

Commission on Community Investment and Infrastructure

RESOLUTION NO. 62-2014

Adopted August 5, 2014

CONDITIONALLY AUTHORIZING THE EXECUTIVE DIRECTOR TO CONSENT TO AN AMENDMENT OF THE LEASE BETWEEN THIRD AND MISSION ASSOCIATES LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND THE CALIFORNIA HISTORICAL SOCIETY, A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION, CONSISTENT WITH AN AGREEMENT FOR DISPOSITION OF LAND FOR PRIVATE DEVELOPMENT FOR PROPERTY AT 680 MISSION STREET; FORMER YERBA BUENA CENTER REDEVELOPMENT PROJECT AREA D-1

WHEREAS, The Redevelopment Agency of the City and County of San Francisco (the "Former Agency") was the owner of Parcel 3707-A, located at 680 Mission Street, on the corner of Third and Mission Streets (the "Site"); and

WHEREAS, The Former Agency originally acquired the Site (Parcel 3707-A) with urban renewal funds provided through a federal Contract for Loan and Capital Grant dated December 2, 1966 and approved by the U.S. Department of Housing and Urban Renewal (the "HUD Contract"). Under the HUD Contract, the former Agency was required to use the federal funds to carry out redevelopment activities in accordance with the Yerba Buena Center Redevelopment Plan (which expired on January 1, 2011) and the federal standards for urban renewal under Title I of the Housing Act of 1949; and

WHEREAS, In 1983, the Former Agency and the City and County of San Francisco (the "City") executed, with HUD concurrence, the Yerba Buena Center Redevelopment Project Closeout Agreement ("YBC Closeout Agreement") whereby the Former Agency agreed to retain the Site (and other parcels identified as "Project Property" in Exhibit A to the YBC Closeout Agreement) for disposition, subject to applicable federal law and subject further to restrictions on the use of any proceeds received from the sale or lease of the Project Property (See Section 1(b) & (c) of the YBC Closeout Agreement). In approving the YBC Closeout Agreement, HUD emphasized that "all future proceeds from the sale or lease of Project Property must be treated as program income under the CDBG [Community Development Block Grant] program;" and

WHEREAS, On May 1, 1990, by Resolution No. 109-90, the Former Agency entered into an Agreement for Disposition of Land for Private Development, or LDA, with Third and Mission Associates LLC (the "Developer") for the preservation of the circa-1912, four-story Jessie Hotel and the development of a new 492,000-square-foot office building at 680 Mission Street, located on the corner of Third and Mission Streets (the "Site") in the former Yerba Buena Center Redevelopment Project Area D-1. The LDA also required the Developer to provide space in the Jessie

Hotel to various nonprofit users and space in The Paramount (as defined below) to the California Historical Society (“CHS”), at a nominal cost of \$1.00 per year for 99 years, for expansion of its adjacent 678 Mission Street facilities; and

WHEREAS, On February 1, 2012, the Former Agency was dissolved pursuant to the provisions of California State Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) (“AB 26”), codified in relevant part in California’s Health and Safety Code Sections 34161 – 34168 and upheld by the California Supreme Court in California Redevelopment Assoc. v. Matosantos, No. S194861 (Dec. 29, 2011). On June 27, 2012, AB 26 was subsequently amended in part by California State Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12) (“AB 1484”). (Together, AB 26 and AB 1484 are referred to as the “Redevelopment Dissolution Law.”); and

WHEREAS, Under Redevelopment Dissolution Law, with approval from a successor agency’s oversight board and the State of California’s Department of Finance, a successor agency may continue to implement “enforceable obligations”—existing contracts, bonds, leases, etc.—which were in place prior to the suspension of redevelopment agencies’ activities on June 28, 2011, the date that AB 26 was approved. Redevelopment Dissolution Law defines “enforceable obligations” to include bonds, loans, judgments or settlements, and any “legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy,” (Cal. Health & Safety Code Section 34171(d)(1)(E)) as well as certain other obligations, including but not limited to requirements of state law and agreements made in reliance on pre-existing enforceable obligations. The LDA meets the definition of “enforceable obligations” under the Redevelopment Dissolution Law; and

WHEREAS, Between 1990 and 1999, the LDA was amended ten times, primarily to reflect changes in the development and to extend the performance schedule. Under the terms of the seventh amendment to the LDA, the Former Agency reduced the purchase price of the land by \$1.0 million to give the Developer a discount in exchange for including long-term non-profit space in The Paramount solely for CHS; and,

WHEREAS, The final project, known as “The Paramount,” was completed in 2002 and consists of: (1) a 43-story, mixed-use residential tower with 495 rental units and related facilities; (2) approximately 42,000 square feet of retail space; (3) about 300 off-street parking spaces; (4) approximately 15,000 square feet of space in The Paramount for expansion of CHS’s office, gallery, and storage space; and (5) the preservation of the four-story Jessie Hotel façade and the creation of about 7,000 square feet in a new Jessie Hotel building; and

WHEREAS, In January 2003, CHS and the Developer entered into a 99-year lease (the “Lease”) for approximately 15,000 square feet of space spread across multiple floors at The Paramount. To protect the public benefit in the project, the Former Agency required CHS and the Developer to obtain the Former Agency’s consent

to any change in CHS's tenancy or to any lease termination (the "Consent"). The Former Agency's Consent is an attachment to the Lease; and

WHEREAS, Subsequent to execution of the Lease, CHS acquired and renovated an adjacent building -- 678 Mission Street -- as its headquarters and planned to expand into its space in The Paramount. CHS made several improvements to its Paramount space, including installing an elevator to connect its adjacent headquarters building to The Paramount. However, after years of study, CHS was ultimately unable to use the space in The Paramount for its programmatic needs and it has remained vacant; and

WHEREAS, CHS wants to relinquish approximately 10,000 square feet of its leased premises to the Developer. Accordingly, CHS and the Developer have executed an Amended and Restated Agreement for Amendment of Lease and Reduction of Leased Premises (the "Lease Amendment") which reduces CHS's leased premises by 10,000 square feet and allows the Developer to lease the 10,000 square feet at market rates to other users, in exchange for a lease buy-out price of \$2.25 million; and

WHEREAS, Under the terms of the Lease Amendment, the Office of Community Investment and Infrastructure, as successor agency to the Former Agency ("OCII" or "Successor Agency"), will receive a portion of the \$2.25 million because the Successor Agency is obligated to recover the pro-rata share of the discounted land price given to the Developer in 1999 for reserving the full 15,000 square feet of space in The Paramount for CHS, since that public benefit will no longer exist. The Successor Agency's portion equals \$946,949, which represents about two-thirds of the Developer's land discount in today's dollars; and

WHEREAS, Because the Site was originally purchased by the SFRA with federal urban renewal funds, the \$946,949 that OCII will receive from this transaction is program income under the Community Development Block Grant ("CDBG") program, and will be transferred to the Mayor's Office of Housing and Community Development ("MOHCD"), which administers the CDBG program for the City; and

WHEREAS, In response to the concerns raised by the Commission on Community Investment and Infrastructure (the "Commission") at its meeting of May 6, 2014 regarding the loss of dedicated non-profit space in The Paramount, staff explored ways to retain the space for other non-profit uses but determined that the space was not suitable for non-profit uses. Subsequently, the Developer agreed to provide approximately 4,100 usable square feet of nonprofit space in the Jessie Hotel, another building owned by the Developer which is adjacent and connected to The Paramount, in addition to the payment described above; and

WHEREAS, The Jessie Hotel space would be leased to the City's Department of Real Estate ("DRE") pursuant to a term sheet agreed upon by both parties (the "Term Sheet"), and then subleased to one or more non-profit users. The Term Sheet is currently

being incorporated into a separate lease agreement between the DRE and the Developer (the "Jessie Hotel Lease"); and

WHEREAS, DRE will sublease the Jessie Hotel space through the City's Nonprofit Rent Stabilization Program (the "Stabilization Program"). The Stabilization Program was approved by the City's Board of Supervisors in May 2014 to reduce the impact of the rapid rise of commercial rents and early terminations of leases on San Francisco non-profits serving the social services and art and culture fields. The Board of Supervisors appropriated \$2.52 million to MOHCD for social service organizations and \$2.0 million to the San Francisco Arts Commission for art and culture organizations. The funding will be awarded to intermediary non-profits that will in-turn (1) make sub-grants for acquisition, rehabilitation, and tenant improvements, and (2) provide technical assistance, including space analysis, lease negotiation and review, and co-location, to 501(c)(3) registered non-profits at risk of eviction; and

WHEREAS, Because the nonprofit space being offered by the Developer is unimproved, MOHCD intends to use the Developer's payment of approximately \$946,949 to fund tenant improvements. The funds would be granted through the Stabilization Program to subtenant(s) that are able to comply with the requirements of the CDBG Program. MOHCD plans to direct any portion of the Developer's payment that remains after completion of the tenant improvements to the Stabilization Program for general purposes; and

WHEREAS, It is anticipated that the Jessie Hotel Lease will be considered by the Board of Supervisors in September 2014; and

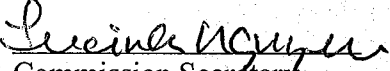
WHEREAS, The Successor Agency's Consent to the Lease Amendment would not directly cause any change in the physical environment and is therefore exempt from environmental review under the California Environmental Quality Act (Section 15061 (b)(3), State CEQA Guidelines); and

WHEREAS, CHS and the Developer are seeking the Successor Agency's consent to the Lease Amendment, as required by the Lease, in exchange for the payment of \$946,949 and the Jessie Hotel Lease commitment. OCII staff has reviewed the Lease Amendment and the terms of the Jessie Hotel Lease and is recommending that the Commission provide its consent; now, therefore, be it

RESOLVED, That the Commission on Community Investment and Infrastructure, subject to the review and approval by the Board of Supervisors of the Jessie Hotel Lease, the terms of which substantially conform to the Term Sheet lodged with the Commission Secretary, hereby authorizes the Executive Director to execute a "Consent of the Successor Agency", substantially in the form lodged with the Commission Secretary, which consents to the terms of an Amended and Restated Agreement for Amendment of Lease and Reduction of Premises between Third and Mission Associates LLC, a California limited liability company, and The California Historical Society, a California nonprofit public benefit corporation, for property at 680 Mission Street; and furthermore authorizes the Executive

Director to enter into any and all ancillary documents or take any additional actions necessary to consummate the transaction.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of August 5, 2014.


Commission Secretary