REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent
August 19, 2008

Honorable Mayor and
Members of the City Council

Title: Agreement: Jibboom Street Powerhouse Station Site

Location/Council District: Jibboom Street in the River District/ Council District 1

Recommendation: Adopt a **Resolution,** authorizing the City Manager to approve and execute an agreement with the Sacramento Museum of History, Science and Technology for the Exclusive Right to Negotiate ("ERN") for the redevelopment and reuse of the Jibboom Street Power Station Site

Contact: Jennifer Witz, Junior Analyst, 808-2796; Rachel Hazlewood, Senior Project Manager, 808-8645

Presenters: N/A

Department: Economic Development

Division: River District

Organization No: 4451

Description/Analysis

Issue: This is an Agreement for the Exclusive Right to Negotiate ("ERN") with the Sacramento Museum of History, Science and Technology ("Discovery Museum") for the redevelopment and reuse of the Jibboom Street Power Station Site. City Council previously approved an ERN Agreement with Discovery Museum for this site by City Council on June 12, 2007, in Resolution 2007-431, City Agreement 2007-0632. Staff recommends entering into a new ERN Agreement with Discovery Museum for a period of one year on substantially the same terms as the prior Agreement. The City desires to facilitate the preservation and adaptive reuse of the Power Station, as well as add amenities to the adjacent Robert T. Matsui Waterfront Park in which the structure is located. The Discovery Museum proposes building the "Powerhouse Science Center" ("Center") on the site, which will include a science, space and technology museum in the rehabilitated Power Station, with an adjacent restaurant and educational center, a planetarium, and an inviting open space park area with amphitheater.

During the term of the prior ERN Agreement, the Discovery Museum worked to complete site investigation, museum planning and project coordination. The

team has met with regulatory agencies including Army Corps of Engineers, Department of Toxic Substance Control, Reclamation Board and numerous City departments. The Discovery Museum has also completed the Center's exhibit planning, detailed site plans, refined pro formas and conducted site and engineering studies.

The "Powerhouse Science Center" has been more than three years in development. The project funding will come from foundation grants, government grants, private donations and historic tax credits.

The Discovery Museum plans to use historic preservation methods, green building technology, and the newest exhibit techniques to develop inquiry-based educational programs and a compelling visitor experience that will become a model for 21st-century informal science education. The Powerhouse site, once an industrial brownfield, will become a valued visitor and student attraction for Sacramento.

The Discovery Museum meets the goals and objectives for the site, and having an expanded Science and Technology Center would be in the interest of the City and the region. It is for these reasons that staff recommends renewing the Discovery Museum's Exclusive Right to Negotiate (ERN) for an additional one-year term with the possible extension of a one-year term with the City Manager's approval and substantial progress in developing the project.

Policy Considerations: The proposed project is consistent with the June 2005, "Request for Proposals for Development of the Historic Jibboom Street Power Station Building," the Richards Boulevard Area Plan, the River District Redevelopment Plan, and the Sacramento Riverfront Master Plan.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review. The ERN renewal authorizes staff to work with the developer to define the scope and feasibility of the proposed development project and to complete the environmental review process for the project.

Sustainability Considerations: The Jibboom Street Powerhouse Station Site is consistent with Sustainability Master Plan goals to reduce the use of fossil fuels, improve energy efficiency, and help meet air quality standards.

If approved, the Jibboom Street Powerhouse Station Site will be designed to achieve the Silver or higher rating from the U.S. Green Building Council, Leadership in Energy and Environmental Design (LEED) Rating System. The Jibboom Street Powerhouse Station Site will demonstrate leadership in sustainable design and alternative and experimental energy in its exhibits, and in practical applications and building operations.

Rationale for Recommendation: The Discovery Museum has conducted a feasibility analysis, hired a fundraising consultant, expanded their board of directors, and detailed their concept for the site. They have assembled a development team experienced in rehabilitating and financing historic buildings. The "Powerhouse Science Center" will enhance and take full advantage of the attributes of Jibboom Street. Namely, those are the Sacramento River, the Jibboom Street Park, the City Water Intake Structure, the Railyards and Old Sacramento visitor features, the Bike Trail and the nearby motel district. The Discovery Museum targets school groups and works to increase the interest of children in math and the sciences. The Center will create another destination for visitors to Sacramento sites like the Crocker Art Gallery, the Railroad Museum, the Sacramento History Museum and the California Museum for History, Woman and the Arts.

Financial Considerations: None.

Emerging Small Business Development (ESBD): No goods or services are being purchased.

Respectfully Submitted by: Rachel Hazlewood
Rachel Hazlewood
Senior Project Manager

Approved by: Jim Rinehart
Jim Rinehart
Citywide Development Manager

Recommendation Approved:

Ray Kerridge
City Manager

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Attachment 1

Background

The Jibboom Street Power Station site (the "Site") is located on Jibboom Street, approximately one-quarter mile north of Old Sacramento Historic District. The Site, which is immediately adjacent to the City's water intake structure on the Sacramento River, includes the historic Pacific, Gas & Electric ("PG&E") building and the designated parking areas to the north and east of the building. The Site consists of four acres and is located within the newly completed six and one-half acre Robert T. Matsui Waterfront Park. In 2002, the City took title to the Jibboom Street PG&E Power Station (the "Power Station") from the State of California. Other than a brief time in the early 1960's when the site was used as a metal salvage yard, the building has been shuttered since the PG&E Power Station ceased operation in 1954.

In June 2005, the City circulated a Request for Proposals ("RFP") for the rehabilitation and adaptive reuse of the Jibboom Street PG&E Power Station. In February 2006, the City Council selected a team headed by DR Horton. However, DR Horton withdrew its proposal and terminated its interest in the project prior to the execution of any agreements.

The Sacramento Museum of History, Science and Technology, also know as the Discovery Museum proposes building the "Powerhouse Science Center" on the site, which will include a science, space and technology museum in the rehabilitated Power Station, with adjacent a restaurant and educational center, a planetarium, and an inviting open space park area with amphitheater.

The Discovery Museum is a nonprofit corporation that was created in 1994 when the Sacramento Science and Space Center, founded in 1951, and the Sacramento History Museum, founded in 1984, were consolidated. The Science and Space Center has operated in a small City-owned facility on Auburn Avenue for over 50 years. The facility only offers 11,000 square feet of space, yet it successfully operates Sacramento's only public planetarium and one of the nation's most successful Challenger Learning Centers. Despite its inconvenient location and small size, the Science and Space Center served more than 95,000 people in the year of 2007.

The Power Station will provide room for the museum to expand its exhibits, classroom ad laboratory space. Due to the increase in size, expanded exhibits, additional programs and improved location, the new "Center" is projected to attract 350,000 school children and over 200,000 from the general public each year.

The unique location of the proposed Powerhouse Science Center will take advantage of the nearby new Water Intake Plant on the Sacramento River, which will provide learning opportunities for students, and the Jibboom Street Park, which will be enhanced with interpretive tours to further environmental study. Additionally, the proximity of the building to the Railroad Museum, Old Sacramento, and the future Railyard Technology Museum will place the Powerhouse Science Center centrally amidst other tourist

attractions.

The Center will include a planetarium and dome theater seating for 150, an outdoor amphitheater, an outdoor café, a gift shop, a bi-level parking structure, and an adjacent restaurant and education center. The café, gift shop, and restaurant would all generate revenue that would support the Center's operation on an ongoing basis. Attachment 2 provides a site plan of the Center and the surrounding property.

During the last year, the Discovery Museum has worked to complete site investigation, museum planning and project coordination. The team has met with regulatory agencies including Army Corps of Engineers, Department of Toxic Substance Control, Reclamation Board and numerous City departments. Discovery Museum has also completed the museum exhibit planning, detailed site plans, refined pro formas and conducted site and engineering studies.

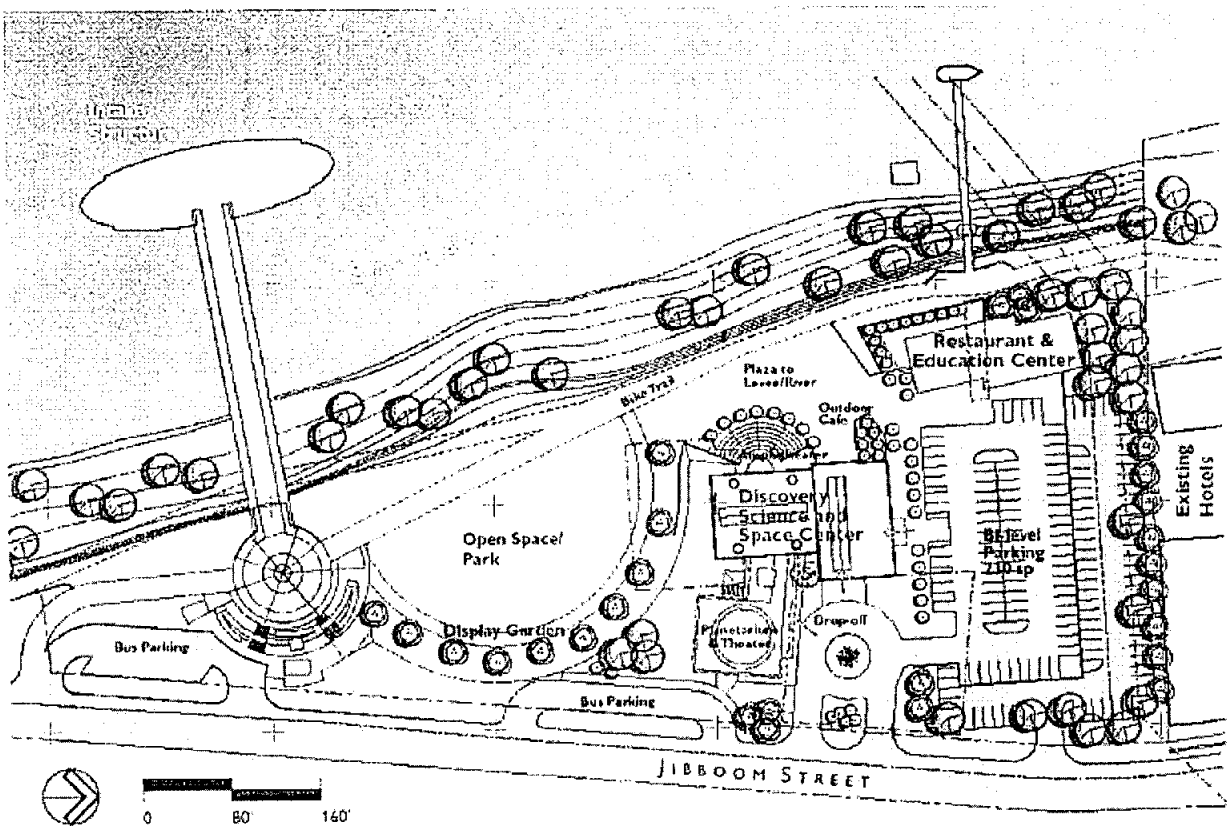
Staff recommends renewing the Agreement for the Exclusive Right to Negotiate ("ERN") for an additional year with the potential extension of one year with City Manager approval and substantial progress in developing the project to allow the Center to complete its project proposal and predevelopment activities and to proceed with its fundraising campaign. The ERN will enable the Center to approach major donors with credibility to attract their large contributions to the project and solidify their design. Renewing the ERN will also enable the City to assess the capacity of the Center to undertake a project of this magnitude without the legal obligations of a lease.

The term of the ERN is one year with a one possible one year extension. The schedule of performance sets clear objectives to be met by the Center prior to executing a lease, including meeting certain fundraising targets. It is envisioned that the lease will be for a 50 year term for $1 per year in rent.

The construction and development team assembled by the Discovery Museum is highly qualified to undertake the project. Carson Development and John F. Otto, Inc. will be the construction team and are experienced in rehabilitating and financing historic buildings. The architects are Dreyfuss & Blackford, who were designers for the CalPERS R Street building and East End Project and Lionakis Beaumont Design Group, who designed the Water Intake Structure and the new California Department of Motor Vehicles building. The structural engineering firm is Buehler & Buehler who have an extensive experience with local public and private projects. The fundraising consultant is Bentz & Associates who is a national fundraising and management consulting firm with extensive experience in fundraising for museums.

Attachment 2

Draft Site Plan



RESOLUTION NO. 2008-

Adopted by the Sacramento City Council

AUTHORIZING AN AGREEMENT WITH THE SACRAMENTO MUSEUM OF HISTORY, SCIENCE AND TECHNOLOGY FOR THE EXCLUSIVE RIGHT TO NEGOTIATE FOR ONE-YEAR FOR THE REUSE OF THE JIBBOOM STREET POWER STATION SITE

BACKGROUND

A. The City owns certain real property located in the City of Sacramento, being all or a portion of the properties west of Jibboom Street identified as parcels 001-0190-004, -009, -015, and -016 ("Property"), as shown on the map attached hereto as Exhibit A and being located within the River District Redevelopment Project Area ("Project Area").

B. The Property contains the City historic landmark structure, the Jibboom Street PG&E Power Station ("Power Station"), which has been shuttered and in deteriorating condition since it was last used for a heavy industrial operation in the early 1960s.

C. The Property had been identified by the City as important to the furtherance of the River District Redevelopment Plan ("Redevelopment Plan") and the elimination of blighting conditions in the Project Area. The Redevelopment Plan identifies the reuse of parcels that are stagnant or improperly utilized and the rehabilitation of the Project Area as a strategy to eliminate blight.

D. The City desires to rehabilitate and reuse the Power Station for a visitor attraction which preserves the distinctive architectural features of the building and enhances public uses of the surrounding Robert T. Matsui Park and riverfront.

E. The Sacramento Museum of History, Science and Technology ("Developer"), desires to negotiate with the City to redevelop the Property into a science and space center with adjacent restaurant and parking structure serving the site.

F. City finds that Developer's proposal meets the objectives of the Riverfront Master Plan, the Richards Boulevard Area Plan and the Redevelopment Plan, and it is in the best interest of the City to pursue the Developers program for the project.

G. The proposed action to approve the Exclusive Right to Negotiate ("ERN") is exempt from environmental review under CEQA Guidelines, California Code of Regulations, title 14, section 15262. The ERN authorizes staff to work with the developer to define the scope and feasibility of the proposed development project and to complete the environmental review process for the project.

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

Section 1. After due consideration of the facts presented, the findings, including the foregoing recitals and the environmental findings regarding this action, are approved and adopted.

Section 2. The City Manager or his designee is authorized to approve and execute an agreement with the Sacramento Museum of History and Technology for the Exclusive Right to Negotiate in substantially the form as the agreement attached to this Resolution as Exhibit B.

Section 3. The City Manager or his designee is authorized to extend the Agreement for up to one additional one year term based on approval of the City Manager and substantial progress of Developer in developing the Property.

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Exhibit A Parcel Map

Exhibit B Agreement for the Exclusive Right to Negotiate Extension

Exhibit A

Parcel Map

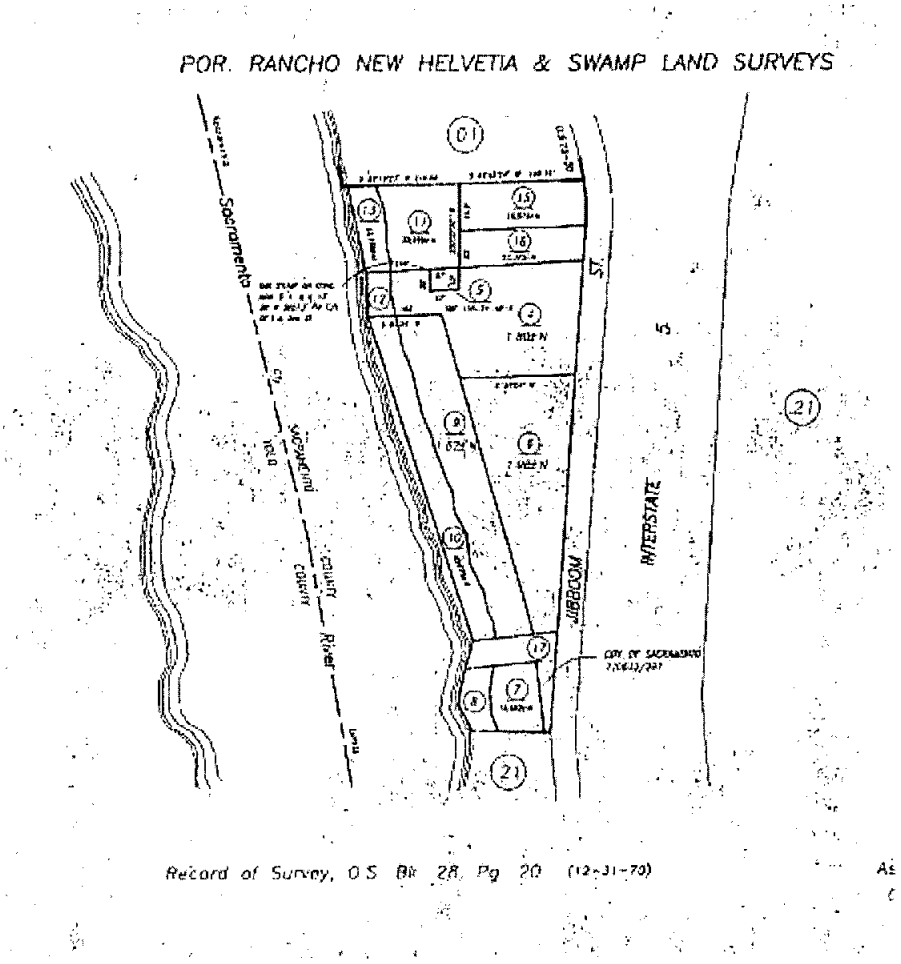

Exhibit B

Agreement for the
Exclusive Right to Negotiate Extension for the
Jibboom Street Power Station Site

The City of Sacramento ("City") and the Sacramento Museum of History, Science and Technology ("Developer"), have entered into this Agreement for the Exclusive Right to Negotiate ("Extension Agreement") as of _____, 2008.

RECITALS

A. Developer desires to negotiate with City to develop certain real property ("Property") located in the City of Sacramento, County of Sacramento, State of California, being all or a portion of the properties on the west of Jibboom Street known as parcels 001-0190-004, -009, -011, -015, and -016 as shown on the map attached hereto as Exhibit A. The Property is within the River District Redevelopment Project Area ("Project Area").

B. In June 2005, the City circulated widely a Request for Proposals ("RFP") for the Project in a competitive bidding process. The Sacramento Museum of History, Science and Technology was one of the most favorable proposals.

C. On June 12, 2007, City Council approved entering into an Agreement for the Exclusive Right to Negotiate ("ERN") with the Sacramento Museum of History, Science and Technology to develop certain real property ("Property"). The Project is the subject of negotiation with the City and the parties contemplate that such negotiation will lead to a mutually satisfactory program for site control, financing and development of the Property, and negotiation of a Ground Lease ("Lease") under which such program will be completed.

D. The Property is within the River District Redevelopment Project Area ("Project Area") and the redevelopment of the Property ("Project") is consistent with the River District Redevelopment Plan ("Redevelopment Plan") and its implementing documents. The Property has been identified by the City as important to the furtherance of the Redevelopment Plan and the elimination of blighting conditions in the Project Area.

E. The ERN contains a Schedule of Performance in Section 5 identifying actions to further the Project and provides a provision in Section 8 to extend the ERN for an additional 365 day term upon mutual agreement of the parties. Developer has requested and City has agreed to renew the ERN for a 365 day term with revisions to the Scope of Performance as provided herein.

F. The parties intend to negotiate the terms and conditions of the Lease, exclusively and in good faith, and to use reasonable good faith efforts to complete, execute and deliver the Lease at the end of the term of this Agreement, after full and unrestricted CEQA review and consideration of the Project.

G. The parties agree that the development of the Property, the completion of the Project and the execution of this Agreement are for the purpose of community improvement and welfare, for the benefit of the Project Area and in accordance with the public purposes

and provisions of federal, state and local laws under which the Project may be undertaken.

NOW, THEREFORE, City and Developer agree as follows:

1) Enter into the Exclusive Right to Negotiate. City grants to the Developer the exclusive right to negotiate for the right to develop and lease the Property.

2) Term. This Agreement shall commence as of the date of its execution by both parties ("Commencement Date") and, except as otherwise provided herein, shall terminate upon the earlier of completion of all obligations herein or three hundred sixty five (365) days after the Commencement Date ("Termination Date").

3) Developer's Proposal for Development of the Property. As a condition precedent to the City negotiating the Lease, Developer must complete a comprehensive proposal for the development of the Property ("Proposal") and submit the Proposal to the City for its approval. It is agreed and understood that the City's approval of the Proposal is a prerequisite to further consideration of the Project and that the City's approval of the Proposal does not compel or require the City to approve the Project, or enter into a Lease with Developer.

   a) Contents of Proposal. Developer shall include in its Proposal, without limitation, the following: (a) a detailed description of the Developer's development team, naming the principals of Developer, the architectural and design team, the general contactor, and the marketing team; (b) Project conceptual design, including site plans, elevations and typical floor plates in keeping with all applicable planning requirements and design guidelines of the City; (c) refined economic estimate of construction costs for Project designs; (d) detailed fundraising plan and financing plan; (e) 10-year cash flow analysis for Project operations; (f) location of parking spaces and the physical manner by which those spaces will be operated; (g) description of restaurants financial and operational relationship with the Project; (h) evidence of ability to satisfy city insurance and indemnity requirements; and (i) identification of the development and construction team members.

   b) Disapproval of Proposal. This Agreement shall terminate if the City Manager or his designee disapproves the Proposal.

4) CEQA Review.

   a) At Developer's expense, the Developer shall prepare all environmental documents necessary for the City to conduct appropriate environmental review of the Project under the California Environmental Quality Act ("CEQA").

   b) Within ninety (90) days of the Commencement Date, Developer shall prepare and submit to the City for approval a Project description to be used by the City to prepare the environmental documentation for the Project following approval of the Proposal. Upon the City's request, Developer shall supply any additional data and information both to determine the impact of the Project on the environment and to assist in the preparation of the environmental documents.

   c) Nothing in this section shall be constructed to limit the City's powers, rights and duties under CEQA or to obligate the City to approve the proposed Project or enter into a lease with Developer.

5) Schedule of Performance. The parties shall perform the following obligations by the dates specified in the following schedule ("Schedule of Performances"):

Due Date	Action	Responsible Party
Within ninety (90) days of Commencement Date	Refine site plans for the Property including revised design of museum and detailed concepts for the restaurant/entertainment/ parking/public components of the Project	Developer
	Develop concepts for the open space components of the Project that harmonize with the City's Jibboom Street Park Master Plan and planned park improvement plans	Developer and the City
	Refine estimated construction costs, including all applicable fees and contingencies	Developer
	Refine development and operating pro formas	Developer
	Submit a Project description to the City	Developer
	Submit a comprehensive Proposal to the City meeting the requirements detailed in Section 3a. above.	Developer (with City support)
Within one-hundred fifty (150) days of Commencement Date	Approve or disapprove Proposal and Project description within 30 days of submission	City
	Consult with appropriate State and local agencies with jurisdiction over the Project regarding Project approvals	Developer and the City
	Consult with appropriate community and river groups with interests in the Project	Developer and the City
	Submit Planning entitlement application to City Planning Department	Developer
	Begin CEQA analysis	City
	Solicit comments from Design Review and Preservation Board for use in CEQA analysis	Developer and the City
Within three-hundred thirty (330) days of Commencement Date	Finalize schedule of performances for the construction period	Developer
	Negotiate the terms and conditions of the Lease	Developer and the City
	Provide evidence of confirmed commitments meeting at least 25% of total fundraising goal	Developer
	Provide evidence of at least $3 million in cash deposited in Developer's capital campaign bank account for construction costs	Developer
Within three-hundred sixty five (365) days of Commencement Date	Obtain Project entitlement approvals, including CEQA, from the City	Developer
	Execute the Lease	Developer and the City

6) Lease.

   a) The parties shall make a good faith effort to negotiate the terms and conditions of a lease of the Property in accordance with the timeframe in the Schedule of Performances and to use reasonable and good faith efforts to complete and fully execute the Lease by the Termination Date.

   b) The parties agree that the Lease will include, without limitation, the following terms and conditions: (a) use covenants to run with the land; (b) payment and performance bonding and/or other completion assurances; (c) insurance and indemnities, including hazardous materials indemnities; (d) anti-discrimination provisions; (e) the City's local hiring policies and prevailing wage requirements; (f) performance assurances; (g) limitation on assignments prior to Project completion; (h) compliance with CEQA mitigation; (i) the City's rights to revest the Property upon default; and (j) the City's Art in Public Places requirements; (k) the City's rights to cure defaults, assume loans and complete construction; (l) loan guarantees and additional securities; (m) customary protections for lenders providing financing for the Project; and (n) business operations and maintenance standards and requirements.

7) Predevelopment Costs. Developer shall bear all predevelopment costs relating to actions of Developer under this Agreement, including but not limited to cost for planning, environmental, architectural, engineering a legal services, and other costs associated with preparation of Developer's Proposal and the Lease.

8) Term Extension. This Agreement may be extended for one additional period of up to one year ("Extension Period") and the schedule of performances amended by the City Manager or his designee with the approval of the City Manager and substantial progress of Developer in developing the project. During the Extension Period, the parties shall accomplish all of the tasks necessary for the execution of the Lease, including without limitation, negotiating Lease terms, developing architectural plans, preparing environmental studies and documentation, obtaining financing commitments, obtaining tenant commitments as necessary for financing, and engaging the general contractor.

9) Default. Except as otherwise provided herein, the following events by either party shall be "Events of Default": (a) failure to perform obligations when due, which failure is not caused by the other party; (b) failure to negotiate the terms and conditions of the Lease in good faith, (c) failure to reasonably cooperate with the other in fulfilling the other's obligations under this Agreement, or (d) unilaterally terminating this Agreement; provided, however, none of these events shall constitute an Event of Default unless the event continues for more than thirty (30) days after receipt of written notice of default from the other party.

   a) Remedies. Upon the occurrence of any one or more of the "Events of Default", either party shall have the right to terminate this Agreement and may pursue equitable remedies available to it for such Default. Upon such termination, the City shall have the right to: 1) retain the Deposits; and , 2) pursue development of the Project without any participation by Developer.

   b) The remedies contained in Section 9a. are the sole exclusive remedies for default of this Agreement, and neither party may claim, as a result of a default of this Agreement, any damages, whether monetary, non-monetary, contingent, consequential or otherwise.

10) Unavoidable Delays. Neither the City nor Developer shall be considered in breach of, or default of, its obligations under this Agreement, if the delay in the performance of such obligations is due to unforeseeable causes beyond the delayed party's control and without its fault or negligence. Unforeseeable causes shall include acts of God, acts of the public enemy, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually sever weather (as for example, floods, tornadoes, or hurricanes). In the event of the occurrence of any such delay, the time or times for performances of such obligations of the City and Developer shall be extended for a period of the delay provided that the party seeking the benefit of the provisions of this section shall, within ten days after it has or should have knowledge of any such delay, has first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the delay.

11) Disclosure of Interested Parties. Developer shall, as condition precedent to execution of the Lease by the City, make full disclosure to the City of the identity of all principals, officers, stockholders, partners, joint ventures, and entities in Developer.

12) No Joint Venture. This Agreement does not create a joint venture or a partnership between the parties.

13) Notices. Notices to either party shall be personally delivered or sent by first class mail to:

City of Sacramento
Economic Development Department
915 I Street, Third Floor
Sacramento, California 95814
Attn: Rachel Hazlewood

The Sacramento Museum of History, Science and Technology
1011 I Street
Sacramento, California 95814
Attn: Michelle Wong

14) Entire Agreement. This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by Developer, and by City, in accordance with applicable provisions of the Sacramento City Code.

15) Severability. If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or enforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

16) Waiver. Neither City's acceptance of the performance of any obligation under this Agreement by Developer, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

17) Enforcement of Agreement. This Agreement shall be governed, constructed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

18) Assignment Prohibited. Developer shall not assign any right or obligation pursuant to this Agreement without the written consent of the City. Any attempted or purported assignment without City's written consent shall be void and of no effect.

19) Authority. The person signing this Agreement for Developer hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Developer and to bind Developer to the performance of its obligations hereunder.

Executed as of the date first written above, in Sacramento, California.

CITY OF SACRAMENTO
A Municipal Corporation

By:_____

Print Name:_____

Title:_____

For: Ray Kerridge, City Manager

APPROVED TO AS FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Sacramento Museum of History, Science and Technology
A Nonprofit Corporation

By:_____

Print Name:_____

Title:_____

By:_____

Print Name:_____

Title:_____