

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 29-2017

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXTEND THE TERM OF THE AGREEMENT FOR OPERATION OF A CHILD CARE CENTER (YERBA BUENA GARDENS) WITH SOUTH OF MARKET CHILD CARE, INC., A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION; FORMER YERBA BUENA CENTER REDEVELOPMENT PROJECT AREA D-1

- WHEREAS, The Redevelopment Agency of the City and County of San Francisco (the “Former Agency”), as part of its program of development within the Yerba Buena Center Redevelopment Project Area (“Project Area”), constructed a facility designed to be operated as a child care center (the “Center”); and,
- WHEREAS, On August 19, 1997, the Former Agency entered into an Agreement for Working Capital, Funding and Operation of a Child Care Center with the Operator, (the “Original Agreement”), to operate the Center on a site that includes the Center’s buildings as well as landscaping, installed equipment, and other improvements constructed on and adjacent to the Center (collectively, the “Site”). The term of the Original Agreement runs from August 19, 1997 to August 18, 2017 (the “Initial Term”); and,
- WHEREAS, Pursuant to the Original Agreement, the Former Agency has fulfilled its obligation to provide a Working Capital Fund to the Operator pursuant to Article 6 and Article 12, and, upon completion of the Center in 1998, the Agency tendered the Center to the Operator pursuant to Article 4; and,
- WHEREAS, Section 2.02 (a) of the Original Agreement provides that the Operator may request an extension of the Initial Term for one additional 10-year period and authorizes the exercise of an extension if no Operator Event of Default exists; and,
- WHEREAS, The Former Agency was dissolved on February 1, 2012, pursuant to California Health and Safety Code Sections 34170 et seq. (the “Redevelopment Dissolution Law”); and,
- WHEREAS, OCII, as successor agency to the Former Agency, assumed all enforceable obligations of the Former Agency, including ownership of the Former Agency’s real property in the Project Area, under the authority of the Redevelopment Dissolution Law, and under San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under the Redevelopment Dissolution Law); and,
- WHEREAS, Redevelopment Dissolution Law authorizes the Successor Agency to continue to comply with enforceable obligations, such as the Original Agreement, that the Former Agency entered into prior to its dissolution, Cal. Health & Safety Code § 34177 (c), but prohibits the Successor Agency from entering into new obligations “except in compliance with [a pre-dissolution] enforceable obligation.” Cal. Health & Safety Code § 34177.3; and,

- WHEREAS, Redevelopment Dissolution Law requires successor agencies to former redevelopment agencies to dispose of their real property assets under a Long-Range Property Management Plan (“PMP”). Cal. Health and Safety Code, § 34191.5. On December 7, 2015, the State Department of Finance (“DOF”) approved, under the Redevelopment Dissolution Law, the Successor Agency’s PMP, which the Oversight Board of the City and County of San Francisco (“Oversight Board”) had previously approved by Resolution No. 14-2015 (Nov. 23, 2015). The PMP establishes a plan to transfer the entirety of the Former Agency’s real property assets known as Yerba Buena Gardens, including the Center, to the City for a governmental purpose and requires the transfer to occur in 2017; and,
- WHEREAS, To the extent that a successor agency acts in compliance with an existing enforceable obligation, such as the Original Agreement, and implements the PMP, the Redevelopment Dissolution Law does not require review and approval by the Oversight Board or DOF. Cal. Health & Safety Code §§ 34181(e) & 34191.5 (f). In addition, Oversight Board Resolution No. 14-2015 authorizes OCII, upon approval of the PMP, to take all actions as needed, to the extent permitted under applicable law, to implement the PMP; and,
- WHEREAS, On August 14, 2014, the Operator requested a ten year extension of the Original Agreement as authorized under Section 2.02 of the Original Agreement (“Extension”). The Operator was not in default of the Original Agreement at the time of the request (and has not been in default since the request) and thus qualifies for the Extension. Accordingly, the Successor Agency’s approval of the Extension is “in compliance with an enforceable obligation.” Cal. Health & Safety Code § 34177.3 (a); and,
- WHEREAS, The Operator has satisfactorily performed under the terms and conditions of the Original Agreement and provides valuable services to the South of Market neighborhood and the entire City by making affordable child care and related resources available to the community; and,
- WHEREAS, The extension of the term of the Original Agreement is not a project subject to environmental review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15378(b)(5), because it is an administrative activity of government that will not result in direct or indirect physical changes in the environment; and,
- WHEREAS, OCII and the Operator therefore seek to enter into this Extended Term for the purposes of memorializing (a) the extension of the Initial Term pursuant to Operator’s request and (b) certain changes to the Original Agreement necessary to reflect Redevelopment Dissolution Law and the PMP. In anticipation of the assignment and assumption of the Original Agreement to the City, the City has consented to this Extended Term; now therefore, be it

RESOLVED, That this Commission authorizes the Executive Director of the Office of Community Investment and Infrastructure to execute this Extended Term of the Agreement for Operation of a Child Care Center with South of Market Child Care, Inc., a California nonprofit public benefit corporation, to extend the term for one 10-year period, until August 18, 2027, and to memorialize certain changes to the Original Agreement necessary to reflect Redevelopment Dissolution Law and the PMP, substantially in the form approved by Successor Agency's General Counsel.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of August 1, 2017.

Interim Commission Secretary