



City Council Staff Report

From: City Manager

Report Type: CONSENT CALENDAR

Lead Department: Administrative Services

Meeting Date: April 17, 2023

Report #:2303-1108

TITLE

Approval of Tenant Work Letter for Lease of 300 Homer Avenue Roth Building between the City of Palo Alto and the Palo Alto Museum; CEQA Status--Not a Project

RECOMMENDATION

Staff recommends that the City Council approve and authorize the City Manager or their designee to execute the Tenant Work Letter, Exhibit D to the lease agreement by and between the City of Palo Alto and Palo Alto History Museum to rehabilitate the Roth Building to “Warm Shell” condition.

EXECUTIVE SUMMARY

The Tenant Work Letter is the third and final necessary document for construction to begin the Roth Building rehabilitation. Staff and the Museum have finalized the Tenant Work Letter to define the parties’ respective funding contributions and roles and responsibilities during construction. Both parties acknowledge that construction costs will continue to change and therefore acknowledge that the total project cost will increase, however, the federal earmark of \$3 million is expected to support the rehabilitation and restoration of this facility and assist in ensuring the project is funded. The Museum most recently estimated construction to commence in May 2023 and expects to open its doors to the public at the end of 2024 or early 2025.

BACKGROUND

At the December 12, 2022 meeting (Item 6 – CMR 15017)¹, the Council approved the lease and license agreement with the Palo Alto Museum for the Roth Building at 300 Homer Avenue. Those two documents have been executed and the Palo Alto Museum has assumed responsibility for the property. The parties mutually agreed to the extension of the lease term requiring the completion of the Tenant Work Letter within 60 days of completion of the lease agreement. All documents remain in full effect.

¹ <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20221212/20221212pccsm-amended-linked.pdf>

ANALYSIS

The Tenant Work Letter (Attachment A) is the third and final document and is now before Council for consideration. The Tenant Work Letter for the Roth Building Warm Shell rehabilitation, referenced as Exhibit D to the Lease Agreement, sets forth the terms and conditions for planned Phase 1 “warm shell” rehabilitation of the building and capital improvements to the site, including project funding. Below is a summary of selected terms included and recommended for approval in this item. The agreement, containing the full terms and conditions, can be found in the attachment. This document was delayed as the Museum and staff worked with the Federal government in the requirements for the \$3 million federal earmark secured by Congresswoman Eshoo. This grant is a critical funding source to ensure this project can proceed and parties have worked to meet the requirements and adjusted terms and conditions to provide sufficient time for these funds to be made available.

Summary of Selected Terms Included in Tenant Work Letter:

- Communications:
 - Museum will keep the City updated on progress and significant developments by informal communication in addition to scheduled meetings and reports
 - Museum will provide a weekly written report via e-mail summarizing progress made in preceding week
- Funding:
 - City’s contribution of funding from sources such as restricted impact fees and grant funding is in reliance on the Museum’s commitment to comply with the applicable conditions associated with those funding sources
 - City will contribute \$10.02 million – 20% to be deposited after the museum has provided evidence of required funds/pledges for project construction followed by periodic disbursements for progress payments by Museum to general contractor.
 - After funds from the City contribution have been exhausted, the museum anticipates using pledge funding and the Federal HUD funds to pay for remaining construction costs
 - Museum is solely responsible for complying with HUD grant conditions and consequences of any failure to comply and the City will make all reasonable efforts to support the museum in this work.
- Prior to Construction:
 - Museum to provide written proof that it has entered into construction contract with general contractor that meets requirements in TWL
 - Museum to obtain all necessary permits and authorizations (the City will reimburse the museum of permit costs of \$100,000)
 - Funding schedule to be updated with final Guaranteed Maximum Price contract amounts

- Project schedule to be updated based on updated construction contract details
- During Construction:
 - Museum is solely responsible for construction administration services during construction and closeout
 - Vance Brown will serve as the general contractor; contract will be a guaranteed maximum price contract and include all subcontracts and a 10% construction contingency
 - All work will be done in accordance with design documents and construction contract and in compliance with all applicable laws (including City ordinances, rules, and regulations)
 - A preconstruction conference will take place before any work begins on the project and weekly meetings will continue through construction

FISCAL/RESOURCE IMPACT

The City and the Museum spent significant resources to reach all three agreements. Staff dedicated significant staffing resources and outside legal support to the negotiation process. A FY 2023 Mid-Year budget amendment funded the legal contractual services needed to complete these documents. Under the City's supervision, the Museum is responsible for rehabilitating the Roth Building at a total estimated cost of \$11.9 million, which is budgeted in the Roth Building Rehabilitation capital project (PF-23001).

The Tenant Work Letter reflects revised funding allocations which recognize and allocate additional grant funding from the County of Santa Clara and most significantly, an additional \$3 million received through a federal earmark with the assistance of Congresswoman Anna Eshoo. These federal funds are to be used for the restoration and rehabilitation of the Museum and will be critical to enabling the completion of this Phase 1 "warm shell" of the project.

STAKEHOLDER ENGAGEMENT

Staff met with representatives of the Museum including their counsel to discuss and negotiate the Tenant Work Letter terms.

ENVIRONMENTAL REVIEW

Council action on this item is not a project as defined by the California Environmental Quality Act (CEQA) in that approval of the Tenant Work Letter is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines section 15378(b)(4)).

The rehabilitation and restoration work to the Roth Building is categorically exempt from the CEQA review in that the work to be performed is limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources

in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer. (CEQA Guidelines Section 15331)

ATTACHMENTS

Attachment A: Tenant Work Letter, 300 Homer Ave "ROTH Facility"

APPROVED BY:

Kiely Nose, Assistant City Manager