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

The City of Goleta Planning & Environmental Review Department invites interested parties to submit a single proposal for the preparation of the following two separate but related studies: A Commercial / Housing Nexus Study and an Affordable Housing In-Lieu Impact Fee Study

Date Issued: July 22, 2020

Deadline for Submissions: August 21, 2020
Due by 5:00 p.m.

Contact:
J. Ritterbeck, Senior Advance Planner
City of Goleta
Planning and Environmental Review Department
130 Cremona Drive, Suite B
Goleta, California 93117
805.961.7548 or jritterbeck@cityofgoleta.org
REQUEST FOR PROPOSALS
Commercial / Housing Nexus Study and Affordable Housing In-Lieu Impact Fee Study

The City Council of the City of Goleta has authorized staff to secure consultant services to assist with studying future contributions for affordable housing from non-residential uses and identifying affordable housing in-lieu impact fee requirements for new residential development. The two studies are consistent with the General Plan / Coastal Land Use Plan (General Plan).

The City Council will be scheduled to review the responses to this Request for Proposals (RFP) at a public meeting at the next available public hearing following the date RFPs are due to the City. Staff requires written proposals be provided no later than August 21, 2020. Information regarding the requested services and the requirements for submitting proposals are described in the subsequent sections of the RFP.

1. PROJECT BACKGROUND INFORMATION

Location. The City of Goleta is located on the south coast of Santa Barbara County, approximately eight miles west of the city of Santa Barbara. The city is suburban in character and encompasses nearly eight square miles of territory and a population of approximately 30,800. A portion of the city, including a two-mile section of Pacific Ocean shoreline, is situated within the Coastal Zone and retained permit jurisdiction of the California Coastal Commission.

Description. The character of the City’s built environment largely consists of compact single-unit residential areas of moderate densities, a central City area with larger but lower-intensity commercial and industrial uses, and more intensely-developed areas in the Old Town area and also in the southwestern area of the City. Most of the northwest, southwest, and northeast areas of the City are dominated by an organized and compact pattern of smaller, single-unit dwellings interspersed with larger structures, mainly churches and schools. The development pattern in the Old Town area in the southeast portion of the City is somewhat more compact. The south-central part of the City consists of larger commercial structures, sharply contrasting with surrounding development patterns. Large open areas are found in the north-central area (Bishop Ranch and Lake Los Carneros Natural and Historic Preserve) and the most southwestern part of the City (Sperling Preserve/Santa Barbara Shores Park and Sandpiper Golf Course).

The Goleta General Plan/Coastal Land Use Plan. The General Plan was adopted on October 2, 2006. The plan contains nine elements, including land use, transportation, public facilities, and others that together satisfy the content requirements of the State’s general plan law and the California Coastal Act. The policies of the General Plan are greatly influenced by the desire of the community that future growth and change be limited and guided so as to protect natural resources, livable neighborhoods, existing land use patterns, and overall quality of life. The full build-out allowed by the General Plan could result in about 3,800 additional residential units, five hotels, and 2.1 million square feet of
commercial and industrial floor area. The Goleta General Plan can be accessed on the City’s website at www.cityofgoleta.org.

Housing needs of local workers are an important factor for the City when reviewing non-residential and residential development proposals. As such, the General Plan (subpolicy HE 2.2.b) requires that proposed new development and proposed expansion or intensification of existing non-residential development contribute to the provision of affordable employee housing. This will be the focus of the Commercial/Housing Nexus Study. Respectively, subpolicy HE 2.5 requires that residential developments contribute to providing affordable housing either by building on-site, off-site, or via an in-lieu payment, which would support the production of affordable housing at the lower-income levels and would be the focus of the Affordable Housing In-Lieu Impact Fee Study. The specifics of these studies are not provided in the General Plan and are the subject of this Request for Proposals, which is being funded by the State’s SB 2 grant awarded to the City in March of 2020.

2. SCOPE OF WORK AND SERVICES REQUESTED

The objective of these two separate studies is to identify opportunities for the City to facilitate the rehabilitation or construction of new affordable housing in Goleta using the money collected from the fees. Other options, such as fee waivers, processing efficiency, parcel rezoning, etc., may also be explored as secondary or supplement alternatives. Firms should use the following scope as a general guide and supplement their proposals with such additional or modified tasks and deliverables as they believe are necessary or appropriate for successful completion of the work.

A. Public Outreach: The consultant shall complete public outreach related to the Commercial/Housing Nexus Study and Affordable Housing In-Lieu Impact Fee Study. The outreach scope of service is as follows:

- Public process to involve stakeholders in the development of the assumptions required for the fee calculations.
- One meeting at Goleta City Hall shall be required and may be in-person or virtual/web-based, at the discretion of the City. City staff shall identify a list of stakeholders and establish a meeting date in coordination with the consultant.
- Public outreach shall include direct communication with the stakeholders, both before and following the on-site stakeholder meeting, as directed by City staff.
- The Draft Commercial/Housing Nexus Study and Draft Affordable Housing In-Lieu Impact Fee Study shall be provided to the stakeholders following the stakeholder meeting in an effort to seek additional feedback.
- The “lessons learned” from the outreach shall be used to update the fee studies.
- Public outreach shall continue throughout the process of adoption of the fees by the Goleta City Council.
B. **Commercial/Housing Nexus Study**: Complete a Commercial/Housing Nexus Study and document the relationship between job growth and affordable housing needs of various types of development. Various types of development include, but are not limited to, hotels, R&D centers, retail, office, manufacturing, warehousing, and other commercial or industrial uses.

- Establish a baseline of non-residential and residential development within the City.
- Provide a description of the linkage between job creation and housing needs.
- The study must determine appropriate and possible contributions to and requirements for affordable housing from non-residential uses.
- The proposed amount of floor area and type of non-residential use should be factors in establishing the requirement for individual projects.
- The nexus study must include a range of alternatives to satisfy the City’s affordable housing requirement, such as providing of on-site housing, construction of off-site housing, or payment of in-lieu housing impact fees, and include other alternatives for impact fee reductions, streamlined permit processes, housing assistance as part of employee benefit packages, or other alternatives of similar value.

C. **Affordable Housing In-Lieu Impact Fee Study**: Complete a study of affordable housing in-lieu impact fees with a presentation of residential and non-residential impact fees of relevant jurisdictions, preferably in the Coastal Zone.

- Propose and justify new impact fees for both new residential and mixed-use development.
- Demonstrate feasible ways to subsidize or facilitate the rehabilitation or construction of at least 323 new affordable housing units.
- Exaction requirements for fees must be based upon and use empirical evidence and precedent to comply with possible future legal challenges.
- Impact fees for non-residential development must be based on the accompanying Commercial/Housing Nexus Study and propose clear methodology for calculations.
- Present the results of the study in compliance with the applicable State law(s).
- Provide backup documentation for assumptions to enable City staff to update fees in the future as needed.

D. Standards must be consistent with the applicable policies of the City’s General Plan.

E. Clear language and readability by the general public is strongly emphasized.

F. The overall format should be easy to use for staff, the public, and applicants, as well as the Planning Commission and City Council.

G. Tables, charts, diagrams, and other graphical means should be used to express concepts where possible.
3. DELIVERABLES

At a minimum, the following deliverables shall be provided to the City by the selected consultant for the two studies:

- A detailed Work Program and Schedule.
- Fee study handout materials for both studies to be provided to the stakeholders on or before the on-site stakeholder meeting.
- After the stakeholder meeting, the consultant shall provide follow-up materials, delivered via email, to the stakeholders to respond to any follow-up questions or comments on an as-needed basis.
- Administrative drafts reports for both studies (with applicable background studies) made available via email to City staff and stakeholders in an effort to receive additional feedback.
- Public Review Draft Reports for both the Draft Commercial / Housing Nexus Study and the Affordable Housing In-Lieu Impact Fee Study, incorporating any final changes requested by the City to begin the public hearing process.
- Final Affordable Housing In-lieu Impact Fee Study Report.
- Final Commercial / Housing Nexus Fee Study Report.
- Availability to assist City staff at public adoption hearings.

All Draft and Final studies shall be provided to City staff in the form of ten hard copies and two digital copies as a .DOC file and .PDF, unless directed differently by City staff.

4. SCHEDULE

Listed below is the projected schedule for the requested services. The City anticipates that the consultant would begin work on the project no later than Monday, August 6, 2020. The final report will need to be completed by December 31, 2020. Proposals should address your firm’s ability to meet the projected schedule below as well as any suggestions that you may have regarding the schedule or deadlines.

- Issue RFP Monday, July 22, 2020
- Deadline for Written Questions Monday August 10, 2020
- PROPOSALS DUE TO CITY Friday, August 21, 2020
- Consultant contract executed Friday, September 4, 2020
- Stakeholder Outreach & Meeting October - November, 2020
- Administrative Draft Due to City Thursday, December 31, 2020
- Final Admin Report Due to City Monday, February 1, 2021
- Attend City Council Meeting March - April, 2021
5. SUBMITTAL OF PROPOSALS

All proposals must be received by the City via e-mail no later than 5:00 p.m. on Friday, August 21, 2020. Proposals are to be addressed to J. Ritterbeck, Senior Planner, at jritterbeck@cityofgoleta.org and must be followed by one paper copy that is sent to the City Clerk’s Office, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California, 93117. Any questions regarding this solicitation shall be submitted via email to the email address above prior to August 10, 2020 and answers will be communicated to all known interested contractors prior to August 21, 2020.

6. EVALUATION & SELECTION

In selecting a consultant, City staff will consider the following factors while evaluating each of the proposals received:

- Thoroughness and comprehension in addressing the Scope of Work.
- Experience and qualifications of the firm and its project team with similar projects.
- Commitment to the proposed schedule.
- The firm’s willingness and ability to work closely with City staff.
- Clarity of writing and technical abilities.

7. ADDITIONAL INFORMATION

All responses to this Request for Proposals will become the property of the City of Goleta. All data, documents, and other projects used or developed during the project will remain the property of the City or in the public domain upon completion of the project.

The City reserves the right to modify or cancel this Request for Proposals in part or in its entirety and to accept or reject any or all of the proposals it receives. The City also reserves the right to negotiate with the selected firm to revise the work program and the costs of services, if necessary, to more closely match City needs.

If awarded the contract, services by your firm, as well as those provided by other members of your team, will be subject to the terms of the Standard Agreement for Services. A sample of such an Agreement is attached to this RFP. If you take exception to any of the terms, your concerns or exceptions must be expressly stated in your proposal. Please note in particular the terms that relate to nondiscrimination and to news release and other media contacts, as well as the standard City business license, indemnification, and insurance provisions of the Agreement.

8. REFERENCE MATERIAL

- City of Goleta General Plan
- City of Goleta Zoning Ordinance
- City Zoning Map
- Affordable Housing Location Map
- Standard Agreement for Services (ATTACHED)
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF GOLETA
AND
(CONSULTANT)

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AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF GOLETA
AND
(CONSULTANT)

This AGREEMENT FOR CONSULTANT SERVICES ("AGREEMENT"), is made and entered into this ___ day of _________ 2005, by and among the City of Goleta, a California municipal corporation ("CITY") and ______________ ("CONSULTANT").

In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Subject to the provisions of SECTION 19 "TERMINATION OF AGREEMENT" of this AGREEMENT, the term of this AGREEMENT shall be for a period of nine (9) months from the date of execution of this AGREEMENT, or ____________. Such term may be extended upon written agreement of both parties to this AGREEMENT.

SECTION 2. SCOPE OF SERVICES.

CONSULTANT agrees to perform the services set forth in EXHIBIT "A" "SCOPE OF SERVICES" and made a part of this AGREEMENT. It is specifically agreed that ______________ shall be responsible for providing services throughout the term of this AGREEMENT.

SECTION 3. ADDITIONAL SERVICES.

CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to or outside of those set forth in this AGREEMENT or listed in EXHIBIT "A" "SCOPE OF SERVICES", unless such additional services are authorized in advance and in writing by the City Council or City Manager of CITY. CONSULTANT shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Council or City Manager.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

(a) Subject to any limitations set forth in this AGREEMENT, CITY agrees to pay CONSULTANT the amounts specified in EXHIBIT "B" "COMPENSATION" and made a part of this AGREEMENT. The total compensation, including reimbursement for actual expenses, shall not exceed ______________ ($____________), unless additional compensation is approved in writing by the City Council or City Manager.
(b) Each month CONSULTANT shall furnish to CITY an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, sub-consultant contracts and miscellaneous expenses. CITY shall independently review each invoice submitted by the CONSULTANT to determine whether the work performed and expenses incurred are in compliance with the provisions of this AGREEMENT. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event that any charges or expenses are disputed by CITY, the original invoice shall be returned by CITY to CONSULTANT for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by CONSULTANT that are disputed by CITY, CITY will use its best efforts to cause CONSULTANT to be paid within thirty (30) days of receipt of CONSULTANT's invoice.

(d) Payment to CONSULTANT for work performed pursuant to this AGREEMENT shall not be deemed to waive any defects in work performed by CONSULTANT.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

CITY may inspect and accept or reject any of CONSULTANT's work under this AGREEMENT, either during performance or when completed. CITY shall reject or finally accept CONSULTANT's work within forty-five (45) days after submitted to CITY. CITY shall reject work by a timely written explanation, otherwise CONSULTANT's work shall be deemed to have been accepted. CITY's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of CONSULTANT's work by CITY shall not constitute a waiver of any of the provisions of this AGREEMENT including, but not limited to, sections 15 and 16, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by CONSULTANT in the course of providing any services pursuant to this AGREEMENT shall become the sole property of CITY and may be used, reused or otherwise disposed of by CITY without the permission of the CONSULTANT. Upon completion, expiration or termination of this AGREEMENT, CONSULTANT shall turn over to CITY all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.
SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

   (a) CONSULTANT shall maintain any and all documents and records demonstrating or relating to CONSULTANT's performance of services pursuant to this AGREEMENT. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to CITY pursuant to this AGREEMENT. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by CONSULTANT pursuant to this AGREEMENT. Any and all such documents or records shall be maintained for three years from the date of execution of this AGREEMENT and to the extent required by laws relating to audits of public agencies and their expenditures.

   (b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon written request by CITY or its designated representative with reasonable notice. Copies of such documents or records shall be provided directly to the CITY for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

   (c) Where CITY has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of CONSULTANT's business, CITY may, by written request, require that custody of such documents or records be given to the requesting party and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to CITY, as well as to its successors-in-interest and authorized representatives.

SECTION 8. STATUS OF CONSULTANT.

   (a) CONSULTANT is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of CITY. CONSULTANT shall have no authority to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against CITY, whether by contract or otherwise, unless such authority is expressly conferred under this AGREEMENT or is otherwise expressly conferred in writing by CITY.

   (b) The personnel performing the services under this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither CITY, or any elected or appointed boards, officers, officials, employees or agents of CITY, shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that CONSULTANT or any of CONSULTANT's
officers, employees or agents are in any manner officials, officers, employees or agents of CITY.

(c) Neither CONSULTANT, nor any of CONSULTANT's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits that may otherwise accrue to CITY'S employees. CONSULTANT expressly waives any claim CONSULTANT may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

CONSULTANT represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this AGREEMENT in a thorough, competent and professional manner. CONSULTANT shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this AGREEMENT, CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of CONSULTANT under this AGREEMENT.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

CONSULTANT shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this AGREEMENT. CONSULTANT shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this AGREEMENT. Neither CITY, nor any elected or appointed boards, officers, officials, employees or agents of CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

SECTION 11. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this AGREEMENT.

SECTION 12. UNAUTHORIZED ALIENS.

CONSULTANT hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should CONSULTANT so employ such unauthorized aliens for the performance of work and/or services covered by this AGREEMENT, and should the any liability or sanctions be imposed against CITY for such use of unauthorized aliens, CONSULTANT hereby agrees to and shall reimburse CITY for the cost of all such liabilities or sanctions imposed, together with any and all
SECTION 13. CONFLICTS OF INTEREST.

(a) CONSULTANT covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of CITY or which would in any way hinder CONSULTANT's performance of services under this AGREEMENT. CONSULTANT further covenants that in the performance of this AGREEMENT, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. CONSULTANT agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY in the performance of this AGREEMENT.

(b) CITY understands and acknowledges that CONSULTANT is, as of the date of execution of this AGREEMENT, independently involved in the performance of non-related services for other governmental agencies and private parties. CONSULTANT is unaware of any stated position of CITY relative to such projects. Any future position of CITY on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 14. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by CONSULTANT in performance of this AGREEMENT shall be considered confidential, unless such information is in the public domain or already known to CONSULTANT. CONSULTANT shall not release or disclose any such information or work product to persons or entities other than CITY without prior written authorization from the City Manager, except as may be required by law.

(b) CONSULTANT, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of CITY, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this AGREEMENT. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives CITY notice of such court order or subpoena.

(c) If CONSULTANT, or any officer, employee, agent or subcontractor of CONSULTANT, provides any information or work product in violation of this AGREEMENT, then CITY shall have the right to reimbursement and indemnity from CONSULTANT for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of CONSULTANT's conduct.

(d) CONSULTANT shall promptly notify CITY should CONSULTANT, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this AGREEMENT and the
CITY retains the right, but has no obligation, to represent CONSULTANT or be present at any deposition, hearing or similar proceeding. CONSULTANT agrees to cooperate fully with CITY and to provide CITY with the opportunity to review any response to discovery requests provided by CONSULTANT. However, this right to review any such response does not imply or mean the right by CITY to control, direct, or rewrite said response.

SECTION 15. INDEMNIFICATION.

(a) CITY and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "CITY") shall have no liability to CONSULTANT or any other person for, and CONSULTANT shall indemnify, defend, protect and hold harmless CITY from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "CLAIMS"), which CITY may suffer or incur or to which CITY may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of the CONSULTANT's performance of or failure to perform any services under this AGREEMENT or by the negligent or willful acts or omissions of CONSULTANT, its agents, officers, directors, subcontractors or employees, committed in performing any of the services under this AGREEMENT.

(b) If any action or proceeding is brought against CITY by reason of any of the matters against which CONSULTANT has agreed to indemnify CITY as provided above, CONSULTANT, upon notice from CITY, shall defend CITY at CONSULTANT's expense by counsel acceptable to CITY, such acceptance not to be unreasonably withheld. CITY need not have first paid for any of the matters to which CITY are entitled to indemnification in order to be so indemnified. The insurance required to be maintained by CONSULTANT under Section 16 shall ensure CONSULTANT's obligations under this section, but the limits of such insurance shall not limit the liability of CONSULTANT hereunder. The provisions of this section shall survive the expiration or earlier termination of this AGREEMENT.

(c) The provisions of this section do not apply to CLAIMS occurring as a result of the CITY's sole negligence or willful acts or omissions.

(d) CONSULTANT and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "CONSULTANT") shall have no liability to CITY or any other person for, and CITY shall indemnify, defend, protect and hold harmless CONSULTANT from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "CLAIMS"), which CONSULTANT may suffer or incur or to which CONSULTANT may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of the CONSULTANT's performance of or failure to perform any services under this AGREEMENT.
result of the CITY's performance of or failure to perform any services under this AGREEMENT or by the negligent or willful acts or omissions of CITY, its agents, officers, directors, subcontractors or employees, committed in performing any of the services under this AGREEMENT.

(e) If any action or proceeding is brought against CONSULTANT by reason of any of the matters against which CITY has agreed to indemnify CONSULTANT as provided above, CITY, upon notice from CONSULTANT shall defend CONSULTANT at CITY's expense by counsel acceptable to CONSULTANT, such acceptance not to be unreasonably withheld. CONSULTANT need not have first paid for any of the matters to which CONSULTANT is entitled to indemnification in order to be so indemnified. The provisions of this section shall survive the expiration or earlier termination of this AGREEMENT.

(f) The provisions of this section do not apply to CLAIMS occurring as a result of the CONSULTANT's sole negligence or willful acts or omissions.

SECTION 16. INSURANCE.

CONSULTANT agrees to obtain and maintain in full force and effect during the term of this AGREEMENT the insurance policies set forth in EXHIBIT "C" "INSURANCE" and made a part of this AGREEMENT. All insurance policies shall be subject to approval by CITY as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. CONSULTANT agrees to provide CITY with copies of required policies upon request.

SECTION 17. ASSIGNMENT.

The expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CITY has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon CONSULTANT under this AGREEMENT. In recognition of that interest, CONSULTANT shall not assign or transfer this Agreement or any portion of this AGREEMENT or the performance of any of CONSULTANT's duties or obligations under this AGREEMENT without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this AGREEMENT entitling CITY to any and all remedies at law or in equity, including summary termination of this AGREEMENT. CITY acknowledges, however, that CONSULTANT, in the performance of its duties pursuant to this AGREEMENT, may utilize subcontractors.

SECTION 18. CONTINUITY OF PERSONNEL.

CONSULTANT shall make every reasonable effort to maintain the stability and continuity of CONSULTANT's staff assigned to perform the services required under this AGREEMENT. CONSULTANT shall notify CITY of any changes in CONSULTANT's staff.
assigned to perform the services required under this AGREEMENT, prior to any such performance.

SECTION 19. TERMINATION OF AGREEMENT.

(a) CITY may terminate this AGREEMENT, with or without cause, at any time by giving thirty (30) days written notice of termination to CONSULTANT. In the event such notice is given, CONSULTANT shall cease immediately all work in progress.

(b) CONSULTANT may terminate this AGREEMENT at any time upon thirty (30) days written notice of termination to CITY.

(c) If either CONSULTANT or CITY fails to perform any material obligation under this AGREEMENT, then, in addition to any other remedies, either CONSULTANT, or CITY may terminate this AGREEMENT immediately upon written notice.

(d) Upon termination of this AGREEMENT by either CONSULTANT or CITY, all property belonging exclusively to CITY that is in CONSULTANT’s possession shall be returned to CITY. CONSULTANT shall furnish to CITY a final invoice for work performed and expenses incurred by CONSULTANT, prepared as set forth in SECTION 4 of this AGREEMENT. This final invoice shall be reviewed and paid in the same manner as set forth in SECTION 4 of this AGREEMENT.

SECTION 20. DEFAULT.

In the event that CONSULTANT is in default under the terms of this AGREEMENT, the CITY shall not have any obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and may terminate this AGREEMENT immediately by written notice to the CONSULTANT.

SECTION 21. EXCUSABLE DELAYS.

CONSULTANT shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of CONSULTANT. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of CITY, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this AGREEMENT shall be equitably adjusted for any delays due to such causes.

SECTION 22. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to CITY as public records, and which are necessary for carrying out the work as outlined in the
EXHIBIT "A" "SCOPE OF SERVICES", shall be furnished to CONSULTANT in every reasonable way to facilitate, without undue delay, the work to be performed under this AGREEMENT.

SECTION 23. NOTICES.

All notices required or permitted to be given under this AGREEMENT shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To CITY:
City Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, California 93117

To CONSULTANT:

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 24. AUTHORITY TO EXECUTE.

The person or persons executing this AGREEMENT on behalf of CONSULTANT represents and warrants that he/she/they has/have the authority to so execute this AGREEMENT and to bind CONSULTANT to the performance of its obligations hereunder.

SECTION 25. BINDING EFFECT.

This AGREEMENT shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 26. MODIFICATION OF AGREEMENT.

No amendment to or modification of this AGREEMENT shall be valid unless made in writing and approved by the CONSULTANT and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.
SECTION 27. WAIVER.

Waiver by any party to this AGREEMENT of any term, condition, or covenant of this AGREEMENT shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this AGREEMENT shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this AGREEMENT. Acceptance by CITY of any work or services by CONSULTANT shall not constitute a waiver of any of the provisions of this AGREEMENT.

SECTION 28. LAW TO GOVERN; VENUE.

This AGREEMENT shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Santa Barbara. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 29. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this AGREEMENT, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 30. ENTIRE AGREEMENT.

This AGREEMENT, including the attached EXHIBITS "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between CONSULTANT and CITY prior to the execution of this AGREEMENT. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding. No amendment to this AGREEMENT shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 31. SEVERABILITY.

If a term, condition or covenant of this AGREEMENT is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall not be affected thereby and the AGREEMENT shall be read and construed without the invalid, void or unenforceable provision(s).

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.
CITY OF GOLETA

By____________________________________
                    City Manager

CONSULTANT:

By___________________________
                    (Consultant)

APPROVED AS TO FORM

____________________________
Julie Hayward Biggs, City Attorney
EXHIBIT “A”

SCOPE OF SERVICES
EXHIBIT "C"

INSURANCE

A. Insurance Requirements. CONSULTANT shall provide and maintain insurance, acceptable to the City Manager or City Counsel, in full force and effect throughout the term of this AGREEMENT, against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. CONSULTANT shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

   (1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

   (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.

   (3) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the CONSULTANT and all risks to such persons under this AGREEMENT.

   (4) Errors and omissions liability insurance appropriate to the CONSULTANT's profession.

2. Minimum Limits of Insurance. CONSULTANT shall maintain limits of insurance no less than:

   (1) General Liability: $1,000,000 general aggregate for bodily injury, personal injury and property damage.

   (2) Automobile Liability: $1,000,000 per accident for bodily injury and property damage.

   (3) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of $1,000,000 per accident.
(4) Errors and Omissions Liability: $1,000,000 per occurrence.

B. Other Provisions. Insurance policies required by this AGREEMENT shall contain the following provisions:

1. All Policies. Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this AGREEMENT, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City Manager, City of Goleta.

2. General Liability and Automobile Liability Coverages.

   (1) CITY, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities CONSULTANT performs; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, and their respective elected and appointed officers, officials, or employees.

   (2) CONSULTANT's insurance coverage shall be primary insurance with respect to CITY, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by CITY, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, CONSULTANT's insurance.

   (3) CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

   (4) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against CITY, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by CONSULTANT.

C. Other Requirements. CONSULTANT agrees to deposit with CITY, at or before the effective date of this contract, certificates of insurance necessary to satisfy CITY that the
insurance provisions of this contract have been complied with. The City Attorney may require that CONSULTANT furnish CITY with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. CITY reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. CONSULTANT shall furnish certificates and endorsements from each subcontractor identical to those CONSULTANT provides.

2. Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY or its respective elected or appointed officers, officials, employees and volunteers or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit CONSULTANT's liability hereunder or to fulfill the indemnification provisions and requirements of this AGREEMENT.