



Council Agenda Report

To: Mayor Rosenthal and the Honorable Members of the City Council

Prepared by: Adrian Fernandez, Senior Planner *a.f.*

Reviewed by: Bonnie Blue, AICP, Planning Director

Approved by: Jim Thorsen, City Manager *[Signature]*

Date prepared: November 4, 2015 Meeting date: November 23, 2015

Subject: Amendments to Agreements for the Seaboard Road Project Environmental Impact Report

RECOMMENDED ACTION: 1) Authorize the City Manager to execute Amendment No. 2 to the Agreement with Rincon Consultants, Inc. for the preparation of an Environmental Impact Report (EIR) for the 21000 and 21100 Seaboard Road Lot Line Adjustment and Coastal Development Permit Project (Project); and 2) authorize the City Manager to execute Amendment No. 2 to the Agreement (Attachment 2) with the Breitman Residence Trust dated October 1, 2003 (Developer).

FISCAL IMPACT: There is no fiscal impact associated with approval of this Amendment. The costs for the services are being paid from funds deposited by the Applicant (710-0000-2271.20).

DISCUSSION: On March 22, 2010, the City Council approved two agreements related to the Project: one with Rincon Consultants, Inc. (Consultant) to prepare the EIR, and one with the Developer for reimbursement of the cost for the Consultants to prepare the EIR. Subsequently, on November 8, 2010, the City Council authorized Amendment No. 1 to each of the two agreements. A complete chronology of the project and agreement history is included in the November 8, 2010 agenda report¹.

Due to several factors, the Developer placed the project on hold after the administrative draft EIR was completed. The Developer is now ready to proceed. In September 2015, the Consultant provided an amendment proposal describing the remaining services that would be necessary to ensure that the administrative draft EIR and initial study are accurate and up-to-date, and to carry out the rest of the Scope of Work. In addition to

¹ November 8, 2010 City Council Agenda Report Item 3B5 - <http://www.malibucity.org/documentcenter>

amending the Consultant agreement, since the Developer pays the costs of the EIR, it is necessary to also amend the Developer Reimbursement Agreement to reflect the increase in the Project budget.

A detailed breakdown of the EIR agreement is provided in Table 1 below:

Table 1 – EIR Agreement	
CONSULTANT FEE	AMOUNT
Consultant Invoices Paid to Date	\$38,218.40
Amount Remaining to Complete Project	+ \$27,559.00
Total	\$65,777.40
AGREEMENTS	
Original Agreement	
Consultant Fee	\$45,500.00
30% City Administrative Fee	+ \$13,650.00
Subtotal	\$59,150.00
Amendment No. 1	
Consultant Fee	\$10,390.00
30% City Administrative Fee	+ \$3,117.00
Subtotal	\$13,507.00
Proposed Amendment No. 2	
Consultant Fee	\$9,887.40
30% City Administrative Fee	+ \$2,966.22
Subtotal	\$12,853.62
Total	\$85,510.62
DEVELOPER REIMBURSEMENT	
Developer Reimbursement Agreement	\$85,510.20
Deposit to Date by Applicant	- \$60,601.00
Deposit Due	\$24,909.62

This item was previously scheduled for the October 26, 2015 Regular City Council meeting. However, the item was continued because staff had mistakenly referred to the EIR as a “Focused EIR.” All documents have since been revised to properly remove all references to the term “Focused.”

STAFF FOLLOW-UP: Upon City Council approval, the amendments to the agreements will be executed.

ATTACHMENTS:

1. Amendment No. 2 to Professional Services Agreement with Rincon Consultants, Inc.
2. Amendment No. 2 to Developer Reimbursement Agreement with the Breitman Trust

AMENDMENT NO. 2 TO AGREEMENT

THIS AMENDMENT NO. 2 TO AGREEMENT is made and entered in the City of Malibu on the 23rd of November 2015, by and between the CITY OF MALIBU (hereinafter referred to as "City"), and RINCON CONSULTANTS, INC. (hereinafter referred to as "Consultant").

The City and the Consultant agree as follows:

RECITALS

A. On March 22, 2010, the City entered into an Agreement with Consultant for the preparation of an environmental impact report (EIR) for the 21000 and 21100 Seaboard Road Lot Line Adjustment and Coastal Development Permit Project (the "Agreement") in the amount of \$45,500.

B. On November 29, 2010, the City entered into Amendment No. 1 to Agreement to amend the Scope of Work and compensation in the amount of \$10,390.

C. In July 2011, the Consultant prepared an administrative draft EIR for the City's review. In addition, The Breitman Residence Trust dated October 1, 2003 (herein referred to as "Developer") placed the project on hold.

D. In September 2015, the Developer notified the City that they desired to proceed with the project.

E. The City desires to amend the Agreement to cover the costs associated with the remaining services that would be necessary to ensure that the administrative draft EIR and initial study are accurate and up-to-date, and to carry out the rest of the Scope of Work.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree to amend the Agreement as follows:

1. Section 1.0 – Scope of the Consultant's Services is hereby amended as set forth in Exhibit A attached hereto.
2. Section 4.0 – Compensation for Services is hereby amended to increase the compensation by \$9,887.40, bringing the total agreement amount to \$65,777.40.
3. All terms and conditions of the Agreement not amended by this Amendment No. 2 remain in full force and effect.

This Agreement is executed on _____, 2015, at Malibu, California, and effective as of November 23, 2015.

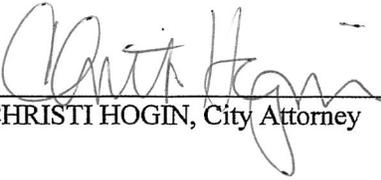
CITY OF MALIBU:

JIM THORSEN, City Manager

ATTEST:

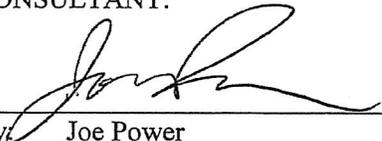
LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:

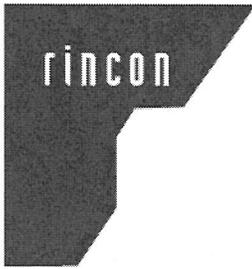


CHRISTI HOGIN, City Attorney

CONSULTANT:



By: Joe Power
Title: Principal-in-Charge



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180 North Ashwood Avenue
Ventura, California 93003

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FAX 644 4240

info@rinconconsultants.com
www.rinconconsultants.com

October 30, 2015
Job No. 15-01598

Adrian Fernandez
Senior Planner
Planning Department
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Revised Proposal to Prepare an EIR for the 21100 Seaboard Road Lot Line Adjustment & CDP

Dear Mr. Fernandez:

Rincon Consultants, Inc. is pleased to submit this revised proposal to prepare an Environmental Impact Report (EIR) for the Lot Line Adjustment and Coastal Development Permit (CDP) proposed for the property at 21100 Seaboard Lane. An Initial Study and Mitigated Negative Declaration (IS/MND) was previously prepared for the project; however, because of concerns about biological, geotechnical, and hydrological issues, the City has decided to prepare an EIR.

This revised proposal describes: (1) our understanding of the project; (2) our proposed work program; (3) our proposed project schedule; (4) our proposed costs; and (5) key Rincon personnel. Information about Rincon's qualifications, including references, can be provided upon request. This revised reflects conversations with both the applicant's representative and City staff since submittal of our original proposal dated September 15, 2009.

Understanding of the Project

The project area consists of four existing lots located on the south flank of the Santa Monica Mountains in the hills between Las Flores Beach on the west and Big Rock Beach on the east. Currently, the four lots are 4.08 acres (Lot 1), 1.03 acres (Lot 2), 4.22 acres (Lot 3), and 22.81 acres (Lot 4). Proposed CDP No. 05-061 involves a lot line adjustment for these four lots, which would result in the following lot sizes: 7.6 acres (Lot A, the location of the proposed residence), 1.3 acres (Lot B), 20.0 acres (Lot C) and 2.6 acres (Lot D). The four lots affected by this lot line adjustment are all legal parcels.

EXHIBIT A

The lot line adjustment would allow for the development of the single-family residence proposed under CDP No. 04-051. It would also allow potential development of single-family residences on each of the remaining three lots to be clustered around the access road and oriented to minimize disturbance to the surrounding areas. Plans have yet to be submitted for any development on the remaining three lots, but the potential future building pads are depicted on site plans as 5,100 square feet (Lot B), 9,700 square feet (Lot C), and 7,800 square feet (Lot D). These building pads are the least environmentally damaging building sites because they minimize landform alterations, are not visible from public viewing areas, reduce potential impacts to environmentally sensitive habitat area (ESHA), and are located in areas that geotechnical reports have determined as stable.

The site of the proposed residence is relatively flat and supports primarily disturbed non-native vegetation. The proposed single family residence would be two stories (28 feet) in height and would encompass 10,517 square feet with a 398 square foot covered loggia. A 4,090 square foot basement is also proposed; however, per the provision of the Malibu Municipal Code (M.M.C.) in effect at the time the application was deemed complete, this area is not counted in the total development square footage for the residence. Two garages are proposed. A two-car garage would be attached to the main residence, while a one-car garage would be connected to the attached garage by a 354 square foot trellis. A 7,325 square foot tennis court is proposed north of the residence and a 723 square foot pool is proposed south of the residence. A driveway for the residence is proposed from the access roadway. Hardscape, landscape, and an alternative onsite wastewater treatment system (AOWTS) are proposed as well.

Access to the site is via Seaboard Road, which begins as a wide, paved, public road and narrows to a privately owned, paved road, accessible to existing residences. The existing unpaved road, which is approximately 2,590 feet long, is proposed to be improved and widened to 20 feet within the existing 40-foot wide right-of-way to comply with Fire Department standards. The existing, paved portion of Seaboard Road, which is privately owned and is less than 20 feet wide, is not required to be widened to 20 feet. Three wider areas to accommodate Fire Department turnarounds are proposed along the length of the road.

In order to widen the road, retaining walls must meet required Los Angeles County Building and Safety standards. Portions of the retaining walls are proposed to exceed six feet in height, up to 12 feet. Therefore, a variance is required to exceed the permitted wall heights. The applicant has proposed a single wall in excess of six feet rather than two six foot walls to reduce potential impacts to ESHA and to reduce grading quantities. A single wall will have a smaller footprint and disturbance area as compared to two staggered walls. As proposed, approximately 0.046 acres of ESHA will be impacted for road widening.

As noted above, an MND prepared for the project was adopted by the Planning Commission. However, on August 10, 2009, the City Council directed staff to prepare an EIR to address the following: 1) the impact of Seaboard Road and whether a narrower road can be built; 2) the impact of construction on the existing road, specifically the paved portion of Seaboard Road; and 3) the impact of all development on the drainage in the area.

Rincon previously worked on this project, to the point of submitting an Administrative Draft EIR and then making edits to the ADEIR in response to City comments, through approximately July 2011, when the project was put on hold by the City. The Work Program/Scope of Services described below describes the remaining services that would be necessary to ensure that the Administrative Draft Initial Study and EIR previously submitted by Rincon to the City are still accurate and up-to-date, and to carry out the rest of the Work Program/Scope of Services from that point forward through project completion.

Work Program/Scope of Services

The objective of the work scope outlined below is to produce an EIR that meets State and City of Malibu California Environmental Quality Act (CEQA) requirements.

1. **Kickoff Meeting.** Rincon will attend a kickoff meeting with City staff, followed by a site walk. The purpose of the meeting will be to obtain any necessary materials for the document preparation and confirm project goals, schedule, and communication protocol. The purpose of the site walk will be to confirm the current condition of the site and take updated site photos.
2. **Administrative Draft EIR.** Rincon will review all Administrative Draft EIR (ADEIR) sections and update them as necessary to reflect any changed conditions, such as changes to site conditions, environmental setting, and regulatory setting. Rincon will then submit the ADEIR to the City for review.
3. **Draft EIR.** The Draft EIR (DEIR) will incorporate all relevant City staff comments on the ADEIR. This document will be circulated for public comment for a period of 45 days, as required by CEQA. Rincon will deliver a PDF version of the document for posting to the City's website. It is assumed that the City will be responsible for all circulation and noticing of the DEIR.
4. **Final EIR.** The Final EIR (FEIR) will include all comment letters received during the public review period, responses to all comments received on the DEIR, and any necessary text changes. The FEIR will also include a mitigation monitoring and reporting program (MMRP) in accordance with

City requirements. The MMRP will be provided in a format designed for use by planners or code enforcement officers. Essentially, this plan will take the form of a detailed table that compiles all proposed mitigation measures as well as information necessary to monitor compliance with each measure.

5. **Public Hearings.** Rincon's project manager/lead analyst will attend two hearings on the EIR before the Planning Commission and/or City Council.

Based on our understanding of the issues and comments from the City on drafts of the EIR previously submitted to the City, the following issues will be addressed in detail in the EIR.

- *Biological Resources*
- *Geology and Soils*
- *Hydrology and Water Quality*
- *Land Use and Planning*

The following describes our general approach to the analysis of these issues as well as alternatives and impacts found to be less than significant.

Biological Resources. The biological resource analysis will be overseen by Rincon's Principal Biologist. Steven G. Nelson already conducted a biological resource analysis (BRA) for the project. This analysis, dated April 2, 2005, will be peer reviewed by a Rincon biologist to ensure consistency with current regulations and on-site conditions. It is assumed that the City of Malibu will confirm how, if at all, ESHA boundaries and other relevant on-site conditions have changed since Rincon last worked on this project. A Rincon Biologist can provide this service, if requested, for an additional fee. The peer review will include a field reconnaissance to verify the findings in the Initial Study, which incorporate the findings of the BRA. Rincon's biological resources analysis will include a synopsis of the key findings of the prior biological investigation, as well as a synopsis of any changed conditions, and will include identification of potentially significant impacts and mitigation requirements. As necessary, mitigation will be included for identified significant impacts. It is assumed that the City will confirm that all applicable technical studies have been reviewed by the City and are acceptable for use in the EIR.

Geology and Soils. Several geological investigations have been performed at the site, including a *Preliminary Geologic and Soils Engineering Investigation* performed by Geoconcepts, Inc., and a fault exploration trench performed by Evans, Colbaugh & Associates. These investigations have already been incorporated into the Geology and Soils section of the EIR. The EIR analysis, which was overseen by a Rincon registered geologist with the assistance of RJR Engineering Group, relied primarily on the findings of the geotechnical analyses and brought forward the discussion of landslide stability and other geotechnical risks into a format readily understandable

by the lay public. It is assumed that Rincon's remaining work on this section will consist of reviewing the ADEIR Geology and Soils section and updating it as necessary to reflect any changed conditions, including changed site conditions, environmental setting, and regulatory setting. Recommendations from the geotechnical analyses will be incorporated, as appropriate, as EIR mitigation measures. It is assumed that the City will confirm that all applicable technical studies have been reviewed by the City and are acceptable for use in the EIR.

Hydrology and Water Quality. The applicant has prepared a comprehensive drainage and erosion control plan that reflects a "worst case" scenario with respect to drainage and erosion. In support of the EIR hydrology analysis, RJR Engineering Group performed a peer review of the applicant-prepared study in accordance with Malibu drainage guidelines, based on the County of Los Angeles Public Works Hydrology and Sedimentation Manual. This section of the EIR will incorporate the findings of the applicant study and RJR's peer review, and include a qualitative analysis of potential temporary and long-term water quality impacts and consistency with applicable requirements of the City and County as well as federal National Pollutant Discharge Elimination System (NPDES) standards. It is assumed that the City will confirm that all applicable technical studies have been reviewed by the City and are acceptable for use in the EIR.

Alternatives. The EIR will examine three alternatives to the proposed project: No Project; Narrower Seaboard Road; and Access through Eagle Pass Drive. The alternatives analysis will examine each of the EIR issues as well as other issues relevant to the alternative (e.g., the effect of narrowing the road on emergency access). The alternatives analysis will be in less detail than the project analysis, but will provide sufficient information to allow City decision makers to select an alternative if they so choose. Specifically, the analysis will determine: (1) whether the alternative's impact would be greater or less than that of the project; (2) the magnitude of each impact for the alternative (i.e., significant, less than significant, etc.); and (3) whether the mitigation measures recommended for the proposed project apply or other mitigation is needed.

Impacts Found to be Less Than Significant. The EIR will include a section briefly summarizing impacts found to be less than significant, including impacts found to be less than significant in the Initial Study.

Schedule

The following outlines our schedule for completion of the EIR work program. We assume that the Initial Study does not need to be re-circulated and that the City will handle the Draft EIR noticing process.

- **Administrative Draft EIR.** *The Administrative Draft EIR will be submitted within five weeks of the project kickoff meeting.*

- **Revised Administrative Draft EIR.** *If necessary, a Second Administrative Draft EIR will be submitted within one week of receipt of City comments on the Administrative Draft EIR.*
- **Draft EIR.** *Twenty (20) bound copies and one (1) unbound camera-ready copy of the Draft EIR will be submitted within one week of receipt of City comments on the Revised Administrative Draft EIR. Rincon will also prepare 16 copies in an electronic file in PDF format on computer disks. One copy will be transmitted to the City for posting on the City's website and 15 will be transmitted by Rincon to the State Clearinghouse. Please note that we can reduce the number of hard copies and increase the number of electronic copies at the request of the City.*
- **Responses to Comments on the Draft EIR.** *Draft responses to comments on the Draft EIR will be submitted within two weeks of receipt of all comments.*
- **Final EIR.** *Twenty (20) bound copies and one (1) camera-ready copy of the Final EIR will be submitted in the form of a single document that includes the Final EIR text, Responses to Comments, and a Mitigation Monitoring and Reporting Program (MMRP). The Final EIR will be submitted within one week of receipt of all City comments on the draft responses to comments. A copy of the entire final document will also be provided on computer disk.*

Costs

The services outlined above will be provided for a lump sum cost of \$27,559. The project will be billed monthly on a time and materials basis. A detailed breakdown of costs by task is shown at the end of this proposal, along with a copy of our standard fee schedule for your reference. We have budgeted 20 hours of Project Manager/Lead Analyst time to respond to comments on the Draft EIR. Attendance at two public hearings is included in this fee. If additional meetings/hearings are desired, they will be billed on a time and materials basis.

Key Personnel

Joe Power, AICP, Principal and Manager of Rincon's Planning Services Group, will serve as principal in charge of the project. Joe has more than 20 years of experience managing projects in accordance with California General Plan, Specific Plan, and CEQA law. **Greg Martin**, Senior Planner/Project Manager, will serve as project manager and lead analyst. Greg has more than 10 years of experience as a Planner, and was the analyst for this project when it was last submitted to the City. **Duane Vander Pluym, D.ESE**, will oversee the biological resources peer review. A Doctor of Environmental Science and Engineering, Duane has more than 30 years of experience conducting biological resource studies.

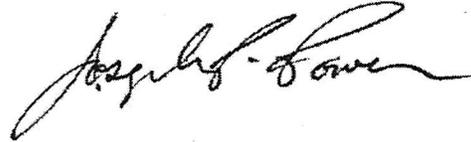


Thank you for your consideration of Rincon Consultants for this project. We look forward to the opportunity to work with the City and would welcome an opportunity to discuss the details of this proposal at your convenience.

Sincerely,
RINCON CONSULTANTS, INC.



Greg Martin, AICP
Senior Planner/Project Manager



Joe Power, AICP
Principal

City of Malibu
21100 Seaboard Road Lot Line Adjustment & CDP EIR
Cost Estimate

2-Nov-15

Tasks	Cost	Hours	Rincon Labor Hours				
			Principal \$190/hour	Proj. Mgr./ Lead Analyst \$155/hour	Assoc. Planner/ Biologist \$110/hour	Graphics \$80/hour	Clerical \$70/hour
1. Kickoff Meeting/Site Walk	\$1,060	8		4	4		
2. Revise Initial Study	\$1,130	9	1	4		4	
3. Biology Peer Review	\$2,260	16	4	4	8		
4. Revise Administrative Draft EIR	\$4,640	38	2	12	16	8	
5. Draft EIR	\$3,380	30	2	8	8	4	8
6. Final EIR							
6.1 Responses to Comments/MMRP	\$4,360	30	2	20	8		
6.2 Publication of Final EIR	\$1,850	18	2	2	4	2	8
7. Attendance at Public Hearings (2)	\$1,860	12		12			
Project Management (includes staff meetings)	\$2,620	16	4	12			
Subtotal Rincon Labor:	\$23,160	177	17	78	48	18	16
Additional Costs							
Printing:							
6 copies of ADEIR	\$300						
20 copies of Draft EIR	\$1,000						
16 Electronic Copies of DEIR - CD-ROM	\$630						
20 copies of Final EIR	\$1,200						
Supplies and Miscellaneous Expenses	\$695						
General and Administrative	\$574						
Subtotal Additional Costs:	\$4,399						
TOTAL: Labor + Additional Costs	\$27,559						



RINCON CONSULTANTS, INC.

Standard Fee Schedule for Environmental Sciences and Planning Services

Rincon Consultants' fee schedule is based on the time that is charged to projects by our professionals and support staff. Direct costs associated with completing a project are also billed to the project as outlined under Reimbursable Expenses below. The following sets forth the billing rates for our personnel.

Professional, Technical, and Support Personnel*	Rate
Principal II	\$ 215/hour
Principal I	\$ 195/hour
Senior Supervisor II	\$ 175/hour
Supervisor I	\$ 165/hour
Senior Professional II	\$ 145/hour
Senior Professional I	\$ 135/hour
Professional IV	\$ 120/hour
Professional III	\$ 110/hour
Professional II	\$ 95/hour
Professional I	\$ 85/hour
Environmental Technician/Field Aide	\$ 75/hour
Senior GIS Specialist	\$ 115/hour
GIS/CADD Specialist II	\$ 100/hour
GIS/CADD Specialist I	\$ 90/hour
Graphic Designer	\$ 85/hour
Technical Editor	\$ 95/hour
Clerical/Administrative Assistant II	\$ 75/hour
Clerical/Administrative Assistant I	\$ 65/hour

*Professionals include environmental scientists, urban planners, biologists, geologists, and cultural resources experts

Expert witness services consisting of depositions and in-court testimony are charged at a rate of \$295/hour.

Photocopying and Printing

Photocopies will be charged at a rate of \$0.08/copy for single-sided copies and \$0.16 for double-sided copies. Colored copies will be charged at a rate of \$1.00/copy for single-sided and \$2.00/copy for double-sided or 11"×17" copies. Oversized maps or display graphics will be charged at a rate of \$8.00/square foot.

Reimbursable Expenses

Expenses associated with completing a project are termed Reimbursable Expenses. These expenses do not include the hourly billing rates described above. Reimbursable expenses include, but are not limited to, the following:

1. Direct costs associated with the execution of a project are billed at cost plus 15% to cover General and Administrative services. Direct costs include, but are not limited to, laboratory and drilling services charges, subcontractor services, authorized travel expenses, permit charges and filing fees, printing and graphic charges, mailings and postage, performance bonds, sample handling and shipment, equipment rental other than covered by the above charges, etc. Communications charges and miscellaneous office expenses (including PDAs, cell phones, phone, fax, and electronic data transmittals, digital cameras, photo processing, etc.) are billed at 3% of total labor.
2. Vehicle use in company-owned vehicles will be billed at a day rate of \$85/day for regular terrain vehicle use and \$135 per day for 4-WD off-road vehicle use, plus \$0.85/mile for mileage over 50 miles per day. For transportation in employee-owned automobiles, a rate of \$0.85/mile will be charged. Rental vehicles will be billed at cost plus 15%.



RINCON CONSULTANTS, INC.

Equipment Schedule for Environmental Sciences and Planning Services

Equipment	Rate	Unit
Environmental Site Assessment		
Bailer	\$ 25	Day
Brass Sample Sleeves	\$ 10	Each
DC Purge Pump	\$ 35	Day
Disposable Bailer	\$ 20	Each
Flame Ionization Detector	\$ 200	Day
Four Gas Monitor	\$ 120	Day
Hand Auger Sampler	\$ 55	Day
Level C Health and Safety	\$ 60	Person per day
Oil-Water Interface Probe	\$ 85	Day
Photo-Ionization Detector	\$ 120	Day
Soil Vapor Extraction Monitoring Equipment	\$ 140	Day
Water Level Indicator	\$ 35	Day
Water Resources		
Dissolved Oxygen Meter	\$ 45	Day
Refractometer (salinity)	\$ 30	Day
Sterilized Sample Jar	\$ 5	Each
Temp-pH-Conductivity Meter	\$ 50	Day
Turbidity Meter	\$ 30	Day
Natural Resources Field Equipment		
Fiberoptic Scope	\$ 90	Day
Infrared Sensor Digital Camera	\$ 50	Day
Field Equipment Package, amphibian survey (digital camera, GPS, thermometer, decon chlorine, waders, float tube, hand net)	\$ 150	Day
Field Equipment Package, construction monitoring (digital camera, GPS, thermometer, binoculars, field computer, safety equipment)	\$ 95	Day
Field Equipment Package, standard (digital camera, GPS, thermometer, binoculars, and botanic collecting equipment)	\$ 45	Day
Field Equipment Package, remote (digital camera, GPS, thermometer, binoculars, field computer and mifi, Delorme Satellite Beacon, 24-Hour Safety Phone)	\$ 125	Day
Laser Rangefinder/Altitude	\$ 10	Day
Mammal trap, large / small	\$1.50 /	Each per trap
Minnow trap	\$ 85	Each per job
Net, hand / large seine	\$ 10 / \$ 50	Day
Pettersson Bat Ultrasound Detector/Recording Equipment	\$ 150	Job
Pit-fall Trap	\$ 5	Each per trap
Scent Station	\$ 20	Station
Spotlight	\$ 5	Day
Trimble® GPS (submeter accuracy)	\$ 190	Job
Spotting Scope	\$ 150	Job
Multi-Services Field Equipment		
Anemometer	\$ 5	Day
Computer Field Equipment	\$ 45	Day
GPS unit, standard field	\$ 10	Day
Sound Level Meter	\$ 75	Day

AMENDMENT NO. 2 TO AGREEMENT

THIS AMENDMENT NO. 2 TO AGREEMENT is made and entered in the City of Malibu on the 23rd of November 2015, by and between the CITY OF MALIBU (hereinafter referred to as "City"), and DIANE BREITMAN, Trustee of the The Breitman Residence Trust dated October 1, 2003 (hereinafter referred to as "Developer").

The City and the Developer agree as follows:

RECITALS

- A. On March 22, 2010, the City entered into an Agreement with Rincon Consultants, Inc. (hereinafter referred to as "Consultant") for the preparation of an environmental impact report for the 21000 and 21100 Seaboard Road Lot Line Adjustment and Coastal Development Permit Project (hereinafter referred to as the "Project") in the amount of \$45,500.
- B. On March 22, 2010, the City entered into a Developer Reimbursement Agreement (hereinafter referred to as the "Agreement"), pursuant to which Developer agreed to reimburse the City for the cost of Consultant's services incurred in connection with the Project, together with the costs associated with City staff's administration, management and oversight of the environmental review process for the Project. The Agreement was in the amount of \$59,150, which included the anticipated cost of the Consultant's services for the preparation of the EIR, plus a thirty percent management and administration fee to cover the City's actual cost of administering, managing and overseeing the environmental review process for the Project.
- C. On November 29, 2010, the City entered into Amendment No. 1 to Agreement with the Consultant in the amount of \$10,390, bringing the Agreement amount to \$72,657, including the \$3,117 City administration fee.
- D. In July 2011, the Consultant prepared an administrative draft EIR for the City's review. In addition, the Developer placed the project on hold.
- E. In September 2015, the Developer notified the City that they desired to proceed with the project.
- F. The City desires to amend the Agreement for a second time to cover the costs associated with the remaining services that would be necessary to ensure that the administrative draft EIR and initial study are accurate and up-to-date, and to carry out the rest of the Scope of Work. The Consultant submitted a proposal dated September 18, 2015, attached hereto as Exhibit A, to amend the Scope of Work and compensation to \$9,887.40.
- G. The Parties have agreed to amend the deposit under Agreement such that the total Agreement deposit will be \$85,510.62.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. Section 1 of the Agreement is amended to read as follows:

PAYMENT. Developer agrees to pay City in full for all costs and expenses incurred pursuant to the agreement between City and Consultant, selected by City to prepare the necessary documents for Developer's project. Developer agrees to pay City in full for all Consultant personnel (full-time, part-time and contract positions). The City estimates that

the cost will be approximately \$65,777.40, plus thirty (30) percent management and administration fee to compensate for all City staff costs incurred in managing the agreement with Consultant in the amount of \$19,733.22. The total deposit amount of \$85,510.62 represents City's best estimate of Developer's ultimate obligations hereunder. To date, Developer has deposited the sum of \$60,601.00 and the Developer shall deposit the sum of \$24,909.62 upon execution of this amendment.

In the event City determines, based on the actual expense incurred in preparation and review of the EIR, that its actual costs will exceed \$85,510.62, Developer shall pay to City upon demand in a lump sum the estimated cost of the excess. Work on the EIR shall be suspended until and unless said payment is made to City and, in such event, Developer shall be responsible for all costs incurred as a result of the suspension of work. If payment is not made within 30 days of written demand by the City, the applications for the project for which the EIR is being prepared shall be deemed withdrawn by the Developer unless such time period is waived in writing by the City Manager.

After a final action is taken on the EIR by the City Council, or upon abandonment by Developer pursuant to Section 2 below, and satisfaction of all liabilities to Consultant and reimbursement of all City staff expense, City shall refund Developer any amount of Developer's payments which remain unexpended. If the deposit(s) is insufficient to meet City's obligations to Consultant, Developer shall pay any remaining amounts due.

2. All terms and conditions of the Agreement not amended by this Amendment No. 2 remain in full force and effect.

This Agreement is executed on _____, 2015, at Malibu, California, and effective as of November 23, 2015.

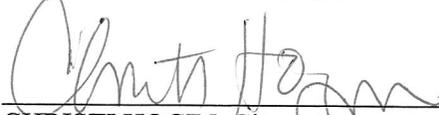
CITY OF MALIBU:

JIM THORSEN, City Manager

ATTEST:

LISA POPE, City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

CONSULTANT:



By: Diane Breitman of the Breitman Residence
Trust dated October 1, 2003
Title: Trustee



Rincon Consultants, Inc.
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Ventura, California 93003

805 644 4455
FAX 644 4240

info@rinconconsultants.com
www.rinconconsultants.com

October 30, 2015
Job No. 15-01598

Adrian Fernandez
Senior Planner
Planning Department
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Revised Proposal to Prepare an EIR for the 21100 Seaboard Road Lot Line Adjustment & CDP

Dear Mr. Fernandez:

Rincon Consultants, Inc. is pleased to submit this revised proposal to prepare an Environmental Impact Report (EIR) for the Lot Line Adjustment and Coastal Development Permit (CDP) proposed for the property at 21100 Seaboard Lane. An Initial Study and Mitigated Negative Declaration (IS/MND) was previously prepared for the project; however, because of concerns about biological, geotechnical, and hydrological issues, the City has decided to prepare an EIR.

This revised proposal describes: (1) our understanding of the project; (2) our proposed work program; (3) our proposed project schedule; (4) our proposed costs; and (5) key Rincon personnel. Information about Rincon's qualifications, including references, can be provided upon request. This revised reflects conversations with both the applicant's representative and City staff since submittal of our original proposal dated September 15, 2009.

Understanding of the Project

The project area consists of four existing lots located on the south flank of the Santa Monica Mountains in the hills between Las Flores Beach on the west and Big Rock Beach on the east. Currently, the four lots are 4.08 acres (Lot 1), 1.03 acres (Lot 2), 4.22 acres (Lot 3), and 22.81 acres (Lot 4). Proposed CDP No. 05-061 involves a lot line adjustment for these four lots, which would result in the following lot sizes: 7.6 acres (Lot A, the location of the proposed residence), 1.3 acres (Lot B), 20.0 acres (Lot C) and 2.6 acres (Lot D). The four lots affected by this lot line adjustment are all legal parcels.

The lot line adjustment would allow for the development of the single-family residence proposed under CDP No. 04-051. It would also allow potential development of single-family residences on each of the remaining three lots to be clustered around the access road and oriented to minimize disturbance to the surrounding areas. Plans have yet to be submitted for any development on the remaining three lots, but the potential future building pads are depicted on site plans as 5,100 square feet (Lot B), 9,700 square feet (Lot C), and 7,800 square feet (Lot D). These building pads are the least environmentally damaging building sites because they minimize landform alterations, are not visible from public viewing areas, reduce potential impacts to environmentally sensitive habitat area (ESHA), and are located in areas that geotechnical reports have determined as stable.

The site of the proposed residence is relatively flat and supports primarily disturbed non-native vegetation. The proposed single family residence would be two stories (28 feet) in height and would encompass 10,517 square feet with a 398 square foot covered loggia. A 4,090 square foot basement is also proposed; however, per the provision of the Malibu Municipal Code (M.M.C.) in effect at the time the application was deemed complete, this area is not counted in the total development square footage for the residence. Two garages are proposed. A two-car garage would be attached to the main residence, while a one-car garage would be connected to the attached garage by a 354 square foot trellis. A 7,325 square foot tennis court is proposed north of the residence and a 723 square foot pool is proposed south of the residence. A driveway for the residence is proposed from the access roadway. Hardscape, landscape, and an alternative onsite wastewater treatment system (AOWTS) are proposed as well.

Access to the site is via Seaboard Road, which begins as a wide, paved, public road and narrows to a privately owned, paved road, accessible to existing residences. The existing unpaved road, which is approximately 2,590 feet long, is proposed to be improved and widened to 20 feet within the existing 40-foot wide right-of-way to comply with Fire Department standards. The existing, paved portion of Seaboard Road, which is privately owned and is less than 20 feet wide, is not required to be widened to 20 feet. Three wider areas to accommodate Fire Department turnarounds are proposed along the length of the road.

In order to widen the road, retaining walls must meet required Los Angeles County Building and Safety standards. Portions of the retaining walls are proposed to exceed six feet in height, up to 12 feet. Therefore, a variance is required to exceed the permitted wall heights. The applicant has proposed a single wall in excess of six feet rather than two six foot walls to reduce potential impacts to ESHA and to reduce grading quantities. A single wall will have a smaller footprint and disturbance area as compared to two staggered walls. As proposed, approximately 0.046 acres of ESHA will be impacted for road widening.

As noted above, an MND prepared for the project was adopted by the Planning Commission. However, on August 10, 2009, the City Council directed staff to prepare an EIR to address the following: 1) the impact of Seaboard Road and whether a narrower road can be built; 2) the impact of construction on the existing road, specifically the paved portion of Seaboard Road; and 3) the impact of all development on the drainage in the area.

Rincon previously worked on this project, to the point of submitting an Administrative Draft EIR and then making edits to the ADEIR in response to City comments, through approximately July 2011, when the project was put on hold by the City. The Work Program/Scope of Services described below describes the remaining services that would be necessary to ensure that the Administrative Draft Initial Study and EIR previously submitted by Rincon to the City are still accurate and up-to-date, and to carry out the rest of the Work Program/Scope of Services from that point forward through project completion.

Work Program/Scope of Services

The objective of the work scope outlined below is to produce an EIR that meets State and City of Malibu California Environmental Quality Act (CEQA) requirements.

1. **Kickoff Meeting.** Rincon will attend a kickoff meeting with City staff, followed by a site walk. The purpose of the meeting will be to obtain any necessary materials for the document preparation and confirm project goals, schedule, and communication protocol. The purpose of the site walk will be to confirm the current condition of the site and take updated site photos.
2. **Administrative Draft EIR.** Rincon will review all Administrative Draft EIR (ADEIR) sections and update them as necessary to reflect any changed conditions, such as changes to site conditions, environmental setting, and regulatory setting. Rincon will then submit the ADEIR to the City for review.
3. **Draft EIR.** The Draft EIR (DEIR) will incorporate all relevant City staff comments on the ADEIR. This document will be circulated for public comment for a period of 45 days, as required by CEQA. Rincon will deliver a PDF version of the document for posting to the City's website. It is assumed that the City will be responsible for all circulation and noticing of the DEIR.
4. **Final EIR.** The Final EIR (FEIR) will include all comment letters received during the public review period, responses to all comments received on the DEIR, and any necessary text changes. The FEIR will also include a mitigation monitoring and reporting program (MMRP) in accordance with



City requirements. The MMRP will be provided in a format designed for use by planners or code enforcement officers. Essentially, this plan will take the form of a detailed table that compiles all proposed mitigation measures as well as information necessary to monitor compliance with each measure.

5. **Public Hearings.** Rincon's project manager/lead analyst will attend two hearings on the EIR before the Planning Commission and/or City Council.

Based on our understanding of the issues and comments from the City on drafts of the EIR previously submitted to the City, the following issues will be addressed in detail in the EIR.

- *Biological Resources*
- *Geology and Soils*
- *Hydrology and Water Quality*
- *Land Use and Planning*

The following describes our general approach to the analysis of these issues as well as alternatives and impacts found to be less than significant.

Biological Resources. The biological resource analysis will be overseen by Rincon's Principal Biologist. Steven G. Nelson already conducted a biological resource analysis (BRA) for the project. This analysis, dated April 2, 2005, will be peer reviewed by a Rincon biologist to ensure consistency with current regulations and on-site conditions. It is assumed that the City of Malibu will confirm how, if at all, ESHA boundaries and other relevant on-site conditions have changed since Rincon last worked on this project. A Rincon Biologist can provide this service, if requested, for an additional fee. The peer review will include a field reconnaissance to verify the findings in the Initial Study, which incorporate the findings of the BRA. Rincon's biological resources analysis will include a synopsis of the key findings of the prior biological investigation, as well as a synopsis of any changed conditions, and will include identification of potentially significant impacts and mitigation requirements. As necessary, mitigation will be included for identified significant impacts. It is assumed that the City will confirm that all applicable technical studies have been reviewed by the City and are acceptable for use in the EIR.

Geology and Soils. Several geological investigations have been performed at the site, including a *Preliminary Geologic and Soils Engineering Investigation* performed by Geoconcepts, Inc., and a fault exploration trench performed by Evans, Colbaugh & Associates. These investigations have already been incorporated into the Geology and Soils section of the EIR. The EIR analysis, which was overseen by a Rincon registered geologist with the assistance of RJR Engineering Group, relied primarily on the findings of the geotechnical analyses and brought forward the discussion of landslide stability and other geotechnical risks into a format readily understandable

by the lay public. It is assumed that Rincon's remaining work on this section will consist of reviewing the ADEIR Geology and Soils section and updating it as necessary to reflect any changed conditions, including changed site conditions, environmental setting, and regulatory setting. Recommendations from the geotechnical analyses will be incorporated, as appropriate, as EIR mitigation measures. It is assumed that the City will confirm that all applicable technical studies have been reviewed by the City and are acceptable for use in the EIR.

Hydrology and Water Quality. The applicant has prepared a comprehensive drainage and erosion control plan that reflects a "worst case" scenario with respect to drainage and erosion. In support of the EIR hydrology analysis, RJR Engineering Group performed a peer review of the applicant-prepared study in accordance with Malibu drainage guidelines, based on the County of Los Angeles Public Works Hydrology and Sedimentation Manual. This section of the EIR will incorporate the findings of the applicant study and RJR's peer review, and include a qualitative analysis of potential temporary and long-term water quality impacts and consistency with applicable requirements of the City and County as well as federal National Pollutant Discharge Elimination System (NPDES) standards. It is assumed that the City will confirm that all applicable technical studies have been reviewed by the City and are acceptable for use in the EIR.

Alternatives. The EIR will examine three alternatives to the proposed project: No Project; Narrower Seaboard Road; and Access through Eagle Pass Drive. The alternatives analysis will examine each of the EIR issues as well as other issues relevant to the alternative (e.g., the effect of narrowing the road on emergency access). The alternatives analysis will be in less detail than the project analysis, but will provide sufficient information to allow City decision makers to select an alternative if they so choose. Specifically, the analysis will determine: (1) whether the alternative's impact would be greater or less than that of the project; (2) the magnitude of each impact for the alternative (i.e., significant, less than significant, etc.); and (3) whether the mitigation measures recommended for the proposed project apply or other mitigation is needed.

Impacts Found to be Less Than Significant. The EIR will include a section briefly summarizing impacts found to be less than significant, including impacts found to be less than significant in the Initial Study.

Schedule

The following outlines our schedule for completion of the EIR work program. We assume that the Initial Study does not need to be re-circulated and that the City will handle the Draft EIR noticing process.

- *Administrative Draft EIR.* The Administrative Draft EIR will be submitted within five weeks of the project kickoff meeting.

- **Revised Administrative Draft EIR.** *If necessary, a Second Administrative Draft EIR will be submitted within one week of receipt of City comments on the Administrative Draft EIR.*
- **Draft EIR.** *Twenty (20) bound copies and one (1) unbound camera-ready copy of the Draft EIR will be submitted within one week of receipt of City comments on the Revised Administrative Draft EIR. Rincon will also prepare 16 copies in an electronic file in PDF format on computer disks. One copy will be transmitted to the City for posting on the City's website and 15 will be transmitted by Rincon to the State Clearinghouse. Please note that we can reduce the number of hard copies and increase the number of electronic copies at the request of the City.*
- **Responses to Comments on the Draft EIR.** *Draft responses to comments on the Draft EIR will be submitted within two weeks of receipt of all comments.*
- **Final EIR.** *Twenty (20) bound copies and one (1) camera-ready copy of the Final EIR will be submitted in the form of a single document that includes the Final EIR text, Responses to Comments, and a Mitigation Monitoring and Reporting Program (MMRP). The Final EIR will be submitted within one week of receipt of all City comments on the draft responses to comments. A copy of the entire final document will also be provided on computer disk.*

Costs

The services outlined above will be provided for a lump sum cost of **\$27,559**. The project will be billed monthly on a time and materials basis. A detailed breakdown of costs by task is shown at the end of this proposal, along with a copy of our standard fee schedule for your reference. We have budgeted 20 hours of Project Manager/Lead Analyst time to respond to comments on the Draft EIR. Attendance at two public hearings is included in this fee. If additional meetings/hearings are desired, they will be billed on a time and materials basis.

Key Personnel

Joe Power, AICP, Principal and Manager of Rincon's Planning Services Group, will serve as principal in charge of the project. Joe has more than 20 years of experience managing projects in accordance with California General Plan, Specific Plan, and CEQA law. **Greg Martin**, Senior Planner/Project Manager, will serve as project manager and lead analyst. Greg has more than 10 years of experience as a Planner, and was the analyst for this project when it was last submitted to the City. **Duane Vander Pluym, D.ESE**, will oversee the biological resources peer review. A Doctor of Environmental Science and Engineering, Duane has more than 30 years of experience conducting biological resource studies.



Thank you for your consideration of Rincon Consultants for this project. We look forward to the opportunity to work with the City and would welcome an opportunity to discuss the details of this proposal at your convenience.

Sincerely,
RINCON CONSULTANTS, INC.



Greg Martin, AICP
Senior Planner/Project Manager



Joe Power, AICP
Principal

City of Malibu
21100 Seaboard Road Lot Line Adjustment & CDP Focused EIR
Cost Estimate

18-Sep-15

Tasks	Cost	Hours	Rincon Labor Hours					
			Principal	Proj. Mgr./	Assoc.	Graphics	Clerical	
			\$190/hour	Lead Analyst	Planner/	\$80/hour	\$70/hour	
1. Kickoff Meeting/Site Walk	\$1,060	8		4	4			
2. Revise Initial Study	\$1,130	9	1	4		4		
3. Biology Peer Review	\$2,260	16	4	4	8			
4. Revise Administrative Draft EIR	\$4,640	38	2	12	16	8		
5. Draft EIR	\$3,380	30	2	8	8	4		8
6. Final EIR								
6.1 Responses to Comments/MMRP	\$4,360	30	2	20	8			
6.2 Publication of Final EIR	\$1,850	18	2	2	4	2		8
7. Attendance at Public Hearings (2)	\$1,860	12		12				
Project Management (includes staff meetings)	\$2,620	16	4	12				
Subtotal Rincon Labor:	\$23,160	177	17	78	48	18		16
Additional Costs								
Printing:								
6 copies of ADEIR	\$300							
20 copies of Draft EIR	\$1,000							
16 Electronic Copies of DEIR - CD-ROM	\$630							
20 copies of Final EIR	\$1,200							
Supplies and Miscellaneous Expenses	\$695							
General and Administrative	\$574							
Subtotal Additional Costs:	\$4,399							
TOTAL: Labor + Additional Costs	\$27,559							



RINCON CONSULTANTS, INC.

Standard Fee Schedule for Environmental Sciences and Planning Services

Rincon Consultants' fee schedule is based on the time that is charged to projects by our professionals and support staff. Direct costs associated with completing a project are also billed to the project as outlined under Reimbursable Expenses below. The following sets forth the billing rates for our personnel.

Professional, Technical, and Support Personnel*	Rate
Principal II	\$ 215/hour
Principal I	\$ 195/hour
Senior Supervisor II	\$ 175/hour
Supervisor I	\$ 165/hour
Senior Professional II	\$ 145/hour
Senior Professional I	\$ 135/hour
Professional IV	\$ 120/hour
Professional III	\$ 110/hour
Professional II	\$ 95/hour
Professional I	\$ 85/hour
Environmental Technician/Field Aide	\$ 75/hour
Senior GIS Specialist	\$ 115/hour
GIS/CADD Specialist II	\$ 100/hour
GIS/CADD Specialist I	\$ 90/hour
Graphic Designer	\$ 85/hour
Technical Editor	\$ 95/hour
Clerical/Administrative Assistant II	\$ 75/hour
Clerical/Administrative Assistant I	\$ 65/hour

*Professionals include environmental scientists, urban planners, biologists, geologists, and cultural resources experts

Expert witness services consisting of depositions and in-court testimony are charged at a rate of \$295/hour.

Photocopying and Printing

Photocopies will be charged at a rate of \$0.08/copy for single-sided copies and \$0.16 for double-sided copies. Colored copies will be charged at a rate of \$1.00/copy for single-sided and \$2.00/copy for double-sided or 11"x17" copies. Oversized maps or display graphics will be charged at a rate of \$8.00/square foot.

Reimbursable Expenses

Expenses associated with completing a project are termed Reimbursable Expenses. These expenses do not include the hourly billing rates described above. Reimbursable expenses include, but are not limited to, the following:

1. Direct costs associated with the execution of a project are billed at cost plus 15% to cover General and Administrative services. Direct costs include, but are not limited to, laboratory and drilling services charges, subcontractor services, authorized travel expenses, permit charges and filing fees, printing and graphic charges, mailings and postage, performance bonds, sample handling and shipment, equipment rental other than covered by the above charges, etc. Communications charges and miscellaneous office expenses (including PDAs, cell phones, phone, fax, and electronic data transmittals, digital cameras, photo processing, etc.) are billed at 3% of total labor.
2. Vehicle use in company-owned vehicles will be billed at a day rate of \$85/day for regular terrain vehicle use and \$135 per day for 4-WD off-road vehicle use, plus \$0.85/mile for mileage over 50 miles per day. For transportation in employee-owned automobiles, a rate of \$0.85/mile will be charged. Rental vehicles will be billed at cost plus 15%.



RINCON CONSULTANTS, INC.

Equipment Schedule for Environmental Sciences and Planning Services

Equipment	Rate	Unit
Environmental Site Assessment		
Bailer	\$ 25	Day
Brass Sample Sleeves	\$ 10	Each
DC Purge Pump	\$ 35	Day
Disposable Bailer	\$ 20	Each
Flame Ionization Detector	\$ 200	Day
Four Gas Monitor	\$ 120	Day
Hand Auger Sampler	\$ 55	Day
Level C Health and Safety	\$ 60	Person per day
Oil-Water Interface Probe	\$ 85	Day
Photo-Ionization Detector	\$ 120	Day
Soil Vapor Extraction Monitoring Equipment	\$ 140	Day
Water Level Indicator	\$ 35	Day
Water Resources		
Dissolved Oxygen Meter	\$ 45	Day
Refractometer (salinity)	\$ 30	Day
Sterilized Sample Jar	\$ 5	Each
Temp-pH-Conductivity Meter	\$ 50	Day
Turbidity Meter	\$ 30	Day
Natural Resources Field Equipment		
Fiberoptic Scope	\$ 90	Day
Infrared Sensor Digital Camera	\$ 50	Day
Field Equipment Package, amphibian survey (digital camera, GPS, thermometer, decon chlorine, waders, float tube, hand net)	\$ 150	Day
Field Equipment Package, construction monitoring (digital camera, GPS, thermometer, binoculars, field computer, safety equipment)	\$ 95	Day
Field Equipment Package, standard (digital camera, GPS, thermometer, binoculars, and botanic collecting equipment)	\$ 45	Day
Field Equipment Package, remote (digital camera, GPS, thermometer, binoculars, field computer and mifi, Delorme Satellite Beacon, 24-Hour Safety Phone)	\$ 125	Day
Laser Rangefinder/Altitude	\$ 10	Day
Mammal trap, large / small	\$1.50 /	Each per trap
Minnow trap	\$ 85	Each per job
Net, hand / large seine	\$ 10 / \$ 50	Day
Pettersson Bat Ultrasound Detector/Recording Equipment	\$ 150	Job
Pit-fall Trap	\$ 5	Each per trap
Scent Station	\$ 20	Station
Spotlight	\$ 5	Day
Trimble® GPS (submeter accuracy)	\$ 190	Job
Spotting Scope	\$ 150	Job
Multi-Services Field Equipment		
Anemometer	\$ 5	Day
Computer Field Equipment	\$ 45	Day
GPS unit, standard field	\$ 10	Day
Sound Level Meter	\$ 75	Day