



# Board Agenda Item 74

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DATE: December 14, 2021

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director  
Department of Public Works and Planning

SUBJECT: Assignment of Agreement No. 20-144 and authorization for an Amended and Restated Consultant Agreement with Rincon Consultants, Inc. to Complete the County's General Plan Review and Zoning Ordinance Update Project

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute the Assignment and Consent to Assignment Agreement, assigning the existing Amended and Restated Consultant Agreement No. 20-144 with Mintier Harnish, LP with a remaining balance of \$610,288.64 to Rincon Consultants, Inc. for the completion of a Program Environmental Impact Report, community outreach, workshops and preparation of final documents for the County's General Plan Review and Zoning Ordinance Update project, effective December 14, 2021;**
- 2. Make a finding that it is in the best interest of the County to suspend the competitive bidding process consistent with Administrative Policy No. 34 for unusual or extraordinary circumstances in that the recommended vendor has specific experience with the General Plan Review and Zoning Ordinance Update; and**
- 3. Approve and authorize the Chairman to execute an Amended and Restated Consultant Agreement, to replace Consultant Agreement No. 20-144 with Rincon Consultants, Inc., updating the scope of work related to the General Plan Review, Comprehensive Zoning Ordinance Update and associated Program Environmental Impact Report, including revising the proposed planning horizon of the General Plan Review to 2042, which Amended and Restated Consultant Agreement becomes effective upon execution, with no change to the term through final payment and increasing the maximum by \$66,769.36 to a total of \$1,195,044.30.**
- 4. Retroactively approve the notice to proceed issued by the Department of Public Works and Planning to Rincon Consultants, Inc., and authorize Rincon Consultants, Inc. to begin providing services under Amended and Restated Consultant Agreement No. 20-144.**

The first recommended action authorizes the Chairman to execute the attached Assignment and Consent to Assignment, assigning the existing Amended and Restated Consultant Agreement No. 20-144 (Consultant Agreement) from Mintier Harnish LP to Rincon Consultants, Inc. (Rincon) for completion of work associated with the General Plan Review and Zoning Ordinance Update project.

The second recommended action authorizes your Board to make a finding that it is in the best interest of the County to suspend the competitive bidding process and transfer the remaining project duties to Rincon Consultants, Inc. The third recommended action authorizes the Chairman to execute an Amended and

Restated Consultant Agreement with Rincon Consultants, Inc. and increase the overall agreement maximum by \$66,769.36 to accommodate Rincon's revised scope of work (SOW) while revising the General Plan planning horizon to 2042 to maintain a twenty-year horizon based on anticipated project completion in 2022. Because the Department of Public Works and Planning (Department) has already issued a notice to proceed to Rincon, the Department requests that your Board also authorize Rincon to begin providing services under the Consultant Agreement. The fourth action would retroactively approve the notice to proceed issued by the Department to Rincon in October of this year.

Approval of the third recommended action will increase the compensation amount through the Amended and Restated Consultant Agreement. The third recommended action would also amend the SOW on the General Plan Review, Comprehensive Zoning Ordinance Update, and associated Program Environmental Impact Report (PEIR) to accommodate the Rincon's revised work program while still ensuring the final documents meet the requirements of State law and while providing for continued additional coordinated public outreach.

ALTERNATIVE ACTION(S):

Your Board may direct Department staff to not proceed with the recommended actions, however, the County would be without a consultant to complete the remaining components of the General Plan Review and Zoning Ordinance Update, including the PEIR, which could delay the project.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

County Administrative Policy No. 34 provides exceptions to the requirement that competitive bids or request for proposals shall be secured for all contracts for goods or services acquired by the County. Included in the exceptions are situations of unusual or extraordinary circumstances, in which the Board of Supervisors may find that the best interests of the County would be served by not securing competitive bids or issuing a request for proposal. The Suspension of Competition form is attached to the Agenda Item as Attachment "A".

Staff is recommending Rincon both for the reasons cited above and because Rincon has been the primary environmental subconsultant for the GPR-ZOU and possesses much project familiarity. Rincon is also an environmental and land use consulting firm with local and state-wide offices that is in good standing on the Department's environmental consultant list. To re-bid the project would cause the County to expend additional funds and time beyond the project scope amount and anticipated schedule. A new consultant would need additional time, likely months, to become familiar with the project. Further, much of the remaining tasks are associated the PEIR; work in which Rincon was already directly involved. Rincon assuming the remaining duties of the project would also allow for streamlining of coordination and document preparation timelines between Department staff and Rincon. The Internal Service Department - Purchasing concurs with the Department's request to suspend the competitive bidding process.

FISCAL IMPACT:

There is no Net County Cost associated with the recommend actions, one, two, and four. The remaining agreement balance of \$610,288.64 has been previously allocated by prior Board action which authorized Consultant Agreement (and its predecessor Consultant Agreement No. 15-530) for a total of \$1,128,275.

The Net County Cost increase associated with the recommended action three is \$66,769.36. The maximum compensation for the recommended agreement will increase from \$1,128,275 to \$1,195,044.30. Sufficient appropriations are available in the Org 2540 - Interest and Miscellaneous Expenditures - FY 2021-22 Adopted Budget to fund the increase. As of November 2, 2021, \$610,288.64 in remaining funds consists of a remaining basic fee of \$510,213.20 and extra services of \$100,075. The revised SOW will reduce the extra services fee (contingencies) to \$50,000 but will increase the overall basic fee requiring an additional allocation of \$66,769.36.

DISCUSSION:

In December of 2014 the Board directed Department staff to move forward with preparation of a new Environmental Impact Report (EIR) for the General Plan Review and Zoning Ordinance Update (GPR-ZOU) with a cost not to exceed \$850,000. In October of 2015 the Board approved a Scope of Work for preparation of a new EIR and authorized the predecessor agreement to the current Consultant Agreement (Consultant Agreement No. 15-530) with Mintier Harnish, LP, a land use planning consultant which had already been retained by the County, to complete the GPR-ZOU.

Rincon was selected as a subconsultant to prepare a PEIR for this effort.

On April 14, 2020, your Board authorized the current version of the Consultant Agreement (Amended and Restated Agreement No. 20-144) with Mintier Harnish, LP, which amended the original SOW for the GPR-ZOU to accommodate changes in State law and to provide for additional coordinated public outreach.

The Department and Mintier-Harnish mutually recommended assignment of the Consultant Agreement to permit the existing subconsultant to complete the balance of the work for the GPR/ZOU due to much of the remaining tasks being associated with the PEIR. This would also allow for streamlining of coordination and document preparation timelines between Department staff and Rincon. Because both the original Agreement and its amendment were considered and approved by your Board, Board approval is required for this Assignment of Amended and Restated Consultant Agreement.

As previously stated, Rincon has been the primary environmental subconsultant for the GPR-ZOU and possesses much project familiarity. Rincon is also an environmental and land use consulting firm with local and state-wide offices that is in good standing on the Department's environmental consultant list. To re-bid the project would cause the County to expend additional funds and time beyond the project scope amount and anticipated schedule. A new consultant would need additional time, likely months, to become familiar with the project.

The revised SOW and consultant's cost estimate are included as Attachment B.

The recommended Amended and Restated Agreement addresses Rincon's and County's obligations for additional compensation, while preserving the original agreement's maintenance of the required insurance, provision for termination of contract, ownership of work product, amendment to the contract, audit and inspection, maintaining administrative records, and contract administration, and allowance for contingencies.

Based on an anticipated project completion date of 2022, staff has revised the General Plan planning period in the Project Description (Exhibit A of the Amended and Restated Consultant Agreement) to 2042. This would maintain a twenty-year period between adoption of the revised General Plan Document and conclusion of the planning period. A twenty-year planning horizon is consistent with general plan laws, County practice, and Office of Planning and Research guidelines.

In order to avoid any delay in the preparation of the PEIR, on October 19, 2021, the Department issued a notice to proceed to Rincon. Under the fourth recommended action, your Board would ratify the notice to proceed and authorize Rincon to perform services under the Consultant Agreement.

OTHER REVIEWING AGENCIES:

The GPR/ ZOU and PEIR preparation process continues to be coordinated with the various affected County Departments as well as affected local, State and Federal agencies. In addition, there will continue to be opportunities for public input during the preparation of the PEIR, and during the public hearing process.

REFERENCE MATERIAL:

BAI #8, September 21, 2021  
BAI #37, April 14, 2020  
BAI #8, August 21, 2018  
BAI #15, May 16, 2017  
BAI #11, October 13, 2015  
BAI #7, June 2, 2015  
BAI #6, December 9, 2014  
BAI #7, December 9, 2014  
BAI #14, September 30, 2014  
BAI #15, March 12, 2013  
BAI #13, December 4, 2012  
BAI #25, September 23, 2008  
BAI #19, July 22, 2008  
Special Hearing, December 15, 2006  
BAI #89, June 13, 2006  
Special Hearing, December 9, 2005

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - B  
On file with Clerk - Assignment  
On file with Clerk - Amended and Restated Consultant Agreement

CAO ANALYST:

Ron Alexander