



**REQUEST FOR QUALIFICATIONS (RFQ)/REQUEST  
FOR PROPOSALS (RFP)**

**FOR A**

**Creek and Watershed Management  
Plan**

**April 2, 2019**

Submit Proposals to:

City of Goleta  
Planning & Environmental Review Dept.  
Attn: Wendy Winkler, Management Assistant  
130 Cremona Drive, Ste. B  
Goleta, CA 93117

**Due by 3:00 p.m.  
Tuesday, April 23, 2019**

## INTRODUCTION

The City of Goleta is issuing this Request for Qualifications (RFQ)/Request for Proposals (RFP) to retain the services of a consultant firm, or firms working in partnership, to prepare a comprehensive Creek and Watershed Management Plan (CWMP). This effort will require close coordination with the City of Goleta and other community special interest groups. This document includes background information, outlines the proposed scope of work for the project, details the submission requirements for a Statement of Qualifications (SOQ) and Proposal in response to this RFQ/RFP, and explains the consultant selection process.

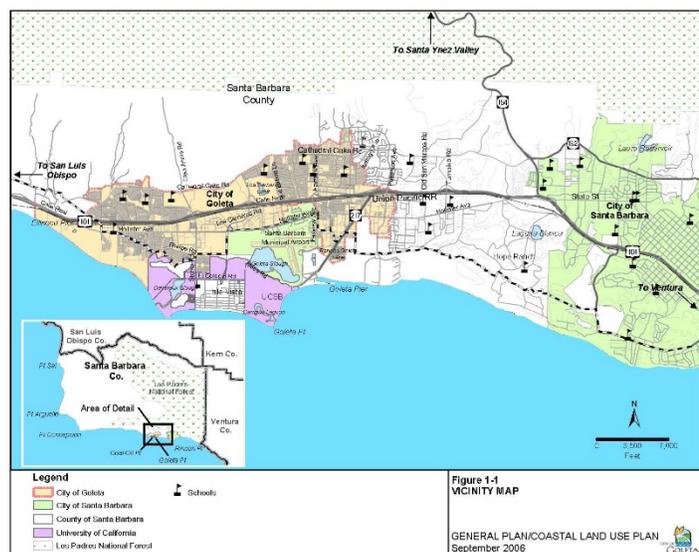
Consistent with guidance provided in the City's Conservation Element of the General Plan/Coastal Land Use Plan (General Plan), the focus of the document is to provide a detailed approach for protecting the ecological function and water quality of Goleta's creeks and watersheds.

## Background

Incorporated on February 1, 2002, the City of Goleta is located along the Highway 101 corridor in southern Santa Barbara County neighboring the City of Santa Barbara and the University of California, Santa Barbara. With a current population of approximately 30,000, Goleta is the fourth largest city in the County. The City's adopted General Plan allows for a build-out population of approximately 38,100 by the year 2030.

The City of Goleta is situated in the western portion of the Goleta Valley. The Goleta Valley is a broad, flat alluvial plain bordered on the south by the Pacific Ocean and on the north by the foothills and terraces of the Santa Ynez Mountains. Much of the Goleta Valley slopes gently into Goleta Slough that the central part of the City wraps around. Many creeks drain the Valley and the foothills from the north to the south into the Ocean.

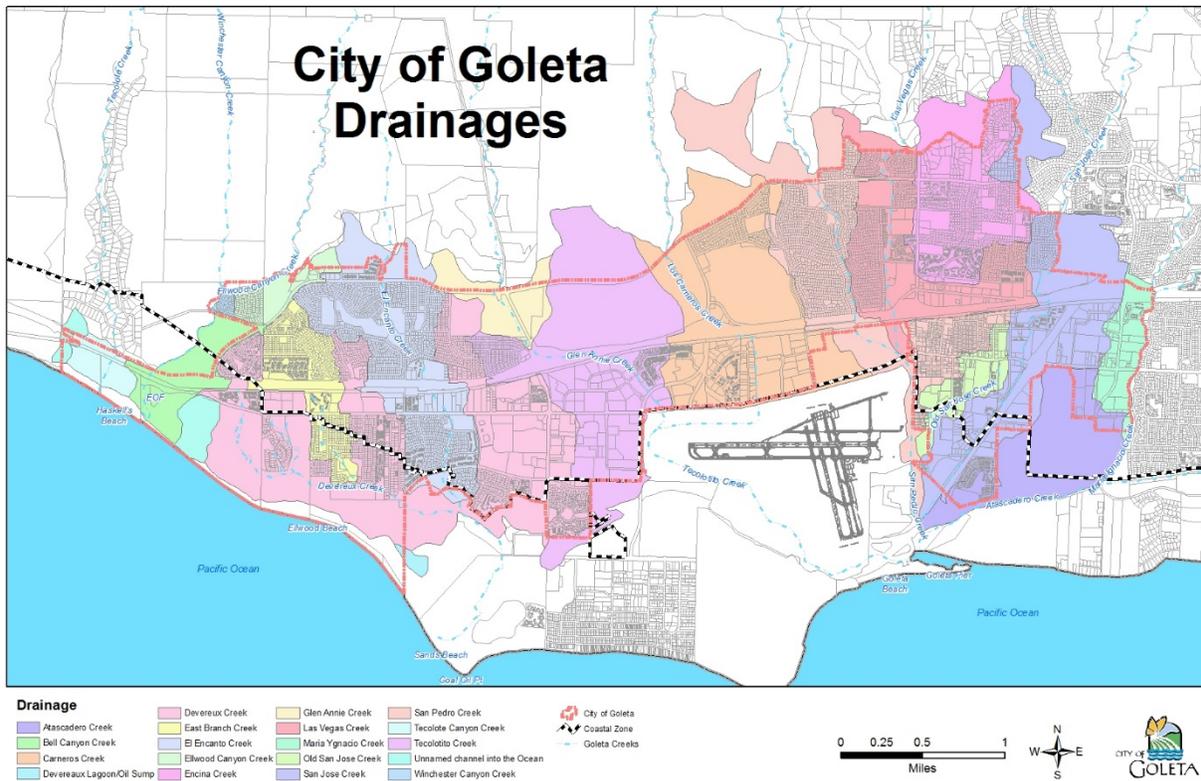
As a relatively newly incorporated City, Goleta continues to prepare planning documents and other technical reports to implement specific policies contained in the General Plan. Included in the General Plan is Implementation Action CE-IA-3, which calls for the preparation of a Creek and Watershed Management Plan, which is the subject of this RFQ/RFP.



An essential aspect of Goleta's community character and livability is derived from the diverse open space, natural resources, and open lands within and surrounding the community. These assets include; approximately two miles of Pacific shoreline, beaches, and coastal bluffs; open coastal mesas; the Goleta and Devereaux Sloughs; active agricultural lands, including citrus groves and vegetable crops as well as fallow lands; and vibrant creeks, riparian areas, ponds, wetlands, and woodlands.

### City's Creek Systems

Twelve creeks intersect the City, draining the foothills south down to the Pacific Ocean and linking the City to the surrounding bioregions. These creeks include: Tecolote, Winchester Canyon, Bell Canyon, Ellwood Canyon, El Encanto, Glen Annie, Los Carneros, San Pedro, Las Vegas, Maria Ignacio, Atascadero, and San Jose. Creek corridors are protected as environmentally sensitive habitat areas (ESHA) and are host to a number of special-status species, such as the tidewater goby, steelhead trout, red-legged frog, raptor nests, monarch butterfly aggregations, and southern tarplant. Like most areas of the Central Coast of California, creek flows are typically intermittent and seasonal. The conditions of the creek corridors vary greatly from natural corridors to concrete-lined channels. Some of the creek systems provide the last remaining physical linkages between the coast and relatively undisturbed and unfragmented habitats to the north of the City. However, these linkages are typically indirect as they are often interrupted by many intervening barriers, such as roadways and associated culverts.



Sections of some creeks have been channelized for flood control purposes, such as along El Encanto, San Pedro, and Tecolote Creeks. Concrete lining and rock riprap have been placed along other areas, such as along lower San Jose Creek, Las Vegas Creek upstream of US-101, Los Carneros Creek upstream of Hollister Avenue, and Glen Annie Creek upstream of US-101. Most of the creeks in the City drain into Goleta Slough (with a watershed area of 45 square miles) or Devereux Slough (with a watershed area of 3.5 square miles) on the southern end of the City. Although the larger, Goleta Slough is now less than half its original size, having been extensively filled for the development of the Santa Barbara Airport and other uses, both sloughs have large expanses of wetlands and estuarine habitats. Winchester Canyon, Bell Canyon and Tecolote

Creeks drain directly to the Pacific Ocean on the western end of the City, forming coastal lagoons at their outlets.

## **PROPOSED DRAFT SCOPE OF WORK OUTLINE**

The City of Goleta is requesting a Statement of Qualifications (SOQ) and Proposal from consulting firms to develop and prepare the CWMP. The selected individual or firm will report to, and operate under, the direction of the Advance Planning Manager and Contract Planner. With the input of residents, stakeholders, and staff, the City desires to produce a CWMP that reflects the goals and priorities of the City for the long-term vision and stewardship of the network of City creeks and drainageways. The City envisions the CWMP as a “living” document that will be periodically updated and amended to reflect changing conditions and new opportunities that increase the benefits that these waterways provide to the community. Additionally, the CWMP will support other City efforts including the future development of a Storm Drain Master Plan.

The City envisions that the CWMP will include the following components:

### **Policy Guidance**

- Summarize and incorporate goals and policies from adopted policy documents such as the Conservation Element of the General Plan, the Goleta Municipal Code, and the California Coastal Act.

### **Creek Inventory & Background information**

- Review the City’s existing inventory of creek corridors.
- Determine gaps in the inventory.
- Conduct required field work to complete the inventory.
- Develop information on the physical condition and overall ecological function, water quality, and vitality of each creek corridor.
- Research and summarize ownership boundaries and existing maintenance easements.

### **Management Approach**

- Identify Goals for the CWMP.
- Develop Objectives, Policies, and Implementation Measures to meet the Goals of the CWMP. The Objectives, Policies, and Implementation Measures will focus on Geomorphology, Hydrology, Water Quality, Biological and Ecological Resources, and Human Interaction (including recreational uses and homeless encampments).
- Craft Implementation Measures that include both regulatory and procedural protections for watersheds and guidance for future capital projects, including:
  - Guidance on the variety of creek channel types and potential treatments and improvements for those types of channels to be considered for future projects.
  - Best Management Practices for routine creek maintenance such as vegetation management, bank repair, and sediment removal including a suggested maintenance schedule.
  - Potential locations for future new supporting recreational facilities (i.e.: rest areas, nature viewing points, interpretive signage, etc.).

## Implementation

- Establish an implementation program for achieving the overall vision of the plan including reporting requirements to track implementation.
- Develop potential funding sources that could implement the CWMP.

## Outreach

- Provide a program for soliciting input from the general public and key interest groups.
- Coordinate with City staff to organize workshops to provide information about the CWMP process and opportunities for public participation.
- Discuss and review concepts with other responsible and regulatory agencies.

## AVAILABLE RESOURCES

The following documents and data are readily available for reference and are required to inform the CWMP:

- City of Goleta General Plan/Coastal Land Use Plan (2006) and Environmental Documents (2006, 2009)
- City of Goleta Background Report No. 24 – Hydrology and Water Quality (2004)
- Ellwood Mesa Open Space Plan (2004)
- Community Wildfire Protection Plan (2012)
- Monarch Butterfly Inventory and Habitat Management Plan (2019)
- Lake Los Carneros Management Plan (1999)
- Recreation Needs Assessment (2015)
- Subdrainages Mapping (2012)
- Draft San Jose Creek Watershed Plan (2003)
- City of Goleta New Zoning Ordinance (Under Development)
- City of Goleta Coastal Hazards Vulnerability Assessment and Fiscal Impact Report (2015)
- City of Goleta Climate Action Plan (2014)

## CWMP APPROVAL PROCESS

The CWMP will be reviewed by the Planning Commission and City Council, who will review recommendations and approve the final plan. Facilitation or support for a series of public meetings with these groups should be included in the SOQ/Proposal submitted to the City for consideration.

The selected consultant team must be available to participate and lead presentations at all public meetings with staff and any other necessary public forums. The suggested budget should at least include the anticipated meetings listed below. The consultant must carefully consider the amount and level of consultant team members needed to be present at each.

- Four (4) Technical Advisory Committee meetings,
- Three (3) public workshops,\*
- At least six (6) all hands project management team meetings,\*
- Two (2) Planning Commission meetings (introduction & recommendation to Council), and
- Three (3) City Council meetings (introduction, update & adoption)

*\*It is suggested to include a contingency plan to cover additional needed meetings*

## RESPONSE DOCUMENTS/SUBMISSION REQUIREMENTS & CITY REVIEW & SELECTION PROCESS

### I. Proposal Submittal Requirements

Consultants must submit a proposal limited to a maximum of twelve double-sided pages exclusive of cover letter, resumes, and references. The proposal must be organized in the following format and include the information in the below outline:

#### A. Cover Letter

The cover letter must be signed by an officer of the firm authorized to execute a contract with the City. The primary contact should be identified and phone number, email and mailing addresses also provided.

#### B. General Qualifications

The consultant must provide a summary of the consultant's qualifications, general information about the firm, location of office(s), years in business, and areas of expertise. The consultant must also provide a brief description of projects that involved a similar scope of services.

#### C. Key Staff

It is the City's intention to contract with an experienced and innovative planning firm with demonstrated knowledge and experience in the following areas and including certain specific team members:

- Land Use Planning
- Participatory Community Planning (Public Outreach)
- Computer Graphics
- Biologist/Ecologist with experience with habitat types, floristic inventory, and wildlife associated with riparian and estuarine environments
- Hydrologist with expertise in stream corridor hydraulics, hydrology, and geomorphology
- Water Quality Specialist
- Restoration Biologist
- Watershed Health and Resiliency Specialist
- Environmental Review

The Consultant must identify key staff, including a key point person that will serve as the Project Manager, and include a description of their abilities, qualifications and experience. Attach resumes of key staff that will be assigned to this project. Include a proposed project management structure and organizational chart. Identify any portion of the scope of work that would be subcontracted. Include firm qualifications (brief) and key personnel, telephone number, email address, and contact person for all subcontractors. The City reserves the right to approve or reject all consultants, internal staff performing consulting services, or subconsultants proposed by the consultant.

#### D. Project Manager

The Consultant's Project Manager will oversee all consultant activities from project initiation to conclusion and management of all sub-providers. This task includes activities such as project start-up, minutes, agendas, budget and schedule tracking, ongoing coordination with the consultant team, and providing the daily point of contact with the City.

The task entails attending collaboration meetings with the City at key milestones in the planning process such as coordination of public participation activities, development of key products and materials, and review of analysis and findings. Project management/administration costs shall not exceed ten percent and project teams shall be prepared with consideration for an appropriate hierarchy to maintain effective project administration and communication.

**E. Draft Scope of Work**

Consultant must provide a draft scope of work addressing the items described in the Draft Scope of Work Summary outline contained in this RFQ/RFP. The scope must also include tasks to prepare the necessary environmental documents to comply with California Environmental Quality Act (CEQA). The scope must describe the Consultant's understanding of the project, any suggested revisions to the Draft Scope of Work summary, a detailed work approach, and methodology including, but not limited to, field work approach. Consultant may expand on the scope of work outline to accomplish the overall objective of the project and provide suggestions which might enhance the results or usefulness of the CWMP. The Consultant must provide an example of a similar plan prepared by the firm or proposed team. Consultant must also include a schedule of work. The City will work with the selected consultant to refine the scope of work as is appropriate to complete the objectives of the project.

**F. References**

Consultant must provide a list of references for the firm and any subconsultants, including the names, addresses, email addresses, and telephone numbers of recent clients, preferably other public agencies for which consultant has done similar work. Include a list of specific projects associated with each reference, date work was performed, cost, and key personnel involved.

**G. Suggested Budget**

The cost proposal must include all labor costs, overhead costs, subconsultant costs, and an itemized list for direct expenses. Costs must also be shown in a matrix format, by task grouping, and show hours per staff member, base labor rates, and overhead and profit rates. The cost proposal shall be submitted in a separate sealed envelope.

**H. Disadvantaged Business Enterprises (DBE's)**

Consultant must make a good-faith effort to include certified DBE firms as subconsultants. If no DBE firm will be utilized, the consultant's proposal must describe the good-faith efforts that were taken in an attempt to include a certified DBE for completion of one or more tasks associated with the scope of work.

**I. Agreement for Professional Services**

Consultant must provide a statement that the Agreement for Professional Services has been read, that the individual or firm will meet the prerequisite insurance requirements, and the individual or firm, if selected, agrees to enter into such Agreement.

## II. Consultant Selection Process

The basic elements of the Consultant selection process are as follows:

### A. Evaluation of Submittals.

The proposals will be evaluated and ranked by the City. The selection will be made directly from the qualified list. Proposals will be evaluated on various qualifications, including but not necessarily limited to:

- Knowledge and experience of key staff
- Availability of key staff personnel and resources
- Experience and demonstrated competence on similar projects
- Understanding of and vision for the project scope
- Cost effectiveness
- Understanding of the City of Goleta and region
- Schedule
- References

The City will notify all consultants that submit SOQ/Proposals of the evaluation results upon award of the contract. Top ranked firms will be invited to an interview with City staff.

## III. General Information

### A. SOQ/Proposal Submission

Consultant must submit four copies of their SOQ/Proposal to the City, including the Suggested Budget in a separate sealed envelope, to the following address:

*City of Goleta  
 Planning & Environmental Review Department  
 Attn: Wendy Winkler, Management Assistant  
 130 Cremona Drive, Ste. B  
 Goleta, CA 93117*

In addition, a digital copy, excluding the Suggested Budget, must be submitted to the City at [CWMP@CityofGoleta.org](mailto:CWMP@CityofGoleta.org).

SOQ/Proposals, both physical and digital, must be received no later than **3:00 p.m. on Tuesday, April 23, 2019**. Late submittals will be rejected and returned.

### B. Proposed Selection Schedule

The following proposed schedule is subject to change:

RFQ/RFP Issued	April 2, 2019
Deadline for Proposal Submission	April 23, 2019
Consultants selected for Interviews	April 25, 2019
Interviews Conducted	April 30, 2019
City Council Award of Contract	June 4, 2019

**C. Proposal/Qualifications Property**

All submitted Proposals/Qualifications shall become the property of the City upon submission.

**D. Non-Commitment of the City**

This RFQ/RFP does not commit the City to select a consultant, to pay any costs incurred in the preparation of an SOQ/Proposal for this request, or to produce or contract for services. The City reserves the right to accept or reject any or all SOQ/Proposals received as a result of this request, or to modify or cancel in part or in its entirety the RFQ/RFP if the City determines it is in the best interest of the City to do so.

**E. Inquiries**

Inquiries concerning this RFQ/RFP should be directed by email only to:

Pamela Ricci, AICP, Contract Planner  
Email: CWMP@CityofGoleta.org

**Note: The City reserves the right to amend the RFQ/RFP by Addendum.**

**ATTACHMENT A**

Sample Agreement for Professional Services

**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 \_\_\_\_\_, 2019, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **(Insert CONSULTANT'S NAME), (Insert Legal Business Entity)** (herein referred to as "CONSULTANT").

**WHEREAS**, the CITY has a need for professional **(Insert Services to be provided)** services for the Creek and Watershed Management Plan Project; 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 procured these services in compliance with Goleta Municipal Code Section **(Insert applicable Municipal Code Section)** by **(Insert selection process - open bid, short list, etc.)**.

**WHEREAS**, the City Council, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

**1. 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.

**2. DESCRIPTION OF SERVICES**

The services to be performed by CONSULTANT are as follows:

Professional **(Insert services to be provided)** Services in conjunction with Creek and Watershed Management Plan Project. Services shall generally include **(Insert services to be provided)** 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."

### **3. COMPENSATION AND PAYMENT**

(a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$(**Insert agreement amount**) (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 (**Insert agreement expiration date**), 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.

(b) **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.

### **4. 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 writing in advance of the incurrence of extra services by CONSULTANT. 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.

### **5. 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 (**Insert Project Manager name**) 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.

**6. TERM, PROGRESS AND COMPLETION**

The term of this AGREEMENT is from the date first written above to **(Insert agreement expiration date)**, 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 Section 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.

**7. 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.

**8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR**

This AGREEMENT is for professional services which are personal to CITY. **(Insert Consultant's Project Manager)** 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 assigned or subcontracted without the City Manager's prior written consent.

## 9. HOLD HARMLESS AND INDEMNITY

(a) **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.

(b) **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.

(c) **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.

## 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 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 00 01 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.
- d) Professional liability insurance that covers the services to be performed in connection with this agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate.

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 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, or its equivalent.
- 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) Professional liability insurance policies inception date, continuity date, or retroactive date must be before the effective date of this agreement. CONSULTANT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.
- d) Liability coverage shall be primary and non-contributing with any insurance maintained by CITY.
- e) 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.

- f) 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.
- g) CONSULTANT agrees to deposit with CITY within fifteen days of Notice to Proceed of the Contract certificates of insurance and required endorsements.
- h) 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.
- i) 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.

## **11. 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.

## **12. 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.

### **13. TERMINATION BY CITY**

CITY, by notifying CONSULTANT in writing, may upon 10 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.

### **14. 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.

### **15. 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.

### **16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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.

**21. TAXPAYER IDENTIFICATION NUMBER**

CONSULTANT shall provide CITY with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. October 2018), as issued by the Internal Revenue Service.

**22. 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.

**23. 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.

**24. USE OF THE TERM "CITY"**

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

**25. 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.

**26. CAPTIONS**

The captions or headings in this AGREEMENT are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the AGREEMENT.

**27. AUTHORIZATION**

Each party has expressly authorized the execution of this AGREEMENT on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this AGREEMENT.

**28. ENTIRE AGREEMENT BETWEEN PARTIES**

Except for CONSULTANT'S proposals and submitted representations for obtaining this AGREEMENT, this AGREEMENT supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services.

**29. PARTIAL INVALIDITY**

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**30. NOTICES**

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Attention: Michelle Greene, City Manager  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

TO CONSULTANT: (Insert Consultant's Name & Contact information)

**31. COUNTERPARTS AND ELECTRONIC/FACSIMILE SIGNATURES**

This Agreement may be executed in several counterparts, which may be facsimile or electronic copies. Each counterpart is fully effective as an original, and together constitutes one and the same instrument.

**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**

**CONSULTANT**

\_\_\_\_\_  
Michelle Greene, City Manager

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
Deborah Lopez, City Clerk

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM**

\_\_\_\_\_  
Winnie Cai, Assistant City Attorney