



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Richard J. Luna  
Assistant to the City  
Administrator

**SUBJECT:** OMCA Grant Agreement Extension

**DATE:** November 16, 2020

City Administrator Approval

Date:

Dec 3, 2020

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Amend The Grant Agreement With The Oakland Museum Of California For The Continued Care And Conservation Of The City's Collection Of Art And Artifacts To Extend The Grant Term For An Additional Ten Years To June 30, 2031 And To Increase The Amount Of The Grant By Thirty Million Dollars (\$30,000,000) For A Total Grant Amount Not To Exceed Seventy Three Million Dollars (\$73,000,000).**

## **EXECUTIVE SUMMARY**

Approval of this Resolution will extend the City's current grant agreement with the Oakland Museum of California ("OMCA") for a period of 10 years. In 2011, the City entered into a 10-year grant agreement with OMCA which expires on June 30, 2021. In the original grant agreement, the City's annual contribution initiated at \$5,000,000 per year in Fiscal Year (FY) 2011-12, and gradually reduced to \$3,000,000 per year in FY 2020-21.

City and OMCA staff have discussed the City's on-going commitment to the care and stewardship of the Museum's collection which is owned by the City. This grant agreement extension would initiate on July 1, 2021 with an annual grant amount of \$2,500,000 for the first two years, \$2,700,000 in year three, and then returning to \$3,000,000 per year beginning in year four and for the duration of the grant period. The Museum would also receive an additional \$1,300,000 distributed over the first three years to offset taxes paid to the City's General Purpose Fund ("GPF") in FY 2019-20 under the City's real estate transfer tax ("RETT"). The total grant award for the extended 10-year period is not to exceed \$30,000,000.

## **BACKGROUND / LEGISLATIVE HISTORY**

The Museum opened in September 1969 as a public institution, owned by the City and committed to a broad civic mission serving local, statewide and national audiences. From 2006 to 2011, the Museum was operated by the Oakland Museum of California Foundation ("Foundation") in a public-private-partnership with the City through a management and operations agreement, authorized under Resolution No. 80155 C.M.S.

City Council  
December 15, 2020

On May 19, 2011, the Foundation reincorporated as the Oakland Museum of California, a California nonprofit public benefit corporation.

On June 30, 2011, the City Council adopted Resolution No. 83442 C.M.S., which authorized the City Administrator to negotiate and execute a 10-year grant agreement with the Foundation, which provided the Foundation/OMCA two consecutive options, each option for 10 years, to renew the grant agreement. The original grant agreement provided a total of \$42.9 million in City funding to the Foundation/OMCA to provide continued care and conservation of the City's collections of art and artifacts housed at the Museum and the Museum Collection Center. The grant agreement commenced on July 1, 2011 and expires on June 30, 2021.

During the initial 10-year grant agreement period, the City's contribution has gradually declined from \$5,000,000 in FY 2011-12 to \$3,000,000 in FY 2020-21 (**Table 1**).

**Table 1: City Grant Disbursal Payments to OMCA\***

<b>Fiscal Year</b>	<b>City Funding</b>
2011-12	\$5.0
2012-13	\$5.0
2013-14	\$5.0
2014-15	\$4.8
2015-16	\$4.6
2016-17	\$4.4
2017-18	\$4.2
2018-19	\$3.7
2019-20	\$3.2
2020-21	\$3.0

*\*Amounts shown in millions*

On July 19, 2011, the City Council adopted Ordinance No. 13079 C.M.S., which authorized the City Administrator to negotiate and execute a 30-year lease of the Museum for an annual rental fee of \$1.00. The commencement date of the lease was July 1, 2011 with an original termination date of June 30, 2041. On July 16, 2019, the City Council adopted Ordinance No. 13554 C.M.S., which authorized a 20-year lease extension under the existing terms. OMCA is the lessee for both Museum properties (1000 Oak Street and 450 Lancaster Street) until June 30, 2061. The lease extension triggered the City's RETT, and OMCA paid \$1,396,200 in transfer taxes to the City on May 19, 2020.

## **ANALYSIS AND POLICY ALTERNATIVES**

### **Grant Agreement Analysis**

When the City entered into the grant agreement with the OMCA in 2011, the intent of the agreement was to reduce the City's financial obligation for Museum operations, as well to enable the Museum to operate more efficiently and holistically as a unified organization. While the City retains ownership of two Museum facilities and the collection, it also recognized that operating a museum was not a core City service and operations could be successfully transferred to a non-profit entity. The amount of the grant over the 10-year period was

determined by three key factors: 1) the recognition that a substantial decline in City funding would constitute a new business model for the Museum with the attendant need to grow other income sources over time; 2) the basic cost of maintaining the facilities and caring for the collection constituted several million dollars in expense each year, aside from any programmatic or administrative investment, and 3) the City and OMCA, as the non-profit partner in caring for the City's collection and facilities, would continue a long-standing agreement beyond the 10-year grant agreement as indicated by the initial 30-year lease.

The proposed grant extension underscores the continued intent of the City and OMCA to partner together in operating the Museum facilities and caring and stewarding the collection. The amount of the annual grants is determined, in part, based on the direct expenses required to support the facilities and collections. OMCA's most recently audited financial results reflect that these costs would total approximately \$3.7 million including personnel to support collection and facilities care as well as non-personnel expenses including utilities, security, engineering, and landscape maintenance (**Attachment A**).

Over the past 10 years since adoption of the 2011 grant agreement, OMCA undertook a major campaign to build endowment and investment funds to replace the reduction of \$2 million annually in City support. OMCA has been successful in this effort, raising close to \$80 million for operating, capital and endowment funds toward a campaign goal of \$85 million. The campaign will conclude in June 2021 and while OMCA leadership is optimistic that the organization will achieve its campaign goal, that success is uncertain in the current economic climate. According to OMCA staff, even with the growth of endowment and investment funds, the Museum would still track well below benchmark institutions of comparable budget sizes on its endowment level and annual contribution of endowment income toward operating support. OMCA is also experiencing other major lost revenue in the current health and economic crisis – as is the City – including a loss of almost all earned revenue sources for one quarter in FY 2019-20 and for the majority of FY 2020-21, including significant lost income from the Transient Occupancy Tax.

Therefore, while OMCA has demonstrated its capacity to make up the reduction in City funding over the past several years, sustained City funding remains essential to maintaining the City's Museum facilities and collections.

### **Museum's Impact**

When OMCA opened to the public in 1969, it was created as a "museum of the people" with the merger of three museums founded in the early 20<sup>th</sup> century. It is now one of the largest cultural institutions in the San Francisco Bay Area. OMCA is grounded in the belief that a museum should be welcoming and inclusive, making a difference by offering everyone access to inspiration, learning, and creativity. OMCA's vision is to be a gathering place, a catalyst for the vitality of the region, and indispensable to its Oakland community.

A leader in the museum field, OMCA places the experience of visitors at the center of the organization and focuses on four areas of public service: exhibiting the collection, presenting special exhibitions, providing educational programs, and welcoming visitors through multiple community engagement approaches. The Museum's collection and programming comprise the most complete repository of California's cultural and environmental heritage and a vital educational resource for schools in Northern California.

OMCA visitors represent the San Francisco Bay Area's diversity, particularly Oakland and surrounding communities. The Museum's primary community is the city of Oakland and its audiences are families, students, adults and lifelong learners. Over the past several years, OMCA's audience has been steadily growing and diversifying. The Museum served 356,965 visitors total in FY 2018-19 (the last full year of operation prior to the pandemic). Of the total audience, 62% are under 45 years; 56% are people of color (an increase of 6% over the previous year) and 32% are visiting with families (of which 41% have kids under 4). OMCA membership currently numbers over 10,000 households.

OMCA K-12 education programs respond to community needs in an effort to inspire California's future stewards, citizens, creators, and innovators. School programs in FY 2018-19 reached 28,245 students, teachers and chaperones from all Northern California counties, with 18% coming from the Oakland Unified School District. OMCA provides an affordable and reliable source of innovative learning that serves schools throughout the San Francisco Bay Area and beyond with particular attention to the needs of Title One schools. A total of 300 classes came from Title One schools, such that 32% of all students served came from schools where 75% or more of the student population qualifies for and receives free and reduced meal plans and Title I funds. During the current closure, the Museum is offering free virtual programs for schools, all of which "sold out" during the introductory period of November and December 2020.

In recent years, the Museum has focused on enhancing and measuring its social impact for community well-being. OMCA's social impact centers of social cohesion, or building trust, understanding, and connection between and among communities. The Museum looks at four visitor outcomes to track social impact:

- Visitors feel welcome at OMCA;
- Visitors see their stories reflected at OMCA;
- Visitors connect with other people at OMCA; and
- Visitors feel comfortable expressing their own ideas and are open to the ideas of others at OMCA.

During the first year of evaluation in FY 2018-19, the significant majority of Museum visitors gave ranks of "strongly agree" or "agree" with these metrics for outcome.

Building on its long legacy of community engagement and social impact, OMCA is now redoubling its commitment to being an equitable, anti-racist institution. The Board of Trustees, at its November 2020 meeting, endorsed a commitment to anti-racism with specific principles and objectives that will enable OMCA to better serve its community while serving as a model for other cultural institutions to address and overcome structural racism.

### **Grant Funding Analysis**

Due to the current economic condition, staff proposes the annual dispersal amount reduce to \$2,500,000 a year for the first two years of the grant period. The annual award amount would gradually increase to \$3,000,000 a year beginning in year four and remain at that amount for the duration of the grant period. As part of the grant extension, OMCA would also receive an additional \$1,300,000 distributed over the first three years to offset taxes paid to the City's GPF in FY 2019-20 under the City's RETT (see **Table 2**).

The Museum would be responsible for fulfilling the balance of their operating budget, which OMCA staff stated was approximately \$3.7 million in **Attachment A**.

Staff also recommends including language in the grant agreement extension allowing the City to reduce the annual dispersal amount to no less than \$2,500,000 beginning in FY 2023-24. The clause in the grant amendment would state that the City may reduce the annual grant award amount for a fiscal year or two-year budget cycle upon a finding that the City is facing a severe fiscal event. A severe financial event shall be defined as when the GPF revenues in the adopted budget are less than the current year's actual revenues. Such language would provide the City financial flexibility in reducing GPF expenditures should the current fiscal challenges continue to FY 2023-24 or beyond.

### **Museum's Alternative Proposal**

In negotiations related to this grant extension, OMCA staff requested including a Consumer Price Index ("CPI") increase beginning in FY 2024-25. Staff does not endorse inclusion of a CPI in the grant extension since that would be a future unknown expenditure that would fluctuate year-to-year. Additionally, the intent of the 2011 grant agreement was to reduce the City's obligation toward Museum operations, initiating at \$5,000,000 per year in year one and gradually reducing to \$3,000,000 per year in the final year of the agreement. Increasing the City's contribution beyond \$3,000,000 a year is an inverse of the structure of the original grant agreement and is not recommended by City staff.

### **FISCAL IMPACT**

Staff is proposing the following disbursement of payments for the new grant period (**Table 2**). Funding for the first two years initiates at \$2,500,000 a year, increasing to \$2,700,000 in year three, then increasing and remaining at \$3,000,000 in year four and through the remainder of the grant period. An additional \$1,300,000 is distributed over the first three years to offset taxes paid to the City's GPF in FY 2019-20 under the City's RETT.

The total amount of the extended period would not exceed \$30,000,000.

**Table 2: Staff Proposed City Grant Disbursement Payments to OMCA\***

<b>Fiscal Year</b>	<b>Annual Grant</b>	<b>RETT Offset</b>	<b>Total City Funding</b>
2021-22	\$2.5	\$0.5	\$3.0
2022-23	\$2.5	\$0.5	\$3.0
2023-24	\$2.7	\$0.3	\$3.0
2024-25	\$3.0	\$ -	\$3.0
2025-26	\$3.0	\$ -	\$3.0
2026-27	\$3.0	\$ -	\$3.0
2027-28	\$3.0	\$ -	\$3.0
2028-29	\$3.0	\$ -	\$3.0
2029-30	\$3.0	\$ -	\$3.0
2030-31	\$3.0	\$ -	\$3.0

\*Amounts shown in millions

As previously mentioned, should the City be facing a severe financial event beginning in FY 2023-24, then the actual annual grant award amount would be no less than \$2,500,000 a year. Therefore, the total City funding beginning in FY 2023-24 are shown as an up to amount.

Funding for the grant agreement extension will come from Fund (1010), Org. (90591), Project (1000021), Program (NB20).

### **PUBLIC OUTREACH / INTEREST**

City staff met on several occasions with OMCA staff in development of this legislation.

### **COORDINATION**

This report has been prepared in coordination with the Office of the City Attorney and Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The on-going financial commitment by the City will maintain and support a cultural institution in Oakland offering a variety of exhibits, special events and programming. Before the current health emergency, OMCA was serving over 350,000 visitors a year.

***Environmental:*** The Museum is completing work on a campus improvement project which will enhance the garden area and open the Museum to entrances facing Lake Merritt. This new park like setting will be a mainstay for visitors to the surrounding area, improving walkability and pedestrian access.

***Race & Equity:*** Museum exhibitions, programs and collections are open to diverse populations in Oakland and the Bay Area at-large. OMCA maintains a commitment to community accessibility and offers a number of free and reduced entry admission fees for visitors.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Amend The Grant Agreement With The Oakland Museum Of California For The Continued Care And Conservation Of The City's Collection Of Art And Artifacts To Extend The Grant Term For An Additional Ten Years To June 30, 2031 And To Increase The Amount Of The Grant By Thirty Million Dollars (\$30,000,000) For A Total Grant Amount Not To Exceed Seventy Three Million Dollars (\$73,000,000).

For questions regarding this report, please contact Richard J. Luna, Assistant to the City Administrator, at (510) 238-4756.

Respectfully submitted,



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RICHARD J. LUNA  
Assistant to the City Administrator

Attachments (1):

A. Oakland Museum of California Costs of Ongoing Collection and Facilities Care - FY20

Oakland Museum of California  
Costs of Ongoing Collection and Facilities Care - FY20

<b>EXPENSES SUMMARY</b>	<b>Notes</b>	<b>Collections &amp; Facilities Maintenance</b>	<b>Notes</b>
<u>Direct Collections Care and Maintenance</u>			
<i>Personnel</i>		924,183	
20% of curatorial team			Allocated based on FTEs required to care for and maintain City collections
30% preparator team			
75% of conservation team			
50% Director of Collections			
100% of 3 registrars			
50% Rights & Repro coordinator			
<i>Collections Non-Personnel expenses</i>		<u>93,801</u>	100% of direct collections care expenses
Subtotal		1,017,984	
<u>Direct Facilities Care and Infrastructure to Support Collections and Facilities</u>			
<i>Personnel</i>		478,334	
80% of Facilities			Allocated based on square footage used by Collections, Galleries, Facilities, and Garden
20% of Technology			Allocated based on FTEs in Collection Care and Maintenance, Facilities, and Technology
<i>Contract Labor &amp; Other</i>		2,292,579	
Security, Janitorial, Engineering contract labor			Allocated based on square footage used by Collections, Galleries, Facilities, and Garden
Technology and network infrastructure			Allocated based on FTEs in Collection Care and Maintenance, Facilities, and Technology
Direct facilities expenses			100% of security monitoring, elevator maintenance, pest control, and landscaping
Subtotal		<u>2,770,914</u>	
<b>TOTAL EXPENSES</b>		<b><u>3,788,898</u></b>	
% of total Museum budget		20%	

**DRAFT**

City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO AMEND THE GRANT AGREEMENT WITH THE OAKLAND MUSEUM OF CALIFORNIA FOR THE CONTINUED CARE AND CONSERVATION OF THE CITY'S COLLECTION OF ART AND ARTIFACTS TO EXTEND THE GRANT TERM FOR AN ADDITIONAL TEN YEARS TO JUNE 30, 2031 AND TO INCREASE THE AMOUNT OF THE GRANT BY THIRTY MILLION DOLLARS (\$30,000,000) FOR A TOTAL GRANT AMOUNT NOT TO EXCEED SEVENTY THREE MILLION DOLLARS (\$73,000,000).**

**WHEREAS**, the Museum opened in September 1969 as a public institution, owned by the City and committed to a broad civic mission serving local, statewide and national audiences; and

**WHEREAS**, from 2006 to 2011, the Museum was operated by the Oakland Museum of California Foundation ("Foundation") in a public-private-partnership with the City through a management and operations agreement, authorized under Resolution No. 80155 C.M.S.; and

**WHEREAS**, on May 19, 2011, the Foundation reincorporated as the Oakland Museum of California, a California nonprofit public benefit corporation ("OMCA"); and

**WHEREAS**, on June 28, 2011, the City Council adopted Resolution No. 83442 C.M.S., authorizing the City Administrator to negotiate and execute a 10-year grant agreement with OMCA to support Museum activities for the care, conservation, stewardship and presentation of the city's collection of art works, historical artifacts and natural sciences specimens related to California's cultural and environmental history; and

**WHEREAS**, the City and Museum entered into the 10-year grant agreement term on July 1, 2011, which will expire on June 30, 2021; and

**WHEREAS**, the annual grant amount initiated at Five Million dollars (\$5,000,000) beginning in fiscal year 2011-12 and over the term of the grant, reduced to three million dollars (\$3,000,000) in fiscal year 2020-21, for a total grant amount of Forty-Three Million dollars (\$43,000,000); and

**WHEREAS**, on July 19, 2011, the City Council adopted Ordinance No. 13079 C.M.S., which authorized the City Administrator to negotiate and execute a 30-year Lease of the Museum located at 1000 Oak Street and the Collections Center located at 450 Lancaster Street commencing on July 1, 2011 with an original termination date of June 30, 2041; and

**WHEREAS**, on July 16, 2019, the City Council adopted Ordinance No. 13554 C.M.S., which authorized a 20-year lease extension under the existing terms, with an end date of June 30, 2061.

**WHEREAS**, as a result of the lease extension, OMCA paid \$1,396,200 in the City's real estate transfer tax on May 19, 2020; and

**WHEREAS**, the City wishes to continue providing funding to OMCA to support Museum program activities, including the care, conservation, stewardship and presentation of the City's collection of art works, historical artifacts and natural sciences specimens related to California's cultural and environmental history; now therefore be it

**RESOLVED**, That the City Administrator is authorized to amend the grant agreement with the Oakland Museum of California to extend the grant term to June 30, 2031 and to increase the amount of the grant by Thirty Million dollars (\$30,000,000) for a total grant amount not to exceed Seventy Three Million dollars (\$73,000,000) to continue the care, conservation, stewardship and presentation of the city's collection of art works, historical artifacts and natural sciences specimens related to California's cultural and environmental history; and be it

**FURTHER RESOLVED**, That the grant payments shall be disbursed annually no later than July 31 of each year commencing in 2021 through and including 2030 in an amount to be determined by the City Administrator (or designee) to support Museum program activities; and be it

**FURTHER RESOLVED**, That the OMCA shall be required to submit to the City annual reports on the OMCA's performance of Museum program activities as well as reports on OMCA's financial condition; and be it

**FURTHER RESOLVED**, That the agreement approved hereunder shall be approved for form and legality by the City Attorney's Office and placed on file in the Office of the City Clerk.

3003522v1

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

Asha Reed  
Acting City Clerk and Clerk of the Council  
of the City of Oakland, California