

MEMORANDUM OF AGREEMENT

between

The Santa Barbara County Air Pollution Control District

and

The Santa Maria Valley Discovery Museum

This Memorandum of Agreement, hereinafter referred to as "MOA," is made this ____ day of _____ 2015, between the Santa Barbara County Air Pollution Control District, hereinafter referred to as "DISTRICT," and the Santa Maria Valley Discovery Museum, hereinafter referred to as "MUSEUM".

RECITALS

WHEREAS, DISTRICT is an Air Pollution Control Agency with the mission to protect the people and the environment of Santa Barbara County from the effects of air pollution;

WHEREAS, air pollution poses a particular threat to children;

WHEREAS, education on the sources, causes and effects of air pollution can help people learn to make good air quality decisions;

WHEREAS, it is the mission of DISTRICT to inform the public about air pollution;

WHEREAS, it is the mission of MUSEUM to educate children in novel and impactful ways through thoughtful and engaging museum exhibits;

WHEREAS, DISTRICT and MUSEUM desire to work together towards achieving their respective goals through an Air Quality Exhibit ("Exhibit") to be called "Catching Air;" (or: Air Everywhere)

NOW, THEREFORE, in consideration of the mutual promises and conditions listed below, it is hereby agreed between DISTRICT and MUSEUM as follows:

MOA TERMS AND CONDITIONS

1. Obligations to be Performed Under this MOA.

Within the time specified in Paragraph 2 (Time of Performance), DISTRICT, under the direction of its Community Programs Supervisor shall perform all of the following obligations:

- Working with the design and/or contracting firm to specify MUSEUM exhibit design, content, fabrication, and installation specifications.
- Funding and management of the purchase (with a specific statement of work and payment schedule) with equipment providers, and design and/or contracting firm/s for the Exhibit.

- The Amazing Airways display to be installed on window space adjacent to MUSEUM entrance in an area of approximately 168 vertical square feet. Cost of up to \$36,200 to be paid by DISTRICT, and includes equipment (including a 5-year supply of balls and scarves), shipping, installation and a one-year warranty.
- Mural and portable display to be set up adjacent to the window display, in a floor area of approximately 340 square feet; floor area to be painted. Cost of up to \$10,000 to be paid by DISTRICT.
- Directing, in conjunction with MUSEUM, the successful completion of the project with the contractor(s) including content, design, and logistical specifications.
- Providing support to MUSEUM in the form of activities initially associated with the Exhibit, including public relations for the kickoff event for the new Exhibit at the museum.
- Maintaining ongoing communication with MUSEUM about the Exhibit.

Within the time specified in Paragraph 2 (Time of Performance), the MUSEUM shall perform all of the following obligations:

- Providing the necessary space for the Exhibit at MUSEUM in the locations described above at no cost to DISTRICT.
- Assisting DISTRICT in the completion of the project with the DISTRICT-selected and retained contractor including design and logistical specifications.
- Coordinating the complete installation of the Exhibit with DISTRICT, including preparing the space for installation.
- Maintaining the Exhibit in good condition for the five-year display period. This includes routine maintenance such as cleaning.
- Providing and funding the necessary power to run the Exhibit.
- Making children's air quality materials, to be provided by DISTRICT, available at the Exhibit throughout the term of its display.
- Managing and funding the repair of the Exhibit, if necessary (using warranty as appropriate).
- Coordinating and hosting a kickoff event for the Exhibit when it opens at the museum, working with DISTRICT.
- Providing public relations activities to publicize the Exhibit in local media and social media and for marketing the Exhibit as part of its ongoing Museum marketing efforts.
- Maintaining ongoing communication with DISTRICT about the Exhibit.

2. Time of Performance.

This MOA shall commence on the date of signing by the MUSEUM and DISTRICT (either the Board of Directors or the Control Officer). This MOA shall continue until such time as the Exhibit has been displayed at MUSEUM for 5 years following its completion and initial installation. After that time period, MUSEUM has the option to keep the Exhibit or return it to DISTRICT. If MUSEUM decides, for any reason, to return the Exhibit to DISTRICT or to no longer display it before the expiration of the 5 year display period, MUSEUM agrees to notify DISTRICT six months (180 days) in advance in writing so that DISTRICT can make

arrangements for its receipt or display. If the MUSEUM makes such a determination, MUSEUM agrees to bear all costs involved in the disassembly, loading and moving of the Exhibit back to DISTRICT or its new location.

3. Non-Partnership.

This MOA is not intended by the parties to constitute or create a joint venture, pooling arrangement, or formal business organization of any kind. The rights and obligations of the parties shall be only those expressly set forth herein.

4. Mutual Indemnification.

- a) MUSEUM shall defend, indemnify, and hold DISTRICT, its officers, officials, employees or agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of MUSEUM, its officers, officials, employees or agents.
- b) DISTRICT shall defend, indemnify, and hold MUSEUM, its officers, officials, employees or agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, officials, employees or agents.

5. Insurance.

MUSEUM shall maintain its own insurance coverage, through commercial insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage, or liability arising out of the performance of its responsibilities pursuant to this MOA. DISTRICT shall be protected under the MUSEUM's insurance coverage as an additional insured party against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this MOA.

6. Project Logos.

MUSEUM shall allow the placement of a DISTRICT logo and plaque on the Exhibit. The placement design, style and color will be determined mutually by DISTRICT and MUSEUM.

7. Remedies Not Exclusive.

No remedy herein conferred upon or reserved to DISTRICT is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by

law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

8. Waivers.

The waiver by either party to this MOA of any term, covenant, or condition of this MOA or of any provision, ordinance, or law, shall not be deemed to be a continuing waiver of such term, covenant, condition, or law, or of any subsequent breach or violation of the same, or of any other term, covenant, ordinance of law.

9. Amendment.

This Grant Agreement may only be amended in writing executed by DISTRICT Board and MUSEUM or, where authorized by the Board, by the Control Officer and MUSEUM.

10. California Law to Apply.

This MOA shall be construed under and in accordance with the laws of the State of California. All obligations created under this MOA are performable in California.

11. MOA Integrated.

This MOA represents the entire and integrated MOA between the DISTRICT and MUSEUM and supersedes any and all other negotiations, representations, and/or agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this MOA which is not contained herein shall be valid or binding.

12. Provisions Required by Law Deemed Inserted.

Each and every provision of law and clause required by law to be inserted in this MOA shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon application of either party, this MOA shall forthwith be physically amended to make such insertion or correction.

13. Unusual Circumstances.

The parties shall be excused from performing their respective obligations in the event they are prevented from performing so by reason of circumstances beyond their control, including, but not limited to, strikes and other labor disputes, wars, civil commotion, natural calamity, fire, equipment breakdown or failures. In the event of any delay described above, the time for performance may be extended by mutual agreement for a period equal to the length of the delay.

14. Point of Contact.

All notices referenced in this MOA shall be in writing and shall be given by first class mail addressed as follows, or at such other address or to such person that the parties may from time to time designate in writing:

MUSEUM

The Santa Maria Valley Discovery Museum
705 McClelland Street
Santa Maria, CA 93454
Attn: Chris Slaughter

DISTRICT

Santa Barbara County
Air Pollution Control District
260 N. San Antonio Road Suite A
Attn: Mary Byrd

This MOA between the Santa Barbara County Air Pollution Control District and the Santa Maria Valley Discovery Museum was executed at Santa Barbara, California on the day and year first above written.

SANTA BARBARA COUNTY
AIR POLLUTION CONTROL DISTRICT,
STATE OF CALIFORNIA

ATTEST:

LOUIS D. VAN MULLEM, JR.
Clerk of the Board

By _____
Deputy

By _____
Chair

**SANTA MARIA VALLEY
DISCOVERY MUSEUM**

By Chris Slaughter
Chris Slaughter
Executive Director

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
Santa Barbara County Counsel

By William M. Dillon
Deputy

Date: 9/24/15

APPROVED AS TO FORM:

RAY AROMATORIO, ARM, AIC
Risk Manager

By Ray Aromatorio
Risk Manager

APPROVED AS TO FORM:

ROBERT W. GEIS, CPA
Auditor-Controller

By Robert W. Geis
Deputy