

Attachment H

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Monterey County

Board Order

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

Agreement No.: A-12548

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

- a. Approved an Agreement with Rincon Consultants, Inc. to provide permit application review services for the County of Monterey, Resource Management Agency - Planning (RFQ #10382), in the amount not to exceed \$100,000 per fiscal year, for a period of three (3) years from execution of the Agreement with the option to extend the Agreement for two (2) additional one (1) year periods, in accordance with the terms and conditions of the Agreement; and
- b. Authorized the Contracts/Purchasing Officer to execute the Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount. (Agreement - PD060202/Rincon Consultants, Inc., County-wide)

PASSED AND ADOPTED on this 30th day of July 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter
NOES: None
ABSENT: None

I, Gail T. Borkowski, 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 76 for the meeting on July 30, 2013.

Dated: August 6, 2013
File Number: 13-0772

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**AGREEMENT FOR PERMIT APPLICATION REVIEW SERVICES
BY AND BETWEEN COUNTY OF MONTEREY
AND RINCON CONSULTANTS, INC.**

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County", and Rincon Consultants, Inc., hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, County has invited Qualifications through the **Request for Qualifications (RFQ) # 10382** for **Permit Application Review Services**, in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible Qualifications to perform such services; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, County and CONTRACTOR, for the consideration hereinafter named, agree as follows:

1.0 PERFORMANCE OF THE AGREEMENT

- 1.1 After consideration and evaluation of the CONTRACTOR'S Qualifications, the County hereby engages CONTRACTOR to provide the services set forth in RFQ #10382 and in this AGREEMENT on the terms and conditions contained herein and in RFQ #10382. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

AGREEMENT including all attachments and exhibits
RFQ #10382 Addendum #1
RFQ #10382 dated 12/20/12, including all attachments and exhibits
CONTRACTOR'S Qualifications Package submitted dated 01/21/13
Certificate of Insurance
Additional Insured Endorsements

- 1.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order:

AGREEMENT including all attachments and exhibits, RFQ #10382 Addendum #1, RFQ #10382 including all attachments and exhibits, CONTRACTOR's Qualifications Package dated 01/21/13, Certificate of Insurance, and Additional Insured Endorsements.

- 1.3 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.
- 1.4 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.
 - 1.4.1 CONTRACTOR must maintain all licenses throughout the term of the AGREEMENT.
- 1.5 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.

2.0 SCOPE OF SERVICE

- 2.1 Contractor Minimum Work Performance Percentage: CONTRACTOR shall perform with his own organization contract work amounting to not less than fifty (50) percent of the original total contract price, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total AGREEMENT price before computing the amount of work required to be performed by CONTRACTOR with its organization.
- 2.2 The Scope of Work includes but is not limited to the following:
 - 2.2.1 **Project Intake and Initial Contact:** County's Project Planner shall hand out the application and subsequently receive and review application materials and technical reports (e.g., traffic, noise, air quality, soils and geology, archeological, biology), and confirm the permits required and the level of environmental review necessary. County's Project Planner will prepare the Interdepartmental Review (IDR) Packets and will identify the tasks that are to be performed by CONTRACTOR for the project. CONTRACTOR, before proceeding, shall articulate in writing a statement defining the steps required to process the project, confirming County expectations regarding staff assignment and the definition of the work effort required to process the application and scheduling on a draft budget sheet.

- 2.2.2 **Cost/Time Estimate:** CONTRACTOR shall submit their Qualifications with a budget estimate to include hours to complete the tasks required to process the application as identified by the County's Project Planner.
- 2.2.3 **Project Evaluation:** CONTRACTOR shall review the IDR comments, make a site visit, if deemed necessary by County's Project Planner, or may communicate with County's Project Planner and review photos. In collaboration with County's Project Planner, CONTRACTOR shall determine the project status and whether additional information is required per the State's permit streamlining requirements and CEQA.
- 2.2.4 **CEQA Determination:** CONTRACTOR and County's Project Planner will determine whether a categorical exemption or initial environmental review study is required.
- 2.2.4.1 Final determination whether the project is categorically exempt or if an environmental review is required will be made by County's Project planner.
- 2.2.5 **Preparation of Initial Study/Negative/Mitigated Negative Declaration** When an Environmental Initial Study is deemed necessary by County, CONTRACTOR, in collaboration with County's Project Planner, shall determine the scope of the initial study and identify potentially significant issues that need to be addressed. CONTRACTOR shall prepare a cost estimate of the Initial Study and present to County for approval. Once approved, CONTRACTOR shall complete an administrative draft Initial Study including impact analysis, mitigation measures and monitoring actions. CONTRACTOR shall submit a completed and finished administrative draft Initial Study to the County's Project Planner for the Project Planner's review. CONTRACTOR shall make such revisions as the County Planner directs. The administrative draft Initial Study will then be circulated through the County Clearinghouse (one week). The County Clearinghouse is responsible for distributing environmental documents to other County land use departments for review and collects their comments. Once acceptable to County staff, the administrative draft Initial Study may be forwarded by County's Project Planner to the applicant for a one week review to only correct or revise factual details in the Project Description and agree to any proposed mitigation measures. If, during the preparation of the Initial Study, it is determined that an Environmental Impact Report (EIR) is required for the project, the County will follow its standard procedure for hiring an EIR consultant. If the CONTRACTOR is on the County's EIR consultant list, the CONTRACTOR shall not be eligible to prepare the EIR for this permit.
- 2.2.6 **Set Public Hearing Date for the Application:** CONTRACTOR shall work with County's Project Planner to determine an appropriate date to schedule the public hearing. This decision must follow County cutoff dates for staff report

submission, review, corrections, and production and meet requirements of the state Permit Streamlining Act.

- 2.2.7 **Staff Report Preparation and Review:** After the application is deemed complete, and in consultation with the County's Project Planner, the CONTRACTOR shall prepare a draft staff report including all attachments and exhibits as required by County utilizing County templates to produce a clear and concise overview of the proposed project, issues and their resolution. This shall include a summary of the Land Use Advisory Committee (LUAC) action, where necessary. The appropriate Findings and Evidence shall be included in the draft resolution attached to the staff report and completed with comprehensive, clear and concise evidence to support findings. The Condition Compliance/Mitigation Monitoring matrix (i.e., list of conditions of approval, mitigation measures and monitoring actions) shall be completed. CONTRACTOR shall submit the draft staff report, findings and evidence and conditions and mitigation measure matrix to the County's Project Planner and make such revisions as the County's Project Planner directs.
- 2.2.8 **Presentation and Responses to Comments and Last Minute Issues:** CONTRACTOR shall prepare all appropriate presentation materials for the hearing body as requested by County. CONTRACTOR shall be available during office hours one week prior to the public hearing to assist County's project planner to resolve any remaining issues or respond to comments in written form from the public and provide support to County as necessary.
- 2.2.9 **Public Hearing Follow-up – Appeals:** Under the direction of the County's Project Planner, CONTRACTOR shall be responsible for revising and changing any findings, evidence, or conditions/mitigation measures that are a result of the hearing process. CONTRACTOR may be required to prepare a revised staff report and following recommendations of the hearing body. If the project is appealed to another County hearing body (e.g., from the Planning Commission to the Board of Supervisors) then CONTRACTOR shall respond to the appeal and prepare an appropriate discussion of the appeal topics in a *denovo* type staff report, prepare findings and evidence addressing the appeal and re-insert conditions and mitigations if the Planning Department is submitting an affirmative recommendation.
- 2.2.10 **Field Trips:** CONTRACTOR shall conduct field trips as needed for each project development application and related environmental review if required. Field trip requirements will ultimately be the decision of the County as appropriate.
- 2.2.11 **Responsible Agency Contacts:** CONTRACTOR shall be responsible for early contacts with interested agencies identified by the County's Project Planner.

2.2.12 **County Plans, Ordinances, Forms, Templates and Process:** It shall be the responsibility of the CONTRACTOR to receive and review all County Plans, Ordinances, Forms (as applicable) and templates for reviewing, analyzing, preparing, and processing the permit application products and documents. It shall be the responsibility of the CONTRACTOR to endeavor to learn and master the County's permitting and related environmental review process to minimize involvement of staff time during the processing of the individual permits.

2.2.13 **Files and file Organization:** CONTRACTOR shall receive a copy of the Planning Department's file and all subsequent correspondence. All e-mails and electronic files shall be forwarded immediately to County's Project Planner.

2.3 **Scheduled Documents Delivered:** CONTRACTOR shall deliver one electronic copy and one clean hard copy original of the staff report with all required attachments per County format and requirements at least two weeks prior to the public hearing as the final completed product with all reviews and required approvals. CONTRACTOR shall deliver one electronic copy and one original hard copy of the Initial Study/Negative Declaration (where required) pursuant to a schedule set at the time the CEQA determination is made. By no later than when the Initial Study is ready for release to the public for the public review and comment period, CONTRACTOR shall provide to the County a complete and accurate copy of all references listed in the environmental review document prepared by CONTRACTOR.

3.0 TERM OF AGREEMENT

3.1 The term of the AGREEMENT(s) will be for a period of three (3) years with the option to extend the AGREEMENT for two (2) additional one (1) year periods.

3.1.1 County is not required to state a reason if it elects not to renew this AGREEMENT.

3.2 CONTRACTOR shall commence negotiations for any desired rate changes a minimum of ninety days (90) prior to the expiration of this AGREEMENT in order to be considered.

3.2.1 Both parties shall agree upon rate extension(s) or changes in writing.

3.3 County reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, without cause, with a thirty day (30) written notice, or immediately with cause.

4.0 COMPENSATION AND PAYMENTS

4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under this AGREEMENT in accordance with the pricing sheet attached

hereto as ATTACHMENT A. The total amount of this AGREEMENT shall not exceed \$100,000 per fiscal year.

- 4.2 Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 4.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of this AGREEMENT.
- 4.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than 30 days.
- 4.5 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from County in writing.
- 4.6 Tax:
 - 4.6.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.
 - 4.6.2 County is registered with the Internal Revenue Service, San Francisco office, and registration number 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.

5.0 INVOICES AND PURCHASE ORDERS

- 5.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the **Planning Department of the Resource Management Agency** at the following address:

County of Monterey, RMA Planning Dept.
Attn: Accounting
168 W. Alisal St., 2nd Floor
Salinas, CA 93901
- 5.2 CONTRACTOR shall reference the RFQ #10382 on all invoices submitted to County. CONTRACTOR shall submit such invoices 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. County shall certify the invoice, either in the requested amount or in such other amount as County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

- 5.3 All County of Monterey Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 5.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by County. Surcharges and additional fees not included the AGREEMENT must be approved by County in writing via an Amendment.

6.0 DESIGN PROFESSIONAL INDEMNIFICATION

- 6.1 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.
- 6.2 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.
- 6.3 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.

7.0 INSURANCE REQUIREMENTS

7.1 Evidence of Coverage:

7.1.1 Prior to commencement of this AGREEMENT, 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 CONTRACTOR upon request shall provide a certified copy of the policy or policies.

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

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

7.3 Insurance Coverage Requirements:

7.3.1 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:

7.3.1.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform 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.

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

7.3.3 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.

- 7.3.4 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, 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.

7.4 Other Insurance Requirements:

- 7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to 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.
- 7.4.2 Each liability policy shall provide that 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.
- 7.4.3 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.

- 7.4.4 Prior to the execution of this AGREEMENT by County, CONTRACTOR shall file certificates of insurance with County's contract administrator and County's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. 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.
- 7.4.5 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.

8.0 RECORDS AND CONFIDENTIALITY

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 Access to and Audit of Records: County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its

subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of County or as part of any audit of 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.

9.0 NON-DISCRIMINATION

- 9.1 During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).
- 9.2 The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12900, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- 9.3 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTs with subcontractors to perform work under the contract.

10.0 OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENTS

- 10.1 Independent Contractor: CONTRACTOR shall be an independent contractor and shall not be an employee of Monterey County, nor immediate family of an employee of County. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.
- 10.2 Non-Assignment: CONTRACTOR shall not assign this contract or the work required herein without the prior written consent of County.
- 10.3 Any subcontractor shall comply with all of County of Monterey requirements, including insurance and indemnification requirements as detailed in SAMPLE AGREEMENT.

11.0 CONFLICT OF INTEREST

- 11.1 CONTRACTOR covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this AGREEMENT. Without limitation, CONTRACTOR represents to and agrees with the COUNTY that CONTRACTOR has no present, and will have no future, conflict of interest between providing the COUNTY services hereunder and any other person or entity (including but not limited to any federal or state environmental or regulatory agency) which has any interest adverse or potentially adverse to the COUNTY, as determined in the reasonable judgment of the Board of Supervisors of the COUNTY.
- 11.2 CONTRACTOR agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this AGREEMENT for the COUNTY will be kept confidential and not be disclosed to any other person. CONTRACTOR agrees to immediately notify the COUNTY by notices provided in accordance with Section 18.0 of this AGREEMENT, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this AGREEMENT. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the COUNTY hereunder.

12.0 COMPLIANCE WITH APPLICABLE LAWS

- 12.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 12.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 12.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

13.0 DRUG FREE WORKPLACE

- 13.1 CONTRACTOR and CONTRACTOR'S employees shall comply with the COUNTY'S policy of maintaining a drug free workplace. Neither CONTRACTOR nor CONTRACTOR'S employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any COUNTY facility or work site. If CONTRACTOR or any employee of CONTRACTOR is convicted or pleads no contest to a criminal drug statute violation occurring at a COUNTY facility or work site, the CONTRACTOR shall, within five days thereafter notify the head of the COUNTY department/agency for which the AGREEMENT services are performed. Violation of this provision shall constitute a material breach of this AGREEMENT.

14.0 TIME OF ESSENCE

- 14.1 Time is of the essence in respect to all provisions of this AGREEMENT that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this AGREEMENT.

15.0 WAIVER

- 15.1 No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this AGREEMENT shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

16.0 ASSURANCE OF PERFORMANCE

- 16.1 If at any Time COUNTY believes CONTRACTOR may not be adequately performing its obligations under this AGREEMENT or that CONTRACTOR may fail to complete the Services as required by this AGREEMENT, COUNTY may request from CONTRACTOR prompt written assurances of performance and a written plan acceptable to COUNTY, to correct the observed deficiencies in CONTRACTOR'S performance. CONTRACTOR shall provide such written assurances and written plan within ten (10) calendar days of its receipt of COUNTY'S request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this AGREEMENT.

17.0 RIGHTS AND REMEDIES OF THE COUNTY FOR DEFAULT

- 17.1. In the case of default by CONTRACTOR, County may procure the articles or services from other sources and may recover the loss occasioned thereby from any unpaid balance due to CONTRACTOR or by proceeding against any performance bond of CONTRACTOR, if any, or by suit against CONTRACTOR. The prices paid by County shall be considered the prevailing market price at the time such purchase(s) may be made. Inspections of deliveries or offers for deliveries that do not meet specifications shall be made at the expense of CONTRACTOR.

18.0 NOTICES

- 18.1 Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to County's contract administrator or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.
- 18.2 Notices mailed or faxed to the parties shall be addressed as follows:

TO COUNTY:

Contracts/Purchasing Officer
County of Monterey, Contracts/Purchasing
168 W. Alisal Street, 3rd Floor.
Salinas, CA 93901-2439
Tel. No.: (831) 755-4990
FAX No.: (831) 755-4969
derrm@co.monterey.ca.us

TO CONTRACTOR:

Rincon Consultants, Inc.
Attn: Megan Jones, MPPc, Senior Planner
437 Figueroa St., Suite 203
Monterey, CA 93940
Tel No (831) 333-0310
FAX No (831) 333-0340
mjones@rinconconsultants.com

19.0 LEGAL DISPUTES

- 19.1 CONTRACTOR agrees that this AGREEMENT and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
- 19.2 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.
- 19.3 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.
- 19.4 The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

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IN WITNESS WHEREOF, the County and CONTRACTOR execute this AGREEMENT as follows:

MONTEREY COUNTY

Rebra Bayard
Contracts/Purchasing Officer

Dated: 16 August 2013
~~12 July 2013~~ AB

Approved as to Fiscal Provisions:

[Signature]
Deputy Auditor/Controller

Dated: 7-11-13

Approved as to Liability Provisions:

Risk Management

Dated: _____

Approved as to Form:

Cynthia L. Olson
Deputy County Counsel

Dated: 7-10-13

CONTRACTOR

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

STEPHEN SVETE, VICE PRESIDENT
Printed Name and Title

Dated: 6-21-2013

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

Duane Vander Plooy, CFO
Printed Name and Title

Dated: 6/21/2013

County Board of Supervisors' Agreement Number: _____

*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.

ATTACHMENT - A PRICING SHEET

Service	State your firm's rate in dollars per hour
Permit Review (regular)	\$1,000 - \$3,000
Other (indicate) Preparation of IS-MND (including application review, site visit, document revisions and project management)	\$2,500 - \$10,000
Other (indicate) Preparation of Staff Report (including Findings, MMRP, and hearing attendance)	\$2,000 - \$7,000

Service	State your firm's rate in dollars per each hour
Permit Review (regular)	\$60 - \$160 (See Fee Schedule)
Other (indicate) Preparation of IS-MND	\$60 - \$160 (See Fee Schedule)
Other (indicate) Preparation of Staff Report	\$60 - \$160 (See Fee Schedule)

WJ

The undersigned, having read and understood all proposal information, hereby submits hourly rates. It is understood that the basic design of each particular type of facility can be duplicated as the situation permits. It is also understood that the Fee Schedule will be used by the COUNTY as a criteria to select the firm(s) for possible interviews by the Selection Committee, but that a final fee may be negotiated with the qualified firm(s) for the required services.

Reimbursable Items to be Billed (Please list)	Estimated Cost Bills (Note: indicated markup should not exceed 10%)	
	Total Cost	% of Markup calculated
Vehicle Use and Mileage	\$85 reg. \$135 4WD, plus the IRS rate/mile over 50 miles	n/a
Filing Fees	Varies	10%
Printing and Postage	Varies	10%
Misc. Office Expenses	Varies	3%

WJ

Pricing sheet shall be submitted in a separate sealed envelope. Pricing shall only be opened for the awarded CONTRACTOR(s).

---End of ATTACHMENT A---

RINCON CONSULTANTS, INC.

Standard Fee Schedule for Environmental, Biological, and Planning Services

Rincon Consultants' fee schedule is based on the time that is charged to projects by our professionals and support staff. Direct costs associated with completing a project are also billed to the project as outlined under Reimbursable Expenses below. The following sets forth the billing rates for our personnel.

<u>Professional and Technical Personnel</u>	<u>Rate</u>
Principal I	\$ 160/hour
Senior Supervising Environmental Scientist/Planner/Biologist II	\$ 150/hour
Supervising Environmental Scientist/Planner/Biologist I	\$ 140/hour
Senior Environmental Scientist/Planner/Biologist II	\$ 135/hour
Senior Environmental Scientist/Planner/Biologist I	\$ 120/hour
Environmental Scientist/Planner/Biologist III	\$ 105/hour
Environmental Scientist/Planner/Biologist II	\$ 90/hour
Environmental Scientist/Planner/Biologist I	\$ 70/hour
Environmental Technician	\$ 60/hour
Environmental Field Aide	\$ 55/hour
Senior GIS Specialist	\$ 105/hour
GIS Specialist	\$ 85/hour
CAD Specialist	\$ 70/hour
Graphic Designer	\$ 70/hour
Technical Editor	\$ 80/hour
Clerical/Administrative Assistant	\$ 55/hour
Production Technician	\$ 55/hour

Expert witness services consisting of depositions and in-court testimony are charged at a rate of \$295/hour.

Photocopying and Printing

Photocopies will be charged at a rate of \$0.08/copy for single-sided copies and \$0.16 for double-sided copies. Colored copies will be charged at a rate of \$1.00/copy for single-sided and \$2.00/copy for double-sided or 11" x 17" copies. Oversized maps or display graphics will be charged at a rate of \$8.00/square foot.

Reimbursable Expenses

Expenses associated with completing a project are termed Reimbursable Expenses. These expenses do not include the hourly billing rates described above. Reimbursable expenses include, but are not limited to, the following:

1. Direct costs associated with the execution of a project are billed at cost plus 10% to cover General and Administrative services. Direct costs include, but are not limited to, laboratory and drilling services charges, subcontractor services, authorized travel expenses, permit charges and filing fees, printing and graphic charges, mailings and postage, performance bonds, sample handling and shipment, equipment rental other than covered by the above charges, etc. Communications charges and miscellaneous office expenses (including PDAs, cell phones, phone, fax, and electronic data transmittals, digital cameras, photo processing, etc.) are billed at 3% of total labor.
2. Vehicle use in company-owned vehicles will be billed at a day rate of \$85/day for regular terrain vehicle use and \$135 per day for 4-WVD off-road vehicle use, plus the IRS rate for mileage over 50 miles per day. For transportation in employee-owned automobiles, the IRS rate for mileage will be charged. Rental vehicles will be billed at cost plus 10%.

RINCON CONSULTANTS, INC.

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Equipment Schedule for Environmental, Biological, and Planning Services

Equipment	Rate	Unit
Environmental Site Assessment		
Bailer	\$.25	Day
Brass Sample Sleeves	\$ 10	Each
DC Purge Pump	\$ 35	Day
Disposable Bailer	\$ 20	Each
Flame Ionization Detector	\$ 200	Day
Four Gas Monitor	\$ 120	Day
Hand Auger Sampler	\$ 35	Day
Level C Health and Safety	\$ 60	Person per day
Oil-Water Interface Probe	\$ 85	Day
Photo Ionization Detector	\$ 120	Day
Soil Vapor Extraction Monitoring Equipment	\$ 140	Day
Water Level Indicator	\$ 35	Day
Water Resources		
Dissolved Oxygen Meter	\$ 45	Day
Refractometer (salinity)	\$ 30	Day
Sterilized Sample Jar	\$ 5	Each
Temp-pH-Conductivity Meter	\$ 50	Day
Turbidity Meter	\$ 30	Day
Biological Field Equipment		
Fiberoptic Scope	\$ 90	Day
Infrared Sensor Digital Camera	\$ 50	Day
Field Equipment Package, amphibian survey (digital camera, GPS, thermometer, decon.chlorine, waders, float tube, hand.net)	\$ 150	Day
Field Equipment Package, construction monitoring (digital camera, GPS, thermometer, binoculars, field computer, safety equipment)	\$ 95	Day
Field Equipment Package, standard (digital camera, GPS, thermometer, binoculars, and botanic collecting equipment)	\$ 45	Day
Laser Rangefinder/Altitude	\$ 10	Day
Mammal trap, large	\$ 1.50	Each per trap cycle
Mammal trap, small	\$ 0.50	Each per trap cycle
Minnow Trap	\$ 85	Each per job
Net, hand	\$ 10	Day
Net, large seine	\$ 50	Day
Pettersson Bat Ultrasound Detector/Recording Equipment	\$ 150	Job
Pit-fall Trap	\$ 5	Each per trap cycle
Scent Station	\$ 20	Station
Spotlight	\$ 5	Day
Trimble® GPS (submeter accuracy)	\$ 190	Job
Spotting Scope	\$ 150	Job
Multi Services Field Equipment		
Anemometer	\$ 5	Day
Computer Field Equipment	\$ 45	Day
GPS unit, standard field	\$ 10	Day
Offroad 4x4 Mule	\$ 75	Day
Sound Level Meter	\$ 50	Day
Standard Field GPS	\$ 5	Day