

Meeting Date: 9/17/2013

Report Type: Consent

Report ID: 2013-00681

Title: Fiscal Year 2013/14 County Contribution to City/County Organizations

Location: Citywide

Issue: City Council approval needed for yearly transient occupancy tax (TOT) funding from County for the Joint City/County Operations.

Recommendation: Pass a Resolution 1) authorizing the City Manager or his designee to approve and execute agreements between the City of Sacramento and the County of Sacramento; 2) and authorizing the City Manager or his designee to accept the County's share of Fiscal Year 2013/14 funding, a total of 481,760, in the following amounts for these jointly funded programs: a) Center for Sacramento History for \$145,350, b) Sacramento Metropolitan Arts Commission for \$150,000, c) Sacramento History Museum for \$93,205, and d) the Powerhouse Science Center for \$93,205.

Contact: Eva Chiang, Administrative Officer, 808-5898, Convention, Culture & Leisure Department

Presenter: None

Department: Convention Culture & Leisure

Division: CCL Administration

Dept ID: 17001011

Attachments:

- 1-Description/Analysis
- 2-Resolution
- 3-Exhibit A (CSH Agreement)
- 4-Exhibit B (SMAC Agreement)
- 5-Exhibit C (SHM Agreement)
- 6-Exhibit D (PSC Agreement)

City Attorney Review

Approved as to Form
Kourtney Burdick
9/9/2013 4:20:22 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
8/21/2013 10:18:28 AM

Approvals/Acknowledgements

Department Director or Designee: Barbara E. Bonebrake - 8/30/2013 4:46:21 PM

Description/Analysis

Issue: Each year, the Sacramento County Board of Supervisors approves its annual allocation of transient occupancy tax (TOT) collections. Historically, the County has used a portion of the TOT to fund joint operations it shares with the City. These operations include the Center for Sacramento History (CSH), the Sacramento Metropolitan Arts Commission (SMAC), the Sacramento History Museum (SHM), and the Powerhouse Science Center (PSC).

In June 2013, the County Board of Supervisors approved TOT allocations for FY2013/14 to these City-County organizations totaling \$481,760. Specific allocations for each program are described below. The County funding is administered by the City and is budgeted within the City’s FY2013/14 approved budget. The four County agreements proposed for approval are attached as Exhibits A – D.

Policy Considerations: The recommended action is consistent with the City’s goals to achieve sustainability and enhance livability in the community as well as reflecting the values of teamwork and fiscal responsibility.

Economic Impacts: None.

Environmental Considerations: The proposed activity is not subject to environmental review under the California Environmental Quality Act (“CEQA”), California Code of Regulations, title 14, section 15060 because it is not a project under CEQA.

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: Approval of the recommended action is necessary to implement the City Council approved budget which includes funding from the County for the respective organizations’ operating budgets.

Financial Considerations: The County’s contribution is built into the City’s FY2013/14 General Fund budget.

In June 2013, the County Board of Supervisors approved the contributions to City / County organizations for FY2013/14. The below table illustrates the amounts dedicated to each organization.

	FY2013/14	FY2013/14	Difference
	Budgeted	Final	
CSH*	\$145,350	\$145,350	--
SHM	93,205	93,205	--
PSC	93,205	93,205	--
SMAC	150,000	150,000	--
TOTAL	\$481,760	\$481,760	\$0

*In addition, CSH also receives a non-TOT Fee for Service, a total of \$25,650, from multiple County departments.

Emerging Small Business Development (ESBD): None. No goods or services are being purchased.

RESOLUTION NO. 2013-

Adopted by the Sacramento City Council

**AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS
WITH THE COUNTY OF SACRAMENTO FOR FISCAL YEAR 2013/14
FUNDING OF JOINT CITY/COUNTY ORGANIZATIONS**

BACKGROUND

- A. The City of Sacramento and County of Sacramento annually provide joint operating support for the Center for Sacramento History, the Sacramento Metropolitan Arts Commission, the Sacramento History Museum, and the Powerhouse Science Center.
- B. The County's funding is administered by the City and is budgeted in the City's revenue and expense budget, as stated in agreements between the City and the County.
- C. In June 2013, the County Board of Supervisors approved transient occupancy tax revenue allocations for the joint-funded organizations for FY2013/14.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. The City Manager or his designee is authorized to approve and execute agreements between the City of Sacramento and the County of Sacramento, and to accept the County's share of FY2013/14 funding, a total of \$481,760, in the following amounts for these jointly funded programs:

A. Center for Sacramento History	\$145,350.00
B. Sacramento Metropolitan Arts Commission	\$150,000.00
C. Sacramento History Museum	\$93,205.00
D. The Powerhouse Science Center	<u>\$93,205.00</u>
Total:	\$481,760.00

Section 2: Exhibits A through D (the above-mentioned agreements) are part of this Resolution.



City of Sacramento

Tax ID # if applicable:

Requires Council Approval: No YES Meeting:

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Non Professional Services

Attachment: Original Number:

PO Type: Interagenct Agreement

Original Document Number:

\$ Not to Exceed: \$ 145,350

Original Contract Amount: \$

Other Party: County of Sacramento

Deed: None Included Separate

Project Name: Center for Sacramento History

No. Certified Copies of Document: 1

Project Number:

Bid Transaction #:

E/SBE-DBE-M/WBE:

Department Information

Department: CCL

Division: Admin

Project Mgr: Eva Chiang

Supervisor: Rebecca Bitter

Contract Services:

Date: 08/05/13

Division Mgr: Rebecca Bitter

Phone Number: 808-5898

Org Number: 17001011

Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	<i>EC</i>	8/5/13
Accounting:		
Contract Services:		
Supervisor:		
Division Manager:	<i>RCB</i>	8/9/13
City Attorney	Signature or Initial	Date
City Attorney:		

Send Interoffice Mail Notify for Pick Up

Authorization	Signature or Initial	Date
Bonebrake, Barbara Department Director:		
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the Contract

For City Clerk Processing

Finalized:

Initial: _____

Date: _____

Imaged:

Initial: _____

Date: _____

Received:
(City Clerk Stamp Here)

TABLE OF CONTENTS

	<u>Page</u>
I. SCOPE OF SERVICES.....	3
II. TERM.....	3
III. NOTICE.....	3
IV. COMPLIANCE WITH LAWS.....	4
V. GOVERNING LAWS AND JURISDICTION.....	4
VI. LICENSES AND PERMITS.....	4
VII. PERFORMANCE STANDARDS.....	4
VIII. OWNERSHIP OF WORK PRODUCT	4
IX. STATUS OF CONTRACTOR.....	5
X. CONTRACTOR IDENTIFICATION	5
XI. BENEFITS WAIVER.....	6
XII. CONFLICT OF INTEREST.....	6
XIII. USE OF FUNDS.....	6
XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES.....	6
XV. INDEMNIFICATION	7
XVI. INSURANCE.....	7
XVII. INFORMATION TECHNOLOGY ASSURANCES.....	7
XVIII. WEB ACCESSIBILITY	7
XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS	8

TABLE OF CONTENTS [cont.]

	<u>Page</u>
XX. LEGAL TRAINING INFORMATION	8
XXI. SUBCONTRACTS, ASSIGNMENT.....	8
XXII. AMENDMENT AND WAIVER.....	9
XXIII. SUCCESSORS.....	9
XXIV. TIME.....	9
XXV. INTERPRETATION	9
XXVI. DIRECTOR.....	9
XXVII. DISPUTES.....	9
XXVIII. TERMINATION.....	9
XXIX. REPORTS.....	10
XXX. AUDITS AND RECORDS	10
XXXI. PRIOR AGREEMENTS	11
XXXII. SEVERABILITY	11
XXXIII. FORCE MAJEURE.....	11
XXXIV. SURVIVAL OF TERMS.....	11
XXXV. DUPLICATE COUNTERPARTS.....	11
EXHIBIT A TO AGREEMENT	13
EXHIBIT B TO AGREEMENT.....	14
EXHIBIT C TO AGREEMENT	15

**2013-2014 Transient Occupancy Tax
AGREEMENT BETWEEN COUNTY OF SACRAMENTO
AND CITY OF SACRAMENTO FOR FUNDING OF
CENTER FOR SACRAMENTO HISTORY**

THIS AGREEMENT is made and entered into as of this 12th day of August 2013, by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and CITY OF SACRAMENTO, hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, pursuant to the provisions of Subdivision K of Section 15 of the Charter of the County of Sacramento, and Section 63000 of the Government Code of the State of California, the Board of Supervisors of COUNTY is desirous to promote economic revitalization, future development, and a healthy climate for jobs in California which will depend upon a well-conceived system of public improvements, services and amenities that are essential to the economic well-being of the citizens of the state and County and are necessary to maintain, as well as create, employment within the state and County; and

WHEREAS, the services to be performed by CONTRACTOR pursuant to this contract will serve to exhibit and/or enhance the economic benefits to Sacramento County and its residents; and

WHEREAS, COUNTY AND CONTRACTOR desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, COUNTY and CONTRACTOR agree as follows:

I. SCOPE OF SERVICES

CONTRACTOR shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

II. TERM

This Agreement shall be effective and commence as of the date first written above and shall end on June 30, 2014.

III. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO COUNTY
County Executive Office
Attn: Troy Givans
700 H Street, Ste. 7650
Sacramento, CA 95814

TO CONTRACTOR
City of Sacramento
Attn: Barbara Bonebrake
1030 15th Street, Suite 250
Sacramento, CA 95814-4025

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

IV. COMPLIANCE WITH LAWS

CONTRACTOR shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

V. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

VI. LICENSES AND PERMITS

- A. CONTRACTOR shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.
- B. CONTRACTOR further certifies to COUNTY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, State or county government contracts. Contractor certifies that it shall not contract with a Subcontractor that is so debarred or suspended.

VII. PERFORMANCE STANDARDS

CONTRACTOR shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONTRACTOR'S services.

VIII. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONTRACTOR hereunder shall be the exclusive property of COUNTY and shall be delivered to COUNTY upon completion of the services authorized hereunder. CONTRACTOR may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by COUNTY. COUNTY recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of CONTRACTOR's services and are not designed for use other than what is intended by this Agreement.

IX. STATUS OF CONTRACTOR

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is independent and that no relationship of employer-employee exists between the parties hereto. CONTRACTOR's assigned personnel shall not be entitled to any benefits payable to employees of COUNTY. COUNTY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this agreement; and as an independent contractor, CONTRACTOR hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.
- B. It is further understood and agreed by the parties hereto that CONTRACTOR in the performance of its obligation hereunder is subject to the control or direction of COUNTY as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONTRACTOR for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR, and the COUNTY shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent contractor and not an employee of COUNTY, neither the CONTRACTOR nor CONTRACTOR's assigned personnel shall have any entitlement as a County employee, right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever. CONTRACTOR shall not be covered by worker's compensation; nor shall CONTRACTOR be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the COUNTY to employees of the COUNTY.
- E. It is further understood and agreed that CONTRACTOR must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel under the terms and conditions of this agreement.

X. CONTRACTOR IDENTIFICATION

CONTRACTOR shall provide the COUNTY with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: CONTRACTOR's name, address, telephone number, social security number, and whether dependent health insurance coverage is available to CONTRACTOR.

XI. BENEFITS WAIVER

If CONTRACTOR is unincorporated, CONTRACTOR acknowledges and agrees that CONTRACTOR is not entitled to receive the following benefits and/or compensation from COUNTY: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between COUNTY and its employee organizations. Should CONTRACTOR or any employee or agent of CONTRACTOR seek to obtain such benefits from COUNTY, CONTRACTOR agrees to indemnify and hold harmless COUNTY from any and all claims that may be made against COUNTY for such benefits.

XII. CONFLICT OF INTEREST

CONTRACTOR and CONTRACTOR's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

XIII. USE OF FUNDS

It is understood and agreed that no funds provided by COUNTY pursuant to this Agreement shall be used by CONTRACTOR for any political activity or political contribution.

XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONTRACTOR agrees and assures COUNTY that CONTRACTOR and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of COUNTY, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of COUNTY employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONTRACTOR represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONTRACTOR agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

- D. CONTRACTOR shall include this nondiscrimination provision in all subcontracts related to this Agreement.

XV. INDEMNIFICATION

For work or services provided under this Agreement, which are not professional services, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder, except for loss caused by the sole negligence of COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers.

For professional services provided under this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this Agreement.

XVI. INSURANCE

CONTRACTOR, at its sole cost and expense, shall carry insurance - or self-insure - its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, property, professional liability, and business automobile liability adequate to cover its potential liabilities hereunder. CONTRACTOR agrees to provide the other thirty (30) days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverages.

XVII. INFORMATION TECHNOLOGY ASSURANCES

CONTRACTOR shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONTRACTOR in the performance of services under this Agreement, other than those owned or provided by COUNTY, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to COUNTY under this Agreement.

XVIII. WEB ACCESSIBILITY

CONTRACTOR shall ensure that all web sites and web applications provided by CONTRACTOR pursuant to this Agreement shall comply with COUNTY's Web Accessibility Policy adopted by the Board of Supervisors on February 18, 2003 as well as any approved amendment thereto.

XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit B, or Exhibit B as modified by COUNTY in accordance with express provisions in this Agreement.
- B. CONTRACTOR shall submit an invoice on the forms and in accordance with the procedures prescribed by COUNTY on a monthly basis. Invoices shall be submitted to COUNTY no later than the fifteenth (15th) day of the month following the invoice period, and COUNTY shall pay CONTRACTOR within thirty (30) days after receipt of an appropriate and correct invoice. Notwithstanding the foregoing, COUNTY, in its discretion and at the request of CONTRACTOR, may, in writing, permit CONTRACTOR to provide a single invoice for the total contract amount.
- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by COUNTY unless CONTRACTOR has obtained prior written COUNTY approval to the contrary.
- D. CONTRACTOR shall maintain for four years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event CONTRACTOR fails to comply with any provisions of this Agreement, COUNTY may withhold payment until such non-compliance has been corrected.

XX. LEGAL TRAINING INFORMATION

If under this Agreement CONTRACTOR is to provide training of County personnel on legal issues, then CONTRACTOR shall submit all training and program material for prior review and written approval by County Counsel. Only those materials approved by County Counsel shall be utilized.

XXI. SUBCONTRACTS, ASSIGNMENT

- A. CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services delivered under this Agreement. CONTRACTOR remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONTRACTOR shall be held responsible by COUNTY for the performance of any subcontractor whether approved by COUNTY or not.
- B. This Agreement is not assignable by CONTRACTOR in whole or in part, without the prior written consent of COUNTY.

XXII. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by DIRECTOR and counsel for COUNTY.

XXIII. SUCCESSORS

This Agreement shall bind the successors of COUNTY and CONTRACTOR in the same manner as if they were expressly named.

XXIV. TIME

Time is of the essence of this Agreement.

XXV. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XXVI. DIRECTOR

As used in this Agreement, "DIRECTOR" shall mean the Assistant County Executive, or his/her designee.

XXVII. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

XXVIII. TERMINATION

- A. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).

- B. COUNTY may terminate this Agreement for cause immediately upon giving written notice to CONTRACTOR should CONTRACTOR materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. COUNTY may terminate or amend this Agreement immediately upon giving written notice to CONTRACTOR, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof; 2) if funds in COUNTY's yearly proposed and/or final budget are not appropriated by COUNTY for this Agreement or any portion thereof; or 3) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by COUNTY as a result of mid-year budget reductions.
- D. If this Agreement is terminated under paragraph A or C above, CONTRACTOR shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, CONTRACTOR shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of CONTRACTOR covered by this Agreement, less payments of compensation previously made. In no event, however, shall COUNTY pay CONTRACTOR an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.
- E. CONTRACTOR shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONTRACTOR can legally cancel.

XXIX. REPORTS

CONTRACTOR shall, without additional compensation therefore, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by DIRECTOR concerning CONTRACTOR's activities as they affect the contract duties and purposes herein. COUNTY shall explain procedures for reporting the required information.

XXX. AUDITS AND RECORDS

Upon COUNTY's request, COUNTY or its designee shall have the right at reasonable times and intervals to audit, at CONTRACTOR's premises, CONTRACTOR's financial and program records as COUNTY deems necessary to determine CONTRACTOR's compliance with legal and contractual requirements and the correctness of claims submitted by CONTRACTOR. CONTRACTOR shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon COUNTY's request at COUNTY's expense. COUNTY shall have the right to withhold any payment under this agreement until CONTRACTOR has provided access to CONTRACTOR'S financial and program records related to this Agreement.

XXXI. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between COUNTY and CONTRACTOR regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between COUNTY and CONTRACTOR regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

XXXII. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this agreement are declared severable.

XXXIII. FORCE MAJEURE

Neither CONTRACTOR nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

XXXIV. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

XXXV. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

COUNTY OF SACRAMENTO,
a political subdivision of the
State of California

CITY OF SACRAMENTO

By: _____
Navdeep S. Gill,
Assistant County Executive

By: _____
Contractor

Date: _____

Date: _____

APPROVED AS TO FORM:

Kenneth C. Boudick
CITY ATTORNEY

**EXHIBIT A to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

Organization: Center for Sacramento History

Total Grant: \$145,350

Project Scope of Work

The City of Sacramento will receive the above grant to fund activities for the Center for Sacramento History in the 2013-2014 County Fiscal Year.

The Center for Sacramento History's mission ~~as a public agency~~ is to illuminate and promote the exploration and analysis of the social, political, geographic, and cultural history of the City and County of Sacramento.

The contribution provided by the county will support staff costs and utilities for maintaining climate control for two facilities (551 Sequoia Pacific and McClellan Park). A staff of two full-time archivists provide access to the collections and work on the cataloging of county records.

The joint operations agreement provides savings to the County for the storage and access to their public records. The highest demand for researcher access is to our county records. Over 45% of the records pulled by staff are for county records, with the highest demand being for County Recorder records, Board of Supervisor records, and court records including civil and probate records. The Center for Sacramento History (CSH) provides county residents and visiting scholars public access to county records (as required by the State's Public Records Act) at a cost far below any private archival storage facility.

CSH staff does outreach into the County by speaking to groups in: Citrus Heights, Carmichael, Folsom, Rancho Cordova, Fair Oaks and Natomas. In addition the CSH staff continues its speaker series drawing residents from around the County to lectures and book signings related to local history topics.

**EXHIBIT B to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

COMPENSATION

I. MAXIMUM PAYMENT TO CONTRACTOR

The Maximum Total Payment Amount under this Agreement is:

One Hundred Forty-Five Thousand Three Hundred Fifty Dollars (\$145,350)

Compensation Summary	
Total	\$145,350

**CONTRACTOR CERTIFICATION OF COMPLIANCE FORM
EXHIBIT C**

WHEREAS it is in the best interest of Sacramento County that those entities with whom the County does business, or proposes to do business, demonstrate financial responsibility, integrity and lawfulness, it is inequitable for those entities with whom the County does business to receive County funds while failing to pay court-ordered child, family and spousal support which shifts the support of their dependents onto the public treasury. Therefore, in order to assist the Sacramento County Department of Child Support Services in its efforts to collect unpaid court-ordered child, family and spousal support orders, the following certification must be provided by all entities that do business or desire to do business with the county.

1) CONTRACTOR hereby certifies:

(a) the CONTRACTOR is a government or non-profit entity (exempt), Yes No

(b) the CONTRACTOR has no Principal Owners (25% or more) (exempt), Yes No

(c) each Principal Owner (25% or more),
does not have any existing child support orders, Yes No

(d) CONTRACTOR'S Principal Owners are currently in substantial compliance with any court-ordered child, family and spousal support order, including orders to provide current residence address, employment information, and whether dependent health insurance coverage is available. If not in compliance, Principal Owner has become current or has arranged a payment schedule with the Department of Child Support Services or the court Yes No

2) CONTRACTOR shall certify that each of the following statements is true:

(a) CONTRACTOR has fully complied with all applicable state and federal reporting requirements relating to employment reporting for its employees; and

(b) CONTRACTOR has fully complied with all lawfully served wage and earnings assignment orders and notices of assignment and will continue to maintain compliance.

Note: Failure to comply with state and federal reporting requirements regarding a contractor's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment constitutes a default under the contract; and failures to cure the default within 90 days of notice by the County shall be grounds for termination of the contract. Principal Owners can contact the Sacramento Department of Child Support Services at (916) 875-7400 or (888) 271-3906, by writing to P.O. Box 269112, Sacramento, 95826-9112, or by E-mailing dcssbiddercompliance@saccounty.net.

Contractor

Printed Name

Date



Requires Council Approval: No YES Meeting:

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Non Professional Services Attachment: Original Number:
PO Type: Interagenct Agreement Original Document Number:
\$ Not to Exceed: \$ 150,000 Original Contract Amount: \$
Other Party: County of Sacramento Deed: None Included Separate
Project Name: Sacramento Metropolitan Arts Comm No. Certified Copies of Document: 1
Project Number:
Bid Transaction #: E/SBE-DBE-M/WBE:

Department Information

Department: CCL Division: Admin
Project Mgr: Eva Chiang Supervisor: Rebecca Bitter
Contract Services: Date:08/05/13 Division Mgr: Rebecca Bitter
Phone Number: 808-5898 Org Number: 17001011
Comment:

Review and Signature Routing

Department Signature or Initial Date
Project Mgr: [Signature] 8/15/13
Accounting:
Contract Services:
Supervisor:
Division Manager: [Signature] 8/9/13
City Attorney Signature or Initial Date
City Attorney:

Send Interoffice Mail Notify for Pick Up

Authorization Signature or Initial Date
Bonebrake, Barbara
Department Director:
City Mgr: yes No

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the Contract

For City Clerk Processing
Finalized:
Initial:
Date:
Imaged:
Initial:
Date:
Received:
(City Clerk Stamp Here)

TABLE OF CONTENTS

	<u>Page</u>
I. SCOPE OF SERVICES.....	3
II. TERM.....	3
III. NOTICE.....	3
IV. COMPLIANCE WITH LAWS.....	4
V. GOVERNING LAWS AND JURISDICTION.....	4
VI. LICENSES AND PERMITS.....	4
VII. PERFORMANCE STANDARDS.....	4
VIII. OWNERSHIP OF WORK PRODUCT	4
IX. STATUS OF CONTRACTOR.....	5
X. CONTRACTOR IDENTIFICATION	5
XI. BENEFITS WAIVER.....	6
XII. CONFLICT OF INTEREST.....	6
XIII. USE OF FUNDS.....	6
XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES.....	6
XV. INDEMNIFICATION	7
XVI. INSURANCE.....	7
XVII. INFORMATION TECHNOLOGY ASSURANCES.....	7
XVIII. WEB ACCESSIBILITY	7
XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS	8

TABLE OF CONTENTS [cont.]

	<u>Page</u>
XX. LEGAL TRAINING INFORMATION	8
XXI. SUBCONTRACTS, ASSIGNMENT	8
XXII. AMENDMENT AND WAIVER.....	9
XXIII. SUCCESSORS	9
XXIV. TIME.....	9
XXV. INTERPRETATION	9
XXVI. DIRECTOR.....	9
XXVII. DISPUTES.....	9
XXVIII. TERMINATION.....	9
XXIX. REPORTS.....	10
XXX. AUDITS AND RECORDS	10
XXXI. PRIOR AGREEMENTS	11
XXXII. SEVERABILITY	11
XXXIII. FORCE MAJEURE.....	11
XXXIV. SURVIVAL OF TERMS.....	11
XXXV. DUPLICATE COUNTERPARTS.....	11
EXHIBIT A TO AGREEMENT	13
EXHIBIT B TO AGREEMENT.....	15
EXHIBIT C TO AGREEMENT	16

**2013-2014 Transient Occupancy Tax
AGREEMENT BETWEEN COUNTY OF SACRAMENTO
AND CITY OF SACRAMENTO FOR FUNDING OF
SACRAMENTO METROPOLITAN ARTS COMMISSION**

THIS AGREEMENT is made and entered into as of this 12th day of August 2013, by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and CITY OF SACRAMENTO, hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, pursuant to the provisions of Subdivision K of Section 15 of the Charter of the County of Sacramento, and Section 63000 of the Government Code of the State of California, the Board of Supervisors of COUNTY is desirous to promote economic revitalization, future development, and a healthy climate for jobs in California which will depend upon a well-conceived system of public improvements, services and amenities that are essential to the economic well-being of the citizens of the state and County and are necessary to maintain, as well as create, employment within the state and County; and

WHEREAS, the services to be performed by CONTRACTOR pursuant to this contract will serve to exhibit and/or enhance the economic benefits to Sacramento County and its residents; and

WHEREAS, COUNTY AND CONTRACTOR desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, COUNTY and CONTRACTOR agree as follows:

I. SCOPE OF SERVICES

CONTRACTOR shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

II. TERM

This Agreement shall be effective and commence as of the date first written above and shall end on June 30, 2014.

III. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO COUNTY
County Executive Office
Attn: Troy Givans
700 H Street, Ste. 7650
Sacramento, CA 95814

TO CONTRACTOR
City of Sacramento
Attn: Barbara Bonebrake
1030 15th Street, Suite 250
Sacramento, CA 95814-4025

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

IV. COMPLIANCE WITH LAWS

CONTRACTOR shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

V. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

VI. LICENSES AND PERMITS

- A. CONTRACTOR shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.
- B. CONTRACTOR further certifies to COUNTY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, State or county government contracts. Contractor certifies that it shall not contract with a Subcontractor that is so debarred or suspended.

VII. PERFORMANCE STANDARDS

CONTRACTOR shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONTRACTOR'S services.

VIII. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONTRACTOR hereunder shall be the exclusive property of COUNTY and shall be delivered to COUNTY upon completion of the services authorized hereunder. CONTRACTOR may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by COUNTY. COUNTY recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of CONTRACTOR's services and are not designed for use other than what is intended by this Agreement.

IX. STATUS OF CONTRACTOR

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is independent and that no relationship of employer-employee exists between the parties hereto. CONTRACTOR's assigned personnel shall not be entitled to any benefits payable to employees of COUNTY. COUNTY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this agreement; and as an independent contractor, CONTRACTOR hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.
- B. It is further understood and agreed by the parties hereto that CONTRACTOR in the performance of its obligation hereunder is subject to the control or direction of COUNTY as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONTRACTOR for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR, and the COUNTY shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent contractor and not an employee of COUNTY, neither the CONTRACTOR nor CONTRACTOR's assigned personnel shall have any entitlement as a County employee, right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever. CONTRACTOR shall not be covered by worker's compensation; nor shall CONTRACTOR be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the COUNTY to employees of the COUNTY.
- E. It is further understood and agreed that CONTRACTOR must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel under the terms and conditions of this agreement.

X. CONTRACTOR IDENTIFICATION

CONTRACTOR shall provide the COUNTY with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: CONTRACTOR's name, address, telephone number, social security number, and whether dependent health insurance coverage is available to CONTRACTOR.

XI. BENEFITS WAIVER

If CONTRACTOR is unincorporated, CONTRACTOR acknowledges and agrees that CONTRACTOR is not entitled to receive the following benefits and/or compensation from COUNTY: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between COUNTY and its employee organizations. Should CONTRACTOR or any employee or agent of CONTRACTOR seek to obtain such benefits from COUNTY, CONTRACTOR agrees to indemnify and hold harmless COUNTY from any and all claims that may be made against COUNTY for such benefits.

XII. CONFLICT OF INTEREST

CONTRACTOR and CONTRACTOR's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

XIII. USE OF FUNDS

It is understood and agreed that no funds provided by COUNTY pursuant to this Agreement shall be used by CONTRACTOR for any political activity or political contribution.

XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONTRACTOR agrees and assures COUNTY that CONTRACTOR and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of COUNTY, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of COUNTY employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONTRACTOR represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONTRACTOR agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

- D. CONTRACTOR shall include this nondiscrimination provision in all subcontracts related to this Agreement.

XV. INDEMNIFICATION

For work or services provided under this Agreement, which are not professional services, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder, except for loss caused by the sole negligence of COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers.

For professional services provided under this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this Agreement.

XVI. INSURANCE

CONTRACTOR, at its sole cost and expense, shall carry insurance - or self-insure - its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, property, professional liability, and business automobile liability adequate to cover its potential liabilities hereunder. CONTRACTOR agrees to provide the other thirty (30) days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverages.

XVII. INFORMATION TECHNOLOGY ASSURANCES

CONTRACTOR shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONTRACTOR in the performance of services under this Agreement, other than those owned or provided by COUNTY, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to COUNTY under this Agreement.

XVIII. WEB ACCESSIBILITY

CONTRACTOR shall ensure that all web sites and web applications provided by CONTRACTOR pursuant to this Agreement shall comply with COUNTY's Web Accessibility Policy adopted by the Board of Supervisors on February 18, 2003 as well as any approved amendment thereto.

XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit B, or Exhibit B as modified by COUNTY in accordance with express provisions in this Agreement.
- B. CONTRACTOR shall submit an invoice on the forms and in accordance with the procedures prescribed by COUNTY on a monthly basis. Invoices shall be submitted to COUNTY no later than the fifteenth (15th) day of the month following the invoice period, and COUNTY shall pay CONTRACTOR within thirty (30) days after receipt of an appropriate and correct invoice. Notwithstanding the foregoing, COUNTY, in its discretion and at the request of CONTRACTOR, may, in writing, permit CONTRACTOR to provide a single invoice for the total contract amount.
- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by COUNTY unless CONTRACTOR has obtained prior written COUNTY approval to the contrary.
- D. CONTRACTOR shall maintain for four years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event CONTRACTOR fails to comply with any provisions of this Agreement, COUNTY may withhold payment until such non-compliance has been corrected.

XX. LEGAL TRAINING INFORMATION

If under this Agreement CONTRACTOR is to provide training of County personnel on legal issues, then CONTRACTOR shall submit all training and program material for prior review and written approval by County Counsel. Only those materials approved by County Counsel shall be utilized.

XXI. SUBCONTRACTS, ASSIGNMENT

- A. CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services delivered under this Agreement. CONTRACTOR remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONTRACTOR shall be held responsible by COUNTY for the performance of any subcontractor whether approved by COUNTY or not.
- B. This Agreement is not assignable by CONTRACTOR in whole or in part, without the prior written consent of COUNTY.

XXII. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by DIRECTOR and counsel for COUNTY.

XXIII. SUCCESSORS

This Agreement shall bind the successors of COUNTY and CONTRACTOR in the same manner as if they were expressly named.

XXIV. TIME

Time is of the essence of this Agreement.

XXV. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XXVI. DIRECTOR

As used in this Agreement, "DIRECTOR" shall mean the Assistant County Executive, or his/her designee.

XXVII. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

XXVIII. TERMINATION

- A. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).

- B. COUNTY may terminate this Agreement for cause immediately upon giving written notice to CONTRACTOR should CONTRACTOR materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. COUNTY may terminate or amend this Agreement immediately upon giving written notice to CONTRACTOR, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof; 2) if funds in COUNTY's yearly proposed and/or final budget are not appropriated by COUNTY for this Agreement or any portion thereof; or 3) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by COUNTY as a result of mid-year budget reductions.
- D. If this Agreement is terminated under paragraph A or C above, CONTRACTOR shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, CONTRACTOR shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of CONTRACTOR covered by this Agreement, less payments of compensation previously made. In no event, however, shall COUNTY pay CONTRACTOR an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.
- E. CONTRACTOR shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONTRACTOR can legally cancel.

XXIX. REPORTS

CONTRACTOR shall, without additional compensation therefore, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by DIRECTOR concerning CONTRACTOR's activities as they affect the contract duties and purposes herein. COUNTY shall explain procedures for reporting the required information.

XXX. AUDITS AND RECORDS

Upon COUNTY's request, COUNTY or its designee shall have the right at reasonable times and intervals to audit, at CONTRACTOR's premises, CONTRACTOR's financial and program records as COUNTY deems necessary to determine CONTRACTOR's compliance with legal and contractual requirements and the correctness of claims submitted by CONTRACTOR. CONTRACTOR shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon COUNTY's request at COUNTY's expense. COUNTY shall have the right to withhold any payment under this agreement until CONTRACTOR has provided access to CONTRACTOR'S financial and program records related to this Agreement.

XXXI. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between COUNTY and CONTRACTOR regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between COUNTY and CONTRACTOR regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

XXXII. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this agreement are declared severable.

XXXIII. FORCE MAJEURE

Neither CONTRACTOR nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

XXXIV. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

XXXV. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

**COUNTY OF SACRAMENTO,
a political subdivision of the
State of California**

CITY OF SACRAMENTO

By: _____
Navdeep S. Gill,
Assistant County Executive

By: _____
Contactor

Date: _____

Date: _____

APPROVED AS TO FORM:

Kenneth C. Pundick

CITY ATTORNEY

**EXHIBIT A to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

Organization: Sacramento Metropolitan Arts Commission

Total Grant: \$150,000

Project Scope of Work

The City of Sacramento will receive the above grant to fund activities for the Sacramento Metropolitan Arts Commission in the 2013-2014 County Fiscal Year.

A portion of the contribution will be allocated to arts organizations that provide rich cultural offerings, stimulate the economy, and provide outreach to Sacramento youth and disadvantaged populations. Funds will also support administrative staff.

SMAC's mission is advancing the community through arts and culture. SMAC actively fosters, develops and advocates support of the arts within Sacramento City and County. SMAC is a valuable resource and community hub, helping to create a vital arts scene that advances the quality of life in the Sacramento region for residents and visitors, while contributing to the economy.

SMAC is committed to:

- Supporting the wealth of artistic talent in the Sacramento region;
- Supporting the arts because they are a vital force for advancing economic opportunities and creating a more livable region;
- Providing outreach to the widest and most diverse citizenry, including residents, cultural travelers, arts novices and veterans, and arts participants of all ages, neighborhoods, ethnicities and cultures;
- Supporting a strong City-County partnership;
- Being a supportive and empowering resource for artists and arts organizations; and
- Adhering to the tenets of inclusion, access, integrity, accountability, and equity in all aspects of the agency's programs and operations.

SMAC Programs: SMAC is dedicated to the principles of inclusion, accessibility and diversity. All of SMAC's programs are implemented through open, accountable and transparent public processes:

- **Art in Public Places:** established to expand public experiences of visual art by installing artworks in public spaces.
- **Grants and Cultural Programs:** supports individual arts and arts organizations that enrich the Sacramento region by offering them a variety of resources and grant opportunities to encourage their growth and to broaden their offerings to Sacramento arts communities.

- **Arts Education:** provides access to and engagement in, arts learning experiences for residents of all ages in the greater Sacramento region. The program does this by providing resources and collaborative partnership opportunities for arts organizations, social service and community organizations, schools, teaching artists, and educators to develop educational programming.
- **Arts Marketing and Outreach:** SMAC sponsors cultural tourism and arts marketing initiatives designed to engage residents and visitors in the rich and vibrant Sacramento art community.

**EXHIBIT B to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

COMPENSATION

I. MAXIMUM PAYMENT TO CONTRACTOR

The Maximum Total Payment Amount under this Agreement is:

One Hundred Fifty Thousand Dollars (\$150,000)

Compensation Summary	
Total	\$150,000

**CONTRACTOR CERTIFICATION OF COMPLIANCE FORM
EXHIBIT C**

WHEREAS it is in the best interest of Sacramento County that those entities with whom the County does business, or proposes to do business, demonstrate financial responsibility, integrity and lawfulness, it is inequitable for those entities with whom the County does business to receive County funds while failing to pay court-ordered child, family and spousal support which shifts the support of their dependents onto the public treasury. Therefore, in order to assist the Sacramento County Department of Child Support Services in its efforts to collect unpaid court-ordered child, family and spousal support orders, the following certification must be provided by all entities that do business or desire to do business with the county.

1) CONTRACTOR hereby certifies:

(a) the CONTRACTOR is a government or non-profit entity (exempt), Yes No

(b) the CONTRACTOR has no Principal Owners (25% or more) (exempt), Yes No

(c) each Principal Owner (25% or more),
does not have any existing child support orders, Yes No

(d) CONTRACTOR'S Principal Owners are currently in substantial compliance with any court-ordered child, family and spousal support order, including orders to provide current residence address, employment information, and whether dependent health insurance coverage is available. If not in compliance, Principal Owner has become current or has arranged a payment schedule with the Department of Child Support Services or the court Yes No

2) CONTRACTOR shall certify that each of the following statements is true:

(a) CONTRACTOR has fully complied with all applicable state and federal reporting requirements relating to employment reporting for its employees; and

(b) CONTRACTOR has fully complied with all lawfully served wage and earnings assignment orders and notices of assignment and will continue to maintain compliance.

Note: Failure to comply with state and federal reporting requirements regarding a contractor's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment constitutes a default under the contract; and failures to cure the default within 90 days of notice by the County shall be grounds for termination of the contract. Principal Owners can contact the Sacramento Department of Child Support Services at (916) 875-7400 or (888) 271-3906, by writing to P.O. Box 269112, Sacramento, 95826-9112, or by E-mailing dcssbiddercompliance@saccounty.net.

Contractor

Printed Name

Date



City of Sacramento

Tax ID # if applicable:

Requires Council Approval: No YES Meeting:

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Non Professional Services

Attachment: Original Number:

PO Type: Interagenct Agreement

Original Document Number:

\$ Not to Exceed: \$ 93,205

Original Contract Amount: \$

Other Party: County of Sacramento

Deed: None Included Separate

Project Name: Sacramento History Museum

No. Certified Copies of Document: 1

Project Number:

Bid Transaction #:

E/SBE-DBE-M/WBE:

Department Information

Department: CCL

Division: Admin

Project Mgr: Eva Chiang

Supervisor: Rebecca Bitter

Contract Services:

Date: 08/05/13

Division Mgr: Rebecca Bitter

Phone Number: 808-5898

Org Number: 17001011

Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	<i>EC</i>	8/5/13
Accounting:		
Contract Services:		
Supervisor:		
Division Manager:		

City Attorney	Signature or Initial	Date
City Attorney:	<i>VCB</i>	8/9/13

Send Interoffice Mail Notify for Pick Up

Authorization	Signature or Initial	Date
Bonebrake, Barbara Department Director:		
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the Contract

For City Clerk Processing

Finalized:
Initial: _____
Date: _____

Imaged:
Initial: _____
Date: _____

Received:
(City Clerk Stamp Here)

TABLE OF CONTENTS

	<u>Page</u>
I. SCOPE OF SERVICES.....	3
II. TERM.....	3
III. NOTICE.....	3
IV. COMPLIANCE WITH LAWS.....	4
V. GOVERNING LAWS AND JURISDICTION.....	4
VI. LICENSES AND PERMITS.....	4
VII. PERFORMANCE STANDARDS.....	4
VIII. OWNERSHIP OF WORK PRODUCT	4
IX. STATUS OF CONTRACTOR.....	5
X. CONTRACTOR IDENTIFICATION	5
XI. BENEFITS WAIVER.....	6
XII. CONFLICT OF INTEREST.....	6
XIII. USE OF FUNDS.....	6
XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES	6
XV. INDEMNIFICATION	7
XVI. INSURANCE.....	7
XVII. INFORMATION TECHNOLOGY ASSURANCES.....	7
XVIII. WEB ACCESSIBILITY	7
XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS	8

TABLE OF CONTENTS [cont.]

	<u>Page</u>
XX. LEGAL TRAINING INFORMATION	8
XXI. SUBCONTRACTS, ASSIGNMENT	8
XXII. AMENDMENT AND WAIVER.....	9
XXIII. SUCCESSORS	9
XXIV. TIME.....	9
XXV. INTERPRETATION	9
XXVI. DIRECTOR.....	9
XXVII. DISPUTES	9
XXVIII. TERMINATION	9
XXIX. REPORTS.....	10
XXX. AUDITS AND RECORDS	10
XXXI. PRIOR AGREEMENTS	11
XXXII. SEVERABILITY	11
XXXIII. FORCE MAJEURE.....	11
XXXIV. SURVIVAL OF TERMS.....	11
XXXV. DUPLICATE COUNTERPARTS.....	11
EXHIBIT A TO AGREEMENT	13
EXHIBIT B TO AGREEMENT	14
EXHIBIT C TO AGREEMENT	15

**2013-2014 Transient Occupancy Tax
AGREEMENT BETWEEN COUNTY OF SACRAMENTO
AND CITY OF SACRAMENTO FOR FUNDING OF
SACRAMENTO HISTORY MUSEUM**

THIS AGREEMENT is made and entered into as of this 12th day of August 2013, by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and CITY OF SACRAMENTO, hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, pursuant to the provisions of Subdivision K of Section 15 of the Charter of the County of Sacramento, and Section 63000 of the Government Code of the State of California, the Board of Supervisors of COUNTY is desirous to promote economic revitalization, future development, and a healthy climate for jobs in California which will depend upon a well-conceived system of public improvements, services and amenities that are essential to the economic well-being of the citizens of the state and County and are necessary to maintain, as well as create, employment within the state and County; and

WHEREAS, the services to be performed by CONTRACTOR pursuant to this contract will serve to exhibit and/or enhance the economic benefits to Sacramento County and its residents; and

WHEREAS, COUNTY AND CONTRACTOR desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, COUNTY and CONTRACTOR agree as follows:

I. SCOPE OF SERVICES

CONTRACTOR shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

II. TERM

This Agreement shall be effective and commence as of the date first written above and shall end on June 30, 2014.

III. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO COUNTY
County Executive Office
Attn: Troy Givans
700 H Street, Ste. 7650
Sacramento, CA 95814

TO CONTRACTOR
City of Sacramento/
Attn: Barbara Bonebrake
1030 15th Street, Suite 250
Sacramento, CA 95814-4025

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

IV. COMPLIANCE WITH LAWS

CONTRACTOR shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

V. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

VI. LICENSES AND PERMITS

- A. CONTRACTOR shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.
- B. CONTRACTOR further certifies to COUNTY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, State or county government contracts. Contractor certifies that it shall not contract with a Subcontractor that is so debarred or suspended.

VII. PERFORMANCE STANDARDS

CONTRACTOR shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONTRACTOR'S services.

VIII. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONTRACTOR hereunder shall be the exclusive property of COUNTY and shall be delivered to COUNTY upon completion of the services authorized hereunder. CONTRACTOR may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by COUNTY. COUNTY recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of CONTRACTOR's services and are not designed for use other than what is intended by this Agreement.

IX. STATUS OF CONTRACTOR

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is independent and that no relationship of employer-employee exists between the parties hereto. CONTRACTOR's assigned personnel shall not be entitled to any benefits payable to employees of COUNTY. COUNTY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this agreement; and as an independent contractor, CONTRACTOR hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.
- B. It is further understood and agreed by the parties hereto that CONTRACTOR in the performance of its obligation hereunder is subject to the control or direction of COUNTY as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONTRACTOR for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR, and the COUNTY shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent contractor and not an employee of COUNTY, neither the CONTRACTOR nor CONTRACTOR's assigned personnel shall have any entitlement as a County employee, right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever. CONTRACTOR shall not be covered by worker's compensation; nor shall CONTRACTOR be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the COUNTY to employees of the COUNTY.
- E. It is further understood and agreed that CONTRACTOR must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel under the terms and conditions of this agreement.

X. CONTRACTOR IDENTIFICATION

CONTRACTOR shall provide the COUNTY with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: CONTRACTOR's name, address, telephone number, social security number, and whether dependent health insurance coverage is available to CONTRACTOR.

XI. BENEFITS WAIVER

If CONTRACTOR is unincorporated, CONTRACTOR acknowledges and agrees that CONTRACTOR is not entitled to receive the following benefits and/or compensation from COUNTY: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between COUNTY and its employee organizations. Should CONTRACTOR or any employee or agent of CONTRACTOR seek to obtain such benefits from COUNTY, CONTRACTOR agrees to indemnify and hold harmless COUNTY from any and all claims that may be made against COUNTY for such benefits.

XII. CONFLICT OF INTEREST

CONTRACTOR and CONTRACTOR's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

XIII. USE OF FUNDS

It is understood and agreed that no funds provided by COUNTY pursuant to this Agreement shall be used by CONTRACTOR for any political activity or political contribution.

XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONTRACTOR agrees and assures COUNTY that CONTRACTOR and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of COUNTY, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of COUNTY employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONTRACTOR represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONTRACTOR agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

- D. CONTRACTOR shall include this nondiscrimination provision in all subcontracts related to this Agreement.

XV. INDEMNIFICATION

For work or services provided under this Agreement, which are not professional services, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder, except for loss caused by the sole negligence of COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers.

For professional services provided under this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this Agreement.

XVI. INSURANCE

CONTRACTOR, at its sole cost and expense, shall carry insurance - or self-insure - its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, property, professional liability, and business automobile liability adequate to cover its potential liabilities hereunder. CONTRACTOR agrees to provide the other thirty (30) days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverages.

XVII. INFORMATION TECHNOLOGY ASSURANCES

CONTRACTOR shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONTRACTOR in the performance of services under this Agreement, other than those owned or provided by COUNTY, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to COUNTY under this Agreement.

XVIII. WEB ACCESSIBILITY

CONTRACTOR shall ensure that all web sites and web applications provided by CONTRACTOR pursuant to this Agreement shall comply with COUNTY's Web Accessibility Policy adopted by the Board of Supervisors on February 18, 2003 as well as any approved amendment thereto.

XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit B, or Exhibit B as modified by COUNTY in accordance with express provisions in this Agreement.
- B. CONTRACTOR shall submit an invoice on the forms and in accordance with the procedures prescribed by COUNTY on a monthly basis. Invoices shall be submitted to COUNTY no later than the fifteenth (15th) day of the month following the invoice period, and COUNTY shall pay CONTRACTOR within thirty (30) days after receipt of an appropriate and correct invoice. Notwithstanding the foregoing, COUNTY, in its discretion and at the request of CONTRACTOR, may, in writing, permit CONTRACTOR to provide a single invoice for the total contract amount.
- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by COUNTY unless CONTRACTOR has obtained prior written COUNTY approval to the contrary.
- D. CONTRACTOR shall maintain for four years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event CONTRACTOR fails to comply with any provisions of this Agreement, COUNTY may withhold payment until such non-compliance has been corrected.

XX. LEGAL TRAINING INFORMATION

If under this Agreement CONTRACTOR is to provide training of County personnel on legal issues, then CONTRACTOR shall submit all training and program material for prior review and written approval by County Counsel. Only those materials approved by County Counsel shall be utilized.

XXI. SUBCONTRACTS, ASSIGNMENT

- A. CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services delivered under this Agreement. CONTRACTOR remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONTRACTOR shall be held responsible by COUNTY for the performance of any subcontractor whether approved by COUNTY or not.
- B. This Agreement is not assignable by CONTRACTOR in whole or in part, without the prior written consent of COUNTY.

XXII. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by DIRECTOR and counsel for COUNTY.

XXIII. SUCCESSORS

This Agreement shall bind the successors of COUNTY and CONTRACTOR in the same manner as if they were expressly named.

XXIV. TIME

Time is of the essence of this Agreement.

XXV. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XXVI. DIRECTOR

As used in this Agreement, "DIRECTOR" shall mean the Assistant County Executive, or his/her designee.

XXVII. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

XXVIII. TERMINATION

- A. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).

- B. COUNTY may terminate this Agreement for cause immediately upon giving written notice to CONTRACTOR should CONTRACTOR materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. COUNTY may terminate or amend this Agreement immediately upon giving written notice to CONTRACTOR, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof; 2) if funds in COUNTY's yearly proposed and/or final budget are not appropriated by COUNTY for this Agreement or any portion thereof; or 3) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by COUNTY as a result of mid-year budget reductions.
- D. If this Agreement is terminated under paragraph A or C above, CONTRACTOR shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, CONTRACTOR shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of CONTRACTOR covered by this Agreement, less payments of compensation previously made. In no event, however, shall COUNTY pay CONTRACTOR an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.
- E. CONTRACTOR shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONTRACTOR can legally cancel.

XXIX. REPORTS

CONTRACTOR shall, without additional compensation therefore, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by DIRECTOR concerning CONTRACTOR's activities as they affect the contract duties and purposes herein. COUNTY shall explain procedures for reporting the required information.

XXX. AUDITS AND RECORDS

Upon COUNTY's request, COUNTY or its designee shall have the right at reasonable times and intervals to audit, at CONTRACTOR's premises, CONTRACTOR's financial and program records as COUNTY deems necessary to determine CONTRACTOR's compliance with legal and contractual requirements and the correctness of claims submitted by CONTRACTOR. CONTRACTOR shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon COUNTY's request at COUNTY's expense. COUNTY shall have the right to withhold any payment under this agreement until CONTRACTOR has provided access to CONTRACTOR'S financial and program records related to this Agreement.

XXXI. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between COUNTY and CONTRACTOR regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between COUNTY and CONTRACTOR regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

XXXII. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this agreement are declared severable.

XXXIII. FORCE MAJEURE

Neither CONTRACTOR nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

XXXIV. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

XXXV. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

COUNTY OF SACRAMENTO,
a political subdivision of the
State of California

CITY OF SACRAMENTO

By: _____
Navdeep S. Gill,
Assistant County Executive

By: _____
Contractor

Date: _____

Date: _____

APPROVED AS TO FORM:



CITY ATTORNEY

**EXHIBIT A to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

Organization: Sacramento History Museum

Total Grant: \$93,205

Project Scope of Work

The City of Sacramento will receive the above grant to fund activities for the Sacramento History Museum in the 2013-2014 County Fiscal Year.

The Mission of the Historic Old Sacramento Foundation is the creation and maintenance of vital and engaging interpretive programming in Old Sacramento Historic District and the Sacramento History Museum.

The contribution provided by the county will help the museum keep its doors open and operating. The funds cover half of the cost of a very small staff of four full time people and six part time staff members.

The Sacramento History Museum programs include:

- **Underground Tours to Old Sacramento** – these tours enhance the historic offerings for the region and increase its value as a destination
- **Gold Rush Days** – a historical attraction that makes Sacramento a national travel destination over the Labor Day weekend as well as a heritage festival for residents
- **Time Travel Weekends** – historically based street theater programs including historical re-enactments, jugglers, craftsmen, fife and drum corps, 19th Century games, musical and theatrical performances, and children’s craft activities that increase visitation to the district and help provide historical interpretation for the area
- **Educational Outreach** – making site visits to schools throughout the County, booking school group tours to the museum, and guided walking tours of Old Sacramento provide a unique resource covering the history of the entire region
- **Sacramento History Museum** – engaging, interactive, and relevant exhibits and events for all ages

**EXHIBIT B to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

COMPENSATION

I. MAXIMUM PAYMENT TO CONTRACTOR

The Maximum Total Payment Amount under this Agreement is:

Ninety-Three Thousand Two Hundred Four Dollars (\$93,205)

Compensation Summary	
Total	\$93,205

**CONTRACTOR CERTIFICATION OF COMPLIANCE FORM
EXHIBIT C**

WHEREAS it is in the best interest of Sacramento County that those entities with whom the County does business, or proposes to do business, demonstrate financial responsibility, integrity and lawfulness, it is inequitable for those entities with whom the County does business to receive County funds while failing to pay court-ordered child, family and spousal support which shifts the support of their dependents onto the public treasury. Therefore, in order to assist the Sacramento County Department of Child Support Services in its efforts to collect unpaid court-ordered child, family and spousal support orders, the following certification must be provided by all entities that do business or desire to do business with the county.

1) CONTRACTOR hereby certifies:

(a) the CONTRACTOR is a government or non-profit entity (exempt), Yes No

(b) the CONTRACTOR has no Principal Owners (25% or more) (exempt), Yes No

(c) each Principal Owner (25% or more),
does not have any existing child support orders, Yes No

(d) CONTRACTOR'S Principal Owners are currently in substantial compliance with any court-ordered child, family and spousal support order, including orders to provide current residence address, employment information, and whether dependent health insurance coverage is available. If not in compliance, Principal Owner has become current or has arranged a payment schedule with the Department of Child Support Services or the court Yes No

2) CONTRACTOR shall certify that each of the following statements is true:

(a) CONTRACTOR has fully complied with all applicable state and federal reporting requirements relating to employment reporting for its employees; and

(b) CONTRACTOR has fully complied with all lawfully served wage and earnings assignment orders and notices of assignment and will continue to maintain compliance.

Note: Failure to comply with state and federal reporting requirements regarding a contractor's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment constitutes a default under the contract; and failures to cure the default within 90 days of notice by the County shall be grounds for termination of the contract. Principal Owners can contact the Sacramento Department of Child Support Services at (916) 875-7400 or (888) 271-3906, by writing to P.O. Box 269112, Sacramento, 95826-9112, or by E-mailing dcssbiddercompliance@saccounty.net.

Contractor

Printed Name

Date



Requires Council Approval: No YES Meeting:

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Non Professional Services Attachment: Original Number:
 PO Type: Interagenct Agreement Original Document Number:
 \$ Not to Exceed: \$ 93,205 Original Contract Amount: \$
 Other Party: County of Sacramento Deed: None Included Separate
 Project Name: Powerhouse Science Center No. Certified Copies of Document: 1
 Project Number:
 Bid Transaction #: E/SBE-DBE-M/WBE:

Department Information

Department: CCL Division: Admin
 Project Mgr: Eva Chiang Supervisor: Rebecca Bitter
 Contract Services: Date:08/05/13 Division Mgr: Rebecca Bitter
 Phone Number: 808-5898 Org Number: 17001011
 Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	<i>EC</i>	8/5/13
Accounting:		
Contract Services:		
Supervisor:		
Division Manager:	<i>KOB</i>	8/9/13
City Attorney	Signature or Initial	Date
City Attorney:		

Send Interoffice Mail Notify for Pick Up

Authorization	Signature or Initial	Date
Bonebrake, Barbara Department Director:		
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

For City Clerk Processing

Finalized:

Initial: _____

Date: _____

Imaged:

Initial: _____

Date: _____

Received:
(City Clerk Stamp Here)

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the Contract

TABLE OF CONTENTS

	<u>Page</u>
I. SCOPE OF SERVICES.....	3
II. TERM.....	3
III. NOTICE.....	3
IV. COMPLIANCE WITH LAWS.....	4
V. GOVERNING LAWS AND JURISDICTION.....	4
VI. LICENSES AND PERMITS.....	4
VII. PERFORMANCE STANDARDS.....	4
VIII. OWNERSHIP OF WORK PRODUCT.....	4
IX. STATUS OF CONTRACTOR.....	5
X. CONTRACTOR IDENTIFICATION	5
XI. BENEFITS WAIVER.....	6
XII. CONFLICT OF INTEREST.....	6
XIII. USE OF FUNDS.....	6
XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES.....	6
XV. INDEMNIFICATION	7
XVI. INSURANCE.....	7
XVII. INFORMATION TECHNOLOGY ASSURANCES.....	7
XVIII. WEB ACCESSIBILITY	7
XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS	8

TABLE OF CONTENTS [cont.]

	<u>Page</u>
XX. LEGAL TRAINING INFORMATION	8
XXI. SUBCONTRACTS, ASSIGNMENT.....	8
XXII. AMENDMENT AND WAIVER.....	9
XXIII. SUCCESSORS	9
XXIV. TIME.....	9
XXV. INTERPRETATION	9
XXVI. DIRECTOR.....	9
XXVII. DISPUTES	9
XXVIII. TERMINATION	9
XXIX. REPORTS.....	10
XXX. AUDITS AND RECORDS	10
XXXI. PRIOR AGREEMENTS	11
XXXII. SEVERABILITY	11
XXXIII. FORCE MAJEURE.....	11
XXXIV. SURVIVAL OF TERMS.....	11
XXXV. DUPLICATE COUNTERPARTS.....	11
EXHIBIT A TO AGREEMENT	13
EXHIBIT B TO AGREEMENT.....	14
EXHIBIT C TO AGREEMENT	15

**2013-2014 Transient Occupancy Tax
AGREEMENT BETWEEN COUNTY OF SACRAMENTO
AND CITY OF SACRAMENTO FOR FUNDING OF
POWERHOUSE SCIENCE CENTER**

THIS AGREEMENT is made and entered into as of this 12th day of August 2013, by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and CITY OF SACRAMENTO, hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, pursuant to the provisions of Subdivision K of Section 15 of the Charter of the County of Sacramento, and Section 63000 of the Government Code of the State of California, the Board of Supervisors of COUNTY is desirous to promote economic revitalization, future development, and a healthy climate for jobs in California which will depend upon a well-conceived system of public improvements, services and amenities that are essential to the economic well-being of the citizens of the state and County and are necessary to maintain, as well as create, employment within the state and County; and

WHEREAS, the services to be performed by CONTRACTOR pursuant to this contract will serve to exhibit and/or enhance the economic benefits to Sacramento County and its residents; and

WHEREAS, COUNTY AND CONTRACTOR desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, COUNTY and CONTRACTOR agree as follows:

I. SCOPE OF SERVICES

CONTRACTOR shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

II. TERM

This Agreement shall be effective and commence as of the date first written above and shall end on June 30, 2014.

III. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO COUNTY
County Executive Office
Attn: Troy Givans
700 H Street, Ste. 7650
Sacramento, CA 95814

TO CONTRACTOR
City of Sacramento
Attn: Barbara Bonebrake
1030 15th Street, Suite 250
Sacramento, CA 95814-4025

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

IV. COMPLIANCE WITH LAWS

CONTRACTOR shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

V. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

VI. LICENSES AND PERMITS

- A. CONTRACTOR shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.
- B. CONTRACTOR further certifies to COUNTY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, State or county government contracts. Contractor certifies that it shall not contract with a Subcontractor that is so debarred or suspended.

VII. PERFORMANCE STANDARDS

CONTRACTOR shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONTRACTOR'S services.

VIII. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONTRACTOR hereunder shall be the exclusive property of COUNTY and shall be delivered to COUNTY upon completion of the services authorized hereunder. CONTRACTOR may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by COUNTY. COUNTY recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of CONTRACTOR's services and are not designed for use other than what is intended by this Agreement.

IX. STATUS OF CONTRACTOR

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is independent and that no relationship of employer-employee exists between the parties hereto. CONTRACTOR's assigned personnel shall not be entitled to any benefits payable to employees of COUNTY. COUNTY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this agreement; and as an independent contractor, CONTRACTOR hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.
- B. It is further understood and agreed by the parties hereto that CONTRACTOR in the performance of its obligation hereunder is subject to the control or direction of COUNTY as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONTRACTOR for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR, and the COUNTY shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent contractor and not an employee of COUNTY, neither the CONTRACTOR nor CONTRACTOR's assigned personnel shall have any entitlement as a County employee, right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever. CONTRACTOR shall not be covered by worker's compensation; nor shall CONTRACTOR be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the COUNTY to employees of the COUNTY.
- E. It is further understood and agreed that CONTRACTOR must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel under the terms and conditions of this agreement.

X. CONTRACTOR IDENTIFICATION

CONTRACTOR shall provide the COUNTY with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: CONTRACTOR's name, address, telephone number, social security number, and whether dependent health insurance coverage is available to CONTRACTOR.

XI. BENEFITS WAIVER

If CONTRACTOR is unincorporated, CONTRACTOR acknowledges and agrees that CONTRACTOR is not entitled to receive the following benefits and/or compensation from COUNTY: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between COUNTY and its employee organizations. Should CONTRACTOR or any employee or agent of CONTRACTOR seek to obtain such benefits from COUNTY, CONTRACTOR agrees to indemnify and hold harmless COUNTY from any and all claims that may be made against COUNTY for such benefits.

XII. CONFLICT OF INTEREST

CONTRACTOR and CONTRACTOR's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

XIII. USE OF FUNDS

It is understood and agreed that no funds provided by COUNTY pursuant to this Agreement shall be used by CONTRACTOR for any political activity or political contribution.

XIV. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONTRACTOR agrees and assures COUNTY that CONTRACTOR and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of COUNTY, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of COUNTY employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONTRACTOR represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONTRACTOR agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

D. CONTRACTOR shall include this nondiscrimination provision in all subcontracts related to this Agreement.

XV. INDEMNIFICATION

For work or services provided under this Agreement, which are not professional services, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from performance of this Agreement, regardless of whether caused in part by a party indemnified hereunder, except for loss caused by the sole negligence of COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers.

For professional services provided under this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this Agreement.

XVI. INSURANCE

CONTRACTOR, at its sole cost and expense, shall carry insurance - or self-insure - its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, property, professional liability, and business automobile liability adequate to cover its potential liabilities hereunder. CONTRACTOR agrees to provide the other thirty (30) days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverages.

XVII. INFORMATION TECHNOLOGY ASSURANCES

CONTRACTOR shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONTRACTOR in the performance of services under this Agreement, other than those owned or provided by COUNTY, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to COUNTY under this Agreement.

XVIII. WEB ACCESSIBILITY

CONTRACTOR shall ensure that all web sites and web applications provided by CONTRACTOR pursuant to this Agreement shall comply with COUNTY's Web Accessibility Policy adopted by the Board of Supervisors on February 18, 2003 as well as any approved amendment thereto.

XIX. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit B, or Exhibit B as modified by COUNTY in accordance with express provisions in this Agreement.
- B. CONTRACTOR shall submit an invoice on the forms and in accordance with the procedures prescribed by COUNTY on a monthly basis. Invoices shall be submitted to COUNTY no later than the fifteenth (15th) day of the month following the invoice period, and COUNTY shall pay CONTRACTOR within thirty (30) days after receipt of an appropriate and correct invoice. Notwithstanding the foregoing, COUNTY, in its discretion and at the request of CONTRACTOR, may, in writing, permit CONTRACTOR to provide a single invoice for the total contract amount.
- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by COUNTY unless CONTRACTOR has obtained prior written COUNTY approval to the contrary.
- D. CONTRACTOR shall maintain for four years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event CONTRACTOR fails to comply with any provisions of this Agreement, COUNTY may withhold payment until such non-compliance has been corrected.

XX. LEGAL TRAINING INFORMATION

If under this Agreement CONTRACTOR is to provide training of County personnel on legal issues, then CONTRACTOR shall submit all training and program material for prior review and written approval by County Counsel. Only those materials approved by County Counsel shall be utilized.

XXI. SUBCONTRACTS, ASSIGNMENT

- A. CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services delivered under this Agreement. CONTRACTOR remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONTRACTOR shall be held responsible by COUNTY for the performance of any subcontractor whether approved by COUNTY or not.
- B. This Agreement is not assignable by CONTRACTOR in whole or in part, without the prior written consent of COUNTY.

XXII. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by DIRECTOR and counsel for COUNTY.

XXIII. SUCCESSORS

This Agreement shall bind the successors of COUNTY and CONTRACTOR in the same manner as if they were expressly named.

XXIV. TIME

Time is of the essence of this Agreement.

XXV. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XXVI. DIRECTOR

As used in this Agreement, "DIRECTOR" shall mean the Assistant County Executive, or his/her designee.

XXVII. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

XXVIII. TERMINATION

- A. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).

- B. COUNTY may terminate this Agreement for cause immediately upon giving written notice to CONTRACTOR should CONTRACTOR materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If notice of termination for cause is given by COUNTY to CONTRACTOR and it is later determined that CONTRACTOR was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. COUNTY may terminate or amend this Agreement immediately upon giving written notice to CONTRACTOR, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof; 2) if funds in COUNTY's yearly proposed and/or final budget are not appropriated by COUNTY for this Agreement or any portion thereof; or 3) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by COUNTY as a result of mid-year budget reductions.
- D. If this Agreement is terminated under paragraph A or C above, CONTRACTOR shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, CONTRACTOR shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of CONTRACTOR covered by this Agreement, less payments of compensation previously made. In no event, however, shall COUNTY pay CONTRACTOR an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.
- E. CONTRACTOR shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONTRACTOR can legally cancel.

XXIX. REPORTS

CONTRACTOR shall, without additional compensation therefore, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by DIRECTOR concerning CONTRACTOR's activities as they affect the contract duties and purposes herein. COUNTY shall explain procedures for reporting the required information.

XXX. AUDITS AND RECORDS

Upon COUNTY's request, COUNTY or its designee shall have the right at reasonable times and intervals to audit, at CONTRACTOR's premises, CONTRACTOR's financial and program records as COUNTY deems necessary to determine CONTRACTOR's compliance with legal and contractual requirements and the correctness of claims submitted by CONTRACTOR. CONTRACTOR shall maintain such records for a period of four years following termination of the Agreement, and shall make them available for copying upon COUNTY's request at COUNTY's expense. COUNTY shall have the right to withhold any payment under this agreement until CONTRACTOR has provided access to CONTRACTOR'S financial and program records related to this Agreement.

XXXI. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between COUNTY and CONTRACTOR regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between COUNTY and CONTRACTOR regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

XXXII. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this agreement are declared severable.

XXXIII. FORCE MAJEURE

Neither CONTRACTOR nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

XXXIV. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions, and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

XXXV. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

COUNTY OF SACRAMENTO,
a political subdivision of the
State of California

CITY OF SACRAMENTO

By: _____
Navdeep S. Gill,
Assistant County Executive

By: _____
Contractor

Date: _____

Date: _____

APPROVED AS TO FORM:

Katherine B. Boudin

CITY ATTORNEY

**EXHIBIT A to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

Organization: Powerhouse Science Center

Total Grant: \$93,205

Project Scope of Work

The City of Sacramento will receive the above grant to fund activities for the Powerhouse Science Center in the 2013-2014 County Fiscal Year.

The funds received from the County of Sacramento are for the purpose of operating and maintaining the Powerhouse Science Center (Science & Space Center).

Powerhouse Science Center's mission is to engage and inspire people of all ages to explore the wonders, possibilities, and responsibilities of science.

The Science Center programs include:

- Science and Space Center Exhibits – exhibits rotated every years; also hosts Sacramento's Public Planetarium
- Community Events and Fairs – providing materials and science information; participates in Free Museum Day; Science and Sushi, a science café event with presentations by local scientists; partnerships with local colleges, universities, and science-based businesses featuring experts who bring discussions about science topics into social settings; Dinner with a Scientist connecting students with real world, practicing scientists
- Robotics Lab – program includes an on-site lab, after-school robotics club, and competitive robotics team; staff serves on the planning committee for the Robotics Challenge Regional at UC Davis
- Challenger Learning Center – provides students with space simulated experiences that focus on math and analytical science
- Archaeology Dig – a hands-on simulated archaeology dig that combines history, social studies, art, writing, geology, and archaeology within the scientific method
- Planetarium Star Shows – features a tour of the celestial neighborhood
- Outreach Programs – the Science Center brings an array of hands-on displays, activities, and equipment into classrooms to assist teachers
- Science Discovery Weekends – a different science exhibit every weekend with guests, displays, and hands-on activities

**EXHIBIT B to Agreement
between the COUNTY OF SACRAMENTO,
hereinafter referred to as "COUNTY," and
CITY OF SACRAMENTO,
hereinafter referred to as "CONTRACTOR"**

COMPENSATION

I. MAXIMUM PAYMENT TO CONTRACTOR

The Maximum Total Payment Amount under this Agreement is:

Ninety-Three Thousand Two Hundred Five Dollars (\$93,205)

Compensation Summary	
Total	\$93,205

**CONTRACTOR CERTIFICATION OF COMPLIANCE FORM
EXHIBIT C**

WHEREAS it is in the best interest of Sacramento County that those entities with whom the County does business, or proposes to do business, demonstrate financial responsibility, integrity and lawfulness, it is inequitable for those entities with whom the County does business to receive County funds while failing to pay court-ordered child, family and spousal support which shifts the support of their dependents onto the public treasury. Therefore, in order to assist the Sacramento County Department of Child Support Services in its efforts to collect unpaid court-ordered child, family and spousal support orders, the following certification must be provided by all entities that do business or desire to do business with the county.

1) CONTRACTOR hereby certifies:

(a) the CONTRACTOR is a government or non-profit entity (exempt), Yes No

(b) the CONTRACTOR has no Principal Owners (25% or more) (exempt), Yes No

(c) each Principal Owner (25% or more),
does not have any existing child support orders, Yes No

(d) CONTRACTOR'S Principal Owners are currently in substantial compliance with any court-ordered child, family and spousal support order, including orders to provide current residence address, employment information, and whether dependent health insurance coverage is available. If not in compliance, Principal Owner has become current or has arranged a payment schedule with the Department of Child Support Services or the court Yes No

2) CONTRACTOR shall certify that each of the following statements is true:

(a) CONTRACTOR has fully complied with all applicable state and federal reporting requirements relating to employment reporting for its employees; and

(b) CONTRACTOR has fully complied with all lawfully served wage and earnings assignment orders and notices of assignment and will continue to maintain compliance.

Note: Failure to comply with state and federal reporting requirements regarding a contractor's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment constitutes a default under the contract; and failures to cure the default within 90 days of notice by the County shall be grounds for termination of the contract. Principal Owners can contact the Sacramento Department of Child Support Services at (916) 875-7400 or (888) 271-3906, by writing to P.O. Box 269112, Sacramento, 95826-9112, or by E-mailing dcssbiddercompliance@saccounty.net.

Contractor

Printed Name

Date