

FIFTH AMENDMENT TO AGREEMENT

This FIFTH AMENDMENT TO AGREEMENT is dated for identification this ____ day of January 2023 and amends that certain fourth Amendment to Agreement for Services dated June 25, 2022, made by and between the Town of Los Gatos, ("Town,") and Brightview Tree Services, Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into a Agreement for Services on June 5, 2018, ("Agreement"), a First Amendment to Agreement for Services on August 20, 2019, a Second Amendment to Agreement for Services on June 2, 2022, a Third Amendment to Agreement for Services on April 18, 2022, a Fourth Amendment to Agreement for Services on June 25, 2022 copies of which are attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Town desires to amend the Agreement for Services to provide additional funds for FY 2021/22.

AMENDMENT

- 1. 2.6 Compensation – amendment shall read:

Compensation for year 1 (Fiscal Year 2018/19) of this agreement was **\$247,000**.

Compensation for year 2 (Fiscal Year 2019/20) of this agreement was **\$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 3 (Fiscal Year 2020/21) of this agreement was **\$247,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

Compensation for year 4 (Fiscal Year 2021/22) of this agreement **shall increase \$30,000, for a total amount not to exceed \$155,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

ATTACHMENT 1

Compensation for year 5 (Fiscal Year 2022/23) of this agreement **shall increase \$100,00 for a total amount not to exceed \$200,000** and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco – Oakland – San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year.

The total agreement amount **shall not to exceed \$1,096,000.**

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

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

Town of Los Gatos:

Approved as to Consent:

Laurel Prevetti, Town Manager

Print Name, Title

Department Approval:

Timm Borden
Interim Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Shelley Neis, MMC, CPMC, Town Clerk