



County of Santa Cruz

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Flood Control and Water Conservation District

701 OCEAN STREET, SUITE 330, SANTA CRUZ, CA 95060-4073

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

ALVIN D. JAMES, DIRECTOR

December 3, 1999

Agenda: December 14, 1999

Board of Directors
Flood Control and Water Conservation District
701 Ocean Street
Santa Cruz, California 95060

Approve Additional Consulting Services for Water Resource Projects

Members of the Board:

The Santa Cruz County Flood Control and Water Conservation District has a continuing agreement with Mr. Yoram J. Litwin, Ph.D. for water resource modeling and water supply planning assistance as needed in the Pasatiempo sub-unit of the Santa Margarita Groundwater basin and elsewhere in the County. The cost in previous years was \$10,000.00 annually. This year, \$25,000.00 was appropriated to secure additional consulting services to accommodate the expansion of water resource management programs. Water supply planning and water resource management work program elements have expanded throughout the County this past year. Staff anticipates the need for expanded professional consulting services in all aspects of water resources management and in computer modeling associated with the BASIC Groundwater Recharge Study in the Santa Margarita area. Funding to support this level of professional support was included in this year's budget. An increase of this magnitude does, however, require your Board's approval.

It is therefore RECOMMENDED that your Board approve the attached ADM-29 Request for Approval of Agreement encumbering \$25,000 for these as needed consulting services.

Sincerely,

Alvin D. James
Planning Director

RECOMMENDED:

SUSAN A. MAURIELLO
County Administrative Officer

Attachment 1). ADM-29 and agreement

cc) Yoram J. Litwin, Ph.D.

COUNTY OF SANTA CRUZ

ATTACHMENT

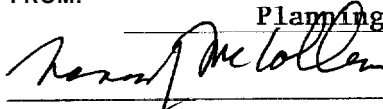
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REQUEST FOR APPROVAL OF AGREEMENT

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

FROM:

Planning



(Signature)

 0781
11/16/99 (Date)

(Dept.)

(Date)

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

- Said agreement is between the Santa Cruz Flood 6 Water Conservation District - General (Agency) and Mr. Poram J. Litwin, Ph.D., 2054 University Avenue, Suite 301, Berkeley, CA 94704 (Name & Address)
- The agreement will provide consulting services in the Santa Margarita Groundwater Basin and elsewhere as needed, on water resource monitoring, modeling and management.
- The agreement is needed to update/revise well database and provide water resources modeling and water supply planning assistance on an as-needed basis in the Pasatiempo sub-unit of the Santa Margarita Groundwater Basin and elsewhere in the County.
- Period of the agreement is from July 1, 1999 to June 30, 2000
- Anticipated cost is \$ increase of \$15,000. for a new total of \$25,000. (Fixed amount; ~~Monthly rate; Not to exceed~~)
- Remarks: on continuing agreements list for 99-00
- Appropriations are budgeted in 135462 (Index#) 3 6 6 5 (Subobject)

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

Appropriations are available and have been encumbered. Contract No. 91610 Date _____
are not will be

GARY A. KNUTSON, Auditor - Controller

By _____ 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 SC Flood and Water Conservation District-General (Agency).

Remarks: _____ (Analyst) By  County Administrative Officer Date 12/5/99

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

55 Dept. if rejected.

ADM 29 (6195)

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 _____

By _____ Deputy Clerk

Contract No. 91610

INDEPENDENT CONTRACTOR AGREEMENT

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THIS CONTRACT is entered into this 1st day of July, 1999, by and between the COUNTY OF SANTA CRUZ, hereinafter called COUNTY, and Mr. Yoram J. Litwin, Ph.D., hereinafter called CONTRACTOR. The parties agree as follows:

1. DUTIES. CONTRACTOR agrees to exercise special skill to accomplish the following result: **To provide as needed consulting services on water resource monitoring, modeling and management in the Santa Margarita Groundwater Basin and elsewhere as needed in the County.**

2. COMPENSATION. In consideration for CONTRACTOR accomplishing said result, COUNTY agrees to pay CONTRACTOR as follows: **On a time and materials basis of \$65.00 (eighty-five) dollars per hour and direct cost (i.e., travel, meals, lodging, telephone, printing, graphic materials) at cost plus a 10% (ten percent) administrative charge.**

3. TERM of this contract shall be: **July 1, 1999- 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.

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 indemnification 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 CONTRACTORS 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 this

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Agreement, CONTRACTOR shall obtain and maintain Independent Contractors 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) Workers 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 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 Y.L.L. /

(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:

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Santa Cruz County Planning-Fiscal
701 Ocean Street, 4th Floor
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-Fiscal
701 Ocean Street, 4th Floor
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.

(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.

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(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.

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12. ATTACHMENTS. This Agreement includes the following attachments (identify by name or write "NONE"): **Amendments of Automobile Liability and Comprehensive or Commercial General Liability Insurance Requirements; Attachment B Insurance Representations by Contractor.**

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

1. CONTRACTOR

4. COUNTY OF SANTA CRUZ

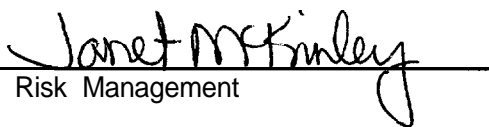
By: 

By: _____

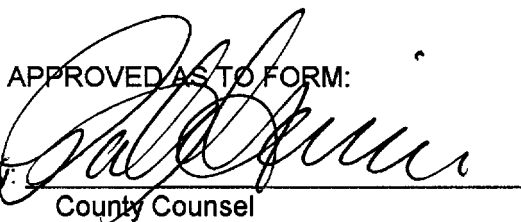
Address: **RAMLIT Associates**
2054 University Avenue, Suite 301
Berkeley, CA 94704

Telephone: 510-841-1941

2. APPROVED AS TO INSURANCE:

By:  Date: 11-18-99
Risk Management

3. APPROVED AS TO FORM:

By:  Date: 12.1.99
County Counsel

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

AMENDMENT OF AUTOMOBILE LIABILITY INSURANCE REQUIREMENT

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Subparagraph 6A(2) of Contract No. 91610 dated **July 1, 1999**, by and between **County of Santa Cruz** (hereinafter called COUNTY) and **Mr. Yoram J. Litwin, Ph.D.** (hereinafter called CONTRACTOR) is amended to read as follows:

1 Y.L. 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 \$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 11/10/99 date

CONTRACTOR

COUNTY OF SANTA CRUZ

By: Y. Litwin

By: _____

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

Subparagraph **6A(3)** of Contract No. 91610, dated **July 1, 1999**, by and between **County of Santa Cruz** (hereinafter called COUNTY) and **Mr. Yoram J. Litwin, Ph.D.** (hereinafter called CONTRACTOR) is amended to read as follows:

Y.L./ 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.

Y.L./ 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.

Y.L./ 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: _____

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

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

CONTRACTOR

By: Y.Litwin

COUNTY OF SANTA CRUZ

By: _____

Contract No. **91610**INSURANCE REPRESENTATIONS BY CONTRACTOR

On the basis of the following representations by CONTRACTOR to COUNTY as initialed and executed below, compliance with Subparagraphs **6B(2)**, (3) and **(4)**, respectively of the above Agreement, shall be deemed achieved.

Y.L. CONTRACTOR Additional Insured [6B(2)] represents that as to the following required insurance coverage(s):

_____ it is unable to obtain an endorsement adding COUNTY as an additional insured pursuant to Subparagraph **6B(2)**. In reliance thereon, COUNTY hereby waives said requirement.

Y.L. CONTRACTOR Notice of Cancellation [6B(3)] represents that as to the following required insurance coverage(s):

_____ it is unable to obtain an endorsement **including** a clause requiring prior notice of cancellation of or reduction in coverage pursuant to Subparagraph **6B(3)**. CONTRACTOR hereby covenants and represents that it will notify COUNTY in writing at least thirty (30) days prior to cancellation of or reduction in coverage pursuant to Sub-paragraph **6B(3)**. In reliance thereon, and upon performance of said covenant, COUNTY hereby deems CONTRACTOR to be in compliance with Subparagraph **6B(3)**.

Y.L. Certificate of Insurance [6B(4)]. CONTRACTOR represents that as to the following required insurance coverage(s):

_____ it has been unable to obtain certification of insurance coverage pursuant to Subparagraph **6B(4)**. CONTRACTOR hereby covenants and represents that it has obtained, will maintain (and attaches hereto a copy of the face sheet(s) of), the contractually required insurance set forth on the attached self-certification of insurance form. In reliance thereon, COUNTY hereby deems CONTRACTOR to be in compliance with Subparagraph **6B(4)**.

The above paragraph(s) shall be operative if initialed by both parties in the space provided, effective 11/10/99 date _____

COUNTY OF SANTA CRUZ

By: Y.L.
CONTRACTOR

By: _____