

REPORT TO CITY COUNCIL

DATE: JANUARY 12, 2011

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 AN AGREEMENT WITH REALTY BANCORP EQUITIES FOR PAYMENT OF COSTS IN CONNECTION WITH THE PREPARATION OF ENVIRONMENTAL DOCUMENTATION FOR A PROPOSED STUDIO PROJECT (LIGHTSTORM ENTERTAINMENT)

The purpose of this item is to seek City Council approval for an agreement between the City and Realty Bancorp Equities, the applicant for the Lightstorm 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 29901 Agoura Road (APN 2061-003-036).

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 includes preparation of an Initial Study and a Mitigated Negative Declaration, including responding to public comments received on the CEQA document, and attending public hearings, as needed. The cost of that agreement is \$28,915. That agreement also provides authority to the City Manager to authorize additional work up to 10% of the contract amount, i.e., up to \$31,806, if determined necessary at a later date.

The agreement that is the subject of this report is between the City and the project applicant, Realty Bancorp Equities, and addresses how the applicant would reimburse the City for the costs of the agreement with Rincon. The cost of this agreement is \$28,915, which is Rincon's cost, plus an additional \$5,783 to cover City staff coordination, document review, and preparation of additional required materials per CEQA. The additional \$5,783 for staff administrative costs is based on an estimate of 20% of the \$28,915 contract amount with Rincon. The 20% amount has typically been sufficient to cover all staff costs, including any additional work authorized by the City Manager. Therefore, for all intents and purposes, the total agreement amount is \$34,698 unless otherwise amended. If you do, in fact, authorize the City Manager to amend the budget up to 10%, the reimbursement amount would reflect that increase.

The applicant has already deposited the necessary funds in the trust account. Therefore, the funds would be drawn as needed from the project applicant's trust 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 agreement with Realty Bancorp Equities for a total cost of \$34,698.

Attachment: Agreement (with Exhibits A and B)

AGREEMENT WITH THE CITY OF AGOURA HILLS
FOR PAYMENT OF COSTS IN CONNECTION WITH THE PREPARATION OF
ENVIRONMENTAL DOCUMENTATION

NAME OF APPLICANT:

Douglas Jacobsen

APPLICANT'S ADDRESS:

Realty Bancorp Equities
21800 Burbank Blvd., Ste. 330
Woodland Hills, CA 91367

CITY'S ADDRESS:

City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301
Attention: City Manager

COMMENCEMENT DATE:

January 13, 2011

TERMINATION DATE:

January 13, 2012

CONSIDERATION:

Contract Price
Not to Exceed: \$34,698

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

THIS AGREEMENT is made this 12th day of January 2011, by and between the City of Agoura Hills (hereinafter "City") and Realty Bancorp Equities (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") located at 29901 Agoura Road (APN 2056-003-036).

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 \$28,915 ("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. \$5,783 ("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 \$34,698 (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 30 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 30 days of the applicant's written request for refund after the date of 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: _____
Harry Schwarz
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Craig A. Steele
City Attorney

APPLICANT:

By: _____
Owner's Name

EXHIBIT A

**AGREEMENT BETWEEN CITY AND
RINCON CONSULTANTS, INC.**

AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS

NAME OF CONSULTANT: Rincon Consultants, Inc.

RESPONSIBLE PRINCIPAL OF CONSULTANT: Attn: Joe Power

CONSULTANT'S ADDRESS: 180 N. Ashwood Avenue
Ventura, CA 93003

CITY'S ADDRESS: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301
Attn: City Manager

PREPARED BY: Allison Cook

COMMENCEMENT DATE: January 12, 2010

TERMINATION DATE: January 12, 2011

CONSIDERATION: Contract Price
Not to Exceed: \$28,915

ADDITIONAL SERVICES <i>(Describe Services, Amount, and Approval):</i> _____ _____ _____ _____
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Date: _____ Amount: \$ _____ Authorized By: _____
(Not to Exceed 10% of Contract Price) City Manager

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND RINCON
CONSULTANTS, INC.**

THIS AGREEMENT is made and effective as of January 12, 2011, between the City of Agoura Hills, a municipal corporation ("City") and Rincon Consultants, Inc. ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM.** This Agreement shall commence on January 13, 2011, and shall remain and continue in effect until tasks described herein are completed, but in no event later than January 13, 2012, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES.** Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. **PERFORMANCE.** Consultant shall at all times faithfully, competently, and to the best of his or her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **PAYMENT.**

A. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed \$28,915 ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement. The City Manager may approve additional work up to ten percent (10%) of the amount of the Contract Price. Any additional work in excess of this amount shall be approved by the City Council.

B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

C. Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of consultant's fees it

shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 4.

6. DEFAULT OF CONSULTANT

A. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

B. If the City Manager or his or her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

7. OWNERSHIP OF DOCUMENTS

A. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities

related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. **INDEMNIFICATION.** The Consultant agrees to defend, indemnify, protect and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Consultant's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the City.

9. **INSURANCE REQUIREMENTS.** Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. **Minimum Scope of Insurance.** Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability Insurance shall be written on a policy form providing professional liability for the Consultant's profession.

B. **Minimum Limits of Insurance.** Consultant shall maintain limits no less than:

1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form

with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

4) Professional Liability coverage: Two million (\$1,000,000) per claim and in aggregate.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City, its officers, officials, employees and volunteers are to be covered as additional insureds in respect to: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

F. Verification of Coverage. Consultant shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Consultant's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

10. INDEPENDENT CONTRACTOR

A. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

11. LEGAL RESPONSIBILITIES. The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

12. RELEASE OF INFORMATION

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order

shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

13. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301
Attention: City Manager

To Consultant: Rincon Consultants, Inc.
180 North Ashwood Avenue
Ventura, CA 93003
Attention: Joe Power

14. ASSIGNMENT. The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

15. LICENSES. At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

16. **GOVERNING LAW.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

17. **PROHIBITED INTEREST.** No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-contractors for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Consultant or Consultant's sub-contractors on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

18. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

19. **AUTHORITY TO EXECUTE THIS AGREEMENT.** The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Harry Schwarz
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Craig A. Steele,
City Attorney

CONSULTANT

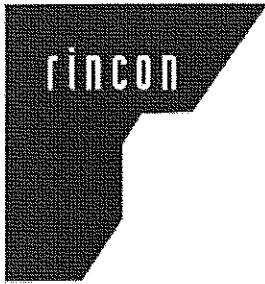
Rincon Consultants, Inc.
180 North Ashwood Avenue
Ventura, CA 93003
Tel (805) 644-4455
Fax (805) 644-4240

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signatures of Two Corporate Officers Required]

EXHIBIT A



Rincon Consultants, Inc.

180 North Ashwood Avenue
Ventura, California 93003

805 644 4455

FAX 644 4240

info@rinconconsultants.com

www.rinconconsultants.com

December 20, 2010
Project Number 10-67450

Allison Cook, Senior Planner
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

**Subject: Proposal to Prepare Initial Study/Mitigated Negative Declaration (IS/MND)
for the Agoura Hills Studio Project**

Dear Ms. Cook:

Rincon Consultants, Inc. is pleased to submit this proposal to assist the City of Agoura Hills with the environmental (CEQA) processing for the proposed Agoura Hills Studio project. 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 the construction of an approximately 52,000 square foot motion picture studio building on Agoura Road. The proposed building would be a maximum of about 54' in height. The project would require the demolition of a vacant, approximately 38,000 square foot building. The project would require a determination that a studio building is an allowed use within the Business Park-Manufacturing zone. It would also require the following approvals:

- Height variance
- Freeway setback variance

Technical studies that have been prepared or will be prepared and will be available for use in the IS/MND include:

1. Geotechnical/Soil Report
2. Oak Tree Report
3. Traffic/Circulation/Parking Report
4. Photosimulations Hydrology/Drainage Report

Based on our preliminary review of the project and experience in the project area, it appears that, with the appropriate mitigation, project-related effects can be mitigated to a less than significant level. As you are aware, if all project-related effects can be mitigated to less than significant, then a MND would be the appropriate environmental clearance document under CEQA. However, if a fair argument can be made that one or more effects cannot be adequately mitigated, an EIR would be the appropriate document under CEQA.



General Approach. Given the availability of existing documentation, we propose to analyze, update (as necessary), and edit existing information to provide an environmental document that meets the requirements of CEQA and focuses on those mitigation measures that are required based on the results of the analysis. We will rely to the maximum degree feasible on applicant-prepared studies.

Scope of Work. The scope of work described below is for the preparation of an IS/MND for the proposed project.

Initial Study/Mitigated Negative Declaration. An Initial Study will be prepared incorporating each of the issues identified in the CEQA Environmental Checklist form to assess the potential environmental effects of the project. To the extent that it is applicable, we will utilize technical information that is available in the applicant-provided studies and previous studies performed in the area. Quantitative modeling of air quality, greenhouse gas, and noise impacts will be conducted using data from the traffic study and industry standard modeling techniques. Water demand and wastewater and solid waste generation will be quantified using standard demand/ generation factors and compared to the utility infrastructure capacity. A Rincon biologist will perform a general site reconnaissance in support of the biological resources analysis for the IS/MND.

The Initial Study will be prepared in accordance with Section 15063(d) of the *CEQA Guidelines*, which defines the required contents of an Initial Study. Determination of whether an effect is significant will be guided by Section 15064 of the *CEQA Guidelines*.

Upon completion of the Initial Study, we will determine whether mitigation measures can be developed that, when implemented, would reduce all environmental impacts to a less than significant level. If so, we will prepare a Negative Declaration or Mitigated Negative Declaration for the project. Section 15070 of the *CEQA Guidelines* states that:

A Negative Declaration (ND or MND for Mitigated Negative Declaration) shall be prepared for a project subject to CEQA when either:

- (a) The Initial Study shows that there is no substantial evidence that the project may have a significant effect on the environment, or*
- (b) The Initial Study identified potentially significant effects but:*
 - 1. Revisions in the project plans or proposals made by or agreed to by the applicant before the proposed Negative Declaration is released for public review would avoid the effects or mitigate effects to a point where clearly no significant effects would occur, and*
 - 2. There is no substantial evidence before the agency that the project, as revised may have a significant effect on the environment.*

The MND will include all of the components defined in Section 15071 of the *CEQA Guidelines* as follows:

- *A brief description of the proposed project, including the common name of the project;*



- *The location of the project, shown on a map and the name of the project proponent;*
- *A proposed finding that the project will not have a significant effect on the environment;*
- *An attached copy of the Initial Study documenting reasons to support the findings; and*
- *Mitigation measures, if any, included to avoid potentially significant effects.*

An administrative draft IS/MND will be prepared for City staff review. We do not anticipate that extensive changes will be made to the document as a result of this review cycle and have budgeted our costs accordingly. Following incorporation of City comments on the administrative draft IS/MND, we will prepare a public review version of the document.

Public Review. The *CEQA Guidelines* provide some discretion with regard to the required length of the public review for local projects for which a Negative Declaration has been prepared. We recommend a public review period of 30 days, which is the minimum time allowed for projects submitted to the State Clearinghouse. For this proposal, we assume that the City will prepare and distribute the Notice of Intent to Adopt a Negative Declaration, the Notice of Completion (if necessary), and the Notice of Determination. We also assume that the City will publish newspaper notifications required by CEQA.

Final MND/Response to Comments. Prior to approving the project, the *CEQA Guidelines* require that the City of Agoura Hills "consider" the proposed MND together with any comments received during the public review process. For this component of the work program, we plan to prepare a written response to each comment received. All comments and written responses will be presented in an appendix to the Final MND. Because the extent of public interest and comment on this project are not known at this time, it is difficult to gauge the level of effort necessary for this task. We have budgeted 16 hours of professional time for this task. We assume that the City or project applicant will pay the California Department of Fish and Game fees due at filing of the Notice of Determination.

Public Hearings. We have budgeted attendance and presentation at two public hearings. At the City's request, we would attend additional hearings in accordance with the hourly rates included in this proposal.

Mitigation Monitoring and Reporting Plan (MMRP). When approving a Mitigated Negative Declaration, the Lead Agency must adopt an MMRP for those mitigation measures included in the Negative Declaration or made a condition of approval to avoid significant effects of the project. This task will include the preparation of an MMRP in accordance with CEQA requirements. Essentially, this plan will take the form of a detailed table that will compile all of the mitigation measures developed within the Negative Declaration, as well as information necessary to monitor compliance with each measure. The program will include:

- *Suggested wording as a condition of approval*
- *Identification of persons/agencies responsible for monitoring compliance with each condition*
- *Timing: when monitoring must occur*
- *Frequency of monitoring*



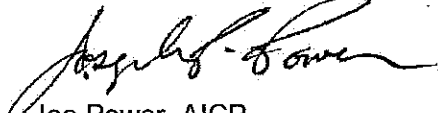
- *Criteria to be used to determine compliance with conditions*

Schedule. We will deliver the Administrative Draft IS/MND within three weeks of notice to proceed, assuming that all applicant-prepared technical studies are received no later than one week following receipt 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, 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 Agoura Hills Studio Project in accordance with the work program outlined above for a fee of **\$28,915**. A detailed cost breakdown is provided in the attached spreadsheet. This estimate assumes that Rincon will provide: (1) 3 copies and a CD of the Administrative Draft IS/MND; (2) 35 copies and a CD of the Draft IS/MND; (3) 3 copies and a CD of the Administrative Final IS/MND; (4) and 15 copies and a CD of the Final IS/MND. We will also attend up to two public hearings on the project and IS/MND. This proposal is valid for a period of 60 days, unless extended by Rincon Consultants, Inc.

We appreciate your consideration of Rincon Consultants, Inc. for this assignment and look forward to working with the City. Please do not hesitate to call us if you have any questions regarding this letter or any other matters related to this project.

Sincerely,
RINCON CONSULTANTS, INC.


Joe Power, AICP
Principal

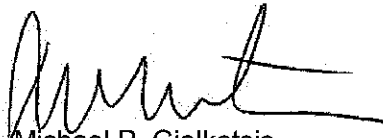

Michael P. Gialketsis
Principal

EXHIBIT B



City of Agoura Hills

**Agoura Hills Studio Project
Cost Estimate to Prepare IS/MND**

Task	Cost	Hours	Principal \$175/hr	Sr. Associate \$135/hr	Graphics \$75/hr	Clerical \$55/hr
Project Description	\$1,285	11	1	6	4	
Initial Study						
<i>Air Quality</i>	\$1,430	10	2	8		
<i>Biological Resources</i>	\$1,580	12	2	8	2	
<i>Greenhouse Gases</i>	\$1,430	10	2	8		
<i>Noise</i>	\$1,970	14	2	12		
<i>Utilities/Service Systems</i>	\$1,580	12	2	8	2	
<i>Other Checklist Issues</i>	\$5,240	40	6	28	4	2
Negative Declaration	\$870	10		4		6
Responses to Comments/Final IS/MND	\$3,350	26	8	12		6
Meetings/Public Hearings (2)	\$3,020	20	8	12		
Mitigation Monitoring Plan	\$850	6	1	5		
Project Management/Coordination	\$3,320	24	6	16		2
Subtotal	\$25,925	195	40	127	12	16

OTHER COSTS	
<i>Printing (56 copies)</i>	\$2,240
<i>Miscellaneous Expenses</i>	\$750
Subtotal	\$2,990
TOTAL COST	\$28,915