



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/21/2020

ITEM NO: 14

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

RECOMMENDATION:

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

BACKGROUND:

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

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

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

PREPARED BY: Robert Schultz
Town Attorney

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

DISCUSSION:

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

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

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

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

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

CONCLUSION:

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

COORDINATION:

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

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SUBJECT: NUMU Amended Lease and CUP

DATE: April 15, 2020

FISCAL IMPACT:

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

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

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