



**TO:** Mayor and Councilmembers

**FROM:** Peter Imhof, Planning and Environmental Services Director

**CONTACT:** Anne Wells, Advance Planning Manager  
J. Ritterbeck, Senior Planner

**SUBJECT:** Award of Contract for a Commercial / Housing Nexus Study and an Affordable Housing In-Lieu Fee Study

**RECOMMENDATION:**

Authorize the City Manager to execute a Professional Services Agreement between the City of Goleta and Keyser Marston Associates, Inc. to prepare a Commercial / Housing Nexus Study and an Affordable Housing In-Lieu Fee Study for a total not-to-exceed amount of \$150,000 and a termination date of December 31, 2021.

**BACKGROUND:**

The City of Goleta's Housing Element includes policies and programs intended to support the creation, maintenance, and preservation of affordable housing in the City. One of the critical barriers to the development of affordable housing identified in the Housing Element is funding. Two Housing Element subpolicies, HE 2.2 (Linkage of Housing and Jobs) and HE 2.5 (Inclusionary Housing), both seek to address affordable housing needs through the creation of units on site or through the development of in-lieu fees, if construction of the units on site is not feasible.

Specifically, Housing Element subpolicy 2.2 requires that new, expanded, or intensified non-residential development contribute to the provision of affordable housing to the local workforce. Alternatives to constructing employee housing onsite are allowed, including paying development impact fees, providing housing assistance benefit packages, or other alternatives of similar value. To date, the fulfillment of this affordable employee housing requirement is met by administrative practice and negotiated on a case-by-case basis because an ordinance establishing a citywide non-residential impact fee structure has not yet been adopted. Conducting a Commercial / Housing Nexus Study will provide the underlying information needed to establish this fee structure.

Furthermore, Housing Element subpolicy 2.5 requires that developers of residential projects of five or more units provide a percentage of the units at prices that are

affordable to lower-income households. The subpolicy also states that, under certain circumstances, the developers may also meet their inclusionary obligations through alternative means, including an in-lieu payment, if it is infeasible to construct the units on site. Fulfillment of this affordable housing requirement is also met by administrative practice and negotiated on a case-by-case basis, since a formal residential in-lieu fee has not yet been adopted. Conducting an Inclusionary Housing In-Lieu Fee Study will provide the underlying information needed to establish this fee structure

On March 10, 2020, the City received a grant from the State of California's Department of Housing and Community Development (HCD) in the amount of \$160,000. The City requested and received authorization from HCD staff on July 13, 2020 to use the majority of these funds to conduct a Commercial / Housing Nexus Study and an Inclusionary Housing In-Lieu Fee Study. In response, on July 22, 2020, the City issued a Request for Qualifications/Request for Proposals (RFQ/RFP) for the two fee studies. The time period within which to submit qualifications/proposals closed on August 21, 2020.

## **DISCUSSION:**

The City received four proposals in response to the RFQ/RFP. Staff reviewed the proposals and conducted interviews with all four firms on September 1, 2020 and September 2, 2020. The interview panel consisted of staff from the Planning and Environmental Review, Neighborhood Services and Public Safety, and Finance Departments. After evaluation of the proposals, interviews, and reference checks, Keyser Marson Associates, Inc. (KMA) emerged as the top candidate based on several factors including: the firm's extensive experience performing this specific type of evaluation; the proposed approach and methodology; and the overall qualifications and experience of the consultant team.

KMA brings the necessary experience and qualifications to prepare affordable housing fee studies for the City of Goleta. Staff has spent time working with KMA to ensure the scope of work included in the proposed professional services agreement (Attachment 1) is consistent with guidance provided in the City's Housing Element of the General Plan. The primary tasks under the agreement are:

- Public Outreach (Task 2) – KMA will undertake two stakeholder meetings as well as one-on-one phone interviews to ensure that public input and feedback is incorporated into the analysis and findings.
- Commercial / Housing Nexus Study (Task 3) – KMA will conduct the Commercial / Housing Nexus Study, which will establish the nexus between new commercial development in the City and its impact on creating new demand for affordable housing. The study will provide a series of context analyses and materials, such as commercial market conditions, total development costs, affordable housing fee programs in other relevant jurisdictions, analysis of potential alternatives and credits toward fee payment, and an analysis of total fee burden for commercial development projects in the City as well as other comparison jurisdictions that are pertinent to

establishing commercial fees and compliance alternatives. The resulting report will summarize the nexus study and provide the City with the recommended impact fee.

- Residential Affordable Housing In-Lieu Fee Study (Task 4) – This fee study will form the basis for proposed in-lieu fees under the City's inclusionary program and will include a range of supporting analyses that will evaluate alternative approaches to determining the in-lieu fee structure. Context materials regarding fees within relevant comparison communities and a discussion of feasible approaches to meeting the City's affordable unit goals will also be provided by KMA. The resulting report will summarize the fee study and provide the City with the recommended in-lieu fee.
- Residential Nexus Analysis (Task 5) – As a supporting and supplemental analysis, KMA will conduct a residential nexus analysis that will demonstrate and quantify the relationship between market rate and affordable housing. This analysis will be included as an appendix to the In-lieu Fee Study and help support the recommendations of Task 4.
- Meetings and Public Process (Task 6) – Finally, KMA will deliver two separate reports that will summarize the results of the two fee studies. These reports will also be made available to all stakeholders and the general public for review and comment. Along with City staff, KMA will present the results of the two studies to the City Council for consideration and adoption of proposed fees.

Staff anticipates the final products from the studies, including the fees, will be presented to the Planning Commission and to the City Council by December of 2021.

## **GOLETA STRATEGIC PLAN:**

Award of an agreement for the Commercial / Housing Nexus Study and an Affordable Housing In-Lieu Fee Study is consistent with the Goleta Strategic Plan 2019-2020.

**City-Wide Strategy #2:** Support Community Vitality and Enhanced Recreational Opportunities

**Strategic Goal:** Support and Implement the General Plan

**City-Wide Strategy #4:** Support Economic Vitality

**Strategic Goal:** Support Organizations, Programs, and Policies that Facilitate Affordable Housing for the Goleta Workforce

## **FISCAL IMPACTS:**

The contract not-to-exceed amount is \$150,000. As shown in the table below, Account #324-40-4300-51200 reflects the \$160,000 SB 2 grant funds and has adequate balance in Fiscal Year 2020-2021 to fund the entirety of the proposed contract agreement. As such, no additional appropriation is needed at this time.


Commercial / Housing Nexus Study and Affordable Housing In-Lieu Fee Study FY 20/21				
Fund Type	Account	Current Budget	Existing Encumbrances	Existing Balance
Advance Planning Professional Services	324-40-4300-51200	\$160,000	\$0	\$160,000

**ALTERNATIVES:**

The Council may choose not to authorize this Professional Services Agreement with KMA, and instead direct staff to seek proposals from other qualified firms, in which case KMA would not be available to assist the City in the development of these studies and result in delays in the timely use of the SB 2 funds.

**Reviewed By:****Legal Review By:****Approved By:**
  
 Kristine Schmidt  
 Assistant City Manager

  
 Michael Jenkins  
 City Attorney

  
 Michelle Greene  
 City Manager
**ATTACHMENT:**

1. Professional Services Agreement between the City of Goleta and Keyser Marston Associates, Inc.

## **ATTACHMENT 1**

### **PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF GOLETA AND KEYSER MARSTON ASSOCIATES, INC.**

**Project Name: Commercial/Housing Nexus Study & Affordable Housing In-Lieu Impact Fee Study**

**AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN THE CITY OF GOLETA  
AND  
KEYSER MARSTON ASSOCIATES, INC.**

This AGREEMENT FOR PROFESSIONAL SERVICES (herein referred to as "AGREEMENT") is made and entered into this 6th day of October, 2020, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and KEYSER MARSTON ASSOCIATES, INC., a California corporation (herein referred to as "CONSULTANT").

**WHEREAS**, the CITY has a need for professional services in conjunction with conducting a Commercial/Housing Nexus Study and an Affordable Housing In-Lieu Impact Fee Study; 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 from the CONSULTANT in compliance with Goleta Municipal Code Section 3.05.260(F) by a competitive Request for Qualifications/Request for Proposals process; and

**WHEREAS** the City Council, on this 6<sup>th</sup> day of October 2020, approved this AGREEMENT and authorized the City Manager to execute this 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**

Professional planning and economic consulting services shall generally include conducting the necessary background research and analyses, the development of both a Commercial/Housing Nexus Study and an Affordable Housing In-Lieu Impact Fee Study, and as more particularly set forth in the Scope of Work, attached as Exhibit "A" to this AGREEMENT, and incorporated herein.

The CONSULTANT shall deliver to the CITY all 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 \$150,000 (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 June 30, 2021, 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 J. Ritterbeck, Senior Advance Planner. The 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 June 30, 2021, 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 original 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. David Doezeema, Harriet Ragozin, and Kevin Feeney are each 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 negligence or willful acts or omissions in the 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 OR HEADINGS**

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:



## **EXHIBIT A**

### **SCOPE OF WORK**

# SCOPE OF WORK

This scope of work provides the City of Goleta (CITY) with a comprehensive set of analyses to support KMA's (CONSULTANT) establishment of commercial and residential affordable housing fees. Completion of the scope of work includes the following specific tasks, subtasks, objectives, and deliverables.

## **Task 1. Project Initiation**

To initiate the work program, a “kick-off” meeting will be held with CITY staff. The purpose will be to walk through the scope, timeline, and analysis approach.

### *Objectives:*

- In advance of the kickoff work session, CONSULTANT will review available existing documents that will inform the work and provide an agenda.
- Identification of key CITY policies and background documents to understand the setting and context of the studies.
- Establish protocol for communications between the CITY and CONSULTANT, as well as regular status reports and conference calls.
- Fine-tune the project timeline.
- Further refine primary issues to be discussed and evaluated.
- Discuss communication with community groups and other interested parties and public outreach process.

### *Deliverables:*

- CONSULTANT will prepare a written data request list to review as part of the meeting.
- CONSULTANT will prepare a written summary of the Kick-off Meeting for CITY review and approval.

## **Task 2. Public Outreach**

CONSULTANT will undertake public outreach that follows and expands upon that outlined in the CITY's Request for Qualifications/Request for Proposals (RFQ/RFP).

### *Objectives:*

- Provide a valuable contribution that will offer opportunities to learn from the insights and local knowledge that stakeholders can offer, provide an understanding of important local considerations, and help in fine-tuning the ultimate work products.
- Engage and seek input from stakeholders at critical junctures in the conduct of the work including early in the process when key analysis decisions and assumptions are developed.
- Initial stakeholder engagement meeting near the outset of the work to discuss the work scope and process along with key analysis decisions and assumptions.

- One-on-one stakeholder phone interviews with a focus on stakeholders with commercial and residential development experience in Goleta and/or expertise in affordable housing. Up to five such calls are assumed.
- Second stakeholder meeting once the draft studies are available to present the draft analysis, provide an opportunity for stakeholder feedback, and to answer questions related to the work.
- Additional communication with stakeholders before or after the stakeholder meetings and throughout the process of adoption as directed by CITY staff.
- For costing purposes, a web-based format for stakeholder engagement meetings is assumed as this is the current public health guidance. CONSULTANT will attend in person if conditions allow.

*Deliverables:*

- CITY staff will identify the list of stakeholders and establish meeting schedules.
- CONSULTANT will provide staff with an overall summary of the one-on-one calls.
- CONSULTANT will provide draft studies for review and comment by stakeholders and the CITY.

### **Task 3. Commercial / Housing Nexus Study**

*Objectives:*

- This task encompasses preparation of the commercial/ housing nexus analysis to document the relationship between job growth and affordable housing needs for a range of commercial development types.
- This task will include additional analysis and context information to inform and support selection of key program provisions such as fee level, compliance alternatives, and potential incentive provisions consistent with those envisioned in the RFQ/RFP.
- Identify the range of overall fee options for future Council consideration and adoption.

#### **3.1 Commercial Building Type Identification**

*Objective:*

- Determine the building types and/or use classifications for inclusion in the nexus study and supporting analyses.

#### **3.2 Commercial Market Conditions and Development Trends Overview**

*Objectives:*

- Gather market data that will address rent levels, vacancy rates, permitted construction activity, land values, and/or other relevant metrics.
- Data will be drawn from a range of published sources such as brokerage reports, market data firms, governmental reports and other sources.
- CONSULTANT will assemble and present data on market conditions and trends for commercial development in the CITY.
- CONSULTANT will incorporate input from stakeholder interviews into the findings.

### **3.3 Commercial / Housing Nexus Study**

#### *Objectives:*

- The Commercial / Housing Nexus Study will document and quantify the link between new commercial development in the CITY and its effect on increasing the demand for affordable housing.
- The cost of providing needed affordable units will be calculated and converted to a 'per square foot' mitigation cost for each building type, which will establish the upper limit for potential commercial linkage fees.
- The Commercial / Housing Nexus Report will provide a concise summary of the nexus analysis, context materials and recommendations followed by a more comprehensive discussion of the analysis, data sources and methodology in the subsequent sections of the report.

#### *Deliverables:*

- The CONSULTANT will provide the CITY with a Commercial / Housing Nexus Study Report.
- The CONSULTANT will fully document the methodology and data sources within the Commercial / Housing Nexus Study Report.

### **3.4 Development Costs**

#### *Objectives:*

- CONSULTANT will prepare total development cost summaries for up to five prototype non-residential development projects identified in consultation with CITY staff and vetted as part of the initial public outreach meeting.
- CONSULTANT will also review information on projects in the pipeline to ensure that the prototypes represent projects that are likely to occur over the next several years.
- Once prototypes have been established, CONSULTANT will estimate the cost to develop each prototype.
- CONSULTANT will estimate total development costs including estimates for land acquisition, on-site land improvements, vertical construction costs, parking costs, and indirect costs. These estimates will be based on CONSULTANT's database of cost data from similar types of projects and third-party data sources.

#### *Deliverables:*

- The CITY will provide the information on current pipeline projects in order to help define representative building prototypes for this analysis.
- The CITY will provide an estimate of typical planning and building permit processing costs for each prototype.
- Impact fees will be calculated by CONSULTANT from published fee schedules.

### **3.5 Fee Comparison**

#### *Objectives:*

- CONSULTANT maintains and will use a comprehensive database of commercial linkage fee programs throughout California and beyond that is regularly updated and maintained through the firm's frequent work on these programs throughout the State.

- CONSULTANT will track fee levels and key features such as square footage thresholds, exemptions, and geographic variations. Information regarding the most pertinent comparisons for the CITY will be refreshed where necessary and summarized in the report.

*Deliverables:*

- The full database on other programs will be included in the appendix for those who wish to see other examples.

### **3.6 Total Fee Burden to Developer**

*Objectives:*

- CONSULTANT will prepare a summary of total development impact fees applicable in the City and up to four other jurisdictions of interest to provide context for consideration of new fees. The comparison will cover the most typical project types for the City.
- The summary will include information on impact fees, construction taxes, and other requirements paid at building permit.

*Deliverables:*

- CITY staff will assist the CONSULTANT project team in identifying or verifying acceptable and comparable cities that will be used in the study.
- CONSULTANT will prepare a chart illustrating the findings of the fee comparison will be provided within the report.

### **3.7 Compliance Alternatives and Incentives to Provide Units Onsite**

*Objectives:*

- A series of compliance alternatives and incentives to get developers to build affordable units onsite as part of their project will be included as a part of the proposed program.
- This subtask will provide analysis to support consideration of contemplated provisions.
- A schedule of credits toward the fee will be established to identify the amount of fee to be credited for each affordable unit that is provided.
- Some considerations with respect to a provision of this nature could include the degree to which the employer-provided housing aligns with the affordable housing need and whether there are assurances the employer housing assistance will continue to be provided.

### **3.8 Commercial / Housing Nexus Study Report**

*Deliverable:*

- The CONSULTANT will provide the CITY with a report that presents the findings from the analyses of subtasks 3.1 – 3.7, including methodology, data sources, and recommendations including but not limited to draft impact fees.
- Reports shall include an Administrative draft, Public Release draft, a Public Hearing draft, and a Final Report.

## **Task 4. Residential Affordable Housing In-Lieu Fee Study**

### *Objectives:*

- CONSULTANT will prepare an analysis to support adoption of affordable housing in-lieu fees and understands that the CITY has an inclusionary housing program in place that was recently updated to reinstate requirements for rental residential development projects.
- The in-lieu fee study will provide a series of metrics that will inform establishment of an appropriate in-lieu fee for the CITY's inclusionary housing program.

### *Deliverable:*

- The CONSULTANT will prepare an Affordable Housing In-Lieu Fee Study Report, which will provide a concise summary of the analysis, context materials and recommendations followed by a more comprehensive discussion of the analysis, data sources and methodology in the subsequent sections of the report.

## **4.1 Residential Development Prototypes and Market Survey**

### *Objectives:*

- CONSULTANT will define a set of proposed prototypical residential development projects that are representative of projects the CITY is currently seeing or expects in the future.
- Prototypes will be based on a review of recent and proposed development projects in the CITY and will be articulated in terms of unit type, average unit size, density, number of bedrooms, parking ratio and configuration.
- CONSULTANT will seek input on the proposed prototypes from CITY staff as well as through the public outreach process prior to finalizing.
- The prototypes will serve as a starting point for the analysis.
- Once prototypes are established, CONSULTANT will estimate market rent levels and "for-sale" unit prices for the prototypical residential development projects through a market survey.
- The market survey will draw on published and purchased market data sources including CoStar, CoreLogic, from apartment and developer websites, input received during the stakeholder interviews, and other sources.

### *Deliverable:*

- The market data will be summarized in the report with the underlying data provided in a set of appendix tables.

## **4.2 In-Lieu Fee Equivalent to Cost to Deliver On-Site Affordable Units Within Project**

### *Objectives:*

- CONSULTANT will calculate the in-lieu fee level that is equivalent to the cost of including required affordable units on-site as part of the residential development project.
- The analysis will be based on the residential development prototypes, "for-sale" market pricing and rents established in the prior task.

- The analysis will calculate the forgone revenue experienced by the developer of a market rate project in setting aside affordable units within their projects.
- This forgone revenue will be calculated based on the difference between market home prices and affordable home prices.

#### **4.3 In-Lieu Fee Equivalent to Cost to Deliver Affordable Units Off-Site**

##### *Objectives:*

- CONSULTANT will develop a pro forma for an off-site affordable project used to meet an inclusionary obligation.
- The estimated developer contribution that is required will become the basis for determining the in-lieu fee amount equivalent in cost to providing affordable units off-site.

#### **4.4 In-Lieu Fee Sufficient to Replace Inclusionary Units**

##### *Objectives:*

- CONSULTANT will establish the CITY's costs of producing affordable units as part of the Commercial / Housing Nexus Study through funding assistance to projects that are developed by non-profits.
- This affordable unit production cost for the CITY will be expressed in terms of the in-lieu fee amount that would need to be collected to fund affordable units to replace inclusionary units that are not provided on-site.

#### **4.5 In-Lieu Fees in Relevant Jurisdictions**

##### *Objectives:*

- CONSULTANT will compile a summary of in-lieu fee provisions for inclusionary programs in nearby jurisdictions and other relevant comparisons with a specific focus on communities located within the Coastal Zone.
- CONSULTANT will include approximately eight to ten jurisdictions in the comparison. (Non-residential fee information will also be provided separately through completion of subtasks 3.5 and 3.6, above.)

#### **4.6 Creation of New Affordable Housing Units.**

##### *Deliverables:*

- CONSULTANT will outline a feasible path to create 323 new affordable housing units within the CITY.
- To the extent the programs are not estimated to support creation of the 323 affordable units, CONSULTANT will outline other feasible approaches to producing or funding the remaining units.

#### **4.7 Proposed Affordable Housing In-Lieu Fees**

##### *Deliverable:*

- Drawing on the findings of subtasks 4.1 thru 4.6, CONSULTANT will produce a report that proposes a set of affordable housing in-lieu fees and or in-lieu fee options for the CITY to consider, along with a supporting discussion that provides a clear and concise synthesis of the basis, and supporting evidence for the proposed in-lieu fees.

#### **4.8 Proposed Affordable Housing In-Lieu Fees and Report**

##### *Deliverables:*

- CONSULTANT shall provide the CITY with a proposed Affordable Housing In-Lieu Fee Study Report summarizing the analyses conducted as part of subtasks 4.1 – 4.7. Draft fees will be included in the report.
- Reports shall include an Administrative draft, Public Release draft, a Public Hearing draft, and a Final Report.

#### **Task 5: Supplemental Residential Nexus Analysis**

##### *Objective:*

- This supplemental analysis will document the impact of residential development on the need for affordable housing, quantify the cost of providing affordable units to mitigate the increased affordable housing need and determine the resulting mitigation cost on a per unit and per square foot basis.

#### **5.1. Supplemental Residential Nexus Analysis**

##### *Objectives:*

- The analysis will use the IMPLAN model data set specific to Santa Barbara County.
- The analysis will track and quantify a series of steps commencing with the rent/price/value of the new market rate unit (as developed in subtask 4.1), the income of the household that buys or rents it, the consumption of goods and services of the house-hold, the new jobs generated by that consumption, and the fact that some of the jobs have lower compensation levels that result in new worker households needing affordable housing.
- The household income of the purchasers or renters of new residential units will be estimated based on the income needed to afford the sales prices or rents applicable to the new market rate units.
- CONSULTANT will use a jobs housing nexus model to analyze the compensation levels of the new jobs generated and resulting household income to determine the number of households qualifying within various income affordability levels.
- A resulting analysis will show number of affordable housing units within each income category that are needed to mitigate the affordable housing impacts of new market rate residential development.

##### *Deliverable:*

- CONSULTANT will prepare a supplemental residential nexus analysis that demonstrates and quantifies the relationship between market rate and affordable housing.

## **5.2. Affordability Gaps**

### *Objectives:*

- The CITY's affordability gap, representing the difference between the development cost of a new affordable unit and the value of the unit with affordability restrictions in place, will be calculated.
- The mitigation cost analysis for the residential nexus will be the same as that used for the commercial / housing nexus study prepared in Task 3.

## **5.3. Mitigation Costs and Maximum Fee Levels Supported by the Nexus**

### *Objectives:*

- Affordability gaps from subtask 5.2 will be combined with the number of affordable units needed by income category from subtask 5.1 in order to determine mitigation costs.
- Mitigation costs will represent the maximum affordable housing fee level supported by the nexus and are expressed on both a per unit and per square foot basis.

## **5.4. Residential Nexus Analysis Report**

### *Deliverables:*

- The analysis and findings will be summarized in a separate stand-alone Residential Nexus Analysis Report, which will be included as an appendix to the In-Lieu Fee Study Report.
- Findings will also be referenced within the Residential Affordable Housing In-Lieu Fee Study Report analysis, if requested by the CITY.
- As with the other reports, an Administrative draft, Public Release draft, a Public Hearing draft, and Final Report will all be provided by CONSULTANT.

## **Task 6. Meetings and Presentations**

### *Deliverables:*

- CONSULTANT will attend and make presentations as part of a series of staff, stakeholder, and public meetings and conference calls during the conduct of the work.
- CONSULTANT will be in attendance at the following meetings:
  - *Project Kick-off.* At the outset of the work, CONSULTANT will meet once with CITY staff to finalize the scope, agree on schedule, and discuss the process ahead.
  - *Progress Meetings with City Staff.* Up to five meetings with CITY staff in addition to the kick-off are assumed during the conduct of the work, either by phone or video conference. Meetings could be used to discuss project status, review draft analysis materials, discuss comments on reports, and coordinate on presentation materials.
  - *Stakeholder Meetings.* As described in Task 2 (Public Outreach) which includes two stakeholder meetings, related follow-up, and one-on-one phone calls.
  - *City Council Meeting Hearing.* CONSULTANT will be available to present findings and respond to questions at public meetings. Participation in at least two City Council meeting is assumed.

## **EXHIBIT B**

### **SCHEDULE OF FEES**

## SCHEDULE OF FEES

### KEYSER MARSTON ASSOCIATES, INC.      2020/21 HOURLY RATES

Chairman, President, Managing Principals *	\$280.00
Senior Principals *	\$270.00
Principals *	\$250.00
Managers *	\$225.00
Senior Associates	\$187.50
Associates	\$167.50
Senior Analysts	\$150.00
Analysts	\$130.00
Technical Staff	\$95.00
Administrative Staff	\$80.00

*\* Rates for individuals in these categories will be increased by 50% for time spent in court testimony.*

Hourly rates cover both direct and overhead costs, but exclude the cost of purchasing information that is needed for a specific assignment. The cost of purchasing data, such as hotel occupancy data, will be billed separately.

Directly related job expenses not included in these rates are: auto mileage, parking, air fares, hotels and motels, meals, car rentals, taxis, telephone calls, delivery, electronic data processing, graphics and printing. Directly related job expenses will be billed at 110% of cost.

Monthly billings for staff time and expenses incurred during the period will be payable within thirty (30) days of the City's receipt and approval of the invoice.