

**CITY OF OAKLAND**  
**AGENDA REPORT**

2010 MAR 11 PM 4:02

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Gerald A. Simon  
DATE: March 23, 2010

RE: Resolution Authorizing the City Administrator to Pay Ecosystem Concepts Inc. For Goat Grazing And Related Services Performed On City Of Oakland Open Space Lands During Fiscal Year 2008-2009 Up To An Amount Not-To-Exceed Two Hundred Fifty Thousand Dollars (\$250,000), And Waiving Advertising and Bidding Requirements for the Work

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**SUMMARY**

Staff is requesting that the City Council authorize the City Administrator to pay Ecosystem Concepts Inc. up to an amount not-to-exceed \$250,000 for the provision of essential goat grazing services on City of Oakland open space lands in fiscal year 2008-2009, and that the Council waive advertising and bidding pursuant to O.M.C. 2.04.050.1.5 for the work.

**FISCAL IMPACT**

All of the vendor's services performed in fiscal year 2008-2009 will be funded by the Wildfire Prevention Assessment District (WPAD). WPAD revenue is used to fund prevention and preparedness services programs and fire suppression activities in the Oakland hills. Goat grazing services have been identified in the program budget as a vital fire prevention service. Thus, there is no impact to the General Fund associated with the approval of this resolution.

**BACKGROUND**

Goat grazing is an essential component of fire prevention. The City of Oakland has used these services as part of its overall wildfire mitigation program since 1996. In 2001, the Oakland Fire Department assumed responsibility for the goat grazing contract and entered into an agreement with Ecosystem Concepts, Inc.

In 2004, the voters approved and City Council passed the Wildfire Prevention Assessment District which included funding for goat grazing. As result of the delay in the transition of the goat grazing funding from the General Fund to the Wildfire Prevention Assessment District and the delay in receiving the fees collected for the WPAD assessments from the Alameda County Tax Assessor's Office, a budget short fall was created. Because of the importance of grazing to prevent wildfires, the grazing activity was continued prior to receiving the funds.

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Since the goat grazing occurs before the start of the fiscal year and after the WPAD Budget is approved by City Council, there was a period when services were performed outside the contract under the previous structure. As directed by the current Fire Chief, staff is taking the necessary action to remedy the problem of a contractor working outside the terms of the two year agreement. Following a competitive bid process, subsequent contracts will be for a three to five year period.

### **KEY ISSUES AND IMPACTS**

The City Attorney's Office has advised that contracts for animal grazing intended to improve public lands are "public works" contracts and subject to competitive bidding processes. (Boydston v. Napa Sanitation District (1990) 222 CalApp.3d 1362) Oakland's competitive process for public works contracts, set forth in Oakland Municipal Code Chapter 2.04, requires the advertisement of a notice inviting sealed bids for public works contracts for 10 days prior to award of the contract and award, if made, to the lowest, responsive, responsible bidder. The municipal code sets forth exceptions to the competitive bid process upon a finding by the City Council that is "in the best interests of the city." (Oakland Municipal Code Section 2.04.050.I.5)

Waiver of advertising and bidding is in the best interests of the City in this instance in fairness to the vendor. Ecosystem Concepts Inc. has provided goat grazing services to the city for several years. In 2006 staff conducted a competitive process, selected and contracted the vendor for fiscal years 2006 – 2008. In 2008 staff inadvertently extended Ecosystem Concepts Inc. contract to fiscal year 2008-2009 without conducting advertising and bidding or obtaining a Council waiver of process. The vendor has carried out the work in good faith and performed critical fire management services in a timely and cost efficient manner. The Oakland community received the benefit.

In order to achieve the maximum benefit, grazing in the fuel break areas of the East Bay Hills must begin no later than May 15 and be completed by August 15, prior to the peak of fire season. In other areas the work must be completed as soon as endangered and protective plants go to seed. It is critical that the vendor performing the services is familiar with the grazing plan, area and staff. Failure to remove the highly flammable vegetation increases the risk of injury, death and lost property caused by fire. Staff acted with the intention of mitigating a potential fire hazard during a high fire risk period as declared by the California State Fire Marshall.

Open space lands in Oakland are at a high risk for fire and the resulting lost property and potential injuries or death. Goat grazing is the most cost effective method to clear highly flammable vegetation. The cost is approximately \$700 per acre. Clearing the vegetation significantly decreases the risk of injury, death and property losses due to fire. Oakland voters in the WPAD support the use of the goats for reducing fuel loads. OFD staff worked with the Friends of Sausal Creek to develop a long term grazing plan for the Joaquin Miller Park and

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Castle Canyon. The use of goats for grazing protects native plants while promoting fire hazard reduction. The Fire Department is working toward developing a plan for all of the open space areas currently being grazed for wildfire management.

Ecosystem Concepts has been an important part of the development of this plan. If the proposed resolution is approved, a contract extension will be executed with Ecosystem Concepts, Inc. to pay them for goat grazing services provided in fiscal year 2008-2009 at Knowland Park, Joaquin Miller Park, Glen Daniel/King Estate Park, Castle Canyon, Shepherd Canyon, Jordan Road / London Road open space and Dunsmuir Estate Grazing locations as follows:

- **Joaquin Miller Park:** Both sides of north end of Castle Park to Moon Gate. Goat grazing is done between the West Trail and the Castle Park Trail, skipping the Castle slide area, all around Woodminster Amphitheater, the Woodminster parking lots, Craib Meadow, a strip along Joaquin Miller Road from Sanborn to Skyline and City parcels on the west side of Joaquin Miller Road near the new signal on Skyline.
- **Castle Canyon:** 75% of the site is grazed by the goats; the remaining acreage is cleared by mechanical means.
- **King Estate Park:** The entire park is grazed, along with another two acres between Crest and Highway 580.
- **Knowland Park:** The goat grazing on this City owned parcel starts in the field just above the Zoo entrance between Golf Links Road and Arroyo Viejo Creek up to Elysian Fields. The goats have grazed the Skyline Extension from the water tank to Keller in the past and this additional area was included in staff calculations for this project area.
- **Dunsmuir House:** The grazing portions in this project area are between Hellmann Field/Marshall School and the mansion east to the property boundary and several acres in Dunsmuir Heights. Included are several areas within the more landscaped parts of the grounds.

## EVALUATION OF PAST PERFORMANCE

Ecosystem Concepts, Inc. has performed goat grazing services for the City of Oakland since 1996. Ecosystem Concepts, Inc. performs work according to the scope and in a manner that consistently meets the expectations of the residents of the WPAD, the WPAD, staff and leadership.

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## **SUSTAINABLE OPPORTUNITIES**

### ***Economic:***

There are no direct economic impacts associated with this report.

### ***Environmental:***

The project promotes parkland health by controlling invasive exotic plants that threaten the native oak-bay woodland locally, and improves watershed protection by reducing the likelihood of catastrophic fire and attendant erosion.

The grazing reduces a potential threat to the safety of residents and the environment from the dangers posed by wildfires within the urban/wildland interface of the Oakland Hills.

In addition to protecting the environment, it has been demonstrated that the implementation of effective and ongoing vegetation management can substantially reduce the likelihood of injuries, loss of life and property.

### ***Social Equity:***

A fire safe and healthy environment benefits the entire community.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

There are no disability or senior citizen access issues associated with the report.

## **RECOMMENDATION(S) AND RATIONALE**

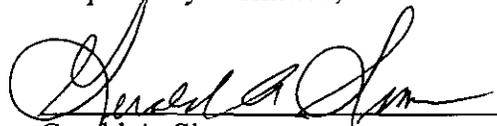
Goat grazing is one of the most cost efficient methods to reduce vegetation in open space lands. The Oakland Fire Department and the WPAD have identified an aggressive plan for reducing fuel loads in City of Oakland open spaces. The voters in the WPAD support the use of goats as part of the comprehensive fire prevention strategy. Ecosystem Concepts Inc. performed quality goat grazing services on open space lands in Oakland in a cost efficient manner during fiscal year 2008-2009. Therefore, staff recommends that the Council approve the resolution.

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**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council approve a resolution authorize the City Administrator to pay Ecosystem Concepts Inc. up to an amount not-to-exceed \$250,000 for the provision of essential goat grazing services on City of Oakland open space lands in fiscal year 2008-2009, and that the Council waive advertising and bidding pursuant to O.M.C. 2.04.050.I.5 for the work.

Respectfully submitted,



Gerald A. Simon  
Fire Chief

Reviewed by:

*Nina S. Morris*, Assistant to the Director  
James A. Williams, Deputy Chief

Prepared by:

Leroy Griffin, Assistant Fire Marshal  
Fire Prevention

APPROVED AND FORWARDED TO THE  
PUBLIC SAFETY COMMITTEE

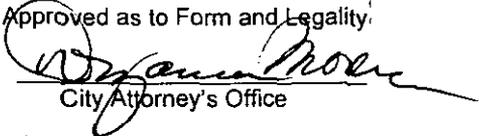
  
\_\_\_\_\_  
City Administrator

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FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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Approved as to Form and Legality

  
City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO PAY ECOSYSTEM CONCEPTS INC. FOR GOAT GRAZING AND RELATED SERVICES PERFORMED ON CITY OF OAKLAND OPEN SPACE LANDS DURING FISCAL YEAR 2008-2009 UP TO AN AMOUNT NOT-TO-EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), AND WAIVING ADVERTISING AND BIDDING FOR THE WORK**

**WHEREAS**, goat grazing on City of Oakland open space lands is an essential component of the comprehensive fire prevention and management program and significantly decreases the risk of injury, death and lost property due to fire; and

**WHEREAS**, the cost for goat grazing is approved in the Wildfire Prevention Assessment District adopted budget and there is no impact to the General Fund; and

**WHEREAS**, The City last conducted a competitive process in 2006, selected and contracted Ecosystem Concepts Inc. to provide goat grazing services on the City's open space lands for fiscal years 2006-2008 pursuant to Resolution No. 80074 (passed July 18, 2006); and

**WHEREAS**, staff inadvertently extended the contract with Ecosystem Concepts Inc. to fiscal year 2008-2009 and, for that year, the vendor carried out the work in good faith and performed critical fire mitigation services during a State Fire Marshall declared high fire season and the City of Oakland received the benefit of such services; and

**WHEREAS**, Oakland Municipal Code Section 2.04.050.1.5 allows for waiver of the competitive bid process upon a finding and determination by the City Council that it is in the best interests of the city; and

**WHEREAS**, the City Administrator has determined that the work performed by Ecosystem Concepts Inc. in fiscal year 2008-2009 was of a professional, technical or scientific and temporary nature, and was in the public interest because of economy or better performance; and

**WHEREAS**, the City Administrator has determined that the work performed by Ecosystem Concepts Inc. in fiscal year 2008-2009 did not and shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

**RESOLVED:** That the City Council authorizes the City Administrator to pay Ecosystem Concepts Inc. up to an amount not-to-exceed two hundred fifty thousand dollars (\$250,000) for goat grazing services provided at various City of Oakland open space lands during fiscal year 2008-2009; and, be it

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code Section 2.04.050.I.5 and the reasons stated in the City Administrator's report accompanying this item and above, the City Council finds that it is in the best interests of the City to waive advertising and bidding for the goat grazing services provided by Ecosystem Concepts Inc. in fiscal year 2008-2009; and be it

**FURTHER RESOLVED:** That the City Attorney shall approve the contract extension authorized hereunder for form and legality and a copy shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California