

**THE COUNTY OF ORANGE
AND
DISCOVERY SCIENCE CENTER
FOR THE ECOCHALLENGE EXHIBITS, ECOCHALLENGE BRAND & STRATEGIC
MARKETING PLAN WITH DISCOVERY SCIENCE CENTER FOR
OC WASTE & RECYCLING**

This Contract **MA-299-13010956** for The EcoChallenge exhibits, EcoChallenge brand & Strategic Marketing Plan for OC Waste & Recycling, (hereinafter referred to as "Contract") is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California, (hereinafter referred to as "County") and **Discovery Science Center, a California Non Profit Corporation** with a place of business at 2500 North Main Street, Santa Ana, CA 92705 (hereinafter referred to as "DISCOVERY"), which are sometimes individually referred to as ("Party"), or collectively referred to as ("Parties").

RECITALS

WHEREAS, the California Integrated Waste Management Act of 1989 (Statutes of 1989, Chapter 1095, codified as California Public Resources Code Section 40000 et seq.) (the "Act") promotes the reduction, recycling, and reuse of solid waste generated in California to preserve landfill capacity, to conserve water, energy, and other natural resources, and to protect the state's environment;

WHEREAS, the Act requires local agencies to development Integrated Waste Management Plans to include, among other requirements, an education and public information component;

WHEREAS, the County has established its Integrated Waste Management Plan;

WHEREAS, consistent with the public interest, the Act, and the County's Integrated Waste Management Plan, the County desires to educate students, parents, and all citizens about the benefits of reducing solid waste and the impact created by improper disposal of solid waste and hazardous materials;

WHEREAS, legislation such as SB 1374, SB 1016 and AB 341 place further requirements on municipalities to reach their 50% diversion goal and additional state mandated recycling requirements to remain in compliance;

WHEREAS, on April 18, 2006 the Orange County Board of Supervisors created a market-driven solution to meet the increasing mandates that increased the use of privately owned recycling centers by approving an AB 939 surcharge for self-hauled waste disposed of at Orange County landfills;

WHEREAS, the revenue from the surcharge is restricted to expenses that support the implementation of programs, such as outreach, education, marketing, branding and partnership activities, that increase waste diversion through recycling and waste diversion activities;

WHEREAS, the County's primary objective is to create strategic, purposeful and cost-effective programs that provide the greatest impact for the least cost;

WHEREAS, DISCOVERY, is Orange County's largest provider of science education, providing science education at Discovery Science Center through hands-on exhibits and has a renowned science program in the schools as well reaching over 500,000 visitors annually;

WHEREAS, the County awarded a grant to DISCOVERY to design, build and host three educational exhibits, named the EcoChallenge, at Discovery Science Center that focus on educating and improving the individual behaviors of Orange County residents related to the reduction of waste, the reuse of items and recycling;

WHEREAS, the EcoChallenge exhibits opened on September 1, 2011 with the goal of improving behaviors that shall:

- Reduce creation of waste through increasing the awareness of product packaging
- Identify different landfill, green and hazardous waste types
- Identify reusable and recyclable materials
- Understand how to properly dispose of each type of waste
- Understand the finite capacity of County landfills;

WHEREAS, the EcoChallenge exhibits and the proposed activities are strategic, purposeful and cost-effective and are intended to be the cornerstone of the County's recycling outreach and education for the ten (10) year duration of the EcoChallenge exhibits;

WHEREAS, it is of mutual interest of the County and DISCOVERY to drive attendance to the EcoChallenge exhibits;

WHEREAS, DISCOVERY shall continue to contribute media, marketing, and in-kind services to meet our mutual interests in the amount of not less than \$815,000 annually to market, brand and promote the EcoChallenge exhibits, its brand, events and public education and outreach;

WHEREAS, the County desires to use the exhibits and this contract to enhance its mission of educating the public to reduce waste and extend the life of its landfills, consistent with the Act and the public interest;

~~**WHEREAS**, the County now desires to enter into this Contract with DISCOVERY to provide the EcoChallenge brand & Strategic Marketing Plan for OC Waste & Recycling; and~~

WHEREAS, the Parties entered into the Contract for the EcoChallenge Exhibits, EcoChallenge Brand, and Strategic Marketing Plan effective February 5, 2013 through February 4, 2016, in an amount not to exceed \$1,500,000 with the option to renew for two additional one-year periods in an amount not to exceed \$500,000 per year; and

WHEREAS, County issued Amendment Number One deleting Article 44, Waiver of Jury Trial, and replacing it with "intentionally left blank"; and

WHEREAS, County issued Amendment Number One renewing the Contract for one year, effective February 5, 2016 through February 4, 2017, in an amount not to exceed \$500,000, which renewal was executed by the Deputy Purchasing Agent or Board authorized designee pursuant to the 2012 County of Orange Contract Policy Manual §3.3-106(1)(c); and

WHEREAS, County now desires to renew the Contract for one year, effective February 5, 2017 through February 4, 2018, in an amount not to exceed \$500,000.

ARTICLES

NOW, THEREFORE, the Parties mutually agree as follows:

1. **Scope of Services:** This Contract, including Attachments, specify the contractual terms and conditions by which DISCOVERY shall provide the EcoChallenge brand & Strategic Marketing Plan for OC Waste

& Recycling under a fixed ceiling Contract, as set forth herein, and shall not exceed \$1,500,000 for a three year term.

2. **Contract Term:** This Contract shall commence January 8, 2013 through January 7, 2016 unless otherwise terminated as provided herein for The EcoChallenge exhibits, EcoChallenge brand & Strategic Marketing Plan. This Contract is renewable thereafter for two additional one-year periods in an amount not to exceed \$500,000 per annual renewal.

3. **Contingency of Funds:** DISCOVERY acknowledges that funding or portions of funding for this Contract for any period within the contract term may be contingent upon County budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited for any fiscal year in the term of this contract, County may immediately terminate or modify this Contract without penalty.

4. **Precedence:** The Contract documents consist of this Contract and Attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract and then the Attachments.

5. **DISCOVERY's Project Manager and Key Personnel:** DISCOVERY shall appoint a Project Manager to act as liaison between the County and DISCOVERY during the term of this Contract and to direct DISCOVERY's efforts in fulfilling DISCOVERY's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

DISCOVERY's Project Manager shall be assigned to this Contract for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines.

6. **County's Project Manager:** The County shall appoint a Project Manager to act as liaison between the County and DISCOVERY during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with DISCOVERY.

The County's Project Manager shall have the right to require the removal and replacement of DISCOVERY's Project Manager under this Contract. The County's Project Manager shall notify DISCOVERY in writing of such action. DISCOVERY shall accomplish the removal within 14 calendar days after written notice by the County's Project Manager. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific DISCOVERY Project Manager be removed from performing services under this Contract. The County's Project Manager shall review and approve the appointment of the replacement for DISCOVERY's Project Manager. Said approval shall not be unreasonably withheld.

7. **DISCOVERY's Personnel:** DISCOVERY warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract.

8. **Conflict of Interest:** The County of Orange Board of Supervisors' policy prohibits its employees from engaging in activities involving a conflict of interest. DISCOVERY shall not, during the period of this Contract, employ any County employee for any purpose.

DISCOVERY shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to DISCOVERY; DISCOVERY's employees, agents, and relatives; sub-tier Consultants; and third parties associated with

accomplishing work and services hereunder. DISCOVERY's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

9. Conditions Affecting Work: DISCOVERY shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by DISCOVERY to do so will not relieve DISCOVERY from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.

10. DISCOVERY's Records: DISCOVERY shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by DISCOVERY in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County. Storage of records in another county will require written approval from the County Deputized Purchasing Agent DPA.

11. Audits/Inspections: DISCOVERY agrees to permit the County, which may include the Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County), access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of DISCOVERY for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify DISCOVERY's records before final payment is made each Contract year. DISCOVERY agrees to maintain such records for possible audit for a maximum of three years after the term of the Contract, unless a longer period of records retention is stipulated under this Contract or by law. DISCOVERY agrees to allow interviews of any employees or others who might reasonably have information related to such records during the Contract term. Further, DISCOVERY agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract for a maximum of three years after the Contract term, unless a longer period of records retention is stipulated under this Contract or by law.

Should DISCOVERY cease to exist as a legal entity, DISCOVERY's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

12. Child Support Enforcement Requirements: DISCOVERY is required to comply with the child support enforcement requirements of the County. Failure of DISCOVERY to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

13. Publication: No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by DISCOVERY and/or anyone acting under the supervision of DISCOVERY to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic

display information to be published in newspapers, magazines, etc., are to be administered by the County and DISCOVERY as mutually agreed to by both Parties.

14. News/Information Release: DISCOVERY agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.

15. Reports/Meetings: In addition to the requirements set forth in the Scope of Work, Attachment A, incorporated herein as though fully set forth upon County's request, DISCOVERY shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Project Manager and DISCOVERY's Project Manager will meet on reasonable notice to discuss DISCOVERY's performance and progress under this Contract. If requested, DISCOVERY's Project Manager and other project personnel shall attend all meetings. DISCOVERY shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

16. Breach of Contract: The failure of either Party to comply with any of the provisions, covenants or conditions of this Contract, shall constitute a material breach of this Contract. In such event that either Party may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Afford the other Party written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
- b. Terminate the Contract immediately without penalty.

17. Contract Disputes: The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by DISCOVERY's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent (DPA), as specified in Article 22, Notices, by way of the following process:

- a. DISCOVERY shall submit to the County DPA a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
- b. DISCOVERY's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, DISCOVERY shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which DISCOVERY believes the County is liable.
- c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, DISCOVERY agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. DISCOVERY's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County DPA. If the County fails to render a decision within 90 days after receipt of DISCOVERY's demand, it shall be deemed a final decision adverse to DISCOVERY's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless DISCOVERY commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of the County's final decision or one year following the accrual of the cause of action, whichever is later.

18. Orderly Termination: Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

19. Ownership of Deliverables, Proprietary Rights, License of Rights: The parties agree that County shall own all right, title and interest in and to any deliverables developed by DISCOVERY and delivered by DISCOVERY to County under this Contract and included Scope of Work, referred to herein as “Deliverables,” this includes ownership of advertising collateral created for the County by DISCOVERY for purposes of promoting the EcoChallenge exhibit prior to this Contract.

For the current term of this Contract, as set forth herein, County shall own all right, title and interest in and to any deliverables developed by DISCOVERY to County under this contract, and its included Scope of Work as set forth on Attachment A, referred to herein as “Deliverables.”

Notwithstanding the first two paragraphs above commencing this Paragraph 19, all proprietary information developed specifically for County by DISCOVERY in connect with, or resulting from, this Contract, herein referred to as “EcoChallenge Brand Elements”, and including but not limited to the advertising collateral created for purposes of promoting the EcoChallenge exhibits prior to this Contract as referenced above, inventions, discoveries, improvements, trade name, trademark(s), character(s) logo(s), or other identification of the EcoChallenge, copyrights, patents, or software programs underlying the Deliverables, including Contractor’s underlying materials, software, or know-how, shall remain to be the sole and exclusive property of DISCOVERY, known herein as the “Proprietary Rights.”

Without limiting the foregoing, DISCOVERY hereby grants County a perpetual, non-exclusive, royalty free license in and to the Proprietary Rights of all EcoChallenge Brand Elements, to use the Proprietary Rights in connection with the use of Deliverables under this Contract, including the advertising collateral created for the County prior to this Contract, as indicated above. Unless expressly restricted in writing, County shall have the right under this Contract to use the trade name, trademark(s), character(s), logo(s) and other identification of the EcoChallenge Brand.

Both DISCOVERY and County will jointly work to develop a mutually agreed upon EcoChallenge Brand Style Guide (“Style Guide”) and Cooperative Terms of Use Agreement. Both Parties agree to be bound by the Style Guide and Cooperative Terms of Use Agreement under the terms of this Contract. Once complete, through the license of the Proprietary Rights, DISCOVERY agrees to create and provide to County a full digital suite of images, logos, characters and brand assets for its use. All uses of the EcoChallenge Brand Elements will require prior approval of its use by DISCOVERY. DISCOVERY agrees to provide approvals in a timely manner not to exceed 3 business days of electronic receipt of requests. DISCOVERY will not unnecessarily withhold approval of the use of these materials unreasonably. DISCOVERY further agrees to provide monthly updates to County of all EcoChallenge Brand uses and intended uses that are known and that may also involve any potential third-party.

20. Use of Discovery Science Center Brand: For purposes of supporting the Call To Action integrated within the Strategic Marketing Plan, and without limiting the foregoing, DISCOVERY hereby grants County a perpetual, non-exclusive, royalty free limited use license in and to use the trade name and logo(s) of Discovery Science Center (“DSC Brand”) in connection with the use of Deliverables under this contract only. Unless expressly restricted in writing, County shall have the right under this agreement to use the DSC Brand trade name and logo(s). All uses of the DSC Brand will require prior approval of its use by DISCOVERY. DISCOVERY agrees to provide approvals in a timely manner not to exceed 3 business days of electronic receipt of requests. DISCOVERY will not unnecessarily withhold approval of the use of these materials unreasonably.

21. **Title to Data:** All materials, documents, data or information obtained from the County data files or any County medium furnished to DISCOVERY in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by DISCOVERY after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

22. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the County's Project Manager and DISCOVERY's Project Manager routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

County: OC Waste & Recycling/Purchasing
Attn: Purchasing Manager
300 N. Flower St. 4th Floor, Suite 400
Santa Ana, CA 92703
Phone: 714.834.4145
diane.dodson@ocwr.ocgov.com

Contractor: Discovery Science Center
Attn: Lloyd Joseph Adams
2500 North Main Street
Santa Ana, CA 92705

23. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.

24. **Entire Contract:** This Contract, including all attachments, when accepted by DISCOVERY, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee, hereinafter "Purchasing Agent." This Contract includes the following Attachments that are incorporated by this reference:

Attachment A Scope of Work
Attachment B Compensation, Payment and Tasks
Attachment C Child Support Enforcement Requirements
Attachment D EDD Independent Contractor Requirements
Attachment E Schedule of Fees
Attachment F Proposed Strategic Marketing Plan

25. **Authorization Warranty:** DISCOVERY represents and warrants that the person executing this Contract on behalf of and for DISCOVERY is an authorized individual/officer who has actual authority to bind DISCOVERY to each and every Article and obligation of this Contract and that all requirements of DISCOVERY have been fulfilled to provide such actual authority.

26. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

27. **Taxes:** All prices shall be inclusive of any applicable sales tax.

28. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed Scope of Work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at DISCOVERY's expense. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.

29. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after services have been provided as more fully defined in Attachment B.

30. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, DISCOVERY shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. DISCOVERY warrants that any materials as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. DISCOVERY agrees that, in accordance with the more specific requirement contained in Article 37, Indemnification, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

31. **Assignment or Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or subcontracted by DISCOVERY without the express written consent of County. Any attempt by DISCOVERY to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

32. **Non-Discrimination:** In the performance of this Contract, DISCOVERY agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. DISCOVERY acknowledges that a violation of this provision shall subject DISCOVERY to all the penalties imposed for a violation of Anti-Discrimination Law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

33. **Termination:** In addition to any other remedies or rights it may have by law and those set forth in this Contract, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of

Contract, any misrepresentation or fraud on the part of DISCOVERY. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations hereunder.

34. Consent to Breach Not Waiver: No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

35. Independent Contractor: DISCOVERY shall be considered an independent Contractor and neither DISCOVERY, its employees, nor anyone working for DISCOVERY under this Contract shall be considered an agent or an employee of County. Neither DISCOVERY, employees nor anyone working for DISCOVERY under this Contract shall qualify for workers' compensation or other fringe benefits of any kind through County.

36. Performance: DISCOVERY shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. DISCOVERY shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by DISCOVERY under this Contract. DISCOVERY shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.

37. Indemnification: DISCOVERY agrees to indemnify, defend with counsel approved in writing by County, and hold County, their elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by DISCOVERY pursuant to this Contract. If judgment is entered against DISCOVERY and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, DISCOVERY and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

INSURANCE PROVISIONS

Prior to the provision of services under this Contract, DISCOVERY agrees to purchase all required insurance at DISCOVERY's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of DISCOVERY pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for DISCOVERY.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

If DISCOVERY fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier) or have a minimum rating be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**.

If the insurance carrier is not a non-admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, the County CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of DISCOVERY's performance and financial ratings. The policy or policies of insurance maintained by DISCOVERY shall provide the minimum limits and coverage as set forth below:

Coverage Minimum Limits

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this contract shall give the County of Orange 30 days' notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the Contract.

County expressly retains the right to require DISCOVERY to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify DISCOVERY in writing of changes in the insurance requirements. If DISCOVERY does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to DISCOVERY, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit DISCOVERY's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

38. **Changes:** DISCOVERY shall make no changes in the work or perform any additional work without the County's specific written approval.

39. **Change of Ownership:** DISCOVERY agrees that if there is a change or transfer in ownership of DISCOVERY's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume DISCOVERY's duties and obligations contained in this Contract and complete them to the satisfaction of County.

40. **Force Majeure:** DISCOVERY shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided DISCOVERY gives written notice of the cause of the delay to County within 36 hours of the start of the delay and DISCOVERY avails himself of any available remedies.

41. **Confidentiality:** DISCOVERY agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by DISCOVERY and DISCOVERY's staff, agents and employees.

42. **Compliance with Laws:** DISCOVERY represents and warrants that services to be provided under this Contract shall fully comply, at DISCOVERY's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. DISCOVERY acknowledges that County is relying on DISCOVERY to ensure such compliance, and pursuant to the requirements of Article 37 above, DISCOVERY agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

43. **Pricing:** The Contract rates, as more fully set forth in Attachment B, incorporated herein as though fully set forth, include full compensation for providing all required services as specified herein, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.

44. **Waiver of Jury Trial:** Each Party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its

~~successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and /or any other claim of injury or damage. Intentionally left blank.~~

45. **Terms and Conditions:** DISCOVERY acknowledges that it has read and agrees to all terms and conditions included in this Contract.

46. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

47. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

48. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

49. **Attorney’s Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.

50. **Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

51. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

52. **Employee Eligibility Verification:** DISCOVERY warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. DISCOVERY shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. DISCOVERY shall retain all such documentation for all covered employees for the period prescribed by the law. DISCOVERY shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against DISCOVERY or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown below their respective signatures below.

DISCOVERY SCIENCE CENTER*

By _____

By _____

Print
Name _____

Print
Name _____

Title _____
Corporate Officer

Title _____
Corporate Officer

Date _____

Date _____

COUNTY OF ORANGE
a political subdivision of the State of California

By _____

Print
Name _____

Title _____

Date _____

APPROVED AS TO FORM:
County Counsel

By _____
Deputy

Date _____

* If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signator to bind the corporation.

ATTACHMENT A SCOPE OF WORK

The EcoChallenge Exhibits, EcoChallenge Brand and Strategic Marketing Plan with Discovery Science Center

I. BACKGROUND

On April 28, 2009, the County began working with DISCOVERY on a new approach to community education and outreach. This partnership produced the EcoChallenge exhibits, a multi-disciplinary approach designed to change public behavior through education. The EcoChallenge exhibits, which opened to the public on September 1, 2011, include state-of-the-art, environmentally-themed interactive exhibits that combine key elements of the Department's mission to protect the environment and promote recycling with DISCOVERY's ability to merge learning with fun. Combining environmental messages with interactive scientific inquiry, the exhibits seek not simply to build awareness but to improve and ultimately change individual behaviors. The EcoChallenge exhibits include the following: The Discovery Market, where visitors master the skills of a green superhero by demonstrating eco-friendly shopping awareness; The Race to Recycle, an activity that teaches participants how to properly sort specific waste streams in order to minimize the amount of recyclable materials that end up at Orange County landfills; and The EcoGarage, which reveals the importance of identifying and properly disposing of household hazardous waste.

The \$3.6 million investment for the EcoChallenge exhibits, authorized by the Orange County Board of Supervisors, is a ten-year investment over the life of the exhibits. The County's investment in the EcoChallenge exhibits represents the most significant investment to date from the AB 939 surcharge. The operation and maintenance costs for the EcoChallenge exhibits are offset by an endowment fund established by DISCOVERY through grants and donations from public and private sources. With nearly 500,000 annual visitors to Discovery Science Center, the EcoChallenge exhibits will attract approximately five (5) million visitors, representing a cost of less than one dollar per visitor over the County's ten-year recycling initiatives outlined in Section II., Objectives.

II. OBJECTIVES

This Scope of Work develops and implements a strategic marketing plan designed to increase residents' recycling activities, waste reduction and reuse practices in order to increase diversion and sustain the desired outcomes. This campaign shall achieve the following key objectives:

- Drive Department target audiences to Discovery Science Center for a hands-on, interactive experience with the EcoChallenge exhibits.
- Increase awareness of efficient reuse, reduce, recycling and household hazardous waste practices and improve and sustain meaningful behavioral improvement among target audiences.
- Implement integrated marketing activities including high-potential, cost-effective paid and unpaid media. The unpaid media refers to activities and opportunities that may assist in sustaining our desired outcomes through partnerships, sponsorships and value-added opportunities.

- Expose the Orange County public, Department partners and other strategic entities to the EcoChallenge brand and its opportunities. Expand the EcoChallenge brand identity and key messages.
- Create universal, countywide messages and materials that can be utilized by other partner agencies for customization and implementation.
- Develop and implement meaningful tracking methods to measure success of the project/programs through measurable outcomes.
- Build upon business and community partnerships developed by identifying and securing additional opportunities at no additional cost to County. Expand the effort particularly in the private sector to further promote the EcoChallenge brand and key messages throughout Orange County.
- Integrate social marketing programs surrounding the issues of recycling, reuse and waste diversion as related to the EcoChallenge exhibits.
- Conduct ongoing and aggressive monitoring to continually identify new opportunities, programs and events to secure milestones and advance the goals of the County.

DISCOVERY shall provide professional marketing and media services that support compliance with State mandated recycling goals, promote increased regional recycling and diversion efforts, and improve the recycling behaviors of Orange County residents, at the direction of the County's Project Manager.

DISCOVERY shall prepare an ongoing strategic marketing plan and schedule for activities to be undertaken throughout the term of the Contract. At a minimum, the plan shall include recommendations on how to effectively update the outreach campaign through media and the development of additional public outreach materials.

DISCOVERY's approach is designed to quickly and efficiently move the County of Orange forward on its recycling and waste diversion goals by leveraging existing programs and outreach opportunities once the brand identity and target audiences are established and throughout the term of the Contract. DISCOVERY shall work with County to identify and secure relationships throughout Orange County and shall work to maintain these ongoing relationships through events and activities geared toward creating long-lasting, meaningful and mutually beneficial partnerships.

III. TASKS AND DELIVERABLES

The County Project Manager may authorize the Project Tasks consistent with the scope of work set forth herein. Each Project Task shall detail the work to be accomplished, the list of deliverables, a schedule for completion and an estimated not-to-exceed cost for its completion. Production services shall be billed in accordance with Attachment E, Schedule of Fees. Each Project Task will be reviewed and approved by the County Project Manager prior to commencement of the proposed work. County Project Manager's written authorization must be submitted with the invoice in order for payment to be made. In the event of unforeseen circumstances occurring which necessitates a modification to the authorized Project Task, a separate Project Task authorization may be requested by DISCOVERY to reflect the change of scope of services. DISCOVERY shall at all time during the term of the Project Task keep full and complete records and documentation in support of the services performed. The

County Project Manager shall have the right to request and examine any project records for the purpose of determining its accuracy in accordance with the terms and conditions of the Contract.

The tasks and deliverables shall be consistent with and based upon the objectives listed in Section II, Objectives, above. The scope of these services and deliverables is described in the form of tasks below.

Task 1: Project Management and Contract Administration

DISCOVERY will provide monthly project status briefings to assess progress and obtain needed client direction and/or approval throughout the completion of the Project Tasks (Tasks 1 through 7). A written summary of decisions and action items will be provided by DISCOVERY in the form of a conference report after each status meeting.

Each month a written project status report will be provided by DISCOVERY. The written summary shall include a list of deliverables, progress and planned activities and the status of each open project per task. Additionally, this status report shall provide a description of each project, its current status, the responsible party for next steps and deadlines of associated project tasks. This project status report will be prepared by DISCOVERY in a format approved by the County's Project Manager.

DISCOVERY will participate in meetings, as directed by County's Project Manager, to present information on tasks and deliverables using appropriate graphic support materials, facilitation and meeting notes as requested.

DISCOVERY shall provide a calendar of potential relevant events for participation by the County of Orange (Children's Water Festival, Orange County Fair, various Earth Day Events, trade associations, conferences, mailing lists, websites, etc.) and template sample materials for local customization and distribution by the County of Orange to its partners and shall submit to the County Project Manager for review and approval.

DISCOVERY shall develop an EcoChallenge license agreement to be used by partners, outlining terms and conditions of brand use.

Deliverables:

1.1 Monthly briefings shall occur during the duration of the contract and a written summary of all action items. Monthly briefings shall be completed within 30 days of the previous month's end.

1.2 DISCOVERY will attend and prepare the agenda for meetings and the subsequent reports as directed by the County's Project Manager.

1.3 DISCOVERY shall provide a monthly status report which shall include, at a minimum, the media/activity, the number of opportunities and impressions made, a measurement of the outcomes of public education and outreach activities, calendar of events for participation, methods of delivery when the message or brand is used and any other measurement tools that can be incorporated to assist the County in the objectives provided herein. DISCOVERY further agrees to provide monthly updates to County of all EcoChallenge Brand uses and intended uses that are known and that may involve any potential third-party. The County's Project Manager may request more detail specific to each reported item. The format shall be at the discretion of the County's Project Manager. Monthly status reports shall be completed within 30 days of the previous month's end.

1.4 DISCOVERY shall also provide an annual report, which summarizes all of the information in the monthly reports, and provides recommendations to implement changes to the strategic marketing

plan as indicated by the success or improvement needed in relation to each of the marketing opportunities. The format shall be at the discretion of the County's Project Manager. The annual report shall be completed within 30 days of the year's end.

1.5 DISCOVERY shall develop final monthly and annual reports on the measurement of all media and marketing shall incorporate final revisions to reflect County Project Manager comments on the report and provide a cover letter briefly explaining the major changes that were or were not incorporated in the final monthly and/or annual report. Monthly reports shall be completed within 30 days of the previous month's end. Annual reports shall be completed within 30 days of the year's end.

1.6 DISCOVERY shall develop a Style Guide and Cooperative Terms of Use Agreement establishing parameters to protect the brand. The Style Guide and Cooperative Terms of Use Agreement shall be submitted to the County Project Manager for review and approval within 45 days of Contract award.

The EcoChallenge Brand Style Guide shall include but are not limited to the following elements:

- Logo Standards
- Color Standards
- Typeface Standards
- Stationary Standards
- Advertising Standards
- Website Standards
- Exhibit Photography Standards
- Priority of Shared Messages
- Brand Promise and Attributes
- Brand Personality
- Brand Message
- Brand Voice
- Our Unique Cause – Our Mission
- Our Unique Value

The Cooperative Terms of Use Agreement shall include but are not limited to the following elements:

- Providing guidelines that control or define the appropriate use of the brand
- Describe 3rd party brands and/or products not to be associated with that could compromise the brand
- Appropriate activities and events that promote the brand well
- Identify the procedures for a third party to use the brand imagery

Task 2: Finalization and Implementation the Proposed EcoChallenge Strategic Marketing Plan

This Project Task focuses on the finalization and subsequent implementation of the proposed strategic, purposeful and cost-effective integrated marketing plan for all EcoChallenge activities. The goals of this plan are consistent with the items noted in Section II: Objectives. (See the proposed Strategic Marketing Plan, set forth herein as Attachment F.)

DISCOVERY will finalize and implement the strategic, purposeful, and cost-effective marketing plan that will provide the consumer reach and frequency needed to achieve County's stated goals and objectives.

At a minimum, the integrated strategic marketing plan shall:

- Use targeted media and marketing activities. Strategically place media and marketing in mediums that have a high probability of being read/viewed/exposed to by the specific target audience.
- Take advantage of seasonal behaviors and activities. Schedule media, marketing and promotional activities to coincide with the seasonal nature of certain behaviors and activities.
- Take advantage of media "spill" or synergy generated from neighboring activities. Strategically plan and schedule media to take advantage of media reaching Orange County from neighboring campaigns.
- Identify opportunities to coordinate media, marketing and promotional activities to maximize their impact and effectiveness.
- Identify targeted attitudinal and habit changes that may be achieved for each activity and identify an appropriate tool for measurement.
- Partner with businesses and organizations that reach various target audiences. Work with businesses and organizations that reach target audiences in order to communicate messages cost-effectively. In order to be effective, the marketing activities shall make a measurable impact demonstrating an increase in knowledge and measurable change in the activities and attitudes of the specific targeted audiences. DISCOVERY shall be required to audit media delivery and provide the following information in a monthly report, and on a cumulative annual basis, for each type of medium employed:
 - Type of media utilized (radio, cable, television, theaters, print, outdoor advertising).
 - Methods to measure effectiveness related to success of each proposed activity with a focus on outcomes and less on outputs.
 - Any media "spill" or synergy to/from outside activities.
 - List of value-added resources.
 - Other activities or direction identified by the County's Project Manager.

Deliverables:

2.1 DISCOVERY shall finalize and implement the proposed strategic marketing plan, for the term of the Contract. The plan shall identify the media and activities recommended to be purchased, messages for delivery, and targeted desired outcomes including; cost, schedule, target audience, number of impressions, measurement of effectiveness and behavior-specific measurements. The schedule shall be mutually agreed upon.

2.2 DISCOVERY shall provide the monthly and annual reports detailing the status of the implementation of the strategic marketing plan as described in Deliverables 1.3, 1.4 and 1.5.

2.3 Update Strategic Marketing Plan ongoing annually for the duration of this Contract and submit annually in accordance with Deliverable 1.4 and 1.5, or as required by the County Project Manager. The strategic marketing plan shall identify the media and marketing activities recommended to be purchased, pursued, implemented and messages for delivery and targeted desired outcomes and a measurement tool to determine the outcome.

Task 3: Development and Implementation of an Integrated Unpaid Media Plan

The objective of this task is to develop and implement a cost-effective and strategic integrated unpaid media outreach plan in order to complement the media and marketing outreach identified in Task 2 above. As defined here, “unpaid media” refers to activities that are not paid media advertisements or activities. The unpaid media outreach efforts shall reach selected target audiences in order achieve sustainable and measurable outcomes and shall be mutually determined between the parties to achieve the objectives identified in Section II, Objectives.

As part of this task, DISCOVERY will identify the key outreach opportunities that can be implemented locally and/or countywide and the types of outreach materials that can be used for each public education and outreach activities. In addition, DISCOVERY will develop an effective integrated unpaid media plan for each contract year, which will be incorporated into the annual Strategic Marketing Plan, as well as a schedule and frequency for implementation and, following County Project Manager approval of the plan, complete implementation. This plan shall strategically integrate its activities into all other activities.

In order to employ cost-effective and efficient strategies for marketing and media outreach, the following elements shall be pursued as a part of development and implementation of the integrated unpaid media plan. Each element below shall be coordinated with and approved by the County’s Project Manager. Tasks 2 and 3 shall be integrated and work in support of one another. The goal is to achieve at least an equivalent number of opportunities and methods of delivery when the message or brand is used through free/unpaid spots as explained in Task 2 above as those achieved from paid placements.

At a minimum, the unpaid media plan shall evaluate the following elements:

- Point-of-Purchase campaign opportunities.
- Identification of trade associations, chambers of commerce and other civic and social organizations that could partner with the County in promoting the EcoChallenge and its brand.
- Opportunities for free or sponsored advertising through partnerships with companies that cater to the public such as movie theaters, amusements parks, etc.
- Develop strong media relations for unpaid media and promotional activities to promote any corporate partnerships established in this campaign and to gain recognition for private and public sector support.
- Identify and incorporate free media that identified outlets are willing to provide such as free production, a Public Service Announcement rotation, free bonus spots and identification of “third-party” sponsors.
- Identify unpaid “third party” partnerships that will sponsor advertisements and activities.

Key components of this plan shall include:

Business and Community Partnerships

As part of the earned media outreach effort, DISCOVERY marketing team will develop a comprehensive effort to partner with private and public organizations in Orange County in order to identify opportunities for media outreach within each city in Orange County, CA, drive public interest in existing city programs and generate local media coverage. In essence, each localized partnership shall serve as a “community EcoChallenge launch” of the County campaign, helping to further solidify a growing support among local citizens to drive Orange County residents to the EcoChallenge exhibits at Discovery Science Center. In addition, DISCOVERY shall leverage existing community events occurring within Orange County to generate visibility among local citizens, expand media coverage of these events and further drive interest in the EcoChallenge exhibits and its branding messages. DISCOVERY Project Manager shall work with the County Project Manager to best determine tactics for partnering with these event opportunities.

Business Partnerships

DISCOVERY shall assist the County in creating and developing strategic partnerships and cooperative programs to promote the EcoChallenge brand identity by establishing strong partnerships to bring both social networks and financial resources to the effort.

Ongoing Media Monitoring

From the beginning of the Contract, DISCOVERY shall consistently monitor news and events pertaining to the EcoChallenge, its branding and all additional activities initiated by this Contract. These results shall be included in the monthly and annual reports.

Deliverables:

3.1 Draft Integrated Unpaid Media Plan: The draft plan shall identify the various types of outreach opportunities, how-# each opportunity is integrated with Task 2 above, an implementation plan, the frequency of the outreach, the target audiences, messages for delivery and specific desired outcomes targeted including the number of units, cost, schedule, target audience, and the expected number of opportunities and methods of delivery when the message or brand is used for each event. The plan shall also identify the unpaid media to be acquired and its approximate dollar value and shall submit to the County Project Manager for review and approval.

3.2 Final Integrated Unpaid Media Plan: The final plan shall incorporate suggested revisions to reflect comments received on the draft plan and provide a cover letter briefly explaining the major changes that were and were not incorporated and shall submit to the County Project Manager for review, approval, and implementation.

3.3 DISCOVERY shall provide the monthly and annual reports detailing the status of the implementation of the strategic marketing plan as described in Deliverables 1.3, 1.4 and 1.5.

Task 4: Develop, Implement and Refine the EcoChallenge Brand Identity

The implementation of the EcoChallenge brand identity is critical to the success of the proposed activities. DISCOVERY shall define the process through which the brand identity shall be implemented.

In addition to the Style Guide and Cooperative Terms of Use Agreement to be mutually agreed upon, a customized version of the EcoChallenge Brand identity shall be created for County, at a minimum, and shall include taglines, logos, color palette and key messages promoting the EcoChallenge exhibits. DISCOVERY shall develop no fewer than three options from which the County's Project Manager will select one. In the event that none of the first three is acceptable to the County's Project Manager, DISCOVERY shall submit individual options until one is mutually agreed upon by the parties.

DISCOVERY shall also provide recommendations on how the EcoChallenge brand identity can most effectively be carried forward into additional local partnering opportunities. Partners shall be required to comply with the EcoChallenge Brand Style Guide and Cooperative Terms of Use Agreement, as set forth in Deliverable 1.6. DISCOVERY shall execute EcoChallenge Brand Style Guide and Cooperative Terms of Use Agreement with partners, as mutually agreed by Parties.

Deliverables:

4.1 Discovery shall propose a process for implementing the EcoChallenge brand identity across all County Waste efforts and provide key messages associated with the brand that drives measurable results.

4.2 Discovery shall provide a draft plan containing the implementation guidelines for using the brand and style. The plan shall provide no fewer than three recommendations on a brand identity for the public outreach materials, include a draft brochure template, identify how the look/theme may facilitate a local and countywide outreach theme/look and provide a complete list of materials to be produced including any additional materials that may be needed in order to complement the current campaign.

4.3 DISCOVERY shall execute the EcoChallenge Brand Style Guide ("Style Guide") and Cooperative Terms of Use Agreement as defined in Deliverable 1.6, with any mutually agreed upon partners.

Task 5: Discovery Science Center Media and In-kind Valued at no less than \$815,000

DISCOVERY shall contribute media, marketing, and in-kind services in collaboration with County to achieve its shared goals and expectations in the annual amount of not less than \$800,000 to market and promote the EcoChallenge exhibits, its brand and additional activities.

Deliverables:

5.1 DISCOVERY shall contribute, as mutually agreed on an annual basis, the following types of media, marketing and in-kind services, including but not limited to:

- Integrate EcoChallenge exhibits and other related opportunities into DSC core advertising efforts to promote the EcoChallenge in its general and multicultural market TV/Cable activities.
- Sponsor a bus wrap through the Orange County Transportation Authority to promote the EcoChallenge brand and message across the County of Orange.

- Sponsor up to 20,000 free child admissions via joint coupon distribution at “EcoChallenge” Angels Baseball events, Anaheim Ducks events, and community events, and promotions on an annual basis.
- Sponsor up to 2,500 general admission tickets to leverage promotions and partnership on behalf of the County.
- In coordination with the EcoChallenge Brand Style Guide, utilize taglines that promote “Reduce, Reuse, Recycle” message under the EcoChallenge brand umbrella in as many ways as possible including, but not limited to, Discovery Science Center website, print ads, parking flyers, local cross promotions, promotional materials, social media, and local events.

5.2 DISCOVERY shall include in the monthly and annual reports, as defined in Deliverable 1.3, 1.4, 1.5, the media and in-kind activities provided by DISCOVERY and the associated expenditures contributed.

Task 6: Other Activities

The nature of the EcoChallenge activities may result in unanticipated tasks. In this case, fixed price tasks and associated deliverables shall be pre-approved by the County’s Project Manager.

Deliverables:

6.1 Submittal and approval by County Project Manager of unanticipated tasks and associated deliverables.

ATTACHMENT B COMPENSATION, PAYMENT & TASKS

DISCOVERY shall provide professional marketing and media services that support compliance with State mandated recycling goals, promote increased regional recycling and diversion efforts, and improve the recycling behaviors of Orange County residents, at the direction of the County's Project Manager. Services shall be for a period of three years in an amount not to exceed \$1,500,000, renewable thereafter for two additional one year periods in an amount not to exceed \$500,000 per year.

DISCOVERY shall accept the compensation specified herein as full remuneration for performing all services and furnishing all staffing and materials called for; and for any reasonably foreseeable difficulties which may arise or be encountered in the execution of the services; and for performance by DISCOVERY of all of its duties and obligations hereunder as set forth in the Scope of Work.

DISCOVERY shall notify the County Project Manager and Deputy Director in writing when expenditures against this Contract reach 75% of the total dollar limit of the Contract. The County shall not be responsible for any expenditure overruns and will not pay for work exceeding the total dollar limit of the Contract unless the parties agree to a written amendment of the Contract to cover those costs has been issued by the County. This notification shall be made in writing within 3 working days of receipt of invoice that is within the notification limit. Said amendment may be issued by the County Of Orange, Purchasing Agent or his designee or may be subject to approval by the County Board of Supervisors.

Terms of Payment

Within 45 days of approval of the Contract by the Board of Supervisors, the payment schedule shall commence with \$100,000 in advance to be specifically applied to marketing and media costs, defined in 2.3 deliverable, with supporting documentation verifying the costs for this task are directly reimbursable, with no additional mark-up. Thereafter, the prepaid amount for this task will be replenished as required, based upon actual invoice approval and payment as approved by the County's Project Manager, until all funds have been expended or contract termination, whichever occurs first.

Payment for all other tasks shall be payable to DISCOVERY in arrears after services have been provided within forty-five (45) days after receipt of a correctly submitted invoice. Payments made by the County of Orange shall not be considered a waiver of the right of the County to thereafter disputing any items or services involved or billed under this Contract, and shall not be construed as acceptance of any part of the services.

Invoicing Instructions

Invoices and supporting documentation are to be sent to:

County Of Orange
OC Waste & Recycling
Attn: Accounts Payable
300 N. Flower Street, Suite 400
Santa Ana, CA 92703

Invoices may be emailed to: ocwrinvoice@ocwr.ocgov.com

The County's Project Manager is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing payment. The responsibility for providing an acceptable invoice to the County of Orange for payment shall be the responsibility of DISCOVERY. Incomplete or incorrect invoices are not acceptable and will be returned to DISCOVERY for correction. Final invoices must be received within 60 days upon completion of final task.

DISCOVERY shall submit a monthly invoice to County by Wednesday of the third week of the following month. The invoice shall show the following information for each Task:

- Original Contract Amount
- Amount Expended to Date
- Amount Being Invoiced
- Task Written Authorization
- Total authorized Task Amount to date, and
- Amount pending completion of authorized Task to date
- Contract and Encumbrance document numbers (to be provided by the County)

**ATTACHMENT C
COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT
CERTIFICATION REQUIREMENTS**

- A. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address:

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

- B. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

Name: _____

D.O.B: _____

Social Security No: _____

Residence Address: _____

(Additional sheets may be used if necessary)

"I certify that (Company name) is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of the Contract with the County of Orange. I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract."

Authorized Signature

Name

Title

Date

**ATTACHMENT D
EDD INDEPENDENT DISCOVERY REPORTING REQUIREMENTS**

Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent contractors. **An independent contractor is defined as “an individual who is not an employee of the government entity for California purposes and who receives compensation or executes a contract for services performed for that government entity either in or outside of California.”**

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.

To comply with the reporting requirements, County procedures for contracting with independent contractors mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

- First name, middle initial and last name
- Social Security Number
- Address
- Start and expiration dates of contract
- Amount of contract

EDD Reporting Form

First Name	Middle Initial	Last Name
Social Security Number:		
Contract Number:		
Start Date:	Expiration Date:	
Dollar Value of Contract:		

**ATTACHMENT E
SCHEDULE OF FEES**

**DISCOVERY SCIENCE CENTER
PRODUCTION COST**

<u>Classification</u>	<u>Hourly Rate*</u>
Project Manager (County contact, creative director, brand manager, strategy developer)	\$175
Marketing/PR Manager (Creative manager, logistics, trafficking, social media integration, copywriting, production coordination)	\$150
Art Director (Design and develop concepts, implement brand guidelines, integrate marketing message into design)	\$110

Outside design services shall be reimbursed at actual cost.

* Rates shall remain firm for the term of the Contract

ATTACHMENT F

PROPOSED STRATEGIC MEDIA PLAN



	Feb 2013	Mar 2013	Apr 2013	May 2013	Jun 2013	Jul 2013	Aug 2013	Sep 2013	Oct 2013	Nov 2013	Dec 2013	Jan 2014	Feb 2014	Mar 2014	Apr 2014	May 2014	Jun 2014	Jul 2014	
GENERAL MARKET ADVERTISING																			
CABLE TV																			
Time Warner Cable																			
PRINT/DIGITAL MEDIA																			
OCR																			
City Specific Pubs																			
OC Family																			
OC Metro																			
Parenting OC																			
Clipper Magazine																			
Web Banner Ads																			
AOCVVB																			
OUTDOOR MEDIA *																			
OCTA Bus Wraps																			
PROMOTIONAL PARTNERS																			
Angels Baseball																			
Anaheim Ducks																			
MISC. PROMO PARTNERS																			
Carl's Jr. (60+ stores)																			
Ralph's Grocery (80+ stores)																			
OCTA																			
MULTI CULTURAL OUTREACH ADVERTISING (Vietnamese, Koren, Hispanic)																			
Cable TV																			
Print/Digital Media																			
Outdoor Media																			
Promotional Partners																			
TBD by Partner Availability																			
PRODUCTION																			
TV SPOT CREATION & EDIT TAGS **																			
DESIGN & CREATIVE PRODUCTION																			

* = Indicates also supports vertical/multi cultural markets
 **= \$28k One time cost for TV Commercial Spot Shell