

This version of the boilerplate was approved by the Contracts Committee and activated **April 21, 1995**. This file will be updated as needed; please be conscious of the activation date to make sure that you are using the most current version.

Instructions:

1. Save this file to your user directory under another name;
2. Use the **F2** key (the search function) to find each instance of **xx** and type the appropriate information in its place;
3. Select only one **Exhibit B** and one **Exhibit C**, and delete all others;
3. Complete the **Contract Summary Form** at the end of the boilerplate; and,
4. Print and save the file.

For assistance, call 568-2141

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR{PRIVATE }

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Community Environmental Council, having its principal place of business at Santa Barbara, CA (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** Leslie Wells at phone number (805) 882-3611 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Karen Feeney at phone number (805) 963-0583 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: County of Santa Barbara
Public Works Department
Solid Waste & Utilities Division
109 East Victoria Street
Santa Barbara, CA 93101

To CONTRACTOR: Community Environmental Council
Gildea Resource Center
930 Miramonte Drive
Santa Barbara, CA 93109-1348

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. **TERM.** CONTRACTOR shall commence performance on July 1st, 2002 and end performance upon completion, but no later than June 30, 2003 unless otherwise directed by COUNTY or unless earlier terminated.

5. **COMPENSATION OF CONTRACTOR.** CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 **NOTICES.** above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. **INDEPENDENT CONTRACTOR.** CONTRACTOR shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

7. **STANDARD OF PERFORMANCE.** CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. **TAXES.** COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information reasonably necessary by CONTRACTOR in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and other use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. **RECORDS, AUDIT, AND REVIEW.** CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR'S

profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR shall agree to defend, indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of EXHIBIT C attached hereto and incorporated herein by reference.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

15. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

16. **TERMINATION.**

A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, for failure of CONTRACTOR to fulfill the obligations herein. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services effected (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

1. For Cause. Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate this Agreement by written notice, which shall be effective upon receipt by CONTRACTOR.

B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

18. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

23. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

24. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

26. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

29. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Community Environmental Council**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

By: _____
Chair, Board of Supervisors

Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

CONTRACTOR

By: _____
Deputy

By: _____
SocSec or TaxID Number: 94-1728064

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:
RISK MANAGER

By: _____
Risk Manager

Include language which describes, in detail sufficient to monitor satisfactory performance, the work you expect performed for the price you've agreed to pay.

Any attachments should be labelled "Attachment A-1" and so on. Be sure to state in your Exhibit A language that the attachment is "incorporated by reference."

If you choose to use the Contractor's proposal as your Exhibit A (Statement of Work), **BE VERY CAREFUL** about any terms in their "fine-print" that could be a detriment to the County. **Remember: terms in the Exhibits take precedence over the boilerplate.** If any term in the exhibits affects any term in the boilerplate, **you must disclose that affect on the Contract Summary Form,** and show the affected paragraph number[s].

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR will perform all services in accordance with the terms and requirement of County of Santa Barbara hereto. The Exhibit is incorporated herein by reference.

1. CONTRACTOR agrees to manage the community hazardous materials program at the University of California Santa Barbara hazardous waste facility and furnish services detailed in the facility operations agreement dated April 9, 1993 between the University of California and COUNTY (BC94086), incorporated herein by reference. Services shall be reimbursed according to the attached budget (**Attachment B-1**).
2. Make this program available to the residents of the unincorporated areas of the south coast of Santa Barbara County, including Montecito, Summerland, Carpinteria Valley, Goleta Valley and Isla Vista, and the residents of the Cities of Goleta and Santa Barbara.
3. Manage invoicing by hazardous waste disposal companies for the disposal of hazardous waste received by the program, and insure prompt remittance of costs within a thirty (30) day period. Services shall be reimbursed according to the attached budget (**Attachment B-1**).
4. CONTRACTOR agrees to arrange for the collecting, packaging transporting, and disposing of said hazardous wastes in accordance with the provisions of all applicable state and federal laws and ordinances governing the handling and disposing of said materials. CONTRACTOR reserves the right to limit the number of barrels of hazardous waste being disposed to that quantity that may be properly handled under said ordinances consistent with fund allocation made by COUNTY, unless additional funds are made available.
5. COUNTY agrees that, for the purpose of this Agreement, COUNTY shall be deemed to be the generator of wastes collected and transported to the recycling and disposal sites.
6. CONTRACTOR shall maintain regular contact with the County Public Works Department as directed and shall keep the Public Works Department informed of all difficulties, obstructions or deviations made known to CONTRACTOR during the course of work.
7. CONTRACTOR warrants by execution of this Agreement that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage or contingent fee, and that CONTRACTOR maintains no agreement, employment or position which would be in conflict with the duties to be performed for COUNTY under this Agreement. CONTRACTOR further agrees that during the term of this Agreement CONTRACTOR will not obtain, engage in, or undertake any interest, obligation or duty which would be in conflict with, or interfere with, the services or duties to be performed under the provisions of this Agreement.
8. CONTRACTOR agrees to require small quantity generators using the hazardous waste facility to make their checks to the COUNTY. CONTRACTOR will track incoming revenue, and direct all checks to the COUNTY no less than one time per month, along with an accounting of all revenues received.
9. CONTRACTOR agrees to respond to public information requests as well as assist small businesses by providing guidance on the proper disposal of materials.
- 10.
11. There are six versions of Exhibit B, incorporated here. They address specific circumstances:

- #1: Compensation Upon Completion
- #2: Compensation Upon Completion (with attached schedule of fees)
- #3: Periodic Compensation
- #4: Periodic Compensation (with attached schedule of fees)
- #5: Periodic Compensation at Selected Milestones
- #6: Periodic Compensation at Selected Milestones (with attached schedule of fees)

Select the appropriate alternative for this contract, and delete all other pages.

EXHIBIT B

PAYMENT ARRANGEMENTS Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$ 560,659.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B-1** (Budget), and shall include:
1. The costs of long distance telephone calls as approved for the budget.
 2. The actual costs of other materials, services and supplies as are approved in writing by the COUNTY Public Works Director, or designee.
 3. Mileage at thirty-six and a half cents (\$0.365) per mile during approved travel in connection with the project.
 4. The cost of reasonable travel expenses actually incurred during pre-approved travel in connection with the project.

Invoices submitted for payment that are based upon **Attachment B-1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in Exhibit A.

- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice for the service performed over the period specified. These invoices cite the assigned Board Contract Number. COUNTY REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **Attachment B-1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of presentation.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.
- E. All performance of services hereunder and all obligations of the County, incurred pursuant to this Agreement, are subject to the review and approval of the County Director of Public Works, or designee. Claims shall be paid within 30 days of approval of a submittal on a Standard County claim form which makes reference to this Agreement, substantiated by invoices, receipts and records, and as to the extent approved by COUNTY Public Works Director or designee. All invoices or other payment documents must

include the County of Santa Barbara Auditor-Controller contract number. (This number will be assigned by the Auditor-Controller and appear on the Agreement.) If the invoice does not properly reference the contract number, those invoices will be returned, delaying payment. If savings are realized in any components of the program, they may be applied to other components which are over the budgeted amount. The total obligation to the County for all costs, services and reimbursable expenses under the provisions of this Agreement, shall not exceed the sum of \$560,659, as detailed in the attached budget (**Attachment B-1**) without the express approval of the Board of Supervisors of the County of Santa Barbara.

EXHIBIT D

YEAR 2000 DATE CHANGE COMPLIANCE WARRANTY FOR GOODS AND SERVICES

CONTRACTOR warrants that any Products furnished by CONTRACTOR pursuant to this agreement shall support a four-digit year format and be able to accurately process date and time data from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, as well as leap year calculations. For purposes of this warranty, "PRODUCT" shall include, without limitation, any piece of component of equipment, hardware, firmware, middleware, custom or commercial software, or internal components of subroutines therein together with updates, upgrades and enhancements on same and all services, wherever such compliance is appropriate. This warranty shall survive termination or expiration of this Agreement.

In the event of any decrease in Product functionality or accuracy related to time and/or date data related codes and/or internal subroutines that impede the Product from operating correctly using dates beyond December 31, 1999, CONTRACTOR shall restore or repair the Product to the same level of functionality as existed prior to the date malfunction, so as to minimize interruption to COUNTY's ongoing business processes, time being of the essence. In the event that such warranty compliance requires the acquisition of additional Products, the expense for any such associated or additional acquisitions that may be required, including without limitations, data conversion tools, shall be borne exclusively by CONTRACTOR.

In the event that restoration, repair and/or replacement is inadequate to prevent or remedy loss, CONTRACTOR shall defend, indemnify and save harmless COUNTY, its agents, officers, and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the failure of this warranty or occasioned by the performance or attempted performance of the Product(s), including, but not limited to, any act or omission to act on the part of CONTRACTOR or its agents, officers, employees or independent contractors.

Nothing in this warranty shall be construed to limit any rights or remedies the COUNTY may otherwise have under this Agreement with respect to defects other than Year 2000 performance. CONTRACTOR shall obtain the same assurances from all other suppliers whose products CONTRACTOR relies upon for operation of CONTRACTOR's Product(s) and shall furnish them to COUNTY upon request.

If contract is **not** for expenditure of funds by or through the County (eg, if it is a revenue contract or a no-fee agreement):

- 1) **DO NOT COMPLETE THIS FORM**; and
- 2) After concurrences on Board Letter write "Contract Summary Form N/A"

Always leave Contract Number blank. Shaded area will be completed by Auditor or Purchasing.

Special Instructions: D2. Show **both** the Bill-To and Ship-To codes you would normally use on a Purchasing Requisition (eg, "1234-00; 1234-01").

K6. Under **Seq#** assign a number to each amendment (1,2,3,etc), if any.

V1. Show both vendor numbers, if known, as CodeLetter/Dash/Number (eg, "A-654321; P-123456"). **V11&12.** If insurance is waived by Risk Management, type "Waived"; must be initialed and dated by Risk Manager. **V12.** Show applicable dates as CodeLetter/Dash/Date (eg, "G-12/31/95; P-12/31/99"). Contract Summary Form: Contract Number : | -

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (>\$100,000). If less than (<\$100,000) submit a Purchasing Requisition to the Purchasing Division of General Services. See "online purchasing manual" under General Services, Purchasing, Policies and Procedures. Form not applicable to revenue contracts.

- D1. Fiscal Year: FY 02/03
- D2. Budget Unit Number (*plus -Ship/-Bill codes in paren's*): 8810
- D3. Requisition Number.....:
- D4. Department Name: Public Works Department
- D5. Contact Person: Leslie Wells
- D6. Phone.....: (805) 882-3611

K1. Contract Type (*check one*): Personal Service Capital Project/Construction

K2. Brief Summary of Contract Description/Purpose :

K3. Original Contract Amount: \$560,659

K4. Contract Begin Date.....: 7/1/2002

K5. Original Contract End Date: 6/30/2003

K6. Amendment History (*leave blank if no prior amendments*):

<u>Seq#</u>	<u>EffectiveDate</u>	<u>ThisAmndt</u>	<u>AmtCum</u>	<u>AmndtToDate</u>	<u>NewTotal</u>	<u>AmtNew</u>	<u>EndDate</u>	<u>Purpose (2-4 words)</u>
		\$	\$		\$			

K7. Department Project Number: 195001

B1. Is this a Board Contract? (*Yes/No*): yes

B2. Number of Workers Displaced (*if any*).....: 0

B3. Number of Competitive Bids (*if any*): 0

B4. Lowest Bid Amount (*if bid*): \$

B5. If Board waived bids, show Agenda Date

B6. ... and Agenda Item Number: #

B7. Boilerplate Contract Text Unaffected? (*Yes / or cite ¶¶*) : 15,17(1)

F1. Encumbrance Transaction Code.....:

F2. Current Year Encumbrance Amount: \$560,659

F3. Fund Number.....: 1930

F4. Department Number.....: 054

F5. Division Number (*if applicable*).....:

F6. Account Number: 7460

F7. Cost Center number (*if applicable*).....: 1950

F8. Payment Terms.....: Net 30

- V1. Vendor Numbers (*A=auditor; P=purchasing*)
- V2. Payee/Contractor Name Community Environmental Council
- V3. Mailing Address 930 Miramonte Drive
- V4. City State (*two-letter*) Zip (*include +4 if known*) : Santa Barbara, CA 93109-1348
- V5. Telephone Number (805) 963-0583
- V6. Contractor's Federal Tax ID Number (*EIN or SSN*) : 94-1728064
- V7. Contact Person..... Karen Feeney, (805) 963-0583 x 152
- V8. Workers Comp Insurance Expiration Date..... 10/01/02
- V9. Liability Insurance Expiration Date[s] (*G=enl; P=roft*): ~~2/24/03~~ _____
- V10. Professional License Number #
- V11. Verified by (*name of County staff*)
- V12. Company Type (*Check one*): [] Individual [] Sole Proprietorship [] Partnership [X] Corporation

I certify: information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date : Authorized Signature.....: