

Attachment E

This page intentionally left blank.



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 12th 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
SMS
(Contractors' Initials)
(Date)

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

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 Form¹

By: _____
County Counsel

Date: _____

Approved as to Fiscal Provisions²

By: _____
Auditor/Controller

Date: _____

Approved as to Liability Provisions³

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.

¹Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

²Approval by Auditor/Controller is required for all Professional Service Agreements

³Approval 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 Form¹

By: _____
County Counsel

Date: _____

Approved as to Fiscal Provisions²

By: _____
Auditor/Controller

Date: _____

Approved as to Liability Provisions³

By: _____
Risk Management

Date: _____

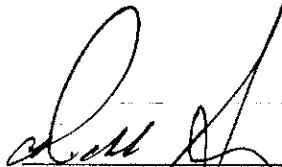
CONTRACTOR

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)*

RICHARD DAVLTON, SECRETARY
Name and Title

Date: 4/22/20

*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. 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.

¹Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

²Approval by Auditor/Controller is required for all Professional Service Agreements

³Approval 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 Form¹

By: /s/ Wendy S. Strimling, Asst. County Counsel
County Counsel

Date: April 30, 2020

Approved as to Fiscal Provisions²

By: W. Strimling
Auditor/Controller

Date: 5/4/2020

Approved as to Liability Provisions³

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.

¹Approval by County Counsel is required only if changes are made to the standard provisions of the PSA

²Approval by Auditor/Controller is required for all Professional Service Agreements

³Approval 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 2nd 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. Date: _____
Rancho Cañada Village Subdivision Project Revised DEIR 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:

Task 1:	\$2,630.00	Kickoff and Data Collection	_____
Task 2:		Administrative Second Revised DEIR	_____
	\$1,370	Carry Final EIR Edits into DEIR Sections	_____
	\$516.00	Executive Summary and Table of Contents	_____
	\$1,700.00	Project Description	_____
	\$225.00	Introduction and Environmental Setting	_____
	\$8,586.00	Environmental Impact Analysis	_____
	\$485.00	Other CEQA Required Discussions	_____
	\$715.00	Cumulative Impacts	_____
	\$9,046.00	Six (6) Alternatives	_____
	\$798.00	References	_____
Task 3:	\$3,900.00	Screencheck Second Revised DEIR	_____
Task 4:	\$6,600.00	Second Revised DEIR	_____
Task 5:	\$11,060.00	Administrative Second Revised Final EIR	_____
Task 6:	\$3,900.00	Screencheck Second Revised Final EIR	_____
Task 7:	\$3,779.00	Final EIR	_____
Task 8:	\$230.00	MMRP Assistance	_____
Task 9:	\$5,120.00	Project Management and Hearings	_____
		Direct Cost Summary	_____
	\$78.00	Vehicle Costs	_____
	\$5,859.00	Printing and Reproduction Costs	_____
	\$66,597.00	GRAND TOTAL:	_____

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 2nd 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)	Other
	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	2	0	
Project Description	33	\$3,700	1	0	8	0	4	
Introduction and Environmental Setting	2	\$215	0.5	0	1	0	0	
Environmental Impact Analysis	66	\$9,386	6	0	40	2	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)	79	\$9,048	6	0	44	2	0	
References	6	\$796	1	0	8	1	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	89	\$6,800	2	0	28	10	0	
Task 5: Screencheck/Final EIR	39	\$5,000	12	0	48	0	0	
Task 6: Final EIR	35	\$3,775	2	0	20	0	0	
Task 7: MAPP Assistance	2	\$280	0	0	12	0	0	
Task 8: Project Management and Hearings	32	\$5,320	12	0	7	0	0	
TOTAL LABOR HOURS	414	\$39,177	125.0	13.00	378.00	27.00	7.00	2.00

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

LABOR COSTS AND DIRECT EXPENSES	\$ 39,177
PERMITS AND REVISIONS COSTS (12.5% LABOR COSTS)	4,897
TOTAL DIRECT COSTS	\$ 44,074

SUMMARY

Professional Fees Subject	\$ 44,074
Direct Costs Subject	\$ 4,897
TOTAL SUBJECT HOURS	414

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:

Task 1:	\$2,630.00	Kickoff and Data Collection	_____
Task 2:		Administrative Second Revised DEIR	_____
	\$1,370	Carry Final EIR Edits into DEIR Sections	_____
	\$516.00	Executive Summary and Table of Contents	_____
	\$1,700.00	Project Description	_____
	\$225.00	Introduction and Environmental Setting	_____
	\$8,586.00	Environmental Impact Analysis	_____
	\$485.00	Other CEQA Required Discussions	_____
	\$715.00	Cumulative Impacts	_____
	\$9,046.00	Six (6) Alternatives	_____
	\$798.00	References	_____
Task 3:	\$3,900.00	Screencheck Second Revised DEIR	_____
Task 4:	\$6,600.00	Second Revised DEIR	_____
Task 5:	\$11,060.00	Administrative Second Revised Final EIR	_____
Task 6:	\$3,900.00	Screencheck Second Revised Final EIR	_____
Task 7:	\$3,779.00	Second Revised Final EIR	_____
Task 8:	\$230.00	MMRP Assistance	_____
Task 9:	\$5,120.00	Project Management and Hearings	_____
		Direct Cost Summary	_____
	\$78.00	Vehicle Costs	_____
	\$5,859.00	Printing and Reproduction Costs	_____
	\$66,597.00	GRAND TOTAL:	_____

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.