

**AGREEMENT WITH THOMAS REID ASSOCIATES FOR SERVICES
WITH RESPECT TO THE AMENDMENT OF THE
SAN BRUNO MOUNTAIN HABITAT CONSERVATION PLAN**

This Agreement entered into this _____ day of _____, 2003, by and between the COUNTY OF SAN MATEO, acting in its role as Plan Operator of the San Bruno Mountain Area Habitat Conservation Plan ("COUNTY"), and THOMAS REID ASSOCIATES ("CONTRACTOR").

W I T N E S S E T H

WHEREAS, the County of San Mateo, and the Cities of Brisbane, Daly City and South San Francisco (collectively, the "Cities") are parties to the San Bruno Mountain Area Habitat Conservation Plan ("HCP"), and the Agreement with Respect to the San Bruno Mountain Area Habitat Conservation Plan ("HCP Agreement"), recorded in the official records of San Mateo County as Document No. 83026343, and are permittees under Permit No. PRT 2-9818 ("Section 10a Permit"), issued by the United States Fish and Wildlife Service ("USFWS" or "Service") under Section 10a of the Federal Endangered Species Act, 16 U.S.C. section 1531 et seq.; and

WHEREAS, section IX of the HCP Agreement provides a process by which the HCP may be amended; and

WHEREAS, the COUNTY and the Cities desire to amend the HCP and Section 10a Permit in response to the listing of the Callippe silverspot butterfly and in order to incorporate adaptive management concepts to better manage and implement the HCP; and

WHEREAS, it is necessary and desirable that CONTRACTOR be engaged for the purpose of performing services to develop appropriate amendments to the HCP, as hereinafter described, because of CONTRACTOR'S background and prior experience with implementing the HCP; and

WHEREAS, it is in the COUNTY's best interest to waive the requirement for a Request for Proposals for the purpose of entering into an Agreement with CONTRACTOR;

NOW, THEREFORE, IT IS HEREBY AGREED by the parties as follows:

1. **Services to be Performed by Contractor.** In consideration of the payments hereinafter set forth, CONTRACTOR shall perform services in accordance with the terms, conditions and specifications set forth herein and in the Proposed Operating Budget and Work Scope, attached as Exhibit "A" hereto and by this reference made a part hereof. Services shall be performed generally in accordance with the proposed budget set forth in Exhibit "A." The maximum amount payable under this contract shall be \$130,000.00.

Payments shall be made for services performed in each "task" category shown in Exhibit "A," at the rates stated in Exhibit "B," attached hereto and by this reference made a part hereof. Payment in any "task" category may not exceed the amount budgeted for that category, subject to the qualification that the amount budgeted for one task category may be increased by ten percent (10%) so long as one or more other task categories are decreased by a like dollar amount, and subject to the further qualification that the County Manager may approve increases above the ten percent (10%) in any category, and a like dollar decrease in another category, upon a showing of good cause by CONTRACTOR.

2. **Evaluation of Services to be Performed by Contractor.** CONTRACTOR'S performance will be evaluated, among other things, for compliance with the specific tasks set forth in the Work Scope, attached hereto as Exhibit "A" and incorporated herein by reference. CONTRACTOR shall participate in monthly progress meetings, either in person or by telephone, with County staff designated by the Director of the County Environmental Services Agency. At such meetings, CONTRACTOR shall be prepared to discuss progress made to date in fulfilling

the tasks set forth in Exhibit "A" and any other issues of importance to amendment of the Habitat Conservation Plan.

3. **Payments.** Payments shall be made at the rates stated in Exhibit "B." Payments shall be made in arrears upon the submission of an invoice showing the amount of hours expended and the payment due for each task category. Invoices shall be submitted quarterly. The final invoice for work performed under this contract will be submitted within thirty (30) days of the end of the contract term.

4. **Relationship of the Parties.** It is understood that this is an agreement by and between independent contractors and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of independent contractor.

5. **Non-Assignability.** CONTRACTOR shall not assign this Agreement, or any portion thereof, or any of its rights or obligations under this Agreement, to a third party without the prior written consent of the COUNTY, and any attempted assignment without such prior written consent in violation of this section automatically shall

6. **Contract Term.** This Agreement shall be in effect upon execution by all parties, and shall expire on June 30, 2005, unless extended in writing by the parties hereto. COUNTY may terminate this contract at any time for any reason by providing thirty (30) days notice to CONTRACTOR, which shall be effective on the date specified in the notice. In the event of termination under this paragraph, CONTRACTOR shall be paid for all work provided to the date of termination.

7. **Hold Harmless.** The CONTRACTOR shall indemnify and save harmless the COUNTY, the Cities of Brisbane, South San Francisco and Daly City, the San Bruno Mountain

Habitat Conservation Trust, and its Trustees, and the officers, agents, employees and servants of each of these entities from all claims, suits or actions of every name, kind and description, brought for, or on account of (A) injuries to or death of any person, including CONTRACTOR, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, or (C) by reason of any failure to withhold and/or pay to the government income and/or employment taxes from earnings under this contract as made necessary by federal or state law, but not limited to, the concurrent active or passive negligence of the COUNTY, the Cities of Brisbane, South San Francisco and Daly City, the San Bruno Mountain Habitat Conservation Trust, and its Trustees, and the officers, agents, employees and servants of each of these entities, resulting from the performance of any work required of CONTRACTOR or payments made pursuant to this agreement.

The duty of the CONTRACTOR to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. **Insurance.** The CONTRACTOR shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the San Mateo County Director of the County Environmental Services Agency. The CONTRACTOR shall furnish the Director with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending the CONTRACTOR's coverage to include the contractual liability assumed by the CONTRACTOR pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to the COUNTY of any pending change in the limits of liability or of nonrenewal, cancellation, or modification of the policy.

Workers' Compensation and Employer Liability Insurance: The

CONTRACTOR shall have in effect, during the entire life of this Agreement, Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, the CONTRACTOR makes the following certification, required by section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I _____ with such provisions before commencing the performance of this work of the Agreement.

Liability Insurance: The CONTRACTOR shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him with respect to work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all operations under this Agreement, whether such operations be by himself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than \$1,000,000 unless another amount is specified below.

Required insurance shall include:

- a. Comprehensive General Liability \$1,000,000
- b. Motor Vehicle Liability Insurance \$1,000,000
- c. Workers' Compensation SStatutory

The COUNTY, the Cities of Brisbane, South San Francisco and Daly City, the San Bruno Mountain Habitat Conservation Trust, and its Trustees, and the officers, agents, employees and servants of each of these entities shall be named as additional insureds on any

such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the COUNTY, the Cities of Brisbane, South San Francisco and Daly City, the San Bruno Mountain Habitat Conservation Trust, and its Trustees, and the officers, agents, employees and servants of each of these entities shall be primary insurance to the full limits of liability of the policy, and that if the COUNTY, the Cities of Brisbane, South San Francisco and Daly City, the San Bruno Mountain Habitat Conservation Trust, and its Trustees, and the officers, agents, employees and servants of each of these entities have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage has been canceled, the COUNTY, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

9. **Nondiscrimination.**

No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this agreement. CONTRACTOR shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this agreement. CONTRACTOR'S equal employment policies shall be made available to County of San Mateo upon request.

With respect to the provision of employee benefits, CONTRACTOR shall comply with the County Ordinance which prohibits discrimination in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the CONTRACTOR to penalties, to be determined by the County Manager, including but not limited to

- i) termination of this Agreement;
- ii) disqualification of the CONTRACTOR from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation;
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to:

- i) review CONTRACTOR'S employment records with respect to compliance with this paragraph;
- ii) set off all or any portion of the amount described in this paragraph against amounts due to CONTRACTOR under the Contract or any other contract between CONTRACTOR and County.

CONTRACTOR shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified CONTRACTOR that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. CONTRACTOR shall provide County with a copy of their response to the Complaint when filed.

10. **Access To Records.** CONTRACTOR shall at all times keep a complete and thorough record of the services and time expended on behalf of the Trustees. The COUNTY shall have access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purpose of making audits, reports, summaries, and transcriptions.

11. **Rights in Data.** All data and rights-in-data will be the property of the COUNTY. All maps, correspondence records of meetings or telephone conversations, photographic negatives, photographic prints, computer output, and magnetic storage media prepared by or obtained by CONTRACTOR in the course of work under this Agreement shall be the property of the COUNTY. COUNTY may request CONTRACTOR to provide the originals of all such material in fulfillment of this Agreement. CONTRACTOR may retain a copy of such property at its own expense subject to the conditions set forth herein. CONTRACTOR will supply TRUSTEES with electronic and hard copies of data on an annual basis.

12. **Conflict of Interest.** CONTRACTOR covenants that he presently has no interest and shall not acquire any interest, direct or indirect, that 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 contract, no persons having any such interest shall be employed.

13. **Prohibited Activity by Contractor.** CONTRACTOR shall be prohibited from entering into any agreement with any owner or developer of land identified as a Developable Administrative Parcel within the Habitat Conservation Plan area to act as a consultant for the purpose of preparing environmental review. Further

CONTRACTOR shall be prohibited from serving as a subconsultant to any consultant retained by an owner or developer of land identified by a Developable Administrative Parcel within the HCP area for the purpose of planning assistance and/or conducting environmental review. The prohibition herein shall not preclude CONTRACTOR from providing planning assistance or participating in environmental review with regard to any Developable Administrative Parcel through the auspices of the County as Plan Operator, or through the County or any of the Cities acting as Lead Agency for purposes of environmental review under the California Environmental Quality Act.

14. **Merger Clause.** This Agreement constitutes the sole agreement of the parties hereto and correctly states the rights, duties and obligations of each party as of the document's date. Any prior agreement, promises, negotiations or representations between prior agreement, promises, negotiations or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the Trustees. In the event of a conflict between the terms, conditions or specifications set forth herein and those in Exhibit "A" attached hereto, the terms, conditions or specifications set forth herein shall prevail.

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

THOMAS REID ASSOCIATES

Dated: _____

By: _____

Thomas Reid, Contractor

Contractor's Tax I.D. Number
or Social Security Number

Contractor Address

COUNTY OF SAN MATEO

Dated: _____

By: _____
Jerry Hill, President of the Board

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**SAN BRUNO MOUNTAIN HCP AMENDMENT
PROPOSED SCOPE**

I. Project Purpose:

To amend the San Bruno Mountain Habitat Conservation Plan:

- A. to reflect changes and new information regarding covered species status, habitat preservation, habitat restoration techniques, and changes in federal statute, regulation and policy governing HCPs that have occurred since 1983;
- B. to add the endangered Callippe silverspot butterfly, listed in 1997, hitherto a species of concern on San Bruno Mountain, to the Endangered Species Act (ESA) section 10(a)(1)(B) permit for incidental take, and appropriate conservation, monitoring, and funding measures;
- C. to assess the effect of the HCP on the recently designated Bay Checkerspot butterfly critical habitat (2001);
- D. to add specificity to timelines and management goals for the conserved lands in the HCP;
- E. and, to address funding issues for the HCP.

II. Project Components:

A. Deliverables

- 1. Notices to Landowners and Cities of Amendment Preparation, Meeting Notices, Agendas, Briefing Papers for Public Meetings and Meetings with FWS, and other communications.
- 2. Addendum to the Biological Study of 1980-81. Data analysis, assessment of butterfly populations and current ecological status of San Bruno Mountain.
- 3. Administrative Draft and Draft and Final of HCP Amendment for Volume 1.
- 4. Administrative Draft and Draft and Final of Revised Volume 2 (Chapter VII).
- 5. New Five-Year Plan that supports Conservation Strategy and Adaptive Management Program of HCP.
- 6. Preparation of packet of information for CEQA/NEPA consultant. Provide data to consultant as needed.

B. Project Organization

- 1) Notices to Landowners and Cities of Amendment Project, Meeting Notices, Agendas, Briefing Papers for Public Meetings and Meetings with FWS, etc.
- 2) Addendum to the Biological Study.
 - a) Completion of data entry from past twenty years.
 - b) Data analysis, completion of 2003 version of the San Bruno Mountain Ecological Database, and determination of what past data collection can show.
 - c) Assessment of butterfly populations.
 - d) Assessment of current ecological situation on San Bruno Mountain. Status of ecological processes such as scrub succession, invasion of exotic plant species.
- 3) *Redlined* Amendment for Volume 1.
 - Redlined version of Volume 1 of the HCP with changes (updates) identified in Glossary, Summary, Chapters 1, 2, 3 and 5.
 - New Chapters 4 and 6 to replace existing chapters.
 - a) Chapter 1. Introduction
 - i) Update the section.
 - ii) Clarify the covered species in a species list (adding San Bruno elfin and Callippe silverspot).
 - b) Chapter 2. Historical Review
 - i) Update the section with a discussion of the years since the HCP was first adopted.
 - c) Chapter 3. Conservation Strategy (formerly Biological Program)
 - i) Develop Biological Goals and Objectives, to replace Guiding Principles.
 - ii) Butterfly Monitoring
 - (1) Analysis of Butterfly Monitoring Techniques on SBM.
 - (2) Review of Butterfly Monitoring Literature, to be summarized in the HCP.
 - (3) Conform butterfly monitoring to biological objectives (addressing presence/absence techniques, utilization of habitat, relative population size, etc.) Monitoring techniques must be scientifically sound.
 - (4) Development of a strategy to maintain accurate electronic and/or paper records of butterfly monitoring activities.
 - (5) Cost analysis of proposed monitoring effort, including maintenance of the database.
 - iii) Vegetation Monitoring
 - (1) Review of Vegetation Monitoring Techniques on SBM.
 - (2) Development of vegetation monitoring strategy to measure on an appropriate basis and scale (including surveys, transects, sampling, aerial photography, etc.):
 - (a) Distribution and abundance of exotic species
 - (b) Distribution and abundance of endangered butterfly host plants
 - (c) Grasslands and scrub succession

- (d) The effects of vegetation management strategies
- (e) The progress of restoration projects.
- (3) Development of a strategy to maintain accurate electronic and/or paper records of the results of vegetation monitoring.
- (4) Cost analysis of proposed vegetation monitoring effort, : _: the database.
- iv) Vegetation and Habitat Management
 - (1) Evaluation of effectiveness/efficiency of past vegetation management techniques used on San Bruno Mountain, including burning, chaining, mowing, tree removal, grazing, machinated gorse removal, hand work, herbicide, planting, habitat islands, etc.
 - (2) Literature review of vegetation and habitat management tools. Summarize this review in the HCP.
 - (3) Design and describe Vegetation and Habitat Management Program in conformance with Biological Goals and Objectives.
 - (a) Describe Work Areas for Vegetation and Habitat Management, and how Goals and Objectives apply to each area.
 - (b) For Work Areas, provide an analysis of ecology, slope, aspect, exotics status, habitat status, landowners and underlying parcels.
 - (c) Prescribe management tools for Work Areas, including the proposed location, timing, extent, and estimated cost of usage. Further details would be provided in each Five Year Plan.
 - (d) Strategy to maintain accurate records of vegetation and habitat management work, potentially including aerial photography, GPS/GIS.
 - (e) Strategy to incorporate the politically and logistically difficult techniques of fire and grazing
 - (f) Clarify and establish agreement between CDF, County, and Cities regarding the strategies for suppressing unplanned fire, for accomplishing planned burns, and for maintaining the program of fire suppression.
 - (4) Define and Incorporate an Adaptive Management element.
 - (5) Cost analysis of proposed management efforts.
- v) Research
 - (1) Discuss research that has occurred over past 20 years in the HCP.
 - (2) Program to fund and support research on SBM that has the potential to improve the HCP's Conservation Strategy. Funding and support could include small stipends to cover materials, or more active outreach to local universities, graduate students, and undergraduate students. Develop list of research questions.
 - (3) Cost analysis.
- vi) Planning Assistance and Plan Revision
 - (1) The design guides, phasing of developments, dedication of lands, reclamation plan, and ongoing restrictions in development areas will be examined and possibly revised.
 - (2) Cost analysis of associated administrative work.
- vii) Biological Work-Group Participation
 - (1) Participate in three (3) meetings with the County, stakeholders and interested

- parties to discuss strategies for management of the San Bruno Mountain ecosystem.
- d) Chapter 4. Impacts on Species Survival.
 - i) This chapter will be re-written, and will provide an analysis of the extent to which covered species, especially Callippe silverspot and San Bruno Elfin will be affected by the full implementation of the Incidental Take Permit, including all proposed covered activities. This section will be completed in accordance with the CEQA/NEPA document; will be consistent with the CEQA/NEPA document; and will summarize the Addendum to the Biological Study and the CEQA/NEPA analysis.
 - e) Chapter 5. Institutional Program
 - i) Funding Work-Group Participation. Participate in three (3) meetings with the County, stakeholders and interested parties to discuss in detail all available options for increasing funding of the HCP. Analysis of the funding situation. Existing income, existing expenditures. Future status of the HCP trust fund under various income and expenditure scenarios. Analysis of potential funding solutions and projected implementation of solution. HCP program elements which must be adequately funded as a requirement of the Permit will be identified.
 - ii) Fee collection: development of an organized strategy to collect fees, including delinquent fees. Plan to report the collection of fees.
 - iii) Land status: specify the status of land
 - iv) Restoration requirements: specify requirements for restoration of disturbed lands, and a program to rectify the lack of reporting and monitoring of those restoration efforts (or lack thereof)
 - v) Annual Reports
 - (1) Specify the required contents of the annual reports. Provide an outline for future annual reports. Contents will include: butterfly monitoring, vegetation monitoring, vegetation/habitat management progress, adaptive management decisions, budgeting and ... of parcels and land dedications in fee title and easement, status of planned/unplanned parcels, status of restoration efforts. Both annual and cumulative (rolling) summaries.
 - (2) Cost estimate.
 - vi) Five Year Plans
 - (1) Specify the required contents of the Five Year Plans.
 - vii) Formalize the Site Activity Permit process, including its purpose and components.
 - viii) Success Criteria for Vegetation and Habitat Management actions.
 - f) Chapter 6. Plan Overview
 - i) This chapter will be re-written. It will provide a summary of the plan and the Adaptive Management approach. (What previously specified goals or plans are changed in either mid-process or before being started, and explanation of why.)
 - ii) Description of the overall 5 Year Plan and Annual Report Processes
 - iii) Changed and Unforeseen Circumstances analysis.
- 4) Administrative Draft and Draft and Final of HCP Amendment for Revised Volume 2 (Chapter VII).
- a) Introduction: will now include a table of covered activities and the parcels where the

activities are covered.

- b) Reflect changes to Administrative Parcels as indicated.
 - i) take avoidance, minimization, and mitigation measures for covered species by parcel.
 - ii) Landowner/developer/agency roles and requirements revised (including private landowners, PG&E, CDF, CDFG, SMC Parks, etc.)
 - iii) Best management practices included or developed, including trail management in parcels with trails.
 - iv) Guidelines for monitoring, habitat fencing, salvaging, preservation, exotics and veg management
- c) Summarize intended direction and status of the parcels, and which Work Area(s) a parcel is in.
- d) Potential changes to Administrative Parcels:

1-01 Rio Verde Estates, clarify different developments including Bay Ridge, Bay Vista, Carter Street Storage, Saddleback

1-03 New Name: Bay Vista

1-04 Change Unplanned to Planned **

1-05 Change project configuration **

1-06 Brisbane Technology Park

1-07 Changes to Unit 2, Neighborhood 2

1-14 Reflect new name: Linda Vista

1-16 Unplanned to Conserved Habitat

2-01 Quarry to Residential Development **

2-02 Development to CDFG Conserved Habitat

2-03 Redefine unplanned to conserved habitat in area that were purchased

2-04 : ~~impose the development in the area that were purchased~~

2-10 Possible changes in fire suppression program

3-01 American Towers, Possible New Master Plan **

4-02 New Name: Village in the Park

4-03 New Name: South Hills Estates

1-13 and 2-09, Changes to Water Pipeline Maintenance **

1-11, 1-12, 2-07, 3-04, Changes to PG&E maintenance, possible undergrounding of utility lines both existing and proposed, and possible upgrading of exiting lines **

1-09, 2-05, 3-02, 4-04, Changes based on new master plan to be reflected.

** these entities would have to pay to have their changes included in program.

- 5) New Five-Year Plan that supports Conservation Strategy and Adaptive Management Program of HCP.
- 6) Preparation of packet of information for CEQA/NEPA consultant. Provide data to consultant

as needed.

III. Project Participants. Key agencies and stakeholders participating directly or indirectly in HCP activities would be sought for input and acceptance of HCP policies:

The California Department of Forestry and Fire Protection re: prescribed burns and the suppression of unplanned burns.

Bay Area Air Quality Management District re: use of prescribed burns.

Sustainable Ecosystem Institute re: peer review.

San Mateo County Agricultural Commissioner re: use of herbicides and weed control.

Cities of Brisbane, Daly City, and Brisbane, and the San Mateo County (permittees responsible for local land use control as well as being members of the Trustees).

The County of San Mateo Parks and Recreation Division (responsible of maintaining the HCP, Permit, operating San Bruno Mountain State and County Park, acting as staff for the HCP Trustees, and overseeing the contracts for work being done on San Bruno Mountain, especially of Thomas Reid Associates - Habitat Manager).

San Bruno Mountain Watch.

Friends of San Bruno Mountain.

California Native Plant Society

Additionally, there are other necessary cooperators that are identified specifically in the existing HCP, including but not limited to:

Pacific Gas & Electric Company (responsible for maintaining easements to electricity lines and gas main easements for the purpose of maintaining those easements).

California Department of Fish & Game (owners of Owl and Buckeye canyons).

California Department of Parks & Recreation (requisite signer to certain planning documents allowing for activities within the HCP).

IV. San Bruno Mountain HCP Amendment Processing Schedule

Project Year 1

Project starts after meeting with County, USFWS and other interested parties is held to discuss the specifics of the HCP Amendment.

- Month 1: Formulate biological goals and objectives.
- Month 3: Begin preparation of the administrative Draft HCP Amendment, including Implementation Agreement modification, if necessary. Begin HCP public participation process.
- Month 5: Begin CEQA/NEPA process with scoping.
- Month 7: Begin preparation of CEQA/NEPA document.
- Month 8: Submit administrative review Draft HCP Amendment for agency review.
- Month 11: Submit administrative review Draft CEQA/NEPA document for agency comment.
- Month 12: Submit revised administrative Draft HCP Amendment.

Project Year 2

- Month 14: Submit revised administrative Draft CEQA/NEPA document to agencies.
- Month 16: Submit permit application to USFWS.
- Month 18: Publish Draft HCP Amendment and Draft CEQA/NEPA document for official public comment period, 90 days. Begin CEQA/NEPA public participation process
- Month 21: Respond to public comments on Draft HCP Amendment and Draft CEQA/NEPA document. Begin preparation of final documents.
- Month 23: Publish Final HCP Amendment and Final CEQA/NEP : . 30-day cooling off period.

Project Year 3

- Month 25: Final decision documents - Record of Decision, Biological Opinion, Section 10 Findings, Implementation Agreement - completed by USFWS. Permit decision by USFWS.

The anticipated schedule for this Reassessment Project will start after receipt of the funding. All tasks will be completed within 18 - 36 months. The primary timing and speed of completion is dependent on several :... the consultant, and public input and response.

SAN BRUNO MOUNTAIN HCP AMENDMENT
PROPOSED COST

Project Cost Summary

Deliverables/Cost

1. Notices to Landowners and Cities of Amendment Preparation, Meeting Notices, Agendas, Briefing Papers for Public Meetings and Meetings with FWS, and other communications.

COST: \$30,000

2. Assessment of the Biological Study of 1980-81. Data analysis, assessment of butterfly populations and current ecological status of San Bruno Mountain.

COST: \$35,000

3. Administrative Draft and Draft and Final of HCP Amendment for Volume 1.

COST: \$35,000 Administrative Draft:
\$ 10,000 Draft
\$ 5,000 Final
\$ 30,000

4. Administrative Draft and Draft and Final of Revised Volume 2 (Chapter VII).

COST: \$10,000 Administrative Draft
\$ 5,000 Draft and Final
\$ 20,000

5. New Five-Year Plan that supports Conservation Strategy and Adaptive Management Program of HCP.

COST: \$10,000

6. Preparation of packet of information for EIS consultant. Provide data to consultant as needed.

COST: \$5,000

TOTAL COST: \$130,000

TRA Billing Rates -- Fiscal Year 2003-2004

Invoices are submitted monthly showing time and charges for professional services by staff category, and a separate figure for expenses. Invoices unpaid past 45 days are subject to interest at 1½ % per month.

Thomas Reid Associates Labor (Includes all overhead expenses)

Staff Billing Rates

| <u>CATEGORY</u> | <u>\$/HR.</u> |
|----------------------|---------------|
| Principal | 123.00 |
| Senior Associate III | 114.00 |
| Senior Associate I | 77.00 |
| Associate III | 60.00 |
| Associate II | 48.00 |
| Associate I | 37.00 |
| GIS | 60.00 |
| CAD/Graphics | 48.00 |
| Support Staff III | 48.00 |
| Support Staff I | 30.00 |
| Field Supervisor | 37.00 |
| Field Captain | 30.00 |
| Field Crew | 21.00 |

Expenses

| <u>Category</u> | <u>Basis</u> |
|---------------------------|--------------|
| Automobile travel | \$0.40/mile |
| Photocopy (A and B sizes) | \$0.10/copy |
| CNDDDB Database Search | \$225.00 |
| Expenses | \$cost +10% |
| Subconsultants' Fees | \$cost +10% |

**AGREEMENT CONCERNING FUNDING OF AMENDMENT OF SAN BRUNO
MOUNTAIN HABITAT CONSERVATION PLAN AND ENVIRONMENTAL
REVIEW OF HABITAT CONSERVATION PLAN AND PROPOSED
AMENDMENT OF PERMIT AMONG COUNTY OF SAN MATEO, CITY OF
BRISBANE AND BROOKFIELD HOMES BAY AREA, INC.**

This Agreement Concerning Funding of Amendment of San Bruno Mountain Habitat Conservation Plan and Environmental Review of Habitat Conservation Plan and Permit Amendment entered into by and among County of San Mateo, City of Brisbane and Brookfield Homes Bay Area, Inc. ("**Agreement**") is entered into as of the Effective Date by and among the COUNTY OF SAN MATEO, the CITY OF BRISBANE and BROOKFIELD HOMES BAY AREA, INC. For the purpose of this Agreement, the "**Effective Date**" is the last date on which a Party hereto signs this Agreement as shown on the signature blocks below.

A. In 1982, the United States Fish and Wildlife Service approved the San Bruno Mountain Area Habitat Conservation Plan ("**Habitat Conservation Plan**").

B. In November 1982, the United States Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and landowners entered into an Agreement With Respect to the San Bruno Mountain Habitat Conservation Plan to implement provisions of the Habitat Conservation Plan.

C. On November 15, 1982, the County of San Mateo and the City of Brisbane, the City of Daly City and the City of South San Francisco entered into a Trust Agreement Regarding the San Bruno Mountain Area Habitat Conservation Plan to carry out the purposes and provisions of the Habitat Conservation Plan and the Agreement with Respect to the San Bruno Mountain Habitat Conservation Plan.

D. On March 4, 1983, the United States Fish and Wildlife Service issued a permit, authorizing the County of San Mateo, the City of Brisbane, the City of Daly City and the City of South San Francisco to incidentally take mission blue butterflies (*Icaricia icarioides missionensis*), San Bruno elfin butterflies (*Callophrys mossii bayensis*) and San Francisco gartersnakes (*Thamnophis sirtalis tetrataenias*) provided that no San Bruno elfin butterflies and San Francisco gartersnakes are taken in Administrative Parcels denominated as Carter-Martin Extension (alternate B) (1-02), Parcel X (1-04), State Park (1-09), Transmission Line (1-11), Quarry (2-01), Owl and Buckeye Canyons (2-02), County Park (2-05), State Park (2-07), Antenna Sites (3-01), County Park (3-02), Transmission Line (3-04), State Park (4-04), and Guadalupe Canyon Parkway (4-05), pursuant to Section 10 of the Endangered Species Act, 16 U.S.C. § 1539. Hereinafter, the permit which the United States Fish and Wildlife Service issued on March 4, 1983 shall be described as the "**Permit**."

E. On December 5, 1997, the United States Fish and Wildlife Service listed the Callippe silverspot butterfly (*Speyeria callippe callippe*) as an endangered species pursuant to Section 4 of the Endangered Species Act, 16 U.S.C. § 1533, and in October 1998, the County of San Mateo, the City of Brisbane, the City of Daly City and the City of South San Francisco submitted an application for an amendment to the Permit, authorizing the County and the Cities to incidentally take Callippe silverspot butterflies, in addition to mission blue butterflies, San Bruno elfin butterflies and San Francisco gartersnakes. The application for an amendment of the Permit is pending.

F. Before the United States Fish and Wildlife Service completes its processing of the pending application for an amendment of the Permit, the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service plan to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit.

G. The County of San Mateo, through the California Department of Fish and Game, applied for a \$100,000 HCP Planning Assistance Grant from the United States Department of the Interior to amend the Habitat Conservation Plan and conduct the environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit. The United States Department of the Interior approved the application and granted the County of San Mateo, through the California Department of Fish and Game, \$100,000 to amend the Habitat Conservation Plan and conduct the environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit, conditioned upon the County of San Mateo, the City of Brisbane, the City of Daly City and the City of South San Francisco collectively contributing \$33,334 to amend the Habitat Conservation Plan and conduct the environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit.

H. The County of San Mateo estimates that it will cost approximately \$233,334 for consultants to assist the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit.

I. Brookfield Homes Bay Area, Inc. owns property on San Bruno Mountain, on which it plans to construct housing.

NOW THEREFORE, for good cause and adequate consideration, receipt of which is hereby acknowledged, and pursuant to the following terms and conditions, the County of San Mateo, the City of Brisbane and Brookfield Homes Bay Area, Inc., which are the parties to this Agreement (individually, "Party," and, collectively, the "Parties"), and each of them, hereby covenant and agree as follows:

1. Brookfield Homes Bay Area, Inc. shall provide \$100,000 to the City of Brisbane to fund the cost of consultants to assist the County of San Mateo, the City of

Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit, provision of which is hereby acknowledged by Brookfield Homes Bay Area, Inc. and receipt of which is hereby acknowledged by the City of Brisbane.

2. The City of Brisbane shall provide the County of San Mateo the \$100,000, which Brookfield Homes Bay Area, Inc. provided the City of Brisbane for the cost of consultants to assist the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit. The County of San Mateo shall use the \$100,000 solely to pay for the cost of consultants to assist the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit. The County of San Mateo shall provide the City of Brisbane, the City of Daly City, the City of South San Francisco, the United States Fish and Wildlife Service and Brookfield Homes Bay Area, Inc. with copies of all of the consultants' invoices which the County of San Mateo pays with the \$100,000 or any portion of the \$100,000.

3. The County of San Mateo shall refund any portion of the \$100,000 that the City of Brisbane provides the County of San Mateo which the County of San Mateo does not use to pay for the cost of consultants to assist the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit to the City of Brisbane. The City of Brisbane shall refund any portion of the \$100,000 which the County of San Mateo refunds to Brookfield Homes Bay Area, Inc.

4. The funding that Brookfield Homes Bay Area, Inc. provides the City of Brisbane and that the City of Brisbane, in turn, provides the County of San Mateo pursuant to this Agreement shall cover Brookfield Homes Bay Area Inc.'s fair share of the cost of consultants to assist the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat Conservation Plan and the proposed amendment of the Permit.

5. The Parties recognize that other parties may develop portions of the San Bruno Mountain Habitat Area that may benefit from the amendment of the Habitat Conservation Plan and the amendment of the Permit and that it is fair and appropriate that the parties developing such property contribute to the cost of consultants to assist the County of San Mateo, the City of Brisbane, the City of Daly City, the City of South San Francisco and the United States Fish and Wildlife Service to amend the Habitat Conservation Plan and conduct environmental review of the amendment of the Habitat

Conservation Plan and the proposed amendment of the Permit to the extent that they benefit. The County of San Mateo and the City of Brisbane commit to working together, and with the City of Daly City and the City of South San Francisco, to develop a mechanism for recovering a fair share of the cost of the work described above from any party that develops any portion of the San Bruno Mountain Habitat Area and for paying an appropriate portion thereof to Brookfield Homes Bay Area, Inc.

6. In the event of a dispute between or among the Parties, the Parties shall use their best efforts to resolve the dispute in an informal fashion through consultation and communications, or through other forms of non-binding alternative dispute resolution acceptable to the Parties.

7. This Agreement may be modified or amended only by written agreement signed by all of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

COUNTY OF SAN MATEO

By: _____
Marcia Raines
Director, Environmental Services Agency

Date: _____, 2003

CITY OF BRISBANE

By: _____
Cyril Bologoff
Mayor

Date: _____, 2003

Attested by:

Sheri Schroeder
City Clerk

Date: _____, 2003

Approved As To Form:

Harold S. Toppel
Atkinson Farasyn

Date: _____, 2003

BROOKFIELD HOMES BAY AREA, INC.

By: _____

John Ryan
President

Date: _____, 2003