

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT is made and entered into as of _____ by and between the County of Santa Barbara ("Partner") and the Local Government Commission ("LGC").

RECITALS

- A. Partner desires to engage LGC to provide certain services through the CivicSpark program.
- B. CivicSpark is a federally funded AmeriCorps program operated by LGC, in which LGC recruits, hires, and supervises emerging professionals.
- C. The CivicSpark Program provides climate change capacity building services to local governments in California through project implementation activities performed by LGC teams: LGC staff and CivicSpark Members (Members). Members can only work on contracted and allowable service activities (Exhibit "A"). CivicSpark will provide this service to local governments by conducting assessments, implementing planning or action projects, engaging volunteers, and transferring knowledge to local government staff.
- D. LGC desires to provide those services and to be compensated accordingly.
- E. The Partner and LGC enter into this Agreement in order to memorialize the terms concerning LGC's performance of the services and the Partner's obligations with respect thereto.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual agreements set forth herein, the Partner and LGC hereby covenant and agree as follows:

1. Appointment. The Partner hereby engages LGC as an independent contractor to perform the services described in Exhibit "B", "Scope of Services" attached hereto. LGC hereby accepts such engagement on the terms and conditions set forth herein.

The Partner also agrees to the responsibilities and roles as described in Exhibit "C", as they relate to the Partner's participation in the CivicSpark program. The Partner hereby accepts such responsibilities on the terms and conditions set forth herein.

Neither party may vary the scope of services described in Exhibit "B" or responsibilities in Exhibit "C" except as expressly agreed to in writing by the other party. The budgets for direct labor and expenses are based on the services described in Exhibit "B." Any modification of the scope of services may affect direct labor costs and project expenses and must be approved in writing by Partner.

2. Performance of Consulting Services. LGC shall perform the services in a diligent, competent and professional manner.
3. Consulting Fee; Reimbursable Expenses.

(a) The Partner shall pay LGC a fee for the services provided, as described in Exhibit "D," "Description of Compensation," attached hereto.

(b) LGC shall be entitled to reimbursement for out-of-pocket expenses incurred in the performance of this Agreement, limited to those expenses listed in Exhibit "E," "Reimbursable Expenses," attached hereto, up to the maximum amount set forth in Exhibit "E." Upon receipt of LGC's invoice, Partner shall notify LGC if it has any exceptions to LGC's invoice. When LGC and Partner are in agreement on the terms of LGC's invoice, Partner shall submit the invoice for payment. The Partner shall reimburse LGC within thirty (30) days of receiving the invoice.

4. Term. The term of this Agreement shall commence and LGC's duties and responsibilities under this Agreement shall begin as of the date first written above and shall continue, as agreed to in the timeline defined in Exhibit "F". This agreement is subject to earlier termination as provided herein. Unless this agreement is otherwise terminated, it shall continue until the services are complete, or October 31, 2016.

This agreement may be terminated by either party, without cause, upon 30 days written notice to the non-terminating party.

5. Excuse of Performance. LGC's obligation to perform the services specified in this contract shall be excused if the performance is prevented or substantially delayed due to circumstances not caused by LGC.

6. Independent Contractor. It is the intent of the parties that LGC is and shall remain an independent contractor, and LGC shall (i) comply in all material respects with all the laws, rules, ordinances, regulations and restrictions applicable to the services, and (ii) pay all federal and state taxes applicable to LGC, whether levied under existing or subsequently enacted laws, rules or regulations. The parties hereto do not intend to create an employer-employee or master-servant relationship of any kind.

7. Insurance. LGC agrees to maintain: (1) commercial general liability insurance with minimum limits of \$1,000,000, written on an occurrence form basis, protecting it from claims for personal injury (including bodily injury and death) and property damage which may arise from on in connection with the performance of LGC's Services hereunder or from or out of any act or omission of LGC, its officers, directors, agents, subcontractors or employees; (2) professional liability insurance with minimum limits of \$1,000,000; and (3) worker's compensation insurance as required by law. If requested, LGC shall provide a certificate of said insurance and an additional insured endorsement to the Partner within 10 days of the execution of this Agreement.

8. Limitation of Liability. With regard to the services to be performed by the LGC pursuant to the terms of this Agreement, the LGC shall not be liable to the Partner, or to anyone who may claim any right due to LGC's relationship with the Partner for any acts or omissions in the performance of said services on the part of the LGC, except when said acts or omissions are the result of any negligent or willful misconduct by LGC, or breach of the agreement. Partner shall hold the LGC free and harmless from any obligations, costs, claims, judgments, attorney's fees, and attachments arising out of the services rendered to the Partner pursuant to the terms of this Agreement or in any way

connected with the rendering of said services, except when the same shall arise due to the willful misconduct of the LGC, or breach of the agreement.

9. Ownership of Documents. Ownership of any designs, plans, maps, reports, specifications, drawings, and other information or items produced by LGC while performing Services under this Agreement will be assigned to and owned jointly by LGC and Partner. The original of all reports, memoranda, studies, plans, specifications, drawings, materials, exhibits, maps or other similar or related documents prepared by LGC in the performance of the Services for the Partner shall be the joint property of LGC and the Partner.

10. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when delivered if personally delivered, or three (3) business days after mailing if mailed by certified mail, postage prepaid, return receipt requested, and shall be addressed as follows:

To the Partner:

Angela Hacker
Energy & Sustainability Initiatives Division, County of Santa Barbara
105 E. Anapamu, suite 105
Santa Barbara, CA 93101
805-568-3530
805-568-2289 fax
ahacker@co.santa-barbara.ca.us

To LGC:

Linda Cloud
Local Government Commission
980 9th Street, Suite 1700
Sacramento, CA 95814-2736
916-448-1198
916-448-8246 fax
lcloud@lgc.org

Either party may change its address by giving written notice thereof to the other party.

11. Governing Law. This Agreement shall be governed by the laws of the State of California.

12. Entire Agreement; Amendments. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understanding, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

13. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

14. Severability. If any paragraph, section, sentence, clause or phrase contained in this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining paragraphs, sections, sentences, clauses or phrases contained in this Agreement shall not be affected thereby.

15. Waiver. The waiver of any breach of any provision hereunder by any party hereto shall not be deemed to be a waiver of any preceding or subsequent breach hereunder.

16. Successors and Assigns. Subject to the provisions of Section 7, this Agreement shall be binding upon and inure to the benefit of the respective successors of the parties hereto. LGC will not assign any of their rights nor transfer any of their obligations under this Contract without the Partner's prior written consent, 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.

17. Warranty of Authority. Each of the undersigned hereby warrants that he/she has authority on behalf of his or her principal to execute this Agreement and to bind such principal to the terms hereof.

18. Counterparts. This Agreement may be executed by electronic or hard-copy signature and in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of executed copies of this Agreement by facsimile, email or other electronic transmission will constitute effective execution and delivery of this Agreement for all purposes. Signatures of the parties transmitted by such methods will be treated in all respects as having the same effect as an original signature.

DATED:

Linda Cloud, Managing Director
LOCAL GOVERNMENT COMMISSION

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
JANET WOLF
Chair, Board of Supervisors

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

BY: _____
Department Head

By: _____
Deputy Auditor- Controller

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGEMENT

By: _____
Risk Manager

Exhibit “A” Contracted Performance Measures and Prohibited Activities

LGC has contracted with the Corporation of National and Community Service (CNCS) to implement CivicSpark as an AmeriCorps program. Members can only work on service outlined in performance measures approved by the Corporation for National and Community Service. These performance measures define how CivicSpark will provide service to local governments by conducting assessments, implementing planning or action projects, engaging volunteers, and transferring knowledge to local government staff. The project scope in exhibit B must align with the measures below:

- 1) Capacity Building for Local Governments – Member’s direct service hours should be spent building capacity for local government beneficiaries to address their need around climate change response, assisting them to develop projects that they would otherwise not be able to complete. Capacity building for Members will be delivered in 4 stages including gap assessments, research, action, and implementation service projects, volunteer engagement, and knowledge transition.
- 2) Volunteer Engagement – All Members should have the opportunity to build further capacity for local governments by engaging, recruiting, and supporting volunteers. Volunteers may be engaged only one-time, (e.g. – volunteers to assist for a specific event such as Earth Day or service activities), or on-going, such as interns..
- 3) Training and Professional Development for Members – Members can spend up to 20% of their 1700-hour service year on training. Training includes the 2-week intensive orientation at the start of the service year, continued monthly trainings, and professional development and networking opportunities. Training hours ensure that Members have the training and tools they need to succeed in their sustainability work.

The majority of direct service portion of the work provided by CivicSpark to local governments only involves the first two measures. The third measure is realized principally through training and professional development activities provided by LGC to Members. Some activities that occur while working with local governments may be considered training and professional development such as networking events and trainings that might be hosted by the local government.

In addition to only working on contracted performance measure service activities, per federal guidelines, while charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or the Corporation for National and Community Service, LGC, Supervisors or Members may not engage in the following activities as stated in 45 CFR § 2520.65 as follows

- 1) “Attempting to influence legislation;
- 2) Organizing or engaging in protests, petitions, boycotts, or strikes;
- 3) Assisting, promoting, or deterring union organizing;
- 4) Impairing existing contracts for services or collective bargaining agreements;
- 5) Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
- 6) Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;

- 7) Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
- 8) Providing a direct benefit to—
 - a) A business organized for profit;
 - b) A labor union;
 - c) A partisan political organization;
 - d) A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 related to engaging in political activities or substantial amount of lobbying except that nothing in these provisions shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
 - e) An organization engaged in the religious activities described in paragraph 3.g. above, unless CNCS assistance is not used to support those religious activities;
- 9) Conducting a voter registration drive or using CNCS funds to conduct a voter registration drive;
- 10) Providing abortion services or referrals for receipt of such services; and
- 11) Such other activities as CNCS may prohibit.”

Members, like other private citizens, may participate in the above listed activities on their own time, at their own expense, and on their own initiative. However, the AmeriCorps logo must not be worn while doing so.

Exhibit "B" Scope of Services

LGC will perform the following services:

- 1) General Program Responsibilities
 - a) Provide clear guidelines to Member regarding AmeriCorps regulations and expectations
 - b) Recruit and train a Regional Coordinator (1000 hours over 13 months) to work with Members and Participating local governments
 - c) Recruit and train Members to provide capacity building services for the region
 - d) Work to provide support and guidance for Members, addressing any concerns that might develop during service year, and striving towards 90% retention of members
 - e) Manage local government service contracts
 - f) Share outcomes from service with Partner
- 2) Member Responsibilities
 - a) Pass a state and national and NSOPR background check before starting their service year.
 - b) Participate in a 1-week program orientation and complete 250 hours of training through dedicated member training and development and service days.
 - c) Serve an average of 37 hours per week for 11 months, serving a minimum of 1700 hours overall.
 - d) Comply with guidelines for performance measures Exhibit A, and abide by regulations on prohibited activities (Exhibit “A”).
 - e) Complete accurate reporting in a timely manner per the standards set forth in LGC’s AmeriCorps Contract with CNCS for projects, including assessments, implementation, hours served, volunteers recruited and supported, and transition of knowledge to local governments
 - f) Avoid participation in prohibited activities.

- g) Identify as a Member and wear AmeriCorps lapel pins or gear during service hours.
- h) Participate in days of national service including, but not limited to, Martin Luther King Jr. Day of Service, 9/11 Day of Remembrance, and AmeriCorps week Service Day.

3) Project Specific Scope of Work

With the rollout of the recently adopted Energy and Climate Action Plan, the CivicSpark member will assist the County of Santa Barbara in several aspects of implementation in collaboration with staff in the Division of Energy and Sustainability Initiatives within the Community Services Department. A major component of the member's responsibilities involve the recently created monitoring tool. Responsibilities related to this will include:

- Become comfortable and familiar with the tool and how it works
- Recommend customizations to monitoring tool as needed to improve usability
- Develop training curriculum to be used to conduct trainings for various County departments
- Identify contacts and sources for obtaining various data points
- Collect and compile initial data
- Develop reporting and enforcement protocols to be disseminated to County departments
- Track progress to date in reference to 2007 baseline levels

Other duties will include:

- Assist with development, content, and maintenance of the ECAP and sustainability webpage and social media
- Help staff sustainability workgroup meetings, create agendas, take notes and minutes, and help with scheduling
- Assist with community outreach and customer service activities as needed to support implementation of County sustainability initiatives
- The project will include an initial member conducted gap assessment, a volunteer engagement component and a transitional support activity.
- Minor changes to the scope following the requisite gap assessment process may be needed.
- The project will comply with AmeriCorps service guidelines including prohibited activities described in Exhibit A.

Exhibit "C" Partner Responsibilities

Partner will perform the following services:

1) Support Responsibilities

- a) Identify one local government staff member to act as a point person, familiarizing *CivicSpark* Members to resources and project, and setting aside 1 hour/week for assistance for each approved project.
- b) Develop defined project scopes and identify goals to be completed in agreed timeframe
- c) Support implementation of project consistent with scope above and in line with CivicSpark program goals (including supporting volunteer engagement activities and participating in transitional event)
- d) Keep Regional Coordinators apprised of development of projects and challenges, working to redefine scopes and goals as necessary.

- e) Assist with site visits to Partner as necessary by AmeriCorps Project Manager or Program Director
- 2) Reporting Responsibilities
 - a) Complete applications for *CivicSpark* projects identifying:
 - i) Total hours desired for service work
 - ii) 2 or more local government beneficiaries for each 650 hours of service being contracted for. Beneficiaries can be individual departments within a single local government or even individual staff members within the same department,
 - iii) Eligibility of projects as defined as an absence of some of the following resources: A dedicated sustainability staff, an adopted climate action plan, or specific mechanisms to track adopted climate change actions
 - iv) High need level of beneficiaries, defined by 2 or more of the following indicators:
 - (1) Community unemployment above the state average for current recorded year
 - (2) Community-wide energy use higher than the previous recorded year.
 - (3) Local government employment lower than 2007 levels
 - (4) CalEnviroScreen rating in the top 1/3 (score of 23 or greater)
 - b) Have local government staff involved with the project complete pre-assessment surveys to define goals for this project and baseline outlook on climate change issues and responses.
 - c) Have local government staff involved in the project participate in a project interview early on as part of the *CivicSpark* gap assessment in which
 - d) Complete necessary project reporting defined including having local government staff who completed the pre-assessment complete a post-assessment survey at project completion.
 - e) Allow *CivicSpark* to share results for required grant reporting.

Exhibit "D" Description of Compensation

Costs, total project hours, additional prep-hours and travel budget for support options on a per member basis are defined below.

The Partner agrees to contract with LGC for *CivicSpark* the eleven month support option.

LGC will receive no more than \$23,400 for performing the services of this contract.

| | Three months | Six months | Eleven months (embedded) |
|---------------|--------------|-----------------------------|---|
| Cost | \$6,500 | \$12,350 | \$23,400 |
| Project Hours | 325 @ \$20hr | 650 @ \$19/hr (5% discount) | 1,300+ @ \$18/hr (10%+ discount) ¹ |

¹ With eleven month (embedded) option, any additional hours from Member’s total service year commitment (1700) not allocated to project work (1300), project-prep (40-80) or member professional development (250 - 300) will also be available for partner project needs (estimated to be 50-100 additional hours).

| | | | |
|----------------------|--|--|---|
| Additional Resources | 10-20 additional project-prep hours. | 20-40 additional project-prep hours. | 40-80 additional project-prep hours. |
| | Up to \$200 in project-related travel covered. | Up to \$400 in project-related travel covered. | Up to \$800 in project-related travel covered |

Work completed under this contract will be performed by CivicSpark AmeriCorps Members with support from their Regional Coordinator, and invoices may reflect the contributions of both.

LGC will waive the typically required 10% of total agreement amount due to the County of Santa Barbara's policy disallowing advanced payments. The full cost will be divided by the period of the contract (eleven months) and billed monthly.

Invoices will only provide a summary of total project hours served for each person working with the partner during each invoiced period. If Partner needs invoices to include specific format, tasks, billing codes, or other details, they must inform LGC prior to the project start and give clear instructions to LGC about how time should be tracked and reported.

As LGC is committing to making the CivicSpark team available for a specific period, Partner will be invoiced for the full amount monthly regardless of member activity during any given period. If for some reason, LGC is not be able to provide services for the full contract duration, Partner is only responsible for the portion of the contract amount for the service actually provided.

Exhibit "E" Reimbursable Expenses

LGC will cover up to \$800 for CivicSpark team transportation expenses related to the project.

Other project related expenses shall be submitted to Partner in writing for approval prior to the Partner being charged for reimbursement for an expense occurred during the completion of activities outlined in the Scope of Service as seen in Exhibit "B".

Exhibit "F" Timeline

All tasks enumerated in Exhibit "B" are to start on October 26, 2015 and should be completed by October 1, 2016.