



Staff Report

November 11, 2019

TO: Honorable Mayor and Members of the Town Council
FROM: Sean Rabé, Town Manager
DATE: November 11, 2019
RE: Reimbursement Agreement Amendment with Costco

Recommendation

Staff recommends the Town Council approve the attached resolution and authorize the Town Manager to enter into a third agreement amendment with Costco Wholesale Corporation for project processing associated with the Costco Retail Warehouse project. This agreement amendment will bring the deposit amount under the agreement to \$1,182,078.

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.

Staff has identified the need for additional deposit of funds. The attached third agreement amendment will bring the total amount of the deposit to \$1,182,078. The consent agenda includes several contract amendments for various Costco-related consultants.

The Draft Environmental Impact Report for the project is currently being revised and will be recirculated later this month.

Staff is prepared to answer any questions you may have.

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 \$227,078.

Attachments

- A. Resolution
- B. Costco Wholesale Corporation Agreement Amendment 3

TOWN OF LOOMIS

RESOLUTION NO. 19 - __

**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, the Town has identified additional funds required to complete the project processing; and

WHEREAS, the Town and Costco Wholesale Corporation now desire to approve a Third Amendment to the AGREEMENT to increase the total deposit amount under the AGREEMENT to \$1,182,078.

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 \$955,000 with \$1,182,078.
- 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 November, 2019 by the following vote:

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

Mayor

ATTEST:

Town Clerk

AMENDMENT NO. 3

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. 3 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 November, 2019 (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

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, the Town has identified additional funds required to complete the project processing; and

WHEREAS, the Town and Costco Wholesale Corporation now desire to approve a Second Amendment to the AGREEMENT to increase the total deposit amount under the AGREEMENT to \$1,182,078.

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 \$955,000 with \$1,182,078.
- 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 Contract. In the event of any conflict between this Amendment and the Contract, the terms of this Amendment shall control.

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: _____

ATTEST:

Approved as to form:

By: _____
Charleen Strock, Town Clerk

By: _____
Jeffrey Mitchell, Town Attorney