

**CITY OF OAKLAND
AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 OCT -2 PM 2:03

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Cultural Arts and Marketing Department
DATE: October 14, 2003

RE: **RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NO-COST AGREEMENT WITH THE OAKLAND MUSEUM OF CALIFORNIA FOUNDATION TO OVERSEE RENOVATION OF THE OAKLAND MUSEUM OF CALIFORNIA BUILDING, MADE POSSIBLE BY MEASURE G (ZOO, MUSEUM AND SCIENCE CENTER IMPROVEMENT GENERAL OBLIGATION BONDS) AND ADDITIONAL PRIVATE FUND RAISING**

SUMMARY

In March 2002, Oakland voters passed Measure G, authorizing the issuance of \$59 million in general obligation bonds for improvements to Oakland's zoo, museum, and Chabot Space and Science Center. The Oakland Museum of California's portion is forty percent (\$23.6 million). Measure G legislation specifies that the museum project be administered and managed by the nonprofit Oakland Museum of California Foundation (Museum Foundation). The legislation further states that the Museum Foundation shall use its own staff to administer and manage the design and construction of the project. The Museum Foundation is not a licensed contractor. The City will, therefore, handle project management and the design and construction contracts for construction on the museum building with project oversight by the Museum Foundation. A no-cost agreement is needed between the City and Museum Foundation to give the Foundation trustees oversight and general control of the outcome of design and construction, but gives the City's Public Works Agency direct control of construction. The Director of Cultural Arts, a City employee, serves as the City's official liaison with the Foundation. The proposed resolution authorizes the City Manager to enter into such an agreement.

FISCAL IMPACT

Phase I of the renovation project will cost an estimated \$34.8 million. Of this, approximately \$18 million will be for building renovation, with the remainder going to reinstallation of exhibit galleries. Costs will be covered by proceeds from the sale of Measure G general obligation bonds, of which \$38 million have been sold, \$17 million being the portion for the museum project. There will be additional fund raising by the staff and trustees of the Museum Foundation; additional fund raising is not a responsibility of the City. Any shortfall will be met by scaling back the plans and a reduction in expenses.

Allowance has not yet been made to cover increased operating costs, nor have we calculated potential increased earned revenue from admission and other sources. These have been difficult numbers to pinpoint. With the installation of modern, energy-efficient mechanical systems, the

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cost of utilities is not likely to increase. If they did, that cost would be the responsibility of the City. Because no additional square footage is being added to the building, custodial costs are also not likely to increase. Additional staffing and maintaining new exhibit components, however, will likely increase both the City and Foundation budgets by a few full-time equivalents (FTE). Earned revenue and required endowment to offset increased expenses, if any, will be determined during the design development phase of the project. By the time of completion in roughly three years, the Foundation and City will have to work out which entity will bear any additional staffing and operating and maintenance costs. This can be done in the next City fiscal cycle (FY 2005-07).

BACKGROUND

The background on this project has been described in a companion informational report delivered to the Life Enrichment Committee on October 14, 2003.

KEY ISSUES AND IMPACTS

Section 9.a. of the Measure G legislation reads, "The Museum Project shall be administered and managed by the Oakland Museum of California Foundation." This tells the voters that the Foundation, not the City, has control of the project and the funds. The agreement will provide for Museum Foundation control over project funds by way of their role in approval of project expenditures and other oversight duties.

Section 12 of the legislation goes on to read, "The Oakland Museum of California Foundation (for the Oakland Museum of California) . . . shall . . . utilize its own staff to administer and manage the design and construction of the [project]. . . ." The Museum Foundation is not a licensed contractor, therefore, the City will handle project management and contracts for construction with oversight and approval by the Museum Foundation.

POLICY DESCRIPTION

Consistent with the Measure G legislation, staff proposes that a no-cost agreement be negotiated with the Museum Foundation under which it has general oversight and decision-making powers on the outcome of design and construction on the museum building, but delegates to the Public Works Agency the role of construction manager. PWA's responsibilities would be to produce and manage contract documents, bidding, contract compliance, and construction management and related tasks commonly undertaken on capital improvement projects on City buildings. A PWA project manager has already been assigned. There would be close cooperation between PWA and the Museum Foundation. The Foundation would help determine what specific projects are done with the guidance of museum staff. For any construction project to proceed, consensus would be reached between PWA and the Museum Foundation. The Director of Cultural Arts,

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who also serves as the museum's executive director, would be the official liaison between the municipal corporation and the nonprofit corporation. Design and construction contracts would be subject to the approval of the Museum Foundation board of trustees. Management of construction would fall to PWA.

SUSTAINABLE OPPORTUNITIES

Please see the earlier informational report presented to the Life Enrichment Committee on October 14, 2003.

DISABILITY AND SENIOR CITIZEN ACCESS

Please see the earlier informational report presented to the Life Enrichment Committee on October 14, 2003.

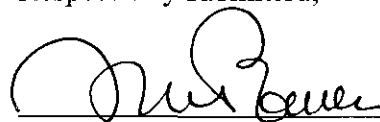
RECOMMENDATION(S) AND RATIONALE

Authorizing the City Manager to enter into an agreement with the Oakland Museum of California Foundation would implement the Measure G mandate regarding proposed construction at the Oakland Museum of California. Authorizing the agreement will initiate the design development and contract documents phase of the project, and establish a basis for museum staff and Foundation trustees to initiate fund raising that will be needed to complete Phase I of the museum's Master Plan.

ACTION REQUESTED OF THE CITY COUNCIL

Approve the resolution.

Respectfully submitted,



DENNIS M. POWER
Director, Cultural Arts

APPROVED AND FORWARDED TO THE
LIFE ENRICHMENT COMMITTEE



OFFICE OF THE CITY MANAGER

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OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

S. Moore

FILED
OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NO-COST AGREEMENT WITH THE OAKLAND MUSEUM OF CALIFORNIA FOUNDATION TO OVERSEE RENOVATION OF THE OAKLAND MUSEUM OF CALIFORNIA BUILDING, MADE POSSIBLE BY MEASURE G (ZOO, MUSEUM AND SCIENCE CENTER IMPROVEMENT GENERAL OBLIGATION BONDS) AND ADDITIONAL PRIVATE FUND RAISING

WHEREAS, in March 2002, Oakland voters passed Measure G, authorizing the issuance of \$59 million in general obligation bonds for improvements to Oakland's zoo, museum, and Chabot Space and Science Center, of which the Oakland Museum of California's portion is forty percent (\$23.6 million); and

WHEREAS, the Measure G legislation specifies that the museum project be administered and managed by the Oakland Museum of California Foundation (Museum Foundation), a California not-for-profit public benefit corporation, and further states that the Museum Foundation shall use its own staff to administer and manage the design and construction of the project; and

WHEREAS, since the Museum Foundation is not a licensed general contractor, the City will handle contracts for construction on the project with oversight by the Museum Foundation; now, therefore, be it

RESOLVED: that the City Manager is authorized to enter into, modify, and amend a no-cost agreement with the Museum Foundation to give, to the extent the City Manager deems reasonable, the foundation's trustees general oversight and control of design and construction of the museum renovations while handling construction contracting and management through the City's Public Works Agency; and be it

FURTHER RESOLVED: that the Director of Cultural Arts shall be the liaison between the City and Museum Foundation for the purposes of this agreement; and be it

FURTHER RESOLVED: that the contract, and any modifications and amendments thereto, shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

11

LIFE ENRICHMENT CMTE.

OCT 14 2003

ATTEST:

CEDA FLOYD

City Clerk and Clerk of the Council
of the City of Oakland, California