

APPROVED

MAY 05 2022

BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 22-101

DATE May 05, 2022

C.D. _____

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH OBSERVATORY – MEMORANDUM OF UNDERSTANDING WITH GRIFFITH OBSERVATORY FOUNDATION (2022-2032)

AP Diaz	_____	* M. Rudnick	<u>MR</u>
H. Fujita	_____	C. Santo Domingo	_____
J. Kim	_____	N. Williams	_____



General Manager

Approved X Disapproved _____ Withdrawn _____

RECOMMENDATIONS

1. Approve a proposed Memorandum of Understanding (MOU), substantially in the form as Attachment 1 of this Report, between the Department of Recreation and Parks (RAP) and Griffith Observatory Foundation (THE FOUNDATION), formerly Friends Of The Observatory (FOTO), to define, codify, and continue the relationship of support to Griffith Observatory, subject to the approval of the City Council and of the City Attorney as to form;
2. Direct the Board of Recreation and Parks (Board) Secretary to transmit the proposed MOU to the Mayor for approval in accordance with Executive Directive 3, the City Council for approval, and concurrently, to the City Attorney for review and approval as to form; and;
3. Authorize the Board President and Secretary to execute the MOU, subsequent to receipt of all necessary approvals.

SUMMARY

The collaboration between RAP and THE FOUNDATION in support of Griffith Observatory (Observatory) is a model for successful public-private partnerships in the City. This is the fifth MOU between the partners. Griffith Observatory Foundation is the new name, effective January 1, 2021, of Friends Of The Observatory (FOTO).

FOTO was founded as a non-profit organization in 1978 by Observatory Director Dr. E. C. Krupp, Harold Griffith (the grandson of founding Observatory benefactor Griffith J. Griffith), and Harold's wife, Debra, to offer a way for the public to support and improve Griffith Observatory.

BOARD REPORT

PG. 2 NO. 22-101

In the 44 years since then, FOTO repeatedly provided essential financial, logistical, and organizational assistance, advocacy, programming, and other forms of support to enhance Griffith Observatory for the public benefit. Most notably, RAP and FOTO formed a uniquely successful public-private partnership to renovate and expand the Observatory. This Ninety-Three Million Dollar (\$93,000,000.00) project, executed between 2002 and 2006, preserved and transformed the Observatory and then returned it to public use on November 3, 2006. FOTO was instrumental in raising the funds for the renovation project, including direct private contributions of over Thirty Million Dollars (\$30,000,000.00). FOTO's impact, however, extended far beyond that amount, with efforts to win public grants, purchase and coordination of the new equipment for the Samuel Oschin Planetarium and Leonard Nimoy Event Horizon theater, management of the design, fabrication, and installation of the new exhibit program, and extensive service on the Renovation and Expansion Steering Committee guiding the entire project.

Since the conclusion of the renovation and expansion project and reopening of the Observatory in November, 2006, FOTO continued to provide vital funding and programming support to the Observatory and RAP. Notable among these contributions are over two million dollars (\$2,000,000.00) since 2008 to support the Observatory's School Program; over three million dollars (\$3,000,000.00) for equipment to upgrade the Samuel Oschin Planetarium, Leonard Nimoy Event Horizon theater, and the Observatory programming studio; and a partnership with the Observatory to co-produce the spectacular new show for the Samuel Oschin Planetarium, *Signs of Life*, which will debut in 2022.

The proposed MOU with the Griffith Observatory Foundation (THE FOUNDATION) would cover a ten-year period from roughly May 2022 to May 2032. It is similar in intent, form, and content to the first, second, third, and fourth three-year MOUs between RAP and FOTO. The term of the first MOU (Report 06-126) was July 1, 2006 to June 30, 2009. The Board subsequently approved (Report 09-173) an extension of that MOU by six months to December 31, 2009. The term of the second MOU (Board Report 09-316) was January 1, 2010 to December 31, 2012. The term of the third MOU was January 1, 2013 to December 31, 2015 (Report 12-253), which was later extended for one year on two occasions (Reports 15-255 and 16-238). The fourth and most recent MOU (Board Report 18-018) ran from January 1, 2018, to December 31, 2020.

With the exception of a few added sections and the extended term, changes from the prior MOU are minimal. Most are updates to dates and citations.

Key provisions of the proposed MOU include:

- Expansion of the term of the proposed MOU to ten (10) years, with options for two five-year extensions. The previous agreements were three years in length. The longer term reflects the stability and beneficial nature of the relationship.
- Authorization for THE FOUNDATION to raise funds and provide donor and member services and recognition under the same conditions already approved by the Board as the exclusive non-profit organization so authorized, including prohibition of any non-City fundraising at the Observatory except by THE FOUNDATION.

BOARD REPORT

PG. 3 NO. 22-101

- Clear definition of THE FOUNDATION as an organization separate from the City, and accountable for hiring decisions and its staff, paying all its own expenses, indemnifying the City as appropriate, conforming to the City's non-discrimination policies, reporting on its finances and fundraising, and obeying all relevant laws.
- Continued provision of two office spaces and related utility support for THE FOUNDATION in the Observatory for FOUNDATION activities in support of the Observatory.
- Permission for THE FOUNDATION to offer benefits and make use of Observatory facilities consistent with the Griffith Observatory Schedule of Rates and Fees (Board Report 22-073). This includes: discounted member tickets; no-cost use of all Observatory facilities pursuant THE FOUNDATION's mission to support and exclusively fundraise for the Observatory as set forth in the MOU, provided such uses neither conflict nor compete with Observatory activities; allowances for parking for THE FOUNDATION staff, volunteers, and members, as available, in support of activities and events at the Observatory.
- Provision to support each other in relation to communications, notably website and social media activities.
- Addition of a provision for THE FOUNDATION personnel to comply with CITY policies for appropriate behavior.
- Mutual indemnification provisions between THE FOUNDATION and CITY.
- Addition of sections providing for dispute resolution, safety, and insurance requirements.

FISCAL IMPACT

This MOU will not have any fiscal impact on RAP's General Fund. There is no cost to RAP for its implementation, and it does not provide for any specific transfer of funds. By defining and codifying the relationship between the CITY and THE FOUNDATION, however, the MOU provides the foundation for continued and substantive support of the Observatory by THE FOUNDATION. The relationship with THE FOUNDATION almost certainly will afford additional fundraising and support opportunities, which will enable the Observatory to continue and/or expand services and capability without the CITY bearing the full cost. For example, without the funds contributed by FOTO/THE FOUNDATION, the Griffith Observatory School Program would have been canceled for all school years since 2007-08.

STRATEGIC PLAN INITIATIVES AND GOALS

Approval of this Board Report advances RAP's Strategic Plan by supporting:

Goal No. 2: Offer Affordable and Equitable Recreation Programming

Outcome No. 1: Improve Health and Social Equity for young Angelenos.

This report was prepared by Mark Pine, Deputy Director, Griffith Observatory.

LIST OF ATTACHMENTS

Attachment No. 1 - Proposed MOU with Griffith Observatory. Foundation (THE FOUNDATION).

BOARD REPORT

PG. 4 NO. 22-101

Attachment No. 2 - Prior MOU, January 1, 2018 – December 31, 2020, with Friends Of The Observatory (FOTO).

MEMORANDUM OF UNDERSTANDING
BETWEEN

THE CITY OF LOS ANGELES
AND
GRIFFITH OBSERVATORY FOUNDATION
(FORMERLY KNOWN AS FRIENDS OF THE OBSERVATORY),
ESTABLISHING ROLES, RESPONSIBILITIES, AND THE RELATIONSHIP
OF SUPPORT TO GRIFFITH OBSERVATORY

THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is made and entered into this day of _____, 20____, by and between the CITY OF LOS ANGELES, a municipal corporation, (hereinafter referred to as "CITY"), Department of Recreation and Parks ("RAP") acting by and through its Board of Recreation and Park Commissioners, (hereinafter referred to as "BOARD"), and GRIFFITH OBSERVATORY FOUNDATION, a non-profit public benefit corporation, (hereinafter referred to as "THE FOUNDATION", and along with the CITY, each a "Party").

- A. Through RAP, the CITY owns and operates Griffith Observatory ("Observatory") in Griffith Park.
- B. THE FOUNDATION was incorporated in 1978 as a California non-profit public benefit corporation to preserve, promote, and support the Observatory and its mission of public astronomy.
- C. THE FOUNDATION is governed by its Articles of Incorporation and Bylaws and the activities and affairs of THE FOUNDATION are conducted and all of its corporate powers are exercised by or under the direction of its Board of Directors the members of which are designated, selected, and elected in accordance with THE FOUNDATION's Bylaws.
- D. The purpose of this MOU is to establish in writing the respective roles, responsibilities, and financial relationship between CITY and THE FOUNDATION.

CITY and THE FOUNDATION hereby agree and understand as follows:

1. Fundraising

- a. Authority to Raise Funds. THE FOUNDATION is authorized to raise funds to preserve, promote and support the Observatory and its mission of public astronomy.
- b. Fundraising. THE FOUNDATION is the only non-CITY organization authorized to hold fundraising events on the Observatory grounds.
- c. Donor Recognition. THE FOUNDATION is authorized to provide recognition to donors consistent with naming and donor recognition rights as approved by the BOARD pursuant to policies approved by the BOARD. THE FOUNDATION may propose or negotiate specific changes or additional donor recognition, subject to review by RAP, with approval by the BOARD as required.

- d. Gift Agreements. Gifts of equipment, materials, funds, or services to the CITY for the Observatory by THE FOUNDATION are subject to negotiated Gift Agreements executed by and between CITY and THE FOUNDATION, approved in writing by the City Attorney and approved by Mayor and City Council if required. This MOU shall not supersede the terms of any existing or future executed Gift Agreements.
 - e. Exclusivity. THE FOUNDATION is the only organization authorized by CITY to raise funds for the Observatory and CITY will not enter into an MOU with any other organization or entity for the same purposes as this MOU.
2. TERM AND TERMINATION. This MOU shall become effective on the last date of execution of this MOU and shall expire ten (10) years from such date ("Term") with two options to extend the Term each for an additional five (5) year period, each such option to be exercisable at the sole discretion of RAP following a request to extend the Term from THE FOUNDATION. Should THE FOUNDATION wish to extend the Term, a written request shall be submitted to RAP at a minimum six (6) months prior to the expiration of the initial Term or extended Term of this MOU, as the case may be. RAP shall have the sole discretion to renew this MOU based upon such request and any renewal of this MOU shall be effective through an amendment to this MOU or a new agreement, as may be determined by RAP in its sole discretion. Either PARTY may terminate this MOU upon a material breach of the provisions of this MOU upon thirty (30) days written notice after conclusion of good faith efforts at dispute resolution as set forth in Section 8 of this MOU.
3. Employment Practices. THE FOUNDATION will make all hiring, retention, and compensation decisions with respect to its employees. All such decisions shall be subject to all applicable laws. THE FOUNDATION will maintain its own employee handbook. THE FOUNDATION's employees are employees of THE FOUNDATION, and no aspect of their employment is provided, regulated, or constrained by CITY, the Board, or RAP.
4. Office Space and Telephone/Data. CITY will provide within the Observatory office area one large office for multiple staff of THE FOUNDATION, and one private office for the THE FOUNDATION's Executive Director. CITY will provide telephone equipment with connectivity for voice and data without charge for use by THE FOUNDATION in conducting THE FOUNDATION business. THE FOUNDATION will provide furniture, equipment, and supplies necessary for the conduct of their business.
5. Uses of Observatory by THE FOUNDATION. CITY and THE FOUNDATION agree that use of various areas and facilities of the Observatory are necessary and appropriate within the scope of THE FOUNDATION's mission. Specifically:
- a. Membership Services: THE FOUNDATION offers member benefits. Space will be designated in the public area of the Observatory for soliciting and serving members and donors, to be staffed by THE FOUNDATION. Members of THE FOUNDATION receive a discounted Member ticket price for purchase of tickets for the Samuel Oschin Planetarium and Leonard Nimoy Event Horizon as specified in the Griffith Observatory Schedule of Rates and Fees (Board Report 22-073). Through the purchase of Member tickets, members of THE FOUNDATION receive advance seating for shows in both theaters.
 - b. Facility Use: THE FOUNDATION is permitted no-cost use of all Observatory facilities pursuant to its mission to support and exclusively fundraise for the Observatory as set forth in this MOU, provided such uses neither conflict nor compete with Observatory

activities. Such use is subject to availability and prior approval of the Observatory Director. This includes usage of conference rooms, Boeing classroom, Leonard Nimoy Event Horizon, Samuel Oschin Planetarium, exhibit galleries, and Observatory terraces and grounds. Uses may include meetings, conferences, donor cultivation, lectures, educational programming, training, and member events, all subject to advance approval of the Observatory Director as to scheduling. THE FOUNDATION shall be authorized to conduct cultivation events, tours, fundraising receptions, demonstrations, and other related activities – subject to advance approval of the Observatory Director and reimbursement to CITY for out-of-pocket costs where they are beyond typical operating costs unless the reimbursement of such costs is waived by the Observatory Director – in support of THE FOUNDATION'S specific purposes.

- c. Parking: THE FOUNDATION Board members, employed staff, and volunteers shall be provided free parking, subject to availability, in the Reserved Parking lot or in the Observatory staff parking zone while working on THE FOUNDATION business at the Observatory. THE FOUNDATION members at the Sirius level (or similarly designated level) and above and major donors visiting the Observatory shall have the non-exclusive right to park vehicles for free within any available parking spaces at the Observatory on a first-come, first-served basis if arranged in advance and approved by the Observatory. THE FOUNDATION members receive free parking as available when attending approved FOUNDATION events and activities scheduled at the Observatory.
 - d. The Observatory and THE FOUNDATION shall collaborate on their joint website and on social media activities controlled respectively by each party to share astronomical and operational information, promote Observatory and THE FOUNDATION events, and post interesting imagery. These activities shall comply with all RAP and CITY policies regarding content for websites and social media. In no event during any such collaboration or on any of the CITY's or THE FOUNDATION's respective websites or social media shall either party represent that the FOUNDATION is a part of the CITY or vice versa.
 - e. THE FOUNDATION Board, staff, volunteers, and onsite contractors must comply with all CITY policies for appropriate behavior, including all policies regarding sexual harassment, non-discrimination, conflict of interest, and health and safety policies such as policies related to COVID-19. In addition, THE FOUNDATION shall not hire as an employee, or subcontract with, any person whom RAP would be prohibited from hiring as an employee pursuant to California Public Resources Code Section 5164 to perform work at the Observatory premises. In the event the City notifies THE FOUNDATION or becomes aware that any of THE FOUNDATION employees, volunteers and/or contractors has engaged in any inappropriate behavior (as may be set forth in CITY or RAP policy) or serious act of misconduct, including (but not limited to) an act of dishonesty, theft or misappropriation of City property, moral turpitude, insubordination, or any act injuring, harassing, abusing, or endangering others, THE FOUNDATION shall immediately remove such employee, volunteers and/or contractors from the Observatory premises at RAP's instruction. THE FOUNDATION's failure to promptly comply with any of the provisions set forth in this section shall be a material breach of this MOU.
6. Indemnification. CITY hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless THE FOUNDATION, its officers, Board of Directors, employees, members, volunteers, and donors, including their successors,

heirs, and assigns, from and against any and all claims, liabilities, losses, damages, fines, settlements, and expenses (including reasonable attorneys' fees) directly, indirectly, wholly, or partially arising from or in connection with any act or omission of CITY, in agreeing to THE FOUNDATION activities conducted under this MOU, except to the extent that such claims, liabilities, losses, or expenses arise from or in connection with any act or omission of THE FOUNDATION, its officers, Board of Directors, employees, members, volunteers, or donors, including their successors, heirs, and assigns. However, under no circumstances shall CITY be liable for performance of any agreements entered into by THE FOUNDATION not otherwise approved by CITY, and THE FOUNDATION agrees to defend, indemnify, and hold harmless CITY, its officers, employees, and agents, from and against any or all claims, liability, losses, and expenses (including reasonable attorneys' fees) directly, indirectly, wholly, or partially arising therefrom.

THE FOUNDATION hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless CITY, its officers, directors, trustees, employees, members, and donors, including their successors, heirs, and assigns, from and against any and all claims, liabilities, losses, damages, fines, settlements, and expenses (including reasonable attorneys' fees) directly, indirectly, wholly, or partially arising from or in connection with any act or omission of THE FOUNDATION, in agreeing to THE FOUNDATION activities conducted under this MOU, except to the extent that such claims, liabilities, losses, or expenses arise from or in connection with any act or omission of the CITY, its officers, directors, trustees, employees, members, or donors, including their successors, heirs, and assigns.

7. Intellectual Property. The arrangements between CITY and THE FOUNDATION with respect to intellectual property rights will be set out in license agreements negotiated and executed by and between CITY and THE FOUNDATION, approved in writing by the City Attorney, and approved by Mayor and City Council if required. This MOU shall not supersede the terms of any existing or future executed license agreements. Neither the CITY nor THE FOUNDATION shall use the other's trademarks, trade-names or logos (each a "Mark") without the prior written approval of the other. Each Mark shall remain the sole and exclusive intellectual property of the respective party. Nothing in this MOU, or in the performance thereof, shall be construed as transferring, licensing, or otherwise permitting the right to use any intellectual property rights, including any rights to any Mark, that may be owned or licensed by the CITY or THE FOUNDATION.
8. Dispute Resolution. RAP and THE FOUNDATION desire to resolve in a timely and efficient manner any dispute that may arise between them in connection with any provision of this MOU. Should a dispute arise that cannot be resolved through negotiation, RAP and THE FOUNDATION shall, in good faith, engage in a mutually acceptable dispute resolution process to resolve the issue. The purpose of this provision is to provide the parties with a process to resolve disputes which are otherwise at impasse between THE FOUNDATION and RAP.
9. Safety. THE FOUNDATION will observe and be responsible for safety precautions for those on Observatory premises during THE FOUNDATION events and activities and THE FOUNDATION meetings, subject to further direction by RAP. For serious injuries, THE FOUNDATION must immediately call 911. THE FOUNDATION shall cooperate with all RAP and CITY inquiries and investigations regarding any injuries or incidents occurring on Observatory premises.

10. Insurance. THE FOUNDATION shall be fully insured, and as a requirement of this MOU, THE FOUNDATION shall additionally insure the City of Los Angeles for the coverage specified by the City Administrative Officer's (CAO) Risk Manager on Form 146R, attached hereto and incorporated herein by reference as Exhibit B. THE FOUNDATION shall maintain during the TERM of this MOU, evidence of insurance acceptable to the CAO Risk Manager, and shall obtain approval of such insurance prior to THE FOUNDATION performance under this MOU, in accordance with instructions for submitting insurance to the City, included herein as part of Exhibit B, incorporated herein by reference.
11. Observatory Priorities. The Observatory Director will provide THE FOUNDATION, from time to time, with information on the Observatory's needs in terms of funding, support, or programming, which the Board of Directors of THE FOUNDATION shall take into account in determining the use of THE FOUNDATION's assets. The Observatory Director shall incorporate the participation of THE FOUNDATION in the Observatory's establishment and review of annual goals and objectives.
12. Financial Statements. Annual, audited financial statements for THE FOUNDATION will be provided to the CITY within six months of the closing of THE FOUNDATION fiscal year, and THE FOUNDATION will provide unaudited mid-year financial status reports as requested by the General Manager of RAP.
13. Disposition of Assets upon Liquidation and Changes to Articles of Incorporation. THE FOUNDATION's Articles of Incorporation provide that upon liquidation its net assets will be transferred to another California non-profit public benefit corporation with similar purposes. THE FOUNDATION shall not modify or change such provision in its Articles of Incorporation, or make any other material change to its Articles of Incorporation, without 120 days prior written notice to RAP and the Observatory. Any change to such Articles of Incorporation which, in the reasonable discretion of RAP, may materially change THE FOUNDATION's support of the Observatory, shall be cause for termination of this MOU.

14. INCORPORATION OF DOCUMENT

The following exhibits are incorporated by reference:

Exhibit A: Observatory Rates and Fees Report No. 22-073

Exhibit B: Form 146R for Griffith Observatory Foundation

Signature Page to Follow

This MOU shall supersede any prior oral or written understanding or communications between the parties and constitutes the entire agreement of the parties with respect to the subject matter hereof. This MOU may not be amended or modified, except in a writing signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this MOU as of the day and year first above written.

APPROVED AS TO FORM:

MICHAEL N. FEUER
City Attorney

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners

BY _____
Deputy City Attorney

By: _____
President

Date: _____

By: _____
Secretary

Date: _____

GRIFFITH OBSERVATORY FOUNDATION

By _____
(Signature)

(Print Name)

(Title)

By: _____
(Signature)

(Print Name)

(Title)

Date: _____

CONTRACT NO. 3620

BETWEEN

THE LOS ANGELES DEPARTMENT OF RECREATION AND PARKS

AND

FRIENDS OF THE OBSERVATORY (FOTO)

FOR

DIGITAL VIDEO ANIMATION DEVELOPMENT AND PRODUCTION
SERVICES FOR THE *SIGNS OF LIFE* SHOW FOR THE
SAMUEL OSCHIN PLANETARIUM AT GRIFFITH OBSERVATORY

**CONTRACT BETWEEN
THE CITY OF LOS ANGELES
AND
FRIENDS OF THE OBSERVATORY**

**DIGITAL VIDEO ANIMATION DEVELOPMENT AND PRODUCTION SERVICES
FOR THE *SIGNS OF LIFE* SHOW
FOR THE SAMUEL OSCHIN PLANETARIUM AT GRIFFITH OBSERVATORY**

This CONTRACT ("Contract" or "Agreement") is made and entered into this 27th day of April 2018, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Department of Recreation and Parks Department (hereinafter referred to as "RAP"), and FRIENDS OF THE OBSERVATORY, a California non-profit corporation (hereinafter referred to as "CONTRACTOR" or "FOTO"). RAP and CONTRACTOR shall be referred to hereinafter collectively as "the PARTIES".

RECITALS

WHEREAS, RAP owns and operates the Griffith Observatory ("Observatory"), an icon of Los Angeles and the most-visited public observatory in the world, at which it provides the public with telescope viewing, astronomical exhibits, spectacular vistas, and programs in the Samuel Oschin Planetarium and Leonard Nimoy Event Horizon; and

WHEREAS, CONTRACTOR was established in December 1978 by the grandson of Griffith J. Griffith, his wife Debra, and current Observatory Director Dr. E. C. Krupp, with the singular mission of "supporting Griffith Observatory in its mission" and has been the City's sole partner for forty (40) years in improving Griffith Observatory's facilities, programs, and visitor experiences; and

WHEREAS, CONTRACTOR has repeatedly provided essential support for critical Observatory activities, from the Ninety-Three Million Dollars (\$93,000,000.00) renovation and expansion project (in which it directly raised a third of the funds and contributed to the acquisition of much of the remaining funding) to the 2015 upgrade of the projection, control, and sound equipment in the Samuel Oschin Planetarium ("Planetarium"); and

WHEREAS, CONTRACTOR has partnered with the Observatory on the development of prior shows for the Samuel Oschin Planetarium, including the signature *Centered in the Universe* show (opened in 2006) for which it served as the sole Executive Producer and funded more than half the technical staff; and

WHEREAS, *Signs of Life*, the latest production for the Samuel Oschin Planetarium, is an unprecedented and unexpected exploration of the search for life in the universe by exploring its form and origin on the only world where it is known to exist (Earth) and by transporting viewers from the smallest microbial environment to the largest worlds known to orbit stars many light years away; and

WHEREAS, *Signs of Life* integrates thirty (30) minutes of high-resolution, cinematic, digital video animation with the most spectacular projected night sky in the world (courtesy of the Zeiss Mark IX Universarium star projector, funded by CONTRACTOR), a composed score, evocative

sound effects, theatrical lighting, and live presentation into a production that both reflects and renews Griffith Observatory's 83-year reputation for innovation, accuracy, and inspiration in cosmic storytelling; and

WHEREAS, *Signs of Life* is a joint production between the Observatory and CONTRACTOR, overseen by a joint Executive Producer Committee, in which both partners are equally and substantively engaged, both managerially and financially; and

WHEREAS, due to CONTRACTOR's involvement in the development and production of past shows at the Planetarium and its current production and management responsibilities for the *Signs of Life* show, CONTRACTOR possesses unique knowledge, expertise, capability and experience both for the Samuel Oschin Planetarium generally and *Signs of Life* specifically to provide the CITY with the services required under this CONTRACT; and

WHEREAS, the principal purpose of CITY in entering into this CONTRACT is to serve the public by ensuring the timely development of the digital video animation for the *Signs of Life* planetarium show, which will be the key element of this new state-of-the-art, very high-definition, live planetarium show experience completely unique to Griffith Observatory and will be projected using the Two Million, Five Hundred Thousand Dollars (\$2,500,000.00) high-definition video projection system on the hemispheric dome of the Samuel Oschin Planetarium; and

WHEREAS, CONTRACTOR has been serving as the Producer and primary funding source for the last year for *Signs of Life* pre-production and pre-visualization phases. In this role, CONTRACTOR has been hiring and managing staff, supervising staff work, and ensuring that progress on *Signs of Life* video animation development proceeds forward; and

WHEREAS, under this CONTRACT, the CONTRACTOR would provide specialized, technical services necessary to execute the production and post-production phases of the *Signs of Life* video animation development process; and

WHEREAS, CITY finds, in accordance with Charter Section 1022, that it is necessary, feasible, and economical to secure these services by contract as it lacks available personnel in its employ with sufficient time and expertise to undertake these specialized technical and professional services; and,

WHEREAS, CITY finds, pursuant to Charter Section 371(e)(10), that the use of competitive bidding would be undesirable and impractical because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by CITY for the digital animation development and production services for the *Signs of Life* show for the Samuel Oschin Planetarium at Griffith Observatory; and,

WHEREAS, the CITY finds, in accordance with Los Angeles Administrative Code Section 10.15(a)(10), that it does not require competitive bids for contracts for the performance of professional, scientific, expert, technical, or other special services where not practicable with or advantageous to the CITY's interests; and,

WHEREAS, because CONTRACTOR is the only California 501(c)(3) non-profit organization that serves as the CITY's official "Friends of" organization for Griffith Observatory (per formal agreement with the CITY since 2006) and because of its 40-year experience in supporting the Observatory and City, the CONTRACTOR is uniquely skilled and experienced to serve as the

CITY's principal partner in production and development of the animation for the *Signs of Life* planetarium show; and

WHEREAS, it is not advantageous to the CITY's interest to introduce a competitive proposal process because CONTRACTOR possesses specific and unique expert and technical knowledge, skills, and experience related to the production and development of animated shows for the Samuel Oschin Planetarium, having assisted the CITY in the development of prior shows, including *Centered in the Universe* (2006), *Light of the Valkyries* (2010), and *Time's Up* (2012), and has already been serving as the Producer for *Signs of Life* (since 2013); and,

WHEREAS, CONTRACTOR'S extensive, unique 40-year experience of partnership and support for Griffith Observatory, from planning and executing the renovation and expansion of the Observatory to providing key equipment and financial support, including annual funding for the Observatory school program (over One Million, Five Hundred Thousand Dollars [\$1,500,000.00] million since 2007), coupled with CONTRACTOR-managed and funded work already underway on the development of *Signs of Life*, is unique to CONTRACTOR and would not be possible to replace; and,

WHEREAS, *Signs of Life* will be presented in the Samuel Oschin Planetarium for an expected ten-fifteen (10-15) years and experienced by as many as five million (5,000,000) paying ticket holders, which will ensure a steady stream of revenue for the CITY, provide for the long-term sustainability of the Samuel Oschin Planetarium, and advance Griffith Observatory's reputation for originality, authenticity, and imaginative reach in public astronomy; and

WHEREAS, Los Angeles Administrative Code Section 10.17 does not require competitive proposals for contracts for the performance of professional, scientific, expert, or technical services of a one-time or occasional character where not reasonably practicable and compatible with the CITY's interests; and,

WHEREAS, it is not compatible with the CITY's interests to introduce a competitive proposal process because CONTRACTOR provides unique expert and technical services and experience.

NOW, THEREFORE, CITY AND CONTRACTOR, in consideration of the recitals above and of the terms, covenants, and conditions contained herein, agree as follows:

SECTION 1 - PARTIES TO CONTRACT, REPRESENTATIVES AND NOTICE

1.1 Parties

The parties to this CONTRACT are:

CITY - The City of Los Angeles, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS on behalf of the Department of Recreation and Parks having its principal office at 221 North Figueroa Street, Suite 300, Los Angeles, California 90012.

CONTRACTOR – FRIENDS OF THE OBSERVATORY, a California 501(c)(3) non-profit corporation, having its principal office located at 2800 East Observatory Road, Los Angeles, California 90027.

1.2 Representatives

The representatives of the parties who are authorized to administer this CONTRACT and to whom formal notices, demands, and communications will be given for as follows:

CITY's representative will be

Dr. E. C. Krupp, Director
Griffith Observatory
2800 East Observatory Road
Los Angeles, California 90027

With copies to

Matthew Rudnick, Chief Management Analyst
Department of Recreation and Parks
221 North Figueroa Street, Executive Office, Suite 350
Los Angeles, California 90012

Telephone Number (213) 202-2627
Fax Number (213) 202-2614

CONTRACTOR'S representative will be

Camille Lombardo, Executive Director
Friends Of The Observatory (FOTO)
2800 East Observatory Road
Los Angeles, California 90027
Telephone Number: (213) 473-0879
Fax Number: (213) 473-0819

1.3 Notices

Formal notices, demands, and communications to be given hereunder by either party will be made in writing and may be effected by personal delivery or certified mail, return receipt requested, and will be deemed communicated as of the date of receipt.

If the person designated to receive the notices, demands, or communications or the address of such person is changed, written notice of such change shall be given, in accordance with this Section, within five (5) business days of the change.

SECTION 2 - TERM OF CONTRACT

The term of this CONTRACT shall be three (3) years from the date of execution subject to earlier termination by RAP as provided in Appendix B – The Standard Provisions for City Contracts (Rev. 10/17 [v.2]).

SECTION 3 - SERVICES TO BE PERFORMED BY THE CONTRACTOR

3.1 Conduct of Operations

- A. All work will be performed under the direction of the *Signs of Life* Executive Producer Committee, chaired by the Deputy Director of the Observatory. Should there be a disagreement within the *Signs of Life* Executive Producer Committee, the Observatory Director shall have final judgment on all matters in question.
- B. The primary work location for the CONTRACTOR will be the studio in the Griffith Observatory Satellite, located south of the Los Angeles Zoo. The Satellite building, operated by the Observatory, includes work spaces, mini dome and projector, and adjacent state-of-the-art server room (the Mini Moon) building.
- C. The CONTRACTOR shall ensure that all animation conceptualization and development work is planned carefully, budgeted adequately, staffed properly, and executed effectively. CONTRACTOR shall develop a master schedule of animation sequence and asset development and shall manage workflow on a defined weekly plan to ensure timely completion of all animation sequences (and integration with other show development activities).
- D. CONTRACTOR's working days and hours must coincide generally with those of Griffith Observatory (Monday through Friday, 10:00 a.m. – 7:00 p.m., excluding City holidays). The Observatory Director must first approve deviation from these hours and/or work on weekends and/or holidays.
- E. All work shall be completed to the satisfaction of the Observatory Director, after review by the *Signs of Life* Executive Producer Committee. Work shall be performed to the specifications as determined by the Observatory and RAP.
- F. Failure to comply with any requirement contained herein may result in suspension of work without extension of the CONTRACT.
- G. CONTRACTOR, in coordination with the Observatory and RAP, shall provide personnel for all tasks. CONTRACTOR and Observatory shall work in coordination on the provision of needed equipment (as both have provided equipment for current *Signs of Life* production and for past show development).

3.2 Deliverables and Responsibilities

CONTRACTOR will provide development and production services for the full-dome, digital-animation elements of the *Signs of Life* show for the Samuel Oschin Planetarium at Griffith Observatory. CONTRACTOR will be responsible for the conceptualization, testing, development, rendering, and final output and delivery of roughly thirty (30) minutes of high-resolution digital animation consistent with the *Signs of Life* script. Responsibilities associated with this outcome include, but are not limited to, the following

- A. Oversight. CONTRACTOR's President and Executive Director (or designee) shall serve as Executive Producers for *Signs of Life* and members of the *Signs of Life* Executive Producer Committee. These officials shall oversee the administration and execution of all contract activities, including task definition, hiring,

scheduling, budgeting, reporting, and invoicing. CONTRACTOR shall continue to be responsible for regular interaction with, and guidance to, the show Producer, who is responsible for the day-to-day management of the digital animation development work.

- B. Hiring. CONTRACTOR shall be responsible for all hiring of specialized personnel needed to complete the animation development. This may include some or all of the following positions: Producer, Computer Graphics (CG) Supervisor, Visual Effects (VFX) Producer, Production Manager, Computer Graphics Generalist,, Special Effects (FX) Artist, Pre-visualization Artist, Render Wrangler, Pipeline Technical Director, Show Production Technical Administrator, Composer, and other positions and roles as determined to be necessary and approved in advance by the *Signs of Life* Executive Producer Committee.
- C. Areas of Responsibility. CONTRACTOR shall provide and manage all aspects of animation conceptualization and production, including
- i. Production management
 - ii. Visual effects (VFX) development
 - iii. Computer graphics (CG) development
 - iv. Technical development
 - v. Art development
 - vi. Sound development
 - vii. Administration

The responsibilities for each of these functions are detailed in Appendix A.

- D. Planning. CONTRACTOR shall create (with input and approval from the *Signs of Life* Executive Producer Committee) and manage a detailed work plan and schedule for the animation development for *Signs of Life*. CONTRACTOR shall ensure that personnel are deployed and assigned consistent with this plan and within the overall animation budget set by the *Signs of Life* Executive Producer Committee. CONTRACTOR shall manage the animation budget actively, with monthly reports to the *Signs of Life* Executive Producer Committee.
- E. Integration. CONTRACTOR shall manage the overall integration of efforts by both its own personnel and those of the Observatory who are principally dedicated to the development of the *Signs of Life* digital animation. This will include, but not be limited to, assigning tasks, reviewing output, directing changes and adjustments, organizing meetings and reviews, working with outside experts, and seeking other assistance as needed to ensure success.
- F. Deadline. CONTRACTOR shall manage digital animation development activities to ensure that they support a mid-2020 opening for *Signs of Life* in the Samuel Oschin Planetarium. CONTRACTOR shall be responsible for regular updates to the *Signs of Life* Executive Producer Committee on the progress of the digital animation production and shall alert the Executive Producer Committee immediately if issues or problems arise which could affect the overall schedule and show debut.

SECTION 4 - SERVICES TO BE PROVIDED BY THE CITY

- 4.1 Full-time and part-time CITY personnel from the Observatory will work collaboratively and directly in partnership with the CONTRACTOR on the development of the digital animation for *Signs of Life*. Observatory personnel spending a substantive amount of their time on show development include the show's Director and Editor (the Curator of Griffith Observatory), Astronomical Art Director (the Observatory's Graphics Designer III), Astronomical Illustrator (Admin Intern), and Astronomical Graphics Advisor (Observatory Program Supervisor).
- 4.2 Observatory administrative, management, technical, systems, and maintenance staff will ensure timely support for all items required under this CONTRACT, including payment of invoices, purchasing of equipment and supplies, and maintenance of the Griffith Observatory Satellite (including the Mini Moon building and render farm), which serves as the studio for the production of *Signs of Life*.
- 4.3 CITY will promptly act, review, and make decisions as necessary to permit the orderly progress of this work. This includes hosting and managing regular meetings of the *Signs of Life* Executive Producer Committee, on which the Observatory Director and Observatory Deputy Director serve as permanent members and Executive Producers of *Signs of Life*.
- 4.4 CITY will work with CONTRACTOR to define necessary equipment to support the digital animation development project and will, as appropriate, purchase equipment in a timely fashion. CONTRACTOR may also purchase equipment to support the show at its own expense.
- 4.5 CITY will work closely with CONTRACTOR to support ongoing private fundraising efforts, including, but not limited to, fundraising meetings, presentations, events, special screenings, and materials development.

SECTION 5 - RATIFICATION

At the request of CITY, and because of the urgent need therefore, CONTRACTOR may have begun performance of services required hereunder prior to the execution of this Agreement. By its execution hereof, RAP hereby accepts such services from CONTRACTOR subject to all of the terms, covenants, and conditions of this Agreement, and CONTRACTOR's performance as such services.

SECTION 6 - COMPENSATION AND INVOICING

6.1 Compensation

CITY will pay CONTRACTOR an amount not to exceed Seven Hundred Twenty-Five Thousand Dollars (\$725,000.00) quarterly for services outlined in SECTION 3 of this CONTRACT. The total CONTRACT amount shall not exceed Four Million Dollars (\$4,000,000.00) cumulatively for the three (3) year term. The CONTRACT amount is an estimate, and CITY does not guarantee that the CONTRACT maximum amount will be reached. CITY staff will monitor this not-to-exceed aggregate total.

6.2 CONTRACTOR shall inform CITY of any additional project costs due to unforeseen delays and unexpected changes to the scope of work. Additional project costs shall be itemized by CONTRACTOR and approved at the discretion of the Observatory Director or his designee before payment is made to CONTRACTOR.

6.3 Invoicing

CONTRACTOR shall invoice twice a month by submitting two (2) copies of the invoice which details the work performed in accordance with the services outlined in SECTION 3 and any approved change orders within thirty (30) days of completion of the quarter.

CONTRACTOR shall submit invoices to:

Department of Recreation and Parks
Attention: Mark Pine, Deputy Director
Griffith Observatory
2800 East Observatory Road
Los Angeles, California 90027
(213) 473-0800

All invoices shall be submitted on CONTRACTOR'S letterhead, containing CONTRACTOR'S official logo, or other unique and identifying information such as the name and address of CONTRACTOR. Each invoice shall include date of invoice and work period covered, and evidence of the progress in animation production. Documentation should include but not be limited to hours spent per task, rate per hour, and associated expenses (if applicable). The *Signs of Life* Executive Producer Committee shall meet at least quarterly to review the work undertaken during that period (including detailed review of tracking schedules and budgets, selected visuals, and any production issues/challenges) and provide a summary report on the state of animation development.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. The City will not compensate CONTRACTOR for costs incurred in invoice preparation. The City may request changes to the content and format of the invoice and supporting documentation at any time. The City reserves the right to request additional supporting documentation to substantiate costs at any time.

Tasks that are completed by subcontractors shall be supported by subcontractor invoices, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.

Failure to adhere to these policies may result in nonpayment pursuant to Charter Section 262(a), which requires the City Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

SECTION 7 - INCORPORATION OF DOCUMENTS

This CONTRACT and exhibits represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements.

The following documents are incorporated and made a part hereof by reference:

Appendix A. *Signs of Life* Areas of Responsibility

Appendix B. Standard Provisions for City Contracts (Rev. 10/17 [v.2])

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this CONTRACT to be executed by their respective duly authorized representatives.

Executed this 27th day
of April, 2018

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its DEPARTMENT OF RECREATION AND PARKS

By *M. Shue*
GENERAL MANAGER

Executed this 25th day
of April, 2018

FRIENDS OF THE OBSERVATORY

By *Paul Semler*
PRESIDENT
By *Patricia A Casado*
SECRETARY

Approved as to Form:

Date: April 27, 2018

MICHAEL N. FEUER,
City Attorney

By *S. De*
DEPUTY CITY ATTORNEY