



Staff Report

TO: Honorable Mayor and Members of the Town Council
FROM: Sean Rabé, Town Manager
DATE: January 12, 2021
RE: Reimbursement Agreement Amendment with Costco

Recommendation

Staff recommends the Town Council adopt the attached resolution and authorize the Town Manager to enter into a fifth agreement amendment with Costco Wholesale Corporation. This fifth contract amendment covers additional costs related to litigation defense for the Costco Retail Warehouse project, which was approved by Council in September. This agreement amendment will bring the deposit amount under the agreement to \$1,648,243.

Issue Statement and Discussion

The Town of Loomis entered into a reimbursement agreement with Costco Wholesale Corporation in March 2017, which initially required a deposit amount of \$2,305,000 for project processing for the Costco Retail Warehouse project. A first agreement amendment was approved by Council in May 2017, that adjusted the deposit amount to \$813,280 (the original erroneously included permit costs, which would normally be paid when permits for the project are issued). During the review period of the initial Draft Environmental Impact Report, the Town and Costco also identified changes to the proposed project. These changes required an increased deposit of funds for the Town to continue processing the project. Because of the recirculation of the DEIR and other project processing costs, a second amendment was approved by Council in March 2019, which brought the deposit amount to \$955,000. A third amendment was approved by Council in November 2019, which brought the deposit amount to \$1,182,078. A fourth agreement amendment approved in May 2020 brought the total amount of the deposit to \$1,448,243.

This latest amendment is specific to litigation defense costs.

CEQA Requirements

There are no CEQA implications associated with the recommended action.

Financial and/or Policy Implications

The agreement amendment provides an additional deposit amount of \$200,000.

Attachments

- A. Resolution
- B. Costco Wholesale Corporation Agreement Amendment 5

IN WITNESS WHEREOF the parties hereto have executed this Amendment as of the Effective Date.

Town of Loomis

Costco Wholesale Corporation

By: _____
Sean Rabe, Town Manager

By: _____

Approved as to form:

By: _____
Jeffrey Mitchell, Town Attorney

Attest:

By: _____
Charleen Strock, Town Clerk

TOWN OF LOOMIS

RESOLUTION NO. 21 - __

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS AMENDING THE AGREEMENT FOR ADVANCEMENT OF FUNDS, REIMBURSEMENT AND INDEMNIFICATION FOR PREPARATION OF PLANNING PERMITS, REPORTS, STUDIES, AND ENVIRONMENTAL REVIEW DOCUMENTS AS REQUIRED BY THE LOOMIS MUNICIPAL CODE AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, the Town and Costco entered into the March 14, 2017 Agreement For Advancement Of Funds, Reimbursement And Indemnification For Preparation Of Planning Permits, Reports, Studies, And Environmental Review Documents As Required By The Loomis Municipal Code And The California Environmental Quality Act ("AGREEMENT"), to provide for a deposit of funds to reimburse the Town for the costs of the Costco project processing; and

WHEREAS, on May 9, 2017, the Town Council approved a first amendment to the AGREEMENT to adjust the deposit to \$813,280, which represented the Town's estimate for project processing costs; and

WHEREAS, the Town Council approved a second amendment to the AGREEMENT to adjust the deposit to \$955,000 because of increased project processing costs associated with the recirculation of the Draft Environmental Impact Report; and

WHEREAS, on November 12, 2019, the Town Council approved a third amendment to the AGREEMENT to adjust the deposit to \$1,182,078 because of increased project processing costs associated with the recirculation of the Draft Environmental Impact Report; and

WHEREAS, on May 12, 2020, the Town Council approved a fourth amendment to the AGREEMENT to adjust the deposit to \$1,448,243 because of increased project processing costs associated with the Final Environmental Impact Report; and

WHEREAS, the Town has identified additional funds required to support litigation defense for the project; and

WHEREAS, the Town and Costco Wholesale Corporation now desire to approve a FIFTH Amendment to the AGREEMENT to increase the total deposit amount under the AGREEMENT to \$1,648,243.

NOW, THEREFORE, IT IS MUTUALLY AGREED by parties hereto to amend said Contract as follows:

- I. Amendment. Section 4 of the Contract is hereby amended by replacing the figure \$1,448,243 with \$1,648,243.
- II. Remaining Terms Unaffected:
Except as expressly provided herein, nothing in this Amendment shall be deemed to waive or modify any of the other provisions of the AGREEMENT. In the event of any conflict between this Amendment and the AGREEMENT, the terms of this Amendment shall control.

PASSED AND ADOPTED by the Town Council of the Town of Loomis this 12th day of January, 2021, by the following vote:

- AYES:**
- NOES:**
- ABSTAINED:**
- ABSENT:**

Mayor

ATTEST:

Town Clerk

AMENDMENT NO. 5

TO THE AGREEMENT FOR ADVANCEMENT OF FUNDS, REIMBURSEMENT AND INDEMNIFICATION FOR PREPARATION OF PLANNING PERMITS, REPORTS, STUDIES, AND ENVIRONMENTAL REVIEW DOCUMENTS AS REQUIRED BY THE LOOMIS MUNICIPAL CODE AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This Amendment No. 5 to the Agreement between the **Town of Loomis** ("Town") and Costco Wholesale Corporation, which was entered into on March 14, 2017, is made and entered into this 12 day of January, 2021 (the "Effective Date").

RECITALS

WHEREAS, the Town and Costco entered into the March 14, 2017 Agreement For Advancement Of Funds, Reimbursement And Indemnification For Preparation Of Planning Permits, Reports, Studies, And Environmental Review Documents As Required By The Loomis Municipal Code And The California Environmental Quality Act ("AGREEMENT"), to provide for a deposit of funds to reimburse the Town for the costs of the Costco project processing; and

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