

## **AGREEMENT FOR SERVICES**

THIS AGREEMENT is dated for identification this 1<sup>st</sup> of January 2021, and is made by and between TOWN OF LOS GATOS, a California municipal corporation, (“Town”) and Los Gatos-Monte Sereno Safe Routes to School (SR2S), a 501(c)(3) (“Service Provider”), whose address is 17010 Roberts Road, Los Gatos, CA 95032. This Agreement is made with reference to the following facts.

### **I. RECITALS**

- 1.1 Town desires to engage Service Provider in a sole source procurement.
- 1.2 Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Town desires to engage Service Provider to deliver eligible services per the Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Bicycle & Pedestrian Education and Encouragement Program (Measure B E/E Program).
- 1.4 Service Provider warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Service Provider acknowledges Town has relied upon these warranties to retain Service Provider.

### **II. AGREEMENT**

- 2.1 Scope of Services. Service Provider shall provide services as described in that certain Proposal sent to the Town, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect July 1, 2021 through June 30, 2025. Only eligible costs incurred on or after July 1, 2017 will be eligible for compensation.
- 2.3 Compliance with Laws. The Service Provider shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Service Provider represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Service Provider to practice its profession. Service Provider 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. Service Provider 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 Service Provider by the Town and all reports and supportive data prepared by the Service Provider under this Agreement are the Town's property and shall be delivered to the Town upon the completion of services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Service Provider in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Service Provider shall not make any of these documents or information available to any individual or organization not employed by the Service Provider or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Service Provider 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 Service Provider in connection with other projects shall be solely at Town's risk, unless Service Provider expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Service Provider which is and has been confirmed in writing by Service Provider to be a trade secret of Service Provider.
- 2.6 Compensation. Compensation for services shall not exceed \$60,000, inclusive of all costs. Payment shall be based upon Town approval of each task.
- 2.7 Billing. Billing shall be quarterly by invoice and shall be accompanied by a detailed explanation of the work performed as necessary to support reimbursement of funds. 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. Service Provider shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Service Provider shall make these records available to authorized personnel of the Town at the Service Provider 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 Service Provider. 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 Service Provider, 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 Service Provider 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. Service Provider agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Service Provider 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 Service Provider or is based on allegations of Service Provider's negligent performance or wrongdoing.
- 2.11 Conflict of Interest. Service Provider understands that its professional responsibilities are solely to the Town. The Service Provider has and shall not obtain any holding or interest within the Town of Los Gatos. Service Provider 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, Service Provider 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. Service Provider 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 Service Provider discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement Service Provider 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. Service Provider warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Service Provider 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. Service Provider 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. Service Provider 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. Service Provider shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Service Provider agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

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 Service Provider; products and completed operations of Service Provider, premises owned or used by the Service Provider.
- ii. The Service Provider'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 Service Provider'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 Service Provider'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, Service Provider 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, Service Provider shall ensure that all subcontractors employed by Service Provider provide the required Workers' Compensation insurance for their respective employees.

- 3.4 Indemnification. The Service Provider 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 Service Provider, or any of the Service Provider's officers, employees, or agents or any subcontractor.

#### 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 Service Provider 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 Service Provider shall deliver to the Town all plans, files, documents, reports, performed to date by the Service Provider. 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.
- 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 Service Provider.
- 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

Los Gatos-Monte Sereno Safe Routes to  
School (SR2S)  
17010 Roberts Road  
Los Gatos, CA 95032

or personally delivered to Service Provider to such address or such other address as Service Provider 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 Service Provider. 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 Service Provider have executed this Agreement.

Town of Los Gatos by:

Service Provider, by:

\_\_\_\_\_  
Laurel Prevetti, Town Manager

\_\_\_\_\_

Recommended by:

\_\_\_\_\_  
Matt Morley, Director of Parks and Public Works

\_\_\_\_\_  
Title

Approved as to Form:

\_\_\_\_\_  
Robert Schultz, Town Attorney

Attest:

\_\_\_\_\_  
Shelley Neis, MMC, CPMC, Town Clerk

## Measure B Bicycle & Pedestrian Education & Encouragement Program of Projects

\*This schedule depicts the nature of the programs we will provide. Additions and deletions may occur.

\*\* The programs will be provided primarily by volunteers

July 1, 2019 - June 30, 2025

Project Title	Project Activities Description	Project Locations	Frequency	Project Goals*	Proposed Evaluation Metrics*
<i>Pre K Education Opportunities: Learn to Ride Balance Bikes</i>	<i>30 minutes of outdoor on-bike training.  Using class time to introduce balance bike curriculum to students.</i>	<i>LGUSD elementary schools.  Local preschools.</i>	<i>Once a month depending on participation rates.</i>	<ul style="list-style-type: none"> <li>● <i>To encourage children to learn to ride bikes.</i></li> <li>● <i>Encourage parents to teach kids bike skills.</i></li> <li>● <i>20 student participants</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Number of children participating</i></li> <li>● <i>Number of locations we offer the program</i></li> <li>● <i>Number of sessions offered</i></li> </ul>
<i>Kindergarten Pedestrian Training</i>	<i>Use a combination of a visual presentation and outdoor crosswalk practice to teach kindergarteners how to be more aware as a pedestrian.</i>	<i>LGUSD elementary schools.</i>	<i>1 presentation per kindergarten class at each LGUSD school per year.</i>	<ul style="list-style-type: none"> <li>● <i>2 schools = Present to 25% of kindergarteners.</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Number of students participating</i></li> <li>● <i>Number of schools participating</i></li> </ul>
<i>Grade 1 - Advanced Pedestrian Training</i>	<i>To build on the Kindergarten Training by adding traffic flow and more advanced traffic situations. In class visual presentation and playground.</i>	<i>LGUSD elementary schools.</i>	<i>1 presentation per first grade class at each LGUSD school per year.</i>	<ul style="list-style-type: none"> <li>● <i>2 schools = Present to 25% of first graders.</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Number of students participating</i></li> <li>● <i>Number of schools participating</i></li> </ul>
<i>Grade 2 - Scooter Training and Traffic Understanding</i>	<i>To build on Pedestrian training with focus on scooter safety and the acknowledgment of traffic flow. Outdoor on-scooter training.</i>	<i>LGUSD elementary schools.</i>	<i>1 presentation per school at each LGUSD school per year.</i>	<ul style="list-style-type: none"> <li>● <i>1 school = Engage with 15% of second graders.</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Number of students participating</i></li> <li>● <i>Number of schools participating</i></li> </ul>
<i>Grade 3 or 4- Helmet Safety Training</i>	<i>Middle school students present the importance of</i>	<i>LGUSD elementary schools.</i>	<i>1 assembly per LGUSD school.</i>	<ul style="list-style-type: none"> <li>● <i>2 Schools = 50% of 3rd or 4th graders.</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Number of students participating</i></li> </ul>



	wearing a helmet and how to properly fit it. Indoor assembly.				<ul style="list-style-type: none"> <li>• Number of schools participating</li> </ul>
<b>Grade 4 - Bike Rodeo</b>	<p>Practical outdoor on-bike training for kids, showing them various traffic situations and how to best navigate them.</p> <p>Develops a sense of responsibility, confidence and empowerment.</p>	LGUSD elementary schools.	1 Bike Rodeo per school per year.	4 Schools = 100% of 4th graders.	<ul style="list-style-type: none"> <li>• Number of students that participate (maintain current participation levels )</li> <li>• Number of schools that participate</li> </ul>
<b>Grade 5 &amp; 6 - Middle School Cycling Proficiency</b>	<p>Practical outdoor on-bike training for kids.</p> <p>Reviewing basic safety manoeuvres and road riding.</p> <p>Develops a sense of responsibility, confidence and empowerment.</p>	Daves Elementary School - Monte Sereno Neighborhood	4 week course - 2 hours per week.	<p>10 students who graduate the program.</p> <p>1-2 courses offered.</p>	<ul style="list-style-type: none"> <li>• Number of students that graduate the program.</li> <li>• Number of courses offered.</li> </ul>
<b>Grade 7 &amp; 8 - Train the Trainer: Helmet Safety</b>	Train Middle school students to teach elementary school kids about the importance of wearing helmets.	Fisher Middle School - Leadership Class	1-2 times per year.	<p>1-2 training sessions completed.</p> <p>15 student participants.</p>	<ul style="list-style-type: none"> <li>• Number of students that participate.</li> <li>• Number of training sessions completed.</li> </ul>
<b>Los Gatos High School - Implementation into Life Fitness Course</b>	<p>High school students learn about key elements of riding on the roads.</p> <p>On road experience on the town roads navigating traffic.</p>	Los Gatos High School - Town of Los Gatos	<p>1 class per week - 90 minutes.</p> <p>Ongoing class.</p>	<p>Number of students that participate - 20-30</p> <p>Total hours of education and practical road experience - goal is to keep cycling in the HS curriculum</p>	<ul style="list-style-type: none"> <li>• Number of students that participate</li> <li>• Total hours of education and practical road experience</li> </ul>

<b><i>LCI training</i></b>	<i>Encourage Town members to obtain their Licensed Cycling Instructor License through the American League of Cyclists to help expand our programs going forward.</i>	<i>Los Gatos Location.</i>	<i>3 classes, 4 hour per class.</i>	<i>10 trained and licensed community members.</i>	<i>Number of community members trained and licensed.</i>
<b><i>Educational Videos</i></b>	<i>Online education on key areas of concern in the community regarding routes to school and student transportation ( ie. key intersections, helmets, bike route mapping, key bike manoeuvres.)</i>	<i>LGUSD newsletters and website, SR2S social media and website.</i>	<i>Ongoing</i>	<ul style="list-style-type: none"> <li><i>• 2 Videos.</i></li> <li><i>• Develop a rollout procedure to maximize views.</i></li> <li><i>• Metrics to be developed along with rollout procedure</i></li> </ul>	<i>Number of students/families that see videos.</i>
<b><i>Safety Lessons in a Set Curriculum / Lesson Plan (rainy day/substitute teacher plans)</i></b>	<i>Provide teachers/PE teachers set curriculums to satisfy learning initiatives and target safety education using videos &amp; games- target elementary school classes.</i>	<i>LGUSD Schools</i>	<i>Ongoing</i>	<i>1-2 schools using the curriculum.</i>	<ul style="list-style-type: none"> <li><i>• Number of schools using the lesson plans</i></li> <li><i>• Number of teachers that use lesson plans</i></li> <li><i>• Number of students that participate in lessons</i></li> </ul>