

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 05-2022

Adopted March 15, 2022

AUTHORIZING A FIFTH GRANT DISBURSEMENT AGREEMENT WITH THE MEXICAN MUSEUM, A CALIFORNIA NON-PROFIT CORPORATION IN AN AMOUNT NOT TO EXCEED \$2,509,125, FOR PREDEVELOPMENT ACTIVITIES FOR A MEXICAN MUSEUM FACILITY AT THE 706 MISSION STREET PROJECT IN COMPLIANCE WITH A DECEMBER 14, 2010 GRANT AGREEMENT BETWEEN THE MUSEUM AND THE SUCCESSOR AGENCY

WHEREAS, On December 14, 2010, in accordance with Agency Commission Resolution No. 157-2010, the Redevelopment Agency of the City and County of San Francisco (the “Former Agency”) entered into a Grant Agreement (the “Grant Agreement”) between the Former Agency and the Mexican Museum, a California non-profit corporation, (“Museum”) that authorized the disbursement of \$10,566,000 of Former Agency funding (“Grant Funds”) over a ten-year period, to cover a substantial portion of the costs for predevelopment, planning, and tenant improvement work related to museum space (the “Museum Space”) in a proposed mixed-use project on a site at 706 Mission Street (Assessor’s Block 3706, Lot 93) and Former Agency disposition parcel CB-1-MM (Assessor’s Block 3706, portion of Lot 277) (the “Project”) located in the now-expired Yerba Buena Center Redevelopment Project Area; and,

WHEREAS, The funding sources for the Grant Agreement require the Museum to use the funds for "redevelopment activities" defined in the Community Redevelopment Law (Sections 33678(b), 33020, and 33021 of the California Health and Safety Code), and for purposes consistent with federal tax laws; and,

WHEREAS, Article 3 of the Grant Agreement requires disbursement of the Grant Funds to the Museum, under certain terms and conditions, in accordance with one or more grant disbursement agreements. The Former Agency approved, by Resolution No. 5-2012, a First Grant Disbursement Agreement on January 17, 2012, which authorized the expenditure of an amount not to exceed \$750,000 by the Museum for the purpose of funding Predevelopment Activities related to the Museum’s sustainable operational and fiscal participation in developing the Museum Space associated with the Project; and,

WHEREAS, On February 1, 2012, state law dissolved redevelopment agencies and transferred certain of the former agencies’ assets and obligations to successor agencies. Cal. Health & Safety Code Section 34170 et seq. (the “Redevelopment Dissolution Law”). As a result, the Former Agency ceased to exist and the Successor Agency, commonly known as the Office of Community Investment and Infrastructure (“OCII”), assumed certain obligations of the Former Agency, including those “enforceable obligations” that were entered into prior to the suspension of redevelopment agencies’ activities; and,

WHEREAS, San Francisco Ordinance No. 215-12 (Oct. 4, 2012) implemented Redevelopment Dissolution Law by establishing, among other things, the Successor Agency Commission (“Commission”) and delegating to it the authority to take any action that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency; and,

- WHEREAS, The Grant Agreement meets the definition of “enforceable obligations” that existed prior to June 28, 2011 under the Redevelopment Dissolution Law, and is listed as Item No. 151 on the Recognized Obligations Payment Schedule approved for the current fiscal year by the Oversight Board and the California Department of Finance; and,
- WHEREAS, The Successor Agency approved that certain Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013, by and among the Successor Agency, as transferor, Developer, as transferee, and the Museum, as third party beneficiary, recorded on April 17, 2014 as Instrument No. 2014-J864850 in Official Records of the City and County of San Francisco (as may be amended from time to time, the "PSA"), which, among other obligations, establishes the Museum’s obligation to design and construct tenant improvements and other improvements related to the Museum Space. Subsequently, the Oversight Board to the Successor Agency and the California State Department of Finance approved the PSA; and,
- WHEREAS, The PSA provides that the City and County of San Francisco (“City”) may acquire the Museum Space and lease it to the Mexican Museum. In anticipation of the City’s acquisition of the Museum Space, the City and Mexican Museum entered into a Lease and Facilities Agreement dated March 20, 2015; and,
- WHEREAS, On April 16, 2013, the Commission approved, by Resolution No. 11-2013, a Second Grant Disbursement Agreement in the amount not to exceed \$1,000,000. On July 15, 2014, the Commission approved, by Resolution No. 58-2014, a Third Grant Disbursement Agreement in the amount not to exceed \$1,030,881. These agreements provided funding for ongoing predevelopment and planning work of the Museum. On September 17, 2019, the Commission approved, by Resolution No. 24-2019, a Fourth Grant Disbursement Agreement in the amount not to exceed \$1,000,000 with the Developer on behalf of the Museum for the purpose of completing design, fabrication and installation of a façade screen, which is a portion of the improvements related to the Museum Space. All work and disbursements contemplated under the first four grant disbursement agreements have been completed; and,
- WHEREAS, On March 4, 2020, the Governor of the State of California proclaimed a State of Emergency in the State of California as a result of the threat of COVID-19, and the prolonged effects of the pandemic continue to be negatively felt in the San Francisco Bay Area. As a result, the Museum's predevelopment work has been delayed; and,
- WHEREAS, Prior to the expiration of the Grant Agreement, the Commission conditionally approved, by Resolution 24-2020, a First Amendment to the Grant Agreement ("First Amendment"), subsequently approved by the Oversight Board by Resolution 05-2020 and approved by the Department of Finance on November 6, 2022, which extended the term of the Grant Agreement to June 14, 2022; and,
- WHEREAS, The Museum reports the COVID pandemic and loss of a key design consultant have negatively affected the timeframe for planning and construction of the tenant improvements for the Museum Space, which have been delayed since the execution of the First Amendment; and,

- WHEREAS, The Museum needs additional funds to continue its predevelopment efforts and has submitted a request that OCII authorize a fifth disbursement of up to \$2,509,125 of the Grant Funds for the purpose of funding additional predevelopment activities, including negotiating a contract with a design/builder for to Museum Space tenant improvements and commencement of design work therefor, as well as activities related to fundraising and cataloging the Museum collection in advance designing the space to accommodate the collection; and,
- WHEREAS, The proposed use of funds for predevelopment activities is consistent with the Grant Agreement's requirements that funds pay the costs of the Museum Space's predevelopment activities, which are defined as including "predevelopment plan, operational and organizational planning, design of the Museum Space, hiring museum staff and other consultants, and regulatory approvals..." Grant Agreement at page 2 (Recital I); and,
- WHEREAS, OCII staff recommend approval of the "Fifth Grant Disbursement Agreement," which includes a budget, the roles and responsibilities of the Museum, mechanisms for the disbursement of funds, default provisions, compliance with OCII policies, and a form of funding request and form of reimbursement request, in an amount not to exceed \$2,509,125 (the "Agreement"); and,
- WHEREAS, Redevelopment Dissolution Law 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 Agreement, if a pre-existing enforceable obligation requires that action. The Agreement, providing funding for the Museum's predevelopment activities, is part of the Successor Agency's compliance with its pre-existing enforceable obligation under the Grant Agreement, which has been approved by the California Department of Finance and is listed on OCII's Recognized Obligations Payment Schedules for the current fiscal year; and,
- WHEREAS, In originally approving the Project, the San Francisco Planning Commission, as lead agency, certified, by Motion No. 18829 (March 21, 2013), the 706 Mission Street Final Environmental Impact Report ("FEIR") under the California Environmental Quality Act ("CEQA") and concluded that the Project would result in significant and unavoidable impacts related to the topics of transportation and shadow. Impacts for all other topics analyzed in the FEIR were determined to be less than significant or less than significant with mitigation; and,
- WHEREAS, In approving the PSA, OCII, as a responsible agency under CEQA, determined that the PSA implemented the Project and adopted environmental findings related to the FEIR. OCII Resolution 32-2013 (July 16, 2013); and,
- WHEREAS, OCII hereby finds that approval of the Agreement is an action in furtherance of the funding and implementation of the Project as described in the FEIR ("Implementing Action") and has reviewed the Implementing Action for purposes of compliance with CEQA; and,
- WHEREAS, OCII is making the necessary findings for the Implementing Action contemplated herein, considered and reviewed the FEIR, and has made documents related to the Implementing Action and FEIR available for review by the Commission and the public, and these files are part of the record before the Commission; and,

WHEREAS, The FEIR findings adopted in accordance with CEQA by the Commission in Resolution No. 32-2013, dated July 16, 2013, reflected the independent judgment and analysis of OCII, were and remain adequate, accurate and objective and were prepared and adopted following the procedures required by CEQA, and the findings are incorporated herein by reference as applicable to the Implementing Action; and now therefore, be it

RESOLVED, That the Commission finds and determines that the Agreement is an Implementing Action within the scope of the Project analyzed in the FEIR and requires no further environmental review beyond the FEIR pursuant to the State CEQA Guidelines Section 15180, 15162 and 15163 for the following reasons:

1. the Implementing Action is consistent with the Project analyzed in the FEIR and does not require major revisions to the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,
2. no substantial changes have occurred with respect to the circumstances under which the Project analyzed in the FEIR will be undertaken that would require major revisions to the FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FEIR; and,
3. no new information of substantial importance relating to the development of the Project has become available, which would indicate that (i) the Project will have significant effects not discussed in the FEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the FEIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FEIR; and, be it further

RESOLVED, The Commission has reviewed and considered the FEIR and hereby adopts the CEQA findings set forth in Resolution No. 32-2013 and hereby incorporates such findings by reference as though fully set forth in this Resolution; and be it further

RESOLVED, The Commission approves the Fifth Grant Disbursement Agreement, substantially in the form approved by Successor Agency counsel, with the Museum, in an amount not to exceed \$2,509,125 for predevelopment work for the Museum Space at the Project and authorizes the Executive Director to enter into the Agreement and any and all ancillary documents or take any additional actions necessary to consummate the transaction.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of March 15, 2022.



Commission Secretary