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Contract Number

	23-886
	SAP Number
SAN BERNARDINO	
COUNTY	

# San Bernardino County Museum

Department Contract Representative Telephone Number	David L. Myers (909) 798-8601	
Contractor	County Service Area 70	
Contractor Representative	Henry Mac	
Telephone Number	(909) 386-8822	
Contract Term	5 Years	
Original Contract Amount	\$25,000/year; not to exceed \$125,000 total	
Amendment Amount		
<b>Total Contract Amount</b>		
Cost Center		

# IT IS HEREBY AGREED AS FOLLOWS:

# MEMORANDUM OF UNDERSTANDING BETWEEN SAN BERNARDINO COUNTY MUSEUM AND COUNTY SERVICE AREA 70 COUTYWIDE

This Memorandum of Understanding (MOU) is entered on the 22 day of August, 2023, by and between County Service Area 70 Countywide (CSA 70) and San Bernardino County (COUNTY), Museum Department (MUSEUM) (together, the "Parties").

#### **RECITALS**

WHEREAS, Oro Grande Cemetery is a site of historical significance within San Bernardino County; and

WHEREAS, MUSEUM is responsible for managing, operating, and administering the Oro Grande Cemetery; and

WHEREAS, MUSEUM seeks general maintenance, weed abatement, and minor repair services ("Services") for the Oro Grande Cemetery in the community of Oro Grande; and

WHEREAS, CSA 70 is authorized to provide such Services within San Bernardino County, including the Oro Grande Cemetery in the community of Oro Grande; and

WHEREAS, COUNTY desires to contract with CSA 70 to provide Services at the Oro Grande Cemetery for an amount not to exceed \$25,000 per fiscal year, and a total not to exceed amount of \$125,000, payable to CSA 70 for such Services; and

NOW THEREFORE, COUNTY and CSA 70 mutually agree as follows:

# **TERMS OF AGREEMENT**

# 1. <u>DESCRIPTION OF PARTIES</u>

- **1.1** County Service Area 70 (Countywide) operates under County Service Area Law supporting the needs of the County by providing authorized services, including the Services.
- **1.2** MUSEUM is a department within San Bernardino County (COUNTY) which oversees and operates museums and historic sites throughout San Bernardino County for the enjoyment and enrichment of the public.

# 2. PURPOSE

2.1 This MOU is entered into between the COUNTY and CSA 70 to define the rights and responsibilities of CSA 70 in providing the Services at the Oro Grande Cemetery, a one (1) acre property (APN: 046820409) located in the community of Oro Grande.

# 3. RIGHTS AND RESPONSIBILITIES

# 3.1 CSA 70

- **3.1.1** For consideration in the amount of twenty-five thousand dollars per year (\$25,000/year) for the term of this MOU, CSA 70 agrees to perform the Services:
- **3.1.2** CSA 70 shall designate the Special Districts Division Manager Operations or Special Districts Regional Manager Parks as a primary point of contact for this MOU.

#### 3.2 MUSEUM

- **3.2.1** The COUNTY owns the Oro Grande Cemetery.
- **3.2.2** The MUSEUM, on behalf of the COUNTY, is responsible for managing, operating, and administering the Oro Grande Cemetery.
- **3.2.3** The MUSEUM shall be responsible for paying CSA 70 \$25,000 per fiscal year in compensation for the Services set forth herein.

# 3.3 MONITOR AND AUDIT

**3.3.1** MUSEUM shall have right to review all records, books, papers, documents, corporate minutes, and other pertinent items related to CSA 70 maintenance work at Oro Grande Cemetery.

## 4. TERM

- **4.1.** This MOU shall take effect from the date executed by both Parties and terminate five (5) years thereafter with an option to extend for three additional one-year periods, with a 3% COLA increase for each of the extension periods.
- **4.2.** Either party, by written notice to the other party, may terminate the whole or any part of this MOU at any time for convenience, and without cause, by giving written notice to the other party of such termination and specifying the effective date thereof, at least 90 days before the effective date of such termination.

# 5. AMENDMENTS

**5.1** This MOU may be modified, changed, or amended at any time upon mutual written consent of the Parties.

# 6. INSURANCE AND INDEMNIFICATION

# 6.1 Insurance Coverage

COUNTY and CSA 70 are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation, and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this MOU.

CSA 70 shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the CSA 70 and CSA 70's employees or agents from waiving the right of subrogation prior to a loss or claim. CSA 70 hereby waives all rights of subrogation against the COUNTY.

#### 6.2 Indemnification

COUNTY agrees to indemnify, defend (with counsel reasonably approved by CSA 70) and hold harmless CSA 70 and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this MOU, but only to the extent actually caused by the negligent acts, errors or omissions of COUNTY and its authorized officers, employees, agents, and volunteers, and for any costs or expenses incurred by CSA 70 on account of any claim except where such indemnification is prohibited by law.

CSA 70 agrees to indemnify, defend (with counsel reasonably approved by the COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this MOU, but only to the extent actually caused by the negligent acts, errors or omissions of CSA 70 and its authorized officers, employees, agents, and volunteers, and for any costs or expenses incurred by COUNTY on account of any claim except where such indemnification is prohibited by law.

In the event that the COUNTY and/or CSA 70 are determined to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this MOU, the COUNTY and/or CSA 70 shall indemnify the other to the extent of its comparative fault.

# 7. GENERAL TERMS AND CONDITIONS

#### 7.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

# 7.2 Legality and Severability

The parties' actions under this MOU shall comply with all applicable laws, rules, regulations, court order and governmental agency orders. If a provision of the MOU is terminated or held to be invalid, illegal, or unenforceable the validity, legality and enforceability of the remaining provisions shall remain in full effect.

# 7.3 Independent Contractor Status

In the performance of this MOU, CSA 70, its agents, and employees, shall act in an independent capacity and not as officers, employees, or agents of COUNTY.

#### 7.4 Agreement Amendments

CSA 70 agrees any alterations, variations, modifications, or waivers of the provisions of this MOU shall be valid only when reduced to writing, executed, and attached to the original MOU and approved by the person(s) authorized to do so on behalf of the CSA 70 and the COUNTY.

# 7.5 Dispute Resolution

In the event that a dispute arises between the Parties, the Parties shall first attempt to resolve the dispute through meetings with appropriate staff members. In the event that the dispute cannot be resolved at the staff level, the Parties shall meet and informally confer to attempt to resolve the matter prior to either Party pursuing any legal remedies or filing a claim.

## 7.6 Release of Information

Any notices and reports required or desired to be serviced by either party upon the other shall be addressed to the respective parties as set forth below.

CSA 70 Division Manager - Operations

222 West Hospitality Lane 2<sup>nd</sup> Floor

San Bernardino, CA 92415

COUNTY Museum Director

San Bernardino County Museum

2024 Orange Tree Lane Redlands. CA 92374

# 8. CHOICE OF LAW

**8.1** This MOU shall be governed by and construed according to the laws of the State of California.

# 9. VENUE

9.1 The parties acknowledge and agree that this MOU was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

# 10. ENTIRE AGREEMENT

- 10.1 This MOU, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete, and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this MOU not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this MOU and signs the same of its own free will.
- 10.2 This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same MOU. The parties shall be entitled to sign and transmit an electronic signature of this MOU (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed MOU.

[ - Signatures on following page - ]

WITNWSS WHEREOF, this Agreement, had been fully executed on behalf of MUSEUM and CSA 70 by their duly authorized representatives

SAN BERNARDINO COUNTY	COUNTY SERVICA AREA 70
· Daunm Rowe	- Daunm Rowe
Dawn Rowe, Chair, Board of Supervisors	Dawn Rowe, Chair, Board of Supervisors
Dated: AUG 2 2 2023 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD  Lynna Monel  Cterk of the Board of Supervisors San Bernardtho County  By  ARDINO COUNTY	Dated: AUG 2 2 2023 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DEEDVERED TO THE CHAIRMAN OF THE BOARD A  Lynna Monell A  Clerk of the Board of Supervisors San Bernardino County  By  COVERNED  Deputy  SERVICE  SER

FOR COUNTY USE ONLY		
Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved/by/Department
, Deputy County Counsel	_	Land MA
Date 8/15/23	Date	Date 8-/5-23