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

**Town of Los Gatos
Statement of Interest Earned
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May 2020	87,454.01
June 2020	
	<hr/>
	<u>\$1,055,312.43</u>

Town of Los Gatos Investment Schedule May 2020

Institution	CUSIP #	Security	Deposit Date	Par Value	Original Cost	Market Value	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
Treasury	912828WR7	US Treasury Note	4/2/2019	1,000,000.00	995,625.00	1,020,664.06		6/30/2021	2.33%	\$ 15,849.45	\$ 5,656.35	\$ 21,354.33	395
Toyota Motor Credit	89236TDP7	Corporate Bond	05/20/19	1,100,000.00	1,102,596.00	1,128,842.44		1/11/2022	2.50%	\$ 18,351.67	\$ 3,102.53	\$ 25,425.65	590
FHLB	3133834H1	Gov. Agency Debenture	9/20/2017	1,785,000.00	1,776,432.00	1,785,710.47		6/12/2020	1.56%	\$ 54,678.03	\$ 49,147.92	\$ 25,484.11	12
Toyota Motor Credit	89236TCZ6	Corporate Bond	3/13/2020	500,000.00	504,440.00	504,715.70		4/8/2021	1.06%	\$ 659.72	\$ -	\$ 1,159.08	312
FFCB	3133EKM1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	1,068,067.41		2/23/2024	1.90%	\$ 18,025.83	\$ -	\$ 15,893.09	1363
FFCB	3133ELV3	Gov. Agency Debenture	4/8/2020	1,600,000.00	1,600,000.00	1,603,699.50		4/8/2022	0.93%	\$ -	\$ -	\$ 2,207.12	677
FNMA	3133EHYM9	Gov. Agency Debenture	9/21/2017	1,300,000.00	1,295,866.00	1,305,584.01		9/14/2020	1.61%	\$ 48,370.83	\$ 37,021.86	\$ 19,226.19	106
US Treasury	912828VF4	US Treasury Note	9/21/2017	1,000,000.00	997,109.38	1,000,000.00		5/31/2020	1.48%	\$ 37,004.78	\$ 26,275.86	\$ 13,645.58	0
FNMA	3136G0AW1	Gov. Agency Debenture	12/6/2017	2,000,000.00	2,017,900.00	2,013,453.56		10/16/2020	2.02%	\$ 110,058.33	\$ 62,898.65	\$ 37,471.53	138
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00	1,029,051.82		8/1/2022	2.05%	\$ 9,010.42	\$ -	\$ 16,617.76	792
Oracle	68389XBL8	Corporate Bond	7/8/2019	1,000,000.00	1,008,880.00	1,054,487.36		7/15/2023	2.18%	\$ 16,466.67	\$ -	\$ 19,583.04	1140
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	520,820.31		4/30/2023	1.77%	\$ 6,734.04	\$ -	\$ 8,092.88	1064
American Express	0258M0EB1	Corporate Bond	2/11/2020	1,000,000.00	1,007,210.00	1,014,738.86		4/4/2021	1.66%	\$ 5,250.00	\$ -	\$ 4,883.45	308
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	2,152,627.00		6/19/2023	1.79%	\$ 22,916.67	\$ -	\$ 31,738.13	1114
FFCB	3133EKVF0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	1,042,852.44		1/17/2023	1.89%	\$ 9,114.58	\$ -	\$ 16,221.26	961
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40	1,243,921.87		9/30/2022	2.09%	\$ 14,516.39	\$ -	\$ 18,607.47	852
Freddie Mac	3137EADB2	Gov. Agency Debenture	1/17/2020	2,100,000.00	2,132,039.70	2,173,844.63	554.16	1/13/2022	2.12%	\$ (554.16)	\$ -	\$ 12,497.32	592
US Treasury	912828Y20	Gov. Agency Debenture	1/31/2020	1,000,000.00	1,016,601.56	1,027,109.38	1,153.84	7/15/2021	1.47%	\$ (1,153.84)	\$ -	\$ 4,919.03	410
American Honda	02665WCZ2	Corporate Bond	11/27/2019	1,000,000.00	1,012,410.01	1,030,808.81		6/27/2024	2.12%	\$ 12,733.34	\$ -	\$ 10,851.25	1488
JP Morgan Chase	46625HJE1	Gov. Agency Debenture	2/11/2020	900,000.00	934,587.00	947,142.32		9/23/2022	1.74%	\$ 3,412.50	\$ -	\$ 4,831.23	845
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	1,062,404.48		7/15/2024	1.64%	\$ 4,983.33	\$ -	\$ 10,496.32	1506
Disney	254687CK0	Corporate Bond	3/4/2020	1,000,000.00	1,029,080.00	1,027,530.71	2,375.00	2/15/2021	1.39%	\$ (2,375.00)	\$ -	\$ 3,495.75	260
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,161,180.94		7/2/2024	1.63%	\$ 4,331.25	\$ -	\$ 11,202.06	1493
US Bancorp	91159HHV5	Corporate Bond	12/24/2019	1,000,000.00	1,049,040.00	1,089,654.12		1/5/2024	2.12%	\$ 3,843.75	\$ -	\$ 9,408.53	1314
Chevron	166764AG5	Corporate Bond	11/9/2017	1,350,000.00	1,366,834.50	1,351,728.00		5/24/2020	1.94%	\$ 69,624.56	\$ 42,820.12	\$ 23,558.23	0
FFCB	3133EKC53	Gov. Agency Debenture	3/21/2019	1,400,000.00	1,403,262.00	1,424,553.94		3/11/2021	2.43%	\$ 34,708.33	\$ 9,421.68	\$ 31,343.41	284
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	1,067,852.10		9/10/2024	1.66%	\$ 8,031.11	\$ -	\$ 10,238.21	1563
PNC Financial	693476BN2	Corporate Bond	8/15/2019	1,000,000.00	1,029,280.00	1,046,235.02		2/6/2022	2.12%	\$ 18,608.33	\$ -	\$ 16,846.99	616
FHLB	313379Q69	Gov. Agency Debenture	7/22/2019	1,000,000.00	1,006,960.00	1,037,886.69		6/10/2022	1.87%	\$ 8,145.83	\$ -	\$ 16,207.35	740
FNMA	3135G0V59	Gov. Agency Debenture	11/27/2019	1,540,000.00	1,562,924.44	1,598,952.28		4/12/2022	1.61%	\$ 12,993.75	\$ -	\$ 12,739.21	681
Freddie Mac	3134GBN40	Gov. Agency Debenture	9/29/2017	1,000,000.00	998,900.00	1,001,107.11		6/29/2020	1.67%	\$ 36,562.50	\$ 29,148.73	\$ 15,327.03	29
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,545,247.47		2/1/2024	2.39%	\$ 19,288.89	\$ -	\$ 23,839.51	1341
American Honda	02665WDH1	Corporate Bond	2/14/2020	600,000.00	603,756.00	609,711.38		5/10/2023	1.75%	\$ 4,745.00	\$ -	\$ 3,089.56	1074
FHLB	3130AABG2	US Treasury Note	4/15/2019	1,000,000.00	988,250.00	1,025,721.03		11/29/2021	2.34%	\$ 21,041.67	\$ 4,835.29	\$ 21,377.06	547
FNMA	3135G0Q89	Gov. Agency Debenture	2/10/2020	1,000,000.00	998,702.00	1,015,886.86		10/7/2021	1.38%	\$ 2,177.08	\$ -	\$ 4,419.65	494
FNMA	3135G0J20	Gov. Agency Debenture	2/10/2020	1,000,000.00	998,882.00	1,008,636.50		2/26/2021	1.48%	\$ 611.11	\$ -	\$ 4,506.37	271
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	1,045,273.44		11/30/2022	1.81%	\$ 17,158.47	\$ -	\$ 15,625.18	913
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	1,066,406.25		11/30/2023	1.84%	\$ 17,708.33	\$ -	\$ 15,468.87	1278
BankAmerica Corp	06051GGS2	Corporate Bond	4/30/2020	1,300,000.00	1,302,314.00	1,303,817.46	2,437.92	10/1/2020	1.21%	\$ (2,437.92)	\$ -	\$ 2,104.56	123
Treasury	912828X70	US Treasury Note	12/30/2019	1,000,000.00	1,010,589.29	1,068,437.50		4/30/2024	1.75%	\$ 7,703.30	\$ -	\$ 8,198.44	1430
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	1,069,609.38		5/31/2024	1.64%	\$ 11,639.34	\$ -	\$ 9,677.71	1461
Freddie Mac	3134GVHB7	Corporate Bond	3/30/2020	1,800,000.00	1,800,000.00	1,800,120.51		6/30/2020	1.05%	\$ -	\$ -	\$ 3,210.41	30
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,633,030.14		12/21/2023	2.12%	\$ 13,536.46	\$ -	\$ 17,347.96	1299
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,632,264.99		2/8/2023	1.82%	\$ 30,418.75	\$ 468.29	\$ 26,223.98	983
Subtotal				\$ 51,525,000.00	\$ 52,147,200.06	\$ 53,361,390.25	\$ 6,520.92			\$ 744,493.47	\$ 270,797.28	\$ 626,661.85	
BNY MM					1,148,526.94	1,148,526.94			0.00%				1
LAIF			N/A		6,565,729.51	6,565,729.51			2.19%			114,491.52	1
					\$59,861,456.51	\$61,075,646.70				\$ 744,493.47	\$ 270,797.28	\$ 741,153.37	
Matured Assets													
Treasury	912828WS5	US Treasury Note	5/2/2017	500,000.00	503,339.84			7/1/2019	1.31%	\$ 17,574.24	\$ 14,227.74	\$ 18.03	
Oracle	68389XAG0	Corporate Bond	5/3/2018	1,000,000.00	1,028,370.00			7/8/2019	2.54%	\$ 59,027.78	\$ 30,101.79	\$ 569.30	
FHLB	3130AELU73	Gov. Agency Debenture	8/27/2018	1,000,000.00	999,180.00			7/22/2019	2.46%	\$ 23,750.00	\$ 20,741.19	\$ 1,486.34	
Treasury	912828F39	US Treasury Note	4/17/2018	1,200,000.00	1,190,343.75			7/22/2019	2.32%	\$ 30,524.59	\$ 34,452.97	\$ 1,726.57	
FHLB	313383VN8	Gov. Agency Debenture	5/25/2018	2,000,000.00	1,989,800.00			7/22/2019	2.40%	\$ 52,000.00	\$ 53,614.71	\$ 2,941.46	
FHLB	3137EAEB1	Gov. Agency Debenture	3/14/2017	2,000,000.00	1,970,180.00			7/19/2019	1.52%	\$ 41,076.39	\$ 69,336.96	\$ 1,572.08	
Treasury	912828K5	US Treasury Note	7/2/2018	1,000,000.00	989,218.75			7/31/2019	2.39%	\$ 14,851.52	\$ 23,607.64	\$ 2,016.08	
FNMA	3135G0N33	Gov. Agency Debenture	04/17/13	1,000,000.00	981,984.01			8/2/2019	2.17%	\$ 12,322.92	\$ 28,416.36	\$ 1,945.52	
Microsoft	594918BN3	Corporate Bond	8/8/2016	1,000,000.00	999,470.00			8/8/2019	1.12%	\$ 33,000.00	\$ 32,335.78	\$ 1,194.22	
Berkshire Hathaway	084664CK5	Corporate Bond	1/22/2018	1,100,000.00	1,086,305.00			8/15/2019	2.11%	\$ 22,363.61	\$ 33,119.10	\$ 2,907.40	
FNMA	3135G0P49	Gov. Agency Debenture	11/15/2016	1,500,000.00	1,487,505.00			8/28/2019	1.31%	\$ 41,791.66	\$ 51,098.17	\$ 3,150.25	
JP Morgan Chase	48125LRG9	Corporate Bond	3/28/2017	1,400,000.00	1,393,196.00			9/23/2019	1.86%	\$ 57,429.17	\$ 58,316.80	\$ 6,015.69	
FFCB	3133EGYP4	Gov. Agency Debenture	10/28/2016	1,000,000.00	997,507.00			10/17/2019	1.14%	\$ 31,179.17	\$ 30,290.27	\$ 3,386.30	
FFCB	3133EJP07	Gov. Agency Debenture	6/1/2018	1,000,000.00	1,001,454.00			10/21/2019	2.38%	\$ 36,511.11	\$ 25,640.48	\$ 7,353.74	
Treasury	912828F62	US Treasury Note	6/30/2017	1,000,000.00	1,002,148.44			10/31/2019	1.41%	\$ 35,013.59	\$ 28,161.36	\$ 4,745.00	
American Honda	02665WBZ3	Corporate Bond	4/11/2018	1,000,000.00	990,620.00			11/13/2019	2.61%	\$ 31,944.44	\$ 31,567.90	\$ 9,647.72	
FNMA	3135G0ZY2	Gov. Agency Debenture	12/20/2017	1,550,000.00	1,545,642.95			11/26/2019	1.90%	\$ 52,441.67	\$ 44,831.00	\$ 11,992.49	
Pfizer	717081EB5	Corporate Bond	6/30/2017	1,000,000.00	1,002,280.00			12/15/2019	1.60%	\$ 41,791.67	\$ 32,146.55	\$ 7,398.11	
US Bancorp	90331HNB5	Corporate Bond	10/19/2018	1,000,000.00	986,540.00			12/24/2019	3.09%	\$ 25,277.78	\$ 21,850.15	\$ 15,226.29	
FNMA	3136G3TW5												

Town of Los Gatos Investment Schedule May 2020

FHLB	3130ACRP1	Gov. Agency Debenture	7/25/2018	1,500,000.00	1,479,404.42	2/7/2020	2.59%	\$	38,640.00	\$	35,933.93	\$	23,462.74
FNMA	3136FTB73	Gov. Agency Debenture	4/25/2017	1,000,000.00	1,013,390.00	2/7/2020	1.50%	\$	55,666.67	\$	33,146.46	\$	9,244.36
Disney	25468PDP8	Corporate Bond	12/1/2017	1,000,000.00	998,190.00	3/4/2020	2.03%	\$	44,034.50	\$	32,037.85	\$	13,794.07
Toyota Motor Credit	89236TCF0	Corporate Bond	10/6/2017	500,000.00	503,545.00	3/12/2020	1.85%	\$	26,158.33	\$	16,090.68	\$	6,517.74
FFCB	3133EJB81	Gov. Agency Debenture	10/9/2018	1,700,000.00	1,697,331.00	3/25/2020	2.84%	\$	67,810.17	\$	34,889.76	\$	35,550.55
FFCB	3133EHEZ2	Gov. Agency Debenture	9/20/2017	1,600,000.00	1,602,304.00	4/6/2020	1.54%	\$	65,137.78	\$	43,841.67	\$	19,011.59
Pepsico	713448CS5	Corporate Bond	5/15/2017	1,250,000.00	1,249,600.00	4/30/2020	1.86%	\$	68,411.46	\$	49,451.53	\$	19,436.49
FHLB	3130AECJ7	Gov. Agency Debenture	9/14/2018	1,000,000.00	998,101.00	5/28/2020	2.46%	\$	44,260.42	\$	21,666.58	\$	24,965.30

Total Investments "Matured"				<u>37,645,076.72</u>					<u>1,244,015.47</u>		<u>1,070,204.81</u>		<u>314,159.06</u>
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Total Interest FY 19_20 Matured and Current													<u>\$ 1,055,312.43</u>
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Maturity Profile		Amount
	0-1 year	\$21,848,542.45
	1-2 years	\$11,426,018.70
	2-3 years	\$8,814,540.72
	3-5 years	\$ 15,408,410.76
		<u>\$57,497,512.63</u>

Market to Cost Position Report

	Amortized
<u>Institution</u>	<u>Cost</u>
BNY Assets	\$52,147,200.06
BNY MM	1,148,526.94
LAIF	6,565,729.51
<u>Totals:</u>	<u>\$59,861,456.51</u>

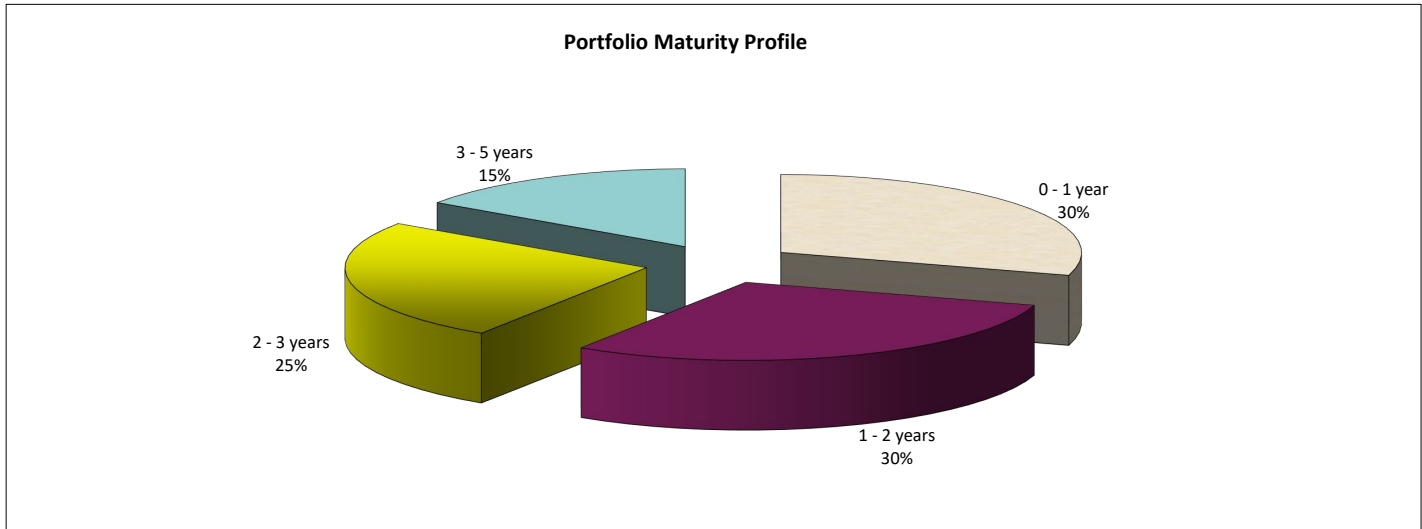
**Town of Los Gatos
Summary Investment Information
April 30, 2020**

Weighted Average YTM Portfolio Yield: 1.87% **Weighted Average Maturity (days) 651**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$71,749,285	\$68,160,286	\$69,831,987

Benchmarks/ References:

Town's Average Yield	1.87%	1.90%	2.04%
LAIF Yield for month	1.65%	1.79%	2.45%
3 mo. Treasury	0.12%	0.12%	2.42%
6 mo. Treasury	0.11%	0.16%	2.45%
2 yr. Treasury	0.20%	0.25%	2.27%
5 yr. Treasury (most recent)	0.36%	0.38%	2.28%
10 Yr. Treasury	0.64%	0.67%	2.50%

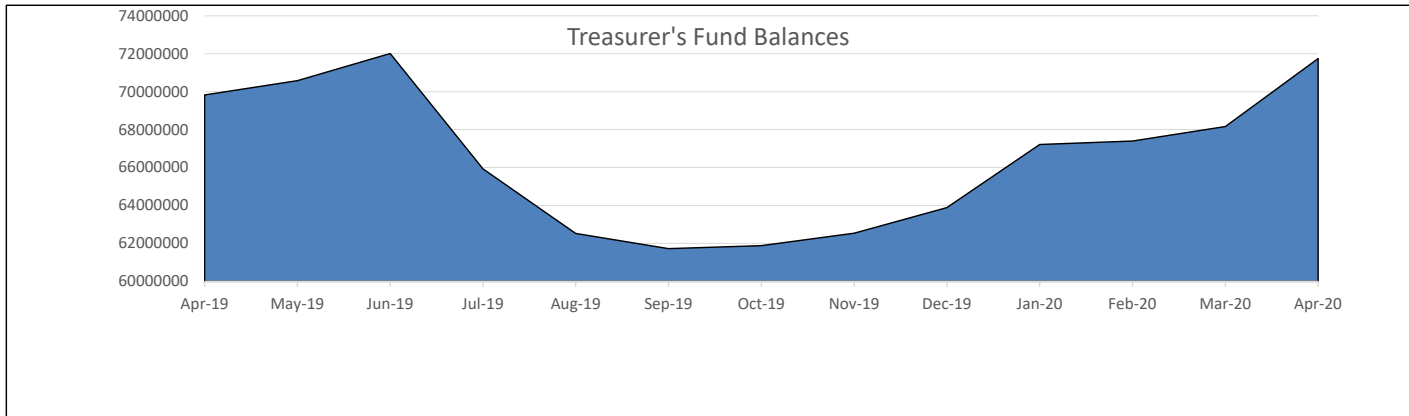
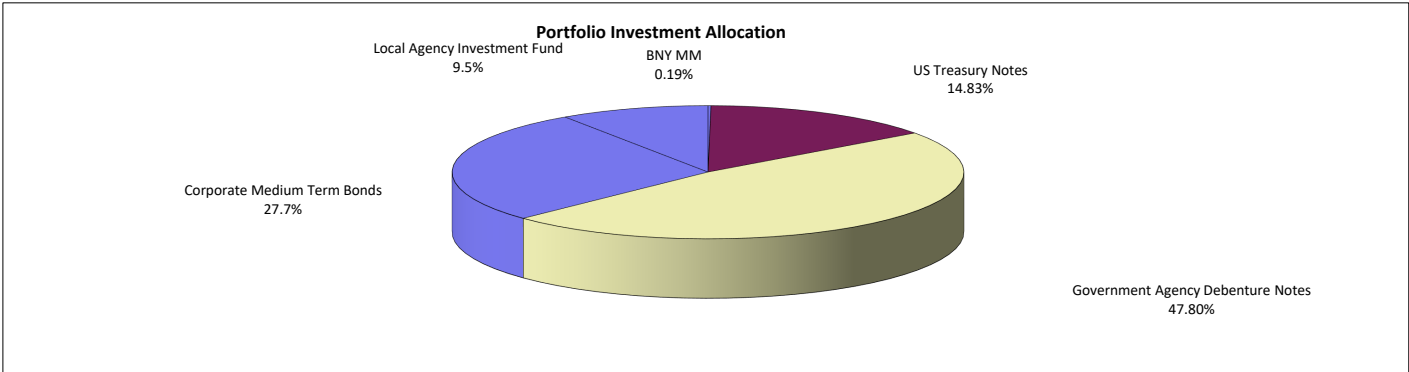


Compliance: The Town's investments are in compliance with the Town's investment policy dated September 3, 2019 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
April 30, 2020

	<u>Month</u>	<u>YTD</u>
Fund Balances - Beginning of Month/Period	\$68,160,286.04	\$72,013,633.77
Receipts	6,361,348.26	40,558,904.83
Disbursements	<u>(2,772,348.98)</u>	<u>(40,823,253.28)</u>
Fund Balances - End of Month/Period	<u>\$71,749,285.32</u>	<u>\$71,749,285.32</u>

<u>Portfolio Allocation:</u>	<u>% of Portfolio</u>	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$109,595.86	0.19%
US Treasury Notes	\$8,720,525.80	14.83%
Government Agency Debenture Notes	\$28,113,850.75	47.80%
Corporate Medium Term Bonds	\$16,310,924.51	27.73%
Local Agency Investment Fund	<u>5,565,729.51</u>	9.46%
Subtotal - Investments	58,820,626.43	100.00%
Reconciled Demand Deposit Balances	<u>12,928,658.89</u>	
 Total Treasurer's Fund	 <u>\$71,749,285.32</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
April 30, 2020

	Beginning Balance	APR 20 Deposits Realized Gain/Adj.	APR 20 Interest/ Earnings	APR 20 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 688,677.38		\$ 206.12	\$ -	\$ 688,883.50	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	731.45		0.59		732.04	Note 1
Cert. of Participation 2002 Lease Payment Fund	84.03		0.00		84.03	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,296,485.82		1,004.44	0.00	1,297,490.26	Note 2
Total Restricted Funds:	<u>\$ 1,985,978.68</u>	<u>\$0.00</u>	<u>\$1,211.15</u>	<u>\$0.00</u>	<u>\$1,987,189.83</u>	
PARS IRS Section 115 Trust	<u>\$ 251,735.23</u>	<u>\$ -</u>	<u>\$ 19,473.64</u>		<u>\$ 271,208.87</u>	Note 3
Grand Total COP's and PARS Trust	<u>\$ 2,237,713.91</u>	<u>\$0.00</u>	<u>\$ 20,684.79</u>	<u>\$0.00</u>	<u>\$ 2,258,398.70</u>	

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

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

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

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

**Town of Los Gatos
Statement of Interest Earned
April 30, 2020**

Interest by Month

July 2019	\$103,310.93
August 2019	101,993.86
September 2019	99,668.91
October 2019	100,474.14
November 2019	96,912.19
December 2019	100,785.87
January 2020	97,050.92
February 2020	79,677.48
March 2020	83,480.41
April 2020	96,860.11
May 2020	
June 2020	
	<hr/>
	<u>\$960,214.82</u>

Town of Los Gatos Investment Schedule April 2020

Institution	CUSIP #	Security	Deposit Date	Par Value	Original Cost	Market Value	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
Treasury	912828WR7	US Treasury Note	4/2/2019	1,000,000.00	995,625.00	1,022,890.62		6/30/2021	2.33%	\$ 15,849.45	\$ 5,656.35	\$ 19,384.14	426
Toyota Motor Credit	89236TDP7	Corporate Bond	05/20/19	1,100,000.00	1,102,596.00	1,124,249.89		1/11/2022	2.50%	\$ 18,351.67	\$ 3,102.53	\$ 23,079.83	621
FHLB	3133834H1	Gov. Agency Debenture	9/20/2017	1,785,000.00	1,776,432.00	1,786,875.77		6/12/2020	1.56%	\$ 54,678.03	\$ 49,147.92	\$ 23,132.90	43
Toyota Motor Credit	89236TCZ6	Corporate Bond	3/13/2020	500,000.00	504,440.00	503,104.80		4/8/2021	1.06%	\$ 659.72	\$ -	\$ 704.25	343
FFCB	3133EKM1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	1,063,338.06		2/23/2024	1.90%	\$ 18,025.83	\$ -	\$ 14,267.06	1394
FFCB	3133ELVV3	Gov. Agency Debenture	4/8/2020	1,600,000.00	1,600,000.00	1,603,556.59		4/8/2022	0.93%	\$ -	\$ -	\$ 916.16	708
FNMA	3133EHYM9	Gov. Agency Debenture	9/21/2017	1,300,000.00	1,295,866.00	1,307,127.47		9/14/2020	1.61%	\$ 48,370.83	\$ 37,021.86	\$ 17,452.34	137
US Treasury	912828VF4	US Treasury Note	9/21/2017	1,000,000.00	997,109.38	1,001,044.53		5/31/2020	1.48%	\$ 30,129.78	\$ 26,275.86	\$ 12,386.61	31
FNMA	3136G0AW1	Gov. Agency Debenture	12/13/2017	2,000,000.00	2,017,900.00	2,015,903.52		10/16/2020	2.02%	\$ 110,058.33	\$ 62,898.65	\$ 34,014.34	169
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00	1,024,848.26		8/1/2022	2.05%	\$ 9,010.42	\$ -	\$ 14,883.24	823
Oracle	68389XBL8	Corporate Bond	7/8/2019	1,000,000.00	1,008,880.00	1,046,650.00		7/15/2023	2.18%	\$ 16,466.67	\$ -	\$ 17,732.20	1171
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	520,546.88		4/30/2023	1.77%	\$ 6,734.04	\$ -	\$ 7,341.74	1095
American Express	0258M0EB1	Corporate Bond	2/11/2020	1,000,000.00	1,007,210.00	1,010,470.34	6,000.00	4/4/2021	1.66%	\$ (6,000.00)	\$ -	\$ 3,507.21	339
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	2,149,264.20		6/19/2023	1.79%	\$ 22,916.67	\$ -	\$ 28,634.40	1145
FFCB	3133EKVF0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	1,039,568.93		1/17/2023	1.89%	\$ 9,114.58	\$ -	\$ 14,619.80	992
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40	1,244,203.13		9/30/2022	2.09%	\$ 14,516.39	\$ -	\$ 16,770.43	883
Freddie Mac	3137EADB2	Gov. Agency Debenture	1/17/2020	2,100,000.00	2,132,039.70	2,174,484.90	554.16	1/13/2022	2.12%	\$ (554.16)	\$ -	\$ 9,627.56	623
US Treasury	912828Y20	Gov. Agency Debenture	1/31/2020	1,000,000.00	1,016,601.56	1,029,531.25	1,153.84	7/15/2021	1.47%	\$ (1,153.84)	\$ -	\$ 3,658.78	441
American Honda	02665WCZ2	Corporate Bond	11/27/2019	1,000,000.00	1,012,410.01	1,003,260.54		6/27/2024	2.12%	\$ 12,733.34	\$ -	\$ 9,042.71	1519
JP Morgan Chase	46625HJE1	Gov. Agency Debenture	2/11/2020	900,000.00	934,587.00	941,806.50		9/23/2022	1.74%	\$ 3,412.50	\$ -	\$ 3,469.70	876
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	1,048,651.05		7/15/2024	1.64%	\$ 4,983.33	\$ -	\$ 8,810.39	1537
Disney	254687CK0	Corporate Bond	3/4/2020	1,000,000.00	1,029,080.00	1,025,489.29	2,375.00	2/15/2021	1.39%	\$ (2,375.00)	\$ -	\$ 2,264.29	291
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,156,742.63		7/2/2024	1.63%	\$ 4,331.25	\$ -	\$ 9,672.26	1524
FHLB	3130AECJ7	Gov. Agency Debenture	9/14/2018	1,000,000.00	998,101.00	1,001,688.74		5/28/2020	2.46%	\$ 31,135.42	\$ 21,666.58	\$ 22,866.11	28
US Bancorp	91159HHV5	Corporate Bond	12/24/2019	1,000,000.00	1,049,040.00	1,074,110.00		1/5/2024	2.12%	\$ 3,843.75	\$ -	\$ 7,574.16	1345
Chevron	166764AG5	Corporate Bond	11/9/2017	1,350,000.00	1,366,834.50	1,351,710.76		5/24/2020	1.94%	\$ 69,624.56	\$ 42,820.12	\$ 21,839.70	24
FFCB	3133EKC53	Gov. Agency Debenture	3/21/2019	1,400,000.00	1,403,262.00	1,428,888.20		3/11/2021	2.43%	\$ 34,708.33	\$ 9,421.68	\$ 28,451.60	315
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	1,062,305.13		9/10/2024	1.66%	\$ 8,031.11	\$ -	\$ 8,814.96	1594
PNC Financial	693476BN2	Corporate Bond	8/15/2019	1,000,000.00	1,029,280.00	1,039,964.56		2/6/2022	2.12%	\$ 18,608.33	\$ -	\$ 15,046.11	647
FHLB	313379Q69	Gov. Agency Debenture	7/22/2019	1,000,000.00	1,006,960.00	1,039,572.27		6/10/2022	1.87%	\$ 8,145.83	\$ -	\$ 14,607.26	771
FNMA	3135G0V59	Gov. Agency Debenture	11/27/2019	1,540,000.00	1,562,924.44	1,599,621.35		4/12/2022	1.61%	\$ 12,993.75	\$ -	\$ 10,616.01	712
Freddie Mac	3134GBN40	Gov. Agency Debenture	9/29/2017	1,000,000.00	998,900.00	1,002,303.75		6/29/2020	1.67%	\$ 36,562.50	\$ 29,148.73	\$ 13,912.93	60
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,520,787.34		2/1/2024	2.39%	\$ 19,288.89	\$ -	\$ 20,895.19	1372
American Honda	02665WDH1	Corporate Bond	3/14/2020	600,000.00	603,756.00	596,491.20	1,105.00	5/10/2023	1.75%	\$ (1,105.00)	\$ -	\$ 2,194.46	1105
FHLB	3130AABG2	US Treasury Note	4/15/2019	1,000,000.00	988,250.00	1,025,639.60		11/29/2021	2.34%	\$ 11,666.67	\$ 4,835.29	\$ 19,404.77	578
FNMA	3135G0Q89	Gov. Agency Debenture	2/10/2020	1,000,000.00	998,702.00	1,016,440.69		10/7/2021	1.38%	\$ 2,177.08	\$ -	\$ 3,185.33	525
FNMA	3135G0J20	Gov. Agency Debenture	2/10/2020	1,000,000.00	998,882.00	1,009,620.96		2/26/2021	1.48%	\$ 611.11	\$ -	\$ 3,247.83	302
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	1,045,429.69		11/30/2022	1.81%	\$ 7,158.47	\$ -	\$ 14,082.57	944
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	1,065,546.88		11/30/2023	1.84%	\$ 7,083.33	\$ -	\$ 13,896.62	1309
BankAmerica Corp	06051GGS2	Corporate Bond	4/30/2020	1,300,000.00	1,302,314.00	1,301,830.78	2,437.92	10/1/2020	1.21%	\$ (2,437.92)	\$ -	\$ -	154
Treasury	912828X70	US Treasury Note	12/30/2019	1,000,000.00	1,010,589.29	1,067,187.50		4/30/2024	1.75%	\$ 7,703.30	\$ -	\$ 6,537.32	1461
Treasury	912828X72	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	1,068,359.38		5/31/2024	1.64%	\$ 1,639.34	\$ -	\$ 8,269.22	1492
Freddie Mac	3134GVHB7	Corporate Bond	3/30/2020	1,800,000.00	1,800,000.00	1,800,164.20		6/30/2020	1.05%	\$ -	\$ -	\$ 1,605.21	61
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,626,852.03		12/21/2023	2.12%	\$ 13,536.46	\$ -	\$ 15,406.49	1330
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,628,400.53		2/8/2023	1.82%	\$ 30,418.75	\$ 468.29	\$ 23,804.51	1014
Subtotal				\$ 52,525,000.00	\$ 53,145,301.06	\$ 54,216,524.69	\$ 13,625.92			\$ 711,653.89	\$ 292,463.86	\$ 571,630.71	
BNY MM					109,595.86	109,595.86			0.00%				1
LAIF		N/A			5,565,729.51	5,565,729.51			2.19%			99,390.34	1
					\$58,820,626.43	\$59,891,850.06						\$ 671,021.05	

Matured Assets													
Treasury	912828WS5	US Treasury Note	5/2/2017	500,000.00	503,339.84			7/1/2019	1.31%	\$ 17,574.24	\$ 14,227.74	\$ 18.03	
Oracle	68389XAG0	Corporate Bond	5/3/2018	1,000,000.00	1,028,370.00			7/8/2019	2.54%	\$ 59,027.78	\$ 30,101.79	\$ 569.30	
FHLB	3130AEU73	Gov. Agency Debenture	8/27/2018	1,000,000.00	999,180.00			7/22/2019	2.46%	\$ 23,750.00	\$ 20,741.19	\$ 1,486.34	
Treasury	912828F39	US Treasury Note	4/17/2018	1,200,000.00	1,190,343.75			7/22/2019	2.32%	\$ 30,524.59	\$ 34,452.97	\$ 1,726.57	
FHLB	313383VN8	Gov. Agency Debenture	5/25/2018	2,000,000.00	1,989,800.00			7/22/2019	2.40%	\$ 52,000.00	\$ 53,614.71	\$ 2,941.46	
FHLB	3137EAEB1	Gov. Agency Debenture	3/14/2017	2,000,000.00	1,970,180.00			7/19/2019	1.52%	\$ 41,076.39	\$ 69,336.96	\$ 1,572.08	
Treasury	912828K25	US Treasury Note	7/2/2018	1,000,000.00	989,218.75			7/31/2019	2.39%	\$ 14,851.52	\$ 23,607.64	\$ 2,016.08	
FNMA	3135G0N33	Gov. Agency Debenture	04/17/13	1,000,000.00	981,984.01			8/2/2019	2.17%	\$ 12,322.92	\$ 28,416.36	\$ 1,945.52	
Microsoft	594918BN3	Corporate Bond	8/8/2016	1,000,000.00	999,470.00			8/8/2019	1.12%	\$ 33,000.00	\$ 32,335.78	\$ 1,194.22	
Berkshire Hathaway	084664CK5	Corporate Bond	1/22/2018	1,100,000.00	1,086,305.00			8/15/2019	2.11%	\$ 22,363.61	\$ 33,119.10	\$ 2,907.40	
FNMA	3135G0P49	Gov. Agency Debenture	11/15/2016	1,500,000.00	1,487,505.00			8/28/2019	1.31%	\$ 41,791.66	\$ 51,098.17	\$ 3,150.25	
JP Morgan Chase	48125LRG9	Corporate Bond	3/28/2017	1,400,000.00	1,393,196.00			9/23/2019	1.86%	\$ 57,429.17	\$ 58,316.80	\$ 6,015.69	
FFCB	3133EGYP4	Gov. Agency Debenture	10/28/2016	1,000,000.00	997,507.00			10/17/2019	1.14%	\$ 31,179.17	\$ 30,290.27	\$ 3,386.30	
FFCB	3133EJPU7	Gov. Agency Debenture	6/1/2018	1,000,000.00	1,001,454.00			10/21/2019	2.38%	\$ 36,511.11	\$ 25,640.48	\$ 7,353.74	
Treasury	912828F62	US Treasury Note	6/30/2017	1,000,000.00	1,002,148.44			10/31/2019	1.41%	\$ 35,013.59	\$ 28,161.36	\$ 4,745.00	
American Honda	02665WBZ3	Corporate Bond	4/11/2018	1,000,000.00	990,620.00			11/13/2019	2.61%	\$ 31,944.44	\$ 31,567.90	\$ 9,647.72	
FNMA	3135G0Z72	Gov. Agency Debenture	12/20/2017	1,550,000.00	1,545,642.95			11/26/2019	1.90%	\$ 52,441.67	\$ 44,831.00	\$ 11,992.49	
Pfizer	717081EB5	Corporate Bond	6/30/2017	1,000,000.00	1,002,280.00			12/15/2019	1.60				

Town of Los Gatos Investment Schedule April 2020

FNMA	3136FTB73	Gov. Agency Debenture	4/25/2017	1,000,000.00	1,013,390.00	2/7/2020	1.50%	\$	55,666.67	\$	33,146.46	\$	9,244.36
Disney	25468PDP8	Corporate Bond	12/1/2017	1,000,000.00	998,190.00	3/4/2020	2.03%	\$	44,034.50	\$	32,037.85	\$	13,794.07
Toyota Motor Credit	89236TCF0	Corporate Bond	10/6/2017	500,000.00	503,545.00	3/12/2020	1.85%	\$	26,158.33	\$	16,090.68	\$	6,517.74
FFCB	3133EJB81	Gov. Agency Debenture	10/9/2018	1,700,000.00	1,697,331.00	3/25/2020	2.84%	\$	67,810.17	\$	34,889.76	\$	35,550.55
FFCB	3133EHEZ2	Gov. Agency Debenture	9/20/2017	1,600,000.00	1,602,304.00	4/6/2020	1.54%	\$	65,137.78	\$	43,841.67	\$	19,011.59
Pepsico	713448CS5	Corporate Bond	5/15/2017	1,250,000.00	1,249,600.00	4/30/2020	1.86%	\$	68,411.46	\$	49,451.53	\$	19,436.49

Total Investments "Matured"				<u>33,795,071.72</u>					<u>1,066,205.81</u>		<u>955,245.03</u>		<u>289,193.77</u>
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Total Interest FY 19_20 Matured and Current													<u>\$ 960,214.82</u>
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Maturity Profile

		Amount
0-1 year		\$23,171,656.25
1-2 years		\$11,426,018.70
2-3 years		\$8,210,784.72
3-5 years		<u>\$ 16,012,166.76</u>
		<u>\$58,820,626.43</u>

Market to Cost Position Report

	Amortized
<u>Institution</u>	<u>Cost</u>
BNY Assets	\$53,145,301.06
BNY MM	109,595.86
LAIF	5,565,729.51
<u>Totals:</u>	<u>\$58,820,626.43</u>



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 8/18/2020

ITEM NO: 4

DATE: August 4, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement with Whitlock & Weinberger Transportation, Inc. dba W-Trans, Modifying the Scope of Service, Extending the Term, and Increasing the Total Compensation by \$75,000 for a Total Contract Amount not to Exceed \$200,000 for Consultant Services for the Project Management Function of the Traffic Signal Modernization Project (Project 813-0227)

RECOMMENDATION:

Authorize the Town Manager to execute a First Amendment to the Agreement with Whitlock & Weinberger Transportation, Inc. dba W-Trans, modifying the scope of service, extending the term, and increasing the total compensation by \$75,000 for a total contract amount not to exceed \$200,000 for consultant services for the project management function of the Traffic Signal Modernization Project (Project 813-0227).

BACKGROUND:

The programming for Traffic Signal Modernization (Project 813-0227, a.k.a. Los Gatos Smart Signals project) is included in the Fiscal Year 2020/21 – 2024/25 Capital Improvement Program budget in the amount of \$2.9M. The total budget currently includes \$1.1M in Council approved Traffic Mitigation Funds (TMF) and three grants from the Santa Clara Valley Transportation Authority (VTA) and the Metropolitan Transportation Commission (MTC).

This is a large-scale project with both local and federal project funding elements. At its April 3, 2018 meeting, the Town Council approved an agreement for consultant services with W-Trans for the project management function in an amount not to exceed \$125,000. At its December 17, 2019 meeting, the Town Council was advised of a four-step procurement process for the project, with the total contract value of approximately \$1.8M, and the Council authorized the Town Manager to issue procurement documents. As of the end of June 2020, the Town has awarded the first two contracts.

PREPARED BY: Ying Smith
Transportation and Mobility Manager

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

DISCUSSION:

The project management expertise from W-Trans has proven to be highly valuable in the evaluation of the system and consultant and vendor selection. As the project is moving into the design, equipment procurement, and construction/installation phases, the services of W-Trans will be essential. The contract extension to June 30, 2023 will allow W-Trans to facilitate and review work conducted by the consultants and vendors, advise on the remaining procurement steps, and ensure the overall project is delivered to meet the Town's expectations. All decisions associated with the project components would be made by the Director of Parks and Public Works based on the recommendations from W-Trans. The additional compensation covers the term extension. The expanded scope of work will include continued project management and oversight, facilitating and coordinating work conducted by multiple vendors and contractor, quality review, preparing additional procurement documents, and supporting procurement evaluation.

CONCLUSION:

Staff is recommending the Town Council authorize the Town Manager to execute a First Amendment to Consultant Services Agreement for the project management function of the Traffic Signal Modernization Project.

COORDINATION:

This report was coordinated with the Town Attorney's Office and the Finance Department.

FISCAL IMPACT:

Project 813-0227 Traffic Signal Modernization Project in the Fiscal Year 2020/21 – 2024/25 Capital Improvement Program Budget has sufficient budget for the contract amendment.

Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of projects, recovery of costs from grant funded projects, and identification of future staffing needs. This project utilized full-time budgeted staff. The costs for full-time staff are accounted for in the Department's operating budget and will not be charged to this project.

FISCAL IMPACT (continued):

Traffic Signal Modernization Project 813-0227		
	Budget	Costs
Grant Fund	\$1,826,400	
Traffic Mitigation	\$1,103,289	
Total Project Budget	\$2,929,689	
Prior Year Expenditures		\$ 63,975
Expended/Encumbered FY 19/20		\$ 835,046
Proposed Contract Amendment (W-Trans)		\$ 75,000
Staff Costs		\$ 108,649
Project Costs Committed		\$ 1,082,670
Available Balance		\$1,847,019

ENVIRONMENTAL ASSESSMENT:

The recommended action is not a project as defined under CEQA, and no further action is required.

Attachments:

1. First Amendment to Consultant Services Agreement
2. Agreement for Consultant Services with W-Trans for the project management function

FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This AMENDMENT TO AGREEMENT is dated for identification this ____ day of August 2020 and amends that certain Agreement for Consultant Services dated April 18, 2018, made by and between the Town of Los Gatos, ("Town,") and Whitlock & Weinberger Transportation, Inc. (W-Trans), ("Consultant"), whose address is 505 17th Street, 2nd Floor, Oakland, CA94612.

RECITALS

- A. Town and Consultant entered into an Agreement for Consultant Services Agreement on April 18, 2018, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. The Town desires to engage Consultant to provide project management services for the Signal Traffic Signal Modernization (a.k.a. Los Gatos Smart Signals project) based on time and materials (T&M).
- C. The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- D. 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.

AMENDMENT

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal dated July 30, 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 until June 30, 2023.
- 2.6 Compensation. Compensation for Consultant's professional services for the additional scope of services **shall not exceed \$75,000**, for a **total agreement amount not to exceed \$200,000** inclusive of all costs. Payment shall be based upon Town approval of each task.

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

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

Town of Los Gatos

Service Provider by:

By: _____

By: _____

Laurel Prevetti, Town Manager

Print Name, Title

Department Approval:

Matt Morley

Director of Parks and Public Works

Approved as to Form:

Attest:

Robert Schultz, Town Attorney

Shelley Neis, MMC, CPMC
Town Clerk



July 30, 2020

Ms. Ying Smith
Town of Los Gatos
41 Miles Avenue
Los Gatos, CA 95030

Proposal for On-Call Services as Project Manager for Implementation Phase of the Los Gatos Smart Signals project

Dear Ms. Smith;

W-Trans is pleased to present this proposal for continued project management services for the system evaluation and engineering phases of the controller upgrade and system purchase projects. Our original scope, written in April 2018, was prepared in response to the Town's broad request for on-call services and included our best estimation of work tasks at the time, including:

- Scheduling;
- Conducting meetings and preparing progress reports;
- Facilitating work of the selected System Vendors, Econolite, including providing Town-furnished items, reviewing materials submittals, monitoring schedule, budget, and contract completion status, and system acceptance;
- Facilitating work of the selected design consultant, Iteris, including providing Town-furnished items, coordinating work with system vendor, monitoring schedule, budget, and contract completion status, and reviewing plan submittals;
- Finalizing the Request for Proposals for the System Performance Measure and Virtual Bike Detection contract, reviewing proposals and selecting a vendor, providing Town-furnished items, monitoring schedule, budget, and contract completion status, and system acceptance; and
- Various on-call assignments that might become necessary.

Of these tasks, facilitating work and providing Town-furnished items of Econolite and Iteris has already begun, and preparing the first draft of the RFP for SPM and VBD vendor is complete

Tasks to be addressed over the next year of project development are described in the following section.

Scope of Services

1. Project management and oversight, including:
 - a. Maintain schedule: To include tracking funding deadlines and E76 approval status.
 - b. Meetings and progress reports: W-Trans will continue to schedule periodic informal meetings with Town staff and other involved parties with a focus on deliverables and due dates. We will provide monthly progress reports. Following each meeting we will prepare meeting notes.
 - c. Grant funding: Includes coordination with MTC to determine requirements, verifying that the NEPA/CEQA filing already completed by MTC is adequate, and working with Town staff to submit reimbursement requests to MTC.
2. Facilitating work of the selected System Vendor, Econolite, including:
 - a. Monitoring schedule, budget, and contract completion status
 - b. Responding to requests for information or clarifications
 - c. Coordinating work with other vendors or consultants
 - d. Reviewing deliverables and coordinating comments with Town staff
 - e. Review signal timing recommendations
 - f. Attending or coordinating system training sessions

- g. Attending progress meetings every other week
3. Facilitating work of the selected design consultant, Iteris, including:
 - a. Monitoring schedule, budget, and contract completion status
 - b. Responding to requests for information or clarifications
 - c. Coordinating work with selected vendors
 - d. Reviewing deliverables and coordinating comments with Town staff
 - e. Attending progress meetings every other week and monitoring status of action items
 4. Finalizing the Request for Proposals for the System Performance Measure and Virtual Bike Detection vendor, reviewing proposals, developing a short list and interviewing firms (if needed), and selecting a vendor.
 5. Facilitating work of the selected System Performance Measure and Virtual Bike Detection vendor, including:
 - a. Monitoring schedule, budget, and contract completion status
 - b. Responding to requests for information or clarifications
 - c. Facilitating requests for information to be furnished by the Town or other contracted parties
 - d. Reviewing deliverables and coordinating comments with Town staff
 - e. Attending progress meetings every other week and monitoring status of action items
 - f. System acceptance
 6. On-Call Services: W-Trans will provide additional services that are not already described in Tasks 1 through 5 on an as-needed basis. All on-call work will be documented via an email describing the scope, fee, and schedule before starting work.

Exclusions: The scope of services does not include items that are not specifically identified above. Any additional services needed would be provided on a time and materials basis after receiving written authorization.

Schedule and Budget

The schedule for services in Tasks 1 through 5 will match the schedule submitted to MTC. On-call services are expected to occur over the next 12 months.

Our services will be conducted on a time and materials basis at the rates indicated on the enclosed sheet; note that a new rate schedule will be provided in January 2021 for services that occur next year. Monthly invoices will be provided electronically unless a hard copy via mail is requested. The estimated maximum fee is \$75,000.

I will be your primary contact for these services. Please contact me at (650) 314-8313 or sfitsimons@w-trans.com if you have any questions about this proposal. Please issue a Purchase Order if you wish to initiate services. This proposal will remain a firm offer for 90 days from the date of this letter. Thank you for giving us the opportunity to propose on these services.

Sincerely,



Steve Fitzsimons, PE
Principal

SMF/smf/LGA006.P3

Enclosures: 2020 Fee Schedule, Project Fee Estimate



Fee Schedule

2020 Staff Billing Rates

Position	Billing Rate (per hour)
Senior Principal	\$280 – \$305
Principal	\$220 – \$260
Senior Engineer/Planner	\$195 – \$210
Engineer/Planner	\$150 – \$160
Associate Engineer/Planner	\$135 – \$150
Assistant Engineer/Planner	\$115 – \$125
Technician/Administrative	\$95 – \$110
Intern	\$30 – \$80
Field Technician	\$30 – \$75

2020 Expense Charges

Item	Charge
Mileage	\$0.63/mile*
Services and Expenses	10% surcharge

These rates are valid for work performed prior to December 31, 2020. Work performed after January 1, 2021, and any subsequent year may be billed at the revised rates established for that year.

* Mileage charge will be based on the IRS Standard Mileage Rate (set at \$0.575 effective January 1, 2020) plus 10 percent.

490 Mendocino Avenue, Suite 201 **SANTA ROSA**, CA 95401 707.542.9500

505 17th Street, 2nd Floor **OAKLAND**, CA 94612 510.444.2600

1276 Lincoln Avenue, Suite 204 **SAN JOSE**, CA 95125 650.314.8313

w-trans.com

**Los Gatos ATMS On-Call Support, Phase 3
W-Trans Fee Estimate**

Task	HOURS BY STAFF MEMBER					Total Hours
	Steve Fitzsimons	Associate 4	Associate 2	Admin 2	Misc	
1. Project Management and Oversight	30	0	0	20	\$0	50
2. Facilitate Econolite Work	47	0	117	0	\$80	164
3. Facilitate Iteris Work	38	0	49	0	\$80	87
4. Finalize SPM-VDB Vendor RFP	39	22	0	8	\$40	69
5. Facilitate SPM-VBP Vendor Work	17	50	0	0	\$60	67
	171	72	166	28	\$260	437

Task	FEE AT HOURLY RATES INDICATED					TOTAL
	\$220	\$150	\$140	\$110	LS	
1. Project Management and Oversight	\$6,600	\$0	\$0	\$2,200	\$0	\$8,800
2. Facilitate Econolite Work	\$10,340	\$0	\$16,380	\$0	\$80	\$26,800
3. Facilitate Iteris Work	\$8,360	\$0	\$6,860	\$0	\$80	\$15,300
4. Finalize SPM-VDB Vendor RFP	\$8,580	\$3,300	\$0	\$880	\$40	\$12,800
5. Facilitate SPM-VBP Vendor Work	\$3,740	\$7,500	\$0	\$0	\$60	\$11,300
	\$37,620	\$10,800	\$23,240	\$3,080	\$260	\$75,000

These rates are valid for work performed prior to December 31, 2020. Work performed after January 1, 2021, and any subsequent year may be billed at the revised rates established for that year. Mileage charges will be based on the IRS Standard Mileage Rate (set at \$0.575 effective January 1, 2020; subject to change) plus 10 percent.

AGREEMENT FOR CONSULTANT SERVICES IHH _____

THIS AGREEMENT is made and entered into on April 12, 2018 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Whitlock & Weinberger Transportation, Inc. (W-Trans), ("Consultant"), whose address is 505 17th Street, 2nd Floor, Oakland, CA 94612. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Consultant to provide project management services for the system evaluation and engineering phases of the controller upgrade and system purchase projects for the Los Gatos Smart Signals project based on time and materials (T&M).
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal sent to the Town on April 6, 2018, which is hereby incorporated by reference and attached as Exhibit A. The services include:
 - Develop schedule
 - Meetings and progress reports
 - Visionary Meeting
 - System evaluation
 - Design drawing
 - On-Call services
- 2.2 Term and Time of Performance. This contract will remain in effect from April 12, 2018 to June 30, 2020
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.

- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.
- 2.6 Compensation. Compensation for Consultant's professional services **shall not exceed \$125,000**, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

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

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

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

by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

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

III. INSURANCE AND INDEMNIFICATION

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

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

General Liability:

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

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

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

3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities,

penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

IV. GENERAL TERMS

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

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

Whitlock & Weinberger Transportation, Inc.
(W-Trans)
505 17th Street, 2nd Floor
Oakland, CA 94612

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

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

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

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

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

Town of Los Gatos by:



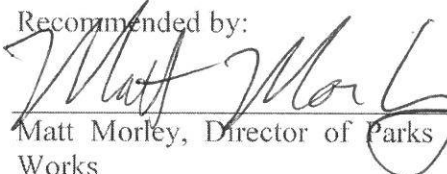
Laurel Prevetti, Town Manager

Consultant, by:



Mark E Spencer

Recommended by:



Matt Morley, Director of Parks and Public Works

Principal
Title

Approved as to Form:



Robert Schultz, Town Attorney



April 6, 2018

Ms. Ying Smith
Town of Los Gatos
41 Miles Avenue
Los Gatos, CA 95030

Proposal for On-Call Services to serve as Project Manager for the Los Gatos Smart Signals project

Dear Ms. Smith;

W-Trans is pleased to present this proposal for project management services for the system evaluation and engineering phases of the controller upgrade and system purchase projects. Following are the assumptions relied upon in preparing our scope of services and fee proposal.

- Project 0 (P0) replaces controller assemblies and upgrades detection Town-wide. The software in the new controllers might differ from current Town preferences as the adaptive project may need a different solution.
- Project 1 (P1) involves adding adaptive and system performance measures (SPMs) to the controller capabilities.
- Project 2 (bicycle app) is not to be addressed by the current scope but the "cloud computing" requirements must be understood and addressed.
- The focus of the current effort is to coordinate with MTCs System Evaluation and to assist with hiring a consultant to prepare contract documents.
- Assistance during the installation and implementation phases, and with all aspects of Project 2, are not addressed in this proposal.
- The schedule for this effort is listed in the IDEA grant application as 6 months for design and environmental clearance. Bid, award, and construction/installation activities are to be covered in a supplemental procurement.

Steve Fitzsimons, PE, TE, is our proposed key staff. He has recently completed a similar project for Rohnert Park and gained valuable, relevant insights.

Scope of Services

1. Develop schedule. Starting with the grant schedule requirements and Town expectations, W-Trans will develop a detailed schedule for the P0 and P1 efforts, and we will maintain and update the schedule throughout the project as needed.
2. Meetings and progress reports. W-Trans will schedule weekly calls with Town staff and other involved parties, focused on deliverables and due dates. We will provide monthly progress reports. We will attend up to six meetings with the MTC system engineering consultant, and up to two meetings with MTC staff. Following each meeting we will prepare meeting minutes.
3. Visionary Meeting. We will schedule and lead a visioning meeting with Town staff for P0 and P1 to include a thorough description of existing conditions on Los Gatos streets and desired performance once the P0 and P1 projects are complete. The product of the Visioning meeting will be turned into a performance specification for the adaptive system and a list of ASPMs to be configured for the Town's use by the system vendor.
4. System evaluation. W-Trans will review the Request for Proposal prepared by the MTC system engineering consultant and the Draft, Pre-Final, and Final levels of completion. We will coordinate with Town staff on

general conditions and dates, and check to see if performance specification from task 3 is incorporated. We will participate in system vendor interviews and selection, including reference checking. This proposal assumes no more than three vendors will be shortlisted and interviewed.

5. Design Drawing. We will prepare a request for proposal for design consultants. We will review design drawings and specifications at the 30%, 50%, 80%, 100% and Bid Set levels of completion, and provide comments on marked-up paper plots and in an Excel comment matrix. Coordination with Town engineering and inspection staff is assumed in this task.
6. On-Call Services. W-Trans will provide additional services that are not already described in Tasks 1-5 on an on-call basis. All on-call work will be documented via an email describing the scope, fee, and schedule before starting work. On-Call service may include, but are not limited to, the following:
 - Vendor interviews and negotiation meetings
 - Reference checks
 - Support with grant coordination
 - Acceptance testing
 - Responding to vendor questions

Exclusions: The scope of services does not include items that are not specifically identified above. Any additional services needed would be provided on a time and materials basis after receiving written authorization.

Schedule and Budget

The schedule for services in Tasks 1-5 will match the expected six-month schedule stated in the IDEA grant application. On-call services are expected to occur over the following 12 months. A detailed schedule will be prepared and updated by W-Trans throughout the project.

Our services will be conducted on a time and materials basis at the rates indicated on the enclosed sheet. Monthly invoices will be provided electronically unless a hard copy via mail is requested. The estimated maximum fee for Tasks 1-5 \$37,650 and the Task 6 budget is \$12,350, resulting in a total budget of \$50,000.

Steve Fitzsimons will be your primary contact for these service. Please contact him at 650-314-8313 or sfitzsimons@w-trans.com if you have any questions about this proposal.

Please issue a Purchase Order if you wish to initiate services. This proposal will remain a firm offer for 90 days from the date of this letter. Thank you for giving us the opportunity to propose on these services.

Sincerely,


Mark E. Spencer, PE
Principal

MES/smf/LGA006.P1

Enclosures: 2018 Fee Schedule
Project Fee Estimate

**Smart Signals PM Services for Los Gatos
W-Trans Fee Estimate**

Task	HOURS BY STAFF MEMBER				Total Hours
	Steve Fitzsimons	Assistant Engineer 1	Tech/ Admin 1	Misc	
1. Prepare and Update Schedule	10	8	0	\$0	18
2. Meetings and Progress Reports	57	42	0	\$106	99
3. Visioning Meeting	8	9	2	\$38	19
4. System Evaluation	20	14	0	\$26	34
5. Design drawings	33	18	9	\$0	60
6. On-Call Services	44	29	0	\$65	73
	172	120	11	\$235	303

Task	FEE AT HOURLY RATES INDICATED				TOTAL
	\$210	\$105	\$95	LS	
1. Prepare and Update Schedule	\$2,100	\$840	\$0	\$0	\$2,940
2. Meetings and Progress Reports	\$11,970	\$4,410	\$0	\$106	\$16,486
3. Visioning Meeting	\$1,680	\$945	\$190	\$38	\$2,853
4. System Evaluation	\$4,200	\$1,470	\$0	\$26	\$5,696
5. Design drawings	\$6,930	\$1,890	\$855	\$0	\$9,675
6. On-Call Services	\$9,240	\$3,045	\$0	\$65	\$12,350
	\$36,120	\$12,600	\$1,045	\$235	\$50,000

These rates are valid for work initiated prior to December 31, 2018. Work completed after January 1, 2019, and any subsequent year may be billed at the revised rates established for that year. Mileage charges will be based on the IRS Standard Mileage Rate (set at \$0.545 effective January 1, 2018; subject to change) plus 10 percent.



Fee Schedule

2018 Staff Billing Rates

Position	Billing Rate (per hour)
Principal	\$205 – \$290
Associate Principal	\$185 – \$205
Senior Engineer/Planner	\$175 – \$200
Engineer/Planner	\$150 – \$175
Associate Engineer/Planner	\$130 – \$150
Assistant Engineer/Planner	\$100 – \$130
Technician/Administrative	\$85 – \$100
Intern	\$30 – \$80
Field Technician	\$20 – \$40

2018 Expense Charges

Item	Charge
Mileage	\$0.60/mile*
Services and Expenses	10% surcharge

These rates are valid for work initiated prior to December 31, 2018. Work initiated after January 1, 2019, and any subsequent year may be billed at the revised rates established for that year.

* Mileage charge will be based on the IRS Standard Mileage Rate (set at \$0.545 effective January 1, 2018; subject to change) plus 10 percent.

490 Mendocino Avenue, Suite 201 **SANTA ROSA**, CA 95401 707.542.9500
 505 17th Street, 2nd Floor **OAKLAND**, CA 94612 510.444.2600
 1276 Lincoln Avenue, Suite 204 **SAN JOSE**, CA 95125 650.314.8313

w-trans.com



Ms. Ying Smith
Town of Los Gatos
Parks and Public Works Department
41 Miles Avenue
Los Gatos, CA 95030

RE: Project Management Services for Town's Smart Signals Project

Thank you for the opportunity for TJKM to provide project management services to the Town for the Smart Signals Project, which includes Project 0, 1, and 2. TJKM assisted the Town with preparation of MTC's IDEA grant application and was successful in the Town being awarded the federal funds for Project 1 and 2.

Based on our meeting on March 14, 2018, the Town would like the Consultant to assist in project management of the System Evaluation and Engineering (PS&E) phases of Project 0 and Project 1. Scope and responsibilities for the future phases, including P0 and P1 installation & implementation and P2, will be determined on a future date.

TJKM will assist the Town in the following tasks outlined by the Town in their email dated March 16, 2018:

- ▶ The Project Manager (PM) shall function on behalf of Town staff and assume full project management role and responsibility, ensuring project success from selection/evaluation of system and equipment, through RFP for design and overseeing the preparation of the bid contract documents. The PM would also assist with final implementation of a functioning system, within the project schedule. The scope and fee for providing project management services during bid and construction support will be a separate contract.
- ▶ The PM shall be responsible for communications with all parties: Town staff, MTC staff and consultants, Caltrans, and consultants and vendors hired by the Town.
- ▶ The PM shall submit written updates to designated Town staff on a regular basis and as requested by Town staff. For example, updates upon each meeting with MTC, design consultants, and vendors.
- ▶ The PM shall participate with the Town's Traffic Engineer in system evaluation as performed by MTC's consultant to ensure appropriate selection of system for the Town of Los Gatos.
- ▶ Based on the system evaluation completed by MTC's consultant, the PM shall prepare an RFP for a design consultant to prepare PS&E of Project 0 and 1. The Town's City Traffic Engineer will issue the RFP and the PM will be available to assist with questions that arise during the advertising phase.
- ▶ The PM shall review PS&E and provide comments to design consultants through redline markups scanned and emailed back to the design consultant.
- ▶ TJKM estimates the duration of the system evaluation and PS&E phases to be at least 24 months.



Ms. Ying Smith
March 19, 2018
Page 2 of 2

- ▶ The Town's Traffic Engineer is anticipated to be involved in the system evaluation phase meetings with MTC, review of the system engineering documentation, selection of the central signal system, review of the design RFP prepared by TJKM, and meetings with the Town's selected design consultant. TJKM will coordinate with the Town's Traffic Engineer during these instances and provide updates to the Town on other meetings attended without the Town's Traffic Engineer.

Based on the workscope above, TJKM anticipates a minimum of 10 hours a week of time for the PM or other staff assisting for at least an 18 month timeframe. Based on our experience, we estimate 6 months for the System Engineering Project 0 and 1 phase and 12 months for the PS&E phase. The PM and other staff assisting would invoice the Town on a time and materials basis using the latest rate schedule attached. TJKM will invoice monthly to the Town and inform the Town's Traffic Engineer once the budget is close to 90% expended.

The estimated fee for the workscope is $\$200/\text{hr} \times 10 \text{ hrs/week} \times 78 \text{ weeks} = \$156,000$ plus direct expenses (estimated at $\$10,000$) = $\$166,000$ total.

If the estimated duration is expected to be longer than 18 months, TJKM will revise the proposal accordingly and resubmit to the City for approval.

Please feel free to call me at 925-264-5003 or email at apatel@tjkm.com for any questions regarding this proposal.

Sincerely,

A handwritten signature in cursive script that reads "Atul Patel".

Atul Patel, T.E.
Director of Design & ITS



Rate Schedule

Principal	\$250/hour
Director	230/hour
Senior Project Manager	210/hour
Project Manager	180/hour
Senior Transportation Engineer	165/hour
Transportation Engineer	145/hour
Assistant Transportation Engineer	125/hour
Transportation Planner	120/hour
Assistant Transportation Planner	115/hour
Graphics Designer	110/hour
Designer	100/hour
Technical Staff II	90/hour
Administrative Staff	80/hour
Production Staff	55/hour

Reimbursable Expenses

Plotting (per sheet)	\$18.00
Travel Cost (per mile, subject to change; based on IRS standard mileage rates)545

All outside services are billed at cost plus a ten percent margin for handling.

Expert Witness charges available upon request.

Invoices are due and payable within 30 days. Invoices paid after 30 days will be subject to separate billings of one and one half percent per month of unpaid balance. Late charges are not included in any agreement for maximum charges.

Rates Effective January 1, 2018

Rates Subject to Change



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/18/2020

ITEM NO: 5

DATE: August 7, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Enter into a Five-Year Agreement for Cablecasting and Livestreaming Services with KCAT-TV, a Non-Profit Access Television Station

RECOMMENDATION:

Authorize the Town Manager to enter into a five-year agreement for cablecasting and livestreaming services with KCAT-TV, a non-profit access television station.

BACKGROUND:

Since 2003, the Town has had an agreement with KCAT to provide cablecasting of Town meetings, including the recording and broadcasting of Town Council and Planning Commission meetings on television local channel 15. In 2010, the Town Council approved a five-year agreement to continue the cablecasting services and distribution of public, education, and government (PEG) funding. In 2015, the Town Council approved a five-year agreement to continue the public access funding and cablecasting services. In 2019, the Town Council approved a first amendment to that agreement to add livestreaming services, including streaming the live video feed to a Town-branded YouTube page, on-call engineering services to support technical issues, YouTube channel organization and management, and providing an mpg4 file to Town staff the day after the meeting occurs.

On June 16, 2020, the Town Council approved a two-month extension to the agreement until August 31, 2020 while Town staff and KCAT representatives finished negotiating terms for a new five-year contract. The existing agreement is included as Attachment 1 for reference.

PREPARED BY: Holly Zappala
Management Analyst

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Enter into a Five-Year Agreement for Cablecasting and Livestreaming Services with KCAT

DATE: August 18, 2020

DISCUSSION:

In April, 2020, Town staff and KCAT representatives met remotely to begin working collaboratively to negotiate a new five-year agreement for the cablecasting and livestreaming of Town Brown Act meetings, including Council, Planning Commission, and Pension and OPEB Trusts Oversight Committee meetings. Important elements of a new agreement included staff's preference for a flat-rate contract and removal of variable charges. A draft agreement was reached in July, 2020 (Attachment 2).

Pursuant to the negotiated terms, beginning in fiscal year 2020/21 through fiscal year 2024/25, KCAT will broadcast 60 regular Town Brown Act meetings per year on local television channel 15 and livestream on the Town-branded YouTube channel for an annual fee of \$60,000, or \$5,000 per month. This price includes cablecasting, livestreaming, and all related set-up, uploading/transferring, and data storage. It is a flat-rate fee contract and previous overtime charges are no longer applicable. Additional meetings will be charged at a flat fee of \$1,000 per meeting.

CONCLUSION:

KCAT's ability to provide cablecasting on local television and livestreaming on YouTube of Town Council and Planning Commission meetings is important to allow the public access to view these meetings live, as well as to watch archived meetings. Staff recommends the Town Council authorize the Town Manager to enter into a five-year agreement for cablecasting and livestreaming services with KCAT.

COORDINATION:

This report has been prepared in coordination with the Information Technology Department, Clerk Department, Town Attorney, and Town Manager's Office.

FISCAL IMPACT:

The fiscal impact is anticipated to be a minimum of \$60,000 annually for cablecasting and livestreaming services over the course of a five-year period. This amount may increase based on additional meetings held. Sufficient anticipated funds are available in the Town budget. KCAT will continue to receive 100% of PEG funding from the Town on a quarterly basis, provided the Town retains, at all times, a PEG funds balance of \$50,000 in an equipment reserve account. These funds will be made available, as approved by the Town, for major maintenance, replacement, or upgrading of the cablecast and related technology resources in the Town Council chambers. When money in the equipment reserve account is spent, it will be

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Enter into a Five-Year Agreement for Cablecasting and Livestreaming Services with KCAT

DATE: August 18, 2020

FISCAL IMPACT (continued):

replenished by the Town depositing 10% of the PEG funding received until the \$50,000 is reached.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Existing Agreement for Services with KCAT
2. Draft 5 Year Agreement for Services with KCAT

FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 17th day of December, 2019 and amends that certain Agreement for Public Access Funding and Cablecasting Services dated September 1, 2015, made by and between the Town of Los Gatos ("Town"), and KCAT-TV, a non-profit public access television station ("KCAT").

RECITALS

- A. Town and KCAT entered into an Agreement for Public Access Funding and Cablecasting Services on September 1, 2015 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment. The Agreement expires June 30, 2020.

FIRST AMENDMENT

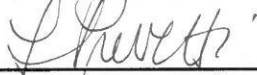
- 1. Agreement 15.180 for Public Access Funding and Cablecasting Services is amended to include KCAT providing the additional service of live streaming meetings to the Town-branded YouTube page for annual compensation from the Town of \$8,400.00 (\$700.00 per month). Meeting recordings will remain available on the Town-branded YouTube page for viewing.

The Town and KCAT shall have the right to terminate this portion of the agreement with or without cause by giving not less than 30 days written notice of termination.

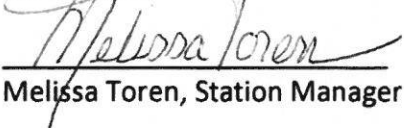
- 2. All other terms and conditions of the Agreement remain in full force and effect.

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


Town of Los Gatos, by:


Laurel Prevetti, Town Manager

KCAT-TV, by:

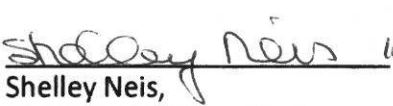

Melissa Toren, Station Manager

Recommended by:


Chris Gjerde, IT Manager

Approved as to Form:


Robert Schultz, Town Attorney

 12/19/19
Shelley Neis,
CMC, CPMC, Town Clerk

CLERK DEPARTMENT
AGR 15.180
IIIH _____
ORD _____
REC _____
RESO _____

**AGREEMENT FOR PUBLIC ACCESS FUNDING
AND CABLECASTING SERVICES**

THIS AGREEMENT is entered into by and between the Town of Los Gatos, a California municipal corporation, (“TOWN”) and KCAT-TV, a non-profit public access television station (“KCAT”). This Agreement is made with reference to the following facts and agreements.

ARTICLE 1: RECITALS

- 1.1 KCAT is a non-profit public access television station that serves the community of Los Gatos and Monte Sereno. KCAT can be seen via Comcast on Channel 15 by 10,000 cable households in Los Gatos and Monte Sereno.
- 1.2 The Town has always supported public access television within its jurisdictional limits and seeks, in this Agreement to provide a more stable funding source to support public, educational, and governmental cablecasting.
- 1.3 This Agreement will serve as a contract with Town to pay for KCAT services rendered to cablecast meetings of the Town Council and Planning Commission.
- 1.4 The Parties to this Agreement replace and supersede all previous agreements between the parties related to public access television.

ARTICLE 2: REPRESENTATIONS AND WARRANTIES OF KCAT

2.1 KCAT Status

KCAT shall be an independent contractor and not an agent or employee of the TOWN. KCAT shall be duly organized, validly existing and in good standing under the laws of the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

2.2 KCAT Authorization

KCAT has the authority to enter into and perform its obligations under this Agreement. The Board of Directors and KCAT (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The persons signing this Agreement on behalf of KCAT have the authority to do so.

2.3 Equal Employment Opportunity

KCAT warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. KCAT shall not discriminate

Type text here

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.

2.4 Compliance With Laws and Regulations

KCAT shall comply with all existing and future TOWN, county, state, and federal laws, including all Environmental Laws.

2.5 Permits and Licenses

KCAT shall procure and maintain in force and effect all necessary governmental permits and licenses and give all notices necessary to the due and lawful performance of the work contemplated herein. KCAT shall pay the currently approved amount for an annual business license to operate in the TOWN as delineated in the TOWN Master Fee Schedule, current edition.

ARTICLE 3: TERM OF AGREEMENT

3.1 Term of Agreement

The effective date of this Agreement shall be September 1, 2015. The term of this Agreement shall be for a period of five years, commencing on September 1, 2015, and expiring at midnight June 30, 2020. The TOWN shall at its sole discretion extend the term of this Agreement on a year- to- year basis depending upon the TOWN budget appropriations for these services. The terms and conditions of this Agreement, including compensation, shall be applicable during said extension unless the parties mutually agree upon any changes.

ARTICLE 4: SCOPE OF AGREEMENT

4.1 Scope of Agreement

The Agreement granted to KCAT shall be for the video production of 60 Regular TOWN Brown Act meetings that include the cablecast of up to twenty-eight (28) Town Council meetings per calendar year live, generally scheduled on the first and third Tuesday of each month from the Town Council Chambers as well as up to twenty-eight (28) Town Planning Commission meetings per calendar year, which generally fall on the 2nd and 4th Wednesday of each month and four (4) additional Committee or Board meetings per calendar year. The meetings may include special meetings, study sessions, and rescheduled or continued meetings. The TOWN Manager shall have the authority to designate a Special TOWN Brown Act meeting or any other Committee/Board meeting in place of a Regular TOWN Brown Act meeting.

4.2 Administration of Agreement

The TOWN Manager shall administer this Agreement and/or his/her designee, shall supervise KCAT compliance with the Agreement terms and conditions.

4.3 Ownership of Video Recorded TOWN Brown Act Meetings

All TOWN Brown Act meetings video recorded by KCAT pursuant to this Agreement shall be the property of TOWN.

ARTICLE 5: DIRECT SERVICES

5.1 General

The video production work to be done by KCAT pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required, except as provided elsewhere in this Agreement. KCAT shall at all times during the term of this Agreement provide quality, efficient, technical and professional service to the reasonable satisfaction of Town and shall perform all work required under this Agreement.

5.2 Video Production Schedules

TOWN shall provide a list of all anticipated regular TOWN Brown Act meetings, including their dates, time and locations for each meeting. KCAT shall establish schedules for video production of meetings, including set up and take down, and shall notify TOWN of said schedules.

5.3 Operations and Equipment

KCAT shall be responsible for the management and operation of the video production services provided pursuant to this Agreement, including but not limited to training and meeting-to-meeting supervision of operations. KCAT will provide appropriate technical staff, temporary operators, and an in-chamber assistant trained in the specific aspects of meeting coverage and use of the audio and video systems. Technical staff, temporary operators, and in-chamber assistant will demonstrate proficiency with all relevant broadcasting equipment.

KCAT will arrange for two (2) alternates to act as temporary operators, if KCAT cannot provide agreed upon services due to illness, emergency, or other reasonable circumstances. The two (2) alternates shall be mutually agreed upon by KCAT and the TOWN. Alternates shall be both technically trained and competent to operate the TOWN's video production equipment. In KCAT's presence, alternates shall work a minimum of one (1) Council Meeting per year, not to exceed six (6) hours per year, per alternate, as training on the TOWN's video production equipment.

TOWN shall provide all equipment necessary at TOWN Council Chambers to record TOWN Brown Act meetings under this Agreement. KCAT will provide technical consultation for the repair, modification, and upgrade of the TOWN-owned video production equipment. KCAT shall provide all routine maintenance, repair, and replacement of all cablecasting equipment at the level necessary to permit the equipment to achieve its useful life. This maintenance does not include maintenance of the external cable link between Town Hall and KCAT. Said equipment shall be operated in a safe manner consistent with reasonable industry standards. KCAT will provide initial system checks, 60 (sixty) minutes prior to scheduled meetings to ensure that the video and sound production equipment is performing per specifications.

KCAT shall not use TOWN video broadcasting equipment for any other purpose other than this Agreement, unless written consent is given by the TOWN. Cablecasting and broadcasting equipment shall be operated at all times by the technical and temporary staff covered in this Agreement.

KCAT will provide gavel to gavel meeting coverage and is responsible for securing the video production equipment room after cablecasting, tape duplication, or other activities.

ARTICLE 6: OTHER SERVICES

6.1 Play Back

KCAT will air previously recorded meetings covered by this agreement on its Community Access Channel (Channel 15/ KCAT) based on its program/schedule availability.

6.2 Special Events

KCAT will work cooperatively with TOWN staff regarding the live cablecast of any additional special events at mutually agreed upon price, date, and time.

6.3 Liaison With TOWN

KCAT shall maintain on-going liaison with TOWN regarding all video production and insertion point activities, and any matters relating to the performance of this Agreement, including complaints.

6.4 Records

KCAT shall maintain a general ledger and detailed books of account showing the receipt and expenditure of all funds received from TOWN for not less than five (5) years following completion of the work, the receipt of funds and the expenditure of funds under this Agreement. KCAT shall make these records available to authorized personnel of the TOWN at KCAT's offices during business hours upon written request of the TOWN.

If an audit conducted by the TOWN demonstrates inappropriate expenditures of public funds by KCAT, including PEG funds, KCAT shall reimburse said expenditures and restore the funding as may be required. If any audit by TOWN discloses a discrepancy in allowed expenditures of more than five percent (5%) in any one year, KCAT shall reimburse TOWN for the cost of the audit, including any staff time contributed to the securing or management of the audit and/or the required follow-up actions.

KCAT shall maintain detailed records and books of account showing the receipt of and expenditure of all PEG Funding and Grant Funding received from TOWN. KCAT acknowledges that PEG funding is strictly limited to certain expenditures for capital costs, equipment, and facilities.

On or before March 1st of each year, beginning with March 1, 2016, KCAT shall submit a written report and analysis of all funds received from TOWN in the prior calendar year and a listing of expenditures made with said funds or from the accumulation or interest/investment earnings on said funds. The report shall be submitted to the TOWN Manager.

6.5 Adjustments to Level of Video Production Services

The TOWN has the right to request additional video production services. Compensation for any additional video production service shall be pursuant to Article 7 .1. Similarly, the TOWN has the right to reduce video production services in the event of budgetary reductions. Any reduction in compensation paid by TOWN would be negotiated and agreed upon by both parties.

ARTICLE 7: KCAT'S COMPENSATION

7.1 Compensation and Overtime

The TOWN shall compensate KCAT in the amount of \$35,000 for the sixty (60) Regular TOWN Brown Act meetings. The TOWN Manager shall have the authority to designate a Special TOWN Brown Act meeting in place of a Regular TOWN Brown Act meeting.

The TOWN shall compensate KCAT for meetings exceeding the 60 regular TOWN Brown Act meetings or special meetings designated by the TOWN manager at \$95.00 per hour. Any such meetings above 60 shall be approved in writing by the Town Manager.

The TOWN shall compensate KCAT for overtime for any TOWN Brown Act meeting that exceeds four (4) hours at \$110.00 per hour.

The TOWN shall compensate KCAT \$235 flat fee for the cancelation of any meeting other than the 60 meetings.

The TOWN shall compensate KCAT \$135 per month as a Server Charge for storage of archived meetings.

KCAT will provide to the Town at no cost, two (2) recordings of all meetings covered by this Agreement on broadcast quality DVD. Recordings of meetings shall be given to the TOWN for its records. Any additional recording requests by the TOWN shall be paid a \$ 20 per DVD Duplication (mtg. under 2 hrs.) and \$30 per DVD Duplication (mtgs. Over 3 hrs.)

The base compensation amount of \$35,000.00 shall be adjusted annually each year beginning July 1 2016, and will be determined by multiplying the percentage change in the Consumer Price Index for the San Francisco Bay Area, California, USA, as determined by the United States Department of Labor. Any CPI adjustment will be annually calculated on each April 1 to take effect July 1. The index used shall be the index for the most recent full twelve-month period for which the index is available. Any CPI adjustment can be a decrease as well as an increase based on the above-mentioned index used, not to exceed +/- 3% per year.

7.2 Public Access Funding

TOWN agrees to pay forward to KCAT any PEG funds within thirty (30) days of receipt by TOWN. Said funds are to be used for public access television services in TOWN, provided the expenditure of PEG funds so received shall be made in strict compliance with the law relative to PEG funding, as it may be amended from time to time.

Notwithstanding the obligation to pay forward PEG funds to KCAT, TOWN shall at all times retain a PEG funds balance received by TOWN in the amount of \$50,000 and said funds shall be placed in an equipment reserve account. These funds will be made available, as approved by the TOWN, for major maintenance, replacement or upgrading of the cablecast and related technology resources in the Town Council chambers.

7.3 Invoices

KCAT shall submit to TOWN by the 15th of each month an invoice for the services provided during the previous month. Said invoice shall indicate at a minimum the work performed during the month and the monthly fee, as provided in Article 6.1 herein above. Recorded meetings for the month invoiced shall be submitted to the TOWN prior to payment of the invoice.

7.4 Payments

TOWN shall pay monthly invoices within twenty (20) days after receipt of a complete and accurate invoice and submission of the required number of recorded copies for TOWN meetings.

TOWN reserves the right to withhold payment either wholly or partially if said

electronically recorded audio/visual meeting content is not provided or if KCAT fails to provide on a consistent basis sufficient qualified personnel for video production activities.

ARTICLE 8: INDEMNIFICATION, INSURANCE AND BOND

8.1 Indemnification

KCAT shall indemnify and hold harmless TOWN and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees and litigation expenses arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of KCAT or anyone directly or indirectly employed by KCAT, except where caused by the active negligence, sole negligence, or willful misconduct of the TOWN. KCAT's duty to indemnify and defend shall survive the expiration or earlier termination of the Agreement.

8.2 Insurance

During the term of this Agreement, KCAT shall carry insurance in accordance with TOWN requirements and such other insurance as required by law and to protect against loss from liability imposed by law for damages on account of bodily injury and property damage. The insurance shall name on the policy, as additional insured, the Town of Los Gatos, its officers, employees and agents. Insurance coverage with a minimum combined single limit in an amount established by the Town's Risk Manager which must be maintained for the duration of this Agreement and the insurance company must provide the Town with thirty (30) days' written notice of cancellation of the policy. Coverage provisions, including limits, shall otherwise be in accordance with Town policy.

Lack of insurance does not negate the KCAT's obligation under this Agreement. KCAT agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, KCAT shall look solely to its insurance for recovery, except where caused by the active negligence, sole negligence, or willful misconduct of the TOWN. KCAT hereby grants to the TOWN, on behalf of any insurer providing insurance to either KCAT or TOWN with respect to the services of KCAT herein, a waiver of any right to subrogation which any such insurer of said KCAT may acquire against the TOWN by virtue of the payment of any loss under such insurance.

Insurance shall be secured and approved by TOWN's Risk Manager prior to commencement of work according to this Agreement.

Maintenance of proper insurance coverage is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the TOWN as a material breach of Agreement. KCAT shall forward the TOWN specifications and forms to KCAT's insurance agent for compliance.

ARTICLE 9: DEFAULT AND REMEDIES

9.1 Events of Default

All provisions of this Agreement to be performed by KCAT are considered material. Each of the following shall constitute an event of default.

- A. **Fraud or Deceit.** If KCAT practices, or attempts to practice, any fraud or deceit upon TOWN.
- B. **Insolvency or Bankruptcy.** If KCAT shall at any time during the term of this Agreement become insolvent, or if proceedings in bankruptcy shall be instituted by or against KCAT, or if KCAT shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of KCAT shall be appointed in any suit or proceeding brought by or against KCAT, or if KCAT shall make an assignment for the benefit of creditors, then and in each and every such case, TOWN may at its sole discretion immediately terminate this Agreement upon written notice to KCAT and without the necessity of suit or other proceeding and avail itself of any of the various remedies set forth in Article 9.10 herein below or any other remedies provided by law. KCAT shall provide written notice to TOWN in a timely manner in the event KCAT files for bankruptcy or takes any other action as protection from creditors during the term of this Agreement.
- C. **Failure to Maintain Coverage.** If KCAT fails to provide or maintain in full force and effect the insurance or performance surety requirements pursuant to Article 8.
- D. **Failure to Perform.** If KCAT ceases to provide video production services as required under this Agreement for a period of two (2) meetings, for any reason within the control of KCAT.
- E. **Failure to Provide Recorded Meetings/Records.** If KCAT fails to provide the required number of copies for each TOWN meeting recorded under this agreement and/or refuses to provide TOWN with required information and/or records in a timely manner as provided for in the Agreement.
- F. **Acts or Omissions.** Any other act or omission by KCAT which violates the terms, conditions, or requirements of this Agreement as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of violation or, if KCAT cannot reasonably correct or remedy the breach within the time set forth in such notice, if KCAT should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.
- G. **False or Misleading Statements.** Any representation or disclosure made to TOWN by KCAT in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proved to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

9.2 Breach and Termination

All terms and conditions of this Agreement are material and binding, and failure by KCAT to perform any portion of the work described herein or any related covenants or agreements shall be considered a breach of this Agreement. In the event this Agreement is breached in any manner, TOWN may at its sole option terminate this Agreement no

less than twenty (20) days after written notice is given to KCAT setting forth the breach and KCAT fails, neglects, or refuses to remedy said breach. KCAT shall thereafter have no further rights, powers, or privileges against TOWN under or arising out of this Agreement. In the event a breach does not result in termination, but does result in costs being incurred by TOWN, said costs shall be deducted from any amounts due or to become due to KCAT.

In addition to all other remedies and damages provided by law in the event of a breach of this Agreement, TOWN may, at its sole discretion, assess the actual damage caused by the breach as the remedy and obtain said remedy through set-off against KCAT's invoice or by any other appropriate procedure, including but not limited to wholly or partially withholding payment of any amounts billed to TOWN by KCAT. TOWN may also provide, directly or through a contract, the services required under this Agreement and deduct actual costs to TOWN from any amounts due or to become due to KCAT, including but not limited to start-up costs, labor, material, and equipment. The provisions of this Article shall not be exclusive, but shall be cumulative and in addition to any other remedies provided herein or pursuant to law.

In the event TOWN terminates this Agreement as provided herein, KCAT shall meet all terms and conditions of this Agreement through the effective date of said termination. In the event there is a transition to a different KCAT, KCAT shall cooperate with TOWN and any successor KCAT TOWN may select to provide the services required herein. In the event KCAT fails to comply with the conditions of this paragraph, TOWN may withhold any compensation due KCAT until KCAT complies.

ARTICLE 10: GENERAL PROVISIONS

10.1 Relationship of Parties

KCAT shall be an independent contractor and not an agent or employee of TOWN. KCAT shall not represent that KCAT is an agent or employee of TOWN. KCAT shall not give any person any reason to believe KCAT is an agent or employee of TOWN. No act of KCAT shall bind or obligate TOWN.

KCAT assumes full and sole responsibility for the payment of all compensation and all other expenses related to KCAT's personnel, including but not limited to state and federal income taxes, Social Security contributions, workers compensation, and disability and unemployment insurance contributions. KCAT shall be responsible for the payment of all required state and federal taxes. KCAT agrees TOWN shall not be requested or obligated to withhold from payments to KCAT Social Security contributions or state and federal income taxes.

KCAT and KCAT's employees shall not be entitled to any employment benefits provided by TOWN to TOWN employees. In the event KCAT provides similar benefits to KCAT's employees, KCAT shall be fully responsible for purchasing said benefits separately and independently of the relationship established between TOWN and KCAT under this Agreement.

10.2 Governing Law

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

10.3 No Self Dealing

Due in-part to the public funding provided in this Agreement, no KCAT Board Member may be financially interested in any contract, expenditure, purchase, or grant made by KCAT. KCAT employees are likewise excluded from any financial interest in any contract, expenditure, purchase, or grant by or from KCAT. For the purpose of this section, financial interest shall be determined pursuant to Government Code 1090, *et. seq.*

10.4 Project Manager.

The Project Manager for KCAT for the work under this Agreement shall be Melissa Toren, KCAT-TV Station Manager, or an appropriate KCAT-TV Board designee. Town shall designate a Town staff member to serve as a liaison to the Board and who will serve as an ex-officio board member. The ex-officio board member shall be entitled to, but not required to attend all meetings of the Board and be permitted to participate in all discussions, but not vote. The ex-officio member shall receive advance written notice of all meetings of the board.

10.5 Assignability and Subcontracting

The services to be performed under this Agreement are unique and personal to KCAT. No portion of these services shall be assigned or subcontracted without the written consent of the Town.

10.6 Transition to Next Contractor

If the transition of services to another contractor occurs through expiration of term, default and termination, or otherwise, KCAT will cooperate with TOWN and subsequent contractor(s) to assist in an orderly transition.

10.7 Reservation of Rights

It is hereby expressly agreed by and between the parties hereto that TOWN shall have, and there is hereby reserved unto TOWN and to its officers and officials, all rights, powers, and privileges which might be expressly set out in this Agreement in favor of TOWN and its officers. The express mention of certain rights, powers, and privileges in favor of TOWN is not intended to and shall not be deemed or construed to exclude any other right, power, or privilege in favor of TOWN that might be expressly reserved herein.

10.8 Non-Waiver

No acquiescence, failure, or neglect of either party to insist upon strict performance of any or all of the provisions of this Agreement shall be construed to constitute a waiver of any term, condition, or provision of this Agreement nor of any performance required

hereunder, nor of any remedy, damages, or other liability arising as a result of any failure of performance, neglect, or inability to perform at any time.

10.9 Severability

If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

10.10 Survival

Upon the expiration or termination of this Agreement, each party shall be released from all obligations and liabilities to the other occurring or arising after the date of such expiration or termination, except that any expiration or termination of this Agreement shall not relieve KCAT of KCAT's obligations under Articles 8.1, nor shall any such expiration or termination relieve KCAT from any liability arising from any breach of this Agreement.

10.11 Waiver of Performance

The parties to this Agreement shall be excused from performance hereunder during the time and to the extent that they are prevented from performing their respective responsibilities by an act of God, fire, strike, lockout, or commandeering of materials, products, plants, or facilities by the state or federal government, when satisfactory evidence therefore is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

10.12 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.

10.13 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.

10.14 Entire Agreement and Notice

This Agreement, together with the Exhibits attached hereto and incorporated herein by reference, contains the full, complete, and entire agreement between the parties and replaces and supersedes all previous agreements, understandings, and arrangements between the parties with respect to the subject matter hereto. This Agreement may not be modified except by written agreement expressly authorized by TOWN and as mutually agreed by the parties. All notices hereunder and communications with respect to this Agreement shall be in writing and shall be effective upon the mailing thereof by registered or certified mail, return receipt requested, and postage prepaid as follows:

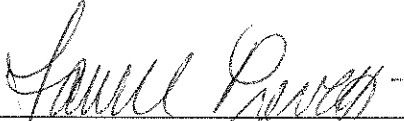
To Town:
Town Manager
110 E. Main Street
Los Gatos, CA 95030

To KCAT:
KCAT-TV Station Manager
20 High School Court
Los Gatos, CA 95030

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

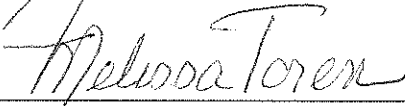
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed this ___ day of _____, 2015.

TOWN OF LOS GATOS:



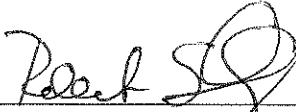
~~Los White, Interim~~ Town Manager
Laurel preveti

KCAT-TV



Melissa Toren, Station Manager

APPROVED AS TO FORM:



Robert Schultz, Town Attorney

ATTEST:



Shelley Neis, Clerk Administrator

AGREEMENT FOR PUBLIC ACCESS FUNDING, CABLECASTING, AND LIVESTREAMING SERVICES

THIS AGREEMENT is made and entered into on September 1, 2020 by and between TOWN OF LOS GATOS, a California municipal corporation, (“Town”) and KCAT-TV (“KCAT”), whose address is 20 High School Court, Los Gatos, CA 95030. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 KCAT is a non-profit public access television station that serves the community of Los Gatos and Monte Sereno. KCAT can be viewed via Comcast Channel 15 by roughly 10,000 cable households in Los Gatos and Monte Sereno.
- 1.2 The Town has always supported public access television within its jurisdictional limits and seeks, in this Agreement to provide a more stable funding source to support public, educational, and governmental cablecasting.
- 1.3 The Agreement will serve as a contract with the Town to pay for KCAT services rendered to cablecast and livestream Town Brown Act meetings.
- 1.4 The parties to this Agreement replace and supersede all previous agreements between the parties related to public access television.

II. REPRESENTATIONS AND WARRANTIES OF KCAT

- 2.1 KCAT Status. KCAT shall be an independent contractor and not an agent or employee of the Town. KCAT shall be duly organized, validly existing and in good standing under the laws of the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.
- 2.2 KCAT Authorization. KCAT has the authority to enter into and perform its obligations under this Agreement. The Board of Directors and KCAT (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws, or otherwise to authorize the execution of this Agreement. The persons signing this Agreement on behalf of KCAT have the authority to do so.
- 2.3 Equal Employment Opportunity. KCAT warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal opportunity employment. KCAT shall not 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.

- 2.4 Compliance with Laws and Regulations. KCAT shall comply with all existing and future Town, County, State, and Federal Laws, including all environmental laws.
- 2.5 Permits and Licenses. KCAT shall procure and maintain in force and effect all necessary governmental permits and licenses and give all notices necessary to the due and lawful performance of the work contemplated herein. KCAT shall pay the currently approved amount for an annual business license to operate in the Town as delineated in the Town code.

III. TERM OF AGREEMENT

- 3.1 Term of Agreement. The effective date of this Agreement shall be September 1, 2020. The term of this agreement shall be for a period of five years, commencing on September 1, 2020 and expiring at midnight on June 30, 2025. The Town shall, at its sole discretion, extend this Agreement on a year to year basis depending on the Town budget appropriations for these services. The terms and conditions of this Agreement, including compensation, shall be applicable during said extension unless the parties mutually agree on any changes.

IV. SCOPE OF AGREEMENT

- 4.1 Scope of Agreement. The Agreement granted to KCAT shall be for the video production of sixty (60) Regular Town Brown Act meetings per year. Production includes cablecast and live streaming services from the Town Council Chambers of, at a minimum:
- Town Council meetings, generally scheduled on the first and third Tuesday of each month,
 - Planning Commission meetings, generally scheduled on the second and fourth Wednesdays of each month, and
 - Pension and OPEB Trusts Oversight Committee meetings as scheduled.

Additional meetings may include special meetings, study sessions, and regular or continued meetings. The Town Manager or their designee shall have the authority to designate a Special Town Brown Act meeting or any other Committee/Board meeting in place of a regular Town Brown Act meeting.

- 4.2 Administration of Agreement. The Town Manager, and/or their designee, shall administer this Agreement and supervise KCAT compliance with the Agreement terms and conditions.
- 4.3 Ownership of Video Recorded Town Brown Act Meetings. All Town Brown Act meetings video recorded and live streamed by KCAT pursuant to this Agreement shall be property of the Town.

V. DIRECT SERVICES

- 5.1 General. The video production work to be done by KCAT pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required, except as provided elsewhere in this Agreement. KCAT shall, at all times during the term of this Agreement, provide quality, efficient, technical and professional service to the reasonable satisfaction of Town and shall perform all work required under this Agreement.
- 5.2 Video Production Schedules. Town shall provide a list of all anticipated regular Town Brown Act meetings, including the dates, times and locations for each meeting. KCAT shall establish schedules for video production of meetings, including set up and take down, and shall notify the Town of said schedules.
- 5.3 Operations and Equipment. KCAT shall be responsible for the management and operation of the video production services provided pursuant to this Agreement, including but not limited to training and meeting-to-meeting supervision of operations. KCAT will provide appropriate technical staff, temporary operators, and an in-chamber assistant trained in the specific aspects of meeting coverage and use of the audio and video systems. Technical staff, temporary operators, and the in-chamber assistant will demonstrate proficiency with all relevant broadcasting equipment.

KCAT will arrange for two (2) alternates to act as temporary operators, if KCAT cannot provide agreed upon services due to illness, emergency, or other reasonable circumstances. The two (2) alternates shall be mutually agreed upon by the KCAT and the Town. Alternates shall be both technically trained and competent to operate the Town's video production equipment. In KCAT's presence, alternates shall work a minimum of one (1) Council Meeting per year, not to exceed six (6) hours per year, per alternate, as training on the Town's video production equipment.

The Town shall provide all equipment necessary at Council Chambers to record Brown Act meetings under this Agreement. KCAT will provide technical consultation for the repair, modification, and upgrade of the Town-owned video production equipment. KCAT shall provide all routine maintenance, repair, and replacement of all cablecasting equipment at the level necessary to permit the equipment to achieve its useful life. This maintenance does not include maintenance of the external cable link between Town Hall and KCAT. Said equipment shall be operated in a safe manner consistent with reasonable industry standards. KCAT will provide initial system checks, 60 (sixty) minutes prior to scheduled meetings to ensure that the video and sound production equipment is performing per specifications.

KCAT shall not use TOWN video broadcasting equipment for any other purpose other than this Agreement, unless written consent is given by the TOWN. Cablecasting and

broadcasting equipment shall be operated at all times by the technical and temporary staff covered in this Agreement.

KCAT will provide gavel to gavel meeting coverage and is responsible for securing the video production equipment room after cablecasting, tape duplication, or other activities.

- 5.4 Livestreaming. KCAT's livestreaming services include streaming the live video to the Town of Los Gatos branded YouTube page during the meeting, archiving the meeting recordings on the YouTube channel for viewing later, on-call engineering services to support technical issues, YouTube channel organization and management, and providing an mpg4 file to Town staff the day after the meeting occurs.

VI. OTHER SERVICES

- 6.1 Playback. KCAT will air previously recorded meetings covered by this agreement on its Community Access Channel (Channel 15/ KCAT) based on its program/schedule availability.
- 6.2 Special Events. KCAT will work cooperatively with Town staff regarding the live cablecast of any additional special events at a mutually agreed upon price, date, and time.
- 6.3 Liaison with Town. KCAT shall maintain an on-going liaison with the Town regarding all video production and insertion point activities, and any matters relating to the performance of this Agreement, including complaints.
- 6.4 Records. KCAT shall maintain a general ledger and detailed books of account showing the receipt and expenditure of all funds received from Town for not less than five (5) years following completion of the work, the receipt of funds and the expenditure of funds under this Agreement. KCAT shall make these records available to authorized personnel of the Town at KCAT's offices during business hours upon written request of the Town.

If an audit conducted by the Town demonstrates inappropriate expenditures of public funds by KCAT, including PEG funds, KCAT shall reimburse said expenditures and restore the funding as may be required. If any audit by Town discloses a discrepancy in allowed expenditures of more than five percent (5%) in any one year, KCAT shall reimburse Town for the cost of the audit, including any staff time contributed to the securing or management of the audit and/or the required follow-up actions.

KCAT shall maintain detailed records and books of account showing the receipt of and expenditure of all PEG Funding and Grant Funding received from Town. KCAT acknowledges that PEG funding is strictly limited to certain expenditures for capital costs, equipment, and facilities.

On or before March 1st of each year, beginning with March 1, 2021, KCAT shall submit a written report and analysis of all funds received from Town in the prior calendar year and a listing of expenditures made with said funds or from the accumulation or interest/investment earnings on said funds. The report shall be submitted to the Town Manager.

- 6.5 Adjustments to Level of Video Production Services. The Town has the right to request additional video production services. Compensation for any additional video production service shall be pursuant to Article 7.1. Similarly, the Town has the right to reduce video production services in the event of budgetary reductions. Any reduction in compensation paid by TOWN would be negotiated and agreed upon by both parties.

VII. KCAT'S COMPENSATION

- 7.1 Compensation. The Town shall compensate KCAT in the amount of **\$60,000 per year** or \$5,000 per month for sixty (60) regular Town Brown Act meetings. This price includes \$48,000 for annual cablecasting services and \$12,000 for annual live streaming services. This price includes set-up, testing, meeting time, transfer time, upload time, data storage fees, television programming, and site management. No overtime will be applicable. The Town Manager shall have the authority to designate a Special Town Brown Act meeting in place of a Regular Town Brown Act meeting.

The Town shall compensate KCAT for meetings exceeding the regular 60 Town Brown Act meetings or Special Meetings designated by the Town Manager at **\$1,000 per meeting**. This price includes \$800 for cablecasting services and \$200 for livestreaming services. Any such meeting above 60 shall be approved in writing by the Town Manager.

The Town will provide written notice to KCAT for additional meetings or cancellations as far in advance as is possible under the circumstances. The Town shall compensate KCAT a \$235 flat fee for the cancelation of any meeting other than the 60 meetings.

KCAT will provide to the Town at no cost, two (2) recordings of all meetings covered by this Agreement on broadcast quality DVD. Recordings of meetings shall be given to the Town for its records. Any additional recording requests by the Town shall be paid a \$20 per DVD duplication for meetings under two hours and \$30 per DVD for meetings over three hours.

At the Town's written request, KCAT will transfer any specified archived meeting recordings (years 2015 – 2018) to the Town-branded YouTube channel for a fee of \$20 per meeting transfer/upload.

The base compensation amount shall be adjusted annually each year beginning July 1, 2021, and will be determined by multiplying the percentage change in the Consumer Price Index for the San Francisco Bay Area, California, USA, as determined by the United States Department of Labor. Any CPI adjustment will be annually calculated on each April 1 to

take effect July 1. The index used shall be the index for the most recent full twelve-month period for which the index is available. Any CPI adjustment can be a decrease as well as an increase based on the above-mentioned index used, not to exceed +/- 3% per year.

- 7.2 Public Access Funding. Town agrees to pay forward to KCAT any PEG funds within fifteen (15) days of receipt by Town. Said funds are to be used for public access television services in Town, provided the expenditure of PEG funds so received shall be made in strict compliance with the law relative to PEG funding, as it may be amended from time to time.

Notwithstanding the obligation to pay forward PEG funds to KCAT, Town shall at all times retain a PEG funds balance received by Town in the amount of \$50,000 and said funds shall be placed in an equipment reserve account. These funds will be made available, as approved by the Town, for major maintenance, replacement or upgrading of the cablecast and related technology resources in the Town Council chambers. When money in the equipment reserve account is spent, it will be replenished by the Town depositing 10% of the PEG funding received until the \$50,000 is reached.

- 7.3 Invoices. KCAT shall submit to the Town by the 15th of each month an invoice for the services provided during the previous month. Said invoice shall indicate at a minimum the work performed during the month and the monthly fee. Recorded meetings for the month invoiced shall be submitted to the Town prior to payment of the invoice. All invoices and statements to the Town shall be addressed as follows (email is the preferable method of delivery):

Invoices:

By email to: AP@losgatosca.gov or
Town of Los Gatos
Attn: Accounts Payable
P.O. Box 655
Los Gatos, CA 95031-0655

- 7.4 Payments. The Town shall pay monthly within twenty (20) days after receipt of a complete and accurate invoice and submission of the required number of recorded copies for Town meetings.

The Town reserves the right to withhold payment either wholly or partially if said electronically recorded audio/visual meeting content is not provided or if KCAT fails to provide on a consistent basis sufficient qualified personnel for video production activities.

VIII. INDEMNIFICATION, INSURANCE AND BOND

- 8.1 Indemnification. KCAT shall indemnify and hold harmless the Town and its officers, officials, employees and volunteers from and against all claims, damages, losses and

expenses including attorney's fees and litigation expenses arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of KCAT or anyone directly or indirectly employed by KCAT, except where caused by the active negligence, sole negligence, or willful misconduct of the Town. KCAT's duty to indemnify and defend shall survive the expiration or earlier termination of the Agreement.

- 8.2 **Insurance.** Town requirements and such other insurance as required by law and to protect against loss from liability imposed by law for damages on account of bodily injury and property damage. The insurance shall name on the policy, as additional insured, the Town of Los Gatos, its officers, employees and agents. Insurance coverage with a minimum combined single limit in an amount established by the Town Attorney which must be maintained for the duration of this Agreement and the insurance company must provide the Town with thirty (30) days' written notice of cancellation of the policy. Coverage provisions, including limits, shall otherwise be in accordance with Town policy.

Lack of insurance does not negate the KCAT's obligation under this Agreement. KCAT agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, KCAT shall look solely to its insurance for recovery, except where caused by the active negligence, sole negligence, or willful misconduct of the Town. KCAT hereby grants to the Town, on behalf of any insurer providing insurance to either KCAT or Town with respect to the services of KCAT herein, a waiver of any right to subrogation which any such insurer of said KCAT may acquire against the Town by virtue of the payment of any loss under such insurance.

Insurance shall be secured and approved by the Town Attorney prior to commencement of work according to this Agreement.

Maintenance of proper insurance coverage is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the Town as a material breach of Agreement. KCAT shall forward the Town specifications and forms to KCAT for compliance.

IX. DEFAULTS AND REMEDIES

- 9.1 **Events of Default.** All provisions of this Agreement to be performed by KCAT are considered material. Each of the following shall constitute an event of default.

- A. **Fraud or Deceit.** If KCAT practices, or attempts to practice, any fraud or deceit upon the Town.
- B. **Insolvency or Bankruptcy.** If KCAT shall at any time during the term of this Agreement become insolvent, or if proceedings in bankruptcy shall be instituted by or against KCAT, or if KCAT shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of KCAT shall be appointed in any suit or proceeding brought by or against KCAT, or if KCAT shall

make an assignment for the benefit of creditors, then and in each and every such case, TOWN may at its sole discretion immediately terminate this Agreement upon written notice to KCAT and without the necessity of suit or other proceeding and avail itself of any of the various remedies set forth in Article 9.10 herein below or any other remedies provided by law. KCAT shall provide written notice to Town in a timely manner in the event KCAT files for bankruptcy or takes any other action as protection from creditors during the term of this Agreement.

- C. **Failure to Maintain Coverage.** If KCAT fails to provide or maintain in full force and effect the insurance or performance surety requirements pursuant to Article 8.
- D. **Failure to Perform.** If KCAT ceases to provide video production services as required under this Agreement for a period of two (2) meetings, for any reason within the control of KCAT.
- E. **Failure to Provide Recorded Meetings/Records.** If KCAT fails to provide the required number of copies for each Town meeting recorded under this agreement and/or refuses to provide the Town with required information and/or records in a timely manner as provided for in the Agreement.
- F. **Acts or Omissions.** Any other act or omission by KCAT which violates the terms, conditions, or requirements of this Agreement as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of violation or, if KCAT cannot reasonably correct or remedy the breach within the time set forth in such notice, if KCAT should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.
- G. **False or Misleading Statements.** Any representation or disclosure made to the Town by KCAT in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proved to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

9.2 **Breach and Termination.** All terms and conditions of this Agreement are material and binding, and failure by KCAT to perform any portion of the work described herein or any related covenants or agreements shall be considered a breach of this Agreement. In the event this Agreement is breached in any manner, Town may at its sole option terminate this Agreement no less than twenty (20) days after written notice is given to KCAT setting forth the breach and KCAT fails, neglects, or refuses to remedy said breach. KCAT shall thereafter have no further rights, powers, or privileges against Town under or arising out of this Agreement. In the event a breach does not result in termination, but does result in costs being incurred by Town, said costs shall be deducted from any amounts due or to become due to KCAT.

In addition to all other remedies and damages provided by law in the event of a breach of this Agreement, Town may, at its sole discretion, assess the actual damage caused by the

breach as the remedy and obtain said remedy through set-off against KCAT's invoice or by any other appropriate procedure, including but not limited to wholly or partially withholding payment of any amounts billed to Town by KCAT. Town may also provide, directly or through a contract, the services required under this Agreement and deduct actual costs to Town from any amounts due or to become due to KCAT, including but not limited to start-up costs, labor, material, and equipment. The provisions of this Article shall not be exclusive, but shall be cumulative and in addition to any other remedies provided herein or pursuant to law.

In the event Town terminates this Agreement as provided herein, KCAT shall meet all terms and conditions of this Agreement through the effective date of said termination. In the event there is a transition to a different KCAT, KCAT shall cooperate with Town and any successor KCAT the Town may select to provide the services required herein. In the event KCAT fails to comply with the conditions of this paragraph, Town may withhold any compensation due KCAT until KCAT complies.

X. GENERAL PROVISIONS

- 10.1 Relationship of Parties. KCAT shall be an independent contractor and not an agent or employee of TOWN. KCAT shall not represent that KCAT is an agent or employee of Town. KCAT shall not give any person any reason to believe KCAT is an agent or employee of Town. No act of KCAT shall bind or obligate Town.

KCAT assumes full and sole responsibility for the payment of all compensation and all other expenses related to KCAT's personnel, including but not limited to state and federal income taxes, Social Security contributions, workers compensation, and disability and unemployment insurance contributions. KCAT shall be responsible for the payment of all required state and federal taxes. KCAT agrees Town shall not be requested or obligated to withhold from payments to KCAT Social Security contributions or state and federal income taxes.

KCAT and KCAT's employees shall not be entitled to any employment benefits provided by the Town to Town employees. In the event KCAT provides similar benefits to KCAT's employees, KCAT shall be fully responsible for purchasing said benefits separately and independently of the relationship established between Town and KCAT under this Agreement.

- 10.2 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.
- 10.3 No Self Dealing. Due in-part to the public funding provided in this Agreement, no KCAT Board Member may be financially interested in any contract, expenditure, purchase, or grant made by KCAT. KCAT employees are likewise excluded from any financial interest in

any contract, expenditure, purchase, or grant by or from KCAT. For the purpose of this section, financial interest shall be determined pursuant to Government Code 1090, *et. seq.*

- 10.4 Project Manager. The Project Manager for KCAT for the work under this Agreement shall be Melissa Toren, KCAT-TV Executive Director, or an appropriate KCAT-TV Board designee. Town shall designate a Town staff member to serve as a liaison to the Board and who will serve as an ex-officio board member. The ex-officio board member shall be entitled to, but not required to attend all meetings of the Board and be permitted to participate in all discussions, but not vote. The ex-officio member shall receive advance written notice of all meetings of the board.
- 10.5 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to KCAT. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 10.6 Transition to Next Contractor. If the transition of services to another Contractor occurs through expiration of term, default and termination, or otherwise, KCAT will cooperate with TOWN and subsequent Contractor(s) to assist in an orderly transition.
- 10.7 Reservation of Rights. It is hereby expressly agreed by and between the parties hereto that Town shall have, and there is hereby reserved unto Town and to its officers and officials, all rights, powers, and privileges which might be expressly set out in this Agreement in favor of Town and its officers. The express mention of certain rights, powers, and privileges in favor of Town is not intended to and shall not be deemed or construed to exclude any other right, power, or privilege in favor of Town that might be expressly reserved herein.
- 10.8 Non-Waiver. No acquiescence, failure, or neglect of either party to insist upon strict performance of any or all of the provisions of this Agreement shall be construed to constitute a waiver of any term, condition, or provision of this Agreement nor of any performance required hereunder, nor of any remedy, damages, or other liability arising as a result of any failure of performance, neglect, or inability to perform at any time.
- 10.9 Severability. If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 10.10 Survival. Upon the expiration or termination of this Agreement, each party shall be released from all obligations and liabilities to the other occurring or arising after the date of such expiration or termination, except that any expiration or termination of this Agreement shall not relieve KCAT of KCAT's obligations under Articles 8.1, nor shall any such expiration or termination relieve KCAT from any liability arising from any breach of this Agreement.

- 10.11 Waiver of Performance. The parties to this Agreement shall be excused from performance hereunder during the time and to the extent that they are prevented from performing their respective responsibilities by an act of God, fire, strike, lockout, or commandeering of materials, products, plants, or facilities by the state or federal government, when satisfactory evidence therefore is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.
- 10.12 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.
- 10.13 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.
- 10.14 Entire Agreement and Notice. This Agreement, together with the Exhibits attached hereto and incorporated herein by reference, contains the full, complete, and entire agreement between the parties and replaces and supersedes all previous agreements, understandings, and arrangements between the parties with respect to the subject matter hereto. This Agreement may not be modified except by written agreement expressly authorized by TOWN and as mutually agreed by the parties. All notices hereunder and communications with respect to this Agreement shall be in writing and shall be effective upon the mailing thereof by registered or certified mail, return receipt requested, and postage prepaid as follows:

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

To KCAT:
KCAT-TV Station Manager
20 High School Court
Los Gatos, CA 95030

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

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

Town of Los Gatos by:

KCAT, by:

Laurel Prevetti, Town Manager

Printed Name and Title

Approved as to Form:

Robert Schultz, Town Attorney

Attest:

Shelley Neis, MMC, CPMC
Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/18/2020

ITEM NO: 5

ADDENDUM

DATE: August 17, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Enter into a Five-Year Agreement for Cablecasting and Livestreaming Services with KCAT-TV, a Non-Profit Access Television Station

REMARKS:

Attachment 3 contains public comment received before 11:01 a.m. on August 17, 2020. The proposed Town/KCAT contract does not preclude possible remote meeting participation for any future in-person meetings; however, the Town has not yet explored the technical requirements to make that possible.

Attachments previously received with Staff Report:

1. Existing Agreement for Services with KCAT
2. Draft 5 Year Agreement for Services with KCAT

Attachment received with this Addendum:

3. Public Comment received before 11:01 a.m. on August 17, 2020

PREPARED BY: Holly Zappala
Management Analyst

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

Public Comment received before 11:01 a.m. on August 17, 2020

From: paul quintana

Sent: Friday, August 14, 2020 7:59 PM

To: Laurel Prevetti

Subject: Item 4 Town Council Agenda

Laurel,

Does the new contract mean that other meetings will not be available on Zoom after the Town is able to return to on site meetings?

Lee



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/04/2020

ITEM NO: 6

DATE: August 13, 2020

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Authorize the Following Actions for the Corporation Yard Building Replacement and Engineering Tenant Improvement Project (18-821-2302):

- a. Approve the Plans and Specifications for the Corporation Yard Building Replacement and Engineering Tenant Improvement Project and Authorize the Town Manager to Advertise the Project for Bid; and
- b. Authorize the Town Manager to Award and Execute a Construction Agreement in an Amount not to Exceed \$750,315, Including Contingencies; and
- c. Authorize Staff to Execute Future Change Orders in an Amount not to Exceed Ten Percent of the Contract Award Amount

RECOMMENDATION:

Authorize the following actions for the Corporation Yard Building Replacement and Engineering Tenant Improvement Project (18-821-2302):

- a. Approve the plans and specifications for the Corporation Yard Building Replacement and Engineering Tenant Improvement project and authorize the Town Manager to advertise the project for bid; and
- b. Authorize the Town Manager to award and execute a Construction Agreement in an amount not to exceed \$750,315, including contingencies; and
- c. Authorize staff to execute future change orders in an amount not to exceed ten percent of the contract award amount.

BACKGROUND:

The Town's adopted 2018/19 Capital Improvement Program Budget designates funding for Town projects, including Project 821-2302, Building Replacement at the Corporation Yard. This is a two phased project that will convert current warehouse space to office space and then

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: Corporation Yard Building Replacement and Engineering Tenant Improvement Project (18-821-2302)

DATE: August 13, 2020

BACKGROUND (continued):

replace an old portable building that currently houses staff with a steel storage building at the northwest corner of the Parks and Public Works (PPW) Corporation Yard on Miles Avenue.

On October 2, 2018, the Town Council authorized the Town Manager to execute an agreement with Cuschieri Horton Architects for the Design of Corporation Yard Building Replacement and Engineering Tenant Improvement project.

The project includes replacement of an existing portable building that houses maintenance staff offices and Police evidence storage. The portable building is over 40 years old and does not meet current standards for Police evidence storage or staff offices. In addition to experiencing some of the problems typical of an old portable, the building also has deferred maintenance needs, including a leaking roof and windows, decaying siding, and a lack of restroom facilities.

DISCUSSION:

To address the building needs cost effectively, the scope of the project includes relocating staff currently housed in the old portable building to the existing engineering building on the southwest side of the Corporation Yard. Relocating staff to this other building will allow for combining the use of restroom facilities and conditioned space. This requires constructing new staff space within the eastern side of the engineering building and reconfiguring the space to meet the combined needs. The design for this first phase is complete and ready to bid. Plans and specifications will be available on the Town website beginning August 14: <https://www.losgatosca.gov/108/Capital-Improvement-Program>.

Following this tenant improvement work, staff from the old portable building will be moved into the newly built and reconfigured office space in the engineering building. As a separately bid project in the future, the old portable will be removed, and a new prefabricated steel storage building will be erected in its place. One side of this steel building will be configured to appropriately house Police evidence and the other side of the building will be used for equipment storage.

CONCLUSION:

Staff recommends that that Town Council authorize the Town Manager to advertise the project for bid.

SUBJECT: Corporation Yard Building Replacement and Engineering Tenant Improvement
Project (18-821-2302)

DATE: August 13, 2020

COORDINATION:

This report has been coordinated with the Finance Department.

FISCAL IMPACT:

Building Replacement at Corporation Yard Project 821-2302		
	Budget	Costs
GFAR	\$ 1,165,800	
Total Budget	\$ 1,165,800	
Construction (Including Contingencies)		\$ 750,315
Consultation Services (Expense + Encumbrance)		\$ 165,425
Modular Unit Rental		\$ 10,637
Other Construction		\$ 10,045
Construction Inspection		\$ 7,443
Equipment Acquisition/Installation		\$ 6,055
Total Expenditures		\$ 949,921
Remaining Budget		\$ 215,880

ENVIRONMENTAL ASSESSMENT:

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



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 8/18/2020

ITEM NO: 7

DATE: August 13, 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 DeSilva Gates Construction and Authorize Recording by the Town Clerk for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project

RECOMMENDATION:

Authorize the Town Manager to execute a Certificate of Acceptance and Notice of Completion for the work of DeSilva Gates Construction and authorize recording by the Town Clerk for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project.

BACKGROUND:

The Town’s adopted FY 2019/20-2023/24 Capital Improvement Program (CIP) Budget designated funding for this project.

At the January 20, 2020 Town Council meeting, Council approved the plans and specifications for two annual street repair and resurfacing projects, the Slurry Seal/Rubber Cape Project and the Asphalt Overlay Project. The Council also authorized the Town Manager to advertise both projects for bid and to award the projects in a total amount not to exceed the available construction budget of \$4,708,000 including contingencies, and any change orders, to the lowest responsible bidder.

The projects were advertised and on February 11, 2020, six bids were opened for the Asphalt Overlay Project with the following results for the base bid plus the alternate bid items:

DeSilva Gates Construction	\$1,484,264.00
MCK Services	\$1,510,000.90
O'Grady Paving	\$1,567,426.90

PREPARED BY: Michelle Quinney
Interim Town Engineer

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

SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of DeSilva Gates Construction and Authorize Recording by the Town Clerk for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing

DATE: August 13, 2020

BACKGROUND (continued):

Granite Construction	\$1,668,801.00
G. Bortolotto & Company	\$1,706,087.10
Joseph J. Albanese	\$1,734,478.50

Subsequently the Town entered into an agreement with DeSilva Gates Construction for the Asphalt Overlay Project in the low bid amount of \$1,484,264.

DISCUSSION:

DeSilva Gates Construction has satisfactorily completed all of the work for the project for a final contract amount of \$1,340,402.01, and staff recommends acceptance of the project. Unexpended project funds will remain in the annual pavement program for next year's project.

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

CONCLUSION:

Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of DeSilva Gates Construction and Authorize Recording by the Town Clerk for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project.

FISCAL IMPACT:

The slurry seal portion of this project will be closed out at a future council meeting. All remaining savings will be carried forward for next year's Street Repair & Resurfacing project. Staff costs are tracked for all projects. Tracking of staff costs allows for accountability in the costs of projects, recovery of costs from grant funded projects, and identification of future staffing needs. This project utilized full-time budgeted staff. The costs for full-time staff are accounted for in the Department's operating budget and will not be charged to this project.

SUBJECT: Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of DeSilva Gates Construction and Authorize Recording by the Town Clerk for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project for PPW Job No. 19-811-9901 Annual Street Repair and Resurfacing

DATE: August 13, 2020

FISCAL IMPACT (continued):

Street Repair & Resurfacing Project 811-9901		
	Budget	Costs
GFAR	\$ 3,681,401	
Gas Tax	\$ 1,064,292	
Prior Reimbursements	\$ 64,865	
Anticipated Reimbursement - Monte Sereno	\$ 47,000	
Anticipated Reimbursement - WVSD & SJW	\$ 130,000	
Total Budget	\$ 4,987,558	
Overlay (DeSilva Gates)		\$ 1,340,402
Slurry Seal Estimate (Pavement Coatings Co)		\$ 1,855,714
Consultant Costs		\$ 88,358
Advertising		\$ 2,410
Blueprint/Copy/Postage		\$ 2,074
Total Expenditures		\$ 3,288,958
Remaining Balance		\$ 1,698,600
Staff Costs		
Operating Budget (Full time with benefits)		\$ 199,293
Total		\$ 199,293

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Certificate of Acceptance and Notice of Completion

Recording Requested by:

TOWN OF LOS GATOS

WHEN RECORDED MAIL TO:

CLERK ADMINISTRATOR
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. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project

TO WHOM IT MAY CONCERN:

I do hereby certify that **DeSilva Gates Construction** completed the work called for in the agreement with the Town of Los Gatos dated February 26, 2020. 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. 19-811-9901 located in the TOWN OF LOS GATOS, County of Santa Clara, State of California and was completed, approved and accepted **August 18, 2020**.

Bond No.: 107106348

Date: March 9, 2020

TOWN OF LOS GATOS

By: _____
Laurel Prevetti, Town Manager

Acknowledgement Required

ATTACHMENT 1

AFFIDAVIT

**To Accompany Certificate of Acceptance and Notice of Completion
PPW JOB NO. 19-811-9901 Annual Street Repair and Resurfacing (Asphalt Overlay) Project**

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: 08/18/2020

ITEM NO: 8

DATE: August 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Authorizing the Town Manager to Execute the North 40 In Lieu Traffic Fee Credit Agreement and North 40 Transportation Demand Management Agreement for Phase 1 of the North 40 Development

RECOMMENDATION:

Adopt a resolution authorizing the Town Manager to execute the North 40 In Lieu Traffic Fee Credit Agreement, North 40 Transportation Demand Management Agreement (Bellterra) and North 40 Transportation Demand Management Agreement (Market Hall) for phase 1 of the North 40 development.

BACKGROUND:

On August 1, 2017 the Town Council approved the applications for Phase 1 of the North 40 Specific Plan. Phase 1 included several conditions of approval, including the requirement for a Traffic Demand Management (TDM) Plan and the payment of Traffic Impact Mitigation Fees. Staff has worked with SummerHill Homes to address both of these issues as drafted agreements (Attachments 2 -4).

On August 4, 2020, the Town Council discussed the Agreements and continued the matter with direction to staff to revise language in the Transportation Demand Management Agreements to further enhance protections for the Town. This additional language can be found within Section 9 of both Attachments 3 and 4.

DISCUSSION:

Staff recommended that the North 40 development, through future assessments on property owners, provide funding for future Town-wide TDM initiatives, such as a Town-operated

PREPARED BY: Mike Weisz
Senior Civil Engineer

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

SUBJECT: Adopt a Resolution Authorizing the Town Manager to Execute the North 40 In Lieu Traffic Fee Credit Agreement, North 40 Transportation Demand Management Agreement (Bellaterra) and North 40 Transportation Demand Management Agreement (Market Hall) for Phase 1 of the North 40 Development
DATE: August 13, 2020

DISCUSSION (continued):

shuttle. This measure is in addition to establishing an effective TDM plan and reaching the provided target reduction of 15% of daily trips to achieve compliance with the project's TDM requirement. The programmed measures, such as the commonplace bike racks, car share parking spaces and ridesharing programs, transit passes, shower facilities and a transportation coordinator, as well as the monitoring requirement and information, are included within the corresponding TDM plan. The full TDM plan will be provided as an addendum to this report.

The Town's Traffic Impact Mitigation Fee allows for developers to complete mitigation projects as an offset to the calculated impact fee, allowing for the completion of projects in the right of way that the Town would otherwise need to complete. Attachment 2 identifies a process in which traffic impact mitigation fees from future developers on the North 40 site will reimburse SummerHill Homes for the upfront costs of these improvements.

The Council also asked to see the full TDM plan for the project, which will be provided as an addendum. The TDM agreements provided in this report (Attachments 2 -4) are a subset of this broader draft TDM plan addressing the need for shuttle or other similar services. The broader final TDM plan will be approved administratively in a form substantially consistent with the attached.

CONCLUSION:

Staff recommends that Council adopt a resolution authorizing the Town Manager to execute the above-listed agreements for Tract Number 10441 (North 40 Phase 1).

COORDINATION:

This project has been coordinated with the Town Attorney.

FISCAL IMPACT:

Under the agreements, the Town will receive revenue for TDM measures.

ENVIRONMENTAL ASSESSMENT:

As part of the Specific Plan preparation process, the Town also prepared and circulated an Environmental Impact Report (EIR) that analyzed the potential environmental consequences of the Specific Plan, in accordance with the California Environmental Quality Act (CEQA). The EIR

PAGE 3 OF 3

SUBJECT: Adopt a Resolution Authorizing the Town Manager to Execute the North 40 In Lieu Traffic Fee Credit Agreement, North 40 Transportation Demand Management Agreement (Bellaterra) and North 40 Transportation Demand Management Agreement (Market Hall) for Phase 1 of the North 40 Development

DATE: August 13, 2020

can be found at the following link: www.losgatosca.gov/DocumentCenter/Index/413. The Town Council certified the Final EIR on June 17, 2015.

Attachments:

1. Resolution
2. North 40 In Lieu Traffic Fee Credit Agreement
3. North 40 Transportation Demand Management Agreement (Bellaterra)
4. North 40 Transportation Demand Management Agreement (Market Hall)

DISTRIBUTION:

SummerHill N40 L.L.C., 777 California Avenue, Palo Alto, CA 94304

RESOLUTION 2020-

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS**

**AUTHORIZING THE TOWN MANAGER TO EXECUTE THE NORTH 40 IN LIEU TRAFFIC
FEE CREDIT AGREEMENT, NORTH 40 TRANSPORTATION DEMAND MANAGEMENT
AGREEMENT (BELLATERRA) AND NORTH 40 TRANSPORTATION DEMAND
MANAGEMENT AGREEMENT (MARKET HALL), IN SUBSTANTIAL CONFORMANCE WITH
THE CONDITIONS OF APPROVAL AND SUBJECT TO FINAL TOWN ATTORNEY
APPROVAL**

WHEREAS, on August 1, 2017, the Town Council of the Town of Los Gatos approved the Architecture and Site Application S-13-090 and Vesting Tentative Map Application M-13-014, with conditions; and

WHEREAS, those conditions required the Owner or Subdivider to do the following:

1. That the Owner or Subdivider shall enter into and execute an agreement between the Town of Los Gatos and the said Owner or Subdivider on that certain proposed in lieu traffic fee credit agreement ("Credit Agreement") on file in the Office of the Town Clerk, entitled, "North 40 In Lieu Traffic Fee Credit Agreement", wherein the Town and the Owner or Subdivider shall agree to reimburse the construction costs for eligible off-site improvements per the Town's traffic mitigation fee policy.
2. That the Owner or Subdivider shall enter into and execute an agreement between the Town of Los Gatos and the said Owner or Subdivider on that certain proposed traffic demand management agreement ("Bellaterra TDM Agreement") on file in the Office of the Town Clerk, entitled, "North 40 Traffic Demand Management Agreement (Bellaterra)", wherein the Owner or Subdivider shall prepare a Transportation Demand Management (TDM) Plan for the residential and commercial uses for Town approval, within which a minimum of those measures identified in the Specific Plan shall be included.
3. That the Owner or Subdivider shall enter into and execute an agreement between the Town of Los Gatos and the said Owner or Subdivider on that certain proposed traffic demand management agreement ("Market Hall TDM Agreement") on file in

the Office of the Town Clerk, entitled, "North 40 Traffic Demand Management Agreement (Market Hall)", wherein the Owner or Subdivider shall prepare a Transportation Demand Management (TDM) Plan for the residential and commercial uses for Town approval, within which a minimum of those measures identified in the Specific Plan shall be included; and

WHEREAS, the Owner or Subdivider has complied with the conditions of Architecture and Site Application S-13-090 and Vesting Tentative Map Application M-13-014; and

NOW, THEREFORE, BE IT RESOLVED that the Town Manager is hereby authorized to execute the North 40 In Lieu Traffic Fee Credit Agreement, North 40 Traffic Demand Management Agreement (Bellaterra) and North 40 Traffic Demand Management Agreement (Market Hall), in substantial conformance to the Conditions of approval as set forth above and subject to final Town Attorney approval.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 18th day of 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: _____

NORTH 40 IN LIEU TRAFFIC FEE CREDIT AGREEMENT

This North 40 In Lieu Traffic Fee Credit Agreement (“Agreement”) is entered into effective this ___ day of August, 2020, by and between the Town of Los Gatos, a California General Law City (“Town”) and SummerHill N40 LLC, a California limited liability company (“SummerHill”), each a “Party” and collectively “Parties,” with respect to the following facts and circumstances:

WHEREAS, in 2017, the Town approved Phase 1 of the North 40 project (“Project”) to be developed on part of the property known as the North 40 site, bounded generally by California State Route 17 to the west, Lark Avenue to the south, California State Route 85 to the north and Los Gatos Boulevard to the east. SummerHill is the developer of the Project; and

WHEREAS, the Town by Resolution 2014-59 adopted a Traffic Impact Policy (the “Policy”). Under the Policy, developments such as the Project must pay Traffic Impact Mitigation Fees based upon trip generation of the development. The Policy contains a Traffic Improvements Project List, which identifies traffic improvement for which a developer that installs such improvements is granted a credit against its Traffic Impact Mitigation Fees; and

WHEREAS, per the conditions of approval of Architecture and Site Application S-13-090 for the Project, the Project’s Traffic Impact Mitigation Fee shall be paid before issuance of a building permit.

WHEREAS, SummerHill N40 LLC is ready to pull building permits for Lots 1-22, 24-27, and 30-39 of Tract 10441 recorded on October 11, 2018 that will result in the generation of 2,338 average daily trips resulting in a Traffic Impact Mitigation Fee obligation (the “Phase 1 Traffic Fees”) of Two Million One Hundred Seventy-Four Thousand and Seventy-Five Dollars (\$2,174,075);

WHEREAS, the Project is required by its conditions of approval to construct four improvements that are on the Traffic Improvements Project List: (1) Westbound Lark to Hwy 17 northbound ramps, (2) Lark/Los Gatos Intersection Improvements, (3) Complete street Improvements – Lark from Garden Hill to Los Gatos, and (4) Local Bikeway Improvements (collectively, the “Phase 1 Traffic Improvements”); and

WHEREAS, the Town and SummerHill have worked together to refine the exact scope of the Phase 1 Traffic Improvements. Pursuant to such agreed-upon scope, SummerHill has caused its contractor DeSilva Gates to prepare a detailed estimate of the cost of each of these Phase 1 Traffic Improvements based on actual bids. These estimates (the “Current Estimates”) are memorialized in SummerHill’s letter of February 20, 2020 to the Town. The two-page letter (including the eight-page attachment from DeSilva Gates) is attached hereto as Exhibit “A” and incorporated herein by this reference; and

WHEREAS, the Town and SummerHill agree that SummerHill shall have credits applied to the Traffic Impact Mitigation Fee that it pays to the Town in order to obtain building permits for the Project in amounts based upon the Current Estimates, with adjustments detailed below.

NOW THEREFORE, in consideration of the foregoing recitals and the conditions and covenants contained herein, the parties hereto agree as follows

1) Traffic Improvements. The amount of credits that shall be applied against the Phase 1 Traffic Fees to determine the amount of such fees that Summerhill must pay to obtain building permits shall be based upon the Current Estimates. For each of the four Phase 1 Traffic Improvements listed above, the applicable amount of the Current Estimates for each improvement shall be as listed below:

- a) Westbound Lark to Hwy 17 northbound ramps: Construction total of \$1,268,000 plus 12% for both soft costs and contingencies, for a total of \$1,572,320.
- b) Lark/Los Gatos Intersection Improvements: Construction total of \$769,000 plus 12% for both soft costs and contingencies, for a total of \$953,560.
- c) Complete street Improvements – Lark from Garden Hill to Los Gatos: Construction total of \$213,000 plus 12% for both soft costs and contingencies, for a total of \$264,120.
- d) Local Bikeway Improvements: No credit requested.

2) Initial Amount of Credits. The total credit based upon paragraph 1 above shall be in the amount of \$2,790,000 (the "Baseline Costs"), which includes the construction costs, soft costs and contingencies. Subtracting the Phase 1 Traffic fees from the Baseline Costs leaves a potential credit amount for future reimbursement to SummerHill (the "Baseline Credit") of Six Hundred Fifteen Thousand Nine Hundred and Twenty-Five Dollars (\$615,925). Thus, the parties agree that SummerHill's obligation to pay Traffic Impact Mitigation Fees to obtain building permits for the Project shall be satisfied by the completion of the Phase I Traffic Improvements.

3) Adjustment of Credits. Should significant changes to the scope of work occur due to unforeseen circumstances, adjustments to the credits may be granted by the Town up to a total of ten percent. This adjustment is not intended to address minor variation in quantities, labor, or other construction costs. Following completion of the Phase 1 Traffic Improvements, SummerHill may elect to provide to the Town a summary of expenses reasonably supported by invoices from their general contractor, subcontractors, and soft cost vendors in the event that the actual costs of completing the Phase 1 Traffic Improvements (the "Actual Costs") have exceeded the Baseline Costs. The Town may reasonably audit these numbers at its own expense, with any such audit to be completed within sixty (60) days of submission of the supporting documentation. If the Actual Costs as finally agreed upon by the Parties exceed the Baseline Costs, then the Baseline Credit shall be increased by the difference between the Actual Costs and the Baseline Costs. The increased amount, together with the original amount of the Baseline Credit, shall be deemed to be the "Adjusted Credit." If an Adjusted Credit has not been computed pursuant to this paragraph, then the Adjusted Credit as used in paragraph 4 herein shall be deemed to be the Baseline Credit.

4) Reimbursement From Other Development That is a Part of Tentative Map M-13-014. Each time that one or more building permits are ready for release by the Town for any or all lots 23, 28, 29 of Tract 10441 or APN 424-07-036 and 037, the Traffic Impact Mitigation Fee for each such lot shall be calculated per the impact fee policy in effect at the time and paid by the building permit applicant. If the Adjusted Credit is a positive number, then such amount of such fees will be paid by the Town as a reimbursement to SummerHill N40 LLC within thirty (30) days of receipt thereof. Each time a payment is made to SummerHill pursuant to this paragraph 4, the Adjusted Credit shall be reduced by such payment. This obligation shall cease once the Adjusted Credit reaches zero or the original

building permits as identified in this section have been issued. This section shall be in effect for a period of five years.

5) No Reimbursement. No reimbursement for the Phase 1 Traffic Improvement from future projects that are not a part of Tentative Map M-13-014 shall be paid to SummerHill.

6) Dispute Resolution. Any dispute under this agreement, including with regard to the payment amounts to be paid pursuant to paragraph 3 hereunder shall first be negotiated by the Parties. If negotiation fails, either Party may demand binding arbitration, which shall be conducted under the auspices of the Judicial Arbitration and Mediation Service (JAMS). Each party shall bear its own costs and attorneys' fees in the arbitration, regardless of the outcome thereof.

7) Good Faith Cooperation. The Parties shall cooperate and use their good faith efforts to expedite the issuance of any necessary permits or permissions from the Town or from third parties for the construction of the Phase 1 Traffic Improvements. The Parties to this Agreement agree to execute any and all documents reasonably necessary to effectuate the terms, conditions, purposes, and aims of this Agreement.

8) Integrated Agreement. This Agreement, together with the exhibit attached hereto, shall be deemed the complete and total agreement of the parties concerning the subject matter hereof, which supersedes memoranda or correspondence, if any, and any previous drafts or oral understandings, if any, made by the parties concerning the subject matter hereof. Nothing herein shall preclude the parties from executing such other documents as are necessary to perfect this Agreement.

9) No Third-Party Beneficiaries. This Agreement is intended exclusively for the benefit of the Parties hereto, and no third parties are entitled to any rights hereunder or to claim to be beneficiaries hereof.

10) Successors and assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, transferees and assigns.

11) Amendments to be in Writing. This Agreement may not be altered, amended, modified or changed in any respect or particular whatsoever except by writing duly executed by all the parties to this Agreement.

12) Miscellaneous. This Agreement may be signed in counterparts. Each executed duplicate hereof shall be considered as an original. Facsimile or signatures on electronically transmitted documents in PDF form and copies of signatures shall have the same force and effect as original signatures. The captions and titles herein are for convenience only and shall not be used to interpret this Agreement.

IN WITNESS WHEREOF, The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

SummerHill N40 LLC, a California limited liability company

By: SummerHill Homes LLC, its Manager

By: _____

Its: _____

By: _____

Its: _____

TOWN OF LOS GATOS, a California municipal corporation

By: Laurel Prevetti

Its: Town Manager

APPROVED AS TO FORM:

Robert Schultz
Town Attorney

ATTEST:

Shelley Neis
Town Clerk

WHEN RECORDED MAIL TO:

**TOWN OF LOS GATOS
110 E. MAIN STREET
LOS GATOS, CA 95030
ATTN: TOWN CLERK**

**NO FEE PER GOVERNMENT CODE
SECTIONS 6103 AND 27383**

**NORTH 40 TRANSPORTATION DEMAND MANAGEMENT AGREEMENT
(BELLATERRA)**

This North 40 Transportation Demand Management Agreement (“TDM Agreement”) is entered into effective this ___ day of _____, 2020, by and between the Town of Los Gatos, a California General Law City (“Town”) and SummerHill N40 LLC, a California limited liability company (“SummerHill”), each a “Party” and collectively “Parties,” with respect to the following facts and circumstances:

WHEREAS, in 2017, the Town approved Phase 1 of the North 40 project (“Project”) to be developed on part of the property known as the North 40 site, bounded generally by California State Route 17 to the west, Lark Avenue to the south, California State Route 85 to the north and Los Gatos Boulevard to the east; and

WHEREAS, the Project includes (i) approximately two hundred fifty-three (253) for-sale residential units, and (ii) forty-nine (49) affordable senior apartments, and one (1) manager’s apartment (the “Senior Affordable Units”); and

WHEREAS, that portion of the North 40 site to be benefitted and burdened by the effect of this Agreement (the “Property”) is more particularly described in Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, the Property comprises the Bellaterra residential development (“Bellaterra”); and

WHEREAS, a Homeowners Association (the “HOA”) will be formed to manage and own common property of Bellaterra within the Project; and

WHEREAS, the requirements of development approved for the Project include the implementation of a TDM program (the “TDM Program”); and

WHEREAS, it is not practicable for the Project to mitigate transportation impacts on and through Project site only TDM Program; and

WHEREAS, the TDM program will serve the North 40 and other Town locations and measure effectiveness by total reductions in vehicle miles for travel originating and concluding both within and outside the Property, in order to offset the impact of the Property; and

WHEREAS, the Town is best positioned to implement, monitor, and adjust such a program.

NOW THEREFORE, in consideration of the foregoing recitals and the conditions and covenants contained herein, the Parties hereto agree as follows

1. TDM Contribution. The total SummerHill contribution to the TDM Program shall be in the form of annual payments, each of the sum of Forty-one Thousand Two Hundred Eighty-Three Dollars (\$41,283) funded from Bellaterra. The Bellaterra HOA CC&Rs shall incorporate and reference this agreement and the funding requirement for the TDM Contribution.

2. The first such payment shall be due and payable within ten (10) days after the issuance by the Town of the Certificate of Occupancy for the 190th unit of Bellaterra. Subsequent annual payments shall be due and payable on each annual anniversary of the date of the first payment. Each annual payment shall be adjusted by the San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

2) Use of Funds. The Town shall program the use of funds for townwide TDM measures, such measures being at the Town’s sole discretion. The funds shall be used toward TDM measures, which may include the accrual of funds over time without limit, to be used toward future TDM measures.

3) Satisfaction. The above contribution in Section 1 also satisfies any and all obligation of the Senior Affordable Units to contribute to the TDM Program.

4) Term. As the transportation impact from the Property will continue in perpetuity, so shall the TDM Program and fees shall continue in perpetuity or until such point as the Town acts to cancel the TDM Program.

5) Operation of TDM Program. The Parties acknowledge that the TDM Program is a Town-operated and managed program. SummerHill’s role is limited to providing funding as required by this Agreement. No relationship of agency, partnership, or joint venture exists between the Parties with respect to the TDM Program. The Town shall defend, indemnify, and hold harmless SummerHill and its agents, members, managers, employees, officers, directors, shareholders, successors and assigns from any third party claims, lawsuits, damages, liabilities, costs and expenses (including attorneys’ fees and costs) for personal injury or property damage

arising out of, or relating to, the operation of the TDM Program, except to the extent the claim at issue is caused by the negligence or willful misconduct of SummerHill.

6) Dispute Resolution. Any dispute under this TDM Agreement, including with regard to the payment amounts to be paid pursuant to Section 1 hereunder, shall first be negotiated by the Parties. If negotiation fails, either Party may demand binding arbitration, which shall be conducted under the auspices of the Judicial Arbitration and Mediation Service (JAMS). Each Party shall bear its own costs and attorneys' fees in the arbitration, regardless of the outcome thereof.

7) Integrated Agreement. This TDM Agreement shall be deemed the complete and total agreement of the Parties concerning the subject matter hereof, which supersedes memoranda or correspondence, if any, and any previous drafts or oral understandings, if any, made by the Parties concerning the subject matter hereof. Nothing herein shall preclude the Parties from executing such other documents as are necessary to perfect this Agreement.

8) No Third-Party Beneficiaries. This TDM Agreement is intended exclusively for the benefit of the Parties hereto, and no third parties are entitled to any rights hereunder or to claim to be beneficiaries hereof.

9) Successors and assigns. This TDM Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, transferees and assigns. This TDM Agreement may be assigned by SummerHill to any entity that controls, is controlled by or is under common control with SummerHill. In addition, the Parties acknowledge that it is expressly contemplated that this TDM Agreement will be assigned by SummerHill to the HOA, which will assume all obligations of SummerHill hereunder. SummerHill shall give written notice of such assignment to the Town. Any assignment shall be considered for approval by the Town pursuant to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. Upon the giving of such notice and approval by the Town, SummerHill shall be released from all obligations and duties of any nature hereunder. If requested by SummerHill, Town shall record a document releasing SummerHill or its affiliated assignee(s) from all such obligations in the Official Records of Santa Clara County

10) Amendments to be in Writing. This TDM Agreement may not be altered, amended, modified or changed in any respect or particular whatsoever except by writing duly executed by all the Parties to this TDM Agreement.

11) Notice. All notices shall be given personally or by first class mail, postage prepaid, addressed as shown below. Notices shall be deemed given on the earlier of the date delivered or the second day following the date on which the same have been mailed in the manner required by the prior sentence. Any of the Parties may, by notice given in the manner required by this Section, designate any further or different addresses to which subsequent notices shall be sent.

a) Notice to the Town:

Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

Attn: Town Manager

b) Notice to SummerHill

SummerHill N40 LLC
3000 Executive Parkway, Suite 450
San Ramon, CA 94583
Attn: Chief Operating Officer

with a copy to

SummerHill N40 LLC
777 South California Ave.
Palo Alto, CA 94304
Attn: General Counsel

12) Recording. The Parties shall cause this TDM Agreement and all amendment and supplements to it, to be recorded against the Property in the Official Records of Santa Clara County.

13) Covenants to Run with the Land. All rights and obligations under this Agreement are intended by the Parties to be, and shall be construed as, covenants running with the Property. All persons who may have or may acquire an interest in the Property, including but not limited to the HOA, shall be deemed to have notice of, and be bound by, the terms of the Agreement.

Individual homebuyers and individual owners of lots and/or condominiums upon which residential other uses are constructed (“Individual Owners”) benefit from the right to use TDM Agreement program. However, with respect to Bellaterra only, upon the transfer of title to the first condominium under the authorization of a final subdivision public report issued by the Department of Real Estate, Individual Owners in Bellaterra shall have none of the rights and obligations described in this Agreement except for the obligation to fund regular or special assessments to the HOA. At the point of such initial transfer of title, the HOA shall be responsible alone for performing the obligations of this Agreement.

14) Mortgagee Protection. No breach of this Agreement shall defeat or render invalid the lien of any deed of trust or mortgage recorded against all or any portion of the Property. No lender taking title to all or any portion of the Property through foreclosure or deed in-lieu of foreclosure shall be liable for any defaults or monetary obligations of SummerHill arising prior to acquisition of possession of such property by such lender. The foreclosing lender shall have the right to find a substitute developer to assume the obligations of SummerHill, which substitute shall be considered for approval by the Town pursuant to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. The Town agrees to provide any lender of SummerHill who has recorded a deed of trust or mortgage against all or any portion of the Property of which the Town has been given notice (each, a “Lender”) with written notice of any default relating to SummerHill and/or the Property given by the Town to SummerHill. The Town agrees that, notwithstanding anything to the contrary contained in this Agreement, Lender

shall have an additional ninety (90) days from the date Lender receives notice of a default to cure any such default, provided that Lender shall not have any obligation to cure any such default.

15) Miscellaneous. This TDM Agreement may be signed in counterparts. Each executed duplicate hereof shall be considered as an original. Facsimile or signatures on electronically transmitted documents in PDF form and copies of signatures shall have the same force and effect as original signatures. The captions and titles herein are for convenience only and shall not be used to interpret this TDM Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, The Parties acknowledge and accept the terms and conditions of this TDM Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this TDM Agreement shall become operative on the date first above written.

SummerHill N40 LLC, a California limited liability company
By: SummerHill Homes LLC, its manager

By: _____
Its: _____

By: _____
Its: _____

TOWN OF LOS GATOS, a California municipal corporation
By: Laurel Prevetti

Its: Town Manager

APPROVED AS TO FORM:

Robert Schultz, Esq.
Town Attorney

ATTEST:

Shelley Neis
Town Clerk

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Real property located in the Town of Los Gatos, County of Santa Clara, State of California, described as follows:

LOTS 1-22, 24-26 AND 30-39, AND PARCELS A-U, Z-OO, QQ-QQQ, and TTT AS SHOWN ON THE MAP OF “TRACT 10441”, FILED FOR RECORD ON OCTOBER 11, 2018 IN BOOK 918 OF MAPS, AT PAGES 4 THROUGH 18, SANTA CLARA COUNTY RECORDS.

WHEN RECORDED MAIL TO:

**TOWN OF LOS GATOS
110 E. MAIN STREET
LOS GATOS, CA 95030
ATTN: TOWN CLERK**

**NO FEE PER GOVERNMENT CODE
SECTIONS 6103 AND 27383**

**NORTH 40 TRANSPORTATION DEMAND MANAGEMENT AGREEMENT
(MARKET HALL)**

This North 40 Transportation Demand Management Agreement (“TDM Agreement” or “Agreement”) is entered into effective this ___ day of _____, 2020, by and between the Town of Los Gatos, a California General Law Town (“Town”) and SummerHill N40 LLC, a California limited liability company (“SummerHill”), each a “Party” and collectively “Parties,” with respect to the following facts and circumstances:

WHEREAS, in 2017, the Town approved Phase 1 of the North 40 project (“N40 Phase 1”) to be developed on part of the property known as the North 40 site, bounded generally by California State Route 17 to the west, Lark Avenue to the south, California State Route 85 to the north and Los Gatos Boulevard to the east; and

WHEREAS, N40 Phase 1 includes a commercial condominium development that will be created on Lot 27 of Tract 10441 (within N40 Phase 1) that is expected to contain a commercial condominium containing approximately 20,761 square feet of commercial space plus 2,772 square feet of community space (the “Market Hall Commercial Condo”), a garage condominium, and forty nine (49) affordable senior apartments and (1) manager apartment within one commercial condominium (the “Senior Affordable Condo”), collectively known as the “Market Hall Development”; and

WHEREAS, that portion of the N40 Phase 1 site to be benefitted and burdened by the effect of this Agreement is, initially, the entire Market Hall Development, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (provided that the legal description of the burdened property is subject to adjustment as provided in Section 13 hereof); and

WHEREAS, the requirements of development approved for the Market Hall Condo include the implementation of a TDM program (the “TDM Program”); and

WHEREAS, it is not practicable for the Market Hall Condo to mitigate transportation impacts on and through a Market Hall Condo site-only TDM Program; and

WHEREAS, the TDM program will serve N40 Phase 1 and other Town locations and measure effectiveness by total reductions in vehicle miles for travel originating and concluding both within and outside the Market Hall Development, in order to offset the impact of the Market Hall Development; and

WHEREAS, the Town is best positioned to implement, monitor, and adjust such a program.

NOW THEREFORE, in consideration of the foregoing recitals and the conditions and covenants contained herein, the Parties hereto agree as follows

1. **TDM Contribution.** The total SummerHill contribution to the TDM Program for the Market Hall Condo shall be in the form of annual payments, each of the sum of Seventeen Thousand Six Hundred Forty-Nine and 75/100 Dollars (\$17,649.75) (the “TDM Contribution”). The first such payment shall be due and payable within ten (10) days after the issuance by the Town of the Certificate of Occupancy for the tenant improvements of the Market Hall Condo. Subsequent annual payments shall be due and payable on each annual anniversary of the date of the first payment. Each annual payment shall be adjusted by the San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

2) **Use of Funds.** The Town shall program the use of funds for townwide TDM measures, such measures being at the Town’s sole discretion. The funds shall be used toward TDM measures, which may include the accrual of funds over time without limit, to be used toward future TDM measures.

3) **Senior Affordable Condo Is Not Obligated by this TDM Agreement.** Although Exhibit A to this Agreement initially describes all of the Market Hall Development (Lot 27 of Tract 10441), it is the intent of SummerHill and the Town that this TDM Agreement not bind or burden the Senior Affordable Condo consisting of forty nine (49) affordable senior apartments and (1) manager apartment because the TDM Program funding obligation for the Senior Affordable Condo is being met by a separate TDM Agreement that has been entered into between SummerHill and the Town with respect to an adjacent residential project known as “Bellaterra.” Accordingly, the TDM Contribution referenced above and this TDM Agreement shall not bind the Senior Affordable Condo or the garage condominium that will be created within Lot 27 when a condominium plan is recorded, which separation shall be effected pursuant to the terms of Section 13, below.

4) **Term.** As the transportation impact from the Market Hall Condo will continue in perpetuity, so shall the TDM Program and fees shall continue in perpetuity or until such point as the Town acts to cancel the TDM Program.

5) Operation of TDM Program. The Parties acknowledge that the TDM Program is a Town-operated and managed program. SummerHill's role is limited to providing funding as required by this Agreement. No relationship of agency, partnership, or joint venture exists between the Parties with respect to the TDM Program. The Town shall defend, indemnify, and hold harmless SummerHill and its agents, members, managers, employees, officers, directors, shareholders, successors and assigns from any third party claims, lawsuits, damages, liabilities, costs and expenses (including attorneys' fees and costs) for personal injury or property damage arising out of, or relating to, the operation of the TDM Program, except to the extent the claim at issue is caused by the negligence or willful misconduct of SummerHill.

6) Dispute Resolution. Any dispute under this TDM Agreement, including with regard to the payment amounts to be paid pursuant to Section 1 hereunder, shall first be negotiated by the Parties. If negotiation fails, either Party may demand binding arbitration, which shall be conducted under the auspices of the Judicial Arbitration and Mediation Service (JAMS). Each Party shall bear its own costs and attorneys' fees in the arbitration, regardless of the outcome thereof.

7) Integrated Agreement. This TDM Agreement shall be deemed the complete and total agreement of the Parties concerning the subject matter hereof, which supersedes memoranda or correspondence, if any, and any previous drafts or oral understandings, if any, made by the Parties concerning the subject matter hereof. Nothing herein shall preclude the Parties from executing such other documents as are necessary to perfect this Agreement.

8) No Third-Party Beneficiaries. This TDM Agreement is intended exclusively for the benefit of the Parties hereto, and no third parties are entitled to any rights hereunder or to claim to be beneficiaries hereof.

9) Successors and assigns. This TDM Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, transferees and assigns. This TDM Agreement may be assigned by SummerHill to any entity that controls, is controlled by, or is under common control with SummerHill. In addition, the Parties acknowledge that it is expressly contemplated that this TDM Agreement will be assigned by SummerHill to the Market Hall Commercial Condo owner, which will assume all obligations of SummerHill hereunder. SummerHill shall give written notice of such assignment to the Town. Any assignment shall be considered for approval by the Town pursuant to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. Upon the giving of such notice and approval by the Town, SummerHill shall be released from all obligations and duties of any nature hereunder. If requested by SummerHill, Town shall record a document releasing SummerHill or its affiliated assignee(s) from all such obligations in the Official Records of Santa Clara County, California.

10) Amendments to be in Writing. This TDM Agreement may not be altered, amended, modified or changed in any respect or particular whatsoever except by writing duly executed by all the Parties to this TDM Agreement.

11) Notice. All notices shall be given personally or by first class mail, postage prepaid, addressed as shown below. Notices shall be deemed given on the earlier of the date delivered or

the second day following the date on which the same have been mailed in the manner required by the prior sentence. Any of the Parties may, by notice given in the manner required by this Section, designate any further or different addresses to which subsequent notices shall be sent.

a) Notice to the Town:

Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030
Attn: Town Manager

b) Notice to SummerHill

SummerHill N40 LLC
3000 Executive Parkway, Suite 450
San Ramon, CA 94583
Attn: Chief Operating Officer

with a copy to

SummerHill N40 LLC
777 South California Ave.
Palo Alto, CA 94304
Attn: General Counsel

12) Recording. The Parties shall cause this TDM Agreement and all amendments and supplements to it, to be recorded against the property described in Exhibit A in the Official Records of Santa Clara County, California.

13) Covenants to Run with the Land. All rights and obligations under this Agreement are intended by the Parties to be, and shall be construed as, covenants running with the Market Hall Development, subject to the provisions of this section. All persons who may have or may acquire an interest in the Market Hall Development shall be deemed to have notice of, and be bound by, the terms of the Agreement, subject to the provisions of this section. When SummerHill closes escrow on the sale of any or all of the condominiums within the Market Hall Development, SummerHill will assign all of its rights and obligations under this Agreement to the new owner of the Market Hall Commercial Condo only (excluding the garage condominium and/or the Senior Affordable Condo), and thereafter SummerHill shall be released from all obligations under this Agreement that arise from and after the date of such closing and assignment. Written notice of such assignment shall be provided to the Town.

At any time after a condominium plan has been recorded that creates the condominiums within the Market Hall Development, at the request of the Town, SummerHill, or the owner of the Senior Affordable Condo, the Parties to this Agreement shall enter into an amendment to this Agreement that replaces Exhibit A of this Agreement with the legal description for only the Market Hall Commercial Condo and excluding the Senior Affordable Condo and the garage condominium.

14) Mortgagee Protection. No breach of this Agreement shall defeat or render invalid the lien of any deed of trust or mortgage recorded against all or any portion of the Market Hall Development. No lender taking title to all or any portion of the Market Hall Development through foreclosure or deed in-lieu of foreclosure shall be liable for any defaults or monetary obligations of SummerHill arising prior to acquisition of possession of such property by such lender. The foreclosing lender shall have the right to find a substitute developer to assume the obligations of SummerHill, which substitute shall be considered for approval by the Town pursuant to this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed. The Town agrees to provide any lender of SummerHill that has recorded a deed of trust or mortgage against all or any portion of the Market Hall Development of which the Town has been given notice (each, a “Lender”) with written notice of any default relating to SummerHill and/or the Market Hall Development given by the Town to SummerHill. The Town agrees that, notwithstanding anything to the contrary contained in this Agreement, Lender shall have an additional ninety (90) days from the date Lender receives notice of a default to cure any such default, provided that Lender shall not have any obligation to cure any such default.

15) Miscellaneous. This TDM Agreement may be signed in counterparts. Each executed duplicate hereof shall be considered as an original. Facsimile or signatures on electronically transmitted documents in PDF form and copies of signatures shall have the same force and effect as original signatures. The captions and titles herein are for convenience only and shall not be used to interpret this TDM Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, The Parties acknowledge and accept the terms and conditions of this TDM Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this TDM Agreement shall become operative on the date first above written.

SummerHill N40 LLC, a California limited liability company
By: SummerHill Homes LLC, its manager

By: _____
Its: _____

By: _____
Its: _____

TOWN OF LOS GATOS, a California municipal corporation
By: Laurel Prevetti

Its: Town Manager

APPROVED AS TO FORM:

Robert Schultz, Esq.
Town Attorney

ATTEST:

Shelley Neis
Town Clerk

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THIS TDM AGREEMENT

Real property located in the Town of Los Gatos, County of Santa Clara, State of California, described as follows:

LOT 27 AS SHOWN ON THE MAP OF “TRACT 10441”, FILED FOR RECORD ON OCTOBER 11, 2018 IN BOOK 918 OF MAPS, AT PAGES 4 THROUGH 18, SANTA CLARA COUNTY RECORDS.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/18/2020

ITEM NO: 8

ADDENDUM

DATE: August 14, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution Authorizing the Town Manager to Execute the North 40 In Lieu Traffic Fee Credit Agreement and North 40 Transportation Demand Management Agreement for Phase 1 of the North 40 Development

REMARKS:

Attachment 5 is the North 40 Transportation Demand Management Plan referenced in the original report.

Attachments Received Previously with Staff Report:

1. Resolution
2. North 40 In Lieu Traffic Fee Credit Agreement
3. North 40 Transportation Demand Management Agreement (Bellaterra)
4. North 40 Transportation Demand Management Agreement (Market Hall)

Attachment Received with this Addendum:

5. North 40 Transportation Demand Management Plan

DISTRIBUTION:

SummerHill N40 L.L.C., 777 California Avenue, Palo Alto, CA 94304

PREPARED BY: Mike Weisz
Senior Civil Engineer

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



Prepared by

FEHR & PEERS

160 W Santa Clara St #675
San Jose, CA 95113
408.278.1700

Robert Eckols
R.Eckols@FehrandPeers.com
408.645.7021

North Forty

Transportation Demand Management (TDM) Plan

Prepared for
Town of Los Gatos



August 2020

**North Forty
Transportation Demand Management (TDM) Plan
Bellaterra and Market Hall**

**Prepared for:
SummerHill Homes**

August 2020

FEHR  PEERS

SJ17-1760.01

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1. Introduction

Bellaterra and Market Hall are part of Phase 1¹ of the North Forty mixed-use development located to the west of Los Gatos Boulevard and to the north of Lark Avenue in the Town of Los Gatos. The site location is illustrated on the map in **Figure 1**. As proposed, Bellaterra will contain 253 for-sale residential units and Market Hall will contain approximately 21,000 square feet of food and beverage-related commercial space.

The purpose of this Transportation Demand Management (TDM) Plan is to reduce the amount of vehicle traffic generated by Bellaterra residents and Market Hall² employees with measures, strategies, and incentives to shift them from driving alone to using other travel modes including transit, carpooling, cycling, and walking. The TDM Plan includes attributes of the site's location, descriptions of existing and planned bicycle facilities and transit service in the area, TDM measures that encompass physical improvements at the site, and programmatic TDM measures that reduce the occurrence of drive-alone trips. The TDM Plan will be included in the CC&Rs for Bellaterra and permits/agreements plus tenant leases for Market Hall to ensure its implementation.

Background

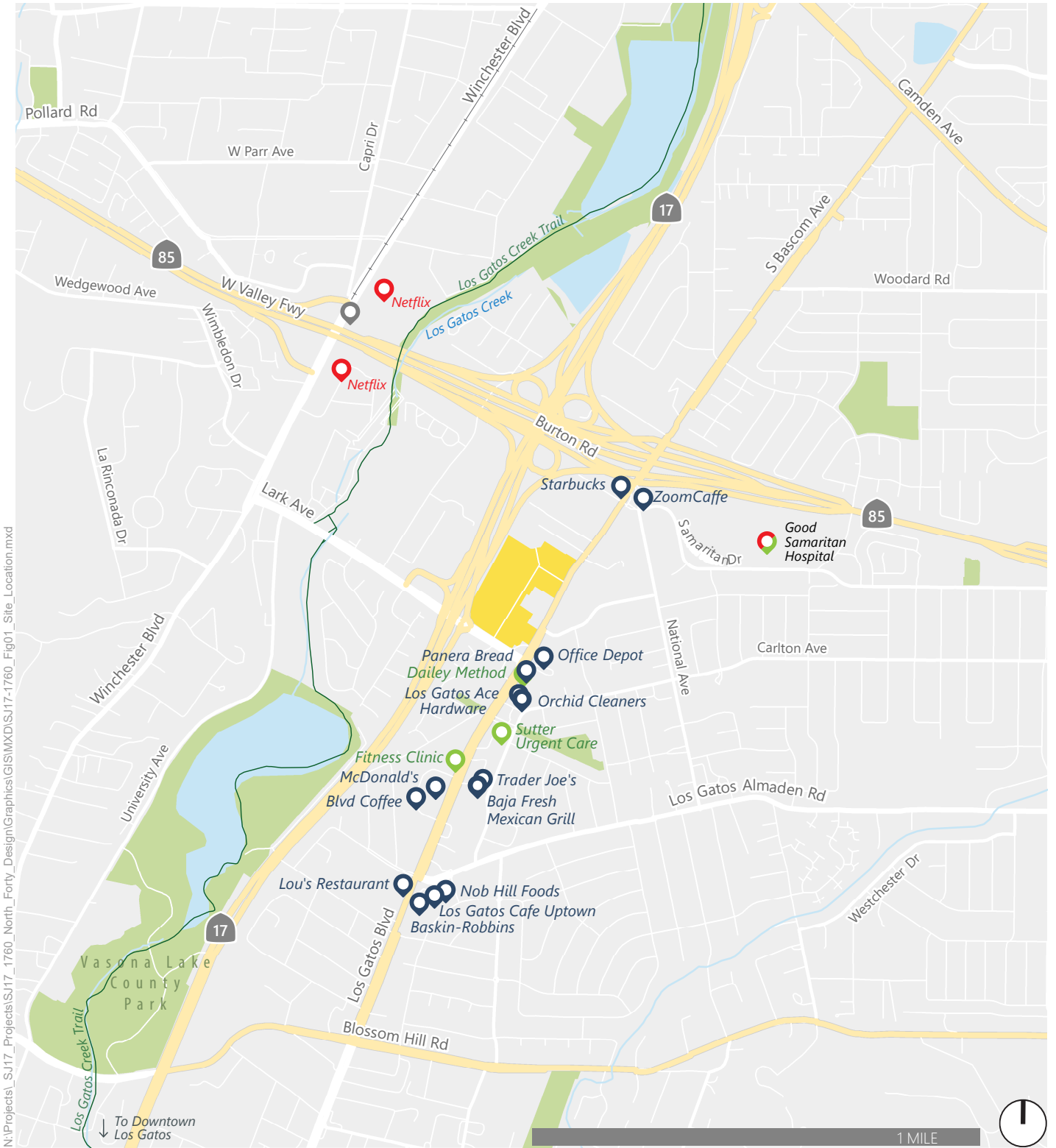
The TDM Plan is required per North 40 Phase 1 Condition of Approval 115 and the TDM Chapter from the Specific Plan. Conditions of Approval 115 states:

"TRANSPORTATION DEMAND MANAGEMENT (TDM) PLAN: The applicant shall prepare a Transportation Demand Management (TDM) Plan for the residential and commercial uses for Town of Los Gatos approval prior to the issuance of a building permit. The TDM shall include a minimum of those measures identified in the Specific Plan such as:

- Bicycle facility provisions
- Transit passes and subsidies
- Carpool incentive
- Reserved car share parking

¹ There are other properties in Phase 1 remaining to be developed. This Plan will be expanded, updated, or amended to include these developments and other developments in future phases.

² The senior housing portion of Market Hall is not directly included in the TDM Plan as seniors generate little traffic and therefore would not be affected by TDM strategies. However, vehicle trips generated by the senior housing component would be reduced due to the mixed-use nature of the development, nearby retail and restaurant uses, and the added bicycle and pedestrian infrastructure. The TDM Plan is also not directly applicable to Market Hall customers as it would be difficult to control their travel behavior. Plus, many of their trips to the site will be pass-by trips and will not constitute new traffic on the roadway system.



- North Forty
- Vasona Light Rail (Future)
- Vasona Light Rail Station (Future)
- Employment Centers
- Medical/Health Facilities
- Retail and Restaurants

Figure 1
Site Location

- Electrical car charging stations
- Coordination with the Santa Clara Valley Transportation Authority (VTA) to decrease headway times to connect to regional destinations, etc.

The TDM shall include a TDM coordinator who will submit a TDM effectiveness report to the Town annually. The TDM shall be modified accordingly when commercial tenants change.”

The TDM chapter from the Specific Plan states:

“4.10 TRANSIT DEMAND MANAGEMENT

The Specific Plan Area is currently located outside of an established core or transit station area which will make it challenging to attract a significant share of residents, employees and visitors to use transit. Therefore, Transportation Demand Management (TDM) programs are required for each application within the Specific Plan Area. The effective TDM programs can help address both the roadway congestion and Vehicle-Miles-Traveled (VMT) generated by the development in the area and may include:

- Parking cash-out.
- Financial incentives for taking alternative modes.
- Transit fare incentives such as Eco Pass and Commuter Checks.
- Preferentially located carpool parking.
- Bicycle lockers and bicycle racks.
- Showers and clothes lockers for bicycle commuters.
- On-site or walk-accessible employee services (day-care, dry-cleaning, fitness, banking, convenience store).
- On-site and off-site shuttle services.”

TDM Goal

The goal of the TDM Plan is to reduce daily and PM peak hour vehicle trips generated by Bellaterra residents and Market Hall employees by 15 percent. A spreadsheet showing the baseline daily and PM peak hour estimates based on rates used in the North Forty transportation impact analysis (TIA) is included in **Appendix A**. They are based on rates from the Institute of Transportation Engineers (ITE) and include the TIA’s reductions to account for internalized trips due to the mixed-use nature of the development (at buildout), and pass-by trips for Market Hall’s retail and restaurant uses. Approximately 15 percent of the Market Hall trips are estimated to be generated by employees. The vehicle trips that are subject to the TDM

Plan (all of the “external” trips generated by Bellaterra and the Market Hall employee) are presented in **Table 1**. Trip reductions associated with the 15 percent TDM trip reduction goal are also presented.

Table 1: TDM Plan-Related Trip Generation Estimates and TDM 15% Goal Trip Reductions

	Daily	PM Peak Hour
Bellaterra		
External Vehicle Trips	1,333	122
TDM-Related Reduced Trips	200	18
Market Hall		
Employee Vehicle Trips	400	35
TDM-Related Reduced Trips	60	5

Sources: Fehr & Peers and Institute of Transportation Engineers, *Trip Generation*

Monitoring will be conducted to measure progress towards achieving this goal and these trip reductions. The monitoring and reporting process is discussed in Chapter 6.

It should be noted that some of these vehicle trips, especially those generated by Bellaterra residents, will either remain within North Forty or be converted to walk or bike trips as other complementary land uses (such as office space) are constructed thus reducing the number of vehicles added to the surrounding roadway system. Plus, as more development occurs, economies of scale would occur making TDM measures more affordable and more effective.

Overall Site Description

North Forty comprises two districts, the Lark District and the Transition District. The Lark District is located on the southern portion of the site and includes the Bellaterra residential units (rowhomes, garden units, and condominiums). The Transition District is located to the north of the Lark District and also includes Bellaterra residential units, as well as the Market Hall.

The two districts are connected by a network of pedestrian paths, paseos, and sidewalks to facilitate pedestrian circulation. Multi-use paths through the site, along Lark Avenue, and along Los Gatos Boulevard will be used by pedestrians and cyclists traveling through the site, around the site, and traveling to the Los Gatos Creek Trail. An internal roadway system which includes sharrows provides internal circulation for vehicles and cyclists and has access to both Lark Avenue and Los Gatos Boulevard. An on-site shuttle stop is located on South Turner Street adjacent to the demonstration garden, a gathering place for transit riders.

Bellaterra's amenities include an outdoor movie area, passive green space, community farm tables, fire pits and outdoor grills, fruiting orchard trees, and community gardens. Bicycle parking, a bicycle maintenance station and bicycle repair vending machine will also be provided.

Market Hall contains a community room, bicycle parking, and designated parking for electric vehicles and clean air vehicles, including vanpools and carpools.

North Forty is located near existing restaurants and retail uses such as Panera Bread, Starbucks, ZoomCafe, Office Depot, Ace Hardware, and Orchard Cleaners and numerous health-related uses which are easily reachable by walking or cycling. Downtown Los Gatos is accessible by the nearby Los Gatos Creek Trail. The site location near these uses supports its ability of reduce vehicle trips.

2. TDM Network

This chapter describes all of the components of the TDM Network including pedestrian facilities, bicycle facilities, transit services and facilities, and other physical attributes of the site that contribute to its vehicle trip-reducing potential. A multi-use path will be constructed along the north side of Lark Avenue to provide a pedestrian and bicycle connection to the Los Gatos Creek Trail. It will also enhance the bus stop along the site frontage on Los Gatos Boulevard to improve transit facilities in the vicinity. The site amenities provide opportunities for residents and employees to participate in some of their daily activities on-site, thereby reducing the need to make a vehicle trip offsite.

The existing pedestrian, bicycle, and transit facilities and services and planned improvements support walking, bicycling, and transit use by residents, employees and visitors. Residents that work for the same employers are rideshare candidates. A list of nearby employers is included in **Appendix B**. There are numerous restaurants, stores, and other destinations in the area that are within an easy walking distance as shown on **Figure 1**.

Pedestrian Facilities

Pedestrian facilities comprise sidewalks, crosswalks, and pedestrian signals. Existing and planned off-site and on-site pedestrian facilities are provided as part of the development.

Sidewalks are provided on the west side of Los Gatos Boulevard for the entire length of the North Forty site. As part of the project, these sidewalks will be widened and landscaping will be added. There are existing sidewalks on the south side of Lark Avenue. Existing sidewalks on the north side of Lark Avenue are discontinuous. Bellaterra will add a multi-use path on the north side of Lark Avenue to accommodate both pedestrians and bicyclists. This path will provide a pedestrian connection to sidewalks on Lark Avenue that provide access to the Los Gatos Creek Trail. Pedestrian crosswalks are provided on at least one leg at all the signalized intersections on the perimeter of the site. Pedestrian signals are provided at each of these crosswalk locations.

On-site Pedestrian Facilities and Other Amenities

The multi-use paths on the north side of Lark Avenue and through the site will accommodate pedestrians in addition to bicyclists. Pedestrian sidewalks, pathways, and crosswalks will be located throughout the site as shown on the site plans on **Figure 2** and **Figure 3**. These figures also show the locations of other on-site amenities, which include green space, community garden plots, seating areas, fire pits, and fruiting orchard trees.



Source: Van Dorn Abed, Landscape Architects, Inc. 2019

Figure 2
Bellaterra Site Plan with On-Site TDM Measures and Amenities









-  PASSENGER LOADING AREA
 -  SHORT-TERM/GUEST BIKE PARKING
 -  ELECTRIC/CLEAN-AIR VEHICLE/ CARPOOL SPACES
 -  RESERVED CAR SHARE SPACES (Location subject to change)
 -  SECURE BICYCLE STORAGE ROOM
- 

Figure 3
Market Hall Site Plan with On-Site TDM Measures and Amenities

Bicycle Facilities

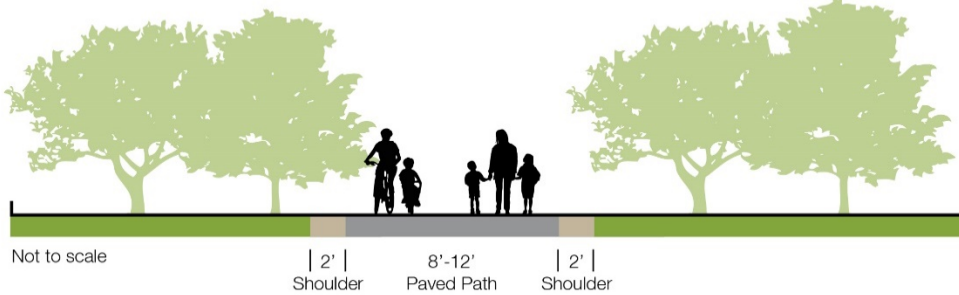
Types of Facilities

There are four distinct types of bikeway facilities in California per guidelines and design standards established by the California Department of Transportation (Caltrans) in the *Highway Design Manual* (Chapter 1000: Bikeway Planning and Design). These facilities are described and illustrated below:

- **Class I Bikeways (Shared-Use Paths)** provide a completely separate right-of-way and are designated for the exclusive use of bicycles and pedestrians.

SHARED-USE PATH (CLASS I)

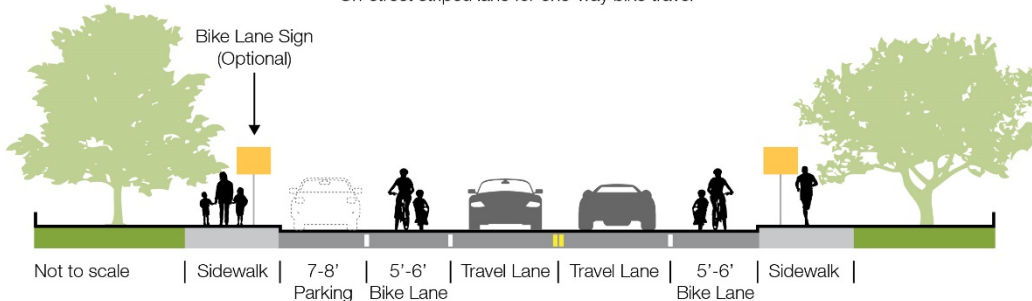
Completely separated right-of-way for exclusive use of bicycles and pedestrians



- **Class II Bikeways (Bicycle Lanes)** are dedicated lanes for bicyclists generally adjacent to the outer vehicle travel lanes. These lanes are typically five (5) feet wide and have special lane markings, pavement legends, and signage.

BICYCLE LANE (CLASS II)

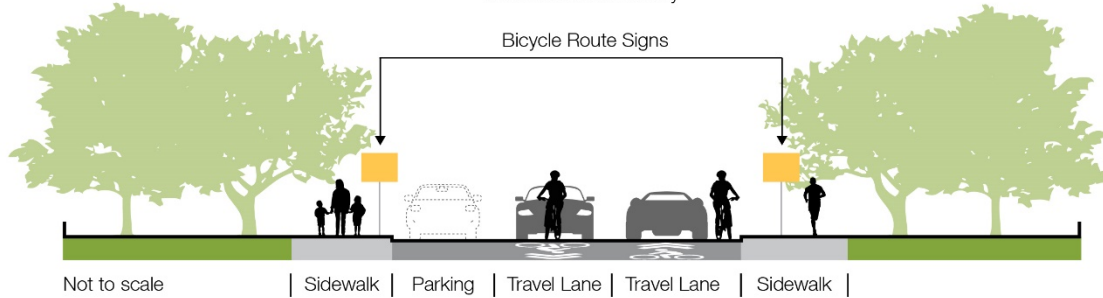
On-street striped lane for one-way bike travel



- **Class III Bikeways (Bicycle Routes)** are designated by signs or pavement markings for shared use with motor vehicles, but have no separated bicycle right-of-way or lane striping. Bike routes serve either to a) provide a connection to other bicycle facilities where dedicated facilities are infeasible, or b) designate preferred routes through high-demand corridors.

BICYCLE ROUTE (CLASS III)

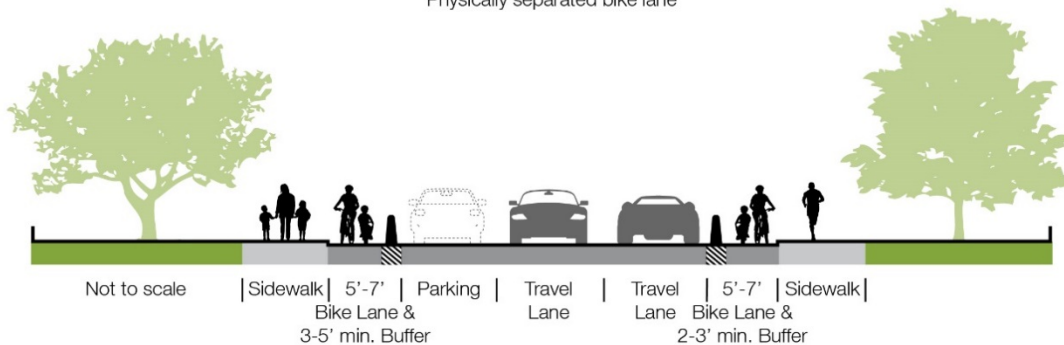
Shared on-street facility



- **Class IV Bikeways (cycle tracks or “separated” bikeways)** provide a right-of-way designated exclusively for bicycle travel within a roadway and are protected from vehicle traffic by physical barriers, including, but not limited to, grade separation, flexible posts, and inflexible vertical barriers such as raised curbs or parked cars.

CYCLE TRACK/SEPARATED BIKEWAY (CLASS IV)

Physically separated bike lane



Existing and Planned Off-site Facilities

The Los Gatos Creek trail, a Class I paved bicycle path and recreational facility, connects Los Gatos to the Willow Glen neighborhood of San Jose. Lark Avenue provides access to the trail.

Class II bicycle lanes are provided on Los Gatos Boulevard to the south of Lark Avenue, on Los Gatos-Almaden Road, on Lark Avenue between Oka Road and Winchester Boulevard, and on portions of Winchester Boulevard. North Forty is adding Class II bicycle lanes on Lark Avenue connecting the site to the Los Gatos Creek trail.

The *Los Gatos Bicycle and Pedestrian Master Plan*, adopted in March 2017, contains several proposed bicycle facilities that will enhance bicycle access to the site. These proposed facilities include:

- Class IV cycle track on Lark Avenue, extending between Winchester Boulevard and Los Gatos Boulevard
- Class IV cycle track on Los Gatos Boulevard between Lark Avenue and Blossom Hill Road
- Class II bike lanes on Los Gatos Boulevard between Samaritan Drive and Lark Avenue

Figure 4 shows existing and proposed bicycle facilities near the site.

On-site Bicycle Facilities

The on-site bicycle TDM-related facilities and amenities are also illustrated on **Figure 2** and on **Figure 3**. North Forty will add multi-use paths along the project frontage, on the north side of Lark Avenue and on the east side of Los Gatos Boulevard. The multi-use path on Lark Avenue will connect bike lanes that provide access to the Los Gatos Creek Trail. Another multi-use path will provide bicycle and pedestrian access and circulation through the site. South Turner Street will be designed with traffic calming features to slow traffic and will have shared lane markings (“sharrows”) to designate the preferred bicycle path of travel.

Bicycle Parking Spaces

There are two types of bicycle parking spaces: Class I (secure spaces that are protected from the weather such as bike lockers or bicycle storage rooms) for long-term parking and Class II (bike racks) for short-term parking. According to the VTA Bicycle Technical Guidelines, it is recommended that multi-family dwellings provide a minimum of 1 Class I space per 3 units and 1 Class II space per 15 units, retail uses provide a minimum of 1 Class I space per 30 employees and 1 Class II space per 6,000 sf, and restaurants provide a minimum of 1 Class I space per 30 employees and 1 Class II space per 3,000 sf. The Green Building Code requirements are short-term bicycle storage for at least 2.5% of all peak visitors, but no fewer than four

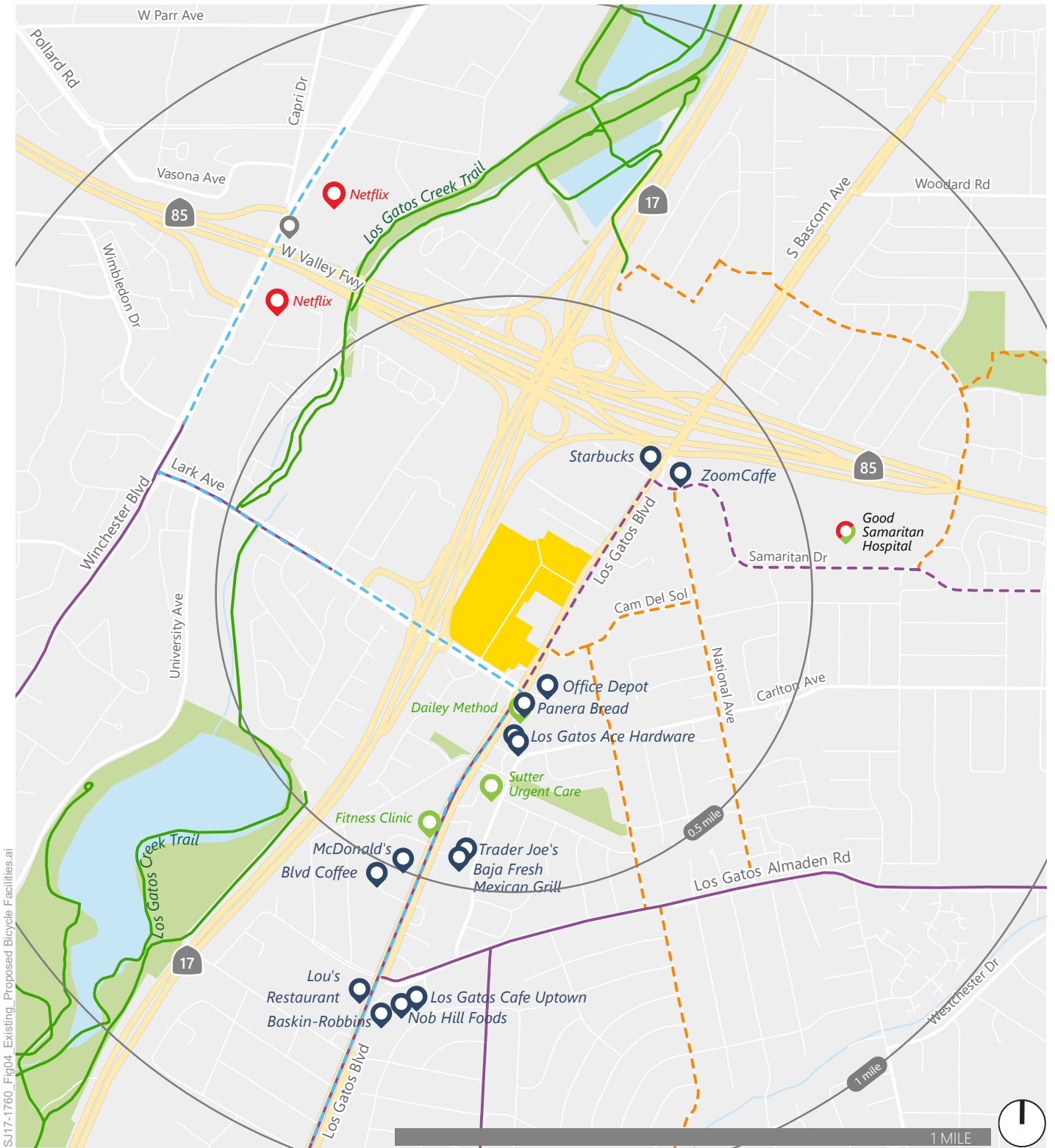
storage spaces per building, and long-term bicycle storage for at least 30% of all regular building occupants, but no less than one storage space per unit for multi-family residential units and long-term bicycle storage for at least 5% of regular building occupants, but no fewer than two storage spaces per building, and at least two short-term bicycle storage spaces for every 5,000 square feet, but no fewer than two storage spaces per building.

Bellaterra

Each unit will have a private garage with a bike rack for a total of 253 Class I spaces. Twenty-one bicycle racks, located throughout Bellaterra, will provide 42 Class II spaces for short-term bicycle parking for visitors to the site. The VTA recommended minimum bicycle parking for Bellaterra would be 51 Class I spaces and 17 Class II spaces. The Green Building Code requirement would be 253 Class I spaces and 7 Class II spaces (based on 2.5% of 253 peak visitors). Bellaterra will meet or exceed these minimums. In addition, a bicycle repair and tune-up station will be provided to support bicycle use by residents and visitors.

Market Hall

Long-term parking for employees will be provided in a locked bike room that will be shared with the senior housing with space to park 28 bicycles. Bike racks accommodating 12 bicycles are provided on the Market Hall site. The VTA recommended minimum bicycle parking for Market Hall would be 2 Class I spaces and 7 Class II spaces. The Green Building Code requirement would be 5 Class I spaces and 5 Class II spaces. Therefore, Market Hall will exceed these minimums.



SJ17-1760_Fig04_Existing_Proposed Bicycle Facilities.ai

- | | | | | | |
|--|--|---|--|---|------------------------------------|
| North Forty | Existing Bike Facilities | | Proposed Bike Facilities | | Vasona Light Rail Station (Future) |
| | | | | | Employment Centers |
| | | | | | Medical Facilities |
| | | | | | Retail and Restaurants |

Figure 4
Existing and Proposed Bicycle Facilities

Transit Service

The Santa Clara Valley Transportation Authority (VTA) provides bus and light rail transit (LRT) service in Santa Clara County. Three bus routes currently serve North Forty, with two bus stops located on both the east and west sides of Los Gatos Boulevard and two on Samaritan Drive to the east, as shown on **Figure 5**. **Table 2** describes these bus routes, their hours of operation, and their service frequencies.

Table 2: Existing Nearby Transit (Bus) Service

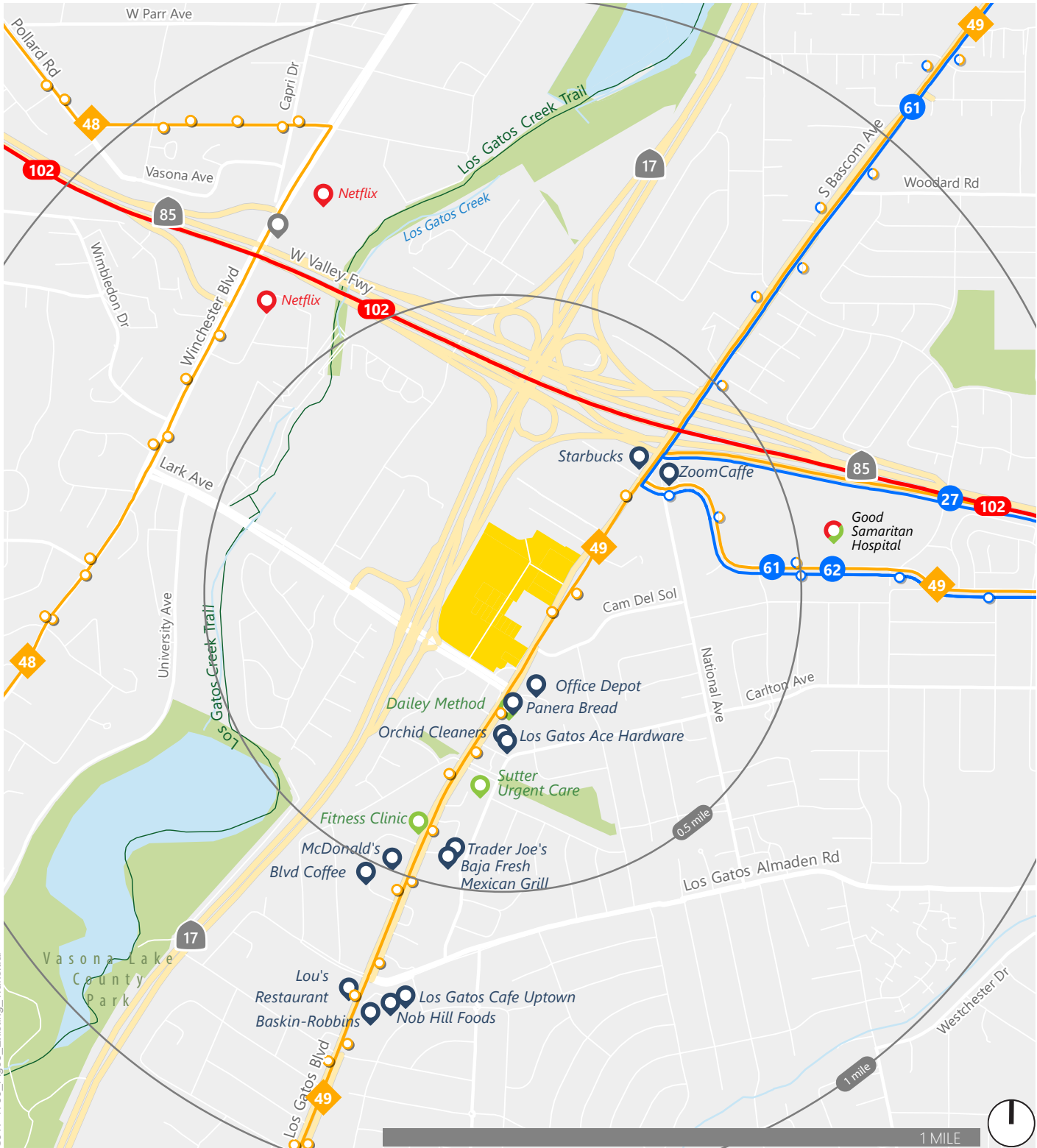
Route	Origin	Destination	Via	Frequency (weekdays)	Hours of Operation (weekdays)
27	Good Samaritan Hospital	Kaiser Hospital San Jose	Samaritan Drive and Blossom Hill Road	30 minutes	6:00 am - 8:00 pm
49	Winchester Transit Center	Los Gatos Civic Center	Los Gatos Boulevard/ Bascom Avenue and Camden Avenue	30 minutes	6:30 am – 8:30 pm
61/62	Good Samaritan Hospital	Piedmont Hills High School via Downtown San Jose	Los Gatos Boulevard/ Bascom Avenue and Taylor Street	30 minutes	6:00 am – 9:45 pm

Source: Santa Clara County VTA; Fehr & Peers, 2017.

The VTA is restructuring its local and community bus routes as part of the New Transit Service Plan. Route 49, which operates on Los Gatos Boulevard near the site, will be combined with Route 48 and be renumbered as Route 27, which will be extending to Winchester Transit Center via Los Gatos Boulevard, downtown Los Gatos and Winchester Boulevard. Route 61 will be changing alignment from Mabury Road to Berryessa Road between Berryessa BART Station and Capitol Avenue. Route 62 will be replaced with Route 61. The bus route map under the Next Network is shown on **Figure 6**. Future bus service is summarized in **Table 3**.

Table 3: Future Nearby Transit (Bus) Service

Route	Origin	Destination	Via	Frequency (weekdays)	Hours of Operation (weekdays)
27	Good Samaritan Hospital	Winchester Transit Center	Los Gatos Boulevard, downtown Los Gatos and Winchester Boulevard	30 minutes	5:30 am - 10:00 pm
61	Good Samaritan Hospital	Piedmont Hills High School via Downtown San Jose	Berryessa Road between Berryessa BART Station and Capitol Avenue	15- 30 minutes	5:30 am – 12:00 am



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North Forty

Existing Transit Routes

- Community Bus Service
- Express Bus Service
- Local Bus Service

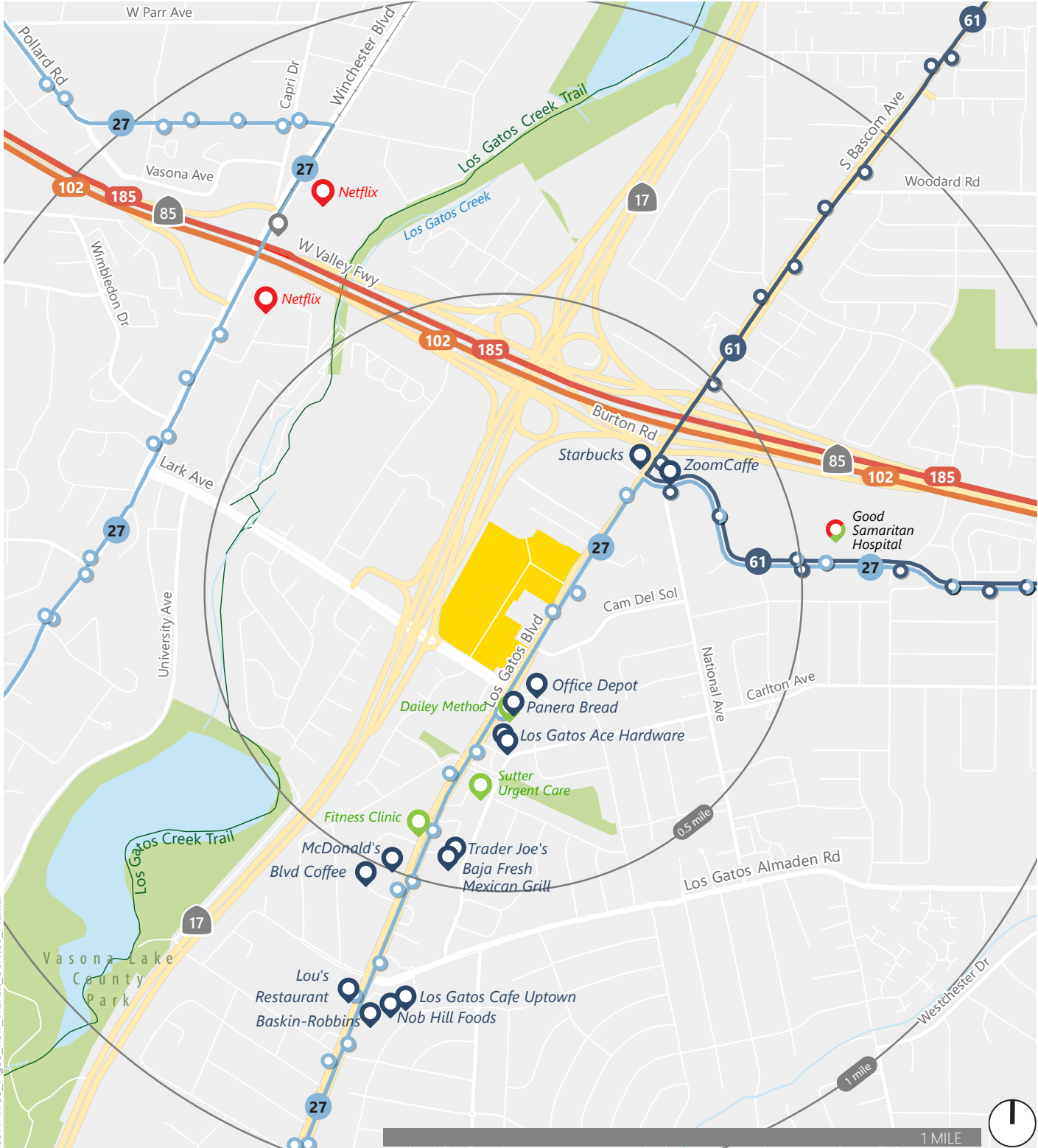
Bus Stop Category

- Community & Local Bus Service
- Community Bus Service
- Local Bus Service

- Vasona Light Rail Station (Future)
- Employment Centers
- Medical Facilities
- Retail and Restaurants

Figure 5

Existing Transit Service



Project Site

2019 New Transit Routes

2019 New Transit Stops

Vasona Light Rail (Future)

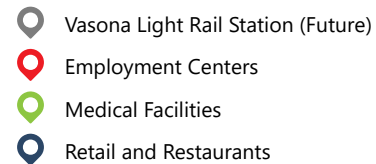


Figure 6

2019 New Transit Service Plan

On-site Transit Facilities

An on-site shuttle stop is located on the east side of South Turner Street within North Forty. It is designated with a sign and is located adjacent to the demonstration garden that has space for shuttle riders to gather as they wait. A bench will also be provided for waiting passengers. During non-commute periods it will be designated as a passenger pick-up/drop-off area and can be used by transportation network companies (TNCs) such as Uber and Lyft.

The VTA bus stop on the west side of Los Gatos Boulevard near the medical offices will be improved with a new concrete bus pad and a new bench.

Other Measures

North Forty includes some additional measures that will support walking, biking, transit, and other sustainable transportation choices. These measures are described below.

Electric Vehicle Charging Spaces and Clean Air Vehicle Spaces

Within the guest parking area of Bellaterra, three electric vehicle (EV) chargers will be provided, allowing charging at four wheelchair-accessible and two non-accessible parking spaces. The 253 Bellaterra residential unit garages will be equipped with EV chargers.

Market Hall will include a total of 29 charging and clean vehicle spaces, including one electric vehicle (EV) space and one EV American with Disabilities Act (ADA) van accessible space for seniors, one clean air vehicle ADA van accessible space, 15 spaces for clean air vehicles or carpools/vanpools, 10 EV spaces in the retail area, and one retail EV ADA van accessible space. The locations of some of these spaces are shown on **Figure 3**.

Traffic Calming Measures

Traffic calming measures will be provided along South Turner Street and Walker Street, as required by the Conditions of Approval for North Forty:

South Turner Street

The following traffic calming measures will be provided on South Turner Street:

- **Speed Limit Signage** – A “25 MPH Speed Limit” sign will be placed on the east side of South Turner Street just north of the entrance from Lark Avenue to inform drivers of the lower speed on South Turner Street compared to Lark Avenue.
- **Raised Intersection with Decorative Paving** – The intersection of South Turner Street and Shore Street will be constructed as a raised intersection with decorative paving. Intersection approaches will be designed as ramps and the center of the intersection will contain a flat raised area with decorative paving. By modifying the level of the intersection and adding decorative paving, the entire intersection will be more readily perceived by motorists as a pedestrian space.
- **Raise Crosswalk with Decorative Concrete Paving** – A raised crosswalk with decorative paving will be provided on South Turner Street between Shore Street and Stanley Street. Raised crosswalks provide pedestrians with a level street crossing and act as speed tables to slow auto speeds. By raising the level of the crossing to the curb level, pedestrians are made more visible to approaching motorists. The textured material on the crosswalk creates a surface that is noticeable for motorists traversing the crosswalk and emphasizes the pedestrian crossing. Pedestrian ramps will lead to the raised crosswalk on South Turner Street.
- **Traffic Circle** – A traffic circle is proposed at the intersection of Stanley Street / South Turner Street. Traffic circles are raised islands, placed in intersections, around which traffic circulates. Circles prevent drivers from speeding through intersections by impeding the straight-through movement and forcing drivers to slow down to yield. Drivers must first turn to the right, then to the left as they pass the circle, and then back to the right again after clearing the circle. The traffic circle slows auto traffic through the intersection, which improves comfort for people walking and biking. Sharrows and “Bikes May Use Full Lane” signs will be provided at the exit of the traffic circle. A multi-use path will cross the traffic circle, with decorative pavement to distinguish crossings.
- **All-Way Stop Controlled Intersection** – The all-way stop controlled intersection at South Turner Street and Walker Street prevents drivers from passing through the intersection at high speeds.

Along with these traffic calming measures, the parallel parking and curb extensions along South Turner Street will narrow the street to 22 feet wide (11 feet for each lane), which encourages drivers to lower their speed. Shared lane markings (“sharrows”) and “Bikes May Use Full Lane” signs along South Turner Street also inform drivers to share the road with bicyclists.

Walker Street

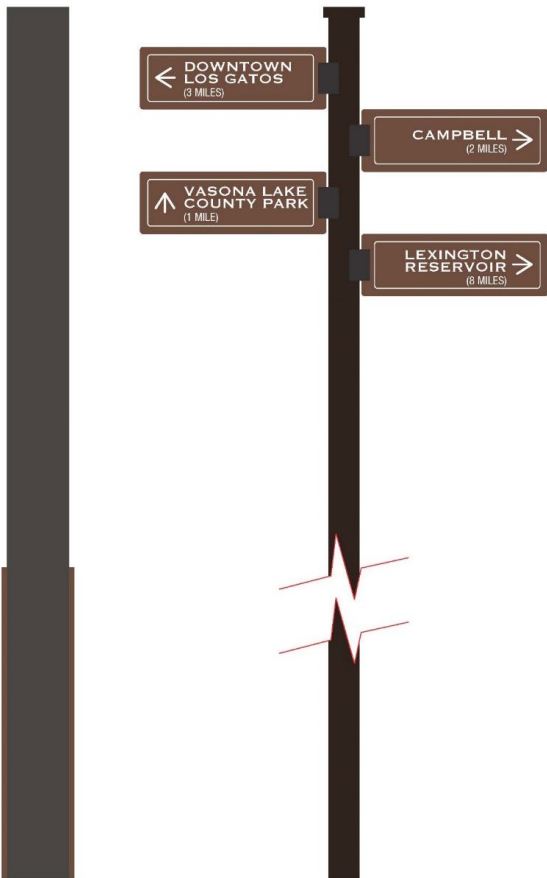
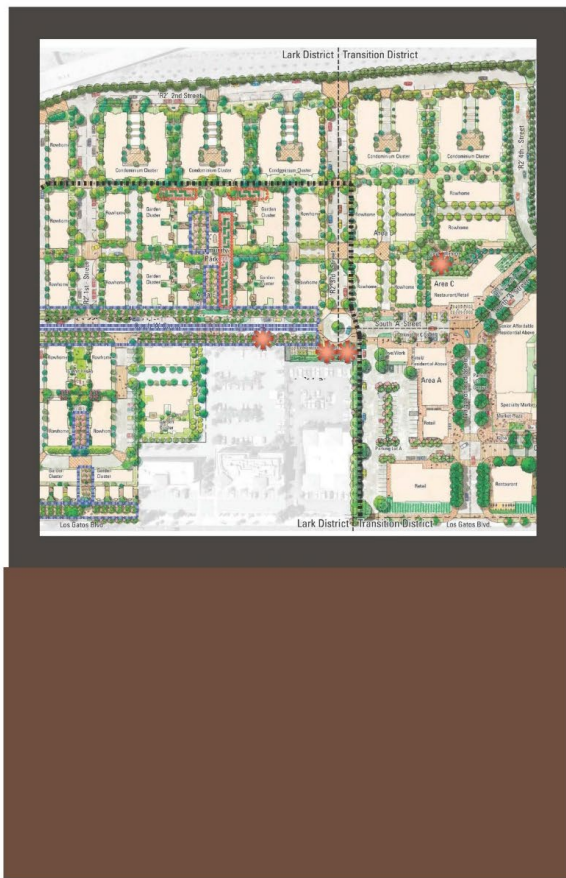
The following traffic calming measures will be provided on Walker Street:

- **Crosswalk with Decorative Paving** – Decorative paving with crosswalk pavement striping is proposed at the east leg of Walker Street / Los Gatos Boulevard. The textured material on the crosswalk creates a surface that is noticeable for motorists traversing the crosswalk and emphasizes the pedestrian crossing.
- **Speed Limit Signage** – A “25 MPH Speed Limit” sign will be placed on the north side of Walker Street near the entrance from Los Gatos Boulevard to inform drivers of the lower speed on Walker Street compared to Los Gatos Boulevard.
- **Angled Parking** – Angled parking will be provided along Walker Street. Angled parking reduces speeds by narrowing the width of roadway available for travel lanes. It also makes entering and exiting parking spaces easier for motorists.

Wayfinding

Wayfinding signage will be provided throughout the site to direct pedestrians and bicyclists to the surrounding roadways, Los Gatos Creek Trail, bus stops, on-site amenities, and nearby retail areas. Conceptual designs for the wayfinding signage are shown below.





3. TDM Measures and Strategies

There are numerous measures and strategies that will be used to encourage Bellaterra residents and Market Hall employees to use modes of transportation other than driving alone and therefore reduce the number of vehicle trips they generate. Some strategies are incorporated into the development's design such as the extensive internal pedestrian and bicycle circulation system, ample bicycle parking, and on-site amenities. These strategies were discussed in the previous chapter. Others are policies and programs that are provided by the Bellaterra homeowners association (HOA), the Market Hall building/property manager, and individual Market Hall employers such as providing subsidized transit passes and encouraging carpools by supporting rideshare matching programs and having designated carpool spaces.

Two lists of TDM measures³ are provided, one for Bellaterra and one for Market Hall. Many of the TDM measures will overlap between the sites and are included on both lists. Brief descriptions of the measures are provided with an explanation of how they reduce traffic. The physical measures are depicted on **Figure 2** and **Figure 3**. More detailed information regarding the management measures is presented after the tables. The duties and responsibilities of the Transportation Coordinator are included in a subsequent chapter.

Bellaterra Residential TDM Measures

The TDM measures and strategies for Bellaterra are summarized in **Table 4**. The measures that are incorporated into the site design are presented first, followed by policies and programs that will be implemented by the HOA and Transportation Coordinator. The Transportation Coordinator role will include conducting TDM-related marketing and promotional activities, acting as a transportation resource to the HOA, and conducting the annual monitoring activities. A resident transportation committee will be formed to market and implement some of the TDM measures.

³ The two-sets of measures form a cohesive package of strategies to reduce vehicle trips. Some of the measures are shared between to two developments. Their order in Table 4 and Table 5 do not denote level of importance or priority.

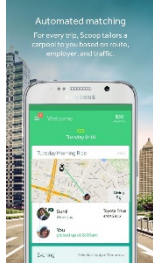

Table 4: Residential TDM Measures for Bellaterra

TDM Measure	Description
<i>Measures Incorporated into the Site Design</i>	
Mix of Uses within North Forty and Nearby	At buildout, North Forty will include a variety of uses including residences, retail uses and restaurants. Some of these uses will be included in Market Hall to be constructed concurrently or soon after Bellaterra. In addition, there are numerous retail uses, restaurants, and health-related uses nearby. Locating residences near services, retail establishments, and restaurants allows residents to walk or bike for some of their shopping and eating out trips which reduces vehicle trips. Residents can also stop at retail areas on their way home from work (or other location) which increases traveling efficiency and minimizes added vehicle trips.
Proximity to Transit	Two VTA bus stops (one northbound and one southbound) for Route 49/future Route 27 are located on Los Gatos Boulevard adjacent to the site; they are easily accessible by walking or biking. The southbound stop adjacent to the site will be enhanced with a new concrete bus pad and a new bench, to provide a more comfortable waiting environment. The site's proximity to these stops makes taking the bus an attractive alternative to driving.
Transit Visibility	On-site signage will be added to enhance the visibility of the VTA stops near the site to encourage bus ridership.
On-Site Shuttle Stop/Passenger Loading Area	An on-site stop for private shuttles, such as those operated by high-tech companies, will be provided on the east side South Turner Street next to the demonstration garden. It will include a sign and a bench for waiting passengers. During non-commute times, it will be a designated passenger pick-up and drop-off area and can be used by transportation network companies (TNCs) such as Uber and Lyft.
Wayfinding Signage	Wayfinding signage will be provided within the site to direct pedestrians and bicyclists to the surrounding roadways, Los Gatos Creek Trail, bus stops, on-site amenities, and nearby retail areas.
Improved Pedestrian Access	Pedestrian access to the site will be improved by the added multi-use paths and landscaping on the north side of Lark Avenue, on the west side of Los Gatos Boulevard, and through the site.
On-Site Pedestrian-Friendly Environment	Pedestrian paseos and sidewalks on the internal street network will be provided to accommodate pedestrians. Wider sidewalks, trees, furnishings, lighting, curb extensions, and specialized crosswalk paving will be used to enhance pedestrian safety and appeal. Traffic calming measures which slow vehicular traffic such as narrow street sections, a traffic circle, a raised intersection, street trees and planting strips, and decorative paving will enhance pedestrian safety.
Improved Bicycle Access	Multi-use paths will be constructed along the Lark Avenue and Los Gatos Boulevard frontages and will improve bicycle access to the site.
On-Site Bicycle Facilities	The on-site multi-use paths will provide access through the site for pedestrians and bicyclists on a facility that is separated from vehicle traffic. Shared lane markings ("sharrows") will be provided on the major internal circulation roadways to indicate that vehicles must share the travel lane with bicyclists. The paths and sharrows will enhance bicycle travel within the site.

Table 4: Residential TDM Measures for Bellaterra

TDM Measure	Description
Bicycle Parking	The 253 resident garages will be equipped with a rack for long-term bicycle parking. Twenty-one bike racks accommodating 42 bicycles will be provided throughout the site for short-term parking. Bicycle parking facilities support bicycling as a mode choice.
Bicycle Maintenance Service and Station	Beeline Bikes, or similar mobile bike repair shop, will conduct on-site bike repair and maintenance services. These services will be provided via scheduled events coordinated by the HOA or resident transportation committee. The on-site bicycle maintenance station will further support bicycling by providing tools for residents to perform routine maintenance on their bicycles. It will include a vending machine with supplies like inner tubes.
On-Site Amenities	On-site amenities, such as green space, community gardens, fire pits and outdoor grills will provide gathering places for residents and allow them to exercise their pets without traveling off-site thus reducing vehicle trips.
Car Share Spaces	Parking spaces in the Market Hall parking structure, as shown on Figure 3, are reserved for car share vehicles. The number and exact location will be determined in conjunction with input from the carshare company. The carshare vehicles will be available to Bellaterra residents.
Electric Vehicle Charging Stations	Three electric vehicle (EV) chargers will be provided in the guest parking area allowing charging at four wheelchair-accessible and two non-accessible parking spaces. The 253 Bellaterra residential unit garages will be equipped with EV chargers.
HOA Measures	
Transportation Coordinator	The HOA will retain a professional Transportation Coordinator who will provide TDM-related services. They will conduct TDM promotional and annual monitoring activities.
	<i>TDM Promotional Activities:</i>
	<p><i>New resident orientation packet:</i> Each new resident household will be provided with a packet of information regarding transit service, bicycle facilities, and ridesharing services. It will include the HOA website which will have links to transportation resources. The purpose of the packet is to introduce new residents to these resources to establish commute alternatives early.</p> <p><i>Website articles and emails:</i> The Transportation Coordinator will promote the TDM Plan via articles which the HOA will disseminate to residents via the Bellaterra website and/or via emails to keep information about the TDM measures in front of residents on a regular basis.</p>
Free Transit Passes	The HOA will allocate \$3,000 to an annual fund for bus passes to be provided to homeowners upon request. Any funds not used by the end of the year will be allocated towards the next year's annual fund amount of \$3,000.
Town-wide TDM Funding	The HOA will provide annual funding to the Town for implementing Town-wide TDM programs.

Table 4: Residential TDM Measures for Bellaterra

TDM Measure	Description
Coordination with VTA	The HOA will coordinate with VTA regarding reducing headways on bus routes serving Bellaterra and the rest of North Forty and regarding bus service to the Vasona LRT station once the LRT extension is constructed.
Website	A page on the Bellaterra HOA website will include transit and commute alternatives information and links. It will be updated and maintained by the HOA manager.
Ridesharing Programs	<p>Rideshare matching programs help carpool to form by matching drivers and passengers. Information about Scoop and Waze apps, and other ridesharing resources will be disseminated to residents in their orientation packages and on the HOA website.</p> 
Car share	<p>Residents who bike, walk, use transit or carpools, or who do not have access to a vehicle could utilize a car share vehicle for errands, meetings, and occasional weekend outings. SummerHill will work with carshare companies at buildout to determine viability. The Transportation Coordinator will provide information to Bellaterra residents regarding provided car share services</p>  <p>Bellaterra residents will have access to the car share spaces provided in the Market Hall parking structure</p> <p>Additionally, there are other car share services that would allow residents to offer their own vehicles as part of a peer-to-peer car sharing service such as Getaround, and Turo (formerly Relay Rides). Residents will be informed of these options in their orientation packet.</p>
Bikeshare	Bikeshare is a program where bicycles are provided for short-term rental. Since bikeshare is not currently provided in Los Gatos, SummerHill will provide each new residential unit with a \$100 gift card to a local bike shop for use in purchasing a bicycle and/or bicycle accessories.
TMA Membership	Bellaterra will join a North Forty Transportation Management Association (TMA) should one be formed.

Source: Fehr & Peers, 2019.

Market Hall Commercial TDM Measures

The TDM measures and strategies for the commercial portion of Market Hall are summarized in **Table 5**. The measures that are incorporated into the site design are presented first, followed by policies and programs that would be implemented by the property manager for the retail/restaurant uses, individual retail/restaurant tenants/employers, and the Transportation Coordinator.

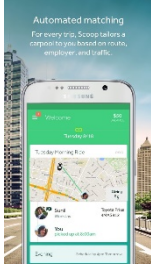

Table 5: Commercial TDM Measures for Market Hall

TDM Measure	Description
<i>Measures Incorporated into the Site Design</i>	
Mix of Uses within North Forty and Nearby	Locating retail establishments and restaurants near residences and other similar and complementary uses supports trips to be made by walking or biking which reduces vehicle trips.
Proximity to Transit	Two VTA bus stops (one northbound and one southbound) for Route 49/future Route 27 are located on Los Gatos Boulevard adjacent to the site; they are easily accessible by walking or biking. The southbound stop adjacent to the site will be enhanced with a new concrete bus pad and a new bench, to provide a more comfortable waiting environment. The site's proximity to these stops makes taking the bus an attractive alternative to driving.
Transit Visibility	On-site signage will be added to enhance the visibility of the VTA stops near the site to encourage bus ridership.
On-Site Shuttle Stop	An on-site stop for private shuttles will be provided on the east side South Turner Street next to the Demonstration Garden. It will include a sign and a bench for waiting passengers.
Passenger Loading Area	A passenger pick-up/drop-off area is located on South Turner Street in front of the senior housing lobby. It can be used by private vehicles and by TNCs such as Uber and Lyft.
Wayfinding Signage	Wayfinding signage will be provided within the site to direct pedestrians and bicyclists to the surrounding roadways, Los Gatos Creek Trail, bus stops, on-site amenities, and nearby uses.
Improved Pedestrian Access	Pedestrian access to the site will be improved by the added multi-use paths and landscaping on the north side of Lark Avenue, on the west side of Los Gatos Boulevard and through the site.
On-Site Pedestrian-Friendly Environment	Pedestrian sidewalks on the internal street network will be provided to accommodate pedestrians. Wider sidewalks, trees, furnishings, lighting, curb extensions, and specialized crosswalk paving will be used to enhance pedestrian safety and appeal.
Improved Bicycle Access	Multi-use paths will be added on the north side of Lark Avenue on the west side of Los Gatos Boulevard. These facilities will improve bicycle access to the site.
Bicycle Parking	Bike racks accommodating 28 bicycles will be provided at Market Hall. Employees can use the locked bike room shared with the senior housing for long-term bike parking. It will accommodate 28 bicycles. Bicycle parking facilities support bicycling as a mode choice.

Table 5: Commercial TDM Measures for Market Hall

TDM Measure	Description
Bicycle Maintenance Station	The bicycle maintenance station at Bellaterra can be used by Market Hall employees. It will further support bicycling by providing tools for residents to perform routine maintenance on their bicycles. It will include a vending machine with supplies like inner tubes.
Car Share Spaces	Parking spaces in the Market Hall parking structure, as shown on Figure 3, are reserved for car share vehicles. The number and exact location will be determined in conjunction with input from the carshare company.
Electric Vehicle Charging Stations and Clean Air Vehicle Spaces (including Carpool/Vanpool spaces)	Electric vehicle charging stations will be provided on-site to encourage the use of clean-air vehicles. Market Hall will include one electric vehicle (EV) space and one EV American with Disabilities Act (ADA) van accessible space for seniors, one clean air vehicle ADA van accessible space, 15 spaces for clean air vehicles or carpools/vanpools, 10 EV spaces in the retail area, and one retail EV ADA van accessible space.
Showers and Clothes Lockers	Shower facilities will be included in the Market Hall. Details on the location of these facilities will be on the future Market Hall Tenant Improvement plans. There will be secured locations for Market Hall employees to keep their personal belongings reflected on these same plans.
Property Management Measures	
Transportation Coordinator	The property management team will retain a professional Transportation Coordinator who will be responsible for many of the TDM related services. They will conduct TDM promotional and annual monitoring activities.
	<i>TDM Promotional Activities:</i>
	<p><i>New employee orientation packet:</i> Each new employee will also be provided with a commute alternatives information packet. It will include a link to the Market Hall website which will have links to transportation resources. The purpose of the packet is to introduce new employees to these resources to establish commute alternatives early. The packet will be prepared by the Transportation Coordinator and disseminated by the property manager to tenants for their use.</p> <p><i>Website articles and emails:</i> The Transportation Coordinator will promote the TDM Plan via articles on the Market Hall website and via emails to keep information about the TDM Plan in front of employees on a regular basis.</p>
Financial Incentives	The property manager will coordinate with employers to provide financial incentives, e.g., gift cards, for employees who travel to work via a non-SOV mode (i.e., walking, biking, riding transit, or ridesharing).
Town-wide TDM Funding	The Property Management will provide annual funding to the Town for implementing Town-wide TDM programs.
Coordination with VTA	The property manager will coordinate with VTA regarding reducing headways on bus routes serving Market Hall and the rest of North Forty and regarding bus service to the Vasona LRT station once the LRT extension is constructed

Table 5: Commercial TDM Measures for Market Hall

TDM Measure	Description
Commuter Information Center/Website	A commuter information center will be provided on-site with bike maps and transit/shuttle schedules. A page on the Market Hall website will include transit and commute alternatives information and links. It will be updated and maintained by the property manager.
Ridesharing Programs	<p>Rideshare matching programs help carpools to form by matching drivers and passengers. Information about the Scoop and Waze apps and other ridesharing resources will be disseminated to employees in their orientation packages. The Transportation Coordinator will also facilitate carpool matching for employees.</p> 
Car share	<p>Employees who bike, walk, use transit or carpools, or who do not have access to a vehicle could utilize a car share vehicle for errands, meetings, and occasional weekend outings. SummerHill will work with carshare companies at buildout to determine viability.</p>  <p>Two car share spaces will be provided in the Market Hall parking structure.</p>
TMA Membership	Market Hall will join a North Forty Transportation Management Association (TMA) should one be formed.

Source: Fehr & Peers, 2019.

Description of Measures

The TDM Plans would be overseen by Transportation Coordinators whose role and responsibilities are discussed in Chapter 5. The measures incorporated into the site designs shown on Figure 2 and Figure 3 will be constructed concurrently with the site construction and will not require further management. Other management-related measures are described below. The anticipated effectiveness of the TDM measures in terms of reductions in vehicle trips is presented in **Tables C-1** and **C-2** in **Appendix C**.

Commuter Information Center

The Bellaterra HOA and Market Hall websites will contain transit information such as current VTA bus routes and schedules, links to ridesharing companies, and links to bike facilities maps to encourage transit ridership, ridesharing, and bicycle commuting. A service such as TransitScreen could be used to display live feeds of timetables for VTA buses and comparative driving times within Market Hall.

Ridesharing (Carpool) Programs

Carpools in the Bay Area consist of two or more people riding in one vehicle for commute purposes. The HOA and Market Hall websites will include an internet link to the 511.org rideshare website to access ride matching services. Information regarding peer-to-peer matching programs such as ZimRide, UberPool, Scoop, Waze Carpool, Duet, and Carma Carpooling will also be provided.



Car Share

Spaces for car share vehicles will be provided in the Market Hall parking structure. The exact number and locations will be determined by the property manager in conjunction with the carshare company. These discussions will occur after Market Hall is constructed and fully occupied and the market for car share services is known.

Comparison to COA and Specific Plan Measures

The conditions of approval (COA) and the specific plan identify several TDM measures. A comparison of those measures and the measures included in this TDM Plan are presented in Table 6. It should be noted that this plan includes numerous measures not identified in either document.

Table 6: Comparison of TDM Measures

Measure	Mentioned in COA	Mentioned in Specific Plan	Provided for Bellaterra	Provided for Market Hall	Comments
Bicycle facility provisions	X		X	X	Provided
Transit passes and subsidies	X	X	X	X	Provided
Carpool incentive	X		n/a	X	This measure is an employee-focused measure and therefore not applicable to Bellaterra. However it should be noted that many trips made by residential are in carpools regardless of an incentive program.
Reserved car share parking	X		X	X	Provided
Electrical car charging stations	X		X	X	Provided
Coordination with the Santa Clara Valley Transportation Authority (VTA) to decrease headway times to connect to regional destinations, etc.	X		X	X	Provided
Parking cash-out		X	n/a		This measure is where employees are essentially paid to not drive and park. Therefore, it is not applicable to Bellaterra. Market Hall employees will be provided with financial incentives to not drive alone to work, but this is not precisely a parking cashout program.
Financial incentives for taking alternative modes		X	X	X	Provided
Preferentially located carpool parking		X	n/a	X	This measure is an employee-focused measure and therefore not applicable to Bellaterra.
Bicycle lockers and racks		X	X	X	Provided
Showers and clothes lockers for bicycle commuters		X	X	X	Provided
On-site or walk accessible employee services		X	X	X	Provided
On-site and off-site shuttle services		X	X	X	Shuttle service may be provided under the Town-wide TDM programs with contributions from the development.

Source: Fehr & Peers, 2019.

4. Future or Alternative TDM Measures and Strategies

Future TDM measures and strategies may be implemented if the demand for the measures changes or the goals described in this report are not met.

New Shuttle Service

The North Forty Specific Plan discusses potential future shuttle bus service to the Vasona LRT extension. The EIR identifies working with the Town and VTA to provide this shuttle service. This is a potential future TDM measure for conditions if the LRT line is extended from Winchester to Vasona.

Additional Financial Incentives

There are a variety of financial incentives that can be used to increase alternative mode shares and reduce the numbers of vehicle trips generated by Bellaterra residents and Market Hall employees. Potential financial incentives include subsidized car share memberships, subsidized bikeshare memberships, and increased funding for the Bellaterra bus pass program. A guaranteed ride home program (e.g., free Lyft or Uber ride home) for employees who use transit or rideshare to work, but transit or the rideshare is not available for their trip home and/or they need to get home in an emergency, is another financial incentive.

New Technologies

New TDM measures are constantly being created with new technology advances. The Transportation Coordinators will keep up to date with TDM innovations and implement new measures as appropriate.

5. Transportation Coordinator Duties

The Bellaterra HOA and the Market Hall property manager will hire professional Transportation Coordinators from consulting firms with experience in TDM to oversee implementation and monitoring of the TDM Plan. The HOA and property manager will provide the Town of Los Gatos with the name and contact information for the Transportation Coordinators once they are selected.

The Transportation Coordinator is responsible for the day-to-day management, operation, and monitoring of the TDM Plan, programs, and services as well as the implementation of new programs and services with a special emphasis on reducing single-occupancy vehicles. This will involve developing managing, and marketing programs to educate residents, employees, customers, and visitors about the various transportation alternatives and working facets of transportation infrastructure. The Coordinator is also responsible for the overall direction of the program including: planning, marketing and promoting the programs; data management; performance reporting on TDM activities; researching and developing proposals on TDM measures; and evaluating, adjusting, and incorporating new TDM strategies and programs as needed to achieve the trip reduction goal.

Bellaterra

The Bellaterra Transportation Coordinator will be responsible for the day-to-day management of the TDM Plan, including implementation of associated measures and programs to reduce single-occupancy vehicles generated by residents. Their duties include:

1. Developing commuter materials (new resident commute resource flier with transit, bike, carpool, and walking information, posters, and new resident engagement survey) and a list of nearby convenience services to educate residents about the various transportation alternatives and reduce their need to drive.
2. Establishing commuter program policy guide and application forms to describe benefits of the transit subsidy program.
3. Providing commuter resource content for Bellaterra resident and HOA community social media page or resident dashboard and prepare short transportation article or blog comments for inclusion in HOA newsletters
4. Conducting transportation promotions and campaigns to increase resident awareness regarding alternative transportation options that may coincide with Earth Day, Bike to Work Day or other resident events and may be integrated with regional and local activities.

5. Providing commuter resource content to residents via presentation, emails, and direct engagement:
 - a. Responding to residents interested in carpool matching assistance, transit trip planning, and bike options
 - b. Managing responses from new resident onboarding commute surveys
 - c. Promoting carshare resources
 - d. Promoting 511.org incentives and benefit to residents
6. Developing and managing the resident transportation database and analyzing it to develop new TDM measures and programs.
7. Monitoring TDM infrastructure and facilities and overseeing repairs.
8. Researching and developing proposals on TDM measures.
9. Conducting monitoring activities and preparing and submitting the annual monitoring reports.
10. Evaluating TDM measures, adjusting existing measures, and implementing new measures.

These activities for Bellaterra will be supplemented by the HOA and resident transportation committee.

Market Hall

The Market Hall Transportation Coordinator will be responsible for the day-to-day management of the TDM Plan, including implementation of associated measures and programs to reduce single-occupancy vehicles generated by employees. Their duties include:

1. Developing commuter resource content for the tenants (employers) and their employees, including transit, bike, carpool, and walking materials, via in-person meetings/presentations, outreach calls and emails, and direct employee engagement to educate employees about the various transportation alternatives and reduce their need to drive.
2. Developing new tenant (employer) materials:
 - a. Commuter program policy guides
 - b. Employee transit subsidy reimbursement program (i.e. financial incentives)
 - c. Bike storage room application form
 - d. Employee commute resource flier

3. Coordinating employee distribution and management of monthly gift card incentives for transit riders.
4. Preparing short transportation articles or blog comments for inclusion in Property Management newsletters.
5. Conducting transportation promotions and campaigns to increase employee awareness regarding alternative transportation options that may coincide with Earth Day, Bike to Work Day or other events and may be integrated with regional and local activities.
6. Coordinating with property management team to implement the following TDM measures:
 - a. Be primary contact for employees interested in carpool matching assistance, transit trip planning, and bike options
 - b. Managing responses from new employee onboarding commute surveys
 - c. Promoting carshare resources
 - d. Promoting 511.org incentives and benefit to residents
7. Developing and managing employee transportation database and analyzing it to develop new TDM measures and programs.
8. Monitoring TDM infrastructure and facilities and overseeing repairs.
9. Researching and developing proposals on TDM measures.
10. Conducting monitoring activities and preparing and submitting the annual monitoring reports.
11. Evaluating TDM measures, adjusting existing measures, and implementing new measures

The property management team for Market Hall will also provide supplementary TDM services.

6. Annual Monitoring Reports

Annual monitoring reports that evaluate the effectiveness of the TDM Plan and its ability to meet the trip reduction goal will be submitted by the Transportation Coordinators of each site to the Town. Components/requirements of the monitoring process that are common to both sites are discussed first, followed by components/requirements related to each site individually.

Common TDM Monitoring and Reporting Requirements

The overall monitoring procedure, monitoring report contents, submittal deadline, and penalty for not submitting the reports on time are discussed below.

Overall Monitoring Process - Questionnaires

The TDM Plan focuses on reducing vehicle trips generated specifically by Bellaterra residents and by Market Hall employees, since the travel behavior of Market Hall customers will be difficult to influence or control and many of the customer vehicle trips will be pass-by trips and therefore not new vehicle trips added to the roadways system. Also, the Bellaterra and Market Hall related applications are a part of the North Forty mixed-use development that has an internally connected roadway system, which makes it very difficult to differentiate between traffic generated by Bellaterra versus Market Hall and between traffic generated by Market Hall customers versus Market Hall employees. As a result, driveway counts would not be able to capture the trip reductions associated with Bellaterra residents and with Market Hall employees. Town staff have concurred the driveway counts are not required. Therefore, the monitoring procedure uses questionnaires to survey the travel behavior of Bellaterra residents and Market Hall employees in lieu of driveway traffic counts. Examples are presented in **Appendix D**.

Monitoring Report Content

The monitoring reports for each site will contain the following information:

1. Project description (number of total units and occupied units at Bellaterra and list of tenants at Market Hall)
2. The survey questions, number of questionnaires distributed, number of responses received (and response rate), summary of results, and comparison to goal
3. Description of TDM measures in place and any changes from previous report
 - a. Including efforts and activities within the year, such as research and coordination by TDM

Coordinator, number of VTA passes provided, financial incentives offered, financial incentives accepted, car share issues, etc.

4. Description of changes to TDM measures to be implemented

Additional TDM

The project, through entering agreements that result in future assessments on property owners, will provide funding for future Townwide TDM initiatives, such as a Town-operated shuttle. The program will accumulate these assessments until sufficient funds are available to begin implementation of said initiatives. For the North 40 project, funds will begin to accumulate once occupancy thresholds are reached for the development. The threshold for the Bellaterra residential component is issuance of the Certificate of Occupancy for the 190th unit, whereas for the Market Hall commercial element, payment will be due after occupancy for the resultant tenant improvements.

Monitoring Report Submittal Deadline and Penalty

The Transportation Coordinators will distribute the questionnaires during the September/October period each year and submit the draft TDM Monitoring Reports to the Bellaterra HOA and Market Hall property manager by November 1 of that year. The draft reports will then be submitted to the Town by December 31. Any report not received by Town staff by January 31 of the following year will incur a \$500 penalty, to be increased by \$500 for each additional week, until the report is submitted. The penalty will be paid to the Town by the HOA for late Bellaterra reports and by the Market Hall property manager for late Market Hall reports.

Annual reports will be submitted until the TDM goal is reached for three consecutive years. Then the monitoring frequency will be reduced to every three years. If the goal is met during the triennial report, then the frequency will reduce to every six years. The Town may elect to remove and resume the monitoring requirements at any time. The Bellaterra HOA, Market Hall property manager, and TDM Coordinators shall continue the TDM efforts, enhance and implement the TDM programs even if the frequencies of monitoring reports are reduced or eliminated. In no event shall the reduction of monitoring frequency imply the reduction or termination of TDM programs.

Bellaterra TDM Monitoring

The monitoring and reporting requirements will be included in the HOA formation documents and the CC&Rs. The TDM monitoring process will begin once occupancy reaches 85%.

Trip Reduction Goal

The trip reduction goal for Bellaterra is to reduce PM peak hour vehicle trips by 18. Progress towards meeting this goal will be measured via a questionnaire to assess the travel modes that each adult resident uses to commute to work (e.g., drive alone, carpool, vanpool, company shuttle, VTA bus or light rail, bicycle, walk, or work from home). (An example is included in **Appendix D**.) The questionnaire may also be used to gather information regarding their use of available TDM measures and barriers to using alternative modes.

Analysis of Survey Results

Each adult that responds that they use a company shuttle, VTA bus or light rail, walk, bike or work from home will count as 1 vehicle trip credit towards the PM peak hour trip reduction goal. Trip credits for respondents that carpool will be based on the number of residents in that carpool. Carpools with two residents will count as 1 credit and carpools with three residents will count as 2 credits.

If the goal is not achieved, the Transportation Coordinator will suggest enhancements to existing TDM measures, adjustments to the TDM marketing activities, and/or additional measures to be implemented.

Market Hall TDM Monitoring

The monitoring and reporting requirements will be included the tenant leases. The TDM monitoring process will begin once occupancy reaches 85%.

Trip Reduction Goal

The trip reduction goal for Market Hall is to reduce PM peak hour vehicle trips by 5. Progress towards meeting this goal will be measured via a questionnaire to assess the travel modes that each employee uses to commute to work (e.g., drive alone, carpool, vanpool, company shuttle, VTA bus or light rail, bicycle, walk, or work from home). (An example is included in **Appendix D**.) The questionnaire may also be used to gather information regarding their use of available TDM measures and barriers to using alternative modes.

Analysis of Survey Results

Each employee who responds that they use VTA bus or light rail, walk, or bike to or from work during the PM peak period (4:00 pm to 6:00 pm) will count as 1 vehicle trip credit towards the PM peak hour trip reduction goal. Trip credits for respondents that carpool will be based on the number of employees in that carpool. Carpools with two employees will count as 1 credit and carpools with three employees will count as 2 credits.

If the goal is not achieved, the Transportation Coordinator will suggest enhancements to existing TDM measures, adjustments to the TDM marketing activities, and/or additional measures to be implemented

Appendix A:

Vehicle Trip Generation Estimates

North Forty Trip Generation Table: Bellaterra and Market Hall Retail (Summary)														
ITE#	Main LU Type	Sub LU Type	Method	Size	Type	Weekday			AM Peak			PM Peak		
						Total	In	Out	Total	In	Out	Total	In	Out
Market Hall														
932	Restaurant	High Turnover (Sit-Down) Restaurant	Average Rate	21.0	ksf	2,670	1,335	1,335	242	126	116	234	138	96
Employee Trips (15%)¹						400	200	200	36	19	17	35	21	14
Bellaterra														
210	Residential	Single-Family Detached	Best Fit	18	Units	215	108	107	22	6	16	22	14	8
230	Residential	Residential Condominium/Townhouse	Best Fit	235	Units	1,353	677	676	102	17	85	121	81	40
<i>Residential Subtotal</i>						<i>1,568</i>	<i>785</i>	<i>783</i>	<i>124</i>	<i>23</i>	<i>101</i>	<i>143</i>	<i>95</i>	<i>48</i>
<i>Mixed Used Reduction²</i>						<i>(235)</i>	<i>(118)</i>	<i>(117)</i>	<i>(20)</i>	<i>(3)</i>	<i>(15)</i>	<i>(21)</i>	<i>(14)</i>	<i>(7)</i>
Net-Added Bellaterra Traffic¹						1,333	667	666	105	20	86	122	81	41

Note:

1. The TDM Plan is related to these trips.
2. Reduction based on VTA TIA guidelines: 15% of residential trips (residential portion only)

Appendix B:

List of Nearby Employers

Table B-1: List of Nearby Employers

Employer	# of Employees
Netflix 100 Winchester Cir, Los Gatos, Ca 95032	5,400
Roku, Inc. 150 Winchester Circle, Los Gatos, CA 95032	817
Buongiorno USA Inc 485 Alberto Way # 210, Los Gatos, CA 95032	659
El Camino Hospital, Los Gatos 815 Pollard Rd, Los Gatos, CA 95032	560
Courtside Tennis Club 14675 S Winchester Blvd, Los Gatos, CA 95032	440
Safeway (3 locations)	314
Los Gatos Elementary School District 17010 Roberts Road, Los Gatos, CA 95032	273
Vasona Creek Health Care Center 16412 Los Gatos Blvd, Los Gatos, CA 95032	233
Good Samaritan Regional Cancer Center 15891 Los Gatos Almaden Rd, Los Gatos, CA 95032	200
Whole Foods Market 15980 Los Gatos Blvd, Los Gatos, CA 95032	179
Los Gatos-Saratoga Joint Union High School District 17421 Farley Rd W, Los Gatos, CA 95030	157
Town Of Los Gatos 17 N Santa Cruz Ave, Los Gatos, Ca 95030	152
Columbia Health Care/Mission Oaks Hospital 15891 Los Gatos Almaden Rd, Los Gatos, CA 95032	2,000
Alain Pinel Realtors 750 University Ave #150, Los Gatos, CA 95032	220
Monolithic Power Systems 79 Great Oaks Blvd, San Jose, CA 95119	136

Source: TDM Specialists

Appendix C:

Estimated TDM Measure Effectiveness

TDM Measure Effectiveness

The estimated TDM measure effectiveness in achieving TDM trip reductions are presented in **Table C-1** (Bellaterra) and **Table C-2** (Market Hall). The reduction percentages are estimates as currently there is no published research on TDM reductions for residential or retail developments.

Table C-1: Estimated Effectiveness of TDM Measures for Bellaterra

TDM Measure	Description	Vehicle Trip Reduction %
Measures Related to All Modes		
Transportation Coordinator	<p>The HOA will retain a professional Transportation Coordinator who will conduct marketing and implementation activities. The Transportation Coordinator will conduct the monitoring and recommend Plan modifications.</p> <p><i>TDM Promotional Activities:</i></p> <p><i>New resident orientation packet:</i> Each new resident household will be provided with a packet of information regarding transit service, bicycle facilities, and ridesharing services. It will include the HOA website which will have links to transportation resources. The purpose of the packet is to introduce new residents to these resources to establish commute alternatives early.</p> <p><i>Website articles and emails:</i> The Transportation Coordinator will promote the TDM Plan via articles which the HOA will disseminate to residents via the Bellaterra website and/or via emails to keep information about the TDM measures in front of residents on a regular basis.</p>	4%
Commuter Information Center/Website	A commuter information center will be provided on-site with bike maps and transit/shuttle schedules. A page on the Bellaterra HOA website will include transit and commute alternatives information and links. It will be updated and maintained by the HOA manager.	
Walking-Related Measures		
Improved Pedestrian Access	Pedestrian access to the site will be improved by the added multi-use paths and landscaping on the north side of Lark Avenue, on the west side of Los Gatos Boulevard, and through the site.	
On-Site Pedestrian-Friendly Environment	Pedestrian paseos and sidewalks on the internal street network will be provided to accommodate pedestrians. Wider sidewalks, trees, furnishings, lighting, curb extensions, and specialized crosswalk paving will be used to enhance pedestrian safety and appeal. Traffic calming measures which slow vehicular traffic such as narrow street sections, a traffic circle, a raised intersection, street trees and planting strips, and pervious paving will enhance pedestrian safety.	0.5%

Table C-1: Estimated Effectiveness of TDM Measures for Bellaterra

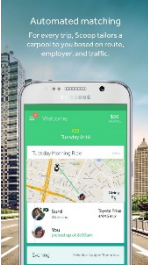
TDM Measure	Description	Vehicle Trip Reduction %
Biking-Related Measures		
Improved Bicycle Access	Multi-use paths will be constructed along the Lark Avenue and Los Gatos Boulevard frontages and will improve bicycle access to the site and connection to Los Gatos Creek Trail.	
On-Site Bicycle Facilities	The on-site multi-use paths will provide access through the site for pedestrians and bicyclists on a facility that is separated from vehicle traffic. Shared lane markings (“sharrows”) will be provided on the major internal circulation roadways to indicate that vehicles must share the travel lane with bicyclists. The paths and sharrows will enhance bicycle travel within the site.	1%
Bicycle Parking	All of the resident garages will be equipped with a rack for long-term bicycle parking. Twenty-one bike racks accommodating 42 bicycles will be provided throughout the site for short-term parking. Bicycle parking facilities support bicycling as a mode choice.	
Bicycle Financial Support	Bikeshare is a program where bicycles are provided for short-term rental. Since bikeshare is not currently provided in Los Gatos, SummerHill will provide each new residential unit with a \$100 gift card to a local bike shop for use in purchasing a bicycle and/or bicycle accessories.	1%
Bicycle Maintenance Service and Station	Beeline Bikes, or similar mobile bike repair shop, will conduct on-site bike repair and maintenance services. These services will be provided via scheduled events coordinated by the HOA or resident transportation committee. The on-site bicycle maintenance station will further support bicycling by providing tools for residents to perform routine maintenance on their bicycles. It will include a vending machine with supplies like inner tubes.	
Carpooling Measures		
Ridesharing Programs	<p>Rideshare matching programs help carools to form by matching drivers and passengers. Information about Scoop and Waze apps, and other ridesharing resources will be disseminated to residents in their orientation packages and on the HOA website.</p> 	4%

Table C-1: Estimated Effectiveness of TDM Measures for Bellaterra

TDM Measure	Description	Vehicle Trip Reduction %
Transit Measures		
Free Transit Passes	The HOA will allocate \$3,000 to an annual fund for bus passes to be provided to homeowners upon request. Any funds not used by the end of the year will be allocated towards the next year's annual fund amount of \$3,000.	1%
Proximity to Transit	Two VTA bus stops (one northbound and one southbound) for Route 49/future Route 27 are located on Los Gatos Boulevard adjacent to the site; they are easily accessible by walking or biking. The southbound stop adjacent to the site will be enhanced with a new concrete bus pad and a new bench, to provide a more comfortable waiting environment. The site's proximity to these stops makes taking the bus an attractive alternative to driving.	1%
Transit Visibility	On-site signage will be added to enhance the visibility of the VTA stops near the site to encourage bus ridership.	

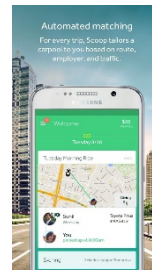
Source: Fehr & Peers, 2019.

Table C-2: Estimated Effectiveness of TDM Measures for Market Hall

TDM Measure	Description	Vehicle Trip Reduction %
Measures Related to All Modes		
Transportation Coordinator	<p>The property management team will retain a professional Transportation Coordinator who will conduct marketing and implementation activities. The Transportation Coordinator will conduct the monitoring and recommend Plan modifications.</p> <p><i>TDM Promotional Activities:</i></p> <p><i>New employee orientation packet:</i> Each new employee will also be provided with a commute alternatives information packet. It will include a link to the Market Hall website which will have links to transportation resources. The purpose of the packet is to introduce new employees to these resources to establish commute alternatives early. The packet will be prepared by the Transportation Coordinator and disseminated by the property manager to tenants for their use.</p> <p><i>Website articles and emails:</i> The Transportation Coordinator will promote the TDM Plan via articles on the Market Hall website and via emails to keep information about the TDM Plan in front of employees on a regular basis.</p>	5%
Commuter Information Center/Website	A commuter information center will be provided on-site with bike maps and transit/shuttle schedules. A page on the Market Hall website will include transit and commute alternatives information and links. It will be updated and maintained by the property manager.	
Financial Incentives	The property manager will coordinate with employers to provide financial incentives, e.g., gift cards, for employees who travel to work via a non-SOV mode (i.e., walking, biking, riding transit, or ridesharing).	3%
Biking-Related Measures		
Improved Bicycle Access	Multi-use paths will be added on the north side of Lark Avenue on the west side of Los Gatos Boulevard. These facilities will improve bicycle access to the site and provide access to Los Gatos Creek Trail.	1%
Bicycle Parking	Bike racks accommodating 28 bicycles will be provided at Market Hall. Employees can use the locked bike room shared with the senior housing for long-term bike parking. It will accommodate 28 bicycles. Bicycle parking facilities support bicycling as a mode choice.	1%
Bicycle Maintenance Station	The bicycle maintenance station at Bellaterra can be used by Market Hall employees. It will further support bicycling by providing tools for residents to perform routine maintenance on their bicycles. It will include a vending machine with supplies like inner tubes.	
Showers and Clothes Lockers	Shower facilities will be included in the Market Hall. Details on the location of these facilities will be on the future Market Hall Tenant Improvement plans. There will be secured locations for Market Hall employees to keep their personal belongings reflected on these same plans.	

Table C-2: Estimated Effectiveness of TDM Measures for Market Hall

TDM Measure	Description	Vehicle Trip Reduction %
Carpooling Measures		
Electric Vehicle Charging Stations and Clean Air Vehicle Spaces (including Carpool/Vanpool spaces)	Electric vehicle charging stations will be provided on-site to encourage the use of clean-air vehicles. Market Hall will include one electric vehicle (EV) space and one EV American with Disabilities Act (ADA) van accessible space for seniors, one clean air vehicle ADA van accessible space, 15 spaces for clean air vehicles or carpools/vanpools, 10 EV spaces in the retail area, and one retail EV ADA van accessible space.	1%
Ridesharing Programs	Rideshare matching programs help carpools to form by matching drivers and passengers. Information about the Scoop and Waze apps and other ridesharing resources will be disseminated to employees in their orientation packages. The Transportation Coordinator will also facilitate carpool matching for employees.	1%
Transit Measures		
Proximity to Transit	Two VTA bus stops (one northbound and one southbound) for Route 49/future Route 27 are located on Los Gatos Boulevard adjacent to the site; they are easily accessible by walking or biking. The southbound stop adjacent to the site will be enhanced with a new concrete bus pad and a new bench, to provide a more comfortable waiting environment. The site's proximity to these stops makes taking the bus an attractive alternative to driving.	1%
Transit Visibility	On-site signage will be added to enhance the visibility of the VTA stops near the site to encourage bus ridership.	



Source: Fehr & Peers, 2019.

Appendix D:

Example Questionnaires

Employee Transportation Survey

Market Hall is conducting this survey to better understand how employees commute to and from work during the weekday evening peak period (4:00 pm to 6:00 pm). This information will be kept confidential and will only be used to improve our commuter programs.

1. What is your home postal zip code? _____

2. What is the distance one-way from your home to the Market Hall? _____ miles

3. If you arrived or departed work between 4:00 pm and 6:00 pm, how did you travel? (Please place a check next to your primary travel mode. If you use more than one means of transportation, check the option that accounts for the longest segment of your trip.)

- | | | |
|---|--|---|
| <input type="checkbox"/> a. Drove Alone | <input type="checkbox"/> d. Public transit (bus) | <input type="checkbox"/> g. Bicycle |
| <input type="checkbox"/> b. Carpooled | <input type="checkbox"/> e. Public transit (LRT) | <input type="checkbox"/> h. Walk |
| <input type="checkbox"/> c. Got dropped off | <input type="checkbox"/> f. Motorcycle/Moped | <input type="checkbox"/> i. Other (describe)
_____ |

4. What factors do you consider when choosing your means of transportation to work? (Check up to three)

- | | |
|---|--|
| <input type="checkbox"/> a. Travel time | <input type="checkbox"/> e. Reducing carbon footprint |
| <input type="checkbox"/> b. Cost | <input type="checkbox"/> f. Ability to make stops to and from work |
| <input type="checkbox"/> c. Convenience/flexibility | <input type="checkbox"/> g. Stress |
| <input type="checkbox"/> d. Comfort and safety | |

5. If you drive alone to work, what is preventing you from carpooling, riding transit, bicycling, or walking? (Check up to three)

- | | |
|---|--|
| <input type="checkbox"/> a. Transit service is not convenient | <input type="checkbox"/> d. Cannot get home in an emergency |
| <input type="checkbox"/> b. Difficult to find others to carpool | <input type="checkbox"/> e. Need to make stops on the way to and from work |
| <input type="checkbox"/> c. Work irregular hours | <input type="checkbox"/> f. Need my car for work |

Resident Transportation Survey

Bellaterra is conducting this survey to better understand how residents commute to work. This information will be kept confidential and will only be used to improve commuter programs for our community.

1. Where do you work? (provide the company name and address, or zip code) _____

a. Do you work from home? How often? _____

2. What time did you usually start work? _____AM _____PM End work? _____AM _____PM

3. How do you typically travel to work? (Please place a check next to your primary travel mode. If you use more than one means of transportation, check the option that accounts for the longest segment of your trip.)

- | | | |
|---|--|--|
| <input type="checkbox"/> a. Drive Alone | <input type="checkbox"/> d. Public transit | <input type="checkbox"/> g. Uber, Lyft, or similar service |
| <input type="checkbox"/> b. Carpool | <input type="checkbox"/> e. Employer Shuttle | <input type="checkbox"/> h. Bicycle |
| <input type="checkbox"/> c. Get dropped off | <input type="checkbox"/> f. Motorcycle/Moped | <input type="checkbox"/> i. Walk |
| | | <input type="checkbox"/> j. Other (describe) _____ |

4. If you commute in a carpool, how was it organized?

- a. 511.org
- b. App (such as Scoop or Lyft Line)
- c. Other (please describe) _____

5. Does your employer provide commute assistance? (For example, commuter checks or shuttles) _____

a. Do you participate in the program? Please describe _____

6. What factors do you consider when choosing your means of transportation to work? (Check up to three)

- | | |
|---|--|
| <input type="checkbox"/> a. Travel time | <input type="checkbox"/> e. Reducing carbon footprint |
| <input type="checkbox"/> b. Cost | <input type="checkbox"/> f. Ability to make stops to and from work |
| <input type="checkbox"/> c. Convenience/flexibility | <input type="checkbox"/> g. Stress |
| <input type="checkbox"/> d. Comfort and safety | |

7. If you drive alone to work, what is preventing you from carpooling, riding transit, bicycling, or walking?
(Check up to three)

- a. Transit service is not convenient
- b. Difficult to find others to carpool
- c. Work late/irregular hours
- d. Cannot get home in an emergency
- e. Employer does not provide commute services or incentives
- f. Use my car on the job
- g. Need to make stops on the way to and from work
- h. Prefer to drive my own car

8. If you drive alone to work, would you be willing to use any of the following commute alternatives?
(Check all that apply)

- a. Carpool
- b. Vanpool
- c. Employer Shuttle
- d. Public bus
- e. Bicycle
- f. Walk
- g. Telecommute (work from home)
- h. Other _____

9. If you drive alone to work, which of the following would encourage you to use a commute alternative?
(Check up to three)

- a. Subsidized or free light rail or bus pass
- b. Assistance with transit information
- c. Assistance finding carpool/vanpool
- d. Employer shuttle
- e. Bicycle lockers and showers at work
- f. Guaranteed ride home in an emergency
- g. Flexible work schedule
- h. More on-site services (e.g. fitness center or childcare)
- i. Awards/prizes
- j. Other (describe) _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/18/2020

ITEM NO: 9

DATE: August 18, 2020
TO: Mayor and Town Council
FROM: Lynne Lampros, Deputy Town Attorney
SUBJECT: Introduction by Title Only of an Ordinance of the Town of Los Gatos Amending Chapter 18, by Adding Article IX, Sections 18.90.010- 18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems

RECOMMENDATION:

Introduction by title only of an Ordinance of the Town of Los Gatos amending Chapter 18, by adding Article IX, Sections 18.90.010-18.90.050 of the Los Gatos Town Code entitled Drones and Unmanned Aircraft Systems.

BACKGROUND:

This Ordinance was first brought to Council on August 4, 2020 (see Attachment 1). At that time, Council members made the following suggestions and requests for clarification:

1. Did the prohibition against vision enhancing devices, such as “first-person view” goggles effectively prohibit ‘drone racing’?
2. Did the prohibition against the use of model or civil drones within 500 feet of any active law enforcement or emergency response incident constrain legitimate news coverage and/or impact government transparency?
3. Did the prohibition on the use of drones in a manner which harasses, stalks, annoys, disturbs, frightens etc. any person, create a law that was not possible to follow or enforce given the subjectivity of the standard?

PREPARED BY: Lynne Lampros
Deputy Town Attorney

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

DISCUSSION:

To further research these issues, staff consulted with Charles Raley, Senior Attorney for the Western Team, Enforcement Division of the Federal Aviation Administration (FAA); Dan Gettinger, Founder of the Center for Study of the Drone at Bard College in New York; and Jesse Crama, local FAA certified commercial unmanned aircraft systems (UAS) drone pilot and aerial photographer and drone enthusiast. Staff also reviewed other legislation, case law, and drone publications.

In Santa Clara County, only the City of Santa Clara and the County of Santa Clara have ordinances pertaining to UAS or drones. Other California municipalities with UAS/drone laws include Los Alamitos, Yorba Linda, Calabasas, and Hermosa Beach.

The FAA regulates ‘small unmanned aircraft,’ defined as under 55 pounds in 14 CFR (Code of Federal Regulations) Part 107 and 49 USC (United States Code) Title VII, Chapter 448. Large unmanned aircraft, over 55 pounds, is regulated in 14 CFR Part 91.

The FAA regulates the airspace and allows local jurisdictions to regulate for traditional local police powers, such as land use, zoning, privacy, and law enforcement operations. In other words, with regard to operation of the UAS, the FAA regulates the bubble of airspace, and the municipality can regulate the ground – the radius of the operator, as well as time, place and manner, and health and safety. Such regulations ensure that problems associated with drones can be addressed at the local level. However local regulations cannot preempt federal regulation.

Council Questions:

1. While 14 CFR Part 107.31 provides that the unmanned aircraft must remain within the visual line of sight (VLOS) of the operator or visual observer, 14 CFR 107.205 does note that regulation is subject to obtaining a waiver. Accordingly, the revised ordinance (Attachment 2) allows for first-person view goggles to be worn during authorized drone racing occurring on private property with consent of the property owner.
2. 49 USC 46320 makes it a federal crime to interfere knowingly or recklessly with fire suppression, law enforcement, or emergency response effort with a civil penalty of \$20,000. UAS/drone ordinances in other California cities, such as Los Alamitos (8.52.050), Yorba Linda (8.52.030), and Calabasas (9.10.030), contain prohibitions on drone operation within 500 feet of a law enforcement, fire, or emergency incident. The prohibition against interference with emergency responders is also addressed by state law in Penal Code sections 148.2 (making it a crime to interfere with firefighting) and 402 (making it a crime to go to the scene of an emergency or the activities of Police Officers during an incident, with or without drones, for the purposes of viewing, unless it is part of the duties of that person’s

DISCUSSION (continued):

employment, and while there impedes the performance of the firefighter, law enforcement officer or emergency personnel).

There is further the issue of victim privacy rights that may be infringed on as a result of photographing or videoing by drone at the scene of a crime or emergency response. That concern could be said to be addressed by proposed Town Code section 18.90.030 (17) and civil privacy law.

The issue of First Amendment protection and use of drones is still a matter of conflicting lower court rulings in the various federal Circuit courts. It has been recognized that the right to record police activity has typically involved using a handheld device to photograph or videotape at a certain distance from and without interfering with the police activity at issue. One federal trial court held that news media directing a drone to hover over the site of a law enforcement/emergency operation was a trespass. It is unclear whether that would continue to be the legal position articulated by the courts.

Consequently, staff has removed the prohibition to drone operation within 500 feet of emergency response, and instead, relies on the general prohibition against interfering with law enforcement and emergency response. Note that there is public entity and employee immunity conferred by Government Code Section 853 for damage to a UAS if the UAS was interfering with emergency medical, firefighting, or search and rescue services.

3. The proposed Town Code section 18.90.030 (16) provides that the UAS shall not be used to annoy or harass (et al) anyone. Council noted that the subjectivity of the standard could lead to difficulties in upholding or enforcing the rule as written. Staff clarified the rule with specific reference to the reasonable person standard and persons of ordinary sensibilities.

CONCLUSION:

Staff recommends that Council accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Chapter 18, by adding Article IX, Sections 18.90.010-18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems.

ALTERNATIVES:

Council could refer the matter back to staff for consideration of any additional issues.

PAGE 4 OF 4

SUBJECT: Drones and Unmanned Aircraft Systems Ordinance

DATE: August 18, 2020

COORDINATION:

This report was coordinated through the Town Attorney's Office and the Parks and Public Works Department, and the Police Department, as well as counsel for the FAA, experts in the commercial and recreational drone fields.

FISCAL IMPACT:

There are no fiscal impacts associated with the approval of these amendments. Potential enforcement costs may be offset by penalties levied.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. August 4, 2020 Staff Report
2. Draft ordinance – redline
3. Draft ordinance – clean version



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 08/04/2020

ITEM NO: 15

DATE: August 4, 2020
TO: Mayor and Town Council
FROM: Lynne Lampros, Deputy Town Attorney
SUBJECT: Introduction by Title Only of an Ordinance of the Town of Los Gatos Amending Chapter 18, by Adding Article IX, Sections 18.90.010- 18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems

RECOMMENDATION:

Introduction by title only of an Ordinance of the Town of Los Gatos amending Chapter 18, by adding Article IX, Sections 18.90.010-18.90.050 of the Los Gatos Town Code entitled Drones and Unmanned Aircraft Systems.

BACKGROUND:

Unmanned Aircraft Systems, known commonly as “drones,” have historically been the province of small groups of hobbyists, kept few in number by the time-consuming construction of remote-controlled model airplanes that were limited in their scope of use. Recent technological advancements have increased the proliferation of drones that are preconstructed, affordable, and can be integrated with the use of camera technology that dramatically increase the potential uses from government to business applications such as real estate or insurance, to wide ranging recreational use such as amateur photography and videography.

With these greater numbers of drone users comes the need for local agencies to create a regulatory framework that provides for the appropriate uses of this technology, while also addressing important public safety, nuisance and other issues that arise as drones are increasingly used for recreational, business, and governmental purposes.

PREPARED BY: Lynne Lampros
Deputy Town Attorney

ATTACHMENT 1

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

DISCUSSION:

The Federal Aviation Administration (FAA) rules for small unmanned aircraft (UAS) operations other than model aircraft – Part 107 of FAA regulations – cover a broad spectrum of commercial and government uses for drones weighing more than 0.55 pounds. While the FAA regulates all airspace the FAA also states, “Laws traditionally related to state and local police power — including land use, zoning, privacy and law enforcement operations — generally are not subject to federal regulation.” This statement identifies a window for local regulation of drone activities.

Currently, the Los Gatos Monte Sereno Police Department lacks the ability to enforce federal law because the FAA claims jurisdiction over the airspace. For example, a resident who is being disturbed by a drone circling over their home would need to call the FAA. The League of California Cities adopted a drone policy in 2018 which articulates the need for local law enforcement to have the authority to enforce drone laws, so that a resident with a drone issue could call 911 and have the local Police Department respond rather than needing to contact the FAA. The elements of the accompanying draft Ordinance are predicated on the League policy and state and federal law.

The League of California Cities drone policy sets out suggested minimum rules for the state, including but not limited to, the following activities:

- Ensuring that drones are properly registered with the FAA;
- Upholding public safety standards for privacy and safety; and
- Granting immunity from liability for jurisdictions that establish drone areas or parks.

The policy advocates that local law enforcement should have the authority to enforce state and local drone laws to ensure that problems associated with drones can be addressed at the local level.

Finally, the League policy identifies the role that towns/cities should play including but not be limited to:

- Retaining the ability to impose time, place, and manner restrictions on drone operations under 400 feet in city airspace;
- Retaining the ability to enact and enforce rules of general applicability to address unsafe drone operations, such as trespassing, nuisance or noise issues;
- Ensuring that local drone ordinance information is readily available to drone operators;
- Establishing clear rules for hobbyists by adopting community-based safety guidelines;
- Adopting guidelines for how drones would be used within the city’s airspace; and
- Planning appropriately for the use of drones in public spaces and designating “no fly” zones around critical infrastructure.

DISCUSSION (continued):

The proposed Ordinance incorporates the League guidance. The addition of this Ordinance to the Town Code would enable Police and Code Compliance staff to address these safety and land use considerations while establishing clear guidance for hobbyists and commercial users of drone technology.

CONCLUSION:

Staff recommends that Council accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Chapter 18, by adding Article IX, Sections 18.90.010-18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems.

ALTERNATIVES:

Council could refer the matter back to staff for consideration of any issues raised.

COORDINATION:

This report was coordinated through the Town Attorney's Office and the Parks and Public Works Department, and the Police Department.

FISCAL IMPACT:

There are no significant fiscal impacts associated with the approval of these amendments. Potential enforcement costs may be offset by penalties levied.

ENVIRONMENTAL ASSESSMENT:

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

Attachment:

1. Draft ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 18 OF THE LOS GATOS TOWN CODE BY
ADDING ARTICLE IX SECTIONS 18.90.010-18.90.050 ENTITLED DRONES
AND UNMANNED AIRCRAFT SYSTEMS**

WHEREAS, Unmanned ~~Aerial Aircraft~~ Systems (UAS), or “drones,” are an important technology that can be used in a number of beneficial ways for recreational, commercial, and governmental purposes; and

WHEREAS, given the proliferation of this technology, while respecting the jurisdiction of the Federal Aviation Administration (FAA), it is important for local agencies and the state to craft a regulatory framework that provides for the appropriate uses of this technology, while also addressing important public safety, nuisance and other issues that arise as drones are increasingly used for recreational, business, and governmental purposes; and

WHEREAS, the operation of UAS, such as model UAS and ~~civil-commercial~~ UAS, commonly referred to as drones, can at times pose a hazard to full-scale aircraft in flight, and to first responders, including firefighting aircraft, air ambulance helicopters, and law enforcement helicopters and to persons and property on the ground, including law enforcement and medical personnel; and

WHEREAS, imposing community-based safety requirements and restrictions on the operation of UAS that do not preempt federal aviation rules or authority, or state law, is necessary to mitigate such risks and to protect the public from the hazards associated with the operation of UAS; and

WHEREAS, it is proposed that the addition of Article IX, Sections 18.90.010-18.90.050 to Chapter 18 of the Los Gatos Municipal Code, will provide safety to the people in the Town through education and enforcement, while strengthening and preserving property rights.

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

SECTION 1. INCORPORATION OF RECITALS. The Town Council of the Town of Los Gatos finds that all Recitals are true and correct and incorporate them herein by this reference.

SECTION 2. LOS GATOS TOWN CODE AMENDMENTS. Chapter 18 Article IX of the Los Gatos Town Code is hereby added as follows:

Article IX - DRONES AND UNMANNED AIRCRAFT SYSTEMS

Sec. 18.90.010 - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) ~~Civil~~Commercial UAS shall mean an unmanned aircraft or unmanned aircraft system operated by any person for any purposes other than strictly hobby or recreational purposes, including, but not limited to, commercial purposes or in the furtherance of, or incidental to, any business or media service or agency.
- (b) *Drone* refers to any UAS.
- (c) *FAA* means the Federal Aviation Administration.
- (d) *Model UAS* shall mean an unmanned aircraft or unmanned aircraft system operated by any person strictly for hobby or recreational purposes.
- (e) *Person* shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.
- (f) *Public UAS* shall mean an unmanned aircraft or unmanned aircraft system operated by any public agency or its authorized officers, employees, contractors, or agents for a governmental purpose, including but not limited to fire suppression, Emergency response, law enforcement and code enforcement operations, surveying and mapping property, inspecting infrastructure, monitoring traffic, and recording local events.
- (g) *Special event* means any event as defined in Town Code Chapter 14 Article X.
- (h) *Unmanned aircraft* shall mean an aircraft without a human pilot onboard, that is controlled by an operator on the ground, and is operated without the possibility of direct human intervention from within or on the aircraft.
- (i) *Unmanned aircraft system (UAS)* shall mean an unmanned aircraft and associated elements, including, but not limited to, any communication links and components that control the unmanned aircraft.
- (j) *Visual line of sight* means that a person operating an unmanned aircraft has an unobstructed view of the unmanned aircraft. The operator must use his or her own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to observe the unmanned aircraft. People other than the operator may not be used in lieu of the operator for maintaining visual line of sight to the unmanned aircraft, except as otherwise permitted by federal law. The use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying devices, and goggles or other devices designed to provide a "first-person view" from the unmanned aircraft do not constitute visual line of sight of the person operating the unmanned aircraft.

Sec. 18.90.030 – Regulations.

The following shall apply to the operation of any UAS within the Town of Los Gatos, unless otherwise exempted by this Code or for which a waiver is obtained pursuant to federal statute:

1. No person shall operate any UAS within the Town of Los Gatos in a manner that is prohibited by any federal statute or regulation, or state of California statute or regulation.
2. No person shall operate any UAS within the Town of Los Gatos in a manner that interferes with manned aircraft, and any person operating any UAS shall always give way to any manned aircraft.
3. No person shall takeoff, land or operate any ~~model model or commercial~~ UAS ~~or civil UAS~~ within the Town of Los Gatos beyond the "visual line of sight" of the person operating the ~~model UAS or civil UAS~~. This section shall not apply to the use of first-person goggles (FPV) during authorized drone races on private property with the consent of the property owner. Federal rules regarding having a visual observer to keep the UAS within unaided sight may apply.
4. No person shall operate any ~~non-public model UAS or civil~~ UAS within the Town of Los Gatos other than during daylight hours defined as between official sunrise and official sunset for local time, except that a person may operate a ~~non-public model UAS or civil~~ UAS during periods of civil twilight if the UAS has lighted anti-collision lighting visible for at least three (3) statute miles. As used herein, "civil twilight" means a period of time that begins thirty (30) minutes before official sunrise and ends at official sunrise, and a period of time that begins at official sunset and ends thirty (30) minutes after official sunset.
5. No person shall operate any ~~model UAS or civil~~ UAS within the Town of Los Gatos more than four hundred (400) feet above the earth's surface, unless the UAS is both flown within a 400-foot radius of a structure and does not fly higher than four hundred (400) feet above the structure's immediate uppermost limit.
6. Excluding takeoff and landing, no person shall operate any model UAS or ~~civil commercial~~ UAS within the Town of Los Gatos above or laterally closer than twenty-five (25) feet to any individual, who is not in a vehicle or covered structure, except the operator or the operator's helper(s).
7. No person shall takeoff, land or operate a ~~model UAS or civil~~ UAS on private property without the consent of the property owner.
8. No person shall ~~takeoff, land or~~ operate a model UAS or ~~civil commercial~~ UAS over for the purpose of filming or observing special events without prior notification to and authorization of the Town. Permitting fees may apply.
- ~~9. No person shall takeoff, land or operate a model UAS or civil UAS within one thousand five hundred (1,500) horizontal feet of any manned or unmanned aircraft.~~
109. No person shall operate any UAS in a manner that interferes with firefighting, emergency services, law enforcement, or a military operation in response to an

Emergency. Immunities including but not limited to Government Code section 853.1 apply.

- ~~104.~~ No person shall ~~takeoff, land or operate a model UAS or civil~~ takeoff, land or operate any UAS at the scene of an emergency in violation of within five hundred (500) feet of any emergency vehicle that is operating with lights and/or sirens. Penal Code Sections 148.2 and 402.
- ~~12.~~ ~~No person shall takeoff, land or operate a model UAS or civil UAS within five hundred (500) feet of any active law enforcement or emergency response incident.~~
- ~~113.~~ No person shall takeoff, land or operate a model UAS or civil-commercial UAS from a place within two hundred (200) feet of a school facility while in session without prior notification and authorization of school officials.
- ~~14.~~ ~~No person shall takeoff, land or operate a model UAS or civil UAS within one hundred (100) feet of any public building without prior notification, and authorization of the Town.~~
- ~~125.~~ No person shall operate a ~~model UAS or civil~~ UAS that has any type of weapon attached to it.
- ~~136.~~ No person shall operate any ~~model UAS or civil~~ UAS within the Town of Los Gatos in violation of any temporary flight restriction (TFR) or notice to airmen (NOTAM) issued by the Federal Aviation Administration.
- ~~147.~~ No person shall takeoff, land, or operate any model UAS or civil-commercial UAS from a place within 500 feet of a critical infrastructure site, such as communication facilities, hospitals, dams, helicopter/helicopter pads, bridges, water treatment plant, without the prior written consent of the owner or operator of the critical infrastructure.
- ~~158.~~ No person shall operate any UAS within the Town of Los Gatos in a careless or reckless manner so as to endanger the life or property of another. The standard for what constitutes careless and reckless operation under this section shall be the same as the standard set forth in any federal statutes or regulations governing aeronautics including but not limited to Federal Aviation Rule 91.13.
- ~~169.~~ No person shall operate any ~~model UAS or civil~~ UAS within the Town in a manner which, utilizing the reasonable person standard, is designed, intended or which serves to harass, stalk, vex, annoy, disturb, frighten, intimidate, injure, threaten, victimize or place in extreme mental or emotional distress ~~any~~ person of ordinary sensibilities, whether that person is located on public or private property. The conduct described in this subsection includes, but is not limited to, using a ~~model UAS or civil~~ UAS to follow and film, video-record, live-stream or photograph a person who has not consented to such activity.
- ~~1720.~~ No person shall operate any model UAS or civil-commercial UAS within the Town to capture, record or transmit any visual image or audio recording of any person or private real property located in the Town under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy (including, but not limited to, inside a private office and inside a hotel room). This provision is intended to supplement, rather than duplicate, the prohibition against trespassing into the air space above the land of another person in order to capture any type of visual image or sound recording of a person engaging in a private, personal, or

familial activity in a manner that is offensive to a reasonable person, pursuant to California Civil Code Section 1708.8.

~~1824.~~ UAS operators are required to show proof of federal registration to local law enforcement officials upon request.

~~22.~~ No person shall operate any UAS while under the influence of alcohol or drugs that impair the ability of a person to operate a drone.

~~1923.~~ No person shall operate any model UAS or commercial civil UAS while operating a ~~moving~~ vehicle.

~~24.~~ Pursuant to federal law, a person must be 16 years of age or older to operate a drone independently. For those under the age of 16, a person over the age of 21 and a registered drone operator with the FAA must be present.

~~2025.~~ — Commercial Civil UAS users must obtain a business license pursuant to Town Code Chapter 14 Article II and may be required to obtain a permit pursuant to Town Code Chapter 14 Article IX to engage in commercial activity within Town borders.

~~2126.~~ The noise restrictions of Chapter 16 of the Los Gatos Town Code may apply to the operation of any model UAS or commercial civil UAS.

Sec. 18.90.040 - Exemptions.

1. The provisions of this chapter shall not apply to any public UAS operated by any public safety agency or code enforcement agency for lawful purposes and in a lawful manner or to any public agency or to the extent of delivering contracted services to a public agency.

2. The provisions of this chapter may not apply to any civil-commercial UAS operated pursuant to and in compliance with the terms and conditions of a valid Town-issued film permit or special event that allows the use of a drone.

~~3. The provisions of this chapter shall not apply to any UAS weighing less than 0.55 lbs.~~

Sec. 18.90.050 - Violations; penalties.

A violation of this Section can be charged or cited as a misdemeanor or infraction or administrative citation. Any person in violation of this Section may be subject to criminal, civil or administrative fines and penalties. Any violation of this Chapter is declared a public nuisance.

SECTION 3. CONSTRUCTION. The Town Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the Los Gatos Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 4. CEQA. The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. It

can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The Town Council of the Town of Los Gatos hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. 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.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 184th day of August 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 ____ day of ____ 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: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 18 OF THE LOS GATOS TOWN CODE BY
ADDING ARTICLE IX SECTIONS 18.90.010-18.90.050 ENTITLED DRONES
AND UNMANNED AIRCRAFT SYSTEMS**

WHEREAS, Unmanned Aircraft Systems (UAS), or “drones,” are an important technology that can be used in a number of beneficial ways for recreational, commercial, and governmental purposes; and

WHEREAS, given the proliferation of this technology, while respecting the jurisdiction of the Federal Aviation Administration (FAA), it is important for local agencies and the state to craft a regulatory framework that provides for the appropriate uses of this technology, while also addressing important public safety, nuisance and other issues that arise as drones are increasingly used for recreational, business, and governmental purposes; and

WHEREAS, the operation of UAS, such as model UAS and commercial UAS, commonly referred to as drones, can at times pose a hazard to full-scale aircraft in flight, and to first responders, including firefighting aircraft, air ambulance helicopters, and law enforcement helicopters and to persons and property on the ground, including law enforcement and medical personnel; and

WHEREAS, imposing community-based safety requirements and restrictions on the operation of UAS that do not preempt federal aviation rules or authority, or state law, is necessary to mitigate such risks and to protect the public from the hazards associated with the operation of UAS; and

WHEREAS, it is proposed that the addition of Article IX, Sections 18.90.010-18.90.050 to Chapter 18 of the Los Gatos Municipal Code, will provide safety to the people in the Town through education and enforcement, while strengthening and preserving property rights.

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

SECTION 1. INCORPORATION OF RECITALS. The Town Council of the Town of Los Gatos finds that all Recitals are true and correct and incorporate them herein by this reference.

SECTION 2. LOS GATOS TOWN CODE AMENDMENTS. Chapter 18 Article IX of the Los Gatos Town Code is hereby added as follows:

ATTACHMENT 3

Article IX - DRONES AND UNMANNED AIRCRAFT SYSTEMS

Sec. 18.90.010 - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Commercial UAS* shall mean an unmanned aircraft or unmanned aircraft system operated by any person for any purposes other than strictly hobby or recreational purposes, including, but not limited to, commercial purposes or in the furtherance of, or incidental to, any business or media service or agency.
- (b) *Drone* refers to any UAS.
- (c) *FAA* means the Federal Aviation Administration.
- (d) *Model UAS* shall mean an unmanned aircraft or unmanned aircraft system operated by any person strictly for hobby or recreational purposes.
- (e) *Person* shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.
- (f) *Public UAS* shall mean an unmanned aircraft or unmanned aircraft system operated by any public agency or its authorized officers, employees, contractors, or agents for a governmental purpose, including but not limited to fire suppression, Emergency response, law enforcement and code enforcement operations, surveying and mapping property, inspecting infrastructure, monitoring traffic, and recording local events.
- (g) *Special event* means any event as defined in Town Code Chapter 14 Article X.
- (h) *Unmanned aircraft* shall mean an aircraft without a human pilot onboard, that is controlled by an operator on the ground, and is operated without the possibility of direct human intervention from within or on the aircraft.
- (i) *Unmanned aircraft system (UAS)* shall mean an unmanned aircraft and associated elements, including, but not limited to, any communication links and components that control the unmanned aircraft.
- (j) *Visual line of sight* means that a person operating an unmanned aircraft has an unobstructed view of the unmanned aircraft. The operator must use his or her own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to observe the unmanned aircraft. People other than the operator may not be used in lieu of the operator for maintaining visual line of sight to the unmanned aircraft, except as otherwise permitted by federal law. The use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying devices, and goggles or other devices designed to provide a "first-person view" from the unmanned aircraft do not constitute visual line of sight of the person operating the unmanned aircraft.

Sec. 18.90.030 – Regulations.

The following shall apply to the operation of any UAS within the Town of Los Gatos, unless otherwise exempted by this Code or for which a waiver is obtained pursuant to federal statute:

1. No person shall operate any UAS within the Town of Los Gatos in a manner that is prohibited by any federal statute or regulation, or state of California statute or regulation.
2. No person shall operate any UAS within the Town of Los Gatos in a manner that interferes with manned aircraft, and any person operating any UAS shall always give way to any manned aircraft.
3. No person shall takeoff, land or operate any model or commercial UAS within the Town of Los Gatos beyond the "visual line of sight" of the person operating the UAS. This section shall not apply to the use of first-person goggles (FPV) during authorized drone races on private property with the consent of the property owner. Federal rules regarding having a visual observer to keep the UAS within unaided sight may apply.
4. No person shall operate any non-public UAS within the Town of Los Gatos other than during daylight hours defined as between official sunrise and official sunset for local time, except that a person may operate a non-public UAS during periods of civil twilight if the UAS has lighted anti-collision lighting visible for at least three (3) statute miles. As used herein, "civil twilight" means a period of time that begins thirty (30) minutes before official sunrise and ends at official sunrise, and a period of time that begins at official sunset and ends thirty (30) minutes after official sunset.
5. No person shall operate any UAS within the Town of Los Gatos more than four hundred (400) feet above the earth's surface, unless the UAS is both flown within a 400-foot radius of a structure and does not fly higher than four hundred (400) feet above the structure's immediate uppermost limit.
6. Excluding takeoff and landing, no person shall operate any model UAS or commercial UAS within the Town of Los Gatos above or laterally closer than twenty-five (25) feet to any individual, who is not in a vehicle or covered structure, except the operator or the operator's helper(s).
7. No person shall takeoff, land or operate a UAS on private property without the consent of the property owner.
8. No person shall operate a model UAS or commercial UAS for the purpose of filming or observing designated special events without prior notification to and authorization of the Town. Permitting fees may apply.
9. No person shall operate any UAS in a manner that interferes with firefighting, emergency services, law enforcement, or a military operation in response to an Emergency. Immunities including but not limited to Government Code section 853.1 apply.
10. No person shall takeoff, land or operate any UAS at the scene of an emergency in violation of Penal Code Sections 148.2 and 402.

11. No person shall takeoff, land or operate a model UAS or commercial UAS from a place within two hundred (200) feet of a school facility while in session without prior notification and authorization of school officials.
12. No person shall operate a UAS that has any type of weapon attached to it.
13. No person shall operate any UAS within the Town of Los Gatos in violation of any temporary flight restriction (TFR) or notice to airmen (NOTAM) issued by the Federal Aviation Administration.
14. No person shall takeoff, land, or operate any model UAS or commercial UAS from a place within 500 feet of a critical infrastructure site, such as communication facilities, hospitals, dams, helicopter/helicopter pads, bridges, water treatment plant, without the prior written consent of the owner or operator of the critical infrastructure.
15. No person shall operate any UAS within the Town of Los Gatos in a careless or reckless manner so as to endanger the life or property of another. The standard for what constitutes careless and reckless operation under this section shall be the same as the standard set forth in any federal statutes or regulations governing aeronautics including but not limited to Federal Aviation Rule 91.13.
16. No person shall operate any UAS within the Town in a manner which, utilizing the reasonable person standard, is designed, intended or which serves to harass, stalk, vex, annoy, disturb, frighten, intimidate, injure, threaten, victimize or place in extreme mental or emotional distress a person of ordinary sensibilities, whether that person is located on public or private property. The conduct described in this subsection includes, but is not limited to, using a UAS to follow and film, video-record, live-stream or photograph a person who has not consented to such activity.
17. No person shall operate any model UAS or commercial UAS within the Town to capture, record or transmit any visual image or audio recording of any person or private real property located in the Town under circumstances in which the subject person or owner of the subject real property has a reasonable expectation of privacy (including, but not limited to, inside a private office and inside a hotel room). This provision is intended to supplement, rather than duplicate, the prohibition against trespassing into the air space above the land of another person in order to capture any type of visual image or sound recording of a person engaging in a private, personal, or familial activity in a manner that is offensive to a reasonable person, pursuant to California Civil Code Section 1708.8.
18. UAS operators are required to show proof of federal registration to local law enforcement officials upon request.
 - . No person shall operate any UAS while under the influence of alcohol or drugs that impair the ability of a person to operate a drone.
19. No person shall operate any model UAS or commercial UAS while operating a moving vehicle.
20. Commercial UAS users must obtain a business license pursuant to Town Code Chapter 14 Article II and may be required to obtain a permit pursuant to Town Code Chapter 14 Article IX to engage in commercial activity within Town borders.
21. The noise restrictions of Chapter 16 of the Los Gatos Town Code may apply to the operation of any model UAS or commercial UAS.

Sec. 18.90.040 - Exemptions.

1. The provisions of this chapter shall not apply to any public UAS operated by any public safety agency or code enforcement agency for lawful purposes and in a lawful manner or to any public agency or to the extent of delivering contracted services to a public agency.
2. The provisions of this chapter may not apply to any commercial UAS operated pursuant to and in compliance with the terms and conditions of a valid Town-issued film permit or special event that allows the use of a drone.

Sec. 18.90.050 - Violations; penalties.

A violation of this Section can be charged or cited as a misdemeanor or infraction or administrative citation. Any person in violation of this Section may be subject to criminal, civil or administrative fines and penalties. Any violation of this Chapter is declared a public nuisance.

SECTION 3. CONSTRUCTION. The Town Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the Los Gatos Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 4. CEQA. The Town Council finds and determines that the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines under the General Rule (Section 15061(b)(3)), which sets forth that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the proposed Town Code text amendments will have no significant negative effect on the environment.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The Town Council of the Town of Los Gatos hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. 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.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 18th day of August 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 ____ day of ____ 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: 08/18/2020

ITEM NO: 9

ADDENDUM

DATE: August 18, 2020
TO: Mayor and Town Council
FROM: Lynne Lampros, Deputy Town Attorney
SUBJECT: Introduction by Title Only of an Ordinance of the Town of Los Gatos Amending Chapter 18, by Adding Article IX, Sections 18.90.010- 18.90.050 of the Los Gatos Town Code Entitled Drones and Unmanned Aircraft Systems

REMARKS:

Attachment 4 contains public comment received from 11:01 a.m. Thursday August 13, 2020 to 11:00 a.m. Monday August 17, 2020.

Attachments previously received with the staff report:

1. August 4, 2020 Staff Report
2. Draft ordinance – redline
3. Draft ordinance – clean version

Attachment received with this Addendum:

4. Public comment received from 11:01 a.m. Thursday August 13, 2020 to 11:00 a.m. Monday August 17, 2020

PREPARED BY: Lynne Lampros
Deputy Town Attorney

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

From: Joshua Zelmon

Sent: Sunday, August 16, 2020 2:40 PM

To: Clerk <Clerk@losgatosca.gov>

Subject: Los Gatos Town Code – Drones and Unmanned AircraO Systems Item 9

Hello,

Please see attached letter to Members of the Town Council.

Thank You,

Joshua Zelmon Santa Cruz MultiGP

ATTACHMENT 4

August 18, 2020

Hon. Marcia Jensen and Members of the Town Council via email: Clerk@los GatosCA.gov
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

RE: Los Gatos Town Code – Drones and Unmanned Aircraft Systems
 Item 9
 Town Council Meeting August 18, 2020

Dear Mayor Jensen and Members of Los Gatos Town Council:

I am writing on behalf of Santa Cruz MultiGP, we are part of the international MultiGP drone racing league. MultiGP is the largest professional drone racing league in the world. Because of this, MultiGP hosts frequent competitive gatherings of pilots that consist of youth, college students, graduates, and all walks of life. Together we compete in a fun extensive network of MultiGP. The Organization currently has over 20,000 registered pilots and the sport is in high growth. Currently Santa Cruz MultiGP is working with our local High Schools and Colleges robotic and general makers clubs helping support STEM growth and aeronautics design. This sport is rich with tech and provides a very fun atmosphere for those interested in that pursuit.

in addition to 500 active chapters worldwide. MultiGP nurtures its Chapters by providing tools, guidance, and community support. Due to this structure, drone racing is fun, organized, and rewarding for pilots of all ages, Chapter Organizers, and spectators. All pilots are registered with the FAA and are members of the Academy of Model Aeronautics (AMA).

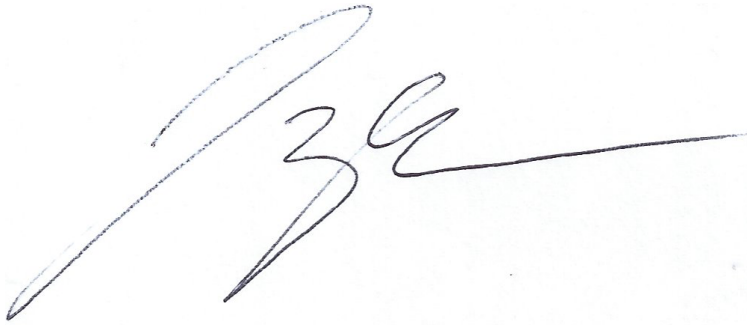
Our league welcomes pilots of all skill levels and ages. It is a community which is based on competitiveness, collaboration, and caring for one another—all in the great outdoors. Outside of MultiGP events, our members are active in our communities. Our Bay Area chapters have some of the best drone racers in the world. As you can imagine, finding space to fly is challenging. We utilized school fields when not in use by schools, parts of regional parks, and private property. We applaud and thank Los Gatos for considering the needs of drone racing and if we can hold events in the Town, you will not be disappointed. In addition, we would welcome an introduction to leadership of the school districts. Not only would we welcome holding races on school property but we would also be very interested in working with administrators and teachers on drone-related STEM programs.

We would be grateful if you pass your Ordinance on Drones and Unmanned Aircraft Systems with provisions that would allow us to hold drone racing events in the Town of Los Gatos.

Thank you.

Sincerely,

Joshua Zelmon, Santa Cruz MultiGP Organizer

A handwritten signature in black ink, appearing to read 'JZ', with a long horizontal line extending to the right.