



City of Palo Alto

City Council Staff Report

(ID # 10378)

Report Type: Consent Calendar

Meeting Date: 6/10/2019

Summary Title: Approve Agreement with Rincon Consultants - Cubberley Master Plan for \$143,452

Title: Approval of an Agreement With Rincon Consultants in the Amount of \$143,452 for a Term of Seven Months for Environmental Analysis of the Cubberley Master Plan

From: City Manager

Lead Department: Community Services

Recommendation

Staff recommends that City Council:

1. Approve the attached Professional Services Agreement with Rincon Consultants, Inc. in an Amount Not to Exceed \$143,452 for a term of seven months for environmental review of the Cubberley Master Plan pursuant to the California Environmental Quality Act (CEQA)

Background

The City of Palo Alto and Palo Alto Unified School District are jointly developing a master plan for the Cubberley Community Center site, with collaborative participation from the community. The community co-design effort began in October 2018 and has included four iterative community meetings in which community members worked together to identify needs, propose opportunities, discuss options and guide the master planning process towards solutions for the Palo Alto community. At each meeting, participants engaged in interactive activities designed to gather pertinent information and perspectives on key project decisions.

All project information and deliverables, including meeting materials and summaries are available on the project website at www.pausd.org/cubberleycodesign.

Discussion

The Cubberley Master Plan is considered a Project under the California Environmental Quality Act (CEQA) and therefore requires that the project be evaluated to determine if it may cause either a direct or reasonably foreseeable indirect physical change in the

environment. Since the analysis is for a Master Plan and not a fully designed project, there may be elements of the Master Plan that cannot be completely assessed for impacts. In these cases, additional CEQA documentation will need to be completed later when more detailed information is known.

The project area for the CEQA analysis includes the 35-acre Cubberley site (8-acres owned by the City of Palo Alto, 27-acres owned by Palo Alto Unified School District), and the two contiguous PAUSD parcels that were added to the Master Plan project area (Greendell School site and 525 San Antonio Road) in December 2018. <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=63453.06&BlobID=68173>

The Scope of Work for this professional services agreement includes an environmental assessment of a proposed draft Master Plan for the entire project area.

The key issues that will be addressed in detail include:

- Air Quality
- Biological Resources
- Cultural and Historic Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Land Use and Planning
- Noise
- Public Services
- Traffic and Transportation
- Utilities and Service Systems

Request for Proposals Process

Request for Proposal (RFP) Number 173980 was released on January 29, 2019 to complete an environmental review of the Cubberley Master Plan in compliance with CEQA. The submittal deadline for proposals was February 26, 2019. Two proposals were received with costs of \$130,411 and \$132,026. The consultant review team evaluated and scored the written proposals and Rincon Consultants, Inc. prevailed with the highest overall score.

Resource Impact

Funding for CEQA review is included in Capital Improvement Project CB-16001 (Cubberley Community Center Master Plan). The total contract amount equals \$143,452, which includes the proposal amount of \$130,411 and an additional services amount of \$13,041. Additional services were added to the scope to be used for other necessary studies or analysis that were not previously identified.

The existing Cost Share Agreement between the City and PAUSD for the Cubberley Master Plan states that the two parties will share equally in the cost of the CEQA

consultant, not to exceed a total contract amount of \$100,000. Because the total contract amount exceeds \$100,000, the City's portion will be \$80,411 (\$93,452 including additional services), and PAUSD's share will be \$50,000.

Environmental Review

Pursuant to the California Environmental Quality Act (CEQA), a master plan is considered a Project and therefore must be assessed for potential impacts to the environment. Completion and subsequent adoption of the CEQA document referenced herein will not constitute approval of the Project. If necessary, a separate environmental assessment will be performed when the Project is designed and funded.

Attachments:

- Attachment A: Agreement with Rincon Consultants

**CITY OF PALO ALTO CONTRACT NO. C19173980
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
RINCON CONSULTANTS, INC. FOR PROFESSIONAL SERVICES**

This Agreement is entered into on this 20th day of May, 2019, (“Agreement”) by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and RINCON CONSULTANTS, INC., a California corporation, located at 449 15th Street, Suite 303, Oakland, California, 94612, Telephone (510) 834-4455 (“CONSULTANT”).

RECITALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to perform an Initial Study-Mitigated Negative Declaration for the Cubberley Master Plan project area. (“Project”) and desires to engage a consultant to provide services in connection with the Project (“Services”).

B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit “A”, attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described at Exhibit “A” in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM.

The term of this Agreement shall be from the date of its full execution through January 31, 2020 unless terminated earlier pursuant to Section 19 of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE.

Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit “B”, attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A” (“Basic Services”), and reimbursable expenses, shall not exceed One Hundred Thirty Thousand Four Hundred Eleven Dollars (\$130,411.00). CONSULTANT agrees to complete all Basic Services, including reimbursable expenses, within this amount. In the event Additional Services are authorized, the total compensation for Basic Services, Additional Services and reimbursable expenses shall not exceed One Hundred Forty Three Thousand Four Hundred Fifty Two Dollars (\$143,452.00). The applicable rates and schedule of payment are set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit “A”.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT’s billing rates (set forth in Exhibit “C-1”). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City’s project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses,

pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT is solely responsible for costs, including, but not limited to, increases in the cost of Services, arising from or caused by CONSULTANT's errors and omissions, including, but not limited to, the costs of corrections such errors and omissions, any change order markup costs, or costs arising from delay caused by the errors and omissions or unreasonable delay in correcting the errors and omissions.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of CITY's stated construction budget, CONSULTANT shall make recommendations to CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT's obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the city manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Abe Leider as the Principal-in-Charge to have supervisory responsibility for the performance, progress, and execution of the Services and Karly Kaufman as the project Manager to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY's project manager. CONSULTANT, at CITY's request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat

to the adequate or timely completion of the Project or a threat to the safety of persons or property.

CITY's project manager is Kristen O'Kane, Director of Community Services Department, 4000 Middlefield Road, Palo Alto, CA 94303, Telephone: (650) 463-4908. The project manager will be CONSULTANT's point of contact with respect to performance, progress and execution of the Services. CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT's records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an "Indemnified Party") from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements ("Claims") that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT's services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any

covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best's Key Rating Guide ratings of A:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY's Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days' notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT's receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY's Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, and 25.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the project director
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this

Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person due to that person’s race, skin color, gender, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, pregnancy, genetic information or condition, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Department, incorporated by reference and may be amended from time to time. CONSULTANT shall comply with waste reduction, reuse, recycling and disposal requirements of CITY’s Zero Waste Program. Zero Waste best practices include first minimizing and reducing waste; second, reusing waste and third, recycling or composting waste. In particular, CONSULTANT shall comply with the following zero waste requirements:

- (a) All printed materials provided by CCONSULTANT to CITY generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by CITY’s Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable based inks.
- (b) Goods purchased by CONSULTANT on behalf of CITY shall be purchased in accordance with CITY’s Environmental Purchasing Policy including but not limited to Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Division’s office.
- (c) Reusable/returnable pallets shall be taken back by CONSULTANT, at no additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. COMPLIANCE WITH PALO ALTO MINIMUM WAGE ORDINANCE. CONSULTANT shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as it may be amended from time to time. In particular, for any employee otherwise entitled to the State minimum wage, who performs at least two (2) hours of

work in a calendar week within the geographic boundaries of the City, CONSULTANT shall pay such employees no less than the minimum wage set forth in Palo Alto Municipal Code section 4.62.030 for each hour worked within the geographic boundaries of the City of Palo Alto. In addition, CONSULTANT shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code section 4.62.060.

SECTION 25. NON-APPROPRIATION

25.1. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This section shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

SECTION 26. PREVAILING WAGES AND DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS

26.1 **This Project is not subject to prevailing wages.** CONSULTANT is not required to pay prevailing wages in the performance and implementation of the Project in accordance with SB 7 if the contract is not a public works contract, if the contract does not include a public works construction project of more than \$25,000, or the contract does not include a public works alteration, demolition, repair, or maintenance (collectively, 'improvement') project of more than \$15,000.

SECTION 27. MISCELLANEOUS PROVISIONS.

27.1. This Agreement will be governed by the laws of the State of California.

27.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

27.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

27.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This document may be amended only by a written instrument, which is signed by the parties.

27.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

27.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

27.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

27.8 In the event of a conflict between the terms of this Agreement and the exhibits hereto or CONSULTANT's proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONSULTANT's proposal, the exhibits shall control.

27.9 If, pursuant to this contract with CONSULTANT, CITY shares with CONSULTANT personal information as defined in California Civil Code section 1798.81.5(d) about a California resident ("Personal Information"), CONSULTANT shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform City immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. CONSULTANT shall not use Personal Information for direct marketing purposes without City's express written consent.

27.10 All unchecked boxes do not apply to this Agreement.

27.11 The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

27.12 This Agreement may be signed in multiple counterparts, which shall, when executed by all the parties, constitute a single binding agreement.

CONTRACT No. C19173980 SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

CONSULTANT

DocuSigned by:
Abe Leider
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Abe Leider

Principal

APPROVED AS TO FORM:

DocuSigned by:
Stephen M. Svete
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Stephen M. Svete

Vice President

Attachments:

- EXHIBIT "A": SCOPE OF SERVICES
- EXHIBIT "B": SCHEDULE OF PERFORMANCE
- EXHIBIT "C": COMPENSATION
- EXHIBIT "C-1": SCHEDULE OF RATES
- EXHIBIT "D": INSURANCE REQUIREMENTS

EXHIBIT “A” SCOPE OF SERVICES

This scope of services involves the preparation of an Initial Study-Mitigated Negative Declaration for the Cubberley Master Plan project area.

Task 1 Project Management

Subtask 1.1. Project Management

CONSULTANT will provide project management and administrative services including coordination with CITY staff, CONSULTANTS, and school district representatives as appropriate. CONSULTANT will prepare a master schedule for the CEQA process and will update the schedule regularly as milestones are reached. CONSULTANT will prepare monthly invoices which will include progress reports on tasks completed and billing milestones reached.

Deliverables:

- Master CEQA schedule and updates
- Monthly invoices with progress reports

Subtask 1.2. Project Meetings

CONSULTANT’s principal in charge and project manager will attend a kickoff meeting for the project. This meeting will serve as a forum to review and confirm study objectives and establish an operational protocol. Working schedules will be finalized and details for scheduled tasks will be discussed. CONSULTANT will use this opportunity to collect any relevant studies and information not already transmitted. The kickoff meeting will also provide an opportunity to thoroughly discuss the approach to environmental evaluation. Community concerns that have surfaced to date will also be discussed. CONSULTANT will also schedule and participate in monthly project telephone meetings to discuss project status, upcoming efforts and activities, issues that have arisen, and other relevant information. CONSULTANT will schedule the meetings and manage calendar invitations as well as prepare and circulate agendas prior to each meeting. After each meeting, CONSULTANT will circulate notes and action items and will follow-up on status of action items as appropriate.

Deliverables:

- Meeting agendas and minutes
- Action items list and updates

TASK 2: Environmental Assessment and Clearance

Subtask 2.1. Project Description

CONSULTANT will prepare a draft Project Description based on the Master Plan and will provide an electronic copy (Microsoft Word and PDF format) for review by staff prior to commencing the analysis. As a basis for the environmental analysis to follow, a clear and thorough description of the Master Plan is a critical first step in the CEQA process. Textual, tabular, and graphic presentation (with CITY and/or planning team-prepared maps, plans, renderings, or diagrams) will be included as necessary to facilitate a thorough understanding of the proposed plan and its potential implementation.

Deliverable:

- Project description in electronic format

Subtask 2.2. Administrative Draft Initial Study (IS)

CONSULTANT will address comments on the draft Project Description to prepare a final Project Description which will be used as a basis for the analysis in the Administrative Draft IS. CONSULTANT will prepare the Administrative Draft IS for CITY review. CONSULTANT will use the CITY's preferred IS format. The Administrative Draft IS will address all the items on the environmental checklist. Whenever possible, impacts will be quantified. To the maximum extent feasible, existing available information and studies will be used. If readily available data does not allow definitive quantification, reasonable assumptions will be used to qualitatively forecast potential impacts. Determinations will be made as to whether such measures are adequate to reduce impacts to less than significant levels. If necessary, mitigation measures will be developed and presented in programmatic wording such that mitigation measures can be implemented by future development under the Master Plan. Following each mitigation measure will be a discussion of the significance of the impact, and disposition with appropriate and feasible mitigation. CONSULTANT will submit 10 paper copies and an electronic copy in PDF and Word format of the Administrative Draft IS. CONSULTANT will coordinate with CITY staff to review the findings of the IS and make a recommendation on the type of CEQA document that will be required for the project.

The key issues that CONSULTANT will address in detail in the Initial Study will include:

- Air Quality
- Biological Resources
- Cultural and Historic Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Land Use and Planning Noise
- Public Services
- Traffic and Transportation
- Utilities and Service Systems

Detailed analysis of other checklist issues may be added as information arises during drafting of the Initial Study.

Deliverable:

- Administrative Draft IS (10 paper copies and electronic format)

Subtask 2.3. Draft IS-MND

Assuming the Administrative Draft IS concludes that all impacts can clearly be reduced to a less than significant level, CONSULTANT will respond to CITY comments on the Administrative Draft IS-MND, conduct final revisions and prepare the Draft IS-MND for public review. CONSULTANT will provide a single electronic screen check version of the Draft IS-MND for CITY review and approval prior to publication. Once approved to go to print, CONSULTANT will submit the Draft IS-MND in electronic format and will print up to 50 bound paper copies with appendices on a USB drive inside the back cover, as well as 15 copies on a CD as required

by the State Clearinghouse. CONSULTANT will prepare a Notice of Intent (NOI) to Adopt an IS-MND. CONSULTANT will be responsible for mailing of the IS-MND to the State Clearinghouse and County Clerk. CITY will be responsible for mailing to responsible/interested agencies and members of the public who have requested to be contacted, other relevant organizations and non-state agencies, and newspaper ad publication.

Deliverables:

- Draft IS-MND (50 paper copies and electronic format)
- Notice of Intent to Adopt an IS-MND
- State Clearinghouse required documents (15 CD copies and Notice of Completion)

Subtask 2.4. Final IS-MND

Upon receipt of public comments on the Draft IS-MND, CONSULTANT will prepare draft responses to comments for CITY review. This task assumes that up to twenty comment letters will be received, including one lengthy (over three pages) or substantive letter, that can be adequately responded to in a maximum of 44 professional staff hours. The actual level of effort required to respond will depend on the length, detail, and sophistication of the comments, in addition to the number of letters received. If the number and/or complexity of comments received exceeds this assumption, the level of effort will be evaluated. Upon receipt of CITY comments on the draft responses, CONSULTANT will incorporate changes and prepare the Administrative Final IS-MND. Following Final IS-MND approval, CONSULTANT will provide a PDF of the Final IS-MND (including responses to comments and the MMRP) and up to 20 bound paper copies. CONSULTANT will prepare the Notice of Determination (NOD). CITY will file the NOD.

The Final IS-MND will include a mitigation monitoring and reporting program (MMRP) in accordance with CITY requirements. The MMRP will be provided in a format designed for use by planners, environmental monitors, or code enforcement officers. The plan will be in detailed table format, and will compile the mitigation measures developed within the body of the EIR, as well as information necessary to monitor compliance with each measure.

Deliverables:

- Administrative Final IS-MND (electronic format)
- Responses to Comments on the Draft IS-MND (electronic format)
- Final IS-MND, including Responses to Comments (20 hard copies and electronic format)
- Mitigation Monitoring and Reporting Program
- Notice of Determination

Subtask 2.5. Public Hearings

CONSULTANT's principal in charge and/or project manager will attend two public hearings on the project. If desired, CONSULTANT will make a presentation at the hearings summarizing the environmental review process and IS-MND conclusions.

Deliverables

- PowerPoint presentation

**EXHIBIT “B”
SCHEDULE OF PERFORMANCE**

CONSULTANT shall perform the Services so as to complete each milestone within the date of execution of the Agreement to January 31, 2020. CONSULTANT shall provide a work plan of work consistent with the schedule below within 2 weeks of receipt of the notice to proceed. The schedule of work shall include an estimated budget for each task (and any others not identified below), including estimated work hours for each person working on that task and their billable rate. The CITY’s City Manager (or his designee(s)) shall approve the schedule of work, at which time it will become integrated into this contract.

MILESTONES

Kickoff Meeting - Within one week of Authorization to Proceed

2.1 Project Description - Within three weeks of kickoff meeting and receipt of all necessary project and site information

2.2 Admin. Draft Initial Study (IS) - Consultant will submit the Administrative Draft Initial Study within two weeks of City approval of project traffic study

2.3 Draft Initial Study-Mitigated Negative Declaration - Within two weeks of receipt of City comments on Administrative Draft Initial Study

2.4 Final IS-MND - Within two to three weeks of close of Public Review period and receipt of all comments on Draft IS-MND

2.6 Public Hearings - As scheduled

**EXHIBIT “C”
COMPENSATION**

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement, and as set forth in the budget schedule below. Compensation shall be calculated based on the hourly rate schedule attached as exhibit C-1 up to the not to exceed budget amount for each task set forth below.

CONSULTANT shall perform the tasks and categories of work as outlined and budgeted below. The CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories listed below provided the total compensation for Basic Services, including reimbursable expenses, and the total compensation for Additional Services do not exceed the amounts set forth in Section 4 of this Agreement.

BUDGET SCHEDULE	NOT TO EXCEED AMOUNT
Task 1 (Project Management)	\$7,080.00
Task 2 (Environmental Assessment and Clearance)	\$115,433.00
Sub-total Basic Services	\$122,513.00
Reimbursable Expenses	\$7,898.00
Total Basic Services and Reimbursable expenses	\$130,411.00
Additional Services (Not to Exceed)	\$13,041.00
Maximum Total Compensation	\$143,452.00

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost. Expenses for which CONSULTANT shall be reimbursed are:

A. Travel outside the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost subject to the City of Palo Alto's policy for reimbursement of travel and meal expenses for City of Palo Alto employees.

B. Long distance telephone service charges, cellular phone service charges, facsimile transmission and postage charges are reimbursable at actual cost.

All requests for payment of expenses shall be accompanied by appropriate backup information. Any expense anticipated to be more than \$500.00 shall be approved in advance by the CITY's project manager.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY's project manager's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT's proposed maximum compensation, including reimbursable expense, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY's Project manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement

EXHIBIT "C1" SCHEDULE OF RATES

Tasks	Rincon Labor Classification →		Principal / Director I	Senior Professional II	Senior Professional I	Professional II	Technical Editor	GIS/CADD Specialist I	Clerical/Administrative Assistant I
	Labor Cost	Hours							
			\$215	\$170	\$156	\$112	\$110	\$108	\$75
Task 1: Project Management									
Subtask 1.1: Project Management	\$4,520	30	4	18					8
Subtask 1.2: Project Meetings	\$2,560	14	4	10					
Task 2: Environmental Assessment and Clearance									
Subtask 2.1: Project Description	\$2,406	20	1	2		12		4	1
Subtask 2.2: Administrative Draft Initial Study	\$3,120	22	8				10		4
<i>Air Quality</i>	\$1,996	16		2	2	12			
<i>Biological Resources</i>	\$2,524	20		2	4	12		2	
<i>Cultural and Historic Resources (including historic evaluation)</i>	\$11,760	84	4	12	32	28		4	4
<i>Energy</i>	\$1,236	10		2		8			
<i>Geology and Soils</i>	\$2,308	18		2	4	12			
<i>Greenhouse Gas Emissions</i>	\$2,308	18		2	4	12			
<i>Land Use and Planning</i>	\$1,236	10		2		8			
<i>Noise</i>	\$3,448	29		2	2	24		1	
<i>Public Services</i>	\$1,344	11		2		8		1	
<i>Transportation and Traffic (Rincon labor only)</i>	\$788	6		2		4			
<i>Utilities and Service Systems</i>	\$1,236	10		2		8			
<i>Other CEQA Discussions (10)</i>	\$2,864	22		4	4	12		2	
Subtask 2.3: Draft IS-MND	\$1,710	14	2	4					8
Subtask 2.4: Final IS-MND									
<i>MMRP</i>	\$1,124	9	1	1		4		2	1
<i>Responses to Comments</i>	\$5,614	44	4	6		32			2
<i>Final IS-MND Publication</i>	\$731	7	1					2	4
Subtask 2.5: Public Hearings	\$2,720	16		16					
SUBTOTAL COST	\$ 57,553	430	29	93	52	196	10	18	32

Direct Cost Detail

Vehicle Costs	\$ 273
IS-MND Printed Copies (10 Admin Draft, 50 Draft, 20 Final)	\$ 7,625
Sound Level Metering Field Equipment	\$ 100
NWIC Records Search	\$ 1,000
Paleo Records Search	\$ 400
Hexagon Transportation Consultants	\$ 55,000
General and Administrative	\$ 8,460
Subtotal Additional Costs:	\$ 72,858

Summary

Professional Fees Subtotal	\$57,553
Direct Costs Subtotal	\$72,858
TOTAL PROJECT BUDGET	\$ 130,411

Rincon Schedule of Rates

Labor Categories	Hourly Rate
Principal / Director I	\$215
Senior Professional II	\$170
Senior Professional I	\$156
Professional II	\$112
Technical Editor	\$110
GIS/CADD Specialist I	\$108
Clerical / Administrative Assistant I	\$75

EXHIBIT "D" INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, **AFFORDED BY COMPANIES WITH AM BEST'S KEY RATING OF A-VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.**

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

REQUIRED	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER'S COMPENSATION EMPLOYER'S LIABILITY	STATUTORY STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$1,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY	\$1,000,000	\$1,000,000
		- EACH PERSON	\$1,000,000	\$1,000,000
		- EACH OCCURRENCE	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
YES	PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE	ALL DAMAGES	\$1,000,000	
YES	THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS' COMPENSATION, EMPLOYER'S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSURED CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

I. INSURANCE COVERAGE MUST INCLUDE:

- A. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.

II. CONTACTOR MUST SUBMIT CERTIFICATE(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE AT THE FOLLOWING URL: <https://www.planetbids.com/portal/portal.cfm?CompanyID=25569>.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO "ADDITIONAL INSURED"

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSURED.

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSURED UNDER THE POLICY SHALL NOT, FOR

THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSURED, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

VENDORS ARE REQUIRED TO FILE THEIR EVIDENCE OF INSURANCE AND ANY OTHER RELATED NOTICES WITH THE CITY OF PALO ALTO AT THE FOLLOWING URL:

[HTTPS://WWW.PLANETBIDS.COM/PORTAL/PORTAL.CFM?COMPANYID=25569](https://www.planetbids.com/portal/portal.cfm?companyid=25569)

OR

[HTTP://WWW.CITYOFPALOALTO.ORG/GOV/DEPTS/ASD/PLANET_BIDS_HOW_TO.ASP](http://www.cityofpaloalto.org/gov/depts/asd/planet_bids_how_to.asp)

Certificate Of Completion

Envelope Id: E19582A3C8424ADC834990E4984549FB	Status: Completed
Subject: Please DocuSign: C19173980 Initial Study Cubberley Master Plan Rincon Contract.docx	
Source Envelope:	
Document Pages: 20	Signatures: 2
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Christopher Anastole
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	250 Hamilton Ave
	Palo Alto , CA 94301
	chris.anastole@cityofpaloalto.org
	IP Address: 12.220.157.20

Record Tracking

Status: Original	Holder: Christopher Anastole	Location: DocuSign
5/8/2019 7:54:55 AM	chris.anastole@cityofpaloalto.org	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: City of Palo Alto	Location: DocuSign

Signer Events

Abe Leider
Aleider@rinconconsultants.com
Principal
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

3A7963A0D61D406...
Signature Adoption: Pre-selected Style
Using IP Address: 107.135.134.209

Timestamp

Sent: 5/8/2019 8:41:56 AM
Viewed: 5/8/2019 9:28:43 AM
Signed: 5/8/2019 12:03:00 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Stephen M. Svete
Svete@rinconconsultants.com
Vice President
Rincon Consultants, Inc.
Security Level: Email, Account Authentication (None)

DocuSigned by:

9EA12D8D2E5F4F5...
Signature Adoption: Pre-selected Style
Using IP Address: 76.126.64.86

Sent: 5/8/2019 12:03:02 PM
Viewed: 5/8/2019 12:04:57 PM
Signed: 5/22/2019 11:05:31 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Kristen O'Kane
Kristen.O'Kane@CityofPaloAlto.org
Assistant Director
Security Level: Email, Account Authentication (None)

COPIED

Sent: 5/22/2019 11:05:33 AM
Viewed: 5/22/2019 11:42:31 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	5/22/2019 11:05:33 AM
Certified Delivered	Security Checked	5/22/2019 11:05:33 AM
Signing Complete	Security Checked	5/22/2019 11:05:33 AM
Completed	Security Checked	5/22/2019 11:05:33 AM

Payment Events	Status	Timestamps
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