

# Monterey County

*Monterey County Government Center  
Board of Supervisors Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901*



## Meeting Agenda - Final

Friday, March 5, 2021

2:30 PM

Special Meeting

<https://montereycty.zoom.us/j/224397747>

## Board of Supervisors

*Chair Supervisor Wendy Root Askew - District 4*

*Vice Chair Supervisor Mary L. Adams - District 5*

*Supervisor Luis A. Alejo - District 1*

*Supervisor John M. Phillips - District 2*

*Supervisor Chris Lopez - District 3*

**Important Notice Regarding COVID 19**

Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID 19 virus, please do the following:

1. While the Board chambers remain open, you are strongly encouraged to observe the live stream of the Board of Supervisors meetings at [http://monterey.granicus.com/ViewPublisher.php?view\\_id=19](http://monterey.granicus.com/ViewPublisher.php?view_id=19), <http://www.mgtvonline.com/>, [www.youtube.com/c/MontereyCountyTV](http://www.youtube.com/c/MontereyCountyTV) or <https://www.facebook.com/MontereyCoInfo/>

If you attend the Board of Supervisors meeting in person, you will be required to maintain appropriate social distancing, i.e., maintain a 6-foot distance between yourself and other individuals.

2. If you choose not to attend the Board of Supervisors meeting but desire to make general public comment, or comment on a specific item on the agenda, you may do so in three ways:

a. submit your comment via email by 5:00 p.m. on the Monday prior to the Board meeting. Please submit your comment to the Clerk of the Board at [cob@co.monterey.ca.us](mailto:cob@co.monterey.ca.us). In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Your comment will be placed into the record at the Board meeting.

b. if you are watching the live stream of the Board meeting, you may submit your comment, limited to 250 words or less, to the Clerk of the Board at [publiccomment@co.monterey.ca.us](mailto:publiccomment@co.monterey.ca.us). General public comment must be received during the General Public Comment item on the agenda, and comments on specific agenda items must be received as it is being heard. In an effort to assist the Clerk in identifying the agenda item relating to your public comment please indicate in the Subject Line, the meeting body (i.e. Board of Supervisors Agenda) and item number (i.e. Item No. 10). Every effort will be made to read your comment into the record, but some comments may not be read due to time limitations. Comments received after an agenda item will be made part of the record if received prior to the end of the meeting.

c. you may participate through ZOOM. For ZOOM participation please join by computer audio at: <https://montereycty.zoom.us/j/224397747>

OR to participate by phone call any of these numbers below:

- +1 669 900 6833 US (San Jose)
- +1 346 248 7799 US (Houston)
- +1 312 626 6799 US (Chicago)
- +1 929 205 6099 US (New York)
- +1 253 215 8782 US
- +1 301 715 8592 US

Enter this Meeting ID number: 224397747 when prompted. Please note there is no Participant Code, you will just hit # again after the recording prompts you.

You will be placed in the meeting as an attendee; when you are ready to make a public comment if joined by computer audio please Raise your Hand; and by phone please push \*9 on your keypad.

3. You are encouraged to participate via Zoom as the Monterey Room on the 2nd floor of the County Government Center will not be available for overflow seating during this meeting.

### Aviso importante sobre COVID 19

Basado en la guía del Departamento de Salud Pública de California y la Oficina del Gobernador de California, para minimizar la propagación del virus COVID 19, haga lo siguiente:

1. Mientras las cámaras de la Junta permanecen abiertas, le recomendamos que observe la transmisión en vivo de las reuniones de la Junta de Supervisores en [http://monterey.granicus.com/ViewPublisher.php?view\\_id=19](http://monterey.granicus.com/ViewPublisher.php?view_id=19), <http://www.mgtvonline.com/>, [www.youtube.com/c/MontereyCountyTV](http://www.youtube.com/c/MontereyCountyTV) o <https://www.facebook.com/MontereyCoInfo/>

Si asiste a la reunión de la Junta de Supervisores en persona, deberá mantener un distanciamiento social apropiado, es decir, mantener una distancia de 6 pies entre usted y otras personas.

2. Si elige no asistir a la reunión de la Junta de Supervisores pero desea hacer un comentario público general o comentar un tema específico de la agenda, puede hacerlo de tres maneras:

a. envíe su comentario por correo electrónico antes de las 5:00 p.m. el lunes anterior a la reunión de la Junta. Envíe su comentario al Secretario de la Junta a [cob@co.monterey.ca.us](mailto:cob@co.monterey.ca.us). En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Su comentario se colocará en el registro en la reunión de la Junta.

b. Si está viendo la transmisión en vivo de la reunión de la Junta, puede enviar su comentario, limitado a 250 palabras o menos, al Secretario de la Junta en [publiccomment@co.monterey.ca.us](mailto:publiccomment@co.monterey.ca.us). Los comentarios del público en general deben recibirse durante el elemento de Comentarios del público en general en la agenda, y los comentarios sobre los elementos específicos de la agenda deben recibirse mientras se escuchan. En un esfuerzo por ayudar al Secretario a identificar el ítem de la agenda relacionado con su comentario público, indique en la línea de asunto, el cuerpo de la reunión (es decir, la agenda de la Junta de Supervisores) y el número de ítem (es decir, el ítem No. 10). Se hará todo lo posible para leer su comentario en el registro, pero algunos comentarios pueden no leerse debido a limitaciones de tiempo. Los comentarios recibidos después de un ítem de la

agenda serán parte del registro si se reciben antes del final de la reunión.

c. Puedes participar a través de ZOOM. Para participar en ZOOM, únase por audio de computadora en: <https://montereycty.zoom.us/j/224397747>

O para participar por teléfono, llame a cualquiera de estos números a continuación:

+1 669 900 6833 EE. UU. (San José)  
+1346248 7799 EE. UU. (Houston)  
+1312626 6799 EE. UU. (Chicago)  
+1929205 6099 EE. UU. (Nueva York)  
+1 253 215 8782 EE. UU.  
+1301715 8592 EE. UU.

Ingrese este número de ID de reunión: 224397747 cuando se le solicite. Tenga en cuenta que no hay un Código de participante, simplemente presionará # nuevamente después de que la grabación lo solicite.

Se lo colocará en la reunión como asistente; cuando esté listo para hacer un comentario público si se une al audio de la computadora, levante la mano; y por teléfono presione \* 9 en su teclado.

3. Se le anima a participar a través de Zoom, ya que la sala de Monterey en el segundo piso del Centro de Gobierno del Condado no estará disponible para asientos adicionales durante esta reunión.

The Board of Supervisors welcomes you to its meetings, which are regularly scheduled each Tuesday. Your interest is encouraged and appreciated. Meetings are held in the Board Chambers located on the first floor of the Monterey County Government Center, 168 W. Alisal St., Salinas, CA 93901.

As a courtesy to others, please turn off all cell phones and pagers prior to entering the Board Chambers.

**ALTERNATE AGENDA FORMATS:** If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals with a disability requiring a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may make these requests to the Clerk of the Board Office.

**CEREMONIAL/APPOINTMENTS/OTHER BOARD MATTERS:** These items may include significant financial and administrative actions, and items of special interest, usually approved by majority vote for each program. The regular calendar also includes "Scheduled Items," which are noticed hearings and public hearings.

**CONSENT CALENDAR:** These matters include routine financial and administrative actions, appear in the supplemental section by program areas, and are usually approved by majority vote.

**TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA:** Walk to the podium and wait for recognition by the Chair. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chair, with equal time allocated to opposing sides of an issue insofar as possible. Allocated time may not be reserved or granted to others, except as permitted by the Chair. On matters for which a public hearing is required, please note that a court challenge to the Board's action may be limited to only those issues raised at the public hearing or in correspondence delivered to the Board at or before the public hearing.

**TO ADDRESS THE BOARD DURING PUBLIC COMMENT:** Members of the public may address comments to the Board concerning each agenda item and may comment when the Chair calls for general public comment for items that are not on the day's agenda. The timing of public comment shall be at the discretion of the Chair.

**DOCUMENT DISTRIBUTION:** Documents related to agenda items that are distributed to the Board less than 72 hours prior to the meeting shall be available for public inspection at the Clerk of the Board Office, 168 W. Alisal Street, 1st Floor, Salinas, CA. Documents distributed to the Board at the meeting by County staff will be available at the meeting; documents distributed to the Board by members of the public shall be made available after the meeting.

**INTERPRETATION SERVICE POLICY:** The Monterey County Board of Supervisors invites and encourages the participation of Monterey County residents at its meetings. If you require the assistance of an interpreter, please contact the Clerk of the Board located in the Monterey County Government Center, 168 W. Alisal St., Salinas - or by phone at (831) 755-5066. The Clerk will make every effort to accommodate requests for interpreter assistance. Requests should be made as soon as possible, and at a minimum 24 hours in advance of any meeting of the Board of Supervisors.

La Cámara de Supervisores del Condado de Monterey invita y apoya la participación de los residentes del Condado de Monterey en sus reuniones. Si usted requiere la asistencia de un interprete, por favor comuníquese con la oficina de la Asistente de la Cámara de Supervisores localizada en el Centro de Gobierno del Condado de Monterey, (Monterey County Government Center), 168 W. Alisal, Salinas – o por teléfono al (831) 755-5066. La Asistente hará el esfuerzo para acomodar los pedidos de asistencia de un interprete.

Los pedidos se deberán hacer lo mas pronto posible, y a lo mínimo 24 horas de anticipo de cualquier reunión de la Cámara de Supervisores.

All documents submitted by the public must have no less than ten (10) copies.

The Clerk of the Board of Supervisors must receive all materials for the agenda packet by noon on the Tuesday one week prior to the Tuesday Board meeting.

Any agenda related writings or documents distributed to members of the County of Monterey Board of Supervisors regarding any open session item on this agenda will be made available for public inspection in the Clerk of the Board's Office located at 168 W. Alisal St., 1st Floor, Salinas, California. during normal business hours and in the Board Chambers on the day of the Board Meeting, pursuant to Government Code §54957.5

**NOTE: All agenda titles related to numbered agenda items are live web links. Click on the title to be directed to the corresponding Board Report.**

**PUBLIC COMMENT: Members of the public may address comments to the Board concerning each agenda item. The timing of public comment shall be at the discretion of the Chair.**

**Pursuant to Governor Newsom's Executive Order No. N-29-20, some or all Supervisors may participate in the meeting by telephone or video conference.**

### **2:30 P.M. - Call to Order**

#### **Roll Call**

#### **Pledge of Allegiance**

#### **Additions and Corrections by Clerk**

*The Clerk of the Board will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.*

#### **Consent Calendar- (See Supplemental Sheet)**

#### **Additions and Corrections for Closed Session by County Counsel**

*County Counsel will announce agenda corrections and proposed additions, which may be acted on by the Board as provided in Sections 54954.2 of the California Government Code.*

#### **Closed Session**

1. Closed Session under Government Code section 54950, relating to the following items:
  - a. Pursuant to Government Code section 54957(a), the Board will confer with County Counsel regarding matters posing a threat to the security of public buildings, essential public services, or the public's right of access to public services or facilities.

#### **The Board Recesses for Closed Session Agenda Items**

*Closed Session may be held at the conclusion of the Board's Regular Agenda, or at any other time during the course of the meeting, before or after the scheduled time, announced by the Chairperson of the Board. The public may comment on Closed Session items prior to the Board's recess to Closed Session.*

#### **Following Closed Session - Reconvene**

#### **Roll Call**

**Following Closed Session - Scheduled Matters**

2.
  - a. Briefing and update on COVID-19, including impacts, and action, proposals and plans to address (verbal report);
  - b. Provide direction to staff to address COVID-19

**Attachments:** [CA - COVID-19 - Vaccines, Equity, Transparency](#)  
[CDPH, Monterey Vaccine Update](#)

**Read Out from Closed Session by County Counsel**

*Read out by County Counsel will only occur if there is reportable action(s).*

**Adjournment**



**Supplemental Sheet, Consent Calendar****Natividad Medical Center**

3. a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-14062) with Modular Devices, Inc. for the continued lease of a mobile angiography/interventional radiology lab (IR) unit and a mobile magnetic resonance imaging (MRI) unit at NMC, with no change to the term of the agreement, and adding \$477,000 for a revised total agreement amount not to exceed \$4,262,000.

**Attachments:** [Board Report](#)  
[Modular Devices Amendment No. 2.pdf](#)  
[Modular Devices Amendment 1.pdf](#)  
[Modular Devices Lease Agreement.pdf](#)

4. a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with Secure Exchange Solutions, Inc. for secure messaging services at NMC for an amount not to exceed \$58,500 with an agreement term retroactive to December 1, 2020 through November 31, 2023.  
b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and limitations on damages provisions within the agreement.

**Attachments:** [Board Report](#)  
[Secure Exchange Solutions SaaS Agreement.pdf](#)  
[Secure Exchange Solutions BAA.pdf](#)

**Housing and Community Development**

5. a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;  
b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to

the term of March 10, 2020 to September 30, 2021; and  
c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

**Attachments:** [Board Report](#)  
[Attachment A - Amendment No. 2 to PSA](#)  
[Attachment B - Amendment No. 2 to FA](#)  
[Attachment C - Amendment No. 1 to PSA](#)  
[Attachment D - Amendment No. 1 to FA](#)  
[Attachment E - PSA](#)  
[Attachment F - FA](#)

### **RMA – Public Works and Facilities**

6. a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and  
b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

**Attachments:** [Board Report](#)  
[Attachment A - A2 to SA \(Signed\)](#)  
[Attachment B - A1 to SA](#)  
[Attachment C - Summary of SA Annual Expenditures and Balance](#)  
[Attachment D - Summary of SA](#)  
[Attachment E-Summary of SA Annual Expenditures and Balance](#)



# Monterey County

## Item No.1

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: CS 21-013

March 05, 2021

**Introduced:** 3/2/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

Closed Session under Government Code section 54950, relating to the following items:

- a. Pursuant to Government Code section 54957(a), the Board will confer with County Counsel regarding matters posing a threat to the security of public buildings, essential public services, or the public's right of access to public services or facilities.



# Monterey County

## Item No.2

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: 21-216

March 05, 2021

**Introduced:** 3/3/2021

**Current Status:** Scheduled PM

**Version:** 1

**Matter Type:** General Agenda Item

- a. Briefing and update on COVID-19, including impacts, and action, proposals and plans to address (verbal report);
- b. Provide direction to staff to address COVID-19

# MONTEREY COUNTY

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## BOARD OF SUPERVISORS

LUIS A. ALEJO, *District 1*  
JOHN M. PHILLIPS, *District 2*  
CHRIS M. LOPEZ, *District 3*  
WENDY ROOT ASKEW, *Chair, District 4*  
MARY ADAMS, *Vice Chair, District 5*

January 28, 2021

The Honorable Gavin Newsom  
Governor of California  
State Capitol  
Sacramento, CA 95814

**RE: COVID-19 Vaccination Requests**

Dear Governor Newsom:

On behalf of the Monterey County Board of Supervisors, I write to respectfully request your immediate assistance on several critical issues related to the equitable supply and distribution of COVID-19 vaccines to keep our residents safe, especially our farmworker community which has been disproportionately impacted by the pandemic.

**The Significance of Monterey County Agriculture.** With an extensive farming history dating back to the 1850s, Monterey County currently grows over 150 specialty crops and exports nearly 400 billion pounds of produce from the Salinas Valley every year. Monterey County is one of the nation's top agricultural producers. The agricultural industry is the county's largest economic and employment sector, in 2018 generating \$11.7 billion and employing 63,921 individuals. Keeping the agricultural industry and its workers safe and productive is vital to ensure the food supply of the county, state, nation and world.

**Impacts on the Monterey County Economy.** COVID-19 infection rates among the agricultural workforce has had devastating effects, impacting far more than the County's agricultural industry. Due to high infection rates in the Salinas Valley, Monterey County largely has remained in the most restrictive tier of California's Blueprint for a Safer Economy and will likely remain there unless the agricultural workforce can quickly be vaccinated. Even though infection rates in the Monterey Peninsula were significantly lower, the County's categorization in the most restrictive Purple Tier and later shelter-in-place resulted in an estimated \$1.8 billion loss to the County's hospitality industry, thousands of lost jobs and business closures.

**Concerns in Preparation for the Agricultural Season.** Farmworkers are the fulcrum of the food chain. Over the past months it has become clear that our County's infection rates are the highest among the agricultural workforce and their family members. Ensuring the health of agricultural workers is of paramount importance to ensure the health of all county residents.

- **New York Times Article.** Starting in March we expect a large influx of seasonal farmworkers coming to the Salinas Valley from Yuma, Arizona to work in our agricultural industry. According to a January 22, 2021 [New York Times](#) article, "... the Yuma area has identified coronavirus cases at a higher rate than any other U.S. region." The report further states "Arizona has seen among the highest increases in newly reported deaths of any state over the past two weeks."

- **U.C. San Francisco Study.** According to a new [U.C. San Francisco Study](#), *“Latino Californians experienced a 36% increase in mortality during the pandemic (RR=1.36; 95% PI: 1.29–1.44), with a 59% increase among Latino food/agriculture workers (RR=1.59; 95% PI: 1.47–1.75).”* The report concludes that, *“Certain occupational sectors have been associated with high excess mortality during the pandemic, particularly among racial and ethnic groups also disproportionately affected by COVID-19. In-person essential work is a likely venue of transmission of coronavirus infection and must be addressed through strict enforcement of health orders in workplace settings and protection of in-person workers. Vaccine distribution prioritizing in-person essential workers will be important for reducing excess COVID mortality.”*

**Inequities in Vaccine Allocation Impacting Monterey County.** Monterey County has been placed at a distinct disadvantage compared to Santa Clara, Santa Cruz, and San Luis Obispo counties and other counties around the state. These factors make the calculation for distribution to Monterey County patently unfair to County residents.

- **Multi-County Entities (MCEs).** Residents of counties with MCEs, such as those listed above, benefit from an influx of vaccines through MCEs (e.g. Kaiser, Common Spirit/Dignity, Sutter, etc.) **and** from the county’s allocation. While Monterey County only gets an allocation after the MCE cut has been taken off the top at the state level.
- **Allocations to State Prisons.** The same is true for allocations to our State Prison (e.g., Soledad State Prison).
- **Inequities in Population County.** Additionally, because the County’s seasonal agricultural workers are not included in the County’s population, there is no allocation for the estimated 35,000+ seasonal workers which migrate to the County starting in March.

**Request for Special Allocation of Vaccine for Agricultural Workers.** Monterey County is requesting a special allocation of vaccine for agricultural workers. The County, our hospital and health partners, and industry leaders from agriculture, hospitality and education all agree that it is imperative that we vaccinate the most at-risk for exposure who are our valued farmworkers, quickly and safely, for the wellbeing of the entire community.

Previously, the County requested that farmworkers be prioritized for receiving the COVID-19 vaccination in order to adequately keep our farmworkers safe. While this community was included in Phase 1B of the State’s initial vaccination plan, and the State is currently in that Phase, the County is not receiving an adequate amount of vaccine to quickly and effectively vaccinate this population. We request the State’s immediate assistance to supply vaccines for the current agricultural workforce population, and for the additional influx of migrant agricultural workers coming to our community starting in the next few weeks.

**Data and Transparency.** The County requests more transparency in the number of vaccine allocations per county to ensure we receive our fair and equitable share. It is important that the state and local health departments have a clear line of sight as to what is being allocated, received, and administered statewide so that we can identify when there are data inconsistencies and/or vaccine is not being administered in a timely manner. This will allow further investigation and identification of the challenges and will allow for more improvement of the system.

In addition, timely and accurate data supports local health departments in making key decisions at the local level. For example, because of delays with the federal pharmacy partnership, many long-term care and congregate living facilities have asked local health departments to step in and vaccinate their staff and residents. However, local health departments have no line of sight as to the progress being made by CVS/Walgreens and/or how much vaccine is being distributed in their jurisdictions. In addition, multi-county entities (MCEs) have requested additional vaccine from local health departments and again, due to a lack of data transparency, it is difficult to assess whether they are being provided enough vaccine through the MCE process or whether the MCE’s allocation

process needs to be reevaluated. Prisons are also receiving vaccines that are counted as part of the overall County share of doses.

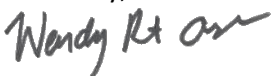
**Monterey County is Ready with Plans, Capacity and Partnerships.** The County stands ready to partner with the State to assist in the distribution and administration of the COVID-19 vaccine. We have detailed plans in place ([Monterey County Health Department Strategy for Implementing California's COVID-19 Vaccination Plan](#)) to achieve this including strong partnerships with local entities, hospitals and health care providers, large employers (e.g., The Pebble Beach Company) – and specifically in the agriculture community with the Grower-Shipper Association of Central California, D'Arrigo and Taylor Farms. All of which are ready to stand-up vaccination sites prioritizing those with occupational risk exposure and residing in vulnerable communities as determined by the California Healthy Places Index. The County's plan can be easily scaled as we receive larger amounts of vaccine. Additionally, we request state and federal support to scale up mass vaccination sites, as have been coordinated in other areas of the State.

**Local Support.** The County has received overwhelming local support from our cities, hospitality industry, health care partners, and education community to assist the agriculture community as quickly and efficiently as possible. The Monterey County Board of Supervisors recently received letters from the Monterey County Hospitality Association, as well as from the Mayors of Carmel-by-the-Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Salinas, Sand City, and Seaside urging COVID-19 testing and vaccinations for the agriculture community.

**Ready to Partner with the State.** The County stands ready to partner with the State and other local entities to administer COVID-19 vaccines, but in order to do so, we need 1) an adequate vaccine supply; 2) an equitable distribution process across the state; 3) data and transparency about vaccine distributions; and 4) vaccine prioritization for the agricultural workforce.

On behalf of the County of Monterey, we appreciate your consideration of our requests and look forward to working together to keep our communities safe. Should you have any questions, please feel free to contact Senior Policy Advisor, Ashley Walker of Nossaman LLP at 916-442-8888.

Sincerely,



Wendy Root Askew  
Chair, Board of Supervisors

CC: Hon. Anna Caballero, 12<sup>th</sup> Senate District  
Hon. John Laird, 17<sup>th</sup> Senate District  
Hon. Robert Rivas, 30<sup>th</sup> Assembly District  
Hon. Mark Stone, 29<sup>th</sup> Assembly District  
California State Association of Counties (CSAC)  
Rural Counties Representative of California (RCRC)



**TOMÁS J. ARAGÓN, M.D., Dr.P.H**  
*Director and State Public Health Officer*

State of California—Health and Human Services Agency  
**California Department of Public Health**



**GAVIN NEWSOM**  
*Governor*

February 26, 2021

The Honorable Wendy Root Askew  
Monterey County Board of Supervisors, Chair  
Post Office Box 1728  
Salinas, California 93902

Dear Supervisor Root Askew:

Thank you for your recent letter expressing concern regarding the implementation of the COVID vaccine program with the farmworker community.

Currently, California is receiving weekly vaccine allocations of just over 1.3 million doses (minus the Long-Term Care doses), that has to be divided up equitably between 70 entities (61 health jurisdictions and 9 Multi County Entities). There is a constant, ongoing need for more vaccine. We are seeing increases in our weekly dosage allocations from the Biden Administration and are hopeful that the dose allocation amounts will continue to increase.

Governor Newsom recently announced that the state is partnering with OptumServe and local counties to open up to 11 vaccination sites within the next week to serve some of the hardest-hit or most at-risk communities in the Central Valley, in addition to other steps to bolster vaccination efforts in the region. As soon as next week, the state is also making available an additional 34,000 doses on a one-time basis to vaccinate food and agricultural workers through the deployment of OptumServe mobile teams. These doses are in addition to existing county allocations.

The state is also increasing vaccine allocations to the Central Valley by 58 percent above last week, based on recent changes in our state's allocation methodology that better reflect this region's workforce. The state's vaccine

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CDPH Office of Legislative and Governmental Affairs, MS 0500 • P.O. Box 997377 •  
Sacramento, CA 95899-7377  
(916) 440-7502 • (916) 440-7505 FAX  
Internet Address: [www.cdph.ca.gov](http://www.cdph.ca.gov)





allocation formula began factoring in the employment sectors in Phase 1b, Tier 1 (education, emergency services and food and agriculture). The new formula weights age 65+ at 70 percent and employment sectors at 30 percent, which increases allocations to the Central Valley due to its heavy concentration of food and agricultural workers.

Also, beginning next month, healthcare providers may use their clinical judgement to vaccinate individuals aged 16-64 who are deemed to be at the very highest risk for morbidity and mortality from COVID-19 as a direct result of one or more of the severe health conditions. All future groups will become eligible based on age and the entire state will add eligible groups simultaneously.

This statewide standard will move in unison across all 58 counties. This will allow the state to scale capacity up and scale down quickly while also ensuring the vaccine goes to disproportionately impacted communities. While the state will drive faster administration of available vaccine supply, overall vaccine supply into California will continue to be dictated by the Federal government.

The new approach will continue to focus on equity. Vaccines will be allocated to make sure low-income neighborhoods and communities of color have access to vaccines, and providers will be compensated in part by how well they are able to reach underserved communities. Real time data will allow for adjustments to be made if initial equity targets are not met.

California is building a statewide vaccine administration network to speed the equitable delivery of current supply to eligible Californians. The state, through a Third-Party Administrator (TPA), will allocate vaccines directly to providers to maximize distribution efficiency by largely eliminating redistribution through local public health systems. This will also give the state greater visibility into what is happening on the ground.

The vaccine provider network is expected to include public health systems, pharmacies, health systems, public hospitals, FQHCs, pharmacies and pop-up and mobile sites with an immediate focus on allocating to high-throughput providers. This network will expand as vaccine supply grows and vaccine characteristics change to meet the needs of individual communities. Local public health systems will continue to play a key role as vaccine providers and by providing their unique insights and knowledge to ensure the network reaches disproportionately affected Californians.

California will be launching the My Turn pilot, vaccine registration program statewide. Currently being piloted in nine counties, people can use My Turn to determine their eligibility and to make a vaccine appointment. Even prior to being launched statewide, users now have the option to leave their contact information to be notified when it is their turn.

As to our current outreach efforts to these essential workers, we are partnering with cross-cultural providers to reach key communities. Local health departments are working with trusted messengers to help educate and inform individuals about vaccine locations. An important component of our outreach is the Promotoras presence and participation in vaccine campaigns. They will help disseminate information about vaccinations, link individuals to vaccine distribution centers, and serve as cultural brokers within health systems. Their involvement in vaccine campaigns will help diminish fears and concerns of farmworkers and hard-to-reach communities.

We are already broadcasting several multi-lingual PSA's, radio segments and digital ads. We will be developing more in the days, weeks, and months to come which will amount to a comprehensive public education campaign that includes media (paid, owned, earned, and social) as well as on-the-ground efforts with community-based organizations as partners and trusted messengers. The campaign has several central focus points, including helping all Californians understand that the vaccines are safe and effective.

Again, I thank you for your concern on behalf of this vulnerable and essential community of California during this unprecedented health crisis.

Sincerely,

A handwritten signature in blue ink that reads "Tomás Aragón". The signature is written in a cursive, flowing style.

Tomás J. Aragón, M.D., Dr.P.H.  
Director and State Public Health Officer  
California Department of Public Health



# Monterey County

## Item No.3

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-043

March 05, 2021

**Introduced:** 2/12/2021

**Current Status:** Natividad Medical Center -  
Consent

**Version:** 1

**Matter Type:** BoS Agreement

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-14062) with Modular Devices, Inc. for the continued lease of a mobile angiography/interventional radiology lab (IR) unit and a mobile magnetic resonance imaging (MRI) unit at NMC, with no change to the term of the agreement, and adding \$477,000 for a revised total agreement amount not to exceed \$4,262,000.

#### **RECOMMENDATION:**

##### **It is recommended the Board of Supervisors:**

a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-14062) with Modular Devices, Inc. for the continued lease of a mobile angiography/interventional radiology lab (IR) unit and a mobile magnetic resonance imaging (MRI) unit at NMC, with no change to the term of the agreement, and adding \$477,000 for a revised total agreement amount not to exceed \$4,262,000.

#### **SUMMARY/DISCUSSION:**

NMC entered into a lease agreement with Modular Devices back in 2013 to provide a Mobile Computerized Tomography (CT) laboratory, a mobile Angiography/Interventional Radiology (IR) Laboratory services and a Magnetic Resonance Imaging (MRI) mobile unit to enhance the imaging capabilities in the Diagnostic Imaging Department while the Imaging Department was undergoing a significant modernization project.

NMC began construction in the main Radiology department in October 2018. The department must remain operational during the construction project. Natividad needs the mobile trailers to be able to offer full radiology services during the construction process. Unfortunately, the construction project has taken longer than anticipated due to COVID-19, and the hospital needs to add money to the lease agreements for the mobile units (MRI and IR) through the end of June 2021.

The cost of the agreement is broken down into the following equipment leases: the monthly lease for the Mobile Angiography is \$31,500 or \$378,000 annually; and the monthly least for the Mobile MRI is \$48,000 or \$576,000 annually.

**OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this amendment No. 2 as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. This amendment No. 2 has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

**FINANCING:**

The cost for this amendment No. 2 is \$477,000, which is included in the Fiscal Year 2020-21 Adopted Budget.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This agreement will support the County strategic initiative for Health and Human Services by offering advanced radiology procedures (MRI and IR) to the residents of Monterey County while the Radiology Department is undergoing construction. These mobile trailers will ensure that services are not interrupted during the construction project.

- Economic Development
- Administration
- Health and Human Services
- Infrastructure
- Public Safety

Prepared by: Andrea Rosenberg, Assistant Administrator, 783-2562

Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments:

- Modular Devices Inc. Amendment No. 2
- Modular Devices Inc. Amendment No. 1
- Modular Devices Inc. Agreement

Attachments on file with the Clerk of the Board



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-043

March 02, 2021

Introduced: 2/12/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

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### **RECOMMENDATION:**

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a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute amendment No. 2 to the agreement (A-14062) with Modular Devices, Inc. for the continued lease of a mobile angiography/interventional radiology lab (IR) unit and a mobile magnetic resonance imaging (MRI) unit at NMC, with no change to the term of the agreement, and adding \$477,000 for a revised total agreement amount not to exceed \$4,262,000.

### **SUMMARY/DISCUSSION:**

NMC entered into a lease agreement with Modular Devices back in 2013 to provide a Mobile Computerized Tomography (CT) laboratory, a mobile Angiography/Interventional Radiology (IR) Laboratory services and a Magnetic Resonance Imaging (MRI) mobile unit to enhance the imaging capabilities in the Diagnostic Imaging Department while the Imaging Department was undergoing a significant modernization project.

NMC began construction in the main Radiology department in October 2018. The department must remain operational during the construction project. Natividad needs the mobile trailers to be able to offer full radiology services during the construction process. Unfortunately, the construction project has taken longer than anticipated due to COVID-19, and the hospital needs to add money to the lease agreements for the mobile units (MRI and IR) through the end of June 2021.

The cost of the agreement is broken down into the following equipment leases: the monthly lease for the Mobile Angiography is \$31,500 or \$378,000 annually; and the monthly least for the Mobile MRI is \$48,000 or \$576,000 annually.

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- Economic Development
- Administration
- Health and Human Services
- Infrastructure
- Public Safety

Prepared by: Andrea Rosenberg, Assistant Administrator, 783-2562

Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2504

Attachments:

- Modular Devices Inc. Amendment No. 2
- Modular Devices Inc. Amendment No. 1
- Modular Devices Inc. Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray  
Dr. Gary R. Gray, Chief Executive Officer

2/19/21  
Date

**AMENDMENT NO. 2  
TO EQUIPMENT LEASE AGREEMENT  
BETWEEN MODULAR DEVICES, INC. AND  
NATIVIDAD MEDICAL CENTER  
FOR  
LEASE OF RADIOLOGY TRAILERS**

This Amendment No. 2 to the Equipment Lease Agreement (“Lease”) which was effective on August 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter “NMC”), and Modular Devices, Inc. (hereinafter “CONTRACTOR”); (collectively, the County, NMC and CONTRACTOR are referred to as the “Parties”), with respect to the following:

**RECITALS**

**WHEREAS**, the Lease was executed for the lease of a mobile computerized tomography (CT) unit, a mobile angiography interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit with a term of August 1, 2018 through July 31, 2020 and a total Lease amount not to exceed \$2,868,000; and

**WHEREAS**, NMC and CONTRACTOR amended the Lease on June 9, 2020 via Amendment No. 1 to extend the term for an additional eleven (11) month period through June 30, 2021 to allow for services to continue and to add an additional \$917,000 thereby increasing the total Lease amount to \$3,785,000; and

**WHEREAS**, NMC and CONTRACTOR currently wish to amend the Lease to add \$477,000 for the continued use of the IR and MRI units through June 30, 2021 for a revised total Lease amount of \$4,262,000, with no change to the term of the Lease.

**AGREEMENT**

**NOW, THEREFORE**, the Parties agree to amend the Lease as follows:

1. **Section 2.** Section 2 to the Lease is hereby amended and restated to read in its entirety as follows:

“2. **TERM AND TOTAL AMOUNT PAYABLE.** The term of this Lease is August 1, 2018 (“Effective Date”) through June 30, 2021. The total amount payable by NMC to CONTRACTOR under this Lease shall not exceed the sum of \$4,262,000.”
2. Except as provided herein, all remaining terms, conditions and provisions of the Lease are unchanged and unaffected by this Amendment No. 2 and shall continue in full force and effect as set forth in the Lease.
3. A copy of this Amendment No. 2 shall be attached to the Lease.
4. This Amendment No. 2 shall be effective when signed by the last party.

*The remainder of this page was intentionally left blank.*

*~ Signature page to follow ~*

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 2 on the basis set forth in this document and have executed this Amendment No. 2 on the day and year set forth herein.

**NATIVIDAD MEDICAL CENTER**

By: \_\_\_\_\_  
Gary R. Gray, DO, CEO

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL PROVISIONS**

By: Stacy L. Saelle  
Monterey County Deputy County Counsel

Date: 1/13/2021

**APPROVED AS TO FISCAL PROVISIONS**

By: Gary K Giboney  
Monterey County Deputy Auditor/Controller

Date: 1-13-2021

**CONTRACTOR**

Modular Devices, Inc.

**CONTRACTOR's Business Name**

\*\*\*See instructions below\*\*\*

By: [Signature]  
(Signature of: Chair, President, or Vice-President)

Greg S. Mink CEO  
Name and Title

Date: 1-5-2021

By: [Signature]  
(Signature of: Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

CFO  
Name and Title

Date: 1/5/21

**\*\*\*Instructions\*\*\***

**If CONTRACTOR** is a corporation; including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).

**If CONTRACTOR** is a partnership; the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership (two signatures required).

**If CONTRACTOR** is contracting in an individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).





## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

**Agreement No.: A-14062, Amendment No. 1**

Authorize the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute amendment No. 1 to the agreement (A-14062) with Modular Devices, Inc. for the lease of a mobile computerized tomography (CT) unit, a mobile angiography/interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit at NMC, extending the agreement an additional eleven (11) month period (August 1, 2020 through June 30, 2021) for a revised full agreement term of August 1, 2018 through June 30, 2021, and adding \$917,000 for a revised total agreement amount not to exceed \$3,785,000.

PASSED AND ADOPTED on this 9<sup>th</sup> day of June 2020, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting June 9, 2020.

Dated: June 9, 2020

File ID: A 20-125

Agenda Item No.: 15

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Joel G. Pablo, Deputy

**AMENDMENT NO. 1  
TO SERVICES AGREEMENT  
BETWEEN MODULAR DEVICES, INC. AND  
NATIVIDAD MEDICAL CENTER  
FOR  
LEASE OF RADIOLOGY TRAILERS**

This Amendment No. 1 to the Services Agreement ("Agreement") which was effective on August 1, 2018 is entered into by and between the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"), and Modular Devices, Inc. (hereinafter "CONTRACTOR"); (collectively, the County, NMC and CONTRACTOR are referred to as the "Parties"), with respect to the following:

**RECITALS**

**WHEREAS**, the Agreement was executed for the lease of a mobile computerized tomography (CT) unit, a mobile angiography interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit with a term of August 1, 2018 through July 31, 2020 and a total Agreement amount not to exceed \$2,868,000; and

**WHEREAS**, NMC and CONTRACTOR currently wish to amend the Agreement to extend it for an additional eleven (11) month period through June 30, 2021 to allow for services to continue with no additions to the original scope of work with a \$917,000 increase for the added services for a total Agreement amount of \$3,785,000.

**AGREEMENT**

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

The Agreement is hereby renewed on the terms and conditions as set forth in the Original Agreement incorporated herein by this reference, except as specifically set forth below.

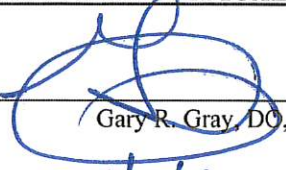
1. Section 2 / Paragraph titled, "TERM" shall be amended to the following:  
*"TERM – The term of this Lease is August 1, 2018 ("effective Date") through June 30, 2021."*
2. Except as provided herein, all remaining terms, conditions and provisions of the Agreement are unchanged and unaffected by this Amendment No. 1 and shall continue in full force and effect as set forth in the Agreement.
3. A copy of this Amendment No. 1 shall be attached to the Agreement.
4. This Amendment No. 1 shall be effective when signed by the last party.

*The remainder of this page was intentionally left blank.*

*~ Signature page to follow ~*

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Amendment No. 1 on the basis set forth in this document and have executed this Amendment No. 1 on the day and year set forth herein.

NATIVIDAD MEDICAL CENTER

By:   
Gary R. Gray, DO, CEO

Date: 

APPROVED AS TO LEGAL PROVISIONS

By:   
Monterey County Deputy County Counsel

Date: \_\_\_\_\_

APPROVED AS TO FISCAL PROVISIONS

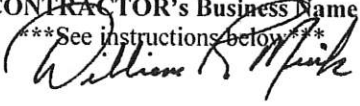
By:   
Monterey County Deputy Auditor/Controller

Date: 3/24/2020

CONTRACTOR

Modular Devices, Inc.


CONTRACTOR's Business Name

\*\*\*See instructions below\*\*\*  


By: \_\_\_\_\_  
(Signature of: Chair, President, or Vice-President)

PRESIDENT  
Name and Title

Date: 3-10-2020

By:   
(Signature of: Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

Greg S. Mark C.O.O.  
Name and Title

Date: 3-10-20

\*\*\*Instructions\*\*\*

If CONTRACTOR is a corporation; including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).

If CONTRACTOR is a partnership; the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership (two signatures required).

If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).



## Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

### Board Order

**Agreement No.: A-14062**

Upon motion of Supervisor Phillips, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute a lease agreement with Modular Devices Inc. for the lease of a mobile computerized tomography (CT) unit, a mobile angiography/interventional radiology lab (IR) unit, and a mobile magnetic resonance imaging (MRI) unit at NMC, with a term of August 1, 2018 through July 31, 2020 and a total agreement amount not to exceed \$2,868,000.
- b. Authorized the Deputy Purchasing Agent for NMC or his designee to execute up to three (3) future amendments to the agreement which do not significantly alter the scope of work and do not cause an increase of more than \$100,000.

PASSED AND ADOPTED on this 24th day of July 2018, by the following vote, to wit:

AYES: Supervisors Alejo, Salinas, Phillips, Parker and Adams

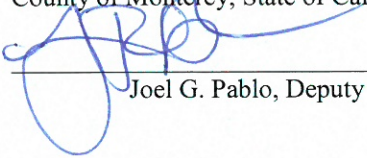
NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 81 for the meeting July 24, 2018.

Dated: July 24, 2018  
File ID: A 18-343

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
\_\_\_\_\_  
Joel G. Pablo, Deputy

## EQUIPMENT LEASE AGREEMENT

This EQUIPMENT LEASE AGREEMENT ("Agreement") is between MODULAR DEVICES, INC., an Indiana corporation, or its affiliated nominee ("Lessor"), and the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center ("Lessee"), with an effective date of August 1, 2018.

1. LEASE - Lessor agrees to lease to Lessee, and Lessee agrees to hire from Lessor, all of the following leased Equipment;

- one (1) Mobile IR Laboratory (ie;Angiography Lab),
- one (1) Mobile CT Laboratory,
- one (1) Mobile MRI Laboratory,

each in an 8-foot by 48-foot shell, hereinafter called "Equipment" which is also more particularly described in EXHIBIT A, EXHIBIT B and EXHIBIT C attached hereto and by reference made a part hereof. Site preparation and installation requirements are the responsibility of Lessee, and shall include but not be limited to those items listed in a SITE REQUIREMENTS, which is more particularly described in EXHIBITS A, B and C attached hereto and made a part of this Agreement.

This Agreement shall constitute a binding commitment of the parties to lease the Equipment on the terms of this Agreement and any schedules attached hereto and made a part hereof.

2. TERM - The term of this Lease is August 1, 2018 ("effective Date") through July 31, 2020.

3. RENT AND PAYMENT PROVISIONS- Rental for the Equipment will be paid in monthly rental payments of:

- |                                 |          |
|---------------------------------|----------|
| • Mobile GE Innova 4100 IR Lab: | \$31,500 |
| • Mobile GE VCT 64 CT Lab:      | \$40,000 |
| • Mobile Siemens MRI Lab:       | \$48,000 |

Lessor shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by Lessor for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. Lessee shall certify the invoice, either in the requested amount or in such other amount as Lessee approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

Lessee's payments to Lessor under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for Lessee's purchase of the indicated quantity of services, then Lessee may give written notice of this fact to Lessor, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as Lessee may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

4. **TRANSPORT EXPENSE DELIVERY OF EQUIPMENT TO LESSEE** - Lessee shall be responsible for prepaying transportation charges in the amount of \$7,500.00 to transport the Equipment to the location defined in Section 7.02 below.
5. **TITLE OF EQUIPMENT** - The Equipment is and shall at all times remain the sole and exclusive property of Lessor. The only interest Lessee shall have in the Equipment is that of a Lessee under this Agreement. Lessor and Lessee agree that regardless of the manner of affixation to real estate, the Equipment shall remain personal property and not become part of any such real estate. Lessee shall at all times keep Equipment and this Agreement free from all levies, attachments, liens, encumbrances, claims, charges or other judicial process of every kind, shall give Lessor immediate written notice thereof and shall indemnify and save Lessor harmless from any loss or damages caused thereby.

The parties do not intend this Agreement to be a conditional sales agreement, chattel mortgage, or security agreement within the meaning of any statute requiring filing or recordation.

Lessor makes no representation, express or implied, concerning the tax or accounting treatment of this Agreement.

## 6. INSPECTIONS

- 6.01. **Lessee's Inspection.** Lessee shall make necessary inspections and tests of the Equipment at Lessee's sole expense, to determine whether the equipment conforms to Lessee's specifications as pertaining to EXHIBIT "A". Lessee shall promptly notify Lessor, at the time the Equipment is inspected of any defects in or objection to the type or condition of the Equipment. Lessor may at its option remedy such defects or cancel the lease. This Equipment shall be presumed to conform to Lessee's specifications, and to be acceptable for all purposes of this Agreement, and shall be deemed to be in good condition without patent defects.

Lessee shall notify Lessor of any defects which are not apparent upon inspection of Equipment, as soon as such defects are noticed. Lessee's failure to notify Lessor of any defect in, or objection with respect to any item of

the Equipment, shall not establish the absence of any such defect in the Equipment insofar as Lessor is concerned.

- 6.02. **Lessor's Initial Inspection and Service.** Upon installation and completion of SITE REQUIREMENTS (such as, electricity, water supply, drain, etc.), Lessor will inspect, test, adjust, calibrate, and make Equipment ready for clinical use in the manner for which it is intended. Lessor agrees to provide seven (7) consecutive days of applications training. Additional training may be requested from Lessor and all Travel and Expense Charges will be paid per the Monterey County Travel Policy".
- 6.03. **Lessor's Right to Inspection.** Lessor shall have the right to enter the premises wherever the Equipment may be located at any time during normal business hours to inspect and examine the Equipment to ensure Lessee's compliance with its obligations under this Agreement, providing such inspection does not interfere with patient treatment.

## 7. OPERATING MATTERS

- 7.01. **Licensing, Registration, and Taxes.** Lessee shall obtain all licensing and registration of the Equipment that is required by law. Lessee, on behalf of Lessor, shall bear, and pay and discharge when due all license and registration fees, assessments, sales, use, property, and other taxes (excluding any tax measured by Lessor's income or gross receipts), together with any penalties or interest applicable to them, now or later imposed by any state, federal, or local government on any item of the Equipment, whether they be payable by or assessed to Lessor or Lessee; provided, however, that if under local law or custom such payments may be made only by Lessor, Lessee shall promptly notify Lessor and shall reimburse Lessor, on demand, for all such payments made by Lessor. If by law any such registration or license fee or tax is billed to Lessor, Lessee at its expense will do all things required to be done by Lessor in connection with the licensing or registration procedure and the levy or assessment of any such tax, including payment. Hallway connections, utilities or any part of the Lessor and Lessee SITE REQUIREMENTS are exempted.
- 7.02. **Location.** The Equipment shall be located at the Lessee's place of business at Natividad Medical Center, 1441 Constitution Blvd., Salinas, CA 93906, however, it may be moved with prior written consent of Lessor.

Without Lessor's prior written consent, Lessee shall not affix or attach all or any part of the Equipment to any real property. The Equipment shall remain personal property whether or not it becomes affixed or attached to real property, or permanently rests on any real property or any improvement on real property, and Lessee agrees to obtain any waiver of landlord or mortgagee necessary to protect Lessor's interest in the Equipment.

- 7.03. Use, Maintenance, and Reports. Lessee shall use the Equipment carefully, shall comply with all laws, ordinances, and regulations relating to its use, operation, or maintenance, and shall not use the Equipment for any illegal purpose. Lessee shall put the Equipment only to the use contemplated by this Agreement and Lessee hereby confirms that the Equipment will be used only for conducting routine CT, IR and MRI related functions.

Lessor shall effect and bear the expense of all repairs, reasonable wear and tear excepted, including maintenance, operation and replacement parts required to maintain the Equipment in good condition, except as may be excluded under Limitations of Equipment Maintenance, (7.04) below or by governmental edict or insurance requirements as discussed below. Such service must be capable of responding twenty-four (24) hours a day, seven (7) days a week, except as may be excluded under Limitations of Equipment Maintenance, (7.04) below. Lessee agrees to maintain accurate and complete records of all said repairs and maintenance to the Equipment and to allow Lessor to inspect said records at any time during business hours of Lessee. Lessee warrants that the Equipment will be used solely for the purpose for which it was designed and manufactured, i.e., as a CT lab, MRI lab or IR lab respectively.

Lessee shall not: assign, transfer or part with possession or control of the Equipment; allow any person or party other than Lessee or Lessor's designated and approved agents to operate the Equipment; allow the Equipment to be used for any nonbusiness related activities; or, make any additions, alterations, or improvements to the Equipment without Lessor's prior written consent. Hallway connections, utilities or any part of the Lessor and Lessee SITE REQUIREMENTS are exempted. Any modifications or additions to the Equipment required by any governmental edict or insurance policy shall be promptly made by Lessee at its own expense. However, Lessee shall first notify Lessor promptly of any such required modifications or additions. Lessee shall have no authority to charge Lessor for any expenses incurred as a result of alterations, additions or improvements to the Equipment. All alterations or improvements so approved shall become the property of Lessor on expiration or earlier termination of this Agreement.

- 7.04. Limitations of Equipment Maintenance. Service, maintenance, and repairs not provided or covered by this Agreement include, but are not limited to

installation, maintenance, repair or replacement of any item not a part of the Equipment as initially delivered to Lessee by Lessor; and, damage or maintenance made necessary due to misuse, abuse, negligence, acts of God or war, fire, flood, accident, vandalism, failure of electrical power, power surges, lightning strikes, operation of the Equipment in violation of established operational guidelines, unauthorized Equipment modification,



tampering, service by anyone not authorized by Lessor, interconnection of Equipment by electrical, electronic, or mechanical means with noncompatible equipment, or by use of unauthorized, modified, or altered supply items or accessories.

If, upon Lessee's foreknowledge, Lessor chooses to provide any maintenance or repair not covered by this Agreement, Lessee shall pay for such maintenance or repair at Lessors then current service rates.

- 7.05. Lessee's Insurance Requirements (Loss and Damage). (a) Lessee shall maintain fire, theft, extended and comprehensive coverage equal to the full replacement value of the equipment, but not to exceed \$1,000,000. In addition, Lessee shall maintain insurance for property damage, public liability and bodily injury, as well as insurance for medical malpractice claims and worker's compensation for Lessee's and Lessor's respective employees. Lessee's insurer shall certify coverage as specified in this Agreement and provide certificates thereof and further shall acknowledge that such insurance may not be canceled or altered without thirty (30) days written notice. In the event of loss or damage, including fire, theft, destruction, misuse, abuse, damage due to lightning, power spikes, and other matters found in Section 7.04 of this Agreement, the proceeds of any insurance payable shall be applied, first to Lessee's obligation under this Agreement and then to replacement costs, restoration costs, or repair of the equipment. All such insurance shall name Lessor, and its successors and assigns, as additional insureds, as their interests may appear. Lessee assumes the risk of loss, damage, theft, destruction, or other matters enumerated in Section 7.04 of this Agreement while such equipment is in Lessee's possession, but only if such loss as stated is not caused or contributed to by defects or deficiencies in the design, construction, or maintenance of the equipment or the negligence or misconduct of Lessor and its employees, agents or contractors.

Lessee represents and warrants (i) that it has the full power, authority, and legal right to enter into and perform under this Agreement and any attachments or exhibits hereto, and, if a corporation, that Lessee will supply Lessor with proof that all requisite corporate action has been taken; (ii) that the execution of this Agreement, any attachments or any exhibits hereto, does not and will not contravene any agreement to which Lessee is a party, including its Articles of Incorporation or By-laws, if Lessee is a corporation; (iii) that during the term of this Agreement Lessee will promptly notify Lessor of any such contravention; and, (iv) that no mortgage, deed of trust, charter, lease of other lien or security interest of any type which now covers or affects any property or interest of Lessee will attach to the Equipment.

See Section 14 herein for Lessor's Insurance Requirements.

7.06. Identification. Lessee shall affix to and maintain on the Equipment all labels and plates provided by Lessor, or conspicuously mark the Equipment with such language as Lessor may reasonably request, to the effect that the equipment is owned by Lessor and is subject to this Agreement. However, in the event local or state authority require external markings or labels or no labels such shall be the responsibility of the Lessee under the SITE REQUIREMENTS.

## 8. TERMINATION

8.01. Surrender on Termination of Lease. Lessee may terminate this Agreement for any reason at any time with at least sixty (60) days advance written notice. If the sixty (60) day's falls anywhere within a monthly billing cycle Lessee is responsible for remaining portion of that month, and Lessee has, as it's option, the ability to continue to Use the Equipment past the sixty (60) day's notice period through the end of the billing cycle. Lessor does not offer daily or weekly proration. At the expiration or earlier termination of this Agreement, unless Lessee extends this Agreement, Lessee shall return each item of Equipment to Lessor, free of all advertising or insignia placed on it by Lessee, and in good condition, repair, and working order, ordinary wear and tear excepted. The Equipment shall be surrendered by Lessee, by notifying Lessor that the Equipment is ready to be picked up by Lessor. Lessee is liable for the restoration of the Equipment to good working condition ("Good working condition" is defined as: fully functional as it was when originally delivered"). or repair to working order. In addition, Lessee shall remain liable for any damage to Equipment to restore the Equipment to good repair and working order.

8.02. Holding Over. DELETED

8.03. Equipment Removal and Removal Fees. Lessee shall be responsible for paying the return transportation charges of \$7,500 for each unit (\$22,500 total), with the return transportation charges of \$7,500 to be billed on the last monthly invoice for each unit. Lessor will remove the equipment within thirty (30) calendar days after the date of last use of equipment. Lessee will be responsible for removing hallway connections, ramps, and all related items prior to removal. 480 Volt, 3 Phase electrical service must remain on until the lab is removed. If craning is necessary, Lessee shall coordinate, control and contract for this service at Lessee's expense.

## 9. DEFAULT AND REMEDIES

9.01. Events of Default. Time is of-the-essence with this Agreement. Any of the following occurrences shall be an event of default under this Agreement: (i) if Lessee defaults in the payment of any sum of money to be paid under this Agreement and default continues for ten (10) days; (ii) if Lessee commits any

act of bankruptcy, or any proceeding under the Bankruptcy Act is commenced by or against Lessee; (iii) if a writ of attachment or execution is levied on any item of Equipment and is not discharged within ten (10) days after that levy; (iv) if a receiver is appointed to take possession of any item of Equipment leased under this Agreement; (v) if Lessee dissolves or ceases actively to carry on business; (vi) if Lessee transfers substantially all of its assets or merges or consolidates with or is acquired by any other person or entity, without Lessor's prior written consent; (vii) if any of the representations and warranties made by Lessee in this Agreement are not true and correct in any material respect by either party; (viii) if Lessee attempts to assign, pledge, or hypothecate any interest in this Agreement or to sublet, assign, pledge, hypothecate or lend all or part of the Equipment without Lessor's prior written consent; (ix) if any financial statement delivered to Lessor is not true and correct in any material respect; (x) if Lessor fails to deliver the Equipment free of defects and in good working order within a reasonable time; (xi) if Lessor fails to adequately maintain and keep such Equipment in good repair so long as Equipment is used in accordance with manufacturer's standards, or (xii) if either party fails to fulfill any of its obligations pursuant to this Agreement.

9.02. Remedies of Lessor. On the occurrence of any event of default by Lessee, Lessor may exercise any one or more of the following remedies with respect to the Equipment under this Agreement, without further notice to or demand on Lessee:

(1) Take possession of the Equipment upon thirty (30) day's written notice.

(2) Lease the Equipment to such persons, at reasonable rental and for such period of time (which may extend beyond the Term of the lease under this Agreement) as Lessor shall elect. Lessor shall apply the net proceeds of any such rental to payment of Lessee's obligations under this Agreement. For this purpose, "net proceeds" means the proceeds of any rental under this section minus all costs and expenses incurred in connection with the recovery, repair, storage, testing, or sale of the Equipment. Lessee shall remain liable for any deficiency, which at Lessor's option shall be paid monthly, as suffered, immediately, or at the end of the Term as damages for Lessee's default.

(3) Sell the Equipment at a public or private sale for cash or on credit at fair market value. Lessor shall apply the net proceeds of that sale to the payment of Lessee's obligations under this Agreement. For this purpose, "net proceeds" means the proceeds of any sale under this section minus all costs and expenses incurred in connection with the recovery, repair, storage, testing, or sale of the Equipment. Lessee shall remain liable for any deficiency, which Lessee shall pay within ten (10) days after the sale.

(4) Bring legal action to recover all rents or other amounts accrued then or accruing later from Lessee to Lessor under this Agreement.

(5) Pursue any other remedy Lessor may have.

9.03. Remedies of Lessee. On the occurrence of any event of default by Lessor, Lessee may exercise any one or more of the following remedies under this Agreement, without further notice to or demand on Lessor:

(1) Terminate this Lease upon thirty (30) days written notice and notify Lessor that the Equipment is surrendered to Lessor's possession.

(2) Pursue any other remedy Lessee may have.

## 10. ASSIGNMENT

10.01. Without prior written consent, Lessor and Lessee shall not assign, transfer, sublet, pledge, hypothecate or otherwise dispose of this Lease or any interest herein. Lessee shall recognize each such assignment and covenants not to assert against the assignee any defense, counterclaim or set-off that Lessee has or may have against Lessor, and agrees to pay such rent and other payments due to become due hereunder to assignee.

## 11. INDEMNIFICATION

Lessor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any and all claims, liability and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Lessor's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Lessor's performance" includes Lessor's action or inaction and the action or inaction of Lessor's officers, employees, agents and subcontractors.

## 12. DISCLAIMER OF WARRANTY NOTICE - DELETED

## 13. MISCELLANEOUS PROVISIONS

13.01. Accident Reports Concerning Equipment. Lessee shall immediately notify Lessor of any accident connected with the operation or malfunctioning of any unit of the Equipment, and include in the notice the time, place, and nature of the accident, the damage caused to property, the names and addresses of

persons injured and of witnesses, and such other information as may be pertinent to Lessor's investigation of the accident.

- 13.02. **Nonwaiver.** No waiver of obligations, conditions, or covenants shall be considered to take place unless the waiver is in writing and signed.
- 13.03. **Survival of Covenants.** Wherever the context permits, Lessee's covenants under this Agreement shall survive the delivery and return of the Equipment.
- 13.04. **Amendments.** No term or provision of this Agreement may be changed, waived, discharged, or terminated orally, but only a written instrument signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.
- 13.05. **Captions.** Captions in this Agreement are for convenience of reference only and shall not define or limit the terms or provisions of this Agreement.
- 13.06. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of California, County of Monterey, including all matters of construction, validity, and performance.
- 13.07. **Access.** If required by Section 1395x (v) (1) of Title 42 of the United States Code, until the expiration of four (4) years after the termination of the contract, Lessor will make available the books, records, and documents as required by such Section, and will insert the clause required by such Section in any subcontract with a related organization.
- 13.08. **Assignment and Subcontracting:** Lessor shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of Lessee. None of the services covered by this Agreement shall be subcontracted without the prior written approval of Lessee. Notwithstanding any such subcontract, Lessor shall continue to be liable for the performance of all requirements of this Agreement.
- 13.09. **Lessor warrants that Lessor and Lessor's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of Lessee, or immediate family of an employee of Lessee.**
- 13.010. **Maintenance of Records.** Lessor shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County of Monterey rules and regulations related to services performed under this Agreement. Lessor shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement

is pending at the end of the three year period, then Lessor shall retain said records until such action is resolved.

13.011. Access to and Audit of Records. Lessee shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the Lessor and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of Lessee or as part of any audit of Lessee, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

13.012. NON-DISCRIMINATION. During the performance of this Agreement, Lessor, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in Lessor's employment practices or in the furnishing of services to recipients. Lessor shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. Lessor and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

#### 14. INSURANCE REQUIREMENTS

##### 14.1 Evidence of Coverage:

Prior to commencement of this Agreement, Lessor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, Lessor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to Lessee's Contracts/Purchasing Department, unless otherwise directed. Lessor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Lessee has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of Lessor.

14.2 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a

company of equal financial stability that is approved by Lessee's Contracts/Purchasing Director.

- 14.3 Insurance Coverage Requirements: Without limiting Lessor's duty to indemnify, Lessor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance, If Lessor employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the Lessor shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

- 14.4 Other Lessor Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to Lessee and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Lessor completes its performance of services under this Agreement.

Each liability policy shall provide that Lessee shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Lessor and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

**Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds** with respect to liability arising out of the Lessor's work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by Lessor's insurance.** The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by Lessee, Lessor shall file certificates of insurance with Lessee's Contracts/Purchasing Department, showing that Lessor has in effect the insurance required by this Agreement. Lessor shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Lessor shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Lessee, annual certificates to Lessee's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Lessee shall notify Lessor and Lessor shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Lessor to maintain such insurance is a default of this Agreement, which entitles Lessee, at its sole discretion, to terminate the Agreement immediately.

Lessee's Insurance Requirements are stated herein in Section 7.05.





Exhibit A (Mobile CT specs)  
Exhibit B (Mobile IR Specs)  
Exhibit C (Mobile MRI Specs)  
Business Associate Agreement

IN WITNESS WHEREOF, the parties hereto have duly executed the Agreement as of the dates set forth below. For all purposes hereof, the date of the Agreement shall be the date of the Lessor's acceptance as set forth below.

By execution hereof, the signer certifies that (s)he has read the entire Agreement that Lessor or its representatives have made no agreements or representations except as set forth herein and that (s)he is duly authorized to execute the Agreement on behalf of the Lessee.

ACCEPTED BY:

LESSOR:  
MODULAR DEVICES, INC.

LESSEE:  
The County of Monterey, a political  
subdivision of the State of California, on  
behalf of Natividad Medical Center  
1441 Constitution Blvd.  
Salinas, CA, 93906

6678 Guion Road  
Indianapolis, Indiana 46268

BY:

BY:

Printed  
NAME:

~~BOB MINK~~ BOB MINK

Printed  
NAME:

Gary Gray

TITLE:

~~BOB~~ PRESIDENT

TITLE:

CEO

DATE:

7/12/2018

DATE:

7/25/18

Approved as to Legal Form:

BY:   
Monterey County Deputy County Counsel

Date: 7/9/18

Approved as to Payment Provisions:

BY:   
Chief Deputy Auditor-Controller

Date: 7-9-18



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ACCEPTED BY:

LESSOR:  
**MODULAR DEVICES, INC.**

6678 Guion Road  
Indianapolis, Indiana 46268

LESSEE:  
**The County of Monterey, a political  
subdivision of the State of California, on  
behalf of Natividad Medical Center**  
1441 Constitution Blvd.  
Salinas, CA, 93906

BY: \_\_\_\_\_

Printed  
NAME: Greg Mink

TITLE: COO

DATE: \_\_\_\_\_

BY:  \_\_\_\_\_

Printed  
NAME: Gary Gay

TITLE: CEO

DATE: 7/9/18

Approved as to Legal Form:

BY:  \_\_\_\_\_

Monterey County Deputy County Counsel

Date: 7/9/18

Approved as to Payment Provisions:

BY:  \_\_\_\_\_

Chief-Deputy Auditor-Controller

Date: 7-9-18



<b>Equipment Overview</b>	X-Ray:	GE VCT 64-Slice CT
	Injector:	Medrad Stellant D Dual-Head Injector

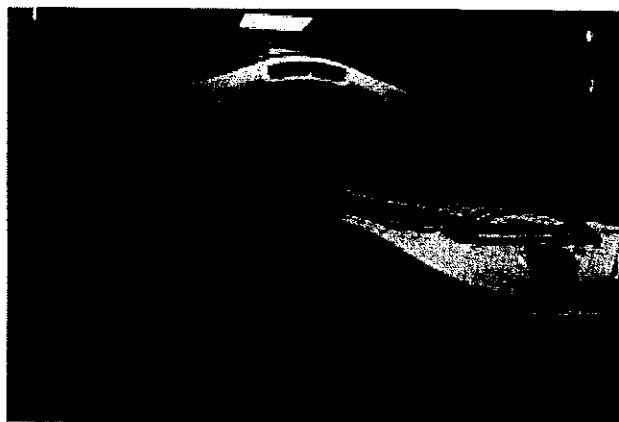
## CT System

### GE VCT 64-Slice CT Scanner

The world's first Volume CT system, is the latest innovation in computed- tomography (CT) technology that ushers in game-changing clinical imagery and applications in neurology, cardiology, and general radiology. Captures images of a beating heart in five heartbeats, an organ in a second, and if necessary, whole body trauma in 10 seconds. Volume coverage is diagnostic power -- including the ability to routinely perform CT-angiography, in addition to rapid test for stroke and chest pain. Scans as fast as 0.35 seconds per rotation. Higher speed scanning translates to clearer, sharper images with fewer problems caused by patient movement or motion of a beating heart. Automated dose-reduction features means less exposure to radiation. Patients benefit from faster exams and less time needed for breath-holds, which can mean less stress for the patient.

#### System Components May Include:

- 64 x 912 Ceramic Detectors
- 0.63, 1.25, 2.5, 3.75, 5, 7.5, 10mm Slice Thickness
- Oil/Air Tube Cooling
- 60 sec. Max Scan Time
- 960 Scans/min Dynamic Scan Rate
- Two 19 Inch LCD Monitors
- 803 GB Hard Drive
- MX 240 8.0 MHU Tube
- Smart Prep
- Smart Tools
- Smart Helical
- Connect Pro
- AutoMA
- Direct MPR
- 3000 Image Series
- Direct 3D
- Data Export
- Copy Compose
- Exam Split
- VolumeViewer
- Noise Reduction Filter
- Neuro Filter

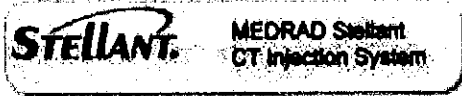


**Modular Devices Inc.**

MDI :: MOBILE INTERIM LAB SOLUTIONS

● Contrast Injection System

**Medrad Stellant D Dual-Head CT Contrast Injector - Roll Around**



**The Medrad Stellant D Dual Syringe CT Injection System is reliable and easy to use.**

Protocol Options for the most advanced clinical applications:

- Designed for complex CTA and Cardiac CT protocols
- Creates tight contrast bolus
- Enables precisely timed contrast delivery

**The Medrad Stellant D efficiently increases throughput with:**

- Snap-on/twist off syringe design
- Automatic plunger advance and retract when attaching and detaching syringes
- Automatic filling and priming
- Storage and recall of up to 32 protocols
- Multi-phase programming
- Integrated saline test inject
- Programmable pressure limit

Site Planning Guide - Mobile Lab 205



# Mobile Lab #205 Site Requirements Planning Guide

2014

Site Planning Guide - Mobile Lab 205

# Mobile Lab 205 Site Requirements Planning Guide

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## Site Planning Guide - Mobile Lab 205

### Summary Page

Modular Devices Inc. has more than 24 years experience assisting customers with preparing and planning for the delivery and installation of our interim Mobile Labs. In our experience it is best to start planning early and we welcome the opportunity to visit customer sites in advance to assist in site selection and planning for the arrival of a mobile lab. We have a large team of Operations, Logistics, Applications and Service personnel who work with each and every customer to carefully plan and execute a successful interim lab project.

Installation of a Mobile Interim Lab requires that your site is prepared to satisfy the lab's general specifications. This guide is intended to provide an overview of the Site Requirements needed for preparing your site for delivery and installation of a Mobile Lab.

### Site Requirements Summary

- Pad Site
- 480V, 3 Phase, 150A power
- Russellstoll female receptacle for power connection
- Telephone connections (all CAT 5 wiring in home run configuration at access point).
- Data/LAN connection if required by customer
- Connection to facility at customer's discretion
- Power Quality Monitoring Test

The purpose of this document is to provide the basic information needed for site planning. For specific information not contained in this document please contact Modular Devices Inc.

## Site Planning Guide - Mobile Lab 205

### Mobile Pad Requirements

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#### **Pad Size and Type**

The mobile lab will need a level concrete or asphalt base to accommodate an 8' x 48' mobile lab. A minimum pad size of 10' x 41' is recommended to provide an area for all support legs and wheels to sit on a solid surface.

#### **Pad Depth**

The depth of the pad is to be determined by a local contractor based on climate, soil and other conditions.

#### **Required Support**

The pad must be capable of supporting a total weight of 55,000 pounds. The front legs support approximately 20,000 pounds, and the rear legs support 35,000 pounds.

#### **Pad Levelness**

The pad must be as level as possible. If you have questions about the feasibility of your site, MDI's on-staff professionals will be happy to assist you.

#### **Air Flow Requirements**

To maintain maximum capacity, lowest operating cost, satisfactory operation of ventilation packages and longest service life the following clearances for acceptable air conditioning condenser air flow should be maintained:

- HVAC unit discharging against wall or solid barrier: 15 feet

#### **Attachment to Facility**

Various connection system options are available. The physical connection between the land based facility and the mobile lab can be as simple or complex as desired. In appropriate climates, awning type enclosures seem to work the best. More permanent structures can also be built. Please contact us for examples of what prior customers have done to physically connect a mobile lab to a hospital. MDI requests that customers not permanently attach any adjoining structures to the mobile lab.

## Site Planning Guide - Mobile Lab 205

### ● Radiation Shielding

Care should be taken when determining a site location for a mobile lab. Factors such as shielding, proximity to buildings, and occupancy of surrounding buildings must be considered. MDI will provide a current physicist report with each lab. Some states/localities may require physicist reports be done locally, in which case it is the responsibility of the customer to perform a proper radiation survey/physicist report if required.

### ● Power Requirements

#### Electrical Service

The mobile lab requires a 480 Volt, 150 Amp, three phase, wye connection with neutral and ground. The lab is equipped with an on-board back-up generator with an automatic transfer switch capable of meeting mobile lab power requirements in the event of shore power failure.

#### Power Cord

MDI will provide a properly sized power cord. Our personnel will connect the mobile lab to the facility's permanent power and will check to assure proper phasing.

#### Land-Side Power Connection

The standard land-side connection is a Russellstoll female receptacle and box **#DF 2504 FRAB0** mounted as close as possible to the rear of the mobile lab. The distance from the bottom of the receptacle to grade should not be less than 42". A service disconnect should be provided at the receptacle. If the proper female receptacle can not be obtained, MDI personnel can hard-wire the lab into the junction box.

Power Receptacle  
Angled Box and  
Receptacle Model  
**#DF 2504 FRAB0**  
(shown with male plug  
attached)



(continued)



**Modular Devices Inc.**

MDI :: MOBILE INTERIM LAB SOLUTIONS

## Site Planning Guide - Mobile Lab 205

### ● Power Requirements (Continued)

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#### **Frequency**

The frequency must be 60Hz with a maximum variation of  $\pm 0.5\text{Hz}$ .

#### **Phase Balance**

The phase balance is 2% max between phases.

#### **Maximum voltage variation**

The maximum voltage variation is  $\pm 5\%$  from nominal steady state (under the worst case conditions of line voltage).

#### **Power Source Monitoring (Facility Only)**

NOTE: Perform a power audit first.

A power analyzer should be used to check the proposed Mobile Lab facility site power for average line voltage, surges, sags, reclosures, impulses, frequency and microcuts. A period that includes two weekends should be used to simulate several days of normal use. Analysis of the data and site history of any previous power problems with other X-ray systems or computer installations should be reviewed with your power and ground representative. Verify "brown-out" (low voltage) conditions, which may occur during summer months, will not exceed the allowable range.

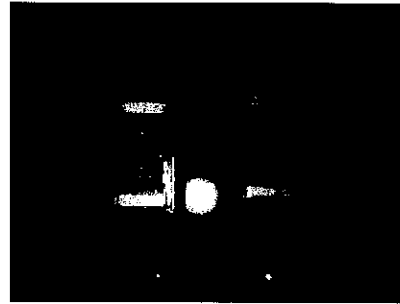
## Site Planning Guide - Mobile Lab 205

### ◆ Data, Telephone and Network Connections

#### Telephone and Data Connections

The mobile lab has a number of configurable data/phone jacks throughout the lab with CAT5 cabling running from a weatherproof junction box in one of the compartments beneath the lab directly to each individual data/phone jack. The data/phone jacks utilize a female RJ-45/RJ-11 universal type connector. MDI recommends a minimum of two (2) phone lines for the lab.

- The customer is required to provide the network wiring from the facility to connect to the junction box in the mobile lab.



#### Fire Alarm

The mobile lab has an on-board fire warning system and is equipped with smoke and heat detectors throughout the entire lab. The alarm system can be wired into the supporting facility's fire alarm system through a contact block in a weatherproof junction box in the rear of the lab (accessible from the exterior). The lab is also equipped with hand-held fire extinguishers.

#### Code Blue

Code Blue can be handled in two different ways: Through 1) the phone system or 2) a blank electrical box mounted on the wall of the procedure room for a push-button notification system. The box contains an appropriate wire that terminates in a weatherproof junction box in the rear of the lab, where the facility can tie into their own code blue system.

- If using a push-button, the customer is responsible for providing the actual code-blue button.

## Site Planning Guide - Mobile Lab 205

### ● Regulations and Responsibilities

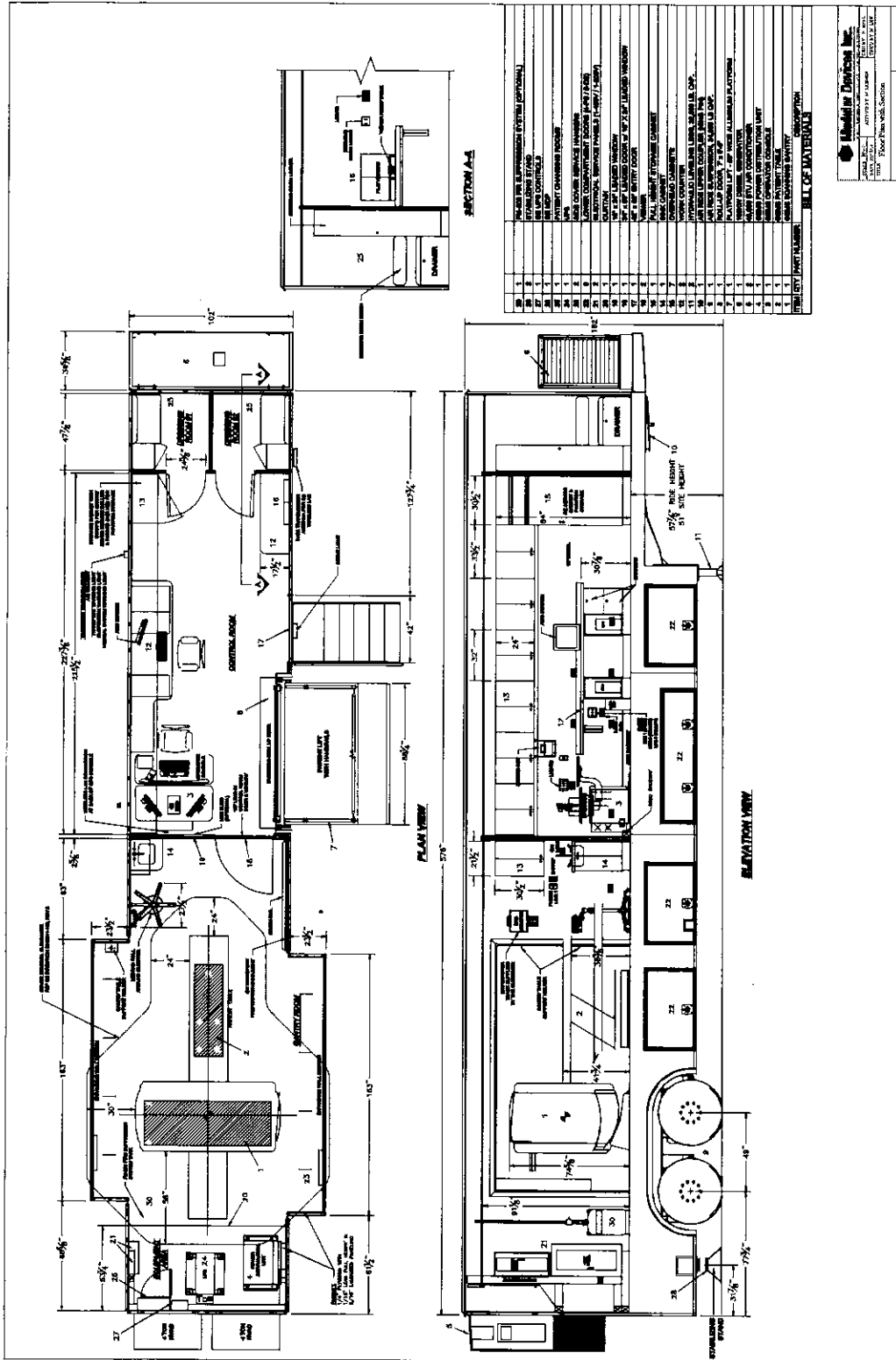
---

#### **Regulations/Ordinances/Licenses/Permits**

The Hospital is responsible for obtaining all licenses and/or permits and meeting all state and local codes necessary for operation of the mobile lab. The hospital is also responsible for the connection system, pad and any costs associated with craning the mobile lab into place, if required.

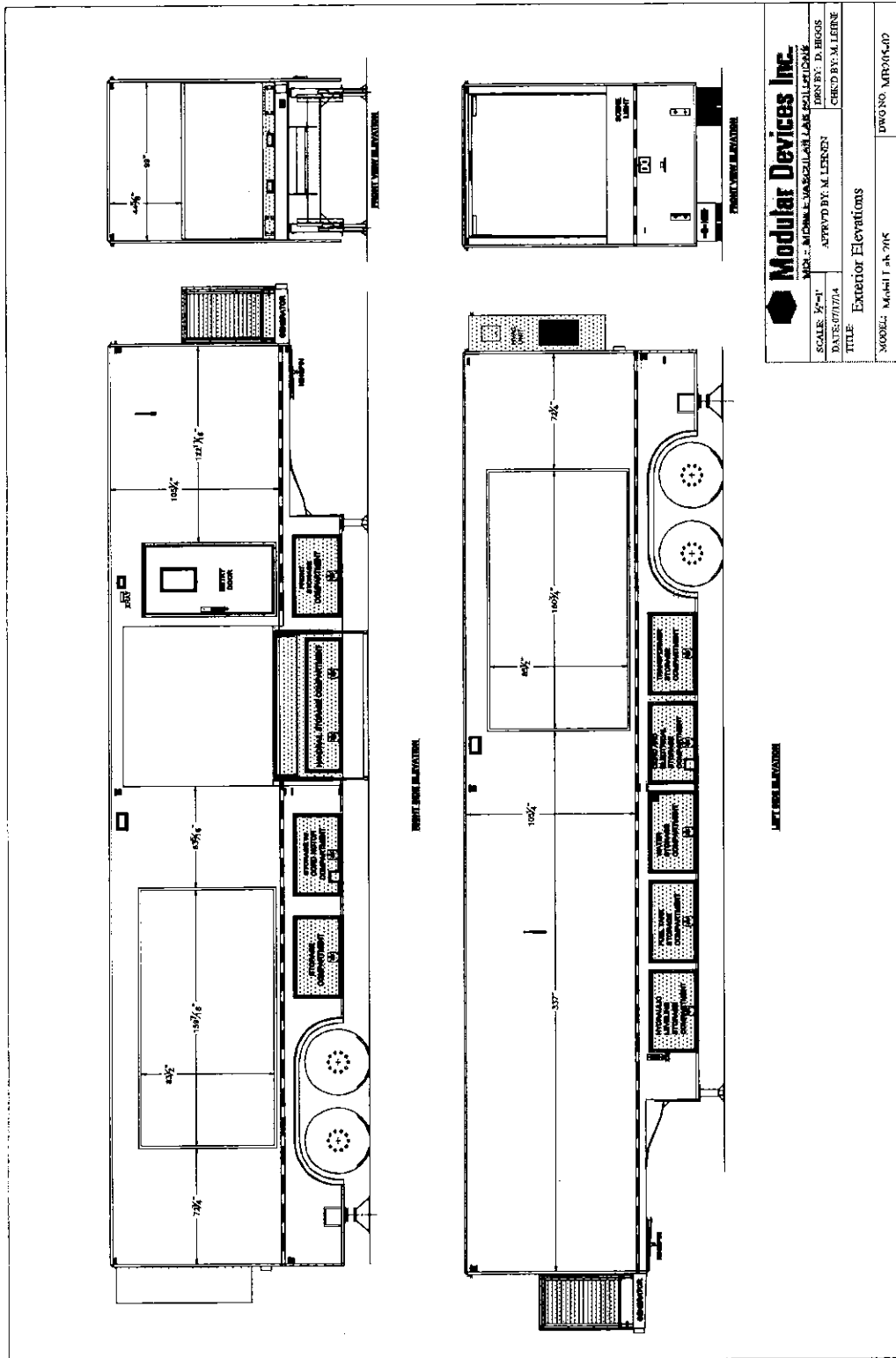
Site Planning Guide - Mobile Lab 205

Figure 1: Floor Plan



Site Planning Guide - Mobile Lab 205

Figure 2: Elevations



<b>Modular Devices Inc.</b>	
MCI - MODULAR VASCULAR LAB CELLPHONE	
SCALE: 3/8"=1'	DES BY: D. BEGGS
DATE: 07/17/14	APPROV BY: M. LERZEN
CREATED BY: M. LERZEN	
TITLE: Exterior Elevations	
MODEL: M-411 P-A-205	DWG NO. MFD006-02



<b>Equipment Overview</b>	X-Ray: GE Innova 4100 Hemo: GE MacLab IT Injector: Medrad Mark V Provis Workstation: GE Advantage Workstation
---------------------------	--

## ● X-Ray System

### GE INNOVA 4100 DIGITAL FLAT DETECTOR IMAGING SYSTEM



GE Healthcare's Innova 4100 is a large-format digital flat-panel X-ray system for angiographic imaging that incorporates GE's exclusive Innova single piece, non-tiled digital detector (41cm-by-41 cm) to provide high-resolution imaging across the full range of vascular and interventional applications.

The 41-cm-by-41-cm Innova detector is the industry's largest, according to the manufacturer. An ample field of view allows clinicians to see their way through angiography or interventional imaging procedures.

The Innova detector provides a dynamic exposure optimization system, AutoEx, designed to optimize system parameters and image processing to maximize real-time image quality and minimize dose.

The fully integrated imaging system is programmed to meet the clinical needs for interventional and diagnostic angiography with image quality, dose management and positioning.

#### System Description

- GE Innova 4100 single plane Cardiac/Angiographic system
- 100 KW generator with flat screen control console
- Floor mounted model 4100 Positioner
- Omega patient table
- 41 cm flat panel digital detector
- MX 160 x-ray tube
- 2 Hi-resolution LCD monitors with ceiling suspended mount
- Integrated digital imaging system with hi-speed DICOM output
- Installed Angiographic and Vascular software, books and manuals

## ◆ Hemodynamic Monitoring System

### GE Mac-Lab IT Hemodynamic Monitoring System

#### Essential functionality... exceptional performance

With a long history as a trusted mainstay of the cath lab, the Mac-Lab IT hemodynamic recording system is the foundation of the Mac-Lab family. Its innovative capabilities and functionality deliver dependability, ease of use and excellent IT data integration to help you optimize your workflow, productivity and throughput. Mac-Lab IT hemodynamic recording systems help to enhance operational efficiency in the cath lab.

#### Comprehensive data collection at the point of care

- Interfaces with X-ray systems to automatically upload demographics to the imaging systems and receive radiological parameters such as angulations and dose area product – helps to reduce data entry errors and save time.
- Collect registry data at the point of care, helping to minimize post-procedure chart pulls.
- Custom forms data allows up to 5,000 user-defined fields to be configured for data entry – collect the data the way you want.
- Comprehensive data export to GE and third-party registry and data management systems.



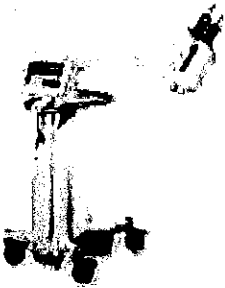
## ◆ Contrast Injection System

### Medrad Mark V Provis Contrast Injector

**MEDRAD**

The Mark V ProVis is designed to be easy to use, from the readability of the display and controls to the ergonomics and functionality of the injector and control panel.

- Large and bright control panel improves readability at a distance.
- Syringe volume is constantly up-dated and is easily read at a glance.
- Sequenced control panel guides setup.
- Common protocols are stored quickly to save time.
- Large, secure handle and oversize wheels for easy maneuvering in the tightest situation.



#### MEDRAD gives you multiple levels of protection

- Programmed microprocessor helps protect against:
  - Over-volume
  - Over-flow
  - Over-pressure
- Mechanical stop:
  - Automatically sets and locks to physically limit injection to the selected volume
- Unaffected by electrical interruption
- Set position is verified by LEDs on the injector head



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## Image Review Workstation

### GE Advantage Workstation



The GE Advantage workstation is one of the most widely used visualization and analysis solutions in the world. Advantage Workstation delivers fast and clinically effective post-processing solutions to help handle the increasing diagnostic and workflow needs of today's imaging departments.

#### Powerful Simplicity

With automated pre and post-processing, one-click access to applications, and one-touch protocols, AW improves consistency and efficiency – so that you can tackle advanced clinical challenges with speed, accuracy and confidence.

#### Enlightening Integration

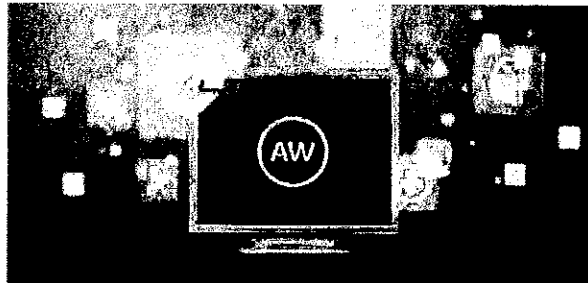
AW supports easy comparison of CT, MR, PET, SPECT and Interventional 3D images. Achieve registration and fusion of volumetric acquisitions using dedicated protocols or by doing a simple "drag-and-drop" within the AW platform.

#### Interventional Visualization

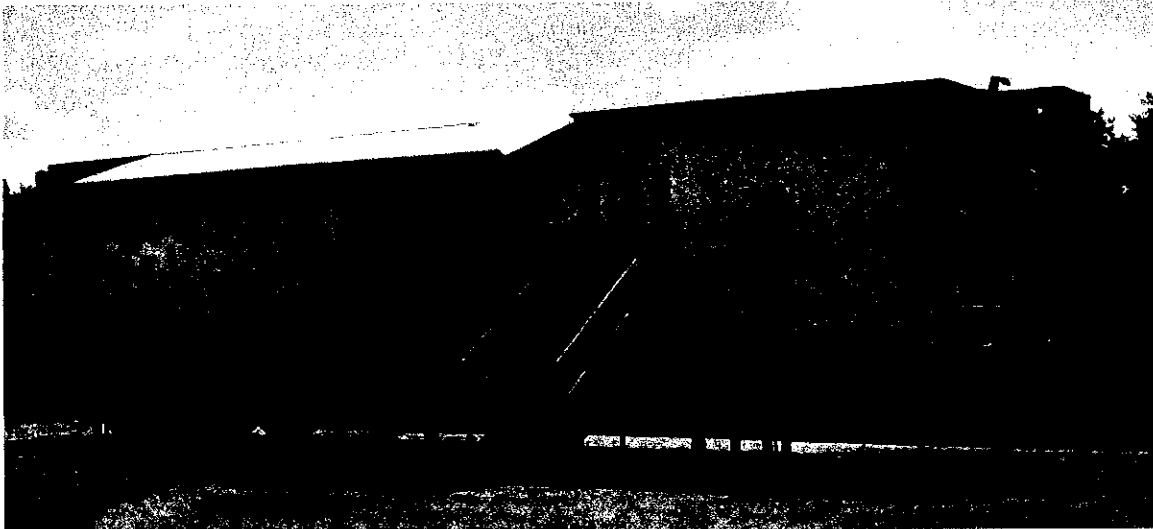
AW's advanced integration capabilities enable the use of multi-modality images for highly informed, real-time planning and navigation during interventional therapies.

#### Streamlined Workflow

Revolutionary workflow enhancements minimize clicks and maximize efficiency. AW Workstation organizes tasks and tools in a manner that corresponds directly to the ways in which physicians work, making processing virtually second nature.



Site Planning Guide - Mobile Lab 185 - Exhibit "B"



# Mobile Lab #185 Site Requirements Planning Guide

2017



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## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

# Mobile Lab 185

## Site Requirements

### Planning Guide

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## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

### Summary Page

Modular Devices Inc. has more than 24 years experience assisting customers with preparing and planning for the delivery and installation of our interim Mobile Cath/Vascular Labs. In our experience, it is best to start planning early. We welcome the opportunity to visit customer sites in advance to assist in site selection and planning for the arrival of a mobile or modular lab. We have a large team of Operations, Logistics, Applications and Service personnel who work with each and every customer to carefully plan and execute a successful interim lab project.

Installation of a Mobile Cath/Vascular Lab requires that your site is prepared to satisfy the lab's general specifications. This guide is intended to provide an overview of the Site Requirements needed for preparing your site for delivery and installation of a Mobile Lab.

### Site Requirements Summary

- Pad Site
- 480V, 3 Phase, 200A power
- Russellstoll female receptacle for power connection
- Cold water hose bib and RV supply hose
- Sanitary sewer drain (or holding tank) as required by local codes
- Telephone connections (all CAT 5 wiring in home run configuration at access point).
- One dedicated analog or equivalent modem line
- Data/LAN connection and dedicated I.P. Addresses
- Connection to facility at customer's discretion
- Power Quality Monitoring Test

The purpose of this document is to provide the basic information needed for site planning. For specific information not contained in this document please contact Modular Devices Inc.



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## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

### Mobile Pad Requirements

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#### Pad Size and Type

The mobile lab will need a level concrete or asphalt base to accommodate an 8' x 48' mobile lab. A minimum pad size of 10' x 41' is recommended to provide an area for all support legs and wheels to sit on a solid surface.

See Figure 7: Pad Layout

#### Pad Depth

The depth of the pad is to be determined by a local contractor based on climate, soil and other conditions.

#### Required Support

The pad must be capable of supporting a total weight of 55,000 pounds. The front legs support approximately 20,000 pounds, and the rear legs support 35,000 pounds.

#### Pad Levelness

The pad must be as level as possible. If you have questions about the feasibility of your site, MDI's on-staff professionals will be happy to assist you.

#### Air Flow Requirements

To maintain maximum capacity, lowest operating cost, satisfactory operation of ventilation packages and longest service life the following clearances for acceptable air conditioning condenser air flow should be maintained:

- HVAC unit discharging against wall or solid barrier: 15 feet

See Figure 7: Pad Layout

#### Attachment to Facility

Various connection system options are available. The physical connection between the land based facility and the mobile lab can be as simple or complex as desired. In appropriate climates, awning type enclosures seem to work the best. More permanent structures can also be built. Please contact us for examples of what prior customers have done to physically connect a mobile lab to a hospital. MDI requests that customers not permanently attach any adjoining structures to the mobile lab.



## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

### ● Radiation Shielding

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Care should be taken when determining a site location for a mobile lab. Factors such as shielding, proximity to buildings, and occupancy of surrounding buildings must be considered. MDI will provide a current physicist report with each lab. Some states/localities may require physicist reports be done locally, in which case it is the responsibility of the customer to perform a proper radiation survey/physicist report if required.

### ● Power Requirements

---

#### Electrical Service

The mobile lab requires a 480 Volt, 200 Amp, three phase, wye connection with neutral and ground. The lab comes equipped with an on-board emergency backup generator. This generator does not meet California EPA emissions standards so if used in California backup power will need to be provided by the hospital on a critical branch circuit.

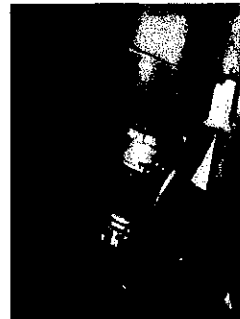
#### Power Cord

MDI will provide a properly sized power cord. Our personnel will connect the mobile lab to the facility's permanent power and will check to assure proper phasing.

#### Land-Side Power Connection

The standard land-side connection is a Russellstoll female receptacle and box **#DF 2504 FRAB0** mounted as close as possible to the rear of the mobile lab. The distance from the bottom of the receptacle to grade should not be less than 42". A service disconnect should be provided at the receptacle. If the proper female receptacle can not be obtained, MDI personnel can hard-wire the lab into the junction box.

Power Receptacle  
Angled Box and  
Receptacle Model  
**#DF 2504 FRAB0**  
(shown with male plug  
attached)



(continued)  
**Modular Devices Inc.**

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## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

### Power Requirements (Continued)

---

#### Frequency

The frequency must be 60Hz with a maximum variation of  $\pm 0.5$ Hz.

#### Phase Balance

The phase balance is 2% max between phases.

#### Maximum voltage variation

The maximum voltage variation is  $\pm 5\%$  from nominal steady state (under the worst case conditions of line voltage).

#### Power Source Monitoring (Facility Only)

NOTE: Perform a power audit first.

A power analyzer should be used to check the proposed Mobile Lab facility site power for average line voltage, surges, sags, reclosures, impulses, frequency and microcuts. A period that includes two weekends should be used to simulate several days of normal use. Analysis of the data and site history of any previous power problems with other X-ray systems or computer installations should be reviewed with your power and ground representative. Verify "brown-out" (low voltage) conditions, which may occur during summer months, will not exceed the allowable range.

NOTE:

The electrical power source must meet the requirements of the national electric code and National Fire Protection Association for Emergency Backup Power as applied to cardiac catheterization labs. Please consult the applicable codes and the local authorities in your area for guidance. The following codes define the requirements of "Emergency Systems" for cardiac catheterization laboratories: NFPA 70 Article 517-33 (a) (8) c & NFPA99 Paragraph 3-4.2.2.2 (c)

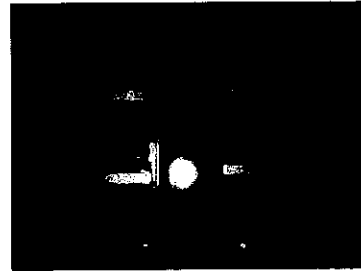
## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

### ● Data, Telephone and Network Connections

#### Telephone and Data Connections

The mobile lab has a number of configurable data/phone jacks throughout the lab with CAT5 cabling running from a weatherproof junction box in one of the compartments beneath the lab directly to each individual data/phone jack. The data/phone jacks utilize a female RJ-45/RJ-11 universal type connector. MDI recommends a minimum of two (2) phone lines for the lab.

- The customer is required to provide the network wiring from the facility to connect to the junction box in the mobile lab.



(Typical Mobile Lab Network Block)

#### Dedicated I.P. Addresses

The mobile lab requires dedicated IP address for the following systems:

- PACS. If sending images to PACS the x-ray system and image review workstations will require a dedicated I.P. Address.
- The lab comes installed with a power quality monitor which requires a dedicated I.P. Address. This device monitors the incoming power and provides real-time alerts of adverse power conditions which could potentially damage the installed equipment in the lab.

#### Fire Alarm

The mobile lab has an on-board fire warning system and is equipped with smoke and heat detectors throughout the entire lab. The alarm system can be wired into the supporting facility's fire alarm system through a contact block in a weatherproof junction box in the rear of the lab (accessible from the exterior). The lab is also equipped with hand-held fire extinguishers.

#### Code Blue

Code Blue can be handled in two different ways: Through 1) the phone system or 2) a blank electrical box mounted on the wall of the procedure room for a push-button notification system. The box contains an appropriate wire that terminates in a weatherproof junction box in the rear of the lab, where the facility can tie into their own code blue system.

- If using a push-button, the customer is responsible for providing the actual code-blue button.

## Site Planning Guide - Mobile Lab 185 - Exhibit "B"

### Water/Drain

#### Water Supply Connection

Water can be supplied to the lab via a cold water spigot with an RV grade water supply hose. The lab has an on-board hot water heater. The water is for scrubbing-in before cases and other general uses. An exterior 110V outlet is readily accessible for heat tape to wrap the supply hose.

- Customer is required to provide the water supply hose to the facility to connect to the water supply connection in the mobile lab.

#### Waste Water

The drain for the mobile lab is a 1" pvc tube that has an attachment for a standard male garden hose connection. Attachments should be made with a garden or RV grade hose. An additional option is a threaded male adapter in place of the garden hose adapter. Drainage from the lab will be run-off from hand washing and general cleanup within the lab. Depending upon local requirements, waste water can be drained to a sanitary sewer or holding tank. An exterior 110V outlet is readily accessible for heat tape to wrap the drain line.

- The customer is required to provide the waste water connection and also to ensure the proper disposal of waste water - ie. holding tank, sanitary sewer, etc.



(Typical Mobile Lab Water/Drain Connection)

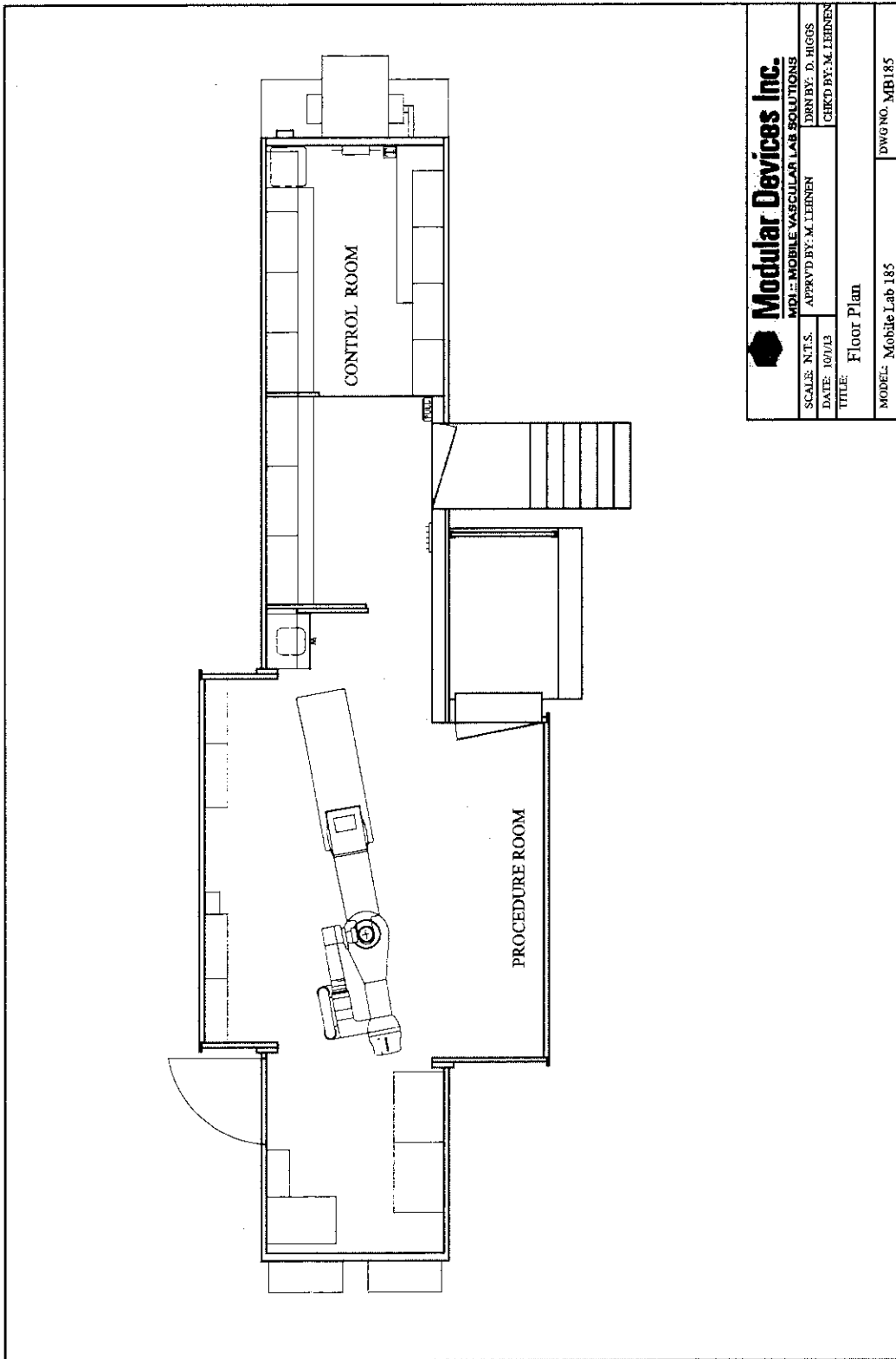
### Regulations and Responsibilities

#### Regulations/Ordinances/Licenses/Permits

The Hospital is responsible for obtaining all licenses and/or permits and meeting all state and local codes necessary for operation of the mobile lab. The hospital is also responsible for the connection system, pad and any costs associated with craning the mobile lab into place, if required.

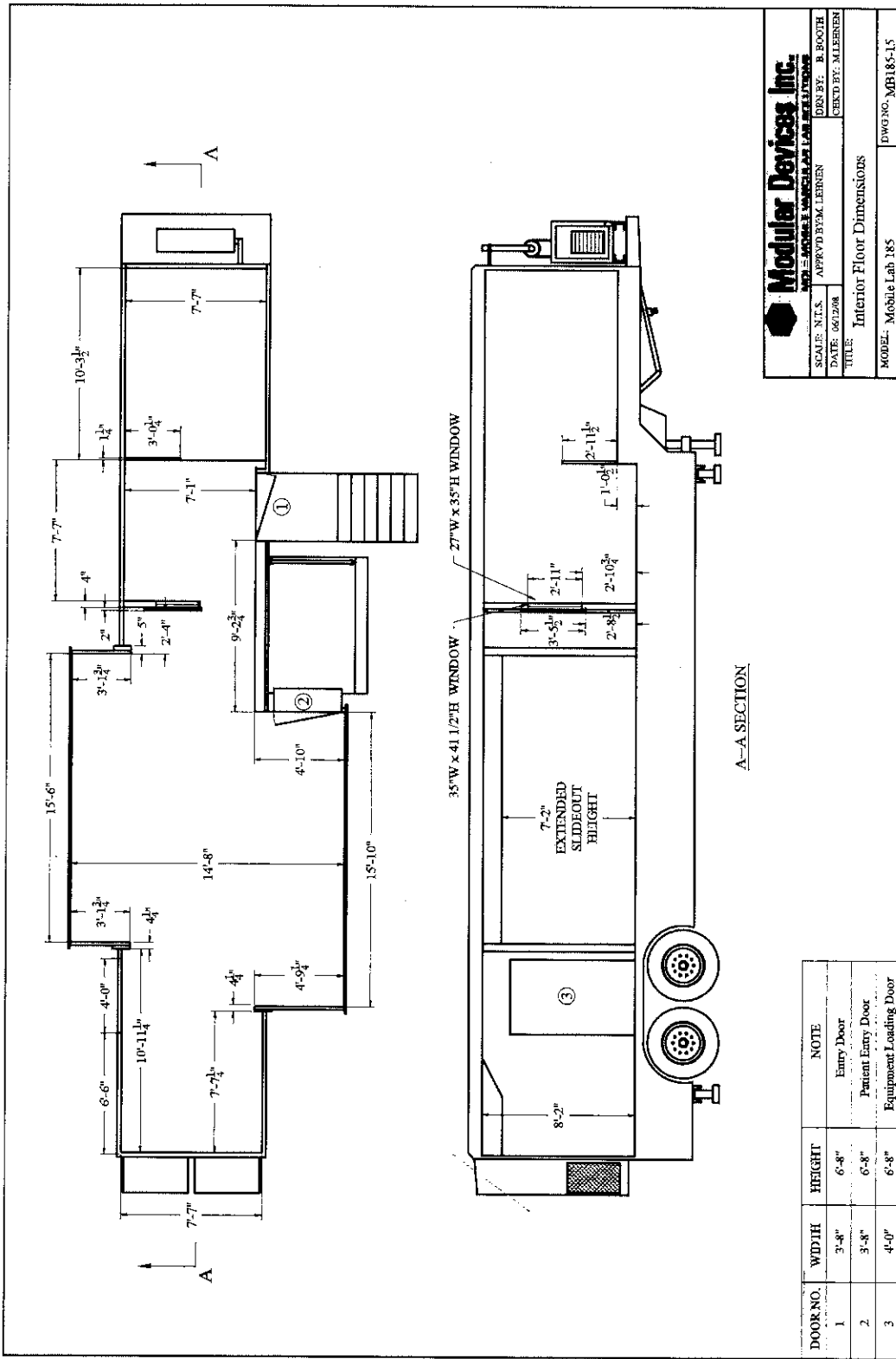
Site Planning Guide - Mobile Lab 185 - Exhibit "B"

Figure 1: Floor Plan



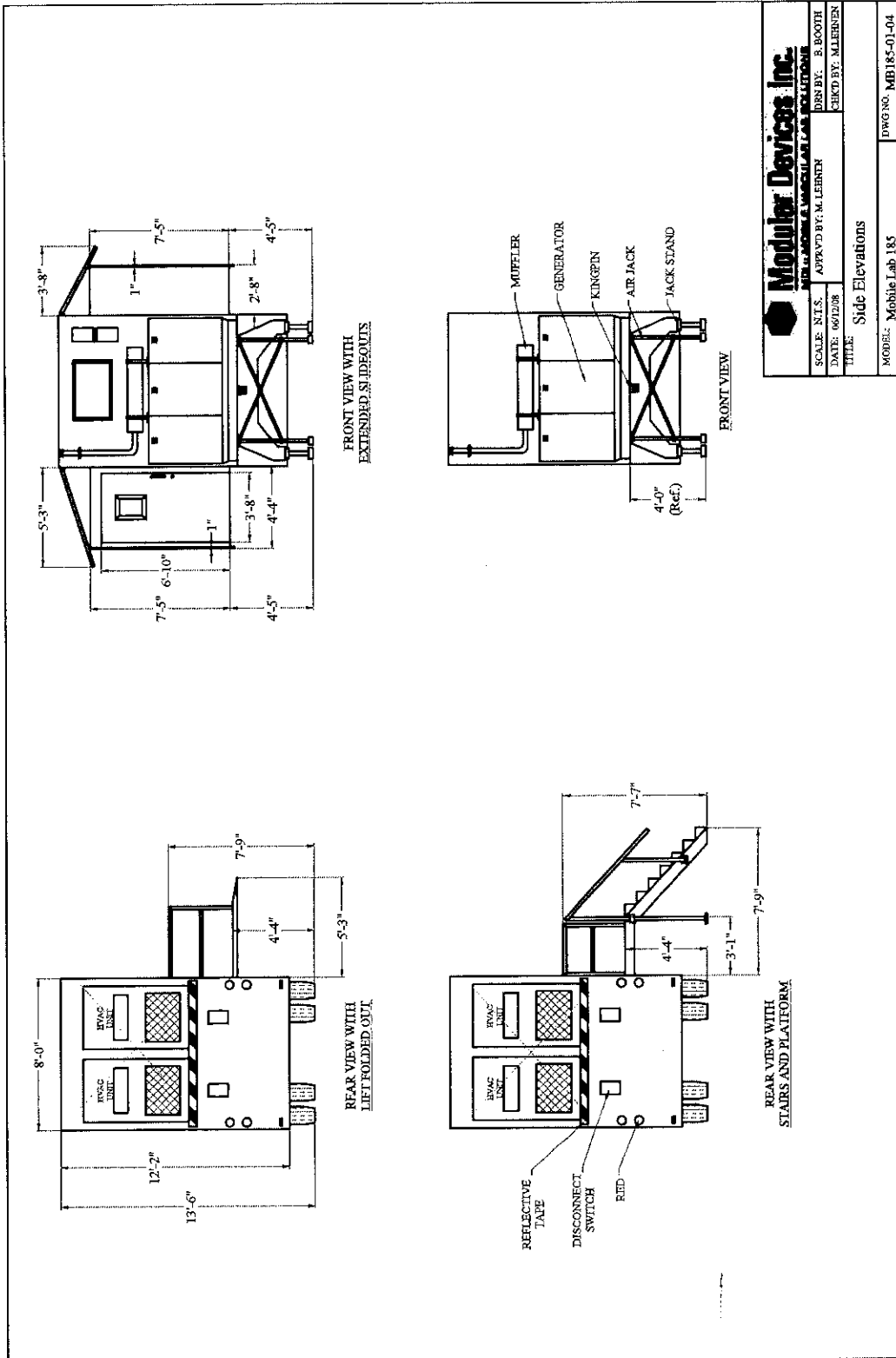
Site Planning Guide - Mobile Lab 185 - Exhibit "B"

Figure 2: Interior Floor Dimensions



Site Planning Guide - Mobile Lab 185 - Exhibit "B"

Figure 3: Side Elevations



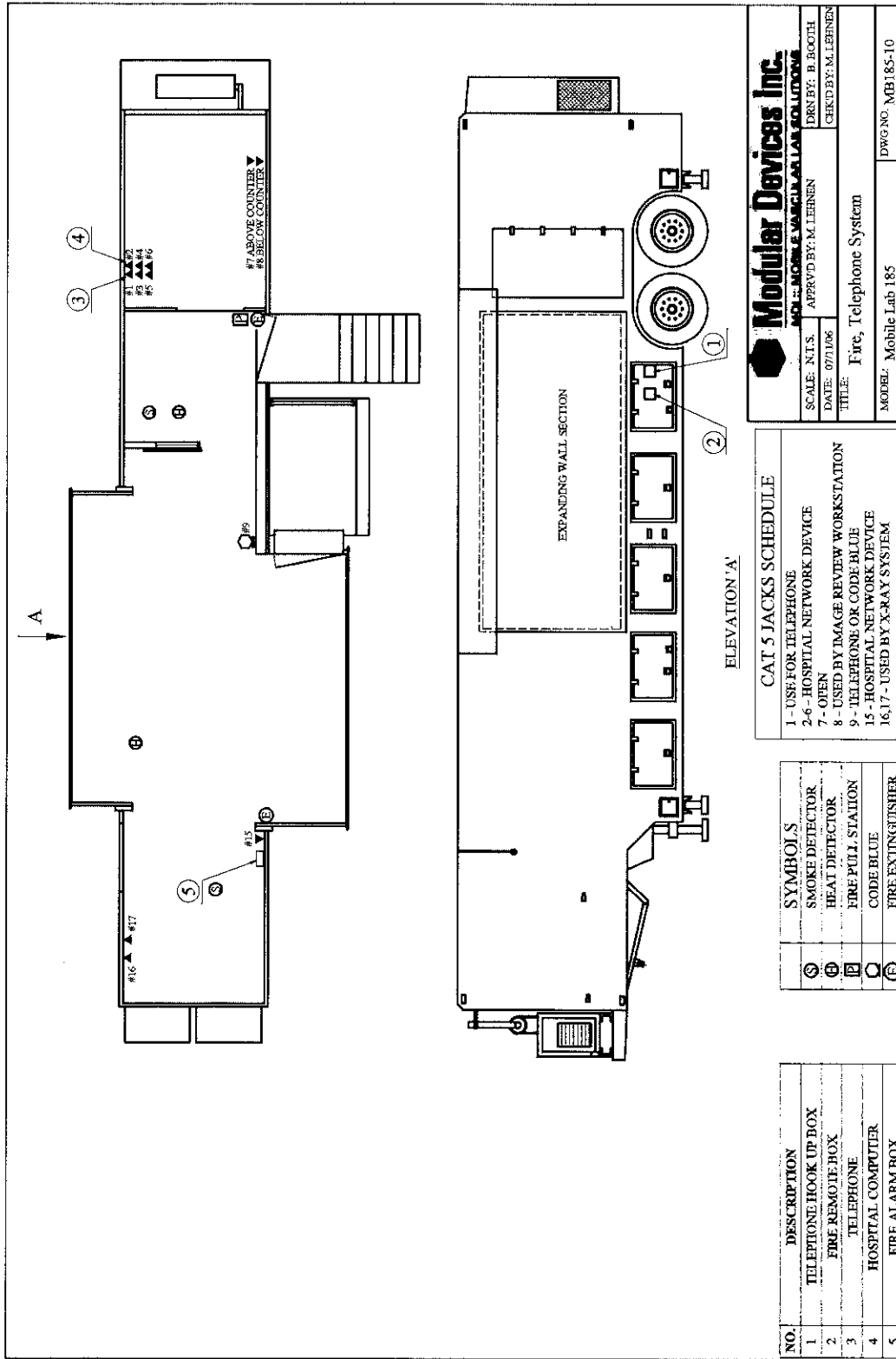






Site Planning Guide - Mobile Lab 185 - Exhibit "B"

Figure 6: Fire, Telephone, Data Plan



**Modular Devices Inc.**  
 NO. 1 - MOBILE VASCULAR LAB SOLUTIONS  
 SCALE: N.T.S. APPROVED BY: M. LEHREN DRN BY: B. BOOTH  
 DATE: 07/1/06 CHECKED BY: M. LEHREN  
 TITLE: Fire, Telephone System  
 MODEL: Mobile Lab 185 DWG NO. MB185-10

**CAT 5 JACKS SCHEDULE**

1 - USE FOR TELEPHONE  
 2-6 - HOSPITAL NETWORK DEVICE  
 7 - OPEN  
 8 - USED BY IMAGE REVIEW WORKSTATION  
 9 - TELEPHONE OR CODE BLUE  
 15 - HOSPITAL NETWORK DEVICE  
 16,17 - USED BY X-RAY SYSTEM

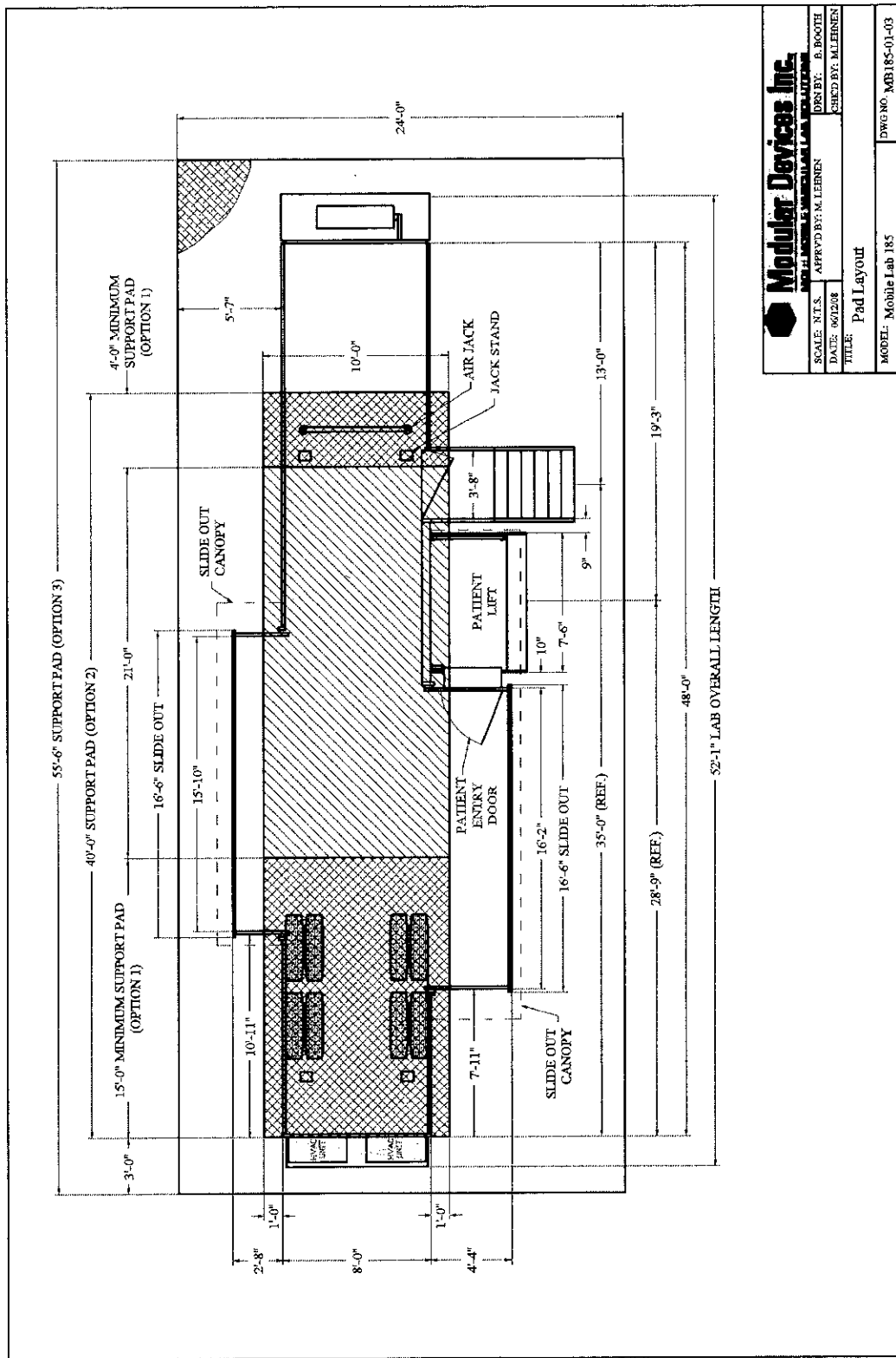
**SYMBOLS**

☉ SMOKE DETECTOR  
 ☐ HEAT DETECTOR  
 ☐ FIRE PULL STATION  
 ☐ CODE BLUE  
 ☐ FIRE EXTINGUISHER

NO.	DESCRIPTION
1	TELEPHONE HOOK UP BOX
2	FIRE REMOVAL BOX
3	TELEPHONE
4	HOSPITAL COMPUTER
5	FIRE ALARM BOX

# Site Planning Guide - Mobile Lab 185 - Exhibit "B"

Figure 7: Pad Layout



<b>Modular Devices Inc.</b>	
SCALE: N.T.S.	DESIGNED BY: B. BOOTH
DATE: 06/2008	CHECKED BY: M. LERNER
APPROVED BY: M. LERNER	
TITLE: Pad Layout	
MODEL: Mobile Lab 185	
DWG NO. MBI185-01-03	

<b>Equipment Overview</b>	Imaging: Siemens MAGNETOM Avanto 1.5T MRI Injector: Medrad Solaris Injector
---------------------------	--

## ◆ MRI Imaging System

### Siemens MAGNETOM Avanto 1.5T MRI System

For ultra-fast image acquisition. For a dramatic reduction in acoustic noise without compromising gradient performance. For the most comprehensive application range available today. For fast return of investment. For truly seamless workflow automation.

MAGNETOM Avanto gives you total flexibility, with innovative applications for each part of the body. And only Tim seamlessly scans up to 205 cm with no patient repositioning or coil changes. For true whole-body functionality.

#### Clinical perspective:

- Exceptional magnet homogeneity for excellent fat saturation
- Large 50 cm Field of View
- Strong gradients for high resolution and short scan times
- Unparalleled flexibility, accuracy, and speed – thanks to Tim
- Broad range of dedicated applications

#### Product Description:

- Magnetom Avanto 1.5T Syngo System
- Ultra Short 150 cm long, whole body superconductive 1.5T Magnet
- Magnetom Avanto Digital Radio Frequency System
- Syngo MR Software, Level B13
- Q-engine Gradient System with Audio Comfort – Max gradient amplitude of 30 mT/m, max slew rate 125 T/m/s
- 76 X 18 Q-engine. 76 elements and 18 independent RF channels
- Inline diffusion
- BLADE
- CISS & DESS – 3D DESS
- 3D CISS
- Standard Matrix Table
- Arm Rest for MR H/S
- PMU Wireless Physio Control
- TIM – Total Imaging Matrix
- TIM (76x18) Q Engine – 76 simultaneously connected coil elements with 18 independent RF channels

#### Patient perspective:

- Shorter-than-ever exam times with iPAT
- Up to 97% acoustic noise reduction with AudioComfort
- Feet-first examinations with Tim
- No patient repositioning with Tim
- Ultra-lightweight coils with Tim (Body Matrix 950 g only)
- Highest level of diagnostic confidence

#### Coils to include:

- Head Matrix Coil (12 Element design)
- Spine Matrix Coil
- Neck Matrix Coil (4 Element design)
- Body Matrix Coil (6 Element design)
- CP Flex Coil – Large
- CP Flex Coil – Small
- CP Extremity Coil
- Shoulder Array Coil

#### Total Imaging Matrix Application Suites

- Neuro Suite
- Angio Cardiac Suite
- Cardiac Suite
- Body Suite
- Onco Suite
- Ortho Suite
- Pediatric Suite
- Breast Suite
- Scientific Suite

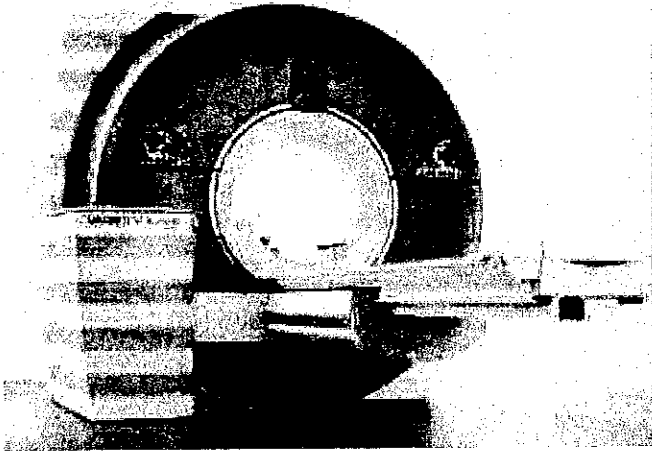
Kodak DryView 8150 Laser Imager



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Equipment List - Lab 48 Exhibit "A"



**Fat saturation**  
 MAGNETOM Avanto excels in cardiac MRI. With strong gradients, superb Parallel Imaging with syngo GRAPPA, and high magnet homogeneity. Everything desired for heart MRI.



**Large FoV**  
 50 cm Field of View provides a perfect view of pathologies.



**Perfusion MRI**  
 With strong gradients, MAGNETOM Avanto delivers excellent temporal and spatial resolution.

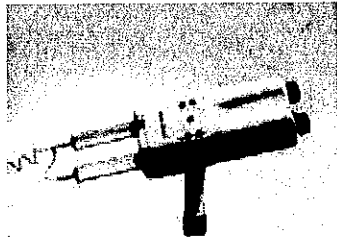
◆ Contrast Injection System

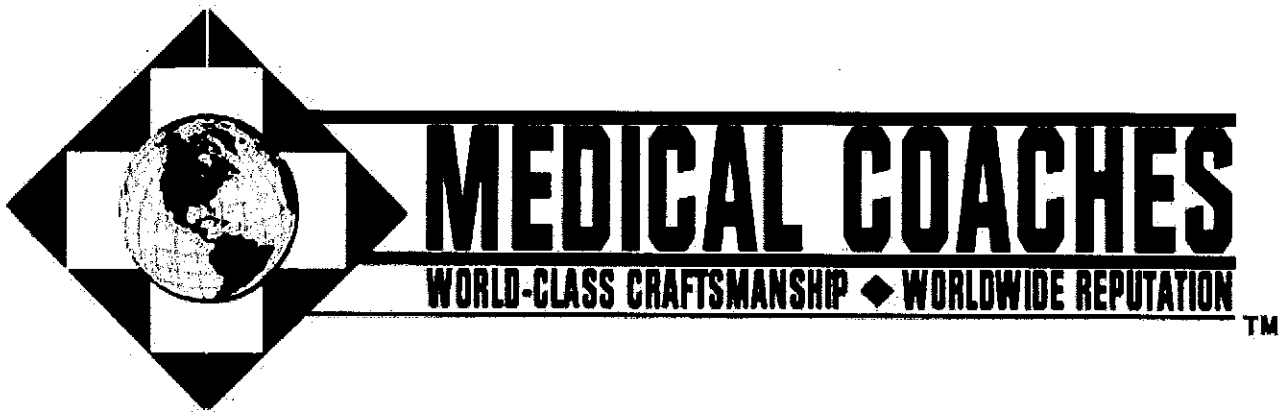
**Medrad Solaris MRI Contrast Injector**



**Features ease-of-use and reliability:**

- Designed for use in all MR Scanner field strengths up to and including 3.0T
- Optimized color touch-screen
- User-programmable phases for added flexibility
- Independent Keep Vein Open (KVO) allows more time to focus on the patient
- Fiber optic technology enables direct, reliable communication
- Longer battery life with increased capacity

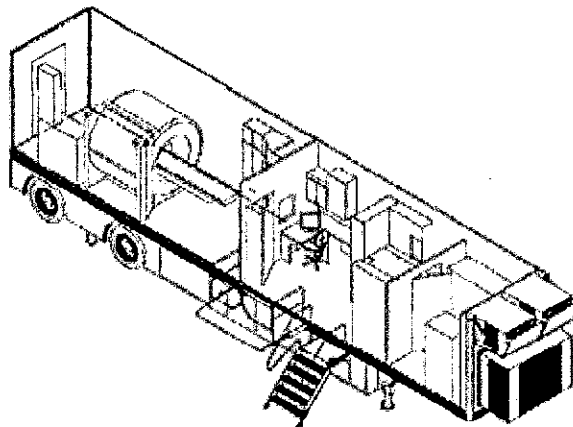




SITE PLANNING GUIDE

48' MOBILE MRI SYSTEM  
AVANTO  
(Transportable at Field)

Manufactured by  
MEDICAL COACHES, INCORPORATED



Proper site preparation for special-purpose mobile units is critical to their successful operation. This guide has been assembled to provide you with detailed site planning and preparation data specifically for the SIEMENS MRI System installed in a Medical Coaches Mobile Unit.

The information compiled and provided should be sufficient to cover most site planning requirements. If additional questions do arise, please contact Medical Coaches directly. See page 1.

Medical Coaches continues to learn from our valued customers. We invite your comments and suggestions on any improvements to this document, and sincerely appreciate your past contributions.

The confidential information contained herein is the property of Medical Coaches, Inc. and may only be used by our customers.

January 31, 2006 123296 Rev F

EXHIBIT C - MOBILE MRI LAB

SITE PLANNING GUIDE REVISION SHEET

48' Mobile MRI System  
Avanto

<u>COVER REV</u>	<u>PAGE NO.</u>	<u>DESCRIPTION OF CHANGE:</u>	<u>Unit &amp; Date</u>
-	ALL	INITIAL RELEASE	6/7/04
A	8, 11 & 12	Changed Sales Drawing D20250 was D13262 also inserted 6385 revised Magnetic Field Level Grid, Ref D13265 Sheet 1, also revised D13263 Drawing to Rev. A	1/4/05 6385 +
B	5 13	In Section 4.0 Phone and Data service. Rewrote sections covering Phone Lines #1, #2 & line specifically for Siemens remote diagnostics circuit. Also added description of Line #1 & Line #2 also Data #1, Data #2 & Data #3. Also Revised Drawing D20250 To Rev. A	7/10/05 6392 +
C	13	Revised drawing D20250 To Rev. B removed film viewer and changed cabinet to double doors.	6395 +
	11 & 12	Changed drawing on page #12 to D20500 showing Fringe Field Depiction, was D13265 Sheet 1 and also the section under 7.0 Magnetic Shielding was rewritten to describe Fringe Field Depiction in place of the grid method.	
D	3	Changer Voltage Variation in section 2.1 +/- 10% was +/-6%.	6397 +
E	3	Added (150 amps if Symphony is installed) in section 2.1	Symphony + Trailers
F	15	Revised Lettering Guide Drawing D13261 to Rev. B	6398+ 1/31/06

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    1.2. SUPPORT PAD DEPTH: ..... 1

    1.3. SUPPORT PAD LEVELNESS: ..... 1

    1.4. RECOMMENDED SERVICE PAD DIMENSIONS: ..... 1

    1.5. ATTACHING TO BUILDING: ..... 1

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**1.0. SUPPORT PAD REQUIREMENTS:**

The following is a list of recommendations and requirements for a concrete support pad.

**1.1. *MOBILE MRI TRAILER RECOMMENDED SUPPORT PAD***

A full pad measuring 43' long by 10' wide should be located as shown on the drawing on page 2. Minimum support pads (cross-hatched area on drawing) are also shown. The minimum pads are not recommended because they may not accommodate future mobile systems servicing the site.

**1.2. *SUPPORT PAD DEPTH:***

Recommendations for length and width of pad are given above. However, the depth should be determined by a local contractor based upon weight distribution information given on drawing on page 2 and existing site conditions. If ferrous rebar is to be used in concrete pad, contact Siemens or Medical Coaches, Inc. about field setup specifications.

**1.3. *SUPPORT PAD LEVELNESS:***

The SIEMENS' Mobile MRI System requires that the support pads be LEVEL FOR PROPER OPERATION. Pad must not exceed 0.25" deviation in 10' 0".

NOTE: A local licensed engineer or architect should determine actual site design. Site design is the responsibility of the purchaser or end users!

**CAUTION!**

STRICT ATTENTION MUST BE PAID TO PAD LEVELNESS! FAILURE TO SUPPLY LEVEL PAD CAN CAUSE DIFFICULTIES IN MRI SYSTEM OPERATION.

**1.4. *RECOMMENDED SERVICE PAD DIMENSIONS:***

A service pad measuring 20 feet by 54 feet should be located as shown on the drawing on page 2 for ease of service access (dotted line on drawing).

**1.5. *ATTACHING TO BUILDING:***

If using a dock seal or similar inflatable seal to attach the Mobile Unit to a building, pages 2 and 9 can be used as guides.

If you require assistance, please contact us directly.

TEL 607-432-1333 or FAX 607-432-8190

Len Marsh, Extension 108  
Executive Vice President,  
Chief Operating Officer, and  
MRI Sales Manager

Paul Kankiewicz, Extension 101  
Division Manager,  
Technical Support Division

R. E. Mattice, Extension 123  
Vice President of Engineering and Chief Engineer





**2.0. CUSTOMER POWER REQUIREMENTS:**

A single electrical power source is required for operation of the Mobile Siemens MRI System.

**2.1. *ELECTRICAL SERVICE:***

480 VOLT, AC, 3-phase, fused 200 amps (150 amps if Symphony is installed). Maximum allowable line voltage variation is +/- 10 percent (432-528 VAC). Phase Balance should be within 2%. See page 11 for regulations.

**2.2. *CONFIGURATION:***

Three-phase Delta or WYE connection with ground.

**2.3. *FREQUENCY:***

60 hertz +/- 0.5 hertz.

**2.4. *SHORELINE CABLE:***

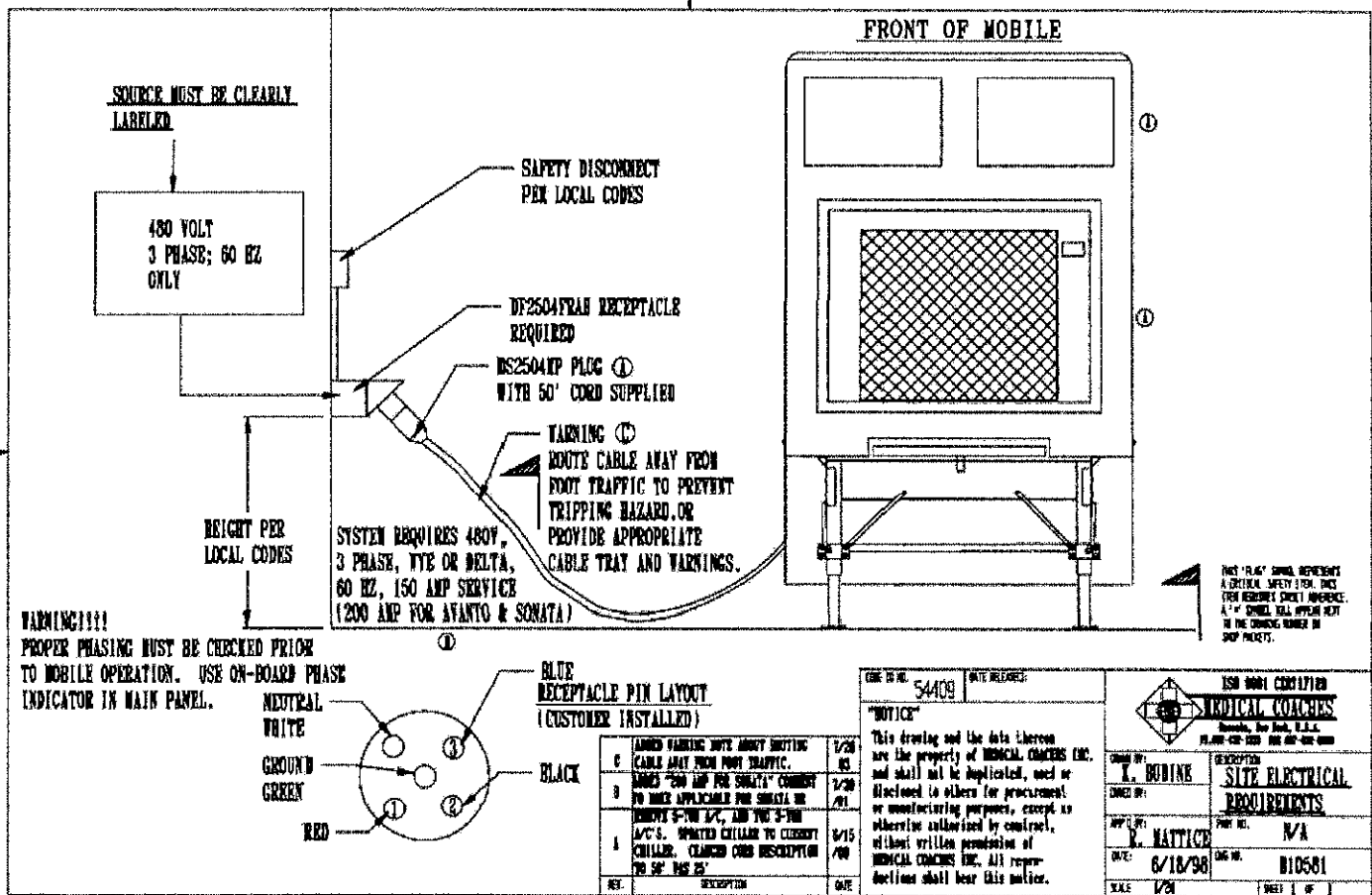
A 50 foot shoreline wired directly to trailer is provided for connecting the mobile unit to hospital power. The shoreline is located in the rear skirt compartment and may be drawn from either side of the trailer. The end has a Russell-Stoll DS2504MP to mate with the site receptacle.

**2.5. *CUSTOMER RECEPTACLE:***

The facility must have the matching receptacle as specified by the drawing on page 4, customer must supply this receptacle. This receptacle is a Russell-Stoll DF2504FRAB, and is not provided with the trailer.

EXHIBIT C - MOBILE MRI LAB

Site Electrical Drawing B10581



Site Planning Guide 123296 Rev. F

**3.0. WATER SUPPLY REQUIREMENTS:**

Only a 3/4-inch cold water garden hose is required. This unit can be operated either with water line connected and pressurized or disconnected, providing tank is refilled as needed. Connection is located in rear curbside compartment next to tank.

**3.1. *TRAILER:***

The water fill connection is in the curbside rear compartment. A special opening is provided in the bottom of the compartment.

**3.2. *COLD WATER PROTECTION:***

All on-board tanks and lines are weather protected. The site must provide for weather-protected supply line to prevent freeze up.

**4.0. TELEPHONE AND DATA SERVICE:**

This mobile system is supplied with one (1) telephone handset; three (3) phone lines (Line 1, Line 2 and Remote Diagnostic line); and three (3) data lines (Data 1, Data 2, and Data 3).

**4.1. *PHONE LINES:***

Two (2) marine-grade Hubbell PH6595 inlet receptacles are located in the front curbside compartment. These receptacles are labeled "Line 1" and "Line 2".

- Line 1 serves the Control Room main work station and the wall-mounted receptacle is located above the countertop.
- Line 2 serves the Control Room auxiliary work station and the wall-mounted receptacle is located above the countertop.

A third marine grade Hubbell PH6595 inlet receptacle is located in the front curbside compartment. This receptacle is labeled "Remote Diags".

- Remote Diags serves as the remote diagnostics circuit for the exclusive use of Siemens Medical Systems USA. Inc. personnel and the wall-mounted receptacle is located under the countertop of the main work station in the Control Room.

**4.2. *DATA LINES (RJ45 RECEPTACLES):***

Two (2) inlet receptacles are located in the front curbside compartment. These receptacles are labeled "Data 1" and "Data 2"

- Data 1 serves the Control Room main work station and the wall-mounted receptacle is located above the countertop.
- Data 2 also serves the Control Room main work station and the wall-mounted receptacle is located below the countertop.

A third data 3 line is provided for data transfer between the Control Room main and auxiliary work stations. The receptacles for this line are both located below the respective countertops and are both labeled "Data 3".

#### 4.3 *PHONE AND DATA CONNECTION CABLES:*

Two 50 foot connecting phone cables with Hubbell PH6599 receptacles at both ends are supplied for use with Line 1 and Line 2. These cables can be stored on the cord tender also provided and mounted on the inside of the front curbside compartment door,

No connection cables are provided for Data Lines or for the Diagnostic Line. These cables are the responsibility of the customer.

#### 4.4 *SITE REQUIREMENTS:*

##### Phone Lines

Each phone line requires a Hubbell PH6597 weatherproof outlet mounted in a Hubbell PH6619 weatherproof box located within 50 feet of the mobile system.

##### Data Lines

Each data line requires a standard RJ45 connector mounted in a weatherproof box. Weatherproof data boxes should be located in the same general area as the phone weatherproof boxes.



**5.0. SITE CLEARANCE REQUIREMENTS:****5.1. MOBILE UNIT CLEARANCE REQUIREMENTS:**

Refer to illustration on page 9 depicting clearance required around the mobile unit.

**5.2. SWING DIMENSIONS OF DOORS:**

Swing dimensions are shown for all compartment doors, entrance door and canopy door. Service access should be an additional 36 inches to all dimensions shown (indicated on D13025 on page 9). These dimensions must be considered when contemplating parking near a building or other obstruction. Patient and staff access and egress should also be convenient to the mobile unit site.

**5.3. OFF-TRACKING OF UNIT:**

Adequate and convenient access also must be provided for movement in and out of site by the mobile unit with proper attention paid to swing and turn radii. Sharp dips, curbs, bumps, and other road surface conditions can affect the mobile unit ground clearance and must be considered. See D11536 on page 10.

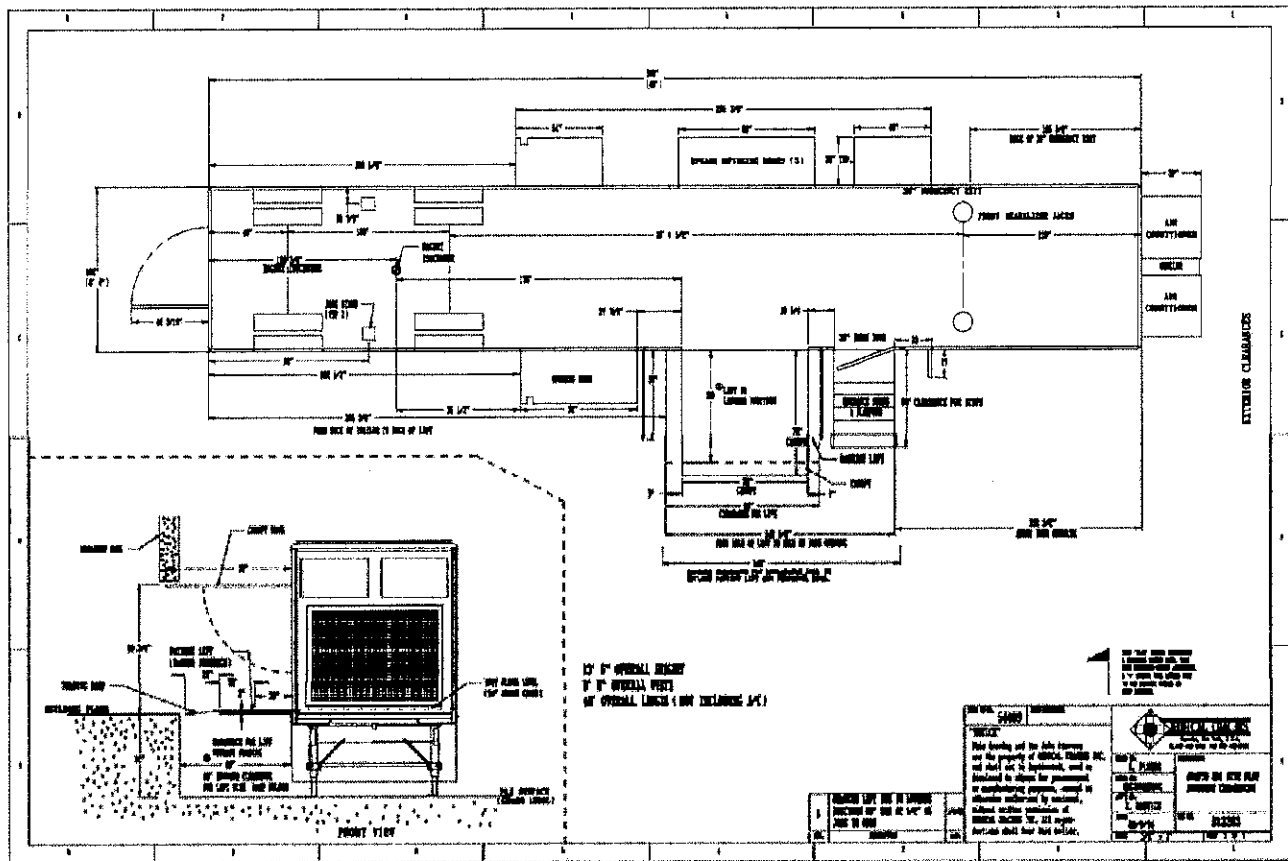
**NOTES:**

Lift compartment doors (center compartment on curbside, see page 7) are easily removable.

Special hinging arrangements are possible for the canopy. Please contact Medical Coaches if the standard arrangement is inconvenient.

EXHIBIT C - MOBILE MRI LAB

Exterior Clearances Drawing D13263

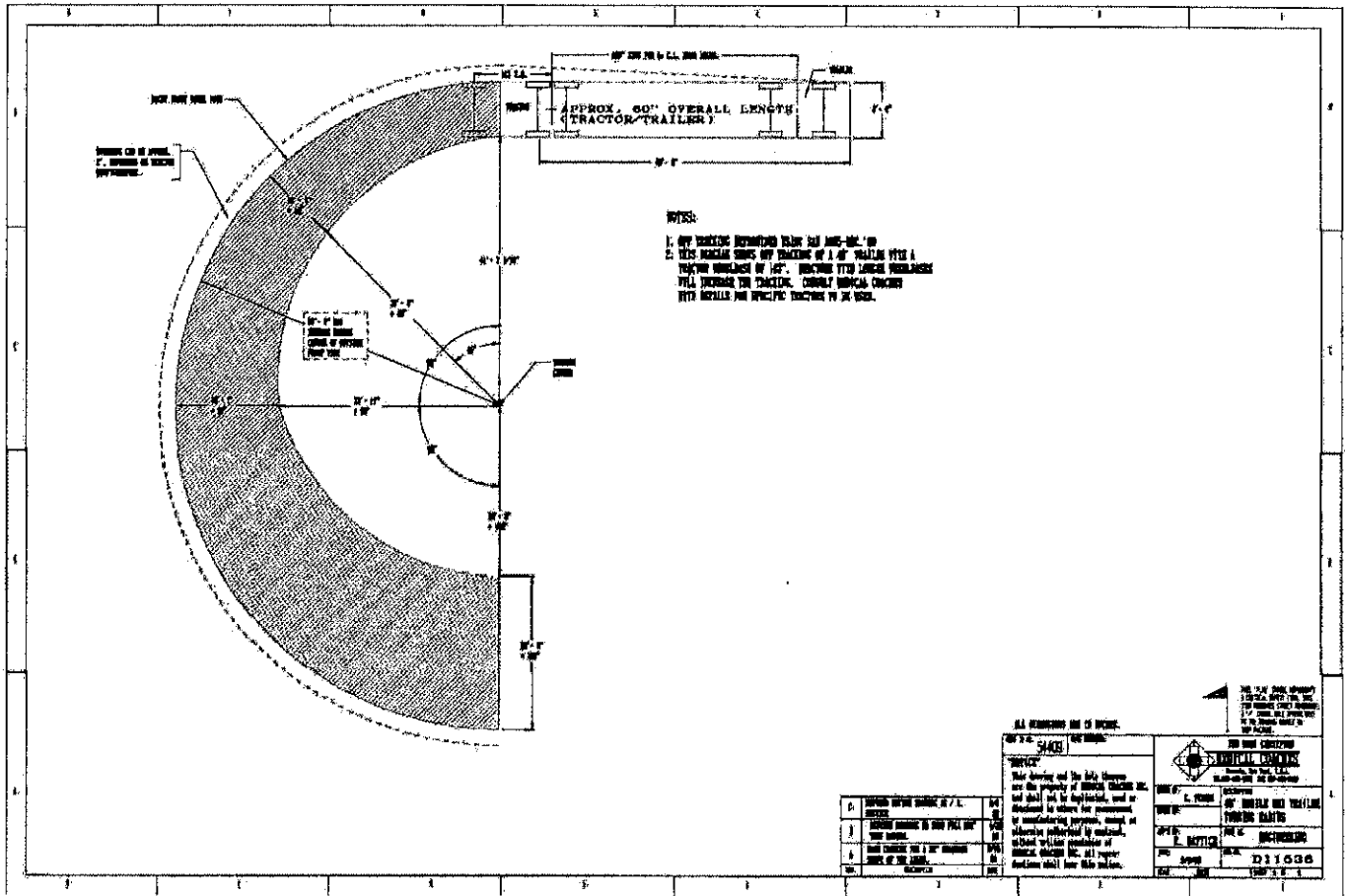


Site Planning Guide 123296 Rev. F



EXHIBIT C - MOBILE MRI LAB

Trailer Turning Radius D11536



**6.0 REGULATIONS:**

This mobile unit has been designed to comply with Federal regulations in existence at time of manufacture. Local and State regulations may differ from site to site. It is the responsibility of each site to ensure that these regulations are met and encumber any costs associated with unique alterations or additional equipment required.

**7.0 MAGNETIC SHIELDING:**

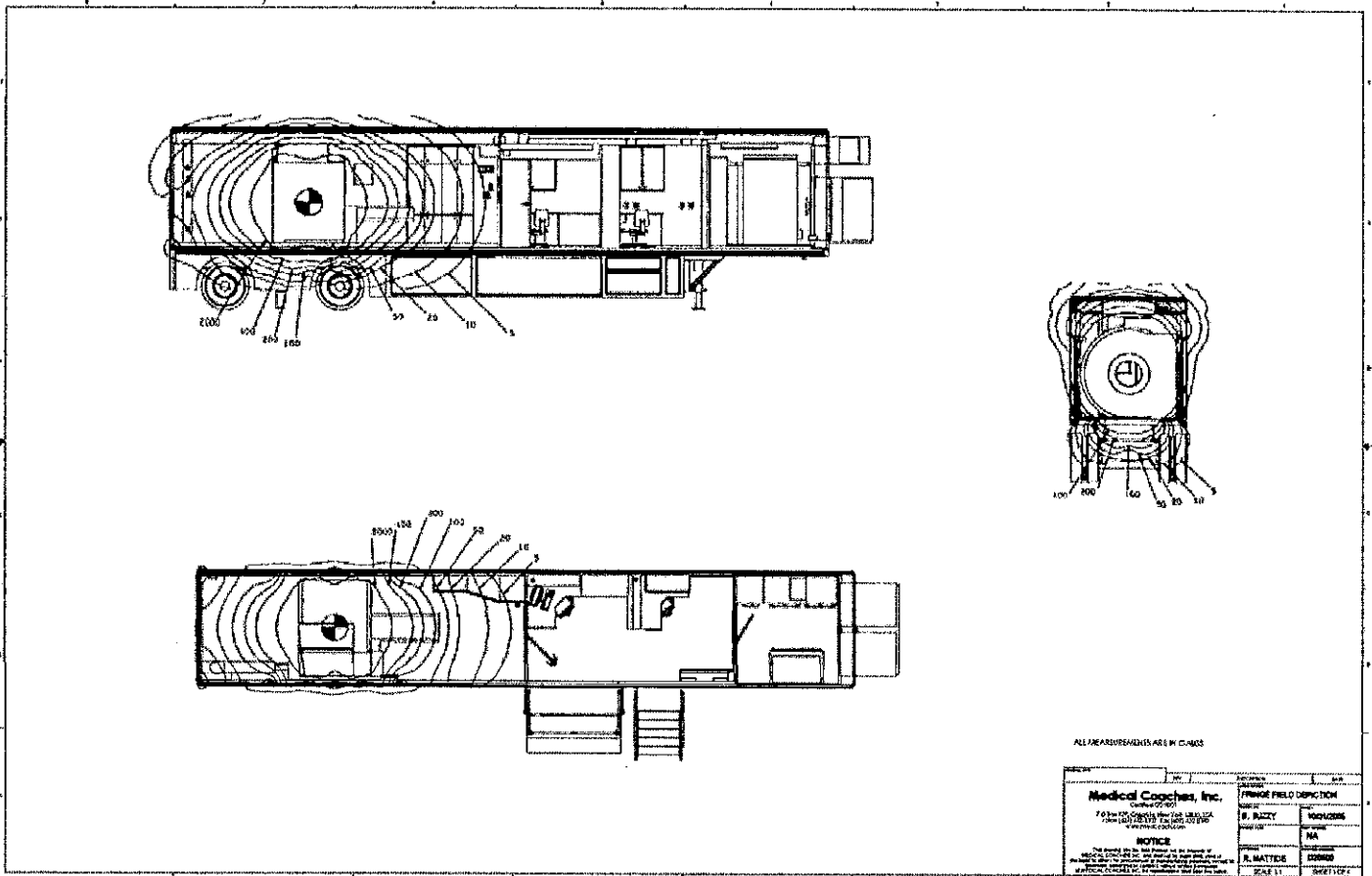
Magnetic shielding is contained within the side walls of the mobile unit. This mobile unit can be transported "at field". See the Fringe Field Depiction Drawing D20500 for, fringe field depiction, as a result of magnetic shielding. The 5 gauss line is within 8" of the trailer exterior to a height of 8' above grade.

Extreme Caution must be followed when using or accessing the space above and below the trailer. This space is restricted for many uses and it is recommended to contact Siemens or Medical Coaches Inc. with specific questions about access to this space.

Image quality is directly related to stationary objects within a certain range of the magnet ISO center. For example, vehicle traffic, high power lines, etc. Contact Siemens for specific details.

EXHIBIT C - MOBILE MRI LAB

Fringe Field Depiction Drawing D20500











# Monterey County

## Item No.4

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-045

March 05, 2021

**Introduced:** 2/12/2021

**Current Status:** Natividad Medical Center -  
Consent

**Version:** 1

**Matter Type:** BoS Agreement

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with Secure Exchange Solutions, Inc. for secure messaging services at NMC for an amount not to exceed \$58,500 with an agreement term retroactive to December 1, 2020 through November 31, 2023.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and limitations on damages provisions within the agreement.

#### **RECOMMENDATION:**

##### **It is recommended the Board of Supervisors:**

- a. Authorize the Chief Executive Officer for Natividad Medical Center (NMC) or his designee to execute an agreement with Secure Exchange Solutions, Inc. for secure messaging services at NMC for an amount not to exceed \$58,500 with an agreement term retroactive to December 1, 2020 through November 31, 2023.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and limitations on damages provisions within the agreement.

#### **SUMMARY/DISCUSSION:**

Healthcare providers require the use of a Health Information Services Provider (HISP) to securely transmit protected patient data via Direct Secure Messaging (DSM). DSM is a Health Insurance Portability and Accountability (HIPAA) compliant transport method promoted by the Department of Health and Human Services.

HISPs offer healthcare organizations an onramp to the Direct Secure Messaging network where trading partners can exchange protected health information (PHI). Secure Exchange Solutions is the industry leader in providing HISP services and has been providing the underlying service, through an intermediary, to NMC for many years. NMC is now requesting an agreement that will connect us directly to Secure Exchange without the need to contract through a reseller.

NMC is requesting a retroactive agreement because our previous vendor exited the business abruptly,

giving NMC no time to negotiate a new agreement with a new vendor before cutting off our service. Because this is a regulatory required service, Secure Exchange Services agreed to provide the service while NMC negotiated in good faith. Secure Exchange has been providing this service to NMC since November, 2020.

**OTHER AGENCY INVOLVEMENT:**

The Office of County Counsel has reviewed and approved this agreement as to form, and the Auditor-Controller has reviewed and approved as to payment provisions. The agreement has also been reviewed and approved by NMC's Finance Committee and by its Board of Trustees on February 12, 2021.

**FINANCING:**

The cost for this agreement is \$58,500 of which \$19,500 is included in the Fiscal Year 2020-21 Adopted Budget. Amounts for remaining years of the agreement will be included in those budgets as appropriate.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

This agreement allows NMC to satisfy regulatory requirements regarding transmission of protected health information (PHI) between systems and providers.

- Economic Development
- Administration
- Health and Human Services
- Infrastructure
- Public Safety

Prepared by: Charles Harris M.D., Chief Quality Officer, 783-2785

Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2553

Attachments:

Secure Exchange Solutions, Inc. Master Software-as-a-Service Subscription Agreement

Secure Exchange Solutions Business Associate Agreement

Attachments on file with the Clerk of the Board





# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-045

March 02, 2021

Introduced: 2/12/2021

Current Status: Agenda Ready

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Approved by: Gary R. Gray, DO, Chief Executive Officer, 783-2553

Attachments:  
Secure Exchange Solutions, Inc. Master Software-as-a-Service Subscription Agreement  
Secure Exchange Solutions Business Associate Agreement

Attachments on file with the Clerk of the Board

Dr. Gary R. Gray  
Dr. Gary R. Gray, Chief Executive Officer

2/22/21  
Date

## **MASTER SOFTWARE-AS-A-SERVICE SUBSCRIPTION AGREEMENT**

This Master Software-as-a-Service Subscription Agreement (this "Agreement"), is effective as of December 1, 2020 (the "Effective Date") by and between Secure Exchange Solutions, Inc., a Delaware corporation having its principal place of business at 9600 Blackwell Road, Suite 250, Rockville, Maryland 20850 ("SES") and the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, an acute care hospital with its principal place of business at 1441 Constitution Blvd. Salinas, CA 93906 ("Subscriber").

### **RECITALS**

- A. SES has developed certain computer software application products, proprietary databases, and related services and documentation as more fully described on Exhibit A attached hereto, made available for subscription as a service (collectively, the "Services").
- B. Subscriber desires to subscribe for the Services in accordance with the terms and conditions set forth in this Agreement to provide certain functionality to its customers, including, without limitation, the secure electronic exchange of certain data.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein and other good and valuable consideration, including the rights and licenses granted in this Agreement, the receipt of which is acknowledged as legally sufficient and deemed legally binding, SES and Subscriber hereby agree as follows.

1. **Subscription for Services.** Subscriber shall subscribe for the Services in accordance with this Agreement. SES shall provide the Services in a professional and workmanlike manner in accordance with this Agreement. With respect to performance and delivery of the Services, SES is acting as an independent contractor of Subscriber. SES, in its sole discretion, shall determine the manner in which the Services shall be performed and the specific hours to be worked by its personnel in providing and delivering the Services all as contemplated by this Agreement. Neither SES nor the employees or contractors of SES performing any part of the Services shall be considered an employee or agent of Subscriber. Nothing contained in this Agreement or otherwise shall be construed to imply a partnership, agency, or any other fiduciary relationship between Subscriber and SES. Notwithstanding the generality of any other provision of this Section 1, nothing in this Agreement or otherwise shall result in any of the Services or any work product resulting from the Services, including, without limitation, any databases, report templates, or training materials, whether or not including "Data" as defined by this Agreement (collectively, "SES IP") being deemed a "work-made-for-hire" or otherwise being deemed the property of Subscriber.
2. **Specifications.** The parties agree that the specifications for the functionality provided by the Services are fully set forth on Exhibit A attached hereto and hereby made a part hereof (the "Specification Sheet"). Subscriber acknowledges that the Specification Sheet shall be amended by any revised Specification Sheet included with any Upgrade (as defined herein) of the Services provided in accordance with this Agreement without any action required of Subscriber provided that no Upgrade or applicable Specification Sheet shall result in a degradation of reduction of performance or functionality of the Services unless the elimination of functionality is required for compliance with applicable protocols, industry standards, or regulations. The Services shall be deemed to include all of the functionality described in (a) the Specification Sheet; and (b) set forth on (i) the Order Form attached hereto as Exhibit B; and (ii) any and all Upgrades (as defined herein) to any Services.
3. **Provision of Services and Support Services; Payment.** (a) SES shall provide Subscriber with the Services set forth on the Order Form attached hereto as Exhibit B and provide Support Services described in Section 12 of this Agreement (the "Support Services"). (b) Subscriber agrees to pay SES all amounts related to (i) subscription for and provision of the Service as set forth on the Order Form; and (ii) Support Services provided under Section 12 of this Agreement for all such Services (collectively, "Subscription Fees") within thirty (30) days of receipt of an invoice certified for payment by the County of Monterey Auditor-Controller for the applicable Subscription Fees or as otherwise provided under Exhibit B, it being agreed that all invoices submitted by SES shall be deemed certified for payment if not disputed in writing with reasonable specificity as to what amounts, if any, are disputed, within ninety (90) days of the date of any invoice.
4. **License Grant.** SES hereby grants Subscriber in accordance with the terms and conditions of this Agreement, a non-exclusive, non-transferable (except as otherwise permitted under this Agreement) license to access and use the Services, the SES IP, and run-time versions of the computer software applications embodied in the Services enabling the functionality provided by the Services (the "Software") for Subscriber's use in accordance with the intended purpose of the Services, SES IP and such Software (collectively, the "Licensed Intellectual Property") and as set forth on Exhibit B (the "License"). The License with respect to the Software is solely for use concurrent with access to and use of the Services.
5. **Term.** Subject to the terms and conditions of this Agreement, Subscriber shall have all rights under the License for a period of three (3) years commencing on the Effective Date (the "Term").

6. **Termination.** (a) The License shall immediately terminate upon the earlier of (i) the receipt of any refund by Subscriber under Section 12(c) or Section 18 of this Agreement; (ii) at the election of SES, in the event that Subscriber shall fail to pay any applicable Subscription Fees in full within ninety (90) days following the date of the invoice for such Subscription Fees; (iii) in accordance with the BAA (as defined in this Agreement); or (iv) Subscriber may terminate this Agreement in its entirety at any time, without cause or further obligation, on thirty (30) days prior written notice to SES. (b) Upon any termination of the License provided under this Agreement, Subscriber shall have no further right to make use of the Licensed Intellectual Property in any manner whatsoever and shall immediately cease and desist from any use (whether for production or archival purposes) of the any and all of the Licensed Intellectual Property unless otherwise expressly authorized in writing by SES. (c) Upon any termination or expiration of this Agreement, SES shall afford Subscriber, at no additional charge, thirty days to download a complete copy of the Data in a format supported by the Services or as otherwise agreed by the Parties in writing. Upon download of the Data, the license granted herein to the Data shall immediately terminate and SES shall securely remove all copies of the Data from its systems and records using industry best practices (i.e., at least as protective as the DoD 5220-22-M Standard, NIST Special Publication 800-88, Guidelines for Media Sanitization, or NAID standards).
7. **Copy, Use and Transfer Restrictions; Authorized Users.** (a) The Licensed Intellectual Property is copyrighted to SES and is the sole and exclusive property of SES. Subscriber shall not give, sell, or otherwise distribute copies of and Licensed Intellectual Property or permit access to any of the Licensed Intellectual Property to third parties, except as permitted by the License. (b) The Licensed Intellectual Property shall only be used by (i) persons employed by Subscriber, (ii) third parties authorized by Subscriber to have access to the Services solely through use of Subscriber's own products and services ("Subscriber Customers") and shall have no other access to the Services; or (iii) authorized agents or contractors (including consultants) of Subscriber acting in the ordinary course of business (collectively, the "Authorized Users"). (c) Subscriber shall insure that only Authorized Users shall access and use the Licensed Intellectual Property and such use and access shall be only in accordance with the License. (d) Subscriber agrees (i) that it is acting as a "Trusted Agent" of SES for the purpose of registering and verifying the identities of its Authorized Users; and (ii) to comply with the required level of assurance in verifying such identities and registering Authorized Users to use the Services all in accordance with Subscriber's internal HIPAA-compliant process for identity proofing and verification and to maintain documentation evidencing such processes for the Authorized Users. (e) No copies of any Licensed Intellectual Property may be permissibly made by Subscriber or any Authorized User except as otherwise authorized in writing by SES.
8. **Data.** (a) Subscriber represents and warrants that any and all data input into the Software or otherwise provided by Subscriber or any Authorized User through use of the Services (collectively, the "Data") are the sole and exclusive property of Subscriber or Subscriber has secured any and all authorizations and rights to grant the license to use the Data as provided below, as applicable, under all applicable federal, state and local laws, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, as amended, and the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and all applicable regulations promulgated thereunder concerning the privacy and security of such data (collectively, "HIPAA"). Subscriber grants SES a non-transferable, non-assignable, terminable at-will license to use the Data during the Term (and thereafter with respect to Data subject to the Data Use License with respect to Routing Data as defined in Section 10 of this Agreement) solely as necessary to perform the Services for Subscriber's benefit or otherwise in accordance with the Data Use License. For the avoidance of doubt, SES may not use the Data for the purpose of machine learning, augmented human intelligence development, algorithm improvement, or similar data aggregation activities without the express written consent of Subscriber. Such uses shall not be deemed related to the performance of this Agreement and expressly prohibited. All Data shall be deemed the Confidential Information of Subscriber. Any Data constituting PHI shall be subject to the BAA, as defined below. (b) Subscriber is responsible for adopting reasonable measures to limit the impact of such problems, and to advise and require Authorized Users to do the same, including backing up Data and adopting procedures to ensure the accuracy of input Data; examining and confirming results prior to use; and adopting procedures to identify and correct errors and omissions, replace lost or damaged media, and reconstruct Data. (c) SES is and at all times shall be and remain a Business Associate of Subscriber and every Authorized User and agrees to comply with the terms and conditions of the Business Associate Agreement set forth in Exhibit C to this Agreement (the "BAA"). In the event of a conflict between the BAA and the body of this Agreement, the more protective provision shall govern. (f) The functionality provided by the Services permits the Subscriber and its Authorized Users to perform certain processes to Data among and between various data formats and standards (the "Data Services"), however, under no circumstances under this Agreement is SES performing any Data Services for or on behalf of Subscriber or any Authorized User, nor shall SES be a clearinghouse, service bureau or other such similar entity or organization otherwise defined under HIPAA as a Covered Entity. (g) SES shall not be liable for any errors in or loss of the Data as input into the Services by Subscriber; but SES will be responsible for errors or losses caused the Services failing to operate in accordance with the applicable Specification Sheet.
9. **Use of Protected Health Information; Confidentiality.** (a) SES may use Data which is PHI, as defined in the BAA, or which is any form of de-identified PHI ("Restricted Data") as provided in Section 8 and this Section 9 only strictly in accordance with the privacy rules under HIPAA and for the purposes of the providing the Services to Subscriber and no Restricted Data shall be disclosed to any person or party other than Subscriber, patient or other individual otherwise permitted access to such Restricted Data under HIPAA, including, among others, any Authorized User providing such Restricted Data.

(b) During the course of this Agreement, each party may disclose to the other certain non-public information or materials relating to a party's products, intellectual property, business, marketing programs and efforts, and other confidential information and trade secrets ("Confidential Information"). Notwithstanding the foregoing, Confidential Information does not include information that: (a) is or becomes publicly available through no breach by the receiving party of this Agreement; (b) was previously known to the receiving party prior to the date of disclosure, as evidenced by contemporaneous written records; (c) was acquired from a third party without any breach of any obligation of confidentiality; (d) was independently developed by a party hereto without reference to Confidential Information of the other party; or (e) is required to be disclosed pursuant to a subpoena or other similar order of any court or government agency, provided, however, that party receiving such subpoena or order shall promptly inform the other party in writing and provide a copy thereof, and shall only disclose that Confidential Information necessary to comply with such subpoena or order. Except as expressly provided herein, the receiving party will not use or disclose any Confidential Information of the disclosing party without the disclosing party's prior written consent, except disclosure to and subsequent uses by the receiving party's employees or consultants on a need-to-know basis, provided that such employees or consultants have executed written agreements restricting use or disclosure of such Confidential Information that are at least as restrictive as the receiving party's obligations under this Section. Subject to the foregoing nondisclosure and non-use obligations, the receiving party agrees to use at least the same care and precaution in protecting such Confidential Information as the receiving party uses to protect the receiving party's own Confidential Information and trade secrets, and in no event less than reasonable care. Each party acknowledges that due to the unique nature of the other party's Confidential Information, the disclosing party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, the disclosing party shall be entitled to seek injunctive relief to prevent such unauthorized use or disclosure. Neither party shall remove or alter any proprietary markings (e.g., copyright and trademark notices) on the other party's Confidential Information. Restriction on non-disclosure of Confidential Information provided by this Section shall not apply to permissible disclosures of Confidential Information necessary for performance of a party's performance obligations under this Agreement.

**10. Use of Routing Data; Use of Other Data.** (a) Included in the license to use Data provided in Section 8(a) of this Agreement above, is the right for SES to use Data which are any of the (i) electronic mail address generated by the Services for Subscriber or any Authorized User to use the Services (a "Direct Address"); (ii) administrative electronic mail address provided by any Authorized User upon registering for use of the Services (the "Administrative Address"); (iii) the postal zip code and state jurisdiction of Subscriber and any Authorized User receiving or using the Services (the "Zip and State"); (iv) the administrative telephone number for Subscriber and any Authorized User receiving or using the Services (the "Phone Number"); (v) the National Provider Identification Number issued by the United States Department of Health and Human Services (or any successor agency of the United States federal government) of any Authorized User, or Subscriber, as applicable. (the "NPI,"); of (vi) any alphanumeric identifier provided by Subscriber for any Authorized User (the "Identifier", together with the Direct Address, the Administrative Address, the Zip and State, the Phone Number, and NPI collectively, the "Routing Data") for reporting, monitoring and other uses of SES in connection with the provision of the Services (the "Data Use License"). (b) Subscriber agrees that the rights of SES to use Routing Data under the Data Use License shall survive any termination or expiration of this Agreement solely to permit SES to continue to use such Routing Data to permit third parties to transmit and receive electronic messages to and from Authorized Users generally in accordance with the Applicability Statement for Secure Health Transport as identified at 45 C.F.R. 170.202 or any applicable successor or coincident protocol (the "Direct Protocol") and subject to and in accordance with all applicable regulations. (c) Any and all Data input into, or otherwise provided by Subscriber or any Authorized User through use of, the Services which is none of any of PHI, Restricted Data, or Routing Data shall be used by SES only to provide the Services or the Support Services as defined by this Agreement.

**11. Disclaimer of Warranty and Limited Warranty.** (a) The Licensed Intellectual Property is licensed in accordance with the limited warranty described in this Section 11 as to their performance or to the results that may be obtained by using the Licensed Intellectual Property. Subscriber, and each Authorized User, as applicable, not SES, is responsible for ensuring the correctness of any Data entered during use of the Licensed Intellectual Property except if any of the Licensed Intellectual Property cause the Services or Software, as applicable, to materially fail to perform according to the applicable Specification Sheet.

(b) SES warrants that (i) in providing the Services and handling and processing the Data pursuant to this Agreement SES shall comply with the applicable provisions of HIPAA and all applicable local, state, federal, and international privacy and data security laws and regulations; (ii) the Licensed Intellectual Property will permit the Services to materially operate according to the applicable Specification Sheet at all times commencing on the date Subscriber or any Authorized User first accesses the Services through the termination or expiration of the Term provided Subscriber has paid in full all Subscription Fees and when the Licensed Intellectual Property is used for the purposes identified on the applicable Specification Sheet.; (iii) SES shall comply with such other representations and warranties otherwise expressly set forth in this Agreement; and (iv) it shall not transmit or make available any unencrypted Data to any entity or individual outside the United States without Subscriber's prior written authorization (collectively, the "Limited Warranty"). Except as expressly provided under the Limited Warranty, SES does not warrant, and Subscriber acknowledges, that any of the Licensed Intellectual Property, including, without limitation, any of the

Services, will be error-free, or will operate without interruption, or that the Licensed Intellectual Property will perform in the manner intended by Subscriber or the Services will meet the requirements of Subscriber or any Authorized User.

- (c) The Limited Warranty defined in this Section 11 shall not apply if any Licensed Intellectual Property is modified by (i) a party other than SES without SES's written consent which may be withheld for any reason at SES's sole discretion; or (ii) improperly used, including, without limitation, used in a manner not consistent with the Specification Sheet or other than for the intended purpose of the Services. However, SES does warrant that in the event that if any of the Licensed Intellectual Property fails to conform to the Limited Warranty, Subscriber shall be entitled to the remedies set forth in Section 12 of this Agreement or such other applicable remedies otherwise provided in this Agreement.
  - (d) EXCEPT FOR THE LIMITED WARRANTY DEFINED IN THIS SECTION 10, SES MAKES NO OTHER WARRANTY, OF ANY KIND EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT BY ANYONE SHALL BE DEEMED TO BE OR CREATE A WARRANTY FROM SES OR BY ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PROVISION, OR DELIVERY OF THE SERVICES OR ANY OTHER LICENSED INTELLECTUAL PROPERTY.
  - (e) Subscriber acknowledges that no use of any Licensed Intellectual Property shall make them consumer goods for purposes of federal or state warranty laws, and agrees that they are not consumer goods for such purposes.
12. **Software and Media Remedy.** (a) If the Licensed Intellectual Property causes the Services to materially fail to operate according to the applicable Specification Sheet, SES agrees at no cost to Subscriber to: (i) promptly repair or replace any defective Licensed Intellectual Property; (ii) provide a comparable alternative means with the same or similar functionality for the Subscriber; and (iii) correct any errors in future Upgrades. As used in this Agreement, "Upgrades" means any improvements to the Services, whether or not enabled by improvements to any SES IP or any Software (such as bug fixes and/or new features, new functionality, increased efficiency or other modifications) released by SES as an "Upgrade;" it does not include other computer software applications released by SES under other product names, or other services or solutions offerings made available generally by SES from time-to-time or at any time which may have features or functionality similar to that of the Services.
- (b) Upon receipt by SES of written notice by Subscriber, that SES has failed to conform to any of the limited warranties specified in Section 11 of this Agreement (the "Warranty Notice"), SES shall be entitled to thirty (30) days from date of such Warranty Notice to cure said failure. If SES does not cure said failure within 30 days after the date of such Warranty Notice, SES shall promptly continue to modify, replace or repair the Licensed Intellectual Property to cause the Services to conform to the warranty provided under this Agreement. Subscriber shall have the right to request in writing a refund of the Subscription Fees paid to SES at any time after 30 days from date of the Warranty Notice if SES has not cured said failure (the "Refund Request").
  - (c) SES shall refund within sixty (60) days after receipt of any Refund Request from Subscriber the amount of Subscription Fees paid for the nonconforming Services following the date upon which the Services became non-conforming, such date being no earlier than the date of the Warranty Notice applicable to such non-conformity. In the event Subscriber pre-paid the Subscription Fees for the period during which the non-conformity occurs, such refund shall equal the unamortized portion of such Subscription Fee stated on a 12-month straight-line amortization schedule commencing on the dates of the applicable annual period and ending on the date of the Warranty Notice. The License shall be terminated immediately upon Subscriber's receipt of any refund under this Section 12.
13. **Support Services.** Provided Subscriber is at all times in compliance with the License and timely pays all Subscription Fees, Support Services, as described in paragraphs (a) and (b) of this Section 13, will be provided in accordance with the Service Level Agreement described in Exhibit D attached hereto (the "Service Level Agreement").
- (a) **Upgrade Service.** Upgrades to the Services including Upgrades, will be provided for as part of the Support Services, provided Subscriber pays all applicable Subscription Fees. SES shall provide Upgrades as they become generally available for release in the manner set forth in this Agreement or the Service Level Agreement, provided Subscriber has timely paid all applicable Subscription Fees.
  - (b) **Additional Support Services.** Support Services, (as set forth in Exhibit D of this Agreement) including telephone support for Authorized Users which are not Subscriber Customers, will be provided to Subscriber provided Subscriber timely pays all applicable Subscription Fees.

- (c) **Disaster Recovery.** SES shall maintain an appropriate Disaster Recovery Plan in accordance with applicable provisions of the Service Level Agreement.
14. **Work Orders.** Subscriber may request additional services from SES with respect to the integration, configuration and operation of the Services and any other Licensed Intellectual Property by the execution of one or more work orders in the form attached hereto as Exhibit E ("Work Orders"). Under no circumstances shall any Work Order be deemed to create a work-made-for-hire on behalf of Subscriber and all work product, results, deliverables or other intellectual property arising from any Work Orders is and shall remain the sole and exclusive property of SES and shall when made available to Subscriber be deemed to have been included among and within the Licensed Intellectual Property as of the Effective Date of this Agreement. Subscriber shall pay all amounts due under each Work Order otherwise in accordance with the terms of each applicable Work Order and this Agreement.
15. **Ownership of the Licensed Intellectual Property.** The Subscriber acknowledges that the Services and all other Licensed Intellectual Property are the property of SES, and that the entire right, title, and interest (including any interest arising out of copyright laws) in the Services and all other Licensed Intellectual Property and all materials relating to the Licensed Intellectual property belong to SES, subject to the License. Unless otherwise expressly agreed, all changes, modifications or improvements made or developed with regard to any of the Licensed Intellectual Property by SES, whether or not made or developed at Subscriber's request, whether pursuant to a Work Order or otherwise, shall remain the property of SES and, upon delivery, disclosure, provision or availability to Subscriber, shall be deemed to have been part of the Services and all other Licensed Intellectual Property as of the Effective Date. Subscriber acknowledges and agrees that (i) the Licensed Intellectual Property may include applications, products, materials, systems, data, techniques, processes, information, methodologies and the other information and services that are proprietary to third-party suppliers and vendors of SES (the "Third Party IP"); (ii) SES holds valid licenses for all Third Party IP sufficient to permit SES to provide the Services pursuant to the License and to permit Subscriber to use the Services and all other Licensed Intellectual Property in accordance with the License; and (iii) Subscriber shall neither have nor obtain any rights in any Third Party IP under this Agreement except coincident to the License.
16. **Transfer of License.** The Subscriber does not have the right to sell, assign or otherwise transfer copies of any Licensed Intellectual Property or the License, or permit any third party access to the Services (other than to Subscriber Customers as part of use of the Services in accordance with this Agreement and the License) except in connection with the merger, corporate reorganization or the sale of all or substantially all of its assets or to a parent or wholly owned subsidiary or successor to the business of the Subscriber. Any permitted successor shall notify SES of its succession to the Subscriber's rights and shall agree in writing to be bound by this Agreement.
17. **Damages; Injunctive Relief.** The Subscriber agrees that, if any unauthorized copies of the Software are made, or if the Software are used in violation of this Agreement, SES shall have the right to seek an injunction by application or petition to any court of competent jurisdiction against that unauthorized copying or use, in addition to any other rights to which SES may be entitled and notwithstanding the general applicability of Section 17 of this Agreement. Similarly, SES agrees that, if any unauthorized copies of the Data are made, or if the Data is used in violation of this Agreement, Subscriber shall have the right to seek an injunction by application or petition to any court of competent jurisdiction against that unauthorized copying or use, in addition to any other rights to which Subscriber may be entitled and notwithstanding the general applicability of Section 17 of this Agreement.
18. **Limitation of Liability; Indemnification.** (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, EACH PARTY'S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION OR THEORY OF LIABILITY (INCLUDING CONTRACT, TORT, OR WARRANTY), SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY THE PARTY NOT TO EXCEED THE AMOUNT OF SUBSCRIPTION FEES PAID. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY HAVE ANY LIABILITY TO SUBSCRIBER FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OR COSTS, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF GOODWILL, RESULTING FROM ANY VIOLATION OF THIS AGREEMENT EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF. THE FOREGOING LIMITATIONS AND EXCLUSIONS OF LIABILITY SHALL NOT APPLY TO NOR LIMIT SES' INDEMNITY OBLIGATIONS IN THIS SECTION OR EITHER PARTY'S LIABILITY FOR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHT (FOR THE AVOIDANCE OF DOUBT, USE OF DATA OR INTELLECTUAL PROPERTY IN BREACH OF AN EXPRESS LICENSE SHALL BE DEEMED INFRINGEMENT), BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, BREACH OF THE BAA, OR GROSS NEGLIGENCE, WILLFUL MISCONDUCT, AND VIOLATION OF APPLICABLE LAW.
- (b) At SES's expense as provided herein, SES agrees to defend, indemnify, and hold harmless Subscriber and its directors, officers, agents, employees, members, subsidiaries and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees, experts' fees and court costs, arising out

of any claim by a third party (i) related to SES' use of the Data in violation of the express license granted herein or in breach of the BAA (a "Data Claim"); and (ii) alleging that the Licensed Intellectual Property provided pursuant to this Agreement infringes any patent, copyright, trademark, trade secret or other intellectual property right of any third party (an "IP Claim, together with any Data Claim, collectively, "Claims"); provided, however, that (A) Subscriber promptly notify SES in writing by personal delivery, courier, or registered mail agent of any such Claim; (B) Subscriber permits SES, at its expense, to direct and control all defense, settlement or compromise negotiations; (C) Subscriber provides SES with full information and assistance as may be reasonably required to defend any such Claim; and (D) that to the extent that SES has control over the defense and settlement of any such Claim, SES shall not enter into any settlement or other arrangement that admits liability of the Subscriber without Subscriber's prior written consent.

(c) SES shall have no obligation or liability with respect to any IP Claim based upon any Licensed Intellectual Property which has been altered by any party other than SES without the written consent of SES, or the combination, operation or use of the Licensed Intellectual Property with products not furnished by SES when such combination is a part of any allegedly infringing process.

(d) If any of the Licensed Intellectual Property becomes, or in SES's opinion is likely to become, the subject of an IP Claim, SES may either (i) procure for Subscriber the right to continue using the affected Licensed Intellectual Property; or (ii) replace or modify such Licensed Intellectual Property so as to make it non-infringing.

(e) If neither of the alternatives set forth in Section 18(c) or Section 18(d) is reasonably available to SES, then SES may terminate the License provided in Section 4 of this Agreement upon written notice to Subscriber and refund the unamortized portion of the Subscription Fees paid for the nonconforming Licensed Intellectual Property based on a straight line twelve (12) month amortization for the year in which Subscriber discontinues the use of the nonconforming Licensed Intellectual Property.

(f) The License for the applicable non-conforming Licensed Intellectual Property shall be terminated immediately upon Subscriber's receipt of any refund under this Section 18 and this Section 18 states the entire liability of SES with respect to indemnification for patent, trademark, copyright, trade secret, or other intellectual property right infringement covered by any IP Claims.

19. **No Use of Names; Publicity; Trademarks and Logos.** (a) Neither party will use the names or trademarks of the other party in any marketing or promotional materials or make any public announcement or engage in communication with the general public or in public forums (including but not limited to Twitter, Facebook, Linked-In, Blogging, or other social media) concerning the existence or substance of the Agreement or about the other party's business practices, services, or support activities before obtaining the written consent of the other party. This restriction will not apply, however, to any announcement or written statement required to be made by law or the regulations of any national, provincial or state governmental agency. (b) Subscriber hereby grants SES a fully-paid, non-exclusive right to use the name, logo, trademarks, trade dress and other collateral graphic materials and images on any web site or world wide web page providing access to the Services by any Authorized User and in identity certificates required for operation of the Services in accordance with the Direct Protocol at all times during the Term.
20. **Miscellaneous.** This Agreement represents the entire agreement between the parties as to its subject matter and shall be governed by and construed in accordance with the laws of the State of Maryland without regard to the conflicts of laws provisions thereof. The parties hereto agree that all applicable actions or proceedings arising from or relating to this Agreement shall be tried and litigated exclusively in the Circuit Court for Montgomery County, Maryland. Neither the Uniform Computer Information Transactions Act ("UCITA") (if and to the extent enacted in Maryland or any other state), nor the United Nations Convention on Contracts for the International Sale of Goods shall apply to this Agreement. To the extent UCITA is applicable notwithstanding the foregoing, SES and Subscriber agree to opt out of the applicability of UCITA pursuant to the "opt out" provisions contained therein. This Agreement may be modified only in a writing signed by both parties. In the event of any conflict between the terms and conditions of this Agreement or Work Order, the terms and conditions of this Agreement shall control. In particular, no shrink-wrap, click-wrap, or other terms and conditions, privacy policies, or agreements ("Additional Terms") provided with any products, services, documentation or software, including any maintenance and support updates thereto, hereunder shall be binding on Subscriber, even if use of such items requires an affirmative "acceptance" of those Additional Terms before access is permitted. All such Additional Terms shall be of no force or effect and shall be deemed rejected by Subscriber in their entirety. If any provision of this Agreement is alleged to be invalid or unenforceable, that provision shall be construed to have the broadest interpretation that would make it valid and enforceable. Invalidity or unenforceability of one provision shall not affect any other provision of this Agreement. Failure or delay by either party in exercising any right or power under this Agreement shall not operate as a waiver of that right or power. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.
21. **Insurance.**



(a) Evidence of Coverage:

Prior to commencement of this Agreement, SES shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, SES upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to SUBSCRIBER's Contracts/Purchasing Department, unless otherwise directed. SES shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and SUBSCRIBER has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of SES.

(b) Qualifying Insurers: All coverage's except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by SUBSCRIBER's Contracts/Purchasing Director.

(c) Insurance Coverage Requirements: Without limiting SES's duty to indemnify, SES shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

(d) Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent SESs, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

Exemption/Modification (Justification attached; subject to approval)

(e) Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

Exemption/Modification (Justification attached; subject to approval)

(f) Workers' Compensation Insurance. If SES employs other in the performance of this Agreement, in accordance with the applicable statutory minimums for the jurisdiction where such persons are employed with Employer's Liability limits not less than \$500,000 each person, \$500,000 each accident and \$500,000 each disease.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

Exemption/Modification (Justification attached; subject to approval)

(g) Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, SES shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

Exemption/Modification (Justification attached; subject to approval)

(h) Other Insurance Requirements.

- a. All insurance required by this Agreement shall be with a company acceptable to Subscriber and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date SES completes its performance of services under this Agreement.
- b. Each liability policy shall provide that Subscriber shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof, provided, however, that the failure to provide such notice shall not be a default under or breach of this Agreement so long as the required insurance is maintained as provided in this Section 21 with no break in coverage. Each policy shall provide coverage for SES and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor, if any, showing identical insurance coverage to the above requirements.
- c. Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of SES's work, including ongoing and completed operations, if applicable, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by SES's insurance.
- d. Prior to the execution of this Agreement by Subscriber, SES shall file certificates of insurance with Subscriber's Contracts/Purchasing Department, showing that SES has in effect the insurance required by this Agreement. SES shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file, provided, however, that the failure to timely file shall not be a default under or breach of this Agreement so long as the required insurance is maintained as provided in this Section 21 with no break in coverage. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.
- e. SES shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Subscriber, annual certificates to Subscriber's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Subscriber shall notify SES and SES shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by SES to maintain such insurance is a default of this Agreement, which entitles Subscriber, at its sole discretion, to terminate the Agreement immediately.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the Secure Exchange Solutions, Inc. and Subscriber have caused this Master Software-as-a-Service Subscription Agreement to be executed by their duly authorized representative as of the Effective Date.

Secure Exchange Solutions, Inc.

The County of Monterey on behalf of Natividad Medical Center

Dan Kazzaz

\_\_\_\_\_

By: Dan Kazzaz

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

Title: CEO

Title: \_\_\_\_\_

Dated: 11/23/2020

Dated: \_\_\_\_\_

Reviewed and approved as to form.

*Stacy L. Saulte*

Deputy County Counsel  
February 4, 2021

Approved For Fiscal Provisions

*Gary Giboney*

Chief-Deputy Auditor-Controller  
2-4-2021

**Exhibit A**

**Specification Sheet**

SES will provide products and services as further described in this Exhibit A.

1. **SES Direct:** The following sets forth the features and functions of SES Direct platform service, a software-as-a-service Direct Secure Messaging solution to provided secure, point-to-point messaging in accordance with the specifications set forth in the Direct Protocol.
  1. Direct Messaging Support/Security
    - a. Available integration tools (SES Connect) that allow for automated transport of messages and attachments according to the Direct Protocol
    - b. Cryptographic services platform to support advanced encryption/decryption and digital signature methods as well as S/MIME packaging and envelope handling
    - c. Full end-to-end encryption, including all server data, transaction/transport of data, and administrative access
    - d. HISP to HISP message routing (inbound and outbound), including negotiation of trust
    - e. Support for TLS with access permitted with a valid certificate (TLS v.1.2 or higher)
    - f. SES HISP Platform (SES Direct) accredited by DirectTrust in accordance with Direct Trusted Agent Accreditation Program (DTAAP)
    - g.
    - h. SES HISP Platform (SES Direct) certified as ONC-HIT 2015 ed. 170.315(d)(1)-(3), g(4),-(5), and (h)(2) Compliant to support Meaningful Use Stages 1-3 compliance.
  2. SES Direct Online Web Application
    - a. Browser based administrative and webmail portal that provides access to secure messages and reports
    - b. Supports all standard web browsers current version (Google Chrome v.69 or higher, Microsoft Edge v.40 or higher, Internet Explorer v.11 or higher, Mozilla Firefoxv.60 or higher, or Apple Safari v.12 or higher)
    - c. Contact list synchronization and download
  3. Domain Management
    - a. Concierge domain hosting for Subscriber-named domain (if applicable).
    - b. Directory Service for look-up of recipient Direct addresses in accordance with applicable DirectTrust rules
  4. Certificate Authority
    - a. Certificate management service - Issue (create), renew and revoke PKI (X.509) certificates used for encryption of messages and digital signing
      - i. Certificate provisioning for signing and encryption
      - ii. Certificate management (including issuance, discovery, renewal, and validation)
      - iii. DNS service for certificate publication and discovery
    - b. Trust anchors repository
      - i. Maintain storage and delivery of certificates used in the exchange, manage trust anchors
      - ii. Scalable and expandable security and trust framework
    - c. SES Certificate Authority accredited by EHNAC/DirectTrust in accordance with Direct Trusted Agent Accreditation Program (DTAAP)
  5. Registration Service
    - a. Registration and enrollment of Authorized Users
      - i. Pre-load and Assisted Registration for large batch upload
      - ii. Web registration via web portal
      - iii. Automated through SES Connect Registration API (if applicable).
    - b. Subscriber to have primary responsibility for establishing Authorized User identity to required level of assurance and to maintain documentation evidencing such processes for all Authorized Users.
    - c. Registration services provided via SES Registration Authority accredited by EHNAC/DirectTrust in accordance with Direct Trusted Agent Accreditation Program (DTAAP) with Subscriber as Trusted Agent for identity verification of Authorized Users.

6. **Audit/Reporting**
  - a. Browser-based administrative portal and reporting mechanism (SES Direct Online)
  - b. Audit logging mechanism for the messaging and account lifecycles that includes message date time stamp, message ID, sender / receiver, message status, size of message, account creation date time stamp
7. **Security**
  - a. All data is encrypted at rest and in motion
  - b. Data encryption is implemented using the Advanced Encryption Standard (AES) algorithm specified by Federal Information Processing Standard 197 encrypted with AES128 cipher and 2048 bit key
  - c. User access over TLS v.1.2
  - d. Password strength is enforced by policy in accordance with NIST Pub. No. 800-63-3 guidelines
  - e. Separate databases for encrypted messages and private keys with different access privileges
  - f. Administrative access controlled with two-factor authentication
8. **SES Connect (Version 2.1 or latest release): Web Service API toolkit including the follow methods for integration**
  - a. Method Name: GetMessageNumber
  - b. Method Name: GetReadMessageNumber
  - c. Method Name: GetMessageList
  - d. Method Name: GetMessageHeader
  - e. Method Name: GetMessageHeaderList
  - f. Method Name: GetMessage
  - g. Method Name: DeleteMessage
  - h. Method Name: SendMessage
  - i. Method Name: UpdateMessageStatus
  - j. Method Name: SentMessageStatus
  - k. Method Name: SendMDN
  - l. Method Name: Register
  - m. Method Name: SearchRegistration
  - n. Method Name: UpdateRegisteredAccount
  - o. Method Name: DeleteRegisteredAccount
  - p. Method Name: PublicDirectorySearch
  - q. Method Name: ExternalDirectorySearch
2. **SES XDR: Support for Direct Messaging Specification Version 1.0 for push exchange with the Subscriber**
3. **SES Online Webmail: Browser based administrative and webmail portal that provides access to secure messages and reports. Supports all standard web browsers (Google Chrome v.69 or higher, Microsoft Edge v.40 or higher, Internet Explorer v.11 or higher, Mozilla Firefox v.60 or higher, or Apple Safari v.12 or higher). Includes contact list synchronization and download.**

**Exhibit B**

**Order Form**

(attached)

**Exhibit B**

Subscriber Name:	<b>Natividad Medical Center</b>
Subscriber Address:	ATTN: Tim Fitzgerald,PMP Information Technology 1441 Constitution Blvd. Salinas, CA 93906
phone:	831.783.2716
email:	<a href="mailto:fitzgeraldTR@natividad.com">fitzgeraldTR@natividad.com</a>

Billing Address:	Natividad Medical Center
	ATTN: Accounts Payable 1441 Constitution Blvd. Salinas, CA 93906
phone:	831.783.2716
email:	<a href="mailto:fitzgeraldTR@natividad.com">fitzgeraldTR@natividad.com</a>

Unless this Order Form and the HISP Agreement are executed by such date, this pricing will expire: 11/30/2020

CODE	ITEMS	No. of Units	Price per Unit	Discount Applied	Total
	<b>PRODUCTS AND SUBSCRIPTION SERVICES</b>				
1500-100	<b>SES Direct (Annual Subscription) - Hospital Bundle</b>	1	\$30,000	\$ 10,500	<b>\$ 19,500</b>
	<b>Direct HISP/CA Subscription:</b>	10			included
	DirectTrust Accredited HISP, CA and RA platform for Direct Professional and Organization Accounts. SES Online webmail application to support registrations, internal testing, administrative portal and MU reporting. ONC Certified Direct Transport / Modular EHR Program. Includes 10 Direct Accounts (Organization or Professional), address, certificate, 100 GB message store, and DirectTrust directory listing.				
1200-100	<b>Concierge Domain (CA Direct domain)</b>	1			included
	Maintenance of Concierge Domain (Production) Access to shared test domain (1 Shared Test)				
1200-100	<b>SES Online Web Application</b>	1			included
	Webmail application with administrative management functions and reporting				
1200-400	<b>C-CDA and XDM Viewer</b>	1			included
	View structured data easily for providers and long-term care facilities that access Direct messaging through the SES Online web application.				
1500-100	<b>Directory Services</b>	1			included
	Access to search national directory including Direct accounts provisioned by SES and third party HISPs where SES has a Directory Exchange relationship. Directory Information shared via Directory Exchange program and accessible through SES Connect web services API or SES Online web portal interface.				
1500-500	<b>XDR Bi-directional interface to Meditech</b>	2			included
	Ongoing maintenance and support for bi-directional Meditech XDR interface. Testing and integration support up to 8 hours annually.				
	<b>TOTAL ORDER</b>				<b>\$ 19,500</b>

**Note 1:** This Order Form is subject to the terms and conditions of the Master Software-as-a-Service Subscription Agreement by and between SES and Subscriber dated as of the Effective Date, including any and all attachments, exhibits, or addendums thereto (the "MSSA ") and to which this Order Form is attached as an Exhibit B, together with the applicable Service Level Agreement and/or Work Order (if any) effective between the parties. Any capitalized term on this Order Form not otherwise defined herein shall have the meaning set forth in the MSSA.

**Note 2:** Subscription period shall be the Term as defined in the MSSA commencing December 1, 2020 through December 1, 2023. The Total Order amount set forth on this Order Form for the first annual subscription during the Term from December 1, 2020 through December 1, 2021 shall be invoiced as of the Effective Date. Payment terms: \$19,500 Net 30 from receipt of invoice. The total value of the 3 (three) year subscription Term is \$58,500. SES will invoice the remainder of the Subscription as follows: \$19,500 as of December 1, 2021, and \$19,500 as of December 1, 2022.

**Note 3:** Concierge domain includes up to 350 GB storage in total for combined test and production environment.

**Note 4:** Subscriber shall be responsible for any applicable sales and use tax. Subscriber shall provide a tax exemption certificate to SES annually during the Term and upon request, if applicable.

Secure Exchange Solutions, 9600 Blackwell Road, Suite 250, Rockville, MD 20850, 888-470-9913 toll-free  
Federal Tax ID 27-3649378

**Exhibit C**

**Business Associate Agreement**

(attached)



**Exhibit D**

**Service Level Agreement**

1. **PURPOSE.** These purpose of this Service Level Agreement (“SLA”) is to outline the policies and procedures established by Secure Exchange Solutions (“SES”) to deliver Support Services, Upgrades and other services pursuant to the HISP Subscription Agreement to which this SLA is attached (the “Agreement”), Subscriber must comply with this SLA in requesting support from SES and in requesting SES to provide Support Services provided pursuant to the License.
2. **CERTAIN DEFINITIONS.** All capitalized terms in this SLA not otherwise defined herein shall have the meaning prescribed to them in the Agreement. In addition to the terms defined in the Agreement, the following named terms shall have the following meaning in this SLA:
  - a. “Error(s)” shall mean a failure of the Licensed Intellectual Property to operate in the manner described by SES.
  - b. “Maintenance” means activities of SES to provide normal software operation through updates, bug patches, fixes and work-arounds. “Maintenance” does not include enhancements or additions to the Licensed Intellectual Property that provide new functionality.
  - c. “Problems” means Errors, defects, malfunction or any nonconformity to any applicable Specification Sheet for the Services
  - d. “Service Outage” means any interruption in the availability of the Licensed Intellectual Property to Subscriber (excluding Scheduled Maintenance or Emergency Maintenance) and only if such interruption is due to an Error, and specifically excludes any Non-Standard Services.
  - e. “Support Hours” means the daytime hours during which SES provides Support Services for the Licensed Intellectual Property. SES’s Support Center Hours of Operation shall be Monday through Friday, excluding federal holidays, from 8:00 AM to 8:00 PM, Eastern Standard Time. SES’s Help Desk Hours of Operation shall be Monday through Friday, excluding federal holidays, from 8:00 AM to 8:00 PM, Eastern Standard Time.
  - f. “Support Services” shall have the meaning set forth in the Agreement and in this SLA.
3. **SUPPORT SERVICES PROVIDED.**
  - a. During the term of this SLA, SES agrees to provide Support Services under the terms set forth in this SLA, which may include Maintenance, and Non-Standard Services, as defined herein.
  - b. All Support Services performed by SES under this SLA shall be performed in a professional and workman like manner in accordance with general industry standards.
  - c. SES does not warrant that the Support Services or Licensed Intellectual Property will be uninterrupted or error free.
  - d. All Support Services shall be provided only to Authorized Subscriber Contact(s).
4. **SUPPORT SERVICE REQUESTS.**
  - a. Problem Reporting and Logging. SES will provide Subscriber with an e-mail address for Authorized Subscriber Contact(s) (as defined herein) to use when requesting Support Services, including Maintenance. If a problem is reported outside of the Support Hours, the time window for expected problem resolution of a Problem will begin when the SES support center re-opens for business during the Support Hours.
  - b. Severity Level and Response to Support Service Requests. SES shall specify the severity level (each, a “Severity Level”) of each Support Service request, including Maintenance, per the following procedures:
    - i. Severity 1 (Highest):
      - A. **CHARACTERISTIC:** Produces an emergency in which the Licensed Intellectual Property are rendered unusable or fail catastrophically, and there is no known workaround (implies the need to resolve the emergency immediately for Subscriber to resume standard business operations).
      - B. **RESPONSE:** SES will provide acknowledgement, if requested, by email to the Authorized Subscriber Contact(s) by a qualified member of the SES staff within two (2) working hours of logging the Problem. SES will use reasonable commercial efforts to provide a patch, bypass or workaround within two (2) business days from the time the Problem was logged by SES. The delivery of the work-around or emergency software fix will drop the severity classification to a Severity Level of 3.
    - ii. Severity 2 (Normal):
      - A. **CHARACTERISTIC:** Produces a failure of at most a single function or causes intermittent errors, or impairs the usability of a system component. A Severity Level of 2 implies the need to resolve the Problem in the normal course of development activities.



shall be based upon the fees paid by Subscriber to SES for the affected Licensed Intellectual Property as set forth in the Agreement.

12. **DISASTER RECOVERY.** Throughout the Term and any Extended Term, SES shall maintain a commercially reasonable data back-up and disaster recovery plan to restore operations in the event of an outage at SES's primary hosting facility (the "DRP"). SES shall provide a copy of the DRP to Subscriber upon request and meet with Subscriber (and any applicable regulatory agency or accrediting body) to discuss and address and comments and concerns, provided such requests and meetings occur no more frequently than one per calendar quarter during the Term and any Extended Term. SES shall not degrade or reduce the level of service or protection set forth in the DRP at any time during the Term or any Extended Term. SES shall segregate all Data from data received by SES outside the scope of the Agreement to which this Service Level Agreement is attached.
13. **SECURITY AUDIT.** SES will complete an internal security audit assessment and penetration test on their technology infrastructure and provide both detailed and summary audit assessment reports upon request. The security audit assessment and penetration test must be repeated at least annually. Such an assessment should include an analysis of systems in regards to current patches, antivirus software and definitions, functioning firewalls, an internal vulnerability scan, and other similar commercially reasonable security best practices performed by a third party using commercially-reasonable industry recognized standards.
14. **LIMITATION ON SUPPORT SERVICES.** Notwithstanding any other provisions in this SLA, SES shall provide Support Services, including Maintenance, only with respect to the currently-released versions of the Licensed Intellectual Property.
15. **DESIGNATED SUBSCRIBER PERSONNEL.** The Subscriber shall identify by name and location all Subscriber personnel who may contact SES representatives (each, an "Authorized Subscriber Contact"). The personnel identified as an Authorized Subscriber Contact shall have authority to authorize an investigation of Problems, have knowledge of the rules of engagement for Support Services, including Maintenance, and the authority to accept proposed resolutions to any Problems and instruct SES to take action on resolutions to such Problems. SES may, in its sole discretion, rely on the direction and instruction of any Authorized Subscriber Contact without penalty. Subscriber shall provide SES with an Authorized Subscriber Contact List once per calendar year. Upon written request by SES to Subscriber, Subscriber shall, within thirty (30) days of such request, deliver to SES a current Authorized Subscriber Contact List, provided, however, that SES shall not make such request any more frequently than once per calendar quarter and shall not make such request within ninety (90) days of receipt of the annual Authorized Subscriber Contact List.

**Exhibit E**  
**Work Order**  
**(for additional services)**

This Work Order by and between Secure Exchange Solutions, Inc. ("SES") and [SUBSCRIBER NAME] ("Subscriber") is dated \_\_\_\_\_ 201\_\_ (the "Work Order Date") for additional services pursuant to the certain Master Software-as-a-Service Subscription Agreement by and between SES and Subscriber dated [DATE OF MASTER SOFTWARE SUBSCRIPTION AGREEMENT] (the "Master Agreement").

PROJECT NAME / TITLE OF ENGAGEMENT:

PERIOD OF PERFORMANCE:

DELIVERABLES:

KEY PERSONNEL:

PRICING:

INVOICING: Invoices shall be mailed to:

OTHER TERMS:

This Work Order and the services provided hereunder are subject to the terms and conditions of Section 13 of the Master Agreement, to which the form of this Work Order is attached as an Exhibit. Any capitalized term on this Work Order not otherwise defined herein shall have the meaning prescribed to them in the Master Agreement and in the event of any conflict between the terms and conditions of this Work Order and the Master Agreement, the terms of the Master Agreement shall control unless such terms provided in this Work Order specifically provide that this Work Order shall control.

Secure Exchange Solutions, Inc.

[SUBSCRIBER NAME]

BY: \_\_\_\_\_  
Title: \_\_\_\_\_

BY: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) effective October 19, 2020 (“Effective Date”), is entered into by and among between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center (“Covered Entity”) and Secure Exchange Solutions, Inc. (“Business Associate”) (each a “Party” and collectively the “Parties”).

### RECITALS

A. WHEREAS, Business Associate provides certain Services for Covered Entity that involve the Use and Disclosure of Protected Health Information (“PHI”) that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, The Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E (the “Privacy Rule”), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the “Breach Notification Rule”), and the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (the “Security Rule”), (collectively “HIPAA”), all as amended from time to time.

C. WHEREAS, The Parties are also committed to complying with the California Confidentiality Laws (defined below).

D. WHEREAS, To the extent that Business Associate is performing activities in connection with covered accounts for or on behalf of Covered Entity, the Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”).

E. WHEREAS, The Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA, sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”) shall be handled, in accordance with such requirement.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

### AGREEMENT

#### 1. DEFINITIONS

1.1 All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in the Privacy Rule, the Breach Notification Rule, or the Security Rule.

(a) "Breach" shall have the same meaning as "breach" as defined in 45 C.F.R. § 164.402 and shall mean the access, acquisition, Use, or Disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the privacy or security of the PHI; the term "Breach" as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient's "medical information" as defined under Cal. Civil Code § 56.05(j), for which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a "breach of the security of the system" under Cal. Civil Code §1798.29.

(b) "California Confidentiality Laws" shall mean the applicable laws of the State of California governing the confidentiality of PHI or Personal Information, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq.), the patient access law (Cal. Health & Safety Code §123100 et seq.), the HIV test result confidentiality law (Cal. Health & Safety Code §120975, et seq.), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code §5328, et seq.), and the medical identity theft law (Cal. Civil Code 1798.29).

(c) "Protected Health Information" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the individuals, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity's behalf. **PHI includes EPHI.**

(d) "Services" shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to a Services Agreement between Covered Entity and Business Associate to which this BAA applies.

## 2. **PERMITTED USES AND DISCLOSURES OF PHI**

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws;

(b) Use or Disclose PHI for the purposes authorized by this BAA or as otherwise Required by Law;

(c) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached;

(f) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1); and

(g) De-identify any PHI obtained by Business Associate under this BAA in accordance with 45 C.F.R. § 164.514 and Use or Disclose such de-identified information only as required to provide Services pursuant to the a Services Agreement between the Parties, or with the prior written approval of Covered Entity.

### **3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

**3.1. Responsibilities of Business Associate.** With regard to its Use and/or Disclosure of PHI, Business Associate shall:

(a) Notify the Privacy Officer of Covered Entity, in writing, of: (i) any Use and/or Disclosure of the PHI that is not permitted or required by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any suspected Breach. Such notice shall be provided within five (5) business days of Business Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such ineffective Security Incidents and no additional notification to Covered Entity of such ineffective Security Incidents is required, provided that no such Security Incident results in a Breach. A ransomware attack shall not be considered an ineffective Security Incident and shall be reported to Covered Entity, irrespective of whether such Security Incident results in a Breach. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or suspected Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon request. If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or suspected Breach constitutes a Breach, then Business Associate shall comply with the requirements of Section 3.1(a)(i) below;

(i) Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall include, to the extent possible, the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used or Disclosed during the Breach, to Covered Entity without unreasonable delay, but no later than five (5) business days after discovery of the Breach;

(ii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the appropriate government agencies, and, if applicable, the media. Business Associate shall assist with the implementation of any decisions by Covered Entity to notify individuals or potentially impacted individuals;

(b) In consultation with the Covered Entity, Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate shall reimburse Covered Entity for its reasonable costs and expenses in providing any required notification to affected individuals, appropriate government agencies, and, if necessary the media, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, attorney fees, and costs of mitigating the harm (which may include the costs of obtaining up to one year of credit monitoring services and identity theft insurance) for affected individuals whose PHI or Personal Information has or may have been compromised as a result of the Breach;

(c) Implement appropriate administrative, physical, and technical safeguards and comply with the Security Rule to prevent Use and/or Disclosure of EPHI other than as provided for by this BAA;

(d) Obtain and maintain a written agreement with each of its Subcontractors that creates, maintains, receives, Uses, transmits or has access to PHI that requires such Subcontractors to adhere to the substantially the same restrictions and conditions with respect to PHI that apply to Business Associate pursuant to this BAA;

(e) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services ("Secretary") in a time and manner designated by the Secretary for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule. In addition, Business Associate shall promptly make available to Covered Entity such books, records, or other information relating to the Use and Disclosure of PHI for purposes of determining whether Business Associate has complied with this BAA or maintains adequate security safeguards, upon reasonable request by Covered Entity;



(f) Document Disclosures of PHI and information related to such Disclosure and, within thirty (30) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the Disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) Subject to Section 4.4 below, return to Covered Entity within thirty (30) days of the termination of this BAA, the PHI in its possession and retain no copies, including backup copies;

(h) Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) days' prior written request from Covered Entity, provide access to the PHI to Covered Entity to meet a request by an individual under 45 C.F.R. § 164.524. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for access to PHI from an Individual; and

(ii) Upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for amendment of PHI from an Individual;

(j) If applicable, maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(k) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(l) Unless prohibited by law, notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent

that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge; and

(m) Maintain policies and procedures materially in accordance with State Confidentiality Laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security.

### **3.2 Business Associate Acknowledgment.**

(a) Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

(b) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA and the HITECH Act. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

(c) Business Associate further acknowledges that uses and disclosures of protected health information must be consistent with NMC's privacy practices, as stated in NMC's Notice of Privacy Practices. The current Notice of Privacy Practices can be retrieved online at: <http://www.natividad.com/quality-and-safety/patient-privacy>. Business Associate agrees to review the NMC Notice of Privacy Practices at this URL at least once annually while doing business with NMC to ensure it remains updated on any changes to the Notice of Privacy Practices NMC may make.

**3.3 Responsibilities of Covered Entity.** Covered Entity shall, with respect to Business Associate:

(a) Provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) Notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI;

(c) Notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the Use or Disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; and

(d) Notify Business Associate of any restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

## **4. TERM AND TERMINATION**

**4.1 Term.** This BAA shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Section 4. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

**4.2 Termination.** If Covered Entity determines in good faith that Business Associate has breached a material term of this BAA, Covered Entity may either: (i) immediately terminate this BAA and any underlying Services Agreement; or (ii) terminate this BAA and any underlying Services Agreement within thirty (30) days of Business Associate's receipt of written notice of such breach, if the breach is not cured to the satisfaction of Covered Entity.

**4.3 Automatic Termination.** This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

**4.4 Effect of Termination.** Upon termination or expiration of this BAA for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so. Prior to returning the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity with a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its Subcontractors. In such event, Business Associate shall: (i) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or carry out its legal responsibilities; (ii) return to Covered Entity the remaining PHI that the Business Associate maintains in any form; (iii) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; (iv) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Section 2 above, which applied prior to termination; and (v) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

## **5. MISCELLANEOUS**

**5.1 Survival.** The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 2.1, 4.4, 5.7, 5.8, 5.11, and 5.12 shall survive termination of this BAA until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this BAA, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

**5.2 Amendments; Waiver.** This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA, the HITECH Act, or California Confidentiality

Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

**5.3 No Third Party Beneficiaries.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

**5.4 Notices.** Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Secure Exchange Solutions. Inc.

Attn: General Counsel & Chief Compliance Officer

9600 Blackwell Rd. Ste. 250  
Rockville, MD 20850

Phone: 301.795.9072

Fax: 301.279.2819

If to Covered Entity, to:

Natividad Medical Center

Attn: Compliance/Privacy Officer

1441 Constitution Blvd.

Salinas, CA 93906

Phone: 831-755-4111

Fax: 831-755-6254

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

**5.5 Counterparts; Facsimiles.** This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

**5.6 Relationship of Parties.** Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

**5.7 Choice of Law; Interpretation.** This BAA shall be governed by the laws of the State of California. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with the Privacy Rule, the Security Rule, and the California Confidentiality Laws.

**5.8 Indemnification.** Business Associate shall indemnify, defend, and hold harmless the County of Monterey (the "County"), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including costs incurred by the County with respect to any investigation, enforcement proceeding, or third party action, arising out of, or in connection with, a violation of this BAA or a Breach that is attributable to an act or omission of Business Associate and/or its agents, members, employees, or Subcontractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the Parties to provide the broadest possible indemnification for the County. This provision is in addition to, and independent of, any indemnification provision in any related or other agreement between the Parties.

**5.9 Applicability of Terms.** This BAA applies to all present and future Service Agreements and Business Associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control.

**5.10 Insurance.** In addition to any general and/or professional liability insurance required of Business Associate, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, covering any and all claims, liabilities, demands, damages, losses, costs and expenses arising from a breach of the obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity's request.

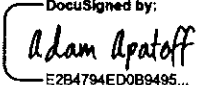
**5.11 Legal Actions.** Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

**5.12 Audit or Investigations.** Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliant review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA, the HITECH Act, or the California Confidentiality Laws.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

**BUSINESS ASSOCIATE**

**COVERED ENTITY**

By:  \_\_\_\_\_  
Print Name Adam S. Apatoff  
Print Title General Counsel/CCO  
Date: 10/19/2020

By: \_\_\_\_\_  
Print Name: Gary R. Gray  
Print Title: Chief Executive Officer  
Date: \_\_\_\_\_



# Monterey County

## Item No.5

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-068

March 05, 2021

**Introduced:** 3/2/2021

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Agreement

- a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;
- b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and
- c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

#### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;
- b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and
- c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding

Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

SUMMARY/DISCUSSION:

On May 12, 2020, the Board of Supervisors approved Professional Services Agreement (PSA) No. A-14699 with Rincon Consultants, Inc. (Rincon or Contractor) to prepare a Second Revised Environmental Impact Report (SREIR) on the Rancho Canada Village Subdivision 130-unit Project in accordance with court directives. Concurrently, the Board also approved Funding Agreement (FA) No. A-14700 with Rancho Canada Venture, LLC, Project Applicant, to fund the cost of preparation of a Second Revised EIR (SREIR). The SRDEIR has since been prepared and circulated for public review. The comment period on the SRDEIR closed on August 11, 2020.

On September 29, 2020, the Board of Supervisors approved Amendment No. 1 to the PSA between the County and Rincon to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416 and increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$96,416. Concurrently, Amendment No. 1 to the FA between the County and the Project Applicant was processed to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416, increase the Contract Administration Fee in the amount of \$446 by \$446 to \$892 (non-refundable), and to increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, to cover the cost for the additional needed services from Rincon. These amendments did not change the term of March 10, 2020 to September 30, 2021 for both the PSA and FA.

Rincon's scope of work provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR. Based on the comments received on the SRDEIR and the recent departure of County lead project staff, Rincon has requested additional funding of \$15,194 to continue preparation of responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff.

Of the Contingency Budget in the amount of \$20,000, \$19,930 has been expended to date for unanticipated but necessary graphics revisions and for more time than projected to prepare the SRDEIR. HCD staff requests an increase of \$5,000 to the Contingency Budget for a total amount not to exceed \$25,000 for additional possible unforeseen services which may arise from the existing tasks within the PSA and to save time in the processing of a future amendment to the PSA and FA.

Amendment No. 2 to the PSA between the County and Rincon would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610 and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$116,610. Concurrently, the proposed Amendment No. 2 to the Funding Agreement between the County and the Project Applicant would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610, increase the Contract Administration Fee in the amount of \$892 by \$446 to \$1,338 (non-refundable), and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, to cover the cost of the additional services from Rincon. Neither amendment



affects the term, which remains March 10, 2020 to September 30, 2021 for both the PSA and FA.

Staff is requesting Board approval of Amendment No. 2 to the PSA to allow Rincon to complete preparation of the SRFEIR and Board approval of Amendment No. 2 to the FA to require the Project Applicant to provide funds to the County for Rincon's services.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved Amendment No. 2 to the PSA and Amendment No. 2 to the FA as to form.

FINANCING:

Under Amendment No. 2 to the PSA, the County is obligated to pay for work completed by Rincon. Under Amendment No. 2 to the FA, the Project Applicant is obligated to pay the County for the increased cost of Rincon's services plus a flat fee to cover the cost of contract administration. Separate fees for County staff costs associated with the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule included as Exhibit "2" to the FA. As such, there will be no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The amendments to the PSA with Rincon and FA with the Project Applicant will allow for completion of the SRFEIR for the Project and contribute to providing timely services to project applicants.

- Economic Development  
Administration
- Health & Human Services  
Infrastructure  
Public Safety

Prepared by: Mary Israel, Associate Planner, (831) 755-5183  
Reviewed by: Erik Lundquist, AICP, Chief of Planning  
Approved by: Melanie Beretti, Housing & Special Programs Manager, HCD

The following Attachments are on file with the Clerk of the Board:

- Attachment A - Amendment No. 2 to PSA
- Attachment B - Amendment No. 2 to FA
- Attachment C - Amendment No. 1 to PSA
- Attachment D - Amendment No. 1 to FA
- Attachment E - PSA
- Attachment F - FA



# Monterey County

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-068

March 05, 2021

Introduced: 3/2/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;
- b. Approve Amendment No. 2 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610, the Contract Administration Fee in the amount of \$892 is increased by \$446 to \$1,338, and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, with no change to the term of March 10, 2020 to September 30, 2021; and
- c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$76,416 is increased by \$15,194 to \$91,610 and the Contingency Budget in the amount of \$20,000 is increased by \$5,000 to \$25,000, for a total amount not to exceed \$116,610, with no change to the term of March 10, 2020 to September 30, 2021;
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- c. Authorize the Director of Housing and Community Development or designee to execute Amendment No. 2 to Professional Services Agreement No. A-14699, Amendment No. 2 to Funding

Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

SUMMARY/DISCUSSION:

On May 12, 2020, the Board of Supervisors approved Professional Services Agreement (PSA) No. A-14699 with Rincon Consultants, Inc. (Rincon or Contractor) to prepare a Second Revised Environmental Impact Report (SREIR) on the Rancho Canada Village Subdivision 130-unit Project in accordance with court directives. Concurrently, the Board also approved Funding Agreement (FA) No. A-14700 with Rancho Canada Venture, LLC, Project Applicant, to fund the cost of preparation of a Second Revised EIR (SREIR). The SRDEIR has since been prepared and circulated for public review. The comment period on the SRDEIR closed on August 11, 2020.

On September 29, 2020, the Board of Supervisors approved Amendment No. 1 to the PSA between the County and Rincon to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416 and increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$96,416. Concurrently, Amendment No. 1 to the FA between the County and the Project Applicant was processed to increase the Base Budget in the amount of \$66,597 by \$9,819 to \$76,416, increase the Contract Administration Fee in the amount of \$446 by \$446 to \$892 (non-refundable), and to increase the Contingency Budget in the amount of \$10,000 by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, to cover the cost for the additional needed services from Rincon. These amendments did not change the term of March 10, 2020 to September 30, 2021 for both the PSA and FA.

Rincon's scope of work provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR. Based on the comments received on the SRDEIR and the recent departure of County lead project staff, Rincon has requested additional funding of \$15,194 to continue preparation of responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff.

Of the Contingency Budget in the amount of \$20,000, \$19,930 has been expended to date for unanticipated but necessary graphics revisions and for more time than projected to prepare the SRDEIR. HCD staff requests an increase of \$5,000 to the Contingency Budget for a total amount not to exceed \$25,000 for additional possible unforeseen services which may arise from the existing tasks within the PSA and to save time in the processing of a future amendment to the PSA and FA.

Amendment No. 2 to the PSA between the County and Rincon would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610 and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$116,610. Concurrently, the proposed Amendment No. 2 to the Funding Agreement between the County and the Project Applicant would increase the Base Budget in the amount of \$76,416 by \$15,194 to \$91,610, increase the Contract Administration Fee in the amount of \$892 by \$446 to \$1,338 (non-refundable), and increase the Contingency Budget in the amount of \$20,000 by \$5,000 to \$25,000, for a total amount not to exceed \$117,948, to cover the cost of the additional services from Rincon. Neither amendment

affects the term, which remains March 10, 2020 to September 30, 2021 for both the PSA and FA.

Staff is requesting Board approval of Amendment No. 2 to the PSA to allow Rincon to complete preparation of the SRFEIR and Board approval of Amendment No. 2 to the FA to require the Project Applicant to provide funds to the County for Rincon's services.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has reviewed and approved Amendment No. 2 to the PSA and Amendment No. 2 to the FA as to form.

FINANCING:

Under Amendment No. 2 to the PSA, the County is obligated to pay for work completed by Rincon. Under Amendment No. 2 to the FA, the Project Applicant is obligated to pay the County for the increased cost of Rincon's services plus a flat fee to cover the cost of contract administration.

Separate fees for County staff costs associated with the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule included as Exhibit "2" to the FA. As such, there will be no impact to the General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The amendments to the PSA with Rincon and FA with the Project Applicant will allow for completion of the SRFEIR for the Project and contribute to providing timely services to project applicants.

Economic Development

Administration

Health & Human Services

Infrastructure

Public Safety

Prepared by: Mary Israel, Associate Planner, (831) 755-5183

Reviewed by: Erik Lundquist, AICP, Chief of Planning

Approved by: Melanie Beretti, Housing & Special Programs Manager, HCD MB

The following Attachments are on file with the Clerk of the Board:

Attachment A - Amendment No. 2 to PSA

Attachment B - Amendment No. 2 to FA

Attachment C - Amendment No. 1 to PSA

Attachment D - Amendment No. 1 to FA

Attachment E - PSA

Attachment F - FA

# Attachment A

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**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
RINCON CONSULTANTS, INC.**

**THIS AMENDMENT NO. 2** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”) and Rincon Consultants, Inc. (hereinafter, “CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the “Parties”) as of the last date opposite the respective signatures.

**WHEREAS**, on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, “Agreement”) to prepare a Second Revised Environmental Impact Report (hereinafter, “SREIR”) for the Rancho Village Subdivision Project (hereinafter, “Project”) for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

**WHEREAS**, the Second Revised Draft EIR (SRDEIR) has been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS**, Agreement was amended by the Parties on September 30, 2020 (hereinafter, “Amendment No. 1”, including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$19,819 which resulted in a not to exceed amount of \$96,416 with no extension to the term; and

**WHEREAS**, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff, as further set out in Exhibit A-2, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Agreement to increase the amount by \$20,194 for a total amount not to exceed \$116,610 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by Amendment No. 1 and this Amendment No. 2; and

**WHEREAS**, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, “Payments by County”, to read as follows:

Amendment No. 2 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$116,610

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement as amended shall not exceed the sum of \$116,610.

2. Amend Paragraph 4, “Additional Provisions/Exhibits”, to add “Exhibit A-2, Scope of Services/Payment Provisions”.
3. All references to the Resource Management Agency in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
4. Except as amended herein, all other terms and conditions of the Agreement and Amendment No. 1, including all Exhibits thereto, remain in full force and effect.
5. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 2 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$116,610



IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Professional Services Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Mike Novo, AICP  
Interim Director of Housing and Community  
Development

\_\_\_\_\_  
Rincon Consultants, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By: \_\_\_\_\_  
DocuSigned by:  
Jennifer Haddow  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
Jennifer Haddow, Vice President  
(Print Name and Title)

Date: 2/19/2021

**Approved as to Form  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
DocuSigned by:  
Wendy S. Strimling  
57334506DB194BC  
Wendy S. Strimling  
Assistant County Counsel

By: \_\_\_\_\_  
DocuSigned by:  
Richard Daulton  
3D7A1A6A0F8E4C6  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

Its: \_\_\_\_\_  
Richard Daulton, Corporate Secretary  
(Print Name and Title)

Date: 2/19/2021

Date: 2/19/2021

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
DocuSigned by:  
Gary Giboney  
D3834BFEC1D8449  
Auditor/Controller

Date: 2/19/2021

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager**

By: \_\_\_\_\_  
Leslie J. Girard  
County Counsel-Risk Manager

Date: \_\_\_\_\_

\*INSTRUCTIONS: If PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Amendment No. 2 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$116,610

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between  
County of Monterey, hereinafter referred to as “County”  
and  
Rincon Consultants, Inc., hereinafter referred to as “CONTRACTOR”**

### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 2 to the Agreement incorporates the additional staff time required for completion of the tasks below.

#### **Task 6: Screencheck Second Final EIR**

Additional staff time to address County staff comments on the Responses to Comments/Administrative Second Final EIR. The estimate of staff hours to address comments is based on our preliminary review of staff comments.

#### **Task 9: Project Management and Hearings**

Additional time for project management and coordination during preparation of the Screencheck Second Final EIR and Second Final EIR, as well as during staff report preparation to support staff in their work.

#### **Assumptions:**

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement and Exhibit A-1 to Amendment No. 1.

### B. PAYMENT PROVISIONS

#### **COMPENSATION/ PAYMENT**

County shall pay an increased amount not to exceed \$20,194.00 (\$15,194.00 for Base Budget and \$5,000.00 in Project Contingency) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services as amended, for a total contract amount not to exceed \$116,610.00. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

#### **CONTRACTOR’S BILLING PROCEDURES**

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, “Payment Conditions”, of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to [194-HCD-Finance@co.monterey.ca.us](mailto:194-HCD-Finance@co.monterey.ca.us):

County of Monterey  
Housing and Community Development (HCD) – Finance  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### B.1 Transfer from Project Contingency Account

Transfer of funding from the **Project Contingency Account totaling \$25,000.00** (\$5,000 added to the previous amount of \$20,000) requires the prior written approval of the HCD Director or designee and the Project Applicant.

Except as amended by Amendment No. 1 and Amendment No. 2, all other payment provisions of the Agreement remain in full force and effect.



## RINCON CONSULTANTS, INC.

### Rancho Cañada Scope Amendment Request

#### Cost Estimate

1/13/2021

Tasks	Labor Description →		Senior Prof I or II, Supervisor I, Sr Supervisor II, or Principal I	Senior Professional II	Professional III or IV	Associate I, II, or III; Professional I or II	Production Specialist	Clerical
	Labor Cost	Hours						
Task 6: Screencheck Second Final EIR	\$15,002	98	16	6	60	12	4	
Task 9: Project Management and Hearings	\$3,800	24	8		12			4
Subtask 9.1: Staff Reports	\$6,392	44	8		20	12	4	
<b>SUBTOTAL COST</b>	<b>\$ 25,194</b>	<b>166</b>	<b>7,040</b>	<b>1,050</b>	<b>13,340</b>	<b>2,760</b>	<b>704</b>	<b>300</b>

Direct Cost Summary	
Printing and Reproduction	\$ -
<b>Subtotal Additional Costs:</b>	<b>\$ -</b>
Summary	
Professional Fees Subtotal	\$ 25,194
Direct Costs Subtotal	\$ -
<b>TOTAL PROJECT BUDGET</b>	<b>\$ 25,194</b>

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the reallocation as long as the total contract price is not exceeded.

Authorized Use of Existing Contingency Budget	\$10,000
Amendment No. 2 – Base Budget Dollar Amount Increase	\$15,194

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# Attachment B

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**AMENDMENT NO. 2  
TO FUNDING AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
RANCHO CANADA VENTURE, LLC**

**THIS AMENDMENT NO. 2** to Funding Agreement No. A-14700 between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”), and Rancho Canada Venture, LLC (hereinafter, “PROJECT APPLICANT”) (collectively the “Parties”) is hereby entered into between the County and the PROJECT APPLICANT as of the last date opposite the respective signatures.

**WHEREAS**, PROJECT APPLICANT entered into Funding Agreement No. A-14700 with County (hereinafter, “Funding Agreement”) to provide funding for the preparation of a Second Revised Environmental Impact Report (EIR) (hereinafter, “SREIR”) for the Rancho Canada Village Subdivision Project (hereinafter, “Project”) for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$77,043; and

**WHEREAS**, concurrent with approval of the Funding Agreement, the County approved a Professional Services Agreement (“PSA”) with Rincon Consultants, Inc. (hereinafter, “Contractor”) to prepare a SREIR; and

**WHEREAS**, The Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS**, the Funding Agreement was amended by the Parties on September 30, 2020 (hereinafter, “Amendment No. 1”) to increase the funding to the County for the Contractor’s services under the PSA by the amount of \$19,819, plus a contract administration fee, which resulted in a not to exceed amount of \$97,308, with no extension to the term; and

**WHEREAS**, based on the comments received on the SRDEIR, the Contractor needs additional funding to prepare responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff, and accordingly, concurrently herewith, the County and Contractor have entered into Amendment No. 2 to the PSA to increase the amount payable to Contractor, as further set out in Exhibit 1B attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Funding Agreement to increase the amount by \$20,194 for a total amount not to exceed \$116,610 to provide funding to the County for the Contractor’s services under the PSA as amended and to add a contract administration fee for a total contract administration fee not to exceed \$1,338.

**NOW, THEREFORE**, the Parties agree to amend the Funding Agreement as follows:

1. Amend Paragraph 1, “Deposits to Fund PSA and County Fee for Contract Administration”, to add the following:

Amendment No. 2 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$117,948.00

- 1.b. Deposits to Fund Amendment No. 2 to PSA and County Fee for Contract Administration. PROJECT APPLICANT shall deposit an amount equal to the Contractor’s additional Base Budget and the County’s Contract Administration Fee. This amount totals \$15,640 and includes:

Contractor’s Base Budget:	\$ 15,194
Office of the County Counsel	
Contract Administration Fee (non-refundable):	\$ 446

PROJECT APPLICANT shall deposit a total amount of \$15,640 with County of Monterey Housing and Community Development (HCD) – Planning upon approval of this Amendment No. 2 to Agreement by the County of Monterey Board of Supervisors.

PROJECT APPLICANT’s deposit of \$15,640 with County shall be a condition precedent to County’s obligation under this Agreement as amended by this Amendment No. 2.

2. Amend Paragraph 2, “Twenty Thousand Dollar (\$20,000) Project Contingency”, to read as follows:

Twenty-five Thousand Dollar (\$25,000) Project Contingency. An additional twenty-five thousand dollars (\$25,000) shall be included in the PSA between County and Contractor to cover contingencies. This twenty-five thousand-dollar (\$25,000) Project Contingency amount is subject to the procedures in *Section 3, Transfer from Project Contingency Account*, specified in “Exhibit A”, *Scope of Services/Payment Provisions*, of the PSA, as amended by Amendment No. 2 to the PSA, which is attached hereto as Exhibit 1B and incorporated herein by reference.

3. Amend Paragraph 3, “Maximum Budget Under Agreement”, to read as follows:

Maximum Budget Under Agreement. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement as amended by this Amendment No. 2 is \$117,948, which consists of the following amounts:

Contractor’s Base Budget:	\$91,610
Office of the County Counsel	
Contract Administration Fee (non-refundable):	\$1,338
Project Contingency:	<u>\$25,000</u>

**Maximum Charge Under Agreement: \$117,948**

4. Amend the first sentence of Paragraph 4 to read as follows:

Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor’s charges from the

Amendment No. 2 to Funding Agreement No. A-14700  
 Rancho Canada Venture, LLC  
 Second Revised DEIR for the Rancho Canada Village Subdivision Project  
 Housing and Community Development (HCD)  
 Term: March 10, 2020 – September 30, 2021  
 Not to Exceed: \$117,948.00



prior quarter associated with completion of task(s) as specified in “Exhibits A, A-1, and A-2” of the PSA as amended (Scope of Services/Payment Provisions for the Project).

5. Amend the first sentence of Paragraph 5, “Engagement of Contractor”, to read as follows:

This Agreement as amended is based on County engaging Contractor in accordance with the PSA between County and Contractor and Amendment No. 1 and Amendment No. 2 to the PSA, attached hereto respectively as Exhibits “1”, “1A”, and “1B” and incorporated by this reference.

6. Amend the first sentence of Paragraph 6.a., “Contractor”, of Paragraph 6, “Payments to Contractor and County”, to read as follows:

Contractor’s invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$91,610.

7. Amend the first sentence of Paragraph 6.b., “County Contract Administration Fee”, of Paragraph 6, “Payments to Contractor and County”, to read as follows:

The County Contract Administration Fee, in an amount not to exceed \$1,338, shall be paid by PROJECT APPLICANT in accordance with this Agreement as amended.

8. Amend the first sentence of Paragraph 6.c., “Project Contingency”, of Paragraph 6, “Payments to Contractor and County”, to read as follows:

An additional not to exceed amount of twenty-five thousand dollars (\$25,000) in Project Contingency covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of the Parties, pursuant to Section 3, Transfer from Project Contingency Account, of “Exhibit A”, “Exhibit A-1”, and Section B.1 of “Exhibit A-2” of the PSA as amended.

9. All references to the Resource Management Agency in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.

10. Except as amended herein, all other terms and conditions of the Agreement and Amendment No. 1, including all Exhibits thereto, remain in full force and effect.

11. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 2 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$117,948.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Funding Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

**PROJECT APPLICANT\***

By: \_\_\_\_\_  
Mike Novo, AICP  
Interim Director of Housing and Community  
Development

\_\_\_\_\_  
Rancho Canada Venture, LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
R. Alan Williams, Sole Manager  
(Print Name and Title)

Date: 2-19-21

**Approved as to Form  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

By: Wendy S. Strimling  
Wendy S. Strimling  
Assistant County Counsel

Its: \_\_\_\_\_  
(Print Name and Title)

Date: 2/19/2021

Date: \_\_\_\_\_

**Approved as to Fiscal Provisions**

By: Gary Giboney  
Auditor/Controller

Date: 2/19/2021

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager**

By: \_\_\_\_\_  
Leslie J. Girard  
County Counsel-Risk Manager

Date: \_\_\_\_\_

\*INSTRUCTIONS: If PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement

Amendment No. 2 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$117,948.00

**EXHIBIT 1B**

**AMENDMENT NO. 2 TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
RINCON CONSULTANTS, INC.  
AND THE COUNTY OF MONTEREY  
TO PROVIDE A SECOND REIR  
FOR THE  
RANCHO CAÑADA VILLAGE SUBDIVISION  
PROJECT**

**AMENDMENT NO. 2  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
RINCON CONSULTANTS, INC.**

**THIS AMENDMENT NO. 2** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”) and Rincon Consultants, Inc. (hereinafter, “CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the “Parties”) as of the last date opposite the respective signatures.

**WHEREAS**, on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, “Agreement”) to prepare a Second Revised Environmental Impact Report (hereinafter, “SREIR”) for the Rancho Village Subdivision Project (hereinafter, “Project”) for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

**WHEREAS**, the Second Revised Draft EIR (SRDEIR) has been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS**, Agreement was amended by the Parties on September 30, 2020 (hereinafter, “Amendment No. 1”, including Exhibit A-1 – Scope of Services/Payment Provisions) to increase the amount by \$19,819 which resulted in a not to exceed amount of \$96,416 with no extension to the term; and

**WHEREAS**, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, prepare the screen check Second Revised Final EIR (SRFEIR), support staff in preparation of the staff report, and continue coordination with County staff, as further set out in Exhibit A-2, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to further amend the Agreement to increase the amount by \$20,194 for a total amount not to exceed \$116,610 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by Amendment No. 1 and this Amendment No. 2; and

**WHEREAS**, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, “Payments by County”, to read as follows:

Amendment No. 2 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$116,610

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement as amended shall not exceed the sum of \$116,610.

2. Amend Paragraph 4, “Additional Provisions/Exhibits”, to add “Exhibit A-2, Scope of Services/Payment Provisions”.
3. All references to the Resource Management Agency in the Agreement or Amendment No. 1 shall be understood to mean Housing and Community Development (HCD) to the extent applicable.
4. Except as amended herein, all other terms and conditions of the Agreement and Amendment No. 1, including all Exhibits thereto, remain in full force and effect.
5. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 2 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
Housing and Community Development (HCD)  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$116,610

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Professional Services Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Mike Novo, AICP  
Interim Director of Housing and Community  
Development

\_\_\_\_\_  
Rincon Consultants, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

**Approved as to Form  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
Wendy S. Strimling  
Assistant County Counsel

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager**

By: \_\_\_\_\_  
Leslie J. Girard  
County Counsel-Risk Manager

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between  
County of Monterey, hereinafter referred to as “County”  
and  
Rincon Consultants, Inc., hereinafter referred to as “CONTRACTOR”**

### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 2 to the Agreement incorporates the additional staff time required for completion of the tasks below.

#### **Task 6: Screencheck Second Final EIR**

Additional staff time to address County staff comments on the Responses to Comments/Administrative Second Final EIR. The estimate of staff hours to address comments is based on our preliminary review of staff comments.

#### **Task 9: Project Management and Hearings**

Additional time for project management and coordination during preparation of the Screencheck Second Final EIR and Second Final EIR, as well as during staff report preparation to support staff in their work.

#### **Assumptions:**

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement and Exhibit A-1 to Amendment No. 1.

### B. PAYMENT PROVISIONS

#### **COMPENSATION/ PAYMENT**

County shall pay an increased amount not to exceed \$20,194.00 (\$15,194.00 for Base Budget and \$5,000.00 in Project Contingency) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services as amended, for a total contract amount not to exceed \$116,610.00. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

#### **CONTRACTOR'S BILLING PROCEDURES**

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, “Payment Conditions”, of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to [194-HCD-Finance@co.monterey.ca.us](mailto:194-HCD-Finance@co.monterey.ca.us):

County of Monterey  
Housing and Community Development (HCD) – Finance  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

## EXHIBIT A-2 - SCOPE OF SERVICES/PAYMENT PROVISIONS

### B.1 Transfer from Project Contingency Account

Transfer of funding from the **Project Contingency Account totaling \$25,000.00** (\$5,000 added to the previous amount of \$20,000) requires the prior written approval of the HCD Director or designee and the Project Applicant.

Except as amended by Amendment No. 1 and Amendment No. 2, all other payment provisions of the Agreement remain in full force and effect.



## RINCON CONSULTANTS, INC.

### Rancho Cañada Scope Amendment Request

#### Cost Estimate

1/13/2021

Tasks	Labor Description →		Senior Prof I or II, Supervisor I, Sr Supervisor II, or Principal I	Senior Professional II	Professional III or IV	Associate I, II, or III; Professional I or II	Production Specialist	Clerical
	Labor Cost	Hours						
Task 6: Screencheck Second Final EIR	\$15,002	98	16	6	60	12	4	
Task 9: Project Management and Hearings	\$3,800	24	8		12			4
Subtask 9.1: Staff Reports	\$6,392	44	8		20	12	4	
<b>SUBTOTAL COST</b>	<b>\$ 25,194</b>	<b>166</b>	<b>7,040</b>	<b>1,050</b>	<b>13,340</b>	<b>2,760</b>	<b>704</b>	<b>300</b>

Direct Cost Summary	
Printing and Reproduction	\$ -
<b>Subtotal Additional Costs:</b>	<b>\$ -</b>

Summary	
Professional Fees Subtotal	\$ 25,194
Direct Costs Subtotal	\$ -
<b>TOTAL PROJECT BUDGET</b>	<b>\$ 25,194</b>

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the reallocation as long as the total contract price is not exceeded.

Authorized Use of Existing Contingency Budget	\$10,000
<b>Amendment No. 2 – Base Budget Dollar Amount Increase</b>	<b>\$15,194</b>



# Attachment C

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## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Jane Parker to approve Consent Calendar Item Numbers 15 through 37.

- a. **Agreement No.: A-14699** / Approve Amendment No. 1 to Professional Services Agreement No. A-14699 with **Rincon Consultants, Inc.** to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416 and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$96,416, with no extension to the term of March 10, 2020 to September 30, 2021;
- b. **Agreement No.: A-14700** / Approve Amendment No. 1 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416, the Contract Administration Fee in the amount of \$446 is increased by \$446 to \$892, and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, with no extension to the term of March 10, 2020 to September 30, 2021; and
- c. Authorize the Resource Management Agency Director or designee to execute Amendment No. 1 to Professional Services Agreement No. A-14699, Amendment No. 1 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 29<sup>th</sup> day of September 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 29, 2020.

Dated: September 29, 2020  
File ID: A 20-400  
Agenda Item No.: 36

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Joel G. Pablo, Deputy

**AMENDMENT NO. 1  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
RINCON CONSULTANTS, INC.**

**THIS AMENDMENT NO. 1** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Rincon Consultants, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

**WHEREAS**, on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, "Agreement") to prepare a Second Revised Environmental Impact Report (hereinafter, "SREIR") for the Rancho Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

**WHEREAS**, the Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS**, the CONTRACTOR's scope of work under the Agreement provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR; and

**WHEREAS**, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, produce the Second Revised Final EIR (SRFBIR), and continue coordination with County staff, as further set out in Exhibit A-1, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to amend the Agreement to increase the amount by \$19,819 for a total amount not to exceed \$96,416 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1; and

**WHEREAS**, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 1.

Amendment No. 1 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$96,416.00

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$96,416.

2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-1, Scope of Services/Payment Provisions".
3. All written reports required under this Agreement as amended shall be delivered to the following individual:

Mary Israel, Associate Planner  
County of Monterey  
Resource Management Agency - Land Use & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527  
Email: israelm@co.monterey.ca.us

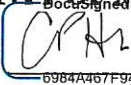
4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$96,416.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Professional Services Agreement as of the day and year written below:


**COUNTY OF MONTEREY**

**CONTRACTOR\***

By:   
Carl P. Holm, AICP  
RMA Director

Rincon Consultants, Inc.  
Contractor's Business Name

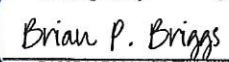
Date: 9/30/2020


By:   
(Signature of Chair, President or Vice President)

Its: Stephen Svete, Executive Vice President  
(Print Name and Title)

Date: September 11, 2020

**Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel**

By:   
Brian P. Briggs  
Assistant County Counsel / Deputy County Counsel


By:   
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Richard Daulton, Corporate Secretary  
(Print Name and Title)

Date: 9/16/2020

Date: September 14, 2020

**Approved as to Fiscal Provisions**

By:   
Gary Giboney  
Auditor/Controller

Date: 9/16/2020

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Amendment No. 1 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 -- September 30, 2021  
Not to Exceed: \$96,416.00

## EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between  
County of Monterey, hereinafter referred to as "County"  
and  
Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 1 to the Agreement incorporates the additional staff time required for completion of the tasks below.

#### **Task 5: Administrative Second Revised Final EIR (Additional Responses to Comments)**

The March 10, 2020 Agreement scope assumed that "most comment letters will be the same or similar to comments that were received on the certified EIR" but anticipated "receipt of at least one (1) lengthy legal comment." The level of effort was estimated at eighty (80) professional staff hours; however, as noted in the Agreement, "The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period."

Based on the comments received and consultation with County staff, CONTRACTOR estimates the need for ninety-five (95) professional staff hours to respond to comments, for an increase of fifteen (15) professional staff hours. This estimate includes assumptions about County contributions to the preparation of responses to comments. If CONTRACTOR is required to do work currently assumed to be done by County staff, additional budget will be required.

*Deliverable(s): Administrative Second Revised Final EIR*

#### **Task 7: Second Revised Final EIR (Additional Final EIR Production)**

The typical County format for a Final EIR includes an Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document; Draft EIR sections are not revised and reproduced in full. Per direction provided by County staff, County has requested preparation of a full Final EIR with all Draft EIR sections, and a new Responses to Comments chapter. In this scenario, the existing strikethrough and underline in the Draft EIR would be removed manually, and any edits completed in response to public comments would then be shown in strikethrough and underline. This scope amendment includes professional and production staff time to complete this formatting. In addition, due to the increased length of the Final EIR under this scenario, an estimated \$600.00 additional budget would be required for printing.

## EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

*Deliverable(s): Second Revised Final EIR as Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document and also with edits completed in response to public comments shown in strikethrough and underline.*

### Task 9: Project Management and Hearings

#### (Additional Project Management)

Task 9, Project Management and Hearings, from the March 10, 2020 Agreement scope of work assumed attendance at up to three (3) conference calls with County staff during the course of this Agreement; more coordination calls have occurred, and as such, the management budget is nearly expended. Therefore, this budget augmentation request includes additional time for attendance at up to three (3) additional conference calls (1.5-hours each) and ongoing coordination and management of the Final EIR.

#### Assumptions:

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement.

#### Deliverables:

CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks and in the original Exhibit A to the Agreement. All written reports required under this Agreement as amended herein shall be delivered as noted to the following individual and in accordance with the Project Schedule which follows:

Mary Israel, Associate Planner  
County of Monterey  
Resource Management Agency - Land Use & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527  
Email: israelm@co.monterey.ca.us

## B. PAYMENT PROVISIONS

### COMPENSATION/ PAYMENT

County shall pay an increased amount not to exceed \$19,819.00 (\$9,819.00 for Base Budget plus \$10,000.00 in Project Contingency) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

During this Agreement as herein amended, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for travel expenses.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement as herein amended are not in excess of those charged to any other client for the same services performed by the same individuals.

### CONTRACTOR'S BILLING PROCEDURES

Invoices for deliverables under the Agreement as herein amended shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for



**EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B-1 in Exhibit A-1 of this Agreement):

**1. Invoice Coversheet**

**Rincon Consultants, Inc.** Date: \_\_\_\_\_  
**Rancho Cañada Village Subdivision Project Second Revised EIR** Invoice No. \_\_\_\_\_

*Original Agreement Term: March 10, 2020 to September 30, 2021*  
*Original Agreement Amount: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)*

*Amendment No. 1: \$ 19,819.00 (\$ 9,819.00 Base Budget plus \$10,000.00 Project Contingency)*

***This Invoice:***

<b>Task 5:</b>	<b>\$2,550.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$2,869.00</b>	<b>Second Revised Final EIR</b>	_____
<b>Task 9:</b>	<b>\$3,800.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<b>\$600.00</b>	Printing and Reproduction Costs	_____
	<b>\$9,819.00</b>	<b>GRAND TOTAL:</b>	_____

**REMAINING BALANCE:** \_\_\_\_\_

\_\_\_\_\_  
**Approved as to Work/Payment: Mary Israel, Associate Planner** **Date**

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to [RMA-Finance-AP@co.monterey.ca.us](mailto:RMA-Finance-AP@co.monterey.ca.us):

County of Monterey  
 Resource Management Agency – Finance Division  
 1441 Schilling Place, South 2<sup>nd</sup> Floor  
 Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement as amended should be directed to the RMA Finance Division at (831) 755-4800 or via email to [RMA-Finance-AP@co.monterey.ca.us](mailto:RMA-Finance-AP@co.monterey.ca.us).

County may, in its sole discretion, terminate the Agreement as amended or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement as amended.

## **EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

No payments in advance or in anticipation of services or supplies to be provided under this Agreement as amended shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

**DISALLOWED COSTS:** CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

### **2. Invoice Detail**

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the actual deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

### **3. Transfer from Project Contingency Account**

Transfer of funding from the Project Contingency Account (total Agreement Project Contingency of \$20,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

**EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant’s written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.



**RINCON CONSULTANTS, INC.**  
**Rancho Cañada Scope Amendment Request**  
 Cost Estimate (without Contingency)

8/24/2020

Tasks	Labor Description →			Senior Prof I or II, Supervisor I, Sr Supervisor II, or Principal I	Professional III or IV	Associate I, II, or III; Professional I or II	Production Specialist	GIS/CADD Specialist I or II	Clerical
	Labor Cost	Direct Expense	Hours	\$220	\$145	\$115	\$88	\$125	\$75
Task 5: Administrative Final EIR (Additional Responses to Comments)	\$2,550	\$0	15	5	10				
Task 7: Final EIR (Formatting/Production)	\$2,869	\$600	25	2		15	8		
Task 9: Project Management and Hearings	\$3,800	\$0	20	12	8				
<b>SUBTOTAL COST</b>	<b>\$ 9,219</b>	<b>\$ 600</b>	<b>60</b>	<b>4,180</b>	<b>2,610</b>	<b>1,725</b>	<b>704</b>	<b>0</b>	<b>0</b>

**Direct Cost Summary**

Printing and Reproduction	\$	600
<b>Subtotal Additional Costs:</b>	<b>\$</b>	<b>600</b>

**Summary**

Professional Fees Subtotal	\$	9,219
Direct Costs Subtotal	\$	600
<b>TOTAL PROJECT BUDGET</b>	<b>\$</b>	<b>9,819</b>

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the reallocation as long as the total contract price is not exceeded.

**EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**ATTACHMENT B-1**

**Invoice Coversheet**

**Rincon Consultants, Inc.**  
**Rancho Cañada Village Subdivision Project Second Revised EIR**

Date: \_\_\_\_\_  
Invoice No. \_\_\_\_\_

*Original Agreement Term: March 10, 2020 to September 30, 2021*  
*Original Agreement Amount: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)*

*Amendment No. 1: \$ 19,819.00 (\$ 9,819.00 Base Budget plus \$10,000.00 Project Contingency)*

***This Invoice:***

<b>Task 5:</b>	<b>\$2,550.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$2,869.00</b>	<b>Second Revised Final EIR</b>	_____
<b>Task 9:</b>	<b>\$3,800.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<u><b>\$600.00</b></u>	<b>Printing and Reproduction Costs</b>	_____
	<b>\$9,819.00</b>	<b>GRAND TOTAL:</b>	_____

**REMAINING BALANCE:** \_\_\_\_\_

Approved as to Work/Payment: **Mary Israel, Associate Planner**

\_\_\_\_\_ **Date**

# Attachment D

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# Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

## Board Order

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Jane Parker to approve Consent Calendar Item Numbers 15 through 37.

a. **Agreement No.: A-14699** / Approve Amendment No. 1 to Professional Services Agreement No. A-14699 with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416 and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$96,416, with no extension to the term of March 10, 2020 to September 30, 2021;

b. **Agreement No.: A-14700** / Approve Amendment No. 1 to Funding Agreement No. A-14700 with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the Base Budget in the amount of \$66,597 is increased by \$9,819 to \$76,416, the Contract Administration Fee in the amount of \$446 is increased by \$446 to \$892, and the Contingency Budget in the amount of \$10,000 is increased by \$10,000 to \$20,000, for a total amount not to exceed \$97,308, with no extension to the term of March 10, 2020 to September 30, 2021; and

c. Authorize the Resource Management Agency Director or designee to execute Amendment No. 1 to Professional Services Agreement No. A-14699, Amendment No. 1 to Funding Agreement No. A-14700 and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 29<sup>th</sup> day of September 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams  
NOES: None  
ABSENT: None  
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting September 29, 2020.

Dated: September 29, 2020  
File ID: A 20-400  
Agenda Item No.: 36

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

  
Joel G. Pablo, Deputy

**AMENDMENT NO. 1  
TO FUNDING AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
RANCHO CANADA VENTURE, LLC**

**THIS AMENDMENT NO. 1** to Funding Agreement No. A-14700 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County"), and Rancho Canada Venture, LLC (hereinafter, "PROJECT APPLICANT") is hereby entered into between the County and the PROJECT APPLICANT (collectively, the County and PROJECT APPLICANT are referred to as the "Parties") as of the last date opposite the respective signatures.

**WHEREAS**, PROJECT APPLICANT entered into Funding Agreement No. A-14700 with County (hereinafter, "Funding Agreement") to provide funding for the preparation of a Second Revised Environmental Impact Report (EIR) (hereinafter, "SREIR") for the Rancho Canada Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$77,043; and

**WHEREAS**, PROJECT APPLICANT previously applied to County for land use entitlements for the Project, and in December 2016, County certified an EIR for the Project and approved the 130- unit alternative; and

**WHEREAS**, in January 2017, the Carmel Valley Association (CVA) filed a lawsuit (*Carmel Valley Association, Inc., v. County of Monterey* (Monterey Superior Court Case No. 17CV000131)) on that approval. The Monterey Superior Court issued a Peremptory Writ of Mandate and judgment in July 2018, holding that that the EIR's Project Description and alternatives analysis were legally inadequate under the California Environmental Quality Act (CEQA); and

**WHEREAS**, concurrent with approval of the Funding Agreement, the County approved a Professional Services Agreement ("PSA") with Rincon Consultants, Inc. (hereinafter, "Contractor") to prepare a SREIR in accordance with the Peremptory Writ of Mandate and court judgment; and

**WHEREAS**, The Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS**, based on the comments received on the SRDEIR, the Contractor needs additional funding to prepare responses to comments, produce the Second Revised Final EIR (SRFEIR), and continue coordination with County staff, and accordingly, concurrently herewith, the County and Contractor have entered into Amendment No. 1 to the PSA to increase the amount payable

Amendment No. 1 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
RMA – Planning  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$97,308.00



to Contractor, as further set out in Exhibit 1A, attached hereto and incorporated herein by reference; and

WHEREAS, the Parties wish to amend the Funding Agreement to increase the amount by \$19,819 for a total amount not to exceed \$96,416 to provide funding to the County for the Contractor's services under the PSA as amended plus a contract administration fee.

NOW, THEREFORE, the Parties agree to amend the Funding Agreement as follows:

1. Amend Paragraph 1, "Deposits to Fund PSA and County Fee for Contract Administration", to add the following:

1.a. Deposits to Fund Amendment No. 1 to PSA and County Fee for Contract Administration. PROJECT APPLICANT shall deposit an amount equal to the Contractor's additional Base Budget and the County's Contract Administration Fee. This amount totals \$10,265 and includes:

Contractor's Base Budget:	\$ 9,819
Office of the County Counsel	
Contract Administration Fee (non-refundable):	\$ 446

PROJECT APPLICANT shall deposit a total amount of \$10,265 with County of Monterey Resource Management Agency (RMA) – Land Use and Community Development (Planning) upon approval of this Amendment No. 1 to Agreement by the County of Monterey Board of Supervisors, currently scheduled for September 29, 2020.

PROJECT APPLICANT's deposit of \$10,265 with County shall be a condition precedent to County's obligation under this Agreement as amended by this Amendment No. 1.

2. Amend Paragraph 2, "Ten Thousand Dollar (\$10,000) Project Contingency", to read as follows:

Twenty Thousand Dollar (\$20,000) Project Contingency. An additional twenty thousand dollars (\$20,000) shall be included in the PSA between County and Contractor to cover contingencies. This twenty thousand-dollar (\$20,000) Project Contingency amount is subject to the procedures in *Section 3, Transfer from Project Contingency Account*, specified in "Exhibit A", *Scope of Services/Payment Provisions*, of the PSA, as amended by Amendment No. 1 to the PSA, which is attached hereto as Exhibit 1A and incorporated herein by reference.

Amendment No. 1 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
RMA – Planning  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$97,308.00

- 3. Amend Paragraph 3, "Maximum Budget Under Agreement", to read as follows:

Maximum Budget Under Agreement. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement as amended by this Amendment No. 1 is \$97,308, which consists of the following amounts:

Contractor's Base Budget:	\$76,416
Office of the County Counsel	
Contract Administration Fee (non-refundable):	\$ 892
Project Contingency:	<u>\$20,000</u>
 <u>Maximum Charge Under Agreement:</u>	 <u>\$97,308</u>

- 4. Amend the first sentence of Paragraph 4 to read as follows:

Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor's charges from the prior quarter associated with completion of task(s) as specified in "Exhibits A and A-1" of the PSA as amended (Scope of Services/Payment Provisions for the Project).

- 5. Amend the first sentence of Paragraph 5, "Engagement of Contractor", to read as follows:

This Agreement as amended is based on County engaging Contractor in accordance with the PSA between County and Contractor and Amendment No. 1 to the PSA, attached hereto respectively as Exhibits "1" and "1A" and incorporated by this reference.

- 6. Amend the first sentence of Paragraph 6.a., "Contractor", of Paragraph 6, "Payments to Contractor and County", to read as follows:

Contractor's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$76,416.

- 7. Amend the first sentence of Paragraph 6.b., "County Contract Administration Fee", of Paragraph 6, "Payments to Contractor and County", to read as follows:

The County Contract Administration Fee, in an amount not to exceed \$892, shall be paid by PROJECT APPLICANT in accordance with this Agreement as amended.

- 8. Amend the first sentence of Paragraph 6.c., "Project Contingency", of Paragraph 6, "Payments to Contractor and County", to read as follows:

Amendment No. 1 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$97,308.00

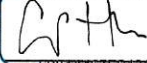
An additional not to exceed amount of twenty thousand dollars (\$20,000) in Project Contingency covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of the Parties, pursuant to Section 3, Transfer from Project Contingency Account, of "Exhibit A" and "Exhibit A-1" of the PSA as amended.

9. All other terms and conditions of the Agreement remain unchanged and in full force.
10. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$97,308.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Funding Agreement as of the day and year written below:


**COUNTY OF MONTEREY**

By:   
6984A467F94243E  
Carl P. Holm, AICP  
RMA Director

Date: 9/30/2020

**PROJECT APPLICANT\***

Rancho Canada Venture, LLC


By:   
(Signature of Chair, President or Vice President)

Its: R. Alan Williams, Sole Manager  
(Print Name and Title)

Date: 9-16-20

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

**Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel**


By:   
B162D1AF861197F  
Wendy S. Stirling  
Assistant County Counsel Deputy County Counsel

Date: 9/16/2020

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

**Approved as to Fiscal Provisions**

By:   
D3834BFECT1D8449  
Auditor/Controller

Date: 9/16/2020

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. IF PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. IF PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Amendment No. 1 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
RMA – Planning  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$97,308.00

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Funding Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

**PROJECT APPLICANT\***

By: \_\_\_\_\_  
Carl P. Holm, AICP  
RMA Director

\_\_\_\_\_  
Rancho Canada Venture, LLC

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
R. Alan Williams, Sole Manager  
(Print Name and Title)

Date: 9-16-20

**Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel**

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

By: \_\_\_\_\_  
Wendy S. Strimling  
Assistant County Counsel

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. IF PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. IF PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Amendment No. 1 to Funding Agreement No. A-14700  
Rancho Canada Venture, LLC  
Second Revised DEIR for the Rancho Canada Village Subdivision Project  
RMA – Planning  
Term: March 10, 2020 – September 30, 2021  
Not to Exceed: \$97,308.00

**EXHIBIT 1A**

**AMENDMENT NO. 1 TO**  
**PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN**  
**RINCON CONSULTANTS, INC.**  
**AND THE COUNTY OF MONTEREY**  
**TO PROVIDE A SECOND REIR**  
**FOR THE**  
**RANCHO CAÑADA VILLAGE SUBDIVISION**  
**PROJECT**

**AMENDMENT NO. 1  
TO PROFESSIONAL SERVICES AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
RINCON CONSULTANTS, INC.**

**THIS AMENDMENT NO. 1** to Professional Services Agreement No. A-14699 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Rincon Consultants, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties") as of the last date opposite the respective signatures.

**WHEREAS**, on May 14, 2020, CONTRACTOR entered into Professional Services Agreement No. A-14699 with County (hereinafter, "Agreement") to prepare a Second Revised Environmental Impact Report (hereinafter, "SREIR") for the Rancho Village Subdivision Project (hereinafter, "Project") for a term of March 10, 2020 through September 30, 2021 for an amount not to exceed \$76,597, and concurrently, County approved a Funding Agreement with Rancho Canada Venture, LLC, the Project Applicant, to fund the services provided by CONTRACTOR; and

**WHEREAS**, the Second Revised Draft EIR (SRDEIR) has since been prepared and circulated for public review. The comment period closed on August 11, 2020; and

**WHEREAS**, the CONTRACTOR's scope of work under the Agreement provided for the possibility of reevaluation and augmentation of their budget depending on the volume and detail of the comments received on the SRDEIR; and

**WHEREAS**, based on the comments received on the SRDEIR, the CONTRACTOR needs additional funding to prepare responses to comments, produce the Second Revised Final EIR (SRFEIR), and continue coordination with County staff, as further set out in Exhibit A-1, attached hereto and incorporated herein by reference; and

**WHEREAS**, the Parties wish to amend the Agreement to increase the amount by \$19,819 for a total amount not to exceed \$96,416 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1; and

**WHEREAS**, the County is concurrently herewith processing an amendment to the Funding Agreement with the Project Applicant to provide funding for the services under this Amendment No. 1.

Amendment No. 1 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$96,416.00

**NOW, THEREFORE, the Parties agree to amend the Agreement as follows:**

1. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibits A and A-1, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$96,416.

2. Amend Paragraph 4, "Additional Provisions/Exhibits", to add "Exhibit A-1, Scope of Services/Payment Provisions".
3. All written reports required under this Agreement as amended shall be delivered to the following individual:

Mary Israel, Associate Planner  
County of Monterey  
Resource Management Agency - Land Use & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527  
Email: israelm@co.monterey.ca.us

4. All other terms and conditions of the Agreement remain unchanged and in full force.
5. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Amendment No. 1 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
RMA -- Planning  
Term: March 10, 2020 -- September 30, 2021  
Not to Exceed: \$96,416.00



IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Professional Services Agreement as of the day and year written below:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Carl P. Holm, AICP  
RMA Director

\_\_\_\_\_  
Rincon Consultants, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

**Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel**

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

By: \_\_\_\_\_  
Wendy S. Strimling  
Assistant County Counsel

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Manager  
Leslie J. Girard, County Counsel-Risk Manager**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. IF PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. IF PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Amendment No. 1 to Professional Services Agreement No. A-14699  
Rincon Consultants, Inc.  
Second Revised EIR for the Rancho Canada Village Subdivision Project  
RMA - Planning  
Term: March 10, 2020 -- September 30, 2021  
Not to Exceed: \$96,416.00

## **EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**To Agreement by and between  
County of Monterey, hereinafter referred to as "County"  
and**

**Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"**

### **A. SCOPE OF SERVICES**

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (EIR) (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

Based on the extent of public comments received and the approach for responding, additional work effort will be required beyond what was anticipated in the Agreement with the CONTRACTOR. This Amendment No. 1 to the Agreement incorporates the additional staff time required for completion of the tasks below.

#### **Task 5: Administrative Second Revised Final EIR (Additional Responses to Comments)**

The March 10, 2020 Agreement scope assumed that "most comment letters will be the same or similar to comments that were received on the certified EIR" but anticipated "receipt of at least one (1) lengthy legal comment." The level of effort was estimated at eighty (80) professional staff hours; however, as noted in the Agreement, "The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. We reserve the right to reevaluate the effort level and request a scope amendment upon close of the public comment period."

Based on the comments received and consultation with County staff, CONTRACTOR estimates the need for ninety-five (95) professional staff hours to respond to comments, for an increase of fifteen (15) professional staff hours. This estimate includes assumptions about County contributions to the preparation of responses to comments. If CONTRACTOR is required to do work currently assumed to be done by County staff, additional budget will be required.

*Deliverable(s): Administrative Second Revised Final EIR*

#### **Task 7: Second Revised Final EIR (Additional Final EIR Production)**

The typical County format for a Final EIR includes an Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document; Draft EIR sections are not revised and reproduced in full. Per direction provided by County staff, County has requested preparation of a full Final EIR with all Draft EIR sections, and a new Responses to Comments chapter. In this scenario, the existing strikethrough and underline in the Draft EIR would be removed manually, and any edits completed in response to public comments would then be shown in strikethrough and underline. This scope amendment includes professional and production staff time to complete this formatting. In addition, due to the increased length of the Final EIR under this scenario, an estimated \$600.00 additional budget would be required for printing.

## EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

*Deliverable(s): Second Revised Final EIR as Introduction, Responses to Comments, and Revisions to the Draft EIR in a stand-alone document and also with edits completed in response to public comments shown in strikethrough and underline.*

### Task 9: Project Management and Hearings

#### (Additional Project Management)

Task 9, Project Management and Hearings, from the March 10, 2020 Agreement scope of work assumed attendance at up to three (3) conference calls with County staff during the course of this Agreement; more coordination calls have occurred, and as such, the management budget is nearly expended. Therefore, this budget augmentation request includes additional time for attendance at up to three (3) additional conference calls (1.5-hours each) and ongoing coordination and management of the Final EIR.

#### Assumptions:

This Scope of Services incorporates the same assumptions as the original Exhibit A to the Agreement.

#### Deliverables:

CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks and in the original Exhibit A to the Agreement. All written reports required under this Agreement as amended herein shall be delivered as noted to the following individual and in accordance with the Project Schedule which follows:

Mary Israel, Associate Planner  
County of Monterey  
Resource Management Agency - Land Use & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527  
Email: israelm@co.monterey.ca.us

## B. PAYMENT PROVISIONS

### COMPENSATION/ PAYMENT

County shall pay an increased amount not to exceed \$19,819.00 (~~\$9,819.00~~ for Base Budget plus \$10,000.00 in Project Contingency) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the attached Cost Estimate.

During this Agreement as herein amended, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for travel expenses.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement as herein amended are not in excess of those charged to any other client for the same services performed by the same individuals.

### CONTRACTOR'S BILLING PROCEDURES

Invoices for deliverables under the Agreement as herein amended shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for

**EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B-1 in Exhibit A-1 of this Agreement):

**1. Invoice Coversheet**

**Rincon Consultants, Inc.**

**Rancho Cañada Village Subdivision Project Second Revised EIR**

Date: \_\_\_\_\_

Invoice No. \_\_\_\_\_

Original Agreement Term: March 10, 2020 to September 30, 2021

Original Agreement Amount: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)

Amendment No. 1: \$ 19,819.00 (\$ 9,819.00 Base Budget plus \$10,000.00 Project Contingency)

**This Invoice:**

<b>Task 5:</b>	<b>\$2,550.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$2,869.00</b>	<b>Second Revised Final EIR</b>	_____
<b>Task 9:</b>	<b>\$3,800.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<b>\$600.00</b>	Printing and Reproduction Costs	_____
	<b>\$9,819.00</b>	<b>GRAND TOTAL:</b>	_____

**REMAINING BALANCE:** \_\_\_\_\_

Approved as to Work/Payment: **Mary Israel, Associate Planner**

**Date**

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement as amended shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to [RMA-Finance-AP@co.monterey.ca.us](mailto:RMA-Finance-AP@co.monterey.ca.us):

County of Monterey  
Resource Management Agency – Finance Division  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement as amended should be directed to the RMA Finance Division at (831) 755-4800 or via email to [RMA-Finance-AP@co.monterey.ca.us](mailto:RMA-Finance-AP@co.monterey.ca.us).

County may, in its sole discretion, terminate the Agreement as amended or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement as amended.

## **EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

No payments in advance or in anticipation of services or supplies to be provided under this Agreement as amended shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

**DISALLOWED COSTS:** CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

### **2. Invoice Detail**

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the actual deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

### **3. Transfer from Project Contingency Account**

Transfer of funding from the Project Contingency Account (total Agreement Project Contingency of \$20,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

### EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.



**RINCON CONSULTANTS, INC.**  
**Rancho Cañada Scope Amendment Request**  
 Cost Estimate (without Contingency)

8/24/2020

Tasks	Labor Description →			Senior Prof I or II, Supervisor I, Sr Supervisor I, or Principal I	Professional III or IV	Associate I, II, or III Professional I or II	Production Specialist	GIS/CADD Specialist I or II	Clerical
	Labor Cost	Direct Expense	Hours	\$220	\$145	\$115	\$88	\$125	\$75
Task 5: Administrative Final EIR (Additional Responses to Comments)	\$2,550	\$0	15	5	10				
Task 7: Final EIR (Formatting/Production)	\$2,869	\$600	25	2		15	8		
Task 9: Project Management and Hearings	\$3,800	\$0	20	12	8				
<b>SUBTOTAL COST</b>	<b>\$ 9,219</b>	<b>\$ 600</b>	<b>60</b>	<b>4,180</b>	<b>2,610</b>	<b>1,725</b>	<b>704</b>	<b>0</b>	<b>0</b>

Direct Cost Summary	
Printing and Reproduction	\$ 600
Subtotal Additional Costs	\$ 600
Summary	
Professional Fees Subtotal	\$ 9,219
Direct Costs Subtotal	\$ 600
<b>TOTAL PROJECT BUDGET</b>	<b>\$ 9,819</b>

Professional Services - are based on Rincon's standard fee schedule and labor classifications. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks, with the County's written approval, prior to the reallocation as long as the total contract price is not exceeded.

**EXHIBIT A-1 - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**ATTACHMENT B-1**

**Invoice Coversheet**

*Rincon Consultants, Inc.*

*Rancho Cañada Village Subdivision Project Second Revised EIR*

Date: \_\_\_\_\_

Invoice No. \_\_\_\_\_

*Original Agreement Term: March 10, 2020 to September 30, 2021*

*Original Agreement Amount: \$76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)*

*Amendment No. 1: \$ 19,819.00 (\$ 9,819.00 Base Budget plus \$10,000.00 Project Contingency)*

***This Invoice:***

**Task 5: \$2,550.00 Administrative Second Revised Final EIR**

**Task 7: \$2,869.00 Second Revised Final EIR**

**Task 9: \$3,800.00 Project Management and Hearings**

**Direct Cost Summary**

**\$600.00 Printing and Reproduction Costs**

**\$9,819.00**

**GRAND TOTAL:**

**REMAINING BALANCE:**

Approved as to Work/Payment: **Mary Israel, Associate Planner**

Date

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# Attachment E

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## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

#### **PLN040061-AMD1 - Rancho Canada Village Amendment**

a. **Agreement No.: A-14699** / Approve Professional Services Agreement with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597 and the Contingency Budget is \$10,000, for a total amount not to exceed \$76,597, for a term retroactive to March 10, 2020 to September 30, 2021;

b. **Agreement No.: A-14700** / Approve Funding Agreement with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597, the Contract Administration Fee is \$446, and the Contingency Budget is \$10,000, for a total amount not to exceed \$77,043, for a term retroactive to March 10, 2020 to September 30, 2021; and

c. Authorize the Resource Management Agency Director or designee to execute the Professional Services Agreement, Funding Agreement and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 12<sup>th</sup> day of May 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting May 12, 2020.

Dated: May 12, 2020  
File ID: A 20-105  
Agenda Item No.: 27

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Joel G. Pablo, Deputy

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES  
WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS  
(\$100,000 AND LESS)**

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:  
Rincon Consultants, Inc.  
(hereinafter "CONTRACTOR").

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

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:  
Provide a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project

2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$ 76,597.

3. **TERM OF AGREEMENT.** The term of this Agreement is from March 10, 2020 to September 30, 2021, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

- Exhibit A    **Scope of Services/Payment Provisions**
- Exhibit B    **Revision to Paragraph 8, Indemnification, of Agreement**

5. **PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this

Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6. PAYMENT CONDITIONS.

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

## 7. TERMINATION.

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

## 8. INDEMNIFICATION.

~~8.01. For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.~~

Refer to Exhibit B for substitute language to replace strikethrough language above.

PSA \$100,000 or Less for  
Surveyors, Architects, Engineers & Design Professionals  
Revised 09/30/08

2 of 9 Project ID: Rincon Consultants, Inc.  
Rancho Cañada Village Subdivision Project  
Second REIR  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$76,597

4/22/20  
(Date)  
SMS  
(Contractors' Initials)

Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

**6. PAYMENT CONDITIONS.**

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

**7. TERMINATION.**

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

**8. INDEMNIFICATION.**

~~8.01. For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.~~

Refer to Exhibit B for substitute language to replace strikethrough language above.

PSA \$100,000 or Less for  
Surveyors, Architects, Engineers & Design Professionals  
Revised 09/30/08

2 of 9

Project ID: Rincon Consultants, Inc.  
Rancho Cañada Village Subdivision Project  
Second RBIR  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$76,597

14/22/20  
(Date)  
[Signature]  
(Contractors' Initials)

~~8.02 Indemnification for Design Professional Services Claims: CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.~~

Refer to Exhibit B for substitute language to replace strikethrough language above.

SNS  
(Contractors' Initials)

9/22/20  
(Date)

~~8.03 Indemnification for All Other Claims or Loss: For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.~~

Refer to Exhibit B for substitute language to replace strikethrough language above.

SNS  
(Contractors' Initials)

9/22/20  
(Date)

9. INSURANCE.

9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

~~8.02 Indemnification for Design Professional Services Claims:~~ CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

Refer to Exhibit B for substitute language to replace strikethrough language above.

JRD  
(Contractors' Initials)

14/22/20  
(Date)

~~8.03 Indemnification for All Other Claims or Loss:~~ For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

Refer to Exhibit B for substitute language to replace strikethrough language above.

JRD  
(Contractors' Initials)

14/22/20  
(Date)

## 9. INSURANCE.

### 9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

### 9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

### 9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).



Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Modification (Justification attached; subject to approval).

9.04. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02. County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04. Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05. Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst	Megan Jones, Principal
Name and Title	Name and Title
County of Monterey, Resource Management Agency 1441 Schilling Place, South 2nd Floor, Salinas, CA 93901	Rincon Consultants, Inc. 437 Figueroa Street, Suite 203, Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 333-0310
Phone	Phone

15. MISCELLANEOUS PROVISIONS.

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the

effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.

- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

*This space left blank intentionally*

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Department Head (if applicable)

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: \_\_\_\_\_  
County Counsel

Date: \_\_\_\_\_

Approved as to Fiscal Provisions<sup>2</sup>

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

**CONTRACTOR**

Rincon Consultants, Inc.  
Contractor's Business Name\*

By: \_\_\_\_\_  
(Signature of Chair, President, or Vice-President)\*

STEPHEN M. SWOTE, AICP  
Name and Title EXEC. V.P.

Date: 4/22/20

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

Name and Title

Date: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup>Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

<sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

<sup>3</sup>Approval by Risk Management is required only if changes are made in paragraph 8 or 9

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Department Head (if applicable)

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: \_\_\_\_\_  
County Counsel

Date: \_\_\_\_\_

Approved as to Fiscal Provisions<sup>2</sup>

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

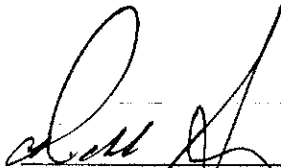
Date: \_\_\_\_\_

**CONTRACTOR**

Rincon Consultants, Inc.  
Contractor's Business Name\*

By: \_\_\_\_\_  
(Signature of Chair, President, or Vice-President)\*

Date: \_\_\_\_\_  
Name and Title

By:   
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

RICHARD DAVLTON, SECRETARY  
Name and Title

Date: 4/22/20

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<sup>3</sup>Approval by Risk Management is required only if changes are made in paragraph 8 or 9

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

**CONTRACTOR**

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Date: \_\_\_\_\_

By: W. Strimling  
Department Head (if applicable)

Date: 5/14/2020

Approved as to Form<sup>1</sup>

By: /s/ Wendy S. Strimling, Asst. County Counsel  
County Counsel

Date: April 30, 2020

Approved as to Fiscal Provisions<sup>2</sup>

By: M. Mesa  
Auditor/Controller

Date: 5/4/2020

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

Rincon Consultants, Inc.

Contractor's Business Name\*

By: [Signature]  
(Signature of Chair, President, or Vice-President)\*

STEPHEN M. SVETE, AICP  
Name and Title EXEC. V.P.

Date: 4/22/2020

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

Name and Title

Date: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

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## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between  
County of Monterey, hereinafter referred to as "County"  
and  
Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

#### **PROJECT BACKGROUND:**

The previously certified Environmental Impact Report (EIR) evaluated the development of two hundred eighty-one (281) residential units as the proposed Project. The certified EIR also evaluated a one hundred thirty (130) unit alternative at the same level of detail as the proposed Project. In December 2016, the County certified the EIR and approved the one hundred thirty (130) unit alternative. In January 2017, the Carmel Valley Association (CVA) filed a lawsuit on that approval. (*Carmel Valley Association, Inc., v. County of Monterey* (Monterey Superior Court Case No. 17CV000131).) The trial court issued a writ of mandate and judgment in July 2018 ("court order"), holding that, although the one hundred thirty (130) unit proposal was presented as an alternative in the EIR, this proposal was the true "project" under consideration and hence the EIR's Project Description was legally inadequate. The court further reasoned that, because the range of alternatives within the EIR treated the two hundred eighty-one (281) unit proposal as the "project," the alternatives were inadequate, as they sought to reduce impacts of a two hundred eighty-one (281) unit proposal rather than those of the one hundred thirty (130) unit proposal. The Monterey County Superior Court found that the EIR's Project Description and alternatives analysis were defective but found no problems with the impact analyses and mitigation measures in the EIR, nor did CVA ask the court to find any such additional violations. The County of Monterey ("County") is preparing this Second Revised Draft Environmental Impact Report (Second REIR), and contracting with CONTRACTOR herein, in response to the court judgment and writ of mandate issued by the Monterey Superior Court in *Carmel Valley Association, Inc., v. County of Monterey*.

CONTRACTOR's understanding of the Project, referred to herein as the Revised Project, that is the subject of the Second REIR is the one hundred thirty (130) unit alternative evaluated in the previously certified EIR and approved by County. The Revised Project includes a minor change to the Project site boundary associated with the area identified in certified EIR as Lot 130. Since the Monterey County Board of Supervisors' 2016 project approval, this lot was transferred to the Santa Lucia Conservancy. Therefore, the Revised Project does not include this parcel in the Project site, and a unit has been added to the main Project location; thus, the Revised Project still is one hundred thirty (130) units.

#### **SCOPE OF SERVICES:**

CONTRACTOR shall prepare the Second REIR for the one hundred thirty (130) unit Project in compliance with the court order. To comply with the court order, the discussion of impacts and mitigation measures will be revised to omit evaluation of the two hundred eighty-one (281) unit project

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

and to replace the alternatives chapter. As recognized in case law, the impact analysis, which was not challenged or invalidated in the afore-referenced litigation, is not required to be revised. Some changes to the existing environment and conditions have occurred since the certified EIR was prepared. For example, when preparation of the certified EIR began, the Project site was still part of a functioning golf course. The golf course has since closed. However, this is not a change or revision to the actual Project. Additionally, because the certified EIR is only being revised and recirculated to correct the matters identified in the court order, CONTRACTOR assumes existing conditions for analysis will be those that were used for the analysis in the certified EIR.

The Second REIR shall be prepared by CONTRACTOR in accordance with the State CEQA Guidelines, which set the standards for adequacy of an EIR. Specifically, the CEQA Guidelines state: *An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.*

As CONTRACTOR revises the certified EIR to create the Second REIR, as described above, CONTRACTOR shall also ensure that the analysis is fully defensible. The following outlines the key tasks for completing the Revised DEIR.

### **Task 1: Kickoff Meeting and Data Collection**

Within one (1) week of County's authorization to proceed, CONTRACTOR's Project Manager shall organize a kick-off meeting with County staff and the Project Applicant team to review background technical studies, confirm CONTRACTOR's approach to the environmental evaluation, fine-tune the overall Project Schedule, and establish an operation protocol. CONTRACTOR shall prepare an agenda for the meeting and provide notes after the meeting. It is assumed the meeting shall occur at County Resource Management Agency (RMA) offices and shall not exceed two (2) hours.

As part of this task, CONTRACTOR shall collect and review background data, including the previous DEIR, Revised DEIR, and Final EIR, and other technical studies prepared for the Project.

### **Task 2: Administrative Revised DEIR**

CONTRACTOR shall prepare an Administrative Second Revised DEIR in accordance with the State CEQA Guidelines. Because this Administrative Second Revised DEIR will be a revised version of the certified EIR, it will address the same environmental issues that were addressed in the certified EIR. The Administrative Second Revised DEIR shall utilize the certified EIR text, but with revisions to remove discussion of the two hundred eighty-one (281) unit project, and instead reframe the one hundred thirty (130) unit alternative as the proposed Project.

Upon initiating this task, CONTRACTOR shall carry all edits shown in Chapter 4, Revisions to the Recirculated DEIR, from the certified Final EIR into the Word document sections provided, which are from the prior DEIR. These revisions shall not be made in track changes or strikethrough and underline formatting.

The Administrative Second Revised DEIR shall consist of the following sections, which shall be revised versions of these same sections taken from the certified EIR.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

**Executive Summary and Table of Contents** – The Executive Summary section shall summarize the Revised Project and associated environmental consequences. Impacts shall be presented in tabular format to simplify review by decision-makers and the general Public. The Table of Contents will provide readers with the appropriate page number where each major section of the EIR can be found, consistent with Section 15122 of the CEQA Guidelines.

**Project Description** - This section shall include a description of the Revised Project, focusing on Project characteristics relevant to the analysis, Project objectives, and required discretionary approvals. Construction details, such as duration and potential equipment, shall also be summarized to inform the analysis. The Project Description shall include textual, tabular, and graphic presentation to fully describe the Project and form a basis for the environmental analysis. The Project Description shall describe only a Project consisting of one hundred thirty (130) units. Other changes that have occurred since certification of the EIR, such as changes to the Project site boundary, shall also be discussed in the Project Description.

**Introduction and Environmental Setting** - These required introductory sections shall lay the groundwork for and summarize the substantive analysis to follow. The introduction shall describe the purpose and legal authority of the EIR, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting shall provide a general description of the existing geographic character of the Project site and the Project site vicinity.

**Environmental Impact Analysis** - This section shall analyze impacts to each resource area evaluated in the EIR. For each issue area, the analysis shall include four (4) main components:

- **Setting** - description of current conditions, as they existed when the Notice of Preparation (NOP) was prepared for the certified EIR, with respect to the issue in question, including the existing regulatory environment
- **Impact Analysis** - discussion of potentially significant effects of the proposed Project; impacts are typically compared to established “thresholds of significance”
- **Mitigation Measures** - methods by which significant effects can be reduced or eliminated
- **Level of Significance after Mitigation** - discussion of whether proposed mitigation measures reduce impacts to below the adopted significance threshold

As described above, based on a review of the certified EIR, it appears that the analysis of direct and indirect impacts included a proposed two hundred eighty-one (281) unit project and a one hundred thirty (130) unit alternative. CONTRACTOR assumes that the analysis that was completed for the one hundred thirty (130) unit alternative shall be utilized to suffice for the analysis of the Revised Project.

**Other CEQA Required Discussions** - This section shall include discussions of other sections required by the CEQA Guidelines and shall include an analysis of potential growth-inducing impacts and irreversible environmental effects. This section shall also address resource areas with all less than significant impacts or no impacts.

**Cumulative Impacts** - Consistent with Section 15130 of the CEQA Guidelines, cumulative impacts resulting from the Revised Project impacts combined with impacts of other projects in the area shall be evaluated. Other projects in the area shall be derived in consultation with County. Mitigation measures shall be provided, as applicable, to reduce significant cumulative impacts of the Project.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

*Note: It will need to be determined whether a new cumulative list will be developed for resource topics where a list method was used, given that the list of cumulative projects will have certainly changed since the issuance of the original NOP.*

**Alternatives** – This section shall be prepared in accordance with the requirements of the State CEQA Guidelines, Section 15126.6, and recent court decisions. The purpose of this section shall be to promote informed decision-making and to evaluate a reasonable range of Project alternatives. CONTRACTOR assumes up to six (6) alternatives shall be evaluated (see Attachment A). This shall include the CEQA-required “No Project” alternative and up to five (5) Project alternatives. The one hundred thirty (130) unit alternative shall not be evaluated in this section since it shall constitute the Revised Project evaluated in the Revised DEIR. Per direction from County, this Scope of Services assumes that the alternatives evaluated in the previously certified EIR shall not be used; as such, the analysis of alternatives shall be new, with the exception of the forty (40) unit Low Density Alternative, which appeared in the original EIR but will need to be modified so as to be compared against the one hundred thirty (130) unit Revised Project.

**References** - This section of the EIR shall provide a list of references for the citations found in the body of the EIR. A copy of the reference material shall be kept in the Administrative Record, and provided to County on CD, flash drive, or similar digital storage device upon completion of the Second Revised Draft EIR.

*Deliverable(s):* Digital copy of Administrative Second Revised DEIR in Word and PDF formats

### **Task 3: Screencheck Revised DEIR**

Following receipt of County edits and comments on the Administrative Second Revised DEIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised DEIR. The Screencheck Second Revised DEIR shall provide County with an opportunity for final review of the document as it will appear when circulated for Public review.

*Deliverable(s):* Digital copy of Screencheck Revised DEIR in Word and PDF formats

### **Task 4: Second Revised DEIR**

After comments on the Screencheck Revised DEIR have been fully addressed, CONTRACTOR shall finalize the Second Revised DEIR and produce up to nineteen (19) paper copies of the document suitable for Public distribution, including copies of all referenced technical documents attached on a CD, flash drive, or similar digital storage device, as well as an electronic copy in Word and PDF format for uploading to County's website. As part of this task, CONTRACTOR shall convert final track change edits into underline format, for inclusion in the Second Revised DEIR released to the Public. The Second Revised DEIR shall be circulated for Public comment for a minimum period of forty-five (45) days, as required by CEQA. CONTRACTOR shall prepare a Notice of Completion (NOC) and file it with the State Clearinghouse on behalf of County. CONTRACTOR shall also prepare a Notice of Availability (NOA) for County to use in filing the Second Revised DEIR with the Monterey County Clerk. CONTRACTOR assumes County shall be responsible for required newspaper advertisements and other Public noticing of the document's availability, such as radius label mailing or on-site posting.

*Deliverable(s):* NOA, NOC, nineteen (19) paper copies of the Revised DEIR, thirty-two (32) CDs, flash drives, or similar digital storage devices, with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of Second Revised DEIR in Word and PDF formats, and one (1) CD, flash drive, or similar digital storage device, containing the Administrative Record

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### **Task 5: Administrative Second Revised Final EIR**

Subsequent to receipt of all Public comments on the Second Revised DEIR, CONTRACTOR shall prepare a draft Response to Comments for County review. This will include a list of commenters, comment letters, formal responses to comments, and added or revised text of the Second Revised DEIR that may be necessary. Subsequent to County approval of the draft Response to Comments, CONTRACTOR shall prepare the Administrative Second Final EIR for County review which will include the Response to Comments and text changes resulting from those responses. CONTRACTOR shall circulate the approved Responses to Comments to Public agencies that commented on the Revised DEIR at least ten (10) days prior to the hearing for certification per State CEQA Guidelines 15088.b.

Because the Second Revised DEIR shall be a revised version of the certified EIR, and the analysis shall closely match the analysis that was completed for the one hundred thirty (130) unit alternative in the certified EIR, CONTRACTOR anticipates that most comment letters will be the same or similar to comments that were received on the certified EIR. Therefore, CONTRACTOR anticipates that response to comments in the certified Final EIR can be applied to most comments received on the Second Revised DEIR. However, there is the possibility for receipt of comments addressing new issues or impacts that were not received during circulation of the certified EIR, including receipt of at least one (1) lengthy legal comment in light of the pending litigation. CONTRACTOR anticipates adequately responding with a maximum of eighty (80) professional staff hours. The actual level of effort required to respond shall depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. CONTRACTOR reserves the right to reevaluate the effort level and request a scope amendment upon close of the Public comment period. CONTRACTOR also assumes County shall address any legal comments received and shall provide support responding to comments pertaining to baseline conditions used in the Second Revised DEIR.

*Deliverable(s):* One (1) digital version of the draft Response to Comments in Word and PDF formats, and a cover letter for County use for circulation of the approved comment responses to the Public agencies that commented on the DEIR

### **Task 6: Screencheck Second Revised Final EIR**

Following receipt of County edits and comments on the Administrative Second Revised Final EIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised Final EIR. The Screencheck Second Revised Final EIR shall provide County with an opportunity for final review of the document as it will appear when presented for potential certification.

*Deliverable(s):* Digital copy of the Screencheck Second Revised Final EIR in Word and PDF formats

### **Task 7: Second Revised Final EIR**

Following internal review and approval of the Screencheck Second Revised Final EIR, CONTRACTOR shall produce the Second Final EIR for consideration by County decision makers. The Second Revised Final EIR shall include those pages from the Second Revised Draft EIR on which changes were made, with the changes marked with underlining and strikethrough, as appropriate. The Second Revised Final EIR shall also include the comments received on the Second Revised Draft EIR and responses to those comments, as described above for Task 4, Second Revised DEIR.

*Deliverable(s):* Eighteen (18) paper copies of the Second Final EIR, seventeen (17) CDs, flash drives, or similar digital storage device with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of the Second Final EIR in Word and PDF formats for use on County's website

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### **Task 8: Mitigation Monitoring and Reporting Program (MMRP) Assistance**

CONTRACTOR understands that County typically enters required Project mitigation measures into its Accela computer system. To facilitate this process, CONTRACTOR shall compile all of the mitigation measures identified in the Second Revised Final EIR and provide them in a separate file for County to use for inputting the measures into Accela.

*Deliverable(s):* Digital copy of the mitigation measures in the Second Revised DEIR (possibly as modified in Second Final EIR) in Word format

### **Task 9: Project Management and Hearings**

CONTRACTOR's Project Manager shall maintain the Project Schedule and budget and communicate with County and Project Team during preparation of the Second Revised DEIR. This shall include up to three (3) conference calls with County Staff during the course of this Agreement. CONTRACTOR's Project Manager or Principal-in-Charge shall additionally attend up to two (2) Public Hearings on the Project.

### **Assumptions:**

This Scope of Services incorporates the following assumptions:

- The Second Revised DEIR shall effectively be derived by removing the discussion of the proposed two hundred eighty-one (281) unit Project from the analysis.
- The one hundred thirty (130) unit alternative described and analyzed in the certified EIR shall be the Revised Project analyzed in the (first) Revised DEIR, with minor changes to the Project site, such as removal of the area referred to as Lot 130.
- The impacts and mitigation measures identified in the certified EIR for the one hundred thirty (130) unit alternative shall be substantially accurate, applicable, and sufficient for completing the analysis of the Revised Project.
- Existing baseline conditions shall be assumed to be those that were used for the analysis in the certified EIR, and therefore the same as existing conditions specified in the certified EIR. Any obvious changes (i.e., the discontinuation of the golf course use, the updating of a cumulative projects list for some resource areas) may be discussed in the Second Revised EIR, but only qualitatively so as to preserve the original baseline information.
- No new field surveys, field visits, or field investigations shall be required or performed.
- The Second Revised DEIR shall address the same CEQA checklist questions that were addressed in the certified EIR.
- The Administrative Second Revised DEIR shall be submitted to County in digital format only with one (1) follow up revision requested.
- Screencheck versions of the Second Revised Draft EIR and Second Revised Final EIR shall be submitted to County in digital format only.
- Appendices to the Second Revised DEIR shall not be provided in printed or hard copy format, but instead attached as CDs, flash drives, or similar digital storage device to the back covers of printed copies of the Second Revised DEIR.
- Responding to comments received on the Second Revised DEIR shall require a maximum of eighty (80) hours of CONTRACTOR's professional staff time.
- Comments received on the Second Revised DEIR will not raise new issues from those addressed in the certified EIR, and County shall respond to any legal comments received and support responses to comments pertaining to the use of baseline conditions from the certified EIR.



**EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

*This Invoice:*

<b>Task 1:</b>	<b>\$2,630.00</b>	<b>Kickoff and Data Collection</b>	_____
<b>Task 2:</b>		<b>Administrative Second Revised DEIR</b>	_____
	<b>\$1,370</b>	Carry Final EIR Edits into DEIR Sections	_____
	<b>\$516.00</b>	Executive Summary and Table of Contents	_____
	<b>\$1,700.00</b>	Project Description	_____
	<b>\$225.00</b>	Introduction and Environmental Setting	_____
	<b>\$8,586.00</b>	Environmental Impact Analysis	_____
	<b>\$485.00</b>	Other CEQA Required Discussions	_____
	<b>\$715.00</b>	Cumulative Impacts	_____
	<b>\$9,046.00</b>	Six (6) Alternatives	_____
	<b>\$798.00</b>	References	_____
<b>Task 3:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised DEIR</b>	_____
<b>Task 4:</b>	<b>\$6,600.00</b>	<b>Second Revised DEIR</b>	_____
<b>Task 5:</b>	<b>\$11,060.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 6:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$3,779.00</b>	<b>Final EIR</b>	_____
<b>Task 8:</b>	<b>\$230.00</b>	<b>MMRP Assistance</b>	_____
<b>Task 9:</b>	<b>\$5,120.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<b>\$78.00</b>	Vehicle Costs	_____
	<b>\$5,859.00</b>	Printing and Reproduction Costs	_____
	<b>\$66,597.00</b>	<b>GRAND TOTAL:</b>	_____

**REMAINING BALANCE:** \_\_\_\_\_

**Approved as to Work/Payment: Shelley Glennon, Senior Planner**

**Date**

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

County of Monterey  
RMA - Finance Division  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to RMA-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.



## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

### 2. Invoice Detail

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the actual deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

### 3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total Project Contingency of \$10,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### SCHEDULE

CONTRACTOR proposes the following optimum schedule for preparation of the Second Revised DEIR and shall commit to maintaining the schedule in the areas which are within CONTRACTOR's control. Delays in receiving requested information or responses by others shall result in at least day-for-day delays in the overall schedule. Substantial changes in the Project Description made after work on the Second Revised DEIR has begun, including proposed land use, density, etc., will also result in delay while the document is rewritten. A graphical schedule of the main tasks is provided below.

Key Task/Milestone	Duration	Total Time Elapsed
Notice to Proceed	1 day	1 day
Administrative Revised Draft EIR	4 weeks	4 weeks
County review	3 weeks	7 weeks
Screencheck Revised Draft EIR	2 weeks	9 weeks
County review	2 weeks	11 weeks
Revised Draft EIR	1 week	12 weeks
Public Comment Period	45 days	18 weeks
Administrative Final EIR	2 weeks	20 weeks
County review	2 weeks	22 weeks
Screencheck Final EIR	2 weeks	24 weeks
County review	2 weeks	26 weeks
Final EIR	1 week	27 weeks



**RINCON CONSULTANTS, INC.**  
Revised Draft EIR for the Rancho Cañada Project  
Cost Estimate

Tasks	Labor Description		Senior Professional or Principal	Professional W or TV	Associate L or R or Professional I or II	Production Specialist	GIS/CADD Specialist or Production Specialist	3/23/2020
	Hours	Direct Expenses						
Task 1: Kickoff and Data Collection	14	\$356	0	0	0	0	0	\$75
Task 2: Administrative Revised Draft EIR								
Carry Final EIR Edits into Draft EIR Sections	31	\$3,376	1	0	10	0	0	\$125
Executive Summary and Table of Contents	5	\$534	0.5	0	2	0	0	
Project Description	33	\$3,700	1	0	8	0	0	
Introduction and Environmental Setting	2	\$215	0.5	0	1	0	0	
Environmental Impact Analysis	66	\$9,386	6	0	40	0	0	
Other CEQA Required Discussions	4	\$445	0.5	0	2	0	0	
Cumulative Impacts	6	\$715	0.5	0	4	0	0	
Alternatives (6)	78	\$9,048	6	0	44	0	0	
References	6	\$796	1	0	8	0	0	
Task 3: Screencheck/Revised Draft EIR								
Task 3: Revised Draft EIR	30	\$3,900	2	0	20	0	0	
Task 4: Administrative Final EIR	86	\$11,640	12	0	48	0	0	
Task 5: Screencheck/Final EIR	30	\$3,900	2	0	20	0	0	
Task 6: MAPP Assistance	35	\$3,775	2	0	12	0	0	
Task 7: Final EIR	2	\$280	0	0	2	0	0	
Task 8: Project Management and Hearings	32	\$5,320	12	0	14	0	0	
<b>TOTAL LABOR HOURS</b>	<b>414</b>	<b>\$59,917</b>	<b>125.00</b>	<b>13.00</b>	<b>278.00</b>	<b>0.00</b>	<b>0.00</b>	<b>2.00</b>

Professional Services are based on Rincon's standard fee schedule and labor classification. The above is provided as an estimate of Rincon's effort per task. Rincon may reallocate budget between staff and tasks.

**Direct Cost Summary**

UNLABORABLE OVERHEADS (20% OF LABOR COSTS)	\$ 11,983
PROFESSIONAL FEES (BASED ON LABOR COSTS)	\$ 5,337
<b>TOTAL DIRECT COSTS</b>	<b>\$ 17,320</b>

**SUMMARY**

Professional Fees (Subtotal)	\$ 5,337
Direct Costs (Subtotal)	\$ 17,320

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### ATTACHMENT A

#### List of Project Alternatives for EIR

##### **1. Alternative 1 – No Project**

Under the No-Project Alternative, existing (2020) conditions consist of cattle grazing on a former golf course on property with five (5) legal parcels. If neither the proposed Project nor any of the other EIR alternatives are approved, the reasonably foreseeable expected use of the five (5) legal parcels, based on current plans and consistent with available infrastructure and community services, would be the construction of five (5) estate homes in which home occupations such would be permitted.

##### **2. Alternative 2 – Hotel Alternative**

This Hotel Alternative consists of the development of one hundred seventy-five (175) hotel or timeshare units and twenty (20) employee housing units, six (6) hole reconfiguration of the west golf course, clubhouse and restaurant, tennis clubhouse and four tennis courts, health club, spa, meeting rooms, and administrative offices. Access would be provided, either directly or indirectly, via Carmel Valley Road for visitors and employees of this alternative. This alternative was developed to examine the potential to avoid or lessen traffic related impacts of the Revised Project, specifically during peak hours. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the County Service Area (CSA) 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

##### **3. Alternative 3 – Ninety (90) Unit Low Density Residential.**

This alternative would include seventy-three (73) market rate residential units and seventeen (17) affordable units on the same residential site. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (13) Unit Revised Project. This gross density would be considered low density in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

##### **4. Alternative 4 – Forty (40) Unit Low Density Residential.**

This alternative would include thirty-three (33) market rate residential units and seven (7) affordable units on the same residential site [gross density of one (1) unit/acre]. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (130) Unit Revised Project. This gross density would be considered low density [one (1) unit/acre] in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### 5. Alternative 5 - Energy Efficient Clustered Residential

This alternative includes one hundred thirty (130) residential units, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce Greenhouse Gas (GHG) related impacts. This alternative was developed to examine the potential to reduce GHG related impacts. The configuration of these condominium units include a "solar village" comprising eighteen (18) condos on the front parcel, and seven (7) condo units [two (2) tri-plexes and a half plex] on the west side of the Project site. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014). This alternative reflects a reasonable evolution of the one hundred thirty (130) unit proposed Project (formulated in 2016) intended to address the State of California's increased focus on energy conservation, and solar power in particular, over the last few years.

### 6. Alternative 6 - One Hundred Sixty (160) Unit Medium Density Residential

Like the Energy Efficient Clustered Residential Alternative (Alternative 5), this alternative would include a one hundred thirty (130) unit residential subdivision consisting of one hundred five (105) market rate homes, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce GHG related impacts. The alternative assumes, however, that the owners of as many as thirty (30) single family lots would ultimately obtain permission from the County to build accessory dwelling units, consistent with recent changes to California law. The open space area would be the same as for the Energy Efficient Clustered Residential Alternative. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

**EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**ATTACHMENT B**

**Invoice Coversheet**

*Rincon Consultants, Inc.*  
*Rancho Cañada Village Subdivision Project Second Revised DEIR*

Date: \_\_\_\_\_  
 Invoice No. \_\_\_\_\_

Agreement Term: *March 10, 2020 to September 30, 2021*  
 Agreement Amount: *\$ 76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)*

**This Invoice:**

<b>Task 1:</b>	<b>\$2,630.00</b>	<b>Kickoff and Data Collection</b>	_____
<b>Task 2:</b>		<b>Administrative Second Revised DEIR</b>	_____
	<b>\$1,370</b>	Carry Final EIR Edits into DEIR Sections	_____
	<b>\$516.00</b>	Executive Summary and Table of Contents	_____
	<b>\$1,700.00</b>	Project Description	_____
	<b>\$225.00</b>	Introduction and Environmental Setting	_____
	<b>\$8,586.00</b>	Environmental Impact Analysis	_____
	<b>\$485.00</b>	Other CEQA Required Discussions	_____
	<b>\$715.00</b>	Cumulative Impacts	_____
	<b>\$9,046.00</b>	Six (6) Alternatives	_____
	<b>\$798.00</b>	References	_____
<b>Task 3:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised DEIR</b>	_____
<b>Task 4:</b>	<b>\$6,600.00</b>	<b>Second Revised DEIR</b>	_____
<b>Task 5:</b>	<b>\$11,060.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 6:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$3,779.00</b>	<b>Second Revised Final EIR</b>	_____
<b>Task 8:</b>	<b>\$230.00</b>	<b>MMRP Assistance</b>	_____
<b>Task 9:</b>	<b>\$5,120.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<b>\$78.00</b>	Vehicle Costs	_____
	<b>\$5,859.00</b>	Printing and Reproduction Costs	_____
	<b>\$66,597.00</b>	<b>GRAND TOTAL:</b>	_____

**REMAINING BALANCE:** \_\_\_\_\_

Approved as to Work/Payment: **Shelley Glennon, Senior Planner**

Date \_\_\_\_\_

## EXHIBIT B – REVISION TO SECTION 8, INDEMNIFICATION, OF AGREEMENT

### 8. INDEMNIFICATION.

8.01 For purposes of the following indemnification provisions (“Indemnification Agreement”), “design professional” has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

8.02 Indemnification for Design Professional Services Claims:  
CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR’s liability exceed such CONTRACTOR’s proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

8.03 Indemnification for All Other Claims or Loss:  
For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR’s performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.



# Attachment F

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## Monterey County Board of Supervisors

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

### Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor John M. Phillips to:

#### **PLN040061-AMD1 - Rancho Canada Village Amendment**

- a. **Agreement No.: A-14699** / Approve Professional Services Agreement with Rincon Consultants, Inc. to prepare a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597 and the Contingency Budget is \$10,000, for a total amount not to exceed \$76,597, for a term retroactive to March 10, 2020 to September 30, 2021;
- b. **Agreement No.: A-14700** / Approve Funding Agreement with Rancho Cañada Venture, LLC for preparation of a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project (PLN040061-AMD1) where the base budget is \$66,597, the Contract Administration Fee is \$446, and the Contingency Budget is \$10,000, for a total amount not to exceed \$77,043, for a term retroactive to March 10, 2020 to September 30, 2021; and
- c. Authorize the Resource Management Agency Director or designee to execute the Professional Services Agreement, Funding Agreement and future amendments to the Agreements where the amendments do not significantly alter the scope of work and do not exceed the original Agreement amounts except for a contract amendment administration fee of \$446 for each such amendment to the Funding Agreement.

PASSED AND ADOPTED on this 12<sup>th</sup> day of May 2020, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams  
NOES: None  
ABSENT: None  
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting May 12, 2020.

Dated: May 12, 2020  
File ID: A 20-105  
Agenda Item No.: 27

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Joel G. Pablo, Deputy

**FUNDING AGREEMENT  
FOR THE  
RANCHO CAÑADA VILLAGE SUBDIVISION PROJECT  
SECOND REVISED ENVIRONMENTAL IMPACT REPORT**

**THIS FUNDING AGREEMENT**, hereinafter, "Agreement", is made and entered by and between the County of Monterey, a political subdivision of the State of California, hereinafter, "County", and Rancho Cañada Venture, LLC, hereinafter, "PROJECT APPLICANT" (collectively, the "Parties") and effective as of the last date opposite the respective signatures below and with reference to the following facts and circumstances:

**RECITALS**

A. PROJECT APPLICANT previously applied to County for land use entitlements for the Rancho Cañada Village Subdivision Project (Project), and in December 2016, the County certified an Environmental Impact Report (EIR) for the Project and approved the one hundred thirty (130) unit alternative.

B. In January 2017, the Carmel Valley Association (CVA) filed a lawsuit on that approval. (*Carmel Valley Association, Inc., v. County of Monterey* (Monterey Superior Court Case No. 17CV000131).) The Monterey Superior Court issued a Peremptory Writ of Mandate and judgment in July 2018, holding that that the EIR's Project Description and alternatives analysis were defective under the California Environmental Quality Act (CEQA). County is contracting with Rincon Consultants, Inc. ("Contractor") to prepare a Second Revised Draft Environmental Impact Report (Second REIR) on the one hundred thirty (130) unit Project in accordance with the court judgment and writ of mandate. Contractor shall perform the Scope of Work specified in the Professional Services Agreement (hereinafter, "PSA") between County and Contractor, attached to this Agreement as Exhibit "1", and incorporated herein by reference. County shall manage the Project work performed by Contractor.

C. The Parties agree that County will engage Contractor to provide the services set forth in Exhibit "1" of this Agreement, and, as set forth herein, the PROJECT APPLICANT will pay for the cost of Contractor and associated County staff costs to process the application for the Project.

D. A fundamental premise of this Agreement is that nothing herein is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for the Project, in exchange for PROJECT APPLICANT's obligation to cover County's cost of retaining Contractor and providing County staff to work on the Project.

E. The subject matter of this Agreement is PROJECT APPLICANT's funding of the Contractor's services on the Project. This Agreement also covers the County fee for contract administration.

F. The County department costs associated with processing the application for the Project, other than contract administration, will be funded through separate land use application fees to be paid by the PROJECT APPLICANT pursuant to the current Monterey County Land Use Fee Schedule, attached to this Agreement as "Exhibit 2", and incorporated herein by reference. These land use application fees are separate from and in addition to the funding provided by the PROJECT APPLICANT pursuant to this Agreement.

G. The Parties make this Agreement with full knowledge of the requirements of State and local law, including, but not limited to the CEQA (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations Title 14, Section 15000 et seq., hereinafter, "Guidelines"), County plans, and the Monterey County Code.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:**

1. Deposits to Fund PSA and County Fee for Contract Administration. PROJECT APPLICANT shall deposit an amount equal to the Contractor's Base Budget and the County's Contract Administration Fee. This amount totals \$67,043 and includes:

CONTRACTOR'S Base Budget:	\$ 66,597
Office of the County Counsel	
Contract Administration Fee (non-refundable):	\$ 446

PROJECT APPLICANT shall deposit a total amount of \$67,043 with County of Monterey Resource Management Agency (RMA) – Land Use and Community Development (Planning) upon approval of this Agreement by the County of Monterey Board of Supervisors acting on behalf of the County, currently scheduled for May 12, 2020.

PROJECT APPLICANT's deposit of \$67,043 with County shall be a condition precedent to County's obligation under this Agreement.

2. Ten Thousand Dollar (\$10,000) Project Contingency. An additional ten thousand dollars (\$10,000) shall be included in the PSA between County and Contractor to cover contingencies. This ten thousand dollar (\$10,000) Project Contingency amount is subject to the procedures in *Section 3, Transfer from Project Contingency Account*, specified in "Exhibit A", *Scope of Services/Payment Provisions*, of the PSA, attached to this Agreement as Exhibit "1", and incorporated herein by reference.

3. Maximum Budget Under Agreement. The maximum amount which may be charged to PROJECT APPLICANT under this Agreement is \$77,043.

CONTRACTOR's Base Budget:	\$66,597
Office of the County Counsel	
Contract Administration Fee (non-refundable):	\$ 446
Project Contingency:	<u>\$10,000</u>

**Maximum Charge Under Agreement:** **\$77,043**

4. Within thirty (30) days after the end of each quarter, County shall provide quarterly progress reports to the PROJECT APPLICANT showing Contractor's charges from the prior quarter associated with completion of task(s) as specified in "Exhibit A" of the PSA (Scope of Services/Payment Provisions for the Project). Any Base Budget funds remaining at completion of Contractor's services shall be returned to the PROJECT APPLICANT.

5. Engagement of Contractor. This Agreement is based on County engaging Contractor in accordance with the PSA between County and Contractor, attached hereto and incorporated by this reference as Exhibit "1". Contractor shall be responsible only to County, and nothing in this Agreement imposes any obligation on County or Contractor to PROJECT APPLICANT other than to devote the time and attention to assisting with the processing of the Project. County shall provide direction and guidance to the Contractor. Contractor's contact with PROJECT APPLICANT shall only be through County. PROJECT APPLICANT, its agents, employees, consultants, representatives or partners shall not contact Contractor directly in any manner unless at a Public hearing, meeting, or workshop for the Project.

6. Payments to Contractor and County.

a. Contractor

Contractor's invoices shall be paid from Base Budget funds deposited by PROJECT APPLICANT in the amount of \$66,597.

Should this AGREEMENT be terminated prior to September 30, 2021, any unearned balance of the Base Budget deposited by PROJECT APPLICANT to fund the PSA's Base Budget amount shall be returned to PROJECT APPLICANT within sixty (60) days of receipt of notice of termination by County.

b. County Contract Administration Fee

The County Contract Administration Fee, in an amount not to exceed \$446, shall be paid by PROJECT APPLICANT in accordance with this Agreement. County Contract Administration Fee shall be non-refundable.

c. Project Contingency

An additional not to exceed amount of ten thousand dollars (\$10,000) in Project Contingency, covers potential contingencies, and transfer of any Project Contingency funds into the Base Budget shall require the approval of the Parties, pursuant to Section 3, Transfer from Project Contingency Account, of "Exhibit A" of the PSA. Within five (5) working days of receipt of a request from County, PROJECT APPLICANT shall approve or disapprove the Request for Transfer from Project Contingency and, if approved, at the same time submit a check to the County for the amount requested.

If PROJECT APPLICANT takes more than five (5) working days to respond to a Request for Transfer from Project Contingency, additional costs may accrue to Contractor, which may result in another Request for Transfer from Project Contingency.

d. Land Use Application Fees

The PROJECT APPLICANT agrees that PROJECT APPLICANT will separately pay land use application fees to cover all County staff costs associated with the Project in accordance with the current County of Monterey Land Use Fee Schedule. The fee schedule applicable to the Project is dated September 17, 2019 and is attached to this Agreement as "Exhibit 2". PROJECT APPLICANT agrees to pay any remaining amounts due and owing for the required deposit upon approval of this Agreement by the County of Monterey Board of Supervisors acting on behalf of the County, currently scheduled for May 12, 2020.

7. No Promise or Representation. The Parties agree that nothing in Agreement is to be construed as a representation, promise, or commitment on the part of County to give special treatment to, or exercise its discretion favorably for the Project, it being understood that PROJECT APPLICANT's funding obligation under Agreement is undertaken without regard to County's actions regarding the Project.

8. Term. Agreement shall become effective March 10, 2020 and continue through September 30, 2021, unless terminated pursuant to Paragraph 9 or amended pursuant to Paragraph 13 of Agreement.

9. Termination. Agreement shall terminate on September 30, 2021, but may be terminated earlier by PROJECT APPLICANT or County, by giving thirty (30) days' written notice to the other. Upon such termination, PROJECT APPLICANT shall immediately pay any outstanding invoices, as well as pay for any work performed by Contractor through effective date of termination.

10. Entire Agreement. Agreement and its attachments constitute the entire agreement between the Parties respecting the matters set forth herein. The Parties each represent that neither has relied on any promise, inducement, representation, or other statement made in connection with Agreement that is not expressly contained herein.

11. Negotiated Agreement. It is agreed and understood by the Parties that Agreement has been arrived at through negotiations and that neither is deemed the party which prepared Agreement within the meaning of Civil Code Section 1654.

12. Assignment. Neither County nor PROJECT APPLICANT shall have the right to assign its respective rights and obligations hereunder without the written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

13. Amendment. This Agreement may be amended, modified or supplemented only in writing by both the Parties.

14. Contracting Officer. The contracting officer of County, and the only entity authorized by law to make or amend Agreement on behalf of County, is the County of Monterey Board of Supervisors or a County employee whom they have specifically authorized.

15. Waiver. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in any other instance or a waiver of any other condition or breach of any other term.

16. Governing Law. Agreement shall be construed, interpreted and applied in accordance with the laws of the State of California applicable to commercial contracts entered into and to be performed wholly in California.

17. Construction. The language in all parts of Agreement shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each party has reviewed Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of Agreement.

18. Conflict with Professional Services Agreement between Contractor and County. In the event of a conflict between the provisions of Agreement and the PSA between County and Contractor, the provisions of Agreement shall govern.

19. Relationship of Parties. The Parties agree that this Agreement establishes only a funding arrangement between the Parties, and that the Parties are not joint venturers or partners.

20. Indemnification. PROJECT APPLICANT agrees to defend, indemnify and hold County harmless in any action brought by any third party in which the authority of the County to enter into Agreement or the validity of Agreement is challenged.

21. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.



22. Notices. Notice to the Parties in connection with Agreement shall be given personally or by regular mail addressed as follows:

**TO COUNTY:** Carl P. Holm, AICP, RMA Director  
County of Monterey Resource Management Agency  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

**TO PROJECT APPLICANT:** Alan Williams  
Rancho Cañada Venture, LLC  
PO Box 450  
Carmel, California 93921

**WITH A COPY TO:**

**TO PROJECT APPLICANT'S REPRESENTATIVE:** Jim Moose  
Remy/Moose/Manley  
555 Capitol Mall, Suite 800  
Sacramento, California 95814

Notice shall be deemed effective at the time of personal delivery or seventy-two (72) hours after mailing.

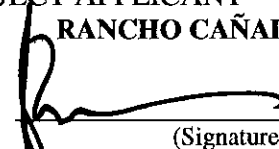
IN WITNESS WHEREOF, the Parties have executed Agreement as of the day and year written below.

COUNTY OF MONTEREY

By: \_\_\_\_\_  
Carl P. Holm, AICP,  
RMA Director or designee

Date: \_\_\_\_\_

PROJECT APPLICANT\*  
RANCHO CAÑADA VENTURE, LLC

By:  \_\_\_\_\_  
(Signature of Manager)

Its: B.A. WILLIAMS, Manager  
(Print Name and Title)

Date: 4-27-20

By: ONLY ONE MANAGING MEMBER  
(Signature of Manager)

Its: \_\_\_\_\_, Manager  
(Print Name and Title)

Date: \_\_\_\_\_

Approved as to Fiscal Provisions

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By: \_\_\_\_\_  
Wendy S. Strimling  
Assistant County Counsel

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

IN WITNESS WHEREOF, the Parties have executed Agreement as of the day and year written below.

COUNTY OF MONTEREY

By: Carl P. Holm  
Carl P. Holm, AICP,  
RMA, Director or designee

Date: 5/14/2020

PROJECT APPLICANT\*

RANCHO CAÑADA VENTURE, LLC  
By: [Signature]  
(Signature of Manager)

Its: RA WILLIAMS, Manager  
(Print Name and Title)

Date: 4-27-20

By: [Signature]  
(Signature of Manager)

Its: \_\_\_\_\_, Manager  
(Print Name and Title)

Date: \_\_\_\_\_

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 5/4/2020

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By: /s/ Wendy S. Strimling  
Wendy S. Strimling  
Assistant County Counsel

Date: April 30, 2020

\*INSTRUCTIONS: IF PROJECT APPLICANT is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If PROJECT APPLICANT is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If PROJECT APPLICANT is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF PROJECT APPLICANT is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

**EXHIBIT 1**

**PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN**  
**RINCON CONSULTANTS, INC.**  
**AND THE COUNTY OF MONTEREY**  
**TO PROVIDE**  
**RANCHO CAÑADA VILLAGE SUBDIVISION**  
**PROJECT**  
**SECOND REIR**

**COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES**  
**WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS**  
**(\$100,000 AND LESS)**

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:  
Rincon Consultants, Inc.  
(hereinafter "CONTRACTOR").

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

1. **SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows:  
Provide a Second Revised Environmental Impact Report for the Rancho Cañada Village Subdivision Project

2. **PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$76,597.

3. **TERM OF AGREEMENT.** The term of this Agreement is from March 10, 2020 to September 30, 2021, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

- Exhibit A Scope of Services/Payment Provisions
- Exhibit B Revision to Paragraph 8, Indemnification, of Agreement

5. **PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this

Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

**6. PAYMENT CONDITIONS.**

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

**7. TERMINATION.**

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

**8. INDEMNIFICATION.**

8.01. For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" ~~has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.~~

Refer to Exhibit B for substitute language to replace strikethrough language above.

PSA \$100,000 or Less for  
Surveyors, Architects, Engineers & Design Professionals  
Revised 09/30/08

2 of 9 Project ID: Rincon Consultants, Inc.  
Rancho Cañada Village Subdivision Project  
Second REIR  
RMA - Planning  
Term: March 10, 2020 - September 30, 2021  
Not to Exceed: \$76,597

(Date)

(Contractors' Initials)

~~8.02. Indemnification for Design Professional Services Claims:~~ CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

Refer to Exhibit B for substitute language to replace strikethrough language above.

\_\_\_\_\_  
(Contractors' Initials)

\_\_\_\_\_  
(Date)

~~8.03. Indemnification for All Other Claims or Loss:~~ For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

Refer to Exhibit B for substitute language to replace strikethrough language above.

\_\_\_\_\_  
(Contractors' Initials)

\_\_\_\_\_  
(Date)

## 9. INSURANCE.

### 9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

### 9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

### 9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Modification (Justification attached; subject to approval).

9.04. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.



Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02. County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04. Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05. Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11. **NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia Mariscal-Martinez, Management Analyst	Megan Jones, Principal
Name and Title	Name and Title
County of Monterey, Resource Management Agency 1441 Schilling Place, South 2nd Floor, Salinas, CA 93901	Rincon Consultants, Inc. 437 Figueroa Street, Suite 203, Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 333-0310
Phone	Phone

## 15. MISCELLANEOUS PROVISIONS.

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the

effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.

15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.

15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

*This space left blank intentionally*

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

**COUNTY OF MONTEREY**

**CONTRACTOR**

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Department Head (if applicable)

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: \_\_\_\_\_  
County Counsel

Date: \_\_\_\_\_

Approved as to Fiscal Provisions<sup>2</sup>

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

Rincon Consultants, Inc.

Contractor's Business Name\*

By: \_\_\_\_\_  
(Signature of Chair, President, or  
Vice-President)\*

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)\*

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup>Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

<sup>2</sup>Approval by Auditor/Controller is required for all Professional Service Agreements

<sup>3</sup>Approval by Risk Management is required only if changes are made in paragraph 8 or 9

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between  
County of Monterey, hereinafter referred to as "County"  
and

Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR"

### A. SCOPE OF SERVICES

CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, to complete a Second Revised Environmental Impact Report (Second REIR) (services) for the Rancho Cañada Village Subdivision Project (Project) to satisfy requirements of the California Environmental Quality Act (CEQA) and to comply with the Monterey County Superior Court judgement as set forth below:

#### **PROJECT BACKGROUND:**

The previously certified Environmental Impact Report (EIR) evaluated the development of two hundred eighty-one (281) residential units as the proposed Project. The certified EIR also evaluated a one hundred thirty (130) unit alternative at the same level of detail as the proposed Project. In December 2016, the County certified the EIR and approved the one hundred thirty (130) unit alternative. In January 2017, the Carmel Valley Association (CVA) filed a lawsuit on that approval. (*Carmel Valley Association, Inc., v. County of Monterey* (Monterey Superior Court Case No. 17CV000131).) The trial court issued a writ of mandate and judgment in July 2018 ("court order"), holding that, although the one hundred thirty (130) unit proposal was presented as an alternative in the EIR, this proposal was the true "project" under consideration and hence the EIR's Project Description was legally inadequate. The court further reasoned that, because the range of alternatives within the EIR treated the two hundred eighty-one (281) unit proposal as the "project," the alternatives were inadequate, as they sought to reduce impacts of a two hundred eighty-one (281) unit proposal rather than those of the one hundred thirty (130) unit proposal. The Monterey County Superior Court found that the EIR's Project Description and alternatives analysis were defective but found no problems with the impact analyses and mitigation measures in the EIR, nor did CVA ask the court to find any such additional violations. The County of Monterey ("County") is preparing this Second Revised Draft Environmental Impact Report (Second REIR), and contracting with CONTRACTOR herein, in response to the court judgment and writ of mandate issued by the Monterey Superior Court in *Carmel Valley Association, Inc., v. County of Monterey*.

CONTRACTOR's understanding of the Project, referred to herein as the Revised Project, that is the subject of the Second REIR is the one hundred thirty (130) unit alternative evaluated in the previously certified EIR and approved by County. The Revised Project includes a minor change to the Project site boundary associated with the area identified in certified EIR as Lot 130. Since the Monterey County Board of Supervisors' 2016 project approval, this lot was transferred to the Santa Lucia Conservancy. Therefore, the Revised Project does not include this parcel in the Project site, and a unit has been added to the main Project location; thus, the Revised Project still is one hundred thirty (130) units.

#### **SCOPE OF SERVICES:**

CONTRACTOR shall prepare the Second REIR for the one hundred thirty (130) unit Project in compliance with the court order. To comply with the court order, the discussion of impacts and mitigation measures will be revised to omit evaluation of the two hundred eighty-one (281) unit project

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

and to replace the alternatives chapter. As recognized in case law, the impact analysis, which was not challenged or invalidated in the afore-referenced litigation, is not required to be revised. Some changes to the existing environment and conditions have occurred since the certified EIR was prepared. For example, when preparation of the certified EIR began, the Project site was still part of a functioning golf course. The golf course has since closed. However, this is not a change or revision to the actual Project. Additionally, because the certified EIR is only being revised and recirculated to correct the matters identified in the court order, CONTRACTOR assumes existing conditions for analysis will be those that were used for the analysis in the certified EIR.

The Second REIR shall be prepared by CONTRACTOR in accordance with the State CEQA Guidelines, which set the standards for adequacy of an EIR. Specifically, the CEQA Guidelines state: *An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.*

As CONTRACTOR revises the certified EIR to create the Second REIR, as described above, CONTRACTOR shall also ensure that the analysis is fully defensible. The following outlines the key tasks for completing the Revised DEIR.

### **Task 1: Kickoff Meeting and Data Collection**

Within one (1) week of County's authorization to proceed, CONTRACTOR's Project Manager shall organize a kick-off meeting with County staff and the Project Applicant team to review background technical studies, confirm CONTRACTOR's approach to the environmental evaluation, fine-tune the overall Project Schedule, and establish an operation protocol. CONTRACTOR shall prepare an agenda for the meeting and provide notes after the meeting. It is assumed the meeting shall occur at County Resource Management Agency (RMA) offices and shall not exceed two (2) hours.

As part of this task, CONTRACTOR shall collect and review background data, including the previous DEIR, Revised DEIR, and Final EIR, and other technical studies prepared for the Project.

### **Task 2: Administrative Revised DEIR**

CONTRACTOR shall prepare an Administrative Second Revised DEIR in accordance with the State CEQA Guidelines. Because this Administrative Second Revised DEIR will be a revised version of the certified EIR, it will address the same environmental issues that were addressed in the certified EIR. The Administrative Second Revised DEIR shall utilize the certified EIR text, but with revisions to remove discussion of the two hundred eighty-one (281) unit project, and instead reframe the one hundred thirty (130) unit alternative as the proposed Project.

Upon initiating this task, CONTRACTOR shall carry all edits shown in Chapter 4, Revisions to the Recirculated DEIR, from the certified Final EIR into the Word document sections provided, which are from the prior DEIR. These revisions shall not be made in track changes or strikethrough and underline formatting.

The Administrative Second Revised DEIR shall consist of the following sections, which shall be revised versions of these same sections taken from the certified EIR.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

**Executive Summary and Table of Contents** - The Executive Summary section shall summarize the Revised Project and associated environmental consequences. Impacts shall be presented in tabular format to simplify review by decision-makers and the general Public. The Table of Contents will provide readers with the appropriate page number where each major section of the EIR can be found, consistent with Section 15122 of the CEQA Guidelines.

**Project Description** - This section shall include a description of the Revised Project, focusing on Project characteristics relevant to the analysis, Project objectives, and required discretionary approvals. Construction details, such as duration and potential equipment, shall also be summarized to inform the analysis. The Project Description shall include textual, tabular, and graphic presentation to fully describe the Project and form a basis for the environmental analysis. The Project Description shall describe only a Project consisting of one hundred thirty (130) units. Other changes that have occurred since certification of the EIR, such as changes to the Project site boundary, shall also be discussed in the Project Description.

**Introduction and Environmental Setting** - These required introductory sections shall lay the groundwork for and summarize the substantive analysis to follow. The introduction shall describe the purpose and legal authority of the EIR, and provide a discussion of lead, responsible, and trustee agencies. The environmental setting shall provide a general description of the existing geographic character of the Project site and the Project site vicinity.

**Environmental Impact Analysis** - This section shall analyze impacts to each resource area evaluated in the EIR. For each issue area, the analysis shall include four (4) main components:

- **Setting** - description of current conditions, as they existed when the Notice of Preparation (NOP) was prepared for the certified EIR, with respect to the issue in question, including the existing regulatory environment
- **Impact Analysis** - discussion of potentially significant effects of the proposed Project; impacts are typically compared to established "thresholds of significance"
- **Mitigation Measures** - methods by which significant effects can be reduced or eliminated
- **Level of Significance after Mitigation** - discussion of whether proposed mitigation measures reduce impacts to below the adopted significance threshold

As described above, based on a review of the certified EIR, it appears that the analysis of direct and indirect impacts included a proposed two hundred eighty-one (281) unit project and a one hundred thirty (130) unit alternative. CONTRACTOR assumes that the analysis that was completed for the one hundred thirty (130) unit alternative shall be utilized to suffice for the analysis of the Revised Project.

**Other CEQA Required Discussions** - This section shall include discussions of other sections required by the CEQA Guidelines and shall include an analysis of potential growth-inducing impacts and irreversible environmental effects. This section shall also address resource areas with all less than significant impacts or no impacts.

**Cumulative Impacts** - Consistent with Section 15130 of the CEQA Guidelines, cumulative impacts resulting from the Revised Project impacts combined with impacts of other projects in the area shall be evaluated. Other projects in the area shall be derived in consultation with County. Mitigation measures shall be provided, as applicable, to reduce significant cumulative impacts of the Project.



## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

*Note: It will need to be determined whether a new cumulative list will be developed for resource topics where a list method was used, given that the list of cumulative projects will have certainly changed since the issuance of the original NOP.*

**Alternatives** – This section shall be prepared in accordance with the requirements of the State CEQA Guidelines, Section 15126.6, and recent court decisions. The purpose of this section shall be to promote informed decision-making and to evaluate a reasonable range of Project alternatives. CONTRACTOR assumes up to six (6) alternatives shall be evaluated (see Attachment A). This shall include the CEQA-required “No Project” alternative and up to five (5) Project alternatives. The one hundred thirty (130) unit alternative shall not be evaluated in this section since it shall constitute the Revised Project evaluated in the Revised DEIR. Per direction from County, this Scope of Services assumes that the alternatives evaluated in the previously certified EIR shall not be used; as such, the analysis of alternatives shall be new, with the exception of the forty (40) unit Low Density Alternative, which appeared in the original EIR but will need to be modified so as to be compared against the one hundred thirty (130) unit Revised Project.

**References** - This section of the EIR shall provide a list of references for the citations found in the body of the EIR. A copy of the reference material shall be kept in the Administrative Record, and provided to County on CD, flash drive, or similar digital storage device upon completion of the Second Revised Draft EIR.

**Deliverable(s):** Digital copy of Administrative Second Revised DEIR in Word and PDF formats

### **Task 3: Screencheck Revised DEIR**

Following receipt of County edits and comments on the Administrative Second Revised DEIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised DEIR. The Screencheck Second Revised DEIR shall provide County with an opportunity for final review of the document as it will appear when circulated for Public review.

**Deliverable(s):** Digital copy of Screencheck Revised DEIR in Word and PDF formats

### **Task 4: Second Revised DEIR**

After comments on the Screencheck Revised DEIR have been fully addressed, CONTRACTOR shall finalize the Second Revised DEIR and produce up to nineteen (19) paper copies of the document suitable for Public distribution, including copies of all referenced technical documents attached on a CD, flash drive, or similar digital storage device, as well as an electronic copy in Word and PDF format for uploading to County’s website. As part of this task, CONTRACTOR shall convert final track change edits into underline format, for inclusion in the Second Revised DEIR released to the Public. The Second Revised DEIR shall be circulated for Public comment for a minimum period of forty-five (45) days, as required by CEQA. CONTRACTOR shall prepare a Notice of Completion (NOC) and file it with the State Clearinghouse on behalf of County. CONTRACTOR shall also prepare a Notice of Availability (NOA) for County to use in filing the Second Revised DEIR with the Monterey County Clerk. CONTRACTOR assumes County shall be responsible for required newspaper advertisements and other Public noticing of the document’s availability, such as radius label mailing or on-site posting.

**Deliverable(s):** NOA, NOC, nineteen (19) paper copies of the Revised DEIR, thirty-two (32) CDs, flash drives, or similar digital storage devices, with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of Second Revised DEIR in Word and PDF formats, and one (1) CD, flash drive, or similar digital storage device, containing the Administrative Record

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 5: Administrative Second Revised Final EIR

Subsequent to receipt of all Public comments on the Second Revised DEIR, CONTRACTOR shall prepare a draft Response to Comments for County review. This will include a list of commenters, comment letters, formal responses to comments, and added or revised text of the Second Revised DEIR that may be necessary. Subsequent to County approval of the draft Response to Comments, CONTRACTOR shall prepare the Administrative Second Final EIR for County review which will include the Response to Comments and text changes resulting from those responses. CONTRACTOR shall circulate the approved Responses to Comments to Public agencies that commented on the Revised DEIR at least ten (10) days prior to the hearing for certification per State CEQA Guidelines 15088.b.

Because the Second Revised DEIR shall be a revised version of the certified EIR, and the analysis shall closely match the analysis that was completed for the one hundred thirty (130) unit alternative in the certified EIR, CONTRACTOR anticipates that most comment letters will be the same or similar to comments that were received on the certified EIR. Therefore, CONTRACTOR anticipates that response to comments in the certified Final EIR can be applied to most comments received on the Second Revised DEIR. However, there is the possibility for receipt of comments addressing new issues or impacts that were not received during circulation of the certified EIR, including receipt of at least one (1) lengthy legal comment in light of the pending litigation. CONTRACTOR anticipates adequately responding with a maximum of eighty (80) professional staff hours. The actual level of effort required to respond shall depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. CONTRACTOR reserves the right to reevaluate the effort level and request a scope amendment upon close of the Public comment period. CONTRACTOR also assumes County shall address any legal comments received and shall provide support responding to comments pertaining to baseline conditions used in the Second Revised DEIR.

*Deliverable(s):* One (1) digital version of the draft Response to Comments in Word and PDF formats, and a cover letter for County use for circulation of the approved comment responses to the Public agencies that commented on the DEIR

### Task 6: Screencheck Second Revised Final EIR

Following receipt of County edits and comments on the Administrative Second Revised Final EIR, CONTRACTOR shall revise the document accordingly and prepare a Screencheck Second Revised Final EIR. The Screencheck Second Revised Final EIR shall provide County with an opportunity for final review of the document as it will appear when presented for potential certification.

*Deliverable(s):* Digital copy of the Screencheck Second Revised Final EIR in Word and PDF formats

### Task 7: Second Revised Final EIR

Following internal review and approval of the Screencheck Second Revised Final EIR, CONTRACTOR shall produce the Second Final EIR for consideration by County decision makers. The Second Revised Final EIR shall include those pages from the Second Revised Draft EIR on which changes were made, with the changes marked with underlining and strikethrough, as appropriate. The Second Revised Final EIR shall also include the comments received on the Second Revised Draft EIR and responses to those comments, as described above for Task 4, Second Revised DEIR.

*Deliverable(s):* Eighteen (18) paper copies of the Second Final EIR, seventeen (17) CDs, flash drives, or similar digital storage device with a digital copy of the Second Revised DEIR in PDF format, one (1) digital copy of the Second Final EIR in Word and PDF formats for use on County's website

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### Task 8: Mitigation Monitoring and Reporting Program (MMRP) Assistance

CONTRACTOR understands that County typically enters required Project mitigation measures into its Accela computer system. To facilitate this process, CONTRACTOR shall compile all of the mitigation measures identified in the Second Revised Final EIR and provide them in a separate file for County to use for inputting the measures into Accela.

*Deliverable(s):* Digital copy of the mitigation measures in the Second Revised DEIR (possibly as modified in Second Final EIR) in Word format

### Task 9: Project Management and Hearings

CONTRACTOR's Project Manager shall maintain the Project Schedule and budget and communicate with County and Project Team during preparation of the Second Revised DEIR. This shall include up to three (3) conference calls with County Staff during the course of this Agreement. CONTRACTOR's Project Manager or Principal-in-Charge shall additionally attend up to two (2) Public Hearings on the Project.

### Assumptions:

This Scope of Services incorporates the following assumptions:

- The Second Revised DEIR shall effectively be derived by removing the discussion of the proposed two hundred eighty-one (281) unit Project from the analysis.
- The one hundred thirty (130) unit alternative described and analyzed in the certified EIR shall be the Revised Project analyzed in the (first) Revised DEIR, with minor changes to the Project site, such as removal of the area referred to as Lot 130.
- The impacts and mitigation measures identified in the certified EIR for the one hundred thirty (130) unit alternative shall be substantially accurate, applicable, and sufficient for completing the analysis of the Revised Project.
- Existing baseline conditions shall be assumed to be those that were used for the analysis in the certified EIR, and therefore the same as existing conditions specified in the certified EIR. Any obvious changes (i.e., the discontinuation of the golf course use, the updating of a cumulative projects list for some resource areas) may be discussed in the Second Revised EIR, but only qualitatively so as to preserve the original baseline information.
- No new field surveys, field visits, or field investigations shall be required or performed.
- The Second Revised DEIR shall address the same CEQA checklist questions that were addressed in the certified EIR.
- The Administrative Second Revised DEIR shall be submitted to County in digital format only with one (1) follow up revision requested.
- Screencheck versions of the Second Revised Draft EIR and Second Revised Final EIR shall be submitted to County in digital format only.
- Appendices to the Second Revised DEIR shall not be provided in printed or hard copy format, but instead attached as CDs, flash drives, or similar digital storage device to the back covers of printed copies of the Second Revised DEIR.
- Responding to comments received on the Second Revised DEIR shall require a maximum of eighty (80) hours of CONTRACTOR's professional staff time.
- Comments received on the Second Revised DEIR will not raise new issues from those addressed in the certified EIR, and County shall respond to any legal comments received and support responses to comments pertaining to the use of baseline conditions from the certified EIR.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

- CONTRACTOR's Project Manager or Principal-in-Charge will attend up to two (2) Public Hearings to answer questions but shall not prepare presentation materials.
- Up to three (3) conference calls with County will be required.
- County will assume responsibility for the Second Revised EIR and will solely defend the document if legal challenges are presented.

### Deliverables:

CONTRACTOR shall produce the deliverables as noted in the above-mentioned tasks. All written reports required under this Agreement shall be delivered as noted above to the following individual and in accordance with the Project Schedule which follows:

Shelley Glennon, Senior Planner  
County of Monterey  
RMA - Land Use & Community Development  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527  
Email: glennons@co.monterey.ca.us

## B. PAYMENT PROVISIONS

### COMPENSATION/ PAYMENT

County shall pay an amount not to exceed \$76,597.00 (\$66,597.00 for Base Budget plus \$10,000.00 in Project Contingency) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR'S compensation for services rendered shall be based on the attached Cost Estimate.

During this Agreement, County and CONTRACTOR agree that CONTRACTOR shall only be reimbursed for mileage according to the Internal Revenue Service standard mileage rate and not for travel expenses.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

### CONTRACTOR'S BILLING PROCEDURES

Invoices for deliverables under the Agreement shall be submitted when the work product is complete and shall identify the document or work product being delivered. Invoices for services performed in conjunction with a deliverable may be billed monthly (by the tenth day of the month) and will be considered on a time and materials basis. All invoices shall include the following and shall be submitted with the Invoice Coversheet (provided as Attachment B in Exhibit A of this Agreement):

#### 1. Invoice Coversheet

*Rincon Consultants, Inc.*

*Rancho Cañada Village Subdivision Project Revised DEIR*

Date: \_\_\_\_\_

Invoice No. \_\_\_\_\_

Agreement Term: *March 10, 2020 to September 30, 2021*

Agreement Amount: *\$ 76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)*

**EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

*This Invoice:*

<b>Task 1:</b>	<b>\$2,630.00</b>	<b>Kickoff and Data Collection</b>	_____
<b>Task 2:</b>		<b>Administrative Second Revised DEIR</b>	_____
	<b>\$1,370.00</b>	Carry Final EIR Edits into DEIR Sections	_____
	<b>\$516.00</b>	Executive Summary and Table of Contents	_____
	<b>\$1,700.00</b>	Project Description	_____
	<b>\$225.00</b>	Introduction and Environmental Setting	_____
	<b>\$8,586.00</b>	Environmental Impact Analysis	_____
	<b>\$485.00</b>	Other CEQA Required Discussions	_____
	<b>\$715.00</b>	Cumulative Impacts	_____
	<b>\$9,046.00</b>	Six (6) Alternatives	_____
	<b>\$798.00</b>	References	_____
<b>Task 3:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised DEIR</b>	_____
<b>Task 4:</b>	<b>\$6,600.00</b>	<b>Second Revised DEIR</b>	_____
<b>Task 5:</b>	<b>\$11,060.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 6:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$3,779.00</b>	<b>Final EIR</b>	_____
<b>Task 8:</b>	<b>\$230.00</b>	<b>MMRP Assistance</b>	_____
<b>Task 9:</b>	<b>\$5,120.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<b>\$78.00</b>	Vehicle Costs	_____
	<b>\$5,859.00</b>	Printing and Reproduction Costs	_____
	<b>\$66,597.00</b>	<b>GRAND TOTAL:</b>	_____
		<b>REMAINING BALANCE:</b>	_____

**Approved as to Work/Payment: Shelley Glennon, Senior Planner** **Date**

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, "Payment Conditions", of the Agreement. All invoices shall reference the Project name and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

County of Monterey  
 RMA - Finance Division  
 1441 Schilling Place, South 2<sup>nd</sup> Floor  
 Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to RMA-Finance-AP@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

**DISALLOWED COSTS:** CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

### 2. Invoice Detail

Each invoice for deliverables shall indicate percentage of completion of the task and include the invoice amount in association with the actual deliverables performed and shall be within the "Not to Exceed" budget amount allocated for the Project.

Each invoice for services performed shall indicate the hours worked by task and by staff member, with the corresponding billing rates. Payment of these services will be based on the documentation provided by CONTRACTOR and shall be within the "Not to Exceed" budget amount allocated for the service or services performed.

Any subconsultant services must be invoiced based on the Subconsultant fee and the allowable overhead cost.

The RMA Director or designee may request documentation of the number of hours worked by task and by staff member, with the corresponding billing rates and/or the subconsultant costs. The information will be used to complete the file and to ensure proper payment for deliverables/services.

### 3. Transfer from Project Contingency Account

Transfer of funding from the Project Contingency Account (total Project Contingency of \$10,000.00) requires the prior written approval of the RMA Director or designee and the Project Applicant.

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the RMA Director and/or Project Planner, with a duplicate original delivered to the Contract Administrator, at the earliest possible date. The recommendation shall include:

- The dollar amount;
- The anticipated date the funded work would begin;
- The duration of the work;
- The entity (CONTRACTOR or subconsultant) to whom the funds would be transferred/allocated; and
- The justification for the expenditure.

Within five (5) working days of receipt of the recommendation, the RMA Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the RMA Director or designee. Within ten (10) working days thereafter, the RMA Director or designee will approve, deny, or approve a revised version of the recommendation received from CONTRACTOR, and will send a written decision to the Project Applicant and CONTRACTOR.

**EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

Unless the recommended transfer is denied by the RMA Director or designee, the RMA Director or designee will ask the Project Applicant to make a decision within five (5) working days regarding the recommended transfer from the Project Contingency Account. If necessary, reasonable efforts will be made to reach a compromise.

Upon receipt of the Project Applicant's written approval by the RMA Director or designee, the funding transfer will be made. At the same time, a letter authorizing the work funded by the approved transfer will be sent to CONTRACTOR.

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### SCHEDULE

CONTRACTOR proposes the following optimum schedule for preparation of the Second Revised DEIR and shall commit to maintaining the schedule in the areas which are within CONTRACTOR's control. Delays in receiving requested information or responses by others shall result in at least day-for-day delays in the overall schedule. Substantial changes in the Project Description made after work on the Second Revised DEIR has begun, including proposed land use, density, etc., will also result in delay while the document is rewritten. A graphical schedule of the main tasks is provided below.

Key Task/Milestone	Duration	Total Time Elapsed
Notice to Proceed	1 day	1 day
Administrative Revised Draft EIR	4 weeks	4 weeks
County review	3 weeks	7 weeks
Screencheck Revised Draft EIR	2 weeks	9 weeks
County review	2 weeks	11 weeks
Revised Draft EIR	1 week	12 weeks
Public Comment Period	45 days	18 weeks
Administrative Final EIR	2 weeks	20 weeks
County review	2 weeks	22 weeks
Screencheck Final EIR	2 weeks	24 weeks
County review	2 weeks	26 weeks
Final EIR	1 week	27 weeks



EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

Budget Augmentation Request for the Rancho Cañada Revised Draft EIR

RINCON CONSULTANTS, INC.  
Revised Draft EIR for the Rancho Cañada Project  
Cost Estimate

Tasks	Labor Description	Hours	Senior Principal or Supervisor	Professional III or IV	Associate I, II, or III	Production Specialist	GIS/CADD Specialist (or)	Critical
Task 1: Kickoff and Data Collection		34	0	0	0	0	0	\$75
Task 2: Administrative Revised Draft EIR		31	1	0	10	7	0	
Query Final EIR Edits into Draft EIR Sections		5	0.5	0	2	0	0	
Executive Summary and Table of Contents		13	1	2	6	0	0	
Project Description		2	0.5	1	1	0	0	
Introduction and Environmental Setting		66	6	12	40	2	0	
Environmental Impact Analysis		4	0.5	1	2	0	0	
Other CEQA Required Discussions		6	0.5	1	4	0	0	
Cumulative Impacts		70	6	12	44	2	0	
Alternatives (6)		6	1	1	3	0	0	
References		30	2	8	20	0	0	
Task 3: Screenshots Revised Draft EIR		86	2	8	38	10	0	12
Task 4: Revised Draft EIR		86	2	8	38	10	0	
Task 5: Administrative Final EIR		30	12	20	48	0	0	
Task 6: Screenshots Final EIR		30	2	4	20	0	0	
Task 7: Final EIR		35	2	4	12	0	0	9
Task 8: IADWP Assistance		2	0	0	2	0	0	
Task 9: Project Management and Hearings		31	12	14	2	0	0	6
<b>Labor Cost</b>	<b>Direct Expenses</b>	<b>Hours</b>	<b>\$220</b>	<b>\$145</b>	<b>\$115</b>	<b>\$88</b>	<b>\$125</b>	<b>\$75</b>
\$2,880	\$16							
\$1,376								
\$314								
\$4,780								
\$315								
\$1,594								
\$445								
\$715								
\$6,048								
\$794								
\$3,900								
\$6,800	\$1,210							
\$11,640								
\$3,900								
\$1,773	\$1,148							
\$230								
\$5,370	\$52							

Professional Services are based on Rincon's standard fee schedule and labor rates. The above is provided as an estimate of Rincon's effort for this project. Rincon may reallocate budget between staff and tasks.

**Direct Cost Summary**

Value Added Services (V.A.S.)	\$ 71
Travel and Per Diem (Cost 87) per day, meals and 497 CPM	\$ 4,859
<b>Total</b>	<b>\$ 4,930</b>

**Summary**

Professional Fees (Schedule)	\$ 6,400
Direct Costs (Table A)	\$ 1,097
<b>Total Project Budget</b>	<b>\$ 7,497</b>

**List of Project Alternatives for EIR**

**1. Alternative 1 – No Project**

Under the No-Project Alternative, existing (2020) conditions consist of cattle grazing on a former golf course on property with five (5) legal parcels. If neither the proposed Project nor any of the other EIR alternatives are approved, the reasonably foreseeable expected use of the five (5) legal parcels, based on current plans and consistent with available infrastructure and community services, would be the construction of five (5) estate homes in which home occupations such would be permitted.

**2. Alternative 2 – Hotel Alternative**

This Hotel Alternative consists of the development of one hundred seventy-five (175) hotel or timeshare units and twenty (20) employee housing units, six (6) hole reconfiguration of the west golf course, clubhouse and restaurant, tennis clubhouse and four tennis courts, health club, spa, meeting rooms, and administrative offices. Access would be provided, either directly or indirectly, via Carmel Valley Road for visitors and employees of this alternative. This alternative was developed to examine the potential to avoid or lessen traffic related impacts of the Revised Project, specifically during peak hours. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the County Service Area (CSA) 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

**3. Alternative 3 – Ninety (90) Unit Low Density Residential.**

This alternative would include seventy-three (73) market rate residential units and seventeen (17) affordable units on the same residential site. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (13) Unit Revised Project. This gross density would be considered low density in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

**4. Alternative 4 – Forty (40) Unit Low Density Residential.**

This alternative would include thirty-three (33) market rate residential units and seven (7) affordable units on the same residential site [gross density of one (1) unit/acre]. This alternative was developed to examine the potential to avoid or lessen traffic related impacts. The open space area would be the same as the one hundred thirty (130) Unit Revised Project. This gross density would be considered low density [one (1) unit/acre] in Carmel Valley, although specific densities within the Village could be medium density in certain locations. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

## EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

### 5. Alternative 5 - Energy Efficient Clustered Residential

This alternative includes one hundred thirty (130) residential units, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce Greenhouse Gas (GHG) related impacts. This alternative was developed to examine the potential to reduce GHG related impacts. The configuration of these condominium units include a "solar village" comprising eighteen (18) condos on the front parcel, and seven (7) condo units [two (2) tri-plexes and a half plex] on the west side of the Project site. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014). This alternative reflects a reasonable evolution of the one hundred thirty (130) unit proposed Project (formulated in 2016) intended to address the State of California's increased focus on energy conservation, and solar power in particular, over the last few years.

### 6. Alternative 6 - One Hundred Sixty (160) Unit Medium Density Residential

Like the Energy Efficient Clustered Residential Alternative (Alternative 5), this alternative would include a one hundred thirty (130) unit residential subdivision consisting of one hundred five (105) market rate homes, with clustering of twenty-five (25) condominium units to allow for use of solar infrastructure to reduce GHG related impacts. The alternative assumes, however, that the owners of as many as thirty (30) single family lots would ultimately obtain permission from the County to build accessory dwelling units, consistent with recent changes to California law. The open space area would be the same as for the Energy Efficient Clustered Residential Alternative. This alternative would also include the raising of a portion of the emergency access road west of the Project site, to a level that has been designed to directly address the large potential flood flow path down Rio Road from the river and obviate a substantial portion of the work cited in the CSA 50 Final Lower Carmel River Stormwater Management and Flood Control Report (October 2014).

**EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**

**ATTACHMENT B**

**Invoice Coversheet**

**Rincon Consultants, Inc.**

**Rancho Cañada Village Subdivision Project Second Revised DEIR**

Date: \_\_\_\_\_

Invoice No. \_\_\_\_\_

Agreement Term: **March 10, 2020 to September 30, 2021**

Agreement Amount: **\$ 76,597.00 (\$66,597.00 Base Budget plus \$10,000.00 Project Contingency)**

**This Invoice:**

<b>Task 1:</b>	<b>\$2,630.00</b>	<b>Kickoff and Data Collection</b>	_____
<b>Task 2:</b>		<b>Administrative Second Revised DEIR</b>	_____
	<b>\$1,370</b>	Carry Final EIR Edits into DEIR Sections	_____
	<b>\$516.00</b>	Executive Summary and Table of Contents	_____
	<b>\$1,700.00</b>	Project Description	_____
	<b>\$225.00</b>	Introduction and Environmental Setting	_____
	<b>\$8,586.00</b>	Environmental Impact Analysis	_____
	<b>\$485.00</b>	Other CEQA Required Discussions	_____
	<b>\$715.00</b>	Cumulative Impacts	_____
	<b>\$9,046.00</b>	Six (6) Alternatives	_____
	<b>\$798.00</b>	References	_____
<b>Task 3:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised DEIR</b>	_____
<b>Task 4:</b>	<b>\$6,600.00</b>	<b>Second Revised DEIR</b>	_____
<b>Task 5:</b>	<b>\$11,060.00</b>	<b>Administrative Second Revised Final EIR</b>	_____
<b>Task 6:</b>	<b>\$3,900.00</b>	<b>Screencheck Second Revised Final EIR</b>	_____
<b>Task 7:</b>	<b>\$3,779.00</b>	<b>Second Revised Final EIR</b>	_____
<b>Task 8:</b>	<b>\$230.00</b>	<b>MMRP Assistance</b>	_____
<b>Task 9:</b>	<b>\$5,120.00</b>	<b>Project Management and Hearings</b>	_____
		<b>Direct Cost Summary</b>	_____
	<b>\$78.00</b>	Vehicle Costs	_____
	<b>\$5,859.00</b>	Printing and Reproduction Costs	_____
	<b>\$66,597.00</b>	<b>GRAND TOTAL:</b>	_____

**REMAINING BALANCE:** \_\_\_\_\_

**Approved as to Work/Payment: Shelley Glennon, Senior Planner**

**Date**

**EXHIBIT B – REVISION TO SECTION 8, INDEMNIFICATION, OF AGREEMENT**

**8. INDEMNIFICATION.**

8.01 For purposes of the following indemnification provisions (“Indemnification Agreement”), “design professional” has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

8.02 Indemnification for Design Professional Services Claims:  
CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY, but in no event shall the amount of such CONTRACTOR’s liability exceed such CONTRACTOR’s proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against COUNTY is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

8.03 Indemnification for All Other Claims or Loss:  
For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR’s performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of COUNTY, or defect in a design furnished by COUNTY.

# **EXHIBIT 2**

## **APPLICABLE FEE SCHEDULE, DATED SEPTEMBER 17, 2019**

# MONTEREY COUNTY LAND USE FEES MATRIX

Approved September 17, 2019

Fee Type (1) (2)	RMA Tier	Fees	Total Proposed Upfront Fees for Customers w/ OWTS (Add'l fees may apply) (3)	Total Proposed Upfront Fees for Customers w/ Public Utilities (Add'l fees may apply) (2)	RMA Fee 2019	RMA Proposed File Storage Fee (1.70%)	RMA Proposed Tech Fee (6.20%)	RMA GPUI	County Counsel Proposed Fee 2019	EHB Proposed Fee 2019: OWTS, Well, or Water System	EHB Proposed Fee 2019: Public Utilities	CAO Proposed 2019
Address Assignment (first address assignment)	No Fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Address Assignment (additional address assignments)	Each	\$ 97	\$ 97	\$ -	\$ 90	\$ 1.53	\$ 5.58	\$ -	\$ -	\$ -	\$ -	\$ -
Administrative Permit or Coastal Administrative Permit (General)	Tier 4	\$ 7,628	\$ 6,845	\$ -	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 167	\$ 1,566	\$ 783	\$ -
Commercial or Industrial Administrative Permit or Coastal Administrative Permit (General)	Tier 4	\$ 7,628	\$ 6,219	\$ -	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 167	\$ 1,566	\$ 157	\$ -
Residential												
Airport Land Use Commission Application Review	Tier 2	\$ 1,402	\$ 1,402	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 223	\$ -	\$ -	\$ -
Appeal (Coastal)	No Fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Appeal (Inland)	Each	\$ 3,540	\$ 3,540	\$ -	\$ 3,000	\$ 51.00	\$ 186.00	\$ -	\$ 146	\$ 157	\$ 157	\$ -
Approval of Fee Determination (No GP surcharge)	Tier 2	\$ 1,225	\$ 1,225	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ -	\$ 146	\$ -	\$ -	\$ -
Application Request	Tier 1	\$ 540	\$ 540	\$ -	\$ 500	\$ 8.50	\$ 31.00	\$ -	\$ -	\$ -	\$ -	\$ -
Big Sur Viewshed Acquisition (Transfer of Development Right)	Tier 3	\$ 3,537	\$ 3,537	\$ -	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ -	\$ -	\$ -
Certificate of Compliance - Conditional (1-2 Lots)	Tier 5	\$ 10,374	\$ 9,591	\$ -	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	\$ 1,338	\$ 783	\$ -	\$ -
Certificate of Compliance - Conditional (Add'l Lots \$1,000)	Tier 5	\$ 1,302	\$ 1,302	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ -	\$ 223	\$ -	\$ -	\$ -
Certificate of Compliance - Unconditional (Add'l Lots \$1,000)	Tier 3	\$ 4,875	\$ 4,875	\$ -	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 1,338	\$ -	\$ -	\$ -
Certificate of Compliance - Unconditional (Add'l Lots \$1,000)	Tier 3	\$ 1,302	\$ 1,302	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ -	\$ 223	\$ -	\$ -	\$ -
Certificate of Correction	Tier 2	\$ 1,291	\$ 1,291	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 112	\$ -	\$ -	\$ -
Change of Commercial or Industrial Use	Tier 2	\$ 1,492	\$ 1,336	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ -	\$ 313	\$ 157	\$ -
Coastal Development Permit - Commercial/Industrial	Tier 6	\$ 14,025	\$ 13,242	\$ -	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ 669	\$ 1,566	\$ 783	\$ -
Coastal Development Permit - Residential	Tier 6	\$ 14,025	\$ 12,616	\$ -	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ 669	\$ 1,566	\$ 157	\$ -
Coastal Implementation Plan Amendment (Deposit)	Tier 7	\$ 25,810	\$ 25,810	\$ -	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ -	\$ -	\$ -
Combined Development Permit	Tier 6	\$ 14,025	\$ 13,242	\$ -	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ 669	\$ 1,566	\$ 783	\$ -
Commercial Cannabis Permit - Initial Permit (Deposit)	Hourly	\$ 4,653	\$ 4,653	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 424	\$ 2,050	\$ 2,050	\$ 1,900
Commercial Cannabis Permit - Renewal (Deposit)	Hourly	\$ 1,069	\$ 1,069	\$ -	\$ 230	\$ 3.91	\$ 14.26	\$ 23	\$ 160	\$ 138	\$ 138	\$ 500
Condition Compliance / Mitigation / Monitoring (Deposit)	Hourly	\$ 9,020	\$ 9,020	\$ -	\$ 6,000	\$ 102.00	\$ 372.00	\$ 600	\$ 446	\$ 1,500	\$ 1,500	\$ -
Condition Compliance without Mitigation Measures (Deposit)	Hourly	\$ 8,798	\$ 8,798	\$ -	\$ 6,000	\$ 102.00	\$ 372.00	\$ 600	\$ 224	\$ 1,500	\$ 1,500	\$ -
Conner Record (Clerk Recorder Fees, Ch. Business and Professions Code § 8773.2)	Each	\$ 26	\$ 26	\$ -	\$ 24	\$ 0.41	\$ 1.49	\$ -	\$ -	\$ -	\$ -	\$ -
Deed Restriction Processing (ministerial permits)	Hourly	\$ 500	\$ 500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 500	\$ 500	\$ -
Design Approval - Administrative, review & approval required, no hearing required	Tier 2	\$ 1,548	\$ 1,235	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 56	\$ 313	\$ -	\$ -
Design Approval - Over The Counter, limited in scope, no hearing required	Tier 1	\$ 590	\$ 590	\$ -	\$ 500	\$ 8.50	\$ 31.00	\$ 50	\$ -	\$ -	\$ -	\$ -
Design Approval limited in scope, no hearing required, no other departmental review required, minor change to existing structure, no addition.	No Fee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Design Approval, public hearing required	Tier 3	\$ 4,073	\$ 3,760	\$ -	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 223	\$ 313	\$ -	\$ -
Development Agreement (Deposit)	Tier 7	\$ 25,810	\$ 25,810	\$ -	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ -	\$ -	\$ -
Development Review Conference - Commercial/Industrial	Tier 3	\$ 4,320	\$ 4,320	\$ -	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ 783	\$ 783	\$ -
Development Review Conference - Residential	Tier 3	\$ 4,320	\$ 3,537	\$ -	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ 783	\$ 783	\$ -
Director's Interpretation - Appeal (No GP Surcharge)	Tier 2	\$ 1,225	\$ 1,225	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ -	\$ 146	\$ -	\$ -	\$ -
Director's Interpretation (No GP Surcharge)	Tier 2	\$ 1,525	\$ 1,525	\$ -	\$ 1,000	\$ 17.00	\$ 62.00	\$ -	\$ 446	\$ -	\$ -	\$ -
Emergency Permits	Tier 4	\$ 5,951	\$ 5,951	\$ -	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 56	\$ -	\$ -	\$ -
Environmental Review - Addendum (tiered from earlier Environmental Review Report; environmental review fees are additive to permit fees)	Tier 4	\$ 7,100	\$ 7,100	\$ -	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 892	\$ 313	\$ 313	\$ -

Proposed 2019 Land Use Fee Matrix for information purposes only. Please refer to department Fee Articles for adopted fee schedules.

Fee Type (1) (2)	RMA Tier	Fee Code	Total Proposed Without Fees for Customers w/ OWTS (Add'l fees may apply) (2)	Total Proposed Without Fees for Customers w/ Public Utilities (Add'l fees may apply) (2)	RMA Fee 2019	RMA Proposed File Storage Fee (1.70%)	RMA Proposed Tech Fee (6.20%)	RMA GPUI	County Counsel Proposed Fee 2019	EHB Proposed Fee 2019: OWTS, Well, or Water System	EHB Proposed Fee 2019: Public Utilities	CAO Proposed 2019
Environmental Review - Environmental Impact Report, (Extraordinary Development Application, Deposit)	Tier 7		\$ 28,310	\$ 28,310	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 2,500	\$ 2,500	\$ -
Environmental Review - Initial Study (ND/MND, environmental review fees are additive to permit fees)	Tier 6		\$ 13,405	\$ 13,405	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ 1,115	\$ 500	\$ 500	\$ -
Extraordinary Development Application (Deposit)	Tier 7		\$ 28,310	\$ 28,310	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 2,500	\$ 2,500	\$ -
Flood Zone Inquiry Report or Flood Zone Inquiry Cover Page	No Fee		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Franchise Agreement	Tier 4		\$ 8,233	\$ 8,233	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	\$ -	\$ -	\$ -	\$ -
Franchise Agreement Extension or Amendment	Tier 4		\$ 5,895	\$ 5,895	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ -	\$ -	\$ -	\$ -
General Development Plan	Tier 6		\$ 13,523	\$ 12,740	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ 167	\$ 1,566	\$ 783	\$ -
General Plan / Land Use Plan Amendment (Deposit)	Tier 7		\$ 28,310	\$ 28,310	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 2,500	\$ 2,500	\$ -
Hazardous Tree Removal	No Fee	(8)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Landscaping Management Plan Review	No Fee		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Landscape Management Plan Review	Tier 1		\$ 590	\$ 590	\$ 500	\$ 85.00	\$ 310.00	\$ 50	\$ -	\$ -	\$ -	\$ -
Letter of Public Convenience and Necessity	Tier 2		\$ 1,625	\$ 1,625	\$ 1,000	\$ 170.00	\$ 620.00	\$ 100	\$ 446	\$ -	\$ -	\$ -
License to Cross Non-Access Strip	Tier 3		\$ 3,537	\$ 3,537	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ -	\$ -	\$ -
Lot Line Adjustment - General	Tier 5		\$ 9,203	\$ 8,420	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	\$ 167	\$ 783	\$ -	\$ -
Lot Line Adjustment - Williamson Act	Tier 5		\$ 10,709	\$ 9,926	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	\$ 1,673	\$ 783	\$ -	\$ -
Lot Line Adjustment Amendments, Revisions or Extensions	Tier 3		\$ 4,543	\$ 3,760	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 223	\$ 783	\$ -	\$ -
Mills Act Contract Application	Tier 3		\$ 4,429	\$ 4,429	\$ 3,000	\$ 51.00	\$ 186.00	\$ 500	\$ 892	\$ -	\$ -	\$ -
Mills Act Contract Selected Contract Processing	Tier 2		\$ 1,179	\$ 1,179	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ -	\$ -	\$ -	\$ -
Minor & Trivial Amendment, hearing required	Tier 5		\$ 8,253	\$ 8,253	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	\$ -	\$ -	\$ -	\$ -
Minor and Trivial Amendment or Minor Amendment, no hearing required	Tier 3		\$ 4,432	\$ 3,649	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 112	\$ 783	\$ -	\$ -
Monetary Penalties, Water Mgmt Dist. Allocation, Inclusion	Each		\$ 196	\$ 196	\$ 182	\$ 3.09	\$ 11.28	\$ -	\$ -	\$ -	\$ -	\$ -
Oak Woodland Guidelines Consistency Certification	Tier 2		\$ 1,402	\$ 1,402	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 223	\$ -	\$ -	\$ -
Parcel Legality Determination 1-2 lots	Tier 3 (12)		\$ 4,875	\$ 4,875	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 1,338	\$ -	\$ -	\$ -
Permit Amendment, Renewal, or Revision (not otherwise specified)	Tier 4		\$ 7,347	\$ 7,347	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 669	\$ 783	\$ 783	\$ -
Permit Extension	Tier 4		\$ 6,790	\$ 6,790	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 112	\$ 783	\$ 783	\$ -
Personal Cannabis Permit	Each		\$ 183	\$ 183	\$ 170	\$ 2.89	\$ 10.54	\$ -	\$ -	\$ -	\$ -	\$ -
Public Service Easement Abandonment	Tier 3		\$ 3,537	\$ 3,537	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ -	\$ -	\$ -
Record of Survey (First Sheet)	Each		\$ 486	\$ 486	\$ 450	\$ 7.65	\$ 27.90	\$ -	\$ -	\$ -	\$ -	\$ -
Record of Survey (Add'l Sheets)	Each		\$ 162	\$ 162	\$ 150	\$ 2.55	\$ 9.30	\$ -	\$ -	\$ -	\$ -	\$ -
Research	Hourly		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Restoration Plan - Administrative	Tier 4		\$ 5,895	\$ 5,895	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ -	\$ -	\$ -	\$ -
Restoration Plan, Hearing Required	Tier 6		\$ 11,790	\$ 11,790	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ -	\$ -	\$ -	\$ -
Road Abandonment	Tier 4		\$ 6,341	\$ 6,341	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 446	\$ -	\$ -	\$ -
Road Name	Tier 3		\$ 3,537	\$ 3,537	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ -	\$ -	\$ -
Scenic Easement Amendment	Tier 3		\$ 3,983	\$ 3,983	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ 446	\$ -	\$ -	\$ -
Site Visit	Hourly		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Special Event Processing (other permits may be required, fees captured through other permits)	No Fee		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Specific Plan (Deposit)	Tier 7		\$ 25,810	\$ 25,810	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ -	\$ -	\$ -
Specific Plan Amendments (Deposit)	Tier 7		\$ 25,810	\$ 25,810	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ -	\$ -	\$ -
Specific Plan Conformance Determination, Director's Approval, No Hearing	Tier 2		\$ 1,848	\$ 1,848	\$ 1,000	\$ 17.00	\$ 62.00	\$ 100	\$ 669	\$ -	\$ -	\$ -
Specific Plan Conformance Determination, Hearing Required	Tier 4		\$ 6,564	\$ 6,564	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 669	\$ -	\$ -	\$ -



Fee Type (1) (2)	RMA Tier	Foot-candle	Total Proposed Upright Fees for Customers w/ OWTS (Add'l from many apply) (2)	Total Proposed Upright Fees for Customers w/ Public Utilities (Add'l from many apply) (2)	RMA Fee 2019	RMA Proposed File Storage Fee (1.70%)	RMA Proposed Tech Fee (6.20%)	RMA GPII	County Counsel Proposed Fee 2019	EHB Proposed Fee 2019: OWTS, Well, or Water System	EHB Proposed Fee 2019: Public Utilities	CAO Proposed 2019
Subdivision - Minor or Standard - Amended Final Map (Deposit Required \$5,000)	Hourly		\$ 11,804	\$ 11,804	\$ 6,000	\$ 102.00	\$ 372.00	\$ 600	\$ 2,230	\$ 2,500	\$ 2,500	\$ -
Subdivision - Minor or Standard - Tentative / Vesting Tentative Map Amendment; Tentative / Vesting Tentative Map Application; Tentative / Vesting Tentative Map Extension; Extension / Subdivision Improvement Agreement Extension; (Deposit)	Tier 7		\$ 28,310	\$ 28,310	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 2,500	\$ 2,500	\$ -
Surface Mine Annual Inspection (disturbed area <20 acres)	Tier 4		\$ 5,895	\$ 5,895	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ -	\$ -	\$ -	\$ -
Surface Mine Annual Inspection (disturbed area >20 acres)	Tier 6		\$ 11,790	\$ 11,790	\$ 10,000	\$ 170.00	\$ 620.00	\$ 1,000	\$ -	\$ -	\$ -	\$ -
Surface Mine Reclamation Plan (Deposit)	Tier 7		\$ 24,562	\$ 24,562	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 982	\$ -	\$ -	\$ -
Transfer of Development Credit	Tier 3		\$ 3,537	\$ 3,537	\$ 3,000	\$ 51.00	\$ 186.00	\$ 300	\$ -	\$ -	\$ -	\$ -
Tree Removal; (Director's Approval, Inland/Waiver, Coastal)	Tier 1		\$ 590	\$ 590	\$ 500	\$ 8.50	\$ 31.00	\$ 50	\$ -	\$ -	\$ -	\$ -
Use Permit - General (Commercial/Industrial)	Tier 4		\$ 7,963	\$ 7,180	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 502	\$ 1,566	\$ 783	\$ -
Use Permit - General (Residential)	Tier 4		\$ 7,963	\$ 6,554	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 502	\$ 1,566	\$ 157	\$ -
Use Permit - Oil & Gas (Deposit)	Tier 7		\$ 27,310	\$ 27,310	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ 1,500	\$ 1,500	\$ -
Variance	Tier 5		\$ 8,476	\$ 8,476	\$ 7,000	\$ 119.00	\$ 434.00	\$ 700	\$ 223	\$ -	\$ -	\$ -
Vested Rights Determination (Deposit)	Tier 7		\$ 25,810	\$ 25,810	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ -	\$ -	\$ -
Williamson Act - Farmland Security Zone Contract	Tier 4		\$ 7,679	\$ 7,679	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 1,784	\$ -	\$ -	\$ -
Williamson Act Contract Amendment	Tier 4		\$ 6,118	\$ 6,118	\$ 5,000	\$ 85.00	\$ 310.00	\$ 500	\$ 223	\$ -	\$ -	\$ -
Zone Change / Code Amendment (Deposit)	Tier 7		\$ 25,810	\$ 25,810	\$ 20,000	\$ 340.00	\$ 1,240.00	\$ 2,000	\$ 2,230	\$ -	\$ -	\$ -

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# Monterey County

## Item No.6

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-041

March 05, 2021

**Introduced:** 2/12/2021

**Current Status:** RMA Public Works -  
Consent

**Version:** 1

**Matter Type:** BoS Agreement

- a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

#### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

#### SUMMARY:

The recommended actions would allow for the approval of Amendment No. 2 to Standard Agreement (SA) No. A-13479 with Smith & Enright Landscaping, Inc. (Smith & Enright) to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, CSA 15) to update landscape maintenance pricing costs effective March 8, 2021, to increase by the amount of \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022.

DISCUSSION:

The Department of Public Works, Facilities, & Parks' (PWFP) Public Works and Facilities Grounds Crew is structured to address maintenance needs of grounds at or near County-owned facilities. CSA 15 is located in the Toro Park community, which is located approximately six (6) miles from the Government Center. The existing Grounds Crew does not have adequate labor or equipment resources to maintain appearance and fire safety requirements for open or partially landscaped areas. Therefore, the County solicited proposals from qualified consultants through Request for Proposals (RFP) #10596 for landscape and open space maintenance services for CSA 15 - Toro Park and Serra Village, in accordance with the specifications set forth in the RFP. Smith & Enright was selected based on their expertise and capabilities to provide landscape and open space maintenance services through a competitive selection process in accordance with County policies and State laws under RFP #10596. In addition to their expertise and capabilities, Smith & Enright was selected due to being a local and the lowest responsible bidder.

Approval of Amendment No. 2 to the SA would allow Smith & Enright to continue to provide landscape and open space maintenance services for CSA 15 to update landscape maintenance pricing costs effective March 8, 2021, to increase the not to exceed amount of \$150,900 by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022.

Attachments A, B and C are provided for reference. Attachment D provides a summary of the SA to date and Attachment E provides a summary of the SA current annual expenditures and balance.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller have reviewed and approved Amendment No. 2 as to form and fiscal provisions, respectively.

FINANCING:

Costs associated with the proposed Amendment No. 2 are included in the adopted Fiscal Year (FY) 2020-21 Adopted Budget, Fund 056 Unit 8198, Appropriation Unit RMA052. The current budget includes \$45,000 for landscape and open space maintenance services, which is adequate to cover costs associated with Amendment No. 2.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Appropriate landscaping management and maintenance of CSA 15 open space and public parks promote the Monterey County Board of Supervisors Strategic Initiatives for Administration, Health & Human Services, Infrastructure, and Public Services. Effective administration of the CSA increases public health and wellness by affording nearby opportunities for outdoor activities and recreation in the CSA's well-maintained open space areas and parks. Smith & Enright employs environmentally sound landscaping practices and performs regular maintenance of sprinkler systems for the continued viability of Monterey County infrastructure. Public safety is improved by effective, timely management and reduction of wildfire fuel in the open space areas.

\_\_ Economic Development

- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Lynette Redman, Management Analyst III (831) 796-6038

Reviewed by: Tom Moss, Senior Water Resources Hydrologist

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachments:

Attachment A - A2 to SA

Attachment B - A1 to SA

Attachment C - SA

Attachment D - Summary of SA

Attachment E - Summary of SA Annual Expenditures and Balance

(Attachments are on file with the Clerk of the Board)



# Monterey County

## Item No.32

### Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: A 21-041

March 05, 2021

**Introduced:** 2/12/2021

**Current Status:** RMA Public Works -  
Consent

**Version:** 1

**Matter Type:** BoS Agreement

- a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

**RECOMMENDATION:**

It is recommended that the Board of Supervisors:

- a. Approve Amendment No. 2 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to update landscape maintenance pricing costs, increase the not-to-exceed amount by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022; and
- b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 2 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

**SUMMARY:**

The recommended actions would allow for the approval of Amendment No. 2 to Standard Agreement (SA) No. A-13479 with Smith & Enright Landscaping, Inc. (Smith & Enright) to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, CSA 15) to update landscape maintenance pricing costs effective March 8, 2021, to increase by the amount of \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022.

DISCUSSION:

The Department of Public Works, Facilities, & Parks' (PWFP) Public Works and Facilities Grounds Crew is structured to address maintenance needs of grounds at or near County-owned facilities. CSA 15 is located in the Toro Park community, which is located approximately six (6) miles from the Government Center. The existing Grounds Crew does not have adequate labor or equipment resources to maintain appearance and fire safety requirements for open or partially landscaped areas. Therefore, the County solicited proposals from qualified consultants through Request for Proposals (RFP) #10596 for landscape and open space maintenance services for CSA 15 - Toro Park and Serra Village, in accordance with the specifications set forth in the RFP. Smith & Enright was selected based on their expertise and capabilities to provide landscape and open space maintenance services through a competitive selection process in accordance with County policies and State laws under RFP #10596. In addition to their expertise and capabilities, Smith & Enright was selected due to being a local and the lowest responsible bidder.

Approval of Amendment No. 2 to the SA would allow Smith & Enright to continue to provide landscape and open space maintenance services for CSA 15 to update landscape maintenance pricing costs effective March 8, 2021, to increase the not to exceed amount of \$150,900 by \$42,310 for a total amount not to exceed of \$193,210, and extend the expiration date from March 7, 2021 for one (1) additional year through March 7, 2022, for a revised term from March 7, 2017 to March 7, 2022.

Attachments A, B and C are provided for reference. Attachment D provides a summary of the SA to date and Attachment E provides a summary of the SA current annual expenditures and balance.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller have reviewed and approved Amendment No. 2 as to form and fiscal provisions, respectively.

FINANCING:

Costs associated with the proposed Amendment No. 2 are included in the adopted Fiscal Year (FY) 2020-21 Adopted Budget, Fund 056 Unit 8198, Appropriation Unit RMA052. The current budget includes \$45,000 for landscape and open space maintenance services, which is adequate to cover costs associated with Amendment No. 2.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Appropriate landscaping management and maintenance of CSA 15 open space and public parks promote the Monterey County Board of Supervisors Strategic Initiatives for Administration, Health & Human Services, Infrastructure, and Public Services. Effective administration of the CSA increases public health and wellness by affording nearby opportunities for outdoor activities and recreation in the CSA's well-maintained open space areas and parks. Smith & Enright employs environmentally sound landscaping practices and performs regular maintenance of sprinkler systems for the continued viability of Monterey County infrastructure. Public safety is improved by effective, timely management and reduction of wildfire fuel in the open space areas.

\_\_ Economic Development

Legistar File Number: A 21-041

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- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Lynette Redman, Management Analyst III (831) 796-6038

Reviewed by: Tom Moss, Senior Water Resources Hydrologist

Approved by: Randell Ishii, MS, PE, TE, PTOE, Director of Public Works, Facilities, & Parks

Attachments:

Attachment A - A2 to SA

Attachment B - A1 to SA

Attachment C - SA

Attachment D - Summary of SA

Attachment E - Summary of SA Annual Expenditures and Balance

(Attachments are on file with the Clerk of the Board)

DocuSigned by:  
  
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**AMENDMENT NO. 2  
TO STANDARD AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
SMITH & ENRIGHT LANDSCAPING, INC.**

**THIS AMENDMENT NO. 2** to Standard Agreement No. A-13479 between the County of Monterey, a political subdivision of the State of California (hereinafter, “County”) and Smith & Enright Landscaping, Inc. (hereinafter, “CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into Standard Agreement No. A-13479 with County on March 23, 2017 (hereinafter, “Agreement”) to provide landscape and open space maintenance services (hereinafter, “services”) for County Service Area (CSA) 15 which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, “Project”) through March 7, 2020, with the option to extend the Agreement for two (2) additional one (1) year period(s), for an amount not to exceed \$113,175; and

**WHEREAS**, Agreement was amended by the Parties on March 4, 2020 (hereinafter, “Amendment No. 1”) to extend the term for one (1) additional year through March 7, 2021 and to increase the amount by \$37,725 which resulted in a total not to exceed amount of \$150,900; and

**WHEREAS**, County has a continued need for services; and

**WHEREAS**, CONTRACTOR’s Landscape Maintenance Pricing in Appendix 1 of the Agreement requires an update effective March 8, 2021; and

**WHEREAS**, additional time and funding are necessary; and

**WHEREAS**, the Parties wish to further amend the Agreement to update the Landscape Maintenance Pricing, to extend the term for one (1) additional year to March 7, 2022, and to increase the amount by \$42,310 for a total amount not to exceed \$193,210 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 2.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend the second sentence of Paragraph 2.01 of Section 2.0, Payment Provisions, to read as follows:

The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$193,210.

2. Amend the first sentence of Paragraph 3.01 of Section 3.0, Term of Agreement, to read as follows:

The term of this Agreement is from March 7, 2017 to March 7, 2022, unless sooner terminated pursuant to the terms of this Agreement.

3. Delete Appendix 1 - Landscape Maintenance Pricing in Exhibit A – Scope of Services/Payment Provisions of the Agreement and replace with Appendix 1A – Landscape Maintenance Pricing, effective March 8, 2021.
4. Amend Paragraph 4.01 of Section 4.0, Scope of Services and Additional Provisions, to add Appendix 1A – Landscape Maintenance Pricing, effective March 8, 2021.
5. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Section 6.0, “Payment Conditions”, of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number #3000\*3013, Project name (*Landscape and Open Space Services for CSA 15 (RFP #10596)*) and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to [RMA-Finance-AP@co.monterey.ca.us](mailto:RMA-Finance-AP@co.monterey.ca.us):

County of Monterey  
Department of Public Works, Facilities, & Parks (PWWP) – Finance  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to PWWP Finance at (831) 755-4800 or via email to: [RMA-Finance-AP@co.monterey.ca.us](mailto:RMA-Finance-AP@co.monterey.ca.us).

6. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
7. This Amendment No. 2 and the previous Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
8. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Contracts/Purchasing Officer

\_\_\_\_\_  
Smith & Enright Landscaping, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

**Approved as to Form**  
**Office of the County Counsel-Risk Manager**  
**Leslie J. Girard, County Counsel-Risk Manager**

Its: \_\_\_\_\_  
James Smith, President  
(Print Name and Title)

DocuSigned by:  
By: Mary Grace Perry  
C83342707AC641A...  
Mary Grace Perry  
Deputy County Counsel

Date: 2-4-2021  
By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Date: 2/4/2021

Its: \_\_\_\_\_  
Richard A. Enright, Treasurer  
(Print Name and Title)

**Approved as to Fiscal Provisions**

DocuSigned by:  
By: Gary Giboney  
D3834BFECTD8449...  
Auditor/Controller

Date: 2-4-2021

Date: 2/4/2021

**Approved as to Indemnity and Insurance Provisions**  
**Office of the County Counsel-Risk Manager**

By: \_\_\_\_\_  
Leslie J. Girard  
County Counsel-Risk Manager

Date: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

## APPENDIX 1A - REVISED LANDSCAPE MAINTENANCE PRICING

Effective March 8, 2021

ITEM	JOB DESCRIPTION	FREQUENCY	TOTAL COST
1.1	Mini-Park Maintenance	Weekly March - November	\$9,720.00 (\$1,080.00/month)
		Bi-Weekly December - February	\$3,240.00 (\$1,080.00/month)
		<b>Subtotal</b>	\$12,960.00
1.2	Maintenance of Greenbelt and Open Space Areas	4 times per year: Usually March, May, June and October <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	\$21,200.00 (\$5,300.00/month)
		<b>Subtotal</b>	\$21,200.00
1.3	Maintenance of Sidewalks and Plant Materials along Portola Drive	4 times per year: Usually March, May, June and October <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	\$3,760.00 (\$940.00/month)
		<b>Subtotal</b>	\$3,760.00
1.4	Maintenance of Toreador Median Island	4 times per year: Usually March, May, June and October <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	\$440.00 (\$110.0/month)
		<b>Subtotal</b>	\$440.00
1.5	Sidewalk Weed Control Through Chemical Application	1 time per year: March <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	
		<b>Subtotal</b>	\$1,500.00
1.6	Turf Fertilization	2 times per year: April and October <i>(Dates may be adjusted depending on seasonal conditions and Contractor recommendation)</i>	\$1,450.00 (\$725.00/month)
		<b>Subtotal</b>	\$ 1,450.00
1.7	Irrigation System Maintenance	As Needed	
		<b>Subtotal</b>	\$1,000.00
		<b>TOTAL COST</b>	\$42,310.00



## Monterey County Board of Supervisors

### Board Order

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066  
www.co.monterey.ca.us

A motion was made by Supervisor John M. Phillips, seconded by Supervisor Mary L. Adams to:

**Agreement No.: A-13479**

a. Approve Amendment No. 1 to Standard Agreement No. A-13479 with Smith & Enright Landscaping, Inc. to continue to provide landscape and open space maintenance services for County Service Area No. 15-Serra Village-Toro Park, which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine, Request for Proposals #10596, to increase the not-to-exceed amount by \$37,725, for a total amount not to exceed of \$150,900, and extend the expiration date from March 7, 2020 for one (1) additional year through March 7, 2021, for a revised term from March 7, 2017 to March 7, 2021, with the option to extend the Agreement for one (1) additional one (1) year period; and

b. Authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 1 to Standard Agreement No. A-13479 and future amendments to the Agreement, where the amendments do not significantly alter the scope of work or increase the approved Agreement amount.

PASSED AND ADOPTED on this 3<sup>rd</sup> day of March 2020, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams  
NOES: None  
ABSENT: None  
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting March 3, 2020.

Dated: March 3, 2020  
File ID: A 20-030  
Agenda Item No.: 25

Valerie Ralph, Clerk of the Board of Supervisors  
County of Monterey, State of California

Joel G. Pablo, Deputy

**AMENDMENT NO. 1  
TO STANDARD AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
SMITH & ENRIGHT LANDSCAPING, INC.**

**THIS AMENDMENT NO. 1** to Standard Agreement No. A-13479 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Smith & Enright Landscaping, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

**WHEREAS**, CONTRACTOR entered into Standard Agreement No. A-13479 with County on March 23, 2017 (hereinafter, "Agreement") to provide landscape and open space maintenance services (hereinafter, "services") for County Service Area (CSA) 15 which includes Toro Park Estates, Serra Village, Toro Creek Estates, and Toro Sunshine (hereinafter, "Project") through March 7, 2020, with the option to extend the Agreement for two (2) additional one (1) year period(s), for an amount not to exceed \$113,175; and

**WHEREAS**, County has a continued need for services; and

**WHEREAS**, additional time and funding are necessary; and

**WHEREAS**, the Parties wish to amend the Agreement to extend the term for one (1) additional year to March 7, 2021 and to increase the amount by \$37,725 for a total amount not to exceed \$150,900 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 1.

**NOW, THEREFORE**, the Parties agree to amend the Agreement as follows:

1. Amend the second sentence of Paragraph 2.01 of Section 2.0, Payment Provisions, to read as follows:

The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$150,900.

2. Amend the first sentence of Paragraph 3.01 of Section 3.0, Term of Agreement, to read as follows:

The term of this Agreement is from March 7, 2017 to March 7, 2021, unless sooner terminated pursuant to the terms of this Agreement.

3. Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Section 6.0, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number #3000\*3013, Project name and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us:

Page 1 of 3

Amendment No. 1 to Standard Agreement No. A-13479  
Smith & Enright Landscaping, Inc.  
Landscape and Open Space Services for CSA 15 (RFP #10596)  
RMA

Term: March 7, 2017 – March 7, 2021  
Not to Exceed: \$150,900

County of Monterey  
Resource Management Agency (RMA) – Finance Division  
1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the RMA Finance Division at (831) 755-4800 or via email to: RMA-Finance-AP@co.monterey.ca.us.

4. In all places within the Agreement, any reference to the County's address at 168 West Alisal Street, 2<sup>nd</sup> Floor, Salinas, California 93901 is hereby replaced with 1441 Schilling Place, South 2<sup>nd</sup> Floor, Salinas, California 93901-4527
5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
6. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
7. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Smith & Enright Landscaping, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By:   
(Signature of Chair, President or Vice President)

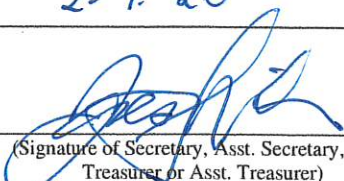
**Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel**

Its: Richard Enright, Vice President  
(Print Name and Title)

By: \_\_\_\_\_  
Mary Grace Perry  
Deputy County Counsel

Date: 2-7-20

Date: \_\_\_\_\_

By:   
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

Its: James Smith, Secretary  
(Print Name and Title)

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

Date: 2-7-20

Date: \_\_\_\_\_

**Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Management  
Leslie J. Girard, County Counsel-Risk Manager**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.



IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
Contracts/Purchasing Officer

Smith & Enright Landscaping, Inc.  
Contractor's Business Name

Date: 03.04.2020

By: [Signature]  
(Signature of Chair, President or Vice President)

Approved as to Form  
Office of the County Counsel  
Leslie J. Girard, County Counsel

Its: Richard Enright, Vice President  
(Print Name and Title)

By: [Signature]  
Mary Grace Perry  
Deputy County Counsel

Date: 2-7-20

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Date: 2-10-2020

Its: James Smith, Secretary  
(Print Name and Title)

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 2-7-20

Date: 02/12/2020

Approved as to Indemnity and Insurance Provisions  
Office of the County Counsel-Risk Management  
Leslie J. Girard, County Counsel-Risk Manager

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

**ATTACHMENT D -  
SUMMARY OF STANDARD AGREEMENT  
ANNUAL EXPENDITURES AND BALANCE**

**Smith & Enright Landscaping, Inc.  
Multi-Year Agreement (MYA) #3000\*3013**

<b>Fiscal Year (FY) (July 1 – June 30)</b>	<b>SA Beginning Balance</b>	<b>SA Additions</b>	<b>SA Expenditures</b>	<b>SA Ending Balance</b>
<b>FY 2016-2017 (SA Start Date: 3/7/17)</b>	\$113,175	\$0	\$17,437	\$95,738
<b>FY 2017-2018</b>	\$95,738	\$0	\$0	\$95,738
<b>FY 2018-2019</b>	\$95,738	\$0	\$49,092	\$46,646
<b>FY 2019 – 2020</b>	\$46,646	\$37,725 (Pending BOS Approval)	\$21,989 (through 1/31/20)	\$24,657 (through 1/31/20)
<b>Total</b>	<b>N/A</b>	<b>\$37,725</b> (Pending BOS Approval)	<b>\$88,518</b> (through 1/31/20)	<b>N/A</b>

**ATTACHMENT D – SUMMARY OF STANDARD AGREEMENT**

**Smith & Enright Landscaping, Inc.  
Multi-Year Agreement (MYA) #3000\*3013**

<b>SA/ Amendment</b>	<b>Board of Supervisors / Contracts/Purchasing Approval</b>	<b>SA/Amendment Amount/Increase and Term/Extension</b>	<b>SA Total</b>
SA	March 14, 2017 / March 23, 2017	Original Amount: \$113,175 Original Term: March 7, 2017 to March 7, 2020	\$113,175
Amendment No. 1	March 3, 2020 / March 4, 2020	Increased Amount by \$37,725 Extended Term to March 7, 2021	\$150,900
Amendment No. 2	Pending / Pending	Increase Amount by \$42,310 Extend Term to March 7, 2022	\$193,160

# Attachment E

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**ATTACHMENT E -  
SUMMARY OF STANDARD AGREEMENT  
ANNUAL EXPENDITURES AND BALANCE**

**Smith & Enright Landscaping, Inc.  
Multi-Year Agreement (MYA) #3000\*3013**

<b>Fiscal Year (FY) (July 1 – June 30)</b>	<b>SA Beginning Balance</b>	<b>SA Additions</b>	<b>SA Expenditures</b>	<b>SA Ending Balance</b>
<b>FY 2016-2017 (SA Start Date: 3/7/17)</b>	\$113,175	\$0	\$17,437	\$95,738
<b>FY 2017-2018</b>	\$95,738	\$0	\$0	\$95,738
<b>FY 2018-2019</b>	\$95,738	\$0	\$49,092	\$46,646
<b>FY 2019 – 2020</b>	\$46,646	\$37,725	\$45,901	\$38,470
<b>FY 2020 – 2021</b>	\$38,470	\$42,310 (Pending BOS Approval)	\$0 (through 1/22/21)	\$38,470 (through 1/22/21)
<b>Total</b>	<b>N/A</b>	<b>\$80,035</b> <b>(\$42,310 Pending BOS Approval)</b>	<b>\$112,430</b> <b>(through 1/22/21)</b>	<b>N/A</b>

\*Note: Amounts have been rounded to the nearest dollar.

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