

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

March 15, 2022

**FROM**

**THOMAS W. SONE, Public Defender**

**SUBJECT**

Memorandum of Agreement with the Corporation for National and Community Service for AmeriCorps Volunteers in Service to America Members

**RECOMMENDATION(S)**

1. Approve **Memorandum of Agreement No. 22-193** with the Corporation for National and Community Service, including non-standard provisions, for the placement of two AmeriCorps Volunteers in Service to America members, with 12-month term-of-service commitments, to support the Public Defender's Building Communities through Post-Conviction Relief and Engagement program for the period of February 27, 2022 through February 25, 2023.
2. Authorize the Public Defender to execute the Memorandum of Agreement with the Corporation for National and Community Service for the placement of two AmeriCorps Volunteers in Service to America members, with 12-month term-of-service commitments, to support the Public Defender's Building Communities through Post-Conviction Relief and Engagement program for the period of February 27, 2022 through February 25, 2023.
3. Direct the Public Defender to transmit the Memorandum of Agreement to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: Thomas W. Sone, Public Defender, 382-3950)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Create, Maintain and Grow Jobs and Economic Value in the County.**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). Corporation for National and Community Service (CNCS) AmeriCorps Volunteers in Service to America (VISTA) will fund the insurance benefits of each VISTA member and the living expenses for two VISTA members' living expenses (not-to-exceed \$15,312), mileage reimbursement (not-to-exceed \$2,000), professional development training (not-to-exceed \$1,500) and miscellaneous services and supplies (not-to-exceed \$2,000) for a total of \$18,812. Existing Public Defender (Department) staff will provide day-to-day support of the VISTA members including training and supervision at an approximate in-kind cost of \$71,177 annually, as staff providing training or supervision will do so within their existing workload.

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**BACKGROUND INFORMATION**

The Department provides post-conviction services through implementation of its Building Communities through Post-Conviction Relief and Engagement Program (Program). The Program removes barriers that limit client opportunities to achieve economic stability and self-sufficiency. Post-conviction relief enables at-risk clients to exit the criminal justice system, defend against harsh consequences of previous convictions, and break the cycle of poverty.

The CNCS is the federal agency that leads service, volunteering, and grant-making efforts in the United States. The CNCS AmeriCorps VISTA project is a national service program designed to fight poverty. VISTA supports efforts to create or expand programs that bring individuals and communities out of poverty by placing individual VISTA members with host organizations for 12-month term-of-service commitments. VISTA members are volunteers that seek to gain experience and leadership skills as they build capacity in public agencies and non-profit organizations. CNCS assists the Department with recruiting and selecting qualified volunteers to become VISTA members.

On November 5, 2019 (Item No. 25), the Board of Supervisors (Board) authorized and approved the submission of Grant Application No. 19-733 to CNCS for the AmeriCorps VISTA Project grant. The Board also authorized the Public Defender to enter into a 12-month Memorandum of Agreement (MOA) with CNCS for the placement of four AmeriCorps VISTA members to support the Department's Program. The Department and CNCS share the cost of the VISTA members' living expenses, with CNCS funding one members' expenses and the Department funding one. The MOA had an initial 12-month term which could be extended for up to three years, based upon approval by CNCS.

On March 9, 2021 (Item No. 24) the Board authorized the Department to enter into a second 12-month term MOA with CNCS and 12-month term-of-service commitments with each VISTA volunteer placed.

The Department has completed two years of the grant and received notification that CNCS will fund the placement of two VISTA members in year three of the three-year grant cycle. During the first two years, the VISTA members worked closely with the Department's Post-Conviction Unit to support the Program by attending expungement fairs, assisting with client data gathering, and performing case management tasks. Additionally, the Department's community outreach efforts and network of information sharing with various organizations, its clients and the community at large have improved.

Approval of this item allows the Department to enter into a third 12-month term MOA with CNCS and 12-month term-of-service commitments with each VISTA volunteer placed. Upon approval of the recommendations, the Public Defender will execute the MOA with CNCS. Retroactive approval of the MOA period is required as CNCS must allocate the funding before the Department can begin the recruitment and placement process. The grant funding period, from February 27, 2022 through February 25, 2023, does not align with the 12-month grant performance period because the 12-month term-of-service commitments begin on the date when the VISTA volunteers are placed.

The original MOA included the following non-standard contract terms that extend to year three of the MOA.

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1. There is no indemnification provision, mutual or otherwise, for this limited scope program.
  - The County standard contract indemnity provision requires the Contractor to indemnify, defend, and hold the County harmless from third party claims arising out of the acts, errors or omissions of any person.
  - Potential Impact: Due to this being a federal grant, the federal agency is not entering into a contractual obligation with the County to reimburse or compensate for past or future loss or damages that could or may arise out of the performance of the grant. Each party would be responsible to defend against any claims brought against each respective party.
  
2. Minimum insurance coverage limits are not specified, including the waiver of subrogation and naming the County as additional insured. VISTA members are expressly deemed federal employees covered by federal insurance and worker's compensation.
  - The County standard contract specifies required minimum limits of liability coverage, insurance review, and for the County to be added as an insured to the contractor's policies and to waive subrogation.
  - Potential Impact: This being a federal grant, federal insurance limits and provisions supersede the County's standards within County Policy 11-07SP. The County must rely on federal government insurance limits. No waiver of subrogation may allow CNCS to recover damages, paid from but not the fault of CNCS, against the County. Not being added as an insured may prevent the County from pursuing damages with the federal government's insurance.
  
3. The Grant award and MOA are in accordance with federal law and regulations.
  - The County standard contract specifies governance of California laws and provisions.
  - Potential Impact: This being a federal grant, federal laws and regulations govern its applicable provisions. California law would still apply under any other non-federal state claims or actions.

The Department recommends approval of the MOU with CNCS, including non-standard terms, based on the opportunity it provides the volunteer VISTA members and support they provide to the Department's Program.

**PROCUREMENT**

Not Applicable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Dawn Martin, Deputy County Counsel, 387-5455) on February 3, 2022; Finance (Sofia Almeida, Finance Analyst, 387-4378) on February 15, 2022; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-4342) on February 15, 2022.

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Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Janice Rutherford Seconded: Joe Baca, Jr.  
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: March 15, 2022



cc: Public Defender - Lovelace w/agree for sign  
Contractor - C/O Public Defender w/agree  
File - w/agree  
CCM 03/18/2022