



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/19/2023

ITEM NO: 13

DATE: December 5, 2023

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Approve the Following Actions for Americans with Disabilities Act (ADA) Transition Plan (CIP No. 812-0129):

- a. Authorize the Town Manager to Execute a Second Amendment to the Agreement for Consultant Services with Disability Access Consultants, LLC for Additional Services, in an Amount of \$50,000 for a Total Agreement Not to Exceed \$220,000; and
- b. Authorize An Expenditure Budget Transfer in an Amount of \$35,150 from Project #411-813-9921 (Curb, Gutter & Sidewalk Maintenance).

RECOMMENDATION:

Approve the following actions for the Americans with Disabilities Act (ADA) Transition Plan (CIP No. 812-0129):

- a. Authorize the Town Manager to execute a second amendment to the agreement for consultant services with Disability Access Consultants, LLC (Attachment 1) for additional services, in an amount of \$50,000 for a total agreement not to exceed \$220,000; and
- b. Authorize an expenditure budget transfer in an amount of \$35,150 from project #411-813-9921 (Curb, Gutter & Sidewalk Maintenance).

BACKGROUND:

The federal statute on *Nondiscrimination on the Basis of Disability in State and Local Government Services* (28 CFR § 35.150 – Existing Facilities) requires a public entity that employs 50 or more persons to develop a transition plan setting forth the steps necessary to achieve program accessibility and reasonable modifications to eliminate barriers for persons with disabilities. In addition, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against people with disabilities in programs that receive Federal financial assistance.

PREPARED BY: Gary Heap
Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

BACKGROUND (continued):

The Town's previous ADA Transition Plan (the 1993 Plan) was adopted by Council in 1993, which identified improvements needed for accessibility compliance and prioritized them to occur over a three-year time frame. After adoption of the 1993 Plan, the Town constructed numerous projects and infrastructure to address the ADA requirements identified. However, ADA standards are ever evolving at the Federal and State levels with broader rulings and regulation requirements.

On April 5, 2021, the Town entered into an agreement with Disability Access Consultants (DAC) to develop an updated American with Disabilities Act (ADA) Transition Plan (the 2023 Transition Plan). The legally required 2023 Transition Plan identifies required improvements to the Town's programs, services, activities, and assets to achieve compliance with the ADA. The 2023 Plan was completed in spring 2023 and has not yet been scheduled for formal adoption by the Town Council because of changes in staffing, and the need for ongoing coordination with the consultant to determine the best way to communicate the information. Staff intends to bring it for formal adoption in February 2024. The original agreement was for \$130,000 with term ending December 31, 2022.

Amendment 1 to the agreement extended the term through December 31, 2023 and increased the compensation by \$40,000 for a total contract amount of \$170,000. The additional services included evaluation of the Town owned rights-of-way (e.g., sidewalks, curb ramps, etc.) and on-call services related to implementing the Transition Plan. Compliance with the Americans with Disabilities Act and implementation of the 2023 Transition Plan is an ongoing process that staff consistently endeavors to undertake. As such, staff has continued to implement the Plan as needs arise and capital projects are implemented despite the 2023 Transition Plan having not been formally adopted by Town Council.

DISCUSSION:

Since the execution of Amendment 1, staff has begun implementing the necessary improvements when possible. Examples of this include the Annual Curb, Gutter, Sidewalk Project (CIP 813-9921) where select sidewalks and curb ramps are replaced annually to comply with ADA standards. In 2023, the Town also contracted to remove trip hazards on sidewalks in the downtown, parks and around schools. In completing this work, staff coordinates with DAC to update the database of required improvements and demonstrate compliance with the ADA.

With the requested action, staff is proposing a second amendment for additional services from DAC. Under this amendment, DAC will recommend and prioritize future Town programs and projects and provide as-needed consultation services to support implementation of the 2023 Transition Plan. The requested action will increase the total compensation from \$170,000 to \$220,000 and extend the agreement term to December 31, 2024.

CONCLUSION:

The Town Council's authorization of the second amendment for the ADA Transition Plan agreement would allow DAC to provide additional ADA consulting services for future Town program and projects to implement the 2023 Transition Plan.

COORDINATION:

This report is coordinated with Community Development and the Finance Department.

FISCAL IMPACT:

On March 15, 2021, Council authorized a revenue and expenditure budget adjustment for CIP project #812-0129 to recognize a Joint Powers Authority Liability Assurance Network grant in the amount of \$35,000. The grant fund was spent in a prior year and staff has recently discovered that the grant funding had not been previously received and the funds are no longer available for the project. Staff will analyze a new funding plan for the \$35,000 and bring the action item to Council as part of the mid-year budget process.

With the proposed budget transfer, there are sufficient funds in the project budget to cover the amendment to the consultant services agreement for the American with Disabilities Act (ADA) Transition Plan project. Staff recommends that Town Council authorize the transfer of available funds from #411-813-9921 (Curb, Gutter & Sidewalk Maintenance) to 411-812-0129 (ADA Transition Plan).

American with Disabilities Act (ADA) Transition Plan CIP No. 812-0129		
	Budget	Costs
GFAR	\$ 150,000	
JPA Grant Funding	\$ 35,000	
Transfer from CIP #411-813-9921 – Curb Gutter Sidewalk Maintenance (Proposed with this Staff Report)	\$ 35,150	
Total Budget	\$ 220,150	
		Costs
Prior Consultant Services		\$ 170,000
Consultant Services Second Amendment to Agreement with DAC (Proposed with this Staff Report)		\$ 50,000
Misc. Project Costs		\$ 150
Total Costs		\$ 220,150
Available Balance		\$ -

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SUBJECT: Americans with Disabilities Act Transition Plan (CIP No. 812-0129)

DATE: December 5, 2023

ENVIRONMENTAL ASSESSMENT:

The actions associated with this item are not a project defined under CEQA, and no further action is required.

Attachment:

1. Second Amendment – Agreement for Consultant Services - Disability Access Consultants, LLC with Exhibit A (Original Agreement and Previous Amendments) and Exhibit B (Updated Scope of Services)