



Town of Los Gatos

REQUEST FOR QUALIFICATIONS

**INDEPENDENT POLICE AUDITOR
INVESTIGATION SERVICES**

Date Issued: February 19, 2021

**Statement of Qualifications Deadline:
Wednesday, March 10, 2021 by 5:00 p.m.**

Issued By: Town of Los Gatos
Town Manager's Office
110 E Main Street
Los Gatos, CA 95030
www.losgatosca.gov

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THESE FORMS MUST BE PRINTED OUT, COMPLETED AND SUBMITTED WITH THE STATEMENT OF INTEREST (SOQ):

- ATTACHMENT 1 - CONFLICT OF INTEREST STATEMENT
- ATTACHMENT 2 - NON-COLLUSION DECLARATION
- ATTACHMENT 3 - REFERENCES
- ATTACHMENT 4 - STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE
- ATTACHMENT 5 - SAMPLE CONSULTANT SERVICES AGREEMENT

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

<u>Activity</u>	<u>Anticipated Dates</u>
RFQ release	February 19, 2021
Pre-Proposal Meeting	None.
Deadline for Questions Submitted By	March 1, 2021
SOQ Submission Deadline (5:00 p.m.)	March 10, 2021
SOQ Evaluation	March 2021
Consultant Interviews/Presentations (if necessary)	March 2021
Contract Negotiations and Execution	April 2021

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

Laurel Prevetti
Town Manager
Town of Los Gatos
Town Manager's Office
110 E. Main Street
Los Gatos, CA 95030
Manager@losgatosca.gov

INDEPENDENT POLICE AUDITOR INVESTIGATION SERVICES

Statement of Qualifications Due: Wednesday, March 10, 2021, by 5:00 p.m.

Pre-Proposal Meeting: None.

Proposers may view and download this RFQ electronically from the Town's website at www.losgatosca.gov/2433/RFPRFQ. The Proposers are responsible for checking the Town's website for any updates and addenda related to this RFQ. For any questions or assistance, please reach out to the Town's contact.

A. PURPOSE

The Town of Los Gatos (Town) is seeking Statements of Qualification (SOQs) from qualified professional consultants (Proposers) to provide independent, objective, fair, and transparent review of citizen and internal complaints regarding the conduct of Police Department sworn personnel.

B. OVERVIEW

The Town of Los Gatos government is guided by the principles of Small-Town Service, Community Stewardship, and Future Focus.

The Los Gatos Police Department provides public safety services to Los Gatos and under contract to Monte Sereno. While the Town of Los Gatos has administrative oversight of the Department, it is referred to as the Los Gatos-Monte Sereno Police Department. Los Gatos and Monte Sereno are located adjacent to one another at the western edge of the Santa Clara/Silicon Valley. Los Gatos is 13 square miles with a population of approximately 31,000 people and Monte Sereno is 1.5 square miles with a population of 3,500 residents.

The Los Gatos-Monte Sereno Police Department is committed to ensuring public safety consistent with its Core Values of integrity, compassion, and professionalism. The Department's goals are to:

- Provide exceptional Law Enforcement services,
- Build community partnerships, and
- Engage the community in problem solving

The Chief's executive team consists of two Captains (Operations Captain and Support Services Captain). The Department has an authorized staff of 39 sworn officers and 21 civilian employees. In addition, the Department has approximately 150 active citizen volunteers who contribute to the strong police/community partnership, which is a hallmark of the

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Department's organizational and operational philosophy. Sworn personnel are trained in the most current methods of de-escalation of force, mental health crisis intervention, and other techniques designed to carefully resolve sensitive and challenging situations with an emphasis on compassion and procedural justice.

In November 2020, the Town Council voted to authorize the Town Manager to establish an Independent Police Auditor function with a panel of diverse rotating investigators. Summary reports without confidential information would be released to the public and the Los Gatos Town Council on a quarterly basis.

Through this RFQ process, the Town intends to select approximately five qualified investigators who would serve on a rotating basis to perform the services herein and independently investigate Police Department complaints submitted by the public or any other source. The Town intends to rotate the complaint work to various investigators to balance workload, ensure independent review, and maintain timely performance.

It is intended for the awarded consultant(s) to enter into an annual contract term with a maximum term and any subsequent amendments or modifications not exceeding five (5) years (i.e., terms: one year with four one-year renewals). The Town reserves the right to award more than one contract for the services.

Work of the selected consultant(s) will be overseen by the Town Attorney. Consultant(s) will be paid for the work completed to the satisfaction of the Town. Poor performance in terms of timeliness, thoroughness, or other factors will result in removal from the list of rotating investigators.

The volume of complaints and resulting investigative services is expected to vary from year to year and there is no guaranty as to a volume of work.

C. MINIMUM QUALIFICATIONS

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

1. All persons or firms who provide the investigative services shall have actual experience in conducting investigations of employee matters and shall demonstrate an understanding of Police Department procedures and standards of conduct. If a firm applies, all key personnel who would provide independent investigative services must be identified and each must meet the qualifications set forth in this RFP.

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2. Preference will be given to retired/former Judges, retired/former City Attorneys, and/or attorneys with expertise in employment law, criminal procedure, and the Public Safety Officers Procedural Bill of Rights.
3. Retired Police Command Officers who conduct Police agency investigations as a bona fide business are also eligible to apply.
4. Proposers need to demonstrate that they have no connection to the Los Gatos-Monte Sereno Police Department and its staff. Providing previous independent, Internal Affairs Investigations for the Town or Los Gatos-Monte Sereno Police Department would not be considered a conflict of interest.
5. Proposers should document their ability to work efficiently and effectively to investigate complaints thoroughly, objectively, and promptly.
6. Proposers should be able to prepare reports of their investigation methods, facts, and findings presented in a consistent format developed by the Town.
7. Proposers should be available and willing to travel to Los Gatos for services.
8. All proposers need to provide at least three references.

Furthermore, Proposers shall also comply with the following provisions:

1. Each Proposer is responsible for determining and complying with all applicable Town business licensing requirements.
2. Each Proposer is responsible for determining and complying with all applicable professional licensing requirements.

D. General Provisions and Requirements

1. The Consultant(s) must possess proper licenses to perform the services in the State of California.
2. Questions related to the contract administration matters should be directed to the Town's Contact.
3. The Consultant(s) shall maintain any key personnel throughout the entire duration of services; and therefore, the Consultant(s) shall conduct their business in a professional manner to schedule and support their personnel to provide the scope of services in a timely and professional manner. The Town must approve of any key personnel changes in advance through personnel qualifications review and oral interviews with Town staff.
4. The Consultant shall verify that all information submitted to the Town is up to the Consultant's professional standards and satisfaction. Note and report any discrepancies observed in the course of professional activities covered by the services.
5. Deliverables will be submitted in electronic format (PDF) and in native document formats such as Word, Excel, etc. unless otherwise specified.

E. Scope of Services

Los Gatos-Monte Sereno Police Department personnel are held to the highest standards of conduct both on and off duty. As a critical component in building and maintaining trust with the community, allegations of misconduct by sworn members of the Los Gatos-Monte Sereno Police Department must be investigated in a manner that is fair, impartial, independent, thorough and timely. An effective investigation process is intended to ensure that complaints about an Officer are heard, evaluated, and addressed, while protecting the Officer from false or malicious accusations. The role of the independent investigator Consultant(s) is to conduct the independent investigation and render findings based on the facts of the case.

The Consultant(s) shall provide the Town of Los Gatos with independent, objective, fair, and transparent review of citizen and internal complaints regarding the conduct of sworn Police personnel. A general outline of the process involved for each complaint received is provided below. Updates to this process may be completed as needed by the Town Manager, consistent with other Town procedures.

- a. The Town Clerk is the designated recipient of all complaints against sworn personnel via email, letter, phone call, or other mechanism. Any complaints received directly by the Police Department after normal business hours will be forwarded to the Town Clerk as soon as possible.
- b. Complaints will fall under the following classification system:
 - i. **Supervisory Referral:** A Supervisory Referral is a complaint which contains an allegation involving a minor transgression that may best be handled by bringing the matter to the attention of the subject member's supervisor and the chain of command to determine if the transgression occurred and the appropriate corrective action without formal investigation by an independent Consultant. All of the following objective criteria must be met for a complaint to be considered a Supervisory Referral:
 - The issue must be personnel-related,
 - Allegations of misconduct must be related to action(s) or inaction(s) by a sworn member of the Department, and
 - The allegation(s) must involve a minor transgression in which a finding of Sustained would not likely result in formal discipline.
 - ii. **Policy Complaint:** A Policy Complaint is defined as a complaint in which a sworn Officer took action that was in compliance with policies and procedures,

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but for which the complainant believes the policy is inappropriate or invalid. In these cases, there is no indication a complaint is made specifically against the Officer taking the action.

iii. Conduct Complaint: A Conduct Complaint is defined as a complaint in which a complainant files an allegation against a sworn Officer, which if true would indicate the Officer violated (1) any local, state, or federal law or, (2) any Department policy or procedure, and where such actions could result in the involved Officer receiving disciplinary action.

iv. Non-Misconduct Concern: After receiving a complaint alleging misconduct by a sworn Officer, a preliminary investigation by the Consultant may indicate that the allegations did not involve a violation of (1) any local, state or federal law or, (2) any Department policy or procedures. Such a complaint will be re-categorized as a Non-Misconduct Concern, meaning it does not meet the criteria outlined in the definition of a Conduct Complaint. Recategorizing complaints as Non-Misconduct Concerns allows the Department to track issues that may indicate a need for training for sworn personnel and/or community outreach/dialogue.

v. Exceptional Clearance Complaint: When the initial investigation of a complaint reveals that the misconduct alleged in the complaint did not occur, based on immediately available evidence and/or recorded media, the complaint is categorized as an Exceptional Clearance Complaint. The investigator completes formal written documentation of the incident using the designated report format to explain why the case was cleared exceptionally.

vi. Incomplete: A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. In such matters, the Consultant may further investigate the matter depending on the seriousness of the complaint. If there is not the availability of sufficient independent evidence to continue, the complaint will be classified and found Incomplete.

- c. Upon receipt, copies of the complaint are sent to the Town Attorney, Town Manager, Human Resources Director, and Chief of Police.
 - i. The Chief of Police will direct the Support Services Captain or designee to collect all relevant evidence related to the complaint (reports, video footage, audio recordings, Computer Aided Dispatch printouts, etc.).

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- ii. The Chief of Police determines if the Officer who is the subject of the investigation should be placed on administrative leave during the investigation in consultation with Town Attorney and Human Resources Director.

- d. The Town Attorney selects an investigator from the list of approved Contractors to conduct an independent investigation into the complaint with any necessary parameters, such as timeline for completion, and supplies them with all relevant evidence associated with the allegation.

- e. The Consultant contacts the complaining party (by phone preferably), introducing himself/herself as the Independent Auditor for this complaint and outlines the process. This contact is followed by a short letter on his/her own firm's letterhead with the same content.

- f. After consulting with the Town's Human Resources Director regarding appropriate content, the Consultant sends a formal written notice on his/her own firm's letterhead to the subject Officer informing them of the complaint, investigation process, and other information. All interaction between the Consultant and the subject Officer will occur within the parameters outlined in California Government Code Section 3300-3312: Public Safety Officers Procedural Bill of Rights Act.

- g. The Consultant conducts the investigation by interviewing the complaining party, witnesses, the Police Officer named in the complaint, and others as appropriate; reviewing body camera and in-car video; and reviewing other relevant materials. The Consultant may request additional evidence and/or resource material as the investigation progresses.

- h. The Consultant will use Preponderance of Evidence as the standard of proof for ascertaining the findings; however, whenever possible, the Consultant will try to attain Clear and Convincing Evidence as the standard of proof.

- i. The Consultant writes a report utilizing a format specified by the Town, documenting type of complaint, the methods used to investigate the complaint, the facts pertaining to the complaint, findings associated with each element of the complaint, and rationale for the findings.

- j. The report is submitted to the Town Attorney and Human Resources Director to ensure the facts support the findings.

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- k. Once the Consultant's report meets the approval of the Town Attorney and if any of the allegations are sustained, it is submitted to the Chief of Police for review.
 - i. If after reviewing the report and its findings, the Chief of Police disagrees with the findings, the Town Attorney will consider the Chief's concerns and determine if the investigator needs to do additional work to substantiate the findings.
 - ii. In the event there is no consensus on the findings, the Town Attorney may direct another investigator to evaluate the facts, materials, and methods and determine its own independent conclusions/findings. The second Consultant's analysis must be prepared to the satisfaction of the Town Attorney consistent with the procedure for the first independent analysis. If the second Consultant's report results in a different set of findings, the Town Attorney will determine which analysis stands.
- l. Upon certification of the case by the Town Attorney, the Consultant writes a letter on his/her own firm's letterhead informing the complaining party of the completion of the investigation and the findings of the investigation. Confidential information will not be provided.
- m. If the allegations are sustained, the Chief of Police will determine the appropriate discipline for the Officer based on the findings. Discipline may need to be coordinated with the Human Resources Director to ensure appropriate appeal/Skelly rights of the employee. The Chief of Police will notify the Officer of the intended discipline and offer appropriate appeal rights.
- n. If the allegations are not sustained, the Consultant writes a letter on his/her own firm's letterhead informing the subject Police Officer of the completion of the investigation and the findings. Confidential information will not be provided.
- o. The Consultant writes a brief summary of the complaint (the nature of the complaint and key "facts" without names or sensitive information provided), investigation steps, and findings for inclusion in a quarterly report to the Town Council and community regarding the work of the Consultant.

Based on this process, the proposed scope of work for the Consultant includes, but is not limited to:

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Conduct Investigation

- Meet with the Town Attorney and as appropriate, designated Police Department management personnel to discuss the allegations to be investigated.
- Provide an investigative plan detailing the issues to be investigated, witnesses to be interviewed, evidence to be reviewed and/or collected, and an estimated timeline for the investigation.
- Determine the most appropriate investigative method(s) to be used for each investigation in conjunction with the Town.
- Interview witnesses, complainants, and other persons; gather documents, video, and other materials; administer oaths and examine persons, affidavits, and supporting documentation; and otherwise conduct all research necessary and gather all evidence sufficient to complete each assigned investigation.
- Evaluate all evidence gathered in each investigation to formulate defensible investigative conclusions regarding the alleged violations.
- Provide updates on the progress of the investigation at each phase of the investigation, including any anticipated changes to the established timeline as requested by the Town.

Submit Report Findings

- Submit a final written report with supporting documentation, findings, and recommendations with all evidence, and applicable materials to the Town Attorney.
- Conduct a de-briefing session with the Town Attorney.

Other Requirements

- Participate in administrative hearings, in court, or other official proceedings that result from the investigations.
- Provide all work in a confidential manner.

F. SOQ Format and Submission Requirements

Submitting the SOQ:

The SOQ must be received by the Town no later than Wednesday, March 10, 2021 by 5:00 pm PST. The Town requires that all SOQs be submitted electronically via email or file sharing sites. The SOQ shall be clearly marked for “**Town of Los Gatos-Independent Police Auditor Investigation Services**” and emailed to:

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Laurel Prevetti
Town Manager
Town of Los Gatos – Town Manager’s Office
Manager@losgatosca.gov

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

Each SOQ must include the following information:

Cover Letter (Maximum 2 pages) – Cover letter giving an overview of the Proposer’s general expertise, experience, and ability to perform the scope of services described in this RFQ. The cover letter shall be signed by an authorized representative of the firm.

Attachment 5 is the Town’s contract template for the Consultant Services Agreement. In the cover letter, state that the Town’s contract template is acceptable to the Proposer or list any exceptions or change requests to the contract provisions.

Certification Forms – Complete and sign the following certification forms:

Attachment 1 - Conflict of Interest Statement

Attachment 2 - Non-Collusion Declaration

Attachment 4 - Statement regarding Insurance Coverage and Worker’s
Compensation Insurance Acknowledgment Certificate

Review of Scope of Services (Maximum 2 pages) – Proposers must comment on their ability to realistically provide the services listed in the Proposed Scope of Services as outlined. Provide comments and suggest modifications, changes, and/or additions as appropriate. Indicate your approach to the project and what specialized skills, services, or unique insights you or your team would bring to the project.

Experience and Expertise – Discuss prior related experience satisfying Minimum Qualifications and what would make you or your firm qualified for independent, fair, objective, and transparent review of citizen and internal complaints regarding the conduct of Police Department personnel. Emphasize projects of similar scope and magnitude. Provide a copy of an actual investigative report with written findings from you or your firm in connection with previous investigations of alleged employee

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misconduct. The investigative report may be redacted to remove identifying information of particular persons or organizations, but must identify the author.

Qualifications of Key Personnel – Identify a project manager and key individuals on the consultant team and their resumes highlighting relevant qualifications and experiences. State projects that they were assigned to and their specific roles and responsibilities. Provide a statement regarding the team or firm’s commitment to keep the same personnel throughout the Project.

Disclosure of Litigation/Discipline – If you or firm has ever been disciplined or censored by any regulatory body, disclose the principle facts. If, within the last five years, you or your firm has ever been involved in litigation or other legal proceedings relating to the provision of services, provide an explanation and indicate the current status or disposition of the proceedings.

References (complete **Attachment 3**) – A minimum of three (3) current references from past projects (of similar scope) should be provided. All references must contain relevant projects completed within the past five (5) years. Provide the following information for each reference:

Firm, Owner, or Agency Name
Address, Telephone Number
Email Address
Project Description
List of Services Provided

Insurance Coverage – If applicable, identify carriers, types, and limits of insurance carried. If selected by the Town, the Consultant shall maintain minimum coverage requirements for commercial general liability, automobile liability, professional liability, and workers’ compensation as specified in the Consultant Services Agreement unless waived by the Town Attorney. The Consultant may achieve the required limits and coverage through a combination of primary and excess or umbrella liability insurance provided such policies result in the same or greater coverage as the coverages required by Town, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. If selected by the Town, the Consultant shall cause the insurance policies required herein to include the Town, and their respective officials, officers, employees, and volunteers as additional insureds for claims caused in whole or in part by the Consultant’s negligent acts or omissions. The Consultant shall provide certificates of insurance to the Town that evidence compliance with the above.

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Preliminary Fee Schedule – Submit a Preliminary Fee Schedule for services provided by the Proposer. The Preliminary Fee Schedule shall be inclusive of all work and labor including, but not limited to, the Consultant’s costs for site visits and travel expenses. Also, submit the Preliminary Fee Schedule of any sub-consultants if applicable.

Addenda

If any revisions to this RFQ become necessary, the Town shall provide responses and clarifications to questions via addenda. The last day for issuance of an addendum is Wednesday, March 3, 2021. A Proposer shall submit any questions or requests for clarification to the Town’s Contact by Monday, March 1, 2021.

Addenda to this RFQ, if issued, will be posted on the Town’s website at www.losgatosca.gov/2433/RFPRFQ. All proposers shall verify that the Town has issued any addenda for this Project prior to submitting the SOQ and ensure that all requirements of addenda are included.

G. Evaluation Process

The Town Attorney and a Town-designated outside expert will review the SOQs and will rank the Proposers. The evaluation of SOQs shall be within the sole judgment and discretion of the Town. All contacts during the evaluation phase shall be through the Town’s Contact only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by the Proposer to contact any reviewers of the SOQs with the exception of the Town’s Contact may jeopardize the integrity of the evaluation and selection process and risk possible disqualification.

During the SOQ evaluation process, written questions or requests for clarification may be submitted by the Town to a Proposer regarding its SOQ or related matters. Failure to respond in a timely manner to any such questions or requests may be grounds for elimination of the Proposer from further consideration.

The Town Attorney and Town-designated outside expert will evaluate each SOQ meeting the qualification requirements set forth in this RFQ. The Chief of Police may review all submittals and provide comments to the Town Attorney and outside expert for their consideration in the interview and selection of rotating investigators.

After the review of SOQs, the highest-ranked Proposers may be invited for oral interviews as part of the selection process, if necessary. The Proposer will be notified of the time and place of oral interviews and if any additional information may be required to be submitted.

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

SOQ Evaluation Criteria

The following criteria shall be used to evaluate the SOQs:

- 1. Conflict of Interest Statement and Non-Collusion Declaration (Pass/Fail)**
 - a. Discloses any financial, business or other relationship with the Town or the Los Gatos Monte Sereno Police Department that may have an impact upon performance of services.
 - b. Lists current clients who may have a financial interest in the outcome of this contract or contracts.

- 2. Completeness/Organization of the SOQ (15 points)**
 - a. SOQ that is current, accurate, and complete in accordance with the requirements of this RFQ. The SOQ format and organization shall follow the requirements herein. SOQs that do not include the content requirements identified within this RFQ and subsequent addenda and do not address items listed shall be considered incomplete.

- 3. Organization and Approach (20 points)**
 - a. Describes familiarity of the desired services and demonstrates understanding of objectives.
 - b. Experience investigating similar complaints for Public Safety Agencies or in the public sector.

- 4. Qualifications & Experiences (20 points)**
 - a. Meets Minimum Qualifications.
 - b. Relevant experience, specific qualifications, and technical expertise.

- 5. Proposer Accessibility (15 points)**
 - a. A statement addressing ability to fulfill investigation service responsibilities.

- 6. References (10 points)**
 - a. Provide references with the names of at least three (3) agencies the Proposer has previously consulted for in the past five (5) years.

Oral Interview (if necessary)

If necessary, the top-ranking Proposer(s) may be invited to participate in Oral Interviews for a consultant presentation and Q&A session. A Proposer will be notified of the time and place for oral interviews and if any additional information may be required to be submitted.

Following the Town’s determination of the best qualified proposer(s) for this work, scope of services and final terms will be negotiated, and the Consultant and the Town will execute the Town’s standard Consultant Services Agreement (**Attachment 5**).

The proposed schedule is as follows:

<u>Activity</u>	<u>Anticipated Dates</u>
RFQ release	February 19, 2021
Pre-Proposal Meeting	None.
Deadline for Submitting Questions	March 1, 2021
SOQ Submission Deadline (5:00 pm)	March 10, 2021
SOQ Evaluation	March 2021
Consultant Interviews/Presentations (if necessary)	March 2021
Contract Negotiations and Execution	April 2021

H. Additional Information

- 1. Reservation of Rights.** The Town reserves the right to accept or reject any or all SOQs, or to alter the selection process if warranted, to postpone the selection process for its own convenience at any time, and to waive any defects in the RFQ. The Town also reserves the right to accept or reject any individual subconsultant that a candidate proposes to use. This RFQ and the interview process shall in no way be deemed to create a binding contract or agreement of any kind between the Town and the Proposers. The Town’s standard form of consultant agreement will form the basis of the contract between the parties.
- 2. Proposer’s Costs.** Each Proposer responding to this RFQ acknowledges and agrees that the preparation of all materials for submittal to the Town and all presentations, related costs, and travel expenses, including but not limited to vehicle miles, vehicle rentals, flights, transit fares, and meals, are at the Proposer’s sole expense. The Town shall not, under any circumstances, be responsible for any cost or expense incurred by the Proposer. In addition, each Proposer acknowledges and agrees that all documentation and/or materials submitted with the RFQ shall remain the property of the Town.
- 3. Communicating with Town.** If you have any questions regarding this RFQ, please contact the Town’s Contact:

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Laurel Prevetti
Town Manager's Office
Town of Los Gatos
110 E Main Street, Los Gatos CA 95030
Manager@losgatosca.gov
(408) 354-6832

The Town's sole point of contact for this RFQ shall be the Town's Contact who shall administer the RFQ process. All communications shall be submitted in writing and shall specifically reference this RFQ (identify in the subject line). Only answers issued by Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. No contact with other Town staff, Town council members, or any other public official concerning the Project during the RFQ process is allowed. A violation of this provision may result in the disqualification of the consultant.

4. **Assumptions of Proposers.** The Town is not responsible for the assumptions of Proposers. Neither the participation of the Town in any pre-proposal meeting, nor the subsequent award of the contract by the Town shall in any way be interpreted as an agreement or approval by the Town that a Proposer's assumptions are reasonable or correct. The Town specifically disclaims responsibility or liability for any Proposer's assumptions in developing its SOQ.
5. **Public Record.** All responses to this RFQ become property of the Town and will be kept confidential, subject to the requirements of the California Public Record Act, until a recommendation for award of a contract has been announced. Submittals are subject to public inspection and disclosure under the California Public Records Act. (Cal. Govt. Code sections 6250 *et seq*). Unless the information is exempt from disclosure by law, the content of any SOQ, request for explanation, or any other written communication between the Town and any Proposer, and between Town employees or consultants, regarding the procurement, shall be available to the public. In any event, the Town shall have no liability to Proposer for making disclosures required by the California Public Records Act or other law, court order, legal proceeding discovery request, investigative demand, subpoena, or order from a regulatory body having jurisdiction over either of the parties. Nothing contained herein shall be construed as requiring or obligating the Town to withhold information in violation of the California Public Records Act or other laws.
6. **Equal Opportunity.** The Town hereby notifies all Proposers that it will affirmatively insure that in any contract entered into pursuant to this procurement, minority business enterprises will be afforded full opportunity to submit SOQs in response to this RFQ and will not be discriminated against on the grounds of race, creed, color, national origin, ancestry, sexual orientation, political affiliations or beliefs, sex, age, physical disability,

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medical condition, marital status, pregnancy, or other protected characteristic as set forth hereunder.

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

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

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

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

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

In order to prevail on an appeal based on alleged improprieties not apparent in the RFQ as described herein, a Proposer must demonstrate that an error was material and prejudicial to the Proposer's effort to become selected for participation in this Project. In other words, in order to prevail, the Proposer must demonstrate that but for the Town's error, the Proposer would have been selected as the Successful Respondent.

If an appeal is received within five (5) business days from receipt of the notice from the Town informing of the Successful Proposer, the Town will proceed with the following process: 1) Town provides a copy of the appeal to the Successful Respondent and,

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within five (5) business days of receipt, Successful Proposer may provide to the Town a written response to the appeal; 2) within ten (10) business days thereafter, Town prepares a written response to the appeal and to the Successful Proposer's response, if any, and provides the analysis to appellant and Successful Proposer; 3) within five (5) business days, appellant and Successful Proposer may provide written responses; 4) Town sets a hearing date for a Town Council determination on the appeal and prepares a written staff report and recommendation; 5) Town staff notifies Successful Proposer and appellant of the date and time of the hearing and prepares and distributes a written record containing all documents necessary for the Town Council determination and distributes the record to all parties; 6) Town Council hearing in which Successful Proposer and appellant are provided full opportunity to present matter to Town Council; 7) Town Council renders a final determination.

8. **Governing Law.** The laws of the State of California shall govern the interpretation and enforcement of the contract. Legal action may be instituted only in the Superior Court of the County of Santa Clara, State of California, or in the Federal District Court in the Northern District of California.
9. **Adherence to All Local, State, and Federal Laws and Requirements.** The Proposer shall adhere to all applicable federal, state, and local laws, ordinances, statutes, rules and regulations, and rulings or directives of any agencies having jurisdiction relevant in any way to the Proposer's scope of work.

I. Attachments

The following attachments are incorporated into the Request for Qualifications:

- ATTACHMENT 1 – CONFLICT OF INTEREST STATEMENT
- ATTACHMENT 2 – NON-COLLUSION DECLARATION
- ATTACHMENT 3 – REFERENCES
- ATTACHMENT 4 – STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S
COMPENSATION INSURANCE ACKNOWLEDGMENT CERTIFICATE
- ATTACHMENT 5 – SAMPLE CONSULTANT SERVICES AGREEMENT

ATTACHMENT 1 - CONFLICT OF INTEREST STATEMENT

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

INDEPENDENT POLICE AUDITOR INVESTIGATION SERVICES

The undersigned declares:

I/We _____ (Insert Name) have the following financial, business, or other relationship with Town and/or Los Gatos Monte Sereno Police Department that may have an impact upon the outcome of the contract. If none, please specify that no other relationships may have an impact on this contract or Project.

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

Pursuant to Government Code section 1090 and any other laws, rules and regulations that may apply, the Proposer covenants that neither it, its subcontractors nor employees presently have an interest, and shall not acquire any interest, direct or indirect, financial or otherwise that would conflict in any manner or degree with contract awarded from this RFQ. Proposer certifies that to the best of its knowledge, no one who has or will have any financial interest in the contract awarded from this RFQ is an officer or employee of the Town. Through its submittal of a SOQ, Proposer acknowledges that it is familiar with Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California and will immediately notify the Town if it becomes aware of any facts concerning the contract to be awarded that constitute a violation of said provisions.

Furthermore, if there is reason to believe that collusion exists among the Proposers, the Town may refuse to consider SOQ's from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one SOQ for the same work unless alternate SOQ's are called for. A person, firm, or corporation who has submitted a sub-proposal to a Proposer, or who has quoted prices on materials to a Proposer, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Proposers. Reasonable ground for believing that any Proposer is interested in more than one proposal for the same work will cause the rejection of all proposals for the work in which a Proposer is interested. If there is reason to believe that collusion exists among the Proposers, the Town may refuse to consider SOQ's from participants in such collusion. Proposers shall submit as part of their SOQ documents the completed Non-Collusion Declaration provided herein.

I, on behalf of the Proposer, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

Proposer Name (Person, Firm, Corp.)

Title of Authorized Representative

Address

Name of Authorized Representative

City, State, Zip

(Date)

(Signed)

ATTACHMENT 2 – NON-COLLUSION DECLARATION

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

INDEPENDENT POLICE AUDITOR INVESTIGATION SERVICES

The undersigned declares:

I am the _____ [Insert Title] of _____, [Insert name of company, corporation, LLC, partnership or joint venture] the party making the foregoing SOQ.

The SOQ is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The SOQ is genuine and not collusive or sham. The Respondent has not directly or indirectly induced or solicited any other respondent to put in a false or sham SOQ. The Respondent has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham SOQ, or to refrain from responding. All statements contained in the SOQ are true.

Any person executing this declaration on behalf of a respondent that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

By: _____

Name: _____

Title: _____

ATTACHMENT 3 - REFERENCES

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

INDEPENDENT POLICE AUDITOR INVESTIGATION SERVICES

List three (3) references for work of a similar nature to the Services performed within the last five (5) years. Use additional sheets as necessary.

1. _____

_____	_____
Name of Agency	Agency Address
_____	_____
Contact Name	Contact Title
_____	_____
Contact Telephone	Contact Email Address
_____	_____
Contract Period	Contract Amount

Description of services performed including costs.

2. _____

_____	_____
Name of Agency	Agency Address
_____	_____
Contact Name	Contact Title
_____	_____
Contact Telephone	Contact Email Address
_____	_____
Contract Period	Contract Amount

Description of services performed including costs.

3. _____

_____	_____
Name of Agency	Agency Address
_____	_____
Contact Name	Contact Title
_____	_____
Contact Telephone	Contact Email Address
_____	_____
Contract Period	Contract Amount

Description of services performed including costs.

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

Signature of Proposer

Name

Date

**ATTACHMENT 4 - STATEMENT REGARDING INSURANCE COVERAGE AND WORKER'S COMPENSATION
INSURANCE ACKNOWLEDGMENT CERTIFICATE**

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

INDEPENDENT POLICE AUDITOR INVESTIGATION SERVICES

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

By certifying this form, the Proposer also understands the Worker's Compensation insurance requirement per the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Name of Proposer (Person, Firm, or Corporation)

Signature of Proposer's Authorized Representative

Name & Title of Authorized Representative

Date of Signing

ATTACHMENT 5 – SAMPLE CONSULTANT SERVICES AGREEMENT

[ATTACHED BEHIND THIS PAGE]

AGREEMENT FOR CONSULTANT SERVICES

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

I. RECITALS

- 1.1 The Town desires to engage Consultant to provide **independent, objective, fair, and transparent review of citizen and internal complaints regarding the conduct of Police Department personnel.**
- 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 (DATE), which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from date of execution to XXX. Consultant shall perform the services described in this agreement as follows: XXXX
- 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 \$XXX**, 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

CONSULTANT
Attn:
ADDRESS

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

Recommended by:

XXX

Printed Name and Title

Approved as to Form:

Robert Schultz, Town Attorney

Attest:

Shelley Neis, MMC, CPMC
Town Clerk