

112-0012024-002

Agenda Item No. 5(A)
Meeting of May 30, 2024**MEMORANDUM****TO:** Oversight Board**FROM:** Thor Kaslofsky, Executive Director**SUBJECT:** Authorizing an Amended and Restated Grant Agreement between the Mexican Museum and the Successor Agency**EXECUTIVE SUMMARY**

Prior to the expiration of the Yerba Buena Center Redevelopment Plan, the former San Francisco Redevelopment Agency (“Former Agency”), now known as the Office of Community Investment and Infrastructure (“OCII”), entered into a Grant Agreement (“Grant Agreement”) dated December 14, 2010 with The Mexican Museum, a California non-profit corporation (the “Museum”), to provide funding for the development of a new museum facility (the “Museum Space”) associated with a planned mixed-use project at Third and Mission Streets known as the 706 Mission Street project (the “Project”). Under Redevelopment Dissolution Law, the Oversight Board and the California Department of Finance (“DOF”) approved two amendments to the Grant Agreement, extending its term to June 14, 2024. The Grant Funds have been disbursed in accordance with specified requirements and provisions of the Grant Agreement, and must be disbursed by June 14, 2024, the Grant Agreement's termination date. The Museum has requested extending the term of the Grant Agreement to December 14, 2025, to enable the Museum to use Grant Funds through its planned construction of the first phase of the Museum Space.

On March 21, 2024, the City and County of San Francisco Office of the Controller (“Controller”), City Services Auditor, Audits Division issued an audit of the Mexican Museum Grant (“Audit”), which includes recommendations for OCII, and the City and County of San Francisco’s Real Estate Division (“RED” or the “City”) to improve oversight and management of their agreements with the Museum.

A condition of extending the Grant Agreement term is compliance with all the recommendations in the Audit. Staff is proposing to amend and restate the Grant Agreement (“Amended and Restated Grant Agreement”) to incorporate the recommendations of Audit as well as update the 14-year-old Grant Agreement Recitals as well as other terms such as insurance, reporting and record keeping. Also, staff and the City recommend the Grant Agreement term should only be extended for 12 months to June 14, 2025. (“Term”); provided, however, that the Term may be extended for an additional six months if the Successor Agency’s Commission determines that the Grantee, prior to expiration of the initial Term, has raised, and has available for expenditure, fifty percent (50%) of the Museum Matching Fund, and has complied with the conditions described in Article 13 of the Amended and Restated Grant Agreement.

By Resolution No. 14-2024 (May 21, 2024, included as Attachment 1), the Successor Agency Commission conditionally authorized the Executive Director to enter into an Amended and Restated Grant Agreement, based on the considerations summarized in this Memorandum.

The requested Amended and Restated Grant Agreement is subject to the review and approval by the Oversight Board and DOF for a determination of whether the action is “in the best interests of the taxing entities.” Cal. Health & Safety Code § 34181(e). Once completed, the Museum will provide benefits to local taxing entities, particularly the City and County of San Francisco (the “City”), by attracting national and international tourists and local area residents to a distinctive arts and cultural venue.

Staff recommends the approval of the Amended and Restated Grant Agreement.

BACKGROUND

In December 2010, the Former Agency approved, by Resolution No. 157-2010 (Dec. 14, 2010), the Grant Agreement with the Museum, which authorized the future disbursement of \$10,566,000 over a ten-year period for predevelopment and construction of tenant improvements for the Museum Space. The Former Agency and Museum entered into the Grant Agreement to preserve the Museum’s access to bond proceeds budgeted for development of a museum space within the Yerba Buena Center Redevelopment Project Area, which was set to expire in 2011.

Per the original Grant Agreement, the grant funds were broadly to be used for “redevelopment activities” as defined in the Community Redevelopment Law and included (1) "Predevelopment Activities," which include operational and organizational planning, designing the Museum Space, hiring museum staff and other consultants for predevelopment, and securing regulatory approvals; and (2) design/construction of the Museum’s tenant improvements, which include specialized HVAC/humidity control systems, all fixtures, furniture and equipment, all exhibit spaces, and exterior signage ("Construction Activities"). The original Grant Agreement also stipulated that Grant Funds were to be disbursed through one or more future “Grant Disbursement Agreements,” which the Grant Agreement required, at a minimum, to:

(i) describe detailed disbursement procedures for the Grant Funds, including a detailed budget for the use of the Grant Funds, the roles and responsibilities of each party, mechanisms for the disbursement of funds based upon the successful completion of performance milestones, default provisions, and a form of funding request, (ii) require Grantee to comply fully with and be bound by all applicable laws and regulations governing the use of tax increment funds and tax exempt bond proceeds, (iii) require Grantee to comply with applicable Agency policies and programs, including, but not limited to, policies regarding small business enterprises, construction workforce, permanent workforce, nondiscrimination and equal benefits, minimum compensation, healthcare accountability, and prevailing wages, and (iv) require Grantee to maintain insurance coverage satisfactory to the Agency's Risk Manager.

Since approval of the Grant Agreement in 2010, the following milestones and other events have occurred:

1. Through a Purchase and Sale Agreement ("PSA") between OCII, 706 Mission Street Co LLC ("Developer"), and the Museum, as third-party beneficiary, the Museum Space was formally incorporated into the 706 Mission Project, a residential development that includes a 480-foot high-rise residential tower with 190 units, commercial space, and the Museum Space in the base of the Project. The Project is constructed on private land and public land the Developer acquired from OCII under the PSA, which among other things established the Developer's obligation to construct the core and shell of the Museum Space as well as establish an endowment for the Museum's future operating costs.
2. 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 OCII assumed, subject to approval by DOF, certain "enforceable obligations" that were entered into prior to the suspension of redevelopment agencies' activities, including the Grant Agreement. The Grant Disbursement Agreements called for under the Grant Agreement are "in compliance with an enforceable obligation" and thus meet state standards for a successor agency to enter into new contracts after redevelopment dissolution. Cal. Health & Safety Code §34177.3(a).
3. OCII and the Museum executed five Grant Disbursement Agreements, and disbursed a total of \$3,780,881, as follows: On January 17, 2012, the Former Agency Commission authorized a Grant Disbursement Agreement with the Museum in an amount not to exceed \$750,000 for predevelopment planning, staffing and consultant costs related to the Museum Space. On April 15, 2013, the Commission authorized a second Grant Disbursement Agreement in an amount not to exceed \$1,000,000 for continued predevelopment work. The Commission approved a third Grant Disbursement Agreement in the amount of \$1,030,881 on July 15, 2014, for predevelopment and planning work associated with the Museum Space. The Commission approved a fourth Grant Disbursement Agreement in the amount of \$1,000,000 on September 17, 2019, to the Developer on behalf of the Museum for the purpose of completing design, fabrication and installation of a façade screen, a unique artwork designed by artist Jan Hendrix and fabricator A. Zahner under design contracts with the Museum, which is a portion of the improvements related to the Museum Space. The Commission approved a fifth Grant Distribution Agreement in the amount of \$2,509,125 on March 15, 2022, but only \$278,019 has been distributed to date. After accounting for these previous disbursements, the remaining amount of Grant Funds is \$6,507,100. (Please see table below.)

Disbursement Agreement	Disbursement Year	Grant Amount	Disbursement Agreement Amount	Amount Disbursed	Grant Balance
First	2012	\$10,566,000	\$ 750,000	\$ 750,000	\$9,816,000
Second	2013		\$1,000,000	\$1,000,000	\$8,816,000
Third	2014		\$1,030,881	\$1,030,881	\$7,785,119
Fourth	2019		\$1,000,000	\$1,000,000	\$6,785,119
Fifth	2022		\$2,509,125	\$ 278,019	\$6,507,100

4. On March 4, 2020, the Governor of the State of California proclaimed a State of Emergency in the State of California because of the threat of COVID-19. The COVID-19 pandemic continues to have negative effects on development activities in the San Francisco Bay Area, including increased materials costs, scarcity of labor, and an altered landscape for access to capital, all of which have affected the Museum's ability to continue with predevelopment work performed prior to the pandemic.

5. On November 19, 2020, the Museum and OCII entered into a First Amendment to the Grant Agreement ("First Amendment") extending the term, which would have expired December 14, 2020, of the Grant Agreement by 18 months (to June 14, 2022). The Commission conditionally approved the First Amendment by Resolution 24-2020, subsequently approved by the Oversight Board by Resolution 05-2020 and by DOF on November 6, 2022.

6. On March 15, 2022, the Museum and OCII entered into a Second Amendment to the Grant Agreement ("Second Amendment") extending the term, which would have expired June 14, 2020, of the Grant Agreement by 22 months (to June 14, 2024). The Commission conditionally approved the Second Amendment by Resolution 06-2022, subsequently approved by the Oversight Board by Resolution 05-2022 and DOF on April 27, 2022.

7. On May 21, 2021 the Commission conditionally approved an Amended and Restated Grant Agreement by Resolution 14-2024.

8. On March 20, 2015, the City entered into a lease with the Museum for the Museum Space, at a base rent of \$1.00, for a term of sixty-six (66) years with an option to extend for another thirty-three (33) years (the "Lease"). Under the Lease, the Museum's "tenant improvements shall be substantially completed within twenty-four (24) months of the issuance of the Temporary Certificate of Occupancy for the Core and Shell." Although the City issued the Temporary Certificate of Occupancy in September 2020, it has deemed the Museum's acceptance of possession of the Museum Space on July 10, 2023 as the starting date for this 24 month period since that was when the Museum was granted access to the Museum Space. Under the Lease, the Museum has a cure period of 30 days (or such longer cure period as may be otherwise agreed by the City upon written request by the Tenant) if tenant improvements are not completed in such time period.

AUDIT

On March 21, 2024, the Controller issued an Audit, which includes recommendations for OCII and RED to improve oversight and management of their agreements with the Museum. The Audit is an attachment to the Amended and Restated Grant Agreement which is an Exhibit to the Resolution.

The Audit provided 10 recommendations for OCII to improve oversight and management of their Grant Agreement with the Museum, which were:

- 1) Require The Mexican Museum to provide specific, realistic, and achievable fundraising goals to demonstrate it can fund the project and open to the public without extended delays and work with the Real Estate Division to determine whether fundraising is sufficient to complete the build-out of the premises.
- 2) Require The Mexican Museum to separately identify grant-related expenses in its accounting system to ensure expenses billed to the grant agreement are not covered by other sources.
- 3) Require The Mexican Museum to create policies and procedures for tracking the personnel time that is directly connected to improving the premises at 706 Mission Street. OCII should also document such procedures in any subsequent grant disbursement agreements it executes and accurately reimburse these expenses.
- 4) Seek reimbursement from The Mexican Museum for any grant funds spent on ineligible activities.
- 5) Develop clear and specific criteria for reimbursing expenses directly related to predevelopment activities and interior improvements at the premises and document them in subsequent grant disbursement agreements.
- 6) No longer approve any reimbursement request for The Mexican Museum's operational costs, including costs to store The Mexican Museum's collection unless it amends the grant agreement to specifically allow these activities.
- 7) Follow the City's record retention policy by amending the grant agreement to require The Mexican Museum to retain all reimbursement-related documents under the agreement in a readily accessible location and condition for a period of not less than five years after the final payment under the agreement. Also, include similar language in any subsequent grant disbursement agreements it executes.

- 8) Require proof of payment, such as bank statements and cancelled checks, for all expenses submitted for reimbursement, and reject any expenses submitted without sufficient evidence to show that payment was made.
- 9) Only use the reimbursement method when disbursing grant funds to The Mexican Museum, and not before costs are incurred or sufficiently documented. Also, OCII should document these procedures and follow them consistently in any subsequent grant disbursement agreements with The Mexican Museum.
- 10) Develop and include in any subsequent grant disbursement agreements specific language related to deadlines by which The Mexican Museum must submit documents.

In responding to the Controller's Audit, OCII concurred with the Audit recommendations, subject to the Commission's approval, which is now being sought through the Amended and Restated Grant Agreement and which will be implemented through subsequent Grant Disbursement Agreements.

The Audit provided 4 recommendations for RED to improve oversight and management of their Lease with the Museum, which were:

- 1) Require The Mexican Museum to provide, within 60 days of the issuance of this report, a plan indicating how it will complete the build-out of the premises, including a realistic schedule, with detailed milestones, showing when the space will open to the public. If the Real Estate Division determines that The Mexican Museum is no longer a viable project, the Real Estate Division should develop an alternative use for the space pursuant to the lease and facilities agreement.
- 2) Require The Mexican Museum to provide proof of insurance that complies with the lease and facilities agreement, Section 20, covering the period after the agreement commenced on July 11, 2023.
- 3) Require The Mexican Museum to provide for its most recent fiscal year audited financial statements and the annual financial information packet as described in the lease and facilities agreement.
- 4) Require The Mexican Museum to promptly pay its common area and maintenance dues.

RED is currently taking actions to implement the audit recommendations and all OCII audit recommendations have been incorporated in the Amended and Restated Grant Agreement.

REQUEST FOR AN EXTENSION TO THE GRANT AGREEMENT TERM

The Second Amendment entered into by the Museum and OCII extended the term of the Grant Agreement to June 14, 2024. On May 15, 2024, the Museum submitted its request to extend the Grant Agreement for 18 months until December 14, 2025. The Museum's request is included as Attachment 2. As stated above, the Museum is now proposing a design/build development process that is intended to accelerate completion of the tenant improvements, but that will not result in the commencement of substantial construction before the current expiration date of the Grant Agreement.

The Museum has entered into an agreement with the Mission Neighborhood Center ("MNC") to be their project management and fiscal manager and to oversee the construction of the Museum space and obtain all necessary approvals for the release and disbursement of the grant funds. MNC will also be responsible for developing and implementing a comprehensive capital campaign and grant writing program. The Museum's request for a Grant Agreement extension includes information on MNC.

PLAN FOR THE MUSEUM TENANT IMPROVEMENT BUILD OUT AND USE OF GRANT FUNDS

The Mexican Museum has proposed a design/build development process that is intended to accelerate completion of the tenant improvements and the process will be done in Phases.

Phase One, Permits One and Two: Consists of the build out of the ground floor lobby and using the proposed café area to construct a Mexican Museum Pop-up Gallery to create a presence in Jessie Square, and the build out of the second-floor gallery space with the installation of the stairs from the ground floor to the second floor gallery space. This phase will also include the construction of the mechanical, electrical, and plumbing ("MEP") systems as well as the fire safety system for the ground floor. However, the MEP and fire safety systems will be sized sufficiently to service all future Phases of the Museum Space. The Amended and Restated Grant Agreement provides the framework for funding and completing Permits One and Two of Phase One.

- Budget Subtotal \$11,097,000

Phase One, Permit Three: Third and Fourth floors including the MEP and fire safety systems.

Phase Two, Permit Three: Consists of the final finishes for the ceiling, walls and flooring.

- Budget Subtotal \$27,000,000

Total Budget \$38,097,000

According to the Sources and Uses of Funds Exhibit submitted with the Museum's request for a Grant Agreement extension, the Museum estimates that the total cost of construction for Phase 1 (Permit One and Two) is \$11,097,000, consisting of not more than \$6,500,000 in grant funds under the Grant Agreement (subject to any reductions for reimbursements pending under the Fifth Grant Disbursement Agreement and for administrative and staffing costs described below) and not less than \$4,597,000 in donations raised by the Museum; provided, however, that donations shall not include funds defined as, or derived from, the Endowment Payment described in Section 8.2 (f) of the PSA (the "Museum Matching Funds").

ENVIRONMENTAL REVIEW

OCII acts as a responsible agency under the California Environmental Quality Act ("CEQA") in considering approval of the Amended and Restated Grant Agreement. In 2013, the City, through its Planning Department and Commission, as lead agency under CEQA, certified the Project's Final Environmental Impact Report ("FEIR"), made findings, and established a mitigation monitoring program. The approval of the Amended and Restated Grant Agreement is an Implementing Action related to the construction of the Project, pursuant to the approvals granted by the Planning Commission. In making this determination, staff have considered and reviewed the FEIR. Documents related to the Implementing Action and the FEIR have been and continue to be available for review by the Oversight Board and the public and are part of the record before the Oversight Board. No major revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the FEIR. No substantial changes have occurred with respect to the circumstances under which the Project analyzed in the FEIR was 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. No new information of substantial importance to the Project analyzed in the FEIR has become available which would indicate that (a) the Implementing Action will have significant effects not discussed in the FEIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (d) mitigation measures or alternatives which are considerably different from those in the FEIR will substantially reduce one or more significant effects on the environment.

STAFF RECOMMENDATIONS

To incorporate the recommendations of Audit as well as update the 14-year-old Grant Agreement Recitals and other terms such as Museum Matching Funds, representations, insurance, reporting and record keeping, the Grant Agreement should be amended and restated. A form of the Amended and Restated Grant Agreement is attached to the Resolution for this item.

Staff and the City are recommending the Amended and Restated Grant Agreement term should only be extended for 12 months to June 14, 2025, provided, however, that the Term may be extended for an additional six months if the Successor Agency Commission determines the Grantee, prior to expiration of the initial Term, has raised, and has available for expenditure, fifty percent (50%) of the Museum Matching Fund, and has complied with the conditions described in Article 13 of the Grant Agreement.

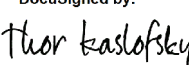
Staff further recommends no grant funds shall be distributed for Phase 1 (Permits One and Two) until 100% of the Museum Matching Funds have been raised and the Museum has complied with the conditions based on the Controller's Audit recommendations and described in Article 13 of the Amended and Restated Grant Agreement as well as all other conditions in the Amended and Restated Grant Agreement.

NEXT STEPS

The proposed Amended and Restated Grant Agreement is subject to the review and approval by DOF for a determination of whether the action "reduce[s] liabilities and increase[s] net revenues to the taxing entities" and is "in the best interests of the taxing entities." Cal. Health & Safety Code § 34181(e).

Upon Oversight Board approval, the Amended and Restated Grant Agreement will be presented to the Department of Finance for its review and approval.

(Originated by Marc Slutzkin, Deputy Executive Director
and Pamela Sims, Senior Development Specialist)

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Thor Kaslofsky
Executive Director

- Attachment 1: Successor Agency Commission Resolution No. 14-2024
Attachment 2: Letter of Request for an extended term to the Grant Agreement

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 14-2024, as amended
Adopted May 21, 2024

CONDITIONALLY AUTHORIZING AN AMENDED AND RESTATED GRANT AGREEMENT BETWEEN THE MEXICAN MUSEUM AND THE SUCCESSOR AGENCY AND AUTHORIZING THE TRANSMITTAL OF THE AMENDED AND RESTATED GRANT AGREEMENT TO THE OVERSIGHT BOARD OF THE CITY AND COUNTY OF SAN FRANCISCO

- 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, On January 1, 2011, the Redevelopment Plan for the Yerba Buena Center Redevelopment Project Area expired, but the Community Redevelopment Law authorized the Former Agency to continue to enforce existing covenants, contracts, or other obligations, such as the Grant Agreement, Cal. Health & Safety Code § 33333.6 (a); 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, 706 Mission Street Co LLC, a Delaware limited liability company, 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 and the California State Department of Finance approved the PSA (Resolution No. 8-2013. DOF October 3, 2013, Steve Szalay); 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 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 to the Redevelopment Agency of the City and County of San Francisco, commonly known as the Office of Community Investment and Infrastructure ("OCII"), assumed certain "enforceable obligations" that were entered into prior to the suspension of redevelopment agencies' activities, including the Grant Agreement; 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, Pursuant to the Grant Agreement, the Former Agency Commission approved, by Resolution No. 5-2012, a First Grant Disbursement Agreement on January 17, 2012 for \$750,000. 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. The Commission approved a Fourth Grant Disbursement Agreement on September 17, 2019, by Resolution No. 24-2019, in an amount not to exceed \$1,000,000. On March 28 15, 2022, the Commission approved, by Resolution No. 05-2022, a Fifth Grant Disbursement Agreement in the amount not to exceed \$2,509,125. Approvals of the grant disbursement agreements were in compliance with the Grant Agreement; 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, Prior to the expiration of the First Agreement to the Grant Agreement, the Commission conditionally approved, by Resolution 06-2022, a Second Amendment to the Grant Agreement ("Second Amendment"), subsequently approved by the Oversight Board by Resolution 05-2022 and approved by the Department of Finance on April 27, 2022, which extended the term of the Grant Agreement to June 14, 2024; and,
- WHEREAS, On March 21, 2024, the City and County of San Francisco Office of the Controller, City Services Auditor, Audits Division issued an audit of the Mexican Museum Grant ("Audit"), which includes ten recommendations for the Successor Agency and four recommendations for the City and County of San Francisco's Real Estate Division ("RED") to improve oversight and management of their agreements with the Museum; and,
- WHEREAS, The Grant Agreement is still in effect, but will terminate on June 14, 2024. The Museum reports that the COVID pandemic continues 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 and Second Amendments; and,
- WHEREAS, The Mexican Museum has proposed a Design/Build process to construct its space and to do it in phases subject to City approval. Phase One will consist of the build out of the ground floor lobby and using the proposed café area to construct a Mexican Museum Pop-up Gallery to create a presence in Jessie Square. This phase will also include the construction of the mechanical, electrical and plumbing ("MEP") systems as well as the fire safety system for the ground floor. However, the MEP and fire safety systems will be sized sufficiently to service all future Phases of the project. The costs of these improvements will require the use of funds raised by the Mexican Museum and Grant Funds; and,
- WHEREAS, Redevelopment Dissolution Law requires successor agencies to: (1) "expeditiously wind down the affairs of the redevelopment agency... in accordance with the direction of the oversight board," Cal. Health & Safety Code § 34177(h); (2) "determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities," Cal. Health & Safety Code § 34181(e); and (3) present proposed changes in agreements to the oversight board, which may approve "any amendments to or early termination of those agreements if it finds that amendments or early termination would be in the best interest of the taxing entities." Cal. Health & Safety Code § 34181 (e); and,
- WHEREAS, The capital program for build-out of the Museum Space that is partially funded through the Grant Agreement serves the public purpose of promoting a diverse cultural and arts community within the City and County of San Francisco and the greater Bay Area region; and,

- WHEREAS, As previously determined as part of the authorizations of the First and Second Amendments and of continued applicability to the request for the Amended and Restated Grant Agreement, the completion and operation of the Museum Space will generate increased economic activity and associated tax revenues from patrons and visitors to the Museum. The extension of the Grant Agreement facilitates the completion of construction of Phase One of the Museum Space, a key public benefit of the Project to the taxing entities that has been delayed due to the COVID pandemic, and will maximize the overall value of the Project, consistent with the PSA approved by the Oversight Board and DOF. The taxing entities, including the City and County, as the local taxing entity receiving the largest share of property tax revenues under property tax allocation laws, will benefit from facilitating the completion of the Project and the Museum Space; and,
- WHEREAS, OCII now proposes to extend the term of the Grant Agreement and place additional conditions on the use of the remaining grant funds through an Amended and Restated Grant Agreement. The Amended and Restated Grant Agreement reduces liabilities and increases net revenues to the taxing entities, particularly the City and County of San Francisco, by assisting in the completion of Phase One of the City-owned Museum Space and is “in the best interest of the taxing entities,” Cal. Health & Safety Code § 34181(e) because the action will generate, by assisting in the completion of the Museum, increased economic activity and associated tax revenues from patrons and visitors to the Museum; and,
- WHEREAS, The Commission, at its public hearing on May 21, 2024, amended Article 2 of the Amended and Restated Grant Agreement to authorize the Successor Agency Commission—instead of the Executive Director—to consider extension of the Term for an additional six months consistent with the conditions of Article 2; and,
- WHEREAS, The Amended and Restated Grant Agreement requires the review and approval of the Oversight Board and the California Department of Finance to determine compliance with Redevelopment Dissolution Law’s standards for amending enforceable obligations, Cal. Health & Safety Code § 34181(e); 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 Amended and Restated Grant 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 Amended and Restated Grant 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; now, therefore, be it

RESOLVED, The Commission finds that amending and restating the Grant Agreement to enable the Museum and OCII to complete their funding activities for the Museum Space reduces liabilities and increases net revenues to the taxing entities and would be in the best interest of the taxing entities and otherwise consistent with the Redevelopment Dissolution Law; and,

RESOLVED, That the Commission conditionally authorizes the Executive Director to enter into an Amended and Restated Grant Agreement, substantially in the form attached hereto as Exhibit A, as amended to have the Commission, instead of the Executive Director, determine whether to extend the Term for an additional six months subject to the terms and conditions of Article 2, and to transmit the Amended and Restated Grant Agreement, as amended, to the Oversight Board for review and approval consistent with Redevelopment Dissolution Law, and to enter into any and all ancillary documents and 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 May 21, 2024.


Commission Secretary

Exhibit A: Amended and Restated Grant Agreement

AMENDED AND RESTATED GRANT AGREEMENT

By and Between

**THE SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO**

and

**THE MEXICAN MUSEUM,
a California nonprofit corporation**

For the Development of

CB-1-MM (ASSESSOR'S BLOCK 3706, PORTION OF LOT 277)

SAN FRANCISCO, CALIFORNIA

Dated as of May __, 2024

GRANT AGREEMENT

This Amended and Restated Grant Agreement (the “**Agreement**”) dated as of June 14, 2024 (the “**Effective Date**”), by and between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body, organized and existing under the State of California (the “**Successor Agency**”), and The Mexican Museum, a California nonprofit corporation (the “**Grantee**” or the “**Museum**”) (collectively, the “**Parties**”), is entered into based upon the following facts, intentions and understandings of the Parties:

RECITALS

A. In furtherance of the objectives of the Community Redevelopment Law of the State of California, the Redevelopment Agency of the City and County of San Francisco (“Former Agency”) undertook a program to redevelop and revitalize blighted areas in the City and County of San Francisco (the “**City**”), and in connection therewith has adopted a redevelopment project area known as the Yerba Buena Center Approved Redevelopment Project Area D-1 (the “**Project Area**”).

B. The Board of Supervisors of the City approved, by Ordinance No. 98-66 April 25, 1966) a Redevelopment Plan for the Project Area, which was amended 13 times (as amended, the “**Redevelopment Plan**”). The Redevelopment Plan provided for redevelopment and revitalization of certain lands in the Project Area and the future uses of such land. The Redevelopment Plan also allowed the Former Agency to sell its property in the Project Area for purposes of furthering the goals of the Redevelopment Plan. The Redevelopment Plan expired on January 1, 2011.

C. On June 1, 1993, the Former Agency approved, by Resolution No. 92-93 (June 1, 1993), an Agreement for Disposition of Land for Private Development with the Museum (as amended, the “**LDA**”) for the development of a stand-alone museum on Former Agency disposition parcel CB-1-MM (Assessor’s Block 3706, a portion of Lot 277), located on the north side of Mission Street between Third and Fourth Streets (the “**Museum Site**”) in the Project Area. The LDA’s was amended eight times. Under the Eighth Amendment, the Former Agency and the Museum agreed to work cooperatively to explore alternatives for the museum space, including the inclusion of the Museum as a museum space in a larger development.

D. In 2006, the property located at 706 Mission Street, on the corner of Mission and Third Streets and immediately adjacent to the Museum Site, was acquired by 706 Mission Street Co LLC, a Delaware limited liability company (the “**Developer**”).

E. On July 15, 2008, the Agency entered into, under Resolution No. 77-2008, an exclusive negotiation agreement with the Developer to develop a mixed-use project that spans both the 706 Mission Street property and the Museum Site, as depicted in Attachment A “Site Map”. The proposed project included: (a) approximately 390,000 net square feet of residential, office and/or hospitality uses in a tower of approximately 550 feet in height, (b) a museum space between 35,000 and 40,000 net square feet fronting Jessie Square (the “**Museum Space**,” also known as the “Cultural Component Space”), (c) a rehabilitated historically important Mercantile

Building, (d) additional retail and/or cultural uses on the ground floor of the Mercantile Building, and (e) the purchase of the Jessie Square Garage for both project-related uses and the public (collectively, the “**Project**”).

F. On July 15, 2008, the Former Agency also entered into, under Resolution No. 78-2008, a memorandum of understanding with the Museum to provide grant funding and assistance to the Museum for predevelopment and planning activities related to the Museum’s participation in the Project.

G. On May 4, 2010, the Former Agency authorized, by Resolution No. 47-2010, an Amended and Restated Exclusive Negotiation Agreement with the Developer (the “**Developer ENA**”) to develop the Project. That same day, by Resolution No. 48-2010, the Agency authorized an Amended and Restated Memorandum of Understanding with the San Francisco Arts Commission (the “**Arts Commission**”) and the Museum to provide \$820,000 in grant funds for continued predevelopment and planning work related to the Museum Space (as amended, the “**MOU**”).

H. The Parties agreed that participation in the Project is the best opportunity to develop a museum space for the Museum. Pursuant to the Developer ENA, and a subsequent Purchase and Sale Agreement (“**PSA**”), the Developer constructed the base, core and shell of the Museum Space. The Developer ENA and PSA also provided that the Developer contribute \$5.0 million to an operating endowment for the Museum Space to help support its ongoing operations.

I. On December 14, 2010, concurrently with its approval of the Original Grant Agreement, the Former Agency Commission authorized an exclusive negotiating agreement between the Former Agency and the Museum for development of the Museum Space (“**Mexican Museum ENA**”). The Mexican Museum ENA did not affect the status of the LDA, which was subsequently terminated when the Developer closed on its PSA for the Museum Site. Pursuant to the Mexican Museum ENA and subsequent agreements, the Museum participates in the Project as the user of the Museum Space. The Museum and the Former Agency were responsible for funding predevelopment activities, which included preparation and implementation of the predevelopment plan (as described in Section E of the MOU), operational and organizational planning, design of the Museum Space, hiring museum staff and other consultants, and regulatory approvals (“**Predevelopment Activities**”), as well as the design and construction of the interior of the Museum Space, which includes tenant improvements, and related exterior improvements, specialized HVAC/humidity control systems required for exhibit spaces, all fixtures, furniture and equipment, and all exhibit spaces (“**Interior Improvements**”).

J. The Former Agency was authorized pursuant to CRL and agreed to grant certain funds to the Museum to cover a substantial portion of the costs for Predevelopment Activities and Interior Improvements related to the Museum Space.

K. The effectiveness of the Redevelopment Plan terminated on January 1, 2011, pursuant to Section 33333.6 of the California Health and Safety Code and Ordinance No. 256-09 adopted by the Board of Supervisors of the City on December 18, 2009. After that time, the Former Agency had no authority to act pursuant to the Redevelopment Plan except to pay previously incurred indebtedness, to comply with affordable housing obligations, and to enforce

existing covenants, contracts, or other obligations. In particular, land use jurisdiction within the Project Area reverted to the City's Planning Department.

L. On February 1, 2012, the State of California dissolved all redevelopment agencies, including the Former Agency, and established successor agencies to assume certain rights and obligations of the former redevelopment agencies, Cal. Health & Safety Code § 34170 et seq. (the "Redevelopment Dissolution Law"). As a result, the Former Agency ceased to exist and the Successor Agency, assumed certain obligations of the Former Agency, including those "enforceable obligations" that were entered into prior to the suspension of redevelopment agencies' activities, including the Grant Agreement.

M. On October 4, 2013, the California Department of Finance ("DOF") approved the PSA between the Successor Agency and the Developer after the Oversight Board of the City and County of San Francisco had reviewed and approved, by Resolution No. 8-2013, the PSA. Under the PSA, the Successor Agency, Developer, City, and Museum agreed that the City should acquire, at no cost and upon its completion, the Museum Space and lease it to the Museum. The PSA also provides other terms and conditions related to the funding, use, and obligations associated with the Museum Space.

N. On March 20, 2015, the City and County of San Francisco, through its City Administrator (including its Real Estate Division ("RED")), (the "City") entered into a lease with the Museum for the Cultural Component Space, at a base rent of \$1.00, for a term of sixty-six (66) years with an option to extend for another thirty-three (33) years (the "Lease"). Under the Lease, the Museum's "tenant improvements shall be substantially completed within twenty-four (24) months of the issuance of the Temporary Certificate of Occupancy for the Core and Shell." Although the City issued the Temporary Certificate of Occupancy in September 2020, it has deemed the Museum's acceptance of possession of the Cultural Component Space on July 10, 2023 as the starting date for this 24-month period. Under the Lease, the Museum has a cure period if tenant improvements are not completed in such time period.

O. Under the Original Grant Agreement, the Former Agency and Successor Agency were authorized to disburse funds only through Commission-approved disbursement agreements ("Grant Disbursement Agreements"). On January 17, 2012, the Former Agency Commission approved, by Resolution No. 5-2012, a Grant Disbursement Agreement with the Museum in an amount not to exceed \$750,000 for predevelopment planning, staffing and consultant costs related to the Museum Space. On April 15, 2013, the Successor Agency Commission, also known as the Commission on Community Investment and Infrastructure (the "Commission"), approved, by Resolution No. 11-2013, a second Grant Disbursement Agreement in an amount not to exceed \$1,000,000 for continued predevelopment work. The Commission approved, by Resolution No. 58-2014, a third Grant Disbursement Agreement in the amount of \$1,030,881 on July 15, 2014 for predevelopment and planning work associated with the Museum Space. On September 17, 2019, the Commission approved, by Resolution No. 24-2019, a fourth Grant Disbursement Agreement in an amount not to exceed \$1,000,000 for tenant improvement work. On March 15, 2022, the Commission approved, by Resolution No. 5-2022, a fifth Grant Disbursement Agreement in the amount of \$2,509,125 for predevelopment activities.

P. On November 19, 2020, pursuant to authorization of the Successor Agency Commission by Resolution No. 24-2020 (September 15, 2020), the Oversight Board of the City and County of San Francisco (“Oversight Board”), by Resolution No. 05-2020 (September 28, 2020) and the California Department of Finance (“DOF”) (by letter dated November 6, 2020), the Successor Agency and the Museum entered into a First Amendment to Grant Agreement extending the Term by eighteen months, to June 14, 2022.

Q. On March 15, 2022, pursuant to authorization of the Successor Agency Commission by Resolution No. 06-2022 (March 15, 2022), the Oversight Board by Resolution No. 05-2022 (March 28, 2022) and the DOF (by letter dated April 27, 2022), the Successor Agency and the Museum entered into a Second Amendment to Grant Agreement extending the Term by eighteen months, to June 14, 2024.

R. On March 21, 2024, the City and County of San Francisco Office of the Controller, City Services Auditor, Audits Division issued an audit of the Mexican Museum Grant (“Audit”), which includes ten recommendations for the Successor Agency and four recommendations for the City and County of San Francisco’s Real Estate Division (“RED”) to improve oversight and management of their agreements with the Museum and is included as Attachment B to this Amended and Restated Grant Agreement and incorporated herein by reference.

S. On April 30, 2024, the Museum requested an extension of time of this Agreement to use the remaining grant funds for completion of Phase 1 (Permits 1 and 2) of the Museum Cultural Space. Letter, A. Kluger to T. Kaslofsky (the “Museum Request”). The Museum has proposed a Design/Build process to construct its Museum Space and to do it in phases subject to City approval. Phase 1 (Permits 1 and 2) will consist of: the build out of the ground floor lobby and using the proposed café area to construct a Mexican Museum Pop-up Gallery to create a presence in Jessie Square; and the build out of the second-floor gallery space with the installation of the stairs from the ground floor to the second floor gallery space. This phase will also include the construction of the mechanical, electrical and plumbing (“MEP”) systems as well as the fire safety system for the ground floor. However, the MEP and fire safety systems will be sized sufficiently to service all future Phases of the Museum Space. According to the Sources and Uses of Funds Exhibit submitted with the Museum’s Request, the Museum estimates that the total cost of construction for Phase 1 is \$11,097,000 (the “Total Phase 1 Costs”), consisting of not more than \$6,500,000 in grant funds under this Agreement (subject to any reductions for reimbursements pending under the Fifth Grant Disbursement Agreement and for administrative and staffing costs described below) and not less than \$4,597,500 in donations raised by the Museum; provided, however, that donations shall not include funds defined as, or derived from, the Endowment Payment described in Section 8.2 (f) of the PSA (the “Museum Matching Funds”). The Museum estimates the total cost to complete the buildout of all the Museum Space is approximately \$38 million, which will require additional funds separately raised by the Museum.

T. The COVID-19 pandemic continues to have negative effects on development activities in the San Francisco Bay Area, including increased materials costs, scarcity of labor, and an altered landscape for access to capital, all of which have affected the Museum’s ability to continue with predevelopment work performed prior to the pandemic. As a result, the Museum

has requested an Amended and Restated Grant Agreement to preserve its access to Grant Funds to complete construction of the Museum Space.

U. The Parties now desire to enter into this Agreement to memorialize their understanding and commitments concerning the matters generally described above.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1 – AMOUNT AND PURPOSE OF GRANT FUNDS

a.2 Grant Funds.

Pursuant to the terms and conditions of this Agreement, the Successor Agency hereby agrees to grant to Grantee a total principal amount not to exceed SIX MILLION FIVE HUNDRED AND SEVEN DOLLARS (\$6,507,100.00) (“Remaining Grant Funds”), which is the amount remaining from Original Grant Funds that consisted of TEN MILLION FIVE HUNDRED SIXTY-SIX THOUSAND DOLLARS (\$10,566,000) (“**Original Grant Funds**”). (The Remaining Grant Funds are subject to reduction by the amount of additional reimbursements received by Grantee under the Fifth Grant Disbursement Agreement and of administrative and staffing costs described in Section 1.2 (c) below.) Grantee understands and acknowledges the limitations and requirements imposed on the Parties due to the sources of the Remaining Grant Funds and applicable laws, including but not limited to the CRL and federal tax laws. The Remaining Grant Funds must be used for “redevelopment activities” that are defined in CRL (Sections 33678(b), 33020, and 33021 of the California Health and Safety Code), and for purposes consistent with the Redevelopment Dissolution Law and applicable laws. The Redevelopment Dissolution Law requires the Successor Agency to list annually all of its anticipated expenditures in the fiscal year for contractual obligations on a Recognized Obligation Payment Schedule, which is subject to the approval of the Oversight Board of the City and County of San Francisco and possible review by the Department of Finance. The Successor Agency may withhold all or any portion of Remaining Grant Funds if the Successor Agency’s disbursement of such Remaining Grant Funds would violate applicable laws or is otherwise disallowed by the federal government.

1.2 Conditions of Use of Remaining Grant Funds.

a) Grantee agrees subject to the terms and conditions in this Agreement to use the Remaining Grant Funds to pay for costs associated with Predevelopment Activities and Interior Improvements related to the Museum Space, and for no other purpose. The Remaining Grant Funds will be disbursed pursuant to one or more Grant Disbursement Agreements between the Agency and Grantee as described in Section 3.1, below. The Grant Disbursement Agreements will be approved by the Agency Commission at a later date and will specify in greater detail the permitted uses that will be considered Predevelopment Activities and Interior Improvements.

b) Grantee is aware of and acknowledges the following: (i) the Remaining Grant Funds represent the entire amount of funds that the Successor Agency has committed for payment of costs related to Predevelopment Activities and Interior Improvements for the Museum Space; and (ii) the Successor Agency is unable to commit any additional funds for the Museum Space; and (iii) the Grantee shall have the obligation to repay any amounts that have been disbursed if the Grantee uses those funds in violation of the terms and conditions of this Agreement.

c) Grantee is aware and acknowledges that the Successor Agency will incur staff and administrative costs related to implementation of this Agreement, and that the Successor Agency may receive no new funds for implementation under Redevelopment Dissolution Law. The Parties agree that Successor Agency staff and administrative costs directly related to this Agreement may be deducted from the Remaining Grant Funds if they are not otherwise recoverable or payable from another source.

ARTICLE 2 – GRANT TERM

The term of this Agreement will commence on the Effective Date and will continue in full force and effect until 12 months after the Effective Date, unless terminated earlier as described in Article 6, below (the “**Term**”); provided, however, that the Term may be extended for an additional six months if the Successor Agency Commission determines, in its sole and absolute discretion, that the Grantee, prior to expiration of the initial Term, has raised, and has available for expenditure, fifty percent (50%) of the Museum Matching Fund, and has complied with the conditions described in Article 13 of this Agreement.

ARTICLE 3 – GRANT DISBURSEMENTS

3.1 Disbursement Procedures and Requirements.

a) The Successor Agency shall disburse Remaining Grant Funds to Grantee in accordance with one or more Grant Disbursement Agreements by and between the Successor Agency and Grantee, which agreements shall be negotiated during the Term of this Agreement, in form and substance satisfactory to the Successor Agency, and subject to approval by the Successor Agency Commission. The Remaining Grant Disbursement Agreements shall, at a minimum: (i) describe detailed disbursement procedures for the Grant Funds, including a detailed budget for the use of the Remaining Grant Funds, the roles and responsibilities of each party, mechanisms for the disbursement of funds based upon the successful completion of performance milestones, default provisions, and a form of funding request, (ii) require Grantee to comply fully with and be bound by all applicable laws and regulations governing the funds, (iii) require Grantee to comply with applicable Successor Agency policies and programs, including, but not limited to, policies regarding small business enterprises, construction workforce, permanent workforce, nondiscrimination and equal benefits, minimum compensation, healthcare accountability, and prevailing wages, and (iv) require Grantee to maintain insurance coverage satisfactory to the Successor Agency’s Risk Manager.

b) The Successor Agency may disburse the Remaining Grant Funds to a third party that procures, administers and manages a contract for Predevelopment Activities or Interior

Improvements on behalf of Grantee through one or more Grant Disbursement Agreements by and among Grantee, the Successor Agency, and the third party, in accordance with the procedures described in Section 3.1(a), above.

3.2 Prerequisites for Grant Disbursements.

a) Predevelopment Activities and Interior Improvements. Before any of the Remaining Grant Funds can be disbursed for Predevelopment Activities and Interior Improvements, the following conditions must be satisfied: (i) the Successor Agency Commission must approve a current Grant Disbursement Agreement for Predevelopment Activities and Interior Improvements related to the Museum Space with Grantee, as described in Section 3.1, above; (ii) Grantee must be in compliance with all covenants, agreements, and conditions required under any other agreement between the Grantee and the Successor Agency or the City and County of San Francisco; and (iii) the Museum must raise, and have available for expenditure, the Museum Matching Funds, which, when combined with the Remaining Grant Funds, shall consist of the Total Phase 1 Costs. If these conditions are not satisfied during the Term of this Agreement, the Successor Agency reserves the right to retain all undisbursed Remaining Grant Funds.

c) Total Amount of Remaining Grant Funds. In no event shall the aggregate amount of all funds disbursed to Grantee under this Agreement exceed the total amount of the Remaining Grant Funds.

d) Additional Terms and Conditions. Before entering into any disbursement agreements with the Successor Agency, the Museum shall comply with the additional terms and conditions based on the Audit including but not limited to items stated in Article 13.

e) Only operating costs directly related to the design and construction of Phase One will be reimbursable.

ARTICLE 4 – PERMITTED TRANSFERS / CONSENT

Grantee shall not, either directly or indirectly, assign, transfer, subcontract or delegate all or any portion of this Agreement or any rights, duties or obligations of Grantee hereunder without the prior written consent of the Successor Agency.

ARTICLE 5 – DEFAULT

5.1 Event of Default The occurrence of any one of the following events or circumstances, if not cured within the specified cure or grace period, will constitute an event of default (“**Event of Default**”) under this Agreement, giving the Successor Agency the right to declare Grantee in default and to exercise any or all of its remedies, at its sole election and in its reasonable discretion: (a) the material breach of any representation or warranty made by Grantee in this Agreement, unless Grantee notifies the Successor Agency within fourteen (14) business days of the material breach and cures such breach within sixty (60) days from the date on which the Grantee was obligated to notify the Successor Agency; (b) the sale or transfer of all or substantially all of Grantee’s permanent art collection; (c) Grantee files a petition for bankruptcy, applies for or consents to the appointment of a trustee or receiver, consents to or

admits jurisdiction of the bankruptcy court, makes an assignment for the benefit of creditors, or an involuntary petition for bankruptcy is filed against Grantee, or an order for relief is entered against Grantee under bankruptcy laws ; (d) the Grantee fails to provide or maintain in effect any policy of insurance required in Article 10; (e) the Grantee defaults under any other agreement between the Grantee and the Successor Agency or the City and County of San Francisco (after expiration of any cure period expressly stated in such agreement).

5.2 Remedies of the Successor Agency.

The Successor Agency's remedies for an Event of Default are as follows: (a) the Successor Agency may, at its option, terminate this Agreement and all commitments to disburse the Remaining Grant Funds, waive the Event of Default or, without waiving, determine, upon terms and conditions satisfactory to the Agency, to make further disbursements of the Remaining Grant Funds; (b) the Successor Agency may take any action permitted at law, in equity or under this Agreement at its option to cure or remedy the default; or (c) the Successor Agency may demand the immediate return of any previously disbursed grant funds that have been claimed or expended by the Grantee in breach of the terms of this Agreement, together with interest thereon from the date of disbursement at the maximum rate permitted under applicable law.

ARTICLE 6-TERMINATION

This Agreement will automatically terminate upon the occurrence of either of the following events: (i) the one-year anniversary of the full disbursement of Grant Funds in accordance with this Agreement and the Grant Disbursement Agreements; or (ii) the expiration of the Term.

ARTICLE 7-RECORDS AND MONITORING

7.1 Records.

Museum shall maintain and provide to the Successor Agency upon request records that accurately and fully show the date, amount, purpose and payee of all expenditures of the Remaining Grant Funds, and shall keep all estimates, invoices, receipts, and other documents related to expenditures of the Remaining Grant Funds. Records shall be maintained for a period of four years from the date of the termination of the contract; except that records that are the subject of audit findings shall be retained for four years or until such audit findings have been resolved, whichever is later. Grantee's obligation under this section shall survive the termination or expiration of the Agreement.

7.2 Monitoring.

Grantee understands and agrees that it will be monitored by the Successor Agency from time to time to assure compliance with all terms and conditions in this Agreement and all laws. Grantee acknowledges that the Successor Agency may also conduct periodic on-site inspections of the Museum Space. Grantee shall cooperate with the monitoring by the Successor Agency, and shall ensure full access by the Successor Agency to the Museum Space and all information related to the Museum Space as reasonably required by the Successor Agency.

ARTICLE 8 – REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants each of the following as of the date of this Agreement and at all times throughout the Term:

- a) Organization; Authorization. Grantee is a nonprofit corporation, duly organized and validly existing and in good standing under the laws of the jurisdiction in which it was formed. Grantee has established and maintains valid nonprofit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section. Grantee has duly authorized, by all necessary action, the execution, delivery and performance of this Agreement. When duly executed, this Agreement shall constitute a legal, binding obligation of Grantee, enforceable against Grantee in accordance with the terms hereof.
- b) Grantee's Board of Directors. Grantee shall at all times be governed by a legally constituted board of directors. A list of the current members of Grantee's board of directors has been provided to the Successor Agency, and, upon request, Grantee shall provide to the Successor Agency an updated list of current directors. Grantee's board of directors shall exercise such oversight responsibility with regard to this Agreement as is necessary to ensure full and prompt performance by Grantee of its obligations under this Agreement.
- c) No Misstatements. No document furnished or to be furnished by Grantee to the Successor Agency in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.
- d) Limitations on Contributions. Through execution of this Agreement, Grantee acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which the Successor Agency applies to its contracts and which prohibits any person who contracts with the Successor Agency for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Grantee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Grantee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Grantee's board of directors; Grantee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Grantee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Grantee. Additionally, Grantee acknowledges that Grantee

must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

- e) 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.

ARTICLE 9 – NOTICE

All notices, consents, communications or transmittals required by this Agreement shall be made in writing, and shall be deemed communicated by personal delivery or by United States certified mail, postage prepaid, return receipt requested, as of the earlier of actual receipt or seven days from mailing, addressed as follows:

To the Agency: Successor Agency
 ATTN: Executive Director
 One South Van Ness Avenue, 5th Floor
 San Francisco, CA 94103
 Facsimile: (415) 749-2525

To Grantee: The Mexican Museum
 ATTN: Executive Director

With a Copy to: Victor M. Marquez, Esq.
 Intelink Law Group, PC
 2 Embarcadero Center, 8th Floor
 San Francisco, CA 94111

And [via-email: victormarquezesq@aol.com](mailto:victormarquezesq@aol.com) and
vmarquez@intelinklaw.com

or such other address as either party may designate, from time to time, by written notice sent to the other party in like manner.

ARTICLE 10 – INDEMNITY

To the fullest extent of the law, Grantee shall defend, hold harmless and indemnify the Successor Agency, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of this Agreement and any of Grantee's operation or activities related thereto ("Losses"), excluding: (a) during construction, Losses arising from the active negligence, sole negligence, or willful misconduct of the person or entity seeking to be defended, indemnified or held harmless, (b) before or after construction, Losses arising from the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified or held harmless. Grantee specifically acknowledges and agrees that it

has an immediate and independent obligation to defend the Successor Agency and the City and County of San Francisco from any claim that actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Grantee by the person or entity seeking to be defended and continues at all time thereafter. Grantee's obligation under this Article will survive the termination or expiration of this Agreement.

ARTICLE 11 – INSURANCE

Subject to approval of the insurers and policy forms by Successor Agency's Risk Manager, Museum must obtain and maintain, or cause to be maintained, the insurance and bonds as set forth in Attachment C throughout the Term of this Grant at no expense to the Successor Agency.

ARTICLE 12 – GENERAL PROVISIONS

12.1 Amendment. This Agreement may be amended in writing by the Parties' execution of an amendment to this Agreement.

12.2 Successors. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Successor Agency and Grantee, subject to the limitations set forth herein, as applicable.

12.3 Counterparts. This Agreement may be executed in any number of counterparts, all of which, together, shall constitute the original agreement.

12.4 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

12.5 Entire Agreement. This Agreement (together with the recitals and referenced or incorporated agreements) sets forth the entire agreement between the Parties.

12.6 Headings. All section headings and captions contained in this Agreement are for reference only and shall not be considered in construing this Agreement.

12.7 Severability. The invalidity or unenforceability of any one or more provisions of this Grant Agreement shall in no way affect any other provision.

12.8 Consent. Except as expressly provided otherwise, whenever consent or approval of either party is required, that party shall not unreasonably withhold or delay consideration of such consent or approval.

12.9 Attorneys' Fees. If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing party shall have the right to recover its reasonable attorneys' fees and costs of suit from the other party.

ARTICLE 13 – GENERAL PROVISIONS

The Museum shall comply with the following grant conditions based on the Audit.

- 1) The Mexican Museum must provide specific, realistic, and achievable fundraising goals to demonstrate it can fund the Phase 1 (Permits 1 and 2) of the Museum Cultural Space and open to the public without extended delays and work with the Real Estate Division to determine whether fundraising is sufficient to complete the build-out of the premises.
- 2) The Museum is in compliance with the Lease.
- 3) The Mexican Museum must separately identify grant-related expenses in its accounting system to ensure expenses billed to the grant agreement are not covered by other sources.
- 4) The Mexican Museum must create policies and procedures for tracking the personnel time that is directly connected to improving the premises at 706 Mission Street and that the Successor Agency will document procedures in any subsequent grant disbursement agreements it executes for accurate reimbursement of these expenses.
- 5) The Mexican Museum must reimburse the Successor Agency for any Original Grant funds spent on ineligible activities identified in the Audit and confirmed by the Successor Agency unless the Museum spent those amounts for qualified disbursement agreement(s) uses.
- 6) The Mexican Museum agrees to comply with clear and specific criteria in subsequent disbursement agreements for reimbursing expenses directly related to predevelopment activities and interior improvements related to the Museum Space and document them.
- 7) The Mexican Museum will not seek reimbursement for storage of its art collection unless a disbursement agreement specifically allows for these activities.
- 8) The Mexican Museum must submit sufficient proof of payment, such as bank statements and front and back of cancelled checks, for all expenses submitted for reimbursement. For Eligible Expenses which are wages or salaries, payroll registers containing a detailed breakdown of earnings and withholdings, together with both sides of canceled payroll checks evidencing payment thereof (unless payment has been made electronically). Complete and approved timesheet for all requested wages or salaries.
- 9) The Mexican Museum will only submit requests for reimbursement of funds after they have been expended and not before costs are incurred or sufficiently documented.
- 10) The Mexican Museum must comply with specific deadlines for the submission of documents required under any subsequent grant disbursement agreements.
- 11) All outstanding litigation related to the Museum Space has been resolved.

[*SIGNATURES BEGIN ON NEXT PAGE*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

AGENCY:

**Successor Agency to the Redevelopment
Agency of the City and County of San Francisco,**
a public body organized and existing under state law

GRANTEE

The Mexican Museum,
a California nonprofit corporation

By: _____
Thor Kaslofsky
Its:

By _____
Andrew M. Kluger
Chief Executive Officer

Approved as to Form:

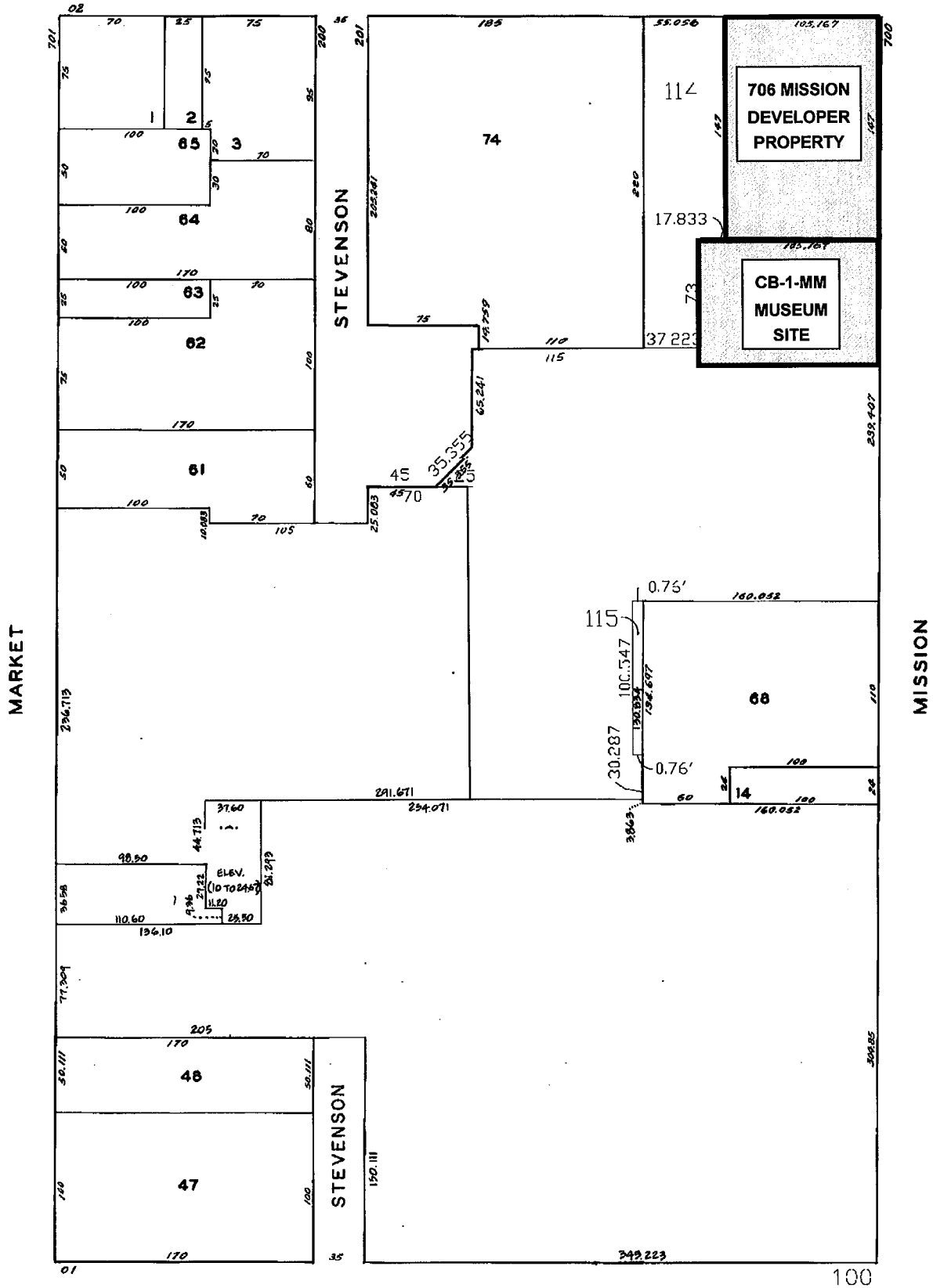
Approved as to Form:

By: _____
James B. Morales
Its: Agency General Counsel

By _____
Victor M. Marquez
General Counsel

Attachment A - Site Map

THIRD



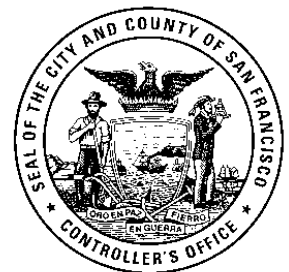
FOURTH

A-1

Grant Agreement
Yerba Buena Center Redevelopment Project Area
Assessor's Block 3706, Portion of Lot 277

The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and the Office of Community Investment and Infrastructure Has Not Effectively Enforced the Museum's Grant Agreement

Office of Community Investment and Infrastructure (OCII)
Real Estate Division (RED)



March 21, 2024

City & County of San Francisco
Office of the Controller
City Services Auditor

About the Audits Division

The City Services Auditor (CSA) was created in the Office of the Controller through an amendment to the Charter of the City and County of San Francisco (City) that voters approved in November 2003. Within CSA, the Audits Division ensures the City's financial integrity and promotes efficient, effective, and accountable government by:

- Conducting performance audits of city departments, contractors, and functions to assess efficiency and effectiveness of service delivery and business processes.
- Investigating reports received through its whistleblower hotline of fraud, waste, and abuse of city resources.
- Providing actionable recommendations to city leaders to promote and enhance accountability and improve the overall performance and efficiency of city government.

Team:

Amanda Sobrepeña, *Lead Audit Manager*
Evgeni Nikov, *Senior Auditor*
Selena Wong, *Senior Auditor*

Mark de la Rosa
Director of Audits
Office of the Controller
City and County of San Francisco
(415) 554-7574

For media inquiries, please contact
con.media@sfgov.org.



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Audit Authority

This audit was conducted under the authority of the San Francisco Charter, Section 3.105 and Appendix F, which requires that CSA conduct periodic, comprehensive financial and performance audits of city departments, services, and activities.

Statement of Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on our audit objectives. The Audits Division is independent per the GAGAS requirements for internal auditors.



OFFICE OF THE CONTROLLER

CITY AND COUNTY OF SAN FRANCISCO

Greg Wagner
Controller

Todd Rydstrom
Deputy Controller

March 21, 2024

Commission on Community Investment
and Infrastructure
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th floor
San Francisco, CA 94103

Thor Kaslofsky
Executive Director
Office of Community Investment and Infrastructure
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

Oversight Board
Office of Community Investment of
and Office Infrastructure
1 South Van Ness Avenue, 5th floor
San Francisco, CA 94103

Andrico Penick
Director
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

Dear Commissioners, Board Members, Executive Director Kaslofsky, and Director Penick:

The Office of the Controller, City Services Auditor (CSA), Audits Division, presents its report on the audit of select agreements between the Office of Community Investment and Infrastructure (OCII) and the Real Estate Division (RED) and The Mexican Museum (the Museum) regarding the Museum's planned move to a new location in San Francisco's South of Market neighborhood. The audit had as its objectives to assess the compliance and performance outcomes of the Museum in accordance with its agreements with OCII and the City and County of San Francisco (City), including the grant agreement, grant disbursement agreements, purchase and sale agreement, and lease and facilities agreement (the agreements). The audit was requested by Board of Supervisors President Peskin.

The audit found that the Museum:

- Has not demonstrated that it has the financial or organizational expertise to complete the planned interior improvements at what is to be its new location at 706 Mission Street (the project) without extended delays.
- Appears to have only a small fraction, an estimated 2 percent, of the funds needed to complete the project.
- Has not complied with several requirements in the lease and facilities agreement.
- Spent grant funds on ineligible and questionable activities, which were not sufficiently supported.

The audit also found that OCII did not effectively enforce the grant agreement requirements or thoroughly review the documents that were intended to support the Museum's expenditure of grant funds.

The report includes 10 recommendations for OCII and 4 recommendations for RED to improve their oversight and management of their agreements with the Museum. The responses of OCII and RED are attached as Appendix A, and the Museum's response is attached as Appendix B. CSA's comments on the Museum's response are attached as Appendix C. CSA will work with the departments to follow up every six months on the status of the open recommendations made in this report.

CSA appreciates the assistance and cooperation of all staff involved in this audit. For questions about the report, please contact me at mark.p.delarosa@sfgov.org or 415-554-7574 or CSA at 415-554-7469.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark de la Rosa', with a stylized, flowing script.

Mark de la Rosa
Director of Audits

cc: Board of Supervisors
Budget Analyst
Citizens Audit Review Board
City Attorney
Civil Grand Jury
Mayor
Public Library

Executive Summary

The Office of Community Investment and Infrastructure (OCII), a state-authorized local entity, administers a grant agreement totaling \$10.6 million with The Mexican Museum (the Museum), a nonprofit organization in San Francisco. Under the grant, the Museum must use the funds for predevelopment and interior improvements for its new space at 706 Mission Street (the premises). The grant agreement was established in 2010 and is set to expire in June 2024. The Museum is also party to two other agreements related to this space:

- A purchase and sale agreement between OCII and 706 Mission Street Co LLC (Developer). The Museum was a third-party beneficiary of this agreement.
- A lease and facilities agreement for the premises administered by the City's Real Estate Division (RED).

From 2010 through 2023, OCII disbursed \$4 million of the \$10.6 million through five grant disbursement agreements under the grant. The audit had its objectives to:

- Assess the compliance and performance outcomes of the Museum in accordance with the agreements with OCII and the City, including the grant agreement, grant disbursement agreements, purchase and sale agreement, and lease and facilities agreement.
- Determine whether the Museum spent funds and completed project activities for predevelopment and interior improvements in accordance with the terms of its grant agreement with OCII, applicable laws, and guidelines.
- Assess OCII's management and oversight of its agreements with the Museum.

WHAT WE FOUND

The Museum has only a small fraction of the funds needed to complete the project.



The Museum has not demonstrated that it can fund the interior improvements at the premises.

In late 2022, the Museum forecast that it would need \$49.8 million of capital funds (excluding the city grant funds) to complete the interior improvements but estimated that it had only approximately \$835,000 (2 percent of the amount needed) in available cash and could not document that it had raised any additional capital funds.

6 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

The Museum has not complied with key requirements of the lease and facilities agreement.



Did not substantially complete interior improvements within 24 months after the issuance of the temporary certificate of occupancy.

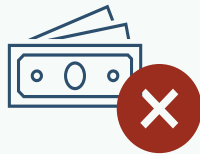


Did not provide annual financial reports to the Real Estate Division.



Did not provide a compliant certificate of insurance.

The Museum spent \$43,616 for ineligible activities, and \$930,247 for questionable activities.

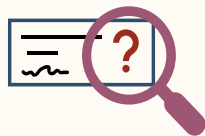


Ineligible expenses include requests for \$21,250 in duplicate expenses, which OCII paid, and legal services not tied to the grant's purpose.



Questionable expenses include requests for \$534,187 for salaries and benefits, and \$177,072 for accounting and auditing fees, all of which were not sufficiently supported.

OCII has not effectively enforced the grant agreement.



Approved costs submitted by the Museum without proper proof of payment.



Did not review documentation from the Museum in a timely manner.



Used different methods to disburse funds and to allocate reimbursable costs.

WHAT WE RECOMMEND

The report includes 10 recommendations for OCII and 4 recommendations for RED to improve their administration of the agreements.

Key recommendations include that OCII should:

- Require the Museum to provide specific, realistic, and achievable fundraising goals to demonstrate it can fund the project and open to the public without extended delays and work with RED to determine whether fundraising is sufficient to complete the build-out of the premises.
- Seek reimbursement from the Museum for any grant money spent on ineligible activities.
- No longer approve any requests for reimbursement of costs related to the storage of the collection or any other operational expense of the Museum unless OCII amends the grant agreement to specifically include these activities. Develop clear and specific criteria for reimbursement of administrative costs and costs directly related to predevelopment and interior improvements at the premises.

Key recommendations include that RED should:

- Require the Museum to provide, within 60 days of the issuance of this report, a plan indicating how it will complete the build-out of the premises, including a realistic schedule, with detailed milestones, showing when the space will open to the public. If RED determines that the Museum is no longer a viable project, RED should develop an alternative use for the space pursuant to the lease and facilities agreement.
- Require the Museum to provide annual reporting packets and proof of insurance that comply with the lease and facilities agreement.

Contents

Glossary	9
Introduction	10
Chapter 1 The Museum lacks the money needed to finish the project and has not demonstrated it has the financial or organizational expertise to meet the objectives stipulated in its agreements with OCII and the City.....	14
Finding 1.1. Although \$6.6 million of the grant funds remain unspent, the Museum is an estimated \$49.8 million short of having the funds needed to complete the project and has not shown it can secure this funding, hindering the project's progress.....	14
Finding 1.2. The Museum has a history of mismanaging grant funds.....	17
Finding 1.3. The Museum may have spent grant funds on excessive expenses.....	18
Chapter 2 The Museum has not fulfilled some of its obligations under the lease and facilities agreement or the purchase and sale agreement.....	20
Finding 2.1. The Museum did not comply with its contractual obligation to substantially complete tenant improvements by September 2022, despite having the opportunity to do so. In fact, the interior improvements have not even begun.....	20
Finding 2.2. The Museum has not fulfilled reporting and insurance requirements in the lease and facilities agreement and has not paid nearly \$80,000 in common area and maintenance dues.....	23
Chapter 3 The Museum submitted \$43,616 of ineligible costs, \$930,247 of questionable costs, and \$562,579 of operational costs, all of which OCII approved.	25
Chapter 4 OCII has not effectively enforced the Museum's grant agreement or grant disbursement agreements.....	35
Finding 4.1. OCII approved \$445,816 in expenditure requests without adequate proof of payment from the Museum.....	35
Finding 4.2. OCII approved costs that the Museum incurred before the GDA effective dates.....	36
Finding 4.3. OCII did not always promptly review the Museum's expenditures, did not create the required detailed disbursement procedures, and used different methods to disburse the grant funds.....	37
Appendix A: Department Responses	39
Recommendations and Responses.....	45
Appendix B: The Mexican Museum Response.....	50
Appendix C: Auditor's Comments on The Mexican Museum's Response	66

Glossary

City	City and County of San Francisco
CCHE	California Cultural and Historical Endowment
CSA	City Services Auditor, Audits Division
Developer	706 Mission Street Co LLC, an affiliate of Millennium Partners
Fort Mason	Fort Mason Center for Arts & Culture
GDA	Grant Disbursement Agreement
MoAD	Museum of the African Diaspora
the Museum	The Mexican Museum
OCII	Office of Community Investment and Infrastructure
Premises	The museum space at 706 Mission Street
RED	Real Estate Division
SFRA	San Francisco Redevelopment Agency

Introduction

BACKGROUND

The Mexican Museum

The Mexican Museum (the Museum) is a California 501(c)(3) nonprofit organization with a mission to “voice the complexity and richness of Latino art and culture throughout the Americas, and to engage and facilitate dialogue among the broadest public.” The Museum originally opened in 1975 in the Mission District and moved to Fort Mason Center for Arts & Culture (Fort Mason) in 1982. According to the Museum, it left Fort Mason in 2018 in anticipation of moving to a new space at 706 Mission Street. The new space would enable the Museum to be accessible, transparent, and focused on providing diverse communities with educational events and enjoyable experiences through art and culture of Latin American origin.

The Office of Community Investment and Infrastructure

The Office of Community Investment and Infrastructure (OCII) is a state-authorized local entity that is the successor to the former San Francisco Redevelopment Agency (SFRA)¹ in accordance with the California Community Redevelopment Law. OCII's efforts to wind down what were SFRA's redevelopment activities are overseen by two governing bodies: the Oversight Board and the Commission on Community Investment and Infrastructure.

The Museum's History and the City's Role

The development of the space intended for the Museum is part of a mixed-use project developed by 706 Mission Street Co LLC, an affiliate of Millennium Partners (the Developer), at the corner of Third and Mission Streets. The project includes a 510-foot building with up to 190 residential condominium units, commercial space, and approximately 48,000 net square feet of museum space (the cultural component).

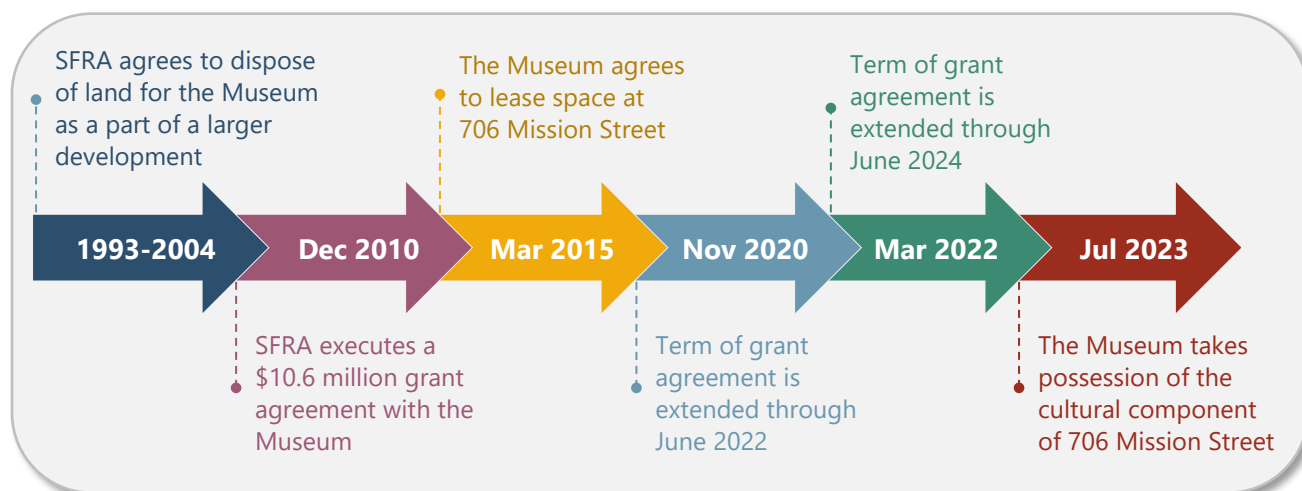
The City's plans to redevelop and revitalize the area in which the project is located began in 1966. Key milestones and events related to the Museum and the City's role in its location are listed below and summarized in the timeline in Exhibit 1:

- **April 1966** – SFRA approves a Redevelopment Plan for the Yerba Buena Center Approved Redevelopment Project Area D-1 to provide for the revitalization of certain lands and future uses.

¹ The San Francisco Redevelopment Agency, along with all other redevelopment agencies in California, was dissolved as of February 1, 2012, as per the California Health and Safety Code, Section 34170 et seq.

- **June 1993** – SFRA approves an agreement for the disposition of land for the development of a stand-alone museum located at what is now 706 Mission Street. Under the eighth amendment in 2004, SFRA and the Museum agree that the museum space will be part of a larger development.
- **July 2008**
 - SFRA establishes an exclusive negotiation agreement with the Developer to develop a mixed-use project that will include a museum space.
 - The City's Arts Commission acts as a fiscal agent of a memorandum of understanding between SFRA and the Museum to provide \$820,000 in grant funds to develop organizational capacity for the Museum.
- **December 2010** – SFRA establishes a \$10.6 million grant agreement with the Museum for predevelopment activities and interior improvements related to the new museum space. The agreement is set to expire in December 2020.
- **January 2011** – The Yerba Buena Redevelopment Plan expires.
- **January 2012** – SFRA executes the first grant disbursement agreement.
- **February 2012** – The State of California dissolves SFRA. Consequently, OCII assumed continuing enforceable obligations of SFRA, including the grant agreement.
- **April 2013** – OCII executes the second grant disbursement agreement.
- **July 2013** – OCII and the Developer execute a Purchase and Sale Agreement for 706 Mission Street. The Museum is a third-party beneficiary of the cultural component.
- **July 2014** – OCII executes the third grant disbursement agreement.
- **March 2015** – The Real Estate Division (RED) and the Museum execute a 66-year lease and facilities agreement for the premises. The base rent is to be \$1 for the entire lease term.
- **September 2019** – OCII executes the fourth grant disbursement agreement.
- **September 2020** – The Department of Building Inspection issues a temporary certificate of occupancy for the premises.
- **November 2020** – The grant agreement is amended to extend the term to June 2022.
- **March 2022** – OCII executes the fifth grant disbursement agreement and the grant agreement is amended to extend its term to June 2024.
- **June 2023** – The Developer transfers ownership of the premises to the City.
- **July 2023** – RED provides the Museum with the keys so it can be in possession of the premises.

Exhibit 1: Summary of key events in the Museum project



Source: CSA analysis

Exhibit 2 summarizes the agreements related to the Museum.

Exhibit 2: Agreements related to the Museum

Agreement Type	Agreement Parties	Term or Effective Date	Not-to-Exceed Amount	Purpose of Agreement
Grant Agreement	SFRA ^a and the Museum	12/14/2010-6/14/2024 ^b	\$10,566,000	- Pay for costs associated with "predevelopment activities and interior improvements" related to museum space. - Funding to be disbursed through grant disbursement agreements detailing specific uses of requested disbursement amounts.
Memorandum of Understanding	SFRA and the Museum	7/15/2008	\$820,000	- Pay for costs to develop organizational capacity. - The Arts Commission acted as SFRA's fiscal agent and oversaw that the grant was spent in accordance with the terms and conditions of the memorandum of understanding.
Purchase and Sale Agreement	OCII and 706 Mission Street Co LLC	7/16/2013	N/A	Developer purchased real property (where 706 Mission Street is now) from OCII and agreed to include a cultural component of 48,000 net square feet for City to lease to the Museum, a third-party beneficiary.
Lease and Facilities Agreement	RED and the Museum	3/20/2015	N/A	A 66-year lease to the Museum at a base rent of \$1 for the lease term with an option to extend for 33 more years.

Notes:

^a In February 2012 the State of California dissolved SFRA. Consequently, OCII assumed the continuing enforceable obligations of the grant agreement.

^b The grant agreement was amended twice to extend its term. The second amendment was a 24-month extension, making the agreement effective until June 14, 2024.

Source: OCII and RED agreements.

OBJECTIVE

The main objective of this audit was to assess the compliance and performance outcomes of the Museum in accordance with its agreements with OCII and the City, including the grant agreement, grant disbursement agreements, purchase and sale agreement, and lease and facilities agreement.² This audit was requested by Board of Supervisors President Aaron Peskin.

Specifically, the audit aimed to:

1. Determine whether the Museum spent funds and completed project activities for predevelopment and interior improvements in accordance with the terms of its grant agreement with OCII, applicable laws, and guidelines.
2. Assess OCII's management and oversight of its agreements with the Museum.

SCOPE AND METHODOLOGY

The audit covered the period of the grant agreement so far. That is, we considered relevant conditions and events that occurred from the grant agreement's effective date of December 14, 2010, to the date we completed the fieldwork for this audit in November 2023.

To achieve the objectives, we:

- Assessed the Museum's performance, including its fundraising efforts, financial statements, architectural designs, and board structure.
- Analyzed the Museum's compliance with key requirements regarding its planned new space. To do so, we:
 - Interviewed key staff at OCII, RED, and the Museum.
 - Reviewed the Museum's agreements with OCII and the City and the Museum's performance under them to determine whether the Museum has complied with selected requirements, including documentation requirements. The agreements are the:
 - Grant agreement and grant disbursement agreements with OCII.
 - Purchase and sale agreement between OCII and the Developer; the Museum was a third-party beneficiary.
 - Lease and facilities agreement with RED.
 - Reviewed \$3 million of grant funds spent by the Museum³ and \$1 million spent by the Developer from January 2012 through June 2022 to verify whether expenses were eligible under the grant and had adequate supporting documentation and proof of payment.

² As the landlord of the cultural component at 706 Mission Street, RED administers the lease and facilities agreement.

³ OCII reviewed but did not reimburse \$104,894 in addition to the \$3 million of grant funds spent by the Museum because of insufficient remaining grant funds within the third grant disbursement agreement. However, OCII did not specify which expenses were not reimbursed so we included these expenses in our audit test.

Chapter 1

The Museum lacks the money needed to finish the project and has not demonstrated it has the financial or organizational expertise to meet the objectives stipulated in its agreements with OCII and the City.

SUMMARY

As of December 2022, the Museum had not raised any readily available funds to start the interior improvements of the premises, estimated to require \$49.8 million, and had no plan or personnel dedicated to raising capital funds. Implementing such a plan and hiring such personnel is complicated by the fact that the Museum has not had a director since 2015. Moreover, the Museum has a history of mismanaging grant funds from other government organizations and a pattern of excessive spending, which the Museum must rein in by improving its spending strategy.

Finding 1.1. Although \$6.6 million of the grant funds remain unspent, the Museum is an estimated \$49.8 million short of having the funds needed to complete the project and has not shown it can secure this funding, hindering the project's progress.

The Museum has not demonstrated sufficient fundraising efforts and lacks the money needed to complete the design of the new museum space, build out the space, and open it to the public by 2025. The grant agreement does not specify fundraising goals for the Museum, but the \$10.6 million in grant funds from OCII was intended to fund only a portion of the design and construction of the museum space. Thus, since 2010, when the grant agreement was established, it should have been clear to all involved parties that the Museum would have to identify and secure its own sources of funding to complete the project.

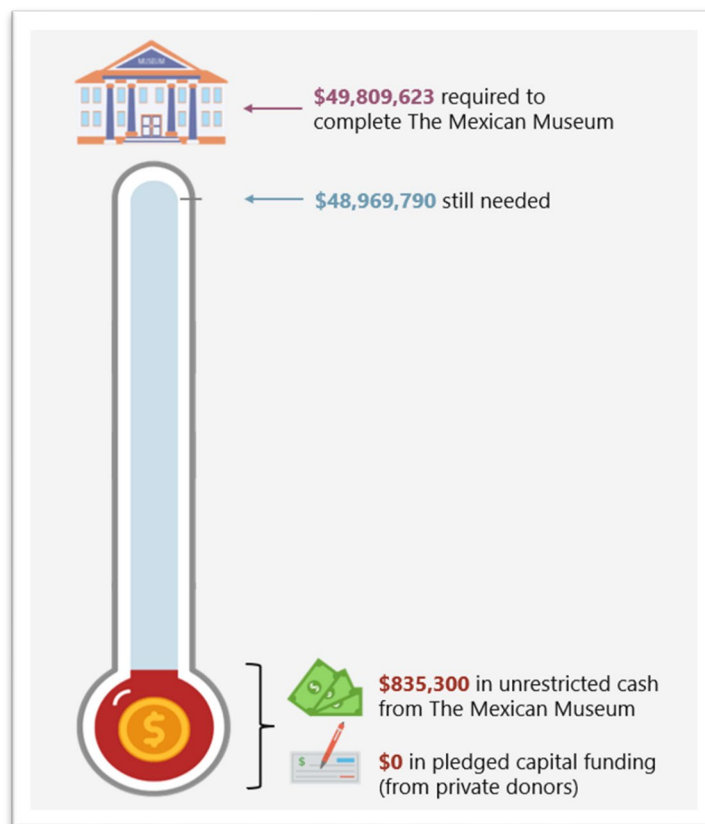
In November 2022 the Museum forecast that it would need \$49.8 million of capital funds, *excluding the grant funds*, to complete the interior improvements but in December 2022 it lacked an estimated \$49.0 million (98 percent) of \$49.8 million needed to complete the project. At that time, according to the Museum's balance sheet, it had approximately \$835,000 in available, unrestricted cash in its bank accounts, or 2 percent of the estimated \$49.8 million needed to complete the project.⁴

⁴ Because the \$835,000 is unrestricted, thus not reserved for the space build-out or capital improvements in general, the Museum may spend it on operating costs.

From 2018 through 2022, the Museum reported \$1.5 million in donations and grants and secured \$5 million in pledges. However, the \$5 million in pledges is restricted and will not be given to the Museum until 2025 when it projects it will open its new location. Further, although the Museum had \$835,000 in available cash in December 2022, its balance sheet also shows an \$825,000 liability described as "Morgan Stanley Endowment Loan." Despite our repeated requests for supporting documentation from the Museum, its management and legal counsel did not provide any documents or journal entries related to these accounts that would allow us to confirm the sources of the funds. Instead, we were provided with an explanation that the account was created internally and not linked to any loans, an assertion we could not verify.

Exhibit 3 summarizes the estimated amount needed to complete the Museum's space build-out and the Museum's available funds.

Exhibit 3: The Museum must raise an estimated \$49 million to complete the design and build-out of the space at 706 Mission Street



Source: CSA analysis of the Museum's documentation, including estimated cost to complete project; amounts as of December 2022.

The Museum has not demonstrated it has a plan beyond the use of the remaining \$6.6 million in grant funds. Before the Museum can spend any of the grant funds, the grant agreement requires the Museum to enter into a grant disbursement agreement with OCII based on a budget and proposal for all planned uses, subject to OCII approval. The Museum's last approved request for funds was made in 2022 and was for \$2.5 million. Because the Museum had not spent some of the grant before the grant agreement was set to expire, it requested two amendments of the grant agreement to extend its term, in 2020 and 2022, citing the COVID-19 pandemic as a reason for delays in progress and raising capital funds. (The second amendment, for 24 months, makes the agreement effective until June 14, 2024.) In 2022 the Museum requested the remaining balance of the grant of \$6.6 million, possibly because the grant agreement would have no more extensions. As of November 2023, \$6.6 million (62 percent) of the \$10.6 million grant remained unspent and not yet approved for disbursement.

The Museum has not raised the additional \$49 million needed to complete the project and appears to have no plan how to raise it. As stated above, the Museum has known since 2010 that it would need to raise money—in addition to the OCII grant—to complete the design and build-out of its new home at 706 Mission Street. Thus, the COVID-19 pandemic, which began affecting San

Francisco in 2020, does not explain the Museum's failure to raise capital improvement funds in the preceding decade. Also, the Museum has not updated its business plan since 2015 but claims it has other identified sources of funding for the project. However, the Museum has not demonstrated this to OCII, RED, or the audit team. We asked the Museum for a current business plan, project funding sources, or any other related information more current than its 2015 business plan, but the Museum could not identify any such document or any specific fundraising activities, except the creation of a sister organization in Mexico, which would be dedicated to raising funds for the completion of the project.

According to the Museum's financial statements, from 2011 through 2022, it received donations and grants in the amount of \$5.6 million,⁵ or an average annual amount of approximately \$466,000. The maximum amount received by the Museum in one year was approximately \$911,000. This further demonstrates the Museum's inability to raise sufficient capital funds to support the interior improvements at 706 Mission Street.

Other museums in San Francisco have raised funds successfully in recent years. In comparison, according to the Museum of the African Diaspora (MoAD), located in San Francisco, it was able to innovatively fundraise despite difficult times during the pandemic, temporary closure, and significantly reduced foot traffic. Further, MoAD used to host annual galas but learned that it could not continue to rely on them for all its fundraising, so it tried new approaches, such as hosting online auctions, which turned out to be successful. According to MoAD's 2022 annual report, the organization spent \$1.2 million on fundraising and raised \$3.8 million in funds. In contrast, according to the Museum's profit and loss statement for 2020, 2021, and 2022, it spent only \$2,379 on fundraising activities.

Turnover in the Museum director position since the 2010 grant agreement, having no director since 2015, and having no dedicated fundraising personnel may explain the Museum's lack of progress on the project. According to the Museum's tax returns, it had two directors in the five years of 2011 through 2015 and had two chief operating officers as paid executives but has had no paid executive director since 2015. As of June 2023, the Museum had six employees: a chief operating officer, a director of education, two assistants, a content creator, and a registrar. Although a fundraising position is included in its organizational chart, the Museum did not employ dedicated fundraising personnel as of June 2023.

Staff turnover at OCII may also explain the lack of progress. Another factor that may have contributed to the project's delay is the absence of a consistent OCII project manager and staff turnover, which, according to OCII, has persisted since the inception of the grant agreement in 2010, continued through the closure of Yerba Buena Center Redevelopment project area in 2011, and lasted long after the dissolution of SFRA in 2012. Thus, OCII's efforts to fulfill its responsibilities to monitor the progress of the grantee (the Museum) and hold it accountable were uneven and ineffective at times. This may have contributed to the lack of coordination, communication, and oversight on the project, further delaying its progress.

⁵ The \$5.6 million excludes the \$10.6 million OCII grant, a \$10 million contribution, and a \$2.1 million Public Art Fee from the Developer toward the façade of the premises, and a \$5 million operational endowment also contributed by the Developer.

We could not assess the role or effectiveness of the Museum's Board of Trustees. The capacity of grant recipients is a key issue that can affect the implementation of a program and its success. To assess the Museum's organizational capacity and the oversight over the Museum's activities and resources, we invited the Museum's 16-member Board of Trustees (Board) to participate in a short survey, which asked about the Board's structure and the expertise of the Board members. However, instead of responding to our survey, Board members opted to provide their resumes, which reflect a wide range of experiences, mainly in the arts, business and economics, law, government, and some experience with nonprofit organizations other than the Museum. Ultimately, we could not assess the Board's structure or how well the Board leads or oversees the Museum because the Board members chose not to respond to our survey.

Finding 1.2. The Museum has a history of mismanaging grant funds.

The Museum has a history of poorly administering grants received from other sources. In 2012 the California Cultural and Historical Endowment (CCHE) awarded the Museum an \$800,000 grant to be put toward the design and construction of the new museum building.⁶ At the end of the two-year grant period, a September 2014 interim audit report by the California Department of Finance found that:

- None of the grant funds disbursed to the Museum were supported or eligible for reimbursement.
- The Museum lacked necessary fiscal controls over grant funds.
- The Museum's accounting records did not separately identify grant-related costs.
- The Museum used grant funds to reimburse costs incurred and paid for by a separate entity and reimbursed costs incurred before the grant term began.
- The Museum did not complete the deliverables required by the grant agreement.

The audit report recommended that the Museum return all disbursed funds, totaling \$123,662,⁷ to CCHE.

Going further into the Museum's past, its audited financial statements⁸ highlight two additional examples of the Museum misusing grant funds, these from the California Arts Council.

- From July 1999 through June 2002, the Museum drew funds from a California Arts Council educational services grant. In 2003 the California State Controller's Office conducted a desk review of the grant that found the Museum had improperly spent approximately \$295,000 of the grant funds for general operating expenditures and that the Museum had otherwise not fulfilled the grant agreement's terms and conditions. The Museum unsuccessfully appealed this finding.

⁶ We found that the Museum spent funds from its OCII grant for legal and accounting expenses it incurred to address the findings of the audit of the CCHE grant, as described in Finding 3.

⁷ The Museum used only \$137,403 of the \$800,000 grant. CCHE withheld a 10 percent retention from the reimbursement claim; therefore, CCHE paid the Museum \$123,662 (\$137,403 - \$13,741 = \$123,662).

⁸ The audit team reviewed the Museum's audited financial statements for 2011 through 2019. The audited statements for 2019 were the latest available.

- The California Arts Council awarded a \$500,000 "reimbursement contract" to the Museum for its capital development program, of which \$125,000 was advanced to the Museum in 2002. However, the Museum did not spend the funds for the intended purpose within the time frame required by the contract.

Finding 1.3. The Museum may have spent grant funds on excessive expenses.

Chapter 3 highlights the Museum's ineligible or questionable expenditures of grant funds, but we also found an instance in which the Museum may have spent grant funds excessively, further demonstrating its poor management of grant funds.

The Museum director's salary in 2012 appears to have been excessive and was paid for entirely with grant funds. The Museum has not had a paid director or chief executive officer since 2015, but over a decade ago, in 2012, the Museum used OCII grant funds to pay its chief executive officer a salary that was significantly higher than the average paid by other museums in its budget range.

As shown in the first grant disbursement agreement (GDA), in 2012 the Museum spent \$200,000 for the director's salary, for which the Museum used only grant funds. According to a 2012 annual survey of the Association of Art Museum Directors, at that time the average salary of directors of museums in the United States with budgets of \$1 million to \$2.5 million was \$147,279. Thus, the salary of the Museum's director was 36 percent above that average.

The Museum's 2012 financial reports show that the organization had annual revenue of \$1,168,440, which included \$750,000 of income received through grant funds. Without the grant funds, the costs of the director's salary would have been 48 percent of the Museum's annual revenue, likely making the salary an unsustainable cost for the organization. Further, after the director who received this salary left the Museum in January 2013, the subsequent director's annual salary was \$90,000, a decrease of 55 percent, indicating that the preceding director was grossly overpaid.

In comparison, the MoAD executive director's salary, for its fiscal year 2011-12, was \$160,000. The reported revenue of MoAD for that fiscal year was \$2,345,432, which was twice as much as the Museum's. Thus, the Museum director's salary was 17 percent of the Museum's annual revenue, compared to 7 percent of annual revenue for MoAD. Further, MoAD's executive director salary was 9 percent above the average in the 2012 annual survey of the Association of Art Museum Directors, compared to 36 percent above average for the Museum.

In contrast to the first GDA, funds from which the Museum used to pay 100 percent of its director's salary in 2012, the salary of the subsequent director was funded with decreasing allocations of grant funds in subsequent GDAs: 50 percent in the second GDA and 30 percent in the third GDA. This indicates that the Museum recognized the prior director's salary was unsustainably high and that it should not be covered entirely by the grant funds.

RECOMMENDATIONS

The Office of Community Investment and Infrastructure should:

1. Require The Mexican Museum to provide specific, realistic, and achievable fundraising goals to demonstrate it can fund the project and open to the public without extended delays and work with the Real Estate Division to determine whether fundraising is sufficient to complete the build-out of the premises.
2. Require The Mexican Museum to separately identify grant-related expenses in its accounting system to ensure expenses billed to the grant agreement are not covered by other sources.
3. Require The Mexican Museum to create policies and procedures for tracking the personnel time that is directly connected to improving the premises at 706 Mission Street. OCII should also document such procedures in any subsequent grant disbursement agreements it executes and accurately reimburse these expenses.

Chapter 2

The Museum has not fulfilled some of its obligations under the lease and facilities agreement or the purchase and sale agreement.

SUMMARY

As of July 2023, the Museum had failed to comply with several requirements in the purchase and sale agreement and lease and facilities agreement. It has not completed a substantial amount of the planned tenant improvements, has not provided the required annual financial packets or a compliant certificate of insurance for the premises, and did not pay its common area and maintenance dues.

Finding 2.1. The Museum did not comply with its contractual obligation to substantially complete tenant improvements by September 2022, despite having the opportunity to do so. In fact, the interior improvements have not even begun.

The purchase and sale agreement and the lease and facilities agreement require tenant improvements to be substantially completed within 24 months of the issuance of the Temporary Certificate of Occupancy for the Core and Shell, which was issued on September 3, 2020. Thus, the Museum should have substantially completed the required improvements by September 3, 2022. However, as of July 2023, the Museum had not even begun the planned interior improvements at 706 Mission Street.

The lease and facilities agreement states that if the Museum does not complete the improvements by the deadline, RED has the right to evaluate the state of the construction of the interior improvements and determine whether to pursue another tenant for the premises.⁹ As of December 2023, RED has not notified the Museum that it will pursue another tenant for the space.

The Museum did not request early access to the premises but took possession in July 2023.

Although the lease and facilities agreement expressly provides the Museum with an opportunity to request early access to the premises from RED and the Developer to begin interior improvements, the Museum did not use that opportunity. According to RED, the Museum did not request early access to the premises. In July 2023 RED gave the Museum keys to the premises, which constituted the Museum taking full possession of the space.

⁹ Before pursuing another tenant, RED must notify the Museum in writing and use a "cure period" of 30 days. A longer cure period could be used if the Museum requested this in writing and the City agreed to the request.

The Museum has made no progress on interior improvements. In July 2023 the audit team visited the premises and saw none of the planned interior improvements—or any visible progress toward them—for which the Museum is responsible. The only major completed milestone we saw is the façade screen on the premises’ exterior, which the Developer completed, as shown in Exhibit 4.

Exhibit 4: Façade screen outside the cultural space at 706 Mission Street

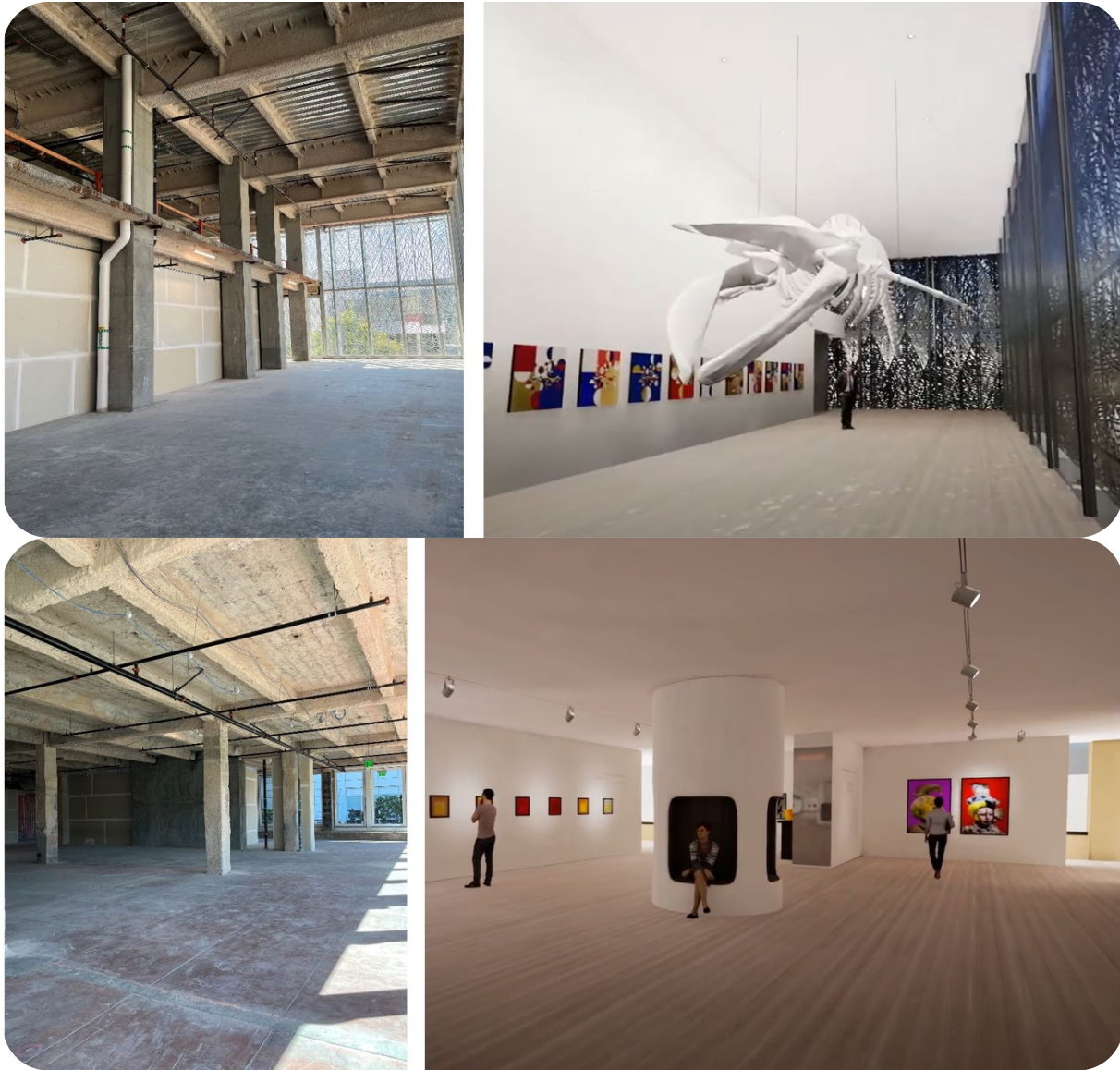


Source: CSA, July 14, 2023

22 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

Exhibit 5 shows two photos reflecting the state of the premises we observed in July 2023 contrasted with the Museum-provided renderings of how the completed exhibition spaces were expected to look.

Exhibit 5: State of the premises in July 2023 (left) compared to design plans (right)



Source: CSA, July 14, 2023 (left); the Museum (right)

The Museum sued the City over an interior access issue, possibly adding to the delays. According to the Museum, its initial plan was to include a staircase between the second and third floor, as shown in Exhibit 6. However, according to the Museum, this plan had to be dropped when it found that access to the staircase was blocked after the Developer completed the space. Consequently, in May 2022 the Museum filed a lawsuit against the City related to the blocked access to the third and fourth floor of the premises. Instead of fully concentrating on fundraising and planning the build-out,

the Museum spent time and legal fees on the lawsuit, which yielded no results. Also, because it took more than a year for the parties to resolve the lawsuit, it may have further delayed the project. According to RED, it complied with the lease and facilities agreement by providing the Museum with at least nine months' notice regarding the change order to block off the staircase access, but the Museum did not respond and later stated it did not receive the notice. The parties eventually entered into a tolling agreement, suspending the statute of limitations, which was approved by the City's Board of Supervisors in June 2023, and the case was dismissed without prejudice the following month.

Exhibit 6: Blocked-off access to planned staircase



Source: CSA, July 14, 2023

Finding 2.2. The Museum has not fulfilled reporting and insurance requirements in the lease and facilities agreement and has not paid nearly \$80,000 in common area and maintenance dues.

According to RED, as of August 2023 the Museum had not provided the required annual reporting packets or financial statements since 2018. Also, as of September 2023 the Museum had not provided proof of insurance for the premises, which has been required since July 2023.

As indicated above, these documents have been required since either of two applicable dates: the effective date, which is the date the agreement was signed in March 2015, or since the commencement date, which is July 11, 2023, when the Museum took possession of the premises.

The Museum has not submitted annual reporting packets or financial statements. According to the Museum's management, the organization had no obligations under the lease and facilities agreement, including no obligation to provide required documents, until the Museum was in possession of the premises, which the agreement calls the commencement date. However, the lease and facilities agreement states otherwise, except for the proof of insurance, which was due upon the commencement date. Based on the reporting requirements in the lease and facilities agreement that became effective on the agreement's March 2015 effective date, in February 2021 RED notified the Museum that it was not in compliance with these requirements.

The Museum's proof of insurance falls short of requirements. On September 5, 2023, RED issued a notice requesting proof of insurance from the Museum. On November 1, 2023, RED issued a notice of default to the Museum for failing to provide proof of insurance for the premises. On November 5, 2023, the Museum provided proof of insurance for the premises. However, the insurance coverage the Museum obtained had commercial general liability limits of \$1 million per occurrence, which falls short of the lease and facilities agreement's requirement of \$5 million. The Museum's legal counsel

stated that as of November 3, 2023, the organization was arranging to increase the insurance policy's liability limit so it will comply with the lease and facilities agreement.

The Museum has not paid any common area and maintenance dues. According to RED, as of November 11, 2023, the Museum had not paid any of its monthly common area and maintenance dues for the museum space, which totaled \$79,513 at that time. The first payment was due in August 2023, after the Museum took possession of the premises.

RECOMMENDATIONS

The Real Estate Division should:

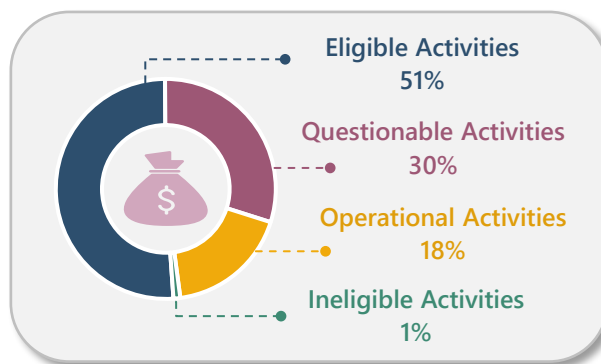
4. Require The Mexican Museum to provide, within 60 days of the issuance of this report, a plan indicating how it will complete the build-out of the premises, including a realistic schedule, with detailed milestones, showing when the space will open to the public. If the Real Estate Division determines that The Mexican Museum is no longer a viable project, the Real Estate Division should develop an alternative use for the space pursuant to the lease and facilities agreement.
5. Require The Mexican Museum to provide proof of insurance that complies with the lease and facilities agreement, Section 20, covering the period after the agreement commenced on July 11, 2023.
6. Require The Mexican Museum to provide for its most recent fiscal year audited financial statements and the annual financial information packet as described in the lease and facilities agreement.
7. Require The Mexican Museum to promptly pay its common area and maintenance dues.

Chapter 3

The Museum submitted \$43,616 of ineligible costs, \$930,247 of questionable costs, and \$562,579 of operational costs, all of which OCII approved.

SUMMARY

OCII approved \$43,616 of the Museum's expenses for ineligible activities, \$21,250 of which were for costs approved twice. Also, it approved \$930,247 of questionable expenses, which were not sufficiently supported, and \$562,579 of operational costs related to the Museum's Fort Mason exhibition space and the storage of the Museum's collection.



The Museum Spent \$43,616 in Costs for Ineligible Activities

The Museum spent \$43,616 for costs that are ineligible for reimbursement under the grant agreement with OCII. Most of the ineligible costs are related to expenses the Museum submitted twice and legal costs related to activities for other Museum grants. Exhibit 7 summarizes the ineligible costs, and Exhibits 8 and 9 show the Museum's supporting documentation for some of these examples.

Exhibit 7: Summary of ineligible costs for which OCII reimbursed the Museum

Ineligible Cost	Ineligible Amount
Duplicate payments ^a	\$21,250
Legal services not directly connected with grant's purpose. Services described relate to addressing findings of CCHE grant audit, "visa requirements" for the Museum's new director, and Board meetings, among others. ^b	17,200
Workers compensation insurance for a period when no salaries were reimbursed.	1,388
Other miscellaneous costs, such as groceries, parking, bridge tolls, utility cart.	1,353
Working dinner and breakfast with architects. ^c	921
Expense for the Museum director's health insurance for December 2012 was approved twice, once via personal insurance, paid by the Museum (\$766.64) and once through the Museum's group insurance (\$1,012.59).	767
Benefits of an employee whose salary was not reimbursed under the grant agreement	567
Payroll related to the Museum director	170
Total	\$43,616

Notes:

^a Refer to Exhibit 10, 11, and 12 for details and supporting documents.

^b Refer to Exhibit 9 for supporting documents.

^c Refer to Exhibit 8 for supporting documents.

Source: CSA analysis

26 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

Exhibit 8: Support for \$921 working dinner and breakfast incurred by the Museum.

THE MARQUEZ LAW GROUP

INVOICE FOR REIMBURSEMENT

August 28, 2013

David de la Torre
Director
The Mexican Museum
Fort Mason Center
Building D
San Francisco, CA 9412

Description:

August 21 - Working meeting with Design Architect for The Mexican Museum Project. \$699.52

August 22 - Working breakfast meeting with Design Architect and Architect of Record for The Mexican Museum Project. \$221.73

Total Due: \$921.25

THE MEXICAN MUSEUM
BLDG-D FORT MASON
SAN FRANCISCO, CA 94125-1339

Pay to the Order of The Marquez Law Group \$ 921.25
nine hundred twenty one and 25/100 Dollars

For [Redacted]

INTERCONTINENTAL SAN FRANCISCO
888 Howard Street
San Francisco, CA 94103

Four Seasons Hotel
San Francisco
www.fourseasons.com
8/22/2013 8:23

Check: 3002508 Table: 30
Server: Jesus Guests: 6
Terminal: 300

MKT Restaurant

1 FRESH JUICE LG	8.50
1 FRESH JUICE LG	8.50
1 FRESH JUICE LG	8.50
6 COFFEE	36.00
0 5.00	
1 PASTRY	5.00
1 BAY OMELET	23.00
1 MIXED BERRIES SD	5.00
1 TWO EGGS	18.00
1 SIDE FRUIT	3.00
1 TWO EGGS	18.00
1 EGG WHITE OMELET	18.00
1 SMOKED SALMON	20.00
1 SIDE BREAKFAST	7.00
1 FRESH JUICE SM	7.00

Subtotal 185.50
Tax 15.23
Total 201.73

Gratuity 22.00
Total 221.73

Signature _____
Gratuity Not Included

Paul Cash

Source: OCII

Exhibit 9: Support for legal services related to CCHE grant (discussed in Finding 1.2) and employment labor visa incurred by the Museum, totaling \$5,000.

Received and reviewed draft audit from the Department of Finance related to the CCHE Planning Grant; telephonic conversation with Museum's Director and CPA regarding the same; telephonic conversation with auditor to discuss the audit findings. Began drafting a response for the draft audit, including undertaking further factual background on some of the invoices submitted for the design work by the project architects.		
3.5	\$400.00	\$1,400.00
Drafted letter for Mayor Lee asking for his support in advocating for the Museum to retain the CCHE grant funds; followed up with meeting with the Mayor to request his support. Prepared a letter of Support for former Assemblywoman Fiona Ma to ask for her support for the retention of the CCHE grant funds and to assist with strategizing in Sacramento. Met with a Sacramento representative to ask for assistance in meeting with the Governor for the retention of the CCHE grant funds. Coordinated substantive issues related to the CCHE grant with Sacramento legislatures.		
7.0	\$400.00	\$2,800.00
Coordinated finding special immigration legal counsel for the CEO to have her employment labor visa process which included interviewing several immigration attorneys and selecting the best choice for expediting the visa process with the goal of having the CEO start prior to the end of the year; coordinated obtaining the best rate possible and helping to negotiate a reduced attorneys fee retainer agreement; coordinated with the CEO candidate to ensure prompt follow up on all aspects of the process.		
2.0	\$400.00	\$800.00

Source: OCII

27 | The Mexican Museum Has Not Demonstrated That It Can Meet the City’s Contractual Obligations, and OCII Has Not Effectively Enforced the Museum’s Grant Agreement

The audit also found four instances in which the Museum submitted—and OCII approved and reimbursed—the same expenses twice. These duplicate reimbursements total \$21,250. Details are shown in Exhibits 10, 11, and 12.

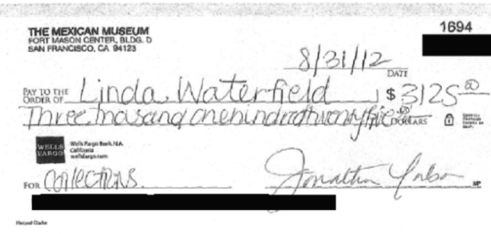
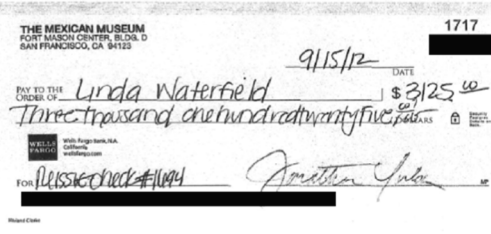
Exhibit 10: Summary of OCII’s duplicate reimbursements to the Museum.

Description	Ineligible Amount
Same invoice from Linda Waterfield for space planning was attached to check 1694, dated 8/31/2012, and check 1717, dated 9/15/2012. Expense was approved in same GDA.	\$3,125
Same invoice from Linda Waterfield for space planning was attached to check 1782, dated 11/30/2012, and check 1794, dated 12/11/2012. Expense was approved in same GDA.	3,125
Same invoice from The Marquez Law Group for legal services was attached to check 1812, dated 12/27/2012, and check 1843, dated 1/15/2013. Expense was approved in same GDA.	7,500
Check 1873, dated 3/1/2013, to The Marquez Law Group for legal services was approved once in first GDA with only a copy of the check as support and then again in second GDA with both an invoice and the check as support.	7,500
Total	\$21,250

Source: CSA analysis

Exhibit 11: Duplicate reimbursement to the Museum for Linda Waterfield invoice.

Supporting Documents:

Invoice for The Mexican Museum Attention: Jonathan Yorba, CEO	Invoice for The Mexican Museum Attention: Jonathan Yorba, CEO
The Mexican Museum Fort Mason Center, Building D San Francisco CA 94123	The Mexican Museum Fort Mason Center, Building D San Francisco CA 94123
Contractor: Linda Waterfield [Redacted]	Contractor: Linda Waterfield [Redacted]
Services Provided August 1 - 31, 2012 Space Planning \$3,125.00	Services Provided August 1 - 31, 2012 Space Planning \$3,125.00
Thank you	Thank you
Signed: Linda Waterfield	Signed: Linda Waterfield
Date: August 20, 2012	Date: August 20, 2012 resubmitted September 11, 2012
	

Issues Identified:

- The Museum submitted the same invoice twice. The second time, a note was added: "resubmitted September 11, 2012."
- OCII reimbursed the Museum for both, thus potentially paying for the same expense twice.
- We cannot determine whether both checks were cashed because the Museum provided copies of checks instead of cancelled checks.

Source: OCII; CSA analysis

Exhibit 12: Duplicate reimbursement to the Museum for The Marquez Law Group invoice.

Supporting Documents:

THE MARQUEZ LAW GROUP
[REDACTED]
INVOICE FOR LEGAL SERVICES

December 24, 2012

Jonathan Yorba
Chief Executive Officer
The Mexican Museum
Fort Mason Center
Building D
San Francisco, CA 9412

Billing Activity & Time

Description of Service	Time	Hourly Rate	Total
Legal Services, Government Relation Services and Community Outreach Services relating to the development of the new Mexican Museum facility at 706 Mission Street. Services included participating in team meetings during the months of September through December 2012, including but not limited to, meetings with the Development Team Museum & Millennium Partners representatives. Ongoing meetings with city officials and elected officials.			
Finalization of RFQ for Project Manager position for posting online; Receipt and Review of Resumes responsive to the Project Manager RFQ.			
Interviews of Project Manager candidates and selection of final candidate.			
Dealing with the extension of the ENA for the Museum component of the Mixed-Use Project.			
Interaction with members of the newly appointed Commission that will be overseeing key components of the Museum Development Project.			
Flat fee.....			\$7,500.00
Total Due:			\$7,500.00

Please make check payable to: The Marquez Law Group

THE MEXICAN MUSEUM
FORT MASON CENTER BUILDING D
SAN FRANCISCO, CA 94125

12/27/12 DATE

PAY TO THE ORDER OF: The Marquez Law Group \$7,500.00

Seven thousand five hundred and no/100 dollars

FOR legal services Jonathan Yorba

1812

THE MEXICAN MUSEUM
FORT MASON CENTER BUILDING D
SAN FRANCISCO, CA 94125

11/15/13 DATE

PAY TO THE ORDER OF: The Marquez Law Group \$7,500.00

Seven thousand five hundred and no/100 dollars

FOR legal services Jonathan Yorba

1843

Issues Identified:

- The Museum submitted the same invoice twice.
- OCII reimbursed the Museum for both expenses, thus potentially paying for the same expense twice.
- We cannot determine whether both checks were cashed because the Museum provided copies of checks instead of cancelled checks.

Source: OCII; CSA analysis

The Museum Requested \$930,247 in Grant Money for Questionable Costs, Which OCII Approved

The Museum spent \$930,247 on questionable costs, most of which were for goods or services that we could not confirm were directly tied to the grant's purposes, as stated in the grant agreement. For example, it is not always clear from the documentation whether an expense relates to the 706 Mission Street space or the Museum's former space at Fort Mason, which was still operational during the periods covered by some of the GDAs. The questionable costs, all of which OCII approved, were mainly of the following types:

- Salaries of the Museum’s administration staff and director, sometimes fully reimbursed from the grant, were not supported by timesheets to show that the work performed by these employees was directly related to predevelopment of the 706 Mission Street space or another purpose covered by the grant agreement.
- Phone and internet costs were reimbursed at 75 and 90 percent without evidence to confirm that they were related to predevelopment activities.
- Accounting services were not itemized, so it is unclear if they were related to predevelopment activities. Further, we found five invoices for accounting and consulting services that list activities connected to the CCHE grant discussed in Finding 1.2. We could not verify the exact amount of the ineligible portion of these expenses because the expenses were not itemized, so we categorized these expenses as questionable.
- Miscellaneous expenses were reimbursed without sufficient documentary evidence to determine whether they were related to predevelopment activities or activities related to the 706 Mission Street space or the Museum’s former space at Fort Mason.

Exhibit 13 summarizes the most recognizable categories of questionable expenses. Exhibit 14 is an example of the accounting and consulting invoices related to the CCHE grant discussed in Finding 1.2. Exhibit 15 is an example of insufficient documentary evidence submitted by the Museum.

Exhibit 13: Summary of questionable costs incurred by the Museum

Questionable Costs	Amount
Salaries of administrative employees and director	\$383,419
Accounting/Auditing Fees	177,072
Salary of fund development director	110,000
Architects	84,315
Employee benefits	40,768
Phone/Internet	10,292
Other	124,381
Total	\$930,247

Source: CSA analysis

Exhibit 14: The Museum's accounting and consulting expenses regarding CCHE grant, discussed in Finding 1.2

Descriptions Taken From Reimbursed Invoices:

Invoice 2014-2808

Description	Amount
Consulting - For Professional Services Rendered in the Month of September including but not Limited to: Cash Disbursements Review, Review of QuickBooks Accounting, CCHE Matters , Financials, Cash Flows, Budget Reports, Gifting Coordination with Yuki. Fin Cmte Mtg	4,550.00

Invoice 2014-2851

Description	Amount
Tax Return	2,500.00
Consulting - For Professional Services Rendered in the Month of October including but Not Limited to the Secretary of State information, Review of CCHE Report and Responses , Phone Conferences, Email Responses	1,700.00

Invoice 2015-2936

Description	Amount
Consulting - For Professional Services Rendered During the Month of January 2015 including but not limited to Review of Check Disbursement, Cash Management, Emails, Review of Financial, Meetings, CCHE Reimbursement Request , Sales Tax Report, Audit Report Adjustments & Insurance Matters	6,300.00

Invoice 2015-3102

Description	Amount
Consulting - For Professional Services Rendered During the Month of April 2015 Including but Not Limited to Preparation of Board Financial Statements, Administrative Matters, Meetings with CEO, Finance Committee Meeting and Board Meeting, CCHE Information , Cash Management and Specific Costs Allocations	4,550.00
Consulting - SA review and Allocation of Expenditures	1,100.00
Consulting - Parking	9.00

Invoice 2015-3126

Description	Amount
Consulting - For Professional Services Rendered During the Month of May Including but Not Limited to the Following: Cash Management, Finance Committee Meeting, Meeting with MP Representative Cristina Mor, Responses to Emails, Information to Staff and MP, CCHE Funds , Business Registration	1,600.00
Parking	6.00

Issues Identified:

- Includes ineligible expenses regarding the CCHE grant.
- We cannot determine the exact amount of the ineligible portion of the expenses because the expenses are not itemized and are commingled with other activities.

Exhibit 15: The Museum's payments for architectural services with inadequate invoice support

Supporting Documents:

A+D/PLA, A Joint Venture

Invoice

Date	Invoice #
6/27/2014	13006.11

Approved 7.14.14
Gregory Johnson

Bill To
David de la Torre
Mexican Museum
Fort Mason Center
San Francisco, CA 94123

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
FOR ARCHITECTURAL SERVICES PROVIDED: June 1st-27th, 2014			
	Professional Fees		0.00
26	Sr. Principal Architect (Sandra Vivanco)	240.00	6,240.00
14	Sr. Principal Architect (Peter Flau)	240.00	3,360.00
37.25	Sr. Project Manager/ Architect (Lourdes Garcia)	210.00	7,822.50
87	Senior Designer (Meghan Strathorn)	165.00	14,355.00
4.5	Clerical	55.00	247.50
	Professional Fees Subtotal		32,025.00
Total Reimbursable Expenses			
1	Printing	477.50	477.50
1	Working lunches	220.30	220.30
1	BOX Online File Storage	15.00	15.00
1	15% Markup on \$712.80	106.92	106.92
	Reimbursable Expenses Subtotal		819.72
Total			\$32,844.72

Make checks payable to A+D/PLA, A Joint Venture

THE MEXICAN MUSEUM
BLDG-D FORT MASON
SAN FRANCISCO, CA 94123-1338

7.31.14

Pay to the Order of **A+D/PLA, A Joint Venture** \$19,271.88

Nineteen thousand two hundred seventy one and 88/100

For: [Signature]

THE MEXICAN MUSEUM
BLDG-D FORT MASON
SAN FRANCISCO, CA 94123-1338

7.31.14

Pay to the Order of **A+D/PLA, A Joint Venture** \$19,271.88

Nineteen thousand two hundred seventy one and 88/100

For: [Signature]

THE MEXICAN MUSEUM
BLDG-D FORT MASON
SAN FRANCISCO, CA 94123-1338

7.31.14

Pay to the Order of **A+D/PLA, A Joint Venture** \$19,271.88

Nineteen thousand two hundred seventy one and 88/100

For: [Signature]

THE MEXICAN MUSEUM
BLDG-D FORT MASON
SAN FRANCISCO, CA 94123-1338

7.31.14

Pay to the Order of **A+D/PLA, A Joint Venture** \$19,271.88

Nineteen thousand two hundred seventy one and 88/100

For: [Signature]

Issues Identified:

- The Museum submitted the same invoice four times.
- The Museum attached the same four checks (with consecutive check numbers) to the invoice it submitted four times.
- Check amount (individually or total of four) does not match invoice amount.
- Insufficient proof of payment: the Museum provided copies of checks instead of cancelled checks.

Source: OCII; CSA analysis

We could not determine whether the Museum has additional documentation to explain the questionable expenses because, according to the Museum, it has not retained documents for more than five years, consistent with its record retention policy. Although the grant agreement and grant disbursement agreements require the grantee to have documentation related to expenses available upon request, the language in the agreements does not specify the duration for which the Museum should retain documents related to the grant agreement. Current city guidance requires that recipients of city grants retain documentation related to a grant agreement for the duration of the agreement and up to five years after the conclusion of the grant agreement.

The Museum Requested \$562,579 for Operational Expenses and Storage of Its Collection, Which OCII approved

The Museum spent \$562,579 on operational expenses related to an active exhibition space, such as rent at its Fort Mason location, and rent for storage of its collection, which we deem as not allowable under the grant agreement. According to OCII, it approved these costs under its broad authority stipulated in the Community Redevelopment Law, allowing it to determine eligible reimbursements for redevelopment activities that primarily benefit a project area. Although we recognize this authority of OCII, the audit focused on the contractual obligations under the grant agreement, and the agreement states that the grantee agrees to use the grant funds to pay for costs associated with “predevelopment activities” and “interior improvements” related to the Museum’s new space, and for no other purpose. The grant agreement goes on to define “predevelopment activities” and “interior improvements,” and these definitions do not include the Museum’s operational expenses.

Exhibit 16 summarizes the types of operational costs OCII approved.

Exhibit 16: Summary of the Museum’s operational costs approved by OCII

Operational Costs	Amount
Rent, utilities, and common area maintenance fees at Fort Mason exhibition space	\$285,831
Rent for storage outside Fort Mason exhibition space	247,028
General, fire, and art insurance	14,135
Consultant fees related to space planning at Fort Mason exhibition space	5,516
Web hosting and membership fees	5,082
Pest control and security alarm at Fort Mason exhibition space	2,578
Other	2,409
Total	\$562,579

Source: CSA analysis

RECOMMENDATIONS

The Office of Community Investment and Infrastructure should:

8. Seek reimbursement from The Mexican Museum for any grant funds spent on ineligible activities.
9. Develop clear and specific criteria for reimbursing expenses directly related to predevelopment activities and interior improvements at the premises and document them in subsequent grant disbursement agreements.

10. No longer approve any reimbursement requests for The Mexican Museum's operational costs, including costs to store The Mexican Museum's collection unless it amends the grant agreement to specifically allow these activities.
11. Follow the City's record retention policy by amending the grant agreement to require The Mexican Museum to retain all reimbursement-related documents under the agreement in a readily accessible location and condition for a period of not less than five years after the final payment under the agreement. Also, include similar language in any subsequent grant disbursement agreements it executes.

Chapter 4

OCII has not effectively enforced the Museum's grant agreement or grant disbursement agreements.

SUMMARY

OCII approved expenses without adequate proof of payment from the Museum. Also, OCII approved costs that the Museum incurred before the GDA effective dates and used different methods to disburse grant funds.

Finding 4.1. OCII approved \$445,816 in expenditure requests without adequate proof of payment from the Museum.

OCII approved the Museum's requests for reimbursement for \$445,816¹⁰ of expenses with missing or insufficient proof of payment, such as copies of checks. Of this amount, \$262,709 of expenses have no proof of payment. Further, not until the second payment of the third GDA did OCII receive copies of cancelled checks from the Museum to confirm that it had paid the requested expenses. For the expenses within the fifth GDA, OCII did not provide us with proof of payment, except for the costs reimbursed for the storage of the collection of the Museum from November 2018 to March 2022. It is important that any grantor sees proof of payment by its grantee seeking reimbursement to ensure that the liability—represented by an invoice, for example—was actually paid, not just incurred, by the grantee.

Of the reimbursement requests for expenses with insufficient proof of payment, OCII approved expenses in the amount of \$183,107, which was less than the total cost the Museum incurred. In some cases of insufficient proof of payment, the Museum provided OCII with proof of payment for an amount equal to the amount OCII approved for reimbursement, and not for the total amount of the invoice. For example, Invoice 012157 from Fort Mason Center for the Museum's February 2014 rent, shown in Exhibit 17, is \$7,357, but the proof of payment the Museum provided was \$5,517.75, which equals the amount OCII approved for this expense.

¹⁰ The audit team did not use missing or insufficient proof of payment as a criterion to determine cost eligibility under the grant.

Exhibit 17: Invoice and proof of payment for the Museum's February 2014 rent

Fort Mason Center
2 Marina Blvd, Bldg A
San Francisco, CA 94123
[REDACTED]

INVOICE

Billed To:
Mexican Museum
Building D, 1st Floor
Fort Mason Center
San Francisco, CA 94123

Invoice #: 012157
Invoice Date: 2/1/14
Account ID: 00MEX

Terms: 11TH OF THE MONTH

Item	Amount
00MEX - Rent	6,505.00
00MEX - Utilities	679.51
00MEX - CAM	172.49

THE MEXICAN MUSEUM
BLDG-D FORT MASON
SAN FRANCISCO, CA 94123-1339

1159
[REDACTED]

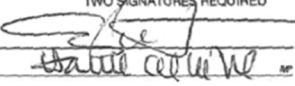
Date: 2/15/14

Pay to the Order of Fort Mason \$ 6517.75

Five thousand five hundred seventeen and 75/100 — Dollars

 Wells Fargo Bank, N.A.
California
wellsfargo.com

For #012157

TWO SIGNATURES REQUIRED



\$ 5517.75
Check # 1159

Total Due: \$7,357.00

Source: OCII

Finding 4.2. OCII approved costs that the Museum incurred before the GDA effective dates.

The Museum spent \$464,316¹¹ in grant funds for costs it incurred before the effective dates of the respective GDAs¹². Other than the fifth GDA, which expressly allows reimbursement of costs incurred before the effective date of the grant disbursement agreement, the other agreements did not. Thus, under the first four GDAs, the Museum should have included—and OCII should have approved and

¹¹ The audit team did not use incurred costs before the GDA effective dates as a criterion to determine cost eligibility under the grant.

¹² All costs were incurred within the term of the grant agreement.

reimbursed—only costs incurred during the periods covered by the GDAs. Costs incurred outside the effective period of the first four GDAs should not have been approved.

Finding 4.3. OCII did not always promptly review the Museum's expenditures, did not create the required detailed disbursement procedures, and used different methods to disburse the grant funds.

OCII reviewed supporting documentation four years after making a payment. We found one instance in which it took OCII four years after paying grant funds to the Museum to obtain and review the supporting documents. This occurred for the second payment of the third GDA, which OCII made in December 2014 as an advance. The Museum did not provide documents to OCII substantiating the expenses covered by this payment until December 2018. OCII finally completed its review and approval for this payment in March 2019, more than four years after it made the payment. According to OCII, the dissolution of SFRA severely limited OCII's operations, and significantly reduced the staffing levels of the successor agency.

OCII did not create the detailed disbursement procedures required by the grant agreement. The grant agreement states that the Museum must use the grant funds only for predevelopment activities and interior improvements related to the Museum's new space and adds that the funds would be disbursed through additional grant disbursement agreements that should describe detailed disbursement procedures. However, the grant disbursement agreements use vague language stating that the Museum must submit a "budget" and a "funding request" or a "reimbursement request" to receive grant funds but do not describe what these budgets and funding requests must include or be supported by.

OCII used different disbursement procedures. Over the five GDAs, authorized by resolutions of the SFRA and the Commission on Community Investment and Infrastructure, OCII disbursed funds using three different approaches:

- Before costs were incurred and documentation was submitted by the Museum. OCII used this approach of advancing funds to the Museum for the first, second, and third GDA.
- After costs were incurred and documentation was submitted by the Developer. OCII used this approach for the fourth GDA.
- For costs incurred before approval of the GDA and budget and after documentation was submitted by the Museum. OCII used this approach for the fifth GDA.

Because OCII's disbursement to the Museum for the first and second GDA was made before costs were incurred and the Museum did not provide expenses for the whole disbursed amount, the Museum allocated the remaining balance to activities in the second and third GDA, respectively.

Also, OCII and the Museum used different allocation rates among the grant disbursement agreements for the same types of costs without properly documenting the reasons behind each rate.

The allocation rates used for five types of expenses included in the first three GDAs are shown in Exhibit 18.

Exhibit 18: Expenses with different allocation rates

GDA	Expense Type and Allocation Rate				
	Fort Mason Exhibition Space	Insurance Premiums	Accounting and Auditing	Director Salary	Administrative Staff Salaries
First	100%	90%	90%	100%	85%
Second	75%	75%	100%	50%	100%
Third (First Payment)	94%	N/A	100%	30%	75%
Third (Second Payment)	100%	N/A	100%	30%	75%

Source: CSA analysis

OCII consistently proportioned the benefits for the administrative staff and director only within the first GDA. In the second and third GDA, OCII did not proportion the benefits based on the reimbursement allocations of the salaries, but rather assigned a different allocation rate, as shown in Exhibit 19.

Exhibit 19: Comparison of allocation rates for salaries and benefits

GDA	Reimbursement Rate for Salaries of Director/Administrative Staff	Reimbursement Rate for Benefits of Director/Administrative Staff
First	100%/85%	100%/85%
Second	50%/100%	75%
Third	30%/75%	20%

Source: CSA analysis

RECOMMENDATIONS

The Office of Community Investment and Infrastructure should:

12. Require proof of payment, such as bank statements and cancelled checks, for all expenses submitted for reimbursement, and reject any expenses submitted without sufficient evidence to show that payment was made.
13. Only use the reimbursement method when disbursing grant funds to The Mexican Museum, and not before costs are incurred or sufficiently documented. Also, OCII should document these procedures and follow them consistently in any subsequent grant disbursement agreements with The Mexican Museum.
14. Develop and include in any subsequent grant disbursement agreements specific language related to deadlines by which The Mexican Museum must submit documents.

Appendix A:

Department Responses

Office of Community Investment and Infrastructure Response

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101-0042024-290

February 15, 2024

Mark de la Rosa
Director of Audits
Office of the Controller
City Hall, Room 316
San Francisco, CA 94102-4694

Re: "The Mexican Museum Has Not Demonstrated that It Can Meet the City's Contractual Obligations, and the Office of Community Investment and Infrastructure Has Not Effectively Enforced the Museum's Grant Agreement" (the "Audit")

Dear Mr. de la Rosa:

Thank you for your review of our Grant with the Mexican Museum. We are responding to the above-referenced Audit performed by the Office of the Controller. The Audit reviewed both the Mexican Museum's lease with the City (March 20, 2015) and its Grant Agreement with the Office of Community Investment and Infrastructure ("OCII") (December 14, 2010) (the "Grant"). This response focuses on those sections of the Audit (chapters 3 and 4) relating to OCII's administration of the Grant. In particular, the Audit questions whether certain Mexican Museum costs incurred between 2012 and 2015 were appropriately charged to the Grant. Also, we appreciate the Auditor's recommendations which affirm many of the best practices OCII has already implemented in its operations, but must work to further improve.

Mexican Museum Inception

Given the long history of efforts to develop new space for the Mexican Museum, this response provides some background on the actions of the Former Agency and OCII. In administering the Grant, the Redevelopment Agency of the City and County of San Francisco ("Former Agency") and OCII, as its successor, exercised state authority under the Community Redevelopment Law (as amended by the Redevelopment Dissolution Law) to undertake (and complete) redevelopment activities. The Former Agency and OCII used this authority to implement the long-standing City objective of creating new museum space for the Mexican Museum in the downtown area where other cultural and art institutions are located. In the 1990's, the City asked the Former Agency to facilitate the development of new museum space in the then-existing Yerba Buena Center Redevelopment Project Area and authorized financial commitments for this purpose through approval of the Former Agency's annual budget.

London N. Breed
MAYOR

Thor Kaslofsky
EXECUTIVE DIRECTOR

Bivett Brackett
CHAIR

Dr. Carolyn Ransom-Scott
Vanessa Aquino
Tamsen Drew
Kent Lim
COMMISSIONERS

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

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Mark de la Rosa, Director of Audits
Office of the Controller
Page 2

101-0042024-290
February 15, 2024

Mexican Museum Agreements and Funding

In 1993, the Former Agency entered into a disposition agreement whereby the Mexican Museum would build, on public land, a stand-alone museum on Mission Street between Third and Fourth Streets across from the current Yerba Buena Gardens. In 2001, the Former Agency agreed to fund and construct the foundation and the core and shell of the museum building, but retain ownership of the land and lease it at no cost to the Mexican Museum. The Former Agency's 2001 budget committed \$5.4 million for development of the new museum and subsequent annual budgets added to that amount so that by 2010 the Former Agency had set aside over \$10 million. In 2008, a private developer proposed a mixed-use residential tower project on the site. The Former Agency and Mexican Museum agreed that the inclusion of museum space in the base of the tower would be the best opportunity to develop a new museum facility. The mixed-use project would provide the Mexican Museum with a completed core and shell and the potential to use Former Agency funds for other work related to the new space.

- 1) The 2010 Grant preserved funding for the Mexican Museum's predevelopment work under the broad state authority for redevelopment activities.

Community Redevelopment Law

In early 2011, the Yerba Buena Center Redevelopment Plan expired, which limited the Former Agency's role over projects subject to that plan. With expiration of the redevelopment plan, the Former Agency's active project management and additional funding of development in the Yerba Buena Center Project Area also expired. State law did not permit a redevelopment agency to enter into new financial obligations under an expired redevelopment plan. To preserve the Mexican Museum's use of previously allocated funds, the Former Agency entered into the multi-year Grant in December 2010 whereby the Mexican Museum could continue to use Grant Funds for "redevelopment activities" as defined in the Community Redevelopment Law ("CRL"), Health & Safety Code Sections 33678 (b) 33020, and 33021. Section 1.1 of the Grant. The Former Agency did not commonly use grants to accomplish redevelopment purposes, but in this case the grant funding sustained the effort to build a new museum.

The CRL broadly defines redevelopment activities as including, among other things, the planning and provision of structures as may be appropriate or necessary in the interest of the general welfare. Health & Safety Code § 33020 (a). The CRL also states that redevelopment activities must primarily benefit the project area (the "Primary Benefit Standard"). The application of these definitions of redevelopment activities was left to the reasonable discretion of the Former Agency. In the case of the Mexican Museum, which had its offices at Fort Mason Center, some level of funding for its current operations was necessary to "benefit" the proposed project in the former Yerba Buena Center Project Area.

The Grant specifies that the Mexican Museum as the Grantee must use the funds "to pay for costs associated with Predevelopment Activities and Interior Improvements related to the [new] Museum Space, and for no other purpose." Section 1.2 of the Grant. The Grant broadly defines "Predevelopment Activities" in its recitals and includes illustrative (non-exclusive) examples of those activities:

The Museum and the Agency will be responsible for funding predevelopment activities, which include preparation and implementation of the predevelopment plan (as described in Section E of the MOU), operational and organizational planning, design of the Museum Space, hiring museum staff and other consultants, and regulatory approvals ("Predevelopment Activities"). . . . Recital I of the Grant. [emphasis added]

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Mark de la Rosa, Director of Audits
Office of the Controller
Page 3

101-0042024-290
February 15, 2024

Grant Disbursement Agreements

The Grant was not self-executing, but rather required the disbursement of funds through separate Grant Disbursement Agreements ("GDA") approved by the Redevelopment Agency Commission at public hearings. Ultimately, the Redevelopment Agency Commission and the Successor Agency Commission approved five GDAs between 2012 and 2022: First GDA (\$750,000) (Resolution No. 5-2012 (Jan. 17, 2012)); Second GDA (\$1,000,00) (Resolution No. 11-2013 (April 16, 2013)); Third GDA (\$1,030,881) (Resolution No. 58-2014 (July 15, 2014)); Fourth GDA (\$1,000,000) (Resolution No. 24-2019 (Sep. 17, 2019)); and the Fifth GDA (\$2,509,125) (Resolution No. 5-2022 (March 15, 2022)). As will be described below, the first three GDAs advanced funds in lump sum payments to the Mexican Museum. The Fourth and Fifth GDAs only provide payments for expenses on a reimbursement basis.

- 2) The Audit primarily questions expenditures charged under the First, Second, and Third Grant Disbursement Agreements covering 2012-2015 operational costs.

The Audit questions certain expenditures and concludes that \$43,616 are ineligible costs under the Grant, \$930,247 are questionable costs, and \$562,579 are operational costs. Notably, the Audit's description of the questionable costs suggests that a large portion of them are operational costs, namely "Salaries of the Museum's administration staff and director . . . Phone and internet costs . . . Accounting services [and] Miscellaneous expenses." Audit at pp. 29-30. Based on our review of the Audit's supporting spreadsheets, OCII believes that these expenditures were charged to the First, Second, or Third GDA, which covered 2012 through mid-2015. Each of the first three GDAs had similar provisions and disbursement procedures: a) they disbursed funds in advance before costs were incurred and before reimbursement back-up documentation was submitted; b) they contained the same language regarding the use of funds: "The Grantee shall use the . . . Draw for 'redevelopment activities' that are defined in CRL (Sections 33678 (b), 33020, and 33021 of the California Health and Safety Code." Section 2.c. of the GDAs; c) they describe the purpose of the funding in the same way, i.e. "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." Recitals of the GDAs. The GDAs do not otherwise define Predevelopment Activities; and d) they contain scopes of work for the use of the funds.

Two weeks before its dissolution, the Redevelopment Agency Commission approved, by Resolution No. 5-2012 (January 17, 2012), the First Disbursement Agreement, which provided for an advance payment to the Mexican Museum of funds (\$750,000) that were to be used for a scope of work and budget attached to the GDA. The First GDA defined the scope to include six activities:

- 1) executive and financial administration and oversight of pre-development planning and implementation;
- 2) collections assessment, conservation and cataloguing plan;
- 3) fund development for sustainability and capital campaign for 706 Mission Street Project;
- 4) legal services and government relations for preparing RFQ's and RFP's for Project Manager and Architect;
- 5) creation of five-year Operating Pro-Forma for 2013-2017; and
- 6) project manager, museum planner, program planner.

The Second and Third GDAs used similar categories in their scopes of services. The broad descriptions of the use of funds in the Grant and GDAs support payment for some operational costs.

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Mark de la Rosa, Director of Audits
Office of the Controller
Page 4

101-0042024-290
February 15, 2024

The Successor Agency Commission approved, by Resolution No. 11-2013 (April 16, 2013), the Second GDA and, by Resolution No. 58-2014 (July 15, 2014), the Third GDA, all of which followed the approach of the First GDA in advancing funds to the Mexican Museum. As a result, compliance with the terms of the GDAs and their Scopes of Service was reviewed after expenditures were made.

OCII acknowledges that an advance payment with subsequent reconciliation of expenditures against budget may not be the best practice for government grant funding. Indeed, the standard practice of OCII and the Former Agency has been to provide funding on a reimbursement basis. Nonetheless, the advance payment approach in the aftermath of redevelopment dissolution, staff departures and turnover, and uncertainty of project survival, was a means of sustaining the Mexican Museum's efforts and operations for planning a long-anticipated move to new museum space.

As OCII's post-dissolution operation continued, the advance payment approach was abandoned and replaced by a reimbursement approach in the Fourth GDA (September 17, 2019) and the Fifth GDA (March 15, 2022). Under the Fifth GDA, reimbursements are limited to expenses incurred prior to or on June 14, 2022 and OCII has only reimbursed a small portion of the funding authorized under that GDA.

- 3) The post-dissolution authorization of payments for certain operational costs of the Mexican Museum was a reasonable exercise of OCII's discretion under state law and the broad language of the funding agreements.

As noted above, the Former Agency's objective in approving the Grant was to preserve appropriated funds for the Mexican Museum's effort to complete a new museum space. To some extent, this effort also required the preservation of the Mexican Museum's then-existing assets and operations so that there was an entity able to accomplish this objective and move its operations to the new site. OCII acknowledges that use of the Grant solely for operations would not be appropriate, but considers, in retrospect, the use of some of those funds for some operational costs that were incurred 9 to 12 years ago as a reasonable redevelopment activity. The fact that the construction of new museum space has not proceeded in a timely manner is not a basis for invalidating OCII's discretion to allow those costs under the advance payments of the first three GDAs.

- 4) OCII has already implemented some of the Audit's recommendations.

Perhaps the most significant Audit recommendation is for OCII to only use the reimbursement method when disbursing grant funds to the Mexican Museum after submission of sufficient documentation. As noted above, OCII ended advance payments of lump sum amounts to the Mexican Museum after the Third GDA in 2014. Under the Fourth and Fifth GDAs, OCII approved payments only on a reimbursement basis. This is consistent with OCII's standard practice and policy to use the reimbursement method when authorizing payments under various forms of contracts.

The Audit also recommends that OCII require the recipients of OCII funding to retain payment-related records for five years after final payment under an agreement. Although the Grant only requires retention of records during the term of the Grant, which ends in June 2024, OCII will require in any subsequent Grant Disbursement Agreement that the Mexican Museum use OCII's current standard contract records retention requirements which state that "records shall be maintained for a period of four years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be

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Mark de la Rosa, Director of Audits
Office of the Controller
Page 5

101-0042024-290
February 15, 2024

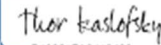
retained for four years or until such audit findings have been resolved, whichever is later." This applies to records relating to "all matters covered by [an OCII agreement]". See OCII Personal Service Template, available on OCII website at https://sfocii.org/sites/default/files/inline-files/Sample%20Personal%20Service%20Contract_1.pdf. OCII will also review City policy and consider additional changes to OCII's practices.

Lastly, OCII has a strong set of fiscal control policies and procedures ("Fiscal Controls"). OCII's Fiscal Controls are in place to ensure that funds are appropriately used, properly accounted for, and that our financial reporting follows U.S. Generally Accepted Accounting Principles. As time passed after dissolution in 2012 and with assistance from the Controller's Office staff, OCII's Fiscal Controls became more robust. The lack of findings in the Fourth and Fifth GDAs is a demonstration of that. Nonetheless, in addition to implementing the Audit's various recommendations OCII is already reviewing its Fiscal Controls for opportunities for improvement.

OCII appreciates the Controller's work and diligence and for identifying different areas for improvement. OCII is committed to ensuring that the public funds that OCII is entrusted with are properly managed and accounted for.

Best Regards,

DocuSigned by:



610962FAB46A0406

Thor Kaslofsky
Executive Director

Attachment: City Services Auditor Division Recommendation and Response Form

Real Estate Division

City & County of San Francisco
London N. Breed, Mayor



Office of the City Administrator
Carmen Chu, City Administrator

February 15, 2024

Mark de la Rosa
Director of Audits
City Hall, Room 476
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Mexican Museum Audit

Dear Mr. Mark de la Rosa,

I have reviewed the above named audit report and completed the attached Recommendation and Response form. I would like to thank you and your audit team for the work conducted during this important audit. After reviewing the report thoroughly, I am pleased to inform that I have no additional remarks or amendments to the report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrico Penick".

Andrico Penick,
Director of Property

Recommendations and Responses

For each recommendation, the responsible agency should indicate in the column labeled Agency Response whether it concurs, does not concur, or partially concurs and provide a brief explanation. If it concurs with the recommendation, it should indicate the expected implementation date and implementation plan. If the responsible agency does not concur or partially concurs, it should provide an explanation and an alternate plan of action to address the identified issue.

Recommendation	Agency Response	CSA Use Only Status Determination*
The Office of Community Investment and Infrastructure should:		
1. Require The Mexican Museum to provide specific, realistic, and achievable fundraising goals to demonstrate it can fund the project and open to the public without extended delays and work with the Real Estate Division to determine whether fundraising is sufficient to complete the build-out of the premises.	☐ Concur ☐ Do Not Concur ☒ Partially Concur Subject to approval by the OCII Commission and in consultation with the Real Estate Division, any future grant disbursement agreements will include these goals. Currently, there are no grant disbursement agreements in effect. The Fifth Grant Disbursement Agreement expired June 14, 2022; the Grant Agreement expires on June 14, 2024.	☒ Open ☐ Closed ☐ Contested
2. Require The Mexican Museum to separately identify grant-related expenses in its accounting system to ensure expenses billed to the grant agreement are not covered by other sources.	☒ Concur ☐ Do Not Concur ☐ Partially Concur OCII will direct the Mexican Museum to separately identify grant-related expenses in its accounting system. Subject to OCII Commission approval, any future grant disbursement agreement will require the Mexican Museum to implement these accounting practices.	☒ Open ☐ Closed ☐ Contested
3. Require The Mexican Museum to create policies and procedures for tracking the personnel time that is directly connected to improving the premises at 706 Mission Street. OCII should also document such procedures in any subsequent grant disbursement agreements it executes and accurately reimburse these expenses.	☒ Concur ☐ Do Not Concur ☐ Partially Concur Subject to OCII Commission approval, any future grant disbursement agreement will require the Mexican Museum to create such policies and procedures.	☒ Open ☐ Closed ☐ Contested

* Status Determination based on audit team's review of the agency's response and proposed corrective action.

46 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

Recommendation	Agency Response	CSA Use Only Status Determination*
The Real Estate Division should:		
4. Require The Mexican Museum to provide, within 60 days of the issuance of this report, a plan indicating how it will complete the build-out of the premises, including a realistic schedule, with detailed milestones, showing when the space will open to the public. If the Real Estate Division determines that The Mexican Museum is no longer a viable project, the Real Estate Division should develop an alternative use for the space pursuant to the lease and facilities agreement.	☒ Concur ☐ Do Not Concur ☐ Partially Concur In addition to determining whether the Museum has issued a realistic plan, Real Estate Division (RED) will work with OCII to determine whether the plan is financially feasible based on the fundraising plan the Mexican Museum submits. RED anticipates completion of this task within 60 days of receipt of the Mexican Museum plan.	☒ Open ☐ Closed ☐ Contested
5. Require The Mexican Museum to provide proof of insurance that complies with the lease and facilities agreement, Section 20, covering the period after the agreement commenced on July 11, 2023.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The Mexican Museum has not cured this default as of the date of this response. Within 5 business days, RED will inform the Mexican Museum in writing again that they have 30 days to meet this requirement.	☒ Open ☐ Closed ☐ Contested
6. Require The Mexican Museum to provide for its most recent fiscal year audited financial statements and the annual financial information packet as described in the lease and facilities agreement.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The Mexican Museum has not cured this default as of the date of this response. Within 5 business days, RED will inform them in writing that they have 30 days to meet this requirement.	☒ Open ☐ Closed ☐ Contested
7. Require The Mexican Museum to promptly pay its common area and maintenance dues.	☒ Concur ☐ Do Not Concur ☐ Partially Concur The Mexican Museum has not cured this default as of the date of this response. Within 5 business days, RED will inform them in writing again that they have 30 days to meet this requirement.	☒ Open ☐ Closed ☐ Contested

* Status Determination based on audit team's review of the agency's response and proposed corrective action.

47 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

Recommendation	Agency Response	CSA Use Only Status Determination*
The Office of Community Investment and Infrastructure should:		
8. Seek reimbursement from The Mexican Museum for any grant funds spent on ineligible activities.	☒ Concur ☐ Do Not Concur ☐ Partially Concur Within 60 days and subject to consultation with the OCII Commission, OCII will begin the process for seeking reimbursement from the Mexican Museum for any grant funds spent on ineligible activities.	☒ Open ☐ Closed ☐ Contested
9. Develop clear and specific criteria for reimbursing expenses directly related to predevelopment activities and interior improvements at the premises and document them in subsequent grant disbursement agreements.	☒ Concur ☐ Do Not Concur ☐ Partially Concur Subject to OCII Commission approval, any future grant disbursement agreement will include clear and specific criteria for grant reimbursements directly related to predevelopment activities and interior improvements.	☒ Open ☐ Closed ☐ Contested
10. No longer approve any reimbursement requests for The Mexican Museum's operational costs, including costs to store The Mexican Museum's collection unless it amends the grant agreement to specifically allow these activities.	☐ Concur ☐ Do Not Concur ☒ Partially Concur Subject to OCII Commission approval, any future grant disbursement agreement will identify reasonable operational costs related to predevelopment activities as eligible expenses. Amendment of the grant is not required for this purpose.	☒ Open ☐ Closed ☐ Contested

* Status Determination based on audit team's review of the agency's response and proposed corrective action.

48 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

Recommendation	Agency Response	CSA Use Only Status Determination*
The Office of Community Investment and Infrastructure should:		
11. Follow the City's record retention policy by amending the grant agreement to require The Mexican Museum to retain all reimbursement-related documents under the agreement in a readily accessible location and condition for a period of not less than five years after the final payment under the agreement. Also, include similar language in any subsequent grant disbursement agreements it executes.	☐ Concur ☐ Do Not Concur ☒ Partially Concur OCII will direct the Mexican Museum to retain, until further notice, all records required under Section 7.1 of the grant agreement. Subject to approval by the OCII Commission, OCII will insert in any future grant disbursement agreement OCII's current standard contract records retention requirements which states that "records shall be maintained for a period of four years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be retained for four years or until such audit findings have been resolved, whichever is later."	☒ Open ☐ Closed ☐ Contested
12. Require proof of payment, such as bank statements and cancelled checks, for all expenses submitted for reimbursement, and reject any expenses submitted without sufficient evidence to show that payment was made.	☒ Concur ☐ Do Not Concur ☐ Partially Concur In reviewing requests for payment under any grant disbursement agreement, OCII will require the Mexican Museum to provide proof of payment, such as bank statements and cancelled checks, for grant reimbursements and will reject any expenses submitted without sufficient evidence to show that payment was made.	☒ Open ☐ Closed ☐ Contested
13. Only use the reimbursement method when disbursing grant funds to The Mexican Museum, and not before costs are incurred or sufficiently documented. Also, OCII should document these procedures and follow them consistently in any subsequent grant disbursement agreements with The Mexican Museum.	☐ Concur ☐ Do Not Concur ☒ Partially Concur Subject to approval of the OCII Commission, any future grant disbursement agreement will use the reimbursement method when disbursing grant funds. OCII has followed this practice with the Mexican Museum grant disbursement agreements since 2019.	☒ Open ☐ Closed ☐ Contested

* Status Determination based on audit team's review of the agency's response and proposed corrective action.

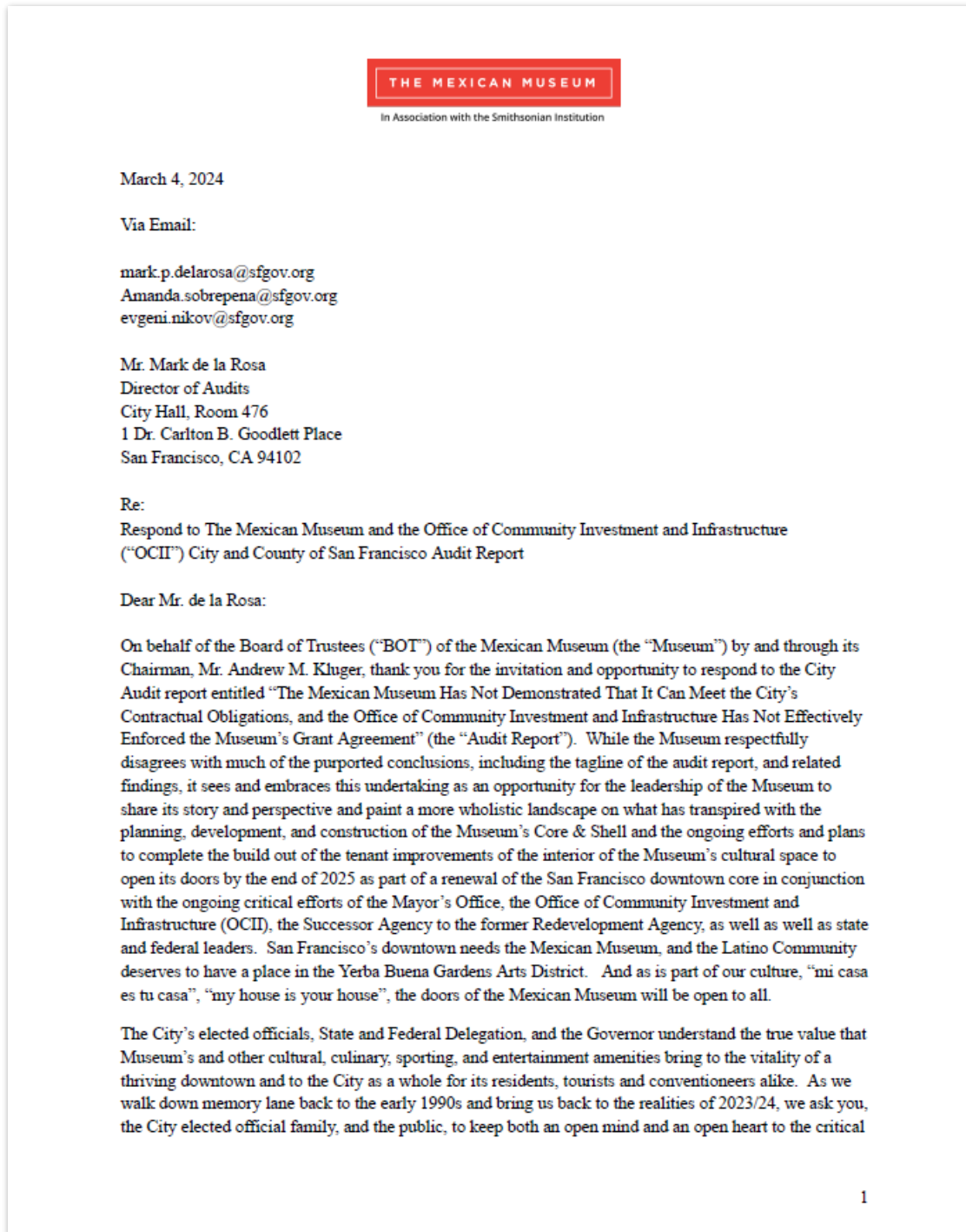
49 | The Mexican Museum Has Not Demonstrated That It Can Meet the City's Contractual Obligations, and OCII Has Not Effectively Enforced the Museum's Grant Agreement

Recommendation	Agency Response	CSA Use Only Status Determination*
The Office of Community Investment and Infrastructure should:		
14. Develop and include in any subsequent grant disbursement agreements specific language related to deadlines by which The Mexican Museum must submit documents.	☒ Concur ☐ Do Not Concur ☐ Partially Concur Subject to approval of the OCII Commission, any future grant agreements will include specific language regarding deadlines for the Mexican Museum to submit documents under the grant disbursement agreements.	☒ Open ☐ Closed ☐ Contested

* Status Determination based on audit team's review of the agency's response and proposed corrective action.

Appendix B:

The Mexican Museum Response*



* The Museum's full response includes 184 pages. CSA retains the documentation that the Museum attached to its response, which is available upon request.

importance that the Mexican Museum plays in the fabric of the City's cultural landscape and how it weaves and interweaves through the Latino Community and the other diverse communities of our great City, including with its sister organizations, the Contemporary Jewish Museum and the Museum of African Diaspora, along with Yerba Buena Gardens Center for the Arts, and the Children's Creativity Museum.

The City's audit team first informed the Mexican Museum that it would be undertaking an audit of the Mexican Museum and OCII with the following objectives:

1. Determine whether the Museum spent funds and completed activities for redevelopment and interior improvements in accordance with the terms of its grant agreement; and
2. Assess OCII's management and oversight of its agreements with the Museum.

The audit investigation, however, dove well beyond the purported scope of the Grant Agreement, which was approved on December 14, 2010 by the OCII Commission. Instead, the audit team went back to the 1990s and early 2000's in what appears to have been an effort to find a basis to build a case to reach some of its conclusions. In doing so, it focused only on negative findings but failed to balance its efforts and report on important, pertinent, and crucial information which would have tilted and does tilt the balances of justice towards the Museum's side relative to the audit's findings and the museum's future 706 Mission Street as part of a mixed use high end Four Season residences and the Mexican Museum's Cultural Component on floors 1-4 of the 40 story tower. In turn, the Museum now fills in information gaps not reported in the Audit Report.

The Museum will establish herein that:

1. That the City and OCII have a fiduciary duty to assist the Museum in completing the project based on legislative Agreements dating back to July of 1993, through the Termination of the original Land Development Agreement, and the subsequent Purchase and Sale Agreement between the Developer, Millennium Partners and/or its successors in interest, the Successor Agency and the Mexican Museum as a Third-Party Beneficiary.
2. That the Museum has more than met its matching obligation through its agreement to terminate the LDA for consideration of more than Thirty Million Dollars (\$30 M) to build the core and shell by Millennium Partners ("MP"), and, with the added negotiations with Millennium Partners to provide the Museum with \$2.1 Million for the Museum's facade and the negotiated agreement to provide the Museum with a \$5 Million Dollar endowment – all totaling to over \$37 Million Dollars in value that the Museum negotiated in exchange and in legal consideration for contributing its parcel of land to enable the Four Seasons Residential Tower to be constructed at the behest of the Successor Agency. Under the terms and conditions of the original Land Development agreement, the Museum was to raise \$18 Million Dollars towards the construction of both the core and shell and the tenant improvements. The Museum has more than double the credit for funds raised. As such, the Successor Agency must release the remaining \$6.1 Million Dollars it has in trust for the Museum so that its development team can begin construction of the Tenant Improvements.
3. That the City and OCII collectively support and proceed with the issuance of \$7.5 Million Dollar remaining obligation to complete the build out of the Mexican Museum as obligated

under the LDA's commitment, and legislative record, to issue \$18,209,882.00 to assist with the realization of a Mexican Museum at the Yerba Buena Gardens along with the Childrens' Museum.

4. The Museum is prepared to move forward and complete the construction of the Tenant Improvements of the Museum's Cultural Component through an approved Progressive Design with the team of Guzman Construction Group and Cordoba Corporation, respectively, and a group of experienced top-notch design and construction sub-contractors, coupled with the leadership of the Museum's Board of Trustees.
5. The Museum will also Refute some of the incorrect assumptions and inaccurate findings in the report about accounting concerns.

A.

The Legislative History for the Development of the Mexican Museum supports the finding that the Museum has raised the requisite matching funds and is entitled to the credit of at least \$30 Million Dollars, and, the City has a fiduciary duty to issue the \$7.5 Million Dollar remaining obligation under the LDA Termination Agreement and Purchase and Sale Agreement

In 1993, the late Senator Diane Feinstein who at the time was the Mayor of San Francisco worked closely with Board of Supervisors Jim Gonzalez and Terrence Hallinan, respectively, in collaboration with the San Francisco Redevelopment Agency to create a destination for children, youth and their families in the Yerba Buena Gardens Redevelopment Area envisioning initially a Childrens' Museum and the Mexican Museum. Those efforts resulted in an Agreement for Disposition of Land ("LDA") for Private Development by and between the Redevelopment Agency of the City and County of San Francisco and the Mexican Museum, a California nonprofit Corporation which had been established in the Mission District of San Francisco by the late Peter Rodriguez in the early 1970s to collect and exhibit Mexican, Mexican American, Chicano, and Latin-American Art. The LDA was executed on July 30, 1993, and recorded on October 1, 1993, as Document Number F459429 (Reel F976 Image 0426) in the official records ("Official Records") of the City and County of San Francisco, which document has been amended by and through Amendments First through Eight and which collectively are referred to herein in as the "LDA", all in connection with the lease and development of disposition parcel CB-1-MM, a portion of Lot 117 of Assessor's Block 3706 located at the north side of Mission Street between Third and Fourth Streets ("Mexican Museum Site") in the formerly known Yerba Buena Center Redevelopment Project Area now over seen by the Successor Agency. The LDA has been fully incorporated into the Agreement For Purchase And Sale of Real Estate ("PSA") by and between the Successor Agency and 706 Mission Street Co LLC ("Developer"), a Delaware limited liability company, as Transferee, and The Mexican Museum, a California non-profit corporation as Third-Party Beneficiary, which includes the transfer and development of the Mexican Museum Site.

The LDA had to be terminated as it was needed to for the PSA to become effective. However, as part of the LDA Termination the Successor Agency, the Developer and the Mexican Museum as Third-Party Beneficiary with legal standing collectively agreed to support financing of \$7.5 Million Dollars from the

City through the Board of Supervisors and the Mayor's Office. The following was agreed to by the parties, in pertinent part:

"Successor Agency acknowledges that Developer has requested supplemental funding from the City and County of San Francisco, in lieu of a re-authorization of the Hotel Tax Bonds, in the amount of \$7,500,000.00, through the San Francisco Board of Supervisors and Mayor's Office, to be used for furniture, fixtures and equipment and tenant improvements for a new museum facility contemplated by that certain Agreement for Purchase and Sale of Real Estate, dated as of July 16, 2013, by and between Successor Agency, 706 Mission Street Co LLC, a Delaware limited liability company, and Developer, as third party beneficiary, recorded on April 17, 2014 as Instrument No. 2014-J864850 in the Official Records of the City and County of San Francisco (the "PSA"). Consistent with the terms and conditions of the PSA, the Successor Agency supports the Developer's request of \$7.5 Million Dollars to the City and County of San Francisco". (Emphasis added.) (See Exhibit "A" LDA Termination Document)

Moreover, in pertinent part, under the Sixth Amendment to the LDA, in recital "T", the following was agreed:

"In order to accomplish the construction of the Museum Building and the other public purposes that the Agency and Mexican Museum seek to advance in the Project Area in a timely manner, Mexican Museum has requested that the Agency provide to, or for the benefit of, Mexican Museum, financial assistance toward the construction of the Museum Building in the form of a monetary grant not to exceed \$18,209,882 (the "Grant Amount") from (a) funds previously budgeted by the Agency; (b) the Hotel Tax Bonds; and/or (c) funds requested by Agency in its budgetary request to the City and County of San Francisco (the "City") for FY 2001-2002." (Emphasis Added). (See Exhibit "B" Excerpt from Sixth Amendment to the LDA)

The importance of this language is that the genesis of the \$18,209,882.00 is the amount that was guaranteed to the Mexican Museum under the original LDA and survived with its Eight Amendments and into the PSA. When the Successor Agency through its Commission provided the Museum a grant of \$10.5 Million Dollars on December 14, 2010, there remained a balance of \$7,709,882. This commitment, as illustrated above and in Exhibit "A" carried over to the PSA. As a Third-Party Beneficiary as demonstrated below has repeatedly advocated and requested from OCII and the City through the Real Estate Division for these monies to be allocated to the construction of the Tenant Improvements for the Mexican Museum. Please note that the figure was rounded down to \$7,500,000.00 as will be noted in the documents referenced below.

On February 27, 2014, the Mexican Museum requested from then OCII Director, Ms. Tiffany Bohee, that the Agency request support from the City to fulfill its obligation to the Museum for the \$7.5 Million Dollars. (See Exhibit "C" Bohee Memo). The Museum presented the legislative history justifying the ask. The following are excerpts from the communication with OCII Director Bohee serves as a summary of the events that have demonstrate various stages of the development of the Mexican Museum which are important to acknowledge and understand the impact they have had on the development and construction of the core and shell of the cultural component of the 706 Mission Street Four Seasons and Mexican Museum project.

The following is a summary of the legislative history to justify the issuance of a hotel tax bond in the sum of \$7.5 Million Dollars to assist with the development and construction of the cultural facility for the Mexican Museum at the Yerba Buena Gardens Arts District at its current and originally designated site. The legislative actions were initiated by the staff of the San Francisco Redevelopment Agency (the "Agency") as part of the overall Yerba Buena Arts District which contemplated the development of the Children's Facilities (eg the Children's Museum, etc), the Jewish Museum, and the Mexican Museum.

The legislative actions by the Agency were formally adopted by the Agency's Commission by and through Agency Resolution No. 87-93 (Adopted May 19, 1993) and Agency Resolution 83-94 (Adopted May 17, 1994), and subsequently approved by the San Francisco Board of Supervisors ("BS") on May 23, 1994 (Resolution No. 477-94) and signed by the Mayor on June 2, 1994, and subsequent BOS actions.

In the early 2000s, The Mexican Museum retained world renowned architect Ricardo Legoretta to design a beautiful 65,000 square feet Museum facility. After years of attempts by the Museum to raise the requisite funding for the development and construction of the Legoretta building and with the escalating costs of construction and downturns in the economic financial markets, it became unfeasible to raise the approximate \$35,000,000.00 for the Legoretta building.

Then on December 4, 2004, the Mexican Museum and the Former Redevelopment Agency agreed to work cooperatively to explore alternatives for the museum facility, including the inclusion of the Museum as a cultural component in a larger development.

In 2007, the Museum decided to pursue a joint venture agreement with Millennium Partners and seek to build a smaller scale Museum within a residential tower wherein the Museum would be built in the first few floors of the tower. That project would become the mixed use 706 Mission Street Residential and Mexican Museum Project. At this juncture, the Museum with the assistance of the former Redevelopment Agency staff negotiated a deal wherein Millennium Partners would pay for the construction of the core and shell for the Mexican Museum at a projected value of 18 to 20 Million Dollars. This amount would finally fulfill the fundraising requirement for the Mexican Museum to raise at least \$8 Million Dollars for the construction of the museum facility as required in the Land Development Agreement as amended. The raising of the \$8 Million Dollars was a pre-requisite for the former Redevelopment Agency to contribute a monetary grant not to exceed \$18,209,882 towards the development of the Mexican Museum facility.

On May 4, 2010, the former Redevelopment Agency entered into a Memorandum of Understanding with the Mexican Museum and therein allocated the sum of monies not to exceed \$820,000.00 to enable the Museum to gear up for the predevelopment activities for the new facility. Then on December 14, 2010, the Mexican Museum and the former Redevelopment Agency entered into a Grant Agreement in the sum of \$10,500,000.00 for activities related to the predevelopment and construction of the Mexican Museum within the 706 Mission Street Project.

After the \$10.5 Million Dollar grant agreement, the only remaining previously committed funding from the former Redevelopment Agency for the construction of the Mexican Museum was the prospective \$7.5 Million Dollar funding which is the delta of the \$18 Million Dollars committed to the Museum.

Moreover, on July 16, 2013, the Successor Agency to the Redevelopment Agency of City and County of San Francisco, as Transferor; entered into an Agreement for Purchase and sale of Real Estate ("PSA") with 706 Mission Street Co LLC, as Transferee, and The Mexican Museum, as Third Party Beneficiary.

In the PSA, the Successor Agency and the Developer (aka Millennium Partners acknowledge that the Mexican Museum will be requesting additional funding from the City, including Hotel Tax Bonds re-authorization for the sum of \$7.5 Million Dollars and agree to support this request.

Moreover in the Memo to Director Bohee, the Museum documented important legislative findings to make the case that OCII and the City have a fiduciary duty to continue to work with the museum and that it has an obligation to fulfill providing the Museum with the remaining \$7.5 Million Dollars tied to both the LDA, the LDA Termination and the PSA. We set forth these important points taking from the Memo to Director Bohee because it is important to illustrate the fiduciary obligations that remain to this day.

On May 19, 1993, by and through San Francisco Redevelopment Agency Resolution No. 7-93, the Redevelopment Commission adopted the Resolution Amending Resolution No. 20-93 Authorizing The Executive Director To Seek Bond Financing For Development of the Children's facilities On Central Block 3 and The Mexican Museum in Yerba Buena Center Project Area. Attached as Exhibit "A" please see a Memorandum dated April 28, 1993 to the Agency Commissioners referencing Commission hearing Agenda Item No. 4(c) and attached Resolution No. 87-93 – adopted may 19, 1993.

The basis for the Resolution, included, in part, the following rationale:

- *The Mexican Museum has long planned to develop a permanent home in the Yerba Buena Center Project Area and the Agency and City have agreed upon a site and the Agency is currently negotiating a land disposition agreement with the museum; and*
- *The Mexican Museum is an important component in the completion of the Yerba Buena Center project and agrees that the first series of bonds will be issued for the children's uses. As series of bonds could be issued for the museum when each facility has demonstrated to the Agency's satisfaction that it can be completely viable and it has raised matching funds in an amount at least equal to the amount of any bond proceeds.*
- *The resolution resolved the following, in part:*
- *ACCORDINGLY, IT IS RESOLVED that the Executive Director is directed to seek legislative approval for the use of bonds secured by future hotel tax receipts in order to provide for the financing first of the children's facilities on Central Block 3 and later to assist the Mexican Museum. (Emphasis added).*
- *FURTHER BE IT RESOLVED that the children's uses have first priority in securing the pledge of hotel tax receipts that will be available after the final maturity of the original*

Moscone bond financing. After sufficient early years, from 2001 and thereafter, have been pledged to finance the children's facilities on Central Block 3, later can be pledged to assist the Museum. (Emphasis added).

- *ALSO BE IT RESOLVED that the Museum will raise matching funds in an amount at least equal to the amount of any bond proceeds before bond financing will be authorized and that no bonds will be issued or bond proceeds made available to the Museum until it can demonstrate that such proceeds, together with matching funds will be sufficient to complete construction of and equip the Museum. The Agency may use bond proceeds to allow for initial land subsidies without requiring matching funds, if the Agency receives consideration from another source or retains control through a long-term ground lease and/or the aggregate matching funds requirement is satisfied by more Museum funding of construction. The equity and/or debt characteristics of any public financing by the Agency for the museum, including the market value of any land subsidy, will be determined through a development agreement between the Agency and the Museum. (Emphasis added.) (See Exhibit "C" Bohee Memo).*

In addition to making a compelling case to OCII through its leadership for the Museum to receive the remaining \$7.5 Million Dollars, the Museum also requested support from the then Director of the City's Real Estate Division, Mr. John Updike. The Museum prepared a comprehensive packet to support its request and met with Mr. Updike at least six if not more times to plea for the request beginning in 2014 and into 2016. After years of trying and waiting for the RED department to act, including when funds became available from the sale of the parking garage, the request was denied without explanation. Please see the enclosed March 3, 2014 Memo to Mr. John Updike requesting the \$7.5 Million Dollars. (See Exhibit "D" Updike Memo).

The following are excerpts from the Memo:

The projected costs for the Core & Shell is in the range of 18 to 20 Million Dollars. The Museum with the assistance of the staff of the former Redevelopment Agency and the Successor Agency successfully negotiated for the Developer to underwrite the costs of the core and shell and thereby the Mexican Museum met its matching fund obligation to secure at least \$8 Million Dollars for the construction of the Superstructure and TI/FF&Es for the cultural facility.

Moreover, it is anticipated that the cost for the TI/FF&E predevelopment and construction cost will be in the aggregate approximately \$23 Million Dollars.

In this regard, the \$7.5 Million Dollar contemplated contribution from the City and County of San Francisco through Bond financing is a key component to ensure successful completion of the complete built out of the Core and Shell and TI/FF&E of the approximate 48, 000 square feet cultural facility for the Mexican Museum.

The Mexican Museum is pleased to have been an integral part in obtaining the approvals of the 706 Mission Street Residential Tower and Mexican Museum Project which culminated with the unanimous support before the San Francisco Board of Supervisors in the summer of 2013.

In addition, please see a March 22, 2016 Letter to Director of Real Estate Division from the Museum (See Exhibit "E" Letter to John Updike" See also, Exhibit "F" which are the supporting Exhibits A-G to the Updike Letter) requesting that the City set aside \$7.5 Million Dollars from the Sale of the Jesse Square Garage as remuneration to the Museum because the construction of the Museum was halted to build the garage partially on the Museum's land. The following are excerpts from that letter:

The Mexican Museum Board of Trustees formally requests that \$7.5 Million Dollars be identified and allocated for the use of the continuation of the development of the Mexican Museum cultural space which is part of the 706 Mission Street Project.

Specifically, the Museum is requesting that the sum of \$7.5 Million Dollars be held in an escrow and/or in trust from the proceeds of the Jesse Street Garage sale which will be closing in the next couple of weeks as part of the Purchase & Sale Agreement ("PSA") between the 706 Mission Street, L.L.C. and the City & County of San Francisco wherein the Mexican Museum is a bona fide third party Beneficiary.

Under the PSA, Millennium Partners will be making a payment to the City & County of San Francisco in a sum of approximately over \$25,000,000.00 plus ("25 Million") through escrow as part of the closing of the purchase of the Jesse Street Garage sometime in the month of March of 2016.

The Museum herein requests that \$7.5 of these funds be set aside for the ongoing development and construction of the Museum's cultural facility as called for in the Land Development Agreement ("LDA") executed in 1993, and contemplated in Amendments 5, 6 7 and 8 to the LDA; and as set forth in a Memorandum dated April 28, 1993 from then Edward Helfeld, Executive Director of the Agency addressed to the Agency Commissioners; and as further set forth in the PSA and the Lease Agreement. (See Pertinent Section of LDA Attached as Exhibit "A", pages 75 – 76); and Pertinent Section of Amendment 5 Attached hereto as Exhibit "B" at page 4 and Amendment 6 Attached hereto as Exhibit "C" at page 3, respectively.)

Under Section 7.14 of the LDA entitled "Agency Assistance", the Agency and now its Successor Agency ("OCII") has an obligation to reasonably assist the Museum in its efforts to obtain sufficient funds to the Museum to pay the Construction Costs for the Improvements. Moreover, under the same section, the Agency must cooperate with the Museum in good faith to secure appropriations of new funds to enable the Museum with the construction costs for the improvements. (See Exhibit A at pages 75-76.)

The February 28, 1993 Memorandum recommended an Action "To amend Resolution No. 20-93, adopted February 2, 1993, to include financing for a portion of the Mexican Museum and the Jewish Museum amongst other projects. This recommendation identified and allocated the \$7.5 Million Dollars requested herein. (See Memorandum attached hereto as Exhibit "D" at pages 1.)

Then in 2002, the Agency determined the need to build the Jessie Garage which caused the construction of the Museum to be set aside and delayed pending built out of the garage. (See Amendment 7 to the LDA attached hereto as Exhibit "E" at page 2. In the same Amendment the commitment to fund the Museum was re-affirmed and it was stated that the Jessie Garage was intended to benefit the Museum. (See Exhibit "E" at page 2)

Again, on December of 2004, the funding commitment was reaffirmed in the 8th Amendment to the LDA Attached hereto as Exhibit "F". (See Exhibit "F" at page 2.)

CONCLUSION I: The Audit Report Recommendations should include a recommendation for the Real Estate Division and OCII to allocate the \$7.5 Million Dollars it is obligated to provide to the Museum and which the Museum has been requesting since February of 2014.

CONCLUSION II: Moreover, the Museum further requests that the Audit Report also recommends the Real Estate Department and OCII to give credit to the Museum for having raised its matching fund requirement. The Museum agreed to terminate the LDA and enter into a Purchase and Sale Agreement in consideration for the construction of the Core & Shell of the base building which resulted in over \$30 Million Dollars of remuneration which must be credited to the Museum, plus, a \$2.1 Million Dollars public art dedication, and a \$5 Million Dollar endowment gift. The \$37 Million Dollars coming from "another source" is a consideration which was contemplated and expressly set forth in the 1993 Redevelopment Agency.

Hence, the Successor Agency must give credit to the Museum for having received consideration from other sources, namely Millennium Partners, the Developer. Moreover, the Successor Agency also obtained additional consideration from Millennium Partners through the sale of the Jessie Square Parking Garage which was partially built on the Mexican Museum parcel. The Agency received well over \$20 Million Dollars (possibly close to \$30 Million) from the sale of the parking garage. In fact, the Museum at the time of the sale transaction requested that \$7.5 Million Dollars be allocated to the Mexican Museum to fulfill the balance of the funding requirement from the LDA which was then part of the PSA agreement. The Department of Real Estate summarily dismissed the request.

B.

The Museum is prepared to move forward and complete the construction of the Tenant Improvements of the Museum's Cultural Component through an approved Progressive Design with the team of Guzman Construction Group and Cordoba Corporation, respectively, and a group of experienced top-notch design and construction sub-contractors, coupled with the leadership of the

Museum's Board of Trustees

Under the leadership of the Mexican Museum's Building Committee which is comprised of high level professionals with combined professional experience in the design, design build, finance and construction industry, the committee has developed a plan to implement a Progressive Design and has obtained approvals from OCII to proceed with a Single Source contract for a design build project. It is important to note that the budget for the project is \$38 Million Dollars with the goal of completing the construction by the end of 2025. The Board of Trustees of the Mexican Museum through the guidance of the Building Committee carefully vetted the team of professionals that has been assembled as the Design Build Team and voted unanimously to approve Guzman Construction Group and Cordoba Corporation, respectively. The team has is ready to begin its work effective immediately. Below are some of the Bios of the persons leading the design and build project team as well as bios and two Board Trustee liaisons, Alfredo Pedroza who is the finance industry, and Ray Quesada who has extensive construction experience. Also, please find the Bios of the Executive Committee of the Board of Trustees.

Miguel Guzman

Miguel Guzman, Principal at Guzman Construction Group, Inc. manages GCG's daily operations, focusing on business growth, fostering company culture, and meeting client and corporate goals. He has a

strong track record in project operations and client satisfaction, actively engaging with clients and design teams. Outside of work, Miguel is dedicated to community service, particularly in education and supporting at-risk youth. He holds a Bachelor of Science in Engineering from UC Berkeley, is LEED accredited, and has participated in leadership programs. Miguel is involved in various professional organizations and serves on the boards of community-based organizations.

Rick Vanzini

Is a Program Director at Cordoba Corporation. Vanzini is a relationship-focused CapEx Program Director with extensive experience coordinating institutional architectural projects' technical and creative aspects. Particular expertise in managing cross-functional relationships and building cooperative participation between owners, architects, engineers, city officials, and other stakeholders to deliver exceptional projects on time and within budget. Outstanding management, critical thinking, and evaluation skills with a focus on sustainability, resiliency, and value engineering. Strong relational intelligence and cohesive team-building skills.

Raymond G. Quesada

Over 40 years of experience in Project Management/Construction Management and Architecture, most of which has been in the San Francisco Bay Area with over 20 years devoted to airport design and construction at the San Francisco International Airport. Primary strength in team building and creating an environment where a cooperative/creative team can excel.

As Project Manager for the San Francisco International Airport (SFO) Terminal 2/Boarding Area D Renovations, lead the team that delivered the first LEED Gold certified terminal building in the US and SFO's first design-build terminal project. The project was delivered within budget (\$400 Million) and within 3 years from Notice to Proceed to the design-build team.

Alfredo Pedroza

As a Senior Vice President for Wells Fargo Government Relations, Alfredo Pedroza leads Wells Fargo's local legislative and political agenda in Northern California, based out of San Francisco. Day to day, Alfredo works to build strong local relationships between internal leaders and elected officials, monitor legislation, manage enterprise political risk, and work with a diverse stakeholder network to support our team members in helping our customers and communities succeed financially.

Before joining Wells Fargo, Alfredo served in the San Francisco Mayor's Office, the San Francisco Neighborhood Parks Council, and as Senior Program Associate for the Trust for Public Land. Alfredo sits on the Board of the Mexican Museum and in his spare time rides a bike from SF to LA to raise money and awareness to end AIDS. He earned his B.S. in International Business Administration from the University of San Francisco.

EXECUTIVE COMMITTEE

Andrew Kluger, Chair

Andrew M. Kluger, a Mexico-born entrepreneur and philanthropist, has dedicated his life to revolutionizing healthcare systems, fostering cultural exchange, and leading diverse philanthropic efforts. Through ventures like EasyConnex Systems and Bluegrass Assisted Living, Kluger has transformed

communication and care in assisted living facilities. His leadership extends to medical management firms and academia, where he shares his expertise with future leaders. Kluger's philanthropic contributions, including serving as Honorary Consul of Mexico to Hawaii and leading organizations like The Mexican Museum and Book Bank USA, reflect his commitment to improving lives worldwide. With a strong academic background and unwavering dedication, Kluger's legacy is one of innovation, compassion, and positive impact.

Nora Wagner, Vice-Chair

Born in Mexico City, Mexico, and a Bay Area resident for 50 years, Nora Wagner holds an MA degree from George Washington University in D.C., a Junior College Teaching Credential from UCLA and an Honorary Doctorate from John F. Kennedy University, Pleasant Hill, CA, in Museum Studies. She is bilingual in English/Spanish.

Ms. Wagner was Education Director at The Mexican Museum in San Francisco for 16 years then at the Blackhawk Museum, Danville, for 27 years where she developed programs and docent trainings for children and adults related to their many exhibitions of art, culture and history. She has taught museum education at JFK University, Yerba Buena Center for the Arts, S.F., as well as in Peru and Ecuador, and conducted docent training workshops at S.F. Museum of Modern Art and the Fine Arts Museums of San Francisco. Her board experience has been with the American Alliance of Museums, Western Museums Association and The Mexican Museum.

Carlos Camacho Dávalos - Treasurer

Mr. Carlos Camacho is the President and CEO of Strategic Affairs Group, LLC, which offers consulting services in areas like Political Consulting, Lobbying, Public Policy, Economics, International Relations, Law, and Communications. He holds degrees in economics and political science from ITAM and UNAM respectively and has pursued specialization courses from Harvard University. With extensive experience in political, diplomatic, and business development, he leads one of Latin America's prominent public affairs consulting groups. Carlos assists both public and private clients in navigating political landscapes and achieving complex economic, political, or social goals, particularly in sectors like energy, infrastructure, transportation, telecommunications, and mining. He has held various positions in the Mexican government and serves as a political commentator on radio and TV. Additionally, he advises significant business groups in Mexico. Apart from his professional pursuits, he is actively engaged in cultural initiatives, being a member of UNESCO's International Council of Museums (ICOM) and involved with the Asociación de Amigos del Museo Nacional de las Culturas. He curates a significant collection of "political art" in Mexico.

Xochitl M. Castañeda - Secretary & Capital Campaign Chair

Xochitl Castaneda is a prominent figure in public health, serving as the Founding Director of the Health Initiative of the Americas at UC Berkeley. With extensive training and accolades, including awards from the Mexican Government and the California Latino Legislative Caucus, Castaneda has dedicated her career to improving the health of underserved Latino populations. Through initiatives like Binational Health Week and educational programs like the Health Education for Latinos Program, she has made significant strides in addressing health disparities and providing opportunities for immigrant students in health professions. Her leadership and advocacy have positively impacted countless lives, demonstrating her commitment to advancing health equity and serving marginalized communities.

The following is a highlight of two other trustees, a list of the full board of trustees is attached, and it was submitted as part of the audit process. The audit team chose not to interview the Trustees, but bios were provided.

Fernanda Partida Ochoa - Trustee

Fernanda Partida Ochoa is a passionate professional with a rich background in history, art management, and curation. Beginning her journey in Guadalajara, Mexico, she pursued a Bachelor's degree in History before expanding her horizons through academic exchanges in Spain. Fernanda's dedication to cultural heritage led her to pursue a Master's degree in Museum Studies at the University of San Francisco. Her career spans various roles in esteemed cultural institutions, including the Yerba Buena Center for the Arts, De Young Museum, CULT Aimee Friberg, KADIST SF, and Fomento Cultural Banamex, where she excelled as a researcher, curator, and Collection Manager. Fluent in Spanish, English, and French, Fernanda possesses exceptional communication skills that enable her to bridge cultural divides and foster collaborations.

Currently serving as a Collections Project Manager at the San Francisco Museum of Modern Art (SFMOMA), Fernanda drives workflows, supports strategic objectives, and fosters collaboration across departments. With her diverse skill set and unwavering passion for the arts, Fernanda continues to make significant contributions to the cultural landscape, shaping narratives that resonate across borders.

Gemi Gonzalez

- Trustee & Chair of Friends of the Mexican Museum in Mexico

Experienced Government Affairs professional with a demonstrated history of working in various governmental agencies. Focused on building bridges with different industries of the Bay Area and the LatinX markets (US&LATAM), to help companies permeate in the workforce system of business, government and cultural affairs. Holder of two Master's degrees and a PhD in International Law and International Relationships. Promoter of Mexican and Mexican American art and culture through the production of exhibitions, concerts, film screenings and academic readings.

Attached please find Exhibit "G" which is the bios of the full Board of Trustees.

The above team coupled with the rest of the Board of Trustees is extremely qualified to complete the build out of the tenant improvements of the Cultural Component. The team now needs the support of OCII by releasing the \$6.1 Million Dollars that are in trust with the agency and which are needed to proceed with the design build out. Those funds will go to a progressive design project which has been presented to OCII.

C.

The Audit Report made conclusions and findings which were made without full information and/or without informing the Museum in a timely fashion to enable the Museum to respond thereby denying the Museum of Due Process. The Museum provides responses to the findings and again takes this opportunity to clarify several items with the goal of working in collaboration with OCII and the Real Estate Division

Audit Report: Chapter 1: The Museum lacks the money needed to finish the project and has not demonstrated it has the financial or organizational expertise to meet the objectives stipulated in its agreements with OCII and the City.

Museum Response: This is a strong statement that fails to take into consideration that the Mexican Museum project is a public work for the benefit of the San Francisco community and for the Latino Community of San Francisco, the greater Bay Area and the State of California. The envisioning by the Late Senator & Mayor Diane Feinstein, Supervisors Jim Gonzalez, Terrence Hallinan and the rest of their colleagues on the Board of Supervisors (the "City") at the time, coupled with the Executive Director and the Commission of the then Redevelopment Agency "Agency" and for the City to work in partnership and collaboration with the Mexican Museum to develop and build a Mexican Museum at the Yerba Buena Gardens District. The Museum as the record shows has repeatedly and continuously reached out for help and support of both the City and OCII, with some limited results. The Museum appreciates the past and ongoing support of OCII and acknowledges that their reach is now somewhat limited as the Mexican Museum asset has been transferred to the City and the Real Estate Division is now its overseer. Yet, OCII has still an important role to play to see the project through. The Museum requests that a recommendation be that OCII and the Museum meet on a weekly basis on a date and time certain to work through the various recommendations being made by the audit report and to move the project forward on a timely basis. Similarly, the Museum request that the Audit Report recommend that monthly meetings starting immediately be held with the Real Estate Division as well as a representative of the Four Seasons staff as well as a Board representative.

The Museum respectfully disagrees with the above finding. The finding should rather find that all three entities referenced above come together to make the museum a reality.

In Section "B" above, the Museum has put forth a strong leadership team. The Museum request that the City and OCII embrace the team and work with it for the good of the City and its residents.

Audit Report: Finding 1.1. Although \$6.6 million of the grant funds remain unspent, the Museum is an estimated \$49.8 million short of having the funds needed to complete the project and has not shown it can secure this funding, hindering the project's progress.

The \$49.8 Million amount is not correct. The budget for the overall design and construction project which has been approved with the development team set forth in Section "B" above, is \$38 Million Dollars. After subtracting the \$6.6 Million from that amount the delta would be approximately \$31,400,000.00 Million. If the City would fulfill its \$7.5 Million Dollars related to the LDA Termination and subsequent PSA then the amount would be reduced to \$23,900,000.00. The Museum is requesting from Millennium

Partners that the \$5 Million Dollar gift endowment be converted into working capital to be used for the construction project and to pay for CAM charges while the construction proceeds. One Million Dollars of the \$5 Million Endowment would be set aside to pay CAM charges for 3 full years. That would leave \$4 Million dollars to be applied to the construction phase bringing down the financing gap to \$19,900,000.00. With the full attention and support of all stakeholders, the Museum could then finance the remaining amount needed.

Moreover, the Museum currently has pledges of \$5,750,000.00 which are contingent on the museum securing financing to begin construction and complete construction by 2025. While those dollars would come in phase II in 2025, those are dollars that would reduce the financing amount.

In addition, Xochitl Castaneda, a highly respected member of our community joined the Board in the last quarter of 2023 and is taking on Co-Chairing the Museum's Capital Campaign. She has personally already donated \$50,000.00.

Lastly, the Museum has been able to establish a new federally sanctioned entity in Mexico named Friends of the Mexican Museum, a non-profit corporation ("Friends"). Friends can receive contributions of funds from individuals, corporations, or entities for funds that would otherwise be taxed. Entities may deduct up to 7% of taxes owed by contributing to the Mexican Museum.

The Certification was granted to the Museum as the only institution outside of Mexico for the first time. Friends is being managed by a distinct Board of Directors made up of members from the Mexican Museum Board of Trustees, including Gemi Gonzalez, former Consul General in San Francisco, Sergio Alcocer, former undersecretary for Foreign Affairs for North America under then President Peña Nieto, as well as Sergio Alcocer and Andrew M. Kluger, respectively whose Bios are enclosed in this response. Gemi Gonzalez, Former Consul general in San Francisco, and Sergio Alcocer, former undersecretary For Foreign Affairs for North America under President Enrique Peña Nieto. Friends receives legal advice and counsel from Mexican prominent attorney, Mr. Daniel Rosas.

Audit Report: Finding 1.2. The Museum has a history of mismanaging grant funds.

Museum Response: The auditors dug into activities that occurred under past administrations, some of which occurred over 20 years ago. All of those matters were fully addressed and resolved years ago. Bringing these incidents within the context of the objective of the audit which was to "Determine whether the Museum spent funds and completed activities for redevelopment and interior improvements in accordance with the terms of its grant agreement" is both over reaching, misleading and unfair to the efforts of the current leadership of the Museum.

Audit Report: Chapter 2: The Museum has not fulfilled some of its obligations under the lease and facilities agreement or the purchase and sale agreement.

Audit Report: Finding 2.1. The Museum did not comply with its contractual obligation to substantially complete tenant improvements by September 2022, despite having the opportunity to do so. In fact, the interior improvements have not even begun.

As more thoroughly explained below, the Mexican Museum was not given possession of the Cultural Component space until July of 2023. The Developer chose to transfer the asset to the Real Estate Division directly and then the Department turned the keys over to the Museum. It was in the power of the Developer to transfer the space to the Museum and not the other way around. That said, the Museum's development and construction team is ready to begin the work immediately.

Finding 2.2. The Museum has not fulfilled reporting and insurance requirements in the lease and facilities agreement and has not paid nearly \$80,000 in common area and maintenance dues.

Re: CAM CHARGES

Museum Response: On March 20, 2015, the City as Landlord and the Museum as Tenant entered a Lease and Facilities Agreement ("Lease") for the lease of the Cultural Component for a period of effectively 99 years for 2 dollars. On June 21, 2023, the City accepted fee title to the Cultural Component from the Developer, Millennium Partners via Grant Deed. Then on July 11, 2023, the City through the Real Estate Division's Executive Director, Andrico Penick, unceremoniously tendered possession of the Cultural Component via a letter to the Museum with five keys and one key fob to the property. (See Exhibit "H" Letter from Andrico to Museum). Immediately after, the Museum began to receive monthly CAM charges of approximately \$19,000.00 dollars.

Immediately upon learning of the transfer, which happened abruptly and without warning, the Museum immediately sought to meet with the Four Seasons Residence leadership to discuss the transition from the Developer to the City and to the Museum. Initially, the Museum met with Matt Hoffman who was the person in charge of overseeing the relationship for the Cultural Component. Mr. Hoffman indicated that he and his team were also taken aback by how abrupt the transfer happened and that they were trying to figure out what steps to take. There was agreement that the reason the City quickly turned over the space to the Museum was to avoid having to pay CAM charges and for the Museum to start paying them immediately. The Museum indicated that it would take responsibility for the monthly charges and the PGE bill. The total was estimated at about \$22,000.00 per month. The Museum, however, requested assistance from the Four Seasons for clarification of who the ownership of the tower was and for a meeting to be set up immediately in part to discuss the payment of \$1,666,666.66 Million Dollars from the Museum Endowment Fund which was due and payable to the Museum by Millennium Partners and/or its successor in interest in the ownership of the Four Seasons Tower. We indicated that the purpose of those funds was to pay for the operation of the Cultural Component, for CAM charges and utilities. The Four Seasons literally refused to give the Museum names and/or contact information of the new ownership. We explained that for the museum to pay the CAM charges it was essential to obtain the funds. The Museum please fell on deaf ears. To this date, there has been no meeting arranged. Along the same lines, in early August of 2023, the Museum sent Millennium Partners the notice that the \$1,666,666.66 was due and payable by August 11, 2023. (See Exhibit "I" Letter to Millennium Partners). To date, Millennium Partners has failed to make the payment which is now over six (6) months past due. In the meantime, the CAM charges continue to accrue.

In brief, the Museum was given the keys to the Cultural Component space abruptly and without and coordination by either the City and/or the Four Seasons. The Museum immediately made efforts to address the CAM charges.

CONCLUSION & ACTION REQUESTED: The Museum requests that the Audit Report recommend that OCII immediately release the \$1,666,666.66 Million Dollars it is holding in an escrow account so that the Museum may access those funds to pay the CAM charges being assessed by the Four Seasons. Similarly, the Museum requests a Recommendation that Millennium Partners pay its second installment of \$1,666,666.00 to the Museum immediately.

Re: Insurance Coverage Finding

The Museum has maintained the insurance coverage called for under the OCII Grant Agreement. With the advent of the transfer of the Cultural Component space on July 11, 2023, the Museum was notified that it was necessary to increase the coverage from 3 million to 5 million. Immediately upon receiving the notice, the Museum contacted its insurance broker and requested the increase in coverage. The Four Seasons had to be involved in providing certain information that only they had in their possession. It was eventually provided and shortly thereafter the increase in coverage occurred. A copy of the Insurance Certificate is attached hereto as **Exhibit "J" Insurance Certificate**.

Chapter 3: The Museum submitted \$43,616 of ineligible costs, \$930,247 of questionable costs, and \$562,579 of operational costs, all which OCII approved.

Museum Response:

The Museum worked with the staff of OCII diligently to put together a Scope of Work and budget tied to each and every single disbursement agreement beginning with the First Grant Disbursement Agreement which is attached hereto as **Exhibit "K"**. The Museum submitted documentation documentation to substantiate all of the expenditures. The Museum does not agree with the description the description of questionable costs as all budgets and scope of work were not only approved by OCII staff but also by the OCII Commission. The auditors found three categories of expenditures where checks were duplicates, including for Ms. Vivanco and Ms. Waterfield. The Museum's CPA has now provided you with a Letter indicating that all payments were substantiated and that none of them were duplicate payments. Similarly, regarding the item with the Marquez Law Group, Mr. Marquez has provided you documentation that demonstrates that the submittal of the same invoice being submitted twice was a clerical error by the Museum staff and that there were no duplicate payments. We acknowledge that out of hundreds of submittals to OCII that there were these clerical errors. As you know, control systems have been put in place both at the Museum and by OCII to ensure this does not happen in the future.

In closing, thank you again for the opportunity for the Mexican Museum to submit this response to the Audit Report that you provided the Museum. The Museum, the Board of Trustees, and the Development Team look forward to working with both OCII and the Real Estate Division to make the reality of the Mexican Museum at 706 Mission Street and to work to have the museum open at the end of 2025.

Respectfully submitted,



Victor Marquez (Mar 7, 2024 13:51 PST)

Victor M. Marquez
General Counsel
The Mexican Museum

Appendix C:

Auditor's Comments on The Mexican Museum's Response

To provide clarity and perspective, the Controller's Office, City Services Auditor (CSA), Audits Division, is commenting on the written response of The Mexican Museum (the Museum) to the audit report, which the Museum provided to us on March 7, 2024. CSA maintains that the findings in the report are complete and accurate based on the documentation provided by the Office of Community Investment and Infrastructure (OCII), Real Estate Division (RED), and the Museum during the audit.

In response to pages 2 and 3 of the Museum's response:

The Museum states that the work of the audit team far overreached the scope and objectives of the audit and that we did not provide a fair and balanced report. We disagree. We maintain that the evidence obtained during the audit provides a reasonable basis for the findings and conclusions based on the audit objectives. Information in the report that refers to the period before December 14, 2010, the effective date of the grant agreement, is based on information in the Museum's audited financial statements of 2011 through 2019 and a corresponding current liability in its balance sheet for that period, which makes the information relevant.

In May 2023, during the entrance meeting, the audit team discussed the preliminary audit objectives with the Museum. In accordance with generally accepted government auditing standards and as discussed during the entrance meeting, audit objectives are preliminary until after the conclusion of the audit survey phase. Consistent with that fact, in July 2023 we provided the Museum with updated audit objectives in writing. The Museum's letter also only refers to parts of the final audit objectives. Page 13 of the audit report states the audit objectives in their entirety.

The Museum states it is prepared to move forward and complete the construction of the tenant improvements of the cultural component. Despite this statement, the Museum does not deny it lacks the funding to move forward with the project. It also has not submitted a design plan to the City. The Museum cannot move forward given its financial situation and lack of an approved and permitted design plan.

In response to Section A (pages 3-9) of the Museum's response:

The Museum states that it should be credited with raising matching funds of at least \$30 million and that the City is obligated to provide \$7.5 million toward the project under a now-terminated Land Disposition Agreement (LDA). Despite our multiple efforts to obtain documents from the Museum to support the pledges and amounts it independently raised, the Museum did not provide documents to support the fundraised amounts. We reviewed the Museum's audited financial statements for information on pledged amounts but found none, other than OCII's grant and the endowment fund. Further, the City has no further obligation to pay the Museum \$7.5 million under the terminated LDA.

In response to Section B (pages 9-12) of the Museum's response:

The Museum states that the audit team chose not to interview the Board of Trustees (Board). This is correct. Instead of interviewing board members, we asked them to respond to a written survey so we would obtain from each board member responses to the same set of questions asked in the same way. However, as noted on page 17 of the audit report, we could not assess the role or effectiveness of the Museum's Board because Board members declined to respond to our survey questionnaire, which we distributed to them on August 23, 2023. The questionnaire asked about the Board's structure and the members' areas of expertise. Instead, Board members opted to provide their resumes to the audit team.

In response to Section C (pages 13-16) of the Museum's response:

The Museum states that we did not give it enough time to provide responsive information and documentation. We disagree. Consistent with generally accepted government auditing standards, we allowed the Museum at least six months, from May through November 2023, to provide the information we requested during the audit's survey and fieldwork phases. During our audit exit meetings with the Museum, in December 2023 and January 2024, we gave the Museum an additional month to provide information. Further, during the audit, the Museum informed us that it could not provide us with many of the documents we had requested because, due to its document retention policy of five years, it no longer had them.

Finding 1.1:

The Museum states that the \$49.8 million budget forecast noted in the audit report was incorrect, that the Museum has additional funding in pledges that the audit report does not acknowledge, and that the amount remaining to fund the project could be reduced by: a) \$7.5 million due to a claim that the City is obligated to fund this amount pursuant to the terminated LDA and; b) \$5 million, which is Millennium Partners' endowment contribution, as stipulated in the purchase and sale agreement. We disagree. Specifically:

- As the report notes, the \$49.8 million budget forecast is taken from Museum documents, dated November 2022 and provided to us in June 2023. The Museum did not provide us with a new—and considerably reduced—budget for the design and construction project until March 4, 2024, three days before the Museum provided its response letter to the audit report. Consistent with generally accepted government auditing standards, we cannot include information in our audit report that we did not review as part of the audit. The new budget, which totals \$38 million, is dated February 16, 2024, approximately three months after we completed the audit fieldwork in November 2023 and after our exit meetings of December 2023 and January 2024. The Museum had ample opportunity to provide a new budget to us before the end of fieldwork and did not do so. Further, the new budget refers to three phases of construction but only includes forecasted expenditures for the first phase. (It is unclear whether the Museum would be able to open to the public after only the first phase of construction.) Moreover, the Museum did not provide a detailed basis for its proposed \$38 million budget and the Museum has not submitted design plans to the City for approval, a critical first step in budgeting for the project.

- During the audit's survey phase, the Museum stated that it had \$6.7 million in pledges, so we later asked it for documentation of its confirmed pledges. However, the Museum provided us only one document in response, which supports a \$5 million pledge to be effective after 2025. Due to the timing of this pledge, we could not count it toward the capital funds the Museum secured for the interior improvements.
- The endowment contribution cannot be counted toward the capital funds needed for interior improvements because, according to the purchase and sale agreement, the endowment may only be used toward the Museum's operations once the Museum has opened to the public.

Finding 1.2:

The Museum states that the audit team "dug" into activities that occurred over 20 years ago. This statement is misleading as it implies that going back so far in time was unnecessary or excessive. On the contrary, we needed to review information more than a decade old to achieve the audit objective of assessing the Museum's performance outcomes. The information we needed was found in the Museum's audited financial statements of 2011 through 2019, which indicate a current liability that still exists in the Museum's balance sheet.

Finding 2.1:

The Museum refutes the audit report's statement that the Museum could have entered the premises before July 11, 2023, (when RED gave keys to the premises to the Museum). Also, the Museum states that the developer could have transferred ownership of the cultural component space to the Museum. We respond as follows:

- Under the lease, Section 5.1, the Museum had the right to request early access to the premises at 706 Mission Street to begin construction. However, according to RED, the Museum never exercised this right.
- The purchase and sale agreement states that the developer was to transfer the cultural component to the City, which in turn would lease the space to the Museum. Stating that the developer had the option to transfer the space to the Museum is false and misleading.
- Our finding compares the terms of the lease and facilities agreement with the state of the premises that we saw and photographed during our visit of July 14, 2023. We verified that the Department of Building Inspection issued a temporary certificate of occupancy for the core and shell of 706 Mission Street in September 2020.

Finding 2.2:

The Museum states that it was notified of the need to increase its insurance coverage limit to \$5 million after it received the keys to the premises in July 2023. This may be true, but the lease, Section 20, requires the Museum to have \$5 million of insurance coverage on or before the commencement date of the lease, which was July 11, 2023. The Museum provided the updated insurance documents to us on March 4, 2024, months after we had completed the audit fieldwork and after our exit meetings with the Museum. We agree that, as of December 6, 2023, the Museum's insurance policy appears to comply with the lease and facilities agreement. However, we stand by our finding because the lease requires the Museum to provide proof of the required insurance to RED, which is the Museum's landlord under the lease. As of February 15, 2024, RED had not received proof of the updated insurance from the Museum. Also, the City's risk manager must assess the updated insurance to confirm that it complies with the lease and facilities agreement.

Chapter 3:

The Museum notes that it disagrees with the audit report's description of questionable costs, as all the budgets were approved by OCII staff and the OCII Commission, and states that the report is incorrect in its characterization of certain expenditures as duplicate payments. We respond as follows:

- Although we agree with the Museum that all expenditures were approved by OCII, as noted in the report, one of the audit objectives was to determine whether the funds spent were in compliance with allowable uses stipulated by the grant agreement. Thus, we assessed all expenditures for which the Museum used grant funds based on supporting documentation provided to us by OCII. (This represents all documentation the Museum gave to OCII at the time of submission and that OCII approved). The expenses we characterize as questionable are largely due to a lack of supporting documentation that would help verify the expenses listed in that category. As noted earlier, due to its five-year record retention policy, the Museum could not provide most of the older documentation we requested. Because we did not have access to older supporting documents, we could not verify whether these expenses were eligible under the grant.
- The instances we report as duplicate payments are examples of the Museum double-billing OCII and receiving reimbursement twice under the grant agreement, not examples of the Museum paying its vendors twice for the same expense.

We look forward to working with OCII and RED to follow up on the status of the recommendations made in this report.

ATTACHMENT C
Insurance Requirements

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Museum must obtain and maintain, or caused to be maintained, insurance as set forth in this Attachment C throughout the Compliance Term of this Agreement, or in accordance with the timeframes stated herein, at no expense to OCII.

- A. Overview of Coverage Requirements. The following table summarizes required insurance policies and documentation. Please see Section B of this Exhibit F for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate	Museum and Museum's contractors	Additional insured (see Section G)
Automobile Liability (see Section B.2)	\$1,000,000 per occurrence	Museum and Museum's contractors	Additional insured (see Section G)
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability	Museum and Museum's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Museum if engaged in any eligible design-related activities; and Museum's design and professional contractors	None
Crime/Dishonesty (see Section B.5)	\$1,000,000 per loss	Museum	Loss payee endorsement

- B. Minimum Scope and Limits of Insurance. Museum and/or Museum's Contractors must maintain insurance with limits no less than:

- 1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). Before the start of demolition/construction if the Site is unoccupied, Museum and Museum's Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. Umbrella or Excess Liability Policy may be used to meet the terms of this section. Museum should note that the General Liability coverage described herein is

applicable only during the predevelopment phase and that OCII will require increased coverage for the Museum and construction contractors during the construction period.

- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Museum does not own any automobiles, Museum must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.
- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Museum does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the General Partner of the Partnership, in lieu of such coverage being provided by the Museum. Additionally, the Museum must provide a written statement confirming that the Museum does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Museum's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Museum only if the Museum or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for no less than five (5) years beyond completion of the scope of services performed. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Museum, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Museum shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Museum are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond covering Museum and Developer's officers and employees against dishonesty with respect to the Funding Amount. One Million Dollars (\$1,000,000) each loss, with any deductible not to exceed Ten Thousand Dollars (\$10,000). Museum must provide an endorsement naming OCII as an additional obligee or loss payee.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to

OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Museum shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- D. Umbrella or Excess Liability Policies. An Umbrella and/or Excess Liability policy(ies) may be used to reach the Commercial General Liability, Workers' Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.
- F. General Requirements.
- 1) If the Museum maintains additional coverages and/or higher limits than the minimums shown in this Exhibit F, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Museum.
 - 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Museum's insurance and shall not contribute with it.
 - 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.
 - 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
 - 5) Approval of Museum's insurance by OCII will not relieve or decrease the liability of Museum under this Agreement.
 - 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Museum.
 - 7) All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made policy, coverage must be maintained continuously for a period ending no less than five (5) years after the Compliance Term for general liability insurance.
- G. Verification of Coverage. Museum must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind

coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time. Museum shall require and verify that its contractors and consultants maintain the required policies as stated herein. Museum must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:
Successor Agency to the Redevelopment Agency of the City and County of San Francisco
Office of Community Investment and Infrastructure
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
- 2) Identify the name of the insurance policy holder (Museum, Developer, or Contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name "Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" on the certificate and on the attached endorsement or certificate.

H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII's Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Museum to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates.

May 15, 2024

Via Email: Thor.Kaslofsky@sfgov.org

Thor Kaslofsky
Executive Director
Office of Community Investment and Infrastructure (OCII)
One S. Van Ness Ave. 5th Floor,
San Francisco, CA 94103

Re: The Mexican Museum Request for Extension of Time on OCII Grant

Dear Executive Director Kaslofsky:

On behalf of the Mexican Museum Board of Trustees, The Mexican Museum ("TMM") respectfully requests through you as Executive Director for a request to the Commission on Community Investment and Infrastructure ("OCII") to consider the approval of an extension of time of the Mexican Museum's existing Grant Agreement with OCII from its expiration date of June 14, 2024, to December 14, 2025. The Museum understands that if approved, the approval will go to the City's Oversight Committee for its review and approval and if approved then it will go to the California Department of Finance for final approval.

The extension of time will enable TMM the ability to spend the balance of the grant funds to complete Phase I of the progressive design build approved by OCII staff and to open and activate the cultural component space which is part of the 706 Mission Street Residential and Mexican Museum project by December of 2025.

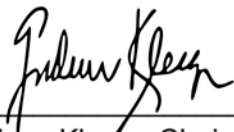
After the City and County of San Francisco's Office of the Controller began its audit of OCII's handling of TMM's OCII grant and TMM's use of grant funds in March of 2023, OCII staff took the position that OCII would not be able to enter into a Sixth Disbursement Agreement of the remaining grant funds to TMM until the audit was completed. The audit was originally supposed to be completed in the fall of 2023, with a target date of September or at the latest October 2023. However, the Controller's Office expanded the original scope of the audit to include a period of 10 years prior to the OCII grant period. This extended the audit process until March 21, 2024, a full year from the inception of the audit process. In sum, the audit has delayed access to the OCII grant funds for an entire year and, therefore, TMM requests OCII extend the OCII Grant deadline to make up for lost time.

The museum was informed by OCII staff, the San Francisco Mayor's Office and the City Administrator that addressing concerns identified by the Controller's audit report is a prerequisite to obtaining an extension of the deadline for use of TMM's OCII grants. Although TMM disputes the findings of the audit, TMM has taken the following steps to address the criticisms and recommendations of the audit report.

1. TMM entered into a Management and Fiscal Agent Agreement with Mission Neighborhood Centers ("MNC"). TMM has outsourced the management of all aspects of TMM's operations to MNC, including but not limited to overseeing the construction of the Museum space at 706 Mission Street and obtaining all necessary approvals for release and disbursement of committed grant funds. **Enclosed as "Exhibit A" is a memo from MNC detailing their management and fiscal expertise and how they will address concerns raised by the Controller's audit report,**
2. TMM also entered into an agreement with MNC to develop and implement a comprehensive capital campaign and grant writing programs that set realistic, and achievable fundraising goals to raise funds for TMM to finance the tenant improvement of the Museum core and shell at 706 Mission Street. MNC will manage and coordinate all fundraising activities on behalf of TMM, including overseeing fundraising efforts in Mexico, where TMM has developed a capital campaign plan for raising tax-deductible donations through Friends of the Mexican Museum, a Mexican non-profit. **MNC's fundraising plans are included in Exhibit A.**
3. TMM has contracted with Cordoba Corporation to serve as project manager and Guzman Construction Group to serve as the builder for the tenant improvements of 706 Mission Street. Working with Cordoba and Guzman, We are pleased to inform you that TMM's Building Committee has finalized a construction sole source design-build project delivery method that will phase construction. Using this approach, TMM has been able to reduce the cost of construction to approximately \$38 million without delaying the completion of the overall project. The project will have two phases. During Phase I, TMM will complete the ground floor build-out and use the future café area for a pop-up gallery at a cost of approximately \$6.5 Million Dollars. This will create visibility for the Museum in Jessie Plaza and assist in fundraising efforts as the rest of construction proceeds. Phase II will complete the build-out of the museum per the original approved Ten Arquitectos' Concept Design Plans. **Enclosed as Exhibit "B" is a presentation from TMM's Building Committee outlining construction project and the associated cost along with Exhibit "C" the Sources and Use Of Funds For Phase 1 Build-Out of the cultural component space.**

If you have any questions or concerns, please do not hesitate to contact me.

Best Regards,



Andrew Kluger, Chairman
The Mexican Museum, Board of Trustees

CC:

Members, Board of Trustees, The Mexican Museum
Victor M. Marquez, General Counsel, The Mexican Museum
Carmen Chu, City Administrator
Honorable Bivett Brackett, OCII Commission Chair
Honorable Carolyn Ransom-Scott, OCII Commission Vice-Chair
Honorable OCII Commissioner Tamsen Drew
Honorable OCII Commissioner Vanessa Ross Aquino
Honorable OCII Commissioner Kent Lim
James Morales, OCII Deputy Director and General Counsel
Andrico Penick, Executive Director, Department of Real Estate
Richard Ybarra, Chief Executive Officer, Mission Neighborhood Centers
James Cuadra, General Counsel, Mission Neighborhood Centers

Exhibit A



MISSION NEIGHBORHOOD CENTERS, INC.

From: Richard Ybarra
Chief Executive Officer
Sebastian Alioto
Chief Financial Officer
Barbara Ybarra
Lead Fundraising Consultant

To: Office of Community Investment and Infrastructure

Date: May 15, 2024

Re: MNC's Fiscal Management Overview Re Serving as TMM's Fiscal
and Fundraising Development, Implementation and Oversight

CONTENTS

1. MNC’S EXTERNAL MANAGEMENT AND FISCAL AGENCY SERVICES FOR TMM.....	1
2. MNC’S FUNDRAISING DEVELOPMENT, IMPLEMENTATION AND OVERSIGHT FOR TMM.....	1
3. ABOUT MNC	1
4. MNC’S MANAGEMENT AND FISCAL EXPERTISE OVERVIEW.....	1
5. INTERNAL CONTROLS.....	2
6. COMPETENT TEAM.....	3
7. WORKING CAPITAL.....	3
8. ASSETS.....	4
9. MNC’S FUNDRAISING EXPERTISE	4
10. ADDRESSING CCSF’S CONCERN REGARDING TMM’S FINANCIAL AND ORGANIZATIONAL EXPERTISE	5
A. Response to Concern that TMM has not demonstrated that it has the financial or organizational expertise to complete the planned interior improvements at what is to be its new location at 706 Mission Street (the project) without extended delays.	5
B. Response to Concern that TMM has not complied with several requirements in the lease and facilities agreement.....	5
C. Response to Concern that TMM has not provided annual financial reports to the Real Estate Division.	6
D. Response to Concern that TMM did not provide a compliant certificate of insurance.	6
E. Response to Concern that the Museum should provide annual reporting packets and proof of insurance that comply with the lease and facilities agreement.	6
F. Response to Concerns that the Museum has a history of poorly administering grants received from other sources, the Museum lacked necessary fiscal controls over grant funds, and the Museum’s accounting records did not separately identify grant-related costs.....	6
11. ADDRESSING CCSF’S CONCERNS REGARDING TMM’S FUNDRAISING	6
A. Fundraising Overview.....	7
1. TMM’s Fundraising History and Capital Campaign Goal	7
2. TMM’s U.S. Campaign Cabinet	8
3. TMM’s Capital Campaign Work To Date	9
4. MNC’S Scope of Work.....	9
B. “Celebrate Art”: U.S. Capital Campaign	10

1. Phase I: Develop a Campaign Plan and Fulfill Short Term Funding Needs: May - October 2024:	10
2. Phase II – Implement the Campaign and Manage the Campaign: November 2024 – May 2026:.....	12
3. MNC’s Role in the U.S. Capital Campaign	12
C. “Nuestra Herencia”: Mexico Capital Campaign.....	13
1. Background	13
2. Committee for Fundraising in Mexico.....	14
3. Campaign Goal	14
4. Quiet Phase	14
5. Public Phase	15
D. U.S. Grant Writing Program	16
E. Reporting Relationship	16

1. MNC’S EXTERNAL MANAGEMENT AND FISCAL AGENCY SERVICES FOR TMM

Mission Neighborhood Centers Inc.(“MNC”) has agreed to serve as The Mexican Museum’s (“TMM”) manager and fiscal agent. MNC will manage all aspects of the operations of TMM, including but not limited to acting as the owner’s representative in connection with the construction of the museum space at 706 Mission Street, performing all necessary accounting functions, preparing financial reports, managing grant funds and other donations, obtaining necessary approvals for release and disbursement of committed grant funds, and compliance with all applicable laws and regulations. MNC’s organizational and financial expertise is discussed below.

2. MNC’S FUNDRAISING DEVELOPMENT, IMPLEMENTATION AND OVERSIGHT FOR TMM

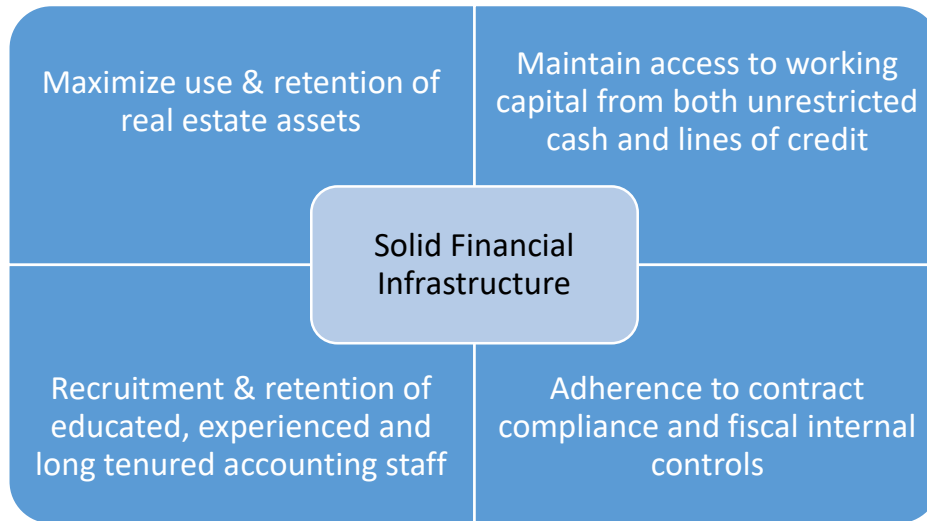
In addition to serving as TMM’s manager and fiscal agent, MNC has agreed to use its fundraising expertise to develop, implement and oversee capital campaigns to raise funds for TMM to finance the development of the interior and exhibit halls of the Museum’s new home at 706 Mission Street. MNC’s work will include developing a capital campaign in the U.S. and coordinating and overseeing a separate capital campaign in Mexico. In addition, MNC will use its grant writing expertise to implement a grant writing programs directed at grant opportunities available to TMM at the state and national level. As described in detail below, the goal of these fundraising strategies is to raise \$37 million over 24 months. MNC is honored for this opportunity to partner with The Mexican Museum’s leadership on this landmark project in San Francisco.

3. ABOUT MNC

MNC is a non-profit provider of community-based, culturally sensitive, and multi-generational services focused on low-income families throughout San Francisco. MNC develops and promotes leadership skills that inspire success for youth and families to build strong, healthy, and vibrant neighborhoods through education, case management, and community-development resources. Founded as a settlement house in 1897, MNC continues to exemplify the core values of settlement house practices: welcoming environment, social justice, advocacy, community organizing, and networking. MNC’s revenues in 2023 totaled \$41.5 million. Specific information relating to MNC’s programs can be found at: <https://mnscsf.org/>

4. MNC’S MANAGEMENT AND FISCAL EXPERTISE OVERVIEW

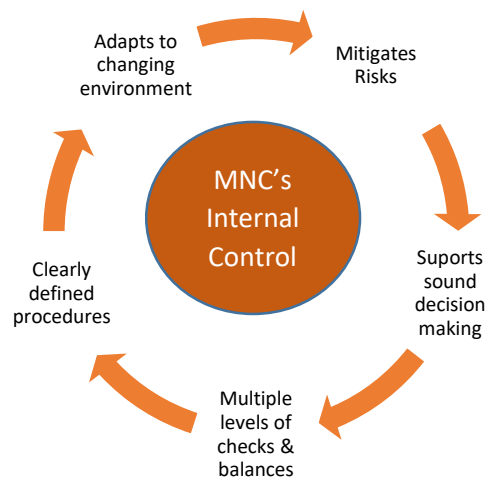
MNC has a long history of sound financial management and fiscal strength. In addition to vision and strong senior management execution, there have been several areas of financial strength that have made contribution to MNC’s historic program and revenue growth over the last 10 years. MNC’s solid financial infrastructure are attributed primarily to four key strategies:



5. INTERNAL CONTROLS

One of the primary goals of fiscal management is to safeguard grant funds, real estate properties and furniture and equipment to ensure the proper use of funds provided by MNC's partners. The expansion in all programs from infants, youth, seniors, and rental assistance has required that our fiscal team manage over 60 contracts from 11 different funding sources. This responsibility is shared not only internally by the individual program managers and senior staff but also with the diverse MNC Board of Directors.

The finance team supports each program and services with the processing of transactions that include billing receipts, payroll and disbursement processing with an emphasis on strong internal controls and efficiency. Program spending is monitored in detail to ensure the spending and allocations are according to Federal, State, local and philanthropic funding sources. Our staff has personal goals and integrity to ensure that MNC complies with the Federal Uniform Guidance as well as MNC's own Accounting Policies and Procedures in all procurement and payment processes.



All sites and service areas develop budgets, ongoing forecasts and monthly actual financial statements to monitor income and expense activity for each contract as well as the entire agency during the year. Disbursement requests go through purchasing and/or are approved by the requestor's supervisor to ensure expenses are used to meet program needs. The CEO and Board Directors review and approve specific requests where appropriate.

Ongoing monitoring and audits by the Federal, State and Local funding sources have all resulted in positive findings. With a goal for excellence, MNC has consistently received positive monitoring reports along with annual audited financial reports that reflect surpluses from operations.

6. COMPETENT TEAM

Our Finance team includes individuals who have a minimum of a bachelor and for one accountant a Master's Degrees in accounting. Each person possesses process and analytical experience specific for Federal, State, Local government as well as philanthropic partners who have specific needs and requirements. Each of the five individuals in the finance department has over 10 years of experience working with the MNC partners and programs.

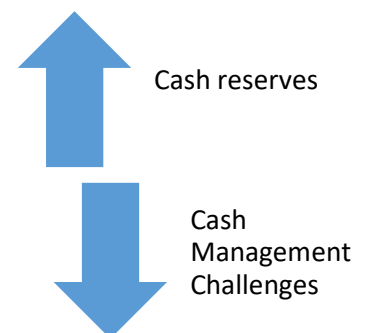
Accounting staff are cross trained in financial procedures including payroll, processing payments, and conducting financial analysis. They are also knowledgeable and up to date on federal, state, and local accounting practices and guidelines.

The current CFO is a State of California Certified Public Accountant/Inactive and has earned a BS in Accounting from the University of San Francisco. He also has over 15 years providing fiscal management for several non-profits and as well as for profit organizations.

7. WORKING CAPITAL

Recent real estate transactions and significant donations have created a cash reserve of unrestricted funds. The sale of real estate properties has allowed MNC the flexibility to fund the working capital challenges that occur with the program funding sources delays in remittance of accounts receivable at the same time MNC must make payments to its vendors, consultants who are partners, and payroll to staff. All of these must occur in a timely and controlled manner.

With the cash reserves, the cash management challenges associated with managing multiple programs and growing budgets have been significantly reduced.



With a history of operating surpluses and support from local Banks, MNC in the past has been able to obtain lines of credit of over \$ 1.0 million.

8. ASSETS

Owning several properties and implementing a strategy of expansion has allowed MNC to avoid the struggles associated with a changing real estate market. In partnership with other community-based organizations, MNC has been able to avoid increasing lease costs.

The overall financial benefit of these projects has been the flexibility provided by having the real estate assets to provide homes for the programs, expansion where needed and additional services needed by the community.



9. MNC'S FUNDRAISING EXPERTISE

Today, with over \$40 million in annual funding from government grants and private sources, MNC operates 16 MNC Campuses, five owned and nine leased through which children's services, youth development, family resources, senior healthy aging & disabilities, and workforce development programming operate. MNC has experienced staff and consultants who focus on private fundraising and grant writing who will lend their expertise to TMM's fundraising efforts led by MNC's lead fundraising consultant Barbara Ybarra.

Ms. Barbara Ybarra has been an executive senior consultant for nearly 20 years and has counseled over 80 nonprofit organizations throughout the United States. She has planned and managed 10 capital MNC's campaigns with goals up to \$30 million. Barbara has specialized capital campaign experience with art institutions that have developed as a hub for the community. She is experienced in implementing best practices with local and national organizations in the areas of education, human and social services, and the arts. Ms. Ybarra obtained an MBA in Marketing from University of Phoenix and B.A. in political science from

UC Santa Barbara. If needed, Ms. Ybarra may expand MNC’s consulting team as the campaign develops based on project needs and the consultant’s expertise and related experience in areas such as donor information management systems, prospect research, creation of collateral material, grant writing and/or campaign coordination support.

10. ADDRESSING CCSF’S CONCERN REGARDING TMM’S FINANCIAL AND ORGANIZATIONAL EXPERTISE

In its March 21, 2024 audit report (the “Audit Report”), the City and County of San Francisco’s Office of the Controller identified several areas of concern at TMM. The areas of concern and MNC’s ability to address these concerns are detailed below.

A. Response to Concern that TMM has not demonstrated that it has the financial or organizational expertise to complete the planned interior improvements at what is to be its new location at 706 Mission Street (the project) without extended delays.

MNC has a proven record of success relating to construction and real property oversight. Over the last 5 years MNC has completed significant renovations to its owned and leased properties. Each instance has involved different aspects of raising funds, hiring architects and contractors as well as working with development partners. Examples include:

- The \$ 1.2 M renovation of the leased facility at 1245 Alabama- St. Peter’s to convert the convent to classrooms and office space.
- The sale of the facility and partnership with Mercy Housing to provide senior residences and street level community services at 24th & Harrison.
- The acquisition of the Mission Police Station at 1240 Valencia; and the raising of over \$ 10M of additional funds from philanthropic donors, the Federal, State and City governments to convert and renovate the building for childcare.
- The \$ 2.7M investment in partnership with Mission Housing to provide childcare classrooms at 1954 Mission Street.
- The \$ 1.2M acquisition and renovation investment at 1311 Quesada in the Bayview to provide rental assistance and homeless prevention services.

B. Response to Concern that TMM has not complied with several requirements in the lease and facilities agreement.

Programmatically MNC currently owns 5 buildings and leases 15 campuses in multiple districts in San Francisco. The ownership and leases of these locations is supported by the organization’s property management function. The staff includes a facilities and maintenance department as well as an administration and accounting staff that evaluates compliance with lease terms and conditions for changes in rent as well as insurance coverage.

C. Response to Concern that TMM has not provided annual financial reports to the Real Estate Division.

MNC's audit firm Harshwal and Co. completes the annual audit for each fiscal year ending June 30th. After review and approval by the Board of Directors and senior management, the audit will be sent to the federal, state and city grantors in compliance with the awarded grants.

MNC's finance and accounting prepares monthly agency wide financials to the Board of Directors and senior management. In addition, finance and program staff prepares monthly budget to actual, and forecasts for each contract and grant. These are reviewed by senior and program management.

Additional reports are prepared to ensure compliance with specific reporting to the Federal govt and State of California respective departments.

Over the years MNC has also provided management services support to various entities and events. These include overseeing and enhancing the financial management at Mission Language and Vocational School, the billing and collection of funds for the Mexican Consulate's El Grito celebration and, the Cinco de Mayo and Carnaval celebrations.

D. Response to Concern that TMM did not provide a compliant certificate of insurance.

See response to question 2. Certificates of insurance are provided for the renewal of grants as well as when requested to all requesting agencies. TMM current certificate of insurance is attached.

E. Response to Concern that the Museum should provide annual reporting packets and proof of insurance that comply with the lease and facilities agreement.

See response to questions 2 and 3. Certificates of insurance are provided for the renewal of grants as well to all requesting agencies. The annual audit is sent to the federal, state and city grantor in compliance with their awards.

F. Response to Concerns that the Museum has a history of poorly administering grants received from other sources, the Museum lacked necessary fiscal controls over grant funds, and the Museum's accounting records did not separately identify grant-related costs.

See Fiscal Management overview above.

11. ADDRESSING CCSF'S CONCERNS REGARDING TMM'S FUNDRAISING

The Audit Report recommended that TMM provide "specific, realistic, and achievable fundraising goals to demonstrate TMM can fund the project and open to the public without extended delays." As described in more detail below TMM's fundraising goal is to raise \$37 million over 24 months. To that end, MNC will implement the following:

1. A U.S. capital campaign with a goal of raising \$27 million as follows:
 - Phase I: Develop a Campaign Plan/Fulfill Initial Funding Needs (4-6 months) - \$3.5 million. This phase will be implemented 6 months before the work on the project is anticipated to begin.
 - Phase II: Execute the Campaign Plan/Manage the Campaign (18-20 months) - \$22.5 million
2. A Mexico capital campaign with a goal of raising \$5 million in addition to the \$5 million lead pledge already received over 24 months as follows:
 - Phase I: Develop a Campaign Plan/Fulfill Initial Funding Needs (4-6 months) - \$1 million
 - Phase II: Execute the Campaign Plan/Manage the Campaign (18-20 months) - \$4 million
3. A grant writing program with the goal of raising \$5 million over 24 months. TMM to begin receiving grants funds 12 months after the start of the grant-writing program.

Despite the fact that there are over 62 million Latinos in the United States and over 15 million in California alone, making it the States's largest ethnic group, there are only 20 museums in the U.S. focused on Latino culture and the arts and only 4 others in California. Given these demographics and TMM's unique vision and extensive collection, the above fundraising targets are realistic, and achievable fundraising goals.

A. Fundraising Overview

1. TMM's Fundraising History and Capital Campaign Goal

The Mexican Museum was founded by Peter Rodriguez in 1975 with the vision of collecting, preserving, exhibiting and interpreting the artistic expression of the Mexican, Mexican American and Chicano People. The institution has evolved and now holds over 16,000 objects of art collection presenting Mexico and the Americas. The Museum has a Smithsonian Affiliated designation, one of three in the city of San Francisco.

TMM is in development of a new state-of-the-art permanent home at 706 Mission Street, San Francisco. Located adjacent to the Contemporary Jewish Museum and near the Yerba Buena Center for the Arts and the San Francisco Museum of Modern Art, it will be at the hub of downtown San Francisco's vibrant arts and cultural district. The Museum has signed a 99-year lease in support of the expansion of the to-be largest Mexican, Mexican American, and Chicano art museum in the country.

On December 4, 2004, TMM and the now dissolved Redevelopment Agency agreed to work to explore alternatives for the museum facility, including the inclusion of the Museum as a cultural component in a larger development. TMM negotiated with Millennium Partners (the "Developer") to annex the dedicated land for the museum with the Aaronson Building making it possible for an economic redevelopment project that would increase the tax base for the City and County of San Francisco through a joint venture to build a 40+ story of high-end residences in

exchange for the museum to have its cultural component built on the first four floors of the base building.

The development and construction of the museum facility consisted of two phases. Construction Phase 1 entailed the construction of the core and shell of museum space. Construction Phase 2 entails the construction of the tenant improvements and furniture, fixtures and equipment (“FF&E”). The Developer requested a \$1 Million contribution from the TMM grant controlled by Office of Community Investment and Infrastructure (“OCII”), the Redevelopment Agency successor agency. An agreement was reached for TMM to transfer the \$1 Million directly to the Developer which was approved by OCII staff and the OCII Commission.

Construction Phase 1 is now complete. Construction of the museum core and shell was completed and turned over to TMM on June 11, 2023. The cost of building the core and shell totaled in excess of \$30 Million. TMM also raised and contributed a total of over \$3 Million to design, manufacture and install the public artwork on the facade of building. Thus, TMM’s negotiations and fundraising yielded a total value of over \$33 Million to complete Phase I of the Museum’s development and construction. In addition, TMM negotiated with the Developer to agree to contribute \$5 Million as an endowment to TMM.

The estimated cost of completed Construction Phase 2 is approximately \$38 Million. Endowment and OCII grant funds earmarked for TMM total in excess of \$11.5 million. In addition, TMM has secured a lead gift of \$5 Million. As part of Construction Phase 2, TMM will launch a capital campaign to fund tenant improvements and FF&E. TMM has set a goal of \$27 million for U.S. capital campaign. The capital campaign will be supplemented by a grant writing program implemented by MNC and a separate capital campaign in Mexico with the goal of collectively raising an additional \$10 million.

2. TMM’s U.S. Campaign Cabinet

The Campaign Cabinet is responsible for guiding the campaign to success. The Cabinet will consist of executive staff, board members, the campaign consultant, and a team of volunteer community leaders. MNC will work closely with TMM’s Campaign Cabinet and their fundraising consultant Sylvia Flores, which is comprised of the following members, whose CVs are available upon request:

- Andrew Kluger, Capital Campaign Co-Chair
- Xochitl Castañeda, Capital Campaign Co-Chair
- Mara Rosales
- Mattheu L. Mason
- Stephany Pizano
- Luis Orozco Jr.
- Luis Javier
- Tonantzin Rodriguez
- Julieta Serrato
- Nefertiti Kelly
- Marc Schenker
- Fabien Pisani
- Ilan Lieberman

The Campaign Cabinet will play a role on one of the following committees:

- Board Gifts Committee: Encourages gifts from board members
- Leadership Gifts Committee: Encourages gifts from outside the board
- Honorary Committee: Models of support
- Donor Relations and Communications Committee: Promotes the campaign through media and event channels

Each member has committed to supporting TMM's mission and are contributing in the fundraising efforts.

TMM is made up of diverse and influential members that are well-equipped to drive fundraising efforts.

3. TMM's Capital Campaign Work To Date

TMM has compiled a database of potential donors and of individuals and corporations who have provided previously funding or in-kind support to the Museum and its work. TMM has also identified foundations, many of whom are previous donors, who will be approached and offered the opportunity to donate to the Capital Campaign and/or to continue their programmatic support. The lists of donors and foundations are available upon request.

TMM has identified naming opportunities for donors. TMM has already received the following pledges:

- Mauricio Sulaimán for Second Floor Sculpture Gallery - \$5 million
- Robin Lee Allen for Public Space - \$500,000
- Dr. Matteo Garbelotto & Victor Marquez for La Tienda Museum Store - \$100,000

TMM has formed an Arts and Letters Council, a Builder's Society and an International Advisory Board consisting of 515 members who joined to support the construction of TMM at 706 Mission Street. Members are both potential volunteers and donors.

TMM has also working in collaboration with the California Hispanic Chamber of Commerce to present TMM construction project to 125 Hispanic Chambers of Commerce in the state of California opening the doors to possible donations by over 8,000 Hispanic and other ethnically diverse owned businesses.

TMM has also prepared fundraising materials and artwork to provide potential donors during the Capital Campaign outreach. A fundraising event is currently scheduled for June 24, 2024.

4. MNC'S Scope of Work

In accordance to our discussions with key members of TMM's Board of Trustee, MNC will implement a 24-month plan comprised of the following services:

- U.S. Campaign Phase I: Develop a Campaign Plan/Fulfill Funding Needs (6 months)
- U.S. Campaign Phase II: Execute the Campaign Plan/Manage the Campaign (18 months)
- U.S. Grant Writing Program: Develop and implement grant writing program (24 months)
- Mexico Campaign: Coordinate implementation of the Campaign with Mexican

fundraising consultant Marta Turok (24 months)

MNC's work will include an assessment of the progress of the campaign every 6 months. The assessments will include reporting results to TMM's campaign team leadership and strategic recommendations going forward. MNC's goal is leveraging a coordinated annual fundraising strategy to enable TMM to retain a fulltime development team and fundraising staff by the end of MNC's 24-month engagement of TMM's fundraising work.

B. "Celebrate Art": U.S. Capital Campaign

1. Phase I: Develop a Campaign Plan and Fulfill Short Term Funding Needs: June - December 2024:

The fundraising goal for Phase I is to raise \$3,500,000 by December 2024 to fund the first phase of the build out of the museum space. To that end, during the orientation and onboarding process discussed below, MNC will concurrently recommend and develop cultivation and solicitation strategies for donors who can assist in this effort.

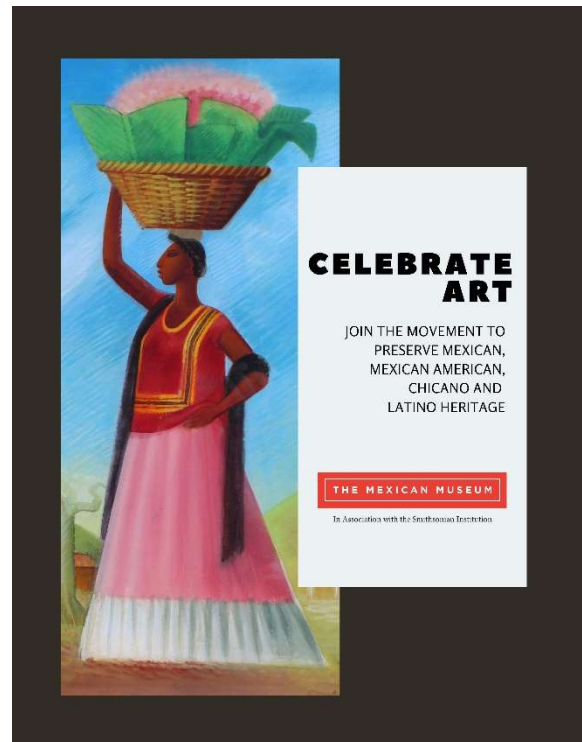
Already committed to a capital campaign and with lead gifts in place, TMM does not require a feasibility study or campaign readiness report. However, no formal campaign case statement, collateral, table of gifts, or other elements of campaign readiness are in place that reflect the goals associated with the construction of the Museum's tenant improvements. MNC will work to quickly build upon the success already achieved while simultaneously planning and executing the campaign.

Orientation and Onboarding

In order to create a strong campaign plan, MNC will quickly and efficiently develop a thorough and comprehensive understanding of TMM's campaign capabilities. We will meet personally for debriefing with key campaign leadership including TMM Campaign Co-Chairs Xochitl Castañeda and Andrew Kluger and other members of the existing campaign.

We will study written materials, relevant statistical data and conduct internal research including:

- Past and current campaign fundraising strategies and outcomes
- Giving potential of current campaign donor prospects and families
- Giving potential of the past and current donor and prospect base, foundations, and corporate sources
- Opportunities for new donor prospect development



- The volunteer fundraising team for strengths and learning opportunities
- Current campaign communications and collateral materials
- Policies, procedures, and capabilities in data and information management, constituent recordkeeping, prospect research and qualification, prospect and donor relationship management, donor recognition and acknowledgement, and donor stewardship and accountability
- Staff capacity and resources required
- Budget and resources
- Campaign volunteer and staff leadership, influence, and commitment

Plan Creation

Simultaneous to the onboarding process referenced above, MNC will begin to organize and populate the campaign plan structure. Elements of the campaign plan will include:

- Case for Support*
- Campaign Elements (Summary Financial Budget)*
- Table of Gifts for a \$27 Million Campaign*
- Gift Naming Opportunities*
- Campaign Organization Structure*
- Campaign Leadership Position Descriptions
- Leadership Roster*
- Honorary Campaign Committee Roster *
- Tasks and Timeline (with Levels of Involvement for staff, volunteers and consultant)
- Optimizing Donor Information and Management Systems/Software
- Prospect Identification and Qualification Procedures
- Donor Prospect Profile
- Donor Prospect Contact Report
- Prospect Moves Management Processes and Procedures
- Gift Acceptance Policies and Procedures

*denotes elements to be shared with donor prospects

Throughout the process, we will review well-developed drafts for each of these elements and process them through appropriate campaign leadership for approval. The final elements will be organized, catalogued and managed in a manner that makes them easily accessible to campaign leaders, preferably via cloud-based document management and sharing software.

Leadership Briefings

Rather than interviews related to a feasibility study, MNC will conduct leadership briefings as part of the campaign plan. The greatest benefit of a leadership briefing is the significant opportunity it affords to cultivate and positively influence key constituents whose buy-in and participation is important to campaign success. The conversation that takes place during the briefing is the initial signal to a prospective donor or their influencers that TMM

has bold plans, these plans are worthy of their attention and engagement, and their opinion matters and is valued. The leadership briefings will also inform strategies created for the initial campaign of \$3,000,000 and help secure this critical funding.

MNC will conduct up to 10 personal leadership briefing with key external constituents who have affinity for TMM, including major donors, donor prospects, current and potential volunteer leaders, and community leaders and stakeholders.

The goal is to conduct each of the briefings in-person. A limited number of briefings may also be conducted virtually or by telephone, if necessary to accommodate schedules.

The leadership briefing summary will capture information such as:

- What are their views on TMM and its unique and critical role in the community?
- What do they believe are the strengths, weaknesses, opportunities, and threats of the organization?
- What are their views on the case for support, the needs and opportunities for the campaign, and the viability and potential of the campaign beyond fundraising?
- How does the current economic environment impact possible fundraising strategies and the potential for success?
- Are there other local or regional campaigns which may impact the potential for success?
- How best does TMM achieve its fundraising goal?
- What role might they play in the campaign and in the museum's future?
- What other individuals or organizations would they suggest as having a potential interest in TMM and/or the campaign, and how best do we enlist their advocacy, volunteerism, and philanthropic support?
- What are the factors that will aid the campaign and obstacles that the campaign must overcome?

2. Phase II – Implement the Campaign and Manage the Campaign: December 2024 – May 2026:

The fundraising goal for Phase II is to raise \$23,500,000 by June 2026 to fund the second phase of the build out of the museum space.

During Phase II, we will implement the campaign plan in partnership with TMM's Board of Directors and Campaign Committee and will manage campaign operations. Throughout the process, we will maintain consistent and intentional focus on achieving the campaign goals, objectives and timeline, and adjust the pace in consultation with the team, as necessary.

3. MNC's Role in the U.S. Capital Campaign

- Provide a dedicated campaign manager who delivers consistent oversight and execution of the plan, on time and on budget
- Manage campaign prospect identification, qualification and evaluation processes
- Promote and provide learning opportunities to the Campaign Team on donor cultivation, solicitation and stewardship

- Manage prospect gift road-mapping planning session and activities
- Manage the coordination of all prospect calls and follow-ups led by the Campaign Team
- Manage the coordination of prospect and donor activity capture and reporting systems, including moves management and reporting
- Provide support and guidance to the Campaign Team and staff relevant to their campaign assignments
- Coordinate with leadership on the management of a public information and public relations plan
- Manage the production of campaign materials including the development of key messaging and copywriting of collateral
- Assist with recruiting, organizing and preparing campaign leaders for their respective roles, and support them for optimal performance throughout the campaign
- Assist with recruiting of an honorary committee if determined to be appropriate
- Perform donor prospect research and provide reports on prospective leadership donors and families with capacity to support the campaign
- Prepare campaign gift solicitors to help ensure an optimal outcome and the highest gift possible
- Where appropriate, prepare for solicitations for prospects outside of the organization, such as community leaders and philanthropists.
- Lead the design of a donor recognition program
- Provide regular and on-going status reports, strategic counsel and support to the Board Chair, Campaign Team, staff and volunteers, as appropriate

C. “Nuestra Herencia”: Mexico Capital Campaign

Working with TMM’s fundraising consultant in Mexico, Marta Turok, MNC will manage the implementation of a capital campaign plan in Mexico. Ms. Turok is currently the Curator of the Ruth D. Lechuga Folk Art Collection of the Museo Franz Mayer Cultural (<https://franzmayer.org.mx/colecciones/ruth-d-lechuga/>) and has a wealth of experience fundraising in Mexico. Her CV is available upon request. Ms. Turok will report to Ms. Ybarra.

1. Background

Through the work and support of several members of The Mexican Museum’s Board of Trustees and museum supporters over the last five years, TMM was able to form a Mexican non-profit (*asociación civil*) Friends of the Mexican Museum AC, which was certified by the Mexican government on January 31, 2023, as an authorized recipient of tax deductible donations (*donataria autorizada*) that will allow Mexican business and individuals to make tax-deductible donations up to 7% of taxes owed in a calendar year in support of TMM. Friends of the Mexican

Museum AC is the first entity the Mexican government has ever granted the ability to receive donations from Mexican nationals and entities to benefit a foreign cultural institution and recognized by Mexican tax law as deductible.

As an “authorized recipient,” Friends of the Mexican Museum is now able to implement a capital fundraising campaign in Mexico to supplement the Museum’s fundraising efforts in the U.S. In granting Friends of the Mexican Museum the right to receive tax deductible donations earmarked for The Mexican Museum, the Mexican government recognized the importance of having an institution such as The Mexican Museum in the U.S. to accurately depict the contributions of Mexico and Latin America to U.S.’s culture and arts, helping dispel the false narratives often used to negatively stereotype Latinos in U.S. The Museum will use this as its overarching theme of the capital campaign in Mexico.

2. Committee for Fundraising in Mexico

- Andrew Kluger – Committee Chair, Chair of the TMM’s Board of Trustees
- Carlos Camacho – Member of TMM’s Board of Trustees
- Gemi Gonzales – Member of TMM’s Board of Trustees
- Sergio Alcocer - Member of TMM’s Board of Trustees
- Salvador Briman - Member of TMM’s Board of Trustees
- Tere Casas - Member of TMM’s Board of Trustees
- Manuel Rosales
- James Quadra
- Victor Marquez

The CV of the Committee members are available upon request.

3. Campaign Goal

The fundraising goal in Mexico was initially to raise \$10 million. As discussed below, the Museum has already obtained a lead pledge of \$5 million. The goal now is to raise the remaining \$5 million over the next 24 months, including \$1 million before December 2024, which the Museum’s fundraising consultant in Mexico Ms. Marta Turok, is a realistic and achievable goal.

4. Quiet Phase

While the Mexican Museum was working with Friends of the Mexican Museum to obtain authorized recipient status in Mexico, the Museum simultaneously began the “quiet phase” of its campaign, soliciting donations from potential key donors in Mexico contingent on obtaining the authorized recipient status. This resulted in a lead pledge of \$5 million from Mauricio Sulaimán, president of the World Boxing Council, tied to naming the Museum’s second floor sculpture gallery in honor of Mr. Sulaimán’s family. The Museum anticipates this donation will be available during the Museum’s second phase of construction upon completion of the grand staircase that will connect the Museum’s second floor to the third floor, making the two-story sculpture gallery visible from the third floor via a balcony projecting into the sculpture gallery.

5. Public Phase

Kick Off: The public phase of the Mexico campaign kicked off with a series of meetings in Mexico City between Andrew Kluger, Chair of the Fundraising Committee, and potential donors. The meetings took place between April 19 and May 4, 2024. Mr. Kluger met with the following individuals and made the following requests, which the Museum expects to secure by December 2024.

- Juan Beckman, CEO of Don Julio Tequila: up to \$1 million.
- The Coppel Family, owners of department stores throughout Mexico: \$250,000
- Roberto Jenkins, member a prominent real estate family based in Puebla: \$300,000
- Bismarck Lepe, CEO of WIZELINE: \$100,000

Public Phase Activities:

- Mr. Kluger and other members of the Committee for Fundraising in Mexico, who have extensive connections in Mexico, will continue to schedule personal meetings with high-net-worth individuals and corporate representatives in Mexico to solicit donations. The Museum expects to schedule meeting quarterly until the \$5 million goal is achieved.
- The Museum is in the process of building a Friends of the Mexican Museum Spanish-language website that will be able to accept donations online.
- The Museum is developing a social media marketing strategy for Friends of the Mexican Museum in Mexico using the most popular platforms in Mexico: Facebook, Instagram and WhatsApp.
- The Museum's fundraising consultants have identified Mexico's top 1000 companies to solicit donations via email, mailings and telephone calls.
- The Museum will host an annual gala fundraising event in Mexico City for the next 3 years and invite high-net-worth individuals, corporate representatives and government officials. The Museum anticipates the first gala event will take place in late fall 2024.
- The Museum enjoys the support of Mexican diplomats in the U.S., including Mexican Ambassador Esteban Moctezuma, who has visited 706 Mission Street to view the future home of the Museum. The Museum will work with offices of Ambassador Moctezuma and Consul Generals to reach out to Mexican companies doing business in the U.S. to solicit donations.
- The Museum will be submitting applications to the following Mexican foundations identified by the Museum's Committee for Fundraising in Mexico:
 - Jumex Foundation
 - Carlos Slim Foundation
 - Cemex Foundation

The Committee is researching to identify other foundations.

Follow-up:

The Museum will implement a quarterly review and reporting process to track the success of this fundraising campaign in Mexico and adjust as needed.

The Museum is developing processes for the collection of pledged donations in Mexico.

D. U.S. Grant Writing Program

TMM is registered with the grants.gov entity and has already identified numerous grant prospects. MNC will build on this work and use its grant expertise to implement a grant writing programs directed at grant opportunities available at the state and national level. MNC will conduct further research to identify additional grant opportunities and will write and coordinate full grant proposals.

Based on its experience, MNC believes that a goal of grant award totaling \$5 million is realistic, and achievable fundraising over the next 24 months.

E. Reporting Relationship

Ms. Ybarra will report to Andrew Kluger, TMM's Board Chair, Richard Ybarra, MNC's CEO, and Sebastian Alioto, MNC's Chief Financial Officer. Ms. Ybarra and other members of MNC fundraising team will work closely with other staff and volunteers, as appropriate.

Exhibit B



THE MEXICAN MUSEUM
706 Mission Street, San Francisco, California
4/30/2024 R-9

THE MEXICAN MUSEUM
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PROJECT PHASING PHASE I

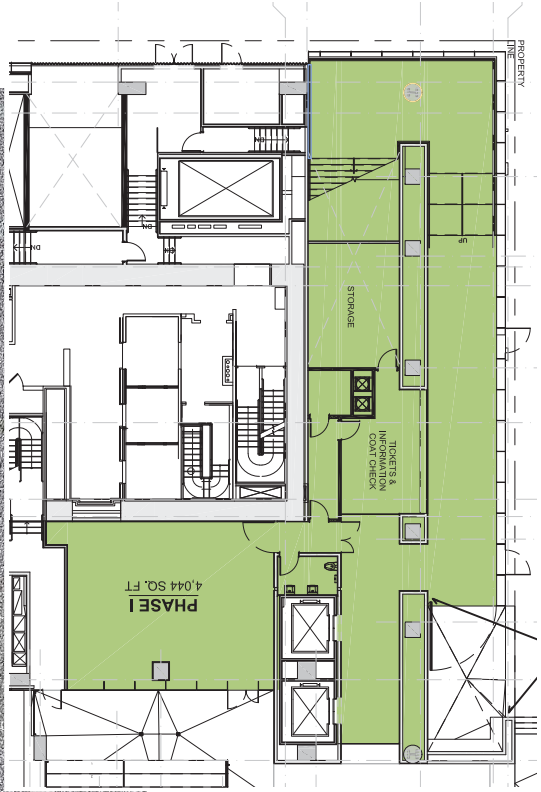
Phase I, Permit One: will consist of the build out of the ground floor lobby and the proposed café area to be utilized as a TMM Pop-up Gallery to create a presence in Jessie Square Plaza during construction. All existing walls that were installed to obtain building occupancy at the ground floor will remain. The estimated time for construction documents is projected to be 3 months. The construction phase is projected to be 3 months. Please note that changes were made to the Mexican Museum’s main entrance pushing out the envelope walls without TMM approval. Estimated Costs for Permit One \$1,850,000.00

Phase I will utilize the MEP and Fire Safety Consultants for original permit for the overall building as consultants to TMM MEP & Life Safety Design Build contractors. In this phase, we will coordinate scope for Phase II build out as defined. The Architect of Record, for Phase II, and Lighting Consultant will be included as consultants to coordinate with Phase Phase II build out.

Phase I TMM will install banners on the building announcing the location of the Mexican Museum Project and Opening Date. A temporary wall wrap banner is proposed at the Main Entrance Lobby facing the Jessie Plaza with Decal Posters on the windows from past exhibits from 1975 to 2100. Additional Temporary Banners will be located on the Mission Street Façade and the Third Street Façade.



PHOTO EXISTING CONDITIONS
TMM MAIN ENTRANCE PROPOSED WALL WRAP BANNER



PHASE I: PERMIT ONE GROUND FLOOR

THE MEXICAN MUSEUM

706 Mission Street, San Francisco, California

4/30/2024 R-9

THE MEXICAN MUSEUM

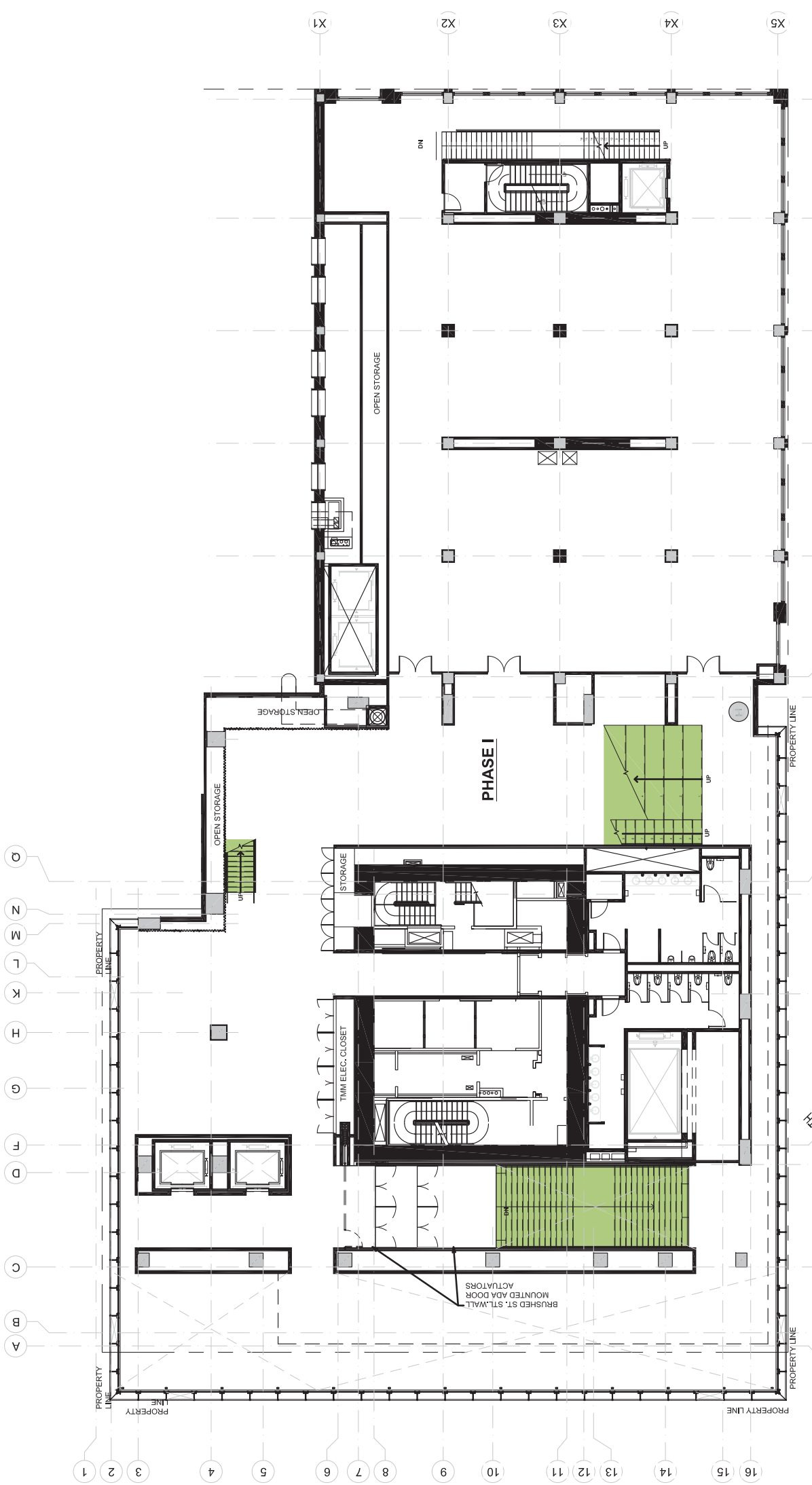
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PHOTO EXISTING CONDITIONS

PROJECT PHASING PHASE I

Phase I, Permit Two: The build out of the second floor gallery space with the installation of the stairs from the ground floor to the second floor gallery space. Estimated Cost \$9,250,000.00



FLOOR PLAN LOCATION OF STAIRS TO BE INSTALLED



PROJECT MANAGEMENT

PROJECT TEAM PHASE I

The project delivery system is a Progressive Design Build approach lead by the Project Manager, Cordoba Corporation with Guzman Construction Group as the contractor. The Mexican Museum goals is for the project team to exceed the local business and local small business utilization goals of OCII. This project is will be a Union project which will employ over 100 union workers in the project force.

PHASE I: GROUND FLOOR /SECOND FLOOR

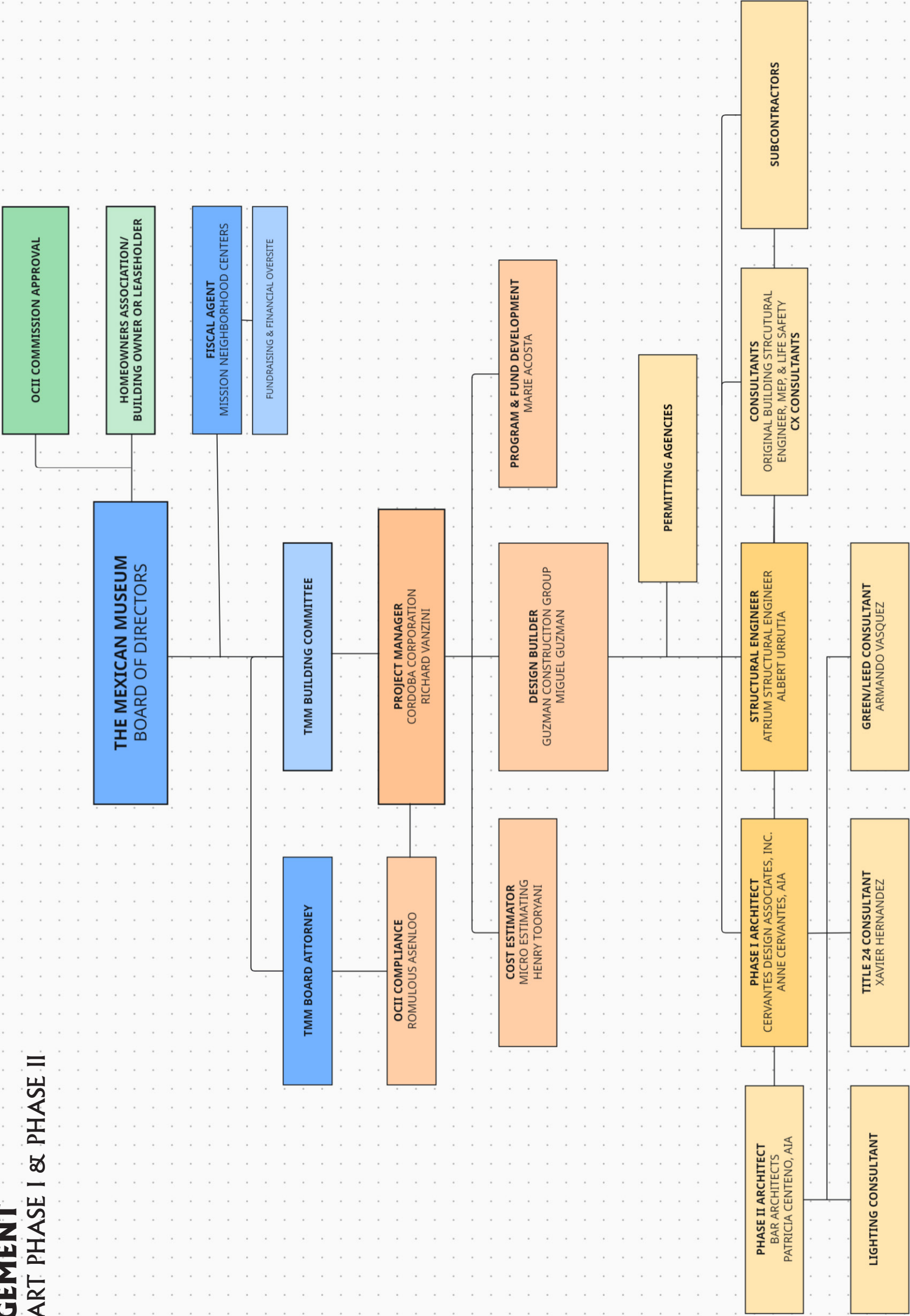
Guzman Construction Group, team of consultants:

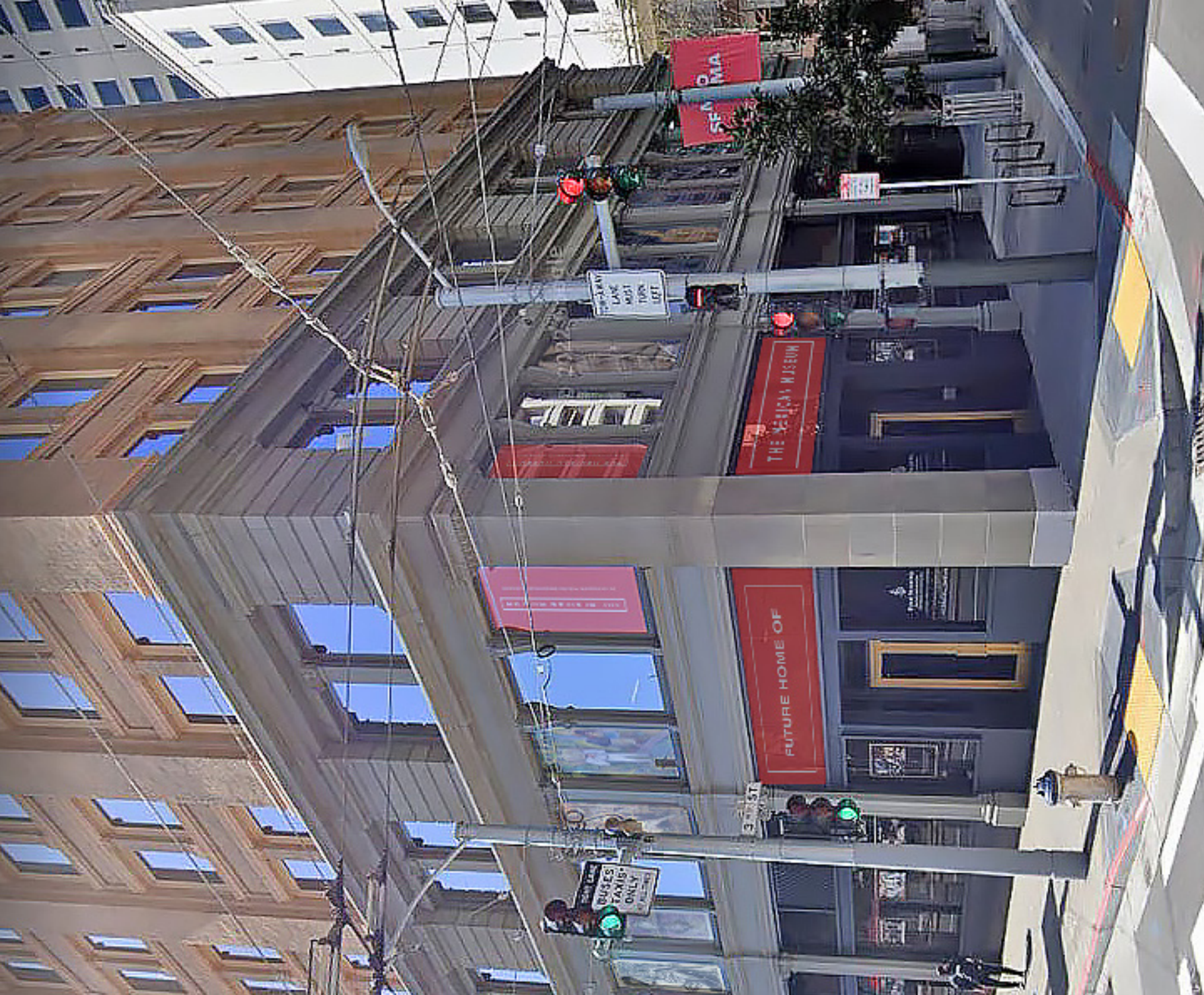
Permit One: The architect of record for Phase I Pop-Up Gallery and confirmation of the exiting plan required for the permit two is Cervantes Design Associates.as the Architect of Record. CDA will coordinate with BAR architects,AOR for the minimal design approach for permit 2. The proposed cafe toilet will be built in this to be used as part of the pop up gallery until the main space is finished. MEP consultant as part of the overall building will be utilized during this phase.

Permit Two: The architect of record for the build out of the second floor gallery with BAR leading the architectural and team of consultants, that includes an associate architect. Scope work to include mechanical, electrical, plumbing, security systems which includes a museum and lighting consultants.

The project team will develop construction documents to capture the vision of Ten Arquitectos approved Schematic Design.

PROJECT MANAGEMENT
ORGANIZATION CHART PHASE I & PHASE II





PROJECT SCHEDULE WITH CASH FLOW PROJECTIONS

SUMMARY OF PROJECTED COSTS

PHASE I

PERMIT ONE: GROUND FLOOR
POP UP GALLERY
MECHANICAL, ELECTRICAL
PLUMBING, SECURITY SYSTEM

\$ 1,850,000.00

PERMIT TWO: SECOND FLOOR
BUILD OUT
MECHANICAL, ELECTRICAL
PLUMBING, SECURITY SYSTEM

\$ 9,250,000.00

\$ 11,100,000.00

PHASE II

PERMIT THREE: THIRD & FOURTH FLOOR
BUILD OUT
MECHANICAL, ELECTRICAL,
PLUMBING, SECURITY SYSTEMS

\$26, 900,000.00

TOTAL FOR ALL PHASES

\$38,000,000.00

THE MEXICAN MUSEUM

706 Mission Street, San Francisco, California
4/30/2024 R-9

THE MEXICAN MUSEUM

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PROJECT SCHEDULE WITH CASH FLOW PROJECTIONS

DETAIL SUMMARY

PHASE I: PERMIT ONE: GROUND FLOOR BUILD OUT ACTIVATION OF GROUND FLOOR POP-UP GALLERY

PERMIT TWO: SECOND FLOOR BUILD OUT

PHASE I: PERMIT ONE GROUND FLOOR		DURATION	COSTS	FUNDING SOURCE
1-6 months			\$1,849,500.00	
POP- UP GALLERY				
PERMIT SET, OVERALL BUILDING EXITING PLAN, MECHANICAL, ELECTRICAL, PLUMBING & SECURITY SYSTEM				
Presconstruction Costs	25% total costs:	Month 1	\$	\$ 150,000.00 (Donations-submit for OCII reimbursement)
\$ 337,000.00				
Project Management				
Construction Management				
Surveys & Reports (as needed)				
Design & Engineering		Month 2	\$	\$ 93,500.00 (Donations-submit for OCII reimbursement)
Furniture, Fixtures & Equipment		Month 3	\$	\$ 93,500.00 (Donations-submit for OCII reimbursement)
Reproduction				
Permitting				
Inspection Fees				
Construction Costs	63% total costs:	Month 4	\$	\$ 750,000.00 (Donations-submit for OCII reimbursement)
\$ 1,350,000.00				
Contractor's Overhead 12% total costs				
\$162,000.00		Month 5	\$	\$381,000.00 (Donations-submit for OCII reimbursement)
TOTAL: \$ 1,849,000.00		Month 6	\$	\$381,000.00 (Donations-submit for OCII reimbursement)
TOTAL PHASE I: PERMIT 1		6 months	\$	1,849,000.00
		FUNDING SOURCES USED:		

Grant Funds Reimbursed available for Phase I-Permit 2: \$1,849,000.00

PHASE I: PERMIT 2 SECOND FLOOR		7-12 months	\$9,247,500.00
SECOND FLOOR GALLERY			
PERMIT SET FOR SECOND FLOOR BUILD OUT, MECHANICAL, ELECTRICAL, PLUMBING & SECURITY SYSTEMS			
Presconstruction Costs	25% total costs:	Month 7	\$ 843,750.00
\$ 1,687,500.00			\$ 843,750.00 (Donations-submit for OCII reimbursement)
Project Management			
Construction Management			
Surveys & Reports (as needed)			
Design & Engineering		Month 8	\$ 843,750.00
			\$ 843,750.00 (Donations-submit for OCII reimbursement)
Furniture, Fixtures & Equipment			
Reproduction Permitting			
Inspection Fees			
Construction Costs	63% total costs:	Month 9	\$ 1,560,000.00
\$ 6,750,000.00			\$ 1,560,000.00 (Donations-submit for OCII reimbursement)
Contractor's Overhead 12% total costs			
\$810,000.00			
TOTAL: \$9,247,500.00			
Month 10			
		\$ 1,800,000.00	\$1,800,000.00 (Reimbursed OCII Grant Funds-submit \$1,403,500 of this payment to OCII reimbursement to exhaust estimated remaining OCII Grant Funds of initial \$6,500,000.00)
\$6,500,000.00 OCII Grant Funds Received			
Month 11			
		\$ 2,200,000.00	\$2,200,000.00 (Reimbursed OCII Grant Funds)
Month 12			
		\$ 2,000,000.00	\$1,060,000.00 (Donations) \$940,000.00 (Reimbursed OCII Grant Funds)
TOTAL PHASE I: PERMIT 2			FUNDING SOURCES USED:
			Donations: \$ 3,147,000.00
OCII Grant Funds \$6,500,000.00			
TOTAL COSTS			\$ 11,097,000.00

PHASE I: PERMITS 1 & 2

DONATIONS	\$ 4,597,000.00
OCII GRANT FUNDS	\$ 6,500,000.00
TOTAL COSTS	\$ 11,097,000.00



THE MEXICAN MUSEUM
706 Mission Street, San Francisco, California
4/30/2024 R-9

THE MEXICAN MUSEUM

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Aerial View



Cross Section



Ground Floor: Main Entrance & Retail Space



Second Floor: Gallery with a two-story Sculpture Gallery and grand staircase



Third Floor: Gallery



Fourth Floor: Administrative Office and Education Program Space

THE MEXICAN MUSEUM

BUILDING DESCRIPTION

The Mexican Museum Tenant Improvement to 706 Mission will consist of two phases with a progressive design build project delivery system. The progressive design build project delivery system has been utilized by the San Francisco Airport as a measure to keep control of cost at each of the design phases. Design Architect for the Mexican Museum Project is “Ten Arquitectos” a Mexican Architect with Enrique Norton as the lead designer.

The approved “Ten Arquitectos” Concept Design Plans & Millennium Permit Drawings description:

Ground Floor: Main entrance to the TMM facing Jessie Square Plaza, with a lobby and reception area, a café facing the alley, and a Mexican Museum store and restaurant tenant space, which is part of the TMM lease which is located at Mission and Third street.

Second Floor: Access to this floor is via elevators or main entrance staircase to the main gallery space with a grand staircase to be used for access to the third-floor gallery. The second-floor gallery facing Jessie Square Plaza has been programmed for a two-story sculpture gallery. Ancillary space includes a freight elevator from the basement, public restrooms, internal stair to the third floor and an exit stair exiting onto Third Street.

Third Floor: Additional gallery space with a balcony projecting into the sculpture gallery. The termination of the grand staircase, a freight elevator from the basement, public restrooms, internal stair to the fourth floor and an exit stair exiting onto Third Street

Fourth Floor: Administrative offices and education program space with fixed office partitions and a flexible educational space, includes a freight elevator from the basement, public restrooms, internal stair to the third floor and an exit stair exiting onto Third Street

Basement B1: Museum Storage Area is located adjacent to the loading dock no. 1 with Museum Security. The Storage Area has secured storage and receiving area, and area for Museum trash and required bike storage area.

Basement B2: Museum Storage Area adjacent to the freight elevator.

THE MEXICAN MUSEUM

706 Mission Street, San Francisco, California

4/30/2024 R-9

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706 Mission Street, San Francisco, California
4/30/2024 R-9

SECOND FLOOR SCULPTURE GALLERY

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706 Mission Street, San Francisco, California
4/30/2024 R-9

SECOND FLOOR SCULPTURE GALLERY
VIEW TOWARD MISSION STREET

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706 Mission Street, San Francisco, California
4/30/2024 R-9

SECOND FLOOR GRAND STAIRCASE VIEW TO THIRD FLOOR

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AGES OF AZTLAN.

CHICANO PAINTINGS SINCE THE RISE OF "EL MOVIMIENTO"

reúne una multiplicidad de ejemplos creados por distintos grupos culturales de cuatro continentes, con el fin de mostrar cómo las culturas que hoy a separar lo humano de lo animal y de lo vegetal son la expresión de un largo proceso evolutivo cultural de la modernidad.

En su aspecto formal, registran el desvanecimiento de la identidad como se conocía en el pasado, permitiendo explorar múltiples formas de identidad en culturas geográficas e históricamente distintas.

Estas obras responden a configuraciones particulares de la forma en la que los creadores se relacionan con el mundo, a través de su imaginario y biológico.

Esta sección reúne una multiplicidad de ejemplos creados por distintos grupos culturales de cuatro continentes, con el fin de mostrar cómo las culturas que hoy a separar lo humano de lo animal y de lo vegetal son la expresión de un largo proceso evolutivo cultural de la modernidad.

ES DE AZTLÁN.

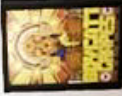
"CHICANA DESDE EL MOVIMIENTO"

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THE MEXICAN MUSEUM
706 Mission Street, San Francisco, California
4/30/2024 R-9

THIRD FLOOR GALLERY
PERMANENT COLLECTION

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Exhibit C

TMM Phase 1 Build-Out: Use and Sources of Funds

Six months in advance of the anticipated start of construction project, TMM will begin its Capital Campaigns in the U.S. and Mexico to fund Phase 1 of the 706 Mission Street tenant improvements. The minimum estimated donations during this period total \$4.5 million (the required matching amount from TMM to access grant funds) as follows:

Estimated Minimum Fundraising fund from U.S. Capital Campaign: \$3.5 million (Based on donations from high-net-worth individuals and business \$2 million; donations generated by mail, telephone and social media outreach \$1 million.)

Estimated Minimum Fundraising funds from Mexico Capital Campaign: \$1 million (Based on donations from high-net worth individuals and businesses driven by Mexico tax deductible donations legislation obtained by TMM.)

TMM has already obtained a pledge of \$5 million for Phase 2 of the build out of the Museum space. During the following 18 months, TMM will seek to raise an additional \$27.5 million from the U.S. Capital Campaign, the Mexico Capital Campaign and its grant-writing program as stated in MNC's fundraising plan for TMM. The average estimated monthly donations goal \$1,500,00. However, the Capital Campaigns are expected to result in greater donations during the first 12 months than in the remaining period while the grant writing program is expected to generate funds during the second half of the period.

In addition, TMM has obtained \$1.5 million receivables funding from Marble Bridge Funding, Inc. to advance funds pending payment of OCII grant reimbursements, fundraising donations and grant writing funds. This will allow TMM to avoid work interruptions.

Attached is a table detailed the specific sources of funds for the Phase 1 Build-Out of the Museum space at 706 Mission Street, which exhaust the remaining OCII Grant funds of \$6,500,000.00.

SOURCES AND USE OF FUNDS FOR PHASE 1 BUILD-OUT				
	DURATION	COSTS		FUNDING SOURCE
PHASE I: PERMIT ONE GROUND FLOOR	1-6 months	\$1,849,500.00		
POP- UP GALLERY				
PERMIT SET, OVERALL BUILDING EXITING PLAN, MECHANICAL, ELECTRICAL, PLUMBING & SECURITY SYSTEM				
Presconstruction Costs 25% total costs: \$ 337,000.00	Month 1	\$	150,000.00	\$ 150,000.00 (Donations-submit for OCII reimbursement)
Project Management				
Construction Management				
Surveys & Reports (as needed)	Month 2	\$	93,500.00	\$ 93,500.00 (Donations-submit for OCII reimbursement)
Design & Engineering				
Furniture, Fixtures & Equipment				
Reproduction	Month 3	\$	93,500.00	\$ 93,500.00 (Donations-submit for OCII reimbursement)
Permitting				
Inspection Fees				
Construction Costs 63% total costs: \$ 1,350,000.00	Month 4	\$	750,000.00	\$ 750,000.00 (Donations-submit for OCII reimbursement)
Contractor's Overhead 12% total costs \$162,000.00				
	Month 5	\$	381,000.00	\$381,000.00 (Donations-submit for OCII reimbursement)
TOTAL: \$ 1,849,000.00				
	Month 6	\$	381,000.00	\$381,000.00 (Donations-submit for OCII reimbursement)
TOTAL PHASE I: PERMIT 1	6 months	\$	1,849,000.00	FUNDING SOURCES USED:
				Donations: \$1,849,000.00
				Grant Funds Reimbursed available for Phase 1- Permit 2: \$1,849,000.00
PHASE I: PERMIT 2 SECOND FLOOR	7-12 months	\$9,247,500.00		
SECOND FLOOR GALLERY				
PERMIT SET FOR SECOND FLOOR BUILD OUT, MECHANICAL, ELECTRICAL, PLUMBING & SECURITY SYSTEMS				
Presconstruction Costs 25% total costs: \$ 1,687,500.00	Month 7	\$	843,750.00	\$ 843,750.00 (Donations-submit for OCII reimbursement)
Project Management				
Construction Management				\$2,692,750.00 OCII Grant Funds Received
Surveys & Reports (as needed)				
Design & Engineering	Month 8	\$	843,750.00	\$ 843,750.00 (Donations-submit for OCII reimbursement)
Furniture, Fixtures & Equipment				
Reproduction				\$3,536,500.00 OCII Grant Funds Received
Permitting				
Inspection Fees				
Construction Costs 63% total costs: \$ 6,750,000.00	Month 9	\$	1,560,000.00	\$ 1,560,000.00 (Donations-submit for OCII reimbursement)
Contractor's Overhead 12% total costs \$810,000.00				\$5,096,500 OCII Grant Funds Received
	Month 10	\$	1,800,000.00	\$1,800,000.00 (Reimbursed OCII Grant Funds-submit \$1,403,500 of this payment to OCII reimbursement to exhaust estimated remaining OCII Grant Funds of initial \$6,500,000.00)
TOTAL: \$9,247,500.00				
				\$6,500,000.00 OCII Grant Funds Received
	Month 11	\$	2,200,000.00	\$2,200,000.00 (Reimbursed OCII Grant Funds)
	Month 12	\$	2,000,000.00	\$1,060,000.00 (Donations) \$940,000.00 (Reimbursed OCII Grant Funds)
TOTAL PHASE I: PERMIT 2	8 months	\$	9,247,500.00	FUNDING SOURCES USED:
				Donations: \$ 3,147,000.00
				OCII Grant Funds \$6,500,000.00
PHASE 1: PERMITS 1 & 2				
DONATIONS		\$	4,597,000.00	
OCII GRANT FUNDS		\$	6,500,000.00	
TOTAL COSTS		\$	11,097,000.00	