



Town of Los Gatos

REQUEST FOR QUALIFICATIONS

DESIGN SERVICES FOR ADA RESTROOMS AND HUMAN RESOURCES (CIP NO. 812-2117) AND ADA UPGRADE PUBLIC RESTROOMS – ADULT RECREATION BUILDING (CIP NO. 821-2601); AND ON-CALL ARCHITECTURAL SERVICES

Date Issued: June 17, 2021

**Proposal Deadline:
Tuesday, July 13, 2021 by 4:00 p.m.**

Issued By: Town of Los Gatos
Parks and Public Works Department
41 Miles Avenue
Los Gatos, CA 95030
www.losgatosca.gov

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THIS FORM MUST BE PRINTED OUT, COMPLETED, AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ).....

Attachment 1 – Town Facilities

Attachment 2 – Layout Plans for Civic Center and Adult Recreation Building

Attachment 3 – Conflict of Interest Statement

Attachment 4 – Non-Collusion Declaration

Attachment 5 – References

Attachment 6 – Statement Regarding Insurance Coverage And Workers’ Compensation

Insurance Acknowledgment Certificate

Attachment 7 – Sample Consultant Services Agreement

Request for Qualifications
ADA Upgrades (CIP No. 821-2117 & 2601) and On-Call Architectural Services

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

<u>Activity</u>	<u>Anticipated Dates</u>
RFQ Release	June 17, 2021
Submission Deadline (4:00 p.m.)	July 13, 2021
Evaluation	July 2021
Consultant Interviews/Presentations (if necessary)	August 2021
Contract Negotiation and Award	August 2021
Contract Execution and Start of Work	September 2021

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

WooJae Kim
Town Engineer
Parks and Public Works Department
41 Miles Avenue
Los Gatos, CA 95030
wkim@losgatosca.gov

Design Services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601); and On-Call Architectural Services

Proposals Due: Tuesday, July 13, 2021, by 4:00 p.m.

Pre-Proposal Meeting: None scheduled.

Consultants may view and download this Request for Qualifications (RFQ) electronically from the Town's website at <https://www.losgatosca.gov/2258/RFPFRQ>. Consultants are responsible for checking the Town's website for any updates, questions and answers, and addenda related to this RFQ. For any questions or assistance, please reach out to the Town's Contact.

A. PURPOSE

The Town of Los Gatos (Town) is seeking Statements of Qualifications (SOQs) from qualified professional consultants (Proposers) capable of providing design services for ADA Restrooms and Human Resources (CIP No. 812-2117) project involving upgrades to two staff restrooms and a remodel (tenant improvements) of the Human Resources Department (HR) space located in the lower level of the Civic Center at 110 E. Main Street. The consultant hired through this RFQ process would also provide design services for the ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601) project to upgrade the two public restrooms located either on the first or second floor of the Los Gatos Adult Recreation Center (ARC) located at 208 E. Main Street.

From SOQs received for this RFQ, the Town may also establish an On-Call Architectural Services consultant list for future building projects related to ADA upgrades and other improvements to Town facilities (see **Attachment 1**).

B. OVERVIEW

The Town is located approximately 50 miles south of San Francisco and at the southern edge of the Silicon Valley with its jurisdictional area covering 11.5 square miles with a population of 31,439 (2020 estimate). With a Council-Manager form of governance, the Town is governed by a five-member elected council. The Town employs 160 full- and part-time employees and provides various programs including public safety, community services, library, museum, parks, and open space. The Town owns and maintains several facilities for various programs, services, and activities. List of Town owned facilities are included in **Attachment 1**.

The Civic Center is a Town facility that houses the Civic Center/Town Hall, Police Administration Building, New Museum Los Gatos (NUMU), and Friends Bookstore. The lower level of the facility (sub-grade level) is one large connected floor area with various programmed spaces.

The upper level consists of an above-grade public plaza and three building structures with separate ingress/egress points. The Town Hall area consists of the Council Chamber and staff office/public counter space for various Town departments. There are two staff restrooms located near the HR programmed space (**Attachment 2**). The goal of the ADA Restrooms and Human Resources project is to take advantage of some available space around the restrooms to bring them up to ADA standards as needed and to modify/expand the HR work area, which will involve adding an office space and a conference room at minimum. The Town has limited as-built or record drawings for the project area.

Adult Recreation Building is a Town facility leased to Los Gatos-Saratoga (LGS) Community Education and Recreation, which runs various adult and senior programs there. The building is a two-story structure with 12,000 square foot of floor area. The upstairs restrooms are beyond their useful life and are undersized for the current use. The downstairs restrooms would need to be upgraded to meet current ADA standards. With the Town staff taking the lead, further discussions may be needed with LGS Recreation regarding whether the first or second floor restrooms would need to be updated as part of the project. The selected consultant may be involved in the discussion with LGS Recreation to advise the Town regarding ADA standards and requirements and the feasibility within the project budget.

For both projects, the selected consultant would assist with the determination of building occupancy types and minimum plumbing fixture counts. The construction budget for ADA Restrooms and Human Resources (CIP No. 812-2117) project is approximately \$500,000. The construction budget for the ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601) is approximately \$200,000. The selected consultant would be expected to design a project that is feasible within the construction budget and advise the Town on any budget constraints. ARC project involves \$78,979 of Community Development Block Grant funds, which would need to be expensed by April 2022.

The Town wishes to combine the two projects into one construction document set for the economy of scale; however, if there is any reason to keep the two projects separate, that option could be considered

Through this RFQ process, the Town is looking to negotiate a scope of services and execute a consultant services agreement with a qualified professional firm to provide necessary design services and construction administration support for the two projects at the Civic Center and ARC.

In addition, the Town is in the process of updating the ADA Transition Plan. Through the transition plan efforts, other ADA facility upgrade projects may be identified and prioritized. From this RFQ process, the Town may consider establishing an On-Call Architectural Services consultant list of qualified architectural firms to work on future facility upgrade projects. Similar to other Town's on-call professional consultant lists, an On-Call Architectural Services consultant list would be maintained for a minimum of three to five years, and consultant

services agreements would be negotiated and executed on an as-needed basis for each future architectural project, in compliance with the Town's procurement policy.

C. MINIMUM QUALIFICATIONS

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

1. Minimum three years of experience providing design services and preparing construction documents for ADA upgrade projects, preferably for public agencies.
2. A design team with expertise in architecture, mechanical/electrical/plumbing (MEP) design, lighting, energy-efficiency, and cost analysis especially related to building renovation/rehabilitation projects.
3. Availability and willingness to frequently travel to the Town for site visits and meetings with Town staff.

Furthermore, Proposers shall also comply with the following provisions:

1. Each Proposer is responsible for determining and complying with all applicable business licensing requirements necessary to complete the project's scope of work. The successful Proposer shall be required to provide evidence to the Town that it is authorized to do business in California prior to the award of the contract.
2. Each Proposer is responsible for determining and complying with all applicable professional licensing requirements necessary to complete the project's scope of work.
3. If applicable, California Department of Industrial Relations ("DIR") Registration is required. If applicable, the Proposer will be required to certify that it has verified that its subcontractors on this project are registered with DIR in compliance with the Labor Code, especially sections 1725.5 and 1771.1, and the Proposer shall provide such proof of registration to the Town.

D. General Provisions and Requirements

Following general provisions and requirements would be incorporated as part of the general scope of services for the Town's consultant services agreement:

1. Questions related to the contract administration matters should be directed to the Town's Contact or project manager.
2. Throughout the design phase, the consultant's project manager shall provide bi-weekly updates to the Town's project manager at minimum. Updates can be in a form of a report, meeting, or telephone conference.
3. Consultant shall maintain the consultant's key personnel throughout the entire duration of services; and therefore, the Consultant 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 change in advance through personnel qualifications review and oral interviews with Town staff.
4. Consultant shall assist with the project management/coordination to fulfill project tasks.
 5. Consultant shall prepare technical documents in compliance with the latest applicable codes, rules, regulations, and guidelines.
 6. Consultant shall manage, coordinate, and review work submitted by the project's sub-consultants for accuracy and conflicts with other disciplines.
 7. Consultant shall not proceed further with next phases or tasks until each design submittals and cost estimates are reconciled within the project and construction budget and until authorized by the Town.
 8. Consultant shall verify that all information submitted to the Town is up to the professional standards and satisfaction.
 9. Town does not warrant the accuracy or completeness of its documents. Consultant shall verify all information to consultant's professional satisfaction and note and report any discrepancies observed in the course of professional activities covered by the services.
 10. Consultant shall provide design coordination of structural system, mechanical, HVAC, plumbing, fire protection, data/voice raceway, audio/visual technology, electrical, lighting, telecommunications, alarm, and other systems, for proper location, clearance and space requirements in order to reduce potential conflicts between these systems.
 11. Consultant shall be responsible for design services related to built-in fixtures and furnishings including layout, design details, specifications, and estimates.
 12. Consultant shall make recommendations and assist with the selection of moveable furniture, fixtures, and equipment (FF&E) for functionality and space planning.
 13. Consultant shall design and incorporate backbone infrastructure systems and space required to accommodate the installation of FF&E. FF&E shall be schematically shown on design plans to be "provided by others".
 14. Generally, systems or products that are proprietary, licensed, or require periodic payments for continued use, are not acceptable. Exceptions may be allowed for certain software and other items, where the consultant has provided reasonable information that indicates the use is necessary and cost-effective to the Town.
 15. Consultant shall neatly list submittals required in the Specifications, organized in categories, indicating: the item, at least one acceptable manufacturer or material supplier, and references to the item mentioned in the Construction Documents, and other pertinent comments or information. Quantities will be indicated in the drawings.
 16. Green Infrastructure and Sustainability: The consultant shall include sustainability features into the design of the project and consider measures that will improve energy efficiency, water conservation, storm water quality control, and occupant health.
 17. Work shall be done in an electronic format, appropriate to the work product, including (AutoCAD) drawings, plans, elevations, sections, diagrams, details, etc., (Word) specifications, reports, and other narrative, (PowerPoint) presentations, (Excel) Spreadsheets, (Project) schedules, and other appropriate digital electronic formats.

18. Deliverables will be submitted in electronic format (PDF) and in native document formats such as Word, Excel, AutoCAD, etc. unless otherwise specified. Large files will be transferred through cloud services approved by the Town.

E. Proposed Scope of Services

The following tasks illustrate the general proposed scope of services required of the design services for the ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601) projects:

Task A - Project Management and Coordination:

1. Two Kick-off Meetings: Separate Kick-off Meetings for each project with key members and decision makers of the Town, ARC, and consultant team to discuss backgrounds, goals, scope, expectations, schedule, and budget.
2. Meet with the Town's project manager on a regular basis (minimum every two weeks) to provide updates on the progress.
3. Assist the Town in developing a work plan to complete projects in a timely manner within grant funding deadlines. Identify detailed tasks for design services, outreach, and approval process. For discussions with the Town, identify critical and challenging issues to address in order to successfully complete projects within schedules and budgets.
4. Develop a project schedule incorporating tasks, deliverable timelines, the Town's review periods, public bidding process, construction, etc. for the Town's review and approval.
5. Support the Town's project manager with project management responsibilities and coordination of various project components to successfully complete the projects in a timely manner. All work and deliverables should be through the Town's project manager. Notify and inform the Town's project manager of any information gathered from other Town staff, external agencies, or public members related to projects.
6. Assure accuracy and quality of all services and deliverables to the Town.

Deliverables:

1. Minutes of meetings.
2. Project Schedule.

Task B - Review of Existing Documents and Conditions:

1. Gather and Obtain existing documents (e.g. as-built drawings, program, and other reports) to review. Develop a list of questions and clarifications, if any, for discussions with the Town and ARC staff.
2. Conduct site visits to confirm/survey information and existing conditions. Document any discrepancies with existing documents and notify the Town's project manager. Compile findings as necessary to report to the Town. Advise the Town of any potential hazardous materials to test or abate within work areas.

Deliverables:

1. A memorandum or report on existing conditions, survey, and findings with a list of questions for the Town.

Task C - Schematic Design Documents:

1. Work with the Town's Building Division as necessary to determine the building occupancy type and plumbing fixture counts for different areas involved in projects.
2. Fulfill energy code and other Title 24 requirements.
3. Interview appropriate Town and ARC staff to update and confirm programs and space needs for HR space and for restrooms as necessary.
4. Assist the HR staff in identifying any FF&E needs and space planning.
5. Determine any temporary facility needs during the construction phase and advise the Town accordingly. Temporary facility costs would need to be included in cost estimates.
6. Develop at minimum two (2) viable and feasible concept layout plans for each project area with sufficient information to present to the Town for review and consideration. Provide rough order of magnitude (ROM) cost estimates for each option to confirm feasibility within construction budgets. ROM cost estimates shall factor in market conditions, temporary facilities needed, hazardous materials abatement, and construction contingencies. Assist the Town decide on one preferred option for each project area to further develop design.
7. Develop Schematic Design (SD) Documents for the preferred concept designs for each project area. SD Documents shall include plans, specifications, and estimates (PS&E) appropriate for 30% design level and other pertinent information for the project.
8. Identify and show improvements or upgrades required to structural, mechanical, electrical, and plumbing items.
9. SD Documents shall include, but not limited to, the following:
 - a. PS&E necessary to establish the final scope and cost of the projects.
 - b. Layout plans, elevations views and sections that reflect architectural details, materials, dimensions, and more on Town's 24"x36" titleblock.
 - c. Specifications in a format approved by the Town and appropriate with the Town's standard general and special provisions.
 - d. Detailed cost estimate in a format approved by the Town.
10. Submit SD Documents to the Town for review and comments. If necessary, meet with Town staff go over the design documents.
11. Refine SD Documents based on comments received from the Town's project manager before moving forward with next design steps.

Deliverables:

1. Minutes of meetings.
2. Draft program and space needs assessments.
3. Minimum two (2) concept design alternatives with ROM cost estimates for each project location.
4. SD Documents of the one preferred alternative for both projects.

Task E - Construction Documents (90% and 100%):

1. Before developing 90% CDs, meet with key members, decision makers of the Town and ARC, and the consultant team to discuss the status of the projects, goals, scope, expectations, schedule, and budget. Further refine design documents per comments received through the Town's project manager as necessary.
2. 90% CDs to include the following PS&E, but not limited to:
 - a. Title Sheet
 - b. Construction notes
 - c. Building Code analysis and calculations
 - d. Bid alternates
 - e. Demolition Plan.
 - f. Site plan for path of travel, if necessary
 - g. Architectural, MEP, and Structural Plans as required.
 - h. Floor Plans with the following minimum plans and details as necessary:
 - i. Building footprint.
 - ii. MEP and Fire systems and their requirements reflected and indicated on plans.
 - iii. Internal partitions and types indicated.
 - iv. Door swings indicated.
 - v. Adequate internal and external dimensions.
 - vi. Floor, slab, and level elevations.
 - vii. Typical door types.
 - viii. Typical partition types.
 - ix. Building core element with dimensions.
 - i. Enlarged Plans - Typical to provide interior elevations of enlarged plan areas with surfaces delineated.
 - j. Sections with at minimum the following plans and details:
 - x. Wall Sections - Full height sections conveying building configuration.
 - xi. Interior Elevations - Typical and special spaces, interfaced with, and cross-referenced to, floor and reflected ceiling plans.
 - xii. Reflected Ceiling Plans - Typical and special spaces. Integrated plans reflecting structural, mechanical, and electrical impacts including lighting, skylights, HVAC grilles, exposed structure, etc.
 - xiii. Room, door, and window or storefront schedules.
 - k. Structural Drawings detailing non-typical framing scheme where required.
 - l. Mechanical / Plumbing / Electrical/Fire Prevention/Information Technology/Communication/Security systems with details, as necessary.
 - m. FF&E general layout plan, as necessary.
 - n. Logistic plans with construction staging and parking locations
 - o. Specifications to include Town's General Provisions and Construction Contract template for the specifications
 - p. Construction cost estimate and a project schedule including lead times for permits
3. Meet and confer with the Town's Building Division for initial review.

4. Submit 90% CDs for review and comments by the Town. Meet with the Town and ARC staff as necessary.
5. Address comments received from the Town's project manager and proceed with the preparation of 100% CDs.
6. Submit 100% CDs for building plan check. Address Building Division comments to secure building permits. The Town will be responsible for permit fees.
7. Assist the Town with the preparation construction bid package for public bid process.

Deliverables:

1. Summary of meetings/meeting minutes.
2. 90% and 100% CDs.
3. 100% CDs for building permit submittal (electronic submittal).
4. Public construction bid package with 100% CDs incorporating all plan check comments. Submit AutoCAD and PDF files of the Final Construction Documents. PDF files shall be stamped and sign.
5. Detail cost estimates and updated project schedule.

Task F - Bid/Award and Construction Administration Support Services:

1. Assist Town staff in obtaining approval from the Town Council to bid the CDs.
2. The Town shall coordinate the public bid process.
3. Assist the Town during bid phase to solicit bids from qualified contractors, attend pre-bid meetings, address requests for information, prepare addendums if required, and assist with the evaluation of bids.
4. If the lowest responsible bid for the base scope of the CDs exceeds the construction budget by more than 5%, the consultant shall assist the Town to value engineer the CDs to incorporate necessary cost saving measures and obtain necessary approvals from the Town and stakeholders for a rebid. Value engineering, if needed, shall be conditioned as part of the consultant's base scope of services at no additional cost to the Town.
5. Once a bid is accepted and approved by the Town, compile any addendums and changes to the bid package and provide the Town with a conformed CDs set labeled "conformed set for construction".
6. During construction, the consultant will attend the pre-construction meeting and periodic site observations (monthly at minimum), observe construction progress, respond to Requests for Information and substitution requests, address design changes, and review submittals and shop drawings. The consultant will also assist the Town in the preparation of design/engineering bulletins, change orders related to design issues, and substantial completion and final completion certificates.
7. Assist the Town with review of contractor pay applications and requests for change orders.
8. Assist the Town with any commissioning process and closeout of the project for occupancy.
9. For the project closeout, furnish the Town with editable files in original formats (Word, AutoCAD, etc.) and PDF files of Record Documents incorporating all changes and

discoveries made during construction. Record Documents shall include PS&E and other project documents with as-built conditions and information provided by the Contractor.

Deliverables:

1. Summary of meetings/meeting minutes.
2. As applicable and not limited to, addendums, evaluation of bids, value engineered CDs, etc.
3. Conformed set for construction in editable original format and PDF files.
4. As applicable and not limited to, construction progress reports, response to RFIs and substitution requests, review of submittals, design/engineering bulletins, design change orders, and substantial completion punch list.
5. Record Documents incorporating as-built information from the contractor in editable original format and in PDF files.
6. Project closeout documents.

F. Other Services

Proposers shall list other specific services that they can provide as related to the projects. The Town will consider other services to be included in the scope of services for the consultant services agreement. Proposers should submit their general fee schedule for all services that they can provide.

The following design services may be included as Additional Services with contract amendments per terms described in the consultant services agreement:

1. Additional design alternatives.
2. Additional meetings.
3. Additional deliverables.
4. Bifurcating construction bid sets by tasks or projects.
5. Assist Town staff in developing temporary relocation plans or tenant improvement plans as necessary.
6. Other pertinent analysis and studies related to projects.
7. On-call architectural services for future Town facility projects.

G. Proposal Format and Submission Requirements

Submitting the Statement of Qualifications:

The SOQs must be received by the Town no later than Tuesday, July 13, 2021 by 4:00 pm. The Town requires that SOQs be submitted electronically via email or file sharing sites. The SOQ shall be clearly marked for “**Town of Los Gatos - Design Services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601); and On-Call Architectural Services RFQ**” and emailed to:

WooJae Kim
Town Engineer
Town of Los Gatos–Parks and Public Works
wkim@losgatosca.gov

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

Each SOQ must include the following information (no maximum page limit unless otherwise noted):

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 RFQ. The cover letter shall be signed by an authorized representative of the firm. **Attachment 7** 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. Also, state if the Proposer is interested in being considered for the Town’s On-Call Architectural Services consultant list.

Certification Forms – Complete and sign the following certification forms:

Attachment 3–Conflict of Interest Statement

Attachment 4–Non-Collusion Declaration

Attachment 6–Statement Regarding Insurance Coverage and Workers’
Compensation Insurance Acknowledgment Certificate

Review of Scope of Services (Maximum 2 pages) – Proposers must comment on the firm’s 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 how your firm/team would approach the project and what specialized services or unique insights your team would bring to the project. This scope of services shall be considered a draft. The consultant selected shall discuss and finalize the tasks with the Town and a final version of the plan shall be incorporated into the contract.

Experience and Expertise – Discuss prior related project experience satisfying Minimum Qualifications for the project and what would make the firm the best qualified for this project. Emphasize projects of similar scope and magnitude for public agencies. Discuss the firm’s ability to meet schedules and ability to control costs.

Qualifications of Key Personnel – Identify the 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 firm’s commitment to keep the same personnel throughout the project. Indicate how your firm’s resources will work together to complete this project. Identify additional resources available in your firm.

Sub-Consultants – Identify any sub-consultants your firm may utilize. Include resumes of key individuals who will be directly involved in this project and briefly describe any past involvement in joint projects with these sub-consultants. Indicate why the particular sub-consultant has been selected to work on the project team. Indicate how the prime firm will ensure quality control and coordination of documents between the prime and the various sub-consultants.

References (complete **Attachment 5**) – A minimum of three (3) current references from past projects (of similar scope) completed by the proposed project manager and/or project team 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 – Identify carriers, A.M. Best ratings, and types and limits of insurance carried by your firm. 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. 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 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 Proposal/Schedule – Submit preliminary fee proposal/schedule for various services provided by the Proposer. The preliminary fee proposal/schedule shall include anticipated tasks itemized by estimated time and hourly rates of key personnel. Include other potential services recommended by the Proposer.

Addenda

If any revisions to this RFQ become necessary, the Town shall provide responses and clarifications to questions via addenda. The last day for issuance of an addendum is Friday, July 9, 2021. A Proposer shall submit any questions or requests for clarification to the Town's Contact by Thursday, July 8, 2021.

Addenda to this RFQ, if issued, will be posted on the Town's website at <https://www.losgatosca.gov/2258/RFPREQ>. All proposers shall verify that the Town has issued any addenda for this project prior to submitting the SOQ and ensure that all requirements of addenda are included.

H. Evaluation Process

Town staff will review the SOQs and will rank the Proposers. The evaluation of the SOQs 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 SOQs with the exception of the Town's Contact may jeopardize the integrity of the evaluation and selection process and risk possible disqualification.

During the SOQ evaluation process, written questions or requests for clarification may be submitted by the Town to a Proposer regarding its SOQ 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.

Town staff will evaluate each SOQ meeting the qualification requirements set forth in this RFQ. After the review of the SOQs, 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 place of oral interviews and if any additional information may be required to be submitted.

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

Statement of Qualification Evaluation Criteria

Following criteria shall be used to evaluate the SOQs:

1. **Conflict of Interest Statement and Non-Collusion Declaration (Pass/Fail)**
 - a. Discloses any financial, business or other relationship with the Town that may have an impact upon the outcome of the contract or the construction project.

- b. Lists current clients who may have a financial interest in the outcome of this contract or the construction project that will follow.
 - c. Discloses any financial interest or relationship with any construction company that might submit a bid on the construction project.
 2. **Completeness/Organization of the SOQ (15 points)**
 - a. SOQ that is current, accurate, and complete in accordance with the requirements of this RFQ. SOQ format and organization shall follow the requirements herein. SOQs that do not include the content requirements identified within this RFQ and subsequent addenda and do not address items listed shall be considered incomplete.
 3. **Organization and Approach (20 points)**
 - a. Describes familiarity of the project and demonstrates understanding of any work completed to date, if applicable, and project objectives moving forward.
 - b. Project team and management approach when responding to project issues. The team structure shall provide adequate capability to perform both volume and quality of needed work within project schedule milestones.
 - c. Roles and Organization of Proposed Team
 - i. Propose adequate and appropriate disciplines of the project team.
 - ii. Some or all of team members have previously worked together on similar project(s).
 - iii. Overall organization of the team relevant to Town's needs.
 - d. Working Relationship with the Town
 - i. The team and its leaders have experience working in the public sector and knowledge of public sector procurement process.
 - ii. Team leadership understands the nature of public sector work and its decision-making process.
 4. **Qualifications & Experiences (20 points)**
 - a. Meets Minimum Qualifications.
 - b. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants related to the project.
 5. **Qualifications of Key Individuals (20 points)**
 - a. Team is managed by an individual(s) with appropriate experience in similar projects. This person's time is appropriately committed to the project.
 - b. Team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 - c. Key positions required to execute the project team's responsibilities are appropriately staffed.
 6. **Proposer Accessibility (15 points)**
 - a. A statement addressing the firm's ability to fulfill regular on-site project responsibilities.
 7. **References (10 points)**
 - a. Provide a reference of at least three (3) projects the Proposer has previously managed in the past five (5) years.

Oral Interview (if necessary)

If necessary, the top-ranking Proposers 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 place for oral interviews and if any additional information may be required to be submitted.

Following the Town's determination of the firm best qualified 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 7**). If negotiations with the top-ranked Proposer are not successful, the Town will select the next-ranked Proposer for award and negotiate the final terms of the contract.

The proposed schedule is as follows:

<u>Activity</u>	<u>Anticipated Dates</u>
RFQ Release	June 17, 2021
Deadline for Submitting Questions	July 8, 2021
Submission Deadline (4:00 p.m.)	July 13, 2021
Evaluation	July 2021
Consultant Interviews/Presentations (if necessary)	August 2021
Contract Negotiation and Award	August 2021
Contract Execution and Start of Work	September 2021

I. Additional Information

- 1. Reservation of Rights.** The Town reserves the right to accept or reject any or all SOQs, 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 RFQ. The Town also reserves the right to accept or reject any individual subconsultant that a candidate proposes to use. This RFQ 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 RFQ 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 RFQ shall remain the property of the Town.

3. **DIR Monitoring.** This project may be subject to compliance monitoring and enforcement by the DIR.
4. **Communicating with Town.** If you have any questions regarding this RFQ, please contact the Town's Contact:

WooJae Kim
Parks and Public Works Department
Town of Los Gatos
41 Miles Avenue, Los Gatos CA 95030
wkim@losgatosca.gov
(408) 399-5773

The Town's sole point of contact for this RFQ shall be the Town's Contact who shall administer the RFQ process. All communications shall be submitted in writing and shall specifically reference this RFQ (identify in the subject line the project). 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 procurement process is allowed. A violation of this provision may result in the disqualification of the consultant.

5. **Assumptions of Proposers.** The Town is not responsible for the assumptions of Proposers. Neither the participation of the Town in any pre-proposal meeting, nor the subsequent award of the contract by the Town shall in any way be interpreted as an agreement or approval by the Town that a Proposer's assumptions are reasonable or correct. The Town specifically disclaims responsibility or liability for any Proposer's assumptions in developing its SOQ.
6. **Public Record.** All responses to this RFQ 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. Code sections 6250 *et seq*). Unless the information is exempt from disclosure by law, the content of any SOQ, 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.

7. **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 SOQs in response to this RFQ 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.

8. **Appeal.** The Town will entertain appeals regarding this RFQ process only as set forth herein. The appeal process presented in this RFQ will take precedence in the case of any conflict with the appeal processes contained in the Town's Policies and Procedures. The Town will not entertain appeals regarding, or reconsider, substantive scores or determinations made in the evaluation process.

Appeals may be based upon restrictive requirements or alleged improprieties in the RFQ that are apparent or reasonably should have been discovered prior to the Town's receipt of SOQs. Such appeals shall be written, and hand delivered or sent via certified mail to be received by the Town's Contact at least fourteen (14) calendar days prior to the Town's receipt of SOQs. The appeal must clearly specify in writing the grounds and evidence on which the appeal is based.

Appeals may also be based upon alleged improprieties that are not apparent in the RFQ or that could not reasonably have been discovered prior to the Town's receipt of the SOQ. Such appeals are limited to 1) the Town's failure to follow its own appeal procedures set forth in this Section; and 2) other procedural errors in the RFQ process. The appeal must clearly specify in writing the grounds and evidence on which the appeal is based. Such appeals shall be in writing and hand delivered or sent via certified mail to be received by the Town's Contact within five (5) calendar days from receipt of the notice from the Town informing of the Successful Proposer.

The Town's Contact will respond to an appeal in writing within ten (10) business days of receipt and that determination shall be final.

The appeal procedures summarized in this Section are mandatory and comprise the sole and exclusive appeal procedures for this RFQ. A Proposer's failure to comply with the procedures set forth herein will result in rejection of the appeal and constitute a waiver of any right to further pursue a protest or appeal (including, but not limited to, filing a Government Code claim or legal proceeding). If the Town determines the appeal to be frivolous, the Respondent originating the appeal may be determined to be irresponsible and may be ineligible for future purchase orders and/or contracts.

In order to prevail on an appeal based on alleged improprieties not apparent in the RFQ as described herein, a Proposer must demonstrate that an error was material and prejudicial to the Proposer's effort to become selected for participation in this project.

In other words, in order to prevail, the Proposer must demonstrate that but for the Town's error, the Proposer would have been selected as the Successful Respondent. If an appeal is received within five (5) business days from receipt of the notice from the Town informing of the Successful Proposer, the Town will proceed with the following process: 1) Town provides a copy of the appeal to the Successful Respondent and, within five (5) business days of receipt, Successful Proposer may provide to the Town a written response to the appeal; 2) within ten (10) business days thereafter, Town prepares a written response to the appeal and to the Successful Proposer's response, if any, and provides the analysis to appellant and Successful Proposer; 3) within five (5) business days, appellant and Successful Proposer may provide written responses; 4) Town sets a hearing date for a Town Council determination on the appeal and prepares a written staff report and recommendation; 5) Town staff notifies Successful Proposer and appellant of the date and time of the hearing and prepares and distributes a written record containing all documents necessary for the Town Council determination and distributes the record to all parties; 6) Town Council hearing in which Successful Proposer and appellant are provided full opportunity to present matter to Town Council; 7) Town Council renders a final determination.

9. **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.

10. **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 including without limitation those relating to the environment (including, but not limited to, those promulgated by EPA, California Department of Public Health), wages, hours, health and safety (including, but not limited to, those promulgated by CAL-OSHA and FED-OSHA), equal employment opportunity, and working conditions or which pertain in any way to the project and/or Proposer's scope of work on the project.

J. Attachments

The following attachments are incorporated into the Request for Qualification:

- Attachment 1 – Town Facilities
- Attachment 2 – Layout Plans for Civic Center and Adult Recreation Building
- Attachment 3 – Conflict of Interest Statement
- Attachment 4 – Non-Collusion Declaration
- Attachment 5 – References
- Attachment 6 – Statement Regarding Insurance Coverage And Workers' Compensation
Insurance Acknowledgment Certificate

Attachment 7 – Sample Consultant Services Agreement

ATTACHMENT 1 – TOWN FACILTIES

TOWN OF LOS GATOS - FACILITY LIST

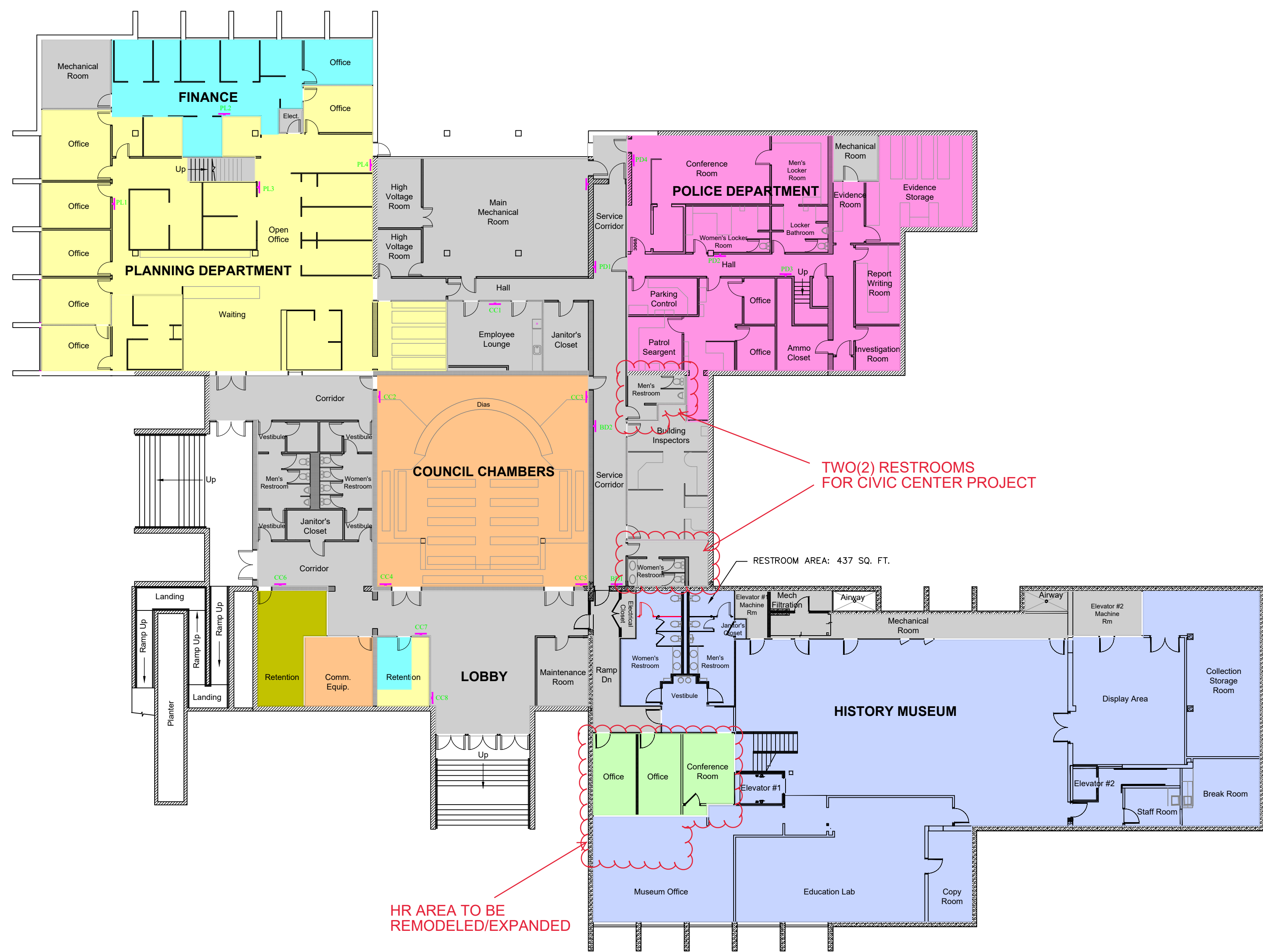
					Public Programs, Services, or Activities	
Facility Name	Facilities Within	Address	Area (S.F.)	Notes		
1 Civic Center Plaza		110 East Main Street		Built 1964. 2 buildings located within the Civic Center: Town Hall and Police Department Headquarters. NUMU and Bookstore also in the Civic Center complex.		
	Town Hall		17,815		Council Chambers and various Town Departments	
	Police Department Headquarters		5,585		Public counter	
2 New Museum Los Gatos (NUMU)		106 E. Main Street	12,511	Museum connected to Town Hall	Leased to Los Gatos Museum Association	
3 Friends Bookstore		110 E. Main Street		Within Civic Center		
4 Los Gatos Library		100 Villa Avenue	29,500	Built 2012.		
5 Adult Recreation Center-LGS Recreation		208 E. Main Street	12,000	Nickname: ARC.	Leased to LGS Recreation	
6 Youth Recreation Center		123 East Main Street	6,479	Nickname: YRC	Leased to LGS Recreation	
7 Forbes Mill Museum		75 Church Street	2,450	Est. 1854	Old museum	
8 Venue		4 New York Avenue	3,757	Located within Los Gatos High School	Town owned; Unused currently.	
9 Parks and Public Works Service Center		41 Miles Avenue		Est. 1977. White House, Engineering Building, Maintenance Building, and Equipment Building.		
	White House		2,734	Moved and renovated 1991	Public counter and meeting room.	
	Engineering Building		4,800		Public counter and meeting room.	
	Maintenance Building		1,716			
	Equipment Building		4,741			
10 Police Operations Building		15900 Los Gatos Boulevard	12,760	Nickname: POB		
11 Tait Museum		213 Tait Avenue	3,400	ex-museum and former LG fire station		

12	Lot #4 Underground Parking Garage		Grays Lane	57,546	built 1992. Below Lot #4	
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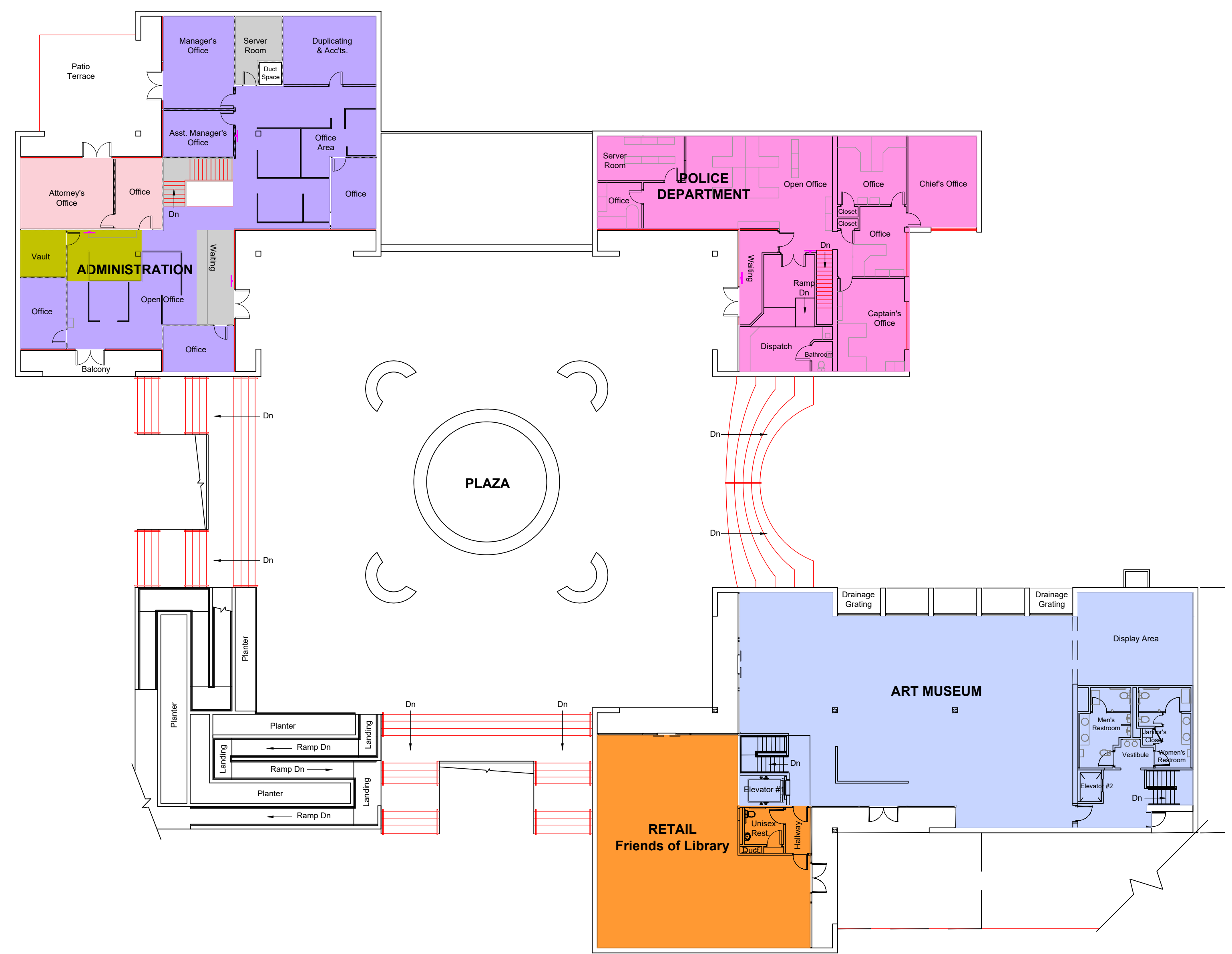
	Park Restrooms	Address	Area (S.F.)	Notes
1	Balzer Field-Restroom Building	41 Miles Avenue	600	Located next to Balzer Field. Concession building attached. Rest room open during park hours.
2	Belgatos Park-Restroom Building	330 Belgatos Road	608	Built 1977. Located in Belgatos Park. Rest room open during park hours.
3	Blossom Hill Park-Restroom Building	16300 Blossom Hill Road	924	Located in Blossom Hill Park. Concession building attached. Rest room open during park hours.
4	Creekside Sports Park-Restroom/Snack Shack Building	930 University Avenue	850	Located in Creekside Sports Park. Concession building attached. Rest room open during park hours.
5	Oak Meadow Park-Restroom Building	233 Blossom Hill Road	930	Located in Oak Meadow Park. Rest room open during park hours.

ATTACHMENT 2 – LAYOUT PLAN FOR CIVIC CENTER

CIVIC CENTER FLOOR PLANS



LOWER LEVEL FLOOR PLAN



UPPER LEVEL FLOOR PLAN

LEGEND

DEPARTMENT	AREA (IN SQ. FT.)
ATTORNEY'S OFFICE	428
CLERK'S OFFICE	522
COMMON AREAS	7153
COMMUNITY DEVELOPMENT DEPARTMENT	3866
COUNCIL CHAMBERS	2063
FINANCE DEPARTMENT	917
FRIENDS OF LIBRARY	1742
HUMAN RESOURCES	483
NUMU	10769
POLICE DEPARTMENT	5585
TOWN MANAGER'S OFFICE	2382
TOTAL AREA	35911

SCALE: 1/16"=1'



NORTH

ATTACHMENT 3 – CONFLICT OF INTEREST STATEMENT

THIS FORM MUST BE PRINTED OUT, COMPLETED, AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

Design Services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601); and On-Call Architectural Services

The undersigned declares:

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

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

I/We _____ (Insert Company Name) have the following financial interests or relationships with a construction company that might submit a bid for the construction of the project. If none, please specify that no such relationships exist.

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 RFQ. 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 RFQ is an officer or employee of the Town. Through its submittal of a Proposal, the 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 Proposal documents the completed Non-Collusion Declaration provided herein as Attachment 4.

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 4 – NON-COLLUSION DECLARATION

THIS FORM MUST BE PRINTED OUT, COMPLETED, AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

Design Services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601); and On-Call Architectural 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.

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 5 – REFERENCES

THIS FORM MUST BE PRINTED OUT, COMPLETED, AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

Design Services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601); and On-Call Architectural 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	Address
Contact Name	Contact Title
Contact Telephone	Contact Email Address
Contract Date	Contract Amount

Description of services performed including project cost estimates and actual costs.

2.

Name of Agency	Address
Contact Name	Contact Title
Contact Telephone	Contact Email Address
Contract Date	Contract Amount

Description of services performed including project cost estimates and actual costs.

3.

Name of Agency	Address
Contact Name	Contact Title
Contact Telephone	Contact Email Address

Contract Date

Contract Amount

Description of services performed including project cost estimates and actual costs.

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

Signature of Proposer

Name

Date

ATTACHMENT 6 – STATEMENT REGARDING INSURANCE COVERAGE AND WORKERS’ COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE

THIS FORM MUST BE PRINTED OUT, COMPLETED, AND SUBMITTED WITH THE STATEMENT OF QUALIFICATION (SOQ)

Design Services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601); and On-Call Architectural Services

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

By certifying this form, the Proposer also understands the Workers’ 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 workers’ 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 7 – SAMPLE CONSULTANT SERVICES AGREEMENT

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on _____ by and between TOWN OF LOS GATOS, a California municipal corporation, (“Town”) Name of Consultant, (“Consultant”), whose address is (Address). This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 Town desires to engage Consultant to provide **design services for ADA Restrooms and Human Resources (CIP No. 812-2117) and ADA Upgrade Public Restrooms – Adult Recreation Building (CIP No. 821-2601)**.
- 1.2 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), 2021, 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 date of execution to XXX.
- 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 the 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 \$XXX**, inclusive of all costs as described in Exhibit A. 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 Prevailing Wages. This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a "public work" by the State of California. This includes: construction, demolition, repair, alteration, maintenance and the installation of photovoltaic systems under a Power Purchase Agreement when certain conditions are met under Labor Code Section 1720.6. This include service and warranty work on public buildings and structures.
- 4.4.1 The applicable California prevailing wage rate can be found at www.dir.ca.gov and are on file with the Town of Los Gatos Parks and Public Works Department, which shall be available to any interested party upon request.

The contractor is also required to have a copy of the applicable wage determination posted and/or available at each jobsite.

- 4.4.2 Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime, weekend and holiday pay, and shift pay must be paid pursuant to applicable Labor Code section.
- 4.4.3 The public entity for which work is being performed or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violations identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.
- 4.4.4 As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, the contractor agrees to present to the TOWN, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the Agency or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
- 4.4.5 In addition to submitting the certified payrolls and related documentation to the TOWN, the contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and final payment.
- 4.4.6 No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- 4.4.7 No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than

\$25,000 for construction alternation, demolition or repair work, registration is not required.

- 4.4.8 Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the TOWN for any fines assessed by the California Department of Industrial Relations against the TOWN for such violation, including all staff costs and attorney's fee relating to such fine.
- 4.4.9 The TOWN shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the TOWN may continue to hold sufficient funds to cover estimated wages and penalties under the contract.

- 4.5 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.

- 4.6 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.

- 4.7 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 (Consultant)
Attn: Town Clerk (Address)
110 E. Main Street
Los Gatos, CA 95030

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

- 4.8 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.

- 4.9 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:

Matt Morley
Director of Parks and Public Works

Printed Name and Title

Approved as to Form:

Robert Schultz, Town Attorney

Attest:

Shelley Neis, MMC, CPMC, Town Clerk