



# County of Santa Cruz

0309

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## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060

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

ALVIN D. JAMES, DIRECTOR

October 28, 1999

Agenda: November 16, 1999

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

### ALERT FLOOD PREDICTION SYSTEM MAINTENANCE CONTRACT

Dear Members of the Board:

Since September 1995, the Planning Department has been contracting for services for the maintenance of the Automated Local Evaluation in Real Time (ALERT) field equipment which is used for hydrological monitoring, flood prediction and warning. The system provides for early detection of potential flooding situations to enable emergency management agencies to issue advance warnings to the affected public. There are a total of sixteen (16) precipitation gauges and three stream height gauges located throughout the County for which the Santa Cruz County Flood Control and Water Conservation District is responsible.

The ALERT system's flood forecasting capability and accurateness is dependent upon our ability to maintain the data collection and data transmission equipment in good working order at all times. This requires specific knowledge of the system's unique and specialized computer, electrical and radio equipment as well as the physical ability to work out in the field under possible under adverse weather conditions. In addition to repair services on an "as needed" basis, each ALERT gauge must be serviced yearly for calibration and preventative maintenance purposes.

The proposed agreement for maintenance services, in the amount of \$7,400, is included for your consideration as Attachment 1.

It is therefore **RECOMMENDED** that your Board:

- 1) Approve the agreement (Attachment 1) for maintenance services for the ALERT Flood Forecasting System; and

- 2) Authorize the Planning Director to execute the agreement on behalf of the Santa Cruz County Flood Control and Water Conservation District; and
- 3) Direct that the agreement (Attachment 1) be placed on the Fiscal Year 2000-2001 continuing agreements list.

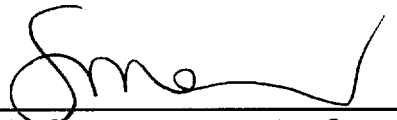
Sincerely,



ALVIN D. JAMES  
Planning Director

DB/BL:714

RECOMMENDED:



SUSAN A. MAURIELLO  
County Administrative Officer

Attachment: 1) Agreement and ADM-29

Contract No. \_\_\_\_\_

0311

INDEPENDENT CONTRACTOR AGREEMENT

THIS CONTRACT is entered into this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between the **COUNTY OF SANTA CRUZ**, hereinafter called **COUNTY**, and **SCOTT SIEGEL**, hereinafter called **CONTRACTOR**. The parties agree as follows:

1. DUTIES. CONTRACTOR agrees to exercise special skill to accomplish the following result: See **Scope Of Work - ATTACHMENT C; made part of this agreement by reference.**

2. COMPENSATION. In consideration for CONTRACTOR accomplishing said result, COUNTY agrees to pay CONTRACTOR as follows: **\$3,200 upon completion of services to the sixteen (16) existing stations by November 30, 1999; call-out repair service and technical assistance on an as needed basis at a rate of \$60.00 per hour. See also budget included as part of Attachment C.**

3. TERM. The term of this contract shall be: **November 9, 1999 through June 30, 2000.**

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

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 CONTRACTORS performance under the terms of this Agreement, excepting any liability arising out of the sole negligence of the COUNTY. Such indemnification includes any damage to the person(s), or property(ies) of CONTRACTOR and third persons.

Any and all Federal State and Local taxes charges fees, or contribution: 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 CONTRACTORS insurance coverage and shall not contribute to it.

If CONTRACTOR utilizes one or more subcontractors in the performance of

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0312

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       /      .

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    J.S.   .

(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 CONTRACTORS 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       /      .

(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, © 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:

Santa Cruz County Planning  
Attn: **Bettie** Shackelford  
701 Ocean Street, Room 418  
Santa Cruz, Ca 95060

(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:

Santa Cruz County Planning  
Attn: **Bettie** Shackelford  
701 Ocean Street, Room 418  
Santa Cruz, Ca 95060

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, sexual orientation, age (over **18**), veteran status, gender, pregnancy 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, sexual orientation, age (over **18**), veteran status, gender, pregnancy 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.

0314

(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.

0315

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. NON-ASSIGNMENT. 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 - Amendment of Automobile Liability Insurance; Attachment B - Amendment of Comprehensive or Commercial General Liability Insurance Requirement; Attachment C - Scope of Work and Budget**

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

1. CONTRACTOR

By: Scott Siegel

Address: 554 Skypark Drive  
Scotts Valley, CA 95066

Telephone: 831-438-3078

4. COUNTY OF SANTA CRUZ

By: \_\_\_\_\_

3. APPROVED AS TO FORM:

By: [Signature]  
County Counsel

2. APPROVED AS TO INSURANCE:

By: Janet McKinley  
Risk Management 11-9-99

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

Contract No. \_\_\_\_\_

0316

## Attachment A

AMENDMENT OF AUTOMOBILE LIABILITY INSURANCE REQUIREMENT

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

SS.1 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 CONTRACTORS 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 \$1 00,000.00 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 \_\_\_\_\_ date \_\_\_\_\_

COUNTY OF SANTA CRUZ

CONTRACTOR

By: \_\_\_\_\_

By: Scott Siegel



Contract No. \_\_\_\_\_

**Attachment B****AMENDMENT OF COMPREHENSIVE OR COMMERCIAL  
GENERAL LIABILITY INSURANCE REQUIREMENT**

Subparagraph 6A(3) of Contract No. \_\_\_\_\_, dated \_\_\_\_\_, by and between **COUNTY OF SANTA CRUZ** (hereinafter called COUNTY) and **SCOTT SIEGEL** (hereinafter called CONTRACTOR) is amended to read as follows:

1. Guest Speaker Waiver

CONTRACTOR represents to COUNTY that it will accomplish the result required by this Agreement by manner and means similar to those employed by a guest speaker, namely by oral and documentary presentation to a group of persons such that no person will be exposed to reasonably foreseeable risk of personal injury or property damage. In reliance thereon, COUNTY amends the Comprehensive or Commercial General Liability Insurance requirement of said Agreement by waiving same.

/ 2. Teacher, Instructor, Trainer Waiver

CONTRACTOR represents to COUNTY that it will accomplish the result required by this Agreement by manner and means similar to those employed by a teacher, instructor, or trainer and-subject to the following limitations: (1) the results will be ~~accomplished entirely~~ within a classroom setting; (2) no minors will be involved, or, if minors will be involved, the teaching, instructing, or training accomplished (and the activity(ies) involved) will be by such manner and means that a minor of the youngest age allowed to be involved will ~~not~~ be exposed to any reasonably foreseeable risk of personal injury; and (3) no person will be exposed to reasonably foreseeable risk of personal injury or property damage. In reliance thereon, COUNTY amends the Comprehensive or Commercial General Liability Insurance requirements of said Agreement by waiving same.

128 3. General No Risk Waiver

CONTRACTOR represents to COUNTY that it will accomplish the result required by this Agreement by manner and means which will expose no person to reasonably foreseeable risk of personal injury or property damage, namely as follows:

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In reliance thereon, COUNTY amends the Comprehensive or Commercial General Liability Insurance requirements of said Agreement by waiving same.

0318

The above paragraph(s) shall be operative if initialed by both parties in the space provided, effective \_\_\_\_\_ (date).

COUNTY OF SANTA CRUZ

CONTRACTOR

By: \_\_\_\_\_

By: Scott Siegel

Contract No. \_\_\_\_\_

**Attachment C**

**SCOPE OF WORK**

**SANTA CRUZ COUNTY -ALERT STATION MAINTENANCE CONTRACT**

- 1.) Provide maintenance and trouble shooting assistance to Santa Cruz County for the ALERT flood forecasting system which presently consists of sixteen (16) precipitation gages and three (3) stream level gages (total of sixteen (16) "stations") operated by the Santa Cruz County Flood and Water Conservation District.
- 2.) Visitation of each gage, prior to November 30, 1999, for "complete" service.  
  
"Complete" service to include: checking radio paths and signal strength, cleaning, adjusting, recalibration and installation of replacement parts as needed. Parts are to be supplied by the Santa Cruz County Flood and Water Conservation District. Contractor to provide District with maintenance report logs.
- 3.) Provide repair services on an as needed basis.
- 4.) Provide technical assistance with the planned expansion of the ALERT system.

**BUDGET**

CONTRACTOR will be reimbursed in arrears for providing the services described in the Scope of Work as follows:

- 1.) \$3,200 upon completion of 'complete" services to the sixteen (16) existing stations by November 30, 1999.
- 2.) Call-out repair service and technical assistance will be reimbursed at the rate of \$60.00 per hour.

COUNTY OF SANTA CRUZ  
REQUEST FOR APPROVAL OF AGREEMENT

ATTACHMENT 1

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

FROM:

0320  
Planning (Dept.)  
*[Signature]* (Signature) 11/10/99 (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 Santa Cruz County Flood Control and Water Conservation District (Agency)  
and Scott Siegel, 554 Skypark Drive, Scotts Valley, CA 95066 (Name & Address)

2. The agreement will provide maintenance of the ALERT Flood Forecasting System

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

4. Period of the agreement is from November 8, 1999 to June 30, 2000

5. Anticipated cost is \$ 7,400. ~~(Fixed amount. Monthly costs. Not to exceed)~~

6. Remarks: Maintenance agreement to be placed on the F Y2000-2001 continuing agreements list.

7. Appropriations are budgeted in 135462 (Index#) 3665 (Subobject)

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

Appropriations are available and have been encumbered. c t N o C091980 Date 11/10/99  
are not will be

GARY A. KNUTSON, Auditor - Controller

By Ronald J. Lihor Deputy.

Pro o al review et and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the  
Manning Director to execute the same on behalf of the Santa Cruz County Flood  
Control 6 Water Conservation District (Agency).

Remarks: GH (Analyst)

County Administrative Officer  
By GH Date 11/10/99

Agreement approved as to form. Date' \_\_\_\_\_

Distribution:

Bd. of Supv. • White  
Auditor-Controller • Blue  
County Counsel • ~~Blue~~ •  
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 \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_\_ By \_\_\_\_\_ Deputy Clerk