



REQUEST FOR PROPOSALS FOR

Financial Advisory Services

Date Issued: September 24, 2019

Deadline for Submission: October 10, 2019 at 4:00 PM

City of Goleta
Finance Department
Luke Rioux, Finance Director
130 Cremona Drive, Suite B
Goleta, CA 93117
Tel (805) 562-5508
Email: lrioux@cityofgoleta.org

I. INTRODUCTION

The City of Goleta (“City”) is requesting proposals from qualified firms interested in providing financial advisory services, related to refunding its former Redevelopment Agency of the City of Goleta 2011 Tax Allocation Bonds, with a current principal balance of approximately \$14.5 million. This Request for Proposal (“RFP”) describes the background, scope of services, content of proposal, selection criteria, and proposal submission instructions and schedule.

All questions should be directed in writing to Luke Rioux, Finance Director, at lrioux@cityofgoleta.org. Such contact shall be for clarification purposes only. The City must receive all questions no later than October 4, 2019. Material changes, if any, to the scope of services or proposal procedures shall only be transmitted by written addendum and posted to the City’s website (www.cityofgoleta.org). Addendums and answers to submitted questions will also be available on the City of Goleta’s website.

II. BACKGROUND

The City of Goleta is located on the Central Coast of California just north of Santa Barbara. Incorporated in 2002, the City has the warmth and charm of a small town. Beaches and well-maintained parks and open spaces add to its attraction. Contributing to this young community’s outstanding quality of life are the City’s low crime rate, mild coastal climate, and desirable location. The current population is just over 30,000. Residents enjoy several distinct neighborhoods, each with its own character. Goleta elementary and secondary schools have a reputation for high academic achievement and excellent instruction. The University of California at Santa Barbara, located to the south of the City, is a world class public university. The City Council consists of five members elected at-large to four-year terms. The Mayor is elected directly for a two-year term, effective with the municipal election which was held in November 2018. The City is comprised of the following departments: General Government (which includes the offices of City Manager, City Attorney and City Clerk) Finance, Public Works, Planning and Environmental Review, Neighborhood Services and Public Safety and Library. In addition, the City Council of the City of Goleta exercises oversight control over the Goleta Redevelopment Agency (RDA) Successor Agency. As of July 1, 2018, all former Oversight Boards for RDA successor agencies in Santa Barbara County have been consolidated into one Countywide Oversight Board.

In 2011, the former Redevelopment Agency of the City of Goleta issued \$16,085,000 in Redevelopment Agency Tax Allocation Bonds 2011 Series A (the “2011 Bonds”) for the main purpose of funding redevelopment activities and projects. Payoff of the 2011 Bonds is scheduled to occur in 2044.

In September of 2018, the City and Successor Agency settled litigation with the California Department of Finance (DOF) and the Santa Barbara County Auditor-Controller. The litigation related to the wind down of the Redevelopment Agency for the City of Goleta pursuant to Assembly Bill 26 of the 2011-12 First Extraordinary

Session of the California Legislature (“AB x1 26”) and Assembly Bill 1484 of the 2011-12 Regular Session of the California Legislature (“AB 1484”) (AB x1 26 and AB 1484, collectively the “Dissolution Law”). Upon request of the Successor Agency and in compliance with all applicable laws, DOF will authorize Successor Agency to refund the 2011 Tax Allocation Bonds (TABs) in order to reduce overall debt service payments for the benefit of the taxing entities. Successor Agency staff anticipates pursuing the refunding of the 2011 TABs in 2019 to reduce overall debt service payments for the benefit of the taxing entities which would also reduce the amounts needed for applicable recognized obligation payment schedule.

III. PURPOSE OF THE REQUEST

The purpose for this Request for Proposals (RFP) is to evaluate qualified firms which provides municipal financial advisory services including, but not limited to evaluating bond markets, managing bond issuance, and refunding of bonds for the City and Successor Agency.

IV. SCOPE OF SERVICES

The services to be provided by the Financial Advisor are provided in order, shall include, but are not limited to the following:

Phase One – Conduct Preliminary Analysis and Make Recommendation

Financial Advisor will review former Redevelopment Agency bonds and estimate whether the current municipal bond market yields or rates would produce enough savings to justify the cost of refunding. This will include:

1. Verify amount eligible for refunding and propose structure for the refunding.
2. Develop and recommend refunding financing structure options, including the preparation of financing plans and analyses, and include estimated costs as part of total cost of refunding:

Bond Counsel, Disclosure Counsel, Financial Advisor, Trustee, Printing, Rating Agencies, Underwriter Discounts, City Attorney

3. Produce a series of tables, which clearly demonstrate the benefits of refunding or that refunding is not beneficial. Tables should include, but not limited to the following:
 - a. Summary of existing debt issue, including true interest cost (TIC), average coupon, average life, par amount, etc.
 - b. Existing Installment Payment Schedule, including coupon rate
 - c. Municipal Market Data showing yield trend for different rated issues
 - d. Summary of proposed refunding issue, including TIC, average coupon, average life, part amount, etc.
 - e. Proposed refunding Installment Payment Schedule, including coupon or interest rate

- f. Installment Payment Schedule comparing existing vs. proposed refunding payments, including cash flow savings from refunding, including net present value savings
 - g. Escrow requirements, costs and sufficiency
 - h. Cost of issuance
 - i. Summary and uses of funds
 - j. Any additional information that is necessary
4. Based on above analysis, the Financial Advisor shall provide a debt service savings analysis report with recommendation to either refund or not refund existing successor agency debt at this time. Preferred margin of savings over term of outstanding debt is 3 percent and in accordance to California Health and Safety Code.
5. Prepare and develop all necessary City staff reports and documents related to refunding of successor agency bonds in accordance to California Health and Safety Code.

Phase Two – Assemble Financing Team and Manage Refunding Process

Assuming Financial Advisor recommends refunding of outstanding debt and the City agrees to proceed with refunding, then Financial Advisor would be expected to perform the following Scope of Services:

1. Develop the Financing Timetable
Take the lead role in preparing a schedule and detailed description of the responsibilities of each member on the Financing Team and develop a financing timetable, and update, with refinements, as necessary as the work progresses.
2. Monitor the Transaction Process
Assume primary responsibility for the successful implementation of the financing strategy and timetable that is adopted for the debt issue related to the refunding project, including coordinating and assisting in the preparation of the legal and disclosure documents and shall monitor the progress of all activities leading to the sale of debt. Prepare the timetables and work schedules necessary to achieve this end in a timely, efficient, and cost-effective manner and will coordinate and monitor the activities of all parties engaged in the financing transaction. Attend all meetings necessary and requested.
3. Assist in the Selection of Additional Service Providers
At the City's requests, the Financial Advisor will assist the City in preparing requests for proposals and selection of bond counsel, disclosure counsel, underwriter(s), technical consultant(s), bond insurer, trustee and any other applicable professional service providers pertinent to this financing.
4. Provide Financial Advice to the City, relating to Financing Documents

Assist the bond counsel and/or other legal advisors in the drafting of the respective financing resolutions, notices and other legal documents, including monitoring document preparation for a consistent and accurate presentation of the recommended business terms and financing structure of the debt issue related to the refunding.

5. Compute Sizing and Design Structure of Debt Issue

Work with the underwriters and City staff to design a financing structure for the debt issue relating to the refunding that is consistent with the City's objectives, that coordinates the transaction with outstanding issues, and that reflects current conditions in capital markets.

6. Plan and Coordinate Presentations to Rating Agencies and Investors

If applicable, develop a plan for presenting the financing program to rating agencies and investor community and assist the City in coordinating the presentation activities with the rating agencies. The Financial Advisor shall consider the implications of the City's existing debt and repayment covenants as they may relate to the refunding, and how they may affect the willingness of rating agencies to affirm or change in credit ratings.

7. Conduct Market Analysis and Evaluate Timing of Market Entry.

Provide regular summaries of current municipal market conditions, trends in the market and how these may favorably or unfavorably affect the City's proposed financing.

8. Coordinate Competitive Sale of Bonds

Advise the City in the sale of bonds, including an option to conduct a competitive sale through a Notice of Sale Inviting Bids. Coordinate with the underwriter(s) to execute the most cost effective financing structure for the refunding. If the Financial Advisor feels that costs vary widely amongst the different bond sale options, Financial Advisor shall breakout costs, to the extent possible, for each sale option the Financial Advisor views as viable.

9. Recommend Award of Debt Issuance

Based on the activities outline above, recommend accepting or rejecting offers to purchase the debt issue. Financial Advisor shall not recommend acceptance of an offer from an affiliated underwriting firm, or in connection with any firm in which it has a financial interest. If the City elects to award debt issue, the Financial Advisor will instruct all parties to help facilitate the actions required to formally consummate the award.

10. Coordination of Pre-Closing and Closing Activities

Financial Advisor shall assist in arranging for the closing of financing. The Financial Advisor shall assist counsel in assuming responsibility for such arrangements as they are required, including arranging for or monitoring the progress of bond printing, qualification of issues for book-entry status, signing and final delivery of

the securities and settlement of the costs of issuance.

V. QUALIFICATIONS OF PROPOSERS

Information is required that demonstrates the professional capabilities and experience to serve as the City’s Financial Advisor on this financing. Qualifications may include, but not be limited to, prior relevant experience in municipal infrastructure financings, including successor agency RDA bond refunding and educational degrees and certificates in finance and accounting.

VI. PROPOSAL PREPARATION, CONTENT AND FORMAT

Firms must submit a proposal organized as outline below. Any proposal that does not contain the information outlined below may not be considered. Proposal contents shall be presented in the following sequence to facilitate evaluation:

1. Transmittal Letter
2. Company and Staff - Experience and Qualifications
3. Work Plan
4. Data Request
5. Scope exclusions/addenda
6. Deliverables
7. Schedule
8. Fee Proposal (Lump sum not-to-exceed fee and fee schedule/hourly rates)
9. Other Client Commitments
10. References
11. Professional Services Agreement and Insurance
12. Other

The following includes a brief description of each of the above items:

1. Transmittal Letter

The transmittal letter should introduce the proposal, summarized not-to-exceed proposed costs, signed by an official authorized by the firm to solicit business and enter into contracts. The letter should include the name, address, email address, and phone number of the firm’s primary contact person.

2. Company and Staff – Experience and Qualifications

The proposal must demonstrate that the firm has the experience and qualifications necessary to successfully perform the scope of services sought by the City. The proposal should contain the following information:

- a. A brief description of the firm, including its history, size, location, geographic focus, and structure of ownership.
- b. Summary of the firm’s experience and qualification providing financial planning,

financial management, debt services, debt refunding related to successor agencies of redevelopment agencies and other relevant services to California municipal clients. The section should also contain the following:

- i. List of other governmental agencies in California for which the firm is presently under contract, including recent financings or bond issuance, the services provided and cost, and the name of the firm's primary staff member for each.
- ii. Please note whether the firm has successfully met the client's needs in terms of client relationship and delivering services on scope, quality, schedule, and budget.
- iii. Please provide your experience in participating in community engagement tasks related to public finance.
- iv. A list of names and positions of Financial Advisory firm that would work with the City of Goleta and their experiencing providing relevant services (attach bios or resumes as appropriate).
- v. Description of firm's financial position, reputation, and risk management relevant to providing municipal financial advisory services.
- vi. Estimate of staff hours to be expended on this financing, and if necessary, total for each staff member participating in this financing, including staff from other firm(s) subcontracting with the Financial Advisor.

3. Work Plan

This section should given an introduction and overview of the approach, list general objectives, develop a work plan by breaking down the project into specific tasks or work elements clearly associated with the scope of services included in this RFP, and explain the methodology to be used to complete each task. The work plan shall provide an estimate of the meetings to be in the City and County, who will be participating from the Financial Advisor's side, and what information the Financial Advisor expects the City to provide (see Data Request).

4. Data Request

The section of the proposal shall itemize all data the Financial Advisor expects the City to provide in carrying out this financing.

5. Scope Exclusions/Addenda

In reviewing this RFP, the Financial Advisor may encounter tasks, which, in the opinion of the Financial Advisor, may be unnecessary, or, may have been omitted. At the Proposer's discretion, Financial Advisor may identify these tasks, and include any tasks that are deemed necessary by the Financial Advisor, but are not required or identified by this RFP.

6. Deliverables

Deliverables are material products such as the official statement, bond rating, underwriter agreements, trustee agreements, insurance, and other documents that may comprise this financing. This section shall contain a list of all proposed deliverables to secure necessary funding.

7. Schedule

It is preferred that the Phase One under the Scope of Services in this RFP be completed within two weeks following issuance of a notice to proceed, and that Phase Two be completed within three months following City agreement to proceed with Phase Two. Financial Advisor shall provide a refunding schedule for Phase Two with proposal which it believes it most appropriate to complete Phase Two activities of this RFP. This schedule section shall include at a minimum, a table that displays schedule of major milestones to be accomplished in refunding existing debt. The schedule for each task and timing of each deliverable should be based upon the number of calendar days or weeks needed to complete the refunding.

8. Fee Proposal

In this section, provide in a table format, the cost for each task, including a listing of the personnel assigned to each task, hourly rates, and the number of hours each position is budgeted for each task. Identify other personnel billing practices and reimbursable costs. This table shall include a lump-sum fixed fee, not-to-exceed total cost for each Phase of this RFP. Please note any other fees and costs.

9. Other Client Commitments

Financial Advisor shall list other clients that it is currently service, including pending or anticipated clients that will be served, with staff that Financial Advisor anticipates using to fulfill its obligation to the City under this RFP. Financial Advisor shall further attest to the availability of key staff to fulfill the needs of this study in a professional and timely manner.

10. References

The proposal must identify three different clients for which the firm has provided services similar to those sought by the City of Goleta within the last three years and that would be willing to provide a reference. Include the name and contact information of an appropriate individual with each client and briefly summarize the main services or initiatives the firm provided to the client. Experience of refunding successor agency to the RDA bonds is preferred.

11. Professional Services Agreement and Insurance

Provide a statement that you have reviewed the Standard Professional Services Agreement and that your firm will be able to provide the required insurance in the amount, types, and endorsements. Alternatively, if there are provisions within the City's Standard Professional Services Agreement, including insurance requirements, that are not acceptable to your firm, please indicate what provisions those are and why, and what substitution your firm would suggest. A copy of this agreement is provided as Attachment A.

12. Other

Additional information the proposer may feel will strengthen the proposal or be of

interest to the City.

VII. SELECTION CRITERIA

Selection of a Financial Advisor will be based on evaluation of qualifications, work plan, references and other required proposal elements. A City evaluation team will evaluate each proposal. Final selection may be based on the proposal as well as any supplemental information requested by the evaluation committee, or obtained through interviews. The City will select most qualified firm with which to negotiate a contract. The following evaluation criteria may be considered:

1. Cost proposal and well benchmarked hourly rates, including reasonable number of hours to complete the scope of services.
2. Current and past experience in serving as Financial Advisor to municipalities, specifically to refunding of Tax Allocation Bonds related to Redevelopment Agencies.
3. Organizational skills and knowledge necessary to guide the City through refunding as demonstrated by completion of previous similar financings
4. Solid knowledge of the financial markets and parties involved in making tax allocation bond issuances.
5. Creativity and experiences in carrying out financings.
6. Clear and concise work plan
7. Carefully proposed service schedule that factors in all necessary tasks and deliverables.
8. Adequate staffing that is available to meet the financing schedule milestones and deadlines for deliverables of the City.
9. Legal issues or conflicts

If a clear choice is not evident, interviews may be scheduled with the highest ranking firms. Contract negotiations will begin immediately with the first choice candidate after evaluation process.

VIII. PROPOSAL SUBMISSION REQUIREMENTS AND PROPOSED SCHEDULE

Please email an electronic PDF copy, and mail three (3) bound copies of your proposal at your earliest convenience, but no later than Thursday, October 10, 2019 at 4:00 PM. Proposals shall be clearly marked "FINANCIAL ADVISORY SERVICES PROPOSAL" and enclosed in a sealed enveloped. Proposals may be hand delivery or mailed to:

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

Email an electronic PDF copy to lrioux@cityofgoleta.org.

Proposed Schedule

Dates are subject to change. We will make every effort to administer the proposal process in accordance with the terms and dates outlined below. However, we reserve the right to make changes to the schedule.

Date	Activity
September 24, 2019	Request for Proposal Issued
October 4, 2019	Deadline for Submission of Questions
October 10, 2019	Deadline for Proposals (due by 4:00pm)
October 11-13, 2019	Proposals evaluated
November 5, 2019	Date for Approval or Award by City Council

IX. ADDITIONAL INFORMATION

All responses to this RFP will become the property of the City of Goleta. All proposals and any subsequent contract will be subject to public disclosure per the "California Public Records Act," California Government Code, sections 6250 – 6270, once the City has awarded the contract resulting from this solicitation.

The City will review and evaluate all proposals. The City reserves the right to request one or more oral interviews of any respondents prior to the final selection. The City assumes no liability for any cost incurred by any firm in the preparation of its proposal in response to this RFP, or presentation of the proposal or subsequent interview(s), nor for obtaining any required insurance.

The City reserves the right to reject any and all proposals, to request additional information concerning any proposals for the purpose of clarification, to accept or negotiate modifications to any proposal following the deadline, to waive any irregularities, if doing so would serve the interest of the City, to amend and/or reissue the RFP, and/or to discontinue or reopen the process at any time. The City retains sole discretion to evaluate proposals and make an award to the proposer that the City deems to have the most responsive proposal. The City reserves the right to negotiate all final terms and conditions of any contract as necessary to more closely match City needs.

X. ATTACHMENTS

Attachment A: City of Goleta 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:

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 _ 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).

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 \$ _____ (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.

(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 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.

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 _____. 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:

6. 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.

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. _____ 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.

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 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.

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 _____ 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. 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.

22. 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.

23. 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.

24. 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.

25. USE OF THE TERM "CITY"

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

26. 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

CONSULTANT

Michelle Greene, City Manager

By: _____, Title:

ATTEST

Deborah Lopez, City Clerk

By: _____, Title

APPROVED AS TO FORM

Winnie Cai, Deputy City Attorney