



**Town of Los Gatos**

**REQUEST FOR PROPOSALS**

## **FISCAL IMPACT ANALYSIS SERVICES**

**Date Issued: XXXXXX**

**Proposal Submittal Deadline:**  
**Day of week, Date by time p.m.**

**Issued By:** Town of Los Gatos  
Community Development Department  
110 E. Main Street  
Los Gatos, CA 95030  
[www.losgatosca.gov](http://www.losgatosca.gov)

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- ATTACHMENT 2 - REFERENCES (FOR SUBMITTAL)
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COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE (FOR  
SUBMITTAL)
- ATTACHMENT 4 - STANDARD CONSULTANT SERVICES AGREEMENT

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Schedule of Activities: The Town reserves the right to amend the schedule below as necessary.

<b><u>Activity</u></b>	<b><u>Anticipated Dates</u></b>
RFP release	XXXXXX
Deadline for Questions Submitted By	XXXXXX
Proposal Submission Deadline (5:00 p.m.)	XXXXXX
Proposal Evaluation	XXXXXX
Consultant Interviews/Presentations (if necessary)	XXXXXX
Contract Negotiations and Execution	XXXXXX

Town's Contact: For all questions related to the RFP, email the Town's Contact listed below:

**Joel Paulson, Community Development Director**

Alexa Nolder, Administrative Technician

Town of Los Gatos

Town Manager's Office

110 E. Main Street

Los Gatos, CA 95030

408-354-6874

[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)

## FISCAL IMPACT ANALYSIS SERVICES

**Proposals Due:** Day of week, Date, by time p.m.

Proposers may view and download this RFP electronically from the Town's website at [www.losgatosca.gov/rfp](http://www.losgatosca.gov/rfp). The Proposers are responsible for checking the Town's website for any updates and addenda related to this RFP. For any questions or assistance, please reach out to the Town's contact: [Planning@losgatosca.gov](mailto:Planning@losgatosca.gov).

### A. Purpose

The Town of Los Gatos (Town) is seeking proposals from qualified professional consultants (Proposers) to provide Fiscal Impact Analysis services. Proposers may either be individuals or firms.

### B. Overview

The Town of Los Gatos is nestled at the base of the Sierra Azules, and is located approximately 60 miles south of San Francisco, in the southwestern portion of Santa Clara County where the Santa Clara Valley meets the lower slopes of the Santa Cruz Mountains. This beautiful setting is home to approximately 30,000 people, a diverse economy, and excellent schools.

Over 3,000 businesses serve the residents and act as a destination point for visitors who are attracted to its restaurants, hotels, and variety of shops within a pedestrian oriented downtown setting. The Town is also an inclusive community with the full mix of ages, family sizes, and incomes. Los Gatos has many parks and greenbelt areas, as well as a vibrant downtown area, with Downtown Los Gatos listed on the National Register of Historic Places.

The Town is seeking a Proposer to prepare a comprehensive fiscal impact analysis, including scenario sensitivity analysis, with risks and opportunities, which will evaluate the potential fiscal impact of proposed and planned growth.

To determine future development's overall fiscal impact, this fiscal analysis will focus on the estimated recurring revenue produced from future development compared to the increased demands placed upon the Town's recurring operational budget.

## Request for Proposals Fiscal Impact Analysis Services

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A fiscal impact analysis will provide support to decision makers, local government staff, and community stakeholders to identify and quantify benefits and costs to a local community. Specific benefits of fiscal impact analysis include:

- Identifying projected changes to local services and revenues;
- Helping to define achievable levels of service;
- Projecting capital facility needs;
- Clarifying development policy impacts;
- Calculating revenues and helps in the development of revenue strategies;
- Encouraging “what if” questions; and
- Promoting public education of the connection between land use and fiscal conditions.

At the August 5, 2024, Finance Commission meeting, the Finance Commission expressed interest in recommending to the Town Council that it engage a professional consulting firm to prepare a comprehensive fiscal impact analysis, including scenario sensitivity analysis, with risks and opportunities, which will evaluate the potential fiscal impact of planned growth (including the recently filed SB 330/Builder’s Remedy proposals).

On November 19, 2024, The Town Council discussed the recommendation of the Finance Commission and directed staff to solicit proposals for the development of a fiscal impact analysis given the scope of the Housing Element, Sente Bill (SB) 330, and Builder’s Remedy applications.

### C. Minimum Qualifications

The Town is seeking proposals from Proposers with the following minimum qualifications with work experience **within the greater San Francisco Bay Area**:

1. All persons or firms must demonstrate the following experience. If a firm applies, all key personnel must be identified, and each must meet the qualifications set forth in this RFP.
2. Proposers must demonstrate hands-on experience creating a fiscal impact analysis for local government.
3. Proposers should have strong communication skills and the ability to communicate effectively with diverse populations.
4. Proposers need to demonstrate that they have no connection to the Town and its staff that may have an impact upon performance of services.
5. All proposers need to provide at least three references.

The selected proposers should have the following knowledge and experience:

- Town revenue structure;
- Town services provided;
- Town expenditures;
- Capacity of existing infrastructure;
- Demographic and market characteristics of new growth;
- Visualization of data to illustrate the impacts of new growth;
- Provide timely responses to the Town;
- Ability to provide insurance and indemnities to the Town. Professional liability insurance is also required. The terms and conditions of the agreement will be negotiated at the appropriate time; and
- Experience working with subcontracted consultants where appropriate.

Furthermore, Proposers shall also comply with the following provisions:

1. Each Proposer is responsible for determining and complying with all applicable Town business licensing requirements.
2. Each Proposer is responsible for determining and complying with all applicable professional licensing requirements.

#### **D. General Provisions and Requirements**

1. Questions related to the contract administration matters should be directed to the Town's Contact at [Planning@losgatosca.gov](mailto:Planning@losgatosca.gov).
2. The Proposer shall maintain any key personnel throughout the entire duration of services; and therefore, the Proposer shall conduct their business in a professional manner to schedule and support their personnel to provide the scope of services in a timely and professional manner. The Town must approve of any key personnel changes in advance through personnel qualifications review and oral interviews with Town staff.
3. The Proposer shall verify that all information submitted to the Town is up to the Proposer's professional standards and satisfaction. Note and report any discrepancies observed in the course of professional activities covered by the services.
4. Deliverables will be submitted in electronic format (PDF) and in native document formats such as Word, Excel, etc. unless otherwise specified.

## E. Scope of Services

The Town is seeking a Proposer to prepare a comprehensive fiscal impact analysis, including scenario sensitivity analysis, with risks and opportunities, which will evaluate the potential fiscal impact of planned growth.

Typical services would include, but are not limited to:

- Initial meeting with staff;
- Review and analysis of various taxes, fees, and other town revenues and expenditures of general government activities, public safety protection, community development, and other recurring Town expenditures;
- Analysis of revenues created by existing development patterns in the Town and impact of the current and future development patterns on the fiscal sustainability of the Town;
- Proposal scope, products (documents), and schedule;
- Attendance at public meetings to present proposals as required;
- Preparation of administrative draft documents;
- Preparation of draft documents for public review;
- Review of draft documents, including review by applicable committees, and attendance at public meetings as required;
- Preparation of final documents for adoption; and
- Recommendations for next steps.

## F. Proposal Format and Submittal Requirements

### Submitting the Proposal:

The proposal must be received by the Town no later than Day of week, Date by Time p.m. PST. The Town requires that all proposals be submitted electronically via email or file sharing sites. The proposal shall be clearly marked for “**Town of Los Gatos – Fiscal Impact Analysis Proposal**” and emailed to:

Joel Paulson, Community Development Director

Alexa Nolder, Administrative Technician

Town of Los Gatos – Community Development Department

[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)



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Each Proposer is responsible for confirming the Town's receipt of the proposal. The Town email system has file size limitations; therefore, receipt confirmation is critical. Receipt of a proposal by any other Town office will not constitute "delivery" as required by this proposal. Each Proposer assumes full responsibility for timely delivery of its proposal. Any proposals received after the time and date specified above will be considered nonresponsive and will be returned to the proposer. No Proposer may submit more than one proposal for this work.

Each proposal must include the following information:

Cover Letter (Maximum 2 pages) – Cover letter giving an overview of the Proposer's general expertise, experience, and ability to perform the scope of services described in this RFP. Include a statement of your general philosophy to undertaking the work. The cover letter shall be signed by an authorized representative of the firm. **Attachment 4** is the Town's contract template for the Consultant Services Agreement. In the cover letter, state that the Town's contract template is acceptable to the Proposer or list any exceptions or change requests to the contract provisions.

Certification Forms – Complete and sign the following certification forms:

**Attachment 1** - Conflict of Interest Statement

**Attachment 3** - Statement regarding Insurance Coverage and Worker's Compensation Insurance Acknowledgment Certificate

Review of Scope of Services (Maximum 3 pages) – Proposers must comment on their ability to realistically provide the services listed in the Proposed Scope of Services as outlined. Provide comments and suggest modifications, changes, and/or additions as appropriate. Indicate your approach to the project and what specialized skills, services, or unique insights you or your team would bring to the project. Proposals should include how action items would be identified to accomplish the goals and objectives. Describe how and when data and materials will be delivered to the Town.

Experience and Expertise – Discuss prior related experience satisfying Minimum Qualifications and what would make you or your firm qualified for fiscal impact analysis services. Emphasize projects of similar scope and magnitude. Any prior expertise in the implementation mechanisms should be explained. Describe experience in development of fiscal impact analysis reports.

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Qualifications of Key Personnel – Identify a project manager and key individuals on the consultant team and their resumes highlighting relevant qualifications and experiences. State projects that they were assigned to and their specific roles and responsibilities. Provide a statement regarding the team or firm’s commitment to keep the same personnel throughout this engagement with the Town.

Timeline – Provide a timeline for each element of the proposal that is both rigorous and realistic. Timeline should include how the project will be managed and scheduled and potential ways to phase this work aligned to the approach.

Samples – Provide one to three examples of fiscal impact analysis reports completed for local government.

Disclosure of Litigation/Discipline – If you or firm has ever been disciplined or censured by any regulatory body, disclose the principal facts. If, within the last five years, you or your firm has ever been involved in litigation or other legal proceedings relating to the provision of services, provide an explanation and indicate the current status or disposition of the proceedings.

References (complete **Attachment 2**) – A minimum of three (3) current references from past projects (of similar scope) should be provided. All references must contain relevant projects completed within the past five (5) years. Provide the following information for each reference:

Firm, Owner, or Agency Name  
Address, Telephone Number  
Email Address  
Project Description  
List of Services Provided

Insurance Coverage – If applicable, identify carriers, types, and limits of insurance carried. If selected by the Town, the Consultant shall maintain minimum coverage requirements for commercial general liability, automobile liability, professional liability, and workers’ compensation as specified in the Consultant Services Agreement unless waived by the Town Attorney. The Consultant may achieve the required limits and coverage through a combination of primary and excess or umbrella liability insurance provided such policies result in the same or greater coverage as the coverages required by Town, and in no event shall any excess or umbrella liability insurance provide

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narrower coverage than the primary policy. If selected by the Town, the Consultant shall cause the insurance policies required herein to include the Town, and their respective officials, officers, employees, and volunteers as additional insureds for claims caused in whole or in part by the Consultant's negligent acts or omissions. The Consultant shall provide certificates of insurance to the Town that evidence compliance with the above.

**Preliminary Fee Schedule** – Submit a Preliminary Fee Schedule for services provided by the Proposer. The Preliminary Fee Schedule shall be inclusive of all potential work and labor including, but not limited to, the Consultant's costs for site visits and travel expenses. Each element of the proposal should be itemized and include a time frame, specific personnel to complete, and the cost associated with the item. The Town reserves the right to select from the menu of ideas presented in the proposal.

**Addenda**

If any revisions to this RFP become necessary, the Town shall provide responses and clarifications to questions via addenda. The last day for issuance of an addendum is **Day of week, Date**. A Proposer shall submit any questions or requests for clarification to the Town's Contact by **Day of week, Date**.

Addenda to this RFP, if issued, will be posted on the Town's website at [www.losgatosca.gov/rfp](http://www.losgatosca.gov/rfp). All proposers shall verify that the Town has issued any addenda for this Project prior to submitting the proposal and ensure that all requirements of addenda are included.

**G. Evaluation Process**

The evaluation of proposals shall be within the sole judgment and discretion of the Town. All contacts during the evaluation phase shall be through the Town's Contact only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by the Proposer to contact any reviewers of the proposals with the exception of the Town's Contact may jeopardize the integrity of the evaluation and selection process and risk possible disqualification.

During the proposal evaluation process, written questions or requests for clarification may be submitted by the Town to a Proposer regarding its proposal or related matters. Failure to respond in a timely manner to any such questions or requests may be grounds for elimination of the Proposer from further consideration.

XXXXX and the committee will evaluate each proposal meeting the qualification requirements set forth in this RFP.

After the review of proposals, the highest-ranked Proposers may be invited for oral interviews as part of the selection process, if necessary. The Proposer will be notified of the time and date of oral interviews (likely over Zoom) and if any additional information may be required to be submitted.

The Town shall be the sole judge of the evaluation of all proposals. The Town's decision shall be final. The Town reserves the right to reject any and all proposals and waive any irregularity or minor defects in any proposal received.

### **Proposal Evaluation Criteria**

The following criteria shall be used to evaluate the proposals:

- 1. Conflict of Interest Statement and Non-Collusion Declaration (Pass/Fail)**
  - a. Discloses any financial, business or other relationship with the Town or the Los Gatos that may have an impact upon performance of services.
  - b. Lists current clients who may have a financial interest in the outcome of this contract or contracts.
- 2. Completeness/Organization of the Proposal (15 points)**
  - a. Proposal that is current, accurate, and complete in accordance with the requirements of this RFP. The proposal format and organization shall follow the requirements herein. Proposals that do not include the content requirements identified within this RFP and subsequent addenda and do not address items listed shall be considered incomplete.
- 3. Organization and Approach (20 points)**
  - a. Familiarity of the desired services and demonstrates understanding of objectives.
  - b. Similar experience in the development of fiscal impact analysis reports for local government.

Date

**4. Qualifications & Experiences (20 points)**

- a. Meets Minimum Qualifications.
- b. Identifies relevant experience, specific qualifications, and technical expertise.
- c. Demonstrates history of success in developing fiscal impact analysis reports for other clients.

**5. Proposer Accessibility (15 points)**

- a. A statement addressing ability to fulfill required responsibilities.

**6. References (10 points)**

- a. Provide references with the names of at least three (3) agencies the Proposer has previously consulted for in the past five (5) years.

In addition, the Town will consider any requested changes to the Town's standard contract template and may not be able to accommodate requested changes.

**Oral Interview (if necessary)**

If necessary, the top-ranking Proposer(s) may be invited to participate in Oral Interviews for a consultant presentation and Q&A session. A Proposer will be notified of the time and date for oral interviews (likely over Zoom) and if any additional information may be required to be submitted.

Following the Town's determination of the best qualified Proposer for this work, scope of services and final terms will be negotiated, and the Consultant and the Town will execute the Town's standard Consultant Services Agreement (**Attachment 4**).

The proposed schedule is as follows:

<b><u>Activity</u></b>	<b><u>Anticipated Dates</u></b>
RFP release	XXXXX
Deadline for Submitting Questions	XXXXX
Proposal Submission Deadline (5:00 pm)	XXXXX
Proposal Evaluation	XXXXX
Consultant Interviews/Presentations (if necessary)	XXXXX
Contract Negotiations and Execution	XXXXX

## H. Additional Information

1. **Reservation of Rights.** The Town reserves the right to accept or reject any or all proposals, or to alter the selection process if warranted, to postpone the selection process for its own convenience at any time, and to waive any defects in the RFP. The Town also reserves the right to accept or reject any individual subconsultant that a candidate proposes to use. This RFP and the interview process shall in no way be deemed to create a binding contract or agreement of any kind between the Town and the Proposers. The Town's standard form of consultant agreement will form the basis of the contract between the parties.
2. **Proposer's Costs.** Each Proposer responding to this RFP acknowledges and agrees that the preparation of all materials for submittal to the Town and all presentations, related costs, and travel expenses, including but not limited to vehicle miles, vehicle rentals, flights, transit fares, and meals, are at the Proposer's sole expense. The Town shall not, under any circumstances, be responsible for any cost or expense incurred by the Proposer. In addition, each Proposer acknowledges and agrees that all documentation and/or materials submitted with the RFP shall remain the property of the Town.
3. **Communicating with Town.** If you have any questions regarding this RFP, please communicate with the Town's Contact:

Joel Paulson, Community Development Director  
Alexa Nolder, Administrative Technician  
Town of Los Gatos  
Community Development Department  
110 E Main Street, Los Gatos CA 95030  
[Planning@losgatosca.gov](mailto:Planning@losgatosca.gov)

The Town's sole point of contact for this RFP shall be the Town's Contact who shall administer the RFP process. All communications shall be submitted in writing and shall specifically reference this RFP (identify in the subject line). Only answers issued by Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. No contact with other Town staff, Town council members, or any other public official concerning the Project during the RFP process is allowed. A violation of this provision may result in the disqualification of the consultant.

4. **Public Record.** All responses to this RFP become property of the Town and will be kept confidential, subject to the requirements of the California Public Record Act, until a recommendation for award of a contract has been announced. Submittals are subject to public inspection and disclosure under the California Public Records Act. (Cal. Govt.

**Date**

Code sections 6250 *et seq*). Unless the information is exempt from disclosure by law, the content of any proposal, request for explanation, or any other written communication between the Town and any Proposer, and between Town employees or consultants, regarding the procurement, shall be available to the public. In any event, the Town shall have no liability to Proposer for making disclosures required by the California Public Records Act or other law, court order, legal proceeding discovery request, investigative demand, subpoena, or order from a regulatory body having jurisdiction over either of the parties. Nothing contained herein shall be construed as requiring or obligating the Town to withhold information in violation of the California Public Records Act or other laws.

5. **Equal Opportunity.** The Town hereby notifies all Proposers that it will affirmatively insure that in any contract entered into pursuant to this procurement, minority business enterprises will be afforded full opportunity to submit proposals in response to this RFP and will not be discriminated against on the grounds of race, creed, color, national origin, ancestry, sexual orientation, political affiliations or beliefs, sex, age, physical disability, medical condition, marital status, pregnancy, or other protected characteristic as set forth hereunder.
6. **Governing Law.** The laws of the State of California shall govern the interpretation and enforcement of the contract. Legal action may be instituted only in the Superior Court of the County of Santa Clara, State of California, or in the Federal District Court in the Northern District of California.
7. **Adherence to All Local, State, and Federal Laws and Requirements.** The Proposer shall adhere to all applicable federal, state, and local laws, ordinances, statutes, rules and regulations, and rulings or directives of any agencies having jurisdiction relevant in any way to the Proposer's scope of work.

## **I. Attachments**

The following attachments are incorporated into the Request for Qualifications:

- ATTACHMENT 1 – CONFLICT OF INTEREST STATEMENT (FOR SUBMITTAL)
- ATTACHMENT 2 – REFERENCES (FOR SUBMITTAL)
- ATTACHMENT 3 – STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S  
COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE (FOR  
SUBMITTAL)
- ATTACHMENT 4 – SAMPLE CONSULTANT SERVICES AGREEMENT (INFORMATION)

## ATTACHMENT 1 - CONFLICT OF INTEREST STATEMENT

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

### FISCAL IMPACT ANALYSIS 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.

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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.

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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 - REFERENCES

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

### FISCAL IMPACT ANALYSIS 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

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**Description of services performed including costs.**

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

---

Signature of Proposer

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Name

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Date

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**ATTACHMENT 3 - STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S COMPENSATION  
INSURANCE ACKNOWLEDGMENT CERTIFICATE**

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

**FISCAL IMPACT ANALYSIS 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.

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Name of Proposer (Person, Firm, or Corporation)

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Signature of Proposer's Authorized Representative

---

Name & Title of Authorized Representative

---

Date of Signing

**ATTACHMENT 4 – SAMPLE CONSULTANT SERVICES AGREEMENT**

**[ATTACHED BEHIND THIS PAGE]**

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## 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 XXXXXXXXX.
- 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 (DATE), which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from \_\_\_\_\_ to \_\_\_\_\_. Consultant shall perform the services described in this agreement as follows: XXXXXXXX.
- 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 \$XXXX**, 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: two million dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
  - ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.



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

General Liability:

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

#### 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 and Venue. 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

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:

\_\_\_\_\_  
Chris Constantin, Town Manager

Recommended by:

\_\_\_\_\_  
XXXXXXX

\_\_\_\_\_  
Printed Name and Title

Approved as to Form:

\_\_\_\_\_  
Gabrielle Whelan, Town Attorney