

**AGREEMENT
BETWEEN
CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY
AND
2050 PARTNERS, INC.**

This Agreement entered this **11th** day of **October 2018**, by and between the CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY, a joint powers agency whose members include the County of San Mateo and the twenty incorporated cities and towns within San Mateo County, hereinafter called “C/CAG,” and 2050 PARTNERS, INC., hereinafter called “Consultant”.

WHEREAS, C/CAG has an agreement with Pacific Gas and Electric Company (PG&E) to operate a Local Government Partnership (LGP), providing Energy Efficiency Services in the County of San Mateo and the twenty cities and towns in the County (Cities); and

WHEREAS, Job Order Contracting (JOC) offers an opportunity for streamlining the procurement process for installing energy efficiency projects; and

WHEREAS, C/CAG has determined that it is in the interest of the Cities for C/CAG to study the feasibility of a multi-city cooperative JOC model; and

WHEREAS, the funding from the calendar year 2018 LGP budget that is required for completing a feasibility study (Feasibility Study) is available only through December 31, 2018; and

WHEREAS, C/CAG has determined that 2050 Partners, Inc., is uniquely qualified and has the requisite qualifications to perform this work; and

WHEREAS, the total amount available for the Feasibility Study is not to exceed \$35,000; and

WHEREAS, by adoption of Resolution 18-22, the Board of Directors of the City/County Association of Governments of San Mateo County approved the Feasibility Study and authorized the C/CAG Chair to execute an agreement with 2050 Partners, Inc., to provide JOC consulting services, and further authorized the C/CAG Executive Director to negotiate final terms, subject to legal counsel review, prior to execution by the C/CAG Chair, in a cumulative amount not to exceed \$35,000.

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

1. **Services to be provided by Consultant.** Consultant shall complete a Feasibility Study identifying opportunities and barriers to implementing a cooperative multi-city job order

contracting approach for the Cities in San Mateo County as outlined in Exhibit B, Scope of Services, attached hereto.

2. **Payments.** In consideration of the services rendered with all terms, conditions, and specifications set forth herein and in Exhibit A and Exhibit B attached hereto, C/CAG shall reimburse Consultant on a time and materials basis, based on the cost proposal set forth in Exhibit A. The aggregate total amount of payment by C/CAG for consulting services shall not exceed Thirty-Five Thousand dollars (\$35,000) during the Contract Term set forth below. Payments shall be made to Consultant monthly based on an invoice submitted by Consultant that identifies expenditures and describes services performed. C/CAG shall have the right to receive, upon request, documentation substantiating charges billed to C/CAG.
3. **Relationship of the Parties.** It is understood that Consultant is an Independent Consultant and this Agreement 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 Consultant.
4. **Non-Assignability.** Consultant shall not assign this Agreement or any portion thereof to a third party without the prior written consent of the C/CAG Executive Director.
5. **Contract Term.** This Agreement shall be in effect as of October 11, 2018, and shall terminate on December 31, 2018; provided, however, the C/CAG Chairperson may terminate this Agreement at any time for any reason by providing 30 days' notice to Consultant. Termination to be effective on the date specified in the notice. In the event of termination under this paragraph, Consultant shall be paid for all services provided to the date of termination.
6. **Compliance with PG&E Contracts.** The Contractor will be provided a copy of the C/CAG Local Government Partnership Agreement between C/CAG and PG&E, and agrees to comply with all contract requirements contained therein with regard to the requirements for contractors and subcontractors, specifically including Data Security, Background Checks, Confidentiality and Data Security, Customer Satisfaction, and Escalation of Complaints and Safety.
7. **Hold Harmless/Indemnity.** Consultant shall indemnify and save harmless C/CAG, its agents, officers, and employees from all claims, suits or actions to the extent caused by the negligence, errors, acts or omissions of the Consultant, its agents, subconsultants, officers or employees related to or resulting from the performance, or non-performance, under this Agreement.

The duty 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.

8. **Insurance.** Consultant or its subconsultants performing the services on behalf of Consultant shall not commence work under this Agreement until all insurance required

under this section has been obtained. Consultant shall furnish C/CAG with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending the Consultant's coverage to include the contractual liability assumed by Consultant pursuant to this Agreement. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to C/CAG of any pending change in the limits of liability or of non-renewal, cancellation, or modification of the policy.

Workers' Compensation and Employer Liability Insurance: The Consultant shall have in effect, during the entire life of this Agreement, Workers' Compensation and Employer Liability Insurance providing full statutory coverage.

Liability Insurance: Consultant shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect Consultant, 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 Consultant or by any sub-consultant or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than \$1,000,000 unless another amount is specified below and shows approval by C/CAG Staff.

Required insurance shall include:

	Required Amount	Approval by C/CAG Staff if under \$ 1,000,000
a. Comprehensive General Liability	\$ 1,000,000	_____
b. Workers' Compensation	\$ Statutory	_____

C/CAG and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to C/CAG, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if C/CAG, or its officers and employees have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.

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, the C/CAG Chairperson, at his/her option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

9. **Non-discrimination.** The Consultant and any subconsultants performing the services on behalf of the Consultant 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. **Compliance with All Laws.** Consultant shall at all times comply with all applicable laws and regulations, including without limitation those 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, Consultant will not assign others to work in their place without the prior written consent of the C/CAG Executive Director. Any substitution shall be with a person of commensurate experience and knowledge unless otherwise authorized by the C/CAG Executive Director.
12. **Sole Property of C/CAG:** Work products of Consultant which are delivered under this Agreement or which are developed, produced and paid for under this Agreement, shall be and become the property of C/CAG. Consultant shall not be liable for C/CAG's use, modification or re-use of products without Consultant's participation or for any purpose other than those specifically intended pursuant to this Agreement.
13. **Access to Records.** C/CAG, or any of its duly authorized representatives, shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. The Consultant shall maintain all required records for three years after C/CAG makes final payments and all other pending matters are closed.
14. **Merger Clause.** This Agreement, including Exhibits A and B attached hereto and incorporated herein by reference, constitutes the sole agreement of the parties hereto with regard to the matters covered in this Agreement, and correctly states the rights, duties and obligations of each party as of the document's date. Any prior agreement, promises, negotiations or representations between the parties not expressly stated in this Agreement are not binding. All subsequent modifications shall be in writing and signed by the C/CAG Executive Director. In the event of a conflict between the terms, conditions or specifications set forth herein and those in Exhibit A or Exhibit B attached hereto, the terms, conditions or specifications set forth herein shall prevail.
15. **Governing Law.** This Agreement shall be governed by the laws of the State of California, without regard to its choice of law rules, and any suit or action initiated by either party shall be brought in the County of San Mateo, California.
16. **Notices.** All notices hereby required under this agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid and addressed as follows:

555 County Center, 5th Floor
Redwood City, CA 94063
Attention: Sara Muse

Notices required to be given to the Consultant shall be addressed as follows:

2050 Partners, Inc.
81 Coral Drive
Orinda, CA 94563
Attention: Chris Vance

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

2050 Partners, Inc. (Consultant)

By _____
Date _____

City/County Association of Governments of San Mateo County (C/CAG)

By _____
Maryann Moise Derwin
C/CAG Chair
Date _____

C/CAG Legal Counsel

By _____
Matthew J. Sanders, C/CAG Counsel

Exhibit A

CONSULTANT BILLING RATES

Hourly billing rates for 2050 Partner, Inc., as shown below, are consistent with billing rates used for the Pacific Gas and Electric Company.

<u>Labor Classification</u>	<u>Billing Rates (\$/Hr)</u>
Principal II	\$229.00
Principal I	\$205.00
Director	N/A
Subject Matter Expert	N/A
Engineer Manager	\$184.00
Engineer Section Head	\$167.00
Engineer Project Leader	\$156.00
Engineer III	\$137.00
Engineer II	\$124.00
Engineer I	\$101.00
Architect I	N/A
Project Manager, Senior	\$149.00
Project Manager	\$135.00
Training Development Consultant	N/A
Education Consultant	N/A
Senior Instructional Design Consultant	N/A
Instructional Design Consultant	N/A
Junior Instructional Design Consultant	N/A
Senior Technical Support Specialist	N/A
Technical Support Specialist	N/A
Junior Technical Support Specialist	N/A
Managing Consultant	N/A
Consultant	N/A
Associate	N/A
Senior Analyst	N/A
Analyst	\$99.00
Administrative Assistant	\$65.00
Intern	\$40.00

2050 Partners Personnel	Labor Classification
Ted Pope	Principal II
Chris Vance, Jenn Fox, Gypsy Achong	Engineering Section Head
Whitney Pope	Senior Project Manager

Exhibit B

SCOPE OF WORK

Background

The City/County Association of Governments of San Mateo County (C/CAG) is the Local Government Partnership (LGP) to PG&E for energy efficiency services to the cities and County in San Mateo County. For the LGP program, the San Mateo County Energy Watch (SMCEW), the cycle of identifying and finalizing the installation of energy efficiency projects at municipal buildings in San Mateo County requires considerable chronological time. One of the most time-consuming tasks is the RFP and review process typical in government contractor procurement by County and city staff for contracts to install specified energy efficiency measures, such as lighting and HVAC. C/CAG believes that Job Order Contracting (JOC) provides a procurement option that can streamline the process, reducing County and city staff time and reducing the chronological time to final project installation.

An Energy Efficiency JOC Program would help cities and other public agencies accelerate the construction bidding process, obtain quality contractors with energy efficiency experience, and control project costs while meeting state competitive bidding requirements. If successful, the program could significantly decrease the energy use and Greenhouse Gas Emissions of participating Cities by helping them complete identified projects and realize energy savings.

This contract is to study the feasibility of establishing a cooperative, multi-city job order contracting “tool” for cities in San Mateo County. Specifically, the Consultant will provide expert advice and assist SMCEW with assessing the feasibility of establishing an energy efficiency JOC program for public agencies in San Mateo County.

Definitions

Job Order Contracting (JOC): a unique indefinite quantity type of contract that enables facility owners to accomplish a large number of repair and construction projects with a single, competitively bid on-call contract that can be awarded before any projects are identified.

The Gordian Group (TGG): provides innovative construction procurement solutions that simplify the bidding process, optimize cost savings, increase construction quality, and keep projects on schedule.

Sourcewell: a national public service agency governed by a board of locally elected directors that has the legal authority to facilitate cooperative procurement for a variety of services and equipment on behalf of public sector agencies, including competitively bid contracts for construction that conform to the joint powers authority law within each state.

Construction Task Catalog (CTC): A published catalog used by the JOC program that contains pre-set unit prices for detailed construction tasks, the pricing of which is based upon local wages and materials. The Gordian Group refers to the catalogs as the “Construction Task Catalog”.

Scope of Work

Task 1: Solicit input from Key Stakeholders

1.1 Kick-Off Meeting with SMCEW

Consultant will meet with SMCEW Program Manager to clarify objectives, goals, tasks, schedules, and responsibilities of team members. This meeting will be an important first step in understanding SMCEW's objectives and discussing the overall strategy for soliciting input from key stakeholders and prioritizing personnel to employ from the various cities. This task includes preparation and travel time as well as an approximately two-hour meeting at SMCEW's main office. Consultant will provide a summary of the key points discussed in the meeting.

1.2 Develop Stakeholder Input Method, Contacts and Questions

Consultant will work with the SMCEW Program Manager to determine the method, contacts, questions, and script that will be used to conduct the stakeholder interviews and analysis. The intent of this task is to refine the approach for assessing the key program stakeholders including their relative level of interest or influence on the program's feasibility, design and success. Consultant will conduct research and collect any additional information on the legal justifications used by other cities to access JOC contracts in California as necessary in order to help educate personnel selected for interviews. Consultant will review information on energy projects proposed by the cities within San Mateo County if provided by the SMCEW Program Manager.

1.3 Support Discussions and Coordination with Gordian Group and Sourcewell

Consultant will provide support to SMCEW Program Manager to gather information and facilitate discussions with The Gordian Group and Sourcewell for their expertise in public procurement options for JOCs in the State of California. Consultant will help coordinate activities with The Gordian Group as necessary, including participation in the stakeholder interviews, input on the analysis of the interviews, and development of program design recommendations. Consultant will summarize key information obtained from The Gordian Group pertaining to the feasibility and approach for establishing an energy efficiency JOC program for the SMCEW for inclusion in the final report.

1.4 Conduct Stakeholder Interviews and Solicit Stakeholder Input

Consultant will conduct meetings with key personnel from C/CAG and the cities within San Mateo County at SMCEW's direction to solicit input on their level of knowledge, interest and other topics related to the feasibility of using an energy efficiency JOC program to implement energy retrofits on their facilities. Key City personnel will be identified by SMCEW Program Manager and may include City Manager, Public Works Director, and procurement, legal, and facility operations staff. The method for soliciting input will include facilitating individual meetings with key personnel from individual cities primarily using a web-based Zoom platform, or in-person interviews, at the direction of the SMCEW Program Manager, as the budget allows. The budget allows for up to 30 hours of meetings and conversations not including travel time and assumes the SMCEW Program Manager will help facilitate outreach to selected contacts.

Topics and questions for input may include:

a. What kinds of energy projects is the City interested in implementing via JOCs. This will be helpful in determining the range and kinds of Job Order Contracts that would need to be solicited and established.

- i. Lighting (beyond simple Direct Install type projects)
- ii. Mechanical
- iii. Street Lighting
- iv. Other (process, water, etc.)
- v. Renewable and Power Storage

In general, what path would the City pursue to implement the projects without the use of JOCs? How long does that typically take?

b. What kinds of additional technical assistance might the City need to assist it in implementing meaningful energy projects using Job Order Contracts for construction?

c. What options do procurement staff and legal counsel believe they have available to them to “piggy back” on the open, competitive procurement process undertaken by another agency? Are they familiar with Job Order Contracting? How do they view the following options for accessing competitively solicited cooperative contracts for Job Order Contracting construction services?

- Solicitation conducted by San Mateo County; contracts accessed via justification using Section 4217.10, et seq., of the Government Code (ability to implement conservation measures in an expedited manner), or Section 6500, et seq., of the Government Code known as the Joint Exercise of Powers Act.
- Solicitation conducted by C/CAG; contracts accessed via justification using Section 4217.10, et seq., or Section 6500, et seq., of the Government Code.
- Solicitation conducted by Sourcewell (formally the National Joint Powers Alliance); contracts accessed via justification using Section 4217.10, et seq., or Section 6500, et seq., of the Government Code.
- Other strategies and justifications not yet identified?

1.5 Summarize Stakeholder Input and Analysis Results

Consultant will provide a brief summary of the stakeholder analysis results consisting of a table listing key stakeholder answers to the questions and their level of importance, influence, and positive or negative interests or impacts in regards to the proposed EE JOC program. This information will inform the assessment of the program feasibility and design recommendations.

Task 1 Deliverable (s) | Due Date (s):

- Deliverables:
 - Kick-off meeting notes.
 - List of questions to be used when conducting the interviews.
 - Table summarizing answers to key questions.
 - Analysis and summary of results pertaining to program strategy and design.
 - Summary of key information obtained from The Gordian Group for inclusion in Final Report.
- Date Due: Specific deliverables will be due according to SMCEW direction, but the Consultant will strive to complete Task 1 by the end of November 2018 depending on the availability of key contacts to be interviewed under SMCEW direction.

Task 1 Total Budget: NTE \$22,621

Task 2: Develop EE JOC Program Strategy and Program Design

Based upon the input solicited during task 1 above, Consultant will work with SMCEW Program Manager and The Gordian Group to determine:

- Range of JOC contracts for use by C/CAG Members.
- Procurement strategy that identifies the types of parties involved, the responsibilities they would assume, the lead agency responsible for procuring the contracts, and recommended legal justification(s) the cities may use to access the JOC contracts.
- Technical assistance support needs for various cities and options for meeting these needs.
- Program set up cost and annual operating costs.

Consultant, in coordination with The Gordian Group, will assess the general level of updates required to the Construction Task Catalog and Specifications Book (Specs) so they can be synchronized with PG&E energy efficiency measure codes.

Consultant will estimate the program set up cost and the annual operating costs associated with the recommended program design, to be included in the draft and final reports.

Task 2 Deliverable (s) | Due Date (s):

- Deliverable: Documents under direction from SMCEW as allowed within the remaining budget. (Note: most of the information gathered during Task 2 will be summarized in the draft and final reports.)
- Date Due: Specific deliverables will be due according to SMCEW direction.

Task 2 Total Budget: NTE \$6,699

Task 3: Prepare Report on Recommended EE JOC Program Strategy

Consultant will prepare a report that summarizes the findings from Task 1 and Task 2 above, and outlines the overall recommended strategy, the parties involved, the responsibilities they would assume, and the kinds of JOC contracts that would be solicited in order to establish an energy efficiency JOC program for the SMCEW. The report will describe the main steps, timeframe including estimated set up time, and the annual program operating costs. Consultant will deliver a draft report for review by the SMCEW Program Manager, A final report will be delivered within one week of receiving comments on the draft report.

Task 3 Deliverable (s) | Due Date (s):

- Deliverable: Draft and Final Reports
- Date Due: Specific deliverables will be due according to SMCEW direction. Consultant will strive to complete the draft report one week after completing Task 2. The final report will be due one week after receiving comments on the draft report.

Task 3 Total Budget: NTE \$5,026

Other Direct Costs: \$654

Budget Summary:

Task	Decription	Total Cost
Task 1	Solicit input from key Stakeholders	\$ 22,621
Task 2	Develop EE JOC Program Strategy	\$ 6,699
Task 3	Prepare Report on Recommended EE JOC Program Strategy	\$ 5,026
	Subtotal	\$ 34,346
	Other Direct Costs (Travel, Mileage)	\$ 654
	Total Cost	\$ 35,000