



**TO:** Mayor and Councilmembers

**FROM:** Kristy Schmidt, Assistant City Manager

**CONTACT:** Ryan Kintz, Assistant to the City Manager

**SUBJECT:** Amendment No. 1 to Professional Services Agreement with FM3 Research, Inc. to Conduct Polling and Public Opinion Research Services

**RECOMMENDATION:**

Authorize the City Manager to execute Amendment No. 1 to Professional Services Agreement No. 2021-106 with FM3 Research, Inc. increasing the contract authority by \$1,000 for a total not-to-exceed amount of \$57,300, for polling and public opinion research services, with a term beginning October 1, 2021, and expiring December 31, 2022.

**BACKGROUND:**

On September 21, 2021, the City Council authorized the City Manager to execute a Professional Services Agreement with FM3 Research, Inc. for polling and public opinion research services. This contract included funds for a November 2021 base public opinion poll and an April 2022 tracking poll.

**DISCUSSION:**

Under the scope of Professional Services Agreement No. 2021-106, FM3 conducted a Resident Budget and Priority Baseline Survey for the City of Goleta. The initial cost for this baseline survey was \$29,650 to conduct an 18-minute survey. However, after feedback from internal stakeholders, additional questions were added to the survey that increased the survey time to be a 20-minute survey. The longer survey came at an additional cost of \$1,000 for a total cost of \$30,650 for the baseline survey. The April 2022 tracking poll had a cost of \$26,650.

Staff is recommending the City Council authorize the City Manager to execute Amendment No. 1 to Professional Services Agreement No. 2021-106 with FM3 Research, Inc. increasing the contract authority by \$1,000 for a total not-to-exceed amount of \$57,300, for polling and public opinion research services, with a term beginning October

1, 2021 and expiring December 31, 2022 (Attachment 1). The original contract with FM3 is provided in Attachment 2.

**FISCAL IMPACTS:**

The City Manager's budget for Fiscal Year 2021-2022 included the extra \$1,000 for these polling and public opinion services, in account 101-10-1200-51200. If Council approves Amendment No. 1 with FM3 Research, the total compensation will not exceed \$57,300 to provide for the added cost of conducting the 20-minute Baseline Survey. No additional budget appropriations are needed.

**ALTERNATIVES:**

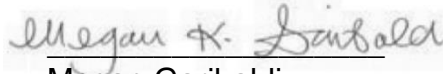
There are no alternatives for this contract amendment as services have been rendered.

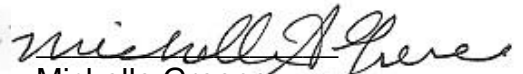
**Reviewed By:**

**Legal Review By:**

**Approved By:**

  
Kristine Schmidt  
Assistant City Manager

  
Megan Garibaldi  
City Attorney

  
Michelle Greene  
City Manager

**ATTACHMENTS:**

1. Amendment No. 1 to Professional Services Agreement No. 2021-106 with FM3 Research, Inc. for polling and public opinion services
2. Professional Services Agreement No. 2021-106 with FM3

## **ATTACHMENT 1**

Amendment No. 1 to Professional Services Agreement No. 2021-106 with FM3  
Research, Inc. for polling and public opinion services

**AMENDMENT NO. 1  
TO A CONTRACT FOR PROFESSIONAL  
SERVICES BETWEEN THE CITY OF GOLETA  
AND  
FAIRBANK, MASLIN, MAULLIN, METZ &  
ASSOCIATES, INC (FM3)**

This **Amendment No. 1** to a contract for Professional Services by and between the **City of Goleta**, a municipal corporation ("City") and **FAIRBANK, MASLIN, MAULLIN, METZ & ASSOCIATES, INC (FM3)**, a **California Corporation** ("Consultant") dated September 21, 2021 ("Agreement," Agreement No. 2021-106) is made this 6th day of September 2022.

**SECTION A. RECITALS**

1. This Agreement is for the provision of professional polling and research services and was authorized on September 21, 2021 in the amount of \$56,300; and
2. The parties desire to amend the Agreement so as to provide for additional compensation in the amount of one thousand dollars (\$1,000) for the completion of a 20-minute survey; and
3. The City Council approved this Amendment No. 1, on this 6th day of September 2022.

**SECTION B. AMENDED TERMS**

**Now therefore** City and Consultant agree as follows that the Agreement be, and hereby is, amended as follows:

1. **Subsection (a) of Section 3. COMPENSATION AND PAYMENT** of the Agreement is amended to add an additional authorized amount of \$1,000 and to read in its entirety:
  - (a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$57,300 (herein "not-to-exceed amount") and shall be earned as the work progresses.
2. Except as otherwise specifically provided herein, all other provisions of the Agreement shall remain in full force and effect.

**In concurrence and witness whereof**, this Amendment No.1 has been executed

City of Goleta  
Amendment No.1 to Agreement No. 2021-106  
Page 1 of 2

by the parties effective on the date and year first above written.

CITY OF GOLETA

CONSULTANT

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

\_\_\_\_\_  
Dr. Richard Bernard, Partner

**ATTEST:**

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

\_\_\_\_\_  
John Travalle, Controller

**APPROVED AS TO FORM:**  
MEGAN GARIBALDI, CITY ATTORNEY

DocuSigned by:  
  
\_\_\_\_\_  
A1B1F8F896161498  
Winnie Cai, Assistant City Attorney

## **ATTACHMENT 2**

Professional Services Agreement No. 2021-106 between the City of Goleta and FM3

## DOCUMENT ROUTING AND APPROVAL FORM

<b>Requires Council Approval:</b> <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES <b>Meeting Date:</b> September 21, 2021	<b>Requires Vendor Set-up:</b> <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES <b>If no, Vendor Number:</b> 002541
<b>Director Level Approval:</b> <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES <b>Site Authority:</b> Michelle Greene, City Manager	<b>Provide summary of agreement below:</b> To perform feasibility study and polling.
<b>Document Name and Type:</b> AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF GOLETA AND FM3	<b>Project Name:</b> Feasibility study/polling
<b>Vendor Name:</b> FAIRBANK, MASLIN, MAULLIN, METZ & <b>Contact Person:</b> Richard Bernard <b>Address:</b> 12100 Wilshire Boulevard, Suite 350 Los Angeles <b>Phone Number:</b> (310) 828-1183 <b>Email Address:</b> bernard@fm3research.com <b>Business License Number:</b>	<b>City Project Manager:</b> Ryan Kintz <b>Contact Number:</b> 951 288 6309 <b>Email Address:</b> rkintz@cityofgoleta.org <b>Staff Routing Agreement:</b> Ryan Kintz <b>Contact Number:</b> 951 288 6309 <b>Email Address:</b> rkintz@cityofgoleta.org
<b>AMOUNT NOT TO EXCEED:</b> <div style="font-size: 24pt; font-weight: bold;">\$56,300</div>	<b>ON CALL SERVICES? :</b> <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES* <small>*On call services require one spreadsheet to track multiple PO's</small> <b>COUNCIL APPROPRIATION NEEDED :</b> <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES* <small>*May require Purchasing Officer's override to input Requisition</small>

ROUTING PROCESS	DESCRIPTION	DATE	INITIAL
Department Head Initiation	Authority to initiate agreement	1/10/2022	DS ME
Risk Manager	Staff to initiate review of insurance provision in agreement	1/10/2022	DS ME
City Attorney	Contract review/Approve as form	1/13/2022	ME
Finance Director, Purchasing Officer	Funding Methods Approved/ Authorized, Purchase Requisition reviewed. Requisition Number: 22CM008	1/11/2022	DS MM
Vendor	Staff sends agreement to vendor via DocuSign for electronic signature and requests Insurance documents.		
Staff (DocuSign User)	Staff receives electronically signed agreement and insurance documents from vendor.	1/13/2022	DS ME
Risk Manager	Risk Management shall rate Insurance and provide documents to Project Manager upon approval	1/13/2022	DS ME
City Manager	City Manager will approve and sign the agreement.	1/13/2022	DS MS
City Clerk	City Clerk will approve and sign the agreement.	1/13/2022	DL
Vendor	Staff will assign the vendor to receive a fully executed copy of the agreement via DocuSign.		

PLEASE RETURN SIGNED DOCUMENTS TO THE CITY CLERK'S OFFICE

BELOW FOR CITY CLERK PROCESSING ONLY					
FINALIZED ON:	INITIAL	RESOLUTION NO (IF APPLICABLE)	FILE NUMBER		

Project Name: Professional polling and research services

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN THE CITY OF GOLETA  
AND  
FAIRBANK, MASLIN, MAULLIN, METZ & ASSOCIATES, INC (FM3)**

This AGREEMENT FOR PROFESSIONAL SERVICES (herein referred to as "AGREEMENT") is made and entered into this 21<sup>st</sup> day of September 2021, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **FAIRBANK, MASLIN, MAULLIN, METZ & ASSOCIATES, INC (FM3)**, a California Corporation (herein referred to as "CONSULTANT").

**SECTION A. RECITALS**

1. The CITY has a need for professional polling and research services for a potential 2022 sales tax measure; and
2. 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
3. The CITY procured such services in compliance with Goleta Municipal Code Section 3.05.260 by issuing a Request for Proposals and this constitutes a continuation of those services.
4. The City Council, on this 21<sup>st</sup> day of September 2021, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

**SECTION B. TERMS**

**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 polling and research services in conjunction with a

Professional Services Agreement between City of Goleta and FM3



potential sales tax measure that would be placed on the November 2022 ballot. Services shall generally include conducting a Resident Budget and Priority Baseline Survey 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 \$56,300 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Payment to CONSULTANT for those fees set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The fees set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2022, 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. 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.

### **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 Ryan Kintz 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 December 31, 2022, 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. Richard Bernard and Laura Covarrubias are 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, Professional Services Agreement between City of Goleta and FM3

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) Except for professional liability insurance, 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) Except for professional liability insurance, 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.

Professional Services Agreement between City of Goleta and FM3

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: Attention: Richard Bernard  
Fairbank, Maslin, Maullin, Metz, & Associates,  
Inc (FM3)  
12100 Wilshire Boulevard, Suite 350  
Los Angeles, CA 90025

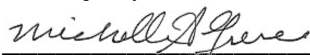
## 32. COUNTERPARTS AND ELECTRONIC/FACSIMILE SIGNATURES

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**

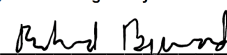
DocuSigned by:



Michelle Greene, City Manager

**CONSULTANT**

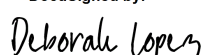
DocuSigned by:



Dr. Richard Bernard, Partner

**ATTEST**

DocuSigned by:



Deborah Lopez, City Clerk


DocuSigned by:



John Travale, Controller

**APPROVED AS TO FORM:**  
MICHAEL JENKINS, CITY ATTORNEY

DocuSigned by:



Winnie Cai, Assistant City Attorney

**Exhibit A**  
**Scope of Work**

**PROPOSED RESEARCH SPECIFICATIONS FOR A 2021 BASELINE SURVEY**

**Research**

Dual-mode voter survey

**Methodology**

<b>Data Collection Mode</b>	Telephone and online interviews
<b>Respondent Contact Method</b>	Telephone calls and Email invitations
<b>Sample</b>	400 Likely November 2022 General Election City of Goleta voters
<b>Margin of Sampling Error</b>	±4.9 percent in 95 out of 100 cases for a sample of 400 interviews
<b>Questionnaire</b>	18- to 20-minute survey, featuring between 55 and 75 unique questions (Including battery question items and demographic questions)
<b>Language</b>	Telephone interviews will be conducted in English and Spanish. Online interviews will be conducted in English only.
<b>Deliverables</b>	Following the completion of the survey, we will provide: <ul style="list-style-type: none"> <li>• A questionnaire for easy reference</li> <li>• A complete analysis of survey results in PowerPoint</li> <li>• A presentation of the survey results</li> </ul>

FM3 will also be available for ongoing consultation and any further analysis of the research.

**PROPOSED RESEARCH SPECIFICATIONS FOR A 2022 OPTIONAL TRACKING SURVEY**

<b>Sample</b>	400 Likely November 2022 General Election City of Goleta voters
<b>Margin of Sampling Error</b>	±4.9 percent in 95 out of 100 cases for a sample of 400 interviews
<b>Questionnaire</b>	12-minute survey, featuring between 20 and 35 unique questions (including battery question items and demographic questions)
<b>Language</b>	Telephone interviews will be conducted in English and Spanish. Online interviews will be conducted in English only.
<b>Deliverables</b>	Following the completion of the survey, we will provide: <ul style="list-style-type: none"> <li>• A questionnaire for easy reference</li> <li>• A complete analysis of survey results in PowerPoint</li> <li>• A presentation of the survey results</li> </ul>

FM3 will provide additional consultation and analysis of the research as requested by the City.

### **Exhibit B Schedule of Fees**

The total cost for this overall research project is not-to-exceed **\$56,300**, and includes the following:

- **2021 Baseline Survey: Figure 1** below contains the total estimated cost for the baseline survey

Professional Services Agreement between City of Goleta and FM3

Page **14** of **15**

depending on the length of interview preferred. These prices are comprehensive, and include all costs for questionnaire design, sample acquisition and preparation, translation, programming, email invitations, survey hosting, telephone interviewing, data entry and analysis, and reporting.

**Figure 1: Estimated Costs for a 2021 Baseline Survey**  
*(Sample Size of 400 Voters)*

Length of Interview	Cost
18 Minutes	\$29,650
20 Minutes	\$30,650

- **2022 Optional Tracking Survey:** If the City chooses to move forward with the 2022 Tracking Survey, the total cost for this portion of the survey research is **\$26,650**. This price is comprehensive, and includes all costs for questionnaire design, sample acquisition and preparation, translation, programming, email invitations, survey hosting, telephone interviewing, data entry and analysis, and reporting.

REQUISITION

Requisition #: 22CM008  
Date: 07/02/2021  
Vendor #: 002541

ISSUED TO: FM3  
FAIRBANK, MASLIN, MAULLIN, METZ &  
1999 HARRISON STREET SUITE 1290  
OAKLAND, CA 94612

SHIP TO: CITY OF GOLETA  
130 CREMONA DRIVE, SUITE B  
GOLETA, CA 93117

ITEM	UNITS DESCRIPTION	PROJECT #	PRICE GL ACCOUNT NUMBER	AMOUNT
1	0 Agrmt for Polling and Research Services		0.00 101-10-1200-51200	56,300.00
<div><div>PO Description: Agrmt for Polling and Research</div><div>Detailed Description: Agreement for professional polling and research services. Approved by Council September 21, 2021. Term ending December 31, 2022.</div></div>				

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

SUBTOTAL:	56,300.00
TOTAL TAX:	0.00
SHIPPING:	0.00
TOTAL	56,300.00



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/13/2021

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> O'Kane and Tegay Insurance Brokers P.O. Box 27556  San Francisco CA 94127	<b>CONTACT NAME:</b> Willis Wong <b>PHONE (A/C, No, Ext):</b> (415) 242-8777 <b>FAX (A/C, No):</b> (415) 661-2540 <b>E-MAIL ADDRESS:</b> wwong@okaneins.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td><b>INSURER A:</b> Sentinel Insurance Company LTD</td> <td>11000</td> </tr> <tr> <td><b>INSURER B:</b> Rated by Multiple Companies</td> <td>00914</td> </tr> <tr> <td><b>INSURER C:</b> Indian Harbor Insurance Company</td> <td>36940</td> </tr> <tr> <td><b>INSURER D:</b></td> <td></td> </tr> <tr> <td><b>INSURER E:</b></td> <td></td> </tr> <tr> <td><b>INSURER F:</b></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	<b>INSURER A:</b> Sentinel Insurance Company LTD	11000	<b>INSURER B:</b> Rated by Multiple Companies	00914	<b>INSURER C:</b> Indian Harbor Insurance Company	36940	<b>INSURER D:</b>		<b>INSURER E:</b>		<b>INSURER F:</b>	
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<b>INSURER E:</b>															
<b>INSURER F:</b>															
<b>INSURED</b> Fairbank Maslin Maullin Metz & Associates FM3 and FM3 Research 1999 Harrison St, Suite 2020 Oakland CA 94612															

**COVERAGES****CERTIFICATE NUMBER:** 21 22**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		57SBABM2940	01/13/2021	01/13/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			57SBABM2940	01/13/2021	01/13/2022	BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			57SBABM2940	01/13/2021	01/13/2022	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	57WECRT6521	01/13/2021	01/13/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			MPP903616203	01/13/2021	01/13/2022	Each Occurrence 2,000,000 General Aggregate 2,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

The City of Goleta, its employees, officials, agents, and member agencies shall be covered as additional insureds with respect to liability arising out of the work performed or related to the contract.

**PENDING RENEWAL**

\*Additional Insured, Waiver of Subrogation, and Primary/Noncontributory wording on the General and Automobile Liability coverage on attached ss00080405.

\*Blanket Waiver of Subrogation on the Workers Compensation Form, WC 04 03 06, is attached.

\*Notice of cancellation is 30 days, except for non-payment of premium which is 10 days.

**CERTIFICATE HOLDER****CANCELLATION**

City of Goleta 130 Cremona Drive, Suite B  Goleta CA 93117	<p><b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b></p> <p><b>AUTHORIZED REPRESENTATIVE</b></p>
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**POLICY NUMBER:** 57 SBA BM2940



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

ADDITIONAL INSURED - PERSON OR ORGANIZATION

City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117





**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)**

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF SUBROGATION**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

We waive any right of recovery we may have against:

1. Any person or organization shown in the Declarations, or
2. Any person or organization with whom you have a contract that requires such waiver.