

**AGREEMENT BETWEEN THE COUNTY OF SAN LUIS OBISPO
AND THE CAL POLY CORPORATION FOR PROVISION OF ECONOMIC
DEVELOPMENT SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into on _____, 2015 by and between **San Luis Obispo County** (hereinafter referred to as the "County") and **the Cal Poly Corporation** (hereinafter referred to as the "Applicant"), fiscal agent for California Polytechnic State University and the SLO HotHouse.

WITNESSETH:

WHEREAS, the Economic Element of the San Luis Obispo County General Plan establishes programs to retain, expand and attract businesses in order to enable residents to find employment and pursue the lifestyles that they value; and

WHEREAS, the Applicant submitted a request to the County for a grant of \$200,000 in County funds for services which the Applicant will provide to implement Economic Element programs (hereinafter referred to as "the Project"); and

WHEREAS, the County finds that the Applicant is eligible for a County grant of County funds as a community project; and

WHEREAS, the Board of Supervisors approved funding of the Applicant's Project by adopting the budget on June 16, 2015 and requested that the County Administrative Officer or designee be allocated one seat on the SLO HotHouse Community Advisory Board.

NOW, THEREFORE, the parties agree as follows:

1. **SCOPE OF SERVICES**: The Applicant shall perform and complete the activities contained in the Scope of Work (Exhibit A) attached to this agreement.
2. **PURPOSE**: The Applicant agrees that the primary purpose of this grant is to provide funding for projects/programs that benefit the public by promoting economic development activities and job creation priorities.
3. **TERM OF AGREEMENT**: The term of this Agreement shall be for 12 months, beginning **July 1, 2015 and ending June 30, 2016**. The agreement may be extended by 90 days if the Applicant and County agree in writing. The Board of Supervisors expressly grants to the County Administrative Officer for the County of San Luis Obispo the authority to extend the Agreement pursuant to this Section as long as the change does

not increase the maximum dollar amount of this Agreement or any other burden of the County under this Agreement.

4. GRANT: The County hereby agrees to transfer to Applicant the amount of \$200,000 to complete all tasks and activities contained in Exhibit A. Program/project funding shall not be used to supplant existing operations not related to the Project but must be used to support the Project as proposed in Exhibit A.

Applicant understands and agrees that said grant is for the amount specified herein and the County has no obligation to award further, additional or ongoing grants beyond the term of this Agreement.

Applicant agrees the County Administrative Officer or designee is allocated one seat on the SLO HotHouse Community Advisory Board.

5. REPORTING: The Applicant shall prepare and submit a progress report by December 31, 2015 and a final report by June 30, 2016 to the Administrative Office, both describing performance of tasks identified in the Scope of Services proposed in Exhibit A. The Applicant shall provide at the County's request any other required or needed reports.

Should Applicant fail to expend the grant funds in the Project as proposed in Exhibit A, County may, at its option, require Applicant to repay all or any portion of the funds not expended on the Project or improperly expended.

6. EQUIPMENT: If the Project budget includes purchase of any equipment which has a useful life extending beyond the termination date of the Project, the Applicant agrees that said equipment will be transferred over to County at the conclusion of this Project, unless the County consents to a renewal or extension of the same or some similar project by Applicant utilizing the same equipment.

7. ADMINISTRATIVE PROVISIONS: Notwithstanding anything herein to the contrary, the Applicant is subject to the provisions of the applicable state and local laws and the Applicant's Articles of Incorporation and Bylaws.

8. ACCOUNTING: The Applicant shall comply with all applicable accounting regulations and standards.

9. AUDITS:

- A. The Applicant shall maintain such records and accounts in accordance with general accounting practices. In addition, the Applicant shall maintain such records and accounts as may be required by the County. County may require Applicant, at its sole expense, to have its records and accounts audited annually by an accountant licensed by the State of California and approved in advance by said Auditor-Controller, and to present said audit to the County within thirty (30) days after the completion of the audit. County may make its own audit of Applicant's records and accounts at any time, if County so desires. Financial records should clearly demonstrate that the grant funds have been spent for the intended grant purpose within the scope of work (Exhibit A).
- B. The County shall have the right through its representative, and at all reasonable times, to inspect such books and records; and Applicant hereby agrees that all such records and instruments are available to the County. All State and Federal tax returns of Applicant insofar as this Agreement is concerned shall also be made available to the County for accounting purposes if requested.

10. INDEMNIFICATION: To the fullest extent permitted by law, Applicant shall indemnify, defend, and hold harmless the County and its officers, agents, employees, and volunteers from and against all claims, demands, damages, liabilities, loss, costs, and expense (including attorney's fees and costs of litigation) of every nature arising out of or in connection with Applicant's performance or attempted performance hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which was caused by sole negligence or willful misconduct of the County.

11. INSURANCE: Applicant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Applicant, its agents, representatives, or employees.

Minimum Scope and Limit of Insurance.

Coverage shall be at least as broad as:

A. Commercial General Liability Insurance Policy ("CGL")

Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with

limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

B. Business Automobile Liability Policy ("BAL")

ISO Form Number CA 0001 covering, Code 1 (any auto), or if Applicant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

C. Workers' Compensation And Employers' Liability Insurance Policy ("WC/EL")

Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. If Applicant will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Applicant's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

If the Applicant maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the Applicant.

D. Professional Liability/Errors and Omissions

Insurance covering Applicant's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, Applicant understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

Other Insurance Provisions: The insurance policies are to contain, or be endorsed to contain, the following provisions:

E. Additional Insured Status

The County, its officers, officials, employees, and volunteers are to be

covered as insureds **on the auto policy** with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Applicant; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Applicant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Applicant's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

F. Primary Coverage

For any claims related to this contract, the **Applicant's insurance coverage shall be primary** insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Applicant's insurance and shall not contribute with it.

G. Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except after thirty (30) days' prior written notice** (10 days for non-payment) has been given to the County.

H. Failure to Maintain Insurance

Applicant's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Contract, upon which the County immediately may withhold payments due to Applicant, and/or suspend or terminate this Contract. The County, at its sole discretion, may obtain damages from Applicant resulting from said breach.

I. Waiver of Subrogation

Applicant hereby grants to County a waiver of any right to subrogation which any insurer of said Applicant may acquire against the County by virtue of the payment of any loss under such insurance. Applicant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

J. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Applicant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

K. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

L. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Applicant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

M. Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

N. Verification of Coverage

Applicant shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Applicant's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Certificates and copies of any required endorsements shall be sent to:

County of San Luis Obispo
1055 Monterey St. Room D-430
San Luis Obispo, CA 93408
ATTN: Lisa Howe

O. Subcontractors

Applicant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

P. Special Risks or Circumstances

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Q. Sexual Misconduct Liability

Insurance covering actual or alleged claims for sexual misconduct and/or molestation with limits of not less than \$2 million per claim and \$2 million aggregate, and claims for negligent employment, investigation, supervision, training or retention of, or failure to report to proper authorities, a person(s) who committed any act of abuse, molestation, harassment, mistreatment or maltreatment of a sexual nature.

12. NON-DISCRIMINATION: Applicant shall not discriminate against any person or class of persons in violation of any and all federal, state and local non-discrimination laws.
13. COMPLIANCE WITH ALL LAWS: Applicant agrees to abide by all laws and regulations applicable to the expenditure of County grant funds, including but not limited to, the audit of the expenditure of these funds for compliance with regulations and the inclusion of provisions guaranteeing compliance with all labor laws and regulations pertinent to public funds.
14. SEVERABILITY: The invalidity of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement.
15. REMEDIES NOT EXCLUSIVE: The use by either party of any remedy specified herein for the enforcement of the Agreement is not exclusive and shall not deprive the party using such remedy of or limit the application of, any other remedy provided by law.
16. LAW: This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretations of any of the clauses of the Agreement shall be determined and governed by the laws of the State of California.
17. VENUE: San Luis Obispo County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

18. ENTIRE AGREEMENT AND MODIFICATIONS: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. Applicant shall be entitled to no other benefits than those specified herein. No changes, amendments, or modifications shall be effective unless in writing and signed, in advance of the effective date of the change, amendment or modification, by both parties. Applicant specifically acknowledges that in entering into and executing this Agreement, Applicant relies solely upon the provisions contained herein and no other Agreement or oral discussions prior to entering into this Agreement.
19. NO WAIVER: The failure to exercise any right or enforce any remedy contained in this Agreement shall not operate as or be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any right or remedy herein contained.
20. HEADINGS: The headings and other captions contained in this Agreement are for convenience only and shall not be used in interpreting, construing or enforcing of any provisions of this Agreement. This Agreement has been prepared through the efforts of all parties hereto and shall not be construed against any party as the draftsman.
21. NON-ASSIGNMENT OF AGREEMENT: This Agreement is intended to secure specialized services of Applicant and thus Applicant shall not assign, transfer, delegate or sublet this Agreement, or any interest therein, without the prior written consent of the County, and any such assignment, transfer, delegation or sublet without the County's prior written consent shall be considered null and void.
22. NOTICES: Any notices, demands or communication, under or in connection with this Agreement may be served upon County by personal service, or by mailing the same by regular mail and directed to County at:

County of San Luis Obispo
1055 Monterey St. Room D-430
San Luis Obispo, CA 93408
ATTN: Lisa Howe, Administrative Analyst

and may be likewise served on Applicant at:

Cal Poly Corporation
Sponsored Programs
1 Grand Avenue
San Luis Obispo, CA 93407
ATTN: Melissa Mullen, Director

IN WITNESS WHEREOF, the County has executed this Agreement and the Applicant has caused this Agreement to be approved by its Board of Directors and to be executed by a duly authorized office, all as of the day and year first above written.

AGREED TO ON THE DAY AND YEAR SET FORTH ABOVE.

COUNTY OF SAN LUIS OBISPO

BY: _____

AUTHORIZED BY BOARD ACTION

_____, 2015

ATTEST

By: _____
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT
RITA L. NEAL
County Counsel

By:  _____
Chief Deputy County Counsel

Date: 9/03/2015

CAL POLY CORPORATION

Applicant:  _____ 9/2/15

By: _____
Print Name: Melissa R. Mullen

Print Name: _____

Title: Director, Sponsored Programs

SLO HOTHOUSE

Applicant:  _____ 9/3/15
Date

By: _____

Print Name: TOP NELSON

Title: EXECUTIVE DIRECTOR C15



August 11, 2015

To: The County Board of Supervisors

Re: Scope of Services for the SLO County Funding of the SLO HotHouse

The SLO HotHouse began as a cooperative effort between Cal Poly and the community four years ago in a small space on Cross Street and grew with the move into 955 Morro in 2011. During that time, the SLO HotHouse has become an entrepreneurship hub dedicated to launching and then supporting our next generation of innovators and business leaders. Because of the key role the SLO HotHouse plays in building a vibrant entrepreneurial economy in San Luis Obispo County, and the successes to date, we have significantly increased the number of startups involved and are thus in need of additional space. Cal Poly and the community are teaming together to facilitate our move into 872 Higuera Street. This will allow for the participation of an additional 14 startups into the SLO HotHouse, will expand Small Business Development Center for Innovation training reach, and will make the SLO HotHouse available to startups from the community as well as Cal Poly.

The following program will be supported by the San Luis Obispo County grant of \$200,000:

The SLO HotHouse Incubator Program

The SLO HotHouse Incubator Program is a two-year post-accelerator business development program providing space and assistance to companies launching out of the Accelerator. The Incubator Program provides a runway designed to support startup success and the economic development agenda of the SBDC, Cal Poly and the Community.

Ten companies are currently incubating in the SLO HotHouse, accounting for 36 jobs created:

- **MegaMatter** - www.megamatter.com - **4 Jobs**
A green chemistry startup developing innovative chemicals and materials for the construction industry.
- **HomeSlice** - www.homesliceapp.com - **5 Jobs**
A mobile application that creates a private social network for roommates.
- **InPressTechnologies** - info@inpresstechnologies.com - **3 Jobs**
A medical device company with a simple and novel solution to postpartum hemorrhage, the number one cause of maternal death worldwide.
- **Z Living Systems** - www.zlivingsystems.com - **2 Jobs**
A premier provider of living walls founded on the vision of re-incorporating nature back into our cities. They recently installed a 500 sq. ft. living wall for the new MindBody headquarters in San Luis Obispo.
- **Boost Acquisition** - www.boostacquisition.com - **2 Jobs**

A web application that helps car dealerships buy more used cars from online marketplaces at the best prices, while saving their employees' time.

- **Bottlefly** - www.thebottlefly.com - **6 Jobs**
An online wine marketing platform with proprietary algorithms to recommend wine based on personal tasting preferences, mood, and occasion.
- **Moja Outdoors** - www.mojagear.com - **4 Jobs**
A collection of community-driven marketplaces for outdoor enthusiasts.
- **Superior Solutions Manufacturing** - www.liftgator.com - **3 Jobs**
The first-ever removable liftgate for pickup trucks, the LiftGator, which provides a more convenient and safer working environment for everyone from handymen to construction workers. Manufacturing in Atascadero.
- **The Cardboard Guys** - www.thecardboardguys.com - **3 Jobs**
Design and manufacturing of furniture that is sturdy, recyclable and is now ready for the kids of the world.
- **Upward Automation** - **4 Jobs**
A home automation platform allowing natural activity to simplify setup, use and value derived.

Two companies recently graduated from the SLO HotHouse Incubator Program:

- **RepairTech** - www.repairtechsolutions.com - **7 Jobs**
Develops a suite of software that automates the computer repair process for IT professionals.
- **Steadfast Innovation** - www.papyrusapp.com - **5 Jobs**
The largest natural handwriting note-taking application for Android devices, called Papyrus.

ENTREPRENEURSHIP EDUCATION MISSION

All startups involved in the SLO HotHouse Incubator Program benefit from Cal Poly's Center for Innovation and Entrepreneurship mission to transform participants into resourceful, entrepreneurial leaders through hands-on experience, as well as with access to engage in the entrepreneurial resources available at the University such as faculty mentor support.

Approximately 35% of the participants in the SLO HotHouse Incubator Program are still students; the rest are recent graduates of Cal Poly. For the students participating in the SLO HotHouse Incubator Program, it is an opportunity for them to completely immerse themselves in the Learn by Doing experience of working on their startups; and faculty benefit from the program by applying their expertise towards mentoring these students and even taking teams back into the classroom to provide real world content to incoming students.

MOVING FORWARD

Moving forward, our expanded space will allow us to continue to grow our outreach to local entrepreneurs by building upon the SLO HotHouse Incubator Program:

- We will include up to 4 independent community startups in the Incubator Program. We have tasked our Community Advisory Board ("CAB") to implement a strategy for offering incubation to local community startups.
- Grow from 12 incubating companies to 26 within the next year.
- Expand our outreach to the business community with entrepreneurial support services.

COMMUNITY ADVISORY BOARD

The SLO HotHouse Community Advisory Board (“CAB”) is a collaboration of area business leaders, the City of San Luis Obispo and Cal Poly. Members provide the network and resources to support entrepreneurship activities being led at the SLO HotHouse, including support for our downtown facility and our company incubation programming. In 2014, this Board raised approximately \$38,000 to support the cost of operations of the SLO HotHouse.

Our CAB members include:

- Jeff Buckingham – President & CEO, Norcast
- Brian Clausen – CEO Experts Exchange
- Jesse Dundon – Founder & CEO, Hathway
- Jim Dunning - Program Manager of C3RP at Cal Poly
- Gerry Frigon – Taylor Frigon Capital Management LLC
- Lee Johnson – SLO City Economic Development Manager
- Ermina Karim – President SLO Chamber of Commerce
- Judy Mahan – SBDC Director and CIE Incubator Director
- Clint Pearce – Madonna Enterprises
- Eric Schwefler – Owner, Caliber Accounting
- Rick Stollmeyer – Co-Founder & CEO, MindBody
- Kyle Wiens – Founder, iFixit
- Tim Williams - Founder & CEO, Digital West
- Jonathan York – Associate Professor, Cal Poly, and Co-Founder, CIE

We have extended an invitation to Dan Buckshi, County Administrative Officer of San Luis Obispo County, to join our CAB.

SUMMARY

The SLO HotHouse will remain a vital partner in assuring the economic vitality of this County. We are aligned with the economic developments goals of the County:

- we grow business and create jobs in San Luis Obispo,
- we attract investment, and
- we increase the GDP.

We provide the following intangible assets to the SLO County community:

- we foster innovation and attract talent,
- we integrate Cal Poly into the San Luis Obispo Community and vice-versa,
- we create a buzz!

SCOPE OF SERVICES

The financial support of San Luis Obispo County in the amount of \$200,000, as an annual contribution, will pay for the cost of salaries, facilities and utilities expended to support the SLO HotHouse Incubator Program, its economic development activities and its job creation priorities.

For any additional information, please contact:

Tod Nelson, CIE Executive Director – tnelson14@calpoly.edu - (805)756-5171

Judy Mahan, CIE Incubator Director and SBDC Director – jmahan@calpoly.edu - (805)756-5171

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