



## City Council Staff Report

**From: City Manager**

**Report Type: CONSENT CALENDAR**

**Lead Department: Planning and Development Services**

**Meeting Date: August 7, 2023**

Report #:2305-1406

### **TITLE**

Approve Amendment No. 1 to Contract C21181034 with Rincon Consultants, Inc. for the Continued Work on the Housing Element Update, and Approval of a FY 2024 Budget Amendment in the General Fund for the Reappropriation of funds from FY 2023 to FY 2024. Environmental Review: Agreements are not subject to CEQA.

### **RECOMMENDATION**

Staff recommends that Council:

1. Approve and authorize the City Manager or his designee to execute Amendment No. 1 to Contract C21181034 with Rincon Consultants, Inc. (Attachment A), amending the scope of services, increasing maximum compensation in the amount of \$168,776 for a total not to exceed amount of \$796,769.
2. Amend the FY 2024 Budget Appropriation for the General Fund by (2/3 approval needed):
  - a. Increasing the contract expense appropriation in the Planning and Development Services Department by \$168,776; and
  - b. Decreasing the Budget Stabilization Reserve by \$168,776.

### **EXECUTIVE SUMMARY**

Staff is requesting an amendment to Contract C21181034 with Rincon Consultants, Inc. On April 12, 2021, the City Council approved a \$627,993 contract with Rincon Consultants, Inc. to prepare the City's 2023-31 Housing Element<sup>1</sup>. The proposed amendment increases the scope of work and contract capacity for additional unanticipated work.

The amendment would be for additional expenses for:

- Extra public and City meetings;
- Responding to additional State requirements;

---

<sup>1</sup> April 12, 2021 Staff Report: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2021/id-11928.pdf>

- Accelerated adoption schedule;
- Additional Housing Element review; and
- A potential 3rd round of Housing and Community Development HCD review.

The attached contract amendment identifies specific tasks, deliverables and timelines to complete the project. Funding approved in FY 2023 for this work is recommended to be reappropriated early to FY 2024 to award the contract without impacting other work planned for FY 2024.

## **BACKGROUND**

Since 1969, the State has required all local jurisdictions to adequately plan to meet the housing needs of everyone in the community. Each jurisdiction must update their Housing Element every eight years. The 5th cycle planning period of 2015-23 recently expired. The City is in the process of updating its Housing Element for the 6th cycle planning period of 2023-31. The deadline to have a compliant Housing Element was January 31, 2023.

The procurement process for the initial contract began on November 30, 2020 when a request for formal proposals (RFP) was posted on PlanetBids Vendor Portal. The solicitation period was held for 24 days, with proposals due on December 23, 2020. The City received two proposals, which were evaluated by Planning and Development Services and the City Attorney's Office. Specific focus was placed on each firm's expertise of the housing element process, environmental review and understanding of Palo Alto specific concerns. One round of interviews was conducted and Rincon Consultants, Inc. (Rincon) was subsequently selected.

On April 12, 2021, the City Council approved the original contract with Rincon Consultants, Inc. to prepare the City's 2023-31 Housing Element<sup>2</sup>. The amount of the contract, including all sub-consultants, was set at a "not to exceed" of \$627,994. Funding was provided from the City general fund and other State grants. This contract amendment was unable to be processed in FY 2023 due to negotiations with Rincon, department workload priorities, timing of contract administration and year-end citywide financial closing processes; therefore, the funding for this contract amendment needs to be reappropriated to FY 2024 in order to allow the work to continue without impacting other work planned in FY 2024.

## **ANALYSIS**

With a significant number of new requirements implemented for 6th cycle Housing Elements, the preparation of the 2023-31 Housing Element has been more complex and elaborate than any

---

<sup>2</sup>

April 12, 2021 Staff Report: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2021/id-11928.pdf>

previous Housing Element. The amendment will allow for the continuity of work and expansion of scope to include the following:

#### *Extra Public and Staff Meetings*

Rincon began working with staff and the Housing Element Working Group in May 2022. In preparing for the Working Group meetings, staff needed longer meetings with Rincon than was budgeted. Also, it was planned to have one Working Group meeting a month. However, some months had two Working Group meetings.

#### *Additional HCD Requirements*

During the update process, the State implemented additional Housing Element requirements, primarily requiring a 30-day public review and considering all public comments prior to HCD submittal. This required additional Rincon resources. At time of contract execution, this requirement was not in place therefore not in the scope of work or budget.

#### *Aggressive Adoption Schedule*

Once the HCD comments were received by the City, the City elected to have a compacted schedule for response to HCD comments. This required Rincon to allocate additional staff and other resources to meet the City's aggressive adoption schedule.

#### *Additional HCD Review*

Understanding that HCD was intensely scrutinizing Housing Elements, staff elected for an additional round of consultant review in order to minimize HCD comments. This additional round of review was not accounted for in the original scope. Additionally, based on HCD trends, Rincon and staff anticipate the potential need for a 3rd round of HCD review of the City Housing Element. Therefore, the amendment also includes the estimated costs of a 3rd review.

### **FISCAL/RESOURCE IMPACT**

Funding of \$168,776 for this contract amendment was included in the FY 2023 operating budget in the General Fund. Ordinarily, the funds would be reappropriated as part of the standard process for reappropriations since the contract amendment was not able to be finalized before the close of FY 2023. The annual reappropriation memorandum is anticipated to be presented to Council in October 2023. Given the timeliness and urgency of this contract, the budgetary actions described in the recommendation section of this report constitute an "early reappropriation". Funding of \$168,776 is recommended to be reappropriated from FY 2023 to FY 2024, a technical realignment between fiscal years, as part of this memorandum to support work related to this contract and minimize impacts to other work planned in FY 2024.

**STAKEHOLDER ENGAGEMENT**

City staff have updated City Council, commissioners and the community at public meetings where the Housing Element was discussed, including the compressed timeline for completion.

**ENVIRONMENTAL REVIEW**

Approval of this contract amendment is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment. The City approved an Addendum to the Comprehensive Plan Final Environmental Impact Report (2017) for the Housing Element update and associated tasks.

**ATTACHMENTS**

Attachment A: Rincon Contract, C21181034 Amendment No.1

**APPROVED BY:**

Jonathan Lait, Planning and Development Services Director