



NOTICE OF MEETING

CITY OF PACIFIC GROVE MUSEUM BOARD REGULAR MEETING AGENDA Wednesday, March 12, 2014

REGULAR MEETING AGENDA

5:00 p.m.

CALL TO ORDER

1. **APPROVAL OF AGENDA**
2. **PUBLIC COMMENTS**
3. **APPROVAL OF MUSEUM BOARD MEETING MINUTES**
 - A. Minutes of the February 12 Museum Board meeting
Reference: Tama Olver, Secretary
Recommended Action: Approve Minutes

REGULAR AGENDA

4. **REPORTS NOT REQUIRING ACTION**
 - A. Correspondence
Reference: Tama Olver, Secretary
 - B. City Council Liaison Comments
Reference: Councilman Huitt
 - C. Latest Museum Director's Monthly Report January 2014
Reference: Lori Mannel
 - D. City Manager's Report
Reference: City Manager Frutchey
 - E. Board Chair's Report
Reference: Board Chair Pearse
5. **UNFINISHED BUSINESS**
 - A. 2013 Report and 2014 Plan
Reference: Tama Olver, Secretary
Recommended Action: Determine any follow up required from consideration of the report and plan by the City Council on March 5, 2014.

- B. Accession and De-Accession Recommendations
Reference: Tama Olver, Secretary
Recommended Action: Determine any follow up required from consideration of the recommendations by the City Council on March 5, 2014.
- C. Presentation to the City Council on March 19, 2014 regarding Museum metrics
Reference: Tama Olver, Secretary
Recommended Action: Review and finalize the presentation.

6. NEW BUSINESS

- A. Recommendations for Changes to the Lease and Operating Agreement
Reference: Tom Frutche, City Manager
Recommended Action: Consider the proposed recommendations and approve them with any agreed upon suggestions for change.

ADJOURNMENT

<p>The City of Pacific Grove does not discriminate against persons with disabilities. City Hall is an accessible facility. A limited number of devices are available to assist those who are deaf or hard of hearing.</p>



DRAFT ACTION MINUTES

CITY OF PACIFIC GROVE

MUSEUM BOARD

Wednesday February 12, 2014

Regular Meeting 5:00 P.M.

City Manager's Conference Room – City Hall – 300 Forest Avenue, Pacific Grove, CA

REGULAR MEETING

5:07 p.m.

CALL TO ORDER

Chair John Pearse, Secretary Tama Olver, Board Member Stephanie Atigh, Board Member Blake Matheson, City Manager Tom Frutchey present. City Council Liaison Robert Huitt, absent. Lori Mannel, Executive Director, and Paul Van de Carr, Curator of Collections, Pacific Grove Museum of Natural History also in attendance.

1. APPROVAL OF AGENDA

Tama Olver moved approval of the agenda with the following correction: Item 4.C to read "... Reports for November and December" rather than "... Reports for September and December" The motion passed unanimously. Secretary Olver agreed to improve future agendas by removing the "Recommended Action" line from items in section 4 "REPORTS NOT REQUIRING ACTION."

2. PUBLIC COMMENTS

There were no members of the public present.

3. APPROVAL OF BOARD MEETING MINUTES

A. Tama Olver moved to approve the minutes with the following corrections:

1. Item 4.C to read "... reports for September and October ..." rather than "... reports ..."
2. Addition of the following to the Board Chair's report:
 - a) Maintenance of the Museum facility continues to be an issue. It would help to have the Board staffed by a Public Works staff member.
 - b) The Chair suggested that the board become involved in development of the annual maintenance plan.

The motion passed unanimously.

The Board also agreed that future draft minutes would be distributed to board members as soon as they are completed. All comments and corrections would be raised at the following board meeting.

REGULAR AGENDA**4. REPORTS NOT REQUIRING ACTION**

- A. Correspondence.
Secretary Olver noted receipt of correspondence from Vern Yadon regarding plans to uncover windows at the Museum and from Paul Van de Carr regarding recommendations to accession and de-accession items from the Museum's collection. The items were distributed with other materials in advance of the meeting and correspond to items 5.B, 5.C, and 5.D on the agenda.
- B. City Council Liaison Comments
In Councilman Huitt's absence, there were no comments.
- C. Museum Director's Monthly Reports
Chair Pearce commented that attendance at the lecture "At the Continent's Edge and Beyond" by Shields was very good and brought new people to the Museum. From his perspective, the success of the lecture demonstrated the value of the temporary exhibit of landscape paintings.
- D. City Manager's Report
 - 1. City Manager Frutche reported that negotiations continue between the City and the Museum Foundation regarding the lease and operating agreement. There have been three meetings since the Museum Board last discussed the negotiations and they are progressing with positive tone. Items recommended by the Museum Board are incorporated in the negotiations.
 - 2. Daniel Go is Acting Superintendent of Public Works. He and Museum management are developing maintenance standards for the Museum facility. City Manager Frutche will propose that the new standards replace the general language regarding facilities maintenance that is in the lease and operating agreement.
- E. Board Chair's Report
Chair Pearce encouraged Board Members to attend the "Night Owl" event at the Museum on February 14. It is the first evening event designed for adults and is designed to complement the successful Science Saturday events for families.

5. UNFINISHED BUSINESS

- A. Live Butterfly Pavilion
After discussion, Stephanie Atigh noted that she did not support a fee being charged for admission to the pavilion. The Board agreed to add review of the Association of Zoos and Aquariums standards for management of live animal colonies to a future agenda.
- B. Uncovering Windows at the Museum
Tom Frutche reported that an independent opinion was acquired regarding the capability of current technologies to prevent UV damage. Paul Van de Carr

reported that measurement of radiation coming through the windows shows that 98% of damaging UV is blocked. He also reported that rotation of objects is key to their protection. Lori Mannel reported that the Collection Assessment Program final report would include an evaluation of exposure of items to damaging radiation. The report is expected to be available for Board review sometime before midyear.

6. NEW BUSINESS

- A. Nominate and Elect Officers for 2014
Stephanie Atigh nominated the following slate of officers: John Pearce, Chair; Blake Matheson, Vice Chair; Tama Olver, Secretary. The slate was approved and the officers elected unanimously.
- B. Report for 2013 and Plan for 2014
Secretary Olver agreed to follow up regarding submission of the reports to the City Council.
- C. Accession of Hat with Bird of Paradise
Tama Olver moved that the Board approve accession of the hat with the bird of paradise, forward that recommendation to the City Council, and ask that they respond in writing to Museum management. The motion passed unanimously. The Foundation purchased the hat and will gift it to the city.
- D. De-Accession of Stone with Pictographs from the Museum's Collection
Stephanie Atigh moved that the Board approve de-accession of the stone with pictographs, forward that recommendation to the City Council, and ask that they respond in writing to Museum management. The motion passed unanimously. The stone will be retained by the Museum in its education collection.
- E. Policy for Accession and De-accession of Items to/from the Museum's Collection
After discussion, the Board agreed to recommend the following changes:
 - 1. The footer on the first page should be corrected to "March 23, 2011" from "March 16, 2011."
 - 2. Section "I.A Definitions"
 - a) Item 2 should be amended to replace "Permanent Collections" with "Permanent Collections or Collections." As the document uses both terms to refer to the permanent collection, the new definition will improve clarity.
 - b) A new item should be added: "**Museum.** Pacific Grove Museum of Natural History."

Blake Matheson moved that the changes be forwarded to the City Council with a recommendation that they approve the revised document. The motion passed unanimously. The Board agreed that the process described by the document requires no change.
- F. Compiled Information from Executive Director Reports 2010-2013
The Board identified some typographical errors that Secretary Olver agreed to correct. The Board decided that a presentation to the City Council of the summary charts would be worthwhile. The report could be made as a public comment or agenda item. Secretary Olver agreed to follow up and be responsible for making the report.

ADJOURNMENT

Board adjourned the regular meeting at 6:47 p.m.

Respectfully Submitted,

Tama Olver, Secretary

City of Pacific Grove Museum Board

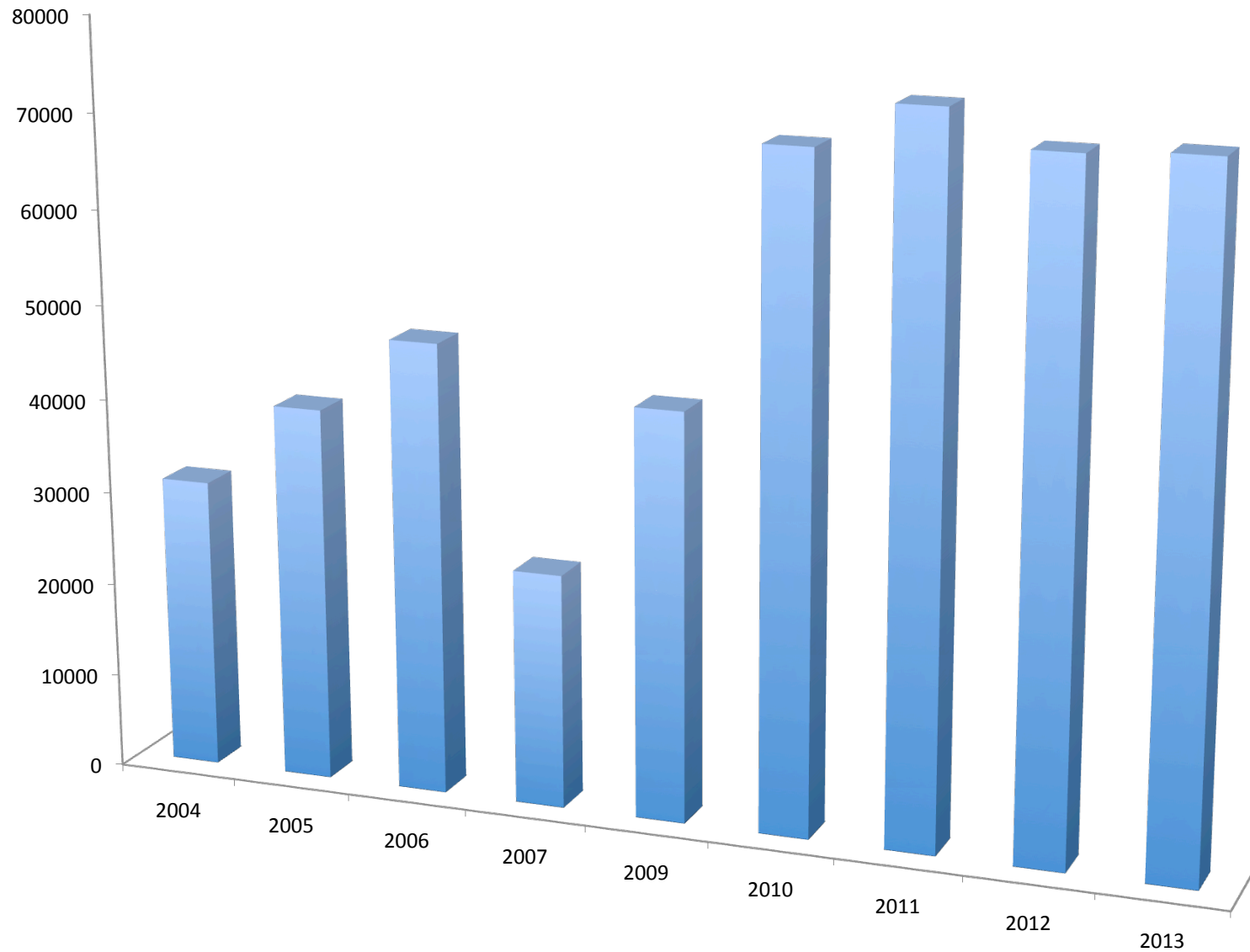
Summary Metrics
Pacific Grove Museum of Natural
History
March 19, 2014

City of Pacific Grove Museum Board

- Executive Director of the Museum publishes a monthly status report
 - Available on the Museum's website (www.pgmuseum.org)
 - Available in the Museum Board's agenda package
- Periodically, the Museum Board summarizes the metrics portion of the reports
 - Available in the Museum Board's agenda package for the meeting of January 8, 2014
- High level Charts are being presented tonight

Pacific Grove Museum of Natural History

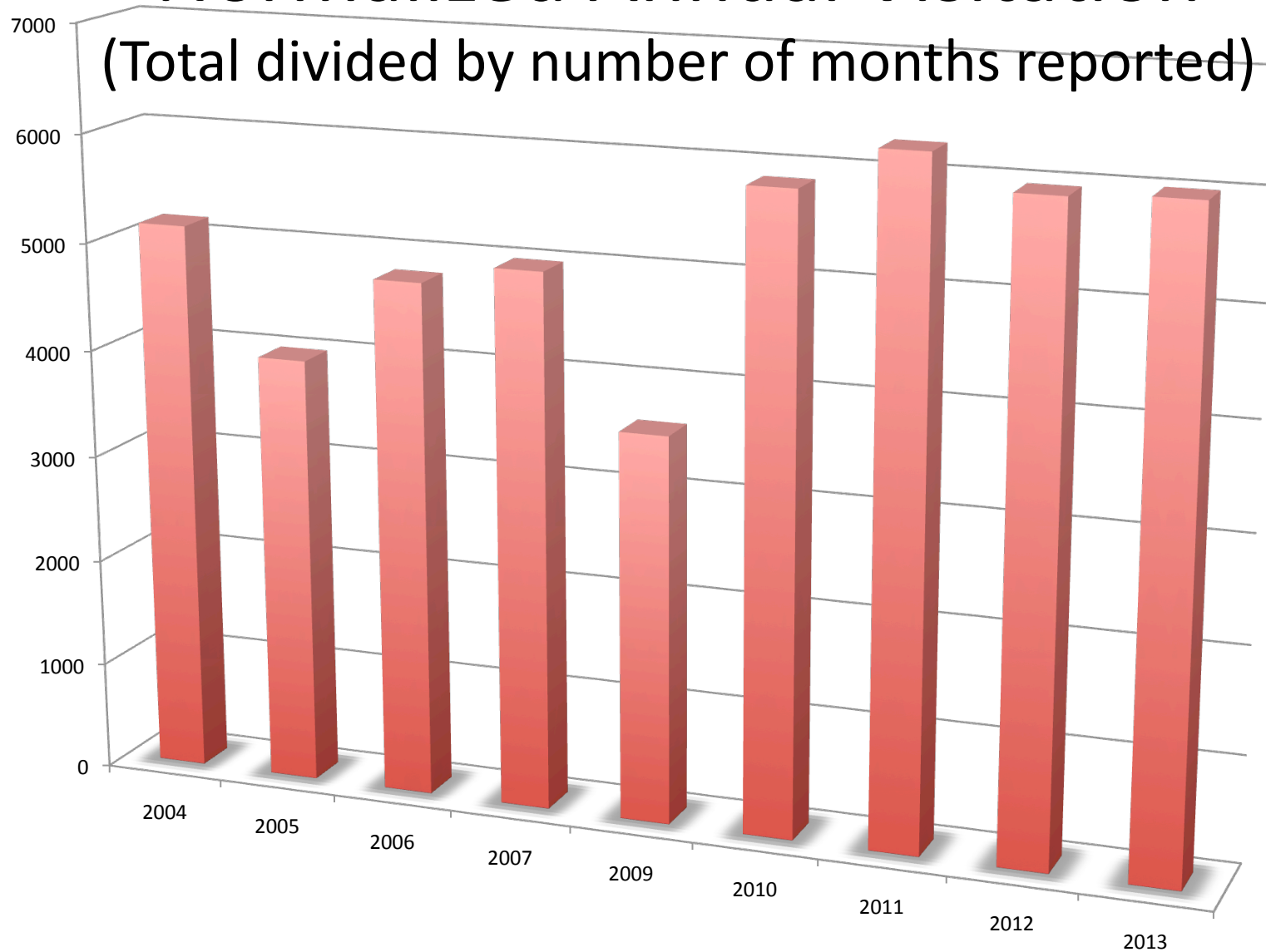
Annual Visitation



Pacific Grove Museum of Natural History

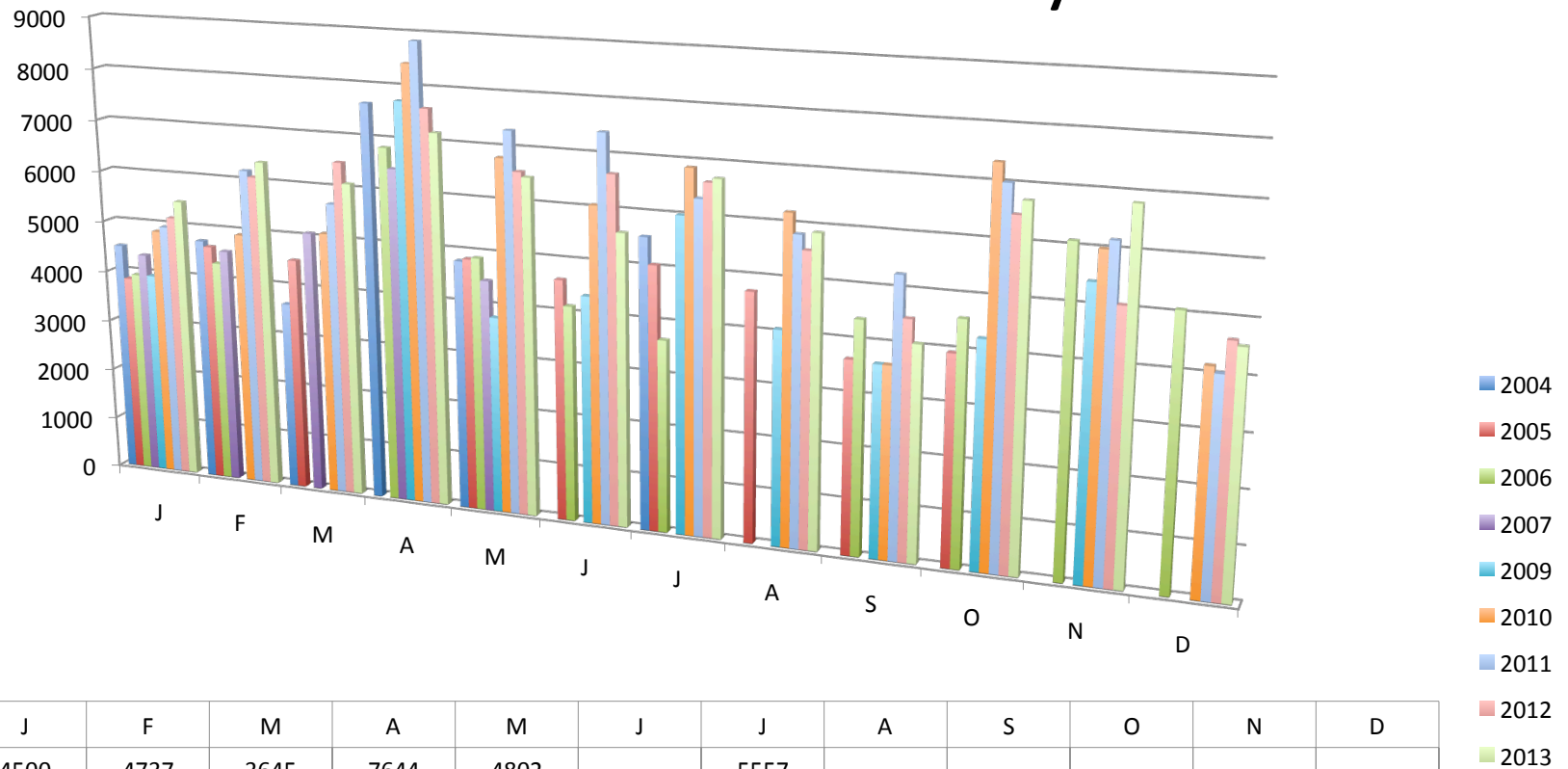
Normalized Annual Visitation

(Total divided by number of months reported)



Pacific Grove Museum of Natural History

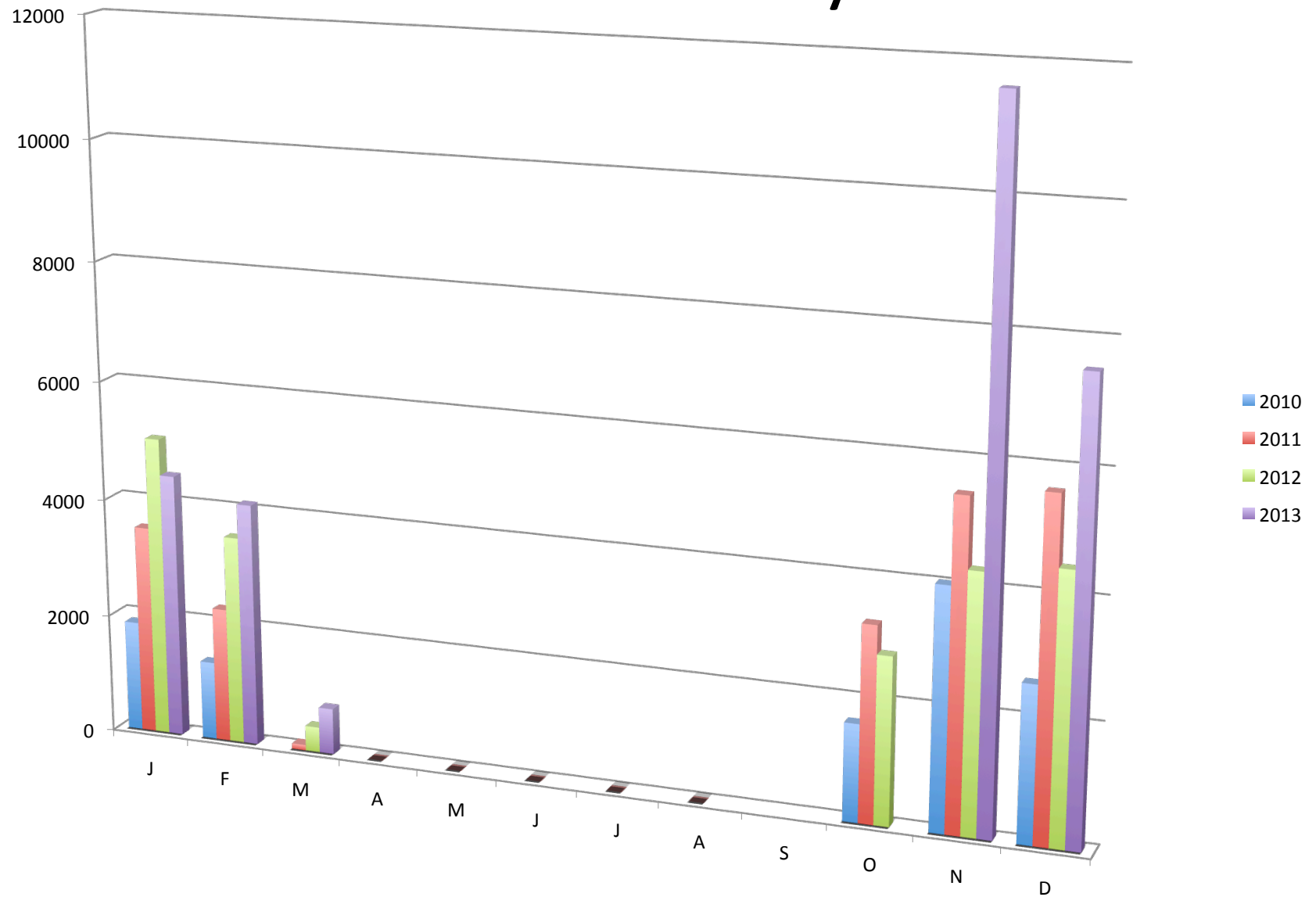
Visitation by month



	J	F	M	A	M	J	J	A	S	O	N	D
2004	4500	4737	3645	7644	4802		5557					
2005	3850	4636	4519		4853	4620	5051	4727	3660	3955		
2006	3939	4321		6832	4885	4134	3668		4402	4584	6104	5075
2007	4346	4570	5075	6444	4470							
2009	3946			7724	3782	4358	6005	4078	3625	4261	5430	
2010	4850	4924	5096	8428	6802	6062	6876	6210	3625	7355	6007	4164
2011	4949	6190	5680	8846	7317	7401	6331	5832	5268	7014	6169	4046
2012	5143	6079	6488	7617	6568	6656	6636	5557	4495	6476	5070	4638
2013	5476	6375	6091	7175	6477	5593	6713	5884	4056	6731	6824	4544

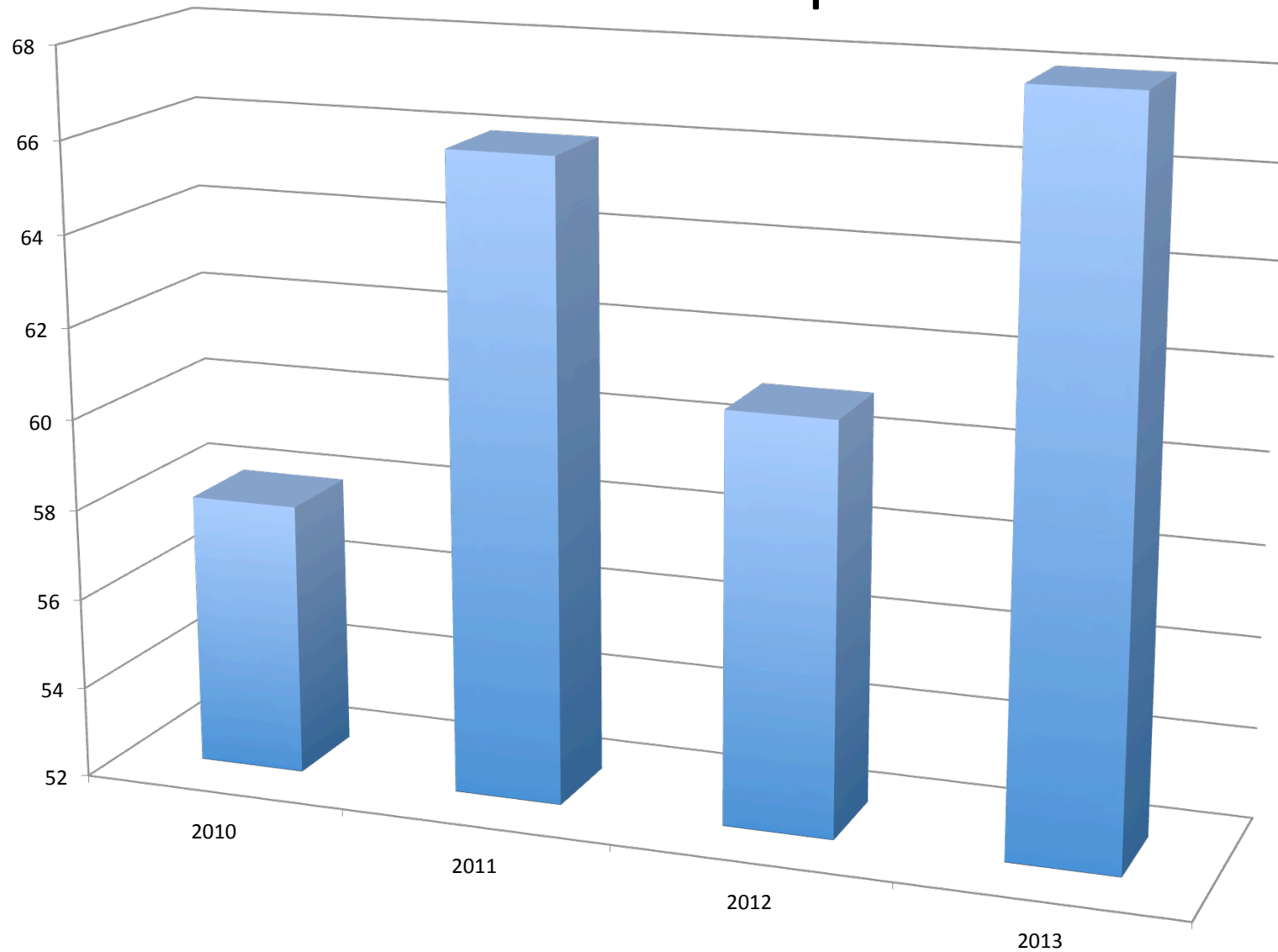
Pacific Grove Museum of Natural History

Monarch Sanctuary Visitation



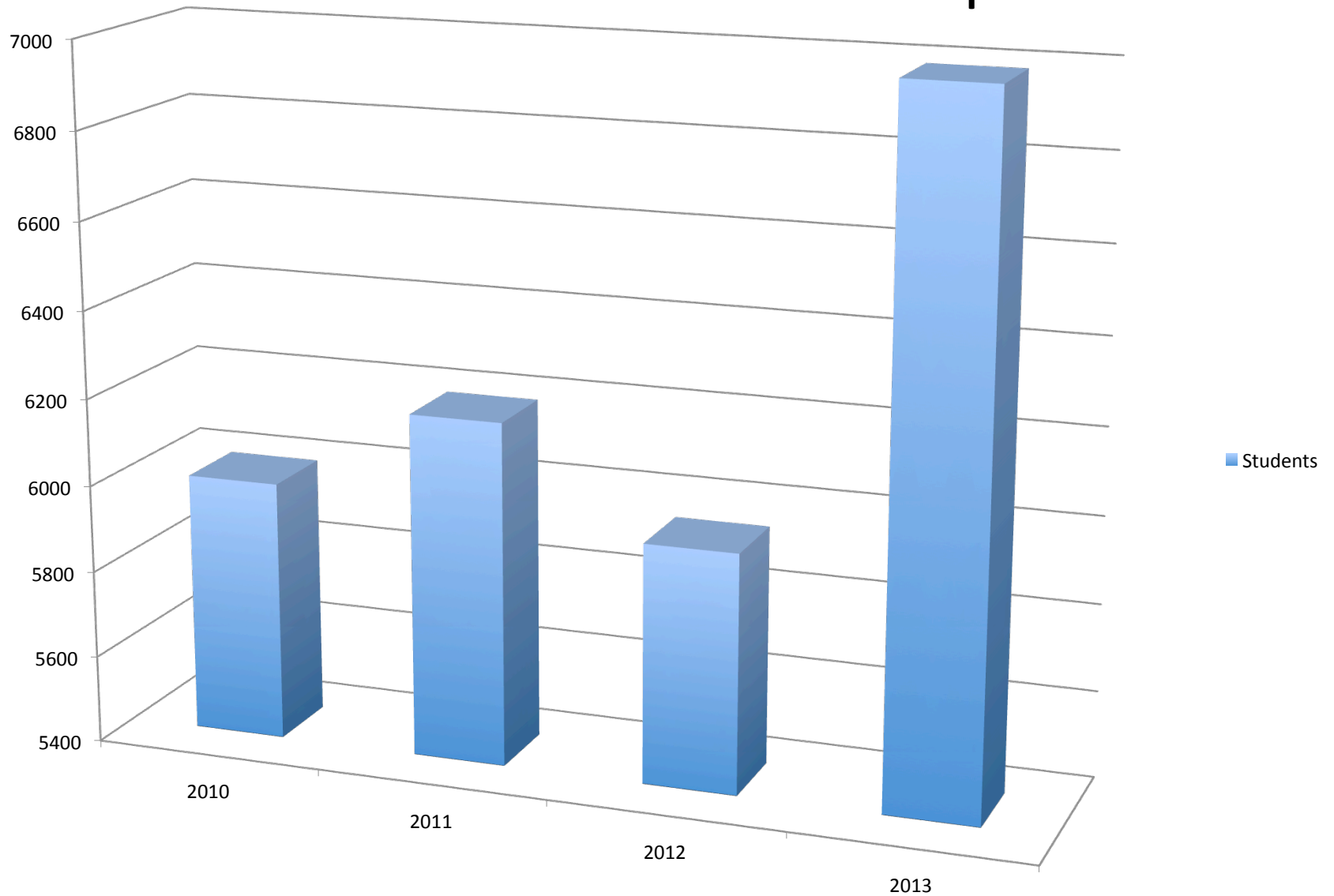
Pacific Grove Museum of Natural History

School Group Visits



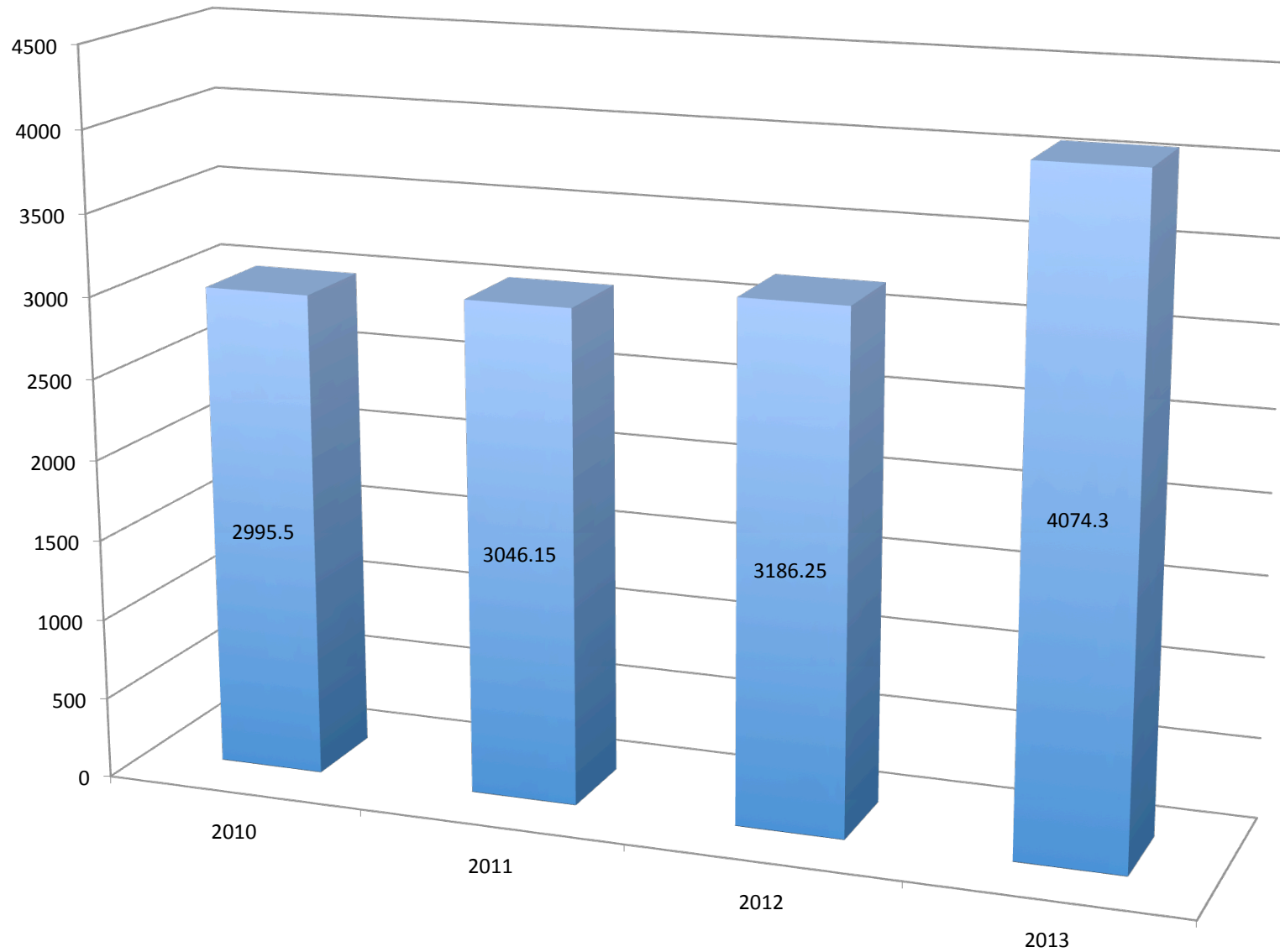
Pacific Grove Museum of Natural History

Students in School Groups



Pacific Grove Museum of Natural History

Volunteer Hours



PUBLIC/PRIVATE PARTNERSHIP
OPERATING AGREEMENT AND LEASE
BETWEEN THE CITY OF PACIFIC GROVE CA
AND
MUSEUM FOUNDATION OF PACIFIC GROVE, INC.

[As Amended Through August 18, 2010 – Second Amendment]

THIS AGREEMENT and LEASE is made and entered into as of the 29th day of June, 2009 by and between the City of Pacific Grove, California, a municipal corporation and charter city under the laws of the State of California, and the Museum Foundation of Pacific Grove, Inc., a non-profit public benefit corporation under the laws of the State of California.

IN CONSIDERATION of the mutual promises set forth in this Lease Agreement, the adequacy of which is hereby acknowledged by each party, the City hereby leases and lets to Foundation, the Foundation hereby leases and takes from City, all areas that constitute and are defined below as the Museum, and the Parties hereby covenant and agree as follows:

Article I.
Definitions and Recitals

Section 1.01 Definitions. As used in this Agreement, the following terms, when capitalized, shall have the meanings ascribed to them in this Section.

(a) “AAM” means the American Alliance of Museums.

George Perry 2/24/14 1:07 PM
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(a-1) [Added by Second Amendment dated 8/18/10] “Accreditation” means certification of the Museum by the AAM as an accredited museum in its category.

George Perry 2/8/14 3:25 PM
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(b) “Agreement” means this document, when executed by both parties, together with all attachments hereto, each of which is incorporated by reference as a part of this document. This document is at times also referenced as the “Lease Agreement”.

(c) “Annual Contribution” means the contribution to be made by City to the Foundation under Section 4.02 to be used by the Foundation only for purposes to fulfill Foundation’s obligations under this Lease Agreement.

(d) “Attachment A” means the Mission Statement and Goals established for the Museum by the City Council, as may be revised and amended from time to time by mutual agreement of the parties. The Goals set forth in Attachment A shall be deemed obligations of Foundation for the purposes of this Lease Agreement.

George Perry 2/24/14 10:47 AM
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George Perry 2/8/14 3:25 PM
Deleted: <#>“Association” means the Pacific Grove Museum of Natural History Association. .

(e) “City” means the City of Pacific Grove, California, acting by and through its City Manager by authority of its City Council. The City is a Party to this Lease Agreement.

(f) “City Council” means the Pacific Grove City Council.

Pacific Grove Museum Lease Agreement

(g) “Default” shall mean any of the events set forth in Section 6.01.

(h) “Foundation” means the Museum Foundation of Pacific Grove, Inc., a California non-profit corporation. The Foundation is a Party to this Lease Agreement.

(i) “Major Repair” means:

- (i) repairs to ~~the Museum~~ required by law or ordinance, or reasonably required to maintain the ~~Museum~~ as habitable for the general public;
- (ii) roof maintenance, repair or replacement;
- (iii) repairs or replacements of any malfunctioning or non-operating electrical, plumbing, heating, cooling or other building systems; and
- (iv) exterior and interior painting as required by normal wear and tear.

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(j) “Museum” means the Pacific Grove Museum of Natural History, located at Forest Avenue and Central Avenue, Pacific Grove, California, including the buildings, land, back garden, and the Personal Property.

(k) “Museum Collection” means all artifacts owned by City and maintained at the Museum, as identified in the Museum Collection survey described in Section 2.05, including those exhibited, those stored, those located within City’s Point Pinos Lighthouse, and those located within the Pacific Grove City Hall.

(l) “Packard Grant” means the financial grant to City previously made in 2008 by The David and Lucile Packard Foundation in the amount of \$230,703 for use in connection with operation of the Museum.

(m) “Personal Property” means personal property (excluding the Museum Collection) owned by City and located in the ~~Premises~~ or used for or in connection with operation and maintenance of the Museum, as identified in the Physical Property Survey described in Section 2.06.

George Perry 2/24/14 12:06 PM

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(n) “Premises” means the Pacific Grove Museum of Natural History, located at Forest Avenue and Central Avenue, Pacific Grove, California, including all buildings, land, and back garden.

(o) “Section” refers to a numbered section or subsection of this Agreement.

(p) ~~“Structural” means any portion of a building or structure that supports the weight of any other portion of the building or structure.~~

(q) “Term” means the term of this Lease Agreement, as set forth in Section 2.02, as it may be extended as provided in Section 2.02 and Section 2.04 or shortened as provided in Sections 6.02, 6.03, or 6.04.

(r) “Utilities” means water, sewer, gas, electricity and trash removal services.

Section 1.02 Recitals. Certain facts and circumstances surrounding this Lease Agreement are:

(a) City currently owns and maintains the ~~Museum~~ ~~and~~ the Museum Collection.

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George Perry 2/24/14 1:09 PM

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Pacific Grove Museum Lease Agreement

(b) Due to financial conditions beyond the control of City, City's budget for operation of the Museum is no longer adequate to continue operations of the Museum.

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(c) Foundation has been formed by a group of citizens independent of City as a California public benefit charitable corporation for the purpose of operating the Museum and for providing additional funding, through grants, donations, memberships and other programs, to continue and enhance the operations of the Museum as a public natural history museum, as set forth in Foundation's Articles of Incorporation and Bylaws, copies of which have been provided to City prior to the execution of this Lease Agreement.

George Perry 2/24/14 1:10 PM

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(d) The role of City's Museum Board with the respect to its relationship to the City is set forth in the Pacific Grove City Council's Resolution No. 10-071, a copy of which is appended to this Agreement as Attachment B.

Article II.

Right of Use of Museum and Museum Collection; Term.

Section 2.01 Right of Use. City hereby grants to Foundation, and Foundation hereby accepts the exclusive right to use and operate the Museum and the Museum Collection for the Term set forth below, and any extension, upon the terms and conditions contained in this Lease Agreement.

George Perry 2/24/14 1:11 PM

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Section 2.02 Term. [Added by First Amendment Dated 6-16-2010] The Term of this Lease Agreement shall be thirty (30) years and eleven (11) months, commencing August 1, 2009 and ending June 30, 2040. Commencing on June 30, 2010 and continuing thereafter on June 30th day of each year of the Term thereafter, the Term shall be extended by one (1) Term year (July 1st through June 30th); provided, however, that either party may, in its sole discretion, give written notice to the other party, not later than thirty (30) days prior to June 30th of any Term year that it wishes to terminate the automatic one (1) year extension provided for above, in which case the Term of this Lease Agreement shall be fixed at thirty (30) years from the end of the Term year in which such notice is given.

[Prior Section 2.02 Deleted by First Amendment Dated 6-16-2010]

Section 2.03 [Term Extension - Deleted by First Amendment Dated 6-16-2010]

Section 2.04 [Additional Extensions - Deleted by First Amendment Dated 6-16-2010].

Section 2.05 Museum Collection Survey. Within one hundred eighty (180) days after the commencement of the Term, City and Foundation shall conduct a physical survey of all items constituting the Museum Collection (as shown in the Museum Collection catalog). Each Party shall pay one-half (½) of the cost of this physical survey. If any artifact listed in the Museum Collection catalog is not located, it shall be stricken from the survey list of Museum Collection items to be returned by Foundation under Section 2.07. The survey list shall indicate the condition and other features of each item.

Section 2.06 Personal Property Survey. Within one hundred eighty (180) days after the commencement of the Term, City and Foundation shall conduct a physical audit of all items of Personal Property. Each party shall pay one-half (½) of the cost of such physical survey. The physical survey list of Personal Property for which Foundation is taking control and responsibility shall include all books, furniture, fixtures and other personal property stored on the Premises or used in connection with the operation or maintenance of the

Pacific Grove Museum Lease Agreement

Museum and Museum Collection. It shall indicate the condition and other features of each item, and to the extent that any item of such personal property is not in good usable or operating condition, it shall either be put into good usable or operating condition by City, or it shall be stricken from the survey list of Personal Property to be returned by Foundation under Section 2.07.

Section 2.07 Return on Termination. Upon the expiration or other termination of the Term, Foundation shall return to City full possession of the Museum and all items shown on the Museum Collection survey list (plus all items accessioned during the Term under Section 3.06, less all items de-accessioned during the Term under Section 3.06) in good museum quality and condition, and all items shown on the Personal Property Survey.

Section 2.08 Possessory Interest. City and Foundation agree to cooperate fully and take all steps necessary to ensure to the fullest extent possible against the imposition of any tax on any possessory interest asserted or assessed by the Monterey County Tax Assessor under Rev. & Tax. Code §107 or any successor section. In connection with such efforts, Foundation agrees to apply for an Organizational Clearance Certificate from the State of California and takes all steps necessary to obtain the so-called “welfare exemption” under the provisions of Rev. & Tax. Code §214 or any successor section or the regulations propounded by or pursuant to such section. Foundation shall keep City promptly and fully advised of its efforts in obtaining the “welfare exemption” and the Organizational Clearance Certificate, or of any change in its status as an exempt organization under Internal Revenue Code §501(c)(3).

Section 2.09 Removal of Items from City Hall. Foundation shall remove Museum Collection items from City Hall or Point Pinos Lighthouse only with the advance written approval of the City Manager.

Article III. **Operation and Management of Museum**

Section 3.01 Operating the Museum. During the Term, Foundation shall have the right and obligation to operate the Museum as a public natural history museum, in accordance with Mission Statement and Goals established for the Museum by the City Council, as set forth in Attachment A to this Lease Agreement, as such Mission Statement and Goals may be revised and amended from time to time by mutual agreement of the parties. The Goals set forth in Attachment A shall be deemed obligations of Foundation for the purposes of this Lease Agreement.

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Section 3.02 Maintaining Museum. During the Term, the Foundation shall maintain the Museum in good order and condition, subject to reasonable wear and tear, provided however that the City shall be responsible for normal week-day cleaning and maintenance of the Museum, consisting of cleaning bathrooms, trash removal and vacuuming, consistent with the standards set forth in Attachment C.

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Section 3.03 Maintaining Museum Collection. Foundation shall care for and maintain the Museum Collection in accordance with good generally-recognized curating practices and specifically in accordance with relevant guidelines of the AAM. City shall maintain items in its sole possession. Foundation will periodically check objects of the Museum Collection that are in City’s possession at City facilities, and report any change in the status of those objects.

George Perry 2/24/14 10:51 AM
Deleted: accepted practice for comparable City facilities.

Section 3.04 Operation of Museum Store. The Foundation shall have sole responsibility to operate the Museum Store, and to maintain all accounts related thereto. The Foundation may retain any net proceeds

Pacific Grove Museum Lease Agreement

from operation of the Museum Store. Foundation may delegate operation of the Museum Store to a third party, and assign proceeds from operations of the Museum Store.

Section 3.05 Major Repairs. In the event Major Repairs of the Premises are required, Foundation shall notify City of such requirement and City shall promptly consider the request and make the Major Repairs as the City deems appropriate in its reasonable discretion. The notice by Foundation shall specify the specific repairs requested and whether such repairs are emergency or non-emergency repairs. If Foundation's notice does not specify that Major Repairs are emergency repairs, they shall be deemed non-emergency repairs. Payment of the cost of Major Repairs may, at City's discretion, be made from City's Museum Improvement Fund. Foundation expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford it the right to make repairs at City's expense due to City's failure to keep the Premises in good order, condition and repair, including without limitation California Civil Code Sections 1941-1942.

Section 3.06 Accessioning and De-Accessioning. City shall have the sole right and responsibility to accession or de-accession any item to or from the Museum Collection. In the event that Foundation believes it to be in the best interests of the Museum to accession or de-accession any item, it shall give City written notice of the item and request accession or de-accession authority, describing the reasons and rationale for the action it seeks to take. City shall, within ninety (90) days, provide Foundation with written instruction on what action should be taken with respect to the de-accession of any item, and within thirty (30) days, provide Foundation with written instruction on what action should be taken with respect to accession of any item. If a request to accession an item is approved, Foundation shall add the item to the Museum Collection by entering it into the Museum Collection catalog in accordance with the Museum policies and procedures for accessioning. If a request to de-accession an item is approved, Foundation will remove the item from the Museum Collection, remove it from the Museum Collection catalog, and dispose of the item as City directs in its instructions to Foundation in accordance with the Museum policies and procedures for de-accessioning. Foundation shall follow the Museum policies and procedures for any action to accession or de-accession.

Section 3.07 Repairs and Improvements By Foundation. Foundation shall have the right to make and obligation to pay for repairs or improvements to the Premises that do not constitute Major Repairs or Structural repairs or improvements. Foundation shall notify City of any such repairs or improvements at least sixty (60) days prior to beginning the work, specifying the purpose and estimated cost of the work unless (a) the estimated cost of such repairs or improvements is less than fifty thousand dollars (\$50,000.00), or (b) such repairs or improvements have been included and budgeted for in the Foundation's annual Business Plan and Budget provided to City under Sections 5.09(c) and 5.09(e). If the Foundation has any question as to whether a repair or improvement is Structural, the Foundation shall request and the City shall promptly provide a determination. Foundation shall bear sole responsibility for all costs or liabilities that may accrue from its actions under this Section.

Section 3.08 Structural Alterations. Foundation shall not make any Structural remodel, Structural alteration or other Structural change to the Premises costing in excess of twenty-five thousand dollars (\$25,000.00), including the installation of equipment in the Premises, without the prior written consent of the City. City may condition its consent to Foundation's agreement to restore the Premises to their prior condition upon the termination of this Lease Agreement. Any alteration other than the installation of removable equipment or appliances shall become property owned by City. City shall not be liable for the cost or expense of any alteration. Foundation shall bear sole responsibility during the Term for all costs or liabilities that may accrue from its actions under this Section.

George Perry 2/24/14 10:56 AM

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George Perry 2/24/14 11:50 AM

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George Perry 2/24/14 12:12 PM

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George Perry 2/24/14 11:32 AM

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Section 3.09 Duty of Care. Foundation shall not install, use, operate or maintain equipment on the Premises improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease Agreement. Foundation shall ensure that window coverings, and carpets are in good and clean condition.

George Perry 2/24/14 1:15 PM

Deleted: Equipment

[Added by First Amendment Dated 6-16-2010]

George Perry 2/24/14 11:56 AM

Deleted: Section 3.10 - Major Repairs, Structural Alterations, and Structural Improvements in Conformance with City Procedures. All major repairs, structural alterations, and structural improvements by Foundation to the Museum building shall be undertaken in full conformance with open bidding procedures, as specified in the Pacific Grove Charter, Article 40, except that the Foundation Board is authorized, on behalf of the City Council, to accept or reject bids and otherwise oversee the process.

Article IV. **Rights and Obligations of City**

Section 4.01 Transfer of Funds. Upon commencement of the Term, City shall transfer to Foundation, by check or direct transfer into a bank account designated by Foundation, all funds then remaining in City accounts holding funds donated for Museum purposes, except:

- (a) Funds in the account designated Museum Improvement Funds, which funds shall be retained by City and used solely for purposes of repairs or improvements to the Premises, for which City remains responsible under this Lease Agreement or which City agrees to perform pursuant to Section 3.05; and
- (b) Funds held by City representing any unexpended portion of the Packard Grant, which funds shall be returned to the Packard Foundation, it being understood that the Packard Foundation may re-grant such funds to Foundation.

George Perry 2/24/14 1:24 PM

Deleted: Museum

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Section 4.02 Annual Contribution.

(a) During each year of this Agreement, the Annual Contribution by the City to the Foundation shall be used by the Foundation to fund, in addition to other money it shall raise, the operation and maintenance of the Museum. The Annual Contribution shall be fixed at one hundred fifty thousand dollars (\$150,000.00) during the first three (3) years of this Agreement, but each year thereafter shall be an amount equal to one and one hundredths percent (1.01%) of the City's total fiscal year General Fund budget, before inclusion of any amount in such budget for the Annual Contribution.

(b) As an exception to the Annual Contribution required by subparagraph (a) above, after making the first three (3) Annual Contributions required by this Agreement, the City may reduce the amount of the Annual Contribution for any year for which it adopts a Resolution of the City Council that declares the diversion of the Annual Contribution funds is urgently needed for alternate City purposes. Before adopting the resolution to divert funds, the City shall provide twelve (12) months advance written notice to the Foundation of its intent to consider the resolution.

(c) In no event during the term of this Lease Agreement, however, shall the City reduce its Annual Contribution to less than the minimum amount necessary to store or "mothball" the Museum Collection, as determined in the City's reasonable discretion.

(d) Upon adoption of the resolution referenced in subparagraph (b) above, this Lease Agreement shall terminate on the one hundred eightieth (180th) day after the date the resolution is adopted. The Foundation may nonetheless, in its sole discretion, waive this termination clause. Foundation's election to

Pacific Grove Museum Lease Agreement

waive termination of the Lease Agreement under this subparagraph shall be exercised within ninety (90) days after the date the resolution to divert funds is adopted by the City.

(e) The City's obligations under Sections 3.02, 3.05, 4.01, 4.02, 4.04, and 4.05 constitute the sole obligations by City to fund the operation and maintenance of the Museum under this Lease Agreement.

Section 4.03 Utilities. [Added by First Amendment Dated 6-16-2010] From the commencement of this Agreement through June 30, 2010, the City shall pay Utilities for the Premises and submit the Utility bills to the Foundation on a quarterly basis. The Foundation shall promptly reimburse City, in full, for the sums the amount City has billed it. From and after July 1, 2010, Foundation shall maintain its own accounts for Museum utilities and shall pay such accounts within the time prescribed by the utility providers, except in the case of a good faith challenge of the amounts owed by Foundation. [Prior Section 4.03 Deleted by First Amendment Dated 6-16-2010]

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Section 4.04 Payment of Annual Contribution. During the first year of the Term, City shall pay the Annual Contribution to Foundation in two (2) equal payments on July 1, 2009 and January 1, 2010. Thereafter, City shall pay the Annual Contribution to Foundation in four (4) equal quarterly installments, payable on the first (1st) day of July and thereafter on the first (1st) day of each succeeding calendar quarter.

Section 4.05 Insurance. City shall at all times maintain at its cost fire and extended coverage insurance, covering the Museum and the Museum Collection. The limits of such coverage shall be the same, and subject to the same terms, as City carries on other buildings and property owned by City. Foundation shall be named as an additional insured, as its interests may appear, on all insurance policies providing such coverage.

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Section 4.06 Point Pinos Lighthouse. City's Point Pinos Lighthouse shall continue to be managed by City; provided, however, that Foundation agrees to assist City, at its request, for a period of one hundred twenty (120) days after commencement of the Term in transitioning any Lighthouse functions previously provided by City employees. All donation funds received at or for the Lighthouse shall be the property of City.

Section 4.07 Licenses and Permits. City shall assist Foundation in obtaining or transferring all licenses and permits need to operate the Museum or relating to artifacts in the Museum Collection.

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Section 4.08 Condition of Equipment upon Occupancy. At the commencement of this Lease, the City shall provide any equipment located at the Premises to Foundation in good repair and working condition. Foundation, thereafter, shall maintain, preserve and keep equipment on the Premises in good repair, working order and condition.

Article V.

Rights and Obligations of Foundation

Section 5.01 Funding by Foundation. It is understood that the City's Annual Contribution is not sufficient to operate and maintain the Museum and Museum Collection on an annual basis. The Foundation shall use its best efforts during the Term, and any extended Term, to raise additional operating revenue from third-party sources to supplement City's Annual Contribution in an amount necessary to operate and maintain the Museum and Museum Collection in accord with Attachment A, at least at the level existing at the

commencement of the Term. Foundation shall seek such supplemental funds from a variety of sources, including, without limitation, private and public grants, donations, fund raising events and memberships.

Section 5.02 Hours of Regular Operation. During the Term, and any extended Term, Foundation shall operate the Museum ~~with~~ free ~~general admission to Monterey County residents~~, open to the general public during normal business hours, which at a minimum shall be five (5) days per week, 10:00 a.m. to 5:00 p.m., subject to matters beyond Foundation's reasonable control and temporary closings for repair, maintenance or renovation. ~~Foundation shall have the right to charge a general admission fee for visitors whose residence is outside Monterey County and to charge an admission fee to all visitors, including Monterey County residents, for special exhibits (those that will be shown for more than one year).~~ Foundation shall have the right to extend both the days and hours of operation beyond those currently existing at its discretion, but shall notify City not less than thirty (30) days prior to implementing any such extension of open operations.

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Section 5.03 Museum Employees and Volunteers. All ~~paid employees and unpaid volunteers~~ required for the operation and maintenance of the Museum and Museum Collection (except for ~~City employees or unpaid volunteers~~ required to perform specific obligations of City hereunder) shall be provided by Foundation, and City shall have no rights, responsibilities or obligations with respect to such ~~Foundation employees or unpaid volunteers~~. Foundation shall comply with all governmental laws, rules and regulations with respect to such ~~Foundation, employees and unpaid volunteers~~.

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Section 5.04 Insurance. At all times during the Term, and any extended Term, Foundation shall maintain Directors and Officers Liability and General Liability insurance coverage, with limits of not less than two million dollars (\$2,000,000.00) per individual and three million dollars (\$3,000,000.00) per event. Foundation shall maintain Worker Compensation insurance for its ~~paid employees~~. Foundation shall also maintain insurance to cover liability that may accrue in relation to the service of food and alcoholic beverages at events that it may host. City shall be named as an additional insured under such policies. Foundation shall provide to City photocopies of its then-current policies, including endorsements thereon. Foundation shall also provide to City, at the commencement of each policy period, a certificate from the insurer to the effect that the insurance coverage is in full force and effect and stating the dates the policy period begins and ends. Foundation shall require its insurer to provide notice to City of any cancellation or material change in insurance coverage, such notice to be delivered to the City at least sixty (60) days before the date of such change or cancellation of insurance. On and after January 1, 2014, and each five (5) year anniversary thereafter during the Term or any extended Term of this Lease Agreement, the insurance coverage stated above shall increase by a factor to account for inflation that may occur since the original date of this Agreement, unless the City shall waive this requirement in writing.

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Section 5.05 Taxes. Foundation shall pay, when due, any tax, assessment or charge levied on operation of the Museum, or in relation to employment of staff. Taxes shall include, without limitation, taxes and general and special assessments, fees, assessments or charges levied on or assessed against Foundation by the United States of America, the State of California, or any political subdivision, public corporation, district or other political or public entity, and shall also include any other tax, fee or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other taxes. Taxes shall also include reasonable legal fees, costs and disbursements incurred in connection with proceedings to contest, determine or reduce taxes.

Section 5.06 Private Events; Alcohol.

- (a) Except during regular Museum hours, Foundation shall have the right to use the Museum for private events and to charge fees or accept donations for such events.
- (b) [Added by First Amendment Dated 6-16-2010] Subject to prior scheduling of the Parties in accord with then-current City practice, Foundation may use other City meeting facilities, such as Chautauqua Hall and the City Community Center, for private Museum-related educational or fund-raising events for Museum Exhibits, and shall have the right to charge fees or accept donations for such events. Such use shall be without charge unless, thirty (30) days prior to the event, City notifies Foundation that City has an opportunity to rent the facility to a third party at a time that conflicts with Foundation's reservation, in which case Foundation shall have the option of either paying the rental fees that would have been received from the third party or releasing its reservation of the facility. Alcohol use at such other City facilities shall be in accord with then-current policies as may be set by the City. Other Museum events, such as those of a social or team-building nature, must rent City facilities at the appropriate City facility rental rate. [Prior Section 5.06(b) Deleted by First Amendment Dated 6-16-2010]
- (c) Foundation shall have the right to rent the Museum for museum-related events by third parties, and shall set all policies and fee schedules for such events. All rentals and fees received by Foundation for any such events shall be the property of Foundation. City can use the Museum without fees consistent with the Foundation policies and schedule provided City staff handle set-up and clean-up.
- (d) Foundation shall have the right to rent the Museum for non-museum related events by third parties, and shall set policies and fee schedules for such events. City may, in its reasonable discretion, revise or rescind those policies.
- (e) [Added by First Amendment Dated 6-16-2010] With regard to any private event of Foundation, Foundation shall have the right to serve, or allow to be served, food and alcoholic beverages provided it has obtained all necessary Alcohol Beverage Control licenses for such activity and maintains the insurance coverage provided in Section 5.04. [Prior Section 5.07(e) Deleted by First Amendment Dated 6-16-2010]

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Section 5.07 Monarch Butterfly Sanctuary. [Added by First Amendment Dated 6-16-2010] Foundation shall recruit, train and coordinate volunteers for the Museum and for City's Monarch Butterfly Sanctuary and, through such volunteers, shall provide interpretive services for visitors to the Sanctuary. Foundation shall also provide reasonable interpretive signage for the Sanctuary. Foundation may sell merchandise at the Sanctuary, and all proceeds from such sales, as well as cash donations received at the Sanctuary site shall be the property of the Foundation. All other Sanctuary donations or bequests, unless specifically designated for the benefit of the Foundation, shall be received and held as a charitable gift by the City for the benefit of the Sanctuary. Foundation shall have no other obligation with respect to the Monarch Butterfly Sanctuary. [Prior Section 5.07 Deleted by First Amendment Dated 6-16-2010]

Section 5.08 Museum Exhibits. [Added by First Amendment Dated 6-16-2010] The City is committed to the Museum providing mission-appropriate public education. The Museum's exhibits and programs shall be designed to further the Museum's Mission. Foundation shall have the right and responsibility for planning, designing and implementing all special and permanent exhibits of the Museum, as well as all educational, scientific or recreational programs. Within sixty (60) days after commencement of the Term, and thereafter within sixty (60) days prior to the beginning of each fiscal year of the Term, or any extended Term, Foundation shall provide City with a written Exhibits and Programs Plan, describing for the coming twelve (12) months any anticipated changes to any of the Museum's permanent exhibits, the schedule for special exhibits, to the extent

Pacific Grove Museum Lease Agreement

known, and all planned educational, scientific or recreational programs, to the extent known. [Prior Section 5.08 Deleted by First Amendment Dated 6-16-2010]

Section 5.09 Reports. During the Term, or any extended Term, Foundation shall provide City with the following written reports:

- (a) Within one hundred twenty (120) days after the end of Foundation's fiscal year (June 30), Foundation shall provide City with copies of its audited financial statements, consisting of a Profit and Loss Statement for the prior fiscal year and a Balance Sheet as of the end of such fiscal year.
- (b) Within thirty (30) days after the end of each month, Foundation shall provide City with an Operations Report from the ~~Foundation's~~ Executive Director.
- (c) Not later than sixty (60) days prior to the end of each fiscal year, Foundation shall provide City with Foundation's budget for operation and maintenance of the Museum and the Museum Collection.
- (d) Not later than ninety (90) days after the commencement of the Term, Foundation shall provide City with a detailed Business Plan and Fund Development Plan for the first two (2) years of the Term.
- (e) Not later than sixty (60) days prior to the end of each fiscal year, Foundation shall provide City with its updated Business and Fund Development Plans for the following two (2) fiscal years.
- (f) In the event of any change in Foundation's Articles of Incorporation or Bylaws during the Term, Foundation shall notify City of such change and provide City with a copy of such changed documents. If any change in such documents are inconsistent with or would prevent Foundation from complying with any obligation of this Lease Agreement, such change shall be considered an Event of Default.

[Added by First Amendment Dated 6-16-2010] (g) City shall develop and provide to the Foundation a Facility Management Plan annually on July 1 of each new fiscal year, commencing on July 1, 2010, describing estimated major maintenance of the Museum facility needed in the next three years and scheduled maintenance of the Museum facility during the next 12 months.

Section 5.10 Fictitious Name Rights. City hereby grants to Foundation the exclusive right during the Term to file a Fictitious Name Certificate for, and to use the name and title "Pacific Grove Museum of Natural History" or any portion thereof, and to use such fictitious name in its logo, branding, marketing, fund raising and operations of the Museum. Upon expiration of the Term, or upon an Event of Default, these Fictitious Name Rights shall terminate.

Section 5.11 Branding. Foundation shall have the right to develop and use in connection with the operation of the Museum its own branding, including logo design, graphics, designs and color schemes. Upon the expiration or termination of this Lease Agreement, all such branding materials shall be assigned by Foundation and transferred to City. Foundation shall have the right to control the external appearance (painting and signage) of the Museum to be consistent with the Foundation's branding materials, subject to standard City building and architectural procedures.

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Section 5.12 Naming Rights. Foundation shall have the right to name any portion of the Museum (excluding the name of the Museum itself, which shall remain the “Pacific Grove Museum of Natural History”), within guidelines established by City, including all or any portions of the Museum or the Museum Collection; provided, however, that any funds received by Foundation for the naming of any portion of the Museum that are remaining in Foundation’s accounts upon the expiration or termination of this Lease Agreement shall continue to support the donor’s intent for the Museum. The City shall honor the name of any portion of the Museum after expiration or termination of this Agreement. If the Foundation ceases to exist, then any portion of the funds remaining in Foundation’s accounts shall be paid by Foundation to The Community Foundation of Monterey County or other similar organization for ongoing support of Museum operations as per donor intent.

Section 5.13 [Added by Second Amendment Dated 8/18/2010] Foundation shall take the lead in and shall make all reasonable and appropriate efforts to continue to meet or exceed AAM accreditation standards for museums in its category and continue the Accreditation of the Museum. City shall make all reasonable and appropriate efforts to support the Foundation in meeting or exceeding the accreditation standards and in continuing the Accreditation of the Museum.

ARTICLE VI

Events of Early Termination

Section 6.01 Default.

- (a) Each of the following shall constitute an Event of Default under this Agreement:
- (i) [Added by First Amendment Dated 6-16-2010] The failure of either party to this Agreement to perform any material obligation or covenant under this Agreement, if such failure is not cured within forty-five (45) days, or such longer cure period as the non-defaulting party may allow in writing to the defaulting party, after notice of such default from the non-defaulting party; [Prior Section 6.01(a)(i) Deleted by First Amendment Dated 6-16-2010]
 - (ii) A material breach of any representation or warranty set forth in this Agreement;
 - (iii) The filing of a petition for bankruptcy under the U.S. Bankruptcy Code by either party;
 - (iv) Failure by either party to pay any obligation due to the other party, if such failure is not cured within thirty (30) days after notice of such failure;
 - (v) The making of any material false statement, report, certificate, representation or warranty with respect to any transaction or thing contemplated or set forth in this Agreement; and
 - (vi) Any act by a party which is specifically designated an Act of Default in any provision of this Agreement.
- (b) Upon any Event of Default, the non-defaulting party shall notify the defaulting party in writing of such default. The periods of cure set forth in [Section 6.01\(a\)](#) shall not commence until thirty (30) days after such written notice is posted by the non-defaulting party.

Section 6.02 Termination for Default Either party may terminate this Agreement upon an Event of Default by the other party that has not been cured within any period of cure provided in [Section 6.01\(a\)](#), by giving the other party thirty (30) days written notice of such termination. Such notice shall be given, if at all, not more than forty-five (45) days after the notice of default provided in Section 6.01(b).

Section 6.03 Termination For Failure of Material Conditions After the first one hundred eighty (180) days of the Term, the parties shall meet to determine whether there has been any material failure of any of the

Pacific Grove Museum Lease Agreement

conditions set forth below in this Section 6.03 by either party. In the event there has been a material failure of any condition by either party at that time, the other party may terminate this Agreement by giving not less than thirty (30) days' written notice of such termination, which notice shall be given not later than fifteen (15) days after the parties meet to make such determination.

- (a) The material failure of any of the following conditions shall give City the right to terminate this Agreement under this Section 6.03:
 - (i) Failure of Foundation to comply with any of the operating commitments set forth in this Agreement;
 - (ii) Failure of the Foundation to have received or have committed to it financial grants to assist in funding of the operation of the Museum of not less than \$200,000; and/or
 - (iii) Failure of the Foundation to provide City with a completed Business Plan and Fund Development Plan, as provided in Section 5.09(d), that the City, in its reasonable discretion, deems to be adequate.
- (b) The material failure of City to make any payment required under Section 4.01 or 4.04, or to perform the obligations of Sections 3.02, 3.05 or 4.05 of this Agreement shall give Foundation the right to terminate this Agreement under this Section 6.03.

Section 6.04 Three Year Review. ~~Commencing in March 2015 and continuing every second year thereafter during the Term, the parties shall meet to discuss the relationship between City and Foundation and the state of the Museum. Representatives of the City Council and representatives of the Foundation's Board of Directors shall work in good faith to explore opportunities and to resolve any issues on which there may be disagreement. The inability of the parties to resolve any such issues shall not constitute an event of default under Section 6.01 above. Nothing in this Section 6.04 shall prevent the parties from meeting more frequently than required hereunder at mutually agreeable times to discuss the relationship between them and the state of the Museum.~~

Article VII **Mediation**

Section 7.01 Dispute Resolution. If any dispute arises between the parties relating to or arising under this Agreement, Foundation and City agree to use the following procedures for resolving the dispute:

- (a) A meeting or meetings shall be held promptly between representatives of the parties regarding the dispute to attempt in good faith a resolution of the dispute;
- (b) If, within ninety (90) days, after a dispute arises, the parties have not succeeded in negotiating a resolution of the dispute, the dispute shall be submitted to mediation;
- (c) The mediator shall be jointly selected by the parties, or failing agreement within thirty (30) days after the parties fail to negotiate an informal resolution of any dispute, the mediator shall be a retired judge or justice designated by, and in accordance with the then-existing Rules of Practice and Procedure of Judicial Arbitration and Mediations Services, Inc.; and
- (d) If there has been no resolution of the dispute within ninety (90) days after submittal of the dispute to the mediator, either party shall be free to exercise any legal rights it has at law or in equity in the Superior Court. Venue shall be in the County of Monterey.

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Article VIII **Indemnification**

Section 8.01 To the fullest extent permitted by law, Foundation shall indemnify, defend and hold harmless City, and each of its agents, appointed officials, elected officials and employees, from and against any and all claims, losses and expenses, including attorneys' fees, arising out of:

- (a) Any breach by Foundation of its obligations under this Agreement; and/or
- (b) Any active or passive negligence or willful misconduct by Foundation, its members, agents or employees in connection with this Agreement, including the City's active or passive negligence, except for such loss or damage that may arise from the sole negligence or willful misconduct of City. In the event the City is made a party to any action, lawsuit or other adversarial proceeding arising from Foundation's performance under this Agreement, Foundation shall provide a defense to the City, or at the City's option, shall reimburse the City for its costs of defense, including reasonable attorneys' fees, incurred in the defense of such claims.

Section 8.02 To the fullest extent permitted by law, City shall indemnify, defend and hold harmless Foundation, and each of its directors, officers, employees and agents, from and against any and all claims, losses and expenses, including attorneys' fees, arising out of:

- (a) Any breach by City of its obligations under this Agreement; and/or
- (b) The sole negligence or willful misconduct of the City, its agents or employees.

Article IX. Miscellaneous Provisions

Section 9.01 Notices. Any notice, report or other document required to be given under this Agreement shall be in writing and shall be provided by hand delivery; by certified mail, return receipt requested; or by a commercial delivery service. Notice shall take place upon receipt. Notices shall be directed to the parties as follows:

- (a) To City - City Manager, City Hall, 300 Forest Avenue, Pacific Grove, CA 93950;

(b) To Foundation ~~Executive Director~~, [Added by First Amendment Dated 6-16-2010] 165 Forest Avenue, Pacific Grove CA 93950 [Prior Address Deleted by First Amendment Dated 6-16-2010].

Either party may change the address to which notices, reports of documents are to be delivered to such party by written notice of such change to the other party in accordance with this Section.

Section 9.02 Status and Authority.

- (a) City has all necessary power and authority to enter into this Agreement and to carry out the public/private partnership contemplated by this Agreement. The official executing and delivering this Agreement on behalf of City has been duly authorized to do so by appropriate action by the Pacific Grove City Council; and

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- (b) Foundation is a non-profit public benefit corporation duly organized and existing and in good standing under the laws of the State of California, and has all necessary power and authority to enter into this Agreement. The person executing and delivering this Agreement on behalf of Foundation represents and warrants that he or she has been duly authorized to do so by appropriate action of the corporation.
- (c) Any and all actions, decisions, determinations, approvals or disapprovals to be taken or made by City under this Agreement shall be taken or made by the City Manager of City and if so taken or made shall be conclusively presumed to be the valid and lawful action of City.

Section 9.03 Compliance with Law and Non-Discrimination. Foundation shall not discriminate in its operation of the Museum against, or segregate any person or group of persons on account of, race, color, creed, religion, sex, sexual orientation, age, handicap, marital status, ancestry or national origin. Foundation agrees it shall faithfully observe in the use of the Premises all municipal ordinances and state and federal statutes now in force or which may hereafter be in force, including requirements imposed by the Americans with Disabilities Act.

Section 9.04 Assignment. Neither party shall assign its rights or delegate its duties under this Agreement without the prior written consent of the other party, which consent may be withheld in the sole discretion of the other party. In the event of any permitted assignment, this Agreement shall be binding on the respective successors or assigns of the parties hereto. Further, Foundation shall not voluntarily or by operation of law transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Foundation's interest in this Agreement or in the Premises, without City's prior written consent.

Section 9.05 Governing Law and Venue. This Agreement shall be governed by the laws of the State of California. The venue for any dispute shall be in the County of Monterey.

Section 9.06 Entire Agreement; Amendment. This Agreement, and its Attachments, represents the entire Agreement between the parties and supersedes all previous understandings, promises, representations, warranties, conversations, or writings regarding the subject matter hereof. This Agreement may be modified or amended only by a written instrument executed by both parties hereto.

Section 9.07 Attorney's Fees. In the event of any dispute that results in litigation or arbitration arising from or related to this Agreement, the prevailing Party shall be entitled to recovery of all reasonable costs incurred, including court costs, attorney fees, expenses for expert witnesses, expenses for accountants or appraisers, and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing Party, and shall not require initiation of a separate legal proceeding.

Section 9.08 Headings. The headings used in this Agreement are for convenience of the Parties and shall not be considered in interpreting the meaning of any provision of this Lease Agreement.

Section 9.09 Waiver. The waiver by either Party of any breach or violation of any term, covenant, or condition of this Agreement or failure to enforce any provision of ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law for any subsequent breach or violation of the same. The subsequent acceptance by either Party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other Party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

Section 9.10 Claims. Foundation shall notify City, in writing, by the end of the next work day, of any occurrence at the Premises known to the Foundation, its employees or agents, which involves injury to person or property. This notice shall include the full description of facts, circumstances, and nature of the incident. Foundation shall provide the names and addresses of persons involved, and of all witnesses. Foundation shall promptly provide City with copies of any claim for damage, including copies of any court actions regarding incidents that occurred on or about the Premises.

Section 9.11 Destruction of Premises. If the Premises are destroyed or made unusable by fire, flood, vandalism or any other cause so as to make it impossible to carry on business, this Agreement and its provisions, may be terminated at the election of either City or Foundation, delivered in writing to the other Party within thirty (30) days after such destruction.

Section 9.12 Liens. Foundation shall keep the Premises free and clear from any liens arising out of any work performed, material furnished, or obligation incurred by Foundation. Foundation shall promptly discharge any liens placed on the Equipment located at the Premises.

Section 9.13 Waste. Foundation shall not commit, or allow to be committed, any waste, damage, or nuisance on the Premises.

Section 9.14 Entry by City. City reserves the right to enter the Premises upon reasonable notice to Foundation to inspect for compliance with this Lease Agreement, to make necessary repairs and improvements which Foundation has not made, to supply necessary services, and for other legitimate purposes, at any reasonable time. The City may not unreasonably interfere with Foundation's use of the Premises in its entry under this provision.

Section 9.15 Surrender. At the end of the term of this Agreement, Foundation shall surrender the Premises and tenant improvements to the City in good order, condition and repair, ordinary wear and tear, unavoidable depreciation and obsolescence excepted. All improvements shall remain the property of City. All improvement affixed to the Premises shall remain on the Premises.

IN WITNESS WHEREOF, the parties have executed this Agreement as of date first above written, intending to be bound by all of its terms, covenants and conditions. Each person executing this Agreement represents and warrants that he or she has full authority to do so.

CITY OF PACIFIC GROVE, CALIFORNIA,

By: _____
Mayor

MUSEUM FOUNDATION OF PACIFIC GROVE, INC.

Pacific Grove Museum Lease Agreement

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By: _____
| President and Board Chair

By: _____
| Secretary

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ATTACHMENT A

PACIFIC GROVE MUSEUM OF NATURAL HISTORY MISSION STATEMENT AND STRATEGIC GOALS

MISSION: “To Inspire Discovery, Wonder, and Stewardship of our Natural World”

THE MUSEUM WILL DO THIS BY:

- Emphasizing the unique and diverse natural and cultural history of the California Central Coast, while maintaining a global perspective;
- Preserving the heritage of Pacific Grove and the Museum;
- Managing its collections for research, education, and as a continuous record of the changing world for future generations;
- Serving as a resource center for the regional scientific and educational communities;
- Providing dynamic leadership in natural history, conservation, and environmental education through exhibits and educational programs, striving to make this outreach relevant to all the people of the California Central Coast;
- Fostering cooperative efforts in natural history research and education throughout our region.

STRATEGIC GOALS TO ACCOMPLISH MISSION:

The Museum will:

- 1.0 Fulfill its obligation to the public trust and be accountable to the community it serves;
- 2.0 Perform institutional planning and assessment processes and align its operations to this plan;
- 3.0 Have leadership, governance, and staffing structures that support the mission;
- 4.0 Be a responsible steward of the collections entrusted to its care and the Museum’s historic heritage;
- 5.0 Have interpretive and educational programs and activities that support its mission and support its public service role;
- 6.0 Be financially stable in advancing its mission; and
- 7.0 Follow facility and risk management plans that meet programmatic and administrative needs, protect collections and support its public service role.

ATTACHMENT B

RESOLUTION NO. 10-971

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE RESCINDING
COUNCIL POLICY 200-5 AND PROVIDING GUIDANCE IN ADDITION TO THAT IN
THE CITY CHARTER AS TO THE DUTIES AND RESPONSIBILITIES OF THE
MUSEUM BOARD
[To Be Added]

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ATTACHMENT C

STANDARDS FOR CITY MAINTENANCE OF
THE MUSEUM PREMISES,
PURSUANT TO SECTION 3.02
[To be supplied by City]

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Museum Janitorial Standards

DAILY TASKS--SIX DAYS A WEEK

ALL INSIDE AREAS

- Collect all trash and place in appropriate receptacle
- Replace trash liners as needed
- Replenish paper and soap supplies as needed

RESTROOMS

- Sweep all floors
- Mop and disinfect all floors
- Clean and sanitize fixtures, sinks, counter tops, urinals, toilets, and toilet seats
- Clean and polish all mirrors and bright work dispensers

MAIN BUILDING, OFFICES

- Dust and polish all furniture including cabinets, counters, fixtures, etc.
- Spot clean carpets
- Vacuum all carpet
- Sweep all hardwood floors and linoleum
- Spot clean walls, doors, door jams and partitions, light switches, etc.
- Clean all windows and glass doors at entrances of buildings

BREAKROOMS/KITCHENS

- Sanitize sinks and counter tops
- Clean exterior of appliances
- Spot clean walls, doors, door jams, light switches, etc.
- Sweep/ vacuum floors

OUTSIDE

- Empty trash and recycling can(s) and dispose of in the appropriate receptacles
- Pick up garbage around main entrance
- Sweep sand off sidewalk and back into Whale area and raking sand as well as needed.
- Address any graffiti or damage to property, reporting to proper individuals

WEEKLY TASKS:

ALL INSIDE AREAS

- Buff linoleum floors
- Completely clean all doors and handles
- Mop all wood floors
- Blow or sweep entrance areas of buildings
- Pick up garbage in landscaping and around building
- Dust

MONTHLY TASKS

ALL INSIDE AREAS

- Wipe all baseboards
- High dust, cobweb removal
- Wash all trash cans
- Clean light fixtures, bathroom fan housings, etc.
- Wash the insides of external windows

ANNUAL TASKS

ALL INSIDE AREAS

- Clean all carpets (contract service)

ALL OUTSIDE AREAS

- Clean all windows (contract service)
- Inspect atrium caulking, and replace, as necessary (Facilities Superintendent)

RESOLUTION NO. 10-071

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
RESCINDING COUNCIL POLICY 200-5 AND PROVIDING GUIDANCE IN
ADDITION TO THAT IN THE CITY CHARTER AS TO THE DUTIES AND
RESPONSIBILITIES OF THE MUSEUM BOARD**

WHEREAS, Article 26 of the City Charter specifies there shall be a Museum Board consisting of five members appointed by the Mayor subject to four affirmative votes of the City Council. Appointment is for four years, with staggered terms of the members, and no member shall serve more than three successive full terms. The Museum Board shall have the following powers and duties: (1) act in an advisory capacity to the Council and City Manager in all matters pertaining to the operation of a public museum; (2) recommend to the City Council the adoption of such laws, rules, and regulations as it may deem necessary for the administration and protection of the Museum; and (3) perform such other duties relating to the Museum service as the Council may require by ordinance or resolution; and

WHEREAS, the Council in 1991 adopted Council Policy 200-5, *Museum*, in order "to set general guidelines for the operation of the Pacific Grove Museum of Natural History and affiliated groups"; and

WHEREAS, the Council amended Council Policy 200-5 in 1993 and 2008; and

WHEREAS, on June 17, 2009, the City and the Museum Foundation of Pacific Grove entered into an *Operating Agreement and Lease* that created a public private partnership for the operation and future of the Museum; and

WHEREAS, under the terms of the *Operating Agreement and Lease*, the City of Pacific Grove owns the Museum collection, owns the Museum facility, and maintains the Museum facility; and the Museum Foundation of Pacific Grove cares for the Museum collection, utilizes the Museum collection in support of the Museum mission, operates the Museum, and raises the funds necessary to accomplish its tasks; and

WHEREAS, as stated in that *Operating Agreement and Lease*, the Mission of the Pacific Grove Museum of Natural History is, "To inspire discovery, wonder, and stewardship of our natural world;" and

WHEREAS, Attachment A to the *Operating Agreement and Lease* provides the strategic goals for the Museum and the methods by which the Foundation is to achieve the stated mission; and

WHEREAS, the membership of the Museum Association has voted to end its existence and transfer its assets to the Museum Foundation; and

WHEREAS, in addition to its duties with respect to the Museum, the Museum Board has traditionally advised the Council and City Manager with respect to the Point Pinos Lighthouse and the Pacific Grove Monarch Sanctuary; and

WHEREAS, effective on or about September 1, 2010, the City and the Heritage Society are entering into a partnership to guide and facilitate restoration efforts for the Point Pinos Lighthouse; and

WHEREAS, the Museum Board and the Natural Resources Commission have created a joint subcommittee to explore the appropriate roles for each body to take on individually and jointly with respect to the Monarch Sanctuary; and

WHEREAS, resulting from these events, the Museum Board is now operating in an entirely different environment than it did for all prior years of its existence, an environment where it shares many of its powers and duties with other bodies; and

WHEREAS, the Council wishes for the Museum Board to continue to perform its Charter-mandated functions as effectively and efficiently as possible, and to do so in as collaborative and mutually beneficial manner as possible with the Museum Foundation, the Heritage Society, the Natural Resources Commission, and others; and

WHEREAS, in the development of this matter, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.; and

WHEREAS, this action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds each recital set forth above to be true and correct, and by this reference incorporates each as an integral part of this Resolution.

SECTION 2. Council Policy 200-5, having been effectively replaced by the *Operating Agreement and Lease* and this Resolution, is hereby rescinded.

SECTION 3. The Museum Board and its individual members shall be appointed, operate, and serve in an advisory capacity to the City Council and City Manager, as specified in the Charter, as shall be amended from time to time by the voters, and as specified in the Municipal Code and Council Policies, as shall be amended from time to time by the City Council.

SECTION 4. In furtherance of the duties and responsibilities of the City of Pacific Grove Museum Board prescribed by Article 26 of the City Charter, the Museum

Board shall: 1). ensure the Museum, Lighthouse, and Monarch Sanctuary serve to benefit the City as a whole, its natural environment, its citizens, and visitors; 2) advise the City Council and City Manager on matters relating to the Museum, the Point Pinos Lighthouse, and Monarch Sanctuary; 3) serve as an informational conduit between the public and the City on matters related to the Museum, the Lighthouse, and the Monarch Sanctuary; 4). coordinate its activities with those of other appropriate City advisory boards, committees, and commissions on matters of mutual concern; and 5). perform such other duties relating to the Museum, Lighthouse, and Monarch Sanctuary as the Council may require by ordinance, resolution, or minute action.

SECTION 5. The officers of the Museum Board shall be elected annually by the members of the Museum Board and include a Chair, Vice-Chair, and Secretary.

SECTION 6. Through public meetings, the Museum Board shall provide a way for members of the public to express their interests and needs regarding the operations of the Museum, Lighthouse, and Monarch Sanctuary. If the Board deems that matters raised by the public require administrative attention of the City Manager or policy attention of the City Council, the matters shall be promptly communicated to the City Council Liaison who shall follow up to ensure appropriate action and/or response.

SECTION 7. Communications between the City and the Foundation shall be between the City Manager and the Executive Director of the Foundation. Communications between the City and the Museum Board will be through the City Council liaison, who shall link comments or concerns to the City Manager.

SECTION 8. The Museum Board also advises the City Manager and City Council on matters related to obligations of the City under the Agreement. Specific obligations for which the City Manager may request review by the Museum Board include:

- Revision or amendment to the mission statement and strategic goals of the Museum (Ref. Section 3.01 of the Agreement and Attachment A)
- Implementation of major facilities repairs (Ref. Section 3.05 of the Agreement)
- Accessioning and De-Accessioning of items from the collections (Ref. Section 3.06 of the Agreement)
- Non-Structural Repairs and Improvements (Ref. Section 3.07 of the Agreement)
- Structural Alterations (Ref. Section 3.08 of the Agreement)
- Exhibits and Program Plans (Ref. Section 5.08 of the Agreement)
- Reports (Ref. Section 5.09 of the Agreement)
- Proposed Amendments to the Agreement

SECTION 9. The City Manager or City Council may refer any other matter to the Museum Board where advice of the Board is deemed to be helpful in ensuring current and future success of the Museum, the Lighthouse, or the Monarch Sanctuary. These matters may typically include: maintenance of items in sole possession of the City (Ref. Section 3.03 of the Agreement); reviews of museum plans and operations provided to the Foundation by the City not otherwise mentioned in this policy; and periodic review of accreditation.

SECTION 10. This Resolution shall become effective immediately following passage and adoption thereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 1st day of September, 2010, by the following vote:

AYES: Mayor Garcia, Councilmembers Cohen, Miller, Kampe, Bennett, Cuneo, & Huitt

NOES: None

ABSENT: None


APPROVED:


CARMELITA GARCIA, Mayor

ATTEST:


LAWRENCE BANGERT, City Clerk

APPROVED AS TO FORM:


DAVID C. LAREDO, City Attorney

Operating Agreement and Lease Considerations

Representatives of the PG Museum of Natural History and the City of Pacific Grove have met to discuss improvements to the Operating Agreement and Lease. Below details the proposed changes to the Operating and Lease Agreement.

#	Lease Section	Description	Current Wording	Proposed Change
1	<u>1.01 a</u>	Change definition of American Association of Museums to American Alliance of Museums	American Association of Museums	American Alliance of Museums
2	<u>1.01 c</u>	Remove superfluous language	“Annual Contribution” means the contribution to be made by City to the Foundation under Section 4.02 to be used by the Foundation only for purposes to fulfill Foundation’s obligations under this Lease Agreement, including the Mission Statement and Goals set forth in Attachment A.	“Annual Contribution” means the contribution to be made by City to the Foundation under Section 4.02 to be used by the Foundation only for purposes to fulfill Foundation’s obligations under this Lease Agreement.
3	<u>1.01 d</u>	Remove superfluous language	“Association” means the Pacific Grove Museum of Natural History Association.	Remove language.
4	<u>1.01 j</u>	The Museum definition already includes the museum building and grounds.	“Major Repair” means: (i) repairs to the structure of Museum building and grounds required by law or ordinance, or reasonably required to maintain the building and grounds as habitable areas for the general public;	“Major Repair” means: (ii) repairs to the Museum required by law or ordinance, or reasonably required to maintain the Museum as habitable for the general public;
5	<u>1.01 m</u>	“Museum” and “Premises” should not be used interchangeably.	“Personal Property” means personal property (excluding the Museum Collection) owned by City and located in the Museum or used for or...	“Personal Property” means personal property (excluding the Museum Collection) owned by City and located in the Premises or used for or...
6	<u>1.01 p</u>	Adding section to better define the term “structural”		“Structural” means any portion of a building or structure that supports the weight of any other portion of the building or structure.

#	Lease Section	Description	Current Wording	Proposed Change
7	<u>1.02 a</u>	"Museum" and "Premises" should not be used interchangeably.	City currently owns and maintains the Premises, the Museum, the Museum Collection, and the Personal Property.	City currently owns and maintains the Museum and the Museum Collection.
8	<u>1.02 b</u>	"Museum" and "Premises" should not be used interchangeably.	Due to financial conditions beyond the control of City, City's budget for operation of the Museum and the Premises is no longer adequate to continue operations of the Museum.	Due to financial conditions beyond the control of City, City's budget for operation of the Museum is no longer adequate to continue operations of the Museum.
9	<u>1.02 c</u>	"Museum" and "Premises" should not be used interchangeably.	Foundation has been formed by a group of citizens independent of City as a California public benefit charitable corporation for the purpose of operating the Premises and the Museum and for providing...	Foundation has been formed by a group of citizens independent of City as a California public benefit charitable corporation for the purpose of operating the Museum and for providing...
10	<u>1.02 d</u>	New section that refers to resolution 10-071 section c and move current section c to d.	New section.	The role of City's Museum Board with the respect to its relationship to the City is set forth in the Pacific Grove City Council's Resolution No. 10-071, a copy of which is appended to this Agreement as Attachment B.
11	<u>2.01</u>	"Museum" and "Premises" should not be used interchangeably.	hereby accepts the exclusive right to use and operate the Premises, the Museum...	hereby accepts the exclusive right to use and operate the Museum...
12	<u>3.01</u>	"Museum" and "Premises" should not be used interchangeably.	operate the Premises and the Museum...	operate the Museum...

#	Lease Section	Description	Current Wording	Proposed Change
13	<u>3.02</u>	Standards of care for maintaining the Museum will be attached to the agreement to assist with clarity.	<u>Maintaining Museum.</u> During the Term, the Foundation shall maintain the Premises and Museum in good order and condition, subject to reasonable wear and tear, provided however that the City shall be responsible for normal week-day cleaning and maintenance of the Museum, Premises, building and grounds, consisting of cleaning bathrooms, trash removal and vacuuming, consistent with accepted practice for comparable City facilities.	<u>Maintaining Museum.</u> During the Term, the Foundation shall maintain the Museum in good order and condition, subject to reasonable wear and tear, provided however that the City shall be responsible for normal week-day cleaning and maintenance of the Museum with the standards set forth in Attachment C.
14	<u>3.03</u>	Museum collection includes collection artifacts currently displayed at the Pt. Pinos, The agreement states that the City maintains items in their sole possession, such is the case at the Lighthouse and at City Hall. The City wants the Museum to be checking on these objects. Also, add the word “with” into the sentence to improve the sentence’s grammar and clarity.	Maintaining Museum Collection. Foundation shall care for and maintain the Museum Collection in accordance with good generally-recognized curating practices and specifically in accordance relevant guidelines of the AAM. City shall maintain items in its sole possession.	Maintaining Museum Collection. Foundation shall care for and maintain the Museum Collection in accordance with good generally-recognized curating practices and specifically in accordance with relevant guidelines of the AAM. City shall maintain items in its sole possession. Foundation will periodically check objects of the Museum Collection that are in City’s possession at City facilities, and report any change in the status of those objects.

#	Lease Section	Description	Current Wording	Proposed Change
15	<u>3.04</u>	The Agreement references the “Museum Association” that is an organization that dissolved in 2010. The City would like to update the contract by deleting “Museum Association” from this agreement.	Foundation may delegate operation of the Museum Store to a third party, such as the Museum Association , and assign proceeds from operations of the Museum Store.	Foundation may delegate operation of the Museum Store to a third party and assign proceeds from operations of the Museum Store.
16	<u>3.07</u>	Clarify that Foundation may make repairs and improvements with written notice. Review is under the standard city review processes.	<u>Non-Structural Repairs and Improvements.</u> Foundation shall have the right to make and obligation to pay for non-structural repairs or improvements to the Museum that do not constitute Major Repairs. Foundation shall notify City of any such repairs or improvements at least sixty (60) days prior to beginning the work, specifying the purpose and estimated cost of the work unless (a) the estimated cost of such work or improvements is less than fifty thousand dollars (\$50,000.00), or (b) such work or improvements have been included and budgeted for in the Foundation’s annual Business Plan and Budget provided to City under Sections 5.09(c) and 5.09(e). If the Foundation has any question as to whether a repair or improvement is Structural , the Foundation shall request and the City shall promptly provide a determination. Foundation shall bear sole responsibility for all costs or liabilities that may accrue from its actions under this Section.	<u>Repairs and Improvements By Foundation.</u> Foundation shall have the right to make and obligation to pay for repairs or improvements to the Premises that do not constitute Major Repairs or Structural repairs or improvements. Foundation shall notify City of any such repairs or improvements at least sixty (60) days prior to beginning the work, specifying the purpose and estimated cost of the work unless (a) the estimated cost of such repairs or improvements is less than fifty thousand dollars (\$50,000.00), or (b) such repairs or improvements have been included and budgeted for in the Foundation’s annual Business Plan and Budget provided to City under Sections 5.09(c) and 5.09(e). If the Foundation has any question as to whether a repair or improvement is Structural , the Foundation shall request and the City shall promptly provide a determination. Foundation shall bear sole responsibility for all costs or liabilities that may accrue from its actions under this Section.

#	Lease Section	Description	Current Wording	Proposed Change
17	<u>3.08</u>	Add the word “structural” to a sentence to clarify that it refers to alterations involving changing the structure of the Museum as opposed to non-structural alterations which are covered in a different section. Also, change the section include that the Foundation is responsible only for the duration of the agreement’s term.	<u>Structural Alterations</u> . Foundation shall not make any structural remodel, alteration or other change in excess of twenty-five thousand dollars (\$25,000.00) , including the installation of equipment in the Premises, without the prior written consent of the City. City may condition its consent to Foundation’s agreement to restore the Premises to their prior condition upon the termination of this Lease Agreement. Any alteration other than the installation of removable equipment or appliances shall become property owned by City. City shall not be liable for the cost or expense of any alteration. Foundation shall bear sole responsibility for all costs or liabilities that may accrue from its actions under this Section.	<u>Structural Alterations</u> . Foundation shall not make any Structural remodel, Structural alteration or other Structural change to the Premises costing in excess of twenty-five thousand dollars (\$25,000.00) , including the installation of equipment in the Premises, without the prior written consent of the City. City may condition its consent to Foundation’s agreement to restore the Premises to their prior condition upon the termination of this Lease Agreement. Any alteration other than the installation of removable equipment or appliances shall become property owned by City. City shall not be liable for the cost or expense of any alteration. Foundation shall bear sole responsibility during the Term for all costs or liabilities that may accrue from its actions under this Section.
18	<u>3.09</u>	Correct grammar	...maintain Equipment...	...maintain equipment...
19	<u>3.10</u>	The City Council of Pacific Grove is not entering into contractual agreements with contractors. Therefore, the Museum Board of Directors cannot authorize “on behalf of” the City Council. Also, clear only bidding, not prevailing wage.	All major repairs, structural alterations, and structural improvements by Foundation to the Museum building shall be undertaken in full conformance with open bidding procedures, as specified in the Pacific Grove Charter, Article 40, except that the Foundation Board is authorized, on behalf of the City Council , to accept or reject bids and otherwise oversee the process.	Delete Section 3.10 in its entirety.
20	<u>4.01 a</u>	Use defined term of “Premises.”	...improvements to the Museum, building, and grounds for which City remains...	...improvements to the Premises for which City remains...

#	Lease Section	Description	Current Wording	Proposed Change
21	<u>4.02</u>	Fix grammar. Include additional sections representing obligation, change “payment” to “obligation.”	The City’s obligations under Section 3.05 , 4.01, 4.02, 4.04, and 4.05 constitute the sole payment...	The City’s obligations under Sections 3.02 , 3.05, 4.01, 4.02, 4.04, and 4.05 constitute the sole obligation...
22	<u>4.05</u>	Utilize proper use of the definition of “Museum”.	City shall at all times maintain at its cost fire and extended coverage insurance covering the Premises, the Museum building and grounds, all personal property located in the building and grounds,”	City shall at all times maintain at its cost fire and extended coverage insurance, covering the Museum and the Museum Collection.
23	<u>4.06</u>	Clarify that “Museum staff” refers to “City employees”.	City’s Point Pinos Lighthouse shall continue to be managed by City; provided, however, that Foundation agrees to assist City, at its request, for a period of one hundred twenty (120) days after commencement of the Term in transitioning any Lighthouse functions previously provided by Museum staff . All donation funds received at or for the Lighthouse shall be the property of City.	City’s Point Pinos Lighthouse shall continue to be managed by City; provided, however, that Foundation agrees to assist City, at its request, for a period of one hundred twenty (120) days after commencement of the Term in transitioning any Lighthouse functions previously provided by City employees . All donation funds received at or for the Lighthouse shall be the property of City.

#	Lease Section	Description	Current Wording	Proposed Change
24	<u>5.02</u>	Allow the Foundation to charge a general admission fee to visitors to Monterey County while keeping museum admission to residents of Monterey County free. Make the ability of the Foundation to charge for special exhibitions explicit with special exhibitions lasting less than one year in duration.	<u>Hours of Regular Operation.</u> During the Term, and any extended Term, Foundation shall operate the Museum as a free museum , open to the general public during normal business hours, which at a minimum shall be five (5) days per week, 10:00 a.m. to 5:00 p.m., subject to matters beyond Foundation's reasonable control and temporary closings for repair, maintenance or renovation. Foundation shall have the right to extend both the days and hours of operation beyond those currently existing at its discretion, but shall notify City not less than thirty (30) days prior to implementing any such extension of open operations.	<u>Hours of Regular Operation.</u> During the Term, and any extended Term, Foundation shall operate the Museum with free general admission to Monterey County residents , open to the general public during normal business hours, which at a minimum shall be five (5) days per week, 10:00 a.m. to 5:00 p.m., subject to matters beyond Foundation's reasonable control and temporary closings for repair, maintenance or renovation. Foundation shall have the right to charge a general admission fee for visitors whose residence is outside Monterey County and to charge an admission fee to all visitors, including Monterey County residents, for special exhibits (those that will be shown for more than one year). Foundation shall have the right to extend both the days and hours of operation beyond those currently existing at its discretion, but shall notify City not less than thirty (30) days prior to implementing any such extension of open operations.

#	Lease Section	Description	Current Wording	Proposed Change
25	<u>5.03</u>	Clarify Museum personnel from City personnel in section 5.03.	<u>Museum Employees.</u> All personnel required for the operation and maintenance of the Museum and Museum Collection (except for personnel required to perform specific obligations of City hereunder) shall be provided by Foundation, and City shall have no rights, responsibilities or obligations with respect to such personnel . Foundation shall comply with all governmental laws, rules and regulations with respect to such personnel .	<u>Museum Employees and Volunteers.</u> All paid employees and unpaid volunteers required for the operation and maintenance of the Museum and Museum Collection (except for City employees or unpaid volunteers required to perform specific obligations of City hereunder) shall be provided by Foundation, and City shall have no rights, responsibilities or obligations with respect to such Foundation employees or unpaid volunteers . Foundation shall comply with all governmental laws, rules and regulations with respect to such Foundation employees and unpaid volunteers .
26	<u>5.04</u>	Be clear that Worker's Compensation is required for paid employees of the Foundation.	Foundation shall maintain Worker Compensation insurance for its personnel .	Foundation shall maintain Worker Compensation insurance for its paid employees .
27	<u>5.06 d</u>	Remove the current provision of splitting the profits from facility rentals between the City and the Museum to allow the Museum to fully manage the business model and to generate additional revenue to improve the Museum's guest experience. This provision has never brought in more than \$900 to the City last year.	(d) Foundation shall have the right to rent the Museum for non-museum related events by third parties... One half (½) of net proceeds for rentals and fees after accounting for expenses received by Foundation for any such events shall be given to the City.	Remove the sentence: One half (½) of net proceeds for rentals and fees after accounting for expenses received by Foundation for any such events shall be given to the City.
28	<u>5.09 b</u>	Clean up language to use the proper definition of "Foundation" and "Museum."	Within thirty (30) days after the end of each month, Foundation shall provide City with an Operations Report from the Museum's Executive Director .	Within thirty (30) days after the end of each month, Foundation shall provide City with an Operations Report from the Foundation's Executive Director .

#	Lease Section	Description	Current Wording	Proposed Change
29	<u>6.01 b</u>	Clarify the agreements section being referenced.	Upon any Event of Default, the non-defaulting party shall notify the defaulting party in writing of such default. The periods of cure set forth in (a) shall not commence until thirty (30) days after such written notice is posted by the non-defaulting party.	Upon any Event of Default, the non-defaulting party shall notify the defaulting party in writing of such default. The periods of cure set forth in Section 6.01(a) shall not commence until thirty (30) days after such written notice is posted by the non-defaulting party.
30	<u>6.02</u>	Clarify the agreements section being referenced.	has not been cured within any period of cure provided in (a),	has not been cured within any period of cure provided in Section 6.01(a),
31	<u>6.04</u>	The Operating Agreement and Lease reviews are all passed. It seemed prudent to remove this old language and add language to have representatives from the Museum's two governing bodies, the Pacific Grove City Council and the Museum Foundation of Pacific Grove, meet and discuss how the relationship, the museum operations, and the strategic direction of the museum are going.		<Delete previous section language and add the following:> Commencing in March 2015 and continuing every second year thereafter during the Term, the parties shall meet to discuss the relationship between City and Foundation and the state of the Museum. Representatives of the City Council and representatives of the Foundation's Board of Directors shall work in good faith to explore opportunities and to resolve any issues on which there may be disagreement. The inability of the parties to resolve any such issues shall not constitute an event of default under Section 6.01 above. Nothing in this Section 6.04 shall prevent the parties from meeting more frequently than required hereunder at mutually agreeable times to discuss the relationship between them and the state of the Museum.
32	<u>9.01 b</u>	Change in title requested by Foundation.	To Foundation President	To Foundation Executive Director
33	<u>9.12</u>	Capitalization needed for correct grammar and reference t agreement definition of "Premises".	Equipment located at the premises	Equipment located at the Premises