MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee
Executive Director

SUBJECT: Authorizing a Grant Agreement with The Mexican Museum, a California non-profit corporation, in an amount not to exceed $10,000,000, for predevelopment work for a new museum associated with a new mixed-use project on a site that includes 706 Mission Street (Assessor's Block 3706, Lot 93) and Successor Agency disposition parcel CB-1-MM (Assessor's Block 3706, portion of Lot 277), pursuant to a May 4, 2010 Amended and Restated Exclusive Negotiations Agreement with the developer of the mixed-use project

EXECUTIVE SUMMARY

On May 4, 2010, the former San Francisco Redevelopment Agency (the “RDA”) entered into an Amended and Restated Exclusive Negotiations Agreement with 706 Mission Co. LLC (the “Developer”) to develop a mixed-use project that spans a Developer-owned property at 706 Mission Street and an adjacent RDA-owned site long-slated for the future home of The Mexican Museum (the “Developer ENA”). Currently, the Developer’s proposed project includes: (1) a new 43-story tower (with up to 190 residential units) connected to the existing historically significant Aronson Building, (2) approximately 48,000 net square feet of cultural space for the Mexican Museum (the “Museum”), (3) approximately 5,000 gross square feet of ground-floor retail/restaurant space, and (4) use of Jessie Square Garage for private and public uses (the “Project”). As a legally binding and enforceable agreement that was executed prior to June 28, 2011, the Developer ENA is an enforceable obligation that survived the RDA’s dissolution.

Pursuant to the Developer ENA, the Developer is required to pay the RDA a total of $300,000 made in three installments of $100,000 each (the “Developer Payments”), in consideration of the RDA’s grant of the exclusive right to the Developer to negotiate transaction documents relative to the Project. The Developer ENA allows the RDA to use the Developer Payments “for any legal purpose in support of the Project, including without limitation providing assistance to The Mexican Museum.”

The Office of Community Investment and Infrastructure (“OCII”), as successor agency to the RDA, received the third and final Developer Payment in June 2012. Consistent with the terms of the Developer ENA, OCII staff is recommending approval of a grant agreement with the Museum to disburse the third Developer Payment (the “Grant Funds”) for the purpose of funding predevelopment work related to the new museum space in the Project (the “Grant Agreement”) (see Exhibit A). The Grant Funds are in addition to the $10.6 million in RDA funding authorized under a 2010 grant agreement between the RDA and the Museum to cover a
substantial portion of the costs for predevelopment, planning, and interior improvements related to the new museum space.

Pursuant to the provisions of California State Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) (“AB 26”), as amended in part by California State Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12) (“AB 1484”) (together, “Redevelopment Dissolution Law”), the Successor Agency is able to enter into the Grant Agreement because it fulfills a Successor Agency obligation under the Developer ENA.

Staff recommends authorizing the Grant Agreement with the Museum.

DISCUSSION

The Museum proposes to use the third Developer Payment of $100,000 for the following purposes: (1) to augment the salary and pay for recruitment costs for a Director of Development (i.e., fundraising); (2) to augment professional fees and recruitment expenses associated with one or more fundraising consultant(s); (3) to conduct a professional direct mail membership solicitation to targeted prospects; (4) to upgrade office infrastructure providing for essential telephone, communications and equipment; (5) to acquire fund development software and technical support for stewardship and record keeping; (6) to engage additional legal counsel necessary for the pre-development/construction phase of the Project; and (7) to engage public relations services for continued heightened awareness of the Museum and its capital campaign. The Grant Funds will be allocated as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director of Development recruitment and salary</td>
<td>$15,000</td>
</tr>
<tr>
<td>Fundraising consultant(s) recruitment and fees</td>
<td>$25,000</td>
</tr>
<tr>
<td>Direct mail solicitation</td>
<td>$15,000</td>
</tr>
<tr>
<td>Upgraded office equipment/systems</td>
<td>$10,000</td>
</tr>
<tr>
<td>Fund development software and tech support</td>
<td>$20,000</td>
</tr>
<tr>
<td>Legal counsel:</td>
<td>$10,000</td>
</tr>
<tr>
<td>Public relations services</td>
<td>$5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$100,000</strong></td>
</tr>
</tbody>
</table>

Under the proposed Grant Agreement, the funding will be released in one lump sum payment to the Museum. The Museum will be required to provide the Agency with an accounting of its expenditures of the Grant Funds. The proposed Grant Agreement also requires the Museum to comply with all applicable Successor Agency policies and programs, including policies regarding small business enterprises, construction workforce, and insurance.

Predevelopment Work to Date

The Grant Funds are in addition to the $10.6 million approved for future disbursement to the Museum under a separate grant agreement approved by the RDA Commission on December 14, 2010. To date, $1.75 million has been authorized for disbursement under that separate grant agreement, but only about $900,000 has been spent by the Museum on predevelopment costs associated with the new museum space.
Significant progress has been made on the new museum space over the past two years. The Museum has (1) hired staff, including a project manager, to manage the design, construction and build-out of the new museum space, (2) assessed its collection in order to determine space requirements and layout needs, (3) developed an initial capital campaign and operating budget for the new museum space, (4) improved organizational capacity and administrative systems, (5) prepared draft preliminary conceptual drawings, and (6) engaged Enrique Norton as the Museum’s project architect. The additional $100,000 requested under the proposed Grant Agreement will be used to continue this work. Predevelopment funds will continue to be needed over the coming months, as the new museum space is refined and designed.

Project Update

In related actions at this meeting, the Commission is being asked to approve (1) a Long-Range Property Management Plan (“LRPMP”) pursuant to Redevelopment Dissolution Law that proposes selling property owned by OCII to the Developer for its appraised value to build the Project and (2) a purchase and sale agreement with the Developer for the disposition of that property. If approved, the Developer intends to start construction on the Project within the next 18-24 months, after final project approvals are complete and the project entitlements are finalized. Once the new museum space is complete, the Developer intends to convey the new museum space to the City and County of San Francisco which will lease the new museum space to the Museum. Details of the LRPMP and the purchase and sale agreement, including details of this proposed transaction, are contained in a separate Commission Memorandum for this meeting.

Compliance with Redevelopment Dissolution Law

The proposed Grant Agreement complies with Redevelopment Dissolution Law, which defines “enforceable obligations” to include any “legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy,” (Cal. Health & Safety Code Section 34171(d)(1)(E)) as well as certain other obligations, including but not limited to requirements of state law and agreements made in reliance on pre-existing enforceable obligations. The Developer ENA meets the definition of “enforceable obligation” under Redevelopment Dissolution Law.

AB 1484 authorizes successor agencies to enter into new agreements if they are “in compliance with an enforceable obligation that existed prior to June 28, 2011.” Cal. Health & Safety Code § 34177.5 (a). Under this limited authority, a successor agency may enter into contracts, such as the Grant Agreement, if a pre-existing enforceable obligation requires that action. As noted above, the Developer ENA requires OCII to use the Developer Payments “for any legal purpose in support of the Project, including without limitation providing assistance to the Mexican Museum.” Section 3(A) of Developer ENA. See also Cal. Health & Safety Code § 34167 (f) (providing that Redevelopment Dissolution Law does not interfere with an agency’s authority under enforceable obligations to “enforce existing covenants and obligations, or . . . perform its obligation.”). The Grant Agreement, providing funding for the Museum’s ongoing predevelopment and planning work, is part of OCII’s compliance with the pre-existing enforceable obligation under the Developer ENA. Furthermore, the expenditure of $100,000 for the Mexican Museum appears on the Recognized Obligations Payment Schedule (“ROPS”) 13-14A for the current six month period. On May 17, 2013, the Department of Finance finally
approved ROPS 13-14A after making some modifications. The proposed expenditure under the Developer ENA, however, was approved.

**California Environmental Quality Act**

The proposed Grant Agreement will provide funding for planning and predevelopment work for the future construction of the new museum space. The Grant Agreement is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Sections 15061(b)(3), 15262, and 15268 of the State CEQA Guidelines.

*(Originated by Christine Maher, Development Specialist)*

Tiffany Bohee  
Executive Director

Exhibit A: Grant Agreement