

## South Bay Cities Council of Governments

**January 13, 2014**

**TO: SBCCOG Steering Committee**

**FROM: Jacki Bacharach, Executive Director**

**SUBJECT: No Cost Extension to Contract with David Biggs**

The SBCCOG entered into a contract with David Biggs in September to work as an advisor to staff on organizational and human resources issues. His work has been very helpful to the staff and he has made a significant contribution. Besides researching employee benefits and recommending an improved and more competitive benefits package, he has also looked at our performance evaluation forms and employee policies, such as flex time, and made recommendations for improvement. He has met individually with the employees and helped write more accurate job descriptions for each of them. He also ably conducted a full day team building session with the employees.

His contract was not to exceed \$15,000 and he has billed the SBCCOG \$13,025 as of December 20, 2013, the end date for his contract.

There are a few remaining tasks that would be helpful to complete, such as finalizing the job descriptions and advising on other human resources' issues. The primary reason that these tasks remain is that David took a full-time interim position in Manhattan Beach in December and was not as available as anticipated, although it was always understood that this could happen.

### RECOMMENDATION

It is recommended that the SBCCOG agreement with David Biggs be extended from the existing termination date of December 20, 2013 to whenever the funds in the original budget are spent or March 1, 2014, whichever comes first.

**FIRST AMENDMENT TO INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This First Amendment to INDEPENDENT CONTRACTOR SERVICES AGREEMENT ("First Amendment") is made and entered into as of January 13, 2014 by and between the South Bay Cities Council of Governments, a joint powers authority ("SBCCOG") and David Biggs ("Contractor").

**RECITALS:**

A. The parties previously entered into an Executive Director Services Agreement dated September 10, 2013 ("Agreement"), wherein the SBCCOG retained the services of Contractor to serve as its Interim Operations Manager.

B. The parties now desire to modify the expiration date.

**NOW THEREFORE**, in consideration of the foregoing, the Agreement is amended as follows:

**Term of Agreement**

To extend from the existing termination date of December 20, 2013 to whenever the funds in the original budget are spent or March 1, 2014 whichever comes first.

In all other respects, the Agreement as amended is hereby reaffirmed and in full force and effect.

**Signatures**

**Client: South Bay Cities Council of Governments**

By: \_\_\_\_\_ Dan Medina  
(Signature) (Typed or Printed Name)

Title: SBCCOG Chair

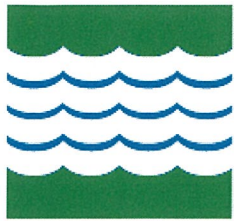
Date: \_\_\_\_\_

**Contractor: David Biggs**

By: \_\_\_\_\_ : David Biggs  
(Signature) (Typed or Printed Name)

Title: Consultant

Date: \_\_\_\_\_



## **Independent Contractor Agreement**

This Agreement is made between the South Bay Cities Council of Governments (SBCCOG)(Client), with a principal place of business at 20285 Western Avenue, Suite 100, Torrance, Ca. 90501 and David Biggs (Contractor).

### **Term of Agreement**

This Agreement continues the agreement started on September 10, 2013 and will end no later than December 20, 2013.

### **Services to be Performed**

Contractor agrees to perform the services described in Exhibit A attached to this Agreement subject to modifications annually.

### **Payment**

In consideration for the services to be performed by Contractor, Client agrees to pay Contractor \$50 per hour not to exceed 300 hours or \$15,000.

### **Terms of Payment**

Contractor shall submit an invoice to Client on the last day of each month for the work performed during that month. The invoice should include: an invoice number, the dates covered by the invoice, the hours expended and a summary of the work performed. Client shall pay Contractor's fee within a reasonable time after receiving the invoice.

### **Expenses**

Contractor shall include expenses in invoices and be reimbursed for all expenses specified as reimbursable on the attached Exhibit B for that task. Contractor shall be responsible for all other expenses incurred while performing services under this Agreement.

### **Independent Contractor Status**

Contractor is an independent Contractor, not Client's employee. Contractor and Client agree to the following rights consistent with an independent Contractor relationship.

- Contractor has the right to perform services for others during the term of this Agreement.
- Contractor has the sole right to control and direct the means, manner and method by which

#### LOCAL GOVERNMENTS IN ACTION

Carson El Segundo Gardena Hawthorne Hermosa Beach Inglewood Lawndale Lomita  
Los Angeles Manhattan Beach Palos Verdes Estates Rancho Palos Verdes Redondo Beach Rolling Hills  
Rolling Hills Estates Torrance Los Angeles County

the services required by this Agreement will be performed.

- Contractor has the right to perform the services required by this Agreement at any place, location or time.
- Contractor will furnish all equipment and materials used to provide the services required by this Agreement.
- Contractor shall not receive any training from Client in the skills necessary to perform the services required by this Agreement.
- Client shall not require Contractor to devote full time to performing the services required by this Agreement.

### **Subcontracting**

Consultant shall not subcontract work under this Agreement without the express written consent of the SBCCOG. It is mutually understood and acknowledged that SBCCOG is entering into this Agreement with Consultant in specific reliance on its professional qualifications.

### **Other Employment**

SBCCOG acknowledges that Consultant may be engaged in consulting work for other clients on issues similar to those on which Consultant is working with SBCCOG, and agrees that as such other activities arise they should be reviewed with the SBCCOG Chair and Executive Director to determine that they do not create any conflict of interest with the services provided to SBCCOG hereunder.

### **Business Permits, Certificates and Licenses**

Contractor has complied with all federal, state and local laws requiring business permits, certificates and licenses required to carry out the services to be performed under this Agreement.

### **State and Federal Taxes**

Client will not:

- withhold FICA (Social Security and Medicare taxes) from Contractor's payments or make FICA payments on Contractor's behalf
- make state or federal unemployment compensation contributions on Contractor's behalf, or
- withhold state or federal income tax from Contractor's payments.

### **Fringe Benefits**

Contractor understands that Contractor is not eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of Client.

### **Workers' Compensation**

Client shall not obtain workers' compensation insurance on behalf of Contractor.

### **Unemployment Compensation**

Client shall make no state or federal unemployment compensation payments on behalf of Contractor. Contractor will not be entitled to these benefits in connection with work performed under this Agreement.

**Insurance**

Client shall not provide any insurance coverage of any kind for Contractor or Contractor's employees or contract personnel.

**Indemnity**

Contractor and Client shall mutually indemnify and hold the other party harmless from any loss or liability arising from performing services under this Agreement.

**Terminating the Agreement**

Either party may terminate this Agreement any time by giving thirty days written notice to the other party of the intent to terminate.

**Exclusive Agreement**

This is the entire Agreement between Contractor and Client.

**Severability**

If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect provided that the principal purposes of the parties are not thereby frustrated.

**Applicable Law**

This Agreement will be governed by the laws of the state of California.

**Notices**

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- when delivered personally to the recipient's address as stated on this Agreement
- three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement, or
- when sent by fax or e-mail to the recipient known to the person giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail, or the recipient delivers a confirmation of receipt.

**No Partnership**

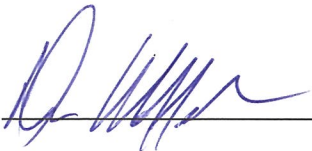
This Agreement does not create a partnership relationship. Contractor does not have authority to enter into contracts on Client's behalf.

**Resolving Disputes**

If a dispute arises under this Agreement, prior to instituting litigation the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in California. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties.

**Signatures**

**Client:** South Bay Cities Council of Governments


By:  Dan Medina

(Signature) (Typed or Printed Name)

Title: SBCCOG Chair

Date: 9/24/13

**Contractor:** David Biggs

By:  : David Biggs

(Signature) (Typed or Printed Name)

Title: Consultant

Date: 9/30/2013

**If Agreement Is Faxed:**

Contractor and Client agree that this Agreement will be considered signed when the signature of a party is delivered by facsimile or e-mail transmission. Signatures transmitted by facsimile or e-mail transmission shall have the same effect as original signatures.

## Exhibit A

### Organizational Assessment of the Environmental Services Center of the SBCCOG

The South Bay Environmental Services Center (SBESC) is an operating unit within the SBCCOG. It was established in 2004 with two part-time contractors as the SB “Energy Savings Center.” It has grown to have a several million dollar budget with 12 full time positions – 2 of them currently unfilled (one of which is the “department head” who also held the title of SBCCOG Deputy Director, Environmental Programs).

The growth has been funded by 3 year rolling grants from SCE and the Gas Company as well as annual grants from West Basin Municipal Water District, Torrance Water, Los Angeles County Sanitation Districts and LA Metro. Additional special purpose grants have also been received. These grants essentially pay for the offices in which the SBCCOG also conducts its business. This structure makes it easy for insiders and outsiders to see the SBESC as separate from and on a par with the SBCCOG itself. However, there is no actual separate SBESC; its staff are SBCCOG employees and the operating policies are set by the SBCCOG Board.

The SBESC has become a leading force behind energy conservation in the South Bay. It is also helping cities develop Climate Action Plans and 13 cities have contributed funding to support that effort beyond their annual dues.

Management and internal structure have been issues since the period of rapid growth related to the initial SCE grants. The recently resigned “department head” created the current management culture and an internal structure. Now that the position is vacant, it will be best to evaluate that management culture and internal structure to help guide the selection of the person that needs to be recruited to fill the senior management position. In other words, it would be best to get the organization appropriately structured and then hire a new senior manager, rather than retain a manager and see what that person does with the organization.

#### Scope of Work

1. Organizational assessment – Review and evaluate:
  - a. Organizational Structure and staff assignments and required skills, lines of responsibility and direct reports
  - b. Present pros and cons on the following issues:
    1. Whether project administration should be the responsibility of a centralized administrator or of project managers.
    2. To what extent should individuals handle their own clerical needs and how much clerical staff is needed
    3. Do we need to have back-ups for our program work? Ex. cross train people?
    4. Holes in our staffing (i.e. policy researcher)
  - c. Recruitment
    1. Present the pros and cons for the following issues:
      - a. What level of management the head of the SBESC should be
      - b. Whether the head of the SBESC should have relevant technical expertise and managerial experience or just managerial experience

2. HR materials, policies and procedures – Review and evaluate:
  - a. Job descriptions and salary updates
  - b. Benefits package
  - c. Performance Evaluation process and form
  - d. Approach to dual managed personnel
  - e. Telecommuting program
3. Review and assess the volunteer program
  - a. Volunteer manual
  - b. Procedures
  - c. Oversight requirements
  - d. Costs and benefits
4. Identify city-serving programs that the SBCCOG should consider developing (e.g., joint procurements, RFPs)
5. Advise on and contribute to the upcoming Strategic planning process
6. Advise Kim as the interim department head

Deliverables:

1. Weekly meetings with the Executive Director and Deputy Executive Director
2. Written recommendations on each work task as well as general observations
3. Possible new organizational chart that may be more efficient and effective
4. Job Description for the Program Administrator of the SBESC (technical or successor potential?)

## **EXHIBIT B**

### **Reimbursable Expenses**

- Pre-approved travel outside of Southern California
- Parking fees, upon receipt
- Transit fares, upon receipt
- Pre-approved meeting attendance meal and registration costs