

AGREEMENT AMENDMENT

City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620



Agreement #: 1994

Amendment#: 1

AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND PACIFIC LEGACY

THIS 1st AMENDMENT ("Amendment") is made and entered into this 1st day of December, 2016, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY", and PACIFIC LEGACY, hereinafter referred to as "FIRST PARTY."

1. Pursuant to Section Exhibit "A" Scope of Services of Contract No. 1994 ("Agreement"), Term of Agreement [amendment to section] to read as follows:

"Exhibit A-1 replaced with revised scope of work."

Except as modified by this Amendment, all other terms and conditions of Contract No. 1994 remain the same.

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

FIRST PARTY:

Signature

Date

Name

Title

Tax ID #

APPROVED AS TO FORM:

William L. McClure, City Attorney

Date

CITY OF MENLO PARK:

Signature

Date

Justin I. C. Murphy

Department Head

Name

Title

ATTEST:

Pamela Aguilar, City Clerk, City of Menlo Park

Date

5.0 SCOPE OF WORK

The Project scope of work requires compliance with the MND for the Corporation Yard Well adopted by the City Council in June 2016. The MND contains required mitigation measures that must be implemented by a wildlife biologist, an archaeologist, and a paleontologist prior to and during both the well drilling phase and construction of the wellhead facilities. The MND includes provisions for a Workers Environmental Awareness Program (WEAP), construction monitoring, unanticipated discoveries, and reporting. The sections below outline our understanding of these tasks and how the Pacific Legacy team will assist the District in fulfilling them.

5.1 WILDLIFE BIOLOGICAL TASKS

5.1.1 TASK B1 – CONDUCT PRE-CONSTRUCTION NESTING BIRD SURVEYS

The scope of work for Tasks B1 and B2 outlines compliance of those measures relating to wildlife, including the performance of pre-construction nesting bird surveys and occupied nest protections by a qualified wildlife biologist. If either work activity (drilling and/or construction of facilities) is initiated within the nesting bird season (February 1 to August 31), or if there is a break in activities (more than 10 days hiatus leading into the nesting season), then the following tasks would need to be performed.

Active bird nests have the potential to be present in nearly all habitats in California, including urban and developed areas. Specifically within the Project area, active bird nests have the potential to be present in the trees and landscaping areas both in and surrounding the Corporation Yard. Pre-construction nesting surveys are required to ensure that take of active nests as described in the Migratory Bird Treaty Act and/or California Fish and Game Code does not occur during initial grubbing, grading, and vegetation removal.

Surveys will be performed within 10 days of the start of Project activities, as notified by the Client. The qualified wildlife biologist will survey all areas within 300 feet of the limits of disturbance for the presence of active bird or raptor nests (those containing eggs, chicks, or young). The biologist will carefully examine any trees or vegetation located within the footprint using binoculars and the naked eye; inaccessible areas will be surveyed using binoculars to the extent possible. The biologist will note any evidence of avian territorial behavior (e.g., singing, chasing intruders out of territories, etc.), nesting bird behavior (e.g., adult birds carrying nesting material, food, and/or fecal sacs), and the presence of active nests and/or pre-fledged juvenile birds. Observations will be generally concentrated on substrates that provide the highest likelihood of bird nesting, or areas of dense foliage in trees, tree cavities and hollows, building eaves, and areas of denser herbaceous vegetation on or near the ground. Avian nesting surveys will be performed between dawn and approximately 11:00 am, or until bird activity wanes.

Timing of surveys will be relevant to the timing of grubbing and clearing, to ensure only those areas that will be cleared within 10 days are surveyed. Because activities are anticipated to occur at two points in the season (January/February and late summer), we anticipate that two surveys may be required.

Following the initial survey, a letter report will be prepared discussing the methods and results of the survey for submittal to the District. If active nests are documented, they will be mapped along with their respective exclusion buffer, and an estimated fledge date will be provided for each nest.

5.1.2 TASK B2 –PROTECT OCCUPIED NESTS, IF FOUND

If an active nest is found on or within 300 feet of the construction zone, the nest location and tree (if applicable) will be mapped, photographed (if feasible), and a protective exclusion buffer will be established around the active nest. The qualified wildlife biologist will determine an appropriate no-disturbance buffer based on noise and visual disturbance levels, distance and amount of screening between activities and the nest, and sensitivity of the species, behavior, and/or nest status (e.g. birds with eggs are most sensitive than birds with young). Generally, no-disturbance buffers may range from as little as 10 feet up to 300 feet, but are typically between 25 to 50 feet in width.

The exclusion buffer will be flagged in the field using brightly colored foresters flagging and will remain in place until all young have fledged or until the nest becomes otherwise inactive (predated). The biologist will instruct construction personnel on the location of and sensitivity of these nest areas, and the need to avoid activity within no-disturbance exclusion zones.

Assumptions: The client will assure access to the property and notify anyone who is currently on the property or manages it of WRA's site inspection.

This covers only preconstruction surveys as described in the above schedule. Modification to the schedule from what is prescribed here and within the RFP would be subject to a change order agreement.

We assume that active bird nests will not result in significant Project delays and that all vegetation removal will be completed within 10 days. Should the progress of vegetation removal be delayed significantly and additional surveys be needed, a change-order may be required.

Limitations: This assessment is based on a limited site investigation and is not conclusive as to the presence or absence of any special-status species. Opinions offered are based on the best professional judgment of a qualified biologist at the time of the study and with the information available as provided in publicly available databases and from the client. Confirmation of the presence or absence of any special-status species requires specific protocol surveys that are not included in this scope of work and not required under the existing conditions of approval for this Project.

5.2 ARCHAEOLOGICAL TASKS

5.2.1 TASK A1 – ARCHAEOLOGICAL MONITORING

For Tasks A1 and A2, Pacific Legacy will provide archaeological monitoring services during site preparation, demolition, excavation, grading, and other construction related activities for the Project. All ground disturbing activities scheduled during both the well drilling phase and the construction of the wellhead facilities will be monitored. Pacific Legacy also will conduct Cultural Sensitivity Training for the construction crew at the beginning of the Project. Pacific Legacy will determine the extent, timing, and duration of monitoring based on the site's identified sensitivity and field observations at the site. We understand that well drilling is expected to occur in January/February 2017 over a seven to ten day period and that the construction of the wellhead facilities will occur in late summer of 2017.

Pacific Legacy assumes that archaeological monitoring will occur for up to ten days (80 hours) as ground disturbing activities associated with well drilling and construction of wellhead facilities are conducted. Photographs and notes regarding those activities will be generated to document the work

completed. Notes on the soil stratigraphy and any cultural materials observed will be kept. A sketch map will designate where the excavations took place. Unless an intact feature(s) is discovered, isolated artifacts will be photographed and left in place unless the District directs Pacific Legacy to collect them. If features are found, we will immediately contact the District regarding the treatment of the find (Task A2).

We assume one monitor will observe constructional ground disturbing activities while drilling is taking place or machines are actively removing earth. The monitor will inspect the nature of the soils, the depth of the deposit, its constituents, and disturbances to the deposits. Other observations will be documented as appropriate. Digital photographs of the stratigraphic exposures will be taken. Soil profile drawings will be prepared as necessary. Any subsurface features encountered will be documented for further evaluation, and all features encountered will be mapped. A Pacific Legacy Daily Field Record will be completed for each day's work. If human remains are encountered, all work in the area will be stopped and the District will be notified immediately.

After fieldwork is complete, a short letter report will be prepared to document the work performed and any resources encountered. The Cultural Resources Report (CRR), at a minimum, will include a project description, project location, results of the construction, a summary, and conclusions. The report will include a Project location map and photographic documentation. One electronic copy of the final report will be submitted to the District.

Deliverables: a summary of findings from the well drilling phase and a summary of findings during the construction of the wellhead facilities will be included in the CRR.

Assumptions: Archaeological monitoring will be required for ten (10) days during the well drilling phase and wellhead construction phase. If the construction schedule exceeds ten days, a change order will be necessary.

5.2.2 TASK A2 - ARCHAEOLOGICAL EVALUATION OF FINDS AND MITIGATION, AS NECESSARY

If discovered, prehistoric or historic period cultural materials will be examined for potential evaluation. Pacific Legacy will consult with the Public Works Director (or designee) to assess the potential significance of the finds. Impacts to significant resources will be mitigated through methods determined by Pacific Legacy in consultation with the District and consistent with the Secretary of Interior's Standards for Archaeological Documentation.

If prehistoric cultural resources are discovered, Pacific Legacy will assist the District in conducting outreach to appropriate Native American stakeholders. If historic period archaeological sites or features are discovered, staff with expertise in historical archaeology and/or architectural history will conduct appropriate investigations and treatment measures.

For budgeting purposes, we assume that no more than ten days will be needed to evaluate the finds. This is a minimal number, and actual costs would depend on the nature of the finds and potential artifact densities. We assume that the evaluation can be completed through artifact identification and/or research. We do not propose the large-scale exposure of prehistoric or historic period features, if encountered. Costs for evaluating cultural resources vary depending on the time period they represent, the extent to which they are exposed, and the density of the artifacts or cultural constituents they contain. Costs can range from \$15,000 to \$35,000, depending on the discovery.

We are prepared to respond to communicated Project schedule changes within 48 hours. All labor, tools, and materials will be supplied by Pacific Legacy. We anticipate that our efforts will be limited to archeological monitoring.

Deliverable: Evaluation report and consultation regarding treatment of the finds with the District.

Assumptions: The costing is based on the assumption that prehistoric and/or historic period artifacts can be identified during monitoring for both Project phases. The estimate is to prepare an evaluation report for those finds without any additional excavation or in-depth analyses. Costs also include consultation with the Public Works Director (or designee) and assisting in outreach to potential Native American stakeholders, if appropriate. An evaluation would involve artifact identification and additional research, but no large-scale exposures or excavations of finds.

5.3 PALEONTOLOGICAL TASKS

5.3.1 TASK P1 - PALEONTOLOGIST: MONITOR WELL DRILLING AND CONSTRUCTION OF THE WELLHEAD FACILITIES

Paleontological services for Tasks P1 and P2 include conducting WEAP training, construction monitoring, managing unanticipated discoveries, and reporting.

Paleo Solutions would conduct full-time monitoring during Phase 1- well drilling. If monitoring exceeds ten (10) days, we are required to work over 8 hours/day, or we are required to work over 5 days/week, a change order may be required.

Paleo Solutions will implement WEAP training at the time of the pre-construction meeting and before construction commences. Our QPM will attend the pre-construction meeting to present the workers' environmental training, discuss field procedures and safety protocols, and establish communications.

Fossil discoveries are not precluded in areas of low paleontological sensitivity, which do not require regular monitoring by an on-site paleontologist. Therefore, the QPM will provide on-site training for all construction personnel who will work in areas to be excavated. The training will discuss the types of paleontological resources that could be encountered and the procedures to be followed if they are discovered. Should there be a discovery of significant paleontological resources, construction personnel shall briefly redirect and/or halt Project-related ground disturbance within 50 feet of the find and notify the QPM of the findings.

Task P1 will include a write-up (pre-grade document) to ensure all staff members are aware of any safety issues and on-site contact information. We will identify paleontologically sensitive areas within the Project impact area, and discuss communications and procedures if resources are encountered.

Our safety officer will develop a site-specific Health and Safety Plan (HASP) that identifies any Project safety concerns and includes emergency contact information, local hospital locations, and emergency responders.

Paleo Solutions will evaluate the paleontological sensitivity of the Project area and make recommendations based on the sensitivity of the geologic units and the presence of previously recorded fossil localities prior to start of construction. Geotechnical reports (if available), construction grading plans, and a current construction schedule should be provided prior to the development of a

monitoring plan. The monitoring plan will highlight locations and durations if possible and based on the requested information.

This task includes the preparation of the summary of findings for the well drilling phase and wellhead facilities, as well as a technical report. We assume for the purposes of this proposal that no paleontological resources will be discovered during monitoring. In that case, a negative findings report will be prepared. In the event that paleontological resources are discovered, a data recovery report will be prepared that documents the methods and results of monitoring and provides an analysis of the nature and significance of fossils recovered (see P2). The QPC will provide copies of the final report to the District, any supervising agencies, and the repository to which the fossil material is accessioned.

5.3.2 TASK P2 – PALEONTOLOGIST: EVALUATE FINDS AND MITIGATION, IF NEEDED

Upon discovery of small and large fossils, the QPM will notify all appropriate parties to briefly redirect and/or halt Project-related ground disturbance, as appropriate, while she recovers the material for expedient evaluation. The QPM will be authorized to redirect or halt construction activities in coordination with the appropriate personnel within 50 feet of a discovery (or as reasonable), in accordance with the guidelines of SVP, to (1) evaluate the resource, and (2) make recommendations regarding their treatment. It is reasonably anticipated that the impact to construction excavation would be minimal; only brief interruptions to recover what are anticipated to be isolated fossils for later evaluation, and resume work. Monitoring will continue at the Project area until the QPM determines that no native sediments are present or that significant paleontological resources are not likely to be discovered.

In the event of discovery of a paleontological resource, the QPM will consult with the QPC to evaluate the discovery. If the resource is determined to be scientifically significant, it will be quickly and professionally collected. The QPM will redirect work elsewhere while he/she determines and clearly marks the boundaries of the discovery to avoid additional ground-disturbing activities at that location until a recovery plan is in place. Additional assistance may be called upon if the collection of the discovery is unmanageable by one qualified paleontologist.

In the event that there is an unanticipated discovery of pre-Holocene soils containing macro and microvertebrate fossils, assessment of significance by the qualified paleontologist will be required. Microvertebrate fossils are generally not visible to the eye and are not easily identified by observing ground-disturbing activities during construction. If a geologic unit is found during construction that has a high potential for yielding microvertebrate fossils it may be possible to mechanically remove bulk sediment samples to process offsite for fossil extraction, which helps avoid construction delays. Samples of each sensitive geological unit should be collected and processed to determine the presence of microvertebrate fossils (Society of Vertebrate Paleontology 1995). The goal of this process is to achieve a specimen sample size that contains all representative fossil taxa that may be impacted by construction activities in each paleontologically sensitive geologic unit.

In the event that paleontological resources are discovered, an Excavation and Salvage Plan will be developed in accordance with SVP guidelines and follow 2.1 recommendations.

In the event that paleontological resources are discovered, fossil specimens will be properly collected and sufficiently documented to be of scientific value. Exposed fossils left *in-situ* are subject to weathering that damages the fossil; therefore, documentation and recovery of the fossil is necessary

soon after any such material is exposed. Non-fossil sediment samples will also be collected with each recorded locality for lithologic and/or palynologic analysis.

Before the data recovery report is prepared, and if fossil materials recovered during project monitoring activities are determined to be significant, they will be prepared to the point of identification and accessioned for curation to a recognized paleontological repository, such as the University of California, Museum of Paleontology, along with the data recovery report.

Costs: The costs for paleontological mitigation will not be known until there is a discovery. A detailed costing will be prepared depending on the nature of the find. Typically, small-project mitigation costs vary from \$10,000 to \$15,000.

Deliverable: Upon conclusion of ground-disturbing activities, a final Paleontological Mitigation Report will be prepared consistent with SVP guidelines and will include the results of the paleontology mitigation. The report will include dates of fieldwork, results of monitoring, fossil analyses, significance evaluation, conclusions, locality forms, and an itemized list of specimens.

Assumptions: We assume attendance at Works Environmental Training by our local QPM. At least 48-72 hours notice must be provided before monitoring commences. Monitoring is estimated to commence January/February 2016. We have assumed monitoring will occur for 8 hours per day and 5 days per week. Any hours over 40 hours per week, or 8 hours per day will be billed at time and a half. If we are required to work over 10 days, a change order will be required. Tasks P2 2-3 as written in the RFP are not included in the cost proposal. Discoveries of fossils at a macro and micro scale will require a change order if fossils are collected and recovered from this Project. If fossils are discovered, a change order may be required and additional staff called upon to assist, if necessary. If additional staff are required to mobilize for fossil recoveries from our Monrovia office, per diem may be required. Changes in the scope or fossil discoveries may require a change order. Paleo Solutions costs are based on time and materials, not a fee. Unused hours will not be invoiced.

6.0 COMPANY NAMES AND CONTACTS

Pacific Legacy John Holson 900 Modoc St., Berkeley, CA 94707 Ph: 510-524-3991	WRA Claire Woolf 2169-G East Francisco Blvd San Rafael, CA 94901 Ph. 415-454-8868	Paleo Solutions Geraldine Aron 911 S. Primrose, Unit N Monrovia, CA 91016 562-818-7713
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7.0 QUALIFIED BIOLOGIST, ARCHAEOLOGIST, AND PALEONTOLOGIST INVOLVED IN MONITORING

- Claire Woolf, BS, Qualified Wildlife Biologist and Project Manager
- Elena Reese, MA, Archaeological Monitor
- Tara Redinger, BS, Field Technician, Qualified Paleontological Monitor

8.0 SIMILAR PROJECTS PERFORMED AND REFERENCES

8.1 SANTA CLARA VALLEY WATER DISTRICT ON-CALL CONTRACT

CLIENT: Santa Clara County Water District

CONTACT: Raymond Fields, 5750 Almaden Expressway, San Jose, CA 95118

Ph: 408-265-2607 ex. 3027, RFields@valleywater.org

KEY STAFF: John Holson, Lisa Holm, Elena Reese, and Daniel Trout

TASKS: Since 2005, Pacific Legacy has held an on-call contract with the Santa Clara Valley Water District for archaeological monitoring services associated with the Stream Maintenance Program and other construction activities throughout Santa Clara County. Our contract was recently renewed for 2015-2020.

8.2 CITY OF MONTEREY, PLANS AND PUBLIC WORKS DEPARTMENT ON-CALL CONTRACT

CLIENT: City of Monterey, Plans and Public Works Department

CONTACT: Robert Harary, Capital Projects Division, 353 Camino El Estero, Monterey, CA 93940

Ph: 831-646-3997

KEY STAFF: John Holson, Lisa Holm, Elena Reese, Hannah Ballard, Mary O'Neill, Christopher Peske, Edward de Haro, and Shanna Streich

TASKS: Pacific Legacy held an on-call contract with the City of Monterey to provide archaeological services since 2001. We have completed over 60 task orders involving Phase I archaeological inventory surveys; Phase II cultural resource evaluations; archaeological monitoring; burial removal; and the completion of historic preservation compliance documents such as Memorandum of Agreements, Historic Properties Treatment Plans, and Archaeological Monitoring and Inadvertent Discovery Plans. Our contract for 2016-2018 was just renewed by the City.

8.3 PRESIDIO OF SAN FRANCISCO ON-CALL CONTRACT

CLIENT: Presidio Trust

CONTACT: Kari Jones, 49 Moraga Ave, San Francisco, CA 94129

Ph: 415-561-5090, kjones@presidiotrust.gov

KEY STAFF: John Holson, Elena Reese, Lisa Holm, Hannah Ballard, and Shanna Streich

TASKS: Since 2005, Pacific Legacy has held an on-call contract with the San Francisco Presidio Trust for which we completed over 30 projects. Many included archaeological monitoring of locations sensitive for Spanish, Mexican and American Period archaeological remains. Notable monitoring projects included the Montgomery Street Barracks Landscaping Phase II, Spanish Colonial Chapel, Main Parade Ground Greening, Taylor Road Reconstruction, Archaeology Education Center, and Buildings 42, 101, and 103 projects.

9.0 HOURLY COST RATES

Name	Firm	Role	Rate
Biology			
Claire Woolf	WRA	Qualified Wildlife Biologist and Project Manager	\$119.00
Archaeology			
John Holson	Pacific Legacy	Principal Investigator	\$178.60
Lisa Holm	Pacific Legacy	Project Manager	\$ 84.00
Elena Reese	Pacific Legacy	Archaeological Monitor	\$ 84.00
Lynn Manfree	Pacific Legacy	Contract Manager	\$ 97.10
Paleontology			
Geraldine Aron	Paleo Solutions	Principal Investigator and Project Manager	\$170.00
Courtney Richards	Paleo Solutions	Principal Investigator and Safety Officer	\$140.00
Tara Redinger	Paleo Solutions	Field Technician (QMP)	\$70.00

10.0 FIRM AND FACILITIES INFORMATION

Pacific Legacy maintains three main offices and one satellite office in California. For this contract, services would be provided through our Bay Area Division office in Berkeley. John Holson, MA/RPA, who would serve the District as Pacific Legacy's main point of contact and Contract Manager, can be reached at 510-524-3991 ex. 1. Administration and accounting assistance would be offered through our Business office in Arnold. Our California office addresses and contact information are provided below.

<p>Bay Area Division 900 Modoc St., Berkeley, CA 94707 Ph: 510-524-3991 Fax: 510-524-4419</p>	<p>Central Coast (Satellite Office) 4300 Soquel Drive #55 Soquel, CA 95073 Ph: 831-229-1641</p>	<p>Business Office 2641 Hwy 4 Suite 2B PO Box 6050, Arnold, CA 95223 Ph: 209-795-4481 Fax: 209-795-1967</p>	<p>Sierra/Central Valley 4919 Windplay Dr., Suite 4, El Dorado Hills, CA 95762 Ph: 916-358-5156 Fax: 916-358-5161</p>
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Pacific Legacy's Federal Employer Identification Number is 68-0340219. We are a C-Corporation and were registered in the State of California on October 17, 1994. Our corporate officers and founders are Robert Jackson, Chief Executive Officer; Thomas L. Jackson, Vice President and Chief Financial Officer; John Holson, Vice-President; and Paul Cleghorn, Vice President. We currently employ 25 full-time or part-time archaeologists who range from Project Managers/Principals to Archaeological Technicians.

11.0 INSURANCE

Pacific Legacy has never had a contract termination due to non-performance or poor performance. Pacific Legacy has never been involved in litigation for performance reasons.

Currently, we maintain the following insurance policies:

- General Liability Insurance for \$1,000,000 per occurrence and \$2,000,000 per general aggregate;
- Excess/Umbrella Liability Insurance for \$5,000,000 per occurrence and aggregate;
- Professional Liability Insurance for \$2,000,000 per claim and aggregate;
- Worker's Compensation Insurance that complies with the California Labor Code; and,
- Automobile Liability Insurance for \$1,000,000 per accident.

All insurance policies are issued by companies listed in the current "Best's Key Rating Guide" with a minimum of A-, VII Rating. Certificates of Insurance stating our coverage will be provided upon request.

Pacific Legacy is committed to equal opportunity for all persons without regard to race, color, religion, gender identity, marital status, age, sex, pregnancy or related medical condition, ancestry, national origin, sexual orientation, veteran status, medical condition, or physical or mental disability and any other basis protected by applicable law to the extent required by applicable law. This policy applies to all terms and conditions of employment including, but not limited to, recruitment, application processing, employment procedures, job classification, transfer, promotion, termination, performance evaluation, and compensation. At Pacific Legacy, it is the responsibility of all personnel, supervisory and non-supervisory, to implement this policy and to ensure that principles and practices of equal employment opportunity are observed in all situations.

Pacific Legacy is also committed to following "green" business practices and ISO 9000 series Quality Management Principles. We adhere to the Green Business Standards as outlined by the Bay Area Green Business Program to the greatest extent possible. These standards include compliance with environmental regulations as well as practices geared towards water conservation, recycling, and solid waste reduction (e.g., paper and printing materials, electronics, plastic waste, etc.), energy conservation, and pollution prevention. In all of our business practices, we strive to follow the eight ISO 9000 series quality management principals of customer focus; leadership; individual involvement; a process approach to activities and resources; a systems approach to management; continual improvement; data-driven decision making; and mutually beneficial relationships with clients, other contractors, potential stakeholders, and the public.

12.0 REFERENCES

Albion Environmental

Cultural Resource Investigation City of Menlo Park Emergency Water Supply Wells Project IEC, Menlo Park, San Mateo County. Albion Environmental, Inc. May 2013.

Staiger, S.

"Timothy Hopkins: The ironic journey of Palo Alto's founder." *Palo Alto Online*. 28 April 1999.

Menlo Park City School District

"Thurlow Estate becomes Dibble General Hospital becomes SRI International."

<http://district.mpcsd.org/domain/35>, accessed September 2016.