ORIGINAL

AGREEMENT FOR SERVICES #246-F1111

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and El Dorado County Chamber of Commerce, a non-profit organization, duly qualified to conduct business in the State of California, whose principal place of business is 542 Main Street, Placerville, CA 95667; (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, County has determined that it is necessary to obtain a Contractor to provide promotional services in order to promote the local economy and enhance the quality of life in the region; and

WHEREAS, Contractor has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

WHEREAS, County has determined that the provision of these services provided by Contractor is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

NOW, THEREFORE, County and Contractor mutually agree as follows:

ARTICLE I

Scope of Services: Contractor agrees to furnish, personnel and materials necessary to operate the El Dorado Lake Tahoe Film & Media Office. Services shall include, but not be limited to those set forth in Exhibit "A", marked "Program Description/Objectives", incorporated herein and made by reference a part hereof.

ARTICLE II

Term: This Agreement shall become effective when fully executed by both parties hereto and shall cover the period of October 1, 2010 through September 30, 2013, subject to the provisions for earlier termination as provided for herein below.

ARTICLE III

Compensation for Services: For services provided herein, County agrees to pay Contractor monthly in arrears. Payment shall be made within thirty (30) days following County's receipt and approval of an invoice. Compensation for the period of October 1, 2010 through September 30, 2011 shall be $89,140 and shall be payable in equal monthly installments of $7,428.33 each. Compensation for each succeeding year during the term of this Agreement shall be adjusted up or down annually at a rate equal to the percentage change in the amount allocated by the Board of Supervisors for Promotions grants within the County Promotions Recommended Budget.

Contractor agrees that compensation provided pursuant to this Agreement shall constitute the total compensation provided by the County for the program(s) described herein for the term of the Agreement. Contractor shall not seek additional funding through the Promotions grant competitive process for said program(s) for funding cycles concurrent with the term of this Agreement.

ARTICLE IV

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE V

Contractor to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.

ARTICLE VI

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE VII

Independent Contractor/Liability: Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

ARTICLE VIII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a recommended budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a recommended budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE IX

Audits Required: Contractor shall submit a year-end audited financial statement covering the term of this Agreement. The financial statements are to clearly show the amounts received and expended for the tasks detailed in Article I. Said audited financial statement shall be submitted to the County within One Hundred Twenty days (120) following the end of the contract term, the end of the Contractor's fiscal year.

Contractor shall maintain client records, books, documents, and other evidence, accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs

and expenses, all of which will be deemed to constitute "records" for purposes of this section. Such records shall clearly reflect the cost and scope of the services provided.

Contractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and its records shall be subject at all reasonable times to inspection, audit and reproduction by County, the state or any of its duly authorized representatives, including the Comptroller General of the United States.

Contractor shall preserve and make available its records for a period of four (4) years from the date of final payment under this Agreement, and for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by either of the following:

1. If this Agreement is terminated or partially terminated, all of the records relating to work terminated shall: a) be preserved and made available for a period of four (4) years from the date of any resulting final settlement; or b) at the sole option of the County, immediately become the property of the County and shall be delivered by Contractor to County.

2. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the four (4) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular four (4) year period, whichever is later.

ARTICLE X

Revenue and Budget Surplus: If it is determined by County at the termination of this Agreement and the Audit review that there have been payments by the County in excess of or contrary to that provided in the aforementioned auditing standards, Contractor agrees to refund and repay all such amounts to the County within thirty (30) days following such determination.

ARTICLE XI

Default, Termination, and Cancellation:

A. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has

expired. . In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.

C. Ceasing Performance: County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

D. Termination or Cancellation without Cause: Either party may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise

ARTICLE XII

Severability: If any provision of this Agreement shall be held to be invalid, illegal or unenforceable for any reason, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ARTICLE XIII

Reports: Contractor shall submit one progress report six months following execution of this Agreement demonstrating success in accomplishing mutually agreed upon metrics. At the end of each year, Contractor shall submit an annual report including all activities for the period. The Contract Administrator will coordinate submittal of the annual reports to the Economic Development Advisory Committee (EDAC) and the Board of Supervisors.

ARTICLE XIV

Ownership of Rights: County and Contractor hereby expressly agree that all printed materials described in Article I, whether produced by Contractor, its agents, representatives, employees, or sub-contractors, shall be considered a "work made for hire" within the meaning of 17 USC Sec. 101. County shall have sole ownership of all rights, for all purposes, in each completed work, and unused printed materials.

Contractor shall comply with all applicable laws regarding the use, publication, broadcast or dissemination of materials called for in this Agreement. Contractor shall be solely responsible for obtaining any and all required permission or licenses and for the payment of any license or use fees relating to the use, publication, broadcast, or dissemination of materials.

ARTICLE XV

Nondiscrimination: In providing services, employing personnel, or in any other respect of this Agreement, Contractor shall not employ discriminatory practices on the basis of race, color, sex, age, religion, national origin or ancestry, or physical or mental handicap.

ARTICLE XVI

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
CHIEF ADMINISTRATIVE OFFICE
330 FAIR LANE
PLACERVILLE, CA 95667
ATTN: SAM DRIGGERS, ECONOMIC DEVELOPMENT COORDINATOR

or to such other location as the County directs.

Notices to Contractor shall be addressed as follows:

EL DORADO COUNTY CHAMBER OF COMMERCE
542 MAIN STREET
PLACERVILLE, CA 95667
ATTN: LAUREL BRENT-BUMB, EXECUTIVE DIRECTOR

or to such other location as the Contractor directs.

ARTICLE XVII

Indemnity: The Contractor shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XVIII

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.

B. Commercial General Liability Insurance of not less than $1,000,000.00 combined single limit per occurrence for bodily injury and property damage.

C. Automobile Liability Insurance of not less than $1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.

D. In the event Contractor is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than $1,000,000.00 per occurrence.

E. Contractor shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.

F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.

G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

H. The certificate of insurance must include the following provisions stating that:

1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;

2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.

I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.

L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.

N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.

O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of the County.

ARTICLE XIX

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XX

Interest of Contractor: Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

ARTICLE XXI

California Residency (Form 590): All independent Contractors providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding $1,500.00.

ARTICLE XXII

Taxpayer Identification Number (Form W-9): All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE XXIII

County Business License: It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXIV

Administrator: The County Officer or employee with responsibility for administering this Agreement is Sam Driggers, Economic Development Coordinator, CEcD, Chief Administrative Office, Office of Economic Development, or successor.

ARTICLE XXV

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XXVI

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXVII

Venue: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XXVIII

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By: _____ Dated: 10-18-10

Sam Driggers, CEcD,
Economic Development Coordinator
Chief Administrative Office

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: _____ Dated: 10/18/10

Gayle Erbe-Hamlin
Chief Administrative Officer

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

Dated: 10/12/10

By: _____
Gayle Erbe-Hamlin
Chief Administrative Officer and
Purchasing Agent
"County"

--CONTRACTOR--

El Dorado County Chamber of Commerce
a non-profit organization

Dated: 10/12/10

By: _____
~~Kirk Bone~~
President
"Contractor"

By: _____ Dated: 10/12/10
Corporate Secretary

EXHIBIT "A"

II. PROGRAM DESCRIPTION/OBJECTIVES

PROGRAM DESCRIPTION

The El Dorado Lake Tahoe Film & Media Office (Film Office) is a division of the El Dorado County Visitors Authority and a member of the Association of Film Commissioners International (AFCI) and the California Film Commission.
The Film Office was established in the El Dorado County Chamber of Commerce pursuant to Resolution 86-90 of the El Dorado County Board of Supervisors dated April 3, 1990 (ATTACHMENT 7).
The charge to the Film Office, contained in Resolution No. 86-90, is to "work cooperatively and responsively with the [film] industry."
AFCI requires the film commission to "provide service and support from the initial contact to the close of production, including also on-call problem-solving" ("AFCI and FLICS requirements," ATTACHMENT 7).
Since the Film Office opened in 1993, El Dorado County has been able to attract film companies by creating the necessary conditions for easy filming on location, advertising the County's amenities and tailoring its marketing program to target those producers and projects that are most suitable to the county.
Filming in El Dorado County requires the support of local governments, businesses and individuals. In turn, film companies contribute to the retention and expansion of County businesses and services and overall economic viability.

VISION

El Dorado County's Film Office will leverage its leadership position in the region to attract state and international entertainment companies to the County and to build an entertainment business center that will provide steady year-round employment and industry and non-industry businesses and expands employment opportunities.

GOAL

Retain and expand film/entertainment industry investment in El Dorado County.

1. Increase number of projects filmed in El Dorado County. The average for the past five years was 25 to 30. The goal for the next five years is an average of 30 to 35
2. Establish regional film/entertainment business center.

PROGRAM OBJECTIVES

<u>a. Specific program activities and objectives</u>
To meet the County's directive and the agency's mission, the Film Office has developed six separate but interrelated components. They are:

1) permitting – over 75 agencies
2) locations – 1,000s, see website
3) promotion – industry events, local events
4) marketing – website, direct calling, mailings, fan tours, self-guided tour
5) education – collaborate with schools, libraries, community organizations, SIRS, Rotary, Newcomers and others (See "Program of Work," ATTACHMENT 2)
6) philanthropy – support County nonprofits

Objective 1-Marketing

(c) Target industry events with innovative, low-cost, high-impact strategies. Annual events are:

(1) The Film office sponsors a booth at the Film Liaisons in California Statewide (FLICS) California Only Trade Show held in Los Angeles every winter. This is an opportunity to showcase El Dorado County's all-season, diversified locations, as well as its businesses, services and products ("Film Liaisons in California Statewide," ATTACHMENT 5).

ACTION: Continue participation; incorporate new and innovative marketing materials.

(2) California On Location Awards (COLA) is sponsored by the California Film Commission (CFC) and FLICS in October. Each year the Film Office and other film industry professionals submit nominations in different categories and almost each year our County's nominations have won awards. El Dorado County wineries have provided wine for the ceremony numerous times.

ACTION: Continue submitting nominations. Continue participation in awards event.

(d) Create self-sustaining, long-term marketing programs by hosting local events.

(1) The Film Office collaborated with Biz Showcase to sponsor an enhanced Film Industry Mixer with a high-profile speaker. This year's speaker was actor Robert Hays, well known for his role in the movie "Airplane" and also starred in the film "The Retrievers" for the Animal Planet that filmed locally and featured Placerville and Camino in their locations.

ACTION: Increase audience by 50.

(2) Putting a new twist on a traditional practice, the Film Office created the "Key to the County." The key was presented on July 17 by Supervisor John Knight to film and television producer Lincoln Lageson along with a resolution from the Board of Supervisors recognizing his Hallmark Channel project, "Jack's Family Adventure," and his support of local charities like the Grace Foundation (ATTACHMENTS 10 and 11).

ACTION: Make annual event.

(e) Expand on-line digital photo location library with diversified locations available in the County.

ACTION: Add or update 20 location sites.

Objective 2-Advertising

(a) Refine the advertising campaign to create a self-sustaining, long-term advertising program for print, web and interactive media.

(b) Research best management practices for secure social media to augment filmtahoe.com website.

(c) Collaborate with the El Dorado Arts Council and the El Dorado County Visitor's Authority to create a self-guided tour of public filming locations in the County.

Objective 3-Outreach

(a) Support local filming at community events through on-line showcasing of trailers and sponsorships.

ACTION: Attend as time and funds allow.

(b) Collaborate with Folsom Lake College, El Dorado Center and Folsom VAPAC, South Lake Tahoe Community College and County high schools to support internship programs, Career Days and school visits.

(c) Collaborate with County libraries with visits, programs and an updated "Filmed in El Dorado County" DVD rental section.

Objective 4-Economic Development

(a) Provide entertainment industry autographed items and set visits to nonprofits for auctions at fundraising events.

ACTION: As requested.

(b) Pursue County incentives, i.e., no-fee locations, free office space, possible financing options.

ACTION: Create flyer describing County incentives.

(c) Attract international film companies.

ACTION: Support international business and film production by working with a United States based producer who is sponsoring production company representatives from Southern India to discuss locations for a Bollywood-style movie and secure lodging and services in El Dorado County.

<u>b. Show how program effectively provides services to meet the county objectives of promoting and attracting visitors/revenue to the county.</u>

The Film Office serves production companies from pre-production through post-production.

(1) Viewers of movies, television programs and commercials filmed in El Dorado County are attracted to visit all areas of the county.

(2) Production company crews (2 to 200) that film in the County live and work for periods of one day to several weeks, benefitting local businesses and creating employment. Many of them stay to visit or return, adding tourist dollars. The Milken report on "Film Flight" uses a multiplier factor of 2.5 to estimate the value of filming companies on non-industry businesses. ("Statewide Filming Days Data, 2000-2009," ATTACHMENT 4)

(3) An entertainment business center will draw regional talent, encourage entrepreneurs and create a film-related synergy with allied businesses.

c. Show how your program incorporates local and regional organizations, through a collaborative process, in promoting the county.

(1) The Film Office is a member of the Association of Film Commissioners International (AFCI) and the California Film Commission. Pooling resources, the members are able to mount major programs and events.

(2) The Film Office is collaborating with the El Dorado Arts Council to produce a self-touring guide to public film location sites.

(3) The Film Office is collaborating with Channel 2 and the El Dorado Hills Vision Coalition, among others, to create an entertainment business center.

d. Timeline for meeting stated objectives

(1) For the self-guided film location tour:

year one–identify locations, design guide for internet and print
year two–implement, promote and evaluate
year three-promote and evaluate

(2) Entertainment business center:

year one-feasibility research, film community buy-in, identify related industry,Web, graphics,equipment houses, other as needed
year two-development
year three-trial.

(3) The remaining objectives have an annual timeline.

e. Duration of program; single year vs. multi-year program

This application covers a three-year period.