

## FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO AGREEMENT for CONSULTANT SERVICES is dated for identification this 5<sup>th</sup> day of January 2024 and amends that certain Agreement for Consultant Services dated June 20, 2023, made by and between the Town of Los Gatos, ("Town,") and Dillingham Associates ("Consultant") identified as a Sole Proprietor and whose address is 2927 Newbury Street, Berkeley, CA 94703.

RECITALS

- A. Town and Consultant entered into an Agreement for Consultant Services for Preliminary Design Services on June 20, 2023, ("Agreement"), a copy of which is attached hereto and incorporated by reference as Exhibit A to this Amendment.
- B. Town desires to amend the Agreement to adjust the scope of services and compensation for the Pinehurst Community Garden and the Lynn Avenue Pedestrian Path Design in the following ways:

**Pinehurst Community Garden**

- Reduce the cost of task 2B Consulting Certified Arborist Services from \$1,650 to \$1,465.
- Increase the cost of task 2C Supplemental Soil Toxicology Analysis from \$11,000 to \$13,200.
- Update the Project Total from \$66,093 to \$68,108.

<i>Task Number</i>	<i>Task Name</i>	<i>Lump Sum Fee</i>
1	Project Management	\$3,038
2	Site Analysis	\$1,355
2A	Topographic & Boundary Survey	\$3,080
2B	Consulting Certified Arborist Services	\$1,465
2C	Supplemental Soil Toxicology Analysis	\$13,200
3	Community Engagement	\$12,125
4	Conceptual Design and 35% Design	\$32,995
DC	Direct Costs, maximum not-to-exceed	\$850
<b>PROJECT TOTAL</b>		<b>\$68,108</b>
Items not included in this current contract		
Optional Task A	Pinehurst Community Garden – Risk Assessment and Statistical Analysis	\$44,000
Optional Task B	Illustrated Perspective Renderings, fee per rendering	\$4,000

**Lynn Avenue Pedestrian Path Design**

- Reduce the cost of task 2B Consulting Certified Arborist Services from \$1,650 to \$1,465.
- Update the Project Total from \$55,133 to \$54,948.
  - (Note: the previous sum was calculated incorrectly, this was addressed in this new total).

<i>Task Number</i>	<i>Task Name</i>	<i>Lump Sum Fee</i>
1	Project Management	\$3,038
2	Site Analysis	\$1,195
2A	Topographic & Boundary Survey	\$3,630
2B	Consulting Certified Arborist Services	\$1,465
3	Community Engagement	\$12,125
4	Conceptual Design and 35% Design	\$32,995
DC	Direct Costs, maximum not-to-exceed	\$500
<b>PROJECT TOTAL</b>		<b>\$54,948</b>
Items not included in this current contract		
Optional Task B	Illustrated Perspective Renderings, fee per rendering	\$4,000
Optional Task C	Master Plan design report	\$10,000

**Total Compensation**

- Decrease total compensation amount from \$123,556 to \$123,056.

**AMENDMENT**

1. Section 2.1 Scope of Services is amended to read as follows:  
 Exhibit B is to replace Exhibit A
2. Section 2.6 Compensation is amended to read as follows:  
 Compensation for Consultant's professional services shall not exceed \$123,056.
3. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Town and Consultant have executed this Amendment.

Town of Los Gatos:

DocuSigned by:

*Laurel Prevetti*

853FEEA2EB39470...

Laurel Prevetti, Town Manager

Approved as to Consent:

DocuSigned by:

*M. Reed Dillingham*

ECE003A028B5437...

M. Reed Dillingham, Principal

Department Approval:

DocuSigned by:

*Nicolle Burnham*

6E97831349044CS...

Nicolle Burnham

Director of Parks and Public Works

Approved as to Form:

DocuSigned by:

*Gabrielle Whelan*

EFD6738A5534428...

Gabrielle Whelan, Town Attorney

Attest:

DocuSigned by:

*Wendy Wood*

BF6EBCBE2C214F8...

Wendy Wood, CMC, Town Clerk

## AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is dated for identification on the 20<sup>th</sup> day of June 2023 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Dillingham Associates ("Consultant"), identified as an Individual/Sole Proprietor and whose address is 2927 Newbury Street, Berkeley, CA 94703. This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 The Town desires to engage Consultant for the Preliminary Design Services for the Pinehurst Community Garden (CIP No. 831-4610) and Lynne Avenue Pedestrian Path Design (CIP No. 832-4510).
- 1.2 The 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 June 2, 2023, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect upon execution to June 30, 2024. Consultant shall perform the services described in this agreement as described in Exhibit A.
- 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 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 \$123,556**, inclusive of all costs. 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: two million dollars (\$2,000,000) 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 elected and appointed officials, employees, and, agents 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 elected and appointed officials, employees, and agents. 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 elected and appointed officials, agents, 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 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.
- 4.5 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

Dillingham Associates  
2927 Newbury Street  
Berkeley, CA 94703



or personally delivered to Consultant to such address or such other address as Consultant 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 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:

DocuSigned by:  
*Laurel Prevetti*  
853FEEA2EB39470...  
Laurel Prevetti, Town Manager

DocuSigned by:  
*M. Reed Dillingham*  
EGE003A628D5437...  
M. Reed Dillingham, Principal

Recommended by:

DocuSigned by:  
*Jim Harbin*  
E7195960535444C...  
Jim Harbin  
Acting Director of Parks and Public Works

Approved as to Form:

Attest:

DocuSigned by:  
*Gabrielle Whelan*  
EFD6738A6634428...  
Gabrielle Whelan, Town Attorney

DocuSigned by:  
*Wendy Wood*  
BF0EBCBE2C214F8...  
Wendy Wood, CMC, Town Clerk

Proposal for Landscape Architectural Services  
Pinehurst Community Garden (CIP No. 831-4610) and  
Lynne Avenue Pedestrian Path Design (CIP No. 832-4510)  
Prepared for the Town of Los Gatos  
Prepared by Dillingham Associates Landscape Architects

May 18, 2023

Key:  
**Items in bold (Arial) are total fees per task phase.**  
Items in blue show subconsultant fees.  
Items in orange show proposed Deliverables.

### Approach & Understanding of Each Project

#### **Pinehurst Community Garden**

Municipal community gardens have become increasingly popular in the past ten years, a movement that increased during pandemic conditions. Santa Clara has recently opened the Eddie Souza Community Garden on the San Tomas Aquino Creek Trail, which has classes and a wait list for plots. Cupertino is currently building a new community garden in Wilson Park. Under-utilized parcels such as the Pinehurst lot are a perfect opportunity for a use that creates a community gathering place, as well as a new civic facility.

The groundwork for the community garden project has already been laid with the support of a community that has already developed a preliminary site layout. This effort suggests that the process of outreach and engagement can be a productive one. The sketch plan creates a good starting point for discussion of program, size, scope, function, and adjacencies. Preliminary comments from PG&E and from Ninyo & Moore also provide clear guidance for design constraints and for outreach meeting agenda items.

The key task for this type of project is the ability to listen and respond to community ideas and concerns. The neighborhood has already invested energy into this project, and they will be the workers who will maintain the garden, and over time will curate the site into a unique garden. More so than many park projects, a community garden is an opportunity to incorporate the public's vision into its physical form.

The proposed program is relatively straightforward, buildable and feasible. We can support the current program, but will endeavor to work with community members to verify whether any additional elements may be feasible.

While preliminary comments from PG&E and from Ninyo & Moore provide guidance, they also pose design challenges. We are fortunate to be able to partner with Christian Macke of 122 West landscape architects, who have a deep portfolio of community garden projects built upon extensive outreach processes.

After preliminary conversations with Ninyo & Moore, we propose to work with their team to refine the boundary of food operations, by further analyzing the limits of organochlorine pesticides (OCP) in the soil. Organochlorine pesticides were used extensively from the 1940s through the 1960s in agriculture and mosquito control, but due to both their environmental persistence and neurotoxicity, their use has been banned or greatly reduced in the last decades. We propose to sample and analyze three (3) additional borings, and to provide a sequential analysis, which can be used to potentially save lab costs, pending results.

Beyond the basic amenities shown in the Sample Layout diagrammatic plan, many enhancements could

be considered.

- The meeting area can be planned and designed to be an outdoor classroom, a small plaza, and a setting for group meetings. Many good ideas and discussions come from informal gatherings and chance encounters.
- The garden would benefit from both informal seating areas, and one or more larger group areas.
- An attractive entryway and signage can provide a new neighborhood landmark and site identity.
- The type of buffer interface between the garden and adjacent residences should be considered, despite the small site area.
- Storage for group and personal gardening tools will be useful.
- Parking for site managers, and optionally also for gardeners.
- Shaded seating and/or gathering areas.
- Storage of compost, soil, mulch and other materials.

While limitations from PG&E and Valley Water, among others may impact the plan and project, we are passionate to advocate for a design that the community backs, to the extent that it is feasible in terms of costs and permissions. This garden can create an opportunity and a public space that Los Gatos does not yet have. The proposed garden and path, along with Howes Play Lot, will create a unique greenway with a sequence of experiences.

Most proposed planting will be in raised planter beds, the design of which allows for very low risks from any remnant soil pesticides (Organochlorine pesticides) due to the ease of installing a soil cap and importing soil as a growing medium. A soil cap could come in the form of clean soil, or a concrete slab, or a combination of the two throughout the site. It is not advised to pave a concrete slab base for the entire garden; however, a concrete cap might form an entry plaza, a driveway, or a work space while portions of the remainder of the site would be capped with only clean soil, a geotextile fabric, and optionally a wire mesh.

### **Lynn Avenue Pedestrian Path**

This parcel has the potential to act as a bridge, connecting the Howes Play Lot with the new community garden. Depending on the results of community outreach and input, our approach to the design may be relatively straightforward. The plan would prioritize visibility of the pathway from streets at both ends. In addition to the pathway, some amenities that may be desired may include the following:

- compacted crushed rock jogging path;
- benches;
- trash containers at either end of path;
- drought-tolerant plantings;
- temporary irrigation for plant establishment
- pedestrian / security lighting. Amenities, including lighting, would not be located near residences in order to minimize impact on neighbors.

For a unique parcel such as this, some considerations should be taken during design:

- The existing site has easements for both PG&E overhead electric lines and for Valley Water pipelines, with minimal existing vegetation.
- whether easements, utilities and site conditions may limit the location of a paved pathway within the parcel. Our office would assist the Town with coordination with each utility agency, and all other stakeholders.
- any need, by the Town or other agencies, to have limited control of public access to the parcel;
- specific limitations on pavement structures, trees and shrubs, and new irrigation infrastructure within the right-of-way;
- design limitations related to security visibility or fire access;
- limitations on any additional site furnishings and amenities, such as benches, signs, and lights.

After preliminary conversations with Ninyo & Moore, we believe that the possible presence of orchard pesticides (OCPs) on this parcel does not pose a risk to users of a pathway. However, as our site knowledge is still preliminary, we have included a fee allowance for testing for budgeting purposes.

## Description of Scope Tasks

### **Task 1 – Project Management**

Project management for planning and design projects encompass the key project areas of schedule, fees, communications, team management, scope coordination, and quality control. Below is an outline of related proposed tasks. See the Fee Proposal worksheet for more details.

- Develop Project Work Plan;
- Management of team sub-consultants;
- Site Analysis and Background Documents Review;
- Attend (2) Field Meetings / Site Visits (including travel time);
- Attend up to (2) Coordination Meetings with Town and other agencies involved the project, including PG&E, Santa Clara Valley Water (SCVW), and San Jose Water.
- Attend one (1) Coordination Meeting with Town’s Staff Arborist. Subconsultant Arborist scope is included below in Task 2
- Preparation of Meeting Notes;
- Quality Control reviews.

Coordination efforts with PG&E and with SCVW will have the objective of determining restraints on site design, such as construction limitations, minimum access needs, and site security. A second objective will be to seek the utility districts’ guidance on the best ways to meet project needs, such as shaded gathering spaces and tool storage, within the standard restrictions.

*Deliverables: Project Management/Work Plan, addressing schedule, communications, team roles, and review process; Meeting Minutes.*

**Task 2 – Site Analysis**

- A. Topographic & Boundary Survey
- B. Supplemental Soil Toxicology Analysis
- C. Consulting Certified Arborist
- D. Horticultural and Fertility Soil Analysis

Task 2, Dillingham Associates tasks

In addition to the sub-consultant tasks shown below, Site Analysis tasks to be performed by the prime consultant include preparation of Base Maps, development of Site Inventory Plans, and development of Opportunities & Constraints Plans. These plans will be developed based upon site information provided by subconsultants, and verified by one or more site visits.

Per our standard practices, we will submit a soil sample from the West Parcel site to a lab for horticultural planting analysis. This task and analysis is separate from Task 2C, below to expand upon previously performed soil toxicity analyses.

Task 2A) Topographic & Boundary Survey

As shown in our fee proposal, we will prepare topographic and boundary survey mapping for both sites, what are labeled in this proposal as the West Parcel, the site of a future community garden; and the East Parcels (two parcels), the site of a future pathway. We propose to complete the survey field work simultaneously for both project sites, while keeping the fees for each project clear and separate. Note that Lynn Avenue itself will not be included in the topographic surveying scope area, as this project does not propose new sidewalks along Lynn Avenue. Rights-of-way and easements will be defined from record maps and documents supplied by PG&E and by the Santa Clara Valley Water District. The survey will include surface utilities, fences, approximate location of overhead utility wires, crosswalks, signs, curb, gutter, sidewalk, trees over 4-inches in diameter, driveways and gates. Sufficient number of spot elevations will be taken to generate 1-foot contours.

Topographic surveying fee, for multiple sites, with subconsultant PLS Surveys is shown in the Fee Summary Table. Figures include 10% prime management fee. See also proposal from PLS Surveys, Inc.

Task 2B) Consulting Certified Arborist Services

We propose to work with our Arborist subconsultant Molly Batchelder of SBCA Tree Consulting in Crockett. The arborist will survey all trees on site that are over 4-inches in diameter (estimated to be 10-15 trees). The survey will include a Tree Location Map, and will record data on the species; DBH; height; spread; health and structural condition; suitability for retention; pruning or health mitigation recommendations; Root Protection Zones (RPZ); and other pertinent arborist notes. A summary report will contain pre-construction health mitigation recommendations, commentary on tree retention suitability, and replacement species suggestions.

The Arborist fee includes any needed coordination with the Town’s staff arborist or Tree Division, as needed.

We do not propose to file for Tree Removal Permits during the 35% phase of work.

The Arborist will also make recommendations to the Town for treatment of neighboring tree branches which encroach into the project parcels across fence lines.

If needed, the Arborist would assist in coordination with PG&E and/or SCVW to discuss tree trimming and removal requirements.

We propose to complete the Arborist consulting work simultaneously for both project sites, while keeping the fees for each project clear and separate.

Arborist services fee, for each project, with subconsultant SBCA Tree Consulting, is shown in the Fee Summary Table. Figures include 10% prime management fee.

Task 2C) Supplemental Soil Characterization Analysis – Garden site only

The Town is already in possession of a 2022 Soil Characterization Report by Ninyo & Moore, for the West Parcel, for the proposed Pinehurst Community Garden site. The objective was to assess the lateral and vertical extent of soil impacts from constituents of concern, including organochlorine pesticides (OCPs). Previously, samples from four boring locations were analyzed, and OCPs were present in notable quantities at boring location B-4. Subsequently, in April 2022, samples from four ‘step-out’ borings near location B-4 were also analyzed.

In order to refine the location of pesticides, the proposed additional soil analysis would include soil sampling analyses of (4) new borings, at 3-ft depth, with (2) samples per boring location. Samples will be analyzed for the presence of organochlorine pesticides (OCPs), and Title 22 Metals. The additional analysis work would be performed at the same screening level as the 2022 work, a Tier 1 Environmental Screening Level (ESL), a level that is used for ‘terrestrial habitat,’ such as park land projects.

We have also listed an additional optional task below for Risk Assessment and Statistical Analysis.

Soil assessment fee, for the West parcel only, with subconsultant Ninyo & Moore is shown in the Fee Summary Table. Figures include 10% prime management fee.

The future program for the Lynn Avenue Pathway project at the East Parcels is less determinate. As such, we propose that the Town defer the task of soil testing and toxicology analysis within the East Parcels until both a site program and a master plan or conceptual design plan are available. The program and concept plan will allow the Town to determine whether soil testing is advisable, what type of testing, and in which locations. Under similar project conditions, the site is often not tested until construction is near.

*Deliverables: Boundary and Topographical Survey; refinement of Soil Analysis; Risk Assessment and Statistical Analysis; Arborist report and supplemental comments; Horticultural lab test recommendations; Site Inventory Plan; Opportunities & Constraints Plan.*

### Task 3 – Community Engagement

We propose to lead the Town’s efforts to prepare outreach materials, graphics, meeting agendas, presentations, and meeting minutes. In addition, we will prepare for and moderate three community meetings, either in-person or virtual, and will work with the information the Town has and the Town’s methods of communicating with neighbors and other interested parties. Techniques vary for working with different size groups vary, particularly in reference to feedback from the audience. With smaller groups, it is easy to have direct back and forth conversations about concerns. With much larger groups, the interaction needs to be more structures such as advance delivery of questionnaires and responses so that complex issues can be addressed at the actual meeting. Our subconsultants will help lead these meetings.

Both the Garden project and the Pathway project would be addressed at each meeting described below, with a joint agenda. Because the Garden project already has some level of community support and awareness, the joint nature of the two projects makes for an excellent opportunity to for joint meetings. This format would likely provide a great form of public input for the Lynn Avenue Pathway project, input that would be difficult to provide if the two projects did not hold joint meetings. One likely scenario is that community members may attend meetings about the Garden project, and would stay to be able to provide input and comment on the Pathway project. However, the meeting agendas should be designed with the understanding that the type of input needed for each project is quite different.

The Garden-related meeting agendas are described below. However, the Pathway-related meeting agendas are not yet developed. The breadth of the Pathway agenda should be developed in concert with Town staff. Because this project is still more preliminary than the Garden project, the meeting agenda will require discussion to determine whether to focus on Phase One improvements, long-term options, or both. Below are some optional meeting topics:

- Assessment of local recreation opportunities;
- Site Analysis;
- Goals and Objectives;
- Site Program, including passive and/or active recreation;
- Constraints and Opportunities of Site and Program;
- Support elements, including parking, circulation, buffers at neighboring properties, noise, and lighting; Development Phasing, Schedule, and Costs.

Our subconsultant landscape architects, garden design Christian Macke and trail designer Sofia Zander, would assist with early Community Engagement meetings, as they have extensive experience in public engagement. Their efforts would focus more upon the community meetings than on the Parks Commission meetings.

In our experience, two to three outreach meetings form a minimum or baseline for community outreach. If special conditions warrant additional outreach meetings, the consultant scope and fee can be discussed and negotiated. There is little reason at this point to believe that additional outreach meetings would be needed during later stages of design (e.g. 65%, 100%), but the question should be considered once the final design stage has commenced.

Meeting no. 1 would be a pre-design kickoff discussions for the community. The Garden agenda would allow the Town to inform the public about the project background, including site opportunities and constraints, schedule, budget, soil limitations, program limitations, and easement limitations. The Garden agenda would also allow garden users to inform the Town of the desired programs, elements, types and scale of urban



agriculture programs, and any concerns they may have. Depending on the number of participants, small groups could be formed for sketching and brief discussion, and then ideas could be summarized as a large group. To generate more discussion, consultants may show images of related Urban Agriculture programs that other communities have built.

Meeting no. 2A would allow the consultants to present to the community one or more concept plans which synthesize and clarify the ideas discussed in Meeting no. 1. One or more sketch plans would be presented for discussion. A key goal of the meeting is to build consensus. Meeting no. 2B would present to the Parks Commission a summary of this Meeting 2A.

Meeting no. 3A would allow the Town to provide a final or nearly final preferred plan, at a point after most coordination issues have been resolved with utility districts and subconsultant site analyses. A Phasing Plan or a draft Phasing Plan has been prepared. Concerns have been addressed. A preliminary cost estimate has been prepared. Again, one goal is to report, and another is to build consensus. Meeting no. 3B would present to the Parks Commission a summary of this Meeting 3A.

#### Subconsultant Fees

Fees shown for this phase include fees for our subconsultant landscape architects, Christian Macke and Sofia Zander. Their fees are not shown here, to allow for better project flexibility; their fees are approximated on the Fee Worksheet. This arrangement will allow the design team to adapt to project needs for their expertise as they arise, and to allow the team members with the most capacity to undertake relevant tasks.

#### Design Work

Much of the related tasks of Conceptual Design and illustration for these Community Meetings is shown under Task 4, below.

*Deliverables: Meeting facilitation, outreach graphics (including Design Concepts or Alternates), presentations, meeting agendas, meeting minutes, fliers or handouts, surveys, etc.*

#### **Task 4 – Conceptual Design and 35% Design Services**

Each project will result in a separate 35% design packet, and separate cost opinions will be prepared for each project. Each project will require separate Phasing Plans. See the Approach & Understanding section above which provides additional relevant details for these two projects.

#### **Pinehurst Community Garden**

A kick-off meeting will be held with Town staff. A project management plan will be presented and reviewed, including project schedule and milestones. The site analysis steps will be reviewed, and the Community Engagement will be developed beyond what is shown in this document.

The input generated during the Community Engagement phase will be used to guide work during the Conceptual Design and during the 35% Design plan. The goal during this stage is to advocate for the community's vision as best possible, within the constraints of costs and permissions.

The work that falls under Site Analysis Task B1 above (Soil analysis and refinement of pesticide location) will allow the design team enough site information to better define which parts of the site will require programs that separate the users from toxic soils, such as driveways and paved areas.

The Concept Plan will be prepared to allow consensus with Town staff and with the community and the Parks Commission. The following criteria and elements will guide design at this stage:

- Site Programming
- Utility District restrictions
- Relation with East Lot
- Bed locations
- Dwarf tree planting
- Gathering space(s)
- Neighbor buffer zones
- Parking
- Fences and gates
- Work (lay-down) space
- Tool storage (also wheelbarrows)
- Layout that is feasible with plant needs (light, soil, space, height)

Work for the final 35% plan would develop the consensus Concept Plan, and refine it to allow the Town and consultant to develop a well-defined work scope for final 100% plans, specifications, and estimates. This stage would focus on further criteria and elements:

- Staff availability for classes and site events;
- Define planting bed sizes;
- Size of gathering spaces and informal seating locations, and amount of shade;
- Entryway scale and signage;
- Parking capacity in alignment with anticipated need;
- Visibility and adoption of CPTED practices;
- Size of buffer spaces between garden and neighboring properties;
- Define size of areas with use restricted by utility districts;
- Tree protection measures;

- Water and hose locations;
- Define vehicle unloading and lay-down spaces;
- Define soil storage area;
- Define tool storage type and area;
- Material selection and level of finish;

Examples of design tasks that would be excluded from this stage include irrigation design; soil specifications; and construction details.

*Deliverables:*

*Program Diagram; Final Concept Plan; 35% Design Plan, 35% Cost Opinion; project Phasing Plan.*

### **Lynn Avenue Pedestrian Path**

The proposed garden and path project, along with Howes Play Lot, would create a unique greenway with a sequence of experiences.

A kick-off meeting will be held with Town staff. A project management plan will be presented and reviewed, including project schedule and milestones. The site analysis steps will be reviewed, and the Community Engagement will be developed beyond what is shown in this document.

A summary of existing conditions will be prepared, based on site visits, and on the work of the land surveyor, the Geologist and toxicologist, the soil lab report, and the project Arborist.

During the Community Engagement process, existing local recreation opportunities in the neighborhood will be assessed and evaluated, to allow informed consideration of possible new passive and active recreation programming. A Site Assessment and Analysis will then be developed based upon the public meeting notes and Town staff input. Constraints and opportunities will be presented for optional passive and active recreation uses. This analysis will include review of Town policies and maintenance capabilities.

The final Concept Plan will show proposed site programs, locations, approximate scale, and relationships between programs.

The 35% Design Plan will include a Cost Opinion, a Phasing Plan, and a range of possible timelines.

### Concept Design Alternatives

Our process for this phase of design will be to prepare several alternative plans or concepts to elicit ideas and comments from the audience of neighbors and other interested participants. The result may be the selection one or another of alternative ideas or some combination of ideas into a preliminary plan.

### 35% Design Documents

Based on comments at the public meetings as well as any comments received by mail or email, we will synthesize the ideas from the public as well as those from the Town and our own into one or more options or alternative plans. These will be reviewed with Town staff for consistency of intent with the comments and feasibility with project requirements. Important design details will be developed and included as part of the 35% project documents.

Optional Master Plan Design Report

The future program for the Lynn Avenue Pathway project at the East Parcels is less determinate than that of the Pinehurst Community Garden. Because of this difference in project progress, the Town may feel it helpful or necessary to invest more planning and design effort in this project in the form of a Master Plan design report. A report would allow for more in-depth discussion of short-term and long-term developments, in both graphical and narrative form. Topics of discussion would likely include project Goals and Objectives; Site Analysis and Existing Conditions; Master Plan including organizing ideas, parking, circulation, buffers at neighboring properties, noise, and lighting; Program Development; Facilities Development; and Development Phasing, Schedule and Costs.

This work is out of scope for Taks 4. See description of Optional Tasks below.

Subconsultant Fees

Fees shown for this phase include fees for our subconsultant landscape architects, Christian Macke and Sofia Zander. Their fees are not shown to allow for better project flexibility. This arrangement will allow the design team to adapt to project needs for their expertise as they arise, and to allow the team members with the most capacity to undertake relevant tasks.

*Deliverables:*

*Final Concept Plan; 35% Design Plan, 35% Cost Opinion; project Phasing Plan.  
Optional Report deliverable: Master Plan design report.*

### **Task 5 – Final Design and Construction Documents**

Scope for this task has not yet been developed.

### **Task 6 – Bid Award and Construction Administration**

Scope for this task has not yet been developed.

### **Optional Tasks**

#### Optional Task A - Pinehurst Community Garden – Risk Assessment and Statistical Analysis

For the Pinehurst Community Garden site, most proposed planting will be in raised planter beds. The design of the raised beds allows for very low risks from any remnant soil pesticides (Organochlorine pesticides) due to the ease of installing a soil cap and importing soil as a growing medium.

Our preliminary site assessment has indicated that the site would benefit from tree crops, which form a good buffer at neighboring properties, and provide more definition and interest to many gardens. At the same time, our review of PG&E's Impact Letter (dated 2/3/2023) indicates that this would be acceptable along the border of the transmission line right-of-way, so long as such trees are dwarf species no taller than 10-feet.

For tree planting specifically, a Risk Assessment and Statistical Analysis performed by Ninyo & Moore could provide the Town with some environmental liability protection. If the Risk Assessment outcome is unfavorable, the result would provide guidance to not plant trees, and if the outcome is favorable, it would provide some liability protection. Tree crops, in theory, could benefit from a Risk Assessment. Be aware that most tree fruits and crops are not the locus where toxins are found, as they tend to concentrate in tree leaves and other parts of the anatomy. If the risk assessment demonstrates the site to be unsafe, we would work with Ninyo & Moore to propose and evaluate solutions such as complete soil remediation (excavation and disposal), capping of toxic soil areas, and limiting garden use to only raised planters.

We are showing an optional task for Ninyo & Moore to prepare a Risk Assessment and Statistical Analysis. Optional Task 1 would include sampling of 10 new borings, laid on a grid, with collection of two samples per boring, to have sufficient data set for a statistical analysis. By proposing likely future crops, the analysis would allow us to complete a risk assessment of those crops, yielding the probability that a toxin of concern would reach that crop or would reach a garden user.

Risk Assessment and Statistical Analysis fee, for the Pinehurst Community Garden on the West parcel only, including 10 new borings and 20 samples, with subconsultant Ninyo & Moore is shown in the Fee Summary Table. Figures include 10% prime management fee.

Optional Task B - Illustrated Perspective Renderings (for either or both projects)

Optional Task C - Lynn Avenue Pedestrian Pathway Master Plan design report

Topics of discussion would include project Goals and Objectives; Site Analysis and Existing Conditions; Master Plan including organizing ideas, parking, circulation, buffers at neighboring properties, noise, and lighting; Program Development; Facilities Development; and Development Phasing, Schedule and Costs. See narrative description above for more details.

**Standard Project Procedures and Disclaimers**

*Submittal to Planning Department or Planning Commission is not within scope.*

*CEQA, NEPA, Environmental or other regulatory permitting is not within scope.*

*C.3 stormwater calculations and mitigations, and preparation of stormwater control plans are not included, and no civil engineering work is within scope.*

*Structural engineering, inclusive of wall design, is not within scope.*

*LEED, SITES, GreenPoint, and Bay-Friendly certifications have not been included.*

*Section 508 Document Remediation services are not within scope.*

*Additional revisions will be charged at hourly rates; as stated elsewhere in this proposal; or as agreed with client.*

*Project is subject to review by only those agencies and entities explicitly noted in this proposal.*

*Additional meetings, site visits, submittals, and revisions shall be billed at hourly rates shown on Fee Worksheet.*

*Only those subconsult tasks and fees shown have been included in this proposal. Other subconsultant tasks are excluded, including but not limited to civil engineering, architecture, electrical engineering, geotechnical engineering, structural engineering, environmental permitting, CASp access consulting, and irrigation design.*

*If significant findings are made regarding the existing site conditions that affect the scope of the landscape architect's work, the contract scope and fee shall be re-negotiated.*

**Fee Summary**  
**Pinehurst Community Garden Design (CIP No. 831-4610)**

<b>Task number</b>	<b>Task Name</b>	<b>Lump Sum Fee</b>
1	Project Management	\$ 3,038
2	Site Analysis	\$ 1,355
2A	Topographic & Boundary Survey	\$ 3,080
2B	Consulting Certified Arborist Services	\$ 1,650
2C	Supplemental Soil Toxicology Analysis	\$ 11,000
3	Community Engagement	\$ 12,125
4	Conceptual Design and 35% Design	\$ 32,995
DC	Direct Costs, maximum not-to-exceed	\$ 850
<b>PROJECT TOTAL</b>		<b>\$ 66,093.00</b>
Items not included in this current contract		
Optional Task A	Pinehurst Community Garden – Risk Assessment and Statistical Analysis	\$ 44,000
Optional Task B	Illustrated Perspective Renderings, fee per rendering	\$ 4,000

Fees shown include prime consultant management fees of subconsultants.

**Fee Summary**  
**Lynn Avenue Pedestrian Path Design (CIP No. 832-4510)**

<b>Task number</b>	<b>Task Name</b>	<b>Lump Sum Fee</b>
1	Project Management	\$ 3038
2	Site Analysis	\$ 1195
2A	Topographic & Boundary Survey	\$ 3630
2B	Consulting Certified Arborist Services	\$ 1650
3	Community Engagement	\$ 12,125
4	Conceptual Design and 35% Design	\$ 32,995
DC	Direct Costs, maximum not-to-exceed	\$ 500
<b>PROJECT TOTAL</b>		<b>\$ 55,133.00</b>
Items not included in this current contract		
Optional Task B	Illustrated Perspective Renderings, fee per rendering	\$ 4,000
Optional Task C	Master Plan design report	\$ 10,000

Fees shown include prime consultant management fees of subconsultants.

## Schedule

### **1. Project Start-up / Project Management**

Project start date anticipated in July 2023. Start-up tasks duration of (6) weeks. Project management tasks continue throughout project.

Provide regular updates to the Town's project manager, including a coordination meeting with Town and other agencies involved, meeting agendas and minutes. Conduct field visits and site analysis as well as reviewing project existing documents to fully understand project background and to develop a work plan.

### **2. Topo Survey and Soil Analysis**

Allow (1) month, Concurrently with Task 1. Start July 2023

### **3. Community Engagement**

Allow (3) months. Concurrently with Task 4. Start September 2023

Assistance in outreach efforts; facilitation of community meetings (both in-person and video); presentation of design concepts and graphics to the public.

### **4. Conceptual Design Options**

#### **4A . Conceptual Design Options:**

Allow (1) month. Start September 2023

Comment and Feedback Turnaround

Allow (2) weeks for comments and feedback turnaround

Document Revisions after Comments from Community and Town Parks Commission Allow

(2) weeks for comments and feedback turnaround

#### **4B. 35% Design**

Allow (10) weeks. Start January 2024 Design

Package Submittal

Comment and Feedback Turnaround

Allow (2) weeks for comments and feedback turnaround

Document Revisions after Comments from Community and Town Parks Commission Allow

(2) weeks for comments and feedback turnaround

### **5. 100% Project Completion**

April 2024



**Fee Summary**  
**Pinehurst Community Garden Design (CIP No. 831-4610)**

<i><b>Task number</b></i>	<i><b>Task Name</b></i>	<i><b>Lump Sum Fee</b></i>
1	Project Management	\$ 3,038
2	Site Analysis	\$ 1,355
2A	Topographic & Boundary Survey	\$ 3,080
2B	Consulting Certified Arborist Services	\$ 1,465
2C	Supplemental Soil Toxicology Analysis	\$ 13,200
3	Community Engagement	\$ 12,125
4	Conceptual Design and 35% Design	\$ 32,995
LUMP SUM TOTAL		\$ 67,258
Direct Costs, maximum not-to-exceed		\$ 850
<b>TOTAL PROJECT FEE</b>		<b>\$ 68,108</b>
Items not included in this current contract		
Optional Task A	Pinehurst Community Garden – Risk Assessment and Statistical Analysis	\$ 44,000
Optional Task B	Illustrated Perspective Renderings, fee per rendering	\$ 4,000

**Fee Summary**  
**Lynn Avenue Pedestrian Path Design (CIP No. 832-4510)**

<i><b>Task number</b></i>	<i><b>Task Name</b></i>	<i><b>Lump Sum Fee</b></i>
1	Project Management	\$ 3,038
2	Site Analysis	\$ 1,195
2A	Topographic & Boundary Survey	\$ 3,630
2B	Consulting Certified Arborist Services	\$ 1,465
3	Community Engagement	\$ 12,125
4	Conceptual Design and 35% Design	\$ 32,995
LUMP SUM TOTAL		\$ 54,448
Direct Costs, maximum not-to-exceed		\$ 500
<b>TOTAL PROJECT FEE</b>		<b>\$ 54,948</b>
Items not included in this current contract		
Optional Task B	Illustrated Perspective Renderings, fee per rendering	\$ 4,000
Optional Task C	Master Plan design report	\$ 10,000

All fees shown include prime consultant management fees of subconsultants.