

**ASSIGNMENT OF
AMENDED AND RESTATED CONSULTANT AGREEMENT, NO. 20-144
AND
COUNTY OF FRESNO CONSENT TO ASSIGNMENT**

This ASSIGNMENT OF AMENDED AND RESTATED CONSULTANT AGREEMENT, NO. 20-144, AND COUNTY OF FRESNO CONSENT TO ASSIGNMENT (hereinafter “**Assignment and Consent to Assignment**”) is made and entered into this 16th day of November, 2021 (the “**Execution Date**”), by and among COUNTY OF FRESNO, a political subdivision of the State of California (hereinafter “**COUNTY**”), MINTIER HARNISH, LP, a California limited partnership (hereinafter “**ASSIGNOR**”), whose address is 1415 20th Street, Sacramento, CA 95811, and RINCON CONSULTANTS, INC., a California corporation (hereinafter “**ASSIGNEE**”), whose address is 7080 N. Whitney Avenue, Suite 101, Fresno, CA 93720, each a “**Party**” and, collectively, the “**Parties.**”

RECITALS:

A. On October 15, 2015, COUNTY and ASSIGNOR executed County of Fresno agreement number 15-530 (the “**Original Agreement**”), under which ASSIGNOR was selected to provide consulting services to COUNTY associated with COUNTY’s General Plan Review and Zoning Ordinance Update project (the “**GPRZOU**”).

B. The GPRZOU consists of (i) a review of COUNTY’s 2000 General Plan and comprehensive update to COUNTY’s Zoning Ordinance to address recent policy direction given by the Board of Supervisors and address recent changes to State planning law, (ii) the preparation of a program Environmental Impact Report (EIR), and (iii) conducting public meetings, including but not limited to those with the Planning Commission and Board of Supervisors necessary for the adoption of the program EIR, policy documents, and ordinances.

C. On April 14, 2020, COUNTY and ASSIGNOR executed an Amended and Restated Consultant Agreement, County of Fresno agreement number 20-144 (the “**Amended Agreement**”), which superseded and replaced the Original Agreement in its entirety.

D. ASSIGNOR has delivered to COUNTY “Contract Deliverables” numbered I through VIII, XI, and a portion of XII as defined in subsection 3.B of the Amended Agreement. ASSIGNOR has also performed certain “Extra Services,” as defined in subsection 3.C of the Amended Agreement.

1 E. COUNTY has fully compensated ASSIGNOR for its completion of Contract Deliverables
2 numbered I through VIII, XI, and the above-referenced portion of XII, as well as for the above-referenced
3 Extra Services. Such compensation amounts to Five Hundred and Seventeen-Thousand, Nine Hundred
4 and Eighty-Six Dollars and Thirty-Six Cents (\$517,986.36) which includes Twenty-Five Thousand, Two
5 Hundred and Seventy-Four Dollars and Fifty-Six Cents (\$25,274.56) in Extra Services.

6 F. As of the Execution Date of this Assignment and Consent to Assignment, Contract
7 Deliverables IX, X, portions of XII, and all of XIII through XVI ("Remaining Deliverables") have not yet
8 been performed, with an amount not to exceed Five-Hundred and Ten Thousand, Two-Hundred and
9 Thirteen Dollars and Twenty Cents (\$510,213.20) remaining payable for such services once they are
10 performed. One-Hundred Thousand, Seventy-Five Dollars and Forty-Four Cents (\$100,075.44) remain
11 payable available for Extra Services.

12 G. Under the Original Agreement and Amended Agreement ASSIGNEE performed work as
13 a named sub-consultant to ASSIGNOR.

14 H. The Amended Agreement, at section 19, requires COUNTY consent for ASSIGNOR to
15 transfer the Amended Agreement or its rights or duties under the Amended Agreement.

16 I. ASSIGNOR represents and warrants to COUNTY that ASSIGNOR wishes to transfer and
17 assign all of its rights and interest in, and delegate all of its obligations and duties under the Amended
18 Agreement, in its entirety, as of the Effective Date, to ASSIGNEE, as provided herein.

19 J. ASSIGNEE represents and warrants to COUNTY that ASSIGNEE desires to, and is
20 qualified to, accept the transfer and assignment of all of the rights and interest of ASSIGNOR in, and
21 delegation of all of the obligations and duties of ASSIGNOR under the Amended Agreement, in its
22 entirety, as of the Effective Date, and agrees to each and every term and condition of the Amended
23 Agreement, in its entirety, as provided herein.

24 K. ASSIGNEE understands that the California Environmental Quality Act (CEQA) requires
25 that the program EIR prepared for the GPRZOU reflect the independent judgment of the lead agency.

26 L. ASSIGNEE understands that it must meet the requirements for an interdisciplinary
27 approach in the preparation of the program EIR, as specified in Article 9 of the CEQA Guidelines
28 (sections 15120 through 15132), and that the ASSIGNEE must have no interest, financial or otherwise,

1 in the outcome of the GPRZOU or any related projects.

2 M. ASSIGNEE represents that it has no interest, financial or otherwise, in the outcome of
3 the GPRZOU or any related projects

4 N. ASSIGNEE represents that it is qualified, able, and willing to prepare a legally adequate
5 program EIR and to otherwise deliver the necessary environmental consulting services as are required
6 by COUNTY and as are required by law for the GPRZOU, which representation COUNTY specifically
7 relies upon.

8 O. In reliance on the foregoing representations, and under the conditions herein, COUNTY
9 is agreeable to this Assignment and Consent to Assignment.

10 NOW THEREFORE, in consideration of the foregoing recitals, which are substantive provisions
11 of this Assignment and Consent to Assignment, and incorporated herein by reference, and of the
12 following covenants and conditions, COUNTY, ASSIGNOR, and ASSIGNEE hereby agree as follows:

13 1. **Assignment.** Upon the Effective Date, ASSIGNOR, without qualification or reservation
14 of right, hereby transfers and assigns all of its remaining rights and interest in, and delegates all of its
15 remaining obligations and duties under, the Amended Agreement, in its entirety, to ASSIGNEE, as of
16 the Effective Date. Upon the Effective Date, ASSIGNEE, without qualification or reservation of right,
17 hereby accepts ASSIGNOR's transfer and assignment of all of ASSIGNOR's remaining rights and
18 interest in, and ASSIGNOR's delegation of all of its remaining obligations and duties under, the
19 Amended Agreement, in its entirety, as a direct obligation and duty to COUNTY, assumed by
20 ASSIGNEE.

21 a. ASSIGNOR hereby relinquishes all remaining rights and interest under the
22 Amended Agreement, in its entirety, upon and at all times continuing after the Effective Date.
23 ASSIGNOR shall only be entitled under the Amended Agreement to compensation by COUNTY for
24 services performed and accepted by COUNTY prior to the Effective Date hereof. ASSIGNOR agrees
25 that COUNTY has fully compensated ASSIGNOR for its completion of Contract Deliverables numbered
26 I through VIII, XI, and a portion of XII in the amount of Five Hundred and Seventeen-Thousand, Nine
27 Hundred and Eighty-Six Dollars and Thirty-Six Cents (\$517,986.36) which includes Twenty-Five
28 Thousand, Two Hundred and Seventy-Four Dollars and Fifty-Six Cents (\$25,274.56) in Extra Services.

1 ASSIGNOR represents that, as of the Effective date, it is not entitled to any further compensation from
2 COUNTY under the Amended Agreement.

3 b. ASSIGNEE agrees to be bound, upon the Effective Date and at all times
4 continuing thereafter until such time as ASSIGNEE has completed all obligations owed under the
5 Amended Agreement, by each and every term and condition of the Amended Agreement.

6 c. ASSIGNOR represents and warrants to COUNTY that ASSIGNOR is not in
7 breach of or default under the Amended Agreement and that ASSIGNOR will provide an orderly
8 transition of the performance of its obligations and duties under the Amended Agreement from
9 ASSIGNOR to ASSIGNEE.

10 d. Upon the Effective Date, ASSIGNEE, without qualification or reservation of right,
11 hereby accepts ASSIGNOR's transfer and assignment of all of ASSIGNOR's remaining rights and
12 interest in, and ASSIGNOR's delegation of all of its remaining obligations and duties under, the
13 Amended Agreement, in its entirety, as of the Effective Date hereof, as a direct obligation and duty to
14 COUNTY, assumed by ASSIGNEE.

15 e. Upon the Effective Date and at all times continuing thereafter until such time as
16 ASSIGNEE has completed all of ASSIGNOR's remaining obligations and duties owed under the
17 Amended Agreement, as of the Effective Date, ASSIGNEE agrees to each and every term and condition
18 of the Amended Agreement, in its entirety, and to perform each and every one of ASSIGNOR's
19 remaining obligations and duties under the Amended Agreement, in its entirety, as of the Effective Date,
20 as though ASSIGNEE was the signatory party to the Amended Agreement, in lieu of ASSIGNOR.

21 f. ASSIGNEE shall only be entitled under the Amended Agreement to compensation
22 by COUNTY for Contract Deliverables accepted by COUNTY after the Effective Date hereof or "Extra
23 Services," as defined in section 3.C of the Amended Agreement, requested by COUNTY after the
24 Effective Date. ASSIGNEE shall perform the Remaining Deliverables. Compensation shall not exceed
25 Five Hundred and Ten Thousand, Two Hundred and Thirteen Dollars and Twenty Cents (\$510,213.20)
26 for these Remaining Deliverables and One-Hundred Thousand, Seventy-Five Dollars and Forty-Four
27 Cents (\$100,075.44) for "Extra Services," as defined in section 3.C of the Amended Agreement.

28 2. **Consent to Assignment.** COUNTY hereby gives its written consent to ASSIGNOR's

1 transfer and assignment of all of ASSIGNOR's remaining rights and interest in, and ASSIGNOR's
2 delegation of all of its remaining obligations and duties under, the Amended Agreement, in its entirety,
3 as of the Effective Date hereof, to ASSIGNOR, as provided herein, which written consent is given in
4 reliance upon all of the representations and covenants made herein by ASSIGNOR and ASSIGNEE,
5 respectively, each of which is a material inducement to COUNTY entering into this Assignment and
6 Consent to Assignment.

7 3. **Acceptance of Notices under Amended Agreement by ASSIGNEE.** Upon the
8 Effective Date and at all times continuing thereafter until such time as ASSIGNEE has completed all
9 obligations owed under the Amended Agreement, ASSIGNEE will accept all notices under the Amended
10 Agreement, pursuant to section 18 of the Amended Agreement at the following address:

11 Rincon Consultants, Inc.
12 Attn: Richard Daulton, Vice President
13 7080 N. Whitney Avenue, Suite 101
14 Fresno, CA 93720

15 4. **Additional Provisions:**

16 a. **Insurance.** Within thirty days of the Effective Date, ASSIGNEE shall provide
17 certificates of all insurance and endorsements required under subsection 4.B of the Amended
18 Agreement to COUNTY as provided by subsection 5.c hereof. ASSIGNOR represents and warrants that
19 there are, as of the Effective Date, no material claims or actions under any of the insurance coverages
20 or policies required under subsection 4.B of the Amended Agreement.

21 b. **Representations and Warranties.** ASSIGNOR and ASSIGNEE each
22 individually represent and warrant to COUNTY that (i) the execution, delivery and performance by the
23 ASSIGNOR or ASSIGNEE, respectively, under this Assignment and Consent to Assignment shall not,
24 by the lapse of time, the giving of notice or otherwise, constitute a violation of any applicable law or
25 breach of or default under any provision contained in any agreement, instrument, or document to which
26 the ASSIGNOR or ASSIGNEE, respectively, is bound, (ii) that there are no proceedings pending or
27 threatened against ASSIGNOR or ASSIGNEE, respectively, before any court or administrative agency
28 that may adversely affect ASSIGNOR's or ASSIGNEE's, respectively, ability to fulfill all of its obligations
under this Assignment and Consent to Assignment, (iii) no filing or petition under the United States

1 Bankruptcy Law or any insolvency laws, or any laws for composition of indebtedness or for the
2 reorganization of debtors has been filed or threatened with regard to ASSIGNOR or ASSIGNEE,
3 respectively, or is expected to be filed with regard to ASSIGNOR or ASSIGNEE, respectively, within any
4 period of time that would adversely affect the transactions contemplated under this Assignment and
5 Consent to Assignment, and (iv) ASSIGNOR or ASSIGNEE, respectively, has taken all actions and has
6 obtained all consents and approvals necessary to enable such Party to enter into this Assignment and
7 Consent to Assignment, to be bound hereby, to consummate the transactions contemplated hereby and
8 to fulfill all of its obligations hereunder, including giving the representations and warranties hereunder to
9 COUNTY. ASSIGNOR represents and covenants to COUNTY that ASSIGNOR has not transferred or
10 assigned any right or interest in the Amended Agreement, or delegated any obligations or duties under
11 the Amended Agreement to any other party.

12 c. **Notices.** All notices, consents, approvals, requests, correspondence, documents,
13 reports, demands and other communications (collectively, "notice") which the Parties are required or
14 desire to serve upon or deliver to one another under this Assignment and Consent to Assignment shall
15 be in writing and shall be sent by any of the following methods: (a) personal delivery, in which case
16 notice is effective upon delivery; (b) certified or registered United States mail, return receipt requested,
17 in which case notice shall be deemed effective upon receipt if delivery is confirmed by a return receipt;
18 or (c) nationally recognized overnight courier, with charges prepaid or charged to the sender's account,
19 in which case notice is effective on delivery if delivery is confirmed by the delivery service addressed in
20 the appropriate manner for the method of service, as set forth below:

21 **COUNTY:**

22 Director of Public Works and Planning
23 County of Fresno
24 2220 Tulare Street, Eighth Floor
25 Fresno, CA 93721

ASSIGNOR:

Mintier Harnsih, LP
1415 20th Street
Sacramento, CA 95811

ASSIGNEE:

26 **With Copies to:**

27 Fresno County Counsel
28 2220 Tulare Street, Fifth Floor
Fresno, CA 93721

Rincon Consultants, Inc.
Attn: Richard Daulton
7080 N. Whitney Avenue, Suite 101
Fresno, CA 93720

For all claims arising out of or related to this Assignment and Consent to Assignment, nothing in this

1 Section 6 establishes, waives, or modifies any claims presentation requirements or procedures provided
2 by law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government
3 Code, beginning with section 810).

4 d. **Assignment.** This Assignment and Consent to Assignment shall not be
5 transferred or assigned, nor shall any obligation or duty hereunder be delegated, by any Party hereto,
6 or its successor or assign.

7 e. **Governing Law and Venue.** This Assignment and Consent to Assignment is
8 made and entered into in the State of California and shall be deemed to have been executed and
9 delivered within the State of California, and the rights and obligations of the parties hereunder shall be
10 governed by, and construed, and enforced in accordance with the laws of the State of California. Any
11 suits brought pursuant to this Assignment and Consent to Assignment shall be filed and heard in courts
12 having jurisdiction and located in the Fresno County, State of California.

13 f. **Construction.** The Parties hereby acknowledge that they and their respective
14 counsel have cooperated in the drafting and preparation of this Assignment and Consent to Assignment,
15 for which reason this Assignment and Consent to Assignment shall not be construed against any Party
16 as the drafter hereof.

17 g. **Headings.** The headings contained in this Assignment and Consent to
18 Assignment are for reference purposes only and shall not affect in any way the meaning or interpretation
19 hereof.

20 h. **No Third-Party Beneficiaries.** The Parties acknowledge and agree that no other
21 person, firm, corporation, or entity shall be deemed an intended third-party beneficiary of this
22 Assignment and Consent to Assignment.

23 i. **Legal Authority.** Each Party represents and warrants to each other Party that
24 such Party is duly authorized and empowered to execute, enter into, and perform its obligations set forth
25 in this Assignment and Consent to Assignment, and that the individual signing this Assignment and
26 Consent to Assignment on behalf of such Party has been duly authorized to execute this Assignment
27 and Consent to Assignment on behalf of such Party, and will, by signing this Assignment and Consent
28 to Assignment on such Party's behalf, legally bind such Party to the terms, covenants, and conditions of

1 this Assignment and Consent to Assignment. Each Party further represents and warrants to each other
2 Party that no other person or entity is required to give its approval or consent to this Assignment and
3 Consent to Assignment in order for such Party to authorize, enter into, and perform its obligations under
4 this Assignment and Consent to Assignment, or that if such approval or consent to this Assignment and
5 Consent to Assignment is required, that such approval or consent has been obtained.

6 j. **Counterparts.** This Assignment and Consent to Assignment may be executed in
7 one or more original counterparts, all of which together will constitute one and the same agreement.

8 k. **Entire Agreement.** This Assignment and Consent to Assignment constitutes the
9 entire agreement between COUNTY, ASSIGNOR, and ASSIGNEE with respect to the subject matter
10 hereof, namely the assignment of the Agreement, as amended by the Amendment, and supersedes all
11 previous agreements, negotiations, proposals, commitments, writings, advertisements, publications,
12 and understanding of any nature whatsoever, except for the Amended Agreement as provided in this
13 Assignment and Consent to Assignment.

14 l. **Electronic Signatures.** The Parties agree that this Assignment and Consent to
15 Assignment may be executed by electronic signature as provided in this section.

16 i. An "electronic signature" means any symbol or process intended by an
17 individual signing this Assignment and Consent to Assignment to represent their signature, including but
18 not limited to (1) a digital signature; (2) a faxed version of an original handwritten signature; or (3) an
19 electronically scanned and transmitted (for example by PDF document) of a handwritten signature.

20 ii. Each electronic signature affixed or attached to this Assignment and
21 Consent to Assignment (1) is deemed equivalent to a valid original handwritten signature of the person
22 signing this Assignment and Consent to Assignment for all purposes, including but not limited to
23 evidentiary proof in any administrative or judicial proceeding, and (2) has the same force and effect as
24 the valid original handwritten signature of that person.

25 iii. The provisions of this section satisfy the requirements of Civil Code
26 section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2,
27 Title 2.5, beginning with section 1633.1).

28 iv. Each Party using a digital signature represents that it has undertaken and

1 satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through
2 (5), and agrees that each other Party may rely upon that representation.

3 v. This Assignment and Consent to Assignment is not conditioned upon the
4 Parties conducting the transactions under it by electronic means and either Party may sign this
5 Assignment and Consent to Assignment with an original handwritten signature.


6 m. **Effective Date.** This Assignment and Consent to Assignment becomes effective
7 immediately upon execution of the first amendment to the Agreement (or first agreement amending and
8 restating the Agreement) to be executed by COUNTY and ASSIGNEE following the Execution Date
9 hereof.

10 **(Signature page follows.)**

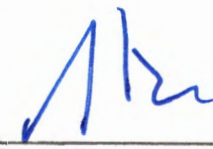
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1 The undersigned Parties hereby execute this Assignment and Consent to Assignment by their
2 signatures.

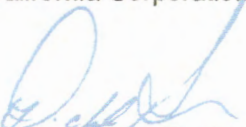
3
4 **ASSIGNOR:**
5 **MINTIER HARNISH, LP,**
6 a California Limited Partnership

7 By: 
8 Print Name: Jim Harnish
9 Title: Principal/Owner

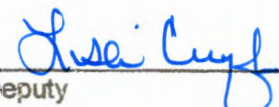
COUNTY OF FRESNO


Steve Brandau, Chairman of the
Board of Supervisors of the
County of Fresno

10
11 **ASSIGNEE:**
12 **RINCON CONSULTANTS, INC.,**
13 a California Corporation

14 By: 
15 Print Name: RICHARD DAULTON
16 Title: VICE PRESIDENT

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By 
Deputy

ACCOUNTING INFORMATION

FUND NO: 0001
SUBCLASS NO: 10000
ORG 2540
ACCOUNTY 7295