



REQUEST FOR PROPOSALS (RFP)

ACTUARIAL SERVICES

Proposals Due:

October 29, 2021 by 5:00 pm

RFP Contact:

Stephen Conway

Finance Director

sconway@losgatosca.gov

408-354-6828

Deliver To:

Town of Los Gatos
Finance Department
110 E. Main Street
Los Gatos, CA 95030

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1. INTRODUCTION

The Town of Los Gatos is requesting proposals from qualified Actuaries to perform professional actuarial services of its retiree healthcare program through CalPERS and other actuarial analysis. The successful Actuary would enter a contract with the Town for five years.

2. TOWN OVERVIEW

The Town of Los Gatos is a small community nestled at the base of the Santa Cruz Mountains, approximately 60 miles south of San Francisco. The Town of Los Gatos is guided by the principles of Small Town Service, Community Stewardship, and Future Focus. The Town government is fiscally healthy, and focuses on teamwork, collaboration, and civic engagement. Los Gatos is a General Law Town with a five-member Council and an annually rotating Mayor's position. The Town Council sets the policies for which the Town employees implement under the leadership of the Town Manager.

The Town operates one Civic Center, one Police Operations building, one Service Center, and one Library and employs approximately 150 personnel.

3. SCOPE OF SERVICES

The Town is seeking proposals from qualified Actuaries to provide actuarial services for the agency's Other Post-Employment Benefits (OPEB) as required by GASB 75, an annual review of the Town's CalPERS pension plans inclusive of projected funded status and projected employer contributions and provide GASB 68 actuarial support to ensure compliance for the Town's Safety Risk Pool. Additional actuarial support may also be required for special projects/initiatives as they occur on an as needed basis.

The Actuary must (at a minimum):

1. Ensure compliance with GASB 68/75 reporting requirements.
2. Prepare valuations, that will provide recommended contributions/plan funding and GASB 75 roll forward accounting information for the Town's audited Annual Financial Report.
3. Provide all documents and information (including the actuarial certification, funding policy certification, and Excel valuation information spreadsheet) required by CalPERS for agencies funding with the California Employers' Retiree Benefit Trust (CERBT) along with a certified final valuation.
4. Meet with the Town (and its auditors if necessary) to discuss and review the report.
5. Assist in implementing any new GASB statements and other financial pronouncements related to OPEB and provide ongoing professional consultation.
6. Prepare a review of the Town's CalPERS pension plans which includes

projections of funded status, contribution rates, and forecasted impacts of any proposed additional discretionary payments (ADPs).

7. The Town shall be free to publish the valuations and reports without obtaining prior permission from the Actuary as long as they are not used in a potentially misleading manner and no material subsequent event has occurred that might render the valuation and reports potentially misleading.
8. The proposal package shall present all-inclusive actuarial fees for each year of the contract term. Actuarial fees and estimated hours associated with requested additional optional services or extensions exercised by the Town will be negotiated at the time of contract extension. The Town requires the total costs be stated as a “not to exceed” basis and shall be inclusive of labor, travel, report preparation, printing, and other expenses incurred by the Actuary.

4. PROPOSED TENTATIVE TIMELINE

Timeline	
Distribution of RFP	10/01/2021
Deadline for Questions	10/08/2021
Proposals Due to the Town	10/29/2021
Selection Panel Review/Interviews	Week of November 8, 2021
Contract to Council	December 7, 2021

5. SUBMITTAL INSTRUCTIONS

The Town of Los Gatos invites qualified actuaries to submit proposals to provide actuarial services for the Town. Proposals must be received by 5:00 p.m. on Friday October 29, 2021 to the address indicated on the cover of this RFP.

The submittal package shall include the following:

- One executed original and four printed copies of the proposal
- One electronic copy (sent via email)

6. PROPOSAL FORMAT REQUIREMENTS

Each proposer must carefully examine the requirements contained herein. Upon receipt of responses hereunder, each proposer shall be thoroughly familiar with all requirements contained herein. The failure or omission to examine any form or document shall in no way relieve a proposer from any obligation in respect to this proposal submitted. Any misinterpretation of the requirements is solely that of the proposer’s.

In addition, any material that will add to the persuasiveness of your proposal may be included. However, if the materials do not directly address the stated requirements, please include them in an appendix or separate volume. The Town will review and

consider all material submitted but will concentrate on the material that directly addresses the Town's stated needs.

Proposals must include in the following, specified order:

A. COVER LETTER

The cover letter should include the title of this RFP; name and mailing address of firm; contact person, telephone number, fax number and email address.

B. PROJECT UNDERSTANDING AND PLAN

Based on the available information, supplemental research, field observations, and experience with similar projects, provide a narrative describing the firm's understanding of the services requested in this RFP, the firm's general approach and any major challenges to achieving the Town's stated goals. Include any issues that will require special considerations for this project. Also identify any unique approaches or strengths that the firm may have related to this project. Town staff will assess the firm's understanding of all aspects of the project based on the overview.

Provide a detailed discussion of the firm's approach to the successful implementation of this project. Include thorough discussions of methodologies that are essential to accomplishing this project. Include a proposed work schedule to complete all the required tasks within the desired timeline. Identify the lead personnel, including subcontractors/subconsultants, who would work with Town staff on these tasks and products.

C. FIRM PROFILE AND EXPERIENCE

Include profile of the firm including firm history and structure; firm corporate office and local office locations; and profiles of at least three representative projects that best demonstrate the firm's qualifications and experience applicable to the services, knowledge of the local environment, and record of success as measured by client satisfaction.

The firm's profiles of the representative projects will be used as references and therefore shall identify the client contact persons with telephone numbers, and services provided by the firm.

Provide resumes of all personnel identified under "Project Understanding and Plan." Generally, describe other client commitments of these personnel and how the staff would be available for the Town's work products

D. COST PROPOSAL

Provide a total cost proposal for all services to be delivered, and a breakdown of costs delineated by tasks as described in the project plan. Define any reimbursable expenses requested to be paid by the Town.

E. CONFLICT OF INTEREST

The proposal must include the name of entities associated with the firm and any associated service provider who may have a conflict of interest with any activity of this RFP. Provide details and reasons. Firms/service providers are subject to disqualification based on conflict of interest as determined by the Town of Los Gatos.

F. EXCEPTIONS

Describe all proposed exceptions, alterations, or amendments to the scope of services or other requirements of this RFP. The nature and scope of the proposed exceptions may negatively affect the evaluation of the submittal and the Town's determination of whether it is possible to successfully negotiate a contract with the firm.

7. REVIEW AND SELECTION PROCESS

Award of the RFP shall be made to the responsible and responsive proposer whose proposal is determined, through a formal evaluation panel process, to be the most advantageous to the Town.

The successful proposer will enter a contract with the Town incorporating all prescribed requirements and conditions of this request for proposal. If the successful proposer refuses or fails to execute the contract, the Town may consider the next most qualified proposer. The Town shall be the sole judge as to the successful proposer. The Town reserves the right to split the award of any contract to replace copiers, copier services and/or copier and printer management and maintenance services.

The Town reserves the right to reject any or all responses to this RFP and to waive any informality or irregularity in this RFP or in responses, to negotiate with all qualified sources, or to cancel, in part or in its entirety, this RFP, in the best interest of the Town. This RFP does not commit the Town to award a contract, or to procure or contract for services or goods.

Before award, proposers may be required to furnish evidence of capability and financial resources to adequately perform the job.

SELECTION PANEL

Selection Panel comprised of Town staff will be established for this project by the Town. The Panel will review and rank the proposals and negotiate with qualified firms based on the content of the proposals relative to firm experience, qualifications, and past record of performance. The Town may request an interview and/or site visit from any or all the qualified firms to further assist in the selection process.

SPECIAL CONSIDERATIONS

- **Public Records:** All proposals submitted in response to the RFP become the property of the Town and are subject to release under the California Public Records Act and may be subject to public review.
- **Right to Cancel:** The Town reserves the right to cancel, in part or in its entirety, this RFP. If the Town cancels or revises this RFP, the Town will notify all proposers in writing.
- **Additional Information:** The Town reserves the right to request additional information and/or clarifications from any or all proposers to this RFP.
- **Insurance Requirements, Permits, Licenses, Agreement:** The successful firm shall always maintain in force at its own cost during the performance of the assignment insurance. If the firm cannot or will not provide insurance as identified, the Town will not contract with the firm
- **Contractual Requirements:** The successful firm will be required to enter a contract with the Town using the Town's Standard Agreement for Services. Provisions include, but are not limited to, indemnification, insurance requirements, applicable compliance to ordinances, laws, regulations, and licenses, Town business tax licenses and other terms and conditions. If a firm is not prepared to accept the terms of this Agreement, the firm should not submit a proposal. No changes will be made to the general contract requirements.
- **Waiver:** By submitting a response to this RFP, each proposer expressly waives any and all rights it may have to object to, protest, or seek legal remedies whatsoever related to any aspects of this RFP, Town's selection of consultant or rejection of any or all responses.

8. ATTACHMENTS

The following attachments are incorporated into the Request for Qualifications:

ATTACHMENT 1 – CONFLICT OF INTEREST STATEMENT (FOR SUBMITTAL)

ATTACHMENT 2 – NON-COLLUSION DECLARATION (FOR SUBMITTAL)

ATTACHMENT 3 – REFERENCES (FOR SUBMITTAL)

ATTACHMENT 4 – STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S
COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE (FOR SUBMITTAL)

ATTACHMENT 5 – SAMPLE CONSULTANT SERVICES AGREEMENT (INFORMATION)

ATTACHMENT 1 - CONFLICT OF INTEREST STATEMENT

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE PROPOSAL

PROFESSIONAL ACTUARIAL SERVICES

The undersigned declares:

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

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

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

immediately notify the Town if it becomes aware of any facts concerning the contract to be awarded that constitute a violation of said provisions.

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

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

Proposer Name (Person, Firm, Corp.)

Title of Authorized Representative

Address

Name of Authorized Representative

City, State, Zip

Date

Signed

ATTACHMENT 2 – NON-COLLUSION DECLARATION

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE PROPOSAL

PROFESSIONAL ACTUARIAL SERVICES

The undersigned declares:

I am the _____ [Insert Title] of _____, [Insert name of company, corporation, LLC, partnership or joint venture] the party making the foregoing proposal.

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

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

ATTACHMENT 3 - REFERENCES

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE PROPOSAL

PROFESSIONAL ACTUARIAL SERVICES

List three (3) references for work of a similar nature to the Services performed within the last five (5) years. Use additional sheets as necessary.

1.

_____ Name of Agency	_____ Agency Address
_____ Contact Name	_____ Contact Title
_____ Contact Telephone	_____ Contact Email Address
_____ Contract Period	_____ Contract Amount
_____ _____ _____	

Description of services performed including costs.

2.

_____ Name of Agency	_____ Agency Address
_____ Contact Name	_____ Contact Title
_____ Contact Telephone	_____ Contact Email Address
_____ Contract Period	_____ Contract Amount
_____ _____	

Description of services performed including costs.

3.

Name of Agency

Agency Address

Contact Name

Contact Title

Contact Telephone

Contact Email Address

Contract Period

Contract Amount

Description of services performed including costs.

I hereby certify that the Proposer performed the work listed above.

Signature of Proposer

Name

Date

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], ___[state].

By: _____

Name: _____

Title: _____

**ATTACHMENT 4 - STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S COMPENSATION
INSURANCE ACKNOWLEDGMENT CERTIFICATE**

THIS FORM MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE PROPOSAL

PROFESSIONAL ACTUARIAL SERVICES

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

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

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Name of Proposer (Person, Firm, or Corporation)

Signature of Proposer's Authorized Representative

Name & Title of Authorized Representative

Date of Signing

ATTACHMENT 5 – SAMPLE CONSULTANT SERVICES AGREEMENT

[ATTACHED BEHIND THIS PAGE]

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on _____ (DATE) by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and _____ NAME OF COMPANY, ("Consultant"), whose address is _____ ADDRESS OF COMPANY. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desire to engage Consultant to provide BRIEF DESCRIPTION OF SERVICES TO BE PERFORMED.
- 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 NAME OF DOCUMENT (EX: ENGAGEMENT LETTER, PROPOSAL, ETC.) sent to the Town on DATE DOCUMENT SENT, which is hereby incorporated by reference and attached as Exhibit A. IF NO DOCUMENT DESCRIBES SERVICES, then INSERT DESCRIPTION OF WHAT CONSULTANT WILL BE DOING HERE.
- 2.2 Term and Time of Performance. This contract will remain in effect from _____ to _____. Consultant shall perform the services described in this agreement as follows: ENTER DESCRIPTION OF SERVICE SCHEDULE.
- 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 \$AMOUNT**, 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

CONSULTANT NAME

Attn:
ADDRESS HERE

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:

Consultant, by:

Laurel Prevetti, Town Manager

Recommended by:

Department Head

Printed Name and Title

Approved as to Form:

Robert Schultz, Town Attorney

Attest:

Shelley Neis, MMC, CPMC
Town Clerk