



October 9, 2017

CITY COUNCIL

Paula Perotte
Mayor

Stuart Kasdin
Mayor Pro Tempore

Roger S. Aceves
Councilmember

Michael T. Bennett
Councilmember

Kyle Richards
Councilmember

CITY MANAGER
Michelle Greene

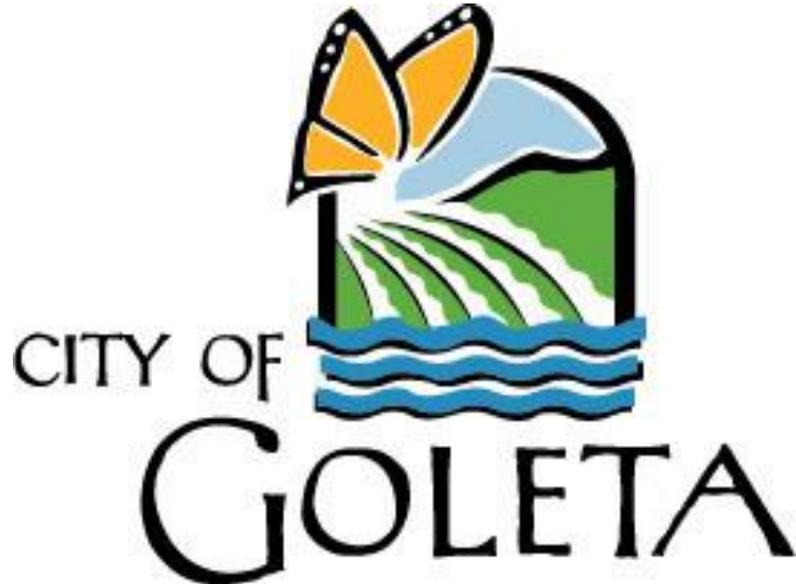
REQUEST FOR PROPOSALS FOR COMPREHENSIVE USER FEE STUDY AND FULL COST ALLOCATION PLAN

The City of Goleta is seeking to engage the services of a qualified professional firm experienced in cost recovery to prepare both a Full Cost Allocation Plan (a total cost plan and an OMB 2 CFR Part 225 plan in compliance with the Single Audit Act) and a comprehensive review and evaluation of citywide user fees (User Fee Study). A Request for Proposals (RFP), which includes instructions for its completion, is attached.

Respondents to this RFP shall submit completed proposals in a sealed envelope, clearly marked with "Proposal for Comprehensive User Fee Study and Full Cost Allocation Plan" and the name of the professional firm submitting the proposal. One (1) original and three (3) printed copies of the proposal must be submitted by 5:00 p.m. on November 9, 2017, to the following address:

**Luke Rioux
Finance Director
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117**

Please contact Luke Rioux, Finance Director, if you have any questions:
Email: lrioux@cityofgoleta.org
Phone: (805) 562-5508



REQUEST FOR PROPOSAL (RFP)

FOR

**COMPREHENSIVE USER FEE STUDY AND
FULL COST ALLOCATION PLAN**

Date Issued: October 9, 2017

Proposals Due: November 9, 2017

Issued By:

**Luke Rioux
Finance Director
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117**

TABLE OF CONTENTS

| | |
|--|----|
| Introduction..... | 3 |
| Background..... | 3 |
| Objective..... | 4 |
| Proposal Submission Requirements..... | 8 |
| Questionnaire..... | 9 |
| Evaluation of Proposals..... | 11 |
| Selection Process..... | 12 |
| Timing and Schedule..... | 12 |
| Attachment A – Sample Professional Services Agreement..... | 14 |

INTRODUCTION

The City of Goleta (“City”) is requesting sealed proposals for a Comprehensive User Fee Study and Full Cost Allocation Plan. All proposals must be received by the City, 130 Cremona Drive, Suite B, Goleta, California 93117, **no later than 5:00 p.m. on November 9, 2017**. **Late proposals will not be considered.** One (1) original and three (3) printed copies, sealed, and clearly marked **Proposal for Comprehensive User Fee Study and Full Cost Allocation Plan**, must be submitted.

Proposals must be responsive to City’s request. The City shall determine the most responsive and qualified consultant providing the best service at the most reasonable cost. Cost alone shall not be the determinative factor.

The request for proposals does not obligate the City to award a contract or complete the project, and the City reserves the right to cancel the solicitation if deemed in its best interest.

BACKGROUND

The City of Goleta was incorporated on February 2, 2002 as a general law city and operates under the council/manager form of government. The City Council is comprised of a Mayor and four Council Members generally elected to serve staggered four year terms. The City Manager and City Attorney are appointed by the Council. The City is located on the south coast of Santa Barbara County. The City is suburban in character and encompasses about 7.9 square miles of territory and has a population of approximately 30,000.

Goleta, which is not a full-service city, presently has five administrative departments with approximately 64 full-time employees. These include General Government, Finance, Public Works, Planning and Environmental Review, and Neighborhood Services and Public Safety. Police services are provided by contract with the Santa Barbara County Sheriff’s Department and library services are currently provided by contract with the City of Santa Barbara. In August 2017, the City Council decided to pursue assuming direct management and operation of Goleta Library. Fire protection services are provided by the Santa Barbara County Fire Department, which is fully supported by tax revenues from a special district. Water and sewer services are also provided by independent special districts, with no costs flowing through the City of Goleta.

The City’s fiscal year begins on July 1 and ends on June 30. For Fiscal Year 2017/18, the City of Goleta has a total operating and capital budget of approximately \$50 million for all funds. The General Fund makes up approximately \$26 million of the total. While City operations generate revenue from various public services such as licensing, permitting and building activity, the four primary sources of revenue for the General Fund are from sales tax, transient occupancy tax, property tax, and franchise fees. See the City website www.cityofgoleta.org for the most recent City Operating and Capital Improvement Program Budget and Comprehensive Annual Financial Report. The last comprehensive

cost allocation plan and user fee study was performed in 2010. The City is interested in having this plan and user fees reviewed and updated.

OBJECTIVE

The objective of this RFP is to receive proposals for a Comprehensive User Fee Study and Full Cost Allocation Plan.

Full Cost Allocation Plan

The purpose of this project is to ensure that the City of Goleta has a basis of applying comprehensive overhead rates and is accurately accounting for the true cost of providing various services by each department. A Full Cost Allocation Plan is able to allocate all indirect costs. Additionally, best practices, accounting standards and OMB 2 CFR Part 225 make it necessary for the City to maintain a well-documented cost allocation plan that will help it to appropriately allocate general and administrative costs in its budget; properly identify overhead rates that can be used in the calculation of billable hourly rates for federal and state grants, user fees, and reimbursements from other governmental agencies. The results from the Full Cost Allocation Plan shall be used to develop the Comprehensive User Fee Study.

Comprehensive User Fee Study

The City is seeking to evaluate all cost of services provided and examine whether a reasonable relationship exists between the costs of providing services and current service fees, while ensuring compliance with Proposition 26, Proposition 218, and other applicable statutory requirements. The City of Goleta desires to undertake a comprehensive citywide review and evaluation of user fee and rate charges resulting in a cost-based user fee study. The Comprehensive User Fee Study will calculate the full 100% cost of providing certain City services, and provide a recommended fee to be charged for each applicable service. The firm shall recommend cost recovery strategies and identify best practices in establishing user fees. These strategies should take into consideration the complexities and demands of each department and program. The selected firm will provide thorough analysis, development of fee models and recommendations including, identifying and recommending new fees and revenues sources. It is the City's goal to have a well-documented and defensible cost of service plan that will identify rates that be used to recover billable costs for services and develop user fees that comply with Proposition 26, Proposition 218 and other applicable statutory requirements.

SCOPE OF SERVICES

There is a separate scope of work for each of the studies. Project tasks shall include, but are not necessarily limited to, the following described below. If the firm feels that additional tasks are warranted, they must be clearly identified in the firm's proposal. Firms responding to this RFP shall be prepared to deliver services and perform the work

necessary to provide the services within six to nine months after the initiation of the project. The project consist of furnishing all labor, materials, supervision, and travel necessary to complete the tasks outlined below.

Full Cost Allocation Plan

Prepare the City’s Full Cost Allocation Plan (total cost plan and an OMB 2 CFR Part 225 plan), which may include the following elements (if the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant’s proposal):

- A. Work and meet with selected City staff to refine the project scope, purpose, uses and goals of the City’s Full Cost Allocation Plan to ensure that the study will be both accurate and appropriate to the City’s needs. Review project schedule and answer any questions pertaining to the successful development of the study.
- B. Meet with staff and conduct interviews as needed to gain an understanding of the City’s processes and operations. This includes where certain services and functions are performed together or shared through cooperation between different departments. Costs should be identified so that they can be allocated to and tracked by the appropriate department.
- C. Identify the total cost of providing each City service at the appropriate activity level and in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public entities including, but not limited to, the State Controller’s Office Guidelines for Cost Claiming and OMB 2 CFR Part 225 standards.
- D. Develop a Full Cost Allocation Model using FY 2017/18 budget and/or actual data for calculating the full costs of providing each City service. The requirements of the model should allow for:
 - a. Additions, revisions, or removal of direct and overhead costs so that the full cost allocation plan can be easily adapted to a range of activities, both simple and complex.
 - b. The ability of the City to continuously update the model and full cost allocation plan from year to year as the organization changes.
 - c. The addition of hypothetical service area information for future service enhancements, and the ability to calculate the estimated costs of providing the service under consideration (i.e. ad-hoc analysis).
- E. Report on other matters that come to your attention in the course of your evaluation that in your professional opinion the City should consider.
- F. Present the plan to the City’s management group and make necessary adjustments as requested.

- G. Prepare and deliver presentations to the Council to facilitate their understanding of the plan and its implications to the City.
- H. Work with the Finance Department in developing service provisions, cost categories, and allocation criteria for current and future programs.
- I. Provide the City with an electronic copy of the final comprehensive review, including related schedules and cost documentation in a format such as Microsoft Word and Microsoft Excel that can be edited and updated by City staff to accommodate changes in the organization or changes in cost.
- J. Prepare a final report and provide five bound copies, one unbound copy, and a single Microsoft Excel and PDF file of the Full Cost Recovery Plan that can be made available to City staff. Models, tables and graphs should be provided in Microsoft Excel. Any Cost Allocation Model revisions developed shall also be made available to the City in Microsoft Excel and PDF formats, providing the ability to add, delete and/or update information as needed.
- K. Provide a computer based model in Microsoft Excel for adjusting these fees and charges for the City's current and future needs and provide the City with an electronic copy of the final comprehensive study, including related schedules and cost documentation in a format that can be edited and updated by City staff to accommodate changes in the organization or changes in costs.
- L. Consult with City staff should the need arise to defend the cost allocation plan as a result of audits or other challenges.

Comprehensive User Fee Study

Prepare a Comprehensive User Fee Study for the City, which may include the following elements (if the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal):

- A. Work and meet with City staff to refine the project scope, purpose, uses and goals of the City's Comprehensive User Fee Study to ensure that the study will be both accurate and appropriate to the City's needs. Review project schedule and answer any questions pertaining to the successful development of the study.
- B. Meet with staff and conduct interviews as needed to gain an understanding of the City's processes and operations. Conduct a comprehensive review of the City's existing fees, rates, and charges.
- C. Identify the total cost of providing each City service at the appropriate activity level and in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public

entities including, but not limited to, Proposition 26 and Proposition 218.

- D. Compare service costs with existing recovery levels. This should include any service areas where the City is currently charging for services as well as areas where perhaps the City should charge, in light of the City's practices, or the practices of similar or neighboring cities.
- E. Recommend potential new fees and charges for services that the City currently provides but does not have any fees and/or charges established. Recommendations should be based on practices by surrounding cities that may charge for similar services, industry best practices, or the consultant's professional opinion.
- F. Recommend appropriate fees and charges based on the firm's analysis together with the appropriate subsidy percentage for those fees where full cost recovery may be unrealistic.
- G. Prepare a report that identifies each fee service, its full cost, recommended and current cost recovery levels. The report should also identify the direct cost, the indirect cost, and the overhead cost for each service.
- H. Prepare a report that identifies the present fees, recommended fees, percentage change, cost recovery percentage, revenue impact and fee comparison with other Santa Barbara County cities or other California cities that are comparable to the City of Goleta. A survey comparison of rates and fees with similar cities is required.
- I. Report on other matters that come to the Consultant's attention in the course of the evaluation that, in the Consultant's professional opinion, the City should consider.
- J. Provide a computer based model in Microsoft Excel for adjusting these fees and charges for the City's current and future needs and provide the City with an electronic copy of the final comprehensive study, including related schedules and cost documentation in a format that can be edited and updated by City staff to accommodate changes in the organization or changes in costs. The requirements of the model should allow for:
 - a. Additions, revisions, or removal of direct and overhead costs so that the full cost allocation plan can be easily adapted to a range of activities, both simple and complex.
 - b. The ability of the City to continuously update the model and full cost allocation plan from year to year as the organization changes.
 - c. The addition of hypothetical service area information for future service

enhancements, and the ability to calculate the estimated costs of providing the service under consideration (i.e. ad-hoc analysis).

- K. Prepare and deliver presentations to the City Council to facilitate their understanding of the plan and its implications for the City and make necessary adjustments as requested.
- L. Provide on-site training to enable staff to update fees on an annual basis.
- M. Prepare a final fee study report and provide five bound copies, one unbound copy, and a single Microsoft Excel and PDF file of the User Fee Study that can be made available to City staff. Models, tables and graphs should be provided in Microsoft Excel. Any Master Fee Schedule revisions developed shall also be made available to the City in Microsoft Excel and PDF format, providing the ability to add or delete and/or update information as needed.
- N. Consult with City staff should it become necessary to defend the City's Comprehensive User Fees as a result of any legal or other challenge.

General

The Consultant may recommend other tasks that it deems appropriate to achieve the objectives set forth in this RFP.

The successful respondent shall be required to retain all working papers and related supporting documents, including records of professional time spent, for a period of five years after delivery of the required reports, unless notified in writing by the City of the need to extend the retention period. The Consultant further agrees to allow City staff to review such documents upon written request at any time during the retention period.

PROPOSAL SUBMISSION REQUIREMENTS

The Consultant shall be responsible for preparing an effective, clear, and concise proposal. The response should emphasize services that will be relevant to the City of Goleta. Proposals must contain the following information:

- A. Cover Page: One printed page maximum. It should include the name of the proposing Consultant and its principal business address where the relationship will be managed.
- B. Table of Contents: One printed page maximum. It should include a table of contents that makes it easier to locate information in the proposal.
- C. Executive Summary of Your Proposal: Two printed pages maximum. Provide a brief summary describing the Consultant's ability to perform the work requested, a history of the Consultant's background and experience providing services, the

qualifications of the Consultant's personnel to be assigned to this project, any subcontractor, sub consultants, and/or suppliers and a brief history of their background and experience, and any other information called for by this request for proposal which the proposer deems relevant, including restating any exceptions to this request for proposal. This summary should be brief and concise to apprise the reader of the basic services offered, experience and qualifications of the proposer, staff, subcontractors, and/or suppliers.

- D. Questionnaire/Response to Scope of Services: Consultant shall provide responses and information to fully satisfy each item in the Questionnaire. Each question item should be presented before the Consultant's response.

QUESTIONNAIRE

A. Company and General Information

- Company name and address.
- Letter of transmittal signed by an individual authorized to bind the respondent, stating that the respondent has read and will comply with all terms and conditions of the RFP.
- General information about the primary contact who would be able to answer the questions about the proposal. Include name, title, telephone number and email address of the individual.

B. Qualifications and Experience of the Firm

- Describe your firm's history and organizational structure. Include the size of the firm, location of offices, years in business, organizational chart, name(s) of owner(s) and principal parties, and number and position titles of staff.
- What is the primary business of the parent company and/or affiliates?
- Which office(s) of your organization will have primary responsibility for managing the user fee study?
- What is your firm's experience conducting Full Cost Allocation Plans and Comprehensive User Fee Studies? Identify the plans and studies performed by your firm in the last three years.
- Which office(s) of your organization will have primary responsibility for managing the Cost Allocation Plan?
- What is your firm's experience preparing Full Cost and OMB 2 CFR Part 225 Cost Allocation Plans? Identify the Plans prepared by your firm in the last three years. Include the type of plan prepared.
- Comment on other areas that may make your firm different from your competitors.

C. Qualifications and Experience of the Proposed Project Team

- Describe the qualifications of staff proposed for the assignment, position(s) in the firm, and types and amount of equivalent experience. Be sure to include any municipal agencies they have worked with in the past three years and their level of involvement.
- Identify and provide the resume(s) of the personnel who will be assigned to this project.

D. Questions/Response to Scope of Services

- Describe the methods by which your firm will fulfill the Full Cost Allocation Plan and Comprehensive User Fee Study requested in the Scope of Services. In responding to the Scope of Services, please be thorough in describing your firm’s methodology for completing Full Cost Allocation Plans and User Fee Studies, and how your firm will address all services identified in the Scope of Services of this request.
- Provide a statement of the service(s) that differentiate your firm from other respondents.

E. Fees

Please provide three copies in a separate envelope marked “Fees.”

- Provide your fees for the proposed services. Fee quotes should be detailed by service.
- The fee should include preparation of the Full Cost Allocation Plan (including a supplement for an OMB 2 CFR Part 225 Cost Allocation Plan) and a Comprehensive User Fee Study.
- Outline billing and payment expectations, including timing and method of payment.
- Describe any remaining fees not already detailed above.
- Present a specific “not to exceed” fixed fee including associated fees (i.e., printing costs, attendance at meetings, travel).

F. References

- Provide a list of the municipal agencies for which the respondent has conducted a Full Cost Allocation Plan and a Comprehensive User Fee Study within the past three years.

The Consultant should provide a list of at least three municipal agencies for each component of the RFP under consideration by the City.

- Provide the following information for three projects that are similar in size and scope to the project requested by this proposal:
 - a. Name, address, and telephone number of the agency
 - b. Time period for the project

- c. Brief description of the scope of the review
- d. Recommended procedures
- e. Reference contact name and telephone number

G. Implementation Schedule

- Include an implementation schedule with a preliminary report delivery date by March 2018 and note key project milestones and timelines for deliverables. Identify any assumptions used in developing the schedule.

H. Insurance Requirements

- A statement that the Consultant can meet the City's mandatory insurance requirements: The City requires Commercial General Liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, Professional Liability Insurance with limits of not less than \$1,000,000 per occurrence if available to a professional engaged in bank's regular course of business, Automobile Liability insurance with a minimum limit of \$1,000,000 per accident, and Workers Compensation Insurance as required by the State of California. The City reserves the right to establish that these insurance requirements be met and complied with prior to any contractual agreement is entered into. Failure to comply could result in non-award of the contract.

EVALUATION OF PROPOSALS

The project's core implementation team, comprised of City staff, will be responsible for the bid evaluations. This team, in accordance with the criteria listed below, will evaluate all proposals received as specified. The City team members, in applying the major criteria to the proposals, may consider additional criteria beyond those listed. During the evaluation period, the team may elect to interview some or all the proposing firms. The final selection will be the firm which, in the City's opinion, is the most responsive and responsible, meets the City's requirements in providing this service, and is in the City's best interest. The City maintains the sole and exclusive right to evaluate the merits of the proposals received. Consultants will be objectively evaluated based on their responses to the project scope outlined in the RFP. The written proposal should clearly demonstrate how the firm could best satisfy the requirements of City.

Proposals will be evaluated generally on the following criteria:

- Proper submission of proposal
- Thoroughness and understanding of the tasks to be completed.
- Background and experience in organizational analysis evaluation.
- Staff expertise and overall experience of personnel assigned to the work.
- Time required to accomplish the requested services.
- Responsiveness to requirements of the project.

- Recent public sector experience, preferably in a municipal setting, conducting similar studies.
- Costs.
- Reference checks.

Although price for the services will be an important part of the consideration for award of the project, the City will consider the consultant’s qualifications, expertise and level of professional service and advice in the award of the project.

SELECTION PROCESS

Each of the proposals received will be evaluated and determined if it meets the stated requirements. Failure to meet these requirements will be a cause for eliminating the consultant from further consideration. The City shall not be liable in any way for any cost incurred by any consultant or in the preparation of its proposal in response to this RFP nor for obtaining any required insurance. The City reserves the right to reject any and all proposals, to waive any technicalities, informalities and irregularities, to accept or reject all of part of proposals, and to be the sole judge of the suitability of the proposals offered.

Evaluation of the proposals will be made by the Finance Director and other City staff as deemed appropriate by the City. In addition to evaluating written proposals, oral interviews will be requested that would allow for a twenty minute formal presentation by the Consultant. Final selection will be made by the Goleta City Council, upon recommendation by the Finance Director.

TIMING AND SCHEDULE

We will make every effort to administer the proposal process in accordance with the terms and dates outlined below (see next page). However, we reserve the right to modify the proposal process and dates as deemed necessary.

| EVENT | TIME | DATE |
|---|-------------|----------------------|
| RFP published and distributed | | October 9, 2017 |
| Proposal submission deadline | 5:00 pm | November 9, 2017 |
| Proposals reviewed and evaluated by staff | | November 10-11, 2017 |
| Interviews conducted | | TBD |
| Notification to finalist | | by November 28, 2017 |
| City Council submittal and approval of contract | | December 5, 2017 |
| Contract executed/work begins | | December 8, 2017 |
| Completion of draft/project | | March 2018 |
| Present to Finance Committee and City Council | | April 2018 |

A revised proposed schedule will be provided once the selection of finalist(s) has been determined.

ADDITIONAL INFORMATION

All responses to this RFP will become the property of the City of Goleta.

The RFP does not commit the City to award a contract or to pay any costs incurred in the preparation of the company's proposal. The City reserves the right to modify or cancel this RFP in part or in its entirety and to accept or reject any or all of all proposals received if they do not meet the minimum requirements of this RFP. The City also reserves the right to negotiate with the selected company to revise the scope of services if necessary, including modifying the services requested, to more closely match City needs.

If your company is awarded the contract, your services (as well as those provided by other members of the team) will be subject to the terms of the Standard Agreement for Professional Services, which is attached to this RFP. Unless the parties agree otherwise at the time the contract is signed, payment under the Agreement shall be made according to Section 3 Compensation and Payment. Your company should review the terms of the Agreement to ensure that the proposal is consistent with its provisions and include in the proposal an acknowledgement of acceptance of those provisions, including requirements for indemnification and insurance. If your company takes exception to any of the terms, such concerns or exceptions must be expressly stated in the proposal.

Attachment A – Sample Professional Services Agreement

Project Name:

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF GOLETA
AND
(Insert Name of CONSULTANT or CONTRACTOR)**

This AGREEMENT FOR PROFESSIONAL SERVICES (herein referred to as "AGREEMENT") is made and entered into this ____ day of __, 20__, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **CONSULTANT NAME**, _ (herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional _ services for _ ; and

WHEREAS, the CITY does not have the personnel able and/or available to perform the services required under this AGREEMENT, and therefore, the CITY desires to contract for professional services to accomplish this work; and

WHEREAS, the CITY noticed a request for proposals and/or qualifications for professional _ services through a competitive bid process; and

WHEREAS, the City Council, on this ____ day of (month), 20__, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

RETENTION AS CONSULTANT

CITY hereby retains CONSULTANT, and CONSULTANT hereby accepts such engagement, to perform the services described in Section 2. CONSULTANT warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional _ services in conjunction with _. Services shall generally include _, as more particularly set forth in the Scope of Work, attached as Exhibit "A," and incorporated herein.

CONSULTANT shall deliver to CITY the deliverables defined in Exhibit "A."
<or> as follows: (If brief, list scope of work here).

COMPENSATION AND PAYMENT

Maximum and Rate. The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$ (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until , after which any change in said rates and expenses must be approved in writing by CITY's Project Manager as described in Section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

Payment. CONSULTANT shall provide CITY with written verification of the actual compensation earned, which written verification shall be in a form satisfactory to CITY's Project Manager, as described in Section 5. Invoices shall be made no more frequently than on a monthly basis, and describe the work performed (including a list of hours worked by personnel classification). All payments shall be made within 30 days after CITY's approval of the invoice.

EXTRA SERVICES

CITY shall pay CONSULTANT for those CITY authorized extra services, not reasonably included within the services described in Section 2, as mutually agreed to in advance. Unless CITY and CONSULTANT have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist. The applicable hourly rates for extra services shall be at the hourly rates set forth in the compensation exhibit. Any compensation for extra services shall be part of the total compensation and shall not increase the not to exceed amount identified in Section 3.

CITY PROJECT MANAGER AND SERVICES BY CITY

The services to be performed by CONSULTANT shall be accomplished under the general direction of, and coordinate with, CITY's "Project Manager", as that staff person is designated by CITY from time to time, and who presently is . Project Manager shall have the authority to act on behalf of the CITY in administering this AGREEMENT but shall not be authorized to extend the term of the AGREEMENT or increase the not to exceed amount.

CITY shall perform the services defined in Exhibit "A" <or> as follows:

TERM, PROGRESS AND COMPLETION

The term of this AGREEMENT is from the date first written above to __, unless term of this AGREEMENT is extended or the AGREEMENT is terminated as provided for herein.

CONSULTANT shall not commence work on the services to be performed until (i) CONSULTANT furnishes proof of insurance as required by paragraph 10 below, and (ii) CITY gives written authorization to proceed with the work provided by CITY's Project Manager. All services shall be completed within _____ calendar days following the notice to proceed <or> according to the following schedule: _____ . <or> According to the schedule for delivery of services attached as Exhibit "C" and incorporated herein.

OWNERSHIP OF DOCUMENTS

All drawings, designs, data, photographs, reports and other documentation (other than CONSULTANT's drafts, notes and internal memorandum), including duplication of same prepared by CONSULTANT in the performance of these services, are the property of CITY. CITY shall be entitled to immediate possession of the same upon completion of the work under this AGREEMENT, or at any earlier or later time when requested by CITY. CITY agrees to hold CONSULTANT harmless from all damages, claims, expenses, and losses arising out of any reuse of the plans and specifications for purposes other than those described in this AGREEMENT, unless written authorization of CONSULTANT is first obtained.

PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR

This AGREEMENT is for professional services which are personal to CITY. _____ is deemed to be specially experienced and is a key member of CONSULTANT's firm, and shall be directly involved in the performance of this work. This key person shall communicate with, and periodically report to, CITY on the progress of the work. Should any such individual be removed from assisting in this contracted work for any reason, CITY may terminate this AGREEMENT. This AGREEMENT may not be subcontracted without the City's prior written consent.

HOLD HARMLESS AND INDEMNITY

Hold Harmless for CONSULTANT's Damages. CONSULTANT holds CITY, its elected officials, officers, agents, and employees, harmless from all of CONSULTANT's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to CONSULTANT, to CONSULTANT's employees, to CONSULTANT's contractors or subcontractors, or to the owners of CONSULTANT's firm, which damages, losses, injuries or liability occur during the work required under this AGREEMENT, or occur while CONSULTANT is on CITY property, or which are connected, directly or indirectly, with CONSULTANT's performance of any activity or work required under this AGREEMENT.

Defense and Indemnity of Third Party Claims/Liability. CONSULTANT shall investigate, defend, and indemnify CITY, its elected officials, officers, agents, and employees, from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of copyright/patent/trademark, or professional errors and omissions arising out of, directly or indirectly, an error, negligence, or omission of CONSULTANT or any of CONSULTANT's officers, agents, employees, representatives, subconsultants, or subcontractors, or the willful misconduct of CONSULTANT or any of CONSULTANT's officers, agents, employees, representatives, subconsultants, or subcontractors, in performing the services described in, or normally associated with, this type of contracted work. The duty to defend shall include any suits or actions concerning any activity, product or work required under this AGREEMENT, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related thereto.

No Waiver. CITY does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by CITY, or the deposit with CITY, of any insurance certificates or policies described in Section 10.

INSURANCE

CONSULTANT shall, at CONSULTANT's sole cost and expense, provide insurance as described herein. All insurance is to be placed with insurers authorized to do business in the State of California with an A.M. Best and Company rating level of A- or better, Class VII or better, or as otherwise approved by CITY.

Insurance shall include the following (or broader) coverage:

- a) Insurance Services Office Commercial Liability coverage "occurrence" form CG 00 01 or its exact equivalent with an edition date prior to 2004 and with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- b) Insurance Services Office form number CA 0001 or equivalent covering Automobile Liability, including hired and non-owned automobile liability with a minimum limit of 1,000,000 per accident. If the Service Provider owns no vehicles, this requirement may be satisfied by a non-owned and hired auto endorsement to Service Provider's commercial general liability policy.
- c) Workers' Compensation insurance complying with California worker's compensation laws, including statutory limits for workers' compensation and an Employer's Liability limit of \$1,000,000 per accident or disease.

Liability insurance policies required to be provided by CONSULTANT hereunder shall contain or be endorsed to contain the following provisions:

- a) CITY, its employees, officials, agents and member agencies shall be covered as additional insureds. Coverage shall apply to any and all liability arising out of the work performed or related to the contract. Additional insured status under the general liability requirement shall be provided on Insurance Services Office Form CG 20 10 with an edition date prior to 2004, or its exact equivalent. Additional insured status for completed operations shall be provided either in the additional insured form or through another endorsement such as CG 20 37 with an edition date prior to 2004.
- b) General and automobile liability insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage will not be limited to CITY's vicarious liability.
- c) Liability coverage shall be primary and non-contributing with any insurance maintained by CITY.
- d) Evidence of coverage (including the workers' compensation and employer's liability policies) shall provide that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after 30 days' prior written notice has been given to CITY. Such provision shall not include any limitation of liability of the insurer for failure to provide such notice.
- e) No liability insurance coverage provided to comply with this AGREEMENT shall prohibit CONSULTANT, or CONSULTANT's employees, or agents, from waiving the right of recovery prior to a loss. CONSULTANT waives its right of recovery against CITY.
- f) CONSULTANT agrees to deposit with CITY within fifteen days of Notice to Proceed of the Contract certificates of insurance and required endorsements.
- g) There shall be no recourse against CITY for payment of premiums or other amounts with respect to the insurance required to be provided by CONSULTANT hereunder. Any failure, actual or alleged, on the part of CITY to monitor compliance with these requirements will not be deemed as a waiver of any rights on the part of CITY. CITY has no additional obligations by virtue of requiring the insurance set forth herein. In the event any policy of insurance required under this AGREEMENT does not comply with these requirements or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments.

- h) CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this AGREEMENT. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

RELATIONSHIP OF CONSULTANT TO CITY

The relationship of the CONSULTANT to CITY shall be that of an independent contractor and that in no event shall CONSULTANT be considered an officer, agent, servant or employee of CITY. CONSULTANT shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

CORRECTIONS

In addition to the above indemnification obligations, CONSULTANT shall correct, at its expense, all errors in the work that may be disclosed during CITY's review of CONSULTANT's report or plans. Should CONSULTANT fail to make such correction in a reasonably timely manner, such correction shall be made by CITY, and the cost thereof shall be charged to CONSULTANT or withheld from any funds due to CONSULTANT hereunder.

TERMINATION BY CITY

CITY, by notifying CONSULTANT in writing, may upon _____ calendar days notice, terminate without cause any portion or all of the services agreed to be performed under this AGREEMENT. If termination is for cause, no notice period need be given. In the event of termination, CONSULTANT shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by CITY to CONSULTANT within 30 days following submission of a final statement by CONSULTANT unless termination is for cause. In such event, CONSULTANT shall be compensated only to the extent required by law.

ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by CONSULTANT of the final payment made under this AGREEMENT shall operate as and be a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything done, furnished, or relating to CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of CITY's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check. However, approval or payment by CITY shall not constitute, nor be deemed, a release of the responsibility and liability of CONSULTANT, its employees, subcontractors, agents and CONSULTANTS for the accuracy and competency of the information provided and/or work performed; nor shall such approval

or payment be deemed to be an assumption of such responsibility or liability by CITY for any defect or error in the work prepared by CONSULTANT, its employees, subcontractors, agents and CONSULTANTS.

AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, CONSULTANT shall make available to a representative of CITY for examination of all its records with respect to all matters covered by this AGREEMENT and will permit CITY to audit, examine and/or reproduce such records. CONSULTANT will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least two years after termination or final payment under this AGREEMENT.

WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this AGREEMENT by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this AGREEMENT, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

CONFLICT OF INTEREST

CONSULTANT is unaware of any CITY employee or official that has a financial interest in CONSULTANT'S business. During the term of this AGREEMENT and/or as a result of being awarded this AGREEMENT, CONSULTANT shall not offer, encourage or accept any financial interest in CONSULTANT'S business by any CITY employee or official.

CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this AGREEMENT shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

MITIGATION OF DAMAGES

In all situations arising out of this AGREEMENT, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

GOVERNING LAW

This AGREEMENT, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Santa Barbara County.

NONDISCRIMINATION

CONSULTANT shall comply with the federal Americans with Disability Act, Public Law 101-336, and observe the disability discrimination prohibitions of such laws in the performance of the work required under this AGREEMENT.

TAXPAYER IDENTIFICATION NUMBER

CONSULTANT shall provide CITY with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. 12-87), as issued by the Internal Revenue Service.

NON-APPROPRIATION OF FUNDS

Payments due and payable to CONSULTANT for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of CITY funds. In the event CITY has not appropriated sufficient funds for payment of CONSULTANT services beyond the current fiscal year, this AGREEMENT shall cover only those costs incurred up to the conclusion of the current fiscal year.

MODIFICATION OF AGREEMENT

The tasks described in this AGREEMENT and all other terms of this AGREEMENT may be modified only upon mutual written consent of CITY and CONSULTANT.

USE OF THE TERM “CITY”

Reference to “CITY” in this AGREEMENT includes City Manager or any authorized representative acting on behalf of CITY.

PERMITS AND LICENSES

CONSULTANT, at its sole expense, shall obtain and maintain during the term of this AGREEMENT, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this AGREEMENT.

In concurrence and witness whereof, this AGREEMENT has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

Michelle Greene, City Manager

CONSULTANT

By: _____, Title: _____

ATTEST

Deborah Lopez, City Clerk

By: _____, Title _____

APPROVED AS TO FORM

Winnie Cai, Deputy City Attorney

