

AGREEMENT BY AND BETWEEN THE TOWN OF LOS GATOS AND SUSTAINABLE WAZE FOR THE PRODUCTION, MANAGEMENT, AND PROMOTION OF THE LOS GATOS MUSIC IN THE PARK SUMMER CONCERT SERIES

THIS AGREEMENT is made and entered into on February 18, 2025 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and SUSTAINABLE WAZE, a Non-Profit Corporation – CA – Public Benefit, whose address is 104 A Edelen Avenue, Los Gatos, California. This Agreement is made with reference to the following facts.

I. RECITALS

WHEREAS, on March 3, 2020, the Town Council selected Sustainable Waze to produce, manage, and promote the Music in the Park Summer Concert Series, however the event was cancelled due to the COVID-19 Pandemic; and

WHEREAS, on February 7, 2023, the Town Council reconfirmed their selection of Sustainable Waze to produce, manage, and promote the Music in the Park Summer Concert Series with options to renew the agreement for two additional years, through 2025; and

WHEREAS, on February 18, 2025, the Town Council extended the contract through the 2027 Music in the Park Summer Concert Series given the terms of this agreement are met annually.

- 1.1 Sustainable Waze represents and affirms that it is willing to comply with the terms pursuant to this Agreement.

II. AGREEMENTS

- 2.1 Term of Agreement. The term shall commence upon the execution of this Agreement and shall terminate on September 30, 2027. The Town and Sustainable Waze 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 Sustainable Waze shall deliver to the Town all plans, files, documents, reports, performed to date by the Sustainable Waze. In the event of such termination, Town shall pay Service Provider 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.

- 2.2 Scope of Agreement. This agreement pertains to the Town’s payment of \$20,000 per annual Music in the Park Summer Concert Series, in-kind services, and the relief of specific Town fees associated with Music in the Park as outlined in this Agreement and approved by Town Council at the February 18, 2025 Town Council Meeting; and,

2.3 Sustainable Waze shall successfully deliver a local, family-friendly Summer Concert Series primarily focused on attracting Los Gatos residents and close neighbors, and agrees to provide the following services:

- a) Plan, organize, produce, manage, and fund the Music in the Park Summer Concert series; and
- b) Provide a positive, high-quality, social experience through music for families and community members; and,
- c) Program each annual summer concert series to include a minimum of six and maximum of eight weekly concerts, on Sunday evenings from 5:00 p.m. to 7:00 p.m. located at the Los Gatos Civic Center Lawn, throughout July and August (dates, times, and location may be adjusted if mutually agreed upon in writing by the Town and Sustainable Waze); and,
- d) Audition, book, contract with, pay, and oversee the performers that include a variety of music genres, performed by local or regional acts that will appeal to a large, diverse audience; and,
- e) Provide a professional sound system and sound engineer on site for the duration of the concert that provides appropriate music sound levels; and,
- f) Provide an adequate number of staff and volunteers to run the concerts and clean after the concerts; and,
- g) Maintain a clean, safe, and attractive environment for the concerts, and,
- h) Apply for a Town special event permit and abide by the Conditions of Approval provided by Town staff through the Special Event Permit process.

2.4 Funding and in-kind services. Town agrees to provide \$20,000 in funding to Sustainable Waze per annual concert season for its successful implementation of Los Gatos Music in the Park, in addition to the following in-kind services and fee relief, as resources and scheduling are available: installation, usage, and removal of the Town owned stage, installation and removal of Music in the Park banner at the Civic Center, special event permit fees, banner permit fees, park use fees, Chamber Lobby use and fees, no parking sign fees, design assistance and approval of banners and marketing collateral, Los Gatos-Monte Sereno Police Officers at each concert as resources are deemed necessary and available, as directed by the Chief of Police or his or her designee, and Parks and Public Works staff at each concert as deemed necessary and available by the Parks and Public Works Director or his or her designee.

- 2.5 Special Event Permit. Sustainable Waze shall complete the Town's required special event permit process prior to each concert season by submitting a completed Town of Los Gatos Special Event Permit application to Town staff which shall include scope of work, use of premises, concert dates, timelines, and related event logistics for the corresponding concert season. In response, Town staff will provide conditions of approval that must be met by Sustainable Waze prior to the concert series inclusive of Town resources that will be provided to support the event. Town Staff reserves the right to modify the conditions of approval as the concert series progresses through each summer. The Town reserves the right to deny specific event elements that do not meet the intent of creating a community event that is welcoming and family friendly.
- 2.6 Terms of use of the name "Los Gatos Music in the Park" The Town retains all naming rights for the Los Gatos Music in the Park Summer Concert Series, and it shall be named "Los Gatos Music in the Park" with no additional name in the title; and
- 2.7 The "Los Gatos Music in the Park" name and logo may be used by Sustainable Waze only during the time of this Agreement and only as the promotion directly relates to the "Los Gatos Music in the Park Summer Concert Series;" and,
- 2.8 The Town staff shall assist with the creation and design of the official Los Gatos Music in the Park Banner and related marketing materials used to promote the concert series in print and social media; and,
- 2.9 The Town will be recognized as a premier event partner in all print, web, social media and related marketing, including a large logo on the Main Stage Banner, located behind main stage; and,
- 2.10 The Town shall be provided with marketing, banners, on-site tent area, and other benefits similar to those extended to top-level event sponsors.
- 2.11 Compensation. The Town's direct monetary compensation **shall not exceed \$20,000 annually, or \$60,000 for the duration of this agreement**, with the initial annual payment of \$10,000 made after the Special Event Permit Application process has been completed, and prior to first concert of the summer series. An additional payment of \$10,000 shall be made annually at the conclusion of a given year's concert series with documentation indicating that the terms of this agreement have been met
- 2.12 Billing. Sustainable Waze must provide the Town with a detailed invoice in order for payment to be made. All invoices and statements to the Town shall be addressed as follows:

Email to: AP@losgatosca.gov
Or, Mail to: Town of Los Gatos

Attn: Accounts Payable,
110 E. Main Street
Los Gatos, CA 95030

- 2.13 Use of Funds. Sustainable Waze shall not use any monies received under this agreement for anything other than items related to the direct marketing or production of the Los Gatos Music in the Park summer concert series.

III. GENERAL TERMS

- 3.1 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.
- 3.2 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.
- 3.3 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the Agreement between the Town and Sustainable Waze. 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 Sustainable Waze have executed this Agreement.

Town of Los Gatos by:

Service Provider, by:

Chris Constantin, Town Manager

Neal Turley, Founder, Sustainable Waze

Approved as to Form:

Gabrielle Whelan, Town Attorney