

County of Santa Cruz

585

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

May 18, 1999

AGENDA: June 8, 1999

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

CONTRACT WITH ECOSYSTEMS WEST CONSULTING GROUP FOR BIOTTC SERVICES

Members of the Board:

For a number of years, the County Planning Department has utilized the services of an independent contractor for biotic site analysis, mining revegetation plan proposals and reviews, and for staff consultation. The funds originally allocated for this contract have nearly been expended and additional work remains to be completed prior to the end of the current fiscal year. In addition, the consultant, Ecosystems West Consulting Group, must undertake a monitoring effort for State and federally listed species at Quail Hollow Quarry during the month of June, as required by the Habitat Conservation Plan prepared in conjunction with Mining Approval/Certificate of Compliance 95-0836.

We are therefore requesting that your Board approve a contract amendment (Attachment 1) with Ecosystems West Consulting Group in order to provide for completion of the following work:

1. \$6,000 in additional funds for monitoring and reporting on listed species within the Quail Hollow Quarry and South Ridge reporting areas. These funds have been received from GraniteRock Company and were included in the Planning Department's **estimated/actuals** for the current fiscal year; and
2. \$3,420 for additional biotic review and consultation work in progress. This work is associated with permit revenue and was also anticipated in the departmental **estimate/actuals**.

A copy of the original contract is attached for your information. The above described amendments would increase the contract amount by \$9,420 for a new total of \$23,420.

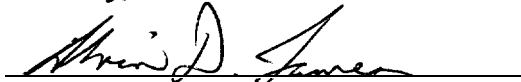
In addition, in order to be able to respond to variable permit application volumes, we are requesting that your Board approve a change in the contract from a "not to exceed" to a "usage" form of agreement to allow the County Administrative Officer (CAO) to administratively increase the contract encumbrance on an as needed basis. To accomplish this, we are requesting that the "not to exceed" language in the Compensation section of the contract be deleted. The amount expended under the agreement would be controlled by the funds specified on the Continuing Agreements List, approved by your Board annually. Any amendments to the contract would be by administrative approval of the CAO.

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It is therefore RECOMMENDED that your Board:

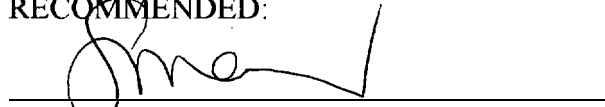
1. Approve a contract amendment with Ecosystems West Consulting Group for additional biotic consulting services in the amount of \$9,420, and
2. Allow for future contract encumbrance increases to be authorized by the County Administrative Officer.

Sincerely,



ALVIN D. JAMES
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Attachment: Proposed Contract Amendment with ADM-29

ecosystems.wpd

COUNTY OF SANTA CRUZ
REQUEST FOR APPROVAL OF AGREEMENT

587

TO: Board of Supervisors
County Administrative Officer
County Counsel
Auditor-Controller

FROM:

Planning (Dept.)
Ronny McAllen (Signature) 5/24/99 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the County of Santa Cruz, Planning Department (Agency)
and, Ecosystems West Consulting Group, 7907 Harvard Drive, Ben Lomond, CA 95005 (Name & Address)

2. The agreement will provide biotic assessments, research, monitoring and review for selected
projects.

3. The agreement is needed, because the County cannot provide the service

4. Period of the agreement is from June 8, 1999 to June 30, 1999

5. Anticipated cost is \$ an increase of \$9,420. for a new total of (Fixed amount; Monthly; or; Non-recurring)
\$23,420.

6. Remarks:

7. Appropriations are budgeted in 542100 (Index#) 3665 (Subsubject)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and have been encumbered. Contract No. 81498 Date 5/25/99
will be

GARY A. KNUTSON, Auditor - Controller
By Ronald J. Silva Deputy.

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the
Planning Director to execute the same on behalf of the Planning Department

(Agency). County Administrative Officer

Remarks: ly (Analyst) B D y Whe t e

Agreement approved as to form. Date _____

- Distribution:
Bd. of Supv. - White
Auditor-Controller - Blue
County Counsel - Green
Co. Admin. Officer - Canary
Auditor-Controller - Pink
Originating Dept. - Goldenrod

*To Orig. Dept. if rejected.

State of California)
County of Santa Cruz) ss
I _____ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,
State of California, do hereby certify that the foregoing request for approval of agreement was approved by
said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered
in the minutes of said Board on _____ County Administrative Officer
_____ 19 _____ By _____ Deputy Clerk

AMENDMENT TO AGREEMENT

The parties hereto agree to amend that certain Agreement dated August 5, 1997, by and between the COUNTY OF SANTA CRUZ and ECOSYSTEMS WEST CONSULTING GROUP, INC. by 1) increasing the contract amount by \$9,420 for a new total of \$23,420. and 2) by deleting the sentence "Total not to exceed \$10,000 during the term of this contract" as contained in Section 2. of the agreement.

All other provisions of said Agreement shall remain the same.

Dated: _____

COUNTY OF SANTA CRUZ

By: _____
Planning Director

Approved as to Insurance:

RAH 5-21-99

Risk Management/Date

CONTRACTOR

By: W. J. Davilla Wm Davilla

Approved as to Form:

Quinn L. Han 5/21/99
County Counsel/Date

Ecosystems West Consulting Group, Inc.
7907 Harvard Drive
Ben Lomond, CA 95005
831-336-4956

DISTRIBUTION: County Administrative Office
Auditor-Controller
County Counsel
Risk Management
Contractor

Contract No.

INDEPENDENT CONTRACTOR AGREEMENT

THIS CONTRACT is entered into this ____ day of _____, 19____, by and between the COUNTY OF SANTA CRUZ, hereinafter called COUNTY, and ECOSYSTEMS WEST CONSULTING GROUP, hereinafter called CONTRACTOR. The parties agree as follows:

1. DUTIES. CONTRACTOR agrees to exercise special skill to accomplish the following result:

PREPARE BIOTIC ASSESSMENTS, REVIEW BIOTIC REPORTS AND REVEGETATION ANNUAL REPORTS FOR QUARRIES, ADVISE AND TRAIN PLANNING STAFF, AND CONDUCT SITE VISITS AS NECESSARY _____

2. COMPENSATION. In consideration for CONTRACTOR accomplishing said result, COUNTY agrees to pay CONTRACTOR as follows:

\$500.00 PER BIOTIC ASSESSMENT, AND \$80.00 PER HOUR FOR CONSULTATION TIME SPENT REVIEWING REPORTS, ADVISING PLANNING STAFF ON OTHER MATTERS RELATED TO BIOTIC RESOURCES, AND CONDUCTING SITE VISITS AS NECESSARY. TOTAL NOT TO EXCEED \$10,000 DURING THE TERM OF THIS CONTRACT.

3. TERM The term of this contract shall be:
FROM AUGUST 5, 1997 TO JUNE 30, 1998 _____

4. EARLY TERMINATION. Either party hereto may terminate this contract at any time by giving 30 days written notice to the other party.

5. INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS. CONTRACTOR shall exonerate, indemnify, defend, and hold harmless COUNTY (which for the purpose of paragraphs 5 and 6 shall include, without limitation, its officers, agents, employees and volunteers) from and against:

A. Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which COUNTY may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the CONTRACTOR'S performance under the terms of this Agreement, excepting any liability arising out of the sole negligence of the COUNTY. Such in-

demnification includes any damage to the person(s), or property(ies) of CONTRACTOR and third persons.

B. Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to CONTRACTOR and CONTRACTOR'S officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

6. INSURANCE. CONTRACTOR, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects COUNTY and any insurance or self-insurance maintained by COUNTY shall be excess of CONTRACTOR'S insurance coverage and shall not contribute to it.

If CONTRACTOR utilizes one or more subcontractors in the performance of this Agreement, CONTRACTOR shall obtain and maintain Independent Contractor's Insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CONTRACTOR in this Agreement, unless CONTRACTOR and COUNTY both initial here WBT.

A. Types of Insurance and Minimum Limits

(1) Worker's Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall not be required if the CONTRACTOR has no employees and certifies to this fact by initialing here _____

(2) Automobile Liability Insurance for each of CONTRACTOR'S vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CONTRACTOR'S employees), leased or hired vehicles, in the minimum amount of \$500,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by CONTRACTOR is not a material part of performance of this Agreement and CONTRACTOR and COUNTY both certify to this fact by initialing here WBT.

See Amendment
(3) Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$1,000,000 combined single limit, including coverage for: (a) bodily injury, (b) personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability.

(4) Professional Liability Insurance in the minimum amount of \$ _____ combined single limit, if, and only if, this Subparagraph is initialed by CONTRACTOR and COUNTY _____.

B. Other Insurance Provisions

(1) If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.

(2) All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

"The County of Santa Cruz, its officials, employees, agents and volunteers are added as an additional insured as respects the operations and activities of, or on behalf of, the named insured performed under Agreement with the County of Santa Cruz."

(3) All required insurance policies shall be endorsed to contain the following clause:

"This insurance shall not be canceled until after thirty (30) days prior written notice has been given to:

ATTN: FISCAL _____
County of Santa Cruz Planning Department _____
701 Ocean Street, Fourth Floor _____
Santa Cruz, Ca 95060 _____

(Department should fill in the full name/title and address of the person/ position responsible for the Agreement)."

(4) CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide COUNTY on or before the effective date of this Agreement with Certificates of Insurance for all required coverages. All Certificates of Insurance shall be delivered or sent to:

ATTN: FISCAL _____
County of Santa Cruz Planning Department _____
701 Ocean Street, Fourth Floor _____
Santa Crui, CA 95060 _____

(Department should fill in the full name/title and address of the person/ position responsible for the Agreement).

7. EQUAL EMPLOYMENT OPPORTUNITY. During and in relation to the performance of this Agreement, CONTRACTOR agrees as follows:

A. The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sex, sexual orientation, age (over 40), veteran status, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

B. If this-Agreement provides compensation in excess of \$50,000 to CONTRACTOR and if CONTRACTOR employs fifteen (15) or more employees, the following requirements shall apply:

(1) The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sex, sexual orientation, age (over 40), veteran status, or any other non-merit factor unrelated to job duties. In addition, the CONTRACTOR shall make a good faith effort to consider Minority/Women/Disabled Owned Business Enterprises in CONTRACTOR's solicitation of goods and services. Definitions for Minority/Women/Disabled Business Enterprises are available from the COUNTY General Services Purchasing Division.

(2) The CONTRACTOR shall furnish COUNTY Affirmative Action Office information and reports in the prescribed reporting format (PER 4012) identifying the sex, race, physical or mental disability, and job classification of its employees and the names, dates and methods of advertisement and direct solicitation efforts made to subcontract with Minority-Women/Disabled Business Enterprises.

(3) In the event of the CONTRACTOR's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders said CONTRACTOR may be declared ineligible for further agreements with the COUNTY.

(4) The CONTRACTOR shall cause the foregoing provisions of this Subparagraph 7B. to be inserted in all subcontracts. for any work covered under this Agreement by a subcontractor compensated more than \$50,000 and employing more than fifteen (15) employees, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

8. INDEPENDENT CONTRACTOR STATUS. CONTRACTOR and COUNTY have reviewed and considered the principal test and secondary factors below and agree that CONTRACTOR is an independent contractor and not an employee of COUNTY. CONTRACTOR is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONTRACTOR is not entitled to any employee

benefits. COUNTY agrees that CONTRACTOR shall have the right to control the manner and means of accomplishing the result contracted for herein.

PRINCIPAL TEST: The CONTRACTOR rather than COUNTY has the right to control the manner and means of accomplishing the result contracted for.

SECONDARY FACTORS: (a) The extent of control which, by agreement, COUNTY may exercise over the details of the work is slight rather than substantial; (b) CONTRACTOR is engaged in a distinct occupation or business; (c) In the locality, the work to be done by CONTRACTOR is usually done by a specialist without supervision, rather than under the direction of an employer; (d) The skill required in the particular occupation is substantial rather than slight; (e) The CONTRACTOR rather than the COUNTY supplies the instrumentalities, tools and work place; (f) The length of time for which CONTRACTOR is engaged is of limited duration rather than indefinite; (g) The method of payment of CONTRACTOR is by the job rather than by the time; (h) The work is part of a special or permissive activity, program or project, rather than part of the regular business of COUNTY; (i) CONTRACTOR and COUNTY believe they are creating an independent contractor relationship rather than an employer-employee relationship; and (j) The COUNTY conducts public business.

It is recognized that it is not necessary that all secondary factors support creation of an independent contractor relationship, but rather that overall there are significant secondary factors which indicate that CONTRACTOR is an independent contractor.

By their signatures to this Agreement; each of the undersigned certifies that it is his or her considered judgment that the CONTRACTOR engaged under this Agreement is in fact an independent contractor.

9. **NONASSIGNMENT.** CONTRACTOR shall not assign this Agreement without the prior written consent of the COUNTY.

10. **RETENTION AND AUDIT OF RECORDS.** CONTRACTOR shall retain records pertinent to this Agreement for a period of not less than five (5) years after final payment under this Agreement or until a final audit report is accepted by COUNTY, whichever occurs first. CONTRACTOR hereby agrees to be subject to the examination and audit by the Santa Cruz County Auditor-Controller, the Auditor General of the State of California, or the designee of either for a period of five (5) years after final payment under this Agreement.

11. **PRESENTATION OF CLAIMS.** Presentation and processing of any or all claims arising out of or related to this Agreement shall be made in accordance with the provisions contained in Chapter 1.05 of the Santa Cruz County Code, which by this reference is incorporated herein.

12. ATTACHMENTS This Agreement includes the following attachments (identify by name or write "NONE"):

ATTACHMENT A

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

1. CONTRACTOR

4. COUNTY OF SANTA CRUZ

By: William Davilla

By: [Signature]

Address: 7907 AREVAZO Dr.
Ben Lomand, CA 95005

Telephone: 408.336.4952

2. APPROVED AS TO INSURANCE:

By: [Signature]
Risk Management 7-31-97

3. APPROVED AS TO FORM

By: [Signature]
County Counsel

DISTRIBUTION: County Administrative Office
Auditor-Controller
County Counsel
Risk Management
Contractor

FMTICA

AMENDMENT OF AUTOMOBILE LIABILITY INSURANCE REQUIREMENT

Subparagraph 6A(2) of Contract No. _____ dated _____,
by and between COUNTY OF SANTA CRUZ (hereinafter called COUNTY) and
(hereinafter called CONTRACTOR) is amended to read as follows:

Wm [Signature] Reduction in Requirements

CONTRACTOR represents to COUNTY that it owns, operates or utilizes one or more personal vehicles and that the result which is to be accomplished under this Agreement does not require use of any such vehicle for other than CONTRACTOR'S personal transportation only (with no passengers, hazardous materials, or valuable (greater than \$5,000.00) property). In reliance on said representation COUNTY amends Section 6A(2) of said Agreement to require that said personal vehicles each have insurance coverage in the minimum amount of \$100,000.00 combined single limit per accident. COUNTY further reduces insurance requirements by permitting CONTRACTOR to comply with subparagraphs 6B(2), (3) and (4) by utilizing the attached "INSURANCE REPRESENTATIONS BY CONTRACTOR" form without request to or refusal by insurance providers as to those requirements. In all other respects, the Automobile Liability Insurance requirements of this Agreement remain in full force and effect.

The above paragraph(s) shall be operative if initialed by both parties in the space provided, effective 8/26/07
date

By: [Signature]
CONTRACTOR

COUNTY OF SANTA CRUZ

By: [Signature]