

RESOLUTION NO. 2011-088

Adopted by the Sacramento City Council

February 15, 2011

AUTHORIZING THE MAYOR OR HIS DESIGNEE TO APPROVE FISCAL AGENT MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF SACRAMENTO AND COMMUNITY SERVICE PLANNING COUNCIL, AND AUTHORIZING THE CITY TREASURER TO PROVIDE ASSISTANCE, REGARDING THE BANK ON SACRAMENTO PROGRAM.

BACKGROUND

- A. Bank on Sacramento is a collaborative and voluntary initiative to assist unbanked Sacramento residents in opening starter bank accounts. This allows City residents to gain access to basic banking services. Residents with bank accounts begin saving, build credit history, and access lower-cost sources of credit. There are over 30,000 unbanked households in Sacramento. Bank on Sacramento also provides City residents with free financial education provided by financial institutions and community-based organizations that are partnered with the Bank on Sacramento program. To date, the coalition has held seven financial education classes that brought in 124 participants. We plan to coordinate even more classes, with more community partners in 2011.
- B. Bank on Sacramento is the latest Bank on California city-based initiative following similar programs in other cities. The overall Bank on California program is a voluntary collaboration of the Federal Deposit Insurance Corporation ("FDIC"), city mayors, local financial institutions, state and federal regulatory agencies, and community-based organizations.
- C. The Fiscal Agent MOU entered into by the State Office of Planning and Research ("OPR") and the United Way of the Bay Area is terminating. As outlined, in Resolution 2010-262, the City of Sacramento seeks to enter into a Fiscal Agent MOU with a local non-profit corporation, the Community Services Planning Council ("CSPC"), to enable the Bank on Sacramento Program to continue to operate. The MOU allows the Bank on Sacramento program, through the Fiscal Agent, to receive and expend funds that were accumulated under the previous Fiscal Agent MOU with the United Way and to continue to seek outside funding sources.
- D. The CSPC is a local non-profit corporation, exempt from federal tax under section 501(c)(3) of the Internal Revenue Code. The CSPC is a catalyst for community change, developing innovative programs, building coalitions to effectively respond to emerging community needs, and offering training and technical assistance in community planning, mobilizing and program development so people can improve their communities. The goals of the Bank on Sacramento program are aligned with the mission of the CSPC.

- E. The Fiscal Agent MOU outlines the specific roles of the CSPC and the City of Sacramento. There is no commitment to spend City funds other than staff time. City staff will not engage in fund raising for Bank on Sacramento.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Mayor or his designee is hereby authorized to approve the Fiscal Agent Memorandum of Understanding (MOU) between the City of Sacramento and the Community Service Planning Council regarding the Bank on Sacramento Program, attached hereto as Exhibit A.
- Section 2. The City Treasurer's Office is hereby authorized to assist in coordinating citywide efforts in support of the Bank on Sacramento Program.
- Section 3. Exhibit A is part of this resolution.

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Exhibit A – Fiscal Agent Memorandum of Understanding

Adopted by the City of Sacramento City Council on February 15, 2011 by the following vote:

- Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy.
- Noes: None.
- Abstain: None.
- Absent: Mayor Johnson.


Bonnie Pannell, Vice-Mayor

Attest:


Shirley Concolino, City Clerk

**FISCAL AGENT MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COMMUNITY SERVICES PLANNING COUNCIL
AND
THE CITY OF SACRAMENTO
REGARDING THE BANK ON SACRAMENTO PROGRAM**

This is a Memorandum of Understanding (hereinafter "MOU") made on January 1, 2011, by and between the Community Services Planning Council (hereinafter "CSPC"), Fiscal Agent, and the City of Sacramento, a municipal corporation, acting by and through the Office of the City Treasurer.

CSPC: The CSPC is a non-profit corporation, exempt from federal tax under section 501(c)(3) of the Internal Revenue Code. The CSPC is a catalyst for community change, developing innovative programs and offering training and technical assistance in community planning, mobilizing and program development so people can improve their communities.

City of Sacramento: A Local Government Entity

Bank on Sacramento: The Bank on Sacramento program is a partnership between the City of Sacramento, the Federal Deposit Insurance Corporation (hereinafter "FDIC"), local financial institutions and non-profit organizations. The mission of Bank on Sacramento is to provide the unbanked citizens of Sacramento with free financial education classes and access to no-cost or low-cost bank accounts at local financial institutions.

The Bank on Sacramento Design Team: The Design Team consists of representatives from the City of Sacramento Mayor's staff, FDIC, and other representatives as designated. The Design Team serves in a consultant capacity to assist the City of Sacramento and CSPC in the implementation and operation of the Bank on Sacramento program.

The MOU: The CSPC is willing to receive funds from tax-deductible charitable contributions and grants for the benefit and use of implementing the Bank on Sacramento program, for which the City of Sacramento provides administrative support. The City of Sacramento, with the financial administrative assistance of the CSPC, desires to use these funds in order to implement the Bank on Sacramento program.

By execution of this MOU, the parties agree to the following terms and conditions:

The Community Services Planning Council shall provide the following financial services:

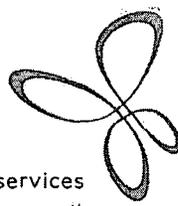
1. Receipt of funds- The CSPC agrees to receive grants, contributions and gifts to be used for the Bank on Sacramento program, and to make those funds available to the Bank on Sacramento program. This MOU governs the use of such grants, contributions and gifts when they are deposited with the CSPC.
2. Acknowledgment of charitable donations on behalf of Bank on Sacramento: The CSPC agrees that all grants, charitable contributions and gifts which it receives for the Bank on Sacramento program will be reported as contributions to the CSPC as required by law, and further agrees to acknowledge receipt of any such grant, charitable contribution or gift in writing and to furnish evidence of its status as a exempt organization under Section 501(c)(3) to the donor upon



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request. Both the CSPC and the City of Sacramento agree to notify the other immediately of any change in their respective tax-exempt status.

3. Protection of tax-exempt status: The CSPC will take all necessary actions to protect its tax-exempt status while carrying out its obligations under this MOU. Toward that end, the City of Sacramento agrees not to use funds received from the CSPC in any way that would jeopardize the tax-exempt status of the CSPC. The City of Sacramento agrees to comply with any written request by the CSPC that it cease activities that might jeopardize the CSPC's tax status, and further agrees that the CSPC's obligation to make funds available to it is suspended in the event that it fails to comply with any such request. Such request shall explain in reasonable detail the basis for the CSPC's conclusion that the activity in question would jeopardize its tax status, and CSPC agrees to consider in good faith any response to such request from City of Sacramento. Any changes in the purpose for which grant funds are spent must be approved in writing by the CSPC before implementation.
4. Revenues: All revenues received by CSPC for Bank on Sacramento will be deposited into the CSPC money market account and restricted for the sole use by the Bank on Sacramento program. CSPC will prepare bank deposits on a weekly basis or sooner.
5. Use of funds: The CSPC will make all expenditures, which shall not exceed total contributions for the Bank on Sacramento program, for use in the Bank on Sacramento program. The CSPC shall account fully to the City of Sacramento for the disbursement of these funds. On behalf of and with its funds, the CSPC will pay for Bank on Sacramento's direct expenses for implementation of grant agreements. The CSPC will obtain authorization from City of Sacramento to pay these expenses using Bank on Sacramento's funds.
6. Financial Accounting: An account entitled "Bank on Sacramento" will be established in QuickBooks or a similar accounting system to post and track all restricted Bank on Sacramento revenues and administrative and/or operating expenses.
7. Financial Procedures: The CSPC shall obtain authorization from the City of Sacramento prior to making any expenditures. The City Treasurer or his designee will provide authorization to CSPC with written notification via a standard payment/check request form for any payment of expenditures. All such notifications must be signed and approved by the City Treasurer of City of Sacramento, or his designee. Any checks issued without the signed authorization of the City Treasurer will be invalid, and will not be payable by the Bank on Sacramento. Checks are issued weekly and payments will either be mailed directly to vendors or to the City Treasurer of the City of Sacramento for disbursement. Checks will be issued against the CSPC's bank account.
8. Financial Records Management: All financial reports and documentation will be maintained at the CSPC's office located at 909 12th Street, Sacramento CA 95814. A copy of all financial reports and documentation will be provided to City of Sacramento upon request.
9. Monthly Financial Reporting: CSPC will provide monthly financial reports displaying the financial status of the Bank on Sacramento program approximately 20-30 days from the previous month end. Such reports shall display accrued revenues and expenditures by major category of revenue and expenditure as currently established by the CSPC. The following reports will be provided: General Ledger, Balance of Restricted Funds, and Profit and Loss Statement.



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10. Annual Financial Audit and Reporting: The Bank on Sacramento's fiscal year is July 1 through June 30 of the following year. The CSPC shall forward a copy of the agencies annual audit to the City Treasurer of City of Sacramento within 90 days of the fiscal year end. If CSPC's independent auditor is not able to complete the audit within the 90-day period, CSPC will notify the City Treasurer and advise the Treasurer's Office when the audit will be delivered.
11. Compensation: The CSPC will be compensated for its services from the Bank on Sacramento funds. The City of Sacramento agrees to authorize payment to CSPC as an administrative fee of 5% percent of expenditures as reported in the monthly financial reports. The CSPC shall debit the appropriate ledger account monthly for services rendered. The administrative-fee percentage rate (the fee schedule) may be adjusted by mutual agreement as described in the Notifications and Changes section below. The fees will be calculated and payable to CSPC at the end of each month based on actual expenditures made, commencing for the period beginning XX-XX-2011. The fee schedule will be reviewed and adjusted annually by mutual agreement between the CSPC and the City of Sacramento.

The City of Sacramento shall perform the following responsibilities:

1. The City Treasurer of the City of Sacramento, on behalf of Bank on Sacramento, will create and prepare all budgets
2. City of Sacramento will forward to CSPC any monies it receives for Bank on Sacramento to be deposited as restricted funds for the sole use of Bank on Sacramento in a timely manner.
3. Request for payment must be completed on a standard check request form and approved and signed by the City Treasurer of the City of Sacramento.
4. The City of Sacramento on behalf of Bank on Sacramento will prepare all reports required by funders and submit them to CSPC for review and for final submittal to funders.

Restricted Fund Management/Performance of Charitable Purposes: All of the funds received by CSPC under the terms of this MOU shall be devoted to the purposes of the Bank on Sacramento program, within the tax-exempt purposes of CSPC. No item of revenue shall be used to influence legislation within the meaning of IRC Section 501(c)(3); no agreement, oral or written, shall be made to that effect between CSPC and any revenue source. CSPC shall not use any portion of the funds to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurnment or improper private benefit to occur, nor take any action inconsistent with the provisions of IRC Section 501(c)(3).

Advocacy: The Design Team will take all measures necessary to ensure that its activities stay within the boundaries established by law and regulations related to lobbying by nonprofit 501(c)(3) organizations. The Design Team and/or staff of the Bank on Sacramento program are prohibited from excessive lobbying, or any other activities that would jeopardize CSPC's charitable tax-exempt status. CSPC has the right to determine, in its sole discretion, what constitutes excessive lobbying as relates to the implementation of Bank on Sacramento, or what activities jeopardize CSPC's tax-exempt status. All lobbying plans and expenditures related to Bank on Sacramento must be reported to CSPC management. Additionally, Bank on Sacramento shall not establish or advocate any policy that may jeopardize CSPC's nonprofit fiscal status and procedures.

Fundraising: The City of Sacramento will not participate in fundraising on behalf of the Bank on Sacramento program.



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Notifications and Changes to MOU: This MOU may be amended or modified, in whole or in part, only by an MOU in writing developed in the same manner as this MOU. Any changes to this MOU must be approved and signed by both parties.

Term: The initial term of this MOU shall be from January 1, 2011 through June 30, 2011.

Renewal of this MOU: This MOU will be automatically renewed on July 1, 2011, and on each July 1 annually thereafter, until the parties terminate the MOU.

Termination: Either party may terminate this MOU by giving 30 days' written notice to the other party.

Successor for CSPC: If Bank on Sacramento will continue to exist but one of the parties desires to terminate the CSPC's fiscal sponsorship of Bank on Sacramento, the following terms and conditions shall apply. The City of Sacramento shall, in its sole discretion, select another fiscal sponsor. Another nonprofit corporation which is tax-exempt under IRC Section 501(c)(3) and is not classified as a private foundation under Section 509(a), or another government agency, may be selected to serve as the fiscal sponsor of Bank on Sacramento (the "Successor"). If the Successor is not selected by the end of the 30-day written notice period, the parties agree that the City of Sacramento shall have an additional 30 days to find a Successor willing and able to sponsor Bank on Sacramento. The CSPC agrees to continue as the fiscal sponsor until a Successor is selected. Once a Successor is selected, the balance of assets held by the CSPC for Bank on Sacramento, together with any other assets held or liabilities incurred by the CSPC in connection with Bank on Sacramento, shall be transferred to the Successor at the end of the 30-day notice period or any extension thereof, subject to the approval of any third parties (including funding sources) that may be required. If the City of Sacramento has identified a new organization qualified to be a Successor as set forth in this Paragraph, such organization shall be eligible to receive all such assets and liabilities so long as it is either a government agency or an organization that has received a determination letter from the Internal Revenue Service which states it is exempt from federal tax under section 501(c)(3) of the Internal Revenue Code no later than the end of the notice period or any extension thereof. If no Successor is found, the CSPC may allocate Bank on Sacramento's assets and liabilities in any manner consistent with applicable tax and charitable trust laws and other obligations.

Contract Interpretation: This MOU shall be interpreted and construed in accordance with the laws of the State of California.

Dispute Resolution: In resolving any controversy, claim, or dispute between the parties arising out of or related to this MOU, the subject matter of the MOU, or the alleged breach thereof, the parties agree that such dispute shall be resolved by binding arbitration, utilizing the commercial arbitration procedures of the American Arbitration Association, or some other alternative dispute resolution procedure mutually agreed upon by the parties involved in the dispute. The disputing parties shall equally share the cost of the arbitrator (or mediator), but each party shall pay their own costs, expert fees, and attorneys fees. The decision of the arbitrator shall be final and binding. This arbitration provision does not preclude the parties from participating in mediation prior to entering into binding arbitration.

Severability: Each provision of this MOU shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision.

Time is of the Essence: Time is of the essence of this MOU and of each and every provision hereof.

Exclusive MOU Between The Parties: This MOU constitutes the only MOU, and supersedes all prior MOU's, both written and oral, between the parties with respect to the subject matter hereof. All Exhibits hereto are a material part of this MOU and are incorporated by reference. This MOU, including any Exhibits hereto, may not be amended or modified, except in a writing signed by all parties to this MOU.



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GENERAL PROVISIONS

The CSPC and City of Sacramento agree to comply with all federal and state laws, rules, regulations and auditing standards that are applicable to the performance of this MOU.

All records relating to this MOU and Bank on Sacramento shall be retained and made available by the CSPC for examination by the City of Sacramento. All records will be maintained for a minimum of three years after final payment under this MOU. If an issue or dispute is raised during this time period, the parties shall retain such records until the audit or dispute resolution process is concluded and all issues are resolved.

Consent to this MOU indicates that City of Sacramento and the CSPC have read and understand this document thoroughly. This MOU becomes effective when signed by an authorized representatives of City of Sacramento and the CSPC.

City of Sacramento

Signature

Date

Name of Authorized Representative

Title

Community Services Planning Council

Signature

Date

Name of Authorized Representative

Title