



BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY,
on behalf of California State Polytechnic
University Pomona
3801 West Temple Avenue
Pomona, CA 91768

Request for Proposal
RFP #20-007

January 11, 2021

LANTERMAN DEVELOPMENT CENTER – MASTER DEVELOPER

RFP Due Date:
April 13, 2021 by 4:30 PM PDT

SUMMARY PAGE

Title:	Request for Proposal for Lanterman Development Center - Master Developer
Description:	The Board of Trustees of the California State University, on behalf of California State Polytechnic University Pomona, is seeking an experienced master developer and development proposals for the design, construction, financing, and operation of a mixed-use Site Development on the land known as the Lanterman Development Center, located in Pomona.
CPP Lanterman Website Address:	https://www.cpp.edu/lanterman/
RFP Coordinator	Theresa Navar-Rodriguez lantermanproject@cpp.edu 909.869.3327
Proposal Delivery Address:	C/O Theresa Navar-Rodriguez Cal Poly Pomona – Lanterman Project 3801 W. Temple Ave. Pomona, CA 91768
Critical Dates: <i>Note that all Critical Dates represent the currently anticipated timeline for this RFP. However, all dates are subject to change.</i>	
RFP Distributed:	January 11, 2021
RSVP Deadline for Site Tour and Pre-Proposal Meetings:	January 26, 2021
Site Tour	February 9, 2021
Pre-Proposal Meeting (virtual video conferences):	February 10, 2021
Questions and Clarifications on RFP Due:	February 15, 2021
Responses to Questions:	March 1, 2021
Proposals Due:	April 13, 2021 4:30 pm PDT
Shortlist Selection Notification:	May 4, 2021
Developer Interviews:	Week of May 10, 2021
CPP RFP Review Committee Developer Selection:	No later than June 17, 2021

Table of Contents

1. Overview.....	1
a. Introduction	1
b. Background.....	2
• University History:.....	2
• Lanterman Development Center Historic Context:	2
c. Project Vision and University Objectives	7
d. General Guidance	8
• Residential.....	8
• Flex Space	8
• Retail Space	9
• Social Responsibility & Sustainability	9
• Neighborhood Connectivity & Mobility	9
e. Agreements.....	9
• Exclusive Negotiation Agreement.....	9
• Disposition and Development Agreement and Ground Lease(s).....	10
2. Scope of Services	11
a. Developer Responsibilities.....	11
b. CSU CEQA Compliance and Entitlement Process.....	13
3. Proposal Requirements.....	15
4. Procurement Process.....	21
a. Proposal and Selection Schedule	21
b. General Conditions	21
c. Inquiries and Addenda.....	24
d. Developer Selection	24
e. Pre-Proposal Meetings	25
f. Interviews.....	25
g. Scoring.....	26
h. Expectations of the California State University	27
5. Additional Information Available	29
Exhibit A – Draft ENA	30
Exhibit B – Small Business Preference Form.....	31
Exhibit C – Summary of Disabled Veteran-Owned Business Participation Form.....	32

1. Overview

a. Introduction

The Board of Trustees of the California State University, which is the State of California acting in its higher education capacity, on behalf of California State Polytechnic University Pomona, one of 23 campuses in the California State University system (“CSU”), is seeking an experienced master developer (“Developer”) for the purpose of entering into multiple long-term ground leases to develop various projects (each a “Project”, and collectively, the “Site Development”) at the former site of the Lanterman Development Center (the “Site”) to benefit CSU and local communities. The selected Developer, in consultation and cooperation with CSU, and subject to oversight by CSU, will be responsible for project analysis, definition, securing approvals, entitlements, development (infrastructure and buildings), financing, management, maintenance, and operations. The proposed Site Development should be viewed as contributing qualitatively and/or quantitatively to CSU’s educational mission and values. All potential Projects should consider a wide range of self-support for their development, operations, and potential revenue streams to CSU. No funding from CSU is available for the development of the Site and the Developer shall be solely responsible for financing the entire Site Development, including all Projects.

The Site is an approximately 300-acre parcel of land, known formerly as the Lanterman Development Center, located approximately one mile from the main campus of California State Polytechnic University, Pomona (“CPP”). Once operating as a residential healthcare facility for the mentally disabled, the Site contains 131 buildings and structures, totaling over one million square feet. At its height, the facility cared for 2,000 patients. The Lanterman Development Center ceased operation on December 31, 2014. The Site was offered to CSU to support its educational mission and provide benefits to CSU and the surrounding communities. In 2015 the state transferred jurisdiction of the land to CSU. As part of the final transfer of the Site in 2017, CSU was assigned the responsibility for determining possible development of the Site. CSU will not sell portions of the Site, as raising funds through the sale of land contradicts the intent and purpose of the transfer.

Currently, there are three (3) groups with ongoing operations on the Site: (1) the Los Angeles County Fire Department has been granted six acres of the Site for training purposes; (2) the California Conservation Corps (“CCC”) maintains offices in a small building on the Site (Figure 1); and (3) other areas of the Site are used as filming locations for movie and television studios under the supervision of the Cal Poly Pomona Foundation (“CPP Foundation”) and CSU. The latter use provides funding to help offset the annual operating costs of the Site. The Los Angeles County Fire Department’s existing training facility on the Site must remain in place. As a condition of the transfer of the Site to CSU, CSU must accommodate the CCC. The final location and acreage for CCC remains under discussion.

CSU has conducted multiple analyses of the feasibility of development at the Site including an Urban Land Institute Technical Assistance Panel (“TAP”) report completed in October 2016 and a feasibility

study completed by HOK in the spring of 2017. Both analyses demonstrated a unique opportunity for the development of a university-oriented community with a range of facility types including flex spaces, research and development spaces, hospitality/entertainment, retail, and a range of residential uses – overall a live, work, play environment. CSU has retained Project Management Advisors, Inc. as owner’s representative and development advisor during the current solicitation process.

b. Background

University History:

CPP is a public polytechnic university located in Pomona, California. As such, it emphasizes technology, innovation, and cross-disciplinary studies. Established in 1938, CPP offers more than sixty majors and undergraduate and graduate degree programs. CPP is comprised of eight (8) academic colleges with a total student body of approximately 26,500 undergraduate students and 1,500 graduate students, collectively 28,000 students. CPP is one of twenty-three (23) universities that make up CSU, the largest public four-year university system in the United States.

In 1938, the Charles B. Voorhis family donated 150 acres of land in San Dimas, which was the former site of the Voorhis School for Boys, to the State of California. In the same year, it became California State Polytechnic University, Pomona, founded as a men’s agricultural college and operated as a Southern California branch of Cal Poly San Luis Obispo.

In 1949, Kellogg Ranch, a 813-acre ranch, was deeded to the State of California for use in expansion of the education program of CPP. A stipulation of the deed agreement retained the Arabian horse breeding and training program and continued the Sunday horse shows. In 1956, 550 students and 30 faculty members teaching six courses of study moved three miles from the original Voorhis site to the Kellogg campus.

Women were enrolled for the first time in 1961, and CPP became the 16th CSU campus in 1966, 28 years after its founding. It was officially granted full university status in 1972. As a result of several land transfers and acquisitions, campus acreage has increased by 306 acres.

CPP’s campus is nestled in 1,438 rolling acres on the eastern edge of Los Angeles County. As one of only two polytechnic universities in the State, CPP is known for its learn-by-doing philosophy. The campus includes the CPP Main Campus, Innovation Village, and Spadra Farm. Innovation Village is designated for public-private partnerships and Spadra Farm is an agriculturally focused land use adjacent to the Site. With the addition of the Site, CPP has a 1,738 acre presence within the City of Pomona.

Lanterman Development Center Historic Context:

The Site is located in one of four Opportunity Zone tracts in the City of Pomona. The Site contains over 131 buildings formerly operated by the Lanterman Development Center and constructed at

different times since the 1920's.

The Site exists in a natural and built environment that offers both opportunities and constraints to the development (Figure 2). Founded originally as the Pacific Colony Hospital, a residential mental healthcare facility, the Lanterman Development Center's architectural and historic significance encompasses the period between 1927 and 1969. The Site, now determined to be eligible for listing on the National Register as the Pacific Colony State Hospital Historic District, includes ninety-three eligible district contributors as well as four individually eligible buildings (Figure 1). Opportunities for reuse of the existing buildings, discrete additions, and compatible new construction are all within acceptable guidelines for the development of the Site. A letter from the State Historic Preservation Office, dated February 29, 2016, describing the Site's historic eligibility and significance, and the Final Historic Resource Assessment Report for Lanterman Developmental Center, Pomona, Los Angeles County, California, prepared for the Department of Developmental Services, are available for review on the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>).

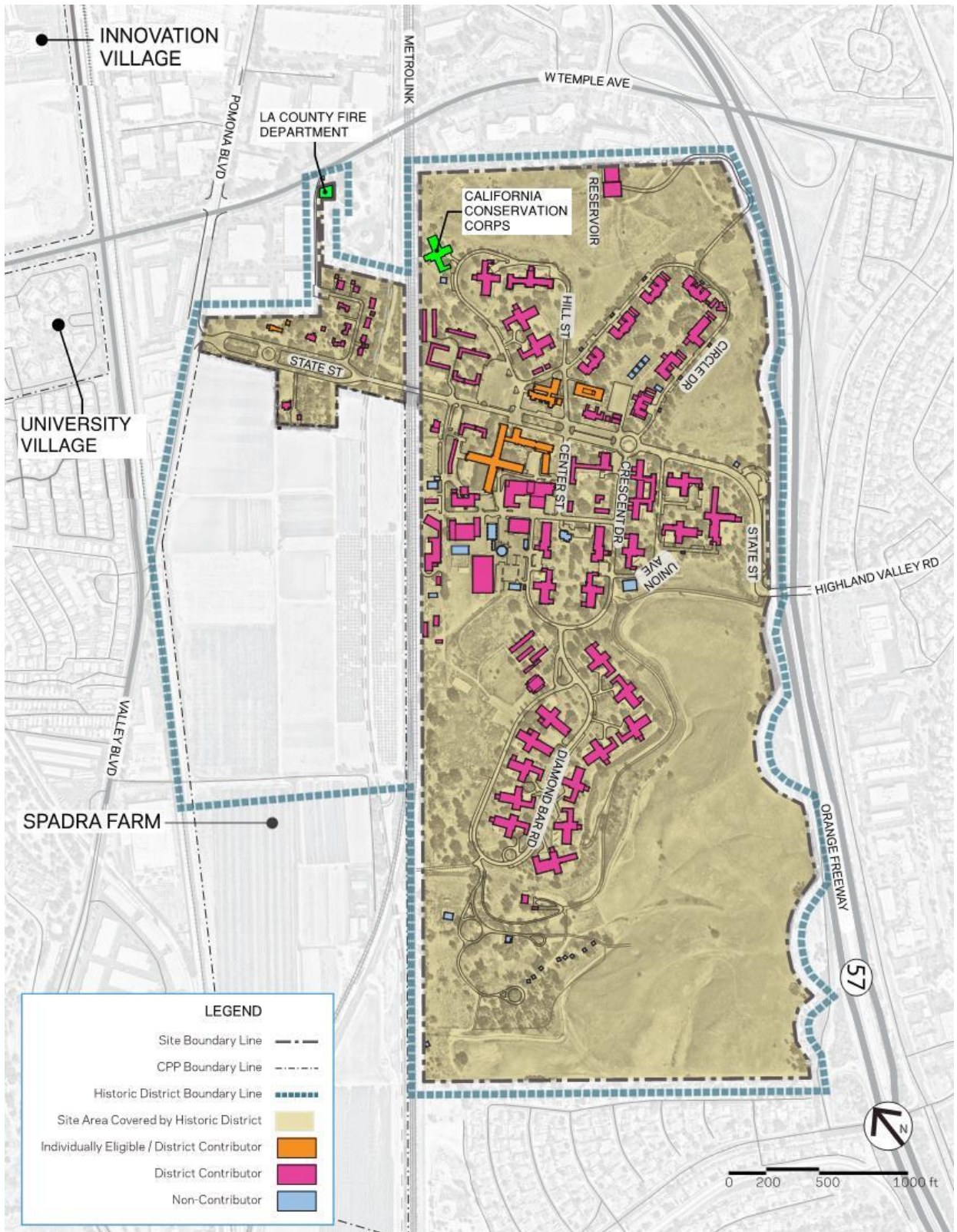


Figure 1: Historic Lanterman Site, CCC & LACFD

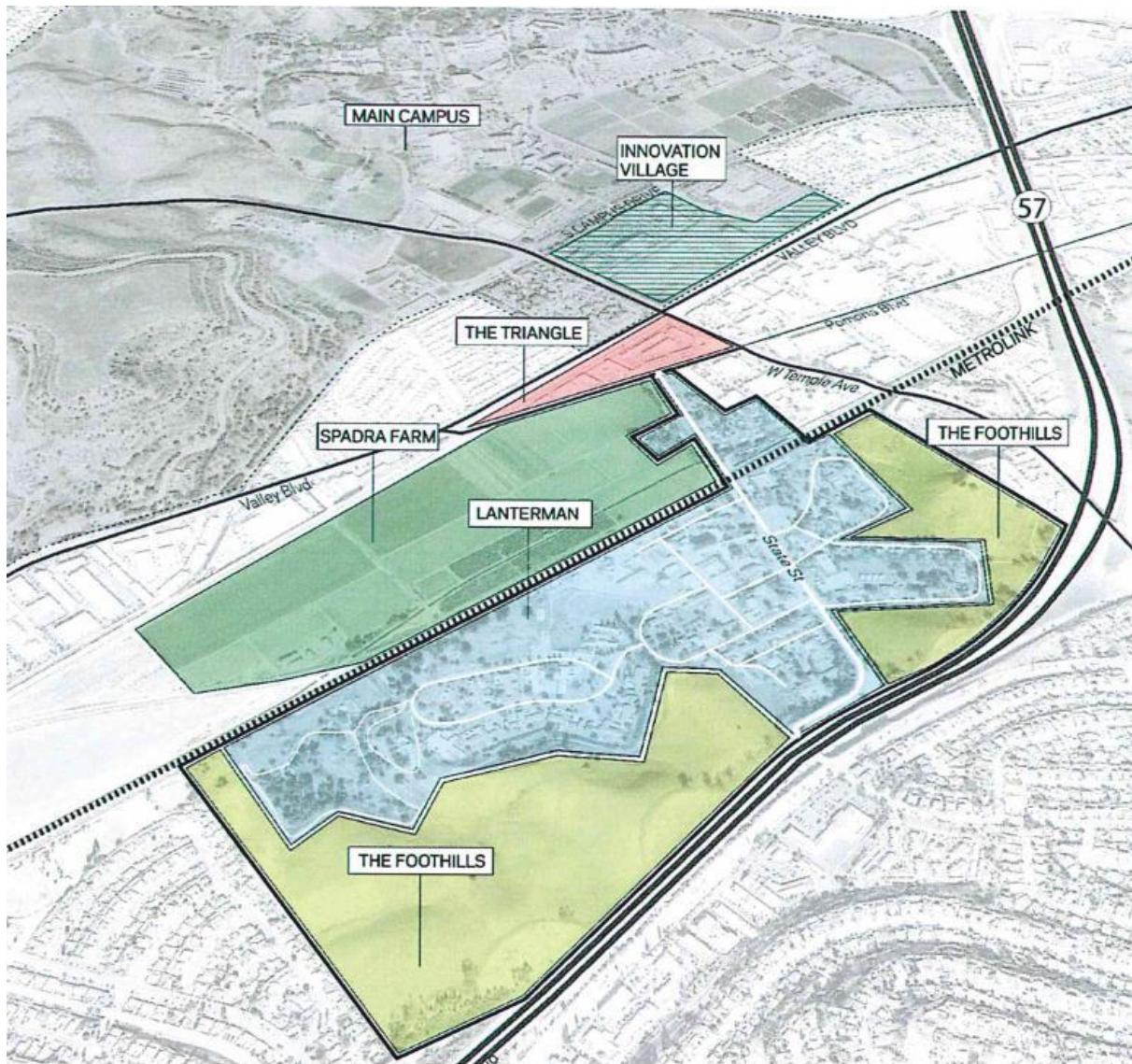


Figure 2 : Lanterman Development Center Site (Noted as "Lanterman" and "The Foothills")

CSU engaged HOK for a feasibility study of the Site. Initial recommendations from the HOK Team identified that some of the existing structures may need to remain to maintain the Historic District; however, the potential exists to maintain the integrity of the Historic District while introducing new development components thereby realizing a compelling vision for the Site Development.

Based on the analysis of existing structures, historical review, climate, topography, terrain, landscaping, liquefaction zones, floodplains, and other variables, the HOK Team identified specific developable zones on the Site (Figure 3). Zone 1 represents the least challenging land to develop, primarily concentrated on the western portion of the Site. Most of the existing structures are within this zone, with those structures considered potentially suitable for adaptive reuse, totaling nearly 500,000 GSF, identified in black. Given the likely constraints of the Site, and assuming conservative

Cal Poly Pomona
Request for Proposal for Lanterman Development Center – Master Developer
RFP #20-007

Historic District requirements, the HOK Team estimated a potential 90 acres could be developed with approximately 3.75 million gross square feet (“GSF”) of new buildings. Zones 2 and 3 represent areas that could be developed, albeit at greater cost due to lack of infrastructure and more extreme topography.

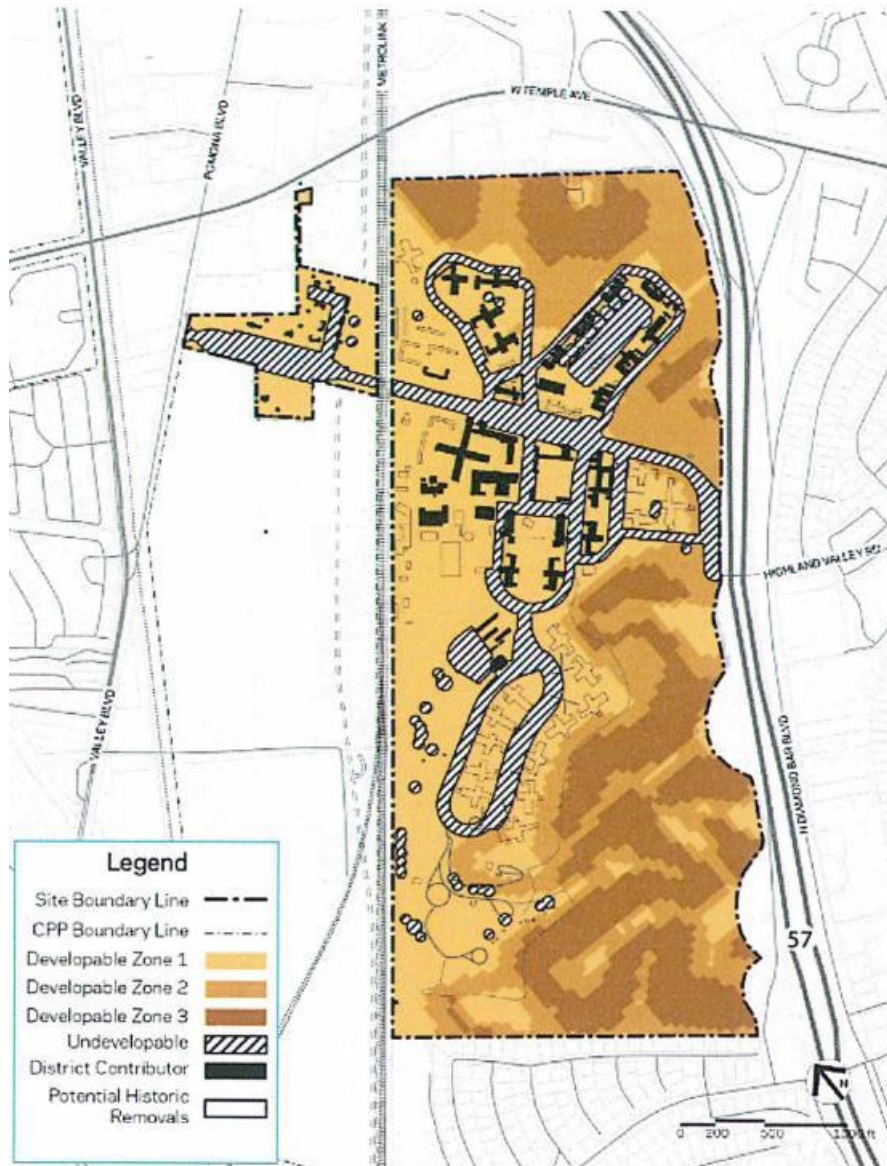


Figure 3 : HOK Team Analysis of Developable Area

Sections B and E of the HOK *Lanterman Development Center Due Diligence Report*, dated April 4, 2017, are available via the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>). The HOK feasibility study did not advance to full concept development (Section C) or concept refinement (Section D) stages; therefore, these sections were not completed or documented. HOK’s PowerPoint presentation from Workshop #3 of the feasibility study workshops, dated March 17,

2017, including analysis of site planning, costing, and residual value, is available via the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>). **It is important to note that the HOK report and related information are not intended to be a mandate or to define the development plan for potential Developers; rather a springboard for planning based on Developers' expertise and vision for the Site Development.**

Additional documents containing background information on the Site are also available on the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>).

c. Project Vision and University Objectives

CSU envisions the redevelopment of the Site as a unique, university-oriented mixed-use community, supporting CSU's educational mission and values to cultivate success through a diverse culture of experiential learning, discovery, and innovation, and philosophy to be student-centered, faculty and staff-focused and community-minded. All development or land uses on the Site must connect with the educational mission, values, and objectives of CSU, and/or support the overall Site Development. Value from the Site Development and individual Projects will be driven from both qualitative and quantitative impacts. CSU desires the following:

1. The creation of a destination for the CPP community with a downtown or "college town" environment, drawing faculty, staff, students, local community members and visitors together;
2. Opportunities for faculty and students to connect with private industry for research and innovation, embodying the learn-by-doing motto;
3. New learning environments to support the academic needs of CSU, to be developed in collaboration with interested University Colleges;
4. Opportunities to create communities within the Site Development that can be viewed as Live-Work-Play locations as well as those that support the broader CSU, CPP, and local community needs;
5. Affordable housing options based on established governmental parameters;
6. Below-market priced housing options designed to recruit and retain faculty, staff, and upper-level and graduate students;
7. Market-rate housing options;
8. A sustainably-minded development, in line with the CPP President's Climate Commitment (available on the CPP Lanterman RFP Website - <https://www.cpp.edu/lanterman/>), that is viewed as a connection to the main CPP campus;
9. Opportunities to connect the Site with regional transit systems and a connection to the main CPP campus;
10. A self-supporting development and operation of the entire Site through public-private

- partnerships which do not require CSU's financial support; and
11. The potential for shared revenue opportunities.

d. General Guidance

CSU seeks an experienced, financially sound Developer capable of meeting CSU's objectives through a long-term plan and partnership in the development, management, maintenance, and operation of the Site.

A *Campus-based Advisory Committee Report* from 2019 can be found on the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>). The report includes a description of desired outcomes from the CPP President, as well as conceptual ideas that were developed by a campus-based advisory committee during the 2018-2019 academic year. The conceptual ideas offered in the report are exploratory in nature; they are not requirements for the Site Development.

Although the HOK study referenced in previous sections includes an analysis of many market sectors, Site Development proposals should only include those that align with CSU's vision.

Residential

CSU has existing on-campus housing to accommodate first- and second-year students of CPP. Off-campus, student-oriented housing directed toward CPP's upper-level and graduate students should be considered for the Site Development. CSU is also in need of workforce housing, priced to recruit and retain faculty and staff. These residential options need not be exclusive to CSU, but should prioritize availability for CSU purposes. The specific measures (number / percentage of units and types) will be discussed and mutually agreed upon between CSU and the selected Developer. A *Housing Demand Analysis Update* by Brailsford and Dunlavey from September 2016 is available via the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>). This document includes an analysis of upper-level and graduate housing demand existing at the time the study was conducted.

Flex Space

CSU desires flex space at the Site to attract businesses and research organizations to provide student opportunities to connect with employers or industry experts that will facilitate training, internships, experimentation and innovation. Flex space ranges from labs, offices, collaborative environments, research and development spaces, etc. These spaces can integrate into private industry programs for learn-by-doing partnerships. The specific amount of flex space will be determined jointly by the selected Developer and CSU after Developer selection. Any of these spaces built on the Site would look to revenue streams from the Site or Developer to finance/construct, as CSU will not contribute funds for their development.

Retail Space

Retail space shall align with CSU's desire to create a destination downtown or "college town" environment. Proposed retail types will be subject to CSU approval.

Social Responsibility & Sustainability

One of CSU's core values is social and environmental responsibility. CSU is interested in Developers that consider this value in their proposal, including inclusionary selection of consultants, contractors and subcontractors.

CSU desires a Site Development that frames a sustainable community in line with the CPP President's Climate Commitment. CSU's sustainability commitments and reports for CPP can be found on the CPP Office of Sustainability website (<https://www.cpp.edu/sustainability/commitments-and-reports.shtml>). CSU is interested in sustainability accreditations as well as sustainable initiatives aligned with CSU's desire for a live, work, play environment, promoting community experiences and connecting the natural and built environment. Innovation in infrastructure and forward-looking solutions for development and operation of the Site will be considered in the evaluation of proposals.

Neighborhood Connectivity & Mobility

Successful development of the Site will require aggressive transportation and parking demand management strategies. The Site currently has two access points to local streets which are not sized appropriately for large scale developments. Any Site Development should seek to decrease reliance on personal automobiles and improve connectivity with the surrounding communities. Internal circulation systems must be designed to accommodate all transportation modes (i.e., walking, bicycling, vehicular, and transit/shuttle service). The Site presents a unique opportunity to connect to regional rail transit via the adjacent Metrolink corridor. CSU is interested in continued dialogue with local decision makers and regional transit authorities to evaluate this opportunity.

e. Agreements

Exclusive Negotiation Agreement

CSU intends for the selected Developer to enter into an Exclusive Negotiation Agreement ("ENA"), which will provide the Developer with the ability to engage in planning and preparation, including conducting due diligence, master planning, environmental impact analysis, community outreach, and acquiring necessary approvals to proceed. During the term of the ENA, the parties will also have time to negotiate the terms of a disposition and development agreement ("DDA") and the forms of ground leases for the separate Projects proposed for the Site ("Ground Leases"). A draft ENA is attached to this RFP as Exhibit A, for review of preliminary CSU expectations and requirements.

The planning process will be a consultative process with CPP faculty, students, staff and various

external constituents. The planning process will culminate in seeking approval from the CSU Board of Trustees (“CSU-BOT”) of the terms of the DDA and forms of Ground Leases for the Site Development, as well as certification of the related Environmental Impact Report (“EIR”) for the Site Development.

Disposition and Development Agreement and Ground Lease(s)

Neither the selection of a Developer nor the execution of an ENA will constitute an approval of the proposed Site Development or the uses, configuration, or design of the various proposed Projects as presented in the response to this RFP. CSU will require a thorough understanding of the development and phasing plans for the proposed Projects, and the Site Development’s overall financial viability before recommending certification of the EIR and approval of the Master Plan by the CSU-BOT. Once final approval of the EIR and the Master Plan has been obtained from the CSU-BOT, including California Environmental Quality Act (“CEQA”) certification and procurement of other necessary entitlements, the DDA and Ground Lease documentation can then be approved by the CSU-BOT. After the passage of any statutorily required waiting periods, the Developer will be able to initiate the development process in accordance with the approved Master Plan, EIR, and the terms and conditions of the executed DDA and Ground Leases.

It is expected that there will be one or more Ground Leases for each Project that is part of the approved Site Development, except for land set aside for CCC and the L.A. County Fire Department training facility. CSU anticipates that certain threshold requirements will need to be achieved by the Developer in order for CSU to authorize each successive individual Project. CSU and the CSU-BOT anticipate being active participants in the oversight of and decision-making processes related to the Site Development and each specific Project, and will support appropriate coordination efforts, as needed, for this ongoing public-private partnership.

2. Scope of Services

a. Developer Responsibilities

The Developer will be responsible for, among others, the following tasks:

1. Site Analysis and Community Outreach: The Developer will be responsible for conducting Site analysis to inform the development plan. The Developer will be responsible for community engagement, meetings, presentations, and events for community involvement during the planning process. Internal and external community constituents include, but are not limited to:
 - External: City of Pomona and its internal and surrounding communities and constituents (City of Diamond Barr; City of Walnut; Mt. Sac. Community College; Pomona Fairplex; San Gabriel Economic Partnership; Pomona Unified School District Superintendent); L.A. County Supervisor; State Senator; Congressional Representatives; Stakeholders in the EIR process
 - Internal: CSU-BOT; CSU Chancellor's Office; CPP President; CPP Faculty, Staff, and Students; CPP Foundation

CSU will coordinate communication with the CCC and the Los Angeles County Fire Department. The CPP Foundation will coordinate communication with onsite filming licensees. The Developer will be responsible for advising CSU and the CPP Foundation on aspects of the proposed Site Development that may affect the ongoing operations of these groups throughout the process of developing the Site.

2. Planning and Design: The Developer will be responsible for all aspects of the pre-development planning, master planning, environmental review, project refinement, and project design, and will work in collaboration with CSU in meeting these responsibilities. All pre-development studies, due diligence reports, and all other work product created by or for the Developer, or otherwise obtained by the Developer in connection with the Site and/or proposed Site Development (including specific Projects) will be shared with CSU, and CSU shall be allowed to use and rely on all such work product and other materials and items, at no cost to CSU.
3. Government Relations and Approvals: The Developer will work collaboratively with CSU to ensure appropriate outreach and engagement with neighborhood planning groups and with local and state officials and agencies, including but not limited to the State Office of Historic Preservation, Caltrans, local police and fire authorities, municipal public works departments, and local and regional transit authorities. The Developer will be responsible for the successful processing of required CEQA review and entitlements through CSU and will be solely responsible for all associated expenses. The selected Developer will be responsible at its cost for obtaining all land use entitlements and other applicable approvals required for the Site

Development (including each proposed Project). The selected Developer will also be expected to pay all permits, processing, and any other applicable or negotiated fees related to the Site Development (e.g., transportation mitigation costs, off-site traffic improvement costs, and utility connection fees). CSU-BOT approvals will be required for the overall Site Development and each specific Project, and, to the extent applicable, approvals may also be required from other governmental agencies.

4. Construction: The selected Developer will be solely responsible for construction of all improvements. This includes all on-site or off-site improvements and any changes from existing conditions, including underground utilities, street lighting, curbs, gutters, street trees, and sidewalks. The Developer will be responsible for construction and commissioning of each Project and all other components of the Site Development, including obtaining all permits, fees, and approvals necessary for construction.
5. Prevailing Wages: CSU will require that the entire Site Development (including all Projects) be developed and constructed in accordance with prevailing wage requirements and proposals should take this requirement into account.
6. Financing: The Developer will be responsible for providing all necessary funding for the Projects, whether it be in the form of debt financing, equity, or a combination thereof. It is imperative that no financial or credit risk is imposed upon CSU or the Site.
7. Lifecycle Maintenance: The Developer will be responsible during the term of the DDA and Ground Leases, as applicable, for lifecycle maintenance, including capital refurbishment and replacement, necessary to sustain the Site and each Project to the level of operation agreed to in the DDA and Ground Leases as applicable. Preference is given to a Developer interested in a long-term investment holding period and a successful track record of operational efficiency and effectiveness.
8. Facilities Management Services: The Developer will be responsible during the term of the DDA and Ground Leases, as applicable, for management, maintenance and repair of the facilities and associated infrastructure and certain furniture, fixtures and equipment, including (i) marketing and leasing spaces and potential developments, (ii) the operation, maintenance and repair of the facilities and associated infrastructure and maintenance and repair of certain furniture, fixtures and equipment, and (iii) certain other services to be agreed upon in the DDA and Ground Leases, such as grounds maintenance, parking, dining and housing.
9. Transfer and Development Costs: The selected Developer will be responsible for paying any applicable development impact fees assessed by any agency or government body. All title insurance and escrow costs, transfer taxes, parcel or subdivision maps, and any other transfer or development costs will be the sole responsibility of the selected Developer without credit against any amount owing to CSU.

10. Insurance: The selected Developer will obtain insurance as required by CSU and CSU policies, as well as by all applicable laws.
11. Indemnification: The selected Developer will agree to defend, indemnify and hold harmless CSU, the State of California, and their respective affiliates and designees in accordance with CSU policies, customs, and requirements.
12. Local Ordinances: As an entity of the State of California, CSU is not subject to local ordinances. If any public right of way work and/or relocation of any public facilities, including public utilities, may need to be undertaken, the Developer, with CSU's prior approval, will negotiate any necessary agreements with the City and other local agencies. Respondents are encouraged to undertake an assessment of this requirement, if applicable, and make an independent conclusion.

b. CSU CEQA Compliance and Entitlement Process

In issuing this RFP, CSU makes no representations or warranties, express or implied, that the necessary approvals that will allow the development of the Site in accordance with the guidelines set forth herein can be obtained.

The land use entitlement process will be overseen by CSU. CSU will work with the selected Developer on scoping and procuring the required entitlements. The entitlement process includes necessary CEQA processes, Schematic Design review by CSU, and eventual approval by the CSU-BOT, as well as eventual construction document plan check, and building permits.

The Developer will be required to comply with CEQA. CSU intends, through this selection process and the planning that succeeds it, to identify the actions and activities that would be necessary to develop the Site and thereby facilitate meaningful environmental review. CSU shall act as lead agency and guide the Developer through the CEQA and entitlement processes. The successful Developer will work with CSU, CSU's Land Use staff, and its approved consultants, and CSU will determine the appropriate environmental documents or course of action based on the proposed Site Development. The primary lead CEQA consultant will be selected from those who currently have a master enabling agreement with CSU; to this end, CSU will coordinate with the Developer to solicit one or more proposals for CEQA compliance. The Developer will be responsible for environmental documentation necessary to fulfill CEQA compliance requirements and all associated costs as they relate to the Site and proposed Site Development, which may also include transportation mitigation, off-site traffic fees associated with the Site Development and school/park/library fees, utility connection fees, historic resources mitigation, and other mitigation costs.

CSU is the Building Official for all CSU owned land. This includes all buildings on a campus and in some cases for CSU operations off-campus as well. To manage this authority, CSU issues permits for construction activities on the campus. General building plan check will be completed by a consulting firm appointed by CSU. The Division of State Architect ("DSA") will review the Site Development and each particular Project for compliance with the accessibility provisions of the

California Building Code. All portions of the Site Development also must comply with the provisions of the California Code of Regulations, and Title 24/Federal ADA Standards. The Office of State Fire Marshal (“OSFM”) reviews CSU projects for fire and life safety compliance. OSFM and DSA approvals confirm and append the underlying CSU code compliance determination.

The CSU plan check process is completed in advance of any outside agency review submittal. CSU staff representation is required, and essential, at SFM/DSA “pre-approval” review meetings; prior to all submittals into OSFM, the plans shall be reviewed for concurrence by the CSU Office of Fire Safety. Please note that all OSFM approvals for non-phased or phased construction once issued are valid for 12 months and cannot be extended over or across building code cycles. Allowing the A/E and contractor teams to act independently to secure approvals complicates the campus/agency project relationship. In compliance with CSU policy, the Developer will be required to obtain plan approval by CSU Seismic and Mechanical Peer Reviewers appointed by CSU. The CSU Chancellor’s Office Capital Planning, Design, and Construction (“CPDC”) unit provides code interpretation and building official support in partnership with the campus deputy building official. The Developer is required to comply with the CSU *Procedure Manual for Capital Projects* which describes the design submittals and procedures in more detail (https://www2.calstate.edu/csu-system/doing-business-with-the-csu/capital-planning-design-construction/operations-center/Documents/guidelines/Procedure_Manual.pdf).

3. Proposal Requirements

Developers are asked to organize and submit proposals in the format discussed below. Information and materials are to be submitted with an appropriate level of detail to allow the RFP Review Committee to adequately assess and evaluate Developer qualifications and the proposed development plans.

1. Cover Letter

- a. An initial overview of the Developer's plan and overall vision for the Site Development. The cover letter should discuss (1) the Developer's interest in the Site Development and each of the separate Projects, (2) overall understanding of CSU's vision for the Site, (3) an overview of Site Development and specific Project plans, and how they align with CSU's educational mission and values, and (4) an overview of assumed capital stack for the Site Development and each of the various proposed Projects. The purpose of the Developer's cover letter is to provide the RFP Review Committee with a general understanding of the Developer's vision for the Site. Therefore, the Cover Letter is not required to discuss granular specifics of the development process. The cover letter should acknowledge all addenda distributed subsequent to this RFP.

2. Developer Team Experience and Qualifications

- a. Identification of the lead development organization, history, and mission. Include address, e-mail, and telephone number.
 - i. Identification of key personnel within the organization who will be responsible for project management and oversight for the Site Development and each of the Projects. Proposal is to include the resumes, project histories, involvement throughout development phases, and current project obligations of the key personnel identified. Please indicate the day-to-day staff members and key project executive(s) for this project.
- b. Identification of companion firms and respective key personnel. Include role, responsibilities, previous experience with lead Developer team, and each firm's applicable project experience.
 - i. Equity partner(s), sub-developer(s), master plan architect, architect(s), engineer(s), general contractor(s), marketer(s), property manager(s), financier(s), other consultant(s) / subcontractor(s), and any other key personnel / organizations that the Developer wishes to include.
 - ii. CSU will require approval rights with respect to replacement of any of Developer's key personnel and/or key partners.
- c. Team organization chart, including staff names, positions, and responsibilities.
- d. Provide a minimum of four references for the Developer and sub-developers (if any) on

the team. These need not be clients, but able to provide CSU with an understanding of working relationships, timeliness, responsiveness, and how the overall process went. References from universities and public entities are preferred.

- e. Disclosure of any conflicts of interest.

3. Development Experience

- a. Provide narrative and graphic descriptions of at least 3 case studies representing previous comparable development projects. Each example should include the following:
 - i. Statement of project vision and expectations.
 - ii. Details of Developer role; identification of key Developer staff and companion firms that engaged in the project.
 - iii. Discussion of how the project exemplifies the successful implementation of a comprehensive mixed-use public-private development project.
 - iv. Discussion of how the project exemplifies the successful integration and adaptive reuse of historic resources into the program.
 - v. Details of pre-development phase and identifying program.
 - vi. Details of client engagement including how your firm managed communication, decision making, and approvals processes.
 - vii. Timeline of development from selection through approvals, construction, and opening.
 - viii. Details of experience with CEQA compliance and related entitlement processes and consultation with State agencies such as SHPO to secure approvals, concurrence, etc.
 - ix. Details of transaction structure and financing methods.
 - x. Challenges encountered and lessons learned which would benefit the proposed Site Development.
 - xi. Qualitative and quantitative outcomes and impacts of each project.
 - xii. Details of how infrastructure improvements (i.e. horizontal development) was developed and financed.
 - xiii. Details on P3 experience with governmental entities involving ground lease agreements and ground lease rental structures.
 - xiv. Other relevant data points as needed.

4. Development Planning

- a. Pre-Development: Provide a narrative of the pre-development phase, answering the following questions:
 - i. How will your team interact with CSU and its internal and external constituents during this phase of the development?
 - ii. What is the desired structure to interact with CSU?
 - iii. What are the Developer's expectations of CSU?
 - iv. How will you confirm market needs and program for the Site?
 - v. How will the team interact with SHPO?

- vi. What is the team's proposed approach to CEQA compliance?
- vii. How do you define success for the Site Development and each of the various proposed Projects?

b. Program, Master Planning and Design Concept(s):

- i. Provide an overall master plan of your team's vision for the Site. CSU will be looking for Developer proficiency in terms of programming, site planning, conceptual design and schedule, with the understanding that Developers have limited knowledge at this stage.
 - a. Describe how CSU's mission and vision will drive development planning.
 - b. Discussion of Site Development concepts as it relates to student / faculty quality of life as well as its overall integration with the CPP campus and the surrounding community.
- ii. Provide details on your team's conceptual master plan proposal, including:
 - a. Conceptual plans of land use of the Site, including calculations of spaces by land use. Facility types to consider include, but are not limited to:
 - Office Space
 - Flex Space
 - Below market upper-level, Graduate, Faculty, and Staff Residential
 - Market Residential
 - Affordable Residential
 - Retail, Entertainment, and Hospitality
 - Social Infrastructure
 - Other
 - b. Detailed plans for the various phases of the Site Development, clearly defining each of the separate Projects, with description of rough timelines and strategy.
 - c. Illustrative sketches and/or renderings of Site Development and specific Project concepts.
 - d. Description of infrastructure, access, and systems improvements / replacements; specify plans for existing vs. new.
 - 1. Description of proposed transit-oriented opportunities (provided by a new Metrolink station or alternative option(s)). Describe strategy for engagement of necessary agencies to investigate and secure opportunity / opportunities, include timelines and required involvement from CSU.
 - 2. Description of utility infrastructure
 - 3. If applicable, provide previous experience and resources that could benefit this effort.
 - e. Discussion of Site Development and specific Project concepts as it relates to the historic context of the Site and historic resources

- f. Description of sustainability objectives for the Site.
- iii. Provide a summary of opportunities and challenges anticipated for overall development concept.
- c. Development Schedule:
 - i. Develop an overall schedule for the entire Site Development, including milestones related to phasing of the Site Development into separate Projects and indicate measures to achieve progress in the phasing/implementation of each Project.
 - ii. Develop a detailed pre-development schedule with key planning, CEQA, and consultation/approvals milestones.

5. Financial Information

- a. Developer Financial Capacity and References:
 - i. Provide detailed documentation of Developer's financial position and health. This documentation should include audited fiscal year-end financial statements with auditor's opinion for the last two fiscal years, and credit ratings, if applicable. If the Developer is a public company, then 10K's for the last two fiscal years, as well as the most recent 10Q's should be submitted. The documentation should also include similar information on any third-party individual or entity that will be contributing equity capital to the development. CSU will be looking for evidence of credit worthiness, balance sheet strength, private equity and commercial debt financing capability and the financial wherewithal to develop the Site over many years.
 - ii. Describe Developer's ability to secure capital for the proposed Site development (including the specific proposed Projects) and to fund pre-development activities.
 - iii. Provide references from financial institutions / status and/or evidence of interest from financial institutions and equity partners.
 - iv. Disclose foreclosed projects, projects that have gone into bankruptcy, or projects that have defaulted on financial obligations, if any, and description of circumstances. Discuss any litigation by a funding source or financial institution with respect to any project by the Developer.
 - v. Provide statement on potential financing mechanisms and any perceived challenges to secure financing of the Site Development and various Projects. Include statements on the following:
 - a. Views on the most significant risks facing CSU and how those risks could be addressed.
 - b. Breakdown of potential financing options.
 - c. What precautions will be taken to ensure no financial or credit risk to CSU based upon the manner of financing the Site

Development and specific proposed Projects?

- b. Development Assumptions and Performance Projections:
- i. Provide the total cost of the proposed Site Development. Describe interim uses and revenue streams, prior to full development, that your team has identified or believes to be appropriate for the Site. Identify areas of the Site for these interim uses.
 - a. Break out proposed pre-development budget.
 - b. Break out proposed budget for horizontal development (infrastructure improvements).
 - c. Break out costs for vertical development (program and design concepts) by each phases of the Site Development, including each separate Project. Identify baseline dollars and escalation assumptions.
 - ii. Discussion of assumed capital stack to fund the Site Development and subsequent operations of the Site.
 - a. Identify planned financing / capital sources related to initial pre-development / bridging costs, construction, and permanent financing.
 - iii. Discussion of expected financial returns for revenue generating units during the lease-up phase and in its stabilized year.
 - a. Discussion of rent estimates for revenue generating Projects. Including description of deal structure and lease arrangements anticipated with the plan; and mechanisms, partners, or approaches to identify and secure tenants.
 - b. Identify capacity for non-revenue generating Projects included in your plans.
 - c. Description of use of Opportunity Zone and other tax incentives.
 - d. Terms related to financial return to CSU including ground rent, profit sharing, resources, etc.
 1. Developer should clearly describe and analyze all offered financial returns to CSU, including, but not limited to, rent and revenue sharing. Base ground rent must not be subordinated to debt service payments and special consideration will be given to offers which include additional profit sharing revenue streams. Proposals for each specific Project and related Ground Lease transaction must include:
 - i. Length/Term of the overall ground lease, in years.
 - ii. A schedule of ground lease payments, formulation,

etc. that best fits the Developer financial proforma as well as providing the greatest return to CSU.

- iv. Pro forma projections for all Projects including pre-development costs which include but are not limited to:
 - a. An all-in development budget including all direct, indirect, and financing costs, which clearly specifies key assumptions and how calculations are made, including from pre-development up to and including stabilized operation;
 - b. A stabilized year operating statement detailing assumptions for all sources of income, a vacancy factor, detailed operating expense budget, NOI, capital reserves, debt service, and equity returns;
 - c. A sources and uses table during pre-development, construction, and permanent phases of the Project; and
 - d. A clear statement regarding the Developer's profit/return requirement and how it is calculated.
- v. It is anticipated that each Ground Lease will require transferring the improvements and Project to CSU at the end of the Ground Lease term at no charge to CSU; provided certain Projects might instead require demolition of improvements and returning the subject portion of the Site in clear "pad" condition depending on the nature of a specific Project. Please affirm the Developer's understanding of this obligation.

6. Disputes:

- a. Disclose current and ongoing litigation, including status, potential of settlement and potential impact on the proposed development of the Site.
- b. Provide description of conditions that would cause you to terminate an agreement.

7. Draft ENA:

- a. Provide response and/or comments on the draft ENA.

4. Procurement Process

a. Proposal and Selection Schedule

The Request for Proposals schedule is as follows:

RFP Distributed	January 11, 2021
RSVP Deadline for Site Tour and Pre-Proposal Meetings	January 26, 2021
Site Tour	February 9, 2021
Pre-Proposal Meetings (virtual video conferences)	February 10, 2021
Questions & Clarifications on RFP Due	February 15, 2021
Response to Questions	March 1, 2021
Proposals Due	April 13, 2021 4:30 pm PDT
Shortlist Selection Notification	May 4, 2021
Developer Interviews	Week of May 10, 2021
RFP Review Committee Developer Selection:	No later than June 17, 2021

b. General Conditions

CONFIDENTIALITY

Developer agrees to hold in confidence any and all data and information regarding CSU, CPP, and/or the Site, which is disclosed to it or its employees as a result of the work to be performed. It is understood that the confidentiality obligation shall extend beyond the completion of the Site Development and that unauthorized disclosure of such information may cause irreparable harm to CSU.

All financial, statistical, personal, technical and other data information relating to CSU's operations, which is designated confidential by CSU and made available to the Developer in order to carry out the proposal and agreement (if selected), or which becomes available to the Developer in carrying out the proposal and agreement shall be protected by the Developer from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to CSU. The Developers shall not be required to keep confidential any data or information that is or becomes publicly available, is already rightfully in the Developer's possession, is independently developed by the Developer outside of the scope of this agreement or is rightfully obtained from third parties.

INSPECTION OF SOLICITATION DOCUMENTS

Developers shall carefully review all documents referenced and made a part of this solicitation to ensure that all information required to properly respond to the solicitation has been received or made available and all requirements are incorporated into the proposal. Failure to examine any documents or instruction will be at the Developer's sole risk.

It is the Developer's responsibility to provide CSU with current contact information and to update CSU immediately of any changes.

ERRORS AND OMISSIONS OF THE RFP

In the event a Developer believes that the requirements of this RFP are unfairly restrictive, ambiguous, contain conflicting provisions, or discrepancies, or omissions or other errors in the RFP or any of its attachments, the Developer shall immediately notify CSU of such matter in writing. Modifications of RFP requirements, if any, will be made by addenda.

Failure by the Developer to notify CSU of any concerns relating to the solicitation requirements within the timeframe provided in the provision of this RFP titled **PROTESTS** will be deemed a waiver of the Developer's right to protest the requirements of the RFP and the Developer shall propose at their own risk. In addition, if Developer is selected and such concerns should have been reasonably known to the Developer, the Developer shall not be entitled to compensation or time by reason of the error or its later correction.

ERRORS IN THE PROPOSAL

If errors, irregularities or technical difficulties are found in a proposal, CSU may reject the proposal; however, CSU may, at its sole option, correct arithmetic or transposition errors or both on the basis that the lowest level of detail will prevail in any discrepancy. The total cost of unit cost items will be the product of the unit cost and the quantity of the item. In case of discrepancy between the quantities listed in the cost data, the quantity cited in the narrative shall govern, and extensions and summarizations shall be recomputed accordingly. If these corrections result in significant changes in proposal, the Developer will be informed of the errors and corrections thereof and will be given the option to verify the corrected amount or withdraw its proposal.

1. If a major item is not mentioned at all in the proposal, and the omission is recognized prior to selection, the proposal will be considered non-responsive and rejected.
2. If there is an obvious misstatement of a major item, the Developer will be notified and given the option to verify its proposal as re-extended or to withdraw the proposal.

REJECTION OF PROPOSALS

CSU may reject any or all proposals and may waive any immaterial deviation in a proposal. CSU's waiver of an immaterial defect shall in no way modify the RFP documents. CSU may reject any proposal that CSU deems incomplete, unresponsive or is not in the best interests of CSU. CSU may

accept or reject statements in their entirety or in part. Proposals that include terms and conditions other than CSU's terms and conditions or contain exceptions to the CSU's terms and conditions may be rejected as being non-responsive.

CSU may make any and all investigations as deemed necessary to determine the ability of the Developer to perform the Site Development, and the Developer shall furnish to CSU all such information and data for this purpose as requested by CSU. CSU reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Proposer fails to satisfy CSU that such Developer is properly qualified to carry out the obligations of the Site Development and to complete the work specified.

CANCELLATION

This RFP does not obligate CSU to enter into an agreement. CSU reserves the right to cancel this RFP at any time when it is deemed in the best interest of CSU. No obligation, responsibility or liability either expressed or implied, exists on the part of CSU to make a selection or to pay any cost incurred, or alleged to have been incurred, in the preparation or submission of a proposal. All of such costs shall be borne solely by each respondent.

DISPOSITIONS OF PROPOSALS

All materials, ideas, and formats submitted in response to this RFP will become the property of CSU on receipt and may be returned only at CSU's option and at the Developer's expense. One copy shall be retained for official files.

Proposers should note that marking a document "Confidential" or "Proprietary" in a proposal will not keep that document from being released, after notice of intent to select, as part of the public record.

NON-ENDORSEMENT

If a proposal is accepted, the Developer shall not issue any news releases or other statements pertaining to the selection or servicing of the agreement that state or imply CSU's endorsement of the Developer or any of its team members.

PROTESTS

CSU encourages potential respondents to resolve issues regarding the requirements or the procurement process through written correspondence and discussions. CSU wishes to foster cooperative relationships and to reach a fair agreement in a timely manner.

Developers wishing to protest the basis for selection must express its intent to do so within 5 calendar days after notice of intent to select. The protesting Developer shall submit a full and complete written statement detailing the facts in support of the protest. Authority to protest the basis for contract award is limited to participating Developers. The decision of CSU is final.

UNIVERSITY CONTACT

Respondents shall not contact any employee of CSU (whether the CPP campus or any other campus), or Project Management Advisors, Inc. regarding this proposal outside of the designated contact below. Such communication may result in rejection of submittals.

CSU will be accepting proposals between April 12, 2021 and April 13, 2021 at the address listed below. Proposals will be accepted until **4:30 pm PDT on April 13, 2021**. Please provide (1) electronic copy via flash drive as well as (5) hard copies. Content provided in electronic and hard copy format must be the same.

The designated contact is as follows, please include the C/O on mail tags for CPP mailroom direction:

C/O Theresa Navar-Rodriguez
Cal Poly Pomona – Lanterman Project
3801 W. Temple Ave.
Pomona, CA 91768
909.869.3327
lantermanproject@cpp.edu

c. Inquiries and Addenda

All questions, interpretations or clarifications, either administrative or technical about this RFP must be requested in writing electronically. Oral statements concerning the meaning or intent of the contents of this RFP by any person is unauthorized and invalid. All questions either technical or contractual shall be directed to the designated contact listed above by the date listed in the Proposal and Selection Schedule.

CSU may modify this RFP, any of its key action dates, or any of its attachments, prior to the date fixed for submission of proposals by issuance of an addendum via the CPP Lanterman RFP Website (<https://www.cpp.edu/lanterman/>). Addenda will be numbered consecutively as a suffix to the RFP Reference Number. CSU will provide addenda to address written questions submitted or other points of clarification needed. CSU reserves the right to ask specific questions privately to Developers to address potential areas of concern or added importance. These specific questions will require Developers to provide memoranda directly to CSU.

d. Developer Selection

CSU looks forward to the receipt of proposals from each Developer. Proposals must be complete and comply with all requirements described in this RFP. Each respondent is solely responsible for ensuring that its proposal includes all information requested in this RFP.

CSU will review each RFP proposal to ascertain relative strengths and weaknesses based on the

submission requirements described herein. Proposals will be evaluated for completeness and may be discarded if incomplete and thus non-responsive to this RFP. The selection will be based on the completeness and quality of responses and any subsequent presentations. Selection may also consider information garnered from interviews and site visits, which CSU, in its sole discretion, may wish to pursue. CSU may request additional written material regarding qualifications or proposals from the respondents selected for such interviews at any time prior to or following interviews.

At the conclusion of the process, the RFP Review Committee will submit a recommendation to CSU concerning the selection of a Developer to engage in the next phase of the planning process. CSU reserves the right, without limitation, to consider more than one respondent, and to afford unsuccessful respondents an opportunity to enter into backup contracts in an order of priority determined by CSU in its sole discretion.

e. Pre-Proposal Meetings

CSU will host one hour private Q & A sessions with each Developer reflecting an interest in submitting a proposal. The purpose of these meetings is to allow each Developer the opportunity to ask CSU questions and receive feedback on preliminary concepts. Information discussed during these sessions will be considered private between CSU and the Developer team, unless otherwise required to be produced in accordance with California Law. If consistent questions or topics are addressed by all Developers, CSU may issue an Addenda for clarification.

The format, agenda, and overall discussion items for this meeting will be set by the Developer.

The date for the Pre-Proposal Meetings is listed in the Proposal and Selection Schedule. These meetings are available to Developers upon request; requests must be received by the date listed in the Proposal and Selection Schedule. Specific times for the Pre-Proposal Meetings will be coordinated with CSU and Developers. Attendance should include key day-to-day team members and decision makers of the Developer.

f. Interviews

Interviews with Developers will be held during the time frame listed in the Proposal and Selection Schedule. The interviews will be two hours in duration and comprise presentation and discussion sections. Specific dates for the interviews will be coordinated with CSU and Developers. The interviews will be the final opportunity for Developers to convey the benefits of their team and long-term partnership with CSU.

The interview should be viewed as a presentation as well as an interactive opportunity with the RFP Review Committee. CSU will provide a broad set of topics and questions to address prior to the interviews, but the format and agenda will be set by the Developer. Developer leadership and interaction will be factored into the interview scoring category.

g. Scoring

To be considered for selection by the RFP Review Committee, prospective Developers must meet the following criteria:

1. Experience in developing large-scale projects within the State of California.
2. Experience with securing entitlements through the CEQA process.
3. Experience in negotiating with SHPO and/or developing projects involving historic districts or structures.
4. Demonstrated financial stability over the past five (5) years and ability to secure capital and fund pre-development expenses.

The RFP Review Committee will evaluate and score the Proposals on the scoring matrix below:

Category	Possible Points
<u>Developer Qualifications:</u> Experience and strength of proposed team. Demonstrated record of experience of Developer team in completing projects similar in size, type and magnitude to the proposed development concepts, including but limited to successful implementation of comprehensive mixed-use public-private partnership projects. Demonstrated experience in securing approvals, financing, funding pre-development activities, maintaining and operating developments. Demonstrated experience in developing projects involving historic districts or structures. Additional consideration will be given to Small Businesses and Disabled Veteran-Owned Business Enterprises (DVBE).	40
<u>Responsiveness of Development Concept and Project Schedule:</u> Manner in which the Developer Team proposes to interact with CSU, external stakeholders, and constituents throughout the project. Quality of master development plan and comprehensive mixed-use concept. Concept justification by market demand and conditions. Manner in which the proposed project meets CSU's vision, mission and objectives as outlined in this RFP. Soundness of the development and construction time frame.	35
<u>Financial Capacity / Feasibility:</u> Demonstrated financial capacity; demonstrated ability to obtain construction and permanent financing for the proposed development.	Pass / Fail

<u>Business Terms/Structure / Financial Performance Projections:</u> Proposed financial structure between Developer and CSU; initial project proformas; assumed capital stack; projected financial returns to CSU; Draft ENA comments.	25
Total Points Available:	100
<u>Bonus Points for Innovation:</u> As a key component of CSU's mission, bonus points are available for proposals with innovative development concepts that align with CSU's vision, educational mission, values and objectives.	+ 10

SMALL BUSINESS PREFERENCE

The State of California requires agencies to provide a 5% preference when awarding contracts to small businesses. Only small businesses certified by the Office of Small Business are eligible to receive the preference. Proposers wishing to claim the Small Business Preference must comply with and complete the Small Business Preference Form, Appendix C.

DISABLED VETERAN-OWNED BUSINESS ENTERPRISE (DVBE) REQUIREMENT (Developers are required to be certified in the State of California)

A. DVBE Requirement – *The DVBE Requirement is being waived on this RFP only!*

In accordance with state law, CSU is required to utilize Disabled Veteran Business Enterprises (DVBE) in contracting to the maximum extent possible, a participation goal of at least 3% for disabled veteran business enterprise participation (3% of the contract proposed price each year), has been set.

B. DVBE Incentive

In accordance with state law, a DVBE incentive is included in this RFP. CSU will provide preference for those proposals that have at least met the DVBE goal of 3% participation.

Developers claiming the DVBE incentive must indicate their proposed level of DVBE participation on the Summary of Disabled Veteran-Owned Business Participation Form, attached to this RFP as Exhibit C.

h. Expectations of the California State University

Neither the selection of a Developer nor the execution of an ENA should be construed as an approval of the proposed uses, configuration, or design of the proposed Site Development or any proposed Project. CSU will not consider approval of any Ground Lease for any portion of the Site unless and until final approval has been obtained by the CSU-BOT (including final CEQA review,

approval and certification) and passage of legally mandated waiting periods.

CSU intends, through this selection process and the planning that succeeds it, to identify the actions and activities that would be necessary to develop the Site and thereby facilitate meaningful environmental review. If the proposed Site Development is found to cause significant adverse impacts that have not already been analyzed and/or have not been mitigated in previous CEQA documentation for CSU, it retains absolute discretion to require additional environmental analysis, and/or to modify or not proceed with the Site Development.

In issuing this RFP, CSU make no representations or warranties that the necessary approvals that will allow the development of the Site in accordance with the guidelines set forth herein can be obtained. Respondents should understand that CSU is issuing this RFP in its capacity as a landowner with a proprietary interest in the Site and not in a regulatory capacity.

5. Additional Information Available

The following documents are attached as exhibits to this RFP:

- Exhibit A - Draft ENA
- Exhibit B - Small Business Preference Form
- Exhibit C - Summary of Disabled Veteran-Owned Business Participation Form

Additional resources are available to inform Developer Proposals on the CPP Lanterman RFP Website at: <https://www.cpp.edu/lanterman/>

These resources include the following:

- *Urban Land Institute Technical Assistance Panel Report – Cal Poly Pomona Lanterman Site* (2016)
- Office of Historic Preservation Letter (2016) including Dudek *Historic Resource Assessment Report for Lanterman Development Center, Pomona, Los Angeles County, California* (2016)
- Brailsford & Dunlavey *Housing Demand Analysis Update* (2016)
- HOK *Lanterman Development Center Due Diligence Report* (Section B) (2017)
- HOK *Lanterman Development Center Appendix* (Section E) (2017)
- HOK *Lanterman Development Center Workshop #3* (Feasibility Study Workshop) (2017)
- *Campus-based Advisory Committee Report* (2019)
- *CPP Presidential Order: Climate Commitment* (2008)

Additional information on CPP's commitment to sustainability can be found on the CPP Office of Sustainability website: <https://www.cpp.edu/sustainability/commitments-and-reports.shtml>

The *CSU Procedure Manual for Capital Projects* can be found on the CSU website: https://www2.calstate.edu/csu-system/doing-business-with-the-csu/capital-planning-design-construction/operations-center/Documents/guidelines/Procedure_Manual.pdf

Exhibit A – Draft ENA

(33 pages to follow)

EXCLUSIVE NEGOTIATING AGREEMENT

By and Between

BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY,
on behalf of
California State Polytechnic University Pomona

and

Dated as of _____, 2021

TABLE OF CONTENTS

[To be inserted when form is complete.]

EXCLUSIVE NEGOTIATING AGREEMENT

(Lanterman Developmental Center at California State Polytechnic University Pomona)

THIS EXCLUSIVE NEGOTIATING AGREEMENT (this "Agreement") is dated as of _____, 2021 (the "Effective Date") and is entered into between the BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, which is the State of California acting in its higher education capacity, on behalf of California State Polytechnic University Pomona, one of 23 campuses in the California State University System ("CSU"), and _____ (the "Developer").

RECITALS

A. On or about _____, 2021, CSU, on behalf of its California State Polytechnic University Pomona campus ("CPP"), issued a Request for Proposals (RFP#_____) (the "RFP") regarding certain improved real property consisting of approximately 302 acres situated in the City of Pomona, County of Los Angeles, State of California, and legally described in Exhibit A-1 hereto and generally depicted on Exhibit A-2 hereto, commonly known as the Lanterman Developmental Center (the "Site"), with respect to potential proposals for a phased development of multiple projects (each a "Project") on the Site. The Projects are collectively referred to herein as the "Site Development".

B. CSU sought a master developer whose team possesses an outstanding business reputation, understands and appreciates the educational mission and values of CSU, has experience with historical preservation, is sensitive to CSU and CPP priorities, and considers the needs of the surrounding communities. Properly structured, CSU's partnership with Developer is expected to benefit CSU, CPP, and the surrounding communities, and to provide future revenue for CSU to further advance CSU's educational mission and values.

C. Developer submitted a response to the RFP, dated _____, 2021 (the "RFP Response"), as supplemented by the following written responses and communications between the parties: _____ (collectively, the "Proposal"). Developer's Proposal approached the Site with a focus on a long-term commitment with CSU for the Site, with attention to CSU's goals and an inclusive and immersive process combining strengths of the parties to deliver a mutually beneficial development for the Site that includes benefits for CSU, CPP, and the region. A successful Site Development will integrate CSU and the Site culturally and socially, and is expected to create a sense of place, advance CSU's educational mission and values, offer student opportunities to connect with employers and industry experts to facilitate training, experimentation and innovation, and consider resiliency in changing market conditions, all while maintaining financial viability.

D. After an extensive evaluation by CSU staff and consultants, CSU has determined that the Developer's Proposal best meets the criteria set forth in the RFP and warrants entering into exclusive negotiations with the Developer.

E. The parties have agreed upon a summary of key terms setting forth the basic development guidelines, financial framework, phasing, and other key terms and conditions of the Site Development attached hereto as Exhibit B (the "Summary of Key Terms").

F. The parties now wish to enter into this Agreement to set forth the terms and conditions under which they are willing to negotiate and ultimately execute a disposition and development agreement (“DDA”), a performance guaranty (the “Performance Guaranty”) from Developer’s parent company _____ (“Guarantor”), the forms of one or more ground leases (each, a “Ground Lease”) for each of the Projects, and all other legal requirements and necessary transaction documents for the leasing, construction, management, and development of the Site (the DDA, the Performance Guaranty, Ground Lease form(s), and all other transaction documents referred to herein and in the Summary of Key Terms are collectively referred to as the “Transaction Documents”).

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, CSU and the Developer agree as follows:

AGREEMENT

1. Exclusive Right.

1.1 Diligent and Good Faith Negotiations. For the Exclusive Negotiation Period set forth in Section 2 below and subject to the terms and conditions of this Agreement, CSU and the Developer acknowledge that time is of the essence, agree to negotiate diligently and in good faith the Transaction Documents for the leasing, planning, construction, development and management of the Site. CSU grants to the Developer the exclusive right to negotiate the Transaction Documents during the Exclusive Negotiation Period (the "Exclusive Right") and agrees not to solicit any other proposals or negotiate with any other private developer during the Exclusive Negotiating Period with respect to the subject of the negotiations set forth in Section 1.2 below without the Developer's prior written consent.

1.2 Subject of Negotiations. The Summary of Key Terms is, and Transaction Documents and the negotiations conducted under this Agreement shall be, based on the development opportunity described in the RFP and Proposal, and any conflict between or among the RFP, this Agreement, and the Proposal, shall be resolved first in favor of this Agreement, then the RFP, and only then in favor of the Proposal. Specifically, the parties propose to undertake the actions and obligations described in Sections 3 and 5 below, and further to:

(a) Prepare the Transaction Documents in accordance with the RFP, Proposal, and Summary of Key Terms.

(b) Negotiate and enter into a license agreement (the "License Agreement") that will govern the Developer's entry on to the Site prior to the effective date of the DDA and Ground Lease for the first Project. The form of License Agreement is attached hereto as Schedule 1.2(b).

(c) Prior to committing to and finalizing the Transaction Documents, complete all necessary and legally required environmental review and compliance under the California Environmental Quality Act (“CEQA”), and a final master plan for the Site Development.

(d) Address the Developer’s financing for the Site Development and Projects, including all costs of developing, constructing, and completing the Projects, all common

infrastructure work on the Site, CEQA mitigations, and all necessary off-site infrastructure, as provided for in the RFP, Proposal, and Summary of Key Terms.

(e) As necessary, address all site conditions including remediation of any hazardous materials as part of the development process in conformity with the regulatory agencies' requirements, and establish procedures for implementation of environmental mitigation measures adopted by CSU.

(f) Obtain Regulatory Approvals (defined below) as needed to fully implement the development of the Site Development and Projects pursuant to the RFP, Proposal, and Summary of Key Terms.

(g) Continue other ongoing activities and obligations described in Sections 3 and 5 hereof.

1.3 Threshold Conditions and Limitations.

(a) CSU and BOT Discretion. No agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on either party to enter into or support entering into the Transaction Documents or be used as evidence of any oral or implied agreement by either party to enter into any other legally binding agreement. This Agreement, which pertains only to negotiating procedures and standards between CSU and Developer, does not limit in any way the discretion of the California State University Board of Trustees (“BOT”) or CSU in acting on any applications from Developer for permits or approvals for the development of the Site. The parties acknowledge that CEQA compliance in connection with consideration of the proposed development of the Site will be required to be completed and approved by the BOT prior to approval and execution (as applicable) of the Transaction Documents and the Master Plan for the Site Development (“Master Plan”), and that the BOT and CSU shall retain the discretion in accordance with applicable law to (i) identify and impose mitigation measures to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits of the Site Development against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, (iv) pursue alternatives, or (v) determine not to proceed with the proposed Site Development. Subject to the terms and conditions of this Agreement, the parties acknowledge that Developer shall be solely responsible for all costs associated with the CEQA process and all compliance, including all mitigation measures, for the Site, including all costs associated with any litigation and delays related thereto, whether or not Developer is named as a party to such litigation. This Agreement shall not be construed as a grant of development rights or land use entitlements, or an obligation to construct any proposed development of the Site. All Master Plan, design, architectural, and building plans for the proposed development of the Site shall be subject to the review and approval of CSU, the BOT, and all such other agencies and entities as properly hold jurisdiction with respect thereto. Certain state environmental requirements (including the California Environmental Quality Act of 1970, Public Resources Code Section 21000, et seq.) shall be applicable to proposed Site Development. Pursuant to such requirements, certain environmental documents will be required to be prepared and certified for any proposed development of the Site and Site Development, as outlined herein. CSU, by this Agreement, undertakes no obligation to pay any costs associated with such

environmental documents. Without limiting the foregoing, the parties agree and acknowledge that nothing in this Agreement in any respect does or shall be construed to affect or prejudice the exercise of the BOT's discretion, and by its execution of this Agreement, CSU is not committing the BOT to undertake the disposition of the Site or any portion thereof to Developer, or any activities requiring the subsequent independent exercise of discretion by the BOT.

(b) Developer Discretion. By entering into this Agreement, the Developer does not commit itself to enter into binding Transaction Documents. The parties recognize that the Developer must first negotiate the terms of the Transaction Documents before exercising its sole and absolute discretion to enter into the Transaction Documents.

(c) Schedule; Negotiations; Milestones. On or before _____, 202__, the parties shall agree in writing upon a schedule (the "Schedule of Performance") for: the drafting and negotiation of the key Transaction Documents, such as the DDA, Performance Guaranty, form(s) of Ground Lease, and any other "Key Agreements" identified in the Summary of Key Terms; the achievement of the milestones ("Milestones") set forth on Schedule 1.3(c); and for submission of the Transaction Documents and all other matters to the BOT for approval. Upon its completion and the mutual written agreement of the parties, the Schedule of Performance shall be incorporated herein as a part of this Agreement. The Schedule of Performance shall include, without limitation, meetings prior to drafting the Transaction Documents at which business and legal representatives of both parties will discuss key issues, regularly scheduled meetings between the parties' respective project managers and other key individuals, and such other meetings, deadlines, and target dates as agreed to by the parties. CSU shall prepare the initial drafts of all Transaction Documents, and the business and legal representatives for both parties shall meet and confer, as needed, to negotiate key provisions of the Transaction Documents prior to preparation of the first draft of the Transaction Documents. Without limiting the foregoing or anything else in this Agreement, the parties shall meet and confer in good faith on the reasonable request of either of them from time to time to discuss the progress of each Milestone that has not then been satisfied and its components, and the parties shall endeavor to provide prompt and constructive feedback to one another regarding the progress towards satisfaction of the Milestones by the applicable date(s) set forth in the Schedule of Performance. CSU reserves the right, in its sole discretion, to waive or extend the times for performance of any of the Milestones, including, without limitation, the right to condition such waiver or extension on additional Milestones or other conditions required by CSU in its sole discretion, provided that all such actions shall be effective only if in writing and provided, further, that compliance with the Milestones as so revised shall not alter or reduce Developer's obligations to comply with any other provision of this Agreement including approval and execution of the DDA, initial Ground Lease, and any other applicable Transaction Documents within the Exclusive Negotiation Period.

2. Term; Exclusive Negotiation Period; Work Product.

(a) Term. The term of the Exclusive Right (the "Exclusive Negotiation Period") shall commence as of the Effective Date of this Agreement. The Exclusive Negotiation Period, unless extended by the written agreement of the parties or earlier terminated in accordance with the provisions of this Agreement, shall expire _____ (____) days after the Effective Date of this Agreement or such earlier date as the BOT may disapprove of the transactions submitted to it for approval. This Agreement shall automatically terminate upon the

expiration of the Exclusive Negotiation Period and neither party shall have any further rights or obligations except with respect to those matters that survive termination pursuant to the express terms of this Agreement.

(b) Work Product. Upon their completion, and in all events no later than ten (10) business days following any termination of this Agreement, whether due to the expiration of the Exclusive Negotiation Period or otherwise, and without additional cost to CSU, Developer shall deliver to CSU all other reports, studies, due diligence materials, designs, drawings and other materials prepared by Developer and/or its employees, agents, and consultants relating to the Site, Site Development, or any of the Projects (collectively, "Work Product"), other than materials that are subject to attorney client privilege. Developer shall cause all Work Product to be certified to both Developer and CSU for reliance purposes thereon; provided CSU acknowledges and agrees that the Work Product shall be given "as-is" and Developer shall have no liability to CSU in connection with the use of any Work Product by CSU, and CSU further agrees that any use of Work Product shall be subject to all legal rights (including intellectual property rights if applicable) of the preparers or other owners of such materials. This paragraph shall survive any expiration or termination of this Agreement.

3. Obligations of the Developer. In addition to any other obligations under this Agreement, the Developer agrees that, effective upon the full execution and delivery of this Agreement, it shall perform the following:

(a) The Developer shall use good-faith efforts to diligently negotiate the terms of the transaction sufficiently to allow CSU staff to prepare and submit a final agenda item to the BOT by _____, 202__, or as soon thereafter as possible.

(b) The Developer shall comply with the requirements of CSU, all applicable CSU resolutions, regulations, and all other laws and regulations in all aspects of preparing to develop the Site.

(c) The Developer shall not violate any applicable agreements between CSU and any third party with respect to the Site, which Agreements CSU agrees to disclose to Developer.

(d) The Developer shall pay or cause to be paid all costs related to the Developer's obligations and actions pursuant to this Agreement, including, without limitation, all costs associated with applying for, obtaining and maintaining any necessary or appropriate Regulatory Approvals, and all costs which might be incurred by CSU (subject to the applicable terms and conditions of this Agreement).

(e) The Developer shall perform all provisions of this Agreement that are to be performed by the Developer.

(f) In cooperation with CSU, the Developer shall diligently pursue all authorizations, agreements, approvals or permits required by CSU or by any local, state or federal governmental agency for the leasing, construction, management and development of the Site ("Regulatory Approvals"). The Developer shall not seek any Regulatory Approvals without first obtaining the prior written approval of CSU, which shall be in CSU's sole discretion. With respect

to any Developer meetings with any governmental agency in connection with the Site, Site Development, or any of the Projects, whether in connection with Regulatory Approvals or otherwise, CSU and its representatives shall have the right to attend such meetings. CSU and Developer shall confer and consult with each other, and coordinate with each other, with regard to the timing, location, agenda, and talking points of such meetings

(g) Without limiting the foregoing, in accordance with the timing set forth in the Schedule of Performance, the Developer shall prepare and submit to CSU, for its review and approval, all documentation required by CEQA with respect to development of the Site, including without limitation an environmental impact report for the Site Development in accordance with CEQA (“EIR”). CSU shall have the right to approve the lead CEQA consultant retained by Developer, which shall be a consultant who has entered into a “master enabling agreement” with CSU. CSU shall provide the list of such consultants upon Developer’s request. Developer shall prepare all CEQA notices and documentation for CSU review and approval prior to the same being finalized or disseminated to the public for review and comment.

(h) On no less than a quarterly basis, and without need for request from CSU, Developer shall submit to CSU a written progress report advising CSU on the status of all work being undertaken by Developer or on its behalf with respect to the Site and Site Development, including progress with respect to the Milestones, copies of all Work Product, and such other information and materials as CSU may reasonably request from time to time. Developer shall also provide CSU with additional written progress reports promptly after receipt of CSU’s reasonable request therefor. Developer and CSU shall have regular calls or meetings at reasonable intervals and mutually agreeable times regarding relevant matters set forth in the progress reports.

4. Insurance.

4.1 Required Coverage. The Developer, at no cost to CSU, shall procure and keep in effect at all times during the Exclusive Negotiation Period, including any extension thereof, the insurance set forth and described on Schedule 4.1 against claims for injuries to persons or damages to property that may arise from or in connection with activities undertaken pursuant to this Agreement or the License Agreement by the Developer, its representatives, agents, employees, consultants, subcontractors, or joint venture partners.

4.2 Aggregate Limits. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, either the general aggregate limit must apply separately to the Site Development or the general aggregate limit shall be twice the required occurrence or claims limits specified above. The obligations under this subsection shall survive any termination of this Agreement.

4.3 Endorsements. All liability insurance policies shall be endorsed to provide the following:

(a) Name as additional insured CSU, the State of California, and their respective officers, agents and employees, and such other parties reasonably designated by CSU.

No such parties, by reason of their inclusion as additional insureds, incur liability to the insurance carriers for payment of premiums for such insurance.

(b) All policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any other insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(c) Provide thirty (30) days' advance written notice to CSU of cancellation, non-renewal, or reduction in coverage (or ten (10) days' advance written notice in case of nonpayment of premium), mailed to the address for CSU set forth in this Agreement.

4.4 Insurers. Each insurance policy required under this section shall be issued by an insurance company duly authorized to do business in the State of California and with a current rating of A.VII or better by Bests Key Rating Guide.

4.5 Evidence of Coverage. The Developer shall deliver to CSU certificates of insurance in form satisfactory to CSU, evidencing the coverage required hereunder, within five (5) business days after the Effective Date and shall also provide complete copies of the policies promptly upon CSU's request. The Developer shall also provide CSU with certificates or policies thereafter at least ten (10) business days before the expiration dates of expiring policies. In the event the Developer shall fail to procure such insurance or to deliver such policies or certificates, CSU may upon not less than five (5) business days' notice to the Developer, procure, at its option, without waiving any rights or remedies which CSU may have for the Developer's default hereunder, the same for the account of the Developer, and the cost thereof shall be paid to CSU within five (5) business days after delivery to the Developer of bills therefor.

4.6 No Limitation on Other Obligations. The Developer's compliance with the provisions of this section shall in no way relieve or decrease the Developer's other obligations under this Agreement. In addition, nothing in this section shall limit the obligation of the Developer to procure and maintain such insurance or provide such indemnification as CSU may require pursuant to the License Agreement, nor shall anything in this section be deemed to limit the insurance coverage or indemnification that CSU may require under the Transaction Documents or any other agreement with the Developer.

4.7 Additional Requirements. Any deductible under any policy of insurance required to be carried by Developer under these insurance requirements shall be Developer's liability. Acceptance of certificates of insurance and/or endorsements or other evidence of coverage by CSU shall not limit Developer's liability or obligations under this Agreement. In the event Developer does not comply with these insurance requirements it shall be an event of default by Developer, and in addition to its other rights and remedies, CSU may, at its option and at Developer's cost, provide insurance coverage to protect CSU and the other additional insured parties (as applicable), and, if prompt payment is not received by the insurance carrier from Developer, CSU may pay for

such insurance from sums otherwise due from Developer hereunder (including funds in the Deposit Account). Developer's obligations to obtain and maintain all required insurance are non-delegable duties under this Agreement.

5. Obligations of CSU. CSU agrees as follows, effective upon the full execution and delivery of this Agreement:

5.1 Subject to environmental review under CEQA, the public review process and all required governmental approvals, as further provided in this Agreement, CSU shall use good-faith efforts to diligently negotiate, prepare, and submit the proposed design and transaction terms for approval by the BOT.

5.2 CSU shall make available studies and other documents in CSU's possession, including site environmental studies, without waiving any privilege of confidentiality related thereto, as necessary to perform the Developer's due diligence investigations of the Site, provided that CSU shall not be required to make available any documents subject to attorney client privilege and CSU makes no representations or warranties whatsoever regarding the completeness or accuracy of such information and the Developer must perform its own independent analysis.

5.3 CSU shall reasonably cooperate with the Developer in obtaining and providing access to the Site for the purpose of performing tests, surveys, and inspections and obtaining data necessary or appropriate to negotiate the Transaction Documents and obtain Regulatory Approvals; provided, however, that any such entry shall be pursuant to the License Agreement as agreed upon during the Exclusive Negotiation Period.

5.4 CSU shall perform all provisions of this Agreement that are to be performed by CSU.

5.5 CSU shall reasonably cooperate with the Developer in the provision of information and assistance in the filing, processing and obtaining of Regulatory Approvals and, to the extent required by law, join with the Developer as a co-applicant in the filing for such Regulatory Approvals, but CSU shall not be required to satisfy any conditions for any Regulatory Approval, except as may be specifically provided in the Transaction Documents and agreed to by CSU in its sole and absolute discretion.

5.6 All costs incurred in processing and completing compliance with CEQA and all fees and charges imposed on the filing, processing and obtaining such Regulatory Approvals will be paid by Developer except as expressly set forth otherwise in this Agreement.

5.7 CSU shall retain all right, title and interests (including without limitation intellectual property rights) in and to any and all studies, reports, data, maps, drawings, and any other materials and information of any kind provided by CSU or any other CSU Party to Developer, its Affiliates, or their respective employees, agents, consultants, and/or representatives in connection with the Site and/or this Agreement, and nothing in this Agreement shall be deemed to grant Developer or such other parties any interest whatsoever in such items.

6. Non-Assignment.

6.1 Definitions. For purposes of this section and where such initially capitalized terms are elsewhere used in this Agreement, the following terms shall have the meaning given below:

(a) "Affiliate" means any person that directly or indirectly Controls, is Controlled by or is under Common Control with, the Developer.

(b) "Control" means the ownership (direct or indirect) by one Person of (i) twenty-five percent (25%) or more (or if such Person is not publicly traded fifty percent (50%) or more) of each class of equity interests (including rights to acquire such interests), or (ii) twenty-five percent (25%) or more (or if such Person is not publicly traded fifty percent (50%) or more) of each class of interests that have a right to nominate, vote for, or otherwise select the members of the board or other governing body that directs or causes the direction of substantially all of the management and policies of that Person. "Controlled," "Controlling Interest" and "Controlling" have correlative meanings. "Common Control" means that two Persons are both Controlled by the same other Person.

(c) "Person" means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture, or any other entity or association, the United States, or federal, state or political subdivision thereof.

(d) "Significant Change" means any dissolution, merger, consolidation or other reorganization, or any issuance, sale, assignment, hypothecation, or other transfer of legal or beneficial interests in the Developer, directly or indirectly, in one or more transactions, that results in any of the following: (1) a change in the identity of Persons Controlling the Developer, (2) the admission of any new partner or member that has the right to exercise management or control over the business of the Developer, (3) the dissolution of the Developer, and (4) the sale of fifty percent (50%) or more of the Developer's assets, capital, or profits.

6.2 Non-Assignment. CSU and the Developer acknowledge and agree that CSU is entering into this Agreement and granting the Exclusive Right to the Developer on the basis of the particular experience, financial capacity, skills and capabilities of the Developer. The Exclusive Right is personal to the Developer, is not assignable, and no assignment of the Exclusive Right or any Significant Change may occur during the Exclusive Negotiation Period under any circumstance (whether by agreement or operation of law) without the prior written consent of CSU, which may be given, withheld or conditioned in CSU's sole and absolute discretion. Absent the required approvals set forth in this Section 6.2, any attempted assignment of this Exclusive Right, or a Significant Change, at CSU's option, shall be considered an event of default by Developer under this Agreement.

7. Default and Remedies.

7.1 Events of Default by the Developer. The occurrence of any of the following shall constitute an event of default on the part of the Developer:

(a) Failure to pay any sums due under this Agreement where such failure continues for more than five (5) business days after written notice from CSU.

(b) Failure to negotiate diligently or in good faith, or to perform or abide by any other provision of this Agreement.

(c) Any material breach of any representation and warranty made by the Developer under this Agreement.

(d) Failure to comply with CEQA.

(e) Failure to perform in accordance with the Schedule of Performance including without limitation a failure to satisfy any Milestone by the required date set forth therein.

(f) Any assignment, attempted assignment, or Significant Change in violation of Section 6.2.

(g) Without any requirement of notice of default from CSU, either (i) the filing by the Developer of a petition to have the Developer adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization or arrangement under any bankruptcy or insolvency law, or a general assignment by the Developer for the benefit of creditors, or (ii) the filing by or against the Developer of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of the Developer or any substantial part of the Developer's assets, if such petition is not dismissed within sixty (60) days.

(h) The debarment or prohibition of the Developer from doing business with any federal, state, or local governmental authority.

(i) Without any requirement of notice of default from CSU, failure to procure or maintain any of the insurance coverage required hereunder or under the License Agreement so that there is a lapse in required coverage.

(j) Any Developer breach or default under the License Agreement, other than procuring or maintaining the insurance required thereunder.

7.2 Remedies of CSU.

(a) Remedies. In the event of a default by the Developer under this Agreement, following the expiration of any applicable cure period under this Agreement, CSU shall have all rights and remedies available under applicable laws, including without limitation the right to immediately terminate this Agreement and the Exclusive Right with written notice to the Developer. Upon any such termination, neither party shall have any further rights or obligations

to the other under this Agreement except with respect to those matters that survive termination pursuant to the express terms of this Agreement. The foregoing limitations do not contravene or limit the effectiveness of any indemnity obligations or any provisions for recovery of costs or enforcement, including but not limited to provisions regarding attorneys' fees, nor do they contravene or limit the effectiveness of any remedies that CSU may have pursuant to other agreements, including but not limited to the License Agreement.

(b) Non-Liability of Directors and Officers of the Developer. No director, officer, partner, member, shareholder, agent or employee of the Developer will be personally liable to CSU in an event of default by the Developer or for any amount that may become due to CSU or on any obligations under the terms of this Agreement.

7.3 Defaults by CSU. If CSU fails to negotiate diligently or in good faith or to perform any of its other obligations under this Agreement, the Developer may give written notice thereof to CSU specifying in reasonable detail the basis for the determination of the default. Upon such notice, CSU shall be in default under this Agreement if CSU does not cure such failure within fifteen (15) days after the date the notice of default was given.

7.4 Remedies of the Developer.

(a) Termination In the event of a default by CSU, the Developer may, at its sole option, terminate this Agreement upon written notice to CSU following any applicable cure period under this Agreement. Upon any such termination, neither party shall have any further rights or obligations to the other under this Agreement except with respect to those matters that survive termination pursuant to the express terms of this Agreement.

(b) Non-liability of Officials. No board member, official, agent or employee of CSU will be personally liable to the Developer, or any successor in interest (if and to the extent permitted under this Agreement), in an event of default by CSU or for any amount that may become due to the Developer or successor or on any obligations under the terms of this Agreement.

(c) No Damages Against CSU Parties. None of the CSU Parties (defined below) shall be liable in damages to the Developer and the Developer waives its right to seek damages from such parties, whether by litigation, arbitration or otherwise.

(d) Developer's Risk. The Developer acknowledges and agrees that it is proceeding at its own risk and expense until such time as the Transaction Documents are approved and without any assurance that the Transaction Documents will be approved.

8. Representations and Warranties of the Developer.

8.1 Representations and Warranties. The Developer represents, warrants and covenants, as of the Effective Date hereof, as follows:

(a) Valid Existence; Good Standing. The Developer is a _____ duly organized and validly existing under the laws of the State of _____. The Developer has all requisite power and authority to own its property and conduct its business as presently conducted. Developer has made all filings and is in good standing in the jurisdiction of _____.

the State of California and in the state of its organization. As of the date hereof, the Developer has not entered into any joint venture arrangements with respect to the leasing, construction, management, or development of the Site.

(b) Authority. The Developer has all requisite power and authority to execute and deliver this Agreement and the agreements contemplated by this Agreement and to carry out and perform all the terms and covenants of this Agreement.

(c) Organizational Documents. Neither the Developer's articles of organization or operating agreement in any way prohibits, limits, or otherwise affects the right or power of the Developer to enter into and perform this Agreement.

(d) No Limitation on Ability to Perform. The Developer is not a party to or bound by any contract, agreement, or other instrument which could prohibit, limit, or otherwise affect the Developer's right or power to enter into and perform this Agreement; no consent, authorization, or approval of, or other action by, any governmental authority, regulatory body or any other person or entity is required for the due execution, delivery, and performance by the Developer of this Agreement; and there are no pending or threatened suits or proceedings or undischarged judgments affecting the Developer, before any court, governmental authority, or arbitrator which might materially adversely affect the enforceability of this Agreement, the ability of the Developer to perform the transactions contemplated by this Agreement, or the business or assets of the Developer.

(e) Valid Execution. The execution and delivery of this Agreement and the agreements contemplated hereby by the Developer have been duly and validly authorized by all necessary action. This Agreement will be a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms. The Developer has provided to CSU a written resolution of the Developer authorizing the execution of this Agreement and the agreements contemplated by this Agreement.

(f) Defaults. The execution, delivery, and performance of this Agreement (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (a) any agreement, document, or instrument to which the Developer or its assets may be bound or affected, (b) any law, statute, ordinance, regulation or (c) the articles of organization or the operating agreement of the Developer, and (ii) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of the Developer.

(g) Skill and Capacity. The Developer has the skill, resources, and financial capacity to lease, manage, construct, operate, and fully develop the Site consistent with the development opportunity described in the RFP, the Proposal, and the Summary of Key Terms.

(h) Not Prohibited from Doing Business. Developer has not been debarred or otherwise prohibited from doing business with any local, state, or federal governmental authority.

(i) Business Licenses. The Developer has obtained all licenses required to conduct its business and is not in default of any fees or taxes due to any local, State or Federal agency or entity.

(j) No Claims. The Developer does not have any claim, and shall not make any claim, against CSU, the State of California, or against the Site, or any present or future interest of CSU therein, directly or indirectly, by reason of: any aspect of the RFP, the Proposal, or the developer selection process; the entry into this Agreement or the termination of this Agreement (except as a result of CSU's breach, subject to the limitations set forth herein); any statements, representations, acts or omissions previously made by any CSU Party or any of their respective officers, trustees, employees, consultants, representatives, or agents, with regard to the Site; and CSU's and the BOT's exercise of discretion, decision, and judgment set forth in this Agreement.

8.2 Continued Accuracy. If at any time during the Exclusive Negotiation Period any event or circumstance occurs that would render inaccurate or misleading any of the foregoing representations or warranties, the Developer shall immediately notify CSU thereof. If the Developer does not cure such inaccuracy within ten (10) business days from the date on which the Developer obtains knowledge of such event or circumstance, the Developer shall be in breach of this Agreement and CSU shall have the rights and remedies provided in Section 7.2.

8.3 Survival. The representations and warranties in this section shall survive any termination of this Agreement.

9. Reimbursements; Deposit.

9.1 Reimbursement Obligation. Developer shall reimburse CSU for all reasonable costs and expenses incurred by CSU in connection with this Agreement, the proposed transaction, and the Transaction Documents, including costs and expenses of consultants, planners, project managers, advisors, appraisers, engineers, lawyers, allocated CSU staff and other persons retained to advise CSU in connection with the proposed transaction, and the negotiation and drafting of this Agreement and the Transaction Documents, and internal CSU costs allocated to the proposed transaction (collectively, "CSU Costs"), all to the extent consistent with the budget attached hereto as Schedule 9.1 (the "Budget"). Within ten (10) Business Days following the Effective Date, Developer shall reimburse CSU for CSU Costs incurred during the period between CSU's selection of Developer to pursue negotiations with CSU and the Effective Date in an aggregate amount not to exceed \$ _____ (the "Initial Reimbursement"). The parties hereby acknowledge that CSU has provided Developer with an invoice for the Initial Reimbursement prior to the Effective Date. Aside from the Initial Reimbursement, Developer shall not be responsible for reimbursing any amounts incurred prior to the Effective Date.

9.2 Deposit. In addition to the Initial Reimbursement, within ten (10) business days following the Effective Date, Developer shall remit to CSU the sum of \$ _____ (the "Initial Deposit"). Upon the date upon which the balance in the Deposit Account (defined below) is first less than \$ _____, CSU may provide notice thereof to Developer, and Developer shall within _____ (____) days thereafter remit to CSU sufficient funds so that the Deposit Account at all times contains no less than \$ _____ (each, an "Additional Deposit") and, together with the Initial Deposit, the "Deposit"). CSU shall deposit the Initial Deposit and each Additional Deposit in an interest-bearing, segregated account under CSU's control (the "Deposit Account"). Disbursements from the Deposit Account shall be made by CSU solely to pay CSU Costs in accordance with this Agreement. Any earnings on the Deposit shall

be deemed to be part of the Deposit. Upon Developer's request, CSU shall promptly update Developer as to the balance of the Deposit.

9.3 Budgets. The Budget includes a contingency line item for CSU Costs. For the avoidance of doubt, CSU shall be permitted to increase any line item in the Budget by application of such contingency and/or by reallocation of any amount remaining in other items of the Budget that CSU determines will not be required for such other items. CSU shall from time to time provide updates to the Budget when CSU believes that a revision thereto is necessary or advisable and otherwise and upon the reasonable request of Developer. Each such update shall be subject to Developer's approval, which shall not be unreasonably withheld, conditioned, or delayed. If Developer does not approve an updated Budget within _____ (___) days after it has been submitted by CSU, then it shall be deemed approved.

9.4 Invoices. CSU shall provide Developer with monthly invoices for CSU Costs ("Invoices") and will exercise commercially reasonable efforts to deliver the same within fifteen (15) business days following the end of each month. Such Invoices shall include such information as reasonably agreed upon by the parties to evidence the actual CSU Costs incurred and shall include a signature by a responsible officer or other approved representative of CSU certifying that such amounts are consistent with the Budget and this Agreement; provided in no events shall CSU be required to submit information that CSU is precluded from disclosing due to binding confidentiality restrictions or information protected by CSU's attorney-client privilege and not otherwise subject to disclosure by CSU under applicable law. Developer agrees to promptly inform CSU of any disputed Invoices or CSU Costs included thereon, and CSU agrees to reasonably cooperate with Developer in resolving any such disputes. At any time after thirty (30) days after delivery of an Invoice, CSU may utilize amounts in the Deposit Account to pay any CSU Costs set forth on such Invoice that are not subject to dispute; provided, however, that at any time that the amount in the Deposit Account is \$ _____ or less, CSU may elect not to utilize amounts in the Deposit Account to pay any CSU Costs set forth on such Invoice and instead to require Developer to pay such Invoice directly, in which case Developer shall make such payment to CSU within thirty (30) days after delivery of such Invoice.

9.5 Deposit Account upon Termination. Within sixty (60) days after any termination of this Agreement, CSU shall issue a final Invoice for CSU Costs incurred in accordance with this Agreement prior to termination and return to Developer any remaining funds in the Deposit Account (after payment of such final Invoice). To the extent that the funds in the Deposit Account are insufficient to pay for all of the CSU Costs included on the final Invoice, the Developer shall, within thirty (30) days after receipt of the final Invoice, pay such CSU Costs to CSU, with such obligation to survive the termination of this Agreement.

10. Indemnification.

10.1 Developer's Indemnity. In addition to any indemnification obligations of Developer set forth in the License Agreement or elsewhere in this Agreement, the Developer shall indemnify, defend, and hold harmless the State of California, CSU, and each of their respective trustees, officers, directors, agents, and employees (collectively, "CSU Parties") from and against any and all losses, liabilities, damages, claims, demands, obligations, causes of action, proceedings, awards, fines, judgments, penalties, or costs and expenses (including attorneys' fees

and costs, court costs, and other costs and fees of litigation as allowed by law) incurred or suffered by the CSU Parties (collectively, “Claims”) that arise out of any claim, suit, action or proceeding relating to (i) Developer’s breach or failure to comply with any of its obligations contained in this Agreement, including any obligations arising from compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1720 et seq., (ii) the Developer’s acts, errors, omissions, and/or willful misconduct with respect to the obligations of the Developer, its officers, employees, representatives, members, consultants and agents under this Agreement or relating to the Site, Site Development, or any of the Projects, and (iii) attack, set aside, void or annul the issuance by BOT of the certification of the EIR or the approval of the Transaction Documents; provided, however, that such obligation to indemnify, defend and hold harmless CSU Parties shall not be applicable to the extent any such Claims were caused by the sole negligence, willful misconduct, or fraud of any CSU Party or a breach of this Agreement by CSU.

10.2 Indemnification Procedures.

(a) CSU shall notify Developer in writing of the existence of any matters that CSU believes in good faith constitute matters subject to indemnification, reimbursement, hold harmless or defense under Section 10.1 (each, an “Indemnified Claim”) promptly after CSU becomes aware of the existence of such Indemnified Claim.

(b) CSU shall be entitled to, at Developer’s cost, defend any Indemnified Claim through counsel of CSU’s choice (the “Litigation Counsel”). CSU agrees to give Developer written notice of CSU’s Litigation Counsel, as such Litigation Counsel may change from time to time during the defense and/or appear of any Indemnified Claim, and upon receipt of written request from Developer, CSU will reasonably update Developer as to the status of the Indemnified Claim (subject in all events to attorney-client privilege).

(c) CSU shall determine, in its sole discretion, whether to settle or compromise any Indemnified Claim.

(d) CSU shall have the sole and exclusive right to determine whether to appeal any judgment of any Indemnified Claim (an “Appellate Action”), with Litigation Counsel of CSU’s choice, in its sole discretion, and at Developer’s sole cost and expense.

(e) Without limiting anything else in this Section 10, under no circumstances shall CSU be required to disclose to Developer any information or materials in connection with an Indemnified Claim to the extent that CSU is precluded from disclosing the same due to binding confidentiality restrictions, or such information or materials are protected by attorney-client privilege, in all events subject to any disclosure requirements imposed on CSU under applicable law.

(f) Developer agrees that its obligations under this Section 10 include all Indemnified Claims that are actually or potentially within the scope of Section 10.1, even if the applicable Indemnified Claim may be groundless, fraudulent or false, and no finding or judgment of negligence, fault, breach, or the like on the part of Developer shall be required for the foregoing obligations to arise. Further, Developer’s obligations under Section 10.1 shall be effective

regardless of whether the certification of the EIR and the approval of the Transaction Documents remain valid or are invalidated by any court.

(g) Subject to the terms of this Section 10, the parties shall cooperate in defending against any Indemnification Claim. In furtherance of the foregoing, Developer shall cooperate fully with CSU and the Litigation Counsel in the defense of any Indemnified Claim, including by making documents and/or personnel available to the extent required or deemed reasonably necessary by the Litigation Counsel or by CSU. No Indemnified Claim shall, in and of itself, delay or stop the development, processing or construction of the Site Development or approvals in connection therewith except to the extent a court order is issued preventing the activity.

(h) All demands made by CSU to Developer for payment and/or reimbursement of Claims under Section 10.1 shall be in writing, shall include reasonably requested backup information, and shall be paid by Developer within thirty (30) days after receipt.

10.3 Survival. This Section 10 shall survive any expiration or termination of this Agreement.

11. Notices. A notice or communication under this Agreement by either party to the other shall be sufficiently given or delivered if dispatched by hand, national courier services, or by registered or certified mail, postage prepaid, addressed as follows:

CSU: California State Polytechnic University, Pomona
3801 West Temple Ave.
Pomona, California 91768
Attn: Office of the President

with copies to:

The Board of Trustees of the California State University
401 Golden Shore
Long Beach, California 90802
Attn: Office of the General Counsel

The Board of Trustees of the California State University
401 Golden Shore
Long Beach, California 90802
Attn: Assistant Vice Chancellor, Capital Planning, Design
& Construction

The Board of Trustees of the California State University
401 Golden Shore
Long Beach, California 90802
Attn: Assistant Vice Chancellor, Financing, Treasury and
Risk Management

Sheppard, Mullin, Richter & Hampton, LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130-4092
Attn: Domenic C. Drago, Esq.

Sheppard, Mullin, Richter & Hampton, LLP
650 Town Center Drive, 10th Floor
Costa Mesa, CA 92626
Attn: Aaron J. Sobaski, Esq.

To Developer:

Attn: _____

with copies to:

Attn: _____

Attn: _____

For the convenience of the parties, copies of notice may be provided by facsimile or e-mail, but such copies are not effective as notices. The foregoing addresses may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made, or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

12. Excusable Delay.

12.1 Neither party shall be deemed to have breached any requirement to perform an obligation hereunder by a date certain to the extent that performance thereof is delayed, individually or in the aggregate, by any Excusable Delay (defined below). Each party shall use commercially reasonable efforts to avoid delay from Excusable Delay that it could reasonably have anticipated and to mitigate the effects of any Excusable Delay, by substitute performance or otherwise. Nothing in this Section 12 shall excuse or extend the time for either party to make payment of any monies required to be paid under this Agreement.

12.2 The party affected by Excusable Delay shall notify the other party in writing of its good faith estimate of the date that the cause of any Excusable Delay (i) commences, within five (5) business days after obtaining actual knowledge thereof, and (ii) terminates, within five (5) business days after obtaining actual knowledge thereof. Any such written notice shall include a description of the applicable facts with respect to the Excusable Delay. The period of an Excusable Delay shall be the number of days between the commencement and termination of the cause, inclusive; provided that (i) if the affected party fails to notify the other party of such Excusable Delay in writing within five (5) business days after obtaining actual knowledge thereof, then the period of such Excusable Delay shall be reduced on a per diem basis for each day of delay in delivery of such written notice, and (ii) in order for any event or circumstance (including an Event of Force Majeure, as defined below) to be Excusable Delay, there must have been an actual delay in the impacted party's ability to perform its obligations or duties under this Agreement on account of such events or circumstances, and the period of Excusable Delay shall be no greater than the actual delay incurred on account thereof.

12.3 During the period of any Excusable Delay, the party claiming the Excusable Delay shall provide updates as to the status of such Excusable Delay and the steps such party is taking to mitigate the effect thereof, on no less than a monthly basis. Subject to the limitations set forth in this Section 12, all impacted dates hereunder occurring during the period of any Excusable Delay, including the dates set forth in the Schedule of Performance, shall automatically be extended by the period of such Excusable Delay; provided in no event whatsoever shall the period of Excusable Delay extend the term of the Exclusive Negotiation Period for more than one-hundred eighty (180) days.

12.4 As used herein: (a) the term "Event of Force Majeure" shall mean an act of God, fire, earthquake, hurricane, flood, riot, civil commotion, terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, communicable disease outbreak, epidemic, pandemic, inability to obtain materials or supplies, accident to machinery or equipment, any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, hostilities or war, a labor dispute which results in a strike or work stoppage affecting the Site or services described in this Agreement, or any other cause or occurrence outside the reasonable control of the party claiming an inability to perform and which by the exercise of due diligence could not be reasonably prevented or overcome, to the extent the same is not caused by the fault of the party claiming relief, and (b) the term "Excusable Delay" shall mean a delay in performance of an obligation or duty hereunder, or inability to complete the performance of any such obligation or duty, to the extent caused by or resulting from: (i) a default by the party not requesting relief, and/or (ii) an Event of Force Majeure. The terms Excusable

Delay and Event of Force Majeure shall each expressly exclude financial inability or difficulty, financial hardship, changes in financial markets or financial market instability, and any other event or circumstances whatsoever relating thereto.

13. General Provisions.

13.1 Amendments. This Agreement may be amended or modified only by a written instrument executed by CSU and the Developer.

13.2 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the parties shall promptly modify, amend, or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner that preserves to the greatest extent possible the benefits to each of the parties to this Agreement and to the Developer before such conflict with federal or state law. However, if such amendment, modification, or suspension would deprive CSU or the Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected party may terminate this Agreement upon written notice to the other party. In the event of such termination, neither party shall have any further rights nor obligations under this Agreement except with respect to those matters that survive termination pursuant to the express terms of this Agreement.

13.3 Non-Waiver. No waiver made by either party with respect to the performance, or manner or time of performance, or any obligation of the other party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived to the extent of such waiver, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

13.4 Successors and Assigns. This Agreement shall inure to the benefit of and bind the respective successors and permitted assigns of CSU and the Developer, subject to the limitations on assignment by the Developer set forth above. This Agreement is for the exclusive benefit of the parties hereto and not for the benefit of any other person and shall not be deemed to have conferred any rights, express or implied, upon any other person.

13.5 Applicable Law; Service of Process. This Agreement shall be governed by the laws of California, which shall govern the validity, construction and effect of this Agreement. Neither party shall contest the sufficiency of any service of process by the other party that is accomplished pursuant to the terms of this Agreement, and each party hereby waives any right to receive service in any other manner.

13.6 Interpretation of Agreement.

(a) Exhibits. Whenever an “Exhibit” or “Schedule” is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Exhibits and Schedules are incorporated herein by reference.

(b) Captions. Whenever a section, article, or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term “including,” “such as,” or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term, or matter.

(d) References. Wherever reference is made to any provision, term, or matter “in this Agreement,” “herein” or “hereof” or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

(e) Recitals. In the event of any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail.

(f) No Presumption Against Drafter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

13.7 Entire Agreement. This Agreement (including the Exhibits and Schedules) contains all the representations and the entire agreement between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, agreements, warranties, or representations relating to such subject matter are superseded in total by this Agreement. Except as permitted by the applicable laws of the State of California, no prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either party or any other person and no court or other body shall consider those drafts in interpreting this Agreement.

13.8 Time for Performance. Subject to Excusable Delay, all performance dates (including cure dates) expire at 5:00 p.m., California time, on the performance or cure date. A performance date that falls on a Saturday, Sunday, state or national holiday, or date when CSU is

closed (as set forth in its published calendar) is deemed extended to the next CSU business day. All periods for performance specified in this Agreement in terms of days shall be calendar days and not business days, unless otherwise expressly provided in this Agreement. Time is of the essence with respect to each provision of this Agreement.

13.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

13.10 Approvals and Consents; CSU Representative. No approval or consent issued by either party shall be deemed to waive or render unnecessary the approval or consent required for any similar or subsequent acts or requests. All CSU approvals and consents shall be subject to Section 1.3(a). Developer hereby acknowledges and agrees that in performing its obligations and duties under this Agreement it shall only communicate with those certain CSU (including CPP as applicable) employees, agents, and consultants as may be designated in writing by CSU to Developer from time to time as CSU's designated representative(s) under this Agreement, and other than such individual(s), Developer shall not communicate with any other employees, agents, consultants, or representatives of CSU with respect to the Site, any Project, the Site Development, or this Agreement, at any time without the prior written consent of CSU.

13.11 Real Estate Commissions. The Developer and CSU each represents to the other that it engaged no broker, agent or finder in connection with this Agreement or the transactions contemplated hereby. In the event any broker, agent or finder makes a claim, the party through whom such claim is made agrees to indemnify the other party from any losses arising out of such claim. Such indemnity shall survive the termination of this Agreement.

13.12 Survival. Notwithstanding anything to the contrary in this Agreement, any indemnity or other obligation that arises and was not satisfied before termination shall survive any termination of this Agreement, except to the extent otherwise provided herein. All other provisions of this Agreement which, by their terms, survive termination of this Agreement shall survive any termination of this Agreement.

13.13 Relationship of the Parties. The subject of this Agreement is a development with neither party acting as the agent of the other party in any respect. None of the provisions in this Agreement shall be deemed to render CSU or any other CSU Party a partner in the Developer's business, or joint venturer or member in any joint enterprise with the Developer.

13.14 Cooperation. In connection with this Agreement, the Developer and CSU shall reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, the Developer and CSU shall each refrain from doing anything that would render its performance under this Agreement impossible and each shall do everything that this Agreement contemplates that the party shall do to accomplish the objectives and purposes of this Agreement.

13.15 Compliance with Laws. Developer shall, at its sole cost and expense, perform all of its duties and obligations under this Agreement in full compliance with all applicable laws, including without limitation the requirements of Labor Code sections 1720-1815 and Title 8 California Code of Regulations sections 16000-17270, as applicable.

13.16 Prevailing Wage. CSU requires, and Developer hereby acknowledges and agrees that the entire Site Development (including all Projects) shall be developed and constructed in accordance with prevailing wage requirements.

13.17 Non-Discrimination. During the performance of this Agreement, the Developer shall not deny the benefits of this Agreement to or otherwise discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall Developer discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Developer shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Without limiting the foregoing, the Developer shall comply with: (i) the provisions of the Fair Employment and Housing Act (Government Code, section 12900 *et seq.*), and the regulations promulgated thereunder (California Code of Regulations, Title 2, section 11000 *et seq.*), if applicable, and (ii) the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code, sections 11135-11139.8, and the regulations or standards adopted by CSU and/or the BOT to implement such article. Developer shall include the nondiscrimination and compliance provisions of this clause in all contracts, subcontracts, or other agreements with any third parties to perform services to Developer in connection with this Agreement.

13.18 Confidentiality; Press Releases. Developer shall keep confidential any information regarding the Site and the Transaction Documents that CSU so requests, except to the extent: (i) any such information was in the public domain or deemed to be a public record as of the date of disclosure; or (ii) such information is subject to disclosure by CSU in accordance with applicable law, including the California Public Records Act (“PRA”), Government Code § 6250 *et seq.* and CSU’s implementing regulations and guidelines, and may be subject to other requirements relating to information in the possession of governmental entities. Developer acknowledges that CSU is required to make disclosures in accordance with applicable law, including the PRA and other applicable laws, and CSU may take all such actions as in connection therewith it deems appropriate or required in order to comply with all applicable laws, without any liability to Developer with respect thereto. In the event that CSU receives a request for disclosure of any information related to this Agreement, the Transaction Documents, or other matters in connection herewith, then, to the extent it may do so pursuant to applicable law, CSU shall promptly notify Developer thereof and provide Developer the opportunity to inform CSU of any such information that Developer believes is proprietary, trade secret and may otherwise be legally exempt and protected from disclosure under the PRA or other applicable law. Developer shall not issue any press release nor general public announcement concerning the transactions described in this Agreement or any other matters relating to the proposed Site Development, except as may be required by applicable law, without first obtaining the prior written approval of CSU, in its sole discretion. This paragraph shall survive any expiration or termination of this Agreement.

13.19 Common Interest. The parties agree that they have a common interest with respect to environmental review and other analysis under CEQA of the proposed Site Development as contemplated herein, including in responding to and defending against any challenges, litigation

or other legal proceedings involving the certification or adequacy of the EIR or other environmental documents, and, in furtherance of such interests, the parties and their respective employees, agents, consultants, and counsel will exchange confidential and privileged information. Subject to the requirements of applicable law (including, to the extent applicable, the PRA, the Richard McKee Transparency Act and other applicable laws, rules and regulations), the parties intend that all such information shall be fully protected from disclosure by the attorney-client privilege, and/or any other applicable privilege or law, and/or by the attorney work product doctrine, and that such information shall remain as fully protected by the attorney-client privilege, any other applicable privilege or law, and the work product doctrine as though the exchange had not occurred. The parties intend that the sharing and exchange of such information, as between and among themselves and the others described above, does not constitute a waiver of any privilege or other protection and shall be protected pursuant to the joint defense and common interest doctrine. Such privileged and confidential information so shared or exchanged shall therefore remain secret and protected from disclosure to third parties to the maximum extent permitted by applicable law.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, CSU and the Developer have duly executed and delivered this Agreement as of the date first written above.

CSU:

Recommended by:

California State Polytechnic University, Pomona

By: _____

Name: Dr. Soraya M. Coley

Title: President

Board of Trustees:

Approved by:

The Board of Trustees of the California State University

By: _____

Name: Elvyra San Juan

Title: Assistant Vice Chancellor,
Capital Planning, Design & Construction

Developer:

_____,

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT A-1

LEGAL DESCRIPTION OF THE SITE

[Append]

EXHIBIT A-2

DIAGRAM/MAP OF THE SITE

[Append]

EXHIBIT B

SUMMARY OF KEY TERMS

This Summary of Key Terms is attached to, and a part of, the Exclusive Negotiating Agreement (“Agreement”) between the BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, which is the State of California acting in its higher education capacity, on behalf of California State Polytechnic University Pomona, one of 23 campuses in the California State University System (“CSU”), and _____ (the “Developer”).

[Append]

SCHEDULE 1.2(b).

License Agreement

See attached.

SCHEDULE 1.3(c)

Milestones

[Append]

SCHEDULE 4.1

Insurance Requirements

Capitalized terms used but not defined in this Schedule shall have the meaning assigned to them in the body of this Agreement. Without limiting any additional or different insurance required under the License Agreement, during the term of this Agreement the Developer shall obtain and maintain the following insurance policies and coverages, in amounts not less than the following:

(1) Comprehensive or Commercial Form General Liability Insurance: on an occurrence basis, covering all actions undertaken by or on behalf of Developer in connection with this Agreement, and providing insurance for bodily injury, personal injury, property damage, and contractual liability. Limits of Liability:

\$10,000,000.00	General Aggregate
\$5,000,000.00	Each Occurrence—combined single limit for bodily injury and property damage.

(2) Business Automobile Liability Insurance: on an occurrence basis, covering owned, scheduled, hired, and non-owned automobiles used by or on behalf of Developer in connection with its actions relating to this Agreement and providing insurance for bodily injury and property damage. Limits of Liability:

\$1,000,000.00	Each Accident—combined single limit for bodily injury and property damage.
----------------	--

(3) Workers' Compensation: including Employers Liability limits of \$1,000,000.00 and other limits as required under California law.

(4) Professional Liability. Professional Liability Coverage in the amount of \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, including coverage for errors and omissions and contractual liabilities.

[** Note to Draft: required policies, coverage amounts, and other terms of this Schedule and in Section 4 of the Agreement are subject to change to meet the applicable CSU requirements in effect at the time of execution.]

SCHEDULE 9.1

Initial Budget

See attached.

Exhibit B – Small Business Preference Form

SMALL BUSINESS PREFERENCE AND CERTIFICATION REQUEST

(Bidders requesting a 5% Small Business Preference must sign below and enclose this form in their proposal)

Project No. _____

Project Name _____

The undersigned hereby requests preference as a “Small Business” and further certifies under penalty of perjury, that the firm still meets the requirements of the California Code of Regulations, Title 2, Section 1896 *et seq.*

NOTICE TO ALL BIDDERS: Section 14835 *et seq.* of the California Government Code, requires that a five percent preference be given to bidders who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of service, are contained in Title 2, California Code of Regulations, Section 1896, *et seq.* A copy of the regulations is available upon request.

If your firm is a Small Business and wishes to claim the small business preference, your firm must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the Small Business & DVBE Services Branch, in the Procurement Division of the State of California Department of General Services, by 5:00 p.m. on the date bids are opened, and be verified by such office.

Or, if your firm is a Non-Small Business and wishes to claim the small business preference, your firm must notify the Trustees by signing below, that your firm commits to subcontract at least 25% of its net bid price with one or more small businesses, submit a timely responsive proposal, list the small business subcontractors and include name, address, phone number, portion of the work to be performed, and the dollar amount and percentage per subcontractor, and be determined a responsible bidder.

Questions regarding the preference approval process should be directed to Small Business & DVBE Services, telephone (800) 559-5529 or (916) 375-4940, address: 707 Third Street, First Floor-Room 400, West Sacramento, CA 95605, or if by mail: P.O. Box 989052, West Sacramento, CA 95798-9052. You can also reach them via email (osdchelp@dgs.ca.gov) or on the Internet: www.pd.dgs.ca.gov/smbus.

IMPORTANT NOTICE (Read before signing)

Please check the box below indicating whether your firm is a small business or non-small business:

Small Business Non-Small Business

Legal Name Style of Bidder(s): _____

Signature of Bidder: _____ Date _____

Special attention is directed to section 1896.16 for penalties for furnishing incorrect supporting information in obtaining preference.

Exhibit C – Summary of DVBE Participation Form

COMPANY NAME	NATURE OF WORK	CONTRACTING WITH	TIER	CLAIMED DVBE VALUE \$	PERCENTAGE OF CONTRACT (%)	OSMB DVBE CERTIFICATION

I declare under penalty of perjury, under the laws of the State of California, that the information herein is true and correct to the best of my knowledge.

Executed on: _____, at _____ in the state of _____.
Date City State

 Signature of Contractor or Authorized Agent

 Project Name

 Project Number

 Printed Name

 Firm Name

() _____
 Telephone