



Agenda Item A.7
CONSENT CALENDAR
Meeting Date: September 5, 2023

TO: Mayor and Councilmembers

FROM: Charles W. Ebeling, Public Works Director

CONTACT: Daniel Virgen Jr, Assistant Engineer

SUBJECT: Amendment No. 2 with Rincon Consultants, Inc. for 2023 Winter Storm Emergency Repair Services for March Emergency Storm Projects

RECOMMENDATION:

Authorize the City Manager to execute Amendment No. 2 to Professional Services Agreement No. 2023-073 with Rincon Consultants, Inc. for professional services related to the 2023 Winter Storm Emergency Repair March Projects, increasing the contract amount by \$266,964 for new total not-to-exceed amount of \$311,963.

BACKGROUND:

In early January 2023, City of Goleta (City) staff began monitoring the potential for heavy rains to impact Santa Barbara County, particularly portions of the more densely populated areas of South County. The recent history of sizable wildfires and subsequent burn scars prompted further concern for major impacts from Gaviota to Carpinteria, including Goleta. Staff began attending briefings and preparing in case the first set of storms just after the New Year might result in more pervasive and large-scale flooding and other associated heavy rain activity in Goleta.

On January 9, 2023, an atmospheric river storm struck the County of Santa Barbara. The significant rainfall caused flooding on public streets, watersheds, creeks, open spaces, wetlands, and other property in the City; damage to public rights-of-way; downed trees blocking sidewalks and streets; road closures; and disruption of public services. The storm prompted the County of Santa Barbara and the City of Goleta to declare a local emergency on January 9, 2023. On January 18, 2023, the White House added the County of Santa Barbara to the Presidential Major Disaster Declaration to support the State's storm response and recovery efforts.

Another atmospheric river storm struck the County of Santa Barbara on March 9, 2023. The heavy rainfall and flooding caused substantial damage to a catch basin, culvert and trees at various locations causing them to topple. A Presidential Major Disaster was declared on April 3, 2023 as a result of the severe winter storms which included straight-

line winds, flooding, landslides, and mudslides that occurred beginning of February 21, 2023 and continuing through March 2023.

Pursuant to City of Goleta Municipal Code Section 3.05.120 for Urgencies, Public Works staff engaged in immediate emergency operations by securing necessary contractors and consultants to permit the continued performance of the operations and services of the City, and to avoid the immediate danger to life, health, or property caused by the January and March 2023 storms.

On June 6, 2023, Council ratified several agreements and amendments associated with the emergency storm response work. Public Works staff continue to secure contractors to perform the needed emergency repair work.

DISCUSSION:

As a result of the storm, a wide range of damages occurred throughout the City of Goleta. Public Works staff has created a list of damages and consolidated them into the Public Works Storm Damage List, which names each project and describes the damages caused by the storm, as well as needed repairs. The emergency contract referenced in this report is necessary to cover services for one of the projects included on this list, as well as emergency clean-up and maintenance measures. The current list is outlined in Attachment 3.

Emergency Services Agreement

Rincon Consultants, Inc. (Rincon) has an existing Professional Services Agreement No. 2023-073 related to 2023 Winter Storm Emergency Damage Repair March projects. Rincon's agreement was executed on March 30, 2023 and expires on December 31, 2024. Rincon understands the March storms have damaged the catch basin and culvert and require immediate repair and removal of fallen trees. Rincon will provide their environmental services experience to support emergency permitting and construction compliance throughout the project locations. Public Works staff is requesting to execute Amendment No. 2 to increase the contract amount by \$266,964 for a new total not-to-exceed amount of \$311,963. In addition, Rincon's additional services will provide project management, construction support, biological resources assessment, and permit notification for the emergency tree removal.

FISCAL IMPACTS:

The total estimated costs and funding sources associated with 2023 Winter Storm Emergency Repair March Projects agreement with Rincon are outlined in Table 1 below.

Table 1 – March Emergency Response Projects Cost Estimates

| Project Components | Estimated Costs | Funding Source | Funding Amounts |
|---|------------------------|----------------------------------|------------------------|
| Original Agreement | \$44,999 | General Fund (101-50-5200-54004) | \$311,963 |
| Emergency Tree Removal | \$161,616 | | |
| Newport Creek Culvert Repair Project | \$95,348 | | |
| 303 Santa Barbara Shores Catch Basin Repair Project | \$10,000 | | |
| Total | \$311,963 | Total | \$311,963 |

These projects are potentially eligible for FEMA reimbursement; however, each project has to meet the eligibility criteria outline by FEMA. Table 2 summarizes the project budget amounts in the project account. With carryover of the FY 22/23 budget, no additional funding is needed.

Table 2: 2023 Winter Storm Emergency Repair Projects Funding

| FY 23/24 Emergency Response Costs | | | | |
|--|-------------------|-------------------------------------|---------------------------------|-------------------------------|
| Fund Type | Account | FY 22/23 Projected Carryover | YTD Actuals/ Encumbrance | Total Available Budget |
| General Fund | 101-50-5200-54004 | \$1,163,616 | \$359,359 | \$804,257 |
| | Total | \$1,163,616 | \$359,359 | \$804,257 |

ALTERNATIVES:

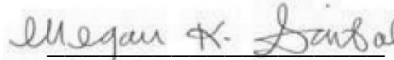
The City Council can elect not to approve the amendment discussed herein; however, this would result in significant delays to the initiation and completion of the work associated with this emergency storm project. This delay would result in a prolonged risk of further sinkhole degradation. This would also jeopardize the acquisition of FEMA funding if the City doesn't meet their deadlines.

Reviewed By:



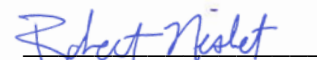
Kristine Schmidt
Assistant City Manager

Legal Review By:



Megan Garibaldi
City Attorney

Approved By:



Robert Nisbet
City Manager

ATTACHMENTS:

1. Amendment No. 2 to Agreement No. 2023 - 073 with Rincon Consultants, Inc.
2. Amendment No. 1 and Agreement No. 2023 - 073 with Rincon Consultants, Inc.
3. Public Works Storm Damage List

ATTACHMENT 1

Amendment No. 2 to Professional Services Agreement No. 2023-073 with
Rincon Consultants, Inc.

**AMENDMENT NO. 2
TO A PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
RINCON CONSULTANTS, INC**

This **Amendment No. 2** to the Professional Services Agreement by and between the **City of Goleta**, a municipal corporation ("City") and **Rincon Consultants, Inc** ("Consultant") dated _____, 2023 ("Agreement," Agreement No. 2023-073) is made on this 5th day of September, 2023.

SECTION A. RECITALS

1. This Agreement is for the professional services in conjunction with 2023 Winter Storms Emergency Repair March Projects Services; and
2. This Agreement has been amended to add a subconsultant PAX Environmental, Inc. (Amendment No. 1); and
3. The Agreement currently provides in Section 3 Subsection (a) for the total compensation amount not to exceed forty-four thousand nine hundred ninety-nine dollars (\$44,999); and
4. The parties desire to amend the Agreement so as to provide for additional compensation in the amount of \$266,964 for additional tasks; and
5. The Agreement currently provides in Exhibit A entitled "Scope of Work" the complete and particular description of services; and
6. The parties desire to amend Exhibit A by adding additional services as more completely and particularly set forth in the Scope of Work, attached as Exhibit "A-1"; and
7. The City Council approved this Amendment No. 2, on this 5th day of September 2023.

SECTION B. AMENDED TERMS

Now therefore City and Consultant agree as follows that the Agreement be, and hereby is, amended as follows:

1. **Subsection (a) of Section 3. COMPENSATION AND PAYMENT** of the Agreement is amended to add an additional authorized amount of \$266,964 and to read in its entirety:

(a) **Maximum and Rate.** The total compensation payable to CONSULTANT for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of three hundred eleven thousand nine hundred sixty-three (\$311,963) (herein "not-to-exceed amount") and shall be earned as the work progresses.

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2024, after which any change in said rates and expenses must be approved in writing by CITY's Project Manager as described in Section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

2. This Agreement is amended to delete and replace in its entirety:

Exhibit A "Scope of Work" with **Exhibit A-1 "Scope of Work"** attached hereto and incorporated herein

3. Except as otherwise specifically provided herein, all other provisions of the Agreement shall remain in full force and effect.

In concurrence and witness whereof, this Amendment No. 2 has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

Robert Nisbet, City Manager

ATTEST:

Deborah Lopez, City Clerk

CONSULTANT

DocuSigned by:

Steven Hongola, Vice President

DocuSigned by:

Lacrisa Davis, Chief Financial

APPROVED AS TO FORM:
MEGAN GARIBALDI, CITY ATTORNEY

DocuSigned by:

Scott Shapses, Deputy City Attorney

Exhibit A-1

Scope of Work

Consultant appreciates the opportunity to provide the City of Goleta (City) with this amendment request to provide environmental services and permitting support for the City's March Emergency Storm Projects. This request is in support of the March storm projects: the Santa Barbara Shores Catch Basin Repair (23STRM-40), Newport Drive Erosion & Sinkhole (23STRM-38), and Emergency Tree Removals (23STRM-28) in the City of Goleta, California. Scopes of work for each project are described separately below.

Santa Barbara Shores Catch Basin Repair Project (23STRM-40)

Presently for the Santa Barbara Shores Catch Basin Project, Consultant are requesting an additional \$10,000 to supplement the original \$14,999 project budget. Consultant have completed the emergency permit notifications and have received permit coverage from the U.S. Army Corps of Engineers (USACE) under Regional General Permit 63 (RGP 63), Central Coast Regional Water Quality Control Board (CCRWQCB) Technically Conditioned 401 Certification of RGP 63, and the City Planning Department. Consultant have also submitted a Coastal Development Permit (CDP) application to the California Coastal Commission (CCC) and have been issued a De Minimis Waiver (4-23-0516-W) for the Project. Within two weeks of beginning the emergency Project, Consultant shall submit a notification to the California Department of Fish and Wildlife (CDFW) for an emergency Lake and Streambed Alteration Agreement (LSAA).

The remaining tasks include conducting a nesting bird survey, five days of biological monitoring, and project completion notifications and reporting for the regulatory agencies. Cost to complete the project are outlined in Table 1 below.

Assumptions

The CCC approved a Waiver de Minimis for the project, therefore follow-on permitting for the agency is not required for the project and no further work will occur at this location.

Emergency Tree Removal Project (23STRM-28)

Project Support, January-June 2023: Consultant provided support for the Emergency Tree Removal project beginning January 2023 through June 30, 2023, under a separate contract, the January Storm contract. The project budget has been fully utilized and the contract fulfilled. Project Support, July 2023: Since July 1, when the contract ended, and for the month of July Consultant have provided ongoing project support totaling \$39,798.88. The July costs will be invoiced (providing billing details) under the March contract. This amendment request, amending the March Storm contract, includes costs for July support.

Project Support August 2023 and Forward: The scope and costs presented below are for August 2023 and upcoming project support. Task names and numbers below are consistent with tasks from the March Storm contract.

Task 4 Construction Support

Consultant is prepared to provide compliance monitoring support for the highly regulated tree removal activities. We have biologists, and ISA certified arborists on staff and can subcontract additional specialists as needed to meet the needs of each project. We have an intimate knowledge of the biological resources present in the City, and we understand that the projects could potentially affect monarch butterflies, tidewater goby, Southern California steelhead, and California red-legged frog, as well as nesting birds. As we discussed, we are able to subcontract Althouse and Meade, Inc., Storrer Environmental Services, and Pax Environmental for support with compliance monitoring. We are also able to provide archaeologists and native American monitors during earth disturbing activities, or as required by resource agencies.

Based on the conversation we had on July 21, 2023, this scope and cost assumes the tree removals will be completed in 8 weeks. Consultant shall provide compliance monitoring for all vegetation management activities and tree removals. For the tree removals, a certified monitor shall be present daily to oversee vegetation management crews for approximately 9 hours/day (including reporting, and data syncing), five days per week for 8 weeks. Project management shall require approximately 8 hours/week which includes coordination with our subcontractors. We also anticipate the need to bring new staff members onto the team as vegetation management crews increase this fall, and to provide on-going updates to the team regarding the use of Fulcrum and other data tracking applications. Monitoring costs to execute the compliance program over the coming 8 weeks are estimated at \$100,456.

We anticipate that our subconsultants shall support approximately 35% of the monitoring effort. Our mark up is 5% for this work or \$1,758. This percentage is reduced from industry standards of 15%. The subconsultants shall have mileage expenses that are in addition to the monitoring costs and are estimated to be for 14 days of monitoring for \$2,420, which does not include a mark-up as approved by the City. Costs for subconsultant compliance monitoring in addition to hourly monitoring would be \$4,178.

The total cost for compliance monitoring is anticipated to be \$104,634.

Nesting bird surveys shall be done as a component of construction support. The surveys shall be completed by Storrer Environmental Services as described here:

- Nesting bird surveys: at an estimated 21 sites x 4 hours for a total of 84 hours with 3 follow up surveys x 4 hours for an additional 12 hours.
- Reporting: at an estimated hour per site for reporting (e.g., monitoring form and nest log updates) for 24 surveys x 1 hour for a total of 24 hours.

- Coordination with Project Team: at an estimated hour per week for the remainder of the nesting bird season in coordination with project team (e.g., weekly team meetings and scheduling) for 9 weeks x 1 hour for a total of 9 hours.

The estimated cost for nesting bird surveys is \$14,460. With a 5% markup, or \$723, the total estimated cost is \$15,183.

Task 5 Project Completion Notification

Consultant has supported the City by providing tree removal data and information needed to ascertain emergency permits from the (City) Planning Department and an emergency CDP from the CCC. We assume the City has the data and information needed to acquire the approvals from these two entries and will be the lead contact for the agencies in ascertaining their approvals.

The CCC requires project completion documentation which includes a summary of the work performed, measures incorporated to protect the environment, and actual impacts sustained, with photo documentation of before/after conditions. Consultant shall provide completion notification and reporting. We estimate that the cost will be \$2,000 and assume that follow-on permitting requirements and mitigation will be addressed under a separate contract and as part of the City's Monarch Butterfly Habitat Management Plan Phase 1 project. Project costs are outlined in Table 2 below.

Assumptions

- All tasks will be initiated as directed by the City and in accordance with our current 2023 fee schedule.
- All materials will be submitted to the City in draft form and submitted to the CCC after City approval.
- Follow-on permitting for the Coastal Commission will be conducted in coordination with the Monarch Butterfly Habitat Management Plan Phase 1 project.
- 21 sites remain for the Nesting Bird Surveys, at 4 hours per survey, per site with 9 weeks left in nesting bird season. Includes a contingency of 3 additional surveys if follow-up surveys needed.

Newport Creek Culvert Repair Project (23STRM-38)

We understand the City intends to complete a temporary emergency repair prior to the 2023/2024 storm season. We are requesting an additional \$10,000 to supplement the original \$15,000 budget to complete emergency permit notifications, construction monitoring support, and emergency permit project completion reporting.

Following the emergency repair, Consultant understands a permanent design will be completed at this location to repair the creek culvert under Newport Drive. The permanent

repair will require the preparation of technical reports to support resource agency permits. We have included the following scope of work to support the permanent repair:

- California Department of Fish and Wildlife (CDFW) Standard Notification of Lake/Streambed Alteration Agreement pursuant to Section 1602 of the California Fish and Game Code
- U.S. Army Corps of Engineers (USACE) Pre-Construction Notification under Nationwide Permit (NWP) 3 (Maintenance)
- Central Coast Regional Water Quality Control Board (CCRWQCB) Individual Water Quality Certification or General Order Water Quality Certification, if applicable
- California Coastal Commission (CCC) Coastal Development Permit
- City of Goleta Grading and Grubbing Permit

The above notifications are scoped as part of this proposal based on the provided project information. As the project assessment continues, if it is determined that any of these permits/notifications do not apply to this project, those tasks will be removed from the scope and budget described below.

Per your request, we are providing a scope of work to prepare the necessary agency notifications. In addition, we are providing additional technical studies and the full suite of regulatory permitting support.

Scope of Work

Task 7 Biological Resources Assessment

Consultant shall conduct a literature review followed up a field survey to document plant and wildlife species observed and evaluate the site's potential to support sensitive biological resources. The literature review will include an evaluation of current and historical aerial photographs of the site, regional and site - specific topographic maps, and climatic data. Queries of the United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation system, CDFW California Natural Diversity Database, and California Native Plant Society Online Inventory of Rare and Endangered Plants of California will be conducted to obtain comprehensive information regarding state and federally listed species, and other special status species. Several other up to date resources will be reviewed for additional information on existing conditions relating to biological resources, such as United States Department of Agriculture Natural Resources Conservation Service Web Soil Survey, USFWS Critical Habitat Portal, CDFW Biogeographic Information and Observation System, CDFW Special Vascular Plants, Bryophytes, and Lichens List, CDFW Special Animals List, and California Essential Habitat Connectivity Project commissioned by the California Department of Transportation and CDFW.

Following the literature review, one Consultant biologist will perform a reconnaissance-level site visit to assess the habitat suitability for potential special status species, map the existing vegetation community and land cover types, map regulated biological resources currently on site, document wildlife connectivity/movement features, and record observations of plant and wildlife species. The reconnaissance survey will be focused on the project footprint and will include a 100-foot buffer, where accessible (i.e., the study area). The study area will be photographed and significant findings will be mapped. Consultant shall identify plant and wildlife species encountered (including special status species), potentially jurisdictional waterways and wetlands, sensitive vegetation communities, and protected trees. The habitat(s) on site will also be assessed to verify their potential to support special status species.

The potential for special status species to occur will be based on a habitat suitability analysis only and will not include definitive surveys for the presence or absence of the species. Definitive surveys for special status species often require specific survey protocols involving extensive field survey time to be conducted at certain times of the year. Upon completion of the field survey, and as part of the Biological Resources Assessment (BRA) preparation, Consultant shall identify any additional species-specific or protocol level studies that may be recommended and may be necessary for permit issuance.

Consultant shall conduct a jurisdictional delineation of surface waters that may be afforded regulatory oversight by federal, state, and local regulatory agencies within the project development footprint plus a 100-foot buffer. The delineation will focus on the potential presence of wetlands within and adjacent to the development footprint. CDFW and CCRWQCB jurisdiction will be mapped to the top of the bank or edge of riparian vegetation, whichever is greater. USACE jurisdiction will be mapped to the Ordinary High Water (OHWM), or adjacent wetlands consistent with current agency regulations.

Potentially jurisdictional waters would be evaluated during the field survey but included in a standalone Jurisdiction Delineation (JD) report to support USACE Section 404 permitting.

Task 8 Jurisdictional Delineation

As described above, Consultant shall conduct a JD to map the current limits of each agency's jurisdiction. If the project will require work below the OHWM, a standalone JD report will be prepared. The JD report will include a map of jurisdictional resources and potential impacts to jurisdictional areas. The primary focus of the fieldwork will be the application of accepted federal and state methodologies for the identification and delineation of jurisdictional waters and riparian habitats.

The delineation of waters and wetlands will be to the level appropriate for a full jurisdictional waters field delineation, conducted in accordance with the USACE Delineation Manual (1987), applicable regional supplements to the manual, and the latest guidance from the CDFW and CCRWQCB. This methodology is the acceptable approach

for delineating the boundaries of federal, state, and local jurisdiction in support of pursuing permits for impacts to jurisdictional waters.

The Jurisdictional Delineation Report will include a brief introduction and background of the project, a discussion of methods used for the jurisdictional delineation study, and the results and conclusions of the study, including the field data collected, a summary of findings, and recommendations regarding the need for permits and limits of regulatory jurisdiction. Using aerial photography and topographic mapping of the project site, Consultant shall overlay data collected using a Trimble® Global Positioning System unit, capable of sub-meter accuracy, to present the locations of wetland sample pits, limits of the channel bed and bank, limits of riparian habitat, and regulated biological resources observed during the field survey, if any. The report will also include a project location map, a soils survey map, data observation forms, and a complete list of plant species observed will also be included. The report will include narrative descriptions of all jurisdictional waters and wetlands identified, as well as representative photographs and quantified lengths and acreages.

Task 9 USACE Section 404 Permit

A Section 404 permit from the USACE under the CWA will be required to address potential impacts to waters of the U.S. resulting from the project. Consultant shall prepare a USACE Pre-Construction Notification package under Nationwide Permit 3 (NWP 3), which covers maintenance activities.

Projects permitted under Section 404 of the CWA require compliance with Section 106 of the National Historic Preservation Act. Consultant shall conduct a literature review to determine whether any cultural resources are present in the project vicinity (0.5-mile radius), that will be substantiated by a field survey of the Area of Potential Effects (APE). Consultant assumes that the project APE will be limited to the project footprint and that no architectural or indirect APE will be needed as the project is limited to culvert repairs. Consultant understands that the culvert was constructed in 1967; because it is over 50 years of age it will be recorded and evaluated for potential historic significance. A cultural report documenting the findings of the cultural resources study in relation to the project will be prepared and provided to USACE. Consultant assumes that the undertaking will have a finding of no historic properties affected. Should the cultural resources study conclude that cultural resources are present, a Finding of Effect will need to be prepared under a budget augmentation. This scope assumes that Consultant shall also provide assistance with consultation with the State Historic Preservation Officer, interested parties and Native American tribes as needed.

Task 10 CCRWQCB Section 401 Water Quality Certification

Under this task Consultant shall prepare a CWA Section 401 Certification Application for Dredge or Fill pursuant to the procedures for discharges of dredged or fill materials to waters of the State for submittal to the CCRWQCB. If it is determined that work will occur

outside of federal jurisdiction, a Waste Discharge Requirement (WDR) will be prepared pursuant to the Porter-Cologne Act. Our application package will include:

- Cover letter
- Application form
- Check for application fee and project fee (to be provided by the City, not included in cost estimate)
- Site plans depicting anticipated impacts
- Jurisdictional Delineation
- Compensatory Mitigation Plan or Restoration Plan, depending on permanent impacts
- Tier 2 Alternatives Analysis. The alternatives analysis will only consider on-site alternatives, as the project inherently cannot be located at an alternate location. Methods and feasibility details for each alternative would be developed in coordination with the City.

Consultant shall prepare the required 401 Certification/WDR Application and supporting documentation, provide the package to the City for review and comment, and incorporate any requested changes. Upon approval, Consultant shall submit the application package to the CCRWQCB.

Under this task, Consultant shall prepare a letter requesting a Pre-Filing Meeting, and upon approval, submit the request to CCRWQCB. Consultant recommends submitting this request as early as possible so that the required 30-day waiting period elapses without delaying the application submittal.

Please note that we have assumed a conservative permitting pathway for 401 Certification as the degree of potential permanent and temporary impacts is still unknown. If the project qualifies for the 2021 State Water Board General Order for the USACE NWP (Order No. WQ 2021-0048-DWQ), the 401 Certification process could be streamlined and only a Notice of Intent would be required instead of an individual application. For NWP 3(a) maintenance projects, requirements to qualify for the statewide 401 Certification include: the project must be exempt from CEQA; permanent impacts cannot exceed 0.01 acre and 100 linear feet; total impacts cannot exceed 0.2 acre and 300 linear feet. If it is apparent at the design stage that the project will meet these criteria and should the City request it, we can revisit this scope to support a streamlined 401 Certification process.

Task 11 CDFW Notification of Lake/Streambed Alteration

Consultant shall prepare an application (termed “notification”) for a standard regular term (five years or less) Streambed Alteration Agreement based on the project description to be provided by the City.

Consultant shall provide the notification package in Microsoft Word format to the City for review, prior to uploading to CDFW’s Environmental Permit Information Management System (EPIMS). To maximize efficiency the package will include a completed

Notification form, as well as supporting technical information to support CEQA review for the project, such as the CEQA Compliance Documentation prepared for the project. We envision that these attachments will include the BRA, JD, and a detailed project description. Consultant shall prepare calculations of permanent and temporary impacts to Newport Creek and adjacent riparian habitat based on impact footprints to be determined in coordination with the City.

Task 12 CCC Coastal Development Permit

Consultant shall prepare a Coastal Development Permit (CDP) application package for the permanent repair work for submittal to the CCC. The project description and CEQA compliance documentation to be provided by the City will be included in the application submittal. In addition, the application will include the project drawings, necessary special studies, a discussion of the project's consistency with the applicable Coastal Act and City policies, and any other related CDP application requirements deemed necessary by CCC staff. This task also includes submittal of the self-addressed stamped envelopes required by the CCC for noticing. Consultant shall respond to one round of consolidated City comments on the CDP application documents.

While it is Consultant's intention to provide a complete CDP application package, it is rare to have an application deemed complete on the first attempt. It is likely CCC staff will require additional information or clarifications such that a resubmittal will be necessary. Upon receipt of any comments on application completeness, Consultant shall prepare responses for City review and approval prior to transmittal to the CCC. It is assumed the supplemental information provided will be sufficient to have the application deemed complete and a third submittal will not be required.

Task 13 City Permit Requirement

Consultant has been working with City Public Works and Planning to determine the required permitting necessary for future permanent projects associated with temporary emergency repairs. For projects that are not associated with a larger project and require grading and grubbing activities, a Grading and Grubbing permit may be required pursuant to Goleta Municipal Code Title 17 Zoning Part IV – Regulations Applying to Multiple Districts Chapter 17.24 General Site Regulations. Consultant understands that the emergency project will be issued an emergency permit and based on Standard Condition 1, Public Works must apply for a regular permit within 30 days of issuance of the emergency permit, if needed. This task is assumed to require up to eight hours of staff time and any time beyond that may require additional budget.

Task 14 Agency Coordination

Following submittal, review and approval of the applications by the regulatory agencies typically require at least four to six months, but the process can take up to nine months or longer based on agency staff workloads. Consultant shall maintain regular

communication with agency representatives to ensure the project remains a priority and will support the City with any agency requests for additional information, which arise frequently during projects of this nature. We have preliminarily allocated fifteen hours of labor to address agency coordination and information requests. The actual level of effort will depend on the agencies' reactions to the project and the nature of comments received and may substantially exceed ten hours if additional plans or studies are requested, or if negotiations are prolonged. If the agencies require preparation of more comprehensive application materials or extensive consultations than assumed above, we will notify you immediately and determine if an amendment to the work scope is necessary.

Task 15 Project Management

This task includes Consultant labor associated with executing the project, including coordination with the City and among the Consultant project team, tracking of deliverables and budget status, and administration. Adherence to Consultant's Health and Safety and Quality Assurance/Quality Control procedures is also included in this task.

Assumptions

- Consultant shall work with the City to identify the most efficient permitting pathway for the project, including avoidance of permit triggers or use of streamlined approvals (i.e., general permits) where feasible. As such, the scope of work described above may be reduced if it becomes apparent based on field conditions that some of the identified tasks can be avoided. Assumptions pertaining to this work program are described below. This scope does not include any other approvals not explicitly listed in the Scope of Work.
- Consultant shall address one round of consolidated comments on each deliverable from the City, to be provided in an electronic, editable format. We assume the comments are fairly minor and we reserve the right to revisit the scope if we receive major comments. All comments will be provided in a consolidated, electronic, and editable format (Word and/or PDF).
- All draft and final documents will be provided electronically (Word and PDF). No hard copies will be provided. Documents will not be formatted for ADA accessibility.
- The City will provide a project description, including proposed impact zones, laydown areas, equipment, materials, and schedule, and will also provide project plans and georeferenced files denoting the limits of project disturbance.
- Adjustments required as a result of changes to the project description and/or site plans, once technical analyses and permitting efforts are underway, are not included in this scope and may require a task amendment pending complexity of project description and/or site plan changes.
- The biological reconnaissance field survey and the jurisdictional delineation will be conducted in a single field day (up to 6 hours in length) with two biologists.
- Focused species-specific protocol and/or presence/absence surveys for regulated resources will not be required.

- The Cultural Resources records search cost will not exceed \$1,000 and, consistent with recent turnaround times will be completed within approximately six weeks.
- The project will qualify for coverage under NWP 3.
- The City will provide the project description and signed CEQA Compliance Documentation.
- Plans provided by the City are suitable for submittal to the CCC and include site, grading, and erosion control plans.
- It is assumed all project meetings will be held virtually.
- Includes pre-application submittal communications and up to one (1) remote meeting with CCC staff (if required) concurrent with the pre-application meeting with USACE, CCRWQCB, and CDFW.
- Includes post-application submittal CCC completeness review support and response for up to 15 hours.
- The City will be responsible for all application fees.
- The resource agencies will adhere to typical permit processing timeframes. Consultant cannot guarantee that permits will be issued within any particular time period.
- If the resource agencies require preparation of more comprehensive application materials or more extensive consultations than assumed above, we will notify you immediately and determine if an amendment to the work scope is necessary.
- Permit applications are deemed complete by USACE, CCRWQCB, and CDFW on first submittal.
- The City will provide the owner noticing list to be included in the CDP application (Consultant can also obtain from the County Assessor's office for an additional cost).
- The City will post the required notification on site and provide documentation.
- The City will coordinate all signatures required for the CDP application including required local approvals for the proposed project.
- Costs have been allocated to tasks based on the above methodology, but specific costs may be reallocated among tasks and/or direct costs within the authorized amount.
- The biological study prepared for the project will be accepted by all applicable agencies, and no further studies or protocol surveys will be needed. However, if regulated resources are identified, Consultant shall immediately discuss findings with the City and provide an approach to resolve the issue, which may include in-depth technical studies. Should additional studies be required, Consultant shall provide a task amendment outlining the scope and cost to complete them.

ATTACHMENT 2

Amendment 1 and Professional Services Agreement No. 2023-073 with
Rincon Consultants, Inc.

**AMENDMENT NO. 1
TO A PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
RINCON CONSULTANTS, INC.**

This **Amendment No. 1** to the Professional Services Agreement by and between the **CITY OF GOLETA**, a municipal corporation ("City") and **RINCON CONSULTANTS, INC.** ("Consultant") dated August 3, 2023 ("Agreement," Agreement No. 2023-073 is made on this 23rd day of August, 2023.

SECTION A. RECITALS

1. This Agreement is for professional services for environmental permitting and arborist services related to projects for emergency repair to public property, trees, parks, and other infrastructure caused by severe storms in 2023; and
2. The Agreement currently provides in Section 8 entitled "Personal Services/No Assignment/Subcontractor" that the agreement may not be assigned or subcontracted without the City Manager's written consent; and
3. The parties desire to amend Section 8 of the Agreement to identify the new subcontractor, PAX Environmental, Inc.; and
4. The City Manager approved this Amendment No.1, on this 23rd day of August, 2023.

SECTION B. AMENDED TERMS

Now therefore City and Consultant agree as follows that the Agreement be, and hereby is, amended as follows:

1. **Section 8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR** of the Agreement is amended as follows:

This AGREEMENT is for professional services which are personal to CITY. Rincon Consultants, Inc is deemed to be specially experienced and is a key member of CONSULTANT's firm, and shall be directly involved in the performance of this work. This key person shall communicate with, and periodically report to, CITY on the progress of the work. Should any such individual be removed from assisting in this contracted work for any reason, CITY may terminate this AGREEMENT. This AGREEMENT may not be assigned or subcontracted without the City Manager's prior written consent.

SUBCONSULTANTS:

PAX Environmental (Andy Fredall) – ISA Certified Arborist compliance monitoring for emergency tree removals

2. Except as otherwise specifically provided herein, all other provisions of the Agreement shall remain in full force and effect.

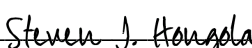
In concurrence and witness whereof, this Amendment No. 1 has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

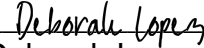
DocuSigned by:

Robert Nisbet, City Manager

CONSULTANT

DocuSigned by:

Steven Hongola, Vice President

ATTEST:

DocuSigned by:

Deborah Lopez, City Clerk

DocuSigned by:

Laci Davis, Chief Financial

APPROVED AS TO FORM:

MEGAN GARIBALDI, CITY ATTORNEY

DocuSigned by:

Scott Shapses, Deputy City Attorney

Project Name: 2023 Winter Storm Emergency Repair March Projects

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF GOLETA
AND
RINCON CONSULTANTS, INC**

This AGREEMENT FOR PROFESSIONAL SERVICES (herein referred to as "AGREEMENT") is made and entered into this 3rd day of August, 2023, by and between the **CITY OF GOLETA**, a municipal corporation (herein referred to as "CITY"), and **RINCON CONSULTANTS, INC** (herein referred to as "CONSULTANT").

SECTION A. RECITALS

1. The CITY has a need for professional services for environmental permitting and arborist services related to projects for emergency repair to public property, trees, parks, and other infrastructure caused by severe storms in 2023; and
2. The CITY does not have the personnel able and/or available to perform the services required under this AGREEMENT, and therefore, the CITY desires to contract for professional services to accomplish this work; and
3. The CITY procured these services in compliance with Goleta Municipal Code Section 3.05.260.
4. The City Manager approved this AGREEMENT pursuant to Goleta Municipal Code section 3.05.070.

SECTION B. TERMS

1. RETENTION AS CONSULTANT

CITY hereby retains CONSULTANT, and CONSULTANT hereby accepts such engagement, to perform the services described in Section 2. CONSULTANT warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

2. DESCRIPTION OF SERVICES

The services to be performed by CONSULTANT are as follows:

Professional Environmental Services in conjunction with 2023 Winter Storms Emergency Repair March Projects Services shall

generally include environmental, permitting, and arborist services related to emergency storm damage repair projects as more particularly set forth in the Scope of Work, attached as Exhibit "A," and incorporated herein.

CONSULTANT shall deliver to CITY the deliverables defined in Exhibit "A."

3. COMPENSATION AND PAYMENT

(a) **Maximum and Rate.** The total compensation payable to CONSULTANT by CITY for the services under this AGREEMENT **SHALL NOT EXCEED** the sum of \$44,999 (herein "not to exceed amount"), and shall be earned as the work progresses on the following basis:

Hourly at the hourly rates and with reimbursement to CONSULTANT for those expenses set forth in CONSULTANT's Schedule of Fees marked Exhibit "B," attached and incorporated herein. The rates and expenses set forth in that exhibit shall be binding upon CONSULTANT until December 31, 2024, after which any change in said rates and expenses must be approved in writing by CITY's Project Manager as described in Section 5 (CITY is to be given 60 days notice of any rate increase request), provided the not to exceed amount is the total compensation due CONSULTANT for all work described under this AGREEMENT.

(b) **Payment.** CONSULTANT shall provide CITY with written verification of the actual compensation earned, which written verification shall be in a form satisfactory to CITY's Project Manager, as described in Section 5. Invoices shall be made no more frequently than on a monthly basis, and describe the work performed (including a list of hours worked by personnel classification). All payments shall be made within 30 days after CITY's approval of the invoice.

4. EXTRA SERVICES

CITY shall pay CONSULTANT for those CITY authorized extra services, not reasonably included within the services described in Section 2, as mutually agreed to writing in advance of the incurrence of extra services by CONSULTANT. Unless CITY and CONSULTANT have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist. The applicable hourly rates for extra services shall be at the hourly rates set forth in Exhibit B, if one is included as part of this agreement. Any compensation for extra services shall be part of the total compensation and shall not increase the not to exceed amount identified in Section 3.

5. CITY PROJECT MANAGER AND SERVICES BY CITY

The services to be performed by CONSULTANT shall be accomplished under the general direction of, and coordinate with, CITY's "Project Manager", as that staff person is designated by CITY from time to time, and who presently is Daniel Virgen. Project Manager shall have the authority to act on behalf of the CITY in administering this AGREEMENT but shall not be authorized to extend the term of the AGREEMENT or increase the not to exceed amount.

6. TERM, PROGRESS AND COMPLETION

The term of this AGREEMENT is from the date first written above to December 31, 2024, unless term of this AGREEMENT is extended, or the AGREEMENT is terminated as provided for herein.

CONSULTANT shall not commence work on the services to be performed until (i) CONSULTANT furnishes proof of insurance as required by Section 10 below, and (ii) CITY gives written authorization to proceed with the work provided by CITY's Project Manager.

7. OWNERSHIP OF DOCUMENTS

All drawings, designs, data, photographs, reports and other documentation (other than CONSULTANT's drafts, notes and internal memorandum), including duplication of same prepared by CONSULTANT in the performance of these services, are the property of CITY. CITY shall be entitled to immediate possession of the same upon completion of the work under this AGREEMENT, or at any earlier or later time when requested by CITY. CITY agrees to hold CONSULTANT harmless from all damages, claims, expenses, and losses arising out of any reuse of the plans and specifications for purposes other than those described in this AGREEMENT, unless written authorization of CONSULTANT is first obtained.

8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR

This AGREEMENT is for professional services which are personal to CITY. Christopher Julian is deemed to be specially experienced and is a key member of CONSULTANT's firm, and shall be directly involved in the performance of this work. This key person shall communicate with, and periodically report to, CITY on the progress of the work. Should any such individual be removed from assisting in this contracted work for any reason, CITY may terminate this AGREEMENT. This AGREEMENT may not be assigned or subcontracted without the City Manager's prior written consent.

Althouse and Meade Inc, PM: Darcee Guttilla, shall provide arborist and monarch butterfly surveys and monitoring for emergency tree removals.

Storrer Environmental, PM: John Storrer, shall provide support for wildlife protection, including wildlife surveys prior to project activities, for implementation of the Monarch Butterfly Habitat Management Plan at Ellwood Mesa Open Space.

9. HOLD HARMLESS AND INDEMNITY

(a) Hold Harmless for CONSULTANT's Damages. CONSULTANT holds CITY, its elected officials, officers, agents, and employees, harmless from all of CONSULTANT's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to CONSULTANT, to CONSULTANT's employees, to CONSULTANT's contractors or subcontractors, or to the owners of CONSULTANT's firm, which damages, losses, injuries or liability occur during the work required under this AGREEMENT, or occur while CONSULTANT is on CITY property, or which are connected, directly or indirectly, with CONSULTANT's performance of any activity or work required under this AGREEMENT.

(b) Defense and Indemnity of Third Party Claims/Liability. CONSULTANT shall investigate, defend, and indemnify CITY, its elected officials, officers, agents, and employees, from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of copyright/patent/trademark, or professional errors and omissions arising out of, directly or indirectly, an error, negligence, or omission of CONSULTANT or any of CONSULTANT's officers, agents, employees, representatives, subconsultants, or subcontractors, or the willful misconduct of CONSULTANT or any of CONSULTANT's officers, agents, employees, representatives, subconsultants, or subcontractors, in performing the services described in, or normally associated with, this type of contracted work. The duty to defend shall include any suits or actions concerning any activity, product or work required under this AGREEMENT, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related thereto.

(c) No Waiver. CITY does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by CITY, or the deposit with CITY, of any insurance certificates or policies described in Section 10.

10. INSURANCE

CONSULTANT shall, at CONSULTANT's sole cost and expense, provide insurance as described herein. All insurance is to be placed with insurers authorized to do business in the State of California with an A.M. Best and

Company rating of A- or better, Class VII or better, or as otherwise approved by CITY.

Insurance shall include the following (or broader) coverage:

- a) Insurance Services Office Commercial Liability coverage "occurrence" form CG 00 01 or its exact equivalent with an edition date prior to 2004 and with minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- b) Insurance Services Office form number CA 00 01 or equivalent covering Automobile Liability, including hired and non-owned automobile liability with a minimum limit of \$1,000,000 per accident. If the Service Provider owns no vehicles, this requirement may be satisfied by a non-owned and hired auto endorsement to Service Provider's commercial general liability policy.
- c) Workers' Compensation insurance complying with California worker's compensation laws, including statutory limits for workers' compensation and an Employer's Liability limit of \$1,000,000 per accident or disease.
- d) Professional liability insurance that covers the services to be performed in connection with this agreement, in the minimum amount of \$1,000,000 per claim.

Liability insurance policies required to be provided by CONSULTANT hereunder shall contain or be endorsed to contain the following provisions:

- a) Except for professional liability insurance, CITY, its employees, officials, agents and member agencies shall be covered as additional insureds. Coverage shall apply to any and all liability arising out of the work performed or related to the contract. Additional insured status under the general liability requirement shall be provided on Insurance Services Office Form CG 20 10, with an edition date prior to 2004, or its equivalent. Additional insured status for completed operations shall be provided either in the additional insured form or through another endorsement such as CG 20 37, or its equivalent.
- b) General and automobile liability insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage will not be limited to CITY's vicarious liability.
- c) Professional liability insurance policies inception date, continuity date, or retroactive date must be before the effective date of this

agreement. CONSULTANT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

- d) Except for professional liability insurance, liability coverage shall be primary and non-contributing with any insurance maintained by CITY.
- e) Evidence of coverage (including the workers' compensation and employer's liability policies) shall provide that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after 30 days' prior written notice has been given to CITY. Such provision shall not include any limitation of liability of the insurer for failure to provide such notice.
- f) No liability insurance coverage provided to comply with this AGREEMENT shall prohibit CONSULTANT, or CONSULTANT's employees, or agents, from waiving the right of recovery prior to a loss. CONSULTANT waives its right of recovery against CITY.
- g) CONSULTANT agrees to deposit with CITY within fifteen days of Notice to Proceed of the Contract certificates of insurance and required endorsements.
- h) There shall be no recourse against CITY for payment of premiums or other amounts with respect to the insurance required to be provided by CONSULTANT hereunder. Any failure, actual or alleged, on the part of CITY to monitor compliance with these requirements will not be deemed as a waiver of any rights on the part of CITY. CITY has no additional obligations by virtue of requiring the insurance set forth herein. In the event any policy of insurance required under this AGREEMENT does not comply with these requirements or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments.
- i) CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this AGREEMENT. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

11. RELATIONSHIP OF CONSULTANT TO CITY

The relationship of the CONSULTANT to CITY shall be that of an independent contractor and that in no event shall CONSULTANT be considered an officer, agent, servant or employee of CITY. CONSULTANT shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

12. CORRECTIONS

In addition to the above indemnification obligations, CONSULTANT shall correct, at its expense, all errors in the work that may be disclosed during CITY's review of CONSULTANT's report or plans. Should CONSULTANT fail to make such correction in a reasonably timely manner, such correction shall be made by CITY, and the cost thereof shall be charged to CONSULTANT or withheld from any funds due to CONSULTANT hereunder.

13. TERMINATION BY CITY

CITY, by notifying CONSULTANT in writing, may upon 10 calendar days notice, terminate without cause any portion or all of the services agreed to be performed under this AGREEMENT. If termination is for cause, no notice period need be given. In the event of termination, CONSULTANT shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by CITY to CONSULTANT within 30 days following submission of a final statement by CONSULTANT unless termination is for cause. In such event, CONSULTANT shall be compensated only to the extent required by law.

14. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by CONSULTANT of the final payment made under this AGREEMENT shall operate as and be a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything done, furnished, or relating to CONSULTANT'S work or services. Acceptance of payment shall be any negotiation of CITY's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check. However, approval or payment by CITY shall not constitute, nor be deemed, a release of the responsibility and liability of CONSULTANT, its employees, subcontractors, agents and CONSULTANTS for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by CITY for any defect or error in the work prepared by CONSULTANT, its employees, subcontractors, agents and consultants.

15. AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, CONSULTANT shall make available to a representative of CITY for examination of all its records with respect to all matters covered by this AGREEMENT and will permit CITY to audit, examine and/or reproduce such records. CONSULTANT will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least two years after termination or final payment under this AGREEMENT.

16. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this AGREEMENT by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this AGREEMENT, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

17. CONFLICT OF INTEREST

CONSULTANT is unaware of any CITY employee or official that has a financial interest in CONSULTANT'S business. During the term of this AGREEMENT and/or as a result of being awarded this AGREEMENT, CONSULTANT shall not offer, encourage or accept any financial interest in CONSULTANT'S business by any CITY employee or official.

18. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this AGREEMENT shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

19. MITIGATION OF DAMAGES

In all situations arising out of this AGREEMENT, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

20. GOVERNING LAW

This AGREEMENT, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Santa Barbara County.

21. NONDISCRIMINATION

CONSULTANT shall not discriminate on the basis of race, color, gender, gender identity/expression, pregnancy, sexual orientation, disability, marital status, or any other characteristic protected under applicable federal or state law.

22. TAXPAYER IDENTIFICATION NUMBER

CONSULTANT shall provide CITY with a complete Request for Taxpayer Identification Number and Certification, Form W-9 (Rev. October 2018), as issued by the Internal Revenue Service.

23. NON-APPROPRIATION OF FUNDS

Payments due and payable to CONSULTANT for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of CITY funds. In the event CITY has not appropriated sufficient funds for payment of CONSULTANT services beyond the current fiscal year, this AGREEMENT shall cover only those costs incurred up to the conclusion of the current fiscal year.

24. MODIFICATION OF AGREEMENT

The tasks described in this AGREEMENT and all other terms of this AGREEMENT may be modified only upon mutual written consent of CITY and CONSULTANT.

25. USE OF THE TERM "CITY"

Reference to "CITY" in this AGREEMENT includes City Manager or any authorized representative acting on behalf of CITY.

26. PERMITS AND LICENSES

CONSULTANT, at its sole expense, shall obtain and maintain during the term of this AGREEMENT, all appropriate permits, licenses, and certificates that

may be required in connection with the performance of services under this AGREEMENT.

27. CAPTIONS

The captions or headings in this AGREEMENT are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the AGREEMENT.

28. AUTHORIZATION

Each party has expressly authorized the execution of this AGREEMENT on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this AGREEMENT.

29. ENTIRE AGREEMENT BETWEEN PARTIES

Except for CONSULTANT'S proposals and submitted representations for obtaining this AGREEMENT, this AGREEMENT supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services and contains all of the covenants and agreements between the parties with respect to said services.

30. PARTIAL INVALIDITY

If any provision in this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

31. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Attention: Robert Nisbet, City Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

TO CONSULTANT: Attention: Christopher Julian, Principal
Rincon Consultants, Inc
319 East Carrillo Street, Suite 105
Santa Barbara, CA 93101

City of Goleta
Public Works Department and Rincon Consultants, Inc
Page 10 of 30

32. COUNTERPARTS AND ELECTRONIC/FACSIMILE SIGNATURES

This Agreement may be executed in several counterparts, which may be facsimile or electronic copies. Each counterpart is fully effective as an original, and together constitutes one and the same instrument.

33. FEDERAL REQUIREMENTS

FEMA financial assistance will be used to fund all or a portion of this contract.

The Consultant shall comply with all federal requirements including, but not limited to, the following:

1. 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference.
2. Federal Contract Provisions attached hereto as **Exhibit “C”** and incorporated herein by reference.

Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in the contract, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions.

With respect to any conflict between such federal requirements and the terms of this contract and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

In concurrence and witness whereof, this AGREEMENT has been executed by the parties effective on the date and year first above written.

CITY OF GOLETA

DocuSigned by:

Robert Nisbet

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Robert Nisbet, City Manager

CONSULTANT

DocuSigned by:

Steven J. Hongoia

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Steven Hongoia, vice President

ATTEST

DocuSigned by:

Deborah Lopez

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Deborah Lopez, City Clerk

DocuSigned by:

Lacrisa Davis

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Lacrisa Davis, Chief Financial

APPROVED AS TO FORM:

MEGAN GARIBALDI, CITY ATTORNEY

DocuSigned by:

Scott Shapses

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Scott Shapses, Deputy City Attorney

EXHIBIT A

SCOPE OF WORK

This Scope of Work is intended to provide support to the City and would be completed as needed and as directed by the City. Support may be provided at several project locations that may include, but not be limited to, Newport Creek Culvert and Santa Barbara Shore Culvert Catch Basin. For any of these projects, emergency support may include the following tasks.

Task 1 Field Assessment

The emergency notification (Regional General Permit [RGP] 63) submitted to the U.S. Army Corps of Engineers (USACE) requires a brief description of the project area's existing conditions and anticipated environmental impacts resulting from the proposed work (amount of dredge or fill material, acreage of disturbance, removal of significant vegetation, loss of habitat, etc.)

This task would include time to conduct a brief field reconnaissance survey of the project area and a 100-foot buffer to map potentially jurisdictional resources and assess the potential for threatened or endangered species to occur. Consultant has conducted numerous studies of sensitive biological resources in the city and would leverage existing reports to conduct this task in a cost-efficient manner.

Task 2 Emergency Permit Notifications

For emergency work that may result in discharges of dredged or fill material into Waters of the U.S./state a notification under Regional General Permit 63 (RGP 63) would be submitted to the USACE and the State Water Resources Control Board (SWRCB) and Central Coast Regional Water Quality Control Board would be notified under the Water Quality Certification for RGP 63. Additionally, for emergency work that may substantially affect the bed, bank, or streambed, the California Department of Fish and Wildlife would be notified through their Environmental Permit Information Management System (EPIMS). If any repair work occurs in the Coastal Zone, as is envisioned at some of the sites identified by the City, the California Coastal Commission would require an application for an emergency permit to be submitted prior to initiating the activity. Consultant shall also be able to support the City with their internal emergency permit process, including noticing requirements and hearing support.

Each notification requires the same general information, broadly summarized below:

- The applicant's name and contact information.
- The location of the project, illustrated on a map.
- A brief explanation of why the project qualifies as an emergency, including explanation of the imminent threat to life or property.

- A description of methods anticipated to be used to rectify the situation, including photographs, plans, drawings or sketches showing the area to be impacted, and a short narrative describing how the work is to be completed.
- A brief description of the existing site conditions and anticipated environmental impacts.

Consultant shall be able to prepare the majority of each notification but would work with the City to address items related to the project details, such as work limits, volumes of materials, etc.

Task 3 Permit Submittal Coordination

Consultant is prepared to develop and submit each permit notification to the respective resource agency on behalf of the City and will be available to field questions from agency staff related to the project. Rincon would confirm the approach with the City prior to responding and can be available for field visits or virtual meetings to help streamline the permitting process. The USACE is required to coordinate with other resource agencies (i.e., Environmental Protection Agency, U.S. Fish and Wildlife Service, State Historic Preservation Officer, etc.) and are required to fully consider any comments received. The USACE may impose terms and conditions to avoid and minimize adverse effects on aquatic resources, and may require mitigation to reduce the project's adverse environmental effects to a minimal level. Rincon can support any coordination efforts or provide support on further technical reports such as a mitigation plan.

Task 4 Construction Support

Consultant is well equipped to provide construction monitoring support. We have biologists, and ISA certified arborists on staff and are able to subcontract additional specialists as needed to meet the needs of each project. We have an intimate knowledge of the biological resources present in the city, and we understand that the projects could potentially affect monarch butterflies, tidewater goby, Southern California steelhead, and California red-legged frog, as well as nesting birds. As we discussed, we are able to subcontract Althouse and Meade, Inc. for support with monarch butterfly related items. We are also able to provide archaeologists and native American monitors during earth disturbing activities, or as required by resource agencies.

Task 5 Project Completion Notifications

The USACE, SWRCB, and CDFW require project completion documentation which includes a summary of the work performed, measures incorporated to protect the environment, and actual impacts sustained, with photo documentation of before/after conditions. Consultant shall be able to take the lead on completing each completion report in coordination with the City.

Task 6 Project Management and Coordination

This task includes coordination with Consultant project team to efficiently execute this Scope of Work. This task also includes financial management and monthly invoicing in the City's preferred format.

Assumptions

- All tasks will be initiated as directed by the City and in accordance with our current 2023 fee schedule (Attachment 1).
- All agency notification fees will be paid directly to the respective resource agency by the City, unless directed otherwise.
- All materials will be submitted to the City in draft form and submitted to the resource agencies after City approval.
- Consultant understands this Scope of Work shall not exceed \$44,999. Consultant will communicate with the City when the not to exceed amount is approaching \$10,000 in remaining budget.

EXHIBIT B

SCHEDULE OF FEES

Standard Fee Schedule for Environmental Sciences and Planning Services

| Professional, Technical and Support Personnel* | Hourly Rate |
|--|-------------|
| Principal II | \$295 |
| Director II | \$295 |
| Principal I | \$285 |
| Director I | \$285 |
| Senior Supervisor II | \$268 |
| Supervisor I | \$250 |
| Senior Professional II | \$234 |
| Senior Professional I | \$218 |
| Professional IV | \$194 |
| Professional III | \$180 |
| Professional II | \$160 |
| Professional I | \$143 |
| Associate III | \$120 |
| Associate II | \$107 |
| Associate I | \$100 |
| Field Technician | \$86 |
| Data Solutions Architect | \$180 |
| Senior GIS Specialist | \$172 |
| GIS/CADD Specialist II | \$153 |
| GIS/CADD Specialist I | \$138 |
| Technical Editor | \$135 |
| Project Accountant | \$115 |
| Billing Specialist | \$98 |
| Publishing Specialist | \$110 |
| Clerical | \$98 |

* Professional classifications include environmental scientists, urban planners, biologists, geologists, marine scientists, GHG verifiers, sustainability experts, cultural resources experts, and other professionals.

Reimbursable Expenses

| Direct Cost | Rates |
|------------------------------------|--|
| Photocopies – Black and White | \$0.25 (single-sided), \$0.45 (double-sided) |
| Photocopies – Color | \$1.55 (single-sided), \$3.10 (double-sided) |
| Photocopies – 11 x 17 | \$0.55 (B&W), \$3.40 (color) |
| Oversized Maps | \$8.50/square foot |
| Digital Production | \$15/CD, \$20/flash drive |
| Light-Duty and Passenger Vehicles* | \$90/day |
| 4WD and Off-road Vehicles* | \$150/day |

*Current IRS mileage rate for mileage over 50 and for all miles incurred in employee-owned vehicles.

Other direct costs associated with the execution of a project, that are not included in the hourly rates above, are billed at cost plus 5%. These may include, but are not limited to, subcontractor services. No mark-up will be included on subcontractor direct expenses (i.e., mileage, field equipment).

Payment Terms. All fees will be billed to Client monthly and shall be due and payable upon receipt or as indicated in the contract provisions for the assignment. Invoices are delinquent if not paid within ten (10) days from receipt or per the contractually required payment terms.

| Equipment | Rate |
|--|---------------|
| Environmental Site Assessment | |
| Soil Vapor Extraction Monitoring Equipment | \$160 |
| Four Gas Monitor | \$137 |
| Flame Ionization Detector | \$110 |
| Photo Ionization Detector | \$82 |
| Hand Auger Sampler | \$62 |
| Water Level Indicator, DC Purge Pump | \$46 |
| CAPDash | \$7,500 |
| Natural Resources Field Equipment | |
| UAS Drone | \$276 |
| Spotting or Fiberoptic Scope | \$170 |
| Pettersson Bat Ultrasound Detector/Recording Equipment | \$170 |
| Sound Level Metering Field Package (Anemometer, Tripod and Digital Camera) | \$113 |
| GPS (Sub-meter Accuracy) | \$67 |
| Infrared Sensor Digital Camera or Computer Field Equipment | \$57 |
| Scent Station | \$23 |
| Laser Rangefinder/Altitude | \$11 |
| Pit-fall Traps, Spotlights, Anemometer, GPS Units, Sterilized Sample Jar | \$9 |
| Mammal Trap, Large/Small | \$1.55/\$0.55 |
| Water and Marine Resources Equipment | |
| Boat (26 ft. Radon or Similar) | \$621 |
| Boat (20 ft. Boston Whaler or Similar) | \$345 |
| Multi Parameter Sonde (Temp, Cond, Turbidity, DO, pH) with GPS | \$170 |
| Water Quality Equipment (DO, pH, Turbidity, Refractometer, Temperature) | \$62 |
| Refractometer (Salinity) or Turbidity Meter | \$38 |
| Large Block Nets | \$114 |
| Minnow Trap | \$98 |
| Net, Hand/Large Seine | \$57 |
| Field Equipment Packages | |
| Standard Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet, Safety Equipment, and Botanic Collecting Equipment) | \$114 |
| Remote Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet and Mifi, Delorme Satellite Beacon, 24-Hour Safety Phone) | \$144 |
| Amphibian/Vernal Pool Field Package (Digital Camera, GPS, Thermometer, Decon Chlorine, Waders, Float Tube, Hand Net, Field Microscope) | \$170 |
| Fisheries Equipment Package (Waders, Wetsuits, Dip Nets, Seine Nets, Bubbles, Buckets) | \$57 |
| Underwater and Marine Sampling Gear (U/W Photo/Video Camera, Scuba Equipment (Tanks, BCD, Regulators, Wetsuits, etc.)) | \$57/diver |
| Marine Field Package (PFDs - Personal Flotation Devices, 100-foot Reel Tapes with Stainless Carabiners, Pelican Floats, Underwater Slates, Thermometer, Refractometer, Anemometer, Various Field Guides) | \$57 |
| Insurance, Hazard and Fees | |
| Historic Research Fees | \$55 |
| L&H Dive Insurance | \$57/diver |
| Level C Health and Safety | \$70/person |

EXHIBIT C

FEDERAL CONTRACT PROVISIONS

During the performance of this contract, Rincon Consultants, Inc (the "Consultant") shall comply with all applicable federal laws and regulations including but not limited to the federal contract provisions in this Exhibit. In this Exhibit, the term "Agency" shall mean the local agency entering into this contract with the Consultant.

1. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS (2 C.F.R. § 200.321)

- A. Consultant shall be subject to 2 C.F.R. § 200.321 and will take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award.
- B. Affirmative steps shall include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
 - v. Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

Consultant shall submit evidence of compliance with the foregoing affirmative steps when requested by the Agency.

Notwithstanding the foregoing, the affirmative steps requirements detailed above do not apply in the case of a noncompetitive procurement made

under the emergency exception/exigency exception to competitive procurements.

2. COST PRINCIPLES (2 C.F.R. PART 200, SUBPART E)

- A. If any indirect costs will be charged to the Agency under this contract, such costs must conform to the cost principles set forth under the Uniform Rules at 2 C.F.R. Part 200, subpart E (“Cost Principles”). In general, costs must (i) be necessary and reasonable; (ii) allocable to the grant award; (iii) conform to any limitations or exclusions set forth in the Cost Principles; (iv) be adequately documented; and (v) be determined in accordance with generally accepted accounting principles (“GAAP”), except, for state and local governments and Indian tribes only, as otherwise provided for in 2 C.F.R. Part 200, subpart E. 2 C.F.R. § 200.403. Costs that are determined unallowable pursuant to a federal audit are subject to repayment by Consultant.

3. ACCESS TO RECORDS & RECORD RETENTION (2 C.F.R. 200.336)

- A. Consultant shall comply with 2 C.F.R. § 200.336 and provide the Federal Agency, Inspectors General, the Comptroller General of the United States, Agency, and the State of California or any of their authorized representatives access, during normal business hours, to documents, papers, books and records which are directly pertinent to this contract for the purposes of making and responding to audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to the Consultant personnel for the purpose of interview and discussion related to the books and records.
- B. The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The Consultant agrees to provide the Federal Agency or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

4. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.326)

- A. Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. If the contract is in excess of \$10,000 and the contract does not include provisions for both termination for cause and termination for convenience by the Agency, including the manner by which it will be effected and the basis for settlement, then the following termination clauses shall apply. If the contract is for more than the simplified acquisition threshold (see 2 C.F.R. § 200.88) at the time the contract is executed and does not provide for administrative, contractual, or legal remedies in instances where Contractor violates or breaches the terms of the contract, then the following termination clauses shall apply and have precedence over the contract. Otherwise, the following termination clauses shall not be applicable to the contract.
- i. Termination for Convenience. The Agency may, by written notice to Consultant, terminate this contract for convenience, in whole or in part, at any time by giving written notice to Consultant of such termination, and specifying the effective date thereof ("Notice of Termination for Convenience"). If the termination is for the convenience of the Agency, the Agency shall compensate Provider for work or materials fully and adequately provided through the effective date of termination. No amount shall be paid for unperformed work or materials not provided, including anticipated profit. Consultant shall provide documentation deemed adequate by the Agency to show the work actually completed or materials provided by Consultant prior to the effective date of termination. This contract shall terminate on the effective date of the Notice of Termination.
 - ii. Termination for Cause. If Consultant fails to perform pursuant to the terms of this contract, the Agency shall provide written notice to Consultant specifying the default ("Notice of Default"). If Consultant does not cure such default within ten (10) calendar days of receipt of Notice of Default, the Agency may terminate this contract for cause. If Consultant fails to cure a default as set forth above, the Agency may, by written notice to Consultant, terminate this contract for cause, in whole or in part, and specifying the effective date thereof ("Notice of Termination for Cause"). If the termination is for cause, Consultant shall be compensated for that portion of the work or materials

provided which has been fully and adequately completed and accepted by the Agency as of the date the Agency provides the Notice of Termination. In such case, the Agency shall have the right to take whatever steps it deems necessary to complete the project and correct Consultant's deficiencies and charge the cost thereof to Consultant, who shall be liable for the full cost of the Agency's corrective action, including reasonable overhead, profit and attorneys' fees.

- iii. Reimbursement; Damages. The Agency shall be entitled to reimbursement for any compensation paid in excess of work rendered or materials provided and shall be entitled to withhold compensation for defective work or other damages caused by Consultant performance of the work.

- iv. Additional Termination Provisions. Upon receipt of a Notice of Termination, either for cause or for convenience, Consultant shall promptly discontinue the work unless the Notice directs to the contrary. Consultant shall deliver to the Agency and transfer title (if necessary) to all provided materials and completed work, and work in progress including drafts, documents, plans, forms, maps, products, graphics, computer programs and reports. The rights and remedies of the parties provided in this Section are in addition to any other rights and remedies provided by law or under this contract. Consultant acknowledges the Agency's right to terminate this contract with or without cause as provided in this Section, and hereby waives any and all claims for damages that might arise from the Agency's termination of this contract. The Agency shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed work or materials not provided and shall not be entitled to damages or compensation for termination of work or supply of materials. If Agency terminates this contract for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience. In such event, Consultant shall be entitled to receive only the amounts payable under this

Section, and Consultant specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits. The rights and remedies of the Agency provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this contract including, but not limited to, the right to specific performance.

B. Appendix II to Part 200 (C) – Equal Employment Opportunity:

Except as otherwise provided under 41 C.F.R. Part 60, Consultant shall comply with the following equal opportunity clause, in accordance with Executive Order 11246 of September 24, 1965 entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967 and implementation regulations at 41 C.F.R. Chapter 60:

- i. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Consultant will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.
- ii. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
- iii. Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an

employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Consultant's legal duty to furnish information.

- iv. Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. Consultant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24,

1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- viii. Consultant will include the provisions of paragraphs (i) through (viii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or Consultant. Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or Consultant as a result of such direction, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

C. Appendix II to Part 200 (D) – Davis-Bacon Act; Copeland Act: Not applicable to this contract.

D. Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:

- i. If this contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Consultant shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- ii. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- iii. In the event of any violation of the clause set forth in paragraph (ii) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (ii) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (ii) of this section.
- iv. The Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (iii) of this section.
- v. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through

ATTACHMENT 3

Attachment 3 – Public Works Storm Damage List

| January 2023 Storm Event | |
|--|---|
| Project Name | Project Description |
| Emergency Storm Services | Removal of downed or damaged trees, clean-up of sediment and debris at Ellwood Beach, filling of various potholes, and storm drain pumping. |
| Ellwood Mesa Access Road and Devereux Creek Culvert Repair | The service roadway to Ellwood Mesa and Devereux Creek culvert was damaged by the high flows. Temporary repairs include the installation of a metal plate to bridge the eroded roadway and reinforcement of the failing culvert. |
| San Pedro Creek and Storm Drain Repair | The concrete collar of the storm drain was exposed and separated from a pipe in the high storm flows. Repairs include excavation of existing pipe, and installation of the new collar, headwall, and footing. Nearby downed trees must also be removed. |
| Ellwood Beach Dr. Drain Repair | High flows caused erosion of the nearby slope past the end of the roadway. Repairs include the installation of a drainage system to mitigate flows. |
| San Rossano & Padova Drain Replacement | A sinkhole developed in the parkway near the curb drain inlet by Evergreen Park due to pipe erosion. Repairs include excavation, replacement of eroded pipe, backfill, and compaction of the soil. |
| Jonny D. Wallis Neighborhood Park Sinkhole | A Sinkhole developed due to high flows. Repairs include excavation and removal of old facilities and backfilling the sinkhole with native material and sand. |
| Cathedral Oaks Slope Stability | Excess flows accelerated the erosion of the sinkhole in bike pathway. Repairs include the installation of a secant wall to prevent |

| | |
|---|--|
| | further erosion, backfill of materials including pressure-injected foam, and investigatory potholing and trenching in the roadway. |
| Ellwood Mesa Bluff and Beach Access Erosion | Due to the heavy rainfall flows, the coastal bluffs eroded at two locations. Repairs include trail segments to redirect runoff water away from the bluff, stabilization, and backfilling of eroded sections. |
| Maria Ygnacio Bike Path | Undercrossing sustained heavy flows of debris and sediment, clogging the drain and dislodging rock riprap. Repairs include clearing debris, repairing riprap, and clearing downed trees and vegetation. |
| Tree Damage | 78 trees across eight parks and open spaces were damaged or destroyed. Debris clearing, chipping, and tree felling will be performed under the direction of certified arborists and biologists. |
| March 2023 Storm Event | |
| Newport Drive Erosion & Sinkhole | A sinkhole developed near the sidewalk near the curb drain inlet due to storm drainpipe erosion. Repairs include excavation, replacement of eroded pipe, backfill, and compaction of soil. |
| 303 Santa Barbara Shores Catch Basin and Culvert | A sinkhole developed near the open space due to storm drainpipe erosion. Repairs include excavation, replacement of eroded pipe, backfill, and compaction of soil. |
| Santa Barbara and Sea Gull Erosion Repair Project | A sinkhole developed near the sidewalk near the curb drain inlet due to storm drainpipe erosion. Repairs include excavation, replacement of eroded pipe, backfill, and compaction of soil. |
| Tree Damage | 120 trees across ten parks and open spaces were damaged or destroyed. Debris clearing, chipping, and tree felling will be performed under the direction of certified arborists and biologists. |

Attachment 1 – Public Works Storm Damage List

| January 2023 Storm Event | |
|--|---|
| Project Name | Project Description |
| Emergency Storm Services | Removal of downed or damaged trees, clean-up of sediment and debris at Ellwood Beach, filling of various potholes, and storm drain pumping. |
| Ellwood Mesa Access Road and Devereux Creek Culvert Repair | The service roadway to Ellwood Mesa and Devereux Creek culvert was damaged by the high flows. Temporary repairs include the installation of a metal plate to bridge the eroded roadway and reinforcement of the failing culvert. |
| San Pedro Creek and Storm Drain Repair | The concrete collar of the storm drain was exposed and separated from a pipe in the high storm flows. Repairs include excavation of existing pipe, and installation of the new collar, headwall, and footing. Nearby downed trees must also be removed. |
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|---|--|
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| Santa Barbara and Sea Gull Erosion Repair Project | A sinkhole developed near the sidewalk near the curb drain inlet due to storm drainpipe erosion. Repairs include excavation, replacement of eroded pipe, backfill, and compaction of soil. |
| Tree Damage | 120 trees across ten parks and open spaces were damaged or destroyed. Debris clearing, chipping, and tree felling will be performed under the direction of certified arborists and biologists. |