

DRAFT AGREEMENT FOR EXTERNAL JUSTICE, EQUITY, DIVERSITY, AND INCLUSION CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on August 18, 2021 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and ALF Insights, American Leadership Forum, ("Consultant"), whose address is 1400 Parkmoor Avenue, #280, San Jose, CA 95126. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 The Town desires to engage Consultant to provide external/community Justice, Equity, Diversity, and Inclusion (JEDI) consultant services.
- 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 Scope of Work, Timeline, and Fee Schedule sent to the Town on August 9, 2021, which is hereby incorporated by reference and attached as Exhibit A. Services include engagement with Town partners and Town leadership to assess the level of understanding of JEDI services and identify barriers and opportunities; recommendations, metrics and objectives for ongoing engagement with the community; an assessment of gaps and blind spots to identify clear overarching goals for the Town's efforts; and coaching support for Town staff.
- 2.2 Term and Time of Performance. This contract will remain in effect from August 18, 2021 to February 28, 2022. Consultant shall perform the services described in this agreement as follows:

Phase I: Discovery: September – November 2021
Phase II: Implementation: December 2021 – February 2022
Advisement/Management: Throughout duration of contract
- 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 \$54,000**, 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: 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 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

American Leadership Forum Silicon Valley
1400 Parkmoor Avenue, #280
San Jose, CA 95126

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:

Laurel Prevetti, Town Manager

Approved as to Form:

Robert Schultz, Town Attorney

Printed Name and Title

Attest:

Shelley Neis, MMC, CPMC
Town Clerk

Town of Los Gatos Justice, Equity, Diversity, and Inclusion (JEDI) Project

ALF Insights, American Leadership Forum Silicon Valley

Scope of Work Revised

Overall Approach and Philosophy ALF Insights (ALFI) is committed to bringing groups of people together in spaces of productive tension in order to build deeper relationships that lead to the creation of powerful community impact. ALF Insights knows, through its many years of working with diverse groups, that the creation and maintenance of relationships is critical for the success of any impact-based team. In order for members of a team to begin to engage with the work at hand, they have to be able to successfully take risks with each other in order for the ultimate products to have full buy-in and be responsive to the organization's and the community's needs. The ability for members to authentically share their personal and professional value propositions, and to seek common ground, is inherently connected to the quality of relationship within the team.

Along with developing the community's ability to have productive dialogue, ALF Insights layers into this work an intentional lens of race equity through an analysis of power and education on root cause analysis. This work, done in networks designed to create impact, is essential to the final products. *In order to achieve this, ALF SV works to design a highly personalized program that will move both relationships and impact forward.* It is important to note that this is not a linear process as vigorous, generative impact teams are a picture of evolving social relationships **AND** a robust platform for sustained production and impact.

Implementation and Mechanisms for Engaging the Community

ALFI intends to scope the work on the first two priority work items listed in Addendum No.2. As we look to engage the groups identified in the RFP, ALFI believes it is crucial to create a replicable framework for community engagement that will stand the test of time. This is not only good for community relationships, it allows for more efficient activation processes to gain input from the people of Los Gatos utilizing an already developed network of leaders from across the community.

As ALF considers the **spectrum of engagement**, we look at the following framework:

- **What is the intent or purpose of the engagement?** (Inform, Educate, Collaborate, Input)
- **What is the process for ensuring diversity of feedback within manageable settings?** (Authenticity, Technological Solutions, Leveraging Existing Networks, Effective Meeting Structures)
- **What is the feedback mechanism to and for the community?** (Transparency)
- **What is the engagement plan for the life of the project?** (Approval, Build, After Build)

Having the Town of Los Gatos consider this framework from the beginning is critical to creating a frame that sets up the community for productive dialogue across differences of opinion. It also sets up the community to be a part of an on-going process of engagement, improves relationships between the Town of Los Gatos and community groups, and allows for the Town to realistically resource the engagement end of their projects. The creation of a core impact network and sustained community engagement model allows for the development of critical relationships across different sectors, spheres

Exhibit A

of influence, viewpoints and methodologies. These dialogue and engagement opportunities will ultimately support the Town of Los Gatos in the realization of the 2021 JEDI Plan.

Overall Project Goals ALFI believes that this work happens over time, is not linear, and takes an emphasis on authentic engagement, high quality dialogue across spaces of tension and difference and clear goals and outcomes. The goals below are based on Priority Work Areas #1 from Addendum No. 2.

- To strengthen the 2021 work plan with goals, objectives, and metrics for efforts externally with the broader community through leveraging current Town partnerships and identifying new partners. This includes specifically:
 - Building out engagement to include more Black, Indigenous, and People of Color.
 - Continuing community conversations in 2021, including a review and discussion of the Police Department's Use of Force Policy and other topics as identified.

Detailed Scope of Work, Timeline and Fee Schedule

The scope of work for this project is based on the above listed overall goals. The intent of the scope is to provide clarity for both ALFI and the Town of Los Gatos (TLG) about expectations and deliverables against the stated goals. ALFI recognizes that over the course of a project, things may occur that require the project to pivot in a new direction or by the same token, demonstrate restraint in which direction to focus on. The costs indicated below are a reflection of both the scope and this need to be nimble and responsive to the needs of the project. Please note that the main point of contact will be Jenny Niklaus, ALFI Principal. She will coordinate the work of all faculty that are used for the project. The roles of the faculty will be refined through the final negotiation process. The cost and timeline below is based on a six month engagement. Please note that we believe in order for this project to be successful, it will require 12-24 months of work. As it is scoped now, there is no plan for the engagement of the community beyond the initial discovery phase.

<u>Phases</u>	<u>ALF Insights Project Management and Facilitation</u> <u>Town of Los Gatos JEDI Services</u>
<u>Work Streams</u>	<p>Discovery</p> <ul style="list-style-type: none"> • Engage community partners and stakeholders through meetings with the group and group leaders to assess their level of understanding the current JEDI efforts, identify barriers and opportunities and create buy-in to the process. <ul style="list-style-type: none"> ○ Community groups include the Los Gatos Chamber of Commerce, Los Gatos Anti-Racism Coalition, faith-based organizations, service organizations, Los Gatos Saratoga Recreation, local schools, and other identified community leaders. <p>Implementation</p>

	<ul style="list-style-type: none"> Based on the recommendations gleaned through the discovery process, ALFI will set up metrics and objectives for the on-going process of engagement and dialogue with the community. Based on the engagement detailed above, ALFI will provide an assessment of gaps and blind spots in order to identify clear overarching goals for the Town's efforts. Advisement/Management <ul style="list-style-type: none"> Work with the City Manager and city staff to provide coaching around the implementation of the project. Meeting and coordination for the project
<u>Deliverables</u>	Discovery <ul style="list-style-type: none"> Conduct meetings with community partners and city leadership and produce a written report that identifies the level of understanding of the current JEDI efforts and the barriers and opportunities that are perceived by the various groups. Make recommendations as to next steps in the development of the JEDI goals and on-going engagement structure for the community. Implementation <ul style="list-style-type: none"> Deliver structure and objectives for the on-going process of community engagement. Deliver an assessment of gaps and blind spots within the plan along with recommended additions, deletions and points of clarity in the plan. Advisement/Management <ul style="list-style-type: none"> Provision of coaching support for city staff Planning and coordination meetings with city team, other consultants and ALFI team
<u>Total Cost</u>	\$54,000

Town of Los Gatos: JEDI Plan Timeline and Fee Schedule Revised

Year	Month	Deliverables	Team Member	Cost
2021-2022	3 months: Discovery	Conduct meetings with community partners and city leadership and produce a written report that identifies the level of understanding of the current JEDI efforts and the barriers and opportunities that are perceived by the various groups.	Jenny Niklaus (40 hours per month)	\$20,000
		Make recommendations as to next steps in the development of the JEDI goals and on-going engagement structure of the community.	2 Faculty (20 hours per month)	\$10,000
	2-3 months: Implementation	Deliver structure and objectives for the on-going process of community engagement.	Jenny Niklaus (40 hours total)	\$7,000
		Deliver an assessment of gaps and blind spots within the plan along with recommended additions, deletions and points of clarity in the plan.		
	Advisement/Management	Provision of coaching support for city staff	Jenny Niklaus (16 hours per month)	\$17,000
		Planning and coordination meetings with city team, other consultants and ALFI team		
				\$54,000