

**AGREEMENT BETWEEN
CITY/COUNTY ASSOCIATION OF GOVERNMENTS (C/CAG) AND THE
COUNTY OF SAN MATEO TO PROVIDE STAFF SERVICES FOR THE
SAN MATEO COUNTY ENERGY WATCH**

This Agreement entered this ____ Day of ____ 2008, by and between the CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY, a joint powers agency formed for the purpose of preparation, adoption and monitoring of a variety of county-wide state-mandated plans, hereinafter called "C/CAG" and the COUNTY OF SAN MATEO, hereinafter referred to as "COUNTY."

W I T N E S S E T H

WHEREAS, C/CAG is committed to working with Pacific Gas and Electric (PG&E) and the County to establish a San Mateo County Energy Watch, a Local Government Partnership (LGP) between C/CAG and PG&E that will allow access to Public Goods Funds from PG&E under the auspices of the California Public Utilities Commission (CPUC) for the performance of energy efficiency work throughout San Mateo County; and

WHEREAS, C/CAG and the COUNTY are committed to a joint effort with PG&E for the Local Government Partnership, the San Mateo County Energy Watch; and

WHEREAS, C/CAG, desires to obtain services from the COUNTY for the COUNTY to serve as the primary staff support function for the San Mateo County Energy Watch; and

WHEREAS, the COUNTY is committed to providing staff services for Green activities including the San Mateo Energy Watch; and

WHEREAS, C/CAG will execute, or has executed, a Local Government Partnership contract with PG&E to implement the San Mateo Energy Watch;

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

1. **Services to be provided by COUNTY.** The COUNTY shall provide services as described in Exhibit A: SAN MATEO COUNTY ENERGY WATCH LOCAL GOVERNMENTPARTNERSHIP SERVICES TO BE PROVIDED and Exhibit B: PG&E Drafted General Conditions and Specific Conditions, attached hereto and incorporated by reference herein.
2. **Payments.** In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit A, C/CAG shall reimburse COUNTY for eligible costs as set forth in Exhibit A. Eligible costs constitute those that are deemed eligible for reimbursement by PG&E. Payments shall be made within 45 days after receipt from the County and approval of monthly invoices from PG&E. . Under this contract C/CAG will not provide any cost reimbursement beyond that authorized and paid for by PG&E. Any C/CAG reimbursement of costs determined ineligible by PG&E must be addressed in a separate agreement between C/CAG and COUNTY. The maximum amount payable to County by C/CAG under this agreement is \$750,000.

The COUNTY will provide reports and invoices to C/CAG monthly for work related to the LGP in a format consistent with the invoicing and reporting requirements of PG&E. Amounts invoiced will be based on hours work and rates provided in Exhibit G of the

Specific Conditions referenced herein as Exhibit B. Additional amounts will be invoiced for eligible cost for outreach materials as set forth in Exhibit B: Specific Conditions, Section 3, Scope of Work. PG&E's agreement to pay invoices in 30 days is presented in Exhibit B: General Conditions, page GC2, referenced herein.

3. **Relationship of the Parties.** It is understood that this is an Agreement by and between Independent Contractor(s) 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.
4. **Non-Assignability.** COUNTY shall not assign this Agreement or any portion thereof to a third party without the prior written consent of C/CAG, and any attempted assignment without such prior written consent in violation of this Section automatically shall terminate this Agreement.
5. **Contract Term.** This Agreement shall be in effect as of October 9, 2008 and shall terminate on March 31, 2011; provided, however, either party may terminate this Agreement at any time for any reason by providing 30 days' notice to the other party. Termination to be effective on the date specified in the notice. In the event of termination under this paragraph, COUNTY shall be paid for all services provided to the date of termination.
6. **Hold Harmless/ Indemnity.** COUNTY shall defend, indemnify and save harmless C/CAG and its member agencies and their employees, agents and officers from all claims, suits, damages or actions arising from COUNTY's performance under this Agreement. C/CAG shall defend, indemnify and save harmless COUNTY and its supervisors, agents and officers from all claims, suits, damages or actions arising from C/CAG's performance under this Agreement

The duty of the parties 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.

7. **Workers' Compensation Coverage.** Statutory Workers' Compensation Insurance and Employer's Liability Insurance will be provided by the COUNTY with limits of not less than one million dollars (\$1,000,000) for any and all persons employed directly or indirectly by COUNTY. In the alternative, COUNTY may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. In such case, excess Workers' Compensation Insurance with limits of not less than five million dollars (\$5,000,000) shall be maintained. The insurer, if insurance is provided, and the COUNTY, if a program of self-insurance is provided, shall waive all rights of subrogation against C/CAG for loss arising from worker injuries sustained under this Agreement.
8. **Liability Insurance.** COUNTY shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect COUNTY, its employees, officers and agents while performing 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 COUNTY or by any sub-contractor or by anyone directly or indirectly employed by either of them. In the alternative, COUNTY may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code.

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 will be diminished or canceled, C/CAG, 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 services pursuant to this Agreement.

9. **Non-discrimination.** COUNTY and its subcontractors performing the services on behalf of the COUNTY shall not discriminate or permit discrimination against any person or group of persons on the basis of race, color, religion, national origin or ancestry, age, sex, sexual orientation, marital status, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status, or in any manner prohibited by federal, state or local laws.
10. **Accessibility of Services to Disabled Persons.** COUNTY, not C/CAG, shall be responsible for compliance with all applicable requirements regarding services to disabled persons, including any requirements of Section 504 of the Rehabilitation Act of 1973.
11. **Substitutions.** If particular people are identified in Exhibit A as working on this Agreement, COUNTY will not assign others to work in their place without written permission from C/CAG. Any substitution shall be with a person of commensurate experience and knowledge.
12. **Joint Property.** As between C/CAG and COUNTY any system or documents developed, produced or provided under this Agreement shall become the joint property of C/CAG and the COUNTY.
13. **Access to Records.** COUNTY shall retain, for a period of no less than five years, all books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions, and shall provide CCAG, its member agencies, and or their auditors with access to said books and records.

COUNTY shall maintain all required records for five years after C/CAG makes final payments.
14. **Merger Clause.** This Agreement constitutes the sole agreement of the parties hereto with regard to the matters covered in this Agreement. Any prior agreement, promises, negotiations or representations between the parties not expressly stated in this document are not binding.
15. **Amendments.** Any changes in the services to be performed under this Agreement shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the C/CAG Executive Director or a designated representative, and the County of San Mateo or a designated representative. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed amendment.
16. **Governing Law.** This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California.

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

COUNTY OF SAN MATEO

By: _____
Adrienne Tissier
Board of Supervisors - President

Date

ATTEST:

By: _____
Clerk of Said Board

Date

City/County Association of Governments (C/CAG)

By: _____
Deborah C. Gordon
C/CAG - Chair

Date

C/CAG Legal Counsel

By _____
Lee Thompson
C/CAG - Counsel

Date

Exhibit A

SAN MATEO COUNTY ENERGY WATCH LOCAL GOVERNMENT PARTNERSHIP SERVICES TO BE PROVIDED

- 1.0 Introduction - The City/ County Association of Governments (C/CAG) is committed to working with Pacific Gas and Electric (PG&E) and the County of San Mateo to establish a San Mateo County Energy Watch, a Local Government Partnership to provide Public Goods Funds under the auspices of the California Public Utilities Commission (CPUC). The County of San Mateo (“County”) will serve as the primary staff support function for C/CAG.
- 2.0 C/CAG - PG&E Contract - C/CAG has executed General Conditions and Specific Conditions with Scope of Work with PG&E for the San Mateo County Energy Watch (the “C/CAG-PG&E Contract”). The C/CAG-PG&E Contract has been read and reviewed by the County and specifies the tasks that are to be performed by C/CAG (and in many cases how it is to be done). The tasks so described in the C/CAG-PG&E Contract are the Services to be provided by the County of San Mateo pursuant to this agreement. The C/CAG-PG&E Contract is attached hereto as Exhibit B.
- 3.0 Common Efforts and Goals - This is a joint effort between C/CAG as the local Government Partner under its agreement with PG&E, the County and PG&E. It is recognized that a good faith effort has been made to address the terms, conditions and scope of work. Since this is a joint effort it is likely there will be further changes in the terms, conditions and scope of work. C/CAG and the County of San Mateo and PG&E have agreed to work in good faith to address these changes as they develop.

All changes to this agreement must be made in writing and accepted by C/CAG and the County.

- 4.0 Management Oversight - San Mateo County shall provide reporting, information, and meetings with C/CAG staff as necessary to make certain that the San Mateo County Energy Watch is properly and effectively implemented.
- 5.0 Power of C/CAG Representation - The individual designated by the County as its Project Manager for the services to be provided herein is granted the authority to represent C/CAG and the Local Government Partnership relative to the implementation of the San Mateo Energy Watch. However, changes to the Scope of Work under the C/CAG-PG&E Contract must be approved and executed by C/CAG.

Payments - The referenced PG&E contract identifies the tasks and associated cost reimbursement. C/CAG will submit the cost reimbursement request to PG&E for consideration. C/CAG will reimburse the County for the full amount that is approved by PG&E. Under this contract C/CAG will not provide any cost reimbursement beyond that authorized and paid for by PG&E. Any C/CAG reimbursement of ineligible cost must be addressed in a separate agreement between C/ACAG and County.