



REPORT TO CITY COUNCIL

DATE: JANUARY 28, 2015

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: MIKE KAMINO, PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR 

SUBJECT: AGREEMENT WITH SELLECK DEVELOPMENT GROUP, INC. FOR THE PAYMENT OF COST ASSOCIATED WITH THE PREPARATION OF ENVIRONMENTAL DOCUMENTATION

The purpose of this item is to seek approval from the City Council of an Agreement between the City and Selleck Development Group, Inc. to receive payment from Selleck Development Group, Inc. for the costs associated with the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND), pursuant to the California Environmental Quality Act (CEQA) by Rincon Consultants, Inc. The agreement amount totals \$30,354.00, which includes the consultant services' cost of reviewing the IS/MND and preparing legal notices and other requirements in the amount of \$25,295.00, with an additional \$5,059.00 added to cover City overhead cost. A separate Agreement for Consultant Services between the City and Rincon Consultants, Inc. for \$25,295.00 to prepare the IS/MND is also prepared to be considered by the City Council at the January 28, 2015 meeting.

Selleck Development Group, Inc. has submitted an application for the Agoura Park Project, which includes a fitness facility and a free-standing restaurant, on two parcels north of Agoura Road and west of Roadside Road. City staff has determined that CEQA review is necessary for this project and has accepted Rincon Consultants' proposal to prepare the IS/MND.

The proposed Agreement has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully requests that the City Council approve the Agreement with Selleck Development Group, Inc. in the amount of \$30,354.00.

Attachment: Agreement for Payment of Costs for the Preparation of Environmental Documentation (with Attachment A)

AGREEMENT ROUTING SLIP FOR

Selleck Development Group, Inc.

Consultant Name (Over \$25K)

Standard Agreement Template with NO CHANGES (City Attorney's Signature Not Required)

Standard Template – NO CHANGES
City Attorney's Signature NOT REQUIRED

If there are changes to the agreement, do not use this standard template.

Section 1 – Distribution of Agreement:

If there are **NO CHANGES** to the template, prepare the agreement and distribute to the Consultant for signatures. Attach this routing slip to the front of the agreement and route to staff in numerical order (1-3) to the right. Department Head will authorize forwarding the final agreement to the City Clerk. Submit the signed agreement, including the appropriate certificate of insurance and endorsement, with this completed routing slip, to the City Clerk who will review and forward to the Risk Manager for review and approval. Agreements without the appropriate insurance attached will be returned to the department. Once approved, the City Clerk will execute the agreement and provide a copy to the Consultant and the staff person (in Item No.1).

1. Valerie 1/21/2015
Prepared by (Staff Name/Date)

2. Mike Kavious 1/22/15
Department Head - Date
(Authorization to forward to Risk Mgr/Clerk)

3. _____
City Clerk – Sign/Date Final Review
EE Format

4. _____
Risk Manager – Date
(Insurance Review/Approval)

Notes:

**AGREEMENT FOR PAYMENT OF CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS**

NAME OF APPLICANT:	Selleck Development Group, Inc.
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Attn: Daniel Selleck
CONSULTANT'S ADDRESS:	2660 Townsgate Road, Suite 250 Westlake Village, CA 91361
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Valerie Darbouze
COMMENCEMENT DATE:	January 28, 2015
TERMINATION DATE:	July 28, 2016
CONSIDERATION:	Contract Price \$30,354.00

**AGREEMENT FOR PAYMENT OF COSTS
IN CONNECTION WITH THE PREPARATION OF
ENVIRONMENTAL DOCUMENTATION**

THIS AGREEMENT is made this sixth day of January 28, 2015, by and between the City of Agoura Hills (hereinafter "City") and Selleck Development Group, Inc. (hereinafter "Applicant").

1. Applicant request that California Environmental Quality Act documentation/Initial Study ("environmental documentation") be prepared for, and under the direction of, City but at Applicant's expense, for consideration in connection with processing of the proposed Site Plan/Architectural Review application for the construction of a fitness facility and free-standing restaurant with related public infrastructure improvements (the "Project") at the northwest corner of Agoura Road and Roadside Road, Assessor's Parcel Numbers 2061-0004-015, 035 and 036, Case Nos. 14-SPR-003, 14-OTP-016, 14-VAR-003, 14-SP-040, and TPM 73266.

2. Costs for preparation of the environmental documentation will be as follows:

a. Costs incurred pursuant to an agreement between Rincon Consultants, Inc. (hereinafter "Consultant") and City for preparation of the environmental documentation, the scope of work of which is attached hereto as Exhibit A. Consultant's estimate of the maximum cost of Consultant's services in the preparation of the environmental documentation is twenty five thousand two hundred ninety five dollars and zero cent (\$25,295.00) ("Consultant's Cost").

b. Staff time for research, writing, reviewing and processing, calculated by the number of hours spent times the current hourly rate of the employee or contractor, plus general overhead costs. This amount is estimated to be 20 percent of Consultant's Cost, i.e. five thousand fifty nine and zero cent (\$5,059.00) ("Administrative Cost").

c. Actual costs of materials, printing, mailing and publishing as applicable.

d. Additional consultant and administrative costs not included within the estimates in subsections (a) and (b) of this Section, to the extent such additional costs arise out of (1) new information supplied to the City regarding the project or its environmental impacts following circulation of the draft environmental document; (2) incomplete or inaccurate information supplied to the City by Applicant or Applicant's agents; or (3) revisions to the environmental document made necessary, in the City's judgment, by changes to the Applicant's project.

3. Applicant hereby agrees to pay City in full for all costs and expenses incurred by City for preparation of the environmental documentation. Concurrently with execution of this Agreement, Applicant shall pay City the full amount of thirty thousand three hundred fifty four and zero cents (\$30,354.00) (Consultant's

Cost plus Administrative Cost) to defray the costs of preparation of the environmental documentation and agree to pay such additional sums as may be billed by City for preparation of the environmental documentation within fifteen (15) days from the date of any invoice, or prior to consideration of the Project by the City Planning Commission or City Council, whichever first occurs.

4. Any excess of the amount deposited over the actual cost incurred in connection with preparation of the environmental documentation shall be refunded by City to Applicant within fifteen (15) days from the date the Notice of Determination for the Project is filed with the County Clerk.

5. In the event Applicant abandons the Project and upon written request from Applicant directed to City's Director of Planning and Community Development, City will terminate or suspend performance of work by Consultant under the contract between City and Consultant. Applicant shall pay City for all costs incurred by City pursuant to its contract with Consultant and for all administrative and actual costs incurred by City.

6. Applicant shall not communicate with or discuss any matters relating to the preparation of environmental documentation with Consultant without prior approval from City's Director of Planning and Community Development or his duly authorized representative. Applicants shall address all questions regarding scheduling, content or distribution of the environmental documentation, or any related matters, to City staff, and not to Consultant. The purpose of this provision is to ensure that the environmental documentation is objective and is prepared on behalf of City, and not a document prepared for purposes of advocating approval of the Project.

7. Applicant hereby acknowledges and agrees as follows:

(a) City has sole discretion to select which of its employees are assigned to work on Applicant's applications;

(b) City has sole discretion to determine which persons City will hire as employees and contractors to work on the Applicant's applications.

(c) City has sole discretion to direct the work and evaluate the performance of the employees and contractors whom the City hires to work on Applicant's applications and City retains the right to terminate or replace at any time any employee or contractor who is assigned to work on Applicant's applications.

8. City and Applicant hereby acknowledge and agree that processing of Applicant applications is not contingent on the hiring of any specific contractor or consultant.

9. City and Applicant hereby acknowledge and agree that the Applicant's duty to reimburse the City is not contingent upon the City's approval or disapproval of the Project or upon the result of any action of the City.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties thereto with respect to the subject matter of this Agreement. City and Applicant acknowledge that they have neither made nor accepted any other promise or obligation with respect to the subject matter of this Agreement.

11. Amendment. This Agreement may only be amended by a written document signed by the parties thereto.

12. Interpretation. This Agreement is deemed to have been prepared by all parties hereto, and any uncertainty or ambiguity herein shall not be interpreted against the drafter, but rather, if such ambiguity or uncertainty exists, shall be interpreted according to the applicable rules of contracts under the laws of the State of California.

13. Litigation; Recovery of Fees and Costs. In the event that City is required to initiate litigation to enforce this agreement or collect any sum due hereunder, the City shall be entitled to recover its reasonable attorneys fees and costs of suit should the City prevail.

14. Assignment. This Agreement shall be binding on and inure to the benefit of the parties and their heirs, successors, and assigns of the parties. Notwithstanding the foregoing, any reimbursement rights hereunder shall remain with Applicants unless Applicants specifically assign those rights to a successor by a written assignment delivered to City. Applicants may assign its rights and transfer its obligations under this Agreement only with City's prior written consent, which shall not be unreasonably withheld or delayed. Immediately upon the granting of such consent and City's receipt of a duly executed assignment and assumption agreement by Applicants and Assignee in accordance with the requirements of this Agreement, Applicants shall be released from all liability and obligations hereunder.

15. Authority to Execute Agreement. The person or persons executing this Agreement on behalf of Applicants warrants and represents that he or she has the authority to execute this Agreement on behalf of Applicants and has the authority to bind Applicants to the performance of its obligations hereunder.

CITY OF AGOURA HILLS:

By: _____

Illece Buckley Weber,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Candice K. Lee
City Attorney

APPLICANT:

Selleck Development Group, Inc.
2660 Townsgate Road, Suite 250
Westlake Village, CA 91361
Phone: (805) 495-5400

By: _____

Title _____

By: _____

Title _____



Rincon Consultants, Inc.
180 North Ashwood Avenue
Ventura, California 93003

805 644 4455

FAX 644 4240

info@rinconconsultants.com

www.rinconconsultants.com

January 6, 2015
Project Number 14-00848

Valerie Darbouze
Associate Planner
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

**Subject: Proposal to Prepare Initial Study-Mitigated Negative Declaration (IS-MND)
for LA Fitness Project**

Dear Ms. Darbouze:

Rincon Consultants, Inc. is pleased to submit this proposal to assist the City of Agoura Hills with the California Environmental Quality Act (CEQA) processing for the LA Fitness facility proposed at 29431 and 29439 Agoura Road. This proposal outlines our approach to major work tasks, cost, and schedule to prepare an Initial Study-Mitigated Negative Declaration (IS-MND) for the project.

Understanding of the Project

The proposed project involves a 45,000 square foot fitness facility and 4,000 square foot restaurant on a 3.73-acre site. The project also includes 224 surface parking spaces and 9 bicycle parking spaces.

The project will need variances for building height (38 to 40 feet instead of 35), rear yard setback (40 feet instead of 76 feet), signage size, and smaller landscape planter (0 feet instead of 20 feet) along the frontages.

We anticipate that a Mitigated Negative Declaration (MND) will be the appropriate environmental clearance document under CEQA. However, if a fair argument can be made that one or more effects cannot be mitigated to below a level of significance, an EIR would be the appropriate document under CEQA.

General Approach

We propose to analyze, update, and edit existing information to provide an environmental document that meets the requirements of CEQA and focuses site-specific impacts associated with the proposed action. We will rely to the maximum degree feasible on applicant-prepared studies (traffic, biology, hydrology, Phase I environmental site assessment) and other readily available data sources.



Scope of Work

Rincon's work scope will be as follows:

1. **Administrative Draft IS-MND** - Rincon will prepare an internal review (Administrative) Draft IS-MND using the City's preferred format. The Administrative Draft IS will address all of the items on the environmental checklist. To the maximum extent feasible, existing technical studies will be used. Where possible, impacts will be quantified and compared to applicable significance thresholds. Rincon will submit an electronic copy of the Administrative Draft IS-MND in PDF and/or Word format.

It is our understanding that the applicant has already prepared technical studies in the areas of biological resources, hydrology, traffic, and hazards (Phase I environmental site assessment). These studies will be available for our use in preparation of the IS-MND. We will conduct a reconnaissance level biological field survey to confirm the findings of the biological resources study. Rincon will prepare technical studies in the areas of air quality/greenhouse gases, cultural resources, and noise. Our general work scope for each of these studies is as follows:

Air Quality/Greenhouse Gases

- Calculation of temporary construction and long-term air pollutant and GHG emissions using the California Emissions Estimator Model (CalEEMod) and data from the project traffic study
- Comparison of air pollutant emissions to South Coast Air Quality Management District (SCAQMD) regional and local significance thresholds and comparison of GHG emissions to SCAQMD recommended GHG thresholds
- Analysis of consistency with the SCAQMD's Air Quality Management Plan
- Analysis of consistency with applicable GHG plans, including the Southern California Association of Governments' Sustainable Communities Strategy (SCS)
- Qualitative analysis of the potential to create carbon monoxide "hot spots"
- Development of mitigation as necessary

Cultural Resources

- Cultural resources records search
- Preliminary Native American scoping (contact with Native American Heritage Commission)
- Cultural resources field survey
- Cultural resources survey report, including any required mitigation

Noise

- Up to three short-term on-site noise measurements
- Calculation of temporary construction-related noise based on typical noise levels from construction equipment and the distance to sensitive receptors
- Estimate of noise generated by onsite activities at nearby sensitive receptors based on field measurements and/or Rincon file data
- Calculation of project-generated traffic noise using the FHWA's Traffic Noise Model (TNM) based on data from the project traffic study



- Development of mitigation as necessary
- 2. **Public Review Draft IS-MND** - Rincon will respond to City comments on the Administrative Draft IS-MND and produce up to 15 compact disks of the Public Review Draft IS-MND and 10 bound copies. The City will be responsible for mailing the IS-MND to responsible agencies and other noticing required under CEQA.
- 3. **Final IS-MND** - Upon receipt of public comments on the Draft IS-MND, Rincon will prepare draft responses to comments for City review and prepare the Administrative Final IS-MND. If mitigation measures are included in the IS-MND, this will include a Mitigation Monitoring and Reporting Program (MMRP) that will be a table listing all mitigation measures and indicating what monitoring actions are required, parties responsible for monitoring, and when monitoring is to occur. Prior to or following IS-MND approval, we will provide a PDF of the Final IS-MND (including responses to comments and the MMRP) and up to 10 bound copies. We have assumed that the City will be responsible for filing a Notice of Determination (NOD) and paying applicable filing fees. Rincon will assist with filling out the NOD form.
- 4. **Public Hearings** - Rincon will attend two public hearings on the project. If desired, we will make a presentation summarizing the environmental review process and IS-MND conclusions.

Schedule

We will deliver the Administrative Draft IS-MND within four weeks of notice to proceed. We will deliver the Public Review Draft IS-MND within one week of receipt of City comments on the Administrative Draft IS-MND. We will deliver the Administrative Final IS-MND, including responses to comments on the Public Review Draft IS-MND and the MMRP, within one week of receipt of comments on the Public Review Draft IS-MND.

Cost

Rincon Consultants, Inc. will complete the IS-MND for the LA Fitness project in accordance with the work program outlined above for a fee of **\$25,295**. A detailed cost breakdown is provided in the table on the following page. This estimate assumes that Rincon will provide up to 15 disks and 10 bound copies of the Public Review Draft IS-MND and 10 copies and a disk of the Final IS-MND. We will also attend two public hearings on the project and IS-MND. We assume that the City or project applicant will pay the California Department of Fish and Wildlife and other fees due at filing of the Notice of Determination.

This cost proposal is valid for a period of 60 days, unless extended by Rincon Consultants, Inc.



City of Agoura Hills
LA Fitness Initial Study-Mitigated Negative Declaration
Cost Estimate

Tasks	Cost	Hours	Rincon Consultants				
			Principal \$190/hour	Sr. Assoc. \$140/hour	Assoc. \$110/hour	Graphics \$80/hour	Clerical \$65/hour
1. Administrative Draft IS-MND	\$610	8				6	2
Air Quality/Greenhouse Gas Study	\$2,625	22	2	3	16		1
Cultural Resources Study	\$2,925	25	2	4	16	2	1
Noise Study	\$2,785	24	2	3	16	2	1
Other issues	\$6,040	51	5	10	28	6	2
2. Public Review Draft IS-MND	\$2,520	22	2	6	8	2	4
3. Final IS-MND	\$2,960	26	2	6	12	2	4
4. Public Hearings (2)	\$1,320	8	4	4			
Project Management	\$1,730	12	4	6			2
Rincon Labor Total	\$23,515	198	23	42	96	20	17
Other Costs							
Printing							
Draft IS-ND (10 copies + 15 disks)	\$575						
Final IS-ND (10 copies + 1 disk)	\$500						
Miscellaneous Expenses	\$705						
Other Costs Total	\$1,780						
Total (Rincon Labor + Other Costs)	\$25,295						

We appreciate your consideration of Rincon Consultants, Inc. for this assignment and look forward to working with the City. Please contact me if you have any questions regarding this letter or any other matters related to this project.

Sincerely,
RINCON CONSULTANTS, INC.

Joe Power, AICP CEP
Principal