

**MINUTES OF A REGULAR MEETING OF THE
OVERSIGHT BOARD OF THE CITY AND
COUNTY OF SAN FRANCISCO HELD ON THE
30TH DAY OF MAY 2024**

The members of the Oversight Board of the City and County of San Francisco met in a special meeting in person at 11:00 a.m. on the 30th day of May 2024 at City Hall, Room 408, 1 Dr Carlton B. Goodlett Place, San Francisco, CA 94102

The Oversight Board will convene hybrid meetings that will allow in-person attendance, remote access, and public comment via teleconference. Members of the public may provide public comment in-person at the notified location or remotely via teleconference (detailed instructions available at: <https://sfocii.org/remote-meeting-information>). Members of the public may also submit their comments by email to: commissionsecretary.ocii@sfgov.org; all comments received will be made a part of the official record.

WATCH ON WEBEX: <https://shorturl.at/fV5jA> (Stream will go live 5 minutes before the event) ENTER NAME, EMAIL ADDRESS

ENTER PASSWORD: obpublic

[Instructions for watching livestream: <https://bit.ly/3ZdRqk5>]

[Instructions for providing public comment: <https://bit.ly/3vyFJqw>]

TO LISTEN TO THE LIVE MEETING OR TO PROVIDE PUBLIC COMMENT:

DIAL: 1-415-655-0001 ENTER ACCESS CODE: 2661 032 3771 PRESS #, then PRESS # again to enter the call. When prompted, press *3 to submit your request to speak.

1. CALL TO ORDER/ROLL CALL

The meeting was called to order by Chair Van Degna at 11:10 a.m.

Roll call was taken.

Board member Moses Corrette - present

Board member Licinia Iberri - present

Board member Janice Li - present

Board member Shanell Williams – present; departed early

Vice-Chair Lydia Ely - present

Chair Anna Van Degna - present

All Board members were present. It was noted that the seat for the City and County of San Francisco was still vacant.

Chair Van Degna read the obligatory land statement.

2. APPROVAL OF MINUTES – Regular Meeting of January 24, 2024

PUBLIC COMMENT - None

Board member Corrette motioned to move Item 2 and it was seconded by Board member Li.

Voice vote was taken for Item 2.

Board member Corrette – yes
Board member Iberri – yes
Board member Li – yes
Board member Williams - abstained
Vice-Chair Ely - yes
Chair Van Degna – yes

ADOPTION: IT WAS VOTED BY FIVE BOARD MEMBERS WITH ONE ABSTENTION THAT APPROVAL OF MINUTES FOR THE REGULAR MEETING OF JANUARY 24, 2024, BE ADOPTED.

3. ANNOUNCEMENTS

- A. The next scheduled Board meeting will be a regular meeting held in person at City Hall on Monday, September 9, 2024 at 11:00 am.

- B. Announcement of Prohibition of Sound Producing Electronic Devices during the Meeting:
Please be advised that the ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing of or use of a cell phone, pager, or other similar sound-producing electronic device.

- B. Announcement of Time Allotment for Public Comments:
Please be advised a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Board adopts a shorter period on any item. We recommend that members of the public who are attending the meeting in person fill out a “Speaker Card” and submit the completed card to the Board Secretary. All dial-in participants from the public will be instructed to call a toll-free number and use their touch-tone phones to register any desire to provide public comment. Audio prompts will signal to dial-in participants when their audio input has been enabled for commenting.

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4. CONSENT AGENDA - None

5. REGULAR AGENDA

- A. Authorizing an Amended and Restated Grant Agreement between the Mexican Museum and the Successor Agency (Discussion and Action) (Resolution No. 02-2024)

Presenters: Thor Kaslofsky, Executive Director; Marc Slutzkin, Deputy Director for Projects and Programs; Andrew Kluger, Chairman of the Board of Trustees, Mexican Museum; Miguel Galarza, Owner, Yerba Buena Engineering Co. and representing the Building

Committee, Mexican Museum; Richard Ybarra, CEO, Mission Neighborhood Centers Inspiring Success (MNC); Anne Cervantes, Owner, Cervantes Design Associates, Inc.; Victor Marquez, General Counsel, Mexican Museum; Sarah Fabian, General Counsel, Oversight Board.

Board member Williams inquired about whether anyone from Mission Neighborhood Centers (MNC) was there to answer questions.

Mr. Kluger responded that they were on the phone.

Board member Williams stated that she would like to hear from them in terms of how they foresaw taking all this on considering their capacity.

Chair Van Degna suggested they come back to that question later as other callers were on the phone as well.

Board member Iberri stated that this Board was comprised of San Francisco's taxing entities, which was the reason they were there. In that role, she represented the San Francisco Unified School District. Of importance to the Board and fundamental to the formation of this group was that the Board determined that OCII's enforceable obligations were managed in a way that supported tax growth in the City. She stated that she did not have an opinion about this project as an urban design issue or whether it was a good use of funds and did not want to comment on anything related to the history of the Mexican Museum (MM) and OCII. Ms. Iberri referred to the question of ineligible activities and the audit findings related to those. She pointed out that one of the conditions was compliance with everything in article 13 in the amended and restated agreement, which included those findings. She inquired about whether there was a timeline by which MM would need to repay OCII if it was determined that any of the activities were in fact ineligible and what that would encompass, considering that it was stated that it was a condition of disbursement of funds. She inquired about whether they had thought that through given the timeline of extension of this proposed amendment.

Executive Director Kaslofsky responded that the way the grant was structured, it was a condition of disbursement. He explained that the two ineligible activities that were identified in the audit were 1) a double payment and 2) what was an inadequately described legal bill, which the auditor felt did not comply with the grant. Mr. Kaslofsky reported that OCII had addressed that issue with MM and that MM had information to clarify it. The grant contained a condition stating that they could provide that information or repay the funds. Therefore, the funds had to be repaid if MM could not substantiate their position. Mr. Kaslofsky clarified that OCII's position was that MM would have to repay within the twelve months even though OCII preferred it be repaid immediately. He added that the grant did not stipulate that per se, but OCII would want that before the grant expired. OCII was already working with MM on the information and that was the state of the grant and the situation with ineligible activities.

Board member Iberri pointed out that the resolution as currently written was silent on the issue of the effective enforcement by OCII. She inquired about whether there was some language in the amended and restated grant agreement about who would do what; inquired about how OCII's role might change during the term of this proposed agreement; inquired about whether they could consider including something about that in the resolution.

Executive Director Kaslofsky responded in the affirmative; that they could add whatever the Board would like. He added that speaking for the oversight of OCII, most of the deficiencies identified in the audit occurred over a decade ago in the period pre-2015 during the early days of dissolution. He explained that most of them were related to giving advances versus doing a reimbursement payment process. OCII would provide money to MM, and MM would provide a spending plan and then OCII would approve things after they had been spent. He reported that OCII did not do that anymore and that OCII did not do that as a general practice even back then and had not done that in subsequent grant disbursement agreements post-2015. Mr. Kaslofsky noted that that was not a common practice and those deficiencies weren't cited at all by the auditor. Nonetheless, OCII had everyone retrained on current policies regarding accounting, bookkeeping, accounts payable and on what kind of detail would be needed to reimburse for costs on all OCII contracts. After that, OCII was confident that staff was aware of the different procedures that needed to be followed for OCII policies.

Board member Li thanked staff for the presentation. She wasn't sure whether anyone from the SF Real Estate Department (RED) was present, so directed her questions to OCI staff, first to a recommendation in the city's audit and a provision of the agreement. Ms. Li referred to slide 8 in the presentation that required MM to provide within 60 days of the issuance of the report a plan indicating how it would complete the buildout of the premises, including a realistic schedule with detailed milestones showing when the space would be open to the public. She calculated that 60 days from the issuance of the report would be June 21, 2024 and inquired about whether this requirement had been made of MM. She inquired about the progress on the issuance of the report.

Executive Director Kaslofsky responded that he would need to look at RED's response to the audit recommendations. He stated that OCII had described how it was going to implement them. Mr. Kaslofsky did not believe that Andrico Penick (Director, RED) was at the meeting but stated that they would try to respond to Vice-Chair Ely's questions.

Board member Li pointed out that June 21 was coming up pretty fast and stated that, if the 60 days was not realistic or if OCII did not agree with that, then it would be helpful to get an update on that, as it was literally written into the amended agreement. She remarked that her Wednesday night activity had been really quite fun as it had been spent reviewing all of the OCII Form 990 tax filings going back to 2001. She inquired about whether OCII knew how many times MM had exceeded \$2 million raised via contributions in a year.

Mr. Slutzkin responded that he would have to check with the accountant.

Board member Li responded that it was once, in 2014 when \$2,075,172 was raised. Ms. Li pointed out that MM had not raised this amount before and had never actually raised \$4 million in a fiscal year. She pointed out that it was mentioned in the audit and in the recommendations and was written into the agreement in article 13 that MM was required to provide specific, realistic, and achievable fundraising goals to demonstrate that it could fund the project and then be open to the public without extended delays as well as work with RED to determine whether fundraising was sufficient to complete the buildout of the premises. In the presentation it was also stated that they would do a grant writing program and Ms. Li remarked that all this was an ambitious timeline. She inquired about what specific grants they were applying for and how far they were in the process. Ms. Li stated that she also wanted to hear from MNC, an organization which was deeply respected for what they had accomplished in the community, but did not have a history of fundraising for art programs, such as this art collection or for capital construction of museums. She inquired about how and why they were chosen as a fiscal sponsor.

Executive Director Kaslofsky interjected to address that there were two questions that the Oversight Board had asked about MNC.

Mr. Ybarra stated that he had heard both questions and was prepared to answer them.

Board member Williams stated that she wanted to hear from MNC in terms of the 501C3 which had been formed and whether they would be managing that as well, in addition to their other activities. She thanked Mr. Ybarra for joining in.

Mr. Ybarra thanked the Oversight Board for the opportunity to be at the meeting. He stated that they had been having discussions with MM and were well aware of their recent as well as past history. In the last three years since he had been CEO, MNC had doubled their budget from \$22 million to \$45 million. They had also received their first \$10 million art gift and were working with the San Francisco Foundation on how to work it in the form of 50 films and how to monetize that over the next several years. Mr. Ybarra stated that MNC's financial houses had grown from 14 to now 18 active campuses, soon to be 22 in San Francisco. He acknowledged Board member Li's comments regarding their fundraising, but noted that the organization continued to raise money and added that they had just moved into the affordable housing realm. Mr. Ybarra reported that there were groups outside the City who wanted to merge with MNC, which would provide even stronger financial stability. He noted that they had a financial consultant who had raised millions of dollars in her career for different nonprofits and other entities. Mr. Ybarra felt that MNC was positioned to assist MM in any way possible.

Board member Li referred to the design buildout. She stated that she was the BART representative and that they performed plenty of design builds and progressive design builds for massive capital projects. She noted the escalating costs in material and labor. Ms. Li inquired about the \$38 million estimate, which was 25% less than the original \$49.8 million estimate. Specific to the actual designs, she inquired about what percentage of designs had been completed and whether they were at the phase of actually completing construction documents.

Mr. Kruger deferred to Mr. Galarza to answer that, but wanted to answer the question regarding fundraising capability. He responded that as soon as they received the 501C3 from the Mexican government, the first gift they received was \$5 million from a partner in Mexico, the president of the World Boxing Council, a very wealthy organization, that was committed to the naming of one of the galleries. Mr. Kruger stated that they were in discussions with the Tequila company, Don Julio, and were finalizing a \$1 million gift. He added that they were also working with Semics, the largest cement company in Mexico and that they also had a written commitment from a member of the Saudi royal family who did business in California for \$500,000 in 2025. He added that all this activity had taken place within just the past month and a half. Mr. Kruger reiterated that OCII and the Board would receive a report and that he was very confident that MM would be able to meet that goal.

Mr. Galarza referred to the significant amount of risk involved in the design build for any project. He explained that through the progressive design build approach, they were collaborating with their local business partners (LBE's), small businesses and their general contractor to analyze where the risk would be, what part of the project would be the riskiest and working through those solutions to mitigate cost. Mr. Galarza reported that they had analyzed the estimate that was conceptually put together and found some cost savings by eliminating some redundancy and contingencies that were built into the original estimate. Regarding what portion of design had been completed to date, he responded that the renderings presented so far had all been done pro bono through the architects that

were on the team right now. He added that very little design had been done because there was no funding to do so.

Board member Li inquired about what he meant when he stated that the design was being done pro bono, but then the design had not yet been done because there weren't any funds.

Mr. Galarza responded that the design before the Board that day and the portions of the renderings in the proposal had been done pro bono. The actual design of the systems that were needed, i.e., the MEP sections, the lighting sections, still needed to be performed. Mr. Galarza stated that they had initiated working with some consultants to understand what the process would be, but that there had been no expenditures in that respect.

Board member Li clarified that they were unaware of what the process would be just yet, so they did not have the timeline for the actual progressive design build process.

Mr. Galarza responded that they had already put into the slides that the first phase permit one would take about three months to do the buildout and the design.

Board member Li inquired about how they could develop that when they did not have completed designs, let alone construction documents.

Mr. Galarza responded that for a design build, funding was needed and that they could not... (unintelligible due to talkover).

Board member Li responded that they still needed design and construction documents. She mentioned that they were doing progressive design build on BART to San Jose. But it wasn't like they were having a little drill there and saying, okay, let's see what we're doing today, guys.

Mr. Galarza responded that having done construction for the last 30 years and as a professional in the trade, it was clear that money was needed to do design. Money was not needed to do conceptual designs or to envision what the course of action was going to be. They could only work with their consultants to make sure they were on the right track based on the size and space and the square footage that would be built out.

Board member Li stated that they could read the Mercury News about how the cost escalation for BART to San Jose had gone for a progressive design build. She thanked Mr. Galarza for answering those questions. Ms. Li referred to the Planning Department process of whatever was developed and inquired about the approval process in that regard.

Mr. Kluger stated that the architect would like to answer some of the questions.

Executive Director Kaslofsky asked for the Board's approval to recognize some of the people who worked with the Mexican Museum and who wanted to respond to the questions. He explained that the Yerba Buena Center project area, which was where this plan arose from, was an expired project area, and that it had expired in 2011. Therefore, OCII no longer had any land use authority to permit or approve anything. He explained that the project would be going through a tenant improvement construction design process and that the Department of Building Inspection (DBI) would be doing the review of any permits that were submitted. Mr. Kaslofsky stated that he did not think that the permit routing for DBI would go through the Planning Department and then he was corrected, so restated that it would go through the Planning Department and the DBI.

Board member Li inquired about at what point did MM expect to be able, just for Phase one permit one, to bring the necessary documents to the Planning department for that approval.

Executive Director Kaslofsky stated that there were people on the phone who would be able to answer these questions.

Ms. Cervantes wanted to respond to the current status of the project. She explained that she was asked by Board member Pedroza four years ago during COVID to work with them to stabilize and structure this project. Since that time, the project had been approved up to schematic design, designed by Ten Arquitectos from Mexico City, the design architect. Her firm was taking it from there and implementing their design. Ms. Cervantes reported that the ground floor had changed and the reason why they wanted to do it quickly was because it would only take six months from design to construction with approvals. She explained that many members on the team had experience in doing progressive design build at the airport and that they were familiar with that process in basically cutting and controlling costs from the beginning and knowing what the buyouts were during each of the construction phases. She clarified that the sketches were done by Ten Arquitectos in Mexico City and that they had been approved up to schematic design by OCII. Ms. Cervantes added that there was not an occupancy difference because the whole building took into occupancy what it was scheduled for as a museum.

Board member Li inquired about whether an inventory had been performed for the 17,000 objects in the collection that were noted in the presentation. If yes, she inquired about when that was done and what the status of it was.

Mr. Kluger responded that the collection was always ongoing and that they would be happy to provide a report of the inventory. He stated that they were going to provide it to their legal counsel and then to OCII to answer the question of a letter that was received that morning.

Board member Li inquired about what Mr. Kluger meant by an ongoing inventory.

Mr. Kluger responded that as pieces were donated or loaned out, they kept track of where they were both for insurance purposes, preservation and safe keeping. For example, they currently had two very large collections in Mexico, one which was large sculptures made of paper maché and wood and the other of over 500 pieces of colonial and modern art. He added that Goldman Insurance insured the complete collection.

Board member Li inquired about whether the inventory of these pieces were on an Excel sheet on someone's computer.

Mr. Kluger responded that it was on a computer.

Board member Li inquired about how he would describe the inventory.

Mr. Kluger responded that they had an individual who maintained it.

Board member Li inquired about whether that individual was on staff.

Mr. Kluger responded in the affirmative.

Board member Li stated that she had an amendment to make but would introduce it later.

Chair Van Degna suggested they continue with the questions and then come back to that.

Board member Corrette congratulated Mr. Kluger for accessing the Margolin collection. He stated that his ex-husband's family had been friends with the Margolin family for generations and that he had spoken with the son that morning. Mr. Corrette indicated that one of their agreements was that things that were duplicative or not representative for MM could be de-accessioned. He noted that in the MM tax filings, the accountants had always ticked off the box that they had donations that they intended to de-accession.

Mr. Kluger responded that MM had donors who stated that if MM could not use the donation in the collection, then they would allow the de-accession, so it could be sold to raise for funds for the museum. He stated that over the seven years he had been with MM, there were eight pieces that had been sold from de-accession. Mr. Kluger added that they had not done anything with the Margolin collection yet, but the family had agreed to allow MM to sell certain pieces.

Board member Corrette inquired about whether Ms. Cervantes was still on the line. He stated that in his day job, he worked with the Planning Department. He inquired about whether the space would be delivered as a vacant space or if there were going to be any development fees due with the buildout. Mr. Corrette added that those could be quite steep, which would have a great effect on the budget.

Executive Director Kaslofsky responded that he did not know what the fees would be for a tenant improvement permitting process, but was sure there would be fees for that. He stated that they did not have a precise answer.

Board member Corrette inquired about whether the development impact fees, those larger jobs housing linkage fees, would be part of the permitting process.

Executive Director Kaslofsky responded that the original developer, Millenium Partners, had paid a significant amount of fees to develop the entire building and the assumption was that most of those had been paid, but added that there might be additional fees.

Board member Corrette stated to Mr. Slutzkin that in the presentation he had indicated that within the agreement that was proposed for the Board to adopt, Exhibit A was amended to have OCII approve the extension. However, that was not included in the resolution that was given to the Board.

Mr. Slutzkin responded that in the resolution it referred to the grant agreement and in the grant agreement it specifically stated...

Board member Corrette interjected that in the packet that was adopted by OCII for the Oversight Board, the last resolved line had an amendment that was made at their meeting. He inquired about whether they would be doing a similar thing at this meeting.

Mr. Slutzkin responded in the affirmative and added that the resolution was added during the OCII Commission meeting and the timing and the extension was specified in the grant agreement. Therefore, the Board would be approving the grant agreement and that was where the specific language stated that they would have to go to the OCII Commission to get the six-month extension.

Board member Corrette referred to page 5 on the second to the last resolve line of the Board's copy and that it indicated that it was the Executive Director.

Executive Director Kaslofsky interjected that they would need to check that and that it might be a typographical error, if that was the case. He asked the Board for permission for Mr. Marquez, general counsel for the Mexican museum, to respond to some of the questions.

Chair Van Degna responded in the affirmative.

Mr. Slutzkin explained that the Board was authorizing the Executive Director to take all actions necessary and appropriate in consultation with counsel and the Oversight Board and OCII to effectuate the purpose of this resolution. The Board was providing the Executive Director the authority to exercise the grant agreement, so he could sign the grant agreement, and that was the extent of the authority given. However, it was specifically stated in the grant agreement that to get the six-month extension they would have to go to the OCII Commission.

Executive Director Kaslofsky stipulated that this was standard language that OCII had to take any and all actions to implement what the Board approved to do.

Mr. Marquez clarified an earlier point that in order for MM to get the six-month extension, MM must raise at least 50% of the projected \$4.5 million. He also explained in terms of reimbursement that based on his due diligence, the museum's CPA had documented 50% of the \$40,000 in question and so the amount in question was really about \$20,000. He stated that this was due to a clerical error made by MM staff back in 2011 or 2012, keeping in mind that this was one clerical error out of hundreds of reimbursement requests that were submitted. Mr. Marquez noted that this was a minute amount and that the city audit report categorized it and decided to keep it in there. He stressed that the city audit report stated that there was absolutely no findings of wrongdoing or misappropriation of funds or anything like that by MM and that there were just some clerical issues. He referred to Executive Director Kaslofsky's statement that they were tightening up those systems and working to make sure that they complied with everything, including some of the new rules and regulations under section 13. Mr. Marquez addressed a letter that was submitted to the Board that MM became aware of right before this hearing about the museum collection. He stated that the museum collection was the Mexican Museum. There was a dedicated staff and one full-time 100% dedicated staff person, Elisa, who was documenting and cataloging the collection. They had a database comprised of over 18,000 optics of art, many of which had been collected through the efforts of the entire board. He reported that 1500 to 2000 new objects of art were being exhibited by museums in Mexico, which had an attendance of over 125,000 visitors for each of those collections. He reiterated that the collection was being kept under lock and key and handled very carefully. Mr. Marquez stated that MM had agreed with the request made by OCII and the City that MM work with staff to provide reports currently being prepared to confirm the different collections in place, how they were being catalogued, and to some extent the value attributed to each of them. He reported that currently MM was working with MNC to see if they could climatize the storage facility at 706 Mission Street and to see what the cost would be for that so they could move it to 706 Mission Street. Mr. Marquez referred to the museum's long-term funders, such as Wells Fargo, where Alfredo Petroza worked, and added that Wells Fargo had contributed over \$500,000 to MM over the years. Wells Fargo had a naming opportunity and to that end, they had submitted an application to upgrade that \$500,000 to \$1 million to give Wells Fargo greater exposure to MM. The other application being submitted was by PGE, which had also contributed \$500,000 and MM had offered them the opportunity to upgrade that 500,000 to \$1 million to also have a naming opportunity. Mr. Marquez indicated that there were at least five additional foundation grants that were being submitted over the next couple of weeks.

Vice-Chair Ely directed her question to OCII staff and inquired about what the conditional approval by OCII the previous week was conditioned on and whether it was conditioned on the Board's approval.

Mr. Slutzkin responded in the affirmative and stated that it was conditioned on the Board's approval.

Board member Williams indicated that she had to leave. She stated that she had seen the memo in regards to the collection but was unclear about who would actually pay for that process. Ms. Williams was in support of the staff recommendations and hoped that MNC would be able to take this on and bring this project to fruition. She was rooting for MM and hoped they could get to the finish line.

Vice-Chair Ely directed her question to OCII staff. She referred to the audit findings that had OCII recommendations and RED recommendations and was interested in the division of labor between the two entities and how it was being coordinated. For example, she pointed out that RED was supposed to be looking at compliance with insurance requirements and that OCII, as a funder, was also looking at compliance with insurance requirements. Ms. Ely inquired about whether they had an MOU and about how RED and OCII were working together to manage this project.

Mr. Slutzkin responded that OCII was the grantor for the funds and that RED was the lessor for the space. He clarified that the agencies were working closely together in collaboration and communicating to make sure both were in compliance, but that there was no MOU that specifically stated what each one did. He specified that OCII required proof of insurance if they were providing money on grants, but usually followed the City. Mr. Slutzkin indicated that their insurance firms were closely aligned and that it was more City family communication than anything else.

Executive Director Kaslofsky clarified that OCII had officially designated RED to manage the facility process. They owned the property at 706 Mission, which was the MM space and the lease agreement as well as the purchase and sale agreement for the overall project, which described the cultural component of that project. He explained that RED had received title to that property in July 2023 and had been working directly with MM. The insurance was pursuant to that lease agreement and the insurance that OCII needed was pursuant to the grant agreement, so there was tremendous overlap. Both agencies would be named insured. Cooperation between OCII and RED extended to the delegation of managing the tenant improvement space. Mr. Kaslofsky noted that OCII would not be approving any changes to the space itself since that would be for RED and all of the tenant improvement work would run directly through them, although OCII would be working closely with RED. He pointed out that there was overlap because some of the recommendations pertained to both agencies, such as the plan for opening. However, the payment of charges for common area maintenance was specific only to the lease agreement and only pertained to RED. Therefore, there was some natural separation and some natural overlap.

Vice-Chair Ely noted that one of the conditions in the new article 13 stated that MM was in compliance with the lease. She inquired about whether that meant a phone call to Andrico (Andrico Penick, Director, RED) asking whether they were in compliance with the lease.

Executive Director Kaslofsky responded that through this grant agreement, they had tied up some loose ends, so that they were coordinated in knowing whether or not MM was in compliance with their lease obligations.

Vice-Chair Ely referred to construction and noted that with the design approach, the proposal was to design and build the MEP systems assuming that Phase 2 was a go, eventually. However, she stated that she did not know what the timeline was for Phase 2 or what the assumptions were underlying the design of those systems. She expressed concern about sinking a lot of money into building a whole MEP system, when they did not know when that phase was going to take place and whether codes might change in the interim. Ms. Ely asked that someone address that issue and inquired about how much risk there was to building that system out so early on.

Mr. Kruger responded that Phase 2 was scheduled to take 18 months for the total duration. He agreed that the MEP system was a huge component. He indicated that the four multi-zone units, which would control different phases of the area, were all scheduled to be placed on the 4th floor. Mr. Kruger indicated that there had been substantive discussions as to how that would be managed.

Vice-Chair Ely restated that Phase 2 would take 18 months to build, but inquired about when the start date would be.

Mr. Kruger responded that it would take 18 months to do the entire Phase 2 permit 3. He referred to the slides to the two phases, one and two, and indicated that there were three permit phases. The majority of the MEP's would take place during the Phase 2 permit three portion of the work.

Vice-Chair Ely inquired about when the \$28 million project was supposed to happen, if in fact they were building the MEP's now during Phase one and Phase two in preparation for a future buildout of this \$28 million.

Mr. Kruger asked her to repeat the question.

Vice-Chair Ely repeated that they would build the MEP's now...

Mr. Kruger clarified that they needed to design the MEP's and as they were building out the first floor, those portions of the MEP would be built out.

Vice-Chair Ely responded that it was her understanding that they were going to basically put in place the whole MEP system now in contemplation of a future \$28 million bigger buildout.

Mr. Kruger replied that the majority of the MEP funding would be during Phase 2.

Vice-Chair Ely inquired about when the \$28 million big future buildout they were preparing for would be built.

Mr. Kruger responded that Phase 1 and Phase 2 would take about six months. He explained that there was a period of time that they needed in order to raise the \$28 million needed. He stated that as the fundraising kicked into place, the permit process would begin and the buildout would begin. The actual duration was 18 months once that fundraising was accomplished.

Vice-Chair Ely indicated that it seemed like the permit one and permit two costs were in preparation for the permit three, which was a question mark, which was essentially that they would build it when they had the money to build it. She expressed concern with the possibility of a ten-year or so lag. If they built MEP's to 2024 standards and then in ten years, they received the money to build up the 3rd and 4th floors, Ms. Ely inquired about to what extent would they then have to go back to the drawing board and inquired about how much money they were spending to build those systems now.

Mr. Kruger responded that he would defer the programming to the actual MEP standards. He did not know how often those standards changed or if they would be grandfathered into the programming that was in place currently.

Executive Director Kaslofsky agreed that this needed more planning work and that MM's position on design build was that the design build process would further detail out the strategy, but there was no timeline for that. He agreed with Vice-Chair Ely about the code changes that could occur over a period of time and understood that this needed more planning.

Vice-Chair Ely stated that her biggest comment was really about article 13 and would follow up on Board member Iberri's comments earlier about how article 13 was kind of a grab bag of best practices going forward, cleaning up items from the past, and then some new goals thrown in. She pointed out that it was not specifically stated in article 13 that \$4.5 million needed to be raised. She noted that in the grant agreement there was a general disbursement section, which was article 13, which did not go into a lot of detail. Ms. Ely suggested that they reorganize the list so that it was clear that some of these were financial best practices, such as, how to reimburse expenses and how to submit proof of payment. She pointed out that many of these were boilerplate requirements that should be implicit but she surmised needed to be explicit here. Ms. Ely inquired about whether it would be possible to establish some conditions of disbursement and assign the eleven items under article 13 an established date for completion, such as #4 which stated that MM must create policies and procedures. She inquired about whether they could establish a date for that and whether they needed to do that before one dollar was disbursed or whether it should be fifty dollars. She referred to Number 1, which specified that MM must provide specific fundraising goals and inquired about whether they could refer to the \$4.5 million that elsewhere was stipulated as a requirement and indicate when that needed to be raised before any money could be disbursed. She inquired about whether they could disburse some money beforehand and then have some kind of benchmark system. Ms. Ely inquired about whether other members of the Board were interested in adding more specificity.

Chair Van Degna stated that she had had several conversations with staff about what was in article 13 as well as what was in the Controller's office audit and it was her understanding that before OCII could enter into a grant disbursement agreement, MM had to comply with all of the provisions in article 13.

Executive Director Kaslofsky referred to recital S at the beginning, which identified the matching funds, as they were being called, which was based on MM's fundraising proposal to OCII for their Phase 1, a kind of ground floor activation. He explained that MM had identified approximately \$4.5 million dollars out of the \$11 million that they would raise for that. Mr. Kaslofsky referred to a condition precedent to disbursement, which was in Article 3.2a, which stated that prior to disbursement of any funds, MM must raise all of their matching funds, and then further discussed the sort of housekeeping, accounting, and bookkeeping components, those kinds of improvements, which also needed to be addressed before any funds were disbursed. He reported that the \$6.5 million had both an implementation of the auditor's recommendation vis a vis fiscal management as well as the fundraising component which was identified as another precedent. Mr. Kaslofsky then referred to the six-month extension, which only OCII could approve and stated that MM must raise 50% of their matching funds in order to qualify for that time extension. So those were the three main implementing elements of the grant the way it was structured.

Vice-Chair Ely inquired again about where it specified in Section 3 that the fundraising had to be....

Mr. Slutzkin responded in Section 3.2a on page 7.

Board member Li referred to the fact that given that this was City property and the fact that there were also public funds going into the project and inquired about why this did not compel public procurement requirements. She inquired about how they got to determine their own project delivery.

Executive Director Kaslofsky responded that when they entered into the grant agreement, the grant agreement carried with it the OCII contracting and workforce goals that were in place at the time. So those were the contracting goals, requirements and purchasing policy that they were following.

Board member Li inquired about whether this qualified as a public project per the definition of the Admin Code. Regardless of what hiring goals they had, she inquired about whether the procurement of the contractor was governed by the Admin Code on a public site.

Executive Director Kaslofsky deferred to counsel to answer. He added that the grant agreement specifically referenced OCII's procurement or purchasing policy and those would be the rules that governed.

Chair Van Degna asked Board member Li to repeat her question.

Board member Li inquired about why the Admin Code procurement procedures for construction contracting did not apply in this case, now that there was a lease with the City and County of San Francisco as owner of the property. She stated that she was perplexed about that because it seemed like this would provide a great avenue for any public owner to just contract with a nonprofit to not have to do public procurement.

Mr. Morales responded that the money was being given to a private party. He explained that there might be some conditions attached, but the Public Contracting Code, at least the state version of it, which applied to redevelopment and to OCII activities, would not apply in this context. He could not speak to the City Administrative Code, but stated that OCII did affordable housing and other infrastructure by private developers which would ultimately be accepted by the City, and they did not follow the Public Contracting Code because OCII was providing the funds, or rather the developer was providing the funds initially and/or OCII was providing the funds through loans. To his knowledge, the affordable housing program did not use or follow the public contract procedures. He stressed that this was similar in that it was a private party receiving public subsidy to build something.

Board member Li stressed that the distinction here would be because of the lease with the City and County as property owner now as a result of the transfer following dissolution of redevelopment.

Ms. Fabian responded that she could not answer that right now. She would have to look at whether the Admin Code procurement rules would apply here, but was not prepared to answer that right now.

Board member Li replied that she was not sure it was material to the Board's ability to approve this, but it seemed like someone should figure that out before they decided that MM could proceed with their progressive design build route, which involved a whole waiver process, Board of Supervisors approvals and other things.

Executive Director Kaslofsky responded that they would get some clarity on that.

Mr. Kruger interjected that, as it related to Chapter 6 and the responsibility to pay prevailing wage, those components had been put into MM agreements with their general contractor. In addition to that, they had agreed with the Building Trades Council to make this a 100 % union job. So, at most times of the project, there would be over a hundred union craftsman that were incidentally also local hires.

Board member Li responded that Mr. Kruger's comment was not the nature of her concern. She clarified that her concern was that the Admin Code required low bid unless one had a waiver for an alternative delivery method which MM was proposing and did not currently have.

Ms. Fabian stated that she would be happy to take a look at that and get back to the Board soon.

Chair Van Degna stated that she had one process-related question and inquired about whether they should hear the amendment before public comment or after.

Ms. Fabian responded that they should do public comment. She understood that Board member Li had one amendment and inquired about whether Vice-Chair Ely had one as well.

Vice-Chair Ely stated that she did not prepare a written amendment but wanted to hear from fellow Board members whether they thought there was a need or any benefit to adding language, given that they had just learned that the language in Section 3 seemed to imply that every single condition in Section 13 had to be met first. She inquired about whether other Board members thought that was good enough or whether there was room to tighten up the amendment.

Ms. Fabian stated that, going back to Chair Van Degna's question, she would recommend introducing any proposed amendment and then going into public comment.

Board member Corrette stated that his understanding was that by default, compliance would be determined by Director Kaslofsky and he asked for clarification as to whether determining compliance with Article 13 would be by the Executive Director.

Ms. Fabian stated that she understood that was correct.

Board member Corrette inquired about whether they wanted to have a public vetting of that before it was confirmed.

Board member Li stated that she would be open to strengthening specifically 3.2d and at a bare minimum clarifying who was confirming compliance with the audit recommendations or article 13.

Mr. Morales interjected that the way the conditions in article 13 were framed, OCII would be the one that would determine compliance, because the grant itself was not self-executing and it came through disbursement agreements and no disbursement agreement could be approved until those conditions were met. So, presumably the Executive Director would not recommend to OCII that a disbursement agreement be entered into until those conditions were met and then would have to report at the OCII meeting how those conditions had been met. It would be OCII then that would essentially rely on that and review it. He reaffirmed that the Board had the authority to propose a different model, but that was the way the grant was structured for the Board's consideration.

Chair Van Degna pointed out that, in the Board's role as fiduciary both to taxpayers and the holders of the enforceable obligations, fiscal accountability and transparency were really key. She appreciated having had several conversations with staff and ensuring that this article 13 was added which stated that MM would comply with its terms prior to entering into any grant disbursement. She suggested having a report back to the Board, so that the Board could have that transparency and ensure fiscal accountability. She stated that she was open to suggestions from colleagues.

Executive Director Kaslofsky stated that the Board was the oversight body and OCII was the implementing body and suggested that the report cover a six-month period and include the status of the entire project, including fundraising, implementation of article 13, and auditor's recommendations. It could be an update to OCII and then OCII would provide a copy to the Oversight Board unless the Board wanted to hold a hearing, knowing that those hearings only occurred twice a year in general. Mr. Kaslofsky suggested that the Board either receive a copy of the written report or perhaps participate in the OCII meeting and thought that a written copy would be better. Mr. Kaslofsky pointed out that the subsequent implementing action of the grant disbursement agreement would provide much more detail in order for them to move forward, including the fundraising and the status of the recommendations in article 13. So, it was either as a separate report, if nothing happened over a six-month period, or the grant disbursement agreement that staff would have negotiated and would be bringing to OCII. Either way there would be a visible public accounting of it all.

Board member Li made another recommendation that rather than include this report as part of the grant agreement, that it be part of the action they were taking today. Basically, they would contemplate the action before them regarding the amendment to the grant agreement and then also give direction to Executive Director Kaslofsky to bring this back in six months with XYZ things. Ms. Li thought it might get tricky trying to put it into the grant agreement.

Executive Director Kaslofsky inquired about, when Board member Li stated to bring it back, whether she meant to hold another Oversight Board meeting to hear it.

Board member Li replied in the affirmative and added that it seemed necessary prior to disbursement. She pointed out that they still had so many questions, for instance, not even knowing when the three-month date or the 18-month date was supposed to start and that it had to be prior to disbursement.

Executive Director Kaslofsky clarified that it would go through OCII, where it normally would go, and in addition, the Oversight Board would hold its own meeting to hear that grant disbursement agreement to finally approve it.

Vice-Chair Ely suggested just holding an informational before it went to OCII, rather than have it be an approval item. In that vein, she inquired about whether, if they were to make a change to article 13 today, whether that would pose a problem for what OCII had already approved and whether they would have to go back to OCII to get their approval on the same amendment.

Executive Director Kaslofsky replied in the negative and added that, based on what they had heard in terms of the types of changes the Board might make, the answer was no. He reiterated that the Board was the final approving body. Returning to the review above, he inquired about whether they were suggesting to hold a hearing, informational or not, and not receive written communication. To clarify, he stated the Board would impanel this group and hold a hearing, even if it was informational, prior to it going to OCII.

Board member Corrette noted that the Board had a meeting coming up on September 9.

Executive Director Kaslofsky replied that the September 9 meeting would be for an amendment to the recognized obligations payment schedule and that as it currently stood, they did not have an amendment, so it would not be the usual ROPs approval meeting, but again the Board could meet. He was just trying to clarify what they were intending to do.

Vice-Chair Ely stated that she would support having such a hearing and would recommend it be informational. Given the high profile of this project and considering how many activities were underway, whether they were fundraising or permit approval or going back and fixing past mistakes, she felt that there was enough of a body of work to have a structured update.

Board member Li stated that she still had a totally separate amendment, but did not want to be too prescriptive about the hearing. She thanked the work of the Controller's office and the auditors who completed the report published in March as well as Board of Supervisors President Aaron Peskin for having pushed for the audit to be conducted. She commended all the MM representatives, speakers and OCII staff for answering the Board's many questions. Ms. Li stated that she had many concerns that seem shared across the Board regarding MM's ability to fulfill the recommendations of the audit and the ability for them to fundraise. She was pleased with the clarification that article 13 needed to be fulfilled prior to any disbursement because that would fulfill the Board's responsibility of what they were supposed to be doing there as the OCII oversight body. However, she felt the amended agreement could and must be strengthened, because she did not want to give San Francisco residents, taxpayers, or taxing entities another example of government dysfunction and lack of oversight. She wanted to submit an additional condition to be included as part of the amended and restated grant agreement and would rely on staff and counsel to decide where this should go. Her amendment read: "within six months after entering this agreement and prior to disbursement of any remaining grant funds, MM must produce a report of its inventory, including (1) a full account of its current collection including the location and condition status of each item, (2) an accounting of any sales or transfers, and (3) the current status of its storage. This report must be done by an independent professional registrar." Ms. Li went on to explain her reasoning and then shared her thoughts and recommendations on how it would be paid for.

Ms. Li stated that first, what this report asked for was in line with what was already in the grant agreement. The report regarding the inventory could be considered verification that the agreement had been upheld, and could be forwarded to the Executive Director to cite exactly which sections in the grant agreement this was referring to. Second, Mirriam Webster defined a museum as "an institution devoted to the procurement, care, study and display of objects of lasting interest or value". Ms. Li reminded everyone that the purpose of the original grant agreement from 2010 and prior to that was for there to be a museum and believed it was fair for OCII and the public to know exactly what objects were to be procured, cared for, studied, and ultimately displayed. Third, Ms. Li related that she was born in Hong Kong under British rule before the 1997 handover. With the escalation of violence and democratic suppression by the Chinese government in recent years, she wondered what would become of the Hong Kong people, their culture, language, and art and wondered what would be preserved and remembered. She stressed that whatever existed in this collection needed to be treated with the utmost care as a way to preserve and remember the artists who created it and contributed to it. Whether the funds could be raised and whether MM ever opened to the public, which she truly hoped it would, the public deserved to know what existed in the collection, and most importantly, the artists and creators were due that respect. Ms. Li read off the names of the people who had sent in the letter. She stated that she was requesting an independent report of MM's

collection. She recognized that producing such a report would take time and incur cost, and recommended they remain flexible about what the final language included in the amended grant agreement would be. In terms of costs, Ms. Li recommended that MM pay 50 % of the costs and OCII through the remaining grant funds pay for the other 50 %. She acknowledged that this might require additional agreement language so that this could be an eligible cost.

Chair Van Degna called for Public Comment

PUBLIC COMMENT

Speakers: Luis Orozco, native resident, SF; Alfredo Pedroza, Board member, Mexican Museum; Anne Cervantes, Owner, Cervantes Design Associates, Inc.; Kevin Ortiz, Co-President, San Francisco Latino Democratic Club; Victor Marquez, General Counsel, Mexican Museum

Mr. Orozco stated that he was a native of SF and had been raised by Mexican American artists and had worked as an agent and manager for a number of artists. He felt that MM represented an opportunity to reinvigorate San Francisco (SF). He objected to the proposed amendment that would require additional costs. It seemed to him that the Board was presenting a hurdle and instead suggested just to review MM's existing inventory report rather than to require a new one without having seen the one that was already in existence, since it was stated that MM did have someone who was keeper of these items. He remarked that Commissioner Li had spoken about the challenges of trying to comply with building the new station to San Jose and how costs had elevated and how that had required additional time, but yet he asserted that this amendment would do just that. Mr. Orozco reminded everyone of the diversity of cultural arts institutions that already existed in SF and stated that many visitors to SF think of its Latino origin and they look at SF in comparison to other cities in terms of the venues, the hotels and other things. Mr. Orozco pointed out that MM had board members who served on the boards of Wells Fargo, the San Francisco Foundation and the California Wellness foundation. They had compiled lists of donors who had already expressed interest in donating to meet this goal. He believed MM could meet the goal in the 18 months to show the world that SF was still a world class city that was coming back from the brink.

Mr. Pedroza stated that he was a lifelong San Franciscan and resident of the Mission district, a business leader as Chair of the San Francisco Chamber of Commerce, its first gay Mexican, and a Board member of MM and Chair of its Building Committee. He stated that MM had been brought forth by many people who had sat on the Board and by artists who had devoted their lives to bringing Mexican art and culture to SF. He explained that after so much effort, they had received nothing but roadblocks and additional hurdles. He thanked Executive Director Kaslofsky and his team for being true partners in helping with this matter and stated that they had worked tirelessly to move this forward. Mr. Pedroza felt strongly that San Francisco needed to send a message that SF valued the Mexican culture and that the City was doing everything possible to reinvigorate the downtown and make it a place that tourists returned to. He asserted that they should be making it easier for cultural institutions to draw people to SF. He reminded everyone that the money they were talking about was not City money, but state money and that they were doing everything they could to protect that state money. Mr. Pedroza indicated that they had a team committed to making this museum a reality, but did not need more obstacles set in their way.

Ms. Cervantes stated that she was speaking again on behalf of the SF Latino community and as a historian documenting all the Latino assets. She stressed that this was an important icon to show the achievements and the history associated with the SF Latino community and although this was an important project, it had become a political football in SF. Ms. Cervantes stated that she was not sure

why this entity had oversight of MM's collection, but would leave that for the attorneys to address. Ms. Cervantes stated that she knew Amalia Mesa-Bains and some of the California leaders in the arts communities. She encouraged the Board to move this forward instead of focusing on all these roadblocks.

Mr. Ortiz described the San Francisco Latino Democratic Club as a 45-year-old organization that focused on empowerment and advocacy for the Latino community. He was there today to strongly urge Board members to move MM forward without any additional conditions. While they disagreed with the audit findings, he was sure that MM had made efforts to make sure they were in compliance and was working closely with OCII. Securing a 501C3 status not only in Mexico and also receiving a fiscal sponsor in MNC had demonstrated good faith. Mr. Ortiz reminded the Board that it was not their role to audit the collection of a private organization. He stated that there needed to be equity for the Latino community, because this issue had become a political issue and that it was unfortunate that the Board had taken the comments of a select few former disgruntled employees instead of actually listening to the community at large. He asked the Board to move this forward. He assured the Board that if this museum did not move forward, the community would rise up.

Mr. Marquez stated that with respect to the MEPs, he reminded the Board that MM had collaborated with Millenium Partners and they had structured a deal with the support of OCII for an over \$3 million project and so the core shell was set up for the building committee to now plug the MEP's in for the entire structure. On the question of the collection, MM had a dedicated staff and OCII had provided close to \$100,000 under the previous disbursement agreements. However, after the audit findings, the audit as well as the amended agreement stated that no monies could be used for anything related to the collection, because that was not within the purview of OCII. It's the structure of the real estate asset. So, to put an additional burden on the museum to hire an outside consultant when they had a bona fide registrar in place who was preparing reports now to submit to OCII was a burden to MM. He also reminded the Board that this was something that was negotiated very heavily at the request of the City Administrator, Supervisor Peskin, OCII and RED. He stressed that they had already negotiated that issue; it was in there. To put an additional burden on MM to spend what might be \$50,000 or \$100,000 to bring in an outside consultant would be a burden that MM did not need or deserve, and really was not within the purview of what was before the Board at this time. He suggested that MM comply with Section 13 and provide a report back to the Board on the information requested and also to present a report of the status of the collection, where it was located, how it was being taken care of, where it was going next, etc., which he believed to be fair, but to impose another layer of complications to MM at this point in time did not make sense in his legal and professional opinion on behalf of the museum. He thanked the Board for their consideration in moving forward to get the tenant improvements constructed.

Executive Director Kaslofsky provided the Board with more context, especially related to Board member Li's comments about the desire to have a report. He called attention to sections in the grant that spoke to the art already, specifically Section 5 Article 5 default 5.1B and read that section out loud: "It's an event of default for the sale or transfer of all or substantially all the Grantee's permanent art collection." Mr. Kaslofsky noted that there were already provisions for the art and if there was no art for this museum, OCII would have needed to be aware of it as that would have constituted a default for not telling OCII about it. He also referred to Section 8 called Representations and Warranties, Section 8E regarding storage and noted that this was a recent change that OCII made, so it was not part of the original agreement. He read this section out loud: "The storage of the Grantee's art collection meets established professional standards and best practices of a museum for art storage including but not limited to standards for a rigorously

monitored environment with strict temperature humidity and light exposure controls.” Mr. Kaslofsky clarified that he wanted to make sure Board members were aware of what was in the grant already.

Board member Li stated that, given that there was, as noted, some sort of existing inventory, she would be open for that simply to be verified by an independent third party, such as a professional registrar, if that would be both cost-saving and also time-saving. She had already made a recommendation around how to share the cost of this. Ms. Li stated that there was no issue with the amendment, but that this would simply be a verification of things already in the existing grant agreement.

Executive Director Kaslofsky inquired about whether staff found that acceptable. He stated that they would have to work with MM on the cost sharing idea as well as procuring an independent art professional. He remarked that they could work with the Arts Commission or with existing professionals in the field, and then provide that information as part of the update planned to the Oversight Board. He indicated that if they were going to amend the grant, it would be under Section 1.2D with a new D, and that was where they would put that language.

Ms. Fabian clarified that this language would go into Article 1, Section 1.2, and it would be added as a new D.

Executive Director Kaslofsky clarified that procedurally they were amending the resolution before them, adding this language to the resolution, so Board members would have to vote on amending. They were approving the amendment, then they would vote on the amended resolution. He clarified that they had just had public comment on the amendment.

Chair Van Degna stated that she was advised by counsel that if there were going to be two motions, one to amend and then another to approve, then they would need to have a second Public Comment.

Ms. Fabian responded in the affirmative, but needed clarification regarding the amendment to the grant agreement. The Board would be approving the grant amendment on the condition that the amendments proposed by Board member Li be added, assuming that OCII and staff were clear as to what the actual amendment would look like in the grant agreement. The Board was essentially approving on the condition that the amendment be added as reflected by Board member Li’s statement about what that amendment would be. To clarify, an amendment had been proposed and the Board could approve it on the condition that those amendments be added to the grant agreement.

Board member Li understood that there could be two actions because there were two different paths. She clarified that they have two separate actions: one was to include the amendment and if the Board voted no, then they would just go back to the original grant agreement. The other was that she make a motion to approve the amended grant amendment with this additional amendment. Ms. Li stated that she was open to either.

Chair Van Degna clarified that the amendment would also include the request for another hearing.

Board member Li responded in the affirmative but stated that she did not know how that would be included.

Executive Director Kaslofsky clarified that they did not need to amend the grant to hold the hearing. They could simply hold the hearing and call staff and MM to attend. He specified that it was the report that the Board was seeking to receive at the hearing that they wanted to include in the grant agreement.

Chair Van Degna inquired about a second public comment.

Ms. Fabian asked for clarification that, in terms of the amendment, Board member Li would move to amend the grant.

Board member Li stated that she was not interested in the order of operations in this matter. She recognized that she had introduced the amendment prior to public comment. However, she had not heard from fellow Board members regarding the amendment. Therefore, she was hesitant to move the agreement forward with her amendment because she wanted to hear from her Board colleagues first.

Board member Corrette stated that he was in line with that amendment.

Vice-Chair Ely stated that her feelings about the amendment were mixed and that she was hoping to hear from MM that the board of directors or some other funder was going to require similar documentation of the collection or that there was some best practice that some institute followed that MM was also following. However, not having heard that and having just read an article in the New Yorker about how items were stolen from the British Museum because they did not adequately track their own collection through their own database, she did see the need for that kind of best practice to be followed. On the other hand, Ms. Ely stated that she was reluctant for the Board to be determining what the best practices would be, because she was ignorant of how things worked in museums. She asked for comment from MM about what practices they were following or planned to follow in the future as the collection grew or as they received more funding.

Board member Corrette referred to the materials provided to the Board that stated there was an association with the Smithsonian Institute and inquired about whether that would cover any of Vice-Chair Ely's question.

Mr. Kruger responded that there were a couple of paths that they had to follow to ensure there were best practices. One of them was to become a Smithsonian affiliate. He reported that representatives from the Smithsonian inspected the collection seven years ago. When the Rockefellers donated their collection, they asked for a complete review of it, which was done six years ago. When the Volner collection decided to donate their collection, they also asked for review, including best practices. That was handled by the Chair of the MM Collections Committee, and Marta Turok, the museum curator of Mexican art in Mexico, who spent three months in SF going through the collection in its entirety. Mr. Kruger stipulated that this was how MM was able to make sure the database was accurate. Finally, a professor in Berkeley donated 84 pre-Hispanic pieces valued in the millions of dollars. He would not donate the collection unless MM demonstrated best practices and a review, which was done three years ago. Mr. Kruger assured the Board that MM did have systems that were in place and being followed. As a collection was brought in, it was reviewed, handled by staff and catalogued. He stated that he was okay if the Board wanted somebody else to review the collection, but added that it would be a very expensive process and he expressed concern about who would pay for that. Mr. Kruger recommended that the Board approve the amendment and MM would provide the additional reports during the six-month period. He warned that holding up the amendment

process confirmation could hold up their fundraising, which would delay bringing in additional funds.

Board member Iberri stated that in response to Board member Li's proposed amendment, she wanted to appreciate the kind of sentiment that this was. The potential of this museum was important to SF as well as the importance of the contributions of the Latino community here, of which she was also a part. She was encouraged by the concept that perhaps the Arts Commission could provide some structure to this discussion. This appeared to be somewhat of a standard request for potential funders and MM would be approaching many people in its pursuit to raise \$27 million in a very short amount of time. Ms. Iberri believed there was a solution here that would suit both what the needs of MM would continue to be and what the Board was requesting here. She stated that she would be amenable to receiving what MM already had and intended to use for its fundraising effort. She suggested that the amendment be constructed in such a way that the Arts Commission could also receive this. Ms. Iberri was not sure what role the Arts Commission would or could play in this scenario, but it seemed that in the maintenance of their own civic art collection and in procurement of art objects and works all over the City, they would have the expertise to potentially be an independent reviewer of this collection.

Board member Li wanted to clarify that she was not an art professional and did not believe anyone else on the Board was either. She clarified that she was not asking for the Board to approve or review or examine said inventory report, rather for it just to be produced. Ms. Li referred to Board member Iberri's comment that this seemed to be a requirement already when collections were brought in, so it would not be a difficult task. Ms. Li clarified that what she was asking for was some sort of independent verification and review by art professionals, possibly through the Arts Commission, and the publicization of this information.

Mr. Kruger suggested that he would work with the Executive Director. They would get someone who had already reviewed the collection with all the standards that needed to be done, and the Board could have a full report to review by someone who was independent, not working for MM, like a curator of another museum, if they were willing to do so at no cost, which would be very helpful. He added that there were people who would be willing to do that.

Board member Li stated that that was what she was asking for and expressed concern over his response.

Mr. Kruger corrected that Board member Li's first request was that MM needed to get an independent verification. He clarified that the collection had been verified numerous times by different people already.

Board member Li stated that she felt they were coming to agreement and alignment here and felt that the purpose of her request was clear. It seemed that Executive Director Kaslofsky felt comfortable taking this forward. Ms. Li stated that she still wanted this to be an amendment to the grant agreement and wanted to make that clear.

Executive Director Kaslofsky responded that they would work with MM to produce this report and stated, for the record, that the Arts Commission did not have anything to do with OCII at that moment. He was just trying to clarify that OCII was not the cultural organization for the City. He stated that he would reach out to the Arts Commission to see if they could assist with this. However, he assured the Board that they would solve this matter, whether they procured someone or whether MM had someone who could assist. He pointed out that procedurally, there was no second and he

was not sure that a formal motion had been made. Since there was no amendment to the motion, he suggested that the Board restate the motion they wanted to make, take public comment on that motion, then vote on that amendment. Then vote on the amended resolution and take public comment on that vote. Mr. Kaslofsky recommended those the two things so the record was clear.

Executive Director Kaslofsky summarized that the Board would like a report on the art collection, on how it was being stored and that it was being adequately stored, an inventory of what existed and a report on any sales or transfers of the art during the grant term, which started in 2010; basically, a report retrospectively. He stated that he would work with MM on the form of the report. Then once the Board received the report, they wanted it to be independently reviewed or evaluated by an art professional. He thought perhaps the Arts Commission could assist with that or perhaps MM had someone they could refer. The cost of this was unknown, but it sounded like much of the information already existed, so perhaps there would be little to no cost. However, if there was any cost, the Board suggested that it could be split between the grants funds and funds which were raised, so they would use a 50/50 ratio instead of a 60/40, which was what the Phase 1 costs were split at currently. He inquired as to whether that statement represented the Board's intent.

Board member Li responded in the affirmative and added that this was to be a condition of the disbursement of funds and also that some version of this report had to be made public.

Executive Director Kaslofsky clarified that besides the report, they were also asking for MM to come back within six months to report on the status of the implementation of the grant, which would include other things. So the motion included both those things.

Board member Corrette stated that it might be a bit onerous to report every sale and suggested adding a floor of perhaps \$5,000 or \$10,000 or \$20,000, to avoid possibly including a \$12 piece of fake art that the registrar determined was a donation which MM had accepted and should not have.

Board member Li argued against that saying that it should be at the discretion of Executive Director Kaslofsky. She did not feel the need to nitpick and did not think there needed to be any additional action by this Board around this. It would simply be a condition of disbursement.

Executive Director Kaslofsky clarified that the Board wanted to put a timeframe in place. He inquired about whether they should judge how long to go back and how much of a dollar amount or whether they should just put in a time frame, like five years or something like that.

Board member Corrette responded that a timeline was not relevant to him. He was stating that there was no need to report every single sale, but rather just sales of a certain amount that were meaningful.

Board member Li responded that she did not want to get too much into the details of this report and that they should leave that to the discretion of Executive Director Kaslofsky.

Executive Director Kaslofsky replied that it would be best for staff if they could decide on a timeline, so if there was a period of time...

Board member Li reiterated that they had clarified it should include the whole grant agreement, going back to 2010. She stressed that this was their fiduciary responsibility.

Board member Iberri requested clarification that they were proposing that the timeline include what had been in the collection since the inception of the grant agreement, and then what had transferred or been sold or otherwise de-accessioned in that time period. And then moving forward on some interval.

Board member Li responded that it should be whatever MM was able to produce because it seemed like this inventory already existed, so they needed to know what they had in hand in their collection currently, and then the history of sales and transfers or significant or meaningful sales and transfers, since 2010, the start of the grant agreement, could be included. The last piece concerned the current condition and security of the storage, which was already in the grant agreement. Ms. Li recommended that any of the details about how this all would be handled should be left to the discretion of Executive Director Kaslofsky.

Executive Director Kaslofsky requested clarification on including the word “significant” and whether that meant including just what was significant or whether the Board wanted to include every item going back since 2010.

Board member Iberri stated that she did not want to be duplicative of things that were already in the grant agreement. Executive Director Kaslofsky had already noted that there was a default language section 5.1, which stated the sale or transfer of all or substantially all, which was grounds for default of this agreement, which she felt was a high bar. Ms. Iberri believed that that language was appropriate for defaults, but suggested they use similar language in the new Section 1.2D, where they required a public report of MM’s collection and then use a different severity of word there, not the word “all”, but perhaps “substantially all” or something else. She inquired about whether it would be easier to just use the word “all”, but then stated that it seemed onerous and that was her concern.

Executive Director Kaslofsky suggested using “to the maximum extent feasible since 2010, an inventory report on the condition of storage and the independent verification....”

Board member Iberri stated she had an idea to refine the requirement. Regarding donations of art, at times there were items that were specifically denoted so they could de-accession those items, if it furthered the purpose of MM or if the item was determined not to be a piece of art of value. Ms. Iberri suggested that perhaps in the inventory provided, those items could be noted. Then they would not have to report the sale of those items or the de-accession of those items. She felt strongly the need for public disclosure of what was in the collection and she supported that notion. Her concern was with including things that were not of public interest.

Board member Li returned to the notion of doing what was within reason and the person who would determine what was within reason would be Executive Director Kaslofsky.

Board member Corrette stated that part of the reason for the inventory was to provide the Board with a benchmark of where to start and what to start with and to figure out what was substantial de-accession. He suggested they use whatever that starting number was and then add a percentage, maybe 25 %. He explained the intent of including that in the agreement would be that if the entire collection was de-accessioned, then there would be no need for a 40,000 sq. ft. facility.

Executive Director Kaslofsky clarified the language once more to read: At the Executive Director's discretion to the maximum extent feasible, which was the qualifying language, a report on the

inventory since 2010, a report on the conditions of storage, and a report on any sales or transfers since 2010. Again, to the maximum extent feasible at the discretion of the Executive Director.

Board member Iberri had one more idea for Section 5.1, in the default language where it stated the sale or transfer of all or substantially all of the Grantee's permanent art collection. She suggested that perhaps they could define what the permanent art collection was, so as to make that a defined term of the agreement through the addition of this new amendment that used this report to be the definition of a permanent art collection. And then it would also provide staff the ability to determine whether MM was at risk of default.

Executive Director Kaslofsky responded that they did not have a list of MM's permanent collection and they did not need to create that through this process, unless the City decided that way. Mr. Kaslofsky pointed out that this was a private nonprofit that had its art collection and so their permanent collection did not need to be defined by the Board. It was MM's determination as to what that was and the Board was going to discover that through this inventory.

Board member Iberri replied that it would make the agreement simpler to understand if there was a reason for letter D, the amendment that they were proposing, and if they provided a collection that came with the definition of a permanent art collection, then it would limit the amount of language to be added and it would tie it to the other parts of the agreement.

Executive Director Kaslofsky stated that he was not sure of the unintended consequences of that but appreciated Board member Iberri's thoughtfulness behind it. He stated that it was up to the Board to decide what it wanted in this motion, and repeated what he had heard so far: discretion of the Executive Director, maximum extent feasible, documentation of the inventory since 2010, any sales or transfers and report on the condition of the storage.

Board member Li stated that she wanted to formally make that motion as Executive Director Kaslofsky has just described to be included in the amended grant agreement. Then in addition to this action to request an informational hearing before this body within six months prior to the OCII action.

Executive Director Kaslofsky asked Board member Li to rescind her motion because she had more amendments, which he proceeded to read in their entirety for the record. He clarified that the Board agreed to what he had stated, then they also wanted a report within six months to the Oversight Board, which was part of Board member Li's amendment. He inquired about the informational meeting.

Board member Li responded that the informational meeting was not part of the grant agreement. She believed their decision was that it would just be a hearing that would be called separately.

Executive Director Kaslofsky agreed but then reiterated that they wanted them to produce a status report. So, the Board wanted a status report as part of what it was requiring MM to do. He clarified that currently MM was not required to come back in six months for a status report. He stated that it would provide for timing clarity.

Chair Van Degna inquired about whether that timing and clarity would be helpful for Executive Director Kaslofsky.

Executive Director Kaslofsky responded in the affirmative and added that it would be helpful in the event that they needed more time. He stated that he could work with MM and communicate a timeframe, which would also potentially be a timeframe for this report that the Board was seeking. He clarified that within six months the Board wanted a report on those things.

Chair Van Degna requested that they recite one more time and then go to public comment.

Executive Director Kaslofsky stated that 1) the Board desired a report on the art collection inventory, the condition of the storage and any sales or transfers since the grant term of 2010; 2) the Board desired a status report on the overall project implementation, such as fundraising, etc. within six months of this meeting and then this report would be within six months as well. So those two things.

Board member Li motioned to amend the resolution and add said items and Board member Corrette seconded that motion.

PUBLIC COMMENT

Speakers: Alfredo Pedroza, Board member, Mexican Museum; Luis Orozco; Anne Cervantes, Owner, Cervantes Design Associates, Inc.; Victor Marquez, General Counsel, Mexican Museum

Mr. Pedroza stated that they had heard all the comments about trying to hold MM accountable, but without recognizing that they had multiple layers of City bureaucracy that was already doing that. What he did not hear was how the City was going to help MM move forward to make this a reality. He stated that they were trying to hold costs down and yet the Board was adding more requirements for things to be paid for by MM. He felt concerned that in a City like SF, they were not able to move this cultural icon forward in a timely manner. Mr. Pedroza stated that they had moved mountains within the last year and a half to meet the requirements that were set forth by multiple agencies in the City and he suspected that politics were at play. He stated that they wanted equity for the Latino community and wanted their museum built. Mr. Pedroza reminded Board members that MM was raising private dollars to unlock state dollars that were committed to the museum. He asked the Board to extend this timeline so that they could have the opportunity to move this project forward. He reminded all that the dollars expired in June and the dollars would not be released until all of these things were met. He begged the Board to not add any more hurdles to the work that they were already doing.

Mr. Orozco stated that he was impressed with all the attention to detail. He expressed concern that this amendment was born out of statements by a group of disgruntled employees and was concerned that this could open up others to potential liability. He pointed out that Executive Director Kaslofsky had already expressed that there was transparency and that it was required that MM maintain the collection in a safe place for preservation at the right temperature with the right lightning, etc., and that they had already done all that in compliance with the Smithsonian and other donors. Mr. Orozco felt that there was too much emphasis on what was in the collection since museums contained more than just objects of art. They contained performing arts spaces, music, visual arts, film, among other things, and to hold up the process or to add another hurdle based on one element of many elements which would be in the building seemed a bit heavy-handed, if not overreaching.

Ms. Cervantes stated that she was speaking as a leader and representative of the Latino community, not just regionally but statewide. She believed that this had become a political issue now. Ms. Cervantes pointed out that the people mentioned in Ms. Li's letter did not live in SF. She expressed disappointment in the addition of more restrictions and obstacles because she stressed that they were

trying to get this done. The MM was an important historical asset to the legacy for the founder, Peter Rodriguez. Ms. Cervantes urged the Board to put aside comments from disgruntled ex-employees and to stop adding more obstacles to these requirements.

Mr. Marquez pointed out that MM had vehemently requested that the Arts Commission participate in this project as opposed to RED. He claimed that it did not make sense from a cultural perspective for a real estate entity to be handling the issues related to a collection, which at the time exceeded over 15,000 objects of arts and which now exceeded 17,800 objects of art. Mr. Marquez welcomed the Arts Commission's involvement. He hoped they might be able to provide a grant to MM to help digitize the 17,800 items of art that belonged to the public, to the people of California and San Francisco. With respect to the funds from the grant being used to pay for 50 % of the costs, Mr. Marquez affirmed that they had been told by the city auditor and by the controller that they could not use any of that money for this. On the de-accession of art pieces, he stated that he had been general counsel since 2009/2010 and that there had always been a very strict process of what actually went into the collection. He stressed that the amendment should only be focused on the actual collection and not the hundreds of pieces of arts and crafts that had been donated and sold at the retail shop. It would be ridiculous for them to document the thousands of small items like little turtles, etc. He stated that the focus needed to be on the permanent collection only. Mr. Marquez indicated that MM had been told that they could not use any funds for storage fees or anything like that, so that needed to be eliminated. Mr. Marquez stated that they had gone through a rigorous two-year process to become certified by the Smithsonian Institute. He pointed out that they were the first Latino arts and culture organization in California to get that stamp of approval, which required accessing the collection and making sure that it was held to required standards. Finally, he added that MM was spending a lot of money to pay for insurance for each of the collections in place, meaning any travel exhibits, including the two in Mexico. They were insured and they provided that insurance.

Mr. Ortiz stated that he was shocked that they were even entertaining this amendment, given the fact that the Mexican Museum had had to jump through so many hoops already. He stated that it was not within the purview of the Board to analyze the collection of a private art organization's collection. He pointed out that this was a massive collection with over 17,000 art pieces in place, and the Board was asking MM to pay for at least half the cost to get an independent registrar to identify what pieces were still in place and secured. Mr. Ortiz felt that if this request was being made by the Oversight Board, then it should be funded by the Oversight Board, the City and frankly by President Peskin who had been calling for the MM collection to be audited. Mr. Ortiz felt strongly that the Latino community was under attack and they deserved to have their stories heard and told. He called this action anti-Latino. He suggested that if the Board would not pay for this added amendment, then the City should do so.

Chair Van Degna closed Public Comment.

Executive Director Kaslofsky stated that for clarity and now that they had heard public comment and different iterations of the motion, he wanted to read the language that was crafted to be inserted in the grant agreement and then discuss where it would go. So that the recorded record was clear, he asked Board member Li to rescind her original motion.

Board member Li stated that she rescinded her original motion.

Executive Director Kaslofsky stated that he would read out the motion and if the Board agreed with it, then they would move that item. Then they would proceed to vote on the amended resolution without public comment because the Board would simply be voting on what was amended. So, the report was described as follows:

“Within six months of entering into this agreement and prior to disbursement of any remaining grant funds, the Mexican Museum will produce a report of its inventory, including an account of its full collection, including location and condition and status of each item and an accounting going back to 2010 of any sales and transfers and this must be verified by an independent professional registrar”. He stated that this was the motion and that would go into Article 1.2D. He repeated that that was the Board’s motion to move, if they so desired.

Board member Li inquired about the language about the discretion of the Executive Director to the maximum extent possible.

Executive Director Kaslofsky stated that he was adding that in.

Chair Van Degna stated that they wanted to make sure they had a process that was transparent but not overly onerous, and appreciated Executive Director Kaslofsky’s discretion in that.

Executive Director Kaslofsky stated that he was adding “to the maximum extent feasible at the discretion of the Executive director.”

Board member Li motioned to include the added language and Board member Corrette seconded that motion.

Voice vote was taken for Item 5A.

Board member Corrette – yes
Board member Iberri - no
Board member Li - yes
Board member Williams - absent
Vice-Chair Ely - yes
Chair Van Degna - yes

ADOPTION: IT WAS VOTED BY FOUR BOARD MEMBERS WITH ONE NO AND ONE ABSENCE THAT THE ADDED LANGUAGE TO BE INCLUDED IN THE AMENDMENT FOR ITEM 5A, BE ADOPTED.

Chair Van Degna called for a vote on the amendment.

Executive Director Kaslofsky clarified that now that it had been moved, the Board would vote on the amended resolution. The next motion would be to approve the grant as amended.

Vice-Chair Ely motioned to approve the amended and restated grant agreement as amended and Board member Li seconded that.

Voice vote was taken for Item 5A.

Vice-Chair Ely motioned to approve the amended and restated grant agreement as amended and Board member Li seconded that.

Voice vote was taken for Item 5A.

Board member Corrette – yes
Board member Iberri – yes
Board member Li – yes
Board member Williams - absent
Vice-Chair Ely - yes
Chair Van Degna – yes

ADOPTION: IT WAS VOTED BY FIVE BOARD MEMBERS WITH ONE ABSENCE THAT RESOLUTION NO. 02-2024, AUTHORIZING AN AMENDED AND RESTATED GRANT AGREEMENT BETWEEN THE MEXICAN MUSEUM AND THE SUCCESSOR AGENCY TO APPROVE THE AMENDED AND RESTATED GRANT AGREEMENT AS AMENDED, BE ADOPTED.

Executive Director Kaslofsky interjected that they had not read it into the record, but it was the intent of the Board that the cost for that, if there was any cost, would be split 50/50. He pointed out that it was really just the report description that needed some clarification, but it was the intent.

6. NEW MATTERS FOR FUTURE CONSIDERATION - None

7. PUBLIC COMMENT ON NON-AGENDA ITEMS - None

8. ADJOURNMENT

Board member Li motioned to move Item 8 and it was seconded by Vice-Chair Ely.

The meeting was adjourned by Chair Van Degna at 1:57 p.m.



Respectfully submitted,
Lucinda Nguyen
Acting Secretary