



Agenda Item A.6
CONSENT CALENDAR
Meeting Date: October 19, 2021

TO: Mayor and Councilmembers

FROM: Jaime A. Valdez, Interim Neighborhood Services Director

CONTACT: Shanna Dawson, Management Analyst

SUBJECT: Amendment No. 2 to the Agreement with COM3 Consultants, Inc. for Goleta Train Depot Station

RECOMMENDATION:

Authorize the City Manager to enter into Amendment No. 2 to Professional Design Services Agreement No. 2019-071 with COM3 Consultants, Inc. for project management assistance on the Goleta Train Depot, increasing the contract amount by \$52,200, for a total not-to-exceed amount of \$124,000, and extending the term of agreement to June 30, 2023 (Attachment 1).

BACKGROUND:

On April 26, 2018, the California State Transportation Agency (CalSTA) notified the Santa Barbara County Association of Governments (SBCAG) that SBCAG had been awarded \$13 million in funding as a result of submitting an application with the City of Goleta under the Transit and Intercity Rail Capital Program (TIRCP).

The Goleta Train Depot (GTD) Project is the development of a new multi-modal train station at the location of the existing Amtrak platform with the intent to increase rail ridership. Through the completion of a full-service station, the project will improve connections to bus transit, accommodate transit service to/from the Santa Barbara Airport and the University of California Santa Barbara (UCSB), add new bicycle and pedestrian facilities, and allow accommodation for a potential future additional train storage that will support increased commuter rail needs. These improvements will make the new facility safer, functional, and inviting. The Project site is adjacent to the existing Amtrak platform at the northern end of South La Patera Lane.

There are two components to the GTD Project: (1) the roadway and access improvements (Roadway Portion) along South La Patera Lane between Hollister Avenue and the proposed depot; and (2) the depot building with waiting areas and a café, a new parking facility, and accommodations for buses, vanpools, and bicycles (GTD Portion) at the station site, located south of the existing Amtrak train platform.

The following summarizes the major consultants retained by the City for the GTD project management assistance and design:

On August 20, 2019, the City Council authorized Professional Design Services Agreement No. 2019-071 (Agreement) with COM3 Consultants, Inc. for project management assistance on the Goleta Train Depot with an original end date of June 30, 2021, and with a not to exceed amount of \$71,800. On June 24, 2021, the City Manager approved Amendment No. 1 to Agreement No. 2019-071 with COM3 Consultants that extended the termination date from June 30, 2021, to October 31, 2021, but did not add additional compensation to the Agreement.

On June 4, 2019, the City Council authorized a Professional Design Services Agreement with Anil Verma Associates (AVA) for the GTD Project in an amount not to exceed \$2,400,000 with the term of agreement expiring on June 30, 2022. AVA serves as the lead consultant responsible for project design (building and landscape architecture, structural and electrical engineering) and coordination of subconsultants for environmental, civil engineering, and geotechnical work.

DISCUSSION:

The GTD Project is a complicated and multi-faceted capital improvement project requiring experience in several disciplines. City staff originally recommended COM3 Consulting, Inc. for project management support from the "Pre-Authorized Qualified Consultants List" approved by City Council in December of 2016. City staff believes COM3's expertise in the field and involvement in the GTD project since the project began, coupled with their intimate knowledge of transportation, the City's TIRCP application, and vast experience with SBCAG and the City's Public Works Department, continue to make them the ideal firm to provide project management support for the GTD Project.

COM3's project management assistance on the GTD Project, provided in Exhibit A-1 of the Professional Design Services Agreement (Attachment 1), may include the following, as approved by City staff:

- Provide continuous interface with City staff regarding project.
- Schedule and attend project team meetings, prepare meeting agendas, and action items, and track action items, as needed.
- Provide management of technical consultants.
- As needed, coordinate with other agencies including, but not limited to, SBCAG, CalSTA, Amtrak, Union Pacific Railroad (UPRR), Santa Barbara Airport, and UCSB.
- Prepare project status reports for City as requested.
- Prepare, review and comment on any agreements necessary for projects.
- Prepare project correspondence for City as requested.
- Provide technical review and comment on technical deliverables.

- Development/maintenance of project schedules.
- Track and monitor project costs.
- Track and monitor project funding.
- Assist City Staff in preparation of grant funding claims to SBCAG as requested.
- Assist in community outreach strategy and efforts.
- Attend public meetings as required.
- Assist in Presentations to City Council.

The cost for COM3's project management assistance for the GTD Project from October 31, 2021, through June 30, 2023, is an additional \$52,200 and is detailed in Exhibit B-1 of Amendment No. 2 (Attachment 1). If Amendment No. 2 is approved, the total not to exceed amount of the Agreement would be \$124,000.

ALTERNATIVES:

COM3 was selected as the best firm on the "Pre-Authorized Qualified Consultants List" for the GTD Project given it had the most expertise and experience on this project, including its role in assisting with the securing of the TIRCP grant. COM3 has continued to prove invaluable through GTD's progression from conceptual ideas and plans to now approaching 65% design plans. Council could request staff to revisit the list and select another consultant, however doing so would result in significant effort and cost to bring another consultant up to speed.

FISCAL IMPACTS:

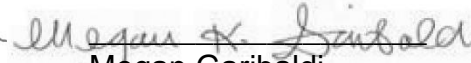
No additional appropriation is needed to support the not-to-exceed amount of \$124,000 with COM3 Consultants, Inc. An allocation of \$900,000 for FY 2021-22 is currently in place in the TIRCP Fund (Fund 321) for Project Number 9079 (GTD). Expenditures of any and all funds related to the TIRCP grant are subject to the Funding Agreement between the City of Goleta and SBCAG. The Funding Agreement's Exhibit B states a not-to-exceed amount of \$12.2M for reimbursement to the City.

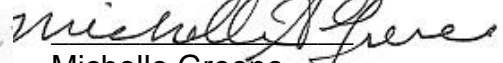
Reviewed By:

Legal Review By:

Approved By:


Kristine Schmidt
Assistant City Manager


Megan Garibaldi
City Attorney


Michelle Greene
City Manager

ATTACHMENTS:

1. Amendment No. 2 to Professional Design Services Agreement 2019-071 between COM3 Consulting Inc. and the City of Goleta
2. Professional Design Services Agreement 2019-071 between COM3 Consulting Inc. and the City of Goleta and Amendment No. 1

ATTACHMENT 1

**Amendment No. 2 to Professional Design Services
Agreement 2019-071 between COM3 Consulting Inc.
and the City of Goleta**

**AMENDMENT NO. 2
TO A PROFESSIONAL SERVICES AGREEMENT 2019-071
BETWEEN THE CITY OF GOLETA
AND
COM3 CONSULTING, INC.**

This **Amendment No. 2** to the Professional Design Services Agreement 2019-071 by and between the **City of Goleta**, a municipal corporation ("City") and **COM3 CONSULTING, INC.** ("Consultant") dated August 20, 2019 ("Agreement," Agreement No. 2019-071) is made on this 19th day of October, 2021.

SECTION A. RECITALS

1. This Agreement is for the professional project management services for the Goleta Train Depot Project; and
2. The Agreement currently provides in Section 3 Subsection (a) for the total compensation amount not to exceed \$71,800.00; and
3. The parties desire to amend the Agreement so as to provide for additional compensation in the amount of \$52,200 for additional tasks; and
4. The Agreement currently provides in Section 6 for the termination of the Agreement on October 31, 2021; and
5. The parties desire to amend the Agreement so as to extend the termination of the Agreement to June 30, 2023; and
6. The Agreement currently provides in Exhibit A entitled "Scope of Work" the complete and particular description of services; and
7. The parties desire to amend Exhibit A by adding additional services as more completely and particularly set forth in the Scope of Work, attached as Exhibit "A-1"; and
8. The Agreement currently provides in Exhibit B entitled "Compensation" the hourly rates; and
9. The parties desire to amend Exhibit B of the Agreement to identify the new hourly rates, attached as "Exhibit B-1"; and
10. The City Council approved this Amendment No. 2, on this 19th day of October, 2021.

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 \$52,200 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 \$124,000.00 (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-1," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until June 30, 2023, 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.

2. **Section 6. TERM, PROGRESS AND COMPLETION** of the Agreement is amended to extend the term for an additional 20 months to read in its entirety.

The term of this Agreement is from the date first written above to June 30, 2023, unless the 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. All services shall be completed within the term of this Agreement following the notice to proceed.

3. This Agreement is amended to delete and replace in its entirety:

Exhibit A "Scope of Work" with **Exhibit A-1 "Scope of Work"** attached hereto and incorporated herein.

4. This Agreement is amended to delete and replace in its entirety:

Exhibit B “Compensation” with **Exhibit B-1 “Compensation”** attached hereto and incorporated herein.

5. 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. 2 has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

CONSULTANT

Michelle Greene, City Manager

Gerald Comati, President

ATTEST:

Deborah Lopez, City Clerk

Gerald Comati, Chief Financial Officer

APPROVED AS TO FORM:
MEGAN GARIBALDI, CITY ATTORNEY

DocuSigned by:

Winnie Cai

Winnie Cai, Assistant City Attorney

EXHIBIT A-1

SCOPE OF WORK

COM3 Consulting Goleta Train Depot Project Scope of Work for Fiscal Years 2019/2020 through 2022/2023

Project Management Assistance for the Goleta Train Depot Project Services may include the following, as approved by City:

- a) Provide continuous interface with City staff regarding project.
- b) Schedule and attend project team meetings and prepare meeting agendas and action items and track action items, as needed.
- c) Provide management of technical consultants.
- d) As needed, coordinate with other agencies including, but not limited to, Santa Barbara County Association of Governments (SBCAG), California State Transportation Agency (CalSTA), Amtrak, Union Pacific Rail Road (UPRR), Santa Barbara Airport, and the University of California Santa Barbara (UCSB).
- e) Prepare project status reports for City as requested.
- f) Prepare, review and comment on any agreements necessary for projects.
- g) Prepare project correspondence for City as requested.
- h) Provide technical review and comment on technical deliverables.
- i) Development/maintenance of project schedules.
- j) Track and monitor project costs.
- k) Track and monitor project funding.
- l) Assist City Staff in preparation of grant funding claims to SBCAG as requested.
- m) Assist in community outreach strategy and efforts.
- n) Attend public meetings as required .
- o) Assist in Presentations to City Council.

EXHIBIT B-1**COMPENSATION**

COM3 Consulting Goleta Train Depot Project compensation (schedule of fees) for Fiscal Years 2019/2020 through 2022/2023

Project: Goleta Train Depot Project

Labor:		Hourly Rate	Total Hours	Labor Cost		
Task	Name			Original contract	Amendment No. 2	Total
		\$/hr	hrs	\$	\$	\$
Consultant Team Selection	Gerald Comati	178	400	71,200		\$71,200
	Gerald Comati	180	290		52,200	\$52,200
Total			690	\$71,200	\$52,200	\$123,400

Expenses:

Description		Comments	Original contract	Amendment No. 2	Total
1.	Reproduction	Includes cost for all copying	\$200	\$0	\$200
2.	Travel	Includes all cost related to travel. Car mileage reimbursement rate of 0.5 \$/mile.	\$200	\$0	\$200
3.	Miscellaneous	Includes cost for miscellaneous expenses	\$200	\$0	\$200
Total - Expenses			\$600	\$0	\$600

Total Contract Budget				\$124,000
------------------------------	--	--	--	------------------

Consultant Payment Rates		
Name	\$/Hr	Title
Gerald Comati	180	Principal
Debbie Talarico	110	Project Engineer

ATTACHMENT 2

**Professional Design Services Agreement 2019-071
between COM3 Consulting Inc. and the City of Goleta
and Amendment No. 1**

Project Name: GOLETA TRAIN DEPOT

**AGREEMENT FOR PROFESSIONAL DESIGN SERVICES
BETWEEN THE CITY OF GOLETA
AND
COM3 CONSULTING, INC.**

This AGREEMENT FOR PROFESSIONAL DESIGN SERVICES (herein referred to as "AGREEMENT") is made and entered into this 20th day of August, 2019, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **COM3 CONSULTING, INC.**, a California Corporation (herein referred to as "CONSULTANT").

WHEREAS, the CITY has a need for professional project management services for the Goleta Train Depot Project; 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 CONSULTANT was approved by Council on December 20, 2016 to be placed on a short list of pre-approved consultants for environmental planning services after review of a Request for Qualifications; and

WHEREAS, the CITY selected CONSULTANT for this AGREEMENT based on CONSULTANT'S qualifications and experience with the Santa Barbara County Association of Governments; and

WHEREAS, the City Council, on this 20th day of August, 2019, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT.

CITY and CONSULTANT agree as follows:

1. RETENTION AS CONSULTANT

CITY hereby retains CONSULTANT, and CONSULTANT hereby accepts such engagement, to perform the services described in Section 2. CONSULTANT warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

2. DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional project management Services in conjunction with the Goleta Train Depot Project. Services shall generally include project management

assistance 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 \$71,800.00 (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 Vyto Adomaitis,

Director of Neighborhood Services and Public Safety. 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. All services shall be completed within 680 calendar days following the notice to proceed.

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. Gerald Comati is deemed to be specially experienced and is a key member of CONSULTANT's firm, and shall be directly involved in the performance of this work. This key person shall communicate with, and periodically report to, CITY on the progress of the work. Should any such individual be removed from assisting in this contracted work for any reason, CITY may terminate this AGREEMENT. This AGREEMENT may not be assigned or subcontracted without the City Manager's prior written consent.

9. HOLD HARMLESS AND INDEMNITY

(a) **Indemnification and Defense for Professional Service.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless the CITY and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities, damages, costs

and expenses, including attorney's fees and costs, to the extent they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT. CONSULTANT's duty to defend shall consist of reimbursement of defense costs incurred by CITY in direct proportion to the CONSULTANT's proportionate percentage of fault. CONSULTANT's percentage of fault shall be determined, as applicable, by a court of law, jury or arbitrator. In the event any loss, liability or damage is incurred by way of settlement or resolution without a court, jury or arbitrator having made a determination of the CONSULTANT's percentage of fault, the parties agree to mediation with a third party neutral to determine the CONSULTANT's proportionate percentage of fault for purposes of determining the amount of indemnity and defense cost reimbursement owed to the CITY.

(b) For All Other Liabilities. Notwithstanding the foregoing and without diminishing any rights of CITY, for any liability, claim, demand, allegation against CITY arising out of, related to, or pertaining to any act or omission of CONSULTANT, but which is not a design professional service, CONSULTANT shall defend, indemnify, and hold harmless CITY, its officials, employees, and agents ("Indemnified Parties") from and against any and all damages, costs, expenses (including reasonable attorney fees and expert witness fees), judgments, settlements, and/or arbitration awards, whether for personal or bodily injury, property damage, or economic injury, and arising out of, related to, any concurrent or contributory negligence on the part of the CITY, except for the sole or active negligence of, or willful misconduct of the CITY.

(c) No Waiver. CITY does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by CITY, or the deposit with CITY, of any insurance certificates or policies described in Section 10.

10. INSURANCE

CONSULTANT shall, at CONSULTANT's sole cost and expense, provide insurance as described herein. All insurance is to be placed with insurers authorized to do business in the State of California with an A.M. Best and Company rating of A- or better, Class VII or better, or as otherwise approved by CITY.

Insurance shall include the following (or broader) coverage:

- a) Insurance Services Office Commercial Liability coverage "occurrence" form CG 00 01 or its exact equivalent with an edition date prior to 2004 and with minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- b) Insurance Services Office form number CA 00 01 or equivalent covering Automobile Liability, including hired and non-owned automobile liability with

a minimum limit of \$1,000,000 per accident. If the Service Provider owns no vehicles, this requirement may be satisfied by a non-owned and hired auto endorsement to Service Provider's commercial general liability policy.

- c) Workers' Compensation insurance complying with California worker's compensation laws, including statutory limits for workers' compensation and an Employer's Liability limit of \$1,000,000 per accident or disease.
- d) Professional liability insurance that covers the services to be performed in connection with this agreement, in the minimum amount of \$1,000,000 per claim.

Liability insurance policies required to be provided by CONSULTANT hereunder shall contain or be endorsed to contain the following provisions:

- a) CITY, its employees, officials, agents and member agencies shall be covered as additional insureds. Coverage shall apply to any and all liability arising out of the work performed or related to the contract. Additional insured status under the general liability requirement shall be provided on Insurance Services Office Form CG 20 10, with an edition date prior to 2004, or its equivalent. Additional insured status for completed operations shall be provided either in the additional insured form or through another endorsement such as CG 20 37, or its equivalent.
- b) General and automobile liability insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage will not be limited to CITY's vicarious liability.
- c) Professional liability insurance policies inception date, continuity date, or retroactive date must be before the effective date of this agreement. CONSULTANT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.
- d) Liability coverage shall be primary and non-contributing with any insurance maintained by CITY.
- e) Evidence of coverage (including the workers' compensation and employer's liability policies) shall provide that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after 30 days' prior written notice has been given to CITY. Such provision shall not include any limitation of liability of the insurer for failure to provide such notice.
- f) No liability insurance coverage provided to comply with this AGREEMENT shall prohibit CONSULTANT, or CONSULTANT's employees, or agents,

from waiving the right of recovery prior to a loss. CONSULTANT waives its right of recovery against CITY.

- g) CONSULTANT agrees to deposit with CITY within fifteen days of Notice to Proceed of the Contract certificates of insurance and required endorsements.
- h) There shall be no recourse against CITY for payment of premiums or other amounts with respect to the insurance required to be provided by CONSULTANT hereunder. Any failure, actual or alleged, on the part of CITY to monitor compliance with these requirements will not be deemed as a waiver of any rights on the part of CITY. CITY has no additional obligations by virtue of requiring the insurance set forth herein. In the event any policy of insurance required under this AGREEMENT does not comply with these requirements or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments.
- i) CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this AGREEMENT. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

11. RELATIONSHIP OF CONSULTANT TO CITY

The relationship of the CONSULTANT to CITY shall be that of an independent contractor and that in no event shall CONSULTANT be considered an officer, agent, servant or employee of CITY. CONSULTANT shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

12. CORRECTIONS

In addition to the above indemnification obligations, CONSULTANT shall correct, at its expense, all errors in the work that may be disclosed during CITY's review of CONSULTANT's report or plans. Should CONSULTANT fail to make such correction in a reasonably timely manner, such correction shall be made by CITY, and the cost thereof shall be charged to CONSULTANT or withheld from any funds due to CONSULTANT hereunder.

13. TERMINATION BY CITY

CITY, by notifying CONSULTANT in writing, may upon 10 calendar days notice, terminate without cause any portion or all of the services agreed to be performed under

this AGREEMENT. If termination is for cause, no notice period need be given. In the event of termination, CONSULTANT shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by CITY to CONSULTANT within 30 days following submission of a final statement by CONSULTANT unless termination is for cause. In such event, CONSULTANT shall be compensated only to the extent required by law.

14. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by CONSULTANT of the final payment made under this AGREEMENT shall operate as and be a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything done, furnished, or relating to CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of CITY's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check. However, approval or payment by CITY shall not constitute, nor be deemed, a release of the responsibility and liability of CONSULTANT, its employees, subcontractors, agents and CONSULTANTS for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by CITY for any defect or error in the work prepared by CONSULTANT, its employees, subcontractors, agents and consultants.

15. AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, CONSULTANT shall make available to a representative of CITY for examination of all its records with respect to all matters covered by this AGREEMENT and will permit CITY to audit, examine and/or reproduce such records. CONSULTANT will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least two years after termination or final payment under this AGREEMENT.

16. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this AGREEMENT by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this AGREEMENT, or at law or in equity, shall be cumulative and alternative, and invocation of any such

right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

17. CONFLICT OF INTEREST

CONSULTANT is unaware of any CITY employee or official that has a financial interest in CONSULTANT'S business. During the term of this AGREEMENT and/or as a result of being awarded this AGREEMENT, CONSULTANT shall not offer, encourage or accept any financial interest in CONSULTANT'S business by any CITY employee or official.

18. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this AGREEMENT shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

19. MITIGATION OF DAMAGES

In all situations arising out of this AGREEMENT, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

20. GOVERNING LAW

This AGREEMENT, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Santa Barbara County.

21. NONDISCRIMINATION

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

22. TAXPAYER IDENTIFICATION NUMBER

CONSULTANT shall provide CITY with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. October 2018), as issued by the Internal Revenue Service.

23. NON-APPROPRIATION OF FUNDS

Payments due and payable to CONSULTANT for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of CITY funds. In the event CITY has not appropriated sufficient funds for payment of

CONSULTANT services beyond the current fiscal year, this AGREEMENT shall cover only those costs incurred up to the conclusion of the current fiscal year.

24. MODIFICATION OF AGREEMENT

The tasks described in this AGREEMENT and all other terms of this AGREEMENT may be modified only upon mutual written consent of CITY and CONSULTANT.

25. USE OF THE TERM "CITY"

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

26. PERMITS AND LICENSES

CONSULTANT, at its sole expense, shall obtain and maintain during the term of this AGREEMENT, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this AGREEMENT.

27. CAPTIONS

The captions or headings in this AGREEMENT are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the AGREEMENT.

28. AUTHORIZATION

Each party has expressly authorized the execution of this AGREEMENT on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this AGREEMENT.

29. ENTIRE AGREEMENT BETWEEN PARTIES

Except for CONSULTANT'S proposals and submitted representations for obtaining this AGREEMENT, this AGREEMENT supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services.

30. PARTIAL INVALIDITY

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

31. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Attention: Michelle Greene, City Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117


TO CONSULTANT: Attention: Gerald Comati, President
COM3 Consulting Inc.
1943 Grand Avenue
Santa Barbara, CA 93103

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.

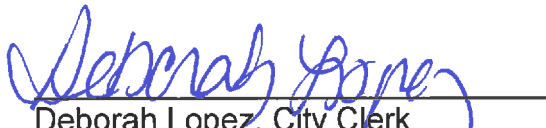
CITY OF GOLETA


Michelle Greene, City Manager

CONSULTANT


Gerald Comati, President

ATTEST


Deborah Lopez, City Clerk


Gerald Comati, Chief Financial Officer

APPROVED AS TO FORM


Winnie Cai, Assistant City Attorney

Exhibit A—Scope of Work

COM3 Consulting Goleta Train Depot Project Scope of Work for Fiscal Years 2019/2020 and 2020/2021

Project Management Assistance for the Goleta Train Depot Project Services may include the following, as approved by City:

- a) Provide continuous interface with City staff regarding project.
- b) Schedule and attend project team meetings and prepare meeting agendas and action items and track action items, as needed.
- c) Provide management of technical consultants.
- d) As needed, coordinate with other agencies including, but not limited to, Santa Barbara County Association of Governments (SBCAG), California State Transportation Agency (CalSTA), Amtrak, Union Pacific Rail Road (UPRR), Santa Barbara Airport, and the University of California Santa Barbara (UCSB).
- e) Prepare project status reports for City as requested.
- f) Prepare, review and comment on any agreements necessary for projects.
- g) Prepare project correspondence for City as requested.
- h) Provide technical review and comment on technical deliverables.
- i) Development/maintenance of project schedules.
- j) Track and monitor project costs.
- k) Track and monitor project funding.
- l) Assist City Staff in preparation of grant funding claims to SBCAG as requested.
- m) Assist in community outreach strategy and efforts.
- n) Attend public meetings as required.

Exhibit B—Schedule of Fees

COM3 Consulting Goleta Train Depot Project Schedule of Fees for Fiscal Years 2019/2020 and 2020/2021

CIP Projects	Hours	Labor Budget	Estimated Expenses	Total Budget
Goleta Train Depot	400	\$71,200	\$600	\$71,800
Total	400	\$71,200	\$600	\$71,800

COM3 Consulting - Labor Rates

Name				\$/Hr	Title
Gerald Comati				178	President
Various				50	Administrative Support

COM3 Consulting - Expenses

Description				Unit	\$/Unit
Mileage				Miles Driven	0.55
Per Diem				Night	120
Mail				EA	actual
Reproduction				EA	actual

**AMENDMENT NO. 1
TO A PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
COM3 CONSULTING, INC.**

This **Amendment No. 1** to the Professional Design Services Agreement by and between the **City of Goleta**, a municipal corporation ("City") and **COM3 CONSULTING** ("Consultant") dated August 20, 2019 ("Agreement," Agreement No. 2019-071) is made on this 24th day of June, 2021.

SECTION 1. RECITALS

A. This Agreement is for the professional project management services for the Goleta Train Depot Project; and

B. The Agreement currently provides in Section 6 for the termination of the Agreement on June 30, 2021; and

C. The parties desire to amend the Agreement so as to extend the termination of the Agreement to October 31, 2021; and

D. The City Manager approved this Amendment No. 1, on this 24th day of June, 2021.

AMENDED TERMS

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

1. **Section 6. TERM, PROGRESS AND COMPLETION** of the Agreement is amended to extend the term for an additional four (4) months to read in its entirety.

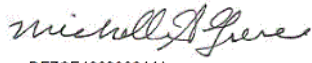
The term of this Agreement is from the date first written above to October 31, 2021, unless the term of this Agreement is extended or the Agreement is terminated as provided for herein.

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. All services shall be completed within the term of this Agreement following the notice to proceed.

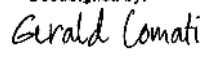
2. Except as otherwise specifically provided herein, all other provisions of the Agreement shall remain in full force and effect

In concurrence and witness whereof, this Amendment No. 1 has been executed by the parties effective on the date and year first above written.


CITY OF GOLETA

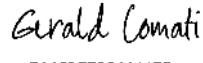
DocuSigned by:

DE7CE468308944A...
Michelle Greene, City Manager

CONSULTANT

DocuSigned by:

FC85D7FBB8914E5...
Gerald Comati, President

ATTEST:

DocuSigned by:

A3E09F3473CA47E...
Deborah Lopez, City Clerk

DocuSigned by:

FC85D7FBB8914E5...
Gerald Comati, Chief Financial Officer

APPROVED AS TO FORM:
MICHAEL JENKINS, CITY ATTORNEY

DocuSigned by:

A1BF8F896161498...
Winnie Cai, Assistant City Attorney