



# City of Palo Alto

## City Council Staff Report

(ID # 10379)

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**Report Type: Consent Calendar**

**Meeting Date: 6/24/2019**

**Summary Title: Approve Contract for \$89,860 with MIG for Baylands Conservation Plan Environmental Analysis**

**Title: Approval of Contract Number C19173981 With MIG, Inc. in the Amount of \$89,860 for Six Months for Environmental Analysis of the Baylands Comprehensive Conservation Plan**

**From: City Manager**

**Lead Department: Community Services**

### **Recommendation**

Staff recommends that City Council:

1. Approve a Professional Services Agreement with MIG, Inc., in an Amount Not to Exceed \$89,860 for environmental review of the Baylands Comprehensive Conservation Plan pursuant to the California Environmental Quality Act (CEQA)

### **Background**

The Baylands Comprehensive Conservation Plan (BCCP) project (PG-17000) was adopted as part of the Fiscal Year 2019 Adopted Capital Budget. The purpose of the BCCP is to develop guiding principles and best management practices to holistically manage the Palo Alto Baylands by balancing ecosystem protection, environmental education, and passive recreational uses. The BCCP will provide the City of Palo Alto with clear direction on how to manage the Baylands using an ecosystem-based model that considers both conservation and recreation goals. The BCCP will identify and include:

1. A vision, goals, objectives, and strategies that will define the management direction of the Baylands Nature Preserve for the next 15 years.
2. A prioritized Action Plan to realize the goals, objectives, and strategies that reflect current/anticipated funding, staffing and volunteer levels.
3. A Design Plan for the Byxbee Park Hills, which will build upon a 2015 Byxbee Park Hills Interim Plan.

4. An assessment of possible best uses for the 36.5-acre ITT antennae field located within the Baylands, which was dedicated as parkland in 2017.

### **Discussion**

The BCCP 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. The project area for the CEQA analysis encompasses an area of 1,976 acres located within the Baylands.

Request for Proposal (RFP) Number 173981 was released on January 30, 2019 to complete an environmental review of the BCCP in compliance with CEQA. The submittal deadline for proposals was February 28, 2019. One (1) proposal was received, and the decision was made to accept it based on the quality of the proposal, successful completion of previous similar projects by this consultant, and the project cost, which was within the amount budgeted for the CEQA analysis.

### **Resource Impact**

The total contract amount of \$89,860 for the environmental review of the Baylands Comprehensive Conservation Plan Capital Improvement Project PG-17000 is budgeted in the Fiscal Year 2019 Adopted Capital Budget.

### **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.

#### **Attachments:**

- Attachment A: C19173981 MIG Contract for Baylands Comp Conservation Plan

**CITY OF PALO ALTO CONTRACT NO. C19173981  
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND  
MOORE IACOFANO GOLTSMAN, INC.  
FOR PROFESSIONAL SERVICES**

This Agreement is entered into on this 24<sup>th</sup> day of June, 2019, (“Agreement”) by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and MOORE IACOFANO GOLTSMAN, INC., a California corporation, located at 2635 N. 1<sup>st</sup> Street, #149, San Jose, CA 95134 (“CONSULTANT”).

**RECITALS**

The following recitals are a substantive portion of this Agreement.

A. CITY intends to conduct environmental review in accordance with the California Environmental Quality Act (CEQA), including but not limited to preparation of an Initial Study, for the Baylands Comprehensive Conservation Plan (BCCP) (“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 in 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 Eighty Nine Thousand Eight Hundred Sixty Dollars (\$89,860.00). CONSULTANT agrees to complete all Basic Services, including reimbursable expenses, within this amount. 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 Laura Moran as the Principal-in-Charge to have supervisory responsibility for the performance, progress, and execution of the Services and Michelle Gibbs 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, 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. C19173981 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:  
  
D839BA54104845E...  
Paula Hartman  
  
Principal

APPROVED AS TO FORM:

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**

### **TASK 1: PROJECT MANAGEMENT**

#### **Subtask 1.1: Project Management**

CONSULTANT will work closely with CITY to develop the appropriate CEQA document to provide environmental clearance for the adoption and implementation of the Baylands Comprehensive Conservation Plan (BCCP). CONSULTANT will submit a Project Master Schedule to CITY within 1 week after an initial contract kickoff meeting with CITY (see Subtask 1.2 regarding project meetings below). CONSULTANT will update the schedule on a regular basis and provide the schedule as an attachment to agendas for regular meetings held with CITY (see Subtask 1.2). CONSULTANT will include a progress report with each monthly invoice. The progress report will identify the amount spent and the tasks completed to assure the project is on schedule and on budget.

#### ***Deliverables:***

- » Project Master Schedule and updates
- » Invoices with Progress Reports

#### **Subtask 1.2: Project Meetings**

This task includes monthly conference calls with CITY to discuss the status of the project. CONSULTANT will circulate an agenda to participants in advance. CONSULTANT will attach to each agenda the Project Master Schedule, minutes from previous meetings, Action Item List, and Project Status summary.

Additional meetings or conference calls with CITY may be held as well, including an initial contract kickoff meeting, and possibly meetings with other CITY departments or key stakeholders.

It is assumed that the kickoff meeting would be held in person, that there will be six monthly conference calls and that a total of four additional calls may be required for the project, for a total of 10 calls over the course of a year.

#### ***Deliverables:***

- » Meeting agendas and minutes
- » Action Items List

#### ***Cost Assumptions:***

- » One in person kick-off meeting and 10 conference calls would be held throughout the contract

## **TASK 2: ENVIRONMENTAL ASSESSMENT AND CLEARANCE**

### **Subtask 2.1: Compliance with CEQA**

CITY anticipates at this time that the appropriate document for CEQA clearance for the project is a Mitigated Negative Declaration (MND). Should CITY determine during this process that a different CEQA document is needed, CITY may require changes to this Scope of Services.

CONSULTANT shall prepare an Initial Study and Mitigated Negative Declaration (IS/MND) for the BCCP in the following steps:

#### ***Subtask 2.1.1: Initial Project Review***

CITY and other entities have completed multiple studies for projects in the Baylands. These sources provide a wealth of existing data for the BCCP CEQA setting and impact analysis. CONSULTANT shall review existing data and identify data gaps for the following issue areas:

- » Aesthetics and visual resources (i.e., scenic corridors and scenic vistas etc.)
- » Biological resources
  - » Vegetation and wetlands maps
  - » Sensitive species information
- » Cultural resources
- » Geology and soils
- » Data on hydrology and hydraulic constraints
- » Hazardous waste investigations
- » Land use and background noise data
- » Recreational resources and data
- » Data on infrastructure and services
- » Background traffic data

As part of this task, CONSULTANT shall perform the following records searches:

- » California Natural Diversity Data Base (CNDDDB);
- » Cultural records including a Sacred Lands File search; and
- » Environmental Data Resources (EDR) report for hazardous waste investigations and sites.

After reviewing the existing data, CONSULTANT will prepare a list of data gaps to discuss with CITY and will recommend methods to obtain the information after that

discussion, if necessary.

***Deliverables:***

» Summary of any identified data gaps

***Cost Assumptions:***

» No additional data collection would be required including biological data, background noise data, and background traffic data

***Subtask 2.1.2: Project Description***

CONSULTANT will work with CITY to prepare a clear and complete Project Description to include in the IS/MND. It will include a summary of the BCCP history and contents, a table of the Goals and Objectives of the BCCP, and a description of the future planned activities and which Best Management Practices would apply to the activity. Operations and maintenance as well as capital improvement projects will be described in as much detail as is available.

***Deliverables:***

» Two draft versions and one final version of the Project Description (including figures), each submitted electronically. (Preparation of design drawings for individual projects is not included.)

***Subtask 2.1.3: Administrative Draft Initial Study (IS)***

CONSULTANT will prepare an Administrative Draft IS for CITY staff review (electronic MSWord and/or pdf file) in a format approved by CITY. CONSULTANT will use CITY's CEQA Checklist provided by CITY's Department of Planning and Community Environment. As part of completion of the Administrative Draft IS, CONSULTANT will prepare a General Biological Resources Assessment technical report at the programmatic level. Emissions of criteria pollutants and greenhouse gases will also be calculated using the CalEEMod program to document the anticipated construction and operational emissions associated with planned projects (i.e., buildout of the BCCP); results would be included as an appendix to the MND. Vehicle miles traveled (VMT) estimates from CalEEMod would then be used to analyze impacts on traffic as well as to analyze noise impacts associated with buildout of the BCCP.

CONSULTANT will use the results of the cultural resources records search and EDR search to analyze impacts on cultural resources and hazards and hazardous materials. CONSULTANT shall conduct a California Historic Records Information System (CHRIS) search, a Sacred Lands file search, and request contacts from the Native American Heritage Commission (NAHC) on

tribes that may have an interest in the area. CONSULTANT shall prepare and send a brief letter to each of the tribes recommended by the NAHC to inform them of the project and to provide a contact for questions or comments.

CONSULTANT will use the results from the initial project review to complete the impact analyses for the remaining issue areas at a programmatic level, but with as much detail as possible to streamline the approval/permitting process for implementing future projects.

***Deliverables:***

- » 10 hard copies and one electronic Administrative Draft IS will be submitted to CITY for review and comment
- » One stand-alone General Biological Resources Assessment report will be included as an appendix to the IS

***Cost Assumptions:***

- » One version of the Administrative Draft IS with an attached Biological Resources Assessment Report and MMRP is included in this task
- » Costs are not included to provide AB 52 support. CONSULTANT can provide a cost estimate to support this effort if needed.

***Subtask 2.1.4: Draft IS***

In response to CITY comments on the Administrative Draft IS, Biological Resources Assessment Report, and MMRP, a Draft IS and associated Biological Resources Assessment Report and MMRP will be prepared and submitted for final CITY review and approval.

***Deliverables:***

- » 10 hard copies and one electronic copy of the Draft IS will be submitted to CITY for review and final comment before release to the public for the 30-day public comment period

***Cost Assumptions:***

- » One version of the Draft IS with an attached Biological Resources Assessment Report and MMRP is included in this task

***Subtask 2.1.5: Public Draft IS/MND***

CONSULTANT will prepare the Public Draft IS/MND for release to the public for a 30-day public comment period. CONSULTANT will prepare the notice of intent to adopt a MND. CONSULTANT will complete all necessary mailings for the Public Draft IS/MND.

***Deliverables:***

- » 15 hard copies and one electronic copy of the Public Draft IS/MND and Notice of Completion filed with the State Clearinghouse

- » Notice of Availability (NOA) of the Public Draft IS/ MND for publication in the newspaper by CITY

***Cost Assumptions:***

- » It is assumed that no more than 15 hard copies of the Public Draft IS/MND will be required
- » CITY shall be responsible for publication of all newspaper ads and circulation of the Public Draft IS/ MND to parties requesting a copy

***Subtask 2.1.6: Proposed Final MND***

Upon receipt of public comments on the Public Draft IS/MND, CONSULTANT will prepare a Proposed Final MND in response to public comments. The Proposed Final MND will identify all changes in redline and strike-out if desired by CITY. It will be submitted to CITY for review and comment. A screencheck Proposed Final MND will then be prepared to address CITY comments and submitted to CITY for final concurrence before it is included in the staff report for decision-maker hearings to adopt the MND.

In this task, CONSULTANT will support CITY in preparation of CEQA Findings for the project and in support of preparation of the initial staff report.

***Deliverables:***

- » 10 hard copies and one electronic copy of the Proposed Final MND will be submitted to CITY for review and final comment
- » One electronic screencheck Proposed Final MND will be submitted to CITY for inclusion in the initial staff report to decision-makers.
- » CEQA Findings will be submitted electronically to CITY for inclusion in the staff report; one draft and one final version are assumed

***Cost Assumptions:***

- » It is assumed that formal responses to comments will not be made for the MND
- » It is assumed that no more than 10 hard copies of the first version of the Proposed Final MND will be required
- » It is assumed that the final version of the Proposed Final MND for inclusion in the staff report will be submitted electronically
- » One draft and one final version of CEQA Findings would be submitted

***Subtask 2.1.7: Public Meetings/Hearings***

CONSULTANT will attend up to three decision-maker hearings for the project and provide updates to the MND and CEQA Findings as necessary throughout the decision-making process.

The cost estimate is based upon the assumption that CONSULTANT would attend and

potentially present at a total of three decision-maker hearings.

***Deliverables:***

- » Attendance and presentation at three decision- maker hearings
- » Power point presentations for each decision-maker hearing if required
- » Amendments to the MND and/or CEQA Findings as necessary during the decision-making process

***Cost Assumptions:***

- » It is assumed that no more than three rounds of revisions to the MND and CEQA Findings would be required

***Subtask 2.1.8: Final MND and Notice of Determination***

Following decision-maker hearings on the adoption of the MND, CONSULTANT will prepare and file the Notice of Determination (NOD) for the project with the State Clearinghouse and County Clerk. CONSULTANT will pay for all filing fees with the County Clerk as well as California Department of Fish and Wildlife (CDFW) filing fees for the MND.

***Deliverables:***

- » Notice of Determination filed with the State Clearinghouse and County Clerk
- » Payment of filing fees with County Clerk and CDFW filing fees
- » 10 hard copies and one electronic copy of the Final MND and NOD submitted to CITY

**EXHIBIT “B”  
SCHEDULE OF PERFORMANCE**

CONSULTANT shall perform the Services within the term of this Agreement. Within 2 weeks of receipt of the notice to proceed, CONSULTANT shall provide a work plan with a schedule for and including the tasks and subtasks below. 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. CITY’s Project Manager shall approve the schedule of work, at which time it will become integrated into this contract.

**MAJOR MILESTONES**

Task 1 Project Management

Task 2 Environmental Assessment and Clearance

Project Description

Admin. Draft Initial Study (IS)

Draft Initial Study

Public Draft IS/MND

Public Hearings

Final MND

**EXHIBIT “C”  
COMPENSATION**

CITY agrees to compensate 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. 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.

<b>BUDGET SCHEDULE</b>	<b>NOT TO EXCEED AMOUNT</b>
Task 1 (Project Management)	\$9,490.00
Task 2 (Environmental Assessment and Clearance)	\$76,530.00
 Sub-total Basic Services	 <b>\$86,020.00</b>
Reimbursable Expenses	\$3,840.00
 Total Basic Services and Reimbursable expenses	 \$89,860.00
 Maximum Total Compensation	 \$89,860.00

**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. Expenses for which CONSULTANT shall be reimbursed are:

Direct costs or project expenses such as photocopying (large-quantity); plotting; and printing (band, color) are charged at cost, plus 10%. The mileage charge for personal autos will be the currently applicable mileage rate established by the Internal Revenue Service. All other travel expenses such as accommodations, parking, tolls, etc. are charged at cost,

plus 10%.

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**

CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. CONSULTANT, at 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 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 "C-1"**  
**SCHEDULE OF RATES**

<b>Labor Categories</b>	<b>Hourly Rate</b>
Principal in Charge	\$220
Project Manager	\$175
Deputy Project Manager	\$175
Senior CEQA Analyst	\$195
Director of Biological Analysis	\$170
Senior Biologist	\$150
CEQA Analyst/Biologist	\$95
CEQA Analyst/Archaeologist	\$130
CEQA Analyst/Historian	\$115
Senior CEQA Analyst/Air Quality and Noise	\$190
Ecologist/Permitting Specialist	\$95
Project Administrator	\$95

## 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 - EACH PERSON - EACH OCCURRENCE	\$1,000,000 \$1,000,000 \$1,000,000	\$1,000,000 \$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	<b>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED:</b> 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 INSUREDS CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

I. INSURANCE COVERAGE MUST INCLUDE:

- A. A PROVISION FOR A WRITTEN THIRTY (30) DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND
- B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.
- C. DEDUCTIBLE AMOUNTS IN EXCESS OF \$5,000 REQUIRE CITY'S PRIOR APPROVAL.

II. CONTACTOR MUST SUBMIT CERTIFICATES(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 INSUREDS"

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 INSUREDS.

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>

**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)