



Board Report

File #: A 18-028, Version: 1

- a. Approve Professional Services Agreement with Rincon Consultants, Inc. (Rincon) to allow for payment of services rendered in the amount of \$86,584 from February 15, 2017 to November 30, 2017 for the preparation of an Environmental Impact Report (EIR) for the Rio Ranch Marketplace Project (PLN150668) in the Carmel Valley area, where the Base Budget is \$171,016 and the Contingency Budget is \$25,652 for a total amount not to exceed \$196,668, for a retroactive term from February 15, 2017 to June 30, 2019; and
- b. Approve Funding Agreement with Foothill Partners, Incorporated to allow for funding by Monterey County for costs incurred by Rincon Consultants, Inc. and County departments in the amount of \$86,584 from February 15, 2017 to November 30, 2017 for the preparation of an Environmental Impact Report (EIR) for the Rio Ranch Marketplace Project (PLN150668) in the Carmel Valley area, where the Base Budget is \$171,016, the Contingency Budget is \$25,652, and the County Contract Administration Fee is \$3,424 for a total amount not to exceed \$200,092, for a retroactive term from February 15, 2017 to June 30, 2019; and
- c. Authorize the Chief of Planning Services 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 or change the approved Agreement amounts.

RECOMMENDATION:

- a. Approve Professional Services Agreement with Rincon Consultants, Inc. (Rincon) to allow for payment of services rendered in the amount of \$86,584 from February 15, 2017 to November 30, 2017 for the preparation of an Environmental Impact Report (EIR) for the Rio Ranch Marketplace Project (PLN150668) in the Carmel Valley area, where the Base Budget is \$171,016 and the Contingency Budget is \$25,652 for a total amount not to exceed \$196,668, for a retroactive term from February 15, 2017 to June 30, 2019; and
- b. Approve Funding Agreement with Foothill Partners, Incorporated to allow for funding by Monterey County for costs incurred by Rincon Consultants, Inc. and County departments in the amount of \$86,584 from February 15, 2017 to November 30, 2017 for the preparation of an Environmental Impact Report (EIR) for the Rio Ranch Marketplace Project (PLN150668) in the Carmel Valley area, where the Base Budget is \$171,016, the Contingency Budget is \$25,652, and the County Contract Administration Fee is \$3,424 for a total amount not to exceed \$200,092, for a retroactive term from February 15, 2017 to June 30, 2019; and
- c. Authorize the Chief of Planning Services 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 or change the approved Agreement amounts.

SUMMARY

RMA received an application for a commercial development that went through the County's Development Review Committee (DRC). The application was received on June 10, 2016, and initial review determined that an environmental impact report (EIR) is required. Staff has negotiated agreements to contract for professional services to prepare the EIR and reimbursement from the applicant.

The applicant indicated that timing was critical due to carrying costs of the property, and staff found that this was a significant economic development project. As such, RMA Planning staff agreed for Rincon to begin work as long as County had adequate funds to pay for any invoices received,. At staff's direction, the applicant submitted a deposit of \$50,000 and work was initiated by RMA Planning staff under Professional Services

Agreement (PSA) (Multi-Year Agreement (MYA) #3000*990), and Request for Qualifications (RFQ) #10382. Rincon encumbered costs for services totaling \$103,192; however, RMA Finance staff determined that this was not appropriate and has held payment, except for \$16,608.

The proposed PSA would be between the County and Rincon to provide professional services to prepare an EIR for the Project. The proposed Funding Agreement (FA) between the County and Foothill Partners, Incorporated (Project Applicant) will allow the County to receive funding from the Project Applicant to cover all costs associated with preparing this EIR. The term of these agreements is from February 15, 2017 to June 30, 2019. RMA is requesting Board approval of a contract retroactive to February 15, 2017 for services by Rincon that were authorized prior to Board approval.

DISCUSSION:

Foothill Partners, Incorporated submitted an application on June 10, 2016 for the Rio Ranch Marketplace Project (Project) consisting of 42,310 square feet of retail development on an approximate 3.77-acre parcel located on Rio Road, east of State Route 1 at the mouth of the Carmel Valley. The retail development would consist of four (4) commercial retail buildings, including a 23,000-square foot grocery store/convenience market; three (3) smaller separate multi-tenant buildings ranging in size from 8,335 square feet (Store A) to 10,475 square feet (Store B-1/B-2); and two (2) "Farm Shed" stands totaling 500 square feet in total.

The Board approved a process for preparing EIRs where County of Monterey (County) Resource Management Agency (RMA) maintains a list of qualified consultants. When a project is ready, proposals are solicited from the next three consultants on the list, unless the applicant disqualifies one of the three firms. In this case, the applicant implemented their option to disqualify one of the three firms so RMA received two competitive bids in November, 2016. Rincon Consultants was selected under RFQ #10556 to prepare the EIR for this Project. Staff began working on the Professional Services Agreement (PSA) with Rincon and a Funding Agreement (FA) with the applicant to pay for these services.

The PSA between the County and Rincon will allow for the preparation and completion of an EIR for the Project in the amount of \$196,668 (\$171,016 for Base Budget and \$25,652 for Project Contingency) with a retroactive term from February 15, 2017 to June 30, 2019. The proposed Funding Agreement (FA) between the County and Foothill Partners, Incorporated (Project Applicant) will allow funding to the County for services provided by Rincon in association with the preparation of the EIR in the amount of \$200,092 (\$171,016 for Base Budget, \$25,652 for Project Contingency and \$3,424 for County Contract Administration Fee). The term of these agreements is from February 15, 2017 to June 30, 2019.

Staff is requesting approval of agreements retroactive to February 15, 2017. The applicant indicated that timing was critical so requested to get started on the EIR prior to Board approval of the agreements. RMA staff, finding this was a significant economic development opportunity, informed the applicant that Rincon could begin work as long as the RMA had funds on hand to pay for any invoices received. The applicant submitted a deposit of \$50,000 to the RMA and staff authorized Rincon Consultants, Inc. (Rincon) to provide permit review and processing services. Staff felt that this was acceptable because we had a separate agreement with Rincon for professional planning services (including CEQA review) under Professional Services Agreement (PSA) (Multi-Year Agreement (MYA) #3000*990), and Request for Qualifications (RFQ) #10382.

Services authorized by the County and performed by Rincon were associated with the preparation of the Administrative Draft Environmental Impact Report (ADEIR) for the Project. It was later determined that these services are not fully covered under the scope of MYA 3000*990 with Rincon. Therefore, a separate PSA to allow for the preparation and completion of the Environmental Impact Report (EIR) for the Project is required.

However, in the meantime, Rincon has performed work on this Project in good faith. Invoices received from Rincon for costs incurred to date total \$103,192. RMA finance staff authorized payment of \$16,608, which leaves an outstanding balance of \$86,584 that has been invoiced by Rincon but not yet paid. No funds have been used from the \$50,000 deposit. If the PSA and FA are approved retroactively, as requested, staff will require the applicant to submit funds adequate to pay costs through release of the draft EIR. A final payment for the remaining contract amount will be required upon release of the draft EIR.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller's Office have reviewed and approved the PSA and the FA as to form and legality, and fiscal provisions, respectively.

FINANCING:

Pursuant to the terms of the FA with the Project Applicant and the County, the expenses of Rincon to provide an EIR for the Rio Ranch Marketplace Project and fees associated with County contract administration will be funded through budgets established in the FA with the Project Applicant. Separate fees for County staff costs for processing the Project will be paid by the Project Applicant in accordance with the County of Monterey Land Use Fee Schedule. There has been an impact to the General Fund in the amount of \$16,608 for services previously rendered by Rincon under the PSA for permit application review services (MYA 3000*990). Within the retroactive term of this separate PSA to provide an EIR for the Project, the amount of \$16,608 will be credited to the General Fund with funding provided by the Project Applicant and upon approval of the PSA and FA by the Board of Supervisors.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The PSA with Rincon and the FA with Foothill Partners, Incorporated will allow for completion of an EIR for a development project which could positively impact the revenue base and quality of life within the County. Additionally, this action represents effective and timely response to Resource Management Agency customers.

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

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Approved by: Carl P. Holm, AICP, RMA Director

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

Attachment A - PSA
Attachment B - FA