

REPORT TO CITY COUNCIL

DATE: AUGUST 26, 2009

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: APPROVAL OF AGREEMENT BETWEEN CITY AND CONRAD N. HILTON FOUNDATION, APPLICANT FOR THE CONRAD N. HILTON FOUNDATION HEADQUARTERS PROJECT, FOR RINCON CONSULTANTS, INC., TO PROVIDE ENVIRONMENTAL REVIEW SERVICES

The purpose of this item is to seek City Council approval for an agreement between the City and Conrad N. Hilton Foundation, the applicant for the Conrad N. Hilton Foundation Headquarters project, for the City to contract with Rincon Consultants, Inc., (Rincon). Rincon would provide environmental review and analysis services, per the California Environmental Quality Act (CEQA), to the City for the proposed project at 30440 and 30500 Agoura Road.

The City Council is being asked to consider another agreement, as a separate item, between the City and Rincon to conduct the environmental review, which would include analysis of the environmental technical studies provided by the applicant, and preparation of a detailed Initial Study. It is likely that an Environmental Impact Report would be required for this project under CEQA. In that case, Rincon would complete that document as well, per that Agreement. The cost of that Agreement is \$81,034.

The agreement that is the subject of this report is between the City and the project applicant, Conrad N. Hilton Foundation, and addresses how the applicant would reimburse the City for the costs of the agreement with Rincon, which is for \$81,034, and an additional \$16,206.80 to cover City staff coordination, document review, and preparation of additional required materials per CEQA. Therefore, the total agreement amount is \$97,240.80.

The applicant will be responsible for paying the agreement amount into their trust account. The funds would be drawn as needed from this account.

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

RECOMMENDATION

Staff recommends the City Council approve the attached Consultant Services Agreement with Conrad N. Hilton Foundation for a total cost of \$97,240.80.

Attachment: Agreement

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

THIS AGREEMENT is made this 5th day of August, by and between the City of Agoura Hills (hereinafter "City") and Conrad N. Hilton Foundation (hereinafter "Applicant").

1. Applicant requests that California Environmental Quality Act documentation ("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 project (the "Project") at 30440 and 30500 Agoura Road, A.P.N. 2061-002-024 and 2061-002-048, Case Nos.09-CUP-001 and 09-OTP-013.

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

a. Costs incurred pursuant to a contract between Rincon Consultants, Inc. (hereinafter "Consultant") and City for preparation of the environmental documentation, a copy 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 \$81,034.00 ("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% of Consultant's Cost, i.e. \$16,206.80 ("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 (b) and (c) 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 \$97,240.80 (Consultant's Cost plus Administrative Cost) to defray the costs of preparation of the environmental documentation and agrees to pay such additional sums as may be billed by City for preparation of the environmental documentation within 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 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. Applicant 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's 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. 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. 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.

CITY OF AGOURA HILLS:

By: _____

Denis Weber
Mayor

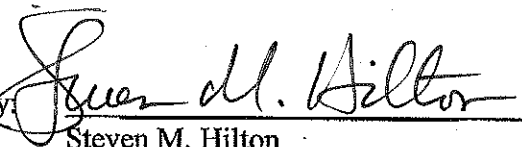
ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Craig A. Steele
City Attorney

APPLICANT:

By: 

Steven M. Hilton
President and CEO
Conrad N. Hilton Foundation



Rincon Consultants, Inc.

790 East Santa Clara Street
Ventura, California 93001

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www.rinconconsultants.com

May 1, 2009
Job No. 09-64370

Doug Hooper
Assistant Director of Community Development
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301-1335

Subject: Proposal to Prepare Conrad N. Hilton Foundation Headquarters EIR

Dear Mr. Hooper:

Rincon Consultants, Inc. is pleased to submit this proposal to prepare an Environmental Impact Report (EIR) for the above-referenced project. The 66.6-acre project site is located on two vacant parcels within the Ladyface Mountain Specific Plan area, at 30400 and 30500 Agoura Road. The applicant's proposal involves 90,300 square feet of professional office buildings to be developed in three phases through a development agreement. Requested entitlements include:

- *Development Agreement*
- *Conditional Use Permit*
- *Tentative Parcel Map*
- *Oak Tree Permit*
- *Possible Variance for parking and required yards*

The first phase of the development involves one of four proposed buildings and the applicant is only contemplating construction of the first phase at this time. Nevertheless, the EIR will consider all three phases of construction. Depending upon what changes in environmental conditions occur by the time the second and third phases of construction are contemplated, the EIR may need to be augmented at that time with additional documentation that reflects changed conditions.

This proposal describes: (1) Rincon's proposed work program and approach to the assignment; (2) our proposed schedule and cost; and (3) key Rincon personnel assigned to the project. References and company qualifications can be provided on request.

Work Program/ Approach

The objective of the work scope outlined below is to produce an EIR that meets State and City of Agoura Hills California Environmental Quality Act (CEQA) requirements. To the maximum degree feasible, we will rely on applicant-prepared technical studies in the

development of the CEQA documentation. As appropriate, these studies will be augmented with additional research and analysis by Rincon staff.

1. **Kickoff Meeting.** Rincon's principal in charge and/or project manager will attend a kickoff meeting with City staff and, if desired, the applicant. The purpose of the meeting will be to obtain necessary materials for the document preparation and confirm project goals and schedule, and communication protocol.
2. **Initial Study/Notice of Preparation.** Rincon will prepare an Initial Study to accompany the Notice of Preparation of a Draft EIR. The Initial Study will analyze all of the issues on the City's environmental checklist to identify which issues warrant further study in the EIR. As appropriate, information from the March 2009 applicant-prepared technical background report will be incorporated. Based on our review of this and other studies prepared for the project, we anticipate that five issues warrant discussion in the EIR (see below). Upon City approval of the Initial Study, it will be circulated along with the Notice of Preparation (NOP) of a Draft EIR. The City will be responsible for circulation of the NOP. As an option to circulating the Initial Study with the NOP, the City may simply circulate an NOP and include the Initial Study in an appendix to the Draft EIR.
3. **EIR Scoping Meeting.** Rincon will attend an EIR scoping meeting during the 30-day NOP comment period. The purpose of the meeting will be to obtain community input on the technical scope of the EIR. Rincon will make a brief presentation on the project, CEQA process, and proposed EIR scope, then record public comments received. We will provide all necessary presentation and handout materials, but assume that the City will be responsible for arranging for a meeting venue and any required meeting noticing.
4. **Administrative Draft EIR.** The Administrative Draft EIR will include a detailed project description, introduction and environmental setting sections, an executive summary, analysis of five environmental issue areas (see "Technical Approach to EIR Issues" below), a discussion of up to four alternatives (including the "no project" alternative), and other sections required by CEQA. Information from the applicant-prepared technical background report will be incorporated as appropriate.
5. **Draft EIR.** The Draft EIR will incorporate all relevant City staff comments on the Administrative Draft EIR. This document will be circulated for public comment for a period of 45 days, as required by CEQA. The City will be responsible for circulation of the document and noticing of its availability, though Rincon staff will be available to assist with these steps.
6. **Final EIR.** The Final EIR will include all comment letters received during the public review period, responses to all comments received on the Draft EIR, and

any necessary text changes. The Final EIR will also include a mitigation monitoring and reporting program in accordance with City requirements. Rincon will deliver a .PDF version of the document to the City for its website posting. The Mitigation Monitoring and Reporting Program will be provided in a format designed for use by planners or code enforcement officers. Essentially, this plan will take the form of a detailed table. The table will compile all of the mitigation measures developed within the body of the EIR, as well as information necessary to monitor compliance with each measure.

7. **Public Hearings.** Rincon's Principal-in-Charge or Project Manager will attend up to three hearings on the project and EIR before the Planning Commission and/or City Council.

It is anticipated that the following issues could have significant effects and will be addressed in the EIR.

- *Aesthetics*
- *Biological Resources*
- *Cultural Resources*
- *Geology and Soils*
- *Hydrology and Water Quality*

The following describes our general approach to the environmental issues that we anticipate studying in the EIR. We assume that EIR-level analysis of the other issues on the City's Initial Study checklist will not be warranted.

Aesthetics. The proposed project would alter views from portions of Agoura Road, a local scenic route. This section will describe the change in the site's visual character, particularly with respect to this local roadway. The analysis will be augmented with photosimulations that will be prepared by RRM Design Group. As necessary, mitigation will be identified for identified significant visual effects.

The aesthetic analysis will be augmented with photosimulations to be prepared by RRM Design Group. These photosimulations will show a graphical representation of preconstruction and post-construction project conditions from two vantage points. This will help illustrate the project from two key locations predetermined by the client. Visual simulations will show the development of each phase of the project, resulting in a total of six exhibits.

The basis of the visual study will be gathering pertinent electronic 3-dimensional data for the key site elements into a cohesive computer model. RRM will require the following electronic data for completion of this task:

- *Existing topography (1-foot contour resolution)*
- *Proposed grading (AutoCAD format)*

- *Elevations and floor plans for all proposed built elements*
- *Landscaping plan*
- *Site plan/hardscape plan (AutoCAD format)*
- *Color and material boards for built structures*

The modeled elements will be illustrated with photorealistic textures based upon predetermined building materials. RRM will then take photographs of the existing conditions of the site. These photograph locations will be predetermined by the client and are assumed to support ground plane perspective views (as opposed to bird's-eye or aerial views). Together with the modeling created, the photographs will be used to compile photorealistic view(s) of the proposed design.

Biological Resources. The proposed project would affect a special status plant species (*Navarretia ojaiensis*), oak trees, riparian habitat, and habitat for sensitive wildlife species. The biological resources section will address each of these issues, verifying and incorporating information from the applicant-prepared technical background report as appropriate. Conceptual mitigation from the technical background report will be augmented to meet CEQA standards for mitigation.

Cultural Resources. Significant cultural resources have not been identified onsite. Nevertheless, the site is in an archaeologically sensitive area. The analysis of this issue will incorporate the findings of the applicant-prepared technical background report and the January 2008 McKenna cultural resources investigation. As appropriate, mitigation for potential impacts will be included and augmented.

Geology and Soils. The project site is subject to various geologic hazards, including ground shaking, landsliding, and erosion. This section will address these issues, incorporating information from the applicant-prepared technical background report and October 2008 GeoSoils, Inc. geotechnical review of the project as appropriate. Mitigation will be provided for identified significant effects.

Hydrology and Water Quality. This section will address both water quality and changes in hydrological conditions, incorporating information from the applicant-prepared technical background report and February 2009 Stantec Consulting hydrology study of the project as appropriate. Mitigation will be provided for identified significant effects.

Alternatives. The EIR will examine up to four alternatives to the proposed project. Alternatives will be developed once the preliminary project analysis is completed in order to ensure that the selected alternatives would reduce or eliminate identified significant effects of the project. The alternatives analysis will be in less detail than the project analysis, but will provide sufficient detail to enable decision makers to understand the magnitude of impacts and mitigation requirements for each alternative.

Other CEQA Discussions. The EIR will include analyses of growth-inducing impacts and greenhouse gases (GHG)/global climate change (GCC). As required by the CEQA Guidelines, the growth-inducing impacts discussion will consider population and economic growth as well as the potential for the project to remove obstacles to growth. The GHG/GCC discussion will: (1) discuss the nature and background of the GCC as well as regulatory efforts to limit GHG emissions; (2) quantify GHG emissions; and (3) compare these emissions to the statewide GHG inventory. The discussion will consider recent documents providing guidance on CEQA analysis prepared by the California Association of Air Pollution Control Officers (CAPCOA), the Governor's Office of Planning and Research (OPR) and the California EPA's Climate Action Team (CAT). Thresholds will be established based on recent City CEQA documents and the emissions and project characteristics will be compared to these thresholds to determine whether or not the project would make a cumulatively considerable contribution to cumulative GHG/GCC impacts.

Schedule

The following outlines our schedule for the completion of the EIR work program.

- **Initial Study/NOP.** A draft Initial Study/NOP will be submitted within two weeks of notice to proceed/project kickoff. Once approved, Rincon will submit 20 bound copies of the Initial Study/NOP.
- **Administrative Draft EIR.** The Administrative Draft EIR will be submitted within six weeks of authorization to proceed/project kickoff.
- **Revised Administrative Draft EIR.** If necessary, a Second Administrative Draft EIR will be submitted within two weeks of receipt of City comments on the Administrative Draft EIR.
- **Draft EIR.** Rincon will submit 20 bound copies and 1 unbound camera-ready copy of the Draft EIR within one week of receipt of City comments on the Revised Administrative Draft EIR. Rincon will also provide 30 electronic copies in PDF format on disk. Rincon will transmit one copy to the City for posting on the City's website and 15 copies to the State Clearinghouse.
- **Responses to Comments on the Draft EIR.** Rincon will submit draft responses to comments on the Draft EIR within two weeks of receipt of all comments.
- **Final EIR.** Rincon will submit 20 bound copies and 1 camera-ready copy of the Final EIR in the form of a single document that includes the Final EIR text, Responses to Comments, and a Mitigation Monitoring and Reporting Program. The Final EIR will be submitted within one week of receipt of all City comments on the draft responses to comments. A copy of the entire final document will also be provided on computer disk.

Costs

The services outlined above, excluding the optional Sunday midday traffic analysis, will be provided for a lump sum fee of \$81,034. A detailed breakdown of costs by task is shown in the attached spreadsheet. Also attached is a copy of our standard fee schedule for your reference.

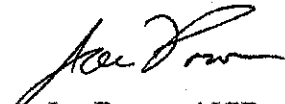
Our cost estimate assumes that digital versions of text and graphics from the applicant-prepared technical background report will be available for our use. It also assumes 28 hours of professional staff time to respond to comments on the Draft EIR. While we believe that this is a reasonable estimate of the time needed for that task, we reserve the right to renegotiate the fee for that task if the City receives a higher than expected number of comment letters. If additional meetings/hearings are requested, they will be billed on a time and materials basis.

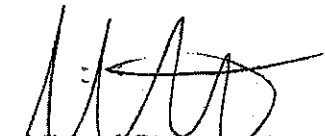
Key Rincon Personnel

Joe Power, AICP, Principal and Manager of Rincon's Planning Services Group, will serve as principal in charge of the project. Joe has more than 18 years of experience managing projects in accordance with California General Plan, Specific Plan, and CEQA law. Cori Thomas will serve as project manager. Cori has more than seven years of experience and has managed EIRs on projects ranging from commercial developments to infrastructure improvements to residential subdivisions. Duane Vander Pluym, D.ESE, will provide technical oversight of the biology and hydrology analyses. A Doctor of Environmental Science and Engineering, Duane has more than 25 years of experience and is well versed in a range of technical issues.

Thank you for your consideration of Rincon Consultants for this project. Our proposed scope of work is fully negotiable to meet the City's needs. We look forward to the opportunity to work with the City and would welcome an opportunity to discuss the details of this proposal at your convenience.

Sincerely,
RINCON CONSULTANTS, INC.


Joe Power, AICP
Principal


Michael Gialketsis, REA
Principal



**City of Agoura Hills
 Conrad N. Hilton Foundation Headquarters EIR
 Cost Estimate**

Tasks	Cost	Hours	Rincon Consultants				
			Principal \$175/hour	Supv. Planner \$136/hour	Associate \$95/hour	Graphics \$75/hour	Clerical \$55/hour
1. Kickoff Meeting	\$930	6	3	3			
2. Initial Study/NOP	\$3,770	38	2	4	26	4	2
3. EIR Scoping Meeting	\$1,385	15		3	6	4	2
4. Administrative Draft EIR							
4.1 Summary	\$840	8		2	6		
4.2 Introduction and Environmental Setting	\$1,680	16	1	3	10	2	
4.3 Project Description	\$3,520	32	2	16		12	2
4.4 Environmental Impact Analysis							
Aesthetics	\$4,530	46	2	6	26	12	
Biological Resources	\$5,430	50	8	4	32	6	
Cultural Resources	\$1,410	14	1	1	10	2	
Geology/Soils	\$2,440	24	2	2	16	4	
Hydrology/Water Quality	\$2,280	22	2	2	16	2	
4.5 Other CEQA-Required Sections (inc. GHG)	\$2,345	23	1	2	20		
4.6 Alternatives (Up to 4)	\$3,210	30	2	6	20	2	
5. Draft EIR	\$6,080	58	2	10	16	16	12
6. Final EIR							
6.1 Responses to Comments/MMRP	\$5,630	50	4	16	28		2
6.2 Publication of Final EIR	\$2,240	24	2	4	8	2	8
7. Attendance at Public Hearings (3)	\$3,720	24	12	12			
Project Management (Includes staff meetings)	\$6,100	44	12	28			4
Subtotal Rincon Labor:	\$56,550	522	58	124	240	68	32
Additional Costs							
Subconsultant:							
RRM Design Group (photosimulations)	\$16,000						
Printing: 20 copies of IS/NOP	\$400						
6 copies of ADEIR	\$390						
20 copies of Draft EIR	\$1,300						
30 Electronic Copies of DEIR - CD-ROM	\$600						
20 copies of Final EIR	\$1,400						
Supplies and Miscellaneous Expenses	\$1,200						
General and Administrative	\$3,194						
Subtotal Additional Costs:	\$24,484						
TOTAL: Labor + Additional Costs	\$81,034						