



**REQUEST FOR QUALIFICATIONS/REQUEST FOR
PROPOSALS**

**FOR THE PREPARATION OF OBJECTIVE DESIGN
STANDARDS FOR MULTIPLE DWELLING AND MIXED
USE DEVELOPMENTS**

Date Issued:
December 8, 2020

Deadline for Submissions:
January 15, 2021
Due by 5:00 p.m.

Contact:
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REQUEST FOR PROPOSALS

Objective Design Standards for Multiple Dwelling and Mixed-Use Developments

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 objective design standards for residential and mixed-use development projects. This effort will require close coordination with the City of Goleta and community groups. This document includes background information, outlines the proposed scope of work for the project, details the submission requirements in response to this RFQ/RFP, and explains the consultant selection process.

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.

The Goleta General Plan/Coastal Land Use Plan (General Plan). The General Plan was adopted on October 2, 2006. The plan contains nine elements, including Land Use, Visual and Historic Resources, and Housing Elements and others that together satisfy the content requirements of the State's general plan law and the California Coastal Act. However, the City does not have a certified Local Coastal Program. The policies of the General Plan are greatly influenced by the desire of the community that future growth and change be guided so as to protect natural resources, livable neighborhoods, existing land use patterns, and overall quality of life.

Project Background

The City currently relies on a combination of objective and subjective design standards and guidelines, implemented through a design review process with the City's Design Review Board and other decision makers, to regulate the design of most housing projects. The City is interested in creating a thorough set of objective design standards to govern the development of multiple dwelling housing, both for exclusively residential development proposals and for mixed-use development proposals. The City expects this project to provide standards that will be consistent with the requirements for objective standards in compliance with Senate Bill (SB) 35 (Government Code Section 65913.4) and the Housing Accountability Act, as amended in 2019 by SB 330.

2. SCOPE OF WORK AND SERVICES REQUESTED

The City of Goleta is requesting a Statement of Qualifications and Proposal (Proposal) from consulting firms to develop objective design standards for a variety of housing types, including for mixed-use projects, that can be applied when the City is limited to the application of objective

design standards. With the input of residents, stakeholders, and staff, the City desires to produce objective design standards that reflects the goals and priorities of the City while satisfying the requirements of state law.

The City envisions that the development of objective design standards will include the following components. Please note however that the City welcomes modifications to this approach as the consultant deems appropriate:

Project Initiation

- **Kick-off Meeting.** Following the initial review of existing data, meet with City staff, in-person or via video conferencing, to establish a mutual understanding of the key issues, discuss expectations, and lay out project milestones, meeting times, public workshops, and deliverables.
- **City Tour.** Conduct an in-person city tour, or via remote imaging if required, to gain additional insight related to community character and recent development projects.

Data Gathering/Document Research and Review

- **Document Review.** Conduct a technical review and analysis the City's existing policy documents, design guidelines, development standards and regulations, and permit procedures, including the City's General Plan, and newly adopted Goleta Municipal Code Title 17 Zoning Ordinance. Additionally, previous development applications and approvals will be reviewed along with any other relevant planning effort(s) currently underway by and within the City.
- **Current Project Review.** Review representative sets of project plans currently under review for multi-unit and mixed-use development to understand how development standards are currently being interpreted and applied during the present permit review process.
- **Site Analysis.** Identify areas with a potential for multi-unit and mixed-use development and document key physical characteristics of the existing surrounding community and neighborhoods. The site analysis will serve as a visual inventory of the City in order to provide detailed information to develop appropriate City-specific objective standards. This effort will also help guide and focus the study while also enabling the project team, City staff, decision makers, and the public to better understand where such development is more likely to occur.

Public Outreach

Public outreach will be conducted throughout the development of this project. To help increase public participation, outreach will include a mix of techniques that offer opportunities for citizens, local businesses and agencies, and other interested parties to participate during the process. Outreach efforts will communicate using aerial mapping, and other imagery and graphic tools to help those involved to understand design concepts and development standards. Techniques that effectively foster input must also be used to assure participants that their voices have been heard in the effort to gain consensus in the resulting objective design standards.

Outreach Program. Prepare an Outreach Program that identifies all public outreach activities for the project. The program must have the flexibility to allow redirection and variations where needed.

Outreach Efforts. Conduct a series of outreach efforts to engage the community and provide additional opportunities for public input. Specific outreach events may include:

- One-on-one and small group discussions with stakeholders, including, but not limited to, the Design Review Board, conducted in person or using a video conferencing platform or via teleconferencing. A series of small group meetings can be held early in the process to discover the most critical issues for the City and what the project should focus on to ensure success. A series of meetings may also be held later in the project to get additional feedback on standards as they are being developed and provide a sounding board for draft design standards.
- Online workshops using tools such as breakout rooms, chat, visual notetaking, webinars, and online voting to make the workshops as interactive as possible.
- In-person workshops using a variety of tools to make the workshops interactive.
- Open house forums, where community members can view materials and interact with City staff and consultants.

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Visualization Materials. Informative graphics and illustrations will be provided to enable participants to visualize information and effect of various approaches.

Outreach Events. Three sets of specific outreach events are envisioned to be held at key stages during the planning process to provide opportunities for public education and informal comment on choices being considered, including:

- **Project Introduction and Issue Identification.** Outreach events associated with this stage of the project will introduce the project objectives and highlight the key issues to be considered. This event will include photographs, graphics, and examples of how other communities may have resolved similar issues. Initial impressions and findings will be shared, and the community's issues and concerns will be heard and documented.
- **Public Review Draft Standards.** This set of outreach events will allow the project team to present the draft standards and get additional public feedback.
- **Public Hearing Draft Standards.** Outreach events associated with this stage of the project will allow the project team to present and get feedback on the draft design standards that will be considered by the Planning Commission and City Council through the formal hearing process for review, recommendation, and adoption.

Objective Design Standards

Through the process of developing the final Objective Design Standards document, there will be three draft documents produced, as follows:

- **Administrative Draft.** Prepare illustrated objective design standards for multi-family and mixed-use development. Standards will reflect the variety of building types and architectural styles appropriate in Goleta and address topics such as site planning, building massing and elements, building frontages, entrances, exterior materials, landscaping, utilitarian/mechanical elements of building design, etc. The draft standards will consist of objective design standards applicable to multi-family and mixed-use development and standards applicable to specific typologies based on development types (such as garden apartment, townhome, apartment building, etc.), design type, lot size and configuration, or other organizing principal. It is anticipated that up to four typologies may be identified. The project team will test the standards on prototypical sites to ensure the standards enable the intended development. Images and exhibits representing a suggested design topic or standard, many which will contain text callouts helping to illustrate the design intent, will be prepared.
- **Public Review Draft.** Review staff comments on the administrative draft standards and prepare the Public Review Draft Design Standards.

- **Public Hearing Draft.** Based on comments received on the Public Review Draft, prepare Public Hearing Draft Design Standards for consideration through the formal review and adoption process.

Public Review and Adoption, Implementation Aids

The following deliverables will be provided as part of the final adoption and implementation of Objective Design Standards:

- **Public Hearings.** Prepare all required visual aids, printed material, and make formal public presentations at up to two Planning Commission hearings and two City Council hearings to support adoption of the Objective Design Standards.
- **Final Objective Design Standards.** Based on City Council action, prepare the final Objective Design Standards document for reproduction, dissemination, and integration into Title 17 Zoning standards.
- **User’s Guide.** Develop and prepare an illustrated user’s guide that outlines the objective design standards that will be used by architects, designers, developers, and others. The user’s guide will also demonstrate how to use the development standards in designing multi-unit and mixed-use development projects and will also be used by City staff during their review of a project’s conformance with the applicable design standards.

3. PROPOSED SELECTION SCHEDULE

The following proposed schedule is subject to change:

RFQ/RFP Issued	December 8, 2020
Deadline for Written Questions	December 16, 2020
Final City Response to Written Questions	December 18, 2020
PROPOSALS DUE TO THE CITY	January 15, 2021
Consultants Selected and Notified for Interviews	January 21, 2021
Interviews Conducted	Week of January 25, 2021
Consultant Selected	February 4, 2021
City Council Award of Contract	March 2, 2021

4. PROPOSAL CONTENTS

Each Proposal must conform with and be responsive to the submittal format required by the City. Any failure to provide the required information may be considered non-responsive and grounds for rejection of the proposal. The City may reject any or all proposals or any part of an individual proposal, or waive any irregularities in any responses received, at its sole discretion. Proposal submittals must be follow the ordering format as shown below:

Section 1. 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.

Section 2. 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 as those requested.

Section 3. 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:

- Architectural design, including the development of objective design standards, for residential and mixed-use projects
- State Housing Law
- Land Use Planning
- Regulatory Drafting
- Public Outreach and Engagement
- Graphics and Visual Representations

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. Project management/administration costs shall be prepared with consideration for an appropriate hierarchy to maintain effective project administration and communication.

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 subconsultants proposed by the consultant.

Section 4. 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. 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. 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 project. The Consultant must provide an example of similar work 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.

Section 5. 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.

Section 6. Cost Proposal

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.

Section 7. 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.

5. SUBMITTAL OF PROPOSALS

All proposals must be received by the City via email no later than 5:00 p.m. on January 15, 2021. Proposals are to be addressed to Andy Newkirk, Senior Planner, at anewkirk@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 by December 16, 2020 and answers will be communicated to all known interested contractors by December 18, 2020.

6. EVALUATION AND SELECTION

The evaluation of Proposals is solely for the purpose of determining which Proposers are deemed responsible, qualified, and able to offer the best value to the City. Qualifications of applicants will be reviewed and determined by the City based upon the submitted documents and any other information available to them. Applicants may be asked to submit additional information pertinent to the Project, or to be present for a virtual interview. The City also reserves the right to investigate and rely upon information from other available sources in addition to any documents or information submitted by the Proposer.

The City retains the sole discretion to determine issues of compliance and to determine whether a Proposer is responsive and responsible. The City will determine a Proposer's quality, fitness and capacity to perform the project satisfactorily. Evaluation of the responses will be based on a competitive selection process, in which the evaluation of proposals will not be limited to price alone. The City's decision will be based on the evaluation of several factors including, but not limited to, the following:

- Thoroughness and comprehension in addressing the scope of work
- Experience and demonstrated competence on similar projects
- Knowledge, experience, and availability of key staff
- Cost effectiveness
- Understanding of the City of Goleta
- Willingness and ability to work closely with City staff
- Coherence of proposed schedule
- Quality of References
- Clarity of writing and technical abilities

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

7. ADDITIONAL INFORMATION

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

This RFQ/RFP does not commit the City to select a consultant, to pay any costs incurred in the preparation of a Proposal for this request, or to produce or contract for services. The City reserves the right to accept or reject any or all 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. 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.

Inquiries concerning this RFQ/RFP should be directed by email only to Andy Newkirk, Senior Planner at ANewkirk@CityofGoleta.org.

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

8. REFERENCE MATERIAL

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

- [City of Goleta General Plan/Coastal Land Use Plan \(2006\) and Environmental Documents \(2006, 2009\)](#). Specific attention should be given to the Land Use Element, Visual and Historic Resources Element, and Housing Element
- [Title 17 \(Zoning\) of the Goleta Municipal Code](#)
- [City of Goleta Architecture and Design Standards for Commercial Projects \(City Council Resolution No. 03-20\)](#)
- [Goleta Old Town Heritage District Architecture and Design Guidelines \(2001\)](#)

ATTACHMENT A

Sample Agreement for Professional Services

Attachment 1

Sample Agreement for Professional Services

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF GOLETA
AND**

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 _____ (herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional planning services for development of objective design standards; 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 3.05.260 by _____.

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 _____ 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."

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 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 _____ 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 _____, 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.

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 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 general 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.

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. NONDISCRIMINATION

CONSULTANT shall not discriminate on the basis of race, color, gender, gender identity/expression, pregnancy, sexual orientation, disability, marital status, or any other characteristic protected under applicable federal or state law.

22. 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.

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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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: _____

32. **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:
MICHAEL JENKINS, CITY ATTORNEY

Winnie Cai, Assistant City Attorney