

# Attachment B

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**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 an Initial Study and proposed Mitigated Negative Declaration for the Chapin Commercial Cannabis 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 \$ 23,115.00.

3. **TERM OF AGREEMENT.** The term of this Agreement is from March 16, 2021 to January 31, 2022, 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.**

Contractor Initials SS / RD

~~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.~~

Contractor Initials SS / RD

~~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.~~

Contractor Initials SS / RD

~~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.~~

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:
Shandy Carroll, Management Analyst III	Megan Jones, Principal
Name and Title	Name and Title
1441 Schilling Place, South 2nd Floor Salinas, CA 93901-4527	437 Figueroa Street, Suite 203 Monterey, CA 93940
Address	Address
(831) 784-5643	(831) 920-5424
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 Manager

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

By: \_\_\_\_\_  
Department Head (if applicable)

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

Approved as to Form<sup>1</sup>

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

Date: 3/8/2021

Approved as to Fiscal Provisions<sup>2</sup>

By: DocuSigned by:  
Gary Giboney  
D3834BFEC1A  
Auditor/Controller

Date: 3/8/2021

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

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

Rincon Consultants, Inc.

Contractor's Business Name\*

By: DocuSigned by:  
Stephen Svete  
9EA12D8D285F5FA  
(Signature of Chair, President, or Vice-President)\*

Stephen Svete, Executive Vice President

Name and Title

Date: 3/8/2021

By: DocuSigned by:  
Richard Daulton  
3D7AD6A0F8E4C6  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

Richard Daulton, Corporate Secretary

Name and Title

Date: 3/8/2021

\*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 prepare an Initial Study and proposed Mitigated Negative Declaration (IS-MND) (Services) for the Chapin Commercial Cannabis Project (Project). The property owners and Project Applicants are Donald D. Chapin and Barbara A. Chapin, Co-trustees of the Chapin Living Trust dated April 27, 1999 (Project Applicants). The proposed Project consists of: a General Plan Amendment to adopt a Special Treatment Area to allow commercial cannabis retail sales; an Administrative Permit to allow commercial cannabis retail sales, commercial cannabis processing, and cannabis cultivation in existing greenhouse for display purposes only; and amendment to a previously approved General Development Plan, to allow the aforementioned uses in place of the existing landscaping business.

The CONTRACTOR shall provide the Services associated with the Project as set forth below:

#### **Task 1: Kickoff Meeting and Data Acquisition**

CONTRACTOR shall schedule a brief kickoff meeting upon notice to proceed that would be held via conference call. The purpose of the meeting would be to allow County and CONTRACTOR to discuss the project description, and approach to environmental evaluation, existing conditions and baseline for the analysis. This task additionally includes limited coordination to receive additional project information and background studies, as available.

#### **Task 2: Administrative Draft IS-MND**

CONTRACTOR shall prepare an Administrative Draft IS-MND for review by County. CONTRACTOR shall use the County’s preferred format. The Administrative Draft IS-MND will address all items on the environmental checklist at a sufficient level of detail to allow for the determination of levels of significance. Where appropriate and necessary, impacts will be quantified, and feasible mitigation measures will be provided. As noted below, assumptions are made; these assumptions are subject to the analysis to be done as part of the Initial Study, and if additional work is needed, it is understood that such additional work may require augmentation of the budget via contract amendment and augmentation of the funds provided by application for CONTRACTOR services. Key issues are anticipated to include: Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Transportation, and Tribal Cultural Resources. Each of these key issue areas are described briefly below.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- **Biological Resources.** The project site is almost entirely disturbed, with ornamental landscape vegetation throughout the site. It is anticipated that a desktop review of biological resources will be adequate to address potential impacts, as no new construction or ground disturbance would occur as a result of the project. The desktop review will include review of readily available existing information, project plans, aerial imagery, databases (i.e. California Natural Diversity Database [CNDDB] and California Native Plant Society [CNPS] rare plant inventory) and other available literature. It is also assumed that no trees would be removed or damaged as a result of the project. The site is not expected to provide suitable habitat for special status biological resources.
- **Cultural Resources.** CONTRACTOR understands that some of the existing on-site structures are of a historic age; however, it is assumed that the project would not modify, alter, or remove all or portions of any potentially historic structures, and a formal historic analysis is not required. If this is not the case, a detailed historic resources analysis can be provided for an additional fee upon request.

It is anticipated that a desktop review of archaeological resources will be adequate to address potential impacts to archaeological resources, as no new construction or ground disturbance would occur as a result of the project. It is assumed that a records search with the Northwest Information Center, search of the Native American Heritage Commission's (NAHC) Sacred Lands File, and field survey would not be required, as ground disturbance is not proposed. Should the assumptions described above be incorrect, additional efforts be needed (e.g., records search data, Native American outreach, field survey) can be provided for an additional fee.

- **Hazards and Hazardous Materials.** CONTRACTOR shall conduct a review of the California Department of Toxic Substances Control EnviroStor and California State Water Resources Control Board GeoTracker databases for current published hazardous materials records in the vicinity of the project site. If hazardous sites are identified on or near the project site, this section of the IS-MND will evaluate the potential for significant impacts related to hazardous materials and, if necessary, provide mitigation measures. In addition, the section will assess the potential for exposure of future on-site users to loss, injury, or death as a result of wildland fire and consistency with Fire Department requirements for adequate emergency access. The IS-MND will examine these issues and provide appropriate mitigation.
- **Transportation.** The project will generate vehicle trips during project construction and operations. A Traffic Study completed by Keith Higgins in October 2019 provides the anticipated trip generation and analysis of level of service (LOS) impacts, but does not provide an estimate or analysis of vehicle miles traveled (VMT) impacts. Per Senate Bill (SB) 743, CEQA now requires VMT analysis, thus the Project Applicants will submit a professionally prepared analysis for review

### Task 3: Public Review Draft IS-MND

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

After County staff has prepared comments and suggested revisions to the administrative draft, CONTRACTOR shall edit the document and prepare it for release to the public. CONTRACTOR shall prepare a Notice of Intent (NOI) to Adopt an IS-MND, as well as a notice for publication in a newspaper of general circulation. County will coordinate publication of the notice in a local newspaper and conduct other public noticing requirements (including submitting the IS-MND to the State Clearinghouse (SCH), posting the NOI with the County Clerk, and mailing copies and/or notices to interested parties. CONTRACTOR will provide one electronic PDF copy of the Public Review Draft IS-MND for posting on the County’s website. Hard copies of the Public Review Draft IS-MND can be provided for an additional fee.

### **Task 4: Project Management**

This task includes management and coordination through the duration of the project, including coordination with County staff; project oversight; budget and schedule management; and project accounting including billing and accounts receivable efforts.

### **SCHEDULE**

CONTRACTOR proposes an approximate twenty-three (23) week schedule for preparation of the IS-MND, as presented in the table below. Delays in receiving requested information or responses by others may result delays in the overall schedule.

CONTRACTOR assumes a two-week turnaround by the County of internal review work products and a 30-day public review period.

CONTRACTOR shall respond to one round of comments on each deliverable.

The following outlines the schedule for completion of the work program.

<b>Task</b>	<b>Timing</b>	<b>Total Time Elapsed</b>
Notice to Proceed	----	---
Kickoff Meeting	1 week after Notice to Proceed	1 week
County Comments	2 weeks	3 weeks
Administrative Draft IS-MND	Within 8 weeks of receipt of project details or within 2 weeks of receipt of a VMT study, whichever is later.	Approximately 10 weeks
County Comments	2 weeks	12 weeks
Public Review Draft IS-MND	Within 2 weeks of receipt of comments	14 weeks

**EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

<b>Task</b>	<b>Timing</b>	<b>Total Time Elapsed</b>
	on the Amin Draft IS-MND.	
➤ Public Review Period	30 days (5 weeks)	19 weeks
County Comments	2 weeks	21 weeks
Contractor Response	2 weeks	23 weeks

**ASSUMPTIONS**

This scope and budget make various assumptions, as listed below. These assumptions are subject to the analysis to be done as part of the Initial Study, and if additional work is needed, it is understood that such additional work may require augmentation of the budget via contract amendment and augmentation of the funds provided by application for CONTRACTOR services.

The existing on-site structures are not considered historic for the purposes of CEQA, and no modification, alteration, or removal of on-site structures is proposed.

No new construction or ground disturbance is proposed as part of the project.

No special status species, their habitat, or jurisdictional waters are present on the project site or would be affected by the proposed project.

No trees will be removed or damaged as part of the project.

An updated Traffic Study that includes an analysis of VMT will be provided for incorporation into the IS-MND.

County shall conduct government-to-government tribal noticing under AB 52, the results of which will be made available for use in preparation of the Tribal Cultural Resources section of the IS-MND.

The analysis will rely on existing technical studies, photographs, and information from staff; this scope does not include formal peer review, a site visit, agency consultation, or permitting assistance.

CONTRACTOR'S attendance at public hearings will not be needed.

County shall assume responsibility for the approved IS-MND and will solely defend the document if legal challenges are presented.

Only digital copies will be submitted.

## **EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

County shall not require CONTRACTOR to prepare a Final IS-MND and County shall respond to comments on the Draft IS-MND as needed. However, CONTRACTOR shall be responsible for making minor amplifications and clarifications to the initial study if warranted after the public review period.

All written reports required under this Agreement must be delivered in accordance with the above Task schedule to the following individual:

Son Pham-Gallardo, Associate Planner  
County of Monterey  
Housing and Community Development (HCD)  
1441 Schilling Place, 2<sup>nd</sup> Floor  
Salinas, California 93901-4527  
Email: [Pham-GallardoS@co.monterey.ca.us](mailto:Pham-GallardoS@co.monterey.ca.us)

### **B. PAYMENT PROVISIONS**

#### **B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$23,115.00 (\$18,115.00 for Base Budget plus \$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. CONTRACTOR'S compensation for services rendered shall be based on the attached Cost Estimate.

There shall be no travel reimbursement allowed during this Agreement.

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.

#### **B.2 CONTRACTOR'S BILLING PROCEDURES**

Invoices for deliverables under this 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.

Payment shall be based upon satisfactory acceptance of each work product/deliverable.

Invoices under this Agreement shall be submitted promptly and in accordance with Paragraph 6, "Payment Conditions", of this 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):



## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

County of Monterey  
Housing and Community Development (HCD) – 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 HCD Finance at (831) 755-4800 or via email to [194-HCD-Finance@co.monterey.ca.us](mailto:194-HCD-Finance@co.monterey.ca.us):

County may, in its sole discretion, terminate this Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

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.

### **B.2.1 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 HCD 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.

### **B.3 Transfer from Project Contingency Account**

Transfer of funding from the Project Contingency Account (total Project Contingency of \$5,000.00) requires the prior written approval of the HCD Director or designee and the Project Applicant.

## **EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

A recommendation for such a transfer shall be presented in writing by CONTRACTOR to the HCD 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 HCD Director and/or Project Planner and Contract Administrator will have contacted CONTRACTOR to discuss its recommendation and will have made a recommendation to the HCD Director or designee. Within ten (10) working days thereafter, the HCD 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 Applicants and CONTRACTOR.

Unless the recommended transfer is denied by the HCD Director or designee, the HCD Director or designee will ask the Project Applicants 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 Applicants' written approval by the HCD 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**
**RINCON CONSULTANTS, INC.**  
**Chapin Commercial Cannabis Project IS-MND**
**Cost Estimate****Revised 1/4/2021**

Tasks	Rincon Labor Classification →		Principal I	Senior Professional II	Professional III	Professional II	Production Specialist	Senior GIS Specialist	Clerical
	Labor Cost	Hours							
<b>Task 1 Kickoff Meeting and Data Acquisition</b>	\$ 876	6	2		2				2
<b>Task 2 Administrative Draft IS-MND</b>									
Biological Resources	\$ 1,193	8	1	2	1	4			
Cultural Resources	\$ 1,193	8	1	2	1	4			
Hazards and Hazardous Materials	\$ 833	6	1		1	4			
Transportation	\$ 833	6	1		1	4			
Tribal Cultural Resources	\$ 597	4	1		1	2			
Other CEQA Topics (15)	\$ 8,192	58	6	8	6	30	2	6	
<b>Task 3 Public Review Draft IS-MND</b>	\$ 2,110	17	2		3	6	6		
<b>Task 4 Project Management</b>	\$ 2,288	16	4		8				4
<b>Subtotal Cost</b>	<b>\$ 18,115</b>	<b>129</b>	<b>\$ 4,313</b>	<b>\$ 2,160</b>	<b>\$ 3,216</b>	<b>\$ 6,372</b>	<b>\$ 728</b>	<b>\$ 864</b>	<b>\$ 462</b>

**Summary**

Professional Fees Subtotal	\$ 18,115
Direct Costs Subtotal	\$ -
<b>Total Project Budget</b>	<b>\$ 18,115</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, as long as the total contract price is not exceeded.

Annual Escalation – Standard rates subject to 3% escalation annually

## 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.