

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT is made and entered into as of June 13, 2019 by and between the City of San Pablo, ("Partner") and the Local Government Commission ("LGC"), a nonprofit corporation .

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 capacity building services to local governments in California through project implementation activities performed by LGC teams; LGC staff and CivicSpark Fellows (Fellows). Fellows 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. Partner and LGC enter into this Agreement in order to memorialize the terms concerning LGC's performance of the services and Partner's obligations with respect thereto.

AGREEMENT

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

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

Partner also agrees to the responsibilities and roles as described in Exhibit "C", as they relate to Partner's participation in the CivicSpark program. 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) 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. 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, until the services are complete and all compensation and reimbursable expenses are paid to LGC.

This agreement may be terminated at anytime by either party for cause. 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, in whole or in part, by LGC, including any such circumstances caused by Partner.

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 or 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; (3) worker's compensation insurance as required by law; and (4) hired and non-owned auto insurance with minimum limits of \$1,000,000 for each accident. If requested, LGC shall provide a certificate of said insurance and an additional insured endorsement to Partner within 10 days of the execution of this Agreement.

8. Limitation of Liability.

Partner agrees to defend, indemnify, and hold harmless LGC, its officers, agents, and employees against any and all loss, damage, liability, expense, claims or demands, arising from Partner's negligent acts under this Agreement.

LGC agrees to defend, indemnify, and hold harmless Partner, its officers, agents, and employees

against any and all loss, damage, liability, expense, claims or demands, arising from LGC's negligent acts under this 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 Partner shall be the joint property of LGC and Partner. LGC acknowledges that such documents may be public records under California law.

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 Partner:

Matt Rodriguez
City of San Pablo
13831 San Pablo Ave.
San Pablo, CA, 94806
Phone: 510-215-3000
Fax: 510-215-3013

To LGC:

Lare Bloodworth
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. Attorneys' Fees. The party prevailing in any action at law or in equity necessary to enforce or interpret the terms of this Agreement shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which that party may be entitled.

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

13. 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.

14. 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.

15. 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.

16. 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.

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:

Matt Rodriguez, City Manager
City of San Pablo

DATED:

Lare Bloodworth, Director of Finance
LOCAL GOVERNMENT COMMISSION

Exhibit “A” Contracted Performance Measures and Prohibited Activities

LGC has contracted with the Corporation of National and Community Service to implement CivicSpark as an AmeriCorps program. **Fellows can only work on service outlined in performance measures approved by the Corporation for National and Community Service and must abide by Federal guidelines for AmeriCorps program implementation.** Performance measures define how CivicSpark will provide service to local governments by: conducting assessments; implementing planning, research or implementation projects; engaging volunteers; and transferring knowledge to local government staff. The project scope in exhibit A must align with the measures below:

- 1) Capacity Building for Local Governments – Fellows’ direct service hours should be spent building capacity for local government beneficiaries to address their relative needs with regard to specific issues (e.g. climate, water, housing etc.). Fellows will address these needs by assisting one or more local government beneficiary to develop or implement projects that they would otherwise not be able to complete. Capacity building for Fellows will be delivered in 3 stages, including: 1) gap assessments; 2) research, planning, and implementation service projects; and transition of knowledge.
- 2) Volunteer Engagement – All Fellows should have the opportunity to build further capacity by engaging, recruiting, and supporting volunteers. Volunteers may be engaged as either one-time volunteers (e.g. – volunteers to assist for a specific event such as Earth Day or service activities) or as on-going volunteers such as interns).
- 3) Training and Professional Development for Fellows – Fellows can spend up to 20% of their service year (340 of their 1700 total hours) on training. Training includes the 1-week orientation at the start of the service year, mid-year gathering, continued monthly trainings, and professional development and networking opportunities. Training hours ensure that Fellows have the training and tools they need to succeed in their service work and to grow as professionals.

The majority of the work provided by CivicSpark to local governments via direct service only involves the first measure (Capacity Building). The second and third measure is predominantly met through training, service and professional development activities provided to the Fellows by LGC. Some activities that occur while working with local government beneficiaries or other project partners may be considered training and professional development, such as networking events and trainings conducted by or attended in partnership with Partner.

Federal guidelines further restrict certain activities, which cannot be engaged in by CivicSpark Fellows or Supervisors 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. **In addition to only working on contracted performance measure service activities, the following activities are prohibited** (see 45 CFR § 2520.65):

- 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 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.

Fellows, 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.

Per Federal Guidelines and LGC policies, CivicSpark Programs and activities must follow equal opportunity employment requirements and be accessible to persons with disabilities by providing reasonable accommodation. In support of this.

- 1) LGC and Partner will comply with Equal Opportunity Employment guidelines.
- 2) LGC and Partner will endeavor to make reasonable accommodations to known physical or mental limitations of qualified AmeriCorps members with disabilities unless the accommodation would impose an undue hardship on the program operations.
- 3) LGC and Partner will endeavor to accommodate the sincere religious beliefs of AmeriCorps Members to the extent such accommodation does not pose an undue hardship on the Organization's operations.
- 4) LGC and Partner will not allow any form of retaliation against individuals who raise issues of equal employment opportunity or reasonable accommodation.

Exhibit "B" Scope of Services

LGC will perform the following services:

- 1) General Program Responsibilities
 - a) Provide clear guidelines to Fellows regarding AmeriCorps regulations and expectations.
 - b) Recruit and train Fellows to provide capacity building services for the region.
 - c) Work to provide support and guidance for Fellows, addressing any concerns that might develop during the service year.
 - d) Hold Fellows accountable for the desired service results and work with Fellows on their professional development and behavior.
 - e) Manage local government beneficiary and/or other partner service contracts.
 - f) Share outcomes from service with Partner.
 - g) Be solely responsible for all matters relating to the payment of the Fellow, including compliance with social security, withholding tax and all other laws and regulations governing such matters, as well as providing health benefits in accordance with California and Federal law. Neither LGC nor Fellow shall be eligible for enrollment in PERS as an employee of Partner and LGC shall indemnify, defend, and hold harmless Partner for the payment of any employee and/or employer contributions for PERS benefits on behalf of LGC or its employees, agents, subconsultants or subcontractors, as well as for the payment of any penalties and interest on such contributions
- 2) Fellow Responsibilities
 - a) Pass a state, national, and NSOPR background check before starting their service year.
 - b) Participate in a 1-week program orientation and complete at least 100 hours of training through dedicated Fellow training, development, and service days.
 - c) Serve an average of 37 hours per week for 11 months, serving a minimum of 1700 total hours, with at least 1300 hours dedicated to Partner project activities (see below).
 - d) Comply with guidelines for performance measures and abide by regulations on prohibited activities described in Exhibit A above.
 - e) Complete accurate project reporting in a timely manner as required by the Corporation for National Community Service (CNCS), 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 Fellow 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; State Day of Service, and AmeriCorps week Service Day.
- 3) Project Specific Scope of Work
 - a) The Fellow will assist in the in development of a plan to eliminate trash discharged to the creeks by 2022. As part of this project the Fellow will review the current plans for litter/trash reduction, research opportunities to expand these efforts and develop a plan for the City to implement.
 - b) Perform outreach to residents and businesses regarding climate and energy program occurring in the City of San Pablo. The Fellow will be leading outreach to the local community (with an emphasis on schools) for a new online engagement platform called the "Cleaner Contra Costa Challenge". The Fellow will also be assisting in outreach to residents regarding various solid

waste programs including SB 1383 (regarding composting and food waste diversion), recycling programs and other programs that reduce littering and illegal dumping.

- c) Assisting the City of San Pablo with their US EPA grant for regional Water Quality objectives and implementation.
- d) Assisting with local and regional transportation network upgrades including local and regional EV charging initiatives.
- e) Implement energy efficiency and electrification programs such as attending East Bay Energy Watch meetings, solar tracking and regional greenhouse gas inventory work.
- f) This project will include: 1) an initial gap assessment conducted by the Fellow, 2) a volunteer engagement component, and 3) a transitional support activity.
 - i) Minor changes to the scope following the requisite gap assessment process may be needed.
 - ii) 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) Support Fellow recruitment by advertising your open placement through appropriate channels and networks (e.g., websites, newsletters, social media, job boards, etc.)
 - b) Identify one staff member to act as the “Site Supervisor” for the project, and point person for both the Fellow and CivicSpark staff.
 - c) Site Supervisor shall support project implementation and professional development by:
 - i) Setting aside at least 1 hour/week to check in with each Fellow and provide assistance for each approved project.
 - ii) Familiarizing Fellows to the host organization, resources, and project scope.
 - iii) Completing an initial performance assessment of each Fellow (survey and goal setting) within 1 month of the start of the service year; conducting a mid-year performance review; and completing a final performance review survey prior to the end of the service year.
 - iv) Seeking opportunities to integrate Fellows’ professional goals into project activities.
 - v) As appropriate, facilitating Fellows’ transition at the end of their service year by introducing Fellows to relevant colleagues and networks.
 - vi) Provide adequate professional workspace for Fellows (e.g., desk, computer, phone).
 - d) Develop defined project scope(s) and identify goals to be completed in agreed upon timeframe.
 - e) Support implementation of project(s) consistent with scope above and in line with CivicSpark program goals (including supporting volunteer engagement activities and participating in transitional event)
 - f) Keep Regional Coordinators and/or other LGC staff apprised of project developments and/or challenges, and working to redefine project scope(s) and goals as necessary.
 - g) If challenges arise (related to professionalism, work products, etc.) provide specific written feedback to the Fellow and share with LGC staff in a timely manner so LGC staff can assess the challenges and intervene as needed.
 - h) Assist with occasional site visits to Partner by LGC staff.
 - i) Not displace Partner staff or volunteers through the use of CivicSpark Fellows, nor have CivicSpark Fellows perform any services or duties that would supplant the hiring of employed workers.
 - j) Not offer the CivicSpark Fellow part time work that is substantially similar to their CivicSpark scope of work, nor offer them full time employment with a start date prior to the Service Year end date.
- 2) Reporting Responsibilities
 - a) Complete applications for CivicSpark projects, identifying:
 - i) Total hours desired for service work;
 - ii) Identification of 1 beneficiaries per fellow.
 - (1) Beneficiaries can be individual departments within a single local government or even individual staff members within the same department.
 - (2) Eligibility of beneficiaries varies by project track. Specific eligibility requirements are provided here: <http://civicspark.lgc.org/join-civicspark/project/>
 - b) Ensure a staff person involved in the project from each local government beneficiary completes a pre-service capacity assessment survey before the start of the service year and a post-service capacity assessment towards the end of the year. The pre-service survey defines goals for the

project and establishes a baseline perspective on issues relevant to the specific project issue (i.e., climate, water, housing, mobility, etc.). The post-service survey evaluates the degree to which the Fellows' work made progress toward the goals and baselines established in the pre-service capacity assessment survey.

- c) Ensure a staff person involved in the project from each local government beneficiary participates in a project interview early on in the service year (within the first 2-3 weeks), a part of the CivicSpark gap assessment process.
- d) Submit Fellow performance assessments on time, as described above.
- e) Complete any additional project reporting defined as necessary.
- f) Allow CivicSpark to share results of all reporting with California Volunteers and CNCS, for required grant reporting.

Exhibit "D" Description of Compensation

Costs, total project hours¹, additional prep-hours and travel budget for support options on a per-Fellow basis are defined below.

LGC will receive no more than **Twenty Six Thousand Dollars (\$26,000)**, for 1 Fellow for performing the services of this contract.

Work completed under this contract will be performed by CivicSpark AmeriCorps Fellows.

To proceed with services, LGC requires a down payment of 10% of the total agreement amount or **\$2,600**. The deposit will be credited against initial invoices each of which will be the total amount of the contract divided by the period of the contract and billed monthly.

Invoices will only include the amount due in each given installment (monthly or quarterly). A separate remaining budget and hours to date report is provided for reference each month. Partner must inform LGC prior to the project start if they need invoices to include specific format, tasks, billing codes, or other details. Partner must also provide clear instructions to LGC about how time should be tracked and reported, if necessary.

LGC is committing to making the CivicSpark Fellow available for a specific period. Therefore, LGC will invoice Partner for the full installment amount (monthly or quarterly), regardless of Fellow activity during any given period. If for some reason LGC is unable to provide services for the full contract duration (e.g., a Fellow leaves the program for medical or personal reasons and a suitable replacement cannot be provided), Partner is only responsible for the portion of the contract amount for the period of service actually provided.

Exhibit "E" Reimbursable Expenses

LGC does not cover project related expenses related to the service project. All project related expenses are the responsibility of Partner.

Should partner wish to have Fellow incur project related expenses, those expenses shall be submitted to Partner in writing for approval prior to Partner being charged for reimbursement for an expense incurred during the completion of activities outlined in the Scope of Service (Exhibit "B").

Exhibit "F" Timeline

All tasks enumerated in Exhibit "B" are to start on September 3, 2019 and should be completed by September 2, 2020.

¹ Note that project hours include all project related activities as well as basic administrative tasks related to CivicSpark service (e.g., completing timecards, progress reports, project related communications with LGC staff, etc.).