

**MARIN GENERAL SERVICES AUTHORITY
PROFESSIONAL SERVICES CONTRACT
MARIN CLIMATE & ENERGY PARTNERSHIP (MCEP)
CLIMATE ACTION DIRECTOR**

THIS AGREEMENT is made and entered into this 14th day of November 2008, by and between the **MARIN GENERAL SERVICES AUTHORITY**, hereinafter referred to as "Authority" and **Richard Schorske**, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, Authority desires to retain a person or firm to conduct work on the *BAAQMD Climate Protection Grant*.

WHEREAS, Contractor warrants that he is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by Authority, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in Exhibit "A," attached hereto and by this reference made a part hereof. As Part of Contractor's responsibility under Exhibit "A," Contractor shall ensure that all deliverables and reports required under Tasks II and III enumerated in Exhibit "B," "BAAQMD/MCEP Scope of Work," are submitted to the BAAQMD in a timely manner upon approval of the MCEP Steering Committee.

2. MAXIMUM COST TO AUTHORITY:

In no event will the cost to Authority for the services to be provided herein exceed the maximum sum of \$86,250, including direct non-salary expenses. Payment shall be made in four installments. The first installment (of \$28,000) shall be paid upon satisfactory completion of Progress Report 1 and associated Tasks (defined in the Scope of Work included as Attachment B.) The second installment (of \$28,000) shall be paid upon satisfactory completion of Progress Report 2 and associated Tasks. The third installment (of \$18,000) shall be paid upon satisfactory completion of Progress Report 3 and associated Tasks. The fourth installment (of \$10,000) shall be paid upon receipt by the MGSA of payment by BAAQMD for the final invoice submitted by MCEP (per the requirements of the BAAQMD Progress Report #3 requirements). The Steering Committee of the MCEP, or its designees, shall verify that the work submitted is satisfactory and shall authorize all payments. In addition, upon approval of the MCEP Steering Committee or its designee, Contractor may invoice Authority for reimbursement of up to \$2,250 for such expenses as hosting meetings, food, conference attendance for himself and MCEP members, or other expenses approved by the Steering Committee. The source of funding by the Authority for this work shall be: the Marin General Services Authority Fund, 70050.

3. WORKER'S COMPENSATION:

The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work of this

Contract. If Contractor has employees, a copy of the certificates evidencing such insurance shall be provided to Authority prior to commencement of work.

___By initialing in the space provided, Contractor warrants that no employees will be used in providing the services under this Contract.

4. INSURANCE:

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of \$300,000.00. Said policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis unless Agency specifically consents to a "claims made" basis. The insurer shall supply a certificate of insurance with endorsements signed by the insurer evidencing such insurance to Agency prior to commencement of work, and said certificate with endorsement shall provide for ten (10) day advance notice to Agency of any termination or reduction in coverage.

Failure to provide and maintain the insurance required by this contract will constitute a material breach of the agreement. In addition to any other available remedies, Agency may suspend payment to the Contractor for any services provided during any time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required coverage.

5. NONDISCRIMINATORY EMPLOYMENT:

Contractor and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

6. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the Authority except for any subcontract work identified herein.

7. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be transferred or assigned without the express prior written consent of the Authority.

8. LICENSING AND PERMITS:

The Contractor shall maintain the appropriate licenses throughout the life of this Contract. Contractor shall also obtain any and all permits, which might be required by the work to be performed herein.

9. BOOKS OF RECORD AND AUDIT PROVISION:

Contractor shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this Contract. In addition,

Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit Authority to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. Any audit may be conducted on Contractor's premises or, at Authority's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from Authority. Contractor shall refund any moneys erroneously charged. If Authority ascertains that it has been billed erroneously by Contractor for an amount equaling 5% or more of the original bid, Contractor shall be liable for the costs of the audit in addition to any other penalty to be imposed.

10. TIME OF AGREEMENT:

This Agreement shall commence on November 14, 2008, and shall continue until November 5, 2009. Time is of the essence with respect to this Contract.

11. TITLE:

It is understood that any and all documents, information and reports concerning this project prepared by and/or submitted to the Contractor, shall be the property of the Authority. The Contractor may retain reproducible copies of drawings and copies of other documents. In the event of the termination of this Contract, for any reason whatever, Contractor shall promptly turn over all information, writing and documents to Authority without exception or reservation.

12. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law, which applies to its performance herein, the Authority may terminate this Contract by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract.

13. RELATIONSHIP BETWEEN THE PARTIES:

It is expressly understood that in the performances of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity, as an independent contractor, and not as officers, employees or agents of the Agency. Contractor shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and worker's compensation.

14. AMENDMENT:

This Contract may be amended or modified only by written agreement of all parties.

15. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to Authority, as is evidenced in writing.

16. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

17. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold Authority harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees which it may incur as a consequence of this Contract and from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's willful misconduct or negligent performance of this Contract.

18. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all federal, state and local laws affecting the services covered by this Contract.

19. NOTICES:

This contract shall be managed and administered on Authority's behalf by the party set forth below. All invoices shall be submitted and approved by this party and all notices shall be given to Authority at the following location:

Executive Officer
Marin General Services Authority
371 Bel Marin Keys Blvd., Suite 100
Novato, CA 94949

Notices shall be given to Contractor at the following address:

Richard Schorske
10 Buckeye Court
Novato CA 94949

IN WITNESS WHEREOF, the parties hereunto have executed this Contract on the date first above written.

APPROVED BY
MARIN GENERAL SERVICES AUTHORITY:

By: _____
Paul Berlant, Executive Officer

APPROVED AS TO FORM:
GENERAL COUNSEL

By _____

CONTRACTOR:

By: _____
Name: Richard Schorske
Federal Tax I.D.: # _____
Telephone No.: (415) 883-2581

EXHIBIT A
SCOPE OF WORK

(NB, insert product of short-term contract)

Insert work plan here

Workplan Modifications:

By mutual agreement of all relevant parties, additions or modifications to the workplan may be adopted. It is the intention of MCEP and the Contractor that additional resources be secured as appropriate to the advancement of the mission of MCEP, and that a contract amendment or amendments may be developed to address the potential development of new resources related to the work of the Partnership and the Contractor.

EXHIBIT B BAAQMD/MCEP SCOPE OF WORK

The eleven Marin County cities, Marin County and the Marin Municipal Water District have come together to establish the Marin Climate and Energy Partnership (MCEP), to pursue energy-saving and greenhouse gas-reducing initiatives. The Climate Action Director (CAD) will provide energy and climate protection planning functions for all member jurisdictions. Phase I below has been completed prior to the initiation of this professional services agreement. The CAD will implement Phases II and III below.

Phase I: Framework Development

Task 1.1: Hire Climate Action Director

GRANTEE will ensure that a full-time Climate Action Director is hired by the Marin General Services Agency (GSA), on behalf of MCEP member jurisdictions. The Climate Action Director will assist the eleven cities of Marin County, as well as the County and the Marin Municipal Water District, to assess, prioritize and implement the highest-impact greenhouse gas (GHG)-reduction activities consistent with local GHG plans. The Climate Action Director will work with local cities and public agencies, through their membership in MCEP, to implement residential and commercial green building ordinances, accelerate deployment of energy efficiency measures, develop low-carbon transportation solutions, promote inclusion of climate elements in general plans and develop a Green Purchasing Collaborative. The Climate Action Director will report to the MCEP Steering Committee with regard to performance of all deliverables, while the Marin GSA will act as employer of record.

Deliverable

1. Climate Action Director job announcement, job description, work plan, resume and selection of Climate Action Director.

Phase II: Project Implementation

Task 2.1: Reduce Energy Use in Municipal Buildings

The Climate Action Director will facilitate renewable energy installation projects on municipal facilities, energy efficiency and HVAC upgrades. The Climate Action Director will coordinate surveys and audits, assist local governments in preparing grant proposals and identification of other financing options, and document outcomes.

Deliverable

1. Report on project including: energy usage before and after implementation of measures; list of measures implemented with energy and cost savings for each; overall energy savings, payback information and summary of any co-benefits including emission reductions

Task 2.2: Establish Green Purchasing Collaborative

The Climate Action Director will facilitate the purchase and installation of energy-efficient "green" office equipment and supplies by forming a Green Purchasing Collaborative among MCEP partners. The Collaborative will identify the most climate-friendly and eco-efficient products and negotiate bulk purchase discounts for energy-efficient office supplies and equipment.

Deliverables

1. Summary of Green Purchasing Collaborative – members, target products, purchases made with associated energy/cost savings and emission reductions
2. Purchasing specifications for target products
3. Copies of purchase orders, invoices for all purchases made through the Collective, unless a reporting system agreed to by the DISTRICT is developed by GRANTEE

Task 2.3: Reduce Energy Use in Residential and Commercial Buildings

The Climate Action Director will research existing model green building policies and practices for residential and commercial buildings and work with Build It Green and local planning staff to develop model commercial and residential “green” building ordinances. The Climate Action Director will assist MCEP member jurisdictions in developing model ordinances and support materials for presentation to city councils and Board of Supervisors for consideration for adoption.

Deliverables

1. Model Green Building Ordinance(s)
2. Agendas, staff reports and resolutions to adopt model ordinances as presented to city councils and Board of Supervisors
3. Report on progress toward adoption of green building ordinances

Task 2.4: Reduce Emissions from Municipal and Private Vehicles

The Climate Action Director will develop a plan to implement a City CarShare program serving Marin cities. The Climate Action Director also will develop a green fleet program focusing on standards and specifications for low-carbon municipal fleets. The Climate Action Director will assist MCEP partners and other interested stakeholders to develop a plan for infrastructure and incentives (including preferential parking) to encourage the use and purchase of electric vehicles and plug-in hybrid electric vehicles.

Deliverables

1. Report on vehicle projects, including: status of implementation of CarShare, green fleet and electric vehicle programs; fuel usage before and after implementation of measures; list of measures implemented with fuel and cost savings for each; overall fuel savings, payback information and summary of any co-benefits including emission reductions
2. Purchasing specifications for low-carbon municipal vehicle fleets
3. Copies of purchase orders or invoices relating to purchase of vehicles through the City CarShare and green fleets programs, unless a reporting system agreed to by the DISTRICT is developed by GRANTEE

Task 2.5: Reduce Energy Use and Emissions from Waste

The Climate Action Director will work with the Marin Zero Waste Committee, Marin Sanitary, i-Reuse, Sustainable Marin and others to develop a plan and model ordinances for the expansion of existing municipal waste reduction, recycling and re-use programs. The plan will include a process for re-use of construction materials.

Deliverables

1. Summary report on waste reduction plan, including: status of implementation of waste reduction and recycling programs; list of measures implemented with waste reductions (total tons and tons by type) for each; summary of any co-benefits including emission reductions
2. Model ordinance(s) restricting the use of plastic bags, styrofoam and other non-recyclable waste, and for re-use of construction materials

Task 2.6: Integrate GHG Mitigation in General Plans

The Climate Action Director will promote the inclusion of sustainability principals and climate protection in city general plan updates. The Climate Action Director will develop model language for the Town of Belvedere and the City of San Rafael to inform GHG-related elements of their general plan updates and amendments in fiscal year 2008-09. These elements will inform other MCEP cities as they undertake general plan updates after 2009.

Deliverables

1. Compilation of climate change and sustainability elements and content from existing general plans
2. Report on progress toward adoption of climate change elements and incorporation of sustainability principles and climate protection into local general plans
3. Town of Belvedere and the City of San Rafael general plans with GHG-related content

Phase III: Reporting

Task 3.1: Funding Strategy for Position

With oversight of the MCEP Steering Committee the CAD will assist the MCEP to demonstrate the availability of funding, either through the City's budget or as the result of fundraising efforts, to support the Climate Action Director position for a minimum of two years after close of the grant period.

Deliverable

1. Two-year funding strategy for Climate Action Director position

Task 3.2: Reporting to District

GRANTEE will develop and submit semi-annual Progress Reports and a Final Grant Report to the District, following the format provided by the District and including documentation of completion of deliverables (see table below).

Deliverables

1. Two Progress Reports
2. Final Grant Report

Reporting Schedule

The following is a schedule for filing progress and final reports as required by the BAY Area Air Quality Management District (BAAQMD). The CAD will provide documentation of completed deliverables as specified below. Progress and final reports and their associated invoices to BAAQMD shall be submitted prior to the due dates shown in the table below, or as otherwise agreed to by BAAQMD and the MCEP Steering Committee, provided all required deliverables have been completed and documentation of their completion is included in the report.

Tasks	DOCUMENTATION OF COMPLETED DELIVERABLES
Progress Report 1: December 31, 2008	Invoice to BAAQMD \$25,000
<p>Task 1.1: Hire Climate Action Director</p> <p>Task 2.1: Reduce Energy Use in Municipal Buildings</p> <p>Task 2.2: Establish Green Purchasing Collaborative</p> <p>Task 2.3: Reduce Energy Use in Residential and Commercial Buildings</p>	<ol style="list-style-type: none"> 1. Climate Action Director job announcement, job description, work plan and resume 2. Report on project energy usage before and after implementation of measures; list of measures implemented with energy and cost savings for each; overall energy savings, payback information and summary of any co-benefits including emission reductions 3. Summary of Green Purchasing Collaborative – members, target products, purchases made with associated energy/cost savings and emission reductions 4. Model Green Building Ordinance
Progress Report 2: June 30, 2009	Invoice to BAAQMD \$25,000
<p>Task 2.1: Reduce Energy Use in Municipal Buildings (continued)</p> <p>Task 2.2: Establish Green Purchasing Collaborative (continued)</p> <p>Task 2.3: Reduce Energy Use in Residential and Commercial Buildings (continued)</p>	<ol style="list-style-type: none"> 1. Report on project energy usage before and after implementation of measures; list of measures implemented with energy and cost savings for each; overall energy savings, payback information and summary of any co-benefits including emission reductions (ongoing) 2. Purchasing specifications for target products 3. Copies of purchase orders, invoices for all purchases made through the Collective, unless a mutually-agreed upon reporting system is developed 4. Agendas, staff reports and resolutions to adopt model ordinances as presented to city councils and Board of Supervisors 5. Report on progress toward adoption of green building ordinances

<p>Task 2.4: Reduce Emissions from Municipal and Private Vehicles</p>	<ol style="list-style-type: none"> 6. Detailed report on project 7. Purchasing specifications for low-carbon municipal vehicle fleets 4. Copies of purchase orders or invoices relating to purchase of vehicles through the City CarShare and green fleets programs, unless a mutually-agreed upon reporting system is developed
<p>Final Report: December 31, 2009</p>	<p>Invoice to BAAQMD \$25,000</p>
<p>Task 2.5: Reduce Energy Use and Emissions from Waste</p> <p>Task 2.6: Introduce GHG Reduction as a Priority in Local Planning</p> <p>Task 3.1: Funding Strategy for Position</p>	<ol style="list-style-type: none"> 1. Summary report on project including: status of implementation of waste reduction and recycling programs; list of measures implemented with waste reductions (total tons and tons by type) for each; summary of any co-benefits including emission reductions 2. Model ordinance(s) 3. Compilation of climate change and sustainability elements and content from existing general plans 4. Report on progress toward adoption of climate change elements and incorporation of sustainability principles and climate protection into local general plans 5. Town of Belvedere and the City of San Rafael general plans with GHG-related content 6. Two-year funding strategy for Climate Action Director position