



**AGENDA
REGULAR MEETING**

**City Council of the Town of Colma
Colma Town Hall
1198 El Camino Real
Colma, CA 94014**

**Wednesday, February 27, 2019
5:00 PM – CLOSED SESSION
6:00 PM – STATE OF THE CITY
7:00 PM – REGULAR SESSION**

CLOSED SESSION – 5:00 PM

1. In Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators.

Agency Negotiators: Brian Dossey, City Manager
Pak Lin, Administrative Services Director
Austris Rungis, IEDA

Employee Organizations: Colma Peace Officers Association and Colma
Communications/Records Association

Unrepresented Employees: All

STATE OF THE CITY – 6:00 PM

- Mayor del Rosario will give a presentation on the state of Colma.

PLEDGE OF ALLEGIANCE AND ROLL CALL – 7:00 PM

REPORT FROM CLOSED SESSION

ADOPTION OF AGENDA

PRESENTATION

- Introduction of Recreation Leader Aidan Gonzalez
- County-wide Flood & Sea Level Rise Resiliency Agency Presentation
- Proclamation in honor of Black History Month

PUBLIC COMMENTS

Comments on the Consent Calendar and Non-Agenda Items will be heard at this time. Comments on Agenda Items will be heard when the item is called.

CONSENT CALENDAR

2. Motion to Accept the Minutes from the February 6, 2019 Special Meeting.
3. Motion to Accept the Minutes from the February 11, 2019 Special Meeting.
4. Motion to Adopt a Resolution Approving Contracts with Placeworks, MIG, Dudek, Kittelson and Associates, and CSDA Design Group For On-Call Environmental Services for 2019-2024.
5. Motion to Adopt a Resolution Approving Contracts with Placeworks, Kittelson and Associates, and CSDA Design Group for General Plan Services.
6. Motion Accepting the Fiscal Year 2018-19 Mid-Year Investment Report Through December 31, 2018.
7. Motion Accepting the Fiscal Year 2018-19 Mid-Year Financial Report Through December 31, 2018 and Authorizing a Copy to be Posted on the Town's Website.

PUBLIC HEARING

8. MULTI-UNIT HOUSING SMOKING ORDINANCE

Consider: Motion to Introduce an Ordinance Amending Subchapter 2.08 to the Colma Municipal Code, Relating to Multi-Unit Smoking Control and Determining Such Action to be Categorically Exempt from Environmental Review Pursuant to CEQA Guidelines 15061(b)(3) and 15308, and Waive a Further Reading of the Ordinance.

9. 2019 FEE SCHEDULE UPDATE

- a. *Consider:* Motion to Resolution of the City Council of the Town of Colma Adopting a Master Fee Schedule and Authorizing Removal of Duplicative or Inconsistent Fees and Charges of the Colma Administrative Code and Taking Other Actions Relating Thereto
- b. *Consider:* Motion to Introduce an Ordinance Authorizing Removal of Inconsistent Fees and Charges of the Colma Municipal Code as Set Forth in the Master Fee Schedule and Taking Other Actions Relating Thereto, and Waive a Further Reading of the Ordinance.

NEW BUSINESS

10. HOLIDAY EVENT AND TOWN PICNIC

Consider: Motion to Plan and Coordinate an Adult Holiday Event at the South San Francisco Conference Center on December 14, 2019; to Determine the Guest List for the Adult Holiday Event; to Set the Participation Fee for the Adult Holiday Event at \$15 for Adults and \$10 for Seniors and Disabled; and, to Plan and Coordinate the Annual Town Picnic for September 7, 2019.

REPORTS

Mayor/City Council
City Manager

ADJOURNMENT

The City Council Meeting Agenda Packet and supporting documents are available for review at the Colma Town Hall, 1198 El Camino Real, Colma, CA during normal business hours (Mon – Fri 8am-5pm). Persons interested in obtaining an agenda via e-mail should call Caitlin Corley at 650-997-8300 or email a request to ccorley@colma.ca.gov.

Reasonable Accommodation

Upon request, this publication will be made available in appropriate alternative formats to persons with disabilities, as required by the Americans with Disabilities Act of 1990. Any person with a disability, who requires a modification or accommodation to view the agenda, should direct such a request to Pak Lin, ADA Coordinator, at 650-997-8300 or pak.lin@colma.ca.gov. Please allow two business days for your request to be processed.

1. In Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators

Agency Negotiators:	Brian Dossey, City Manager Austris Rungis, IEDA
Employee Organizations:	Colma Peace Officers Association and Colma Communications/Records Association
Unrepresented Employees:	All

There is no staff report for this item.



**MINUTES
SPECIAL MEETING**

City Council of the Town of Colma
Large Conference Room, 1198 El Camino Real
Colma, CA 94014

Wednesday, February 6, 2019

6:00 PM

CALL TO ORDER

Mayor Joanne F. del Rosario called the meeting to order at 6:00 p.m.

Council Present –Mayor Joanne F. del Rosario, Vice Mayor John Irish Goodwin, Council Members Diana Colvin, Helen Fiscaro and Raquel Gonzalez were all present.

Staff Present – City Manager Brian Dossey, City Attorney Christopher Diaz, Police Chief Kirk Stratton, Administrative Services Director Pak Lin, Director of Public Works Brad Donohue, City Planner Michael Laughlin, Recreation Services Manager Cynthia Morquecho, and City Clerk Caitlin Corley were in attendance.

ADOPTION OF THE AGENDA

Mayor del Rosario asked if there were any changes to the agenda; none were requested. The Mayor asked for a motion to adopt the agenda.

Action: Council Member Fiscaro moved to adopt the agenda; the motion was seconded by Council Member Gonzalez and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor	✓				
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
Raquel Gonzalez	✓				
	5	0			

NEW BUSINESS

1. STATUS UPDATE TO 2017-2019 STRATEGIC PLAN

City Manager Brian Dossey presented the staff report. Council discussion followed.

Action: Council Member Fiscaro moved to Accept Update to the 2017-19 Town of Colma Strategic Plan; the motion was seconded by Council Member Gonzalez.

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor	✓				
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fisicaro	✓				
Raquel Gonzalez	✓				
	5	0			

ADJOURNMENT

Mayor del Rosario adjourned the meeting at 9:22 p.m.

Respectfully submitted,

Caitlin Corley
City Clerk

**MINUTES
SPECIAL MEETING**

City Council of the Town of Colma
Town Hall Council Chamber, 1198 El Camino Real
Colma, CA 94014

Monday, February 11, 2019

6:00 PM

CALL TO ORDER

Mayor Joanne F. del Rosario called the meeting to order at 6:03 p.m.

Council Present –Mayor Joanne F. del Rosario, Vice Mayor John Irish Goodwin, Council Members Diana Colvin, Helen Fiscaro and Raquel Gonzalez were all present.

Staff Present – City Manager Brian Dossey, Police Chief Kirk Stratton, Administrative Services Director Pak Lin, Director of Public Works Brad Donohue, City Engineer Cyrus Kianpour, City Planner Michael Laughlin, Assistant City Attorney Amanda Charne, City Clerk Caitlin Corley and Recreation Services Manager Cynthia Morquecho were in attendance.

ADOPTION OF THE AGENDA

Mayor del Rosario asked if there were any changes to the agenda; none were requested. The Mayor asked for a motion to adopt the agenda.

Action: Council Member Fiscaro moved to adopt the agenda; the motion was seconded by Vice Mayor Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor	✓				
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
Raquel Gonzalez	✓				
	5	0			

CONSENT CALENDAR

1. Motion to Accept the Minutes from the January 23, 2019 Regular Meeting.
2. Motion to Approve Report of Checks Paid for January 2019.
3. Motion to Accept Work Performed by Resource Design Interiors on Phase 5 of the Town Hall Project as Complete and Authorize the Director of Public Works to File a Notice of Completion with the County Recorder's Office and Make the Final Payment to Resource Design Interiors in Accordance with State Prompt Payment Laws.
4. Motion Accepting the Work Described in "Agreement for Completion of Public Improvements for the Colma Estates" and Directing B Street Colma LLC to File a Notice of Completion with the County Recorder's Office.

Action: Council Member Fiscaro moved to approve the Consent Calendar items #1 through 4; the motion was seconded by Council Member Colvin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor	✓				
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fisicaro	✓				
Raquel Gonzalez	✓				
	5	0			

STUDY SESSION

5. FIVE YEAR CAPITAL IMPROVEMENT PLAN

Assistant City Attorney Amanda Charne stated that because Vice Mayor Goodwin has a potential conflict of interest regarding the Mission Road Bicycle and Pedestrian Improvement Program (903), he should recuse himself if the Council had any substantive discussion of the project.

City Manager Brian Dossey, Administrative Services Director Pak Lin and Director of Public Works Brad Donohue presented the staff report. Mayor del Rosario opened the public comment period at 7:47 p.m. and seeing no one come forward to speak, closed the public comment period. Council discussion followed.

This item was for discussion only; no action was taken at this meeting.

ADJOURNMENT

Mayor del Rosario adjourned the meeting at 8:24 p.m. in memory of Shirley Hill, long time resident; Galileo Lopez, longtime resident; and Kathleen Freschet, mother of San Mateo Vice Mayor Maureen Freschet.

Respectfully submitted,

Caitlin Corley
City Clerk



STAFF REPORT

TO: Mayor and Members of the City Council
FROM: Michael Laughlin, City Planner
VIA: Brian Dossey, City Manager
MEETING DATE: February 27, 2019
SUBJECT: Environmental On-Call Services Contracts

RECOMMENDATION

Staff recommends that the City Council adopt a:

RESOLUTION APPROVING CONTRACTS WITH PLACEWORKS, MIG, DUDEK, KITTELSON AND ASSOCIATES, AND CSDA DESIGN GROUP FOR ON-CALL ENVIRONMENTAL SERVICES FOR 2019-2024

EXECUTIVE SUMMARY

Staff recommends the Town enter into five contracts for environmental services for the calendar years 2019-2024. Consultants were selected through an open Request for Qualifications (RFQ) and interview process. Entering into contracts with these firms will allow the Town to assign work to the consultants without having to go through separate Request for Proposals (RFP's) for each project.

FISCAL IMPACT

Unknown. Consultant work performed for individual development projects will be paid for by the applicant. Work performed for Town projects will be based on the negotiated scope of work and budget.

BACKGROUND & ANALYSIS

In 2013, the Planning Department established an on-call environmental services list. The contract term was for 5 years, so the current list has expired. The list included Placeworks, MIG, Dyett and Bhatia, ESA and WRA. The list served the Town well, since it allowed for the expediting of development projects such as CarMax [Mitigated Negative Declaration (MND) prepared by Placeworks]; Veteran's Village [Environmental Impact Report (EIR) prepared by

MIG]; Ford Expansion (MND prepared by ESA); and the 1050 El Camino Real project (expanded exemption by WRA).

In addition to the full-service environmental firms, Kittelson and Associates submitted to provide on-call traffic services. CSDA submitted to provide on-call noise services (they had a contract with the Town for noise analysis and took existing conditions noise readings for the General Plan update).

After a review of the RFQ responses, the firms of Dudek, MIG, Placeworks and Kittelson were interviewed on January 14, 2019. The interview panel included the City Manager and Planning Staff. Public Works staff came for the interview with Kittelson and Associates. The interviews were focused on the firm's approach, staffing, and experience. A phone interview was conducted by staff with CSDA. The same CSDA project manager from 2013 is available to manage any required noise analysis work.

Below is a description of the firms selected:

Placeworks: Placeworks is a full-service planning consulting firm that provides consulting services to municipalities. They have experienced project managers and staff in their Berkeley office that will respond to any on-call service requests from the Town. In addition, they have in-house environmental specialists and in-house environmental counsel. Placeworks is currently providing outreach services for the Mission Road improvement project. Staff had an excellent experience working with them on the CarMax project.

MIG: MIG is a planning consulting firm that provides consulting services to municipalities. They have experienced project managers and staff in their San Jose office that will respond to any on-call service requests from the Town. In addition, they have in-house environmental specialists who can provide specialized analysis when needed. Staff appreciated the expertise of their Senior Project Manager, Barbara Beard, on the Veteran's Village EIR.

Dudek: Dudek is a planning consulting firm that provides consulting services to municipalities. They have experienced project managers and staff in their Berkeley office that will respond to any on-call service requests from the Town. In addition, they have in-house environmental specialists and in-house environmental counsel. They currently have on-call contracts with the City of San Francisco and City of Palo Alto. The City of Palo Alto has been pleased with their work and the project managers that will be providing services to Colma.

Kittelson: Kittelson and Associates is a transportation planning and engineering firm with many regional offices. Kittelson has recently completed the Systemic Safety Analysis Report (SSAR), which included extensive analysis of Colma's transportation system. They have also provided traffic analysis for numerous projects in San Mateo County and are authorized users of the C/CAG traffic demand model. Staff has met the assigned project managers (and worked with one on the SSAR) and finds them to have depth of experience that would be beneficial in traffic work for Colma.

CSDA Design Group: CSDA has extensive experience in architectural acoustics, noise consulting and engineering and design services. The project manager familiar with Colma, Randy Waldek, has worked on over 600 acoustics projects. In addition to working on the Colma

Noise Element, he has worked on the Noise Elements for San Mateo, Hillsborough, Pacifica and Woodside.

Council Adopted Values

By adopting a resolution approving the contracts for on-call environmental services, the City Council will demonstrate *fairness* by honoring the staff selection process.

Sustainability Impact

All of the selected consultants will perform the services in alignment with the Town's Climate Action Plan and Sustainability Policy.

Alternatives

The City Council could choose to not adopt the proposed resolution approving the contracts for on-call environmental services. However, staff is not recommending this option since it would require staff to release a separate RFP for each project where services are required.

CONCLUSION

Staff recommends that the City Council adopt the resolution approving the contracts for on-call environmental services.

ATTACHMENTS

- A. Resolution
- B. Placeworks Contract
- C. MIG Contract
- D. Dudek Contract
- E. Kittelson and Associates Contract
- F. CSDA Design Group Contract



**RESOLUTION NO. 2019-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING CONTRACTS WITH PLACEWORKS, MIG,
DUDEK, KITTELSON AND ASSOCIATES AND CSDA DESIGN GROUP FOR
ON-CALL ENVIRONMENTAL SERVICES
FOR 2019-2024**

The City Council of the Town of Colma does hereby resolve:

1. Background.

- (a) On November 1, 2018, the Town issued a Request for Qualifications (RFQ) for on-call environmental services for the years 2019-2024.
- (b) Subsequently on November 30, 2018, the Town received proposals from interested firms.
- (c) On January 11, 2019, the Town interviewed qualified firms and based on firm experience, project manager experience and the anticipated consulting needs of the Town. As a result of interviews and reference checks, staff is recommending execution of five (5) contracts between the Town of Colma and Placeworks, MIG, Dudek, Kittelson and Associates and CSDA Design Group.

2. Order.

- (a) The contracts between the Town of Colma and Placeworks, MIG, Dudek, Kittelson and Associates and CSDA Design Group, respectively, copies of which is on file with the City Clerk, are approved by the City Council of the Town of Colma.
- (b) The Mayor is authorized to execute each of said contracts on behalf of the Town of Colma, with such technical amendments as may be deemed appropriate by the City Manager and the City Attorney.

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Certification of Adoption

I certify that the foregoing Resolution No. 2019-## was duly adopted at a regular meeting of said City Council held on February 27, 2019 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Joanne F. del Rosario, Mayor					
Diana Colvin					
John Irish Goodwin					
Helen Fisicaro					
Raquel Gonzalez					
Voting Tally					

Dated _____

Joanne del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk

Attachment B

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and PlaceWorks, Inc., a Privately-Owned California Corporation, with its principal place of business at 3 MacArthur Place, Suite 1100, Santa Ana, CA 92707 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment B

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2024** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment B

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage

Attachment B

(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment B

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

Attachment B

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is

Attachment B

not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel approved by the Town, which approval shall not be unreasonably withheld), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Attachment B

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

Attachment B

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town. If Town desires to reuse any documents or other deliverables, including electronic media, pertaining to the project prepared by Consultant, Town may do so, but if such documents or other deliverables are reused by Town for any project other than that for which such documents or deliverables were originally prepared, or if Town causes such documents or deliverables to be substantively altered without Consultant's written consent, such reuse shall be at Town's risk.

18. Organization

Consultant shall assign Greg Goodfellow as Project Manager and Alexis Mena as alternate Project Manager, and Jessica Setiawan as second alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Attachment B

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

Town of Colma
1198 El Camino Real
Colma, CA 94014

Attn: Brian Dossey, City Manager

CONSULTANT:

PlaceWorks
1625 Shattuck Avenue, Suite 300
Berkeley, CA 94709

Attn: Steve Noack, Principal

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights,

Attachment B

burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment B

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND PLACEWORKS**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

PlaceWorks

By: _____
Brian Dossey
City Manager

By: _____

Its: _____

Printed Name: _____

Attachment B

EXHIBIT A

Scope of Services

The general scope of services includes the preparation of Initial Studies, Negative Declarations, Environmental Impact Reports and Environmental Impact Statements for a variety of projects including residential, commercial, and industrial developments as well as public planning projects. In addition, the consultant may be asked to prepare special environmental impact studies, (e.g., Noise, Traffic, Air Quality, Historic Resources, Biology, Archaeology etc.) in accordance with local, state, and federal regulations.

Attachment B

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____



Attachment C

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and MIG Inc., a California Corporation, with its principal place of business at 2635 N. 1st Street, San Jose, CA 95134 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment C

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2024** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment C

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage

Attachment C

(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment C

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

Attachment C

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is

Attachment C

not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

Attachment C

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

Attachment C

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town.

18. Organization

Consultant shall assign Barbara Beard as Project Manager and Kate Werner as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

Town of Colma
1198 El Camino Real
Colma, CA 94014

CONSULTANT:

MIG Inc.
2635 N. 1st Street
San Jose, CA 95134

Attachment C

Attn: Brian Dossey, City Manager

Attn: Paula Hartman, Principal

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

Attachment C

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment C

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND MIG INC.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

MIG Inc.

By: _____
Brian Dossey
City Manager

By: _____

Its: Principal

Printed Name: Paula Hartman

Attachment C

EXHIBIT A

Scope of Services

The general scope of services includes the preparation of Initial Studies, Negative Declarations, Environmental Impact Reports and Environmental Impact Statements for a variety of projects including residential, commercial, and industrial developments as well as public planning projects. In addition, the consultant may be asked to prepare special environmental impact studies, (e.g., Noise, Traffic, Air Quality, Historic Resources, Biology, Archaeology etc.) in accordance with local, state, and federal regulations.

Attachment C

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____



Attachment D

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and Dudek, a California corporation, with place of business at 1630 San Pablo Avenue, Suite 300, Oakland, CA 94612 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment D

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2024** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment D

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage

Attachment D

(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment D

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

Attachment D

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is

Attachment D

not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

Attachment D

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

Attachment D

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

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18. Organization

Consultant shall assign Christine Fukasawa as Project Manager and Darcey Rosenblatt as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

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This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

Town of Colma
1198 El Camino Real
Colma, CA 94014

CONSULTANT:

Dudek
1630 San Pablo Avenue, Suite 300
Oakland, CA 94612

Attachment D

Attn: Brian Dossey, City Manager

Attn: Christine Fukasawa

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

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This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

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The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

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This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

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Time is of the essence for each and every provision of this Agreement.

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Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment D

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND DUDEK**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

Dudek

By: _____
Brian Dossey
City Manager

By: _____

Its: _____

Printed Name: _____

EXHIBIT A

Scope of Services

The general scope of services includes the preparation of Initial Studies, Negative Declarations, Environmental Impact Reports and Environmental Impact Statements for a variety of projects including residential, commercial, and industrial developments as well as public planning projects. In addition, the consultant may be asked to prepare special environmental impact studies, (e.g., Noise, Traffic, Air Quality, Historic Resources, Biology, Archaeology etc.) in accordance with local, state, and federal regulations.

Attachment D

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____



Attachment E

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and Kittelson & Associates Inc., a privately-owned Oregon Subchapter S Corporation, with its principal place of business at 155 Grand Avenue, Suite 900, Oakland, CA 94612 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment E

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2024** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment E

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage

Attachment E

(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment E

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

	<u>Combined Single Limit</u>
Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant

Attachment E

shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise

Attachment E

assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

Attachment E

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

Attachment E

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town.

18. Organization

Consultant shall assign Damian Stefanakis as Project Manager and Matt Braughton as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

Attachment E

TOWN:

Town of Colma

1198 El Camino Real

Colma, CA 94014

Attn: Brian Dossey, City Manager

CONSULTANT:

Kittelson & Associates

155 Grand Avenue, Suite 900

Oakland, CA 94612

Attn: Damian Stefanakis, Principal Planner

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

Attachment E

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment E

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND KITTELSON & ASSOCIATES**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

Kittelson & Associates

By: _____
Brian Dossey
City Manager

By: _____

Its: Principal Planner

Printed Name: Damian Stefanakis

Attachment E

EXHIBIT A

Scope of Services

The consultant may be asked to prepare various types of traffic and parking analysis in the support of environmental impact studies, such as Initial Studies, Negative Declarations, Environmental Impact Reports and Environmental Impact Statements for a variety of residential, commercial, and industrial developments as well as public planning projects. In addition, the preparation of stand-alone traffic and parking studies may be required.

Attachment E

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____



**TOWN OF COLMA
ON-CALL PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma (“Town”), and CSDA Design Group Inc., a privately-owned California S Corporation, with its principal place of business at 475 Sansome Street, Suite 800, San Francisco, CA 94111 (hereinafter referred to as “Consultant”). Town and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of environmental and related studies (hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement (“Task Order”).

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

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a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit “B” and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

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Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

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a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

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a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment F

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Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract

Attachment F

- (8) Broad Form Property Damage
- (9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing equivalent coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbols 8 & 9, hired/non-owned auto).

(iii) Reserved.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment F

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include limited contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits, except for professional liability.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

Attachment F

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy shall contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is

Attachment F

not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Attachment F

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

Attachment F

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town.

18. Organization

Consultant shall assign Randy Waldeck as Project Manager and Indi Savitala as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

CONSULTANT:

Attachment F

Town of Colma
1198 El Camino Real
Colma, CA 94014
Attn: Brian Dossey, City Manager

CSDA Design Group
475 Sansome Street, Suite 800
San Francisco, CA 94111
Attn: Randy Waldeck, Principal

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

Attachment F

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment F

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND CSDA DESIGN GROUP**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

CSDA Design Group

By: _____
Brian Dossey
City Manager

By: _____

Its: _____

Printed Name: _____

EXHIBIT A
Scope of Services

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Michael Laughlin, City Planner
 VIA: Brian Dossey, City Manager
 MEETING DATE: February 27, 2019
 SUBJECT: General Plan Services Contracts

RECOMMENDATION

Staff recommends that the City Council adopt a:

RESOLUTION APPROVING CONTRACTS WITH PLACEWORKS, KITTELSON AND ASSOCIATES AND CSDA DESIGN GROUP FOR GENERAL PLAN SERVICES

EXECUTIVE SUMMARY

Staff recommends the Town enter into three contracts for General Plan services for the calendar years 2019-2021. Consultants were selected through an open Request for Qualifications (RFQ) and interview process. Entering into contracts with these firms will allow the Town to assign work to the consultants without having to go through separate Request for Proposals (RFP's) for assigned tasks.

FISCAL IMPACT

Consultant work performed will be based upon an agreed upon scope and budget with the Town. Work performed will be within the \$403,650 General Plan CIP budget.

BACKGROUND & ANALYSIS

The Planning Department is currently updating the General Plan. As part of the General Plan update process, staff will be in need of the expertise of several consultants who have expertise in specialty subject areas, as follows:

- ***Environmental and Greenhouse Gas (GHG):*** In order to satisfy several state laws and local objectives, policies in the General Plan are required that reduce or manage GHG emissions even though new development will be occurring. In addition, staff is anticipating the preparation of a Programmatic Environmental Impact Report for the General Plan. Policies in the General Plan will be analyzed in the PEIR, and appropriate mitigation

measures will be developed, or, policies will be “self-mitigating.” In order to model GHG for anticipated General Plan buildout, a consultant is required that has the expertise to model future GHG emissions.

- **Circulation (Mobility) Element:** The Town prepared a minor update to the Circulation Element in 2014. New updates to this element will be made to look at ways to improve pedestrian, bicycle and transit access within the Town, and the element will be renamed from “Circulation” to “Mobility”. Once land uses are established in the Land Use Element, the consultant will take existing traffic information and model future traffic conditions, considering future development.
- **Noise Element:** Staff hired CSDA to prepare existing noise readings in 2013. As part of the General Plan update, future noise conditions are required to be modeled based on new development contemplated in the future.

After a review of the RFQ responses, the firms of Dudek, MIG, Placeworks and Kittelson were interviewed on January 14, 2019. The interview panel included the City Manager and Planning Staff. Public Works staff came for the interview with Kittelson and Associates. The interviews were focused on the firm’s approach, staffing, and experience. A phone interview was conducted by staff with CSDA. The same CSDA project manager from 2013 is available to manage any required noise analysis work.

Below is a description of the firms selected:

Placeworks: Placeworks is a full-service planning consulting firm that provides consulting services to municipalities. They have experienced project managers and staff in their Berkeley office that will respond to any GHG related General Plan related tasks from the Town. In addition, they have in-house environmental specialists and in-house environmental counsel. Placeworks has prepared over 75 General Plans for municipalities in California, including San Carlos, Hillsborough and Menlo Park in San Mateo County.

Kittelson: Kittelson has recently completed the Systemic Safety Analysis Report (SSAR), which included extensive analysis of Colma’s transportation system. They have also provided traffic analysis for numerous projects in San Mateo County and are authorized users of the C/CAG traffic demand model. They have consulted on the preparation of transportation policy documents for over 30 years. They are currently working on the Millbrae General Plan update and have worked on General Plans for many San Mateo County jurisdictions including Pacifica, Belmont, Daly City and East Palo Alto.

CSDA Design Group: CSDA has extensive experience in architectural acoustics, noise consulting and engineering and design services. The project manager familiar with Colma, Randy Waldek, has worked on over 600 acoustics projects. In addition to working on the Colma Noise Element, he has worked on the Noise Elements for San Mateo, Hillsborough, Pacifica and Woodside.

Council Adopted Values

By adopting a resolution approving the contracts for General Plan services, the City Council will demonstrate **fairness** by honoring the staff selection process.

Sustainability Impact

All of the selected consultants will perform the services in alignment with the Town's Climate Action Plan and Sustainability Policy.

Alternatives

The City Council could choose to not adopt the proposed resolution approving the contracts for General Plan services. However, staff is not recommending this option since it would require staff to release a separate RFP for each General Plan related task where services are required.

CONCLUSION

Staff recommends that the City Council adopt the resolution approving the contracts for General Plan services.

ATTACHMENTS

- A. Resolution
- B. Placeworks Contract
- C. Kittelson and Associates Contract
- D. CSDA Design Group Contract



**RESOLUTION NO. 2019-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING CONTRACTS WITH PLACEWORKS,
KITTELSON AND ASSOCIATES AND CSDA DESIGN GROUP FOR
GENERAL SERVICES**

The City Council of the Town of Colma does hereby resolve:

1. Background.

- (a) On November 1, 2018, the Town issued a Request for Qualifications (RFQ) for General Plan related services.
- (b) Subsequently on November 30, 2018, the Town received proposals from interested firms.
- (c) On January 11, 2019, the Town interviewed qualified firms and based on firm experience, project manager experience and the anticipated consulting needs of the Town. As a result of interviews and reference checks, staff is recommending execution of three (3) contracts between the Town of Colma and Placeworks, Kittelson and Associates and CSDA Design Group.

2. Order.

- (a) The contracts between the Town of Colma and Placeworks, Kittelson and Associates and CSDA Design Group, respectively, copies of which is on file with the City Clerk, are approved by the City Council of the Town of Colma.
- (b) The Mayor is authorized to execute each of said contracts on behalf of the Town of Colma, with such technical amendments as may be deemed appropriate by the City Manager and the City Attorney.

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Certification of Adoption

I certify that the foregoing Resolution No. 2019-## was duly adopted at a regular meeting of said City Council held on February 27, 2019 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Joanne F. del Rosario, Mayor					
Diana Colvin					
John Irish Goodwin					
Helen Fisicaro					
Raquel Gonzalez					
Voting Tally					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk

Attachment B

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and PlaceWorks, Inc., a Privately-Owned California Corporation, with its principal place of business at 3 MacArthur Place, Suite 1100, Santa Ana, CA 92707 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of the General Plan, environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment B

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2021** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment B

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract

Attachment B

- (8) Broad Form Property Damage
- (9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment B

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

Attachment B

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is

Attachment B

not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel approved by the Town, which approval shall not be unreasonably withheld), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Attachment B

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

Attachment B

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town. If Town desires to reuse any documents or other deliverables, including electronic media, pertaining to the project prepared by Consultant, Town may do so, but if such documents or other deliverables are reused by Town for any project other than that for which such documents or deliverables were originally prepared, or if Town causes such documents or deliverables to be substantively altered without Consultant's written consent, such reuse shall be at Town's risk.

18. Organization

Consultant shall assign Tammy Seale as Project Manager and Eli Krispi as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Attachment B

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

Town of Colma
1198 El Camino Real
Colma, CA 94014

Attn: Brian Dossey, City Manager

CONSULTANT:

PlaceWorks
1625 Shattuck Avenue, Suite 300
Berkeley, CA 94709

Attn: Joanna Jansen, Principal

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights,

Attachment B

burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment B

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND PLACEWORKS**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

PlaceWorks

By: _____
Brian Dossey
City Manager

By: _____

Its: _____

Printed Name: _____

Attachment B

EXHIBIT A

Scope of Services

The consultant will participate with in-house staff in the update to the Town's General Plan. Technical analysis, including but not limited to air quality, greenhouse gas, cultural, infrastructure, and mobility will be required. In addition to the General Plan update itself, the work plan will include project management and coordination; policy development; public engagement; and environmental analysis pursuant to the California Environmental Quality Act (CEQA).

Attachment B

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____



Attachment C

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and Kittelson & Associates Inc., a privately-owned Oregon Subchapter S Corporation, with its principal place of business at 155 Grand Avenue, Suite 900, Oakland, CA 94612 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of the General Plan, environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment C

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2021** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment C

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Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

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10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage

Attachment C

(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment C

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

	<u>Combined Single Limit</u>
Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant

Attachment C

shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise

Attachment C

assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

Attachment C

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

Attachment C

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town.

18. Organization

Consultant shall assign Damian Stefanakis as Project Manager and Matt Braughton as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

Attachment C

TOWN:

Town of Colma

1198 El Camino Real

Colma, CA 94014

Attn: Brian Dossey, City Manager

CONSULTANT:

Kittelson & Associates

155 Grand Avenue, Suite 900

Oakland, CA 94612

Attn: Damian Stefanakis, Principal Planner

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

Attachment C

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment C

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND KITTELSON & ASSOCIATES**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

Kittelson & Associates

By: _____
Brian Dossey
City Manager

By: _____

Its: Principal Planner

Printed Name: Damian Stefanakis

EXHIBIT A

Scope of Services

Consultant will participate with in-house staff in the update to the Town's General Plan. Technical analysis, including but not limited to existing and future traffic modeling will be required. The consultant will also assist staff in the development of text and policies for the update to the Circulation Element (new Mobility Element). The consultant will also assist the Town in developing a Vehicle Miles Traveled (VMT) methodology to be used in the analysis of projects. The consultant will prepare necessary studies and reports to support the General Plan environmental analysis pursuant to the California Environmental Quality Act (CEQA).

Attachment C

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____



Attachment D

TOWN OF COLMA ON-CALL PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 2019 by and between the Town of Colma ("Town"), and CSDA Design Group Inc., a privately-owned California S Corporation, with its principal place of business at 475 Sansome Street, Suite 800, San Francisco, CA 94111 (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. Town is a public agency of the State of California and is in need of professional services for the preparation of the General Plan, environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Attachment D

3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019** to **December 31, 2021** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

Attachment D

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage

Attachment D

(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing equivalent coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbols 8 & 9, hired/non-owned auto).

(iii) Reserved.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

Attachment D

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits, except for professional liability.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

Attachment D

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy shall contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is

Attachment D

not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

Attachment D

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.

Attachment D

16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town.

18. Organization

Consultant shall assign Randy Waldeck as Project Manager and Indi Savitala as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

Town of Colma
1198 El Camino Real
Colma, CA 94014

CONSULTANT:

CSDA Design Group
475 Sansome Street, Suite 800
San Francisco, CA 94111

Attachment D

Attn: Brian Dossey, City Manager

Attn: Randy Waldeck, Principal

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Attachment D

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

Attachment D

**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF COLMA
AND CSDA DESIGN GROUP**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

CSDA Design Group

By: _____
Brian Dossey
City Manager

By: _____

Its: _____

Printed Name: _____

EXHIBIT A

Scope of Services

The consultant will participate with in-house staff in the update to the Town's General Plan. Technical analysis, including a future noise conditions narrative, map and analysis will be required. In addition to the General Plan update itself, the work plan will include noise analysis to satisfy the requirements of the California Environmental Quality Act (CEQA).

Attachment D

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Sample Task Order Form

TASK ORDER

Task Order No. _____

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$_____,_____.00

Completion Date: _____

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Admin. Services Director
 VIA: Brian Dossey, City Manager
 MEETING DATE: February 27, 2019
 SUBJECT: FY 2018-19 Mid-Year Investment Report

RECOMMENDATION

Staff recommends that the City Council make the following motion:

MOTION ACCEPTING THE FISCAL YEAR 2018-19 MID-YEAR INVESTMENT REPORT THROUGH DECEMBER 31, 2018.

EXECUTIVE SUMMARY

The Town participates in the State's Local Agency Investment Fund (LAIF), a State investment pool, and the San Mateo County Investment Pool (SMCIF). As of December 31, 2018, total investments from both pools is \$24.1 million, with recorded investment earnings of \$257,774. The FY 2018-19 Adopted Budget projected investment earnings to be \$219,460 based on a 0.80 percent investment return. With the recent market fluctuation, actual returns came in closer to 2.4 percent, resulting in the dramatic increase in investment earnings. With a new congress and new changes to international policy, it is difficult to project how the year will end.

FISCAL IMPACT

There is no fiscal impact in accepting this investment report.

BACKGROUND

As part of day to day operations, the Town maintains cash balances which can be invested to maintain the Town's purchasing power. The City Manager has been designated by City Council Resolution as the Treasurer. The adopted Investment policy provides for the Treasurer to make periodic reports of balances held as investments. Majority of the Town investments are placed in the State and the San Mateo County investment pools, which invest funds for more than one public agency. The reported investments are in compliance with the Town Investment policy and are appropriately structured to allow the Town to meet its expenditure requirements for the next six months.

As stated in the adopted Town Investment policy, the Treasurer shall prepare a report to the City Council not less than semi-annually. In accordance with the policy the report was available within 60 days following December 31st. Further the policy requires that the semi-annual report shall be

presented at a subsequent regularly scheduled City Council Meeting. The report is to include an overview of the investment activity including: a monthly listing of investment transactions if any; a Report the beginning and ending balance by quarter; Provide a separate breakdown of the quarterly balance based on the Investment Pool (LAIF, SMCIF, etc); Provide net Deposits and Withdrawals for the period; Identify total interest for the quarter; and Provide the interest rates earned including a cumulative weighted average. This report provides the required information, including additional narrative explanations.

ANALYSIS

Through December 31, 2018, the Town has earned \$257,774 in interest for all Town funds, exceeding the FY 2018-19 adopted budget of \$219,460. The Adopted Budget assumed a yield of 0.80 percent for the year. As shown below, the weighted average yield for 2018Q3 and 2018Q4 is 1.832 percent.

Portfolio Overview

As shown below, during the first two quarters of Fiscal Year 2018-19 the Town Portfolio averaged \$28.9 million. The amount invested each of the first two quarters fluctuated based on cash flow.

	2018Q3 9/30/2018	2018Q4 12/31/2018
Town of Colma Cash & Investment		
Cash In Bank	\$4,665,599.10	\$5,134,800.86
Public Agency Investment Pools	\$23,928,805.31	\$24,061,678.79
Total Cash & Investment	\$28,594,404.41	\$29,196,479.65
TRUSTEE FUNDS - Bank of New York Mellon Town Hall Remodel Project Certificate of Participation (COP)		
Money Market Funds	\$2,551.95	\$43.27
Total COP Fund	\$2,551.95	\$43.27

The 2018Q3 ending balance was \$28.6 million and had increased to \$29.2 million by end of 2018Q4. The report includes balances held in First National Bank as well as Government Agency Investment pools.

Included above, is a summary of funds obtained as part of the Town Hall Renovation Certificate of Participation Financing that would typically not be reported as part of the Town Portfolio. The investment of these funds is subject to the financing documents. The Trustee Bank (Bank of New York Mellon) processes withdrawals based on instructions from the Town. These funds will be expended as construction on the project continues and are shown to provide a more complete disclosure.

Transaction Activity within Investment Pools

The Town has funds invested in two government agency investment pools. The Local Agency Investment Fund (LAIF) is managed by the State Treasurer and accepts deposits from over 2,400 agencies throughout the State and has a portfolio in excess of \$83 billion. These funds are relatively liquid with a limit of fifteen transactions per month. The Town has a similar arrangement with the San Mateo County Investment Fund which is managed by the San Mateo County Treasurer. As of December 31, 2018 the SMCIF had approximately \$5.8 Billion invested. This includes County funds as well as cities, school districts, and other special districts.

Included below is the balance in each of the investment pools at the beginning and end of each quarter. The net withdrawals and deposits for each quarter are also presented as background on the overall level of transactions. Due to the balance of funds retained with the commercial bank investment transactions in the investment pools are limited to the posting of interest.

	LAIF	SMCIF	TOTAL
2018 Q3: July 2018 - September 2018			
Beginning Balance	\$ 8,872,645.89	\$ 18,931,258.35	\$ 27,803,904.24
Purchases / Deposits			-
Withdrawals	(4,000,000.00)		(4,000,000.00)
Interest Posted	42,101.38	82,799.69	124,901.07
Ending Balance	\$ 4,914,747.27	\$ 19,014,058.04	\$ 23,928,805.31
2018 Q4: October 2018 - December 2018			
Beginning Balance	\$ 4,914,747.27	\$ 19,014,058.04	\$ 23,928,805.31
Purchases / Deposits			-
Withdrawals			-
Interest Posted	40,400.12	92,473.36	132,873.48
Ending Balance	\$ 4,955,147.39	\$ 19,106,531.40	\$ 24,061,678.79

Earnings / Distribution of Portfolio

Outlined below is information related to the distribution of investments at the end of each quarter (Bank compared to LAIF compared To SMCIF). The average over the first two quarters was 17% invested in LAIF, 17% in First National Bank, and 66% in the SMCIF. Placing idle funds in more than one investment provides a level of diversity for the overall portfolio.

	2018Q3		2018Q4	
	As of 9/30/2018	% of Portfolio	As of 12/31/2018	% of Portfolio
<u>Balance(s)</u>				
BANK BALANCE	\$ 4,665,599.10	16.3%	\$ 5,134,800.86	17.6%
LAIF	4,914,747.27	17.2%	4,955,147.39	17.0%
SMCIF	19,014,058.04	66.5%	19,106,531.40	65.4%
TOTAL	\$ 28,594,404.41		\$ 29,196,479.65	
<u>Interest Rates</u>				
BANK BALANCE	0.300%		0.450%	
LAIF	2.160%		2.400%	
SMCIF	1.962%		2.220%	
Weighted Average	1.725%		1.939%	
FISCAL YEAR 2019 ANNUAL WEIGHTED AVERAGE (YTD)	1.832%			

The information presented above also outlines the interest earnings for the investments held by the Town. Overall interest rates are rising as the Federal regulators are increasing interest rates. For the first two quarters the weighted average earnings of the portfolio was approximately 1.832%. In accordance with the adopted policy the investment of public funds emphasizes safety, liquidity, and then yield. The public Agency pools are structured to align with these goals.

REASONS FOR THE RECOMMENDED ACTION

Receipt of this report complies with the adopted Town Investment Policy.

COUNCIL ADOPTED VALUES

Periodic review of the Town's investment performance aligns with the City Council adopted responsibility value. It exemplifies financial accountabilities and ensure safekeeping of public funds in responsible investment options.

CONCLUSION

Staff recommends the City Council receive and file the report.



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Administrative Services Director
 VIA: Brian Dossey, City Manager
 MEETING DATE: February 27, 2019
 SUBJECT: FY 2018-19 Mid-Year Financial Update

RECOMMENDATION

Staff recommends that the City Council make the following motion:

MOTION ACCEPTING THE FISCAL YEAR 2018-19 MID-YEAR FINANCIAL REPORT THROUGH DECEMBER 31, 2018 AND AUTHORIZING A COPY TO BE POSTED ON THE TOWN'S WEBSITE

EXECUTIVE SUMMARY

Mid-year financial reports serve as a communication tool on the financial health of the Town and offers early warnings of potential financial concerns. In review of the Town's finances through December 31, 2018, General Fund revenues and expenditure are trending to meet the 2018-19 budget. There is no budget adjustment proposed at this time. A detailed look at the expenditures show, there are sufficient savings in other budgeted line items to address the unexpected expenditures arising from the Colma Boulevard sink hole emergency in early Summer/Fall 2018. However, a contingency budget specifically for emergencies may be proposed as part of the 2019-20 Budget process. This report does not include any City Council approved budget amendments after December 31, 2018.

FISCAL IMPACT

Acceptance of the Mid-Year Financial Reports will not alter the existence of a balanced budget. Details of the financial impacts are discussed as part of the report.

BACKGROUND

On June 13, 2018, the City Council adopted a budget for the fiscal year beginning July 1, 2018 and ending June 30, 2019. Since the adoption, the City Council approved certain amendments to the budget, as listed in Attachment B of this report. Amongst the amendments, the implementation of the 2018 Unfunded Liabilities Strategy and Fund Creation generated a significant budgetary change. The 2018 Unfunded Liabilities Strategy transferred \$2.05 million from the Budget Stabilization Reserve to Pension Trust (CalPERS and PARS), \$650,000 to a new reserve for Accrued Leave Payouts, and reduced Budget Stabilization Reserve to \$12.00 million. The creation of the seven new funds, including three Enterprise Funds, required moving budgets

from General Fund to the corresponding new funds and transfer of project funding and assets to the corresponding new funds.

This Mid-Year Financial Review accounts for all the budget amendments summarized in Attachment B and assesses the financial health of the Town through December 31, 2018.

ANALYSIS

GENERAL FUND:

Overall, the **General Fund** revenues are expected to meet budget and General Fund expenditures are expected to stay within budget. According to HdL, the Town's tax consultant, the Town should receive \$11.70 million in sales tax revenues for FY 2018-19, roughly \$50,000 less than the 2018-19 budget. All other revenues are expected to meet or exceed budget.

BUDGET TO MID-YEAR ACTUAL	2018-19 Amended Budget	Actuals Through 12/31/18	% of Annual Budget
GENERAL FUND			
REVENUES	17,534,322	8,228,723	47%
EXPENDITURES	(15,477,548)	(7,546,703)	49%
OPERATING SURPLUS (DEFICIT)	2,056,774	682,019	33%
NET TRANSFERS IN (OUT)	(1,026,905)	(821,070)	80%
FUND BALANCE			
CHANGE IN FUND BALANCE	1,029,869	(139,051)	-14%
BEGINNING BALANCE (7/1/2018)	24,456,213	24,456,213	100%
TRANSFER TO GENERAL FUND RESERVE (12)	(15,600,000)	(15,600,000)	100%
ENDING FUND BALANCE	9,886,082	8,717,162	88%

General Fund expenditures are expected to stay within budget. The first half of the year included an unexpected roadway emergency, as a result of a sink hole. The Public Works Department anticipates that there are sufficient budget savings in other divisions/categories to offset the unexpected cost. However, the Department may propose a contingency budget in 2019-20 to address emergency repairs along public right-of-way.

CAPITAL PROGRAM:

The Town's **Capital Program** is the other major fund(s). Of the 15 projects listed below, nine are expected to be closed by June 30, 2019 and all projects are expected to be completed within the project budget.

BUDGET TO MID-YEAR ACTUAL	CLOSE BY 6/30/19	2018-19 Amended Budget	Actuals Through 12/31/18	% of Annual Budget
CAPITAL PROGRAM				
MISSION ROAD IMPROVEMENTS (903)	No	1,594,900	46,587	3%
SERRAMONTE BOULEVARD BEAUTIFICATION (913)	Yes	206,000	67,684	33%
EL CAMINO REAL BICYCLE & PEDESTRIAN (914)	No	225,000	252	0%
STERLING PARK PLAYGROUND IMPROVEMENTS (944)	Yes	523,500	119,256	23%
TOWN HALL CAMPUS RENOVATION (947)	Yes	4,941,593	3,699,390	75%
SANITARY SEWER SYSTEM ASSESSMENT (971)	Yes	78,000	1,260	2%
ACCESS CONTROL AT TOWN FACILITIES (983)	Yes	246,697	222,672	90%
GEOGRAPHIC INFORMATION SYSTEM (985)	Yes	25,105	-	0%
TOWN'S IT INFRASTRUCTURE UPGRADES (986)	Ongoing	55,000	20,815	38%
AUTO/FLEET REPLACEMENT (987)	Ongoing	145,000	100,220	69%
DISPATCH FURNITURE UPGRADES (988)	Yes	56,371	-	0%
RECORDS MANAGEMENT SYSTEM (989)	No	50,000	-	0%
GENERAL PLAN UPDATE (991)	No	398,650	6,470	2%
ROADWAY NETWORK PLAN (SSAR) (993)	Yes	110,000	100,728	92%
CLIMATE ACTION PLAN (994)	Yes	35,000	7,659	22%
CAPITAL PROGRAM TOTAL		8,690,816	4,392,993	51%

GENERAL FUND RESERVES:

General Fund unassigned reserves are expected reach \$9.9 million by June 30, 2019. The table below summarizes the various General Fund reserves for FY 2016-17, FY 2017-18 and projected FY 2018-19.

GENERAL FUND RESERVES FUND 11 & 12	ACTUAL @ 6/30/2017	ACTUAL @ 6/30/2018	PROJECTED @ 6/30/2019	COMMENTS
COMMITTED RESERVES (12)				
BUDGET STABILIZATION	13,627,000	14,900,000	12,000,000	Reduction in Budget Stabilization Reserve is resulted from the implementation of the 2018 Unfunded Liabilities Strategy.
DEBT REDUCTION	618,000	600,000	600,000	
RETIREE HEALTH CARE COST	42,000	42,000	-	Reserve should be removed since the Town established an OPEB Trust (Fund 71)
ACCRUED LEAVE PAYOUT	-	-	650,000	New
COMMITTED RESERVES TOTAL	14,287,000	15,542,000	13,250,000	
ASSIGNED RESERVES (11)				
LITIGATION	100,000	100,000	100,000	
INSURANCE	100,000	100,000	100,000	
DISASTER RESPONSE & RECOVERY	750,000	750,000	750,000	
ASSIGNED RESERVES TOTAL	950,000	950,000	950,000	
UNASSIGNED RESERVE (11)	6,310,836	7,964,213	9,886,082	
TOTAL GENERAL FUND RESERVES	21,547,836	24,456,213	24,086,082	

A summary of the reserve balance for all funds can be found in Attachment A.

Reasons For the Recommended Action/Findings

Acceptance of the report provides disclosure of current year revenue and expenditure trends.

Council Adopted Values

Periodic review of the Town's financial condition aligns with the City Council adopted *responsibility* value. It exemplifies financial accountability and ensure reasonable use of public funds. Additionally, publishing the accepted report on the Town's website promotes meaningful public involvement and thereby aligns with the City Council adopted *fairness* value.

CONCLUSION

Staff is requesting that the City Council receive and file the report and direct Staff to post a copy to the Town website.

ATTACHMENTS

- A. 2018-19 Mid-Year Financial Report
- B. Budget Adjustment Summary





FY 2018-19 MID-YEAR FINANCIAL REPORT

(JULY 1, 2018 – December 31, 2018)

GENERAL FUND: BUDGET VS ACTUAL

General Fund revenues through December 31, 2018 are \$8.23 million – 47% of budget. **Sales tax** and **cardroom tax** revenues represent 89% of total revenues through December 31, 2018. Due to the complexity of **sales tax** revenues distribution, the Town engaged HdL to ensure **sales tax** revenues are distributed correctly and to understand the various **sales tax** generating sectors. According to HdL, auto sales has reached market saturation and the Town should expect modest growth in **sales tax** revenue in the coming years. As for 2018-19, the Town can anticipate \$11.70 million in tax revenues through June 30, 2019.

As shown in Table 1 (RIGHT), **cardroom tax** is just shy of 50%. There is no indicator to suggest that **cardroom tax** revenue will decline significantly in the second half of the year. **Use of money and property** has exceeded budget. This is a result of better than expected performance in investments. A majority of the Town's investments are in the State and County investment pools and both focus more on short-term secured investments, such as treasury notes and agency backed bonds.

General Fund expenditures are on track to stay within budget. Aside from **salary, wages & benefits** and **insurance (liability / property)**, all other categories are less than 50% of budget. Annual pension unfunded liabilities and insurance premiums are paid at the beginning of each fiscal year resulting in **salary, wages & benefits** at 52% of budget and **insurance (liability / property)** at 92%. This is also the reason for departmental spending for **General Administration**, **Public Safety**, and **Recreation** to be above the 50% mark.

GENERAL FUND RESERVES

As show in Table 2 (RIGHT), unassigned General Fund reserves has steadily increased in the most recent three years. Budget Stabilization Reserves reduced because the Town implemented its first Unfunded Liability Strategy. The strategy can be found on the Town's website under the Finance Department.

This report summarizes the Town's mid-year financial status by providing an analysis of revenues and expenditures through the first half of the fiscal year for the General Fund and other non-major funds. The intent of this report is to provide a brief update on how these funds are performing in comparison to the adjusted budget. This mid-year financial report is prepared using a "soft-close", an abbreviated closing procedure, for timely reporting. Only major transactions, such as sales tax, property tax, sewer assessment revenues, sewer contracts, and other major contracts were accrued for this mid-year report.

TABLE 1: GENERAL FUND BUDGET TO MID-YEAR ACTUAL

GENERAL FUND	2018-19 Amended Budget	Actuals Through 12/31/18	% of Annual Budget
REVENUES:			
SALES TAX	11,750,000	5,248,996	45%
CARDROOM TAX	4,235,000	2,094,308	49%
PROPERTY AND OTHER TAXES	731,000	373,368	51%
USE OF MONEY AND PROPERTY	317,302	317,788	100%
CHARGES FOR SERVICES	135,870	65,296	48%
LICENSES AND PERMITS	123,840	48,040	39%
OTHER REVENUES	241,310	80,927	34%
REVENUES TOTAL	17,534,322	8,228,723	47%
EXPENDITURES (BY CATEGORIES):			
SALARY, WAGES, & BENEFITS	10,036,370	5,181,263	52%
PROFESSIONAL & CONTRACT SERVICES	2,968,228	1,008,398	34%
SUPPLIES & SERVICES	1,164,960	528,549	45%
FACILITY OPERATIONS	598,790	215,532	36%
INSURANCE (LIABILITY / PROPERTY)	652,500	603,249	92%
CAPITAL OUTLAY	56,700	9,712	17%
EXPENDITURES TOTAL	15,477,548	7,546,703	49%
OTHER FINANCING SOURCES IN (OUT):			
TRANSFERS IN	300,000	300,000	100%
TRANSFERS OUT	(1,326,905)	(1,121,070)	84%
OTHER FINANCING SOURCES TOTAL	(1,026,905)	(821,070)	80%
NET CHANGE IN GENERAL FUND	1,029,869	(139,051)	-14%

EXPENDITURES (BY DEPARTMENT):

GENERAL ADMINISTRATION	3,607,480	1,953,425	54%
PUBLIC SAFETY	7,649,268	3,874,440	51%
PUBLIC WORKS	2,596,170	975,339	38%
FACILITY OPERATIONS	598,790	215,532	36%
RECREATION	1,025,840	527,967	51%
EXPENDITURES TOTAL	15,477,548	7,546,703	49%

TABLE 2: GENERAL FUND RESERVES HISTORY

GENERAL FUND RESERVES FUND 11 & 12	ACTUAL @ 6/30/2017	ACTUAL @ 6/30/2018	PROJECTED @ 6/30/2019
COMMITTED RESERVES (12)			
BUDGET STABILIZATION	13,627,000	14,900,000	12,000,000
DEBT REDUCTION	618,000	600,000	600,000
RETIREE HEALTH CARE COST	42,000	42,000	-
ACCRUED LEAVE PAYOUT	-	-	650,000
COMMITTED RESERVES TOTAL	14,287,000	15,542,000	13,250,000
ASSIGNED RESERVES (11)			
LITIGATION	100,000	100,000	100,000
INSURANCE	100,000	100,000	100,000
DISASTER RESPONSE & RECOVERY	750,000	750,000	750,000
ASSIGNED RESERVES TOTAL	950,000	950,000	950,000
UNASSIGNED RESERVE (11)	6,310,836	7,964,213	9,886,082
TOTAL GENERAL FUND RESERVES	21,547,836	24,456,213	24,086,082

CAPITAL PROGRAM:

Of the 15 capital projects, listed in Table 3 (LEFT), nine projects are expected to close by June 30, 2019. This includes the Town Hall Campus Renovation (947), Access Control at Town Facilities (983), Sterling Park Playground Improvements (944), Dispatch Furniture Upgrades (988), and Roadway Network Plan [SSAR] (993). Two of the projects are ongoing in nature, which means that new funding will be allocated each year to address program needs and unspent and non-encumbered budgets are released back to the capital reserve to be used for other capital projects.

BUDGET TO MID-YEAR ACTUAL	CLOSE BY 6/30/19	2018-19 Amended Budget	Actuals Through 12/31/18	% of Annual Budget
CAPITAL PROGRAM				
MISSION ROAD IMPROVEMENTS (903)	No	1,594,900	46,587	3%
SERRAMONTE BOULEVARD BEAUTIFICATION (913)	Yes	206,000	67,684	33%
EL CAMINO REAL BICYCLE & PEDESTRIAN (914)	No	225,000	252	0%
STERLING PARK PLAYGROUND IMPROVEMENTS (944)	Yes	523,500	119,256	23%
TOWN HALL CAMPUS RENOVATION (947)	Yes	4,941,593	3,699,390	75%
SANITARY SEWER SYSTEM ASSESSMENT (971)	Yes	78,000	1,260	2%
ACCESS CONTROL AT TOWN FACILITIES (983)	Yes	246,697	222,672	90%
GEOGRAPHIC INFORMATION SYSTEM (985)	Yes	25,105	-	0%
TOWN'S IT INFRASTRUCTURE UPGRADES (986)	Ongoing	55,000	20,815	38%
AUTO/FLEET REPLACEMENT (987)	Ongoing	145,000	100,220	69%
DISPATCH FURNITURE UPGRADES (988)	Yes	56,371	-	0%
RECORDS MANAGEMENT SYSTEM (989)	No	50,000	-	0%
GENERAL PLAN UPDATE (991)	No	398,650	6,470	2%
ROADWAY NETWORK PLAN [SSAR] (993)	Yes	110,000	100,728	92%
CLIMATE ACTION PLAN (994)	Yes	35,000	7,659	22%
CAPITAL PROGRAM TOTAL		8,690,816	4,392,993	51%

FUND BALANCE SUMMARY – ALL FUNDS

Table 3, below, is a summary of fund balances for all Town's funds. The various City Council designated reserve funds are listed within the General Fund (11) and General Fund Reserves (12) below.

FUND TITLE	Fund	Fund Balance @ 7/1/18	Revenues YTD 12/31/18	Expenditures YTD 12/31/18	Transfers In/(Out)		Net Change in Fund Balance	Fund Balance @ 12/31/18
					Fund Creation	Other Transfers		
GENERAL								
GENERAL FUND	11	24,456,213	8,228,723	(7,546,703)	(15,797,176)	(621,342)	(15,736,499)	8,719,714
GENERAL FUND RESERVE	12	0	0	0	15,600,000	(2,350,000)	13,250,000	13,250,000
GENERAL FUND TOTAL		24,456,213	8,228,723	(7,546,703)	(197,176)	(3,621,342)	(3,136,499)	21,319,714
SPECIAL FUNDS								
GAS TAX	21	15,403	26,758	(7,835)	(33,500)	0	(14,577)	826
MEASURE A	22	174,399	25,118	0	(160,000)	0	(134,882)	39,517
TRANSPORTATION GRANT	23	(11,269)	11,269	0	0	0	11,269	0
PARK IN-LIEU	24	0	0	0	0	0	0	0
HOUSING IMPACT FEES	25	0	0	0	197,176	0	197,176	197,176
PUBLIC SAFETY GRANTS	27	18,118	508	(5,195)	0	0	(4,686)	13,432
COPS GRANT	29	173,934	81,620	(95,185)	0	0	(13,565)	160,369
SPECIAL FUNDS TOTAL		370,585	145,274	(108,215)	3,676	0	40,735	411,320
CAPITAL								
CAPITAL IMPROVEMENT	31	8,015,221	1,758	(4,076,262)	(2,042,058)	675,000	(5,441,562)	2,573,659
STREET CAPITAL	32	0	59,727	(215,251)	2,158,341	0	2,002,817	2,002,817
CAPITAL FUNDS TOTAL		8,015,221	61,486	(4,291,513)	116,283	675,000	(3,438,744)	4,576,477
DEBT								
COP DEBT SERVICE	43	2,541	55	(94,034)	0	91,482	(2,497)	44
DEBT FUND TOTAL		2,541	55	(94,034)	0	91,482	(2,497)	44
ISF								
VEHICLE / FLEET REPLACEMENT	61	651,891	1,880	(100,220)	0	0	(98,340)	553,551
INTERNAL SERVICE FUND (ISF) TOTAL		651,891	1,880	(100,220)	0	0	(98,340)	553,551
TRUST								
OPEB TRUST	71	1,686,932	764,683	(334,388)	0	0	430,295	2,117,227
RETIREMENT TRUST	72	20,064	(475)	(1,050,026)	0	2,050,000	999,499	1,019,563
TRUST FUNDS TOTAL		1,706,996	764,208	(1,384,414)	0	2,050,000	1,429,794	3,136,790
ENTERPRISE								
SEWER OPERATING	81	0	412,403	(897,791)	0	154,650	(330,738)	(330,738)
SEWER CAPITAL	82	0	0	(1,260)	230,273	0	229,013	229,013
CITY PROPERTIES	83	0	78,329	(41,626)	2,263,040	210	2,299,953	2,299,953
ENTERPRISE FUND TOTAL		0	490,732	(940,677)	2,493,313	154,860	2,198,228	2,198,228
TOTAL FOR ALL FUNDS		35,203,447	9,692,356	(14,465,777)	2,416,096	0	(2,357,324)	32,846,123

ADDITIONAL DETAILS AND INFORMATION

This format was prepared by the Finance Department to highlight in summary fashion key indicators of the Town Financial performance. Additional Financial Reports and Budgets – including earlier Quarterly Financial Reports, Audits and Budgets – are also available on the Town website www.colma.ca.gov. This report will also be posted on the Town website after it has been reviewed by the City Council.

**Town of Colma
Budget Amendment Summary**

Description: Below is a summary of all budget amendments approved by the City Council from July 2018 through December 2018. Due to the complexity of Fund Creation, there may be other necessary budget adjustments in accordance to Generally Accepted Accounting Principles. Such adjustments will be summarized for the City Council in Quarter 3 and Quarter 4 financial update. The purpose of the summary below is to allow readers to compare the published adopted budget to the final amended budget.

Acct	Acct Title	Description	Amount Inc/(Dec)
01. Council Meeting 07/11/2018. (Reso 2018-31) Amend 2018-19 Capital Program to add El Camino Real Bicycle and Pedestrian Project (914)			
31-600-99009	Transfers Out (To Street Capital Fd)	Transfer capital reserve (Fund 31) for local match portion	25,808
32-39004	Transfers In (From Cap Imprvmt Fund)	Budget for grant portion	25,808
32-35206	Gax Tax SB1 Grant	Budget for grant portion	199,192
32-914-81002	Planning And Design	Total Project Cost	225,000
02. Council Meeting 10/24/2018. (Reso 2018-45) Increase Dispatch Furniture Project cost by \$6,371. Additional project cost will be using capital reserve (Fund			
31-988-71014	Project Management	Increase project budget	126
31-988-80001	Equipment Purchases	Increase project budget	2,923
31-988-80200	Furniture	Increase project budget	3,322
03. Council Meeting 10/24/2018. (Reso 2018-48) Acceptance of Unfunded Liability Strategies and adjusting the committed reserves by transferring \$2.05 million to reduce pension obligations (First to Fund 72 and then to CalPERS and PARS), transferring \$650,000 to Accrued Leave Payout Reserve (Fund 12), and reducing the \$15.0 million Budget Stabilization Reserve (Fund 12) to \$12.0 million, leaving \$300,000 to return to Fund 11 Unassigned. The \$650,000 transfer is a non-budgetary item, since it's a transfer within fund.			
11-39008	Transfers In (From GF Reserves)	Remaining unassigned reserve	300,000
12-600-99001	Transfer Out (To General Fund)	Remaining unassigned reserve	300,000
12-600-99013	Transfers Out (To Trust Fund)	Transfer of \$2.05 million to Trust Fund (72)	2,050,000
72-39008	Transfers In (From GF Reserves)	Transfer of \$2.05 million to Trust Fund (72)	2,050,000
04. Council Meeting 11/14/2018. (Reso 2018-49) Amend 2018-19 Capital Budget to reconcile estimated project budget (part of the 2018-19 adopted budget) to actual unspent project budget (after the 2017-18 financial has been completed).			
23-993-81002	Planning And Design	Correct unspent project budget	7,065
31-913-81002	Planning And Design	Correct unspent project budget	(53,246)
31-944-71010	Professional Consulting Services	Correct unspent project budget	(3,124)
31-944-81002	Planning And Design	Correct unspent project budget	(9,747)
31-947-60005	Special Department Expense	Correct unspent project budget	2,834
31-947-60014	Equipment Rental	Correct unspent project budget	(3,490)
31-947-71010	Professional Consulting Services	Correct unspent project budget	8,109
31-947-71014	Project Management	Correct unspent project budget	(54,604)
31-947-80011	Improvements Other Than Buildings	Correct unspent project budget	713
31-947-80200	Furniture	Correct unspent project budget	(50,000)
31-947-81002	Planning And Design	Correct unspent project budget	9,149
31-947-81003	Construction	Correct unspent project budget	266,387
31-971-81002	Planning And Design	Correct unspent project budget	(783)
31-983-71014	Project Management	Correct unspent project budget	(15,000)
31-983-81002	Planning And Design	Correct unspent project budget	(3,389)
31-983-81003	Construction	Correct unspent project budget	180,086
31-991-71009	Professional Planning Services - Adv	Correct unspent project budget	581
31-993-81002	Planning And Design	Correct unspent project budget	(3,885)

**Town of Colma
Budget Amendment Summary**

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Acct	Acct Title	Description	Amount Inc/(Dec)
05. Council Meeting 10/24/2018. (Reso 2018-43)			
Creation of 7 funds and the resulting budget amendments to transfer assets and budget to the appropriate funds.			
Creation of Fund 12: General Fund Reserve. Additional adjustments as a result of #3 above.			
11-600-99006	Transfers Out (To General Fund Reserve)		15,600,000
12-39001	Transfers In (From General Fund)		15,600,000
Creation of Fund 25: Housing Impact Fund. Transfer funding received in 2017-18.			
11-600-99008	Transfers Out (To Housing Impact Fd)		197,176
25-39001	Transfers In (From General Fund)		197,176
Creation of Fund 32: Street Capital Fund. Transfers include project budget, reserve funds, and grant funding			
903: Mission Road Bicycle and Pedestrian Improvement Program			
21-600-99009	Transfers Out (To Street Capital Fd)	Allocated Gas Tax designated for project	33,500
32-39002	Transfers In (From Gas Tax Fund)	Allocated Gas Tax designated for project	33,500
22-600-99009	Transfers Out (To Street Capital Fd)	Allocated Measure A designated for project	160,000
32-39003	Transfers In (From Measure A Fund)	Allocated Measure A designated for project	160,000
23-35005	Federal Transp (Transp Livable Comm)	Reimbursement Grant to be recorded in Fund 32	(525,000)
23-35006	Federal Transp - Local Street Rd (Lsr)	Reimbursement Grant to be recorded in Fund 32	(100,000)
23-35007	County Transp Grant	Reimbursement Grant to be recorded in Fund 32	(200,000)
32-35005	Federal Transp (Transp Livable Comm)	Reimbursement Grant to be recorded in Fund 32	525,000
32-35006	Federal Transp - Local Street Rd (Lsr)	Reimbursement Grant to be recorded in Fund 32	100,000
32-35005	Federal Transp (Transp Livable Comm)	Reimbursement Grant to be recorded in Fund 32	200,000
21-903-81003	Construction	Allocated Gas Tax designated for project	(33,500)
22-903-81003	Construction	Allocated Measure A designated for project	(160,000)
31-600-99009	Transfers Out (To Street Capital Fd)	Unspent Town's portion of grant matching.	576,400
32-39004	Transfers In (From Cap Imprvmt Fund)	Unspent Town's portion of grant matching.	576,400
23-903-71010	Professional Consulting Services	Move Project cost to Fund 32	(25,000)
31-903-71010	Professional Consulting Services	Move Project cost to Fund 32	(41,665)
32-903-71010	Professional Consulting Services	Move Project cost to Fund 32	66,665
31-903-81002	Planning And Design	Move Project cost to Fund 32	(194,735)
32-903-81002	Planning And Design	Move Project cost to Fund 32	194,735
21-903-81003	Construction	Move Project cost to Fund 32	(33,500)
22-903-81003	Construction	Move Project cost to Fund 32	(160,000)
23-903-81003	Construction	Move Project cost to Fund 32	(800,000)
31-903-81003	Construction	Move Project cost to Fund 32	(340,000)
32-903-81003	Construction	Move Project cost to Fund 32	1,333,500
913: Serramonte Blvd Beautification			
31-600-99009	Transfers Out (To Street Capital Fd)	Unspent Town's portion of project funding	206,754
32-39004	Transfers In (From Cap Imprvmt Fund)	Unspent Town's portion of project funding	206,754
31-913-81002	Planning And Design	Move Project cost to Fund 32	(206,754)
32-913-81002	Planning And Design	Move Project cost to Fund 32	206,754

**Town of Colma
Budget Amendment Summary**

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Acct	Acct Title	Description	Amount Inc/(Dec)
05.	Council Meeting 10/24/2018. (Reso 2018-43)		(cont.)
	Creation of 7 funds and the resulting budget amendments to transfer assets and budget to the appropriate funds.		
	993: Roadway Network Plan (SSAR)		
23-35003	State Transportation Grant	Reimbursement Grant to be recorded in Fund 32	(88,731)
	NOTE: Original budget = \$100k but the Town spent \$11,269 more in 2017-18, entirely eligible for grant reimbursement. In creating the new Fund 32, expenditure in 2018-19, and related grant reimbursement, will be recorded in Fund 32. The \$11,269 grant reimbursement is to match 2017-18 expenditure.		
32-35003	State Transportation Grant	Reimbursement Grant to be recorded in Fund 32	107,065
	NOTE: \$7,065 difference is from carryover entry. See #4. above		
31-600-99009	Transfers Out (To Street Capital Fd)	Unspent Town's portion of grant matching.	6,115
32-39004	Transfers In (From Cap Imprvmt Fund)	Unspent Town's portion of grant matching.	6,115
23-993-81002	Planning And Design	Move Project cost to Fund 32	(107,065)
31-993-81002	Planning And Design	Move Project cost to Fund 32	(6,115)
32-993-81002	Planning And Design	Move Project cost to Fund 32	113,180
	901: Hillside Blvd		
31-600-99009	Transfers Out (To Street Capital Fd)	Unspent Town's portion of project funding	1,068,059
32-39004	Transfers In (From Cap Imprvmt Fund)	Unspent Town's portion of project funding	1,068,059
	Other Street Capital Fund Contribution (Money received in 2017-18)		
31-600-99009	Transfers Out (To Street Capital Fd)	Other contribution received in 2017-18	81,705
32-39004	Transfers In (From Cap Imprvmt Fund)	Other contribution received in 2017-18	81,705
	Creation of Fund 81: Sewer Operation. Transfer sewer fee revenues and expenditure to Fund 81 from Fund 11. General Fund Subsidy of \$154,650 is required to balance the operating cost.		
11-36221	Sewer Fees	Move budget from Fund 11 to Fund 81	(819,500)
81-36221	Sewer Fees	Move budget from Fund 11 to Fund 81	819,500
11-320-73007	Sanitary Sewers	Move budget from Fund 11 to Fund 81	(899,150)
11-320-73008	Sewer Maintenance	Move budget from Fund 11 to Fund 81	(75,000)
81-320-73007	Sanitary Sewers	Move budget from Fund 11 to Fund 81	899,150
81-320-73008	Sewer Maintenance	Move budget from Fund 11 to Fund 81	75,000
11-600-99011	Transfers Out (To Sewer Ops)	Transfer GF Subsidy	154,650
81-39001	Transfers In (From General Fund)	Transfer GF Subsidy	154,650
	Creation of Fund 82: Sewer Capital. Transfer of 2018-19 Sanitary Sewer Assessment project budget and sewer asset value from Governmental Fund to Sewer Fund.		
31-600-99010	Transfers Out (To Sewer CIP)	Unspent Town's portion of project funding	77,217
82-39004	Transfers In (From Cap Imprvmt Fund)	Unspent Town's portion of project funding	77,217
31-971-81002	Planning And Design	Move Project cost to Fund 82	(77,217)
82-971-81002	Planning And Design	Move Project cost to Fund 82	77,217
82-39500	Capital Contribution	Move sewer asset value (accounting entry)	153,056

**Town of Colma
Budget Amendment Summary**

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Acct	Acct Title	Description	Amount Inc/(Dec)
05. Council Meeting 10/24/2018. (Reso 2018-43)			(cont.)
Creation of 7 funds and the resulting budget amendments to transfer assets and budget to the appropriate funds.			
Creation of Fund 83: City Properties. Move Verano and Creekside Villa operations to Fund 83 and transfer property asset value from Governmental Fund to City Properties Fund.			
11-34021	Senior Housing Rents	Move budget from Fund 11 to Fund 83	(190,000)
83-34021	Senior Housing Rents	Move budget from Fund 11 to Fund 83	190,000
11-34026	Verano 1065 Mission Rd. Rent	Move budget from Fund 11 to Fund 83	(5,500)
83-34026	Verano 1065 Mission Rd. Rent	Move budget from Fund 11 to Fund 83	5,500
11-600-99012	Transfers Out (To City Facilities)	Transfer GF Subsidy	210
83-39001	Transfers In (From General Fund)	Transfer GF Subsidy	210
11-808-90002	Gas And Electricity	Move budget from Fund 11 to Fund 83	(4,200)
11-808-90003	Water	Move budget from Fund 11 to Fund 83	(8,000)
11-808-90006	Supplies	Move budget from Fund 11 to Fund 83	(200)
11-808-90007	Janitorial Services	Move budget from Fund 11 to Fund 83	(2,200)
11-808-90008	Landscaping	Move budget from Fund 11 to Fund 83	(10,650)
11-808-90009	Pest Control	Move budget from Fund 11 to Fund 83	(2,400)
11-808-90010	Security System	Move budget from Fund 11 to Fund 83	(2,400)
11-808-90011	Heat, Ventilation, & Air Conditioning	Move budget from Fund 11 to Fund 83	(7,250)
11-808-90012	Bldg. Interior Maintenance & Repair	Move budget from Fund 11 to Fund 83	(25,000)
11-808-90013	Bldg. Exterior Maintenance & Repair	Move budget from Fund 11 to Fund 83	(15,000)
11-808-90015	Property Management	Move budget from Fund 11 to Fund 83	(18,000)
83-808-90002	Gas And Electricity	Move budget from Fund 11 to Fund 83	4,200
83-808-90003	Water	Move budget from Fund 11 to Fund 83	8,000
83-808-90006	Supplies	Move budget from Fund 11 to Fund 83	200
83-808-90007	Janitorial Services	Move budget from Fund 11 to Fund 83	2,200
83-808-90008	Landscaping	Move budget from Fund 11 to Fund 83	10,650
83-808-90009	Pest Control	Move budget from Fund 11 to Fund 83	2,400
83-808-90010	Security System	Move budget from Fund 11 to Fund 83	2,400
83-808-90011	Heat, Ventilation, & Air Conditioning	Move budget from Fund 11 to Fund 83	7,250
83-808-90012	Bldg. Interior Maintenance & Repair	Move budget from Fund 11 to Fund 83	25,000
83-808-90013	Bldg. Exterior Maintenance & Repair	Move budget from Fund 11 to Fund 83	15,000
83-808-90015	Property Management	Move budget from Fund 11 to Fund 83	18,000
11-809-90012	Bldg. Interior Maintenance & Repair	Move budget from Fund 11 to Fund 83	(1,500)
11-809-90015	Property Management	Move budget from Fund 11 to Fund 83	(4,210)
83-809-90012	Bldg. Interior Maintenance & Repair	Move budget from Fund 11 to Fund 83	1,500
83-809-90015	Property Management	Move budget from Fund 11 to Fund 83	4,210
83-39500	Capital Contribution	Move sewer asset value (accounting entry)	2,263,040



STAFF REPORT

TO: Mayor and Members of the City Council
FROM: Michael Laughlin, City Planner
Christopher Diaz, City Attorney
VIA: Brian Dossey, City Manager
MEETING DATE: February 27, 2019
SUBJECT: Multi-Unit Smoking Ordinance Amendment

RECOMMENDATION

Staff recommends that the City Council introduce:

ORDINANCE AMENDING SUBCHAPTER 2.08 TO THE COLMA MUNICIPAL CODE, RELATING TO MULTI-UNIT SMOKING CONTROL AND DETERMINING SUCH ACTION TO BE CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO CEQA GUIDELINES 15061(B)(3) AND 15308, AND WAIVE A FURTHER READING OF THE ORDINANCE

EXECUTIVE SUMMARY

The City Council held a study session on January 9, 2019 to consider multi-unit smoking regulations. A majority of the City Council expressed interest in adopting regulations creating buffer zones for the entrances to multi-unit residences. The proposed ordinance adds a definition and restriction which creates a 20' buffer zone to the entrance of a multi-unit building to allow for smoke-free access to units by residents and guests.

FISCAL IMPACT

Ordinance implementation may result in a minor increase in code enforcement services which can be accommodated within the current code enforcement and Police Department budgets. In addition, education and mediation assistance is available from the San Mateo County Tobacco Education Coalition (TEC).

ANALYSIS

On January 9, 2019, the City Council held a study session where staff presented options for types of local multi-unit smoking controls. After staff's presentation, the City Council heard from members of the TEC who support smoking controls.

At the conclusion of the study session, the City Council directed staff to return with an ordinance that would create a 20' smoke-free setback from the entrance to a multi-family residential unit. The proposed ordinance amends the ordinance that the City Council adopted in August of 2018 which added local smoking controls for commercial properties and businesses.

The ordinance amendment adds a definition of multi-family that includes two or more units. These can either be rental units, or units in common interest developments such as condominiums or townhomes that have shared or abutting walls, floors or ceilings. The definition excludes single-family residences which have in-law or accessory dwelling units that are less than 50% of the floor area of the main residence.

Enforcement

Enforcement is through complaints filed by citizens or observations by the Town. Enforcement is typically carried out by the Police Department and the Code Enforcement Officer. Usually an individual will refrain from smoking once made aware of the local law. For individuals not responding to a warning, a violation of the smoking ordinance can be handled as an infraction, a misdemeanor, or may be deemed a public nuisance.

Outreach and Public Education

If an ordinance is adopted by the City Council, staff will conduct public outreach about the ordinance. Staff envisions noting the new limitation in the live-wire and updating the existing brochure which will explain the provisions of the ordinance.

Council Adopted Values

The recommendation is consistent with the Council value of **responsibility** because it considers the impact of smoking on the public and places reasonable controls on smoking.

Sustainability Impact

Additional restrictions on smoking serves to improve health. The ordinance may also reduce the number of cigarette butts in public places. Both of these side benefits would have a positive sustainability impact.

Alternatives

The City Council could choose not to introduce the ordinance. This alternative is not recommended since the ordinance provides a smoke-free path of travel to multi-unit residences.

CONCLUSION

Staff recommends the City Council introduce and adopt the ordinance.

ATTACHMENTS

- A. Ordinance



ORDINANCE NO. ____
OF THE CITY COUNCIL OF THE TOWN OF COLMA

**AN ORDINANCE AMENDING SUBCHAPTER 2.08 TO THE COLMA MUNICIPAL CODE,
RELATING TO MULTI-UNIT SMOKING CONTROL AND DETERMINING SUCH ACTION
TO BE CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW
PURSUANT TO CEQA GUIDELINES 15061(B)(3) AND 15308**

The City Council of the Town of Colma does ordain as follows:

ARTICLE 1. FINDINGS

- (a) The City Council of the Town of Colma hereby finds that:
- i. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and
 - ii. Reliable studies have shown that breathing second-hand smoke, which has been classified as a carcinogen, is a significant health hazard for all persons; and
 - iii. Health hazards induced by breathing second-hand smoke include lung cancer, respiratory function, bronchoconstriction, and bronchospasm; and
 - iv. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing second-hand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and
 - v. There have been some studies that indicate that there are second-hand effects to those exposed to electronic cigarette vapors; and
 - vi. Nonsmokers who live in multi-family dwellings can be exposed to neighbors' secondhand smoke; and
 - vii. Accordingly, the City Council finds and declares that the purpose of this chapter is to protect the public health and welfare by prohibiting smoking in public places, places of employment and near multi-family dwellings as set forth herein.
- (b) Notice of a public hearing on the proposed ordinance was posted on the Town's three bulletin boards, was mailed to all businesses in the Town, and provided to any person who has filed written request for such notice at least 10 days before the hearing.
- (c) A public hearing on this matter was held on February 27, 2019, and evidence was taken.
- (d) The City Council has reviewed and considered the proposed ordinance, the staff report, and evidence presented at the public hearing.

ARTICLE 2. AMENDMENTS TO SUBCHAPTER 2.08 OF THE COLMA MUNICIPAL CODE.

Subchapter 2.08 ("Smoking Control") of the Colma Municipal Code, Chapter Two, is hereby amended and restated as follows:

Subchapter 2.08: Smoking Control

2.08.010 Purpose.

This ordinance shall be construed and applied to promote its basic purposes and policies which are:

- (a) To protect the public health and welfare by prohibiting or limiting smoking in public places, as hereinafter set forth.
- (b) To strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air should have priority.

[*History*: Ord. 782, 18/22/18]

2.08.020 Definitions.

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section have the meanings given to them in this section.

- (a) "Dining area" means any indoor or outdoor area which is available to, or customarily used by, the general public and which is designed, established or regularly used for consuming food or drink.
- (b) "Electronic Cigarette" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, as an aerosol or vapor, including any component, part, or accessory of such a device, whether or not sold separately. "Electronic Cigarette" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vape pen or any other product name or descriptor. (c) "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity or other employer.
- (c) "Employer" means any person, partnership, corporation, or non-profit entity, including a municipal corporation, who employs the services of one or more persons.
- (d) "Enclosed" means closed in by a roof and four walls with appropriate openings for ingress, egress, and windows.
- (e) "Multi-Family Unit" means any building with two or more residential dwelling units and such units have at least one or more shared or abutting walls, floors, or ceilings. Additionally, a building that has two or more residential dwelling units and such units have a shared ventilation system is considered a multi-family unit. A multi-family unit does not include the following:

(1) A single-family residence with an attached or detached in-law or accessory dwelling unit that is less than 50% of the floor area of the main residence; and

(2) A single-family residence.

(f e) "Public place" means any area to which the public is invited or in which the public is permitted whether publicly or privately owned and regardless of any fee or age requirement. A private residence is not a public place, except when the residence is utilized as a health care facility, child care facility, family care home, foster care center, group home or senior care home.

(g f) "Primary entrance" means an entryway prominently delineated with signage and used by members of the public as the main source of access for ingress/egress to a facility.

(h g) "Service area" means any publicly or privately-owned area, including sidewalks, that is designed to be used or is regularly used by one or more persons to receive a service, wait to receive a service or to make a transaction, whether or not such a service or transaction includes the exchange of money. The term "service area" includes, but is not limited to, information kiosks, automatic teller machines (ATMs), ticket lines, bus stops, or mobile vendor lines.

(i h) "Smoking" means possessing a lighted, heated or ignited tobacco, nicotine or marijuana product or paraphernalia; or engaging in an act that generates smoke (including, but not limited to, possessing a lighted, heated or ignited pipe, hookah pipe, cigar, electronic cigarette or cigarette of any kind); or lighting, heating or igniting a pipe, hookah pipe, cigar, electronic cigarette or a cigarette of any kind. Smoking includes the use of any product which emits smoke in the form of gases, particles, vapors or other byproducts released by electronic cigarettes, tobacco cigarettes, herbal cigarettes, marijuana cigarettes and any other type of cigarette, pipe or other implement for the purpose of inhalation of vapors, gases, particles or their byproducts released as a result of combustion or ignition.

(i i) "Special Event" means any event or gathering to which the public is invited or in which the public is permitted, and for which a Special Event Permit is required by the Town of Colma. This includes any Town sponsored special event.

(k j) "Tobacco product" means any substance containing tobacco leaf, including cigarettes, cigars, loose tobacco, snuff or any other preparation of tobacco which may be used for smoking, chewing, inhalation or other means of ingestion; and any electronic cigarette or other electronic device used to generate smoke or vapors; and any product or formulation or matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for the use in treating nicotine or tobacco dependence.

(l k) "Unenclosed Area" means any area that is not an enclosed area.

[History: Ord. 782, 18/22/18; Ord. XXX, X/X/XX]

2.08.030 Areas where smoking is prohibited.

The Town of Colma recognizes that the State of California regulates smoking in many areas, including but not limited to, in enclosed places of employment (Labor Code §6404.5). The Town desires to supplement the smoking restrictions found in state law by prohibiting smoking in the areas listed below. Therefore, within the Town of Colma, smoking shall be prohibited:

(a) Within and around Town of Colma Structures. This includes any enclosed structure owned or leased by the Town of Colma wherever located; and within twenty (20) feet of an exit, entrance or operable window as prohibited by Government Code §7597;

(b) In unenclosed dining and service areas; and within twenty (20) feet of unenclosed dining and service areas.

(c) Within twenty (20) feet in any direction from the primary entrance or exit to any enclosed public place.

(d) Within twenty (20) feet in any direction from the primary entrance to any multi-family unit.

~~(d e)~~ At any special event. This includes any enclosed or unenclosed special event, whether held on public or private property, and within a distance of twenty (20) feet around the perimeter and primary entrance to the area occupied by event participants.

[*History*: Ord. 782, 18/22/18; Ord. XXX, X/X/XX]

2.08.040 Private restrictions.

Notwithstanding any other provision of this chapter any owner, proprietor, manager or other person who controls any place described in this section may declare their entire property as nonsmoking.

[*History*: Ord. 782, 18/22/18]

2.08.050 Posting requirements.

Each owner, operator, manager or other person having control of public places within which smoking is regulated by this chapter shall conspicuously post "No Smoking" and/or "No Smoking within 20 feet of entrance" signs with letters not less than one inch in height or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. At least one sign shall be placed at the entrances to every applicable facility or unenclosed area.

[*History*: Ord. 782, 18/22/18]

2.08.060 Enforcement.

(a) It is the responsibility of the City Manager or his/her designee to enforce the provisions of this chapter.

(b) Any owner, manager, operator or employer of any establishment or property subject to this chapter shall have the responsibility to inform any apparent violator, whether public or employee,

about any smoking restrictions in said establishment or on the property. In the case of public property, the City Manager or his/her designee shall have the responsibility to inform any apparent violator about any smoking restrictions on public property.

(c) Any citizen who wishes to register a complaint hereunder may do so in writing addressed to the City Manager or his/her designee.

(d) Notice of these requirements shall be given to every new business license applicant.

[History: Ord. 782, 18/22/18]

2.08.070 Violations and penalties.

(a) It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

(b) It is unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

(c) It is unlawful for any person who owns or controls premises subject to the prohibitions of this chapter to fail to post sign(s) as required by this chapter.

(d) A violation of section 2.08.030 is a misdemeanor, punishable as set forth in subchapter 1.05 of the Colma Municipal Code.

(e) A violation of any other provision of this subchapter is an infraction, punishable as set forth in subchapter 1.05 of the Colma Municipal Code.

(f) A violation of this subchapter shall also be deemed to be a public nuisance under section 2.01.060 of the Colma Municipal Code, and may be abated pursuant to the procedures set forth in subchapter 2.01 of the Code. Notwithstanding any other provision in subchapter 2.01: the authority granted the Code Enforcement Officer in subchapter 2.01 may also be exercised by a Colma peace officer.

[History: Ord. 782, 18/22/18]

2.08.080 Public education

The City Manager or his/her designee shall engage in a continuing program to explain and clarify the purposes of this chapter to citizens affected by it and guide owners, operators and managers in their compliance with it.

[History: Ord. 782, 18/22/18]

ARTICLE 3. SEVERABILITY.

Each of the provisions of this Ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 4. CEQA DETERMINATION

Based on all the evidence presented in the administrative record, including but not limited to the staff report for the proposed ordinance, the City Council hereby finds and determines that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under 14 Cal. Code Regs. Section 15061(b)(3) because it can be seen with certainty that there is no possibility that its adoption will have a significant adverse effect on the environment. It is also categorically exempt under 14 Cal. Code Regs. Section 15308 because the Ordinance constitutes a regulatory activity whose purpose is to protect air quality and prevent the adverse health effects of air pollutants caused by smoking.

ARTICLE 5. EFFECTIVE DATE.

This ordinance, or a summary thereof prepared by the City Attorney, shall be posted on the three (3) official bulletin boards of the Town of Colma within 15 days of its passage and is to take force and effect thirty (30) days after its passage.

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Certificate of Adoption

I certify that the foregoing Ordinance No. ____ was duly introduced at a regular meeting of the City Council of the Town of Colma held on February 27, 2019 and duly adopted at a regular meeting of said City Council held on _____, 2019 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor					
John Irish Goodwin					
Diana Colvin					
Helen Fisicaro					
Raquel Gonzalez					
<i>Voting Tally</i>					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk





STAFF REPORT

TO: Mayor and Members of the City Council

FROM: Brad Donohue, Director of Public Works
 Pak Lin, Administrative Service Director
 Michael Laughlin, City Planner

VIA: Brian Dossey, City Manager
 Christopher J. Diaz, City Attorney

MEETING DATE: February 27, 2019

SUBJECT: 2019 Fee Schedule Update

RECOMMENDATION

Staff recommends that the City Council:

Adopt the following resolution:

RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF COLMA ADOPTING A MASTER FEE SCHEDULE AND AUTHORIZING REMOVAL OF DUPLICATIVE OR INCONSISTENT FEES AND CHARGES OF THE COLMA ADMINISTRATIVE CODE AND TAKING OTHER ACTIONS RELATING THERETO

Introduce the following ordinance:

ORDINANCE AUTHORIZING REMOVAL OF INCONSISTENT FEES AND CHARGES OF THE COLMA MUNICIPAL CODE AS SET FORTH IN THE MASTER FEE SCHEDULE AND TAKING OTHER ACTIONS RELATING THERETO

EXECUTIVE SUMMARY

The City Council held two Study Sessions (November 28 and December 12, 2018) to review changes and set limits on revised costs for various services that are provided by the Public Works, Building and Planning Divisions. The Study Sessions provided the City Council with the methodology of how the new or increased fees were established for the various costs of services that are provided by the above-mentioned departments. City Council also agreed that the Town was not recouping the full cost to the Town of providing various services and that the fees needed to be adjusted to meet the Town’s costs in providing those services. In analyzing the new or increased fee amounts, the City Council also provided direction to set the fees at an

amount that recouped less than the full cost to the Town of providing the service. The City Council's intent with setting the new or increased fees at an amount that is less than the full cost to the Town of providing the service was to ensure compliance and also to ensure the residents and businesses in the Town have time to adjust to the new fees. An example of compliance based fees includes "compliance permits" such as small water heater installations or replacements, roofing permits and minor electrical and mechanical installations.

FISCAL IMPACT

Currently the Town provides various services under building, planning, and public works, yet the Town is not recovering the full cost for providing those services. The fee adjustment in the various services that staff currently provides will increase revenue by approximately \$241,000, which is what the Town is currently subsidizing to the Public. This is not money earned, but rather money intended to recoup the costs to the Town of providing the service.

BACKGROUND

The Town commissioned NBS to perform a "Cost of Service Study" (Study). NBS is a consulting firm that specializes in conducting thorough reviews and analysis of existing fees and charges within jurisdictions and special districts. NBS protocols and procedures in establishing fees for a public entity are established within the California Constitution. The California Constitution (Article 13 C) and various state laws have placed both substantive and procedural limits on cities' ability to impose fees and charges. Proposition 26 contains a more general articulation of the cost of service principle and includes a requirement that:

"The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity."

California law prohibits jurisdictional entities to set user fees or charges based upon subjective justification or based on what neighboring cities charge. The law is more specific and demanding, entitling jurisdictions to charge a fee that is fair and reasonable, and which does not exceed the reasonable costs of the jurisdiction to perform that service.

The NBS study analyzed the current fees and determined whether they were consistent with the reasonable costs to the Town of providing the service and recommendations were made for increases where appropriate.

ANALYSIS

The City Council conducted two study sessions where the City Council and public reviewed and discussed the proposed increases in the various Public Works, Building and Planning Department fees as they relate to services that are rendered to the public for permitting, inspection, plan check, etc.

The outcome of the first study sessions is summarized by stating;

The City Council and members of the public were concerned about the increase in the proposed cost of service fees. The City Council requested that staff come back in a study session format and propose revisions, options or community programs that would assist the public, (residential and commercial communities) in reasonable costs for services rendered along with an outreach program to assist the public on when the fees would be adjusted and why we need the fees to be adjusted.

The second study session addressed the concerns from the City Council and members of the public and provided several fee structuring options that would meet the City Council objectives "format and propose revisions, options or community programs that would assist the public, (residential and commercial communities) in reasonable costs for services rendered".

The preferred option that came from the second study session was a hybrid of several alternatives:

- Alternative #01-City Council stated that getting the public to obtain permits for essential items such as water heaters, roof installs and minor electrical and mechanical projects (Compliance permits) is imperative as in the past some members of the public may have proceeded without permits. The City Council preference was to lower these compliance permits to be reasonable in costs, thus attracting applicants to obtain these permits and not avoid permitting due to unreasonable costs. The Compliance permits are highlighted in yellow in the Cost of Service fees, (Attachment "C").
- Alternative #02-The Cost of Service report recommended a 100 percent recovery on services rendered, City Council proposed 95% percent recovery (5 percent subsidy). This subsidy excludes "Compliance Permits".
- Alternative #03-The third option that the City Council wanted to incorporate was a small project Home Loan Program. After further research, the City Attorney's office concluded that the loan program would create challenges in its implementation.

Through this process, staff is now recommending that City Council consider Alternative #01 and Alternative #02 and forego Alternative #03.

There are two items in your agenda packet for consideration.

The first is an ordinance eliminating inconsistent fees in the Municipal Code from those that have been reviewed and analyzed by NBS. In undertaking this work, staff has found fees in certain sections of the Town's Municipal Code. The ordinance is intended to ensure that all fees in the Municipal Code that are inconsistent with those new or increased fees analyzed by NBS will be removed and are no longer in effect. The ordinance directs staff to come back to the City Council at a later date to remove all the inconsistent fees.

The second document is a resolution adopting a new master fee schedule consistent with the new or increased fees analyzed by NBS. Since certain fees also exist in the Administrative Code, the resolution notes that any fees in the Administrative Code inconsistent with those new or increased fees analyzed by NBS will be removed and are no longer in effect. The resolution

also directs staff to come back to the City Council at a later date to remove all the inconsistent fees.

Upon adoption, the various fees will go into effect after 60 days has passed, consistent with state law.

CONCLUSION

The City Council held two public study sessions to review and analyze the current and the proposed cost of service fees that are associated with the Public Works, Planning and Building Divisions. Considering comments from the public and City Council's belief that cost of service fees need to be reasonable. A revised cost of service fee schedule incorporated the financial tolerances of the public while allowing the Town to recover the greater portion of their costs in providing those various services.

CITY COUNCIL VALUES

City Council took a studious, transparent and *responsible* approach in amending the current cost of service fees in meeting the economic tolerances of the public (residential and commercial) and closing the gap of what it cost the Town to provide those services.

RECOMENDATION

The City Council should introduce the ordinance and adopt the resolution.

ATTACHMENTS

- A. Resolution
- B. Ordinance
- C. Draft Cost of Service Fees

RESOLUTION 2019-___
OF THE CITY COUNCIL OF THE TOWN OF COLMA

RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF COLMA ADOPTING A MASTER FEE SCHEDULE AND AUTHORIZING REMOVAL OF DUPLICATIVE OR INCONSISTENT FEES AND CHARGES OF THE COLMA ADMINISTRATIVE CODE AND TAKING OTHER ACTIONS RELATING THERETO

The City Council of the Town of Colma does hereby resolve:

1. Background.

(a) The Town of Colma ("Town") provides the community with a wide variety of municipal services, including, but not limited to planning services; building plan checking services; building inspection services; plumbing, electrical and mechanical permit review; and public works and engineering services; and

(b) The costs to Town of providing services to the community have increased since the time the Town last updated its Master Fee Schedule; and

(c) The proposed action, adopting a revised Master Fee Schedule, has been properly noticed as required by both Government Code Section 66016 and Government Code Section 66018, including the publication requirements set forth in Government Code Section 6062a, and is being considered for approval by the City Council in this Resolution; and

(d) The Town and the public have been presented, in an open and noticed public meeting, with all of the details of the proposed changes to fees and charges reflected in the Master Fee Schedule attached hereto as Exhibit "A;" and

(e) The Town wishes to adopt the Master Fee Schedule and repeal all fees and charges included in the Town's Administrative Code that are duplicative or inconsistent with those fees and charges contained in Exhibit "A."

2. Order.

(a) The City Council hereby adopts the Master Fee Schedule attached as Exhibit "A." All fees and charges listed in the Master Fee Schedule shall take effect May 1, 2019.

(b) The fees and charges contained within the Master Fee Schedule attached as Exhibit "A" to this Resolution:

- a. Are imposed for a specific government service provided directly to the payor, or for reasonable regulatory costs of the Town for issuing licenses and permits, performing investigations, inspections, and administrative enforcements of the Town's Municipal Code or other rules or ordinances;
- b. Are no more than necessary to cover the reasonable costs of the governmental activity for which the fee or charge is imposed; and
- c. The manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity for which the fee or charge is imposed.

2. The fees and charges contained within the Master Fee Schedule are not taxes within the meaning of California Constitution article XIII C, section 1(e).

(d) The City Council finds that the fees and charges contained in Master Fee Schedule attached as Exhibit "A," if adopted, would include fees and charges duplicative or inconsistent with provisions contained in the City's Administrative Code. All inconsistent fees and charges within the Master Fee Schedule attached hereto as Exhibit "A" are repealed at the time this Resolution becomes effective and the fees and charges contained therein take effect. The City Council directs Town staff to remove all duplicative references to said fees and charges within the Colma Administrative Code.

(e) If any section, subsection, clause or phrase in this resolution or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this resolution or the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or the application thereof to any person or circumstance be held invalid.

(f) The fees set forth in the Master Fee Schedule attached as Exhibit "A" may be increased administratively on or after July 1 of each year, commencing July 1, 2019, in an amount not to exceed the change in the Consumer Price Index, all Urban Consumers, for the San Francisco Area, as determined by the United States Department of Labor Statistics, or its successor based upon data from the most recent April to April period, or if data for such April to April period is no longer available, some other annual period.

* * * * *

Certification of Adoption

I certify that the foregoing Resolution No. 2019-__ was duly adopted at a regular meeting of said City Council held on February 27, 2019 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Joanne F. del Rosario					
John Irish Goodwin					
Diana Colvin					
Helen Fisicaro					
Raquel "Rae" Gonzalez					
Voting Tally					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____

Caitlin Corley, City Clerk



**ORDINANCE NO. _____
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**ORDINANCE AUTHORIZING REMOVAL OF INCONSISTENT FEES AND
CHARGES OF THE COLMA MUNICIPAL CODE AS SET FORTH IN THE MASTER
FEE SCHEDULE AND TAKING OTHER ACTIONS RELATING THERETO**

The City Council of the Town of Colma does ordain as follows:

ARTICLE 1. RECITALS.

- (a) The Town of Colma ("Town") provides the community with a wide variety of municipal services, including, but not limited to planning services; building plan checking services; building inspection services; plumbing, electrical and mechanical permit review; and public works and engineering services.
 - (b) The costs to Town of providing services to the community have increased since the time the Town last updated its Master Fee Schedule.
 - (c) The Town has selected a qualified and experienced professional services firm, NBS, to conduct a comprehensive study of the Town's fees and charges that reflects the full cost of providing those services.
 - (d) The Town and the public have been presented, in an open and noticed public meeting, with all of the details of the proposed changes to fees and charges reflected in the Master Fee Schedule attached as Exhibit "A" to Resolution 2019- .
-

ARTICLE 2. INCORPORATION OF RECITALS.

The City Council hereby finds that all of the foregoing recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

ARTICLE 3. PRIOR DUPLICATIVE FEES OR CHARGES SUPERSEDED.

To the extent the Master Fee Schedule attached as Exhibit "A" to Resolution 2019- describes fees and charges that are also described within the Colma Municipal Code, the City Council directs Town staff to remove all duplicative or inconsistent references to said fees and charges within the Colma Municipal Code. The fees and charges imposed by the Master Fee Schedule attached as Exhibit "A" to Resolution 2019- shall supersede any prior fees or charges imposed by ordinance, resolution, or otherwise by the City Council, to the extent such prior fees or charges conflict , effective May 1, 2019.

ARTICLE 4. NOTICE.

The City Council called a public hearing for February 27, 2019, at the City Council Chambers, for the purpose of receiving public comments to the proposed fees and charges contained within the Master Fee Schedule. Notice of the public hearing was given by publication in a newspaper of general circulation within the Town once a week for two weeks commencing at least ten (10) days prior to the public hearing, with at least 5 days intervening between the first and last publication. On February 27, 2019, at the time and place set for the public hearing, the City Council heard and considered all oral and written presentations and comments made regarding the proposed fees and charges.

ARTICLE 5. SEVERABILITY.

Each of the provisions of this Ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 6. NOT A CEQA PROJECT.

The City Council finds, in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, that the increases contemplated by the Master Fee Schedule attached as Exhibit "A" to Resolution 2019-█ are exempt from CEQA pursuant to Section 15378 and Section 15273 of the CEQA Guidelines and Public Resources Code section 21080(b)(8) because: (i) the increased charges are for the purpose of meeting operational and maintenance expenses of the aforementioned services; and (ii) the charges constitute the creation of a funding mechanism/other governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

ARTICLE 7. FUTURE ACTION BY RESOLUTION AUTHORIZED

If in the future the Town intends to revise fees and charges contained within Master Fee Schedule attached as Exhibit "A" to Resolution 2019-█, Town may do so by resolution.

ARTICLE 8. EFFECTIVE DATE

This ordinance, or a summary thereof prepared by the City Attorney, shall be posted on the three (3) official bulletin boards of the Town of Colma within 15 days of its passage and is to take force on the date the Master Fee Schedule attached as Exhibit "A" to Resolution 2019-█ takes effect.

Certificate of Adoption

I certify that the foregoing Ordinance No. [redacted] was duly introduced at a regular meeting of the City Council of the Town of Colma held on February 27, 2019 and duly adopted at a regular meeting of said City Council on [redacted] by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Joanne F. del Rosario, Mayor					
Raquel "Rae" Gonzalez					
Helen Fisicaro					
John Irish Goodwin					
Diana Colvin					
<i>Voting Tally</i>					

Dated _____

Joanne F. del Rosario, Mayor

Attest: _____
Caitlin Corley, City Clerk



Town of Colma



MASTER FEE SCHEDULE

Building, Planning and Public Works Divisions

Adopted:

DRAFT

(Items highlighted in yellow are designated as Compliance Permit items)

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
	I. PERMIT APPLICATION FEE	Per project			\$ 25
	II. BUILDING PERMIT FEES				
	\$1 - \$500	Minimum permit fee	R		\$ 25
	\$ 500.01 to \$ 2,000	Base Cost (For the first \$500)	R		\$ 48
		Each Add'l \$100			\$ 12.13
0	\$ 2,001 to \$ 25,000.00	Base Cost (For the first \$2,001)	R		\$ 230
		Each Add'l \$1000			\$ 30.39
	\$ 25,001 to \$ 50,000	Base Cost (For the first \$25,001)	C, R		\$ 929
		Each Add'l \$1000			\$ 63.93
	\$ 50,001 to \$ 100,000	Base Cost (For the first \$50,001)	C, R		\$ 2,527
		Each Add'l \$1000			\$ 5.95
	\$100,001 to \$500,000	Base Cost (For the first \$100,001)	C		\$ 2,825
		Each Add'l \$1000			\$ 2.23
	\$500,001 to \$1,000,000	Base Cost (For the first \$500,001)	C		\$ 3,717
		Each Add'l \$1000			\$ 3.87
	\$1,000,000 and over	Base Cost (For the first \$1,000,001)	C		\$ 5,649
		Each Add'l \$1000			\$ 5.65
	III. BUILDING ADMINISTRATIVE PLAN CHECK FEES	Processing Fee + Actual Cost		[2]	
	Town Processing Fee (Valuation):				
	\$1 - \$500	Flat	R		\$ 37
	\$ 500.01 to \$ 2,000.00	Flat	R		\$ 74
	\$ 2,000.01 to \$ 25,000.00	Flat	R		\$ 149
	\$ 25,000.01 to \$ 50,000.00	Flat	C, R		\$ 149
	\$ 50,000.01 to \$ 100,000.00	Flat	C, R		\$ 297

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
	\$100,000.01 to \$500,000.00	Flat	C		\$ 446
	\$500,000.01 to \$1,000,000.00	Flat	C		\$ 520
	\$1,000,000.01 and over	Flat	C		\$ 743
	Consultant Plan Review	Actual Cost			Actual Cost
IV. OTHER PLAN CHECK FEES					
1	Hourly Rate for Plan Review	First Hour			\$ 260
		Ea. add'l hour			\$ 149
2	Site Plan Review for Accessibility Compliance	First 2 hours			\$ 446
		Ea. add'l hour			\$ 149
3	Deferred Submittals (i.e.: Truss Roof Plans/ Calculations)	First Hour			\$ 260
		Ea. add'l hour			\$ 149
4	Plan Revisions (after permit issued 2 hr. minimum charge)	First 2 hours			\$ 409
		Ea. add'l hour			\$ 149
5	Repetitive/Excessive Plan Check 2 hr. minimum charge	First 2 hours			\$ 446
		Ea. add'l hour			\$ 149
V. MISCELLANEOUS & FLAT FEE PERMITS					
1	Re-Roofing- Single Family Residence	Per project			\$ 93
2	Demolition Permit - per single structure (does not include C&D Deposit)	Per project			\$ 446
3	Temporary Office Trailers or Storage Units at Construction Site	Per Trailer or Storage Unit			\$ 260
4	Commercial Coaches, Portable/Re-locatable Structures, Trailers and Manufactured Homes (not including Plan Review)	Per project			\$ 260
5	Sign Re-face - per cabinet, no electrical work	Per project			\$ 149
6	Sign - new cabinet, including electrical circuit (does not include structural support/review)	Per project	C		\$ 446
7	Windows - residential, direct replacement, no structural alterations required, for purpose of verifying Energy Code Compliance			[3]	

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
	up to 10 windows	per project	R		\$ 250
	>10 windows	per project	R/C		per valuation, see fee item II

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
8	Change of Use Inspection	Per project	C		\$ 297
	additional fees for plan check per hour	see section IV			see section IV
9	Solar: PVSystems				
	Residential - see GC 66015 (a) 1	Per project	R		\$ 254
10	Solar: PVSystems- includes Plan Review Fee				
	Commercial - see GC 66015 (b) 1				
	0 - 50 kW size system	Per project	C		\$ 446
	51KW to 250kW	Per project	C		\$ 483
	Over 250 kW	Per project	C		\$ 743
VI. ADDITIONAL INSPECTION SERVICES					
1	Inspections outside of normal business hour (2hr. minimum paid at time of request)	First 2 hours			\$ 446
		Ea. add'l hour			\$ 149
2	Requested Inspection - prior to permit issuance (at Building Official's discretion)	First Hour			\$ 223
		Ea. add'l hour			\$ 149
3	Re-inspection Fees(at Building Official's discretion)	First Hour			\$ 149
		Ea. add'l 1/2 hour			\$ 75
	<i>Charged separately: Inspection by California Access Specialist (CASp) 2 hr. minimum charge</i>	Per Hour			\$ 149
VII. OTHER PROVISIONS					
1	Filing Appeals				
	Appeal of Building Official's Decision	deposit			Hourly with minimum deposit of \$ 500
	Housing Advisory and Appeals Board	deposit			Hourly with minimum deposit of \$ 500
2	Building Code Research and Written Interpretation	Per hour			\$ 149
3	Application for Alternate Materials and Methods	Per Hour			\$ 149
4	Permit File Research- Staff Time	Per hour			\$ 149
5	Permit Refund - No Work Performed	Per project			\$ 149

The Town of Colma
BUILDING DEPARTMENT
Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
	Partial Work Performed	Per project			\$ 149

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
6	SMIP FEES (Strong Motion Instrument Program)	Per project			set by State
7	SB1473jBSASRA Fees (Green Building Fund)	Per project			set by State
VIII. ELECTRICAL PERMIT FEES					
1	Application Fee - Electrical	Per project			\$ 26
2	Plan Review, When Required, Minimum 1 hour	hourly			\$ 149
PER UNIT FEE SCHEDULE:					
3	Temporary Power Pole	Per project			\$ 149
4	New Circuits - Based on Number of Circuits (includes switches & receptacles)				
	Up to 10 Circuits	First circuit			\$ 149
	Each Additional 10 Circuits	Per circuit			\$ 37
5	For the Installation, Alteration, or Relocation of Each Electrical Service:				
600 VOLTS OR LESS					
	First 200 Ampere Capacity with One Meter Socket/Base	Each			\$ 149
	Each Additional 100 Ampere Capacity or Fraction Thereof	Each			\$ 37
	Each Additional Meter Socket/Base	Each			\$ 37
OVER 600 VOLTS					
	First 200 KVA Capacity w/One Meter Socket/Base	Each			\$ 149
	Each Additional 100 KVA Capacity	Each			\$ 74
6	For the Installation or Replacement of Each Motor (when not an integral part of a electrical appliance, fan, heating or cooling unit) Heater, Welding Machine, Kiln or Transformer.	Each			\$ 149
7	Portable Electrical Generator - Temporary Use	Per project			\$ 74
8	For the Installation of Each stationary Generator	Each	C		\$ 297
9	For the Installation, Relocation, or Replacement of Each Fixed or Stationary Electrical Appliance, Including All Necessary Circuits, Receptacles and Switches (not listed above):				
	Residential-Type Appliance (wall-mounted electric ovens, counter-mounted cook tops, self-contained room, console, or through-wall type air conditioners, zone heaters and similar types of residential appliances.)	Each			\$ 12

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
	Commercial-Type Appliances (non-residential appliances not exceeding one horsepower (HP) or Kilowatt (KW) in rating and including, but not limited to medical or dental equipment, food, beverage and ice cream cabinets, install-hot water heaters, drinking fountains, laundry machines and similar equipment.)	Each			\$ 149
IX. PLUMBING PERMIT FEES					
1	Application Fee - Plumbing	Per project			\$ 26
2	Plan Review, When Required, Minimum 1 hour	hourly			\$ 149
PER UNIT FEE SCHEDULE					
3	For the Repair or Replacement of each Waterline, Sewer Line or Drainage/Vent Piping System (or as determined by the Building Official)	Each			\$ 149
	Refrigerant Piping System	Each			\$ 149
4	For the Replacement of the Water Piping System within a Single Family Dwelling	Each			\$ 149
5	Water Heater,60 gallon capacity or less	Per project			\$ 25
6	For the Replacement of a Water Heater or Water Storage Tank (>60 gallons)	Each	C, R		\$ 36
7	For the Installation of a Tank-less water Heater Gas-fired (includes gas line & exhaust vent)	Each			\$ 25
8	For Each Installation or Alteration of a Gas Piping System				
	From Meter to First 5 Outlets	Each	C, R		\$ 149
	Each Additional 5 Outlets	Each	C, R		\$ 37
9	For the installation, relocation or replacement of each Plumbing Fixture or trap. (includes all necessary water, drainage or vent piping.)	Each			\$ 223
10	For the Installation of Each Lawn Sprinkler/Irrigation System	Each			\$ 80
11	For the Installation of Each Interior Water Feature	Each			\$ 80
12	For the Installation of Each New Domestic Water or Sewer Service	Each			\$ 149

The Town of Colma
BUILDING DEPARTMENT
Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
13	For the Installation of Each Storm Drainage or On-Site Retention System (Does not include review by Town's Engineering Department)	Each			\$ 149
X. MECHANICAL PERMIT FEES					
1	Application Fee - Mechanical	Per project			\$ 26
2	Plan Review, When Required, Minimum 1 hour	hourly			\$ 149
PER UNIT FEE SCHEDULE					
3	Furnace Replacement- Single Family Residence (< 100K Btu and < 40 lineal feet of new duct)	Per project			\$ 25
4	For the installation, relocation or replacement of each Commercial Heating, Cooling Refrigeration Appliance. (includes all necessary electrical circuits, fixtures, switches receptacles, gas piping, vents or water piping.) 0 to 1,000,000 Btu	Each			\$ 149
5	For the Installation, relocation or replacement of each Boiler. (Includes all necessary electrical circuits, receptacles, switches, gas piping and vents - but does not include motors identified in E6 of the schedule) 0 to 1,000,000 Btu	Each			\$ 149
6	For the installation, relocation or replacement of Other Fuel Burning Appliances not listed in this schedule. (includes all necessary gas piping, vents, electrical circuits receptacles and switches.) Residential Appliances (excluding Residential Furnace Replacement) Commercial Appliance 0 to 1,000,000 Btu	Each			\$ 223
7	For the installation, relocation or replacement of Fans, exhaust fans, or make-up air units connected to a duct system. 0 to 500 cfm 501 to 5,000 cfm 5,001cfm and Over	Each Each Each			\$ 149 \$ 186 \$ 223
8	For the installation, relocation or replacement of each or Air Handler Unit, Heating or Cooling Coil or Element in a duct system. (includes all necessary electrical circuits, receptacles or switches and piping for cooling media.) 0 to 400,000 Btu 401,000 Btu and Over	Each Each			\$ 149 \$ 223

The Town of Colma
 BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
9	For the installation, relocation or replacement of each Radiant Heating Panel Radiator or Converter (including all necessary piping)				
	1 to 5 Devices	Flat			\$ 149
	Each Additional 5 Devices	Each			\$ 149
10	For the installation, relocation or replacement of each Type I and Type II Commercial Range Hood and Exhaust Duct connected thereto. (includes shaft, electrical circuits receptacles, switches, exhaust fan motor and plan review)	Each	C		\$ 223
11	For the installation, relocation or replacement of each Masonry or Concrete Chimney. (includes plan review)	Each			\$ 223
12	For the installation, relocation or replacement of each factory-built fireplace (including factory-built chimney, framing, electrical circuits, receptacles, switches an gas line.)	Each			\$ 223
XI. COPYING, PRINTING AND ARCHIVES					
1	Photocopying of public documents:				
	8.5" x 14" paper or smaller	Per sheet			\$ 0.10
	11" x 17" paper	Per sheet			\$ 0.15
	Larger formats - outside vendor	Per sheet			Actual Cost + 10%
2	Printing of Electronic Medium				
	8.5" x 14" paper or smaller	Per sheet			\$ 0.02
	11" x 17" paper	Per sheet			\$ 0.05
	Plan Sheet - Full Size	Per sheet			\$5.00 Plus \$20.00 per hour
3	Microfilming/Digital Scanning- Permit Archiving				
	8.5" x 14" paper or smaller	Per sheet			\$ 0.05
	11" x 17" paper	Per sheet			\$ 0.07
	Plan Sheet - Full Size	Per sheet			\$5.00 Plus \$20.00 per hour
4	Plan Submittal in Electronic Format - generating hard copies for Permit Issuance				
	8.5" x 14" paper or smaller	Per sheet			\$ 0.05
	11" x 17" paper	Per sheet			\$ 0.07
	Plan Sheet - Full Size	Per sheet			\$5.00 Plus \$20.00 per hour

The Town of Colma
BUILDING DEPARTMENT
 Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [4]	Notes	Fee Amount
	HOURLY RATES				
1	Building Department				\$ 149
	For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.				

Notes

- [2] Building Plan Check Fees require a Town Processing Fee plus the Actual Costs of Consultant review
- [3] Fees for residential projects with >10 windows and or Valuation of project using Table II, whatever is less /or commercial projects will be calculated based on valuation of each project using Table II
- [4] C: Commercial, R: Residential

The Town of Colma
PLANNING DEPARTMENT
Fee Schedule

Fee No.	Fee Name	Fee Unit / Type	Typical use [9]	Notes	Fee Amount
I. Public Records and Copying Fees					
1	Document photocopying, in house				
	8.5" x 14" or smaller	per sheet			\$ 0.10
	8.5" x 17"	per sheet			\$ 0.15
	Plus hourly fee	hourly			\$ 20
2	Document photocopying, outside	Actual Cost . Hourly			Actual Cost + \$20 / hour
3	Audio cassette copy	flat			\$ 20
4	Videotape copy	flat			\$ 40
II. Appeal and Re-consideration Fees					
1	Filing fee for appeal from administrative decision				
	Adjacent Property Owner	per request			\$ 500
	Applicant or Other Party	per request			\$ 2,000
2	Filing fee for request for reconsideration of City Council decision				
	Adjacent Property Owner	per request			\$ 1,000
	Applicant or Other Party	per request			\$ 3,000
III. Land Use Development Processing Fees, Planning Services (Flat Fees)					
1	Accessory Dwelling Unit	per project			\$ 611
2	Address Assignment	per project			\$ 267
3	Administrative Use Permit	per permit	C		\$ 1,833
4	Design Review, Minor (New development or modifications to existing use < 1,000 sqft or under \$1,000,000 value)	per project	C		\$ 1,986
5	Landscape Plan Check Water Use	per project			\$ 267
6	Sign Permit	per permit	C		\$ 500
7	Sign Review	per project	C		\$ 300

The Town of Colma
 PLANNING DEPARTMENT
 Fee Schedule

Fee No.	Fee Name	Fee Unit / Type	Typical use [9]	Notes	Fee Amount
8	Special Event Fees and Deposits				
	Special Event Permit	per permit	S		
	One Time / Initial	per permit			\$ 200
	Recurring	per permit			\$ 100
	Initial deposit against Departmental Service Charges for a Special Event Impacting Public Property	deposit			\$ 500
	Initial deposit against Departmental Service Charges for a Special Event on Private Property	deposit			\$ 200
	Initial deposit against Departmental Service Charges for a Public Assembly Event	deposit			\$ 500
	Initial deposit against Departmental Service Charges for a Commercial Event	deposit			\$ 300
9	Temporary Banner Permit	per permit	C		\$ 70
10	Temporary Use Permit (Tier 1)	per permit	C		\$ 70
11	Temporary Use Permit (Tier 2)		C		
	One-Time / Initial	per permit			\$ 1,000
	Recurring	per permit			\$ 500
12	Tree removal permit		C		
	Minor - Up to 5 trees	per permit			\$ 1,833
	Major - 6+ trees	deposit			\$ 4,124
13	Use Permit, Home Occupation	per permit	C		\$ 50
14	Use Permit, Minor (New development or modifications to existing use < 2,000 sq ft)	per permit	C		\$ 7,255
15	Zoning Clearance for Retail Merchandising Unit	per project	C		\$ 250
16	Zoning Letter	per project			\$ 993
IV. Land Use Development Processing Fees, Planning Services (Deposit Against Actual Cost)					
1	Design Review, Major (New development or modifications to existing use > 1,000 sq ft)	deposit			\$ 7,102
2	General Plan Amendment	deposit			\$ 10,844
3	Lot Line Adjustment	deposit			\$ 8,416
4	Master Sign Program	deposit			\$ 7,255

The Town of Colma
 PLANNING DEPARTMENT
 Fee Schedule

Fee No.	Fee Name	Fee Unit / Type	Typical use [9]	Notes	Fee Amount
5	Parcel Map	per map, deposit			\$ 7,744
6	Planned Development Plan	deposit			\$ 6,949
7	Stormwater Review Deposit (Preliminary)	deposit			\$ 1,497
8	Subdivision Map	per map, deposit			\$ 9,776
9	Use Permit, Major (New development or modifications to existing use > 2,000 sq ft)	deposit			\$ 7,255
10	Vacation or abandonment of Public Easement, including Street Easement	deposit			\$ 6,644
11	Variance to Zoning Regulation	deposit			\$ 7,255
12	Zoning Reclassification	deposit			\$ 8,935
13	City Attorney Time (the deposit is required whenever City Attorney time will be spent in processing an application, and shall be in excess of any other deposit or fee required, with the deposit determined by the level of CEQA review required for the application)				
	CEQA Exemptions not requiring a Major Permit or Major Design Review application - under 2,000 sq ft	deposit			\$ 726
	CEQA Exemption requiring a Major Permit or Major Design Review application - 2,000 square feet and over	deposit			\$ 1,815
	CEQA Negative Declarations, Mitigated Negative Declarations	deposit			\$ 3,629
	Environmental Impact Reports	deposit			\$ 7,258
	Agreements - City Attorney Deposit	deposit			Deposit based on number of hours or \$2,000 minimum

The Town of Colma
PLANNING DEPARTMENT
Fee Schedule

Fee No.	Fee Name	Fee Unit / Type	Typical use [9]	Notes	Fee Amount
14	Land Use Development Project Fees, CEQA Review (Deposit Against Actual Cost). The following deposits will be required for environmental review of applications through the Planning Department to develop property. These fees are in addition to the processing fees for planning or engineering services. The initial deposits shown below are due and payable upon filing an application. Additional deposits may be required from time to time. Any unused deposit will be returned to the applicant. The deposit for an amendment is the same as the fee for an initial application. The total processing fee will not exceed the actual, reasonable cost of providing the service.				
15	Categorical Exemption	per permit		[4]	\$ 267
16	Negative Declaration or Mitigated Negative Declaration				
	Prepared by Town	deposit		[4, 5]	\$ 8,019
	Prepared by Consultant	deposit		[4, 6]	Consultant Costs + 10% as an initial deposit to cover staff time
17	Environmental Impact Reports	deposit		[4, 6]	Consultant Costs + 10% as an initial deposit to cover staff time
18	Environmental Document pursuant to a Certified Program (CRP)	deposit		[4, 7]	Consultant Costs + 10% as an initial deposit to cover staff time

The Town of Colma
 PLANNING DEPARTMENT
 Fee Schedule

Fee No.	Fee Name	Fee Unit / Type	Typical use [9]	Notes	Fee Amount
19	Mitigation Monitoring	deposit			Deposit based on number of hours or \$1,000 minimum
20	Business Registration Application Processing	flat		[8]	\$ 25
V. Support to Building Fees					
1	Building Permit, Residential Interior	flat			\$ 40
2	Building Permit, New Single Family Residence	flat			\$ 76
3	Building Permit, Residential Addition	flat			\$ 76
4	Building Permit, Commercial T.I.	flat			\$ 76
5	Building Permit, Commercial Addition	flat			\$ 115
6	Building Permit, Commercial or Multi-Residential	flat			\$ 1,069
HOURLY RATES					
1	Planning Department	hourly			\$ 153
	For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.				

Notes

- [4] Plus \$50 Document Handling Fee
- [5] Plus \$2,181.25 California Department of Fish and Game fee.
- [6] Plus \$3,029.75 California Department of Fish and Game fee
- [7] Plus \$1,030.25 California Department of Fish and Game fee
Current fee reflects Planning's portion of the City's fee only. Current fee is
- [8] listed in the Municipal Code and requires an Ordinance Amendment to change.
- [9] C: Commercial, R: Residential, S: Social Event

The Town of Colma
ENGINEERING DEPARTMENT
Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [6]	Notes	Fee Amount
I. Land Use Development Processing Fees, Public Works and Engineering Services					
1	Grading Plan Check 50 to 2,000 CY		C		
	First 50 CY	flat			\$ 99
	Each additional 100 CY	flat			\$ 71
2	Grading Plan Check over 2,000 CY		C		
	First 2,000 CY	deposit			\$ 1,490
	Each additional 100CY	deposit			\$ 75
3	Grading Permit 50 to 2,000 CY		C		
	First 50 CY	flat			\$ 596
	Each additional 100 CY	flat			\$ 36
4	Grading Permit over 2,000 CY		C		
	First 2,000 CY	deposit			\$ 1,291
	Each additional 100CY	deposit			\$ 65
5	Improvement Plan Checking, Contracts of \$10,000 or less				
	Per Project	flat			\$ 397
6	Improvement Plan Checking, Contracts between \$10,000 and \$100,000				
	Base fee at \$10,000	flat			\$ 429
	Each additional \$1,000 of contract cost	flat			\$ 5
7	Improvement Plan Checking, Contracts between \$100,001 and \$500,000				
	Base fee at \$100,000	deposit			\$ 894
	Each additional \$1,000 of contract cost	deposit			\$ 8
8	Improvement Plan Checking, Contracts more than \$500,000				
	Base fee at \$500,000	deposit			\$ 4,170
	Each additional \$1,000 of contract cost	deposit			\$ 8
9	Improvement Inspection, Contracts of \$10,000 or less				
	Per Project	flat			\$ 429
10	Improvement Inspection, Contracts between \$10,000 and \$100,000				
	Base fee at \$10,000	flat			\$ 429
	Each additional \$1,000 of contract cost	flat			\$ 22
11	Improvement Inspection, Contracts between \$100,000 and \$500,000				
	Base fee at \$100,000	deposit			\$ 2,383
	Each additional \$1,000 of contract cost	deposit			\$ 17
12	Improvement Inspection, Contracts more than \$500,000				
	Base fee at \$500,000	deposit			\$ 9,135
	Each additional \$1,000 of contract cost	deposit			\$ 18
13	Parcel or Final Map Subdividing Property (4 lots)	flat			\$ 3,972
	Each additional lot	flat			\$ 199
	Plus recording costs (as established by County)	flat			Set by County

The Town of Colma
ENGINEERING DEPARTMENT
Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [6]	Notes	Fee Amount
II. Public Property and Public Rights-Of-Way					
1	Encroachment Permit, single residential lot driveway	flat	R		\$ 230
2	Encroachment Permit, single residential lot utility cut by contractor in asphalt street or concrete sidewalk	flat	R		\$ 230
3	Encroachment Permit, single residential lot utility cut by contractor in an interlocking concrete paver surfaced street or sidewalk	flat	R		\$ 330
4	Encroachment Permit, fence and/or landscaping in right-of-way (Both may be covered by same permit)	flat	C,R		\$ 25
5	Encroachment Permit, Utility company		C	[5]	
	Annual Processing Fee	flat			\$ 627
	Minimum Deposit Amount	deposit			\$ 2,509
6	Failure to give required notice under a Utility Company Annual Encroachment Permit Per site, after second occurrence in 12-month period	flat			\$ 209
7	Encroachment Permit, for work not included in fixed fee schedules where the value of the contract is less than \$10,000 Per Project	flat			\$ 628
8	Encroachment Permit, for work not included in fixed fee schedules where the value of the contract is between \$10,000 and \$100,000				
	Base fee at \$10,000	deposit			\$ 993
	Each additional \$1,000 of contract cost	deposit			\$ 90
9	Encroachment Permit, for work not included in fixed fee schedules where the value of the contract is between \$100,000 and \$500,000				
	Base fee at \$100,000	deposit			\$ 9,135
	Each additional \$1,000 of contract cost	deposit			\$ 48
10	Encroachment Permit, for work not included in fixed fee schedules where the value of the contract is over \$500,000				
	Base fee at \$500,000	deposit			\$ 28,398
	Each additional \$1,000 of contract cost	deposit			\$ 57
11	Encroachment for dumpster	flat			\$ 50
III. Stormwater Fees					
1	Stormwater Management - Post construction	flat	C,R		\$ 1,672
2	Stormwater Regulatory Inspection				
	C3 - Stormwater Mgmt. Inspection of privately maintained post construction treatment devices				
	Residential	flat	R		\$ 209
	Commercial	flat	C		\$ 418
	C4 - Stormwater Permit Commercial Inspection	flat	C,R		\$ 314
	Each Reinspection	flat	C,R		\$ 209

The Town of Colma
ENGINEERING DEPARTMENT
Fee Schedule

Fee No.	Fee Description	Fee Type/Unit	Typical use [6]	Notes	Fee Amount
	HOURLY RATES				
1	Engineering Department	hourly			\$ 199
	For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application.				

Notes

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- [5] Work under the annual permit is limited to minor work & maintenance related work in accordance with CMCS5.08.050.
 - [6] C: Commercial, R: Residential





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Cynthia Morquecho, Recreation Manager
 VIA: Brian Dossey, City Manager
 MEETING DATE: February 27, 2019
 SUBJECT: 2019 Adult Holiday Event

STAFF RECOMMENDATION

Staff recommends that the City Council make the following motion directing the City Manager:

MOTION TO PLAN AND COORDINATE AN ADULT HOLIDAY EVENT AT THE SOUTH SAN FRANCISCO CONFERENCE CENTER ON DECEMBER 14, 2019; TO DETERMINE THE GUEST LIST FOR THE ADULT HOLIDAY EVENT; TO SET THE PARTICIPATION FEE FOR THE ADULT HOLIDAY EVENT AT \$15 FOR ADULTS AND \$10 FOR SENIORS AND DISABLED; AND, TO PLAN AND COORDINATE THE ANNUAL TOWN PICNIC FOR SEPTEMBER 7, 2019.

EXECUTIVE SUMMARY

In December 2018, the Recreation Services Department planned and coordinated the Adult Holiday Event for the fourth time since 2008. Due to participation and resident feedback, staff recommends that the City Council adopt a motion directing the City Manager to host the Adult Holiday Event in 2019.

Staff is recommending the event be held at the South San Francisco Conference Center and has December 14, 2019 on temporary hold pending City Council direction.

Due to the cost of the Adult Holiday Event and the policies surrounding how the Recreation Services Department sets participation fees, staff is recommending the City Council temporarily amend the fee structure for the Adult Holiday Event making it more affordable for the residents to participate.

Also, based on participation and resident feedback, staff is recommending the City Council direct the City Manager to plan and coordinate the annual Town Picnic. The picnic has been the Town's signature community event for the past several years.

FISCAL IMPACT

Staff estimates a Holiday Event at the South San Francisco Conference Center for adults and seniors to cost \$34,500.

Staff estimates the Town Picnic at the Sterling Park Recreation Center to cost \$19,000.

By hosting both events in Fiscal Year 2019-20, staff estimates an increase of approximately \$1,000 to the Recreation Services Department budget. Staff is increasing the Town Picnic budget in anticipation of higher costs from vendors in 2019 and anticipates the Adult Holiday Event budget to remain at the same cost as last year. Staff is able maintain the Adult Holiday Event budget at a cost of \$34,500 by utilizing an in-house photo booth and reducing costs for a live band.

BACKGROUND

Due to the recession, the Adult Holiday Event was cancelled from 2009 – 2014. In 2015, 2016, 2017, and 2018 City Council directed the City Manager to host the Adult Holiday Event at the South San Francisco Conference Center.

The South San Francisco Conference Center is an ideal location for the Adult Holiday Event for the following reasons:

- Proximity to Colma
- Ability to accommodate 250 people
- Diversity and flexibility of menu options
- Sufficient parking and transportation accommodations
- Ability to provide quiet area
- Willingness to work with budget

Based on the research that was conducted in 2018, and resident feedback, staff recommends the South San Francisco Conference Center host the 2019 Adult Holiday Event.

2018 Adult Holiday Event Re-cap

The 2018 Adult Holiday Event was very successful. Approximately 220 residents and staff participated, and staff received many positive comments. Participants enjoyed hand passed appetizers, buffet dinner, complimentary wine, photo booth, Live Band and DJ entertainment and a quiet lounge area with hot chocolate and cookies. The total cost for the Adult Holiday Event was \$34,117; slightly under budget. The reason for the costs being under budget is due to direct savings in areas of decoration, DJ entertainment, and slight changes to the dinner menu.

ANALYSIS

Adult Holiday Event

South San Francisco Conference Center

Based on the reasons stated in the background section of this report, its availability and willingness to work with the Town, staff is recommending the South San Francisco Conference Center as the venue for the 2019 Adult Holiday Event. Staff met with the Catering Manager at the Conference Center and has Meeting rooms A-E (same rooms as 2018) and the Baden Room (Lounge) on temporary hold pending City Council direction.

The Conference Center is also prepared to offer the same (or similar) menu for a slightly higher fee from 2018; costs are estimated to go up in 2019.

Staff estimates the cost of the Adult Holiday Event at the Conference Center to be \$34,500 with 250 participants. This is an increase of \$383.00 from the actual cost (\$34,117) of the 2018 Adult Holiday Event. Based on 250 participants, the per person charge will be \$138.

Based on the continued success of summer concerts and positive feedback from residents about the 2018 holiday party, staff proposes to continue to provide a live band as entertainment but reduce the performance time to the cocktail and dinner hour only. By reducing the time of band performance, this will help to reduce the cost of the live entertainment.

<u>Item</u>	<u>2018 Actual Cost</u>	<u>2019 Proposed Cost</u>
Marketing Materials (flyers, invites, postage, etc.)	\$454.02	\$600
Food & Beverage (appetizers, buffet dinner, desserts, cash bar and SSF Conference Center charges)	\$24,552.84	\$26,400
Decorations (centerpieces and pop up lighted displays)	\$1270	\$1200
Entertainment (DJ) & Photobooth	\$800	\$500
Live band Performance	\$5000	\$3500
Transportation	\$2040	\$2300
TOTAL	\$34,117	\$34,500

Historically, the adult holiday event has been made available to Colma residents, Town staff, Colma Fire Protection District members and contract staff (i.e. CSG, BB&K, and recreation instructors). Are there any other invitees that should be considered? Based on the 250-person established guest list, staff can accommodate additional guests. If there are other invitees that are considered, costs may also increase.

Under the Recreation Services Department fee structure, the cost of this program would be \$83 (60 percent of cost) for adults and \$41 (30 percent of cost) for seniors and disabled. This is because the event is open to adults and seniors only and is not being held at a Town facility. Based on the cost to the resident, staff has concerns over meeting minimum registration requirements.

Staff recommends the City Council temporarily amend the fee structure for the Adult Holiday Event making it more affordable for the residents to participate. There is a provision in the Administration Code (section 2.01.085) that allows for temporary guidelines. Staff recommends the participation fee to be \$15 for adults and \$10 for seniors making it affordable for maximum participation.

Town Picnic

Over the past several years the Town Picnic has been the Town's signature community event, and at one point there was discussion of alternating the picnic with the Adult Holiday Event; however, there was concern over the picnic losing its appeal if it was alternated from year to year. Therefore in 2017 and 2018 staff was able to downsize the picnic and reduce the cost to \$17,00 in 2017 and \$18,000 in 2018. Since the introduction of the adult holiday event, staff has downsized and successfully hosted the annual Town of Colma picnic event.

Staff estimates the Town Picnic at the Sterling Park Recreation Center can be coordinated again in 2019 at a cost of \$19,000. The increase is to make way for anticipated increased vendor costs.

Council Adopted Values

Per policy, the Recreation Services Department activities are planned and coordinated so all programs are offered to the community equitably. Due to the last recession, the Adult Holiday Event was canceled for several years creating an imbalance to programs offered to the community. By approving the recommendation to host an Adult Holiday Event and Town Picnic in 2019, the City Council would be making the *responsible* decision, once again offering programs equitably to all populations.

Sustainability Impact

Staff coordinates and implements program and activities which are in alignment with the Town's Climate Action Plan and Sustainability Policy. For example, all invitations and flyers are printed on recycled paper products, and staff will reuse holiday decorations that were purchased in 2015. Also, when food and beverages are provided, staff uses recyclable products to serve the food.

Alternatives

1. Do not increase the budget, and continue to host Annual events at current budget.
2. Do not host an Adult Holiday Event and instead Host the Annual Town Picnic in 2019.

SUMMARY

Based on participation and feedback staff is recommending City Council direct the City Manager to coordinate an Adult Holiday Event and Town Picnic in 2019, and to firm up the December 14, 2019 reservation at the South San Francisco Conference Center for the Adult Holiday Event.

Due to the cost of the Adult Holiday Event and the policies surrounding how the Recreation Services Department sets participation fees, staff is recommending the City Council to temporarily amend the fee structure for the Adult Holiday Event making it more affordable for the residents to participate.