

2019 JUL -3 AM 3:17

City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING ORDINANCE NO. 13709 C.M.S., WHICH AUTHORIZED A THIRTY YEAR LEASE BETWEEN THE CITY OF OAKLAND AND THE OAKLAND MUSEUM OF CALIFORNIA OF TWO BUILDINGS AND IMPROVEMENTS ON CITY PROPERTY LOCATED AT 1000 OAK STREET AND 450 LANCASTER STREET, TO (A) EXTEND THE LEASE UNDER THE SAME TERMS AND CONDITIONS FOR A PERIOD OF TWENTY YEARS UNTIL JUNE 30, 2061 TO FACILITATE FUNDING FOR EXTENSIVE IMPROVEMENTS TO THE MUSEUM ENTRANCES, GARDENS AND THE MUSEUM CAFÉ AND (B) AMEND THE LEASE TO ALLOW TENANT TO PURSUE THE IMPROVEMENTS

WHEREAS, the Oakland Museum of California, a California nonprofit public benefit corporation ("OMCA"), operates the Oakland Museum of California ("Museum"), and provides important and compelling information and events for the public in the City of Oakland; and

WHEREAS, the Museum is comprised of two City-owned properties located at 1000 Oak Street ("Museum Campus") and 450 Lancaster Street ("Museum Collection Center"), in the City of Oakland, California; and

WHEREAS, Ordinance No. 13079 C.M.S. authorized the City of Oakland, in 2011, to enter into a thirty-year Lease Agreement ("Lease") with the Oakland Museum of California Foundation ("Foundation") of the Museum, which expires on June 30, 2041; and

WHEREAS, the Foundation assigned its interest in the Lease to OMCA pursuant to an Assignment of Lease effective as of July 1, 2012; and

WHEREAS, OMCA is engaged in a fundraising campaign to implement an \$18 million Museum Campus improvement project that will include improved accessibility to the Museum through entrances at 10th and 12th Streets, replanting of the gardens, improvements to the Museum café, and a stronger connection to Lake Merritt (collectively, the "Improvements"); and

WHEREAS, the majority of the funding for the Improvements will be funded through private fundraising, and OMCA desires to use New Market Tax Credits ("NMTCs") to fund the balance; and

WHEREAS, OMCA has been advised that it must have a thirty-year investment in the Museum in order to qualify for NMTCs, and has requested a twenty-year extension of the term of the Original Lease to facilitate funding through NMTCs; and

WHEREAS, OMCA desires a longer term to enable it to pursue various funding and grant opportunities, including NMTCs, to strengthen the financial sustainability, public access, and future of the Museum; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Administrator or her designee, is hereby authorized to negotiate and execute an amendment to the Lease that (i) extends the term of the Lease ("Term") for an additional twenty years so that the Lease will expire on June 30, 2061, and (ii) authorizes OMCA to pursue implementation of the Improvements, with substantially the same terms and conditions as the existing Lease, except any terms or conditions that would create or cause the City to have additional financial obligations or burdens.

SECTION 2. The City Administrator or her designee, is hereby authorized to take all necessary actions to negotiate and complete the extension of the Term and any amendments, modifications and extensions thereto, consistent with the intent of this Ordinance. The City Administrator shall return to the City Council for approval of terms that create or cause the City to have additional financial obligations or burdens.

SECTION 3. The City Council hereby finds and determines, based on the City's review of the Historic Evaluation Report and the Statement of Impacts, that the actions authorized by this Ordinance are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301 (existing facilities), 15331 (historical resource rehabilitation), and 15183 (consistency with community plan, general plan, or zoning), and that none of the exceptions to the categorical exemptions apply..

SECTION 4. The Term extension documentation shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

SECTION 5. This Ordinance shall become effective immediately on the final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after the final adoption.

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: _____

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

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING ORDINANCE NO. 13709 C.M.S., WHICH AUTHORIZED A THIRTY YEAR LEASE BETWEEN THE CITY OF OAKLAND AND THE OAKLAND MUSEUM OF CALIFORNIA OF TWO BUILDINGS AND IMPROVEMENTS ON CITY PROPERTY LOCATED AT 1000 OAK STREET AND 450 LANCASTER STREET, TO (A) EXTEND THE LEASE UNDER THE SAME TERMS AND CONDITIONS FOR A PERIOD OF TWENTY YEARS UNTIL JUNE 30, 2061 TO FACILITATE FUNDING FOR EXTENSIVE IMPROVEMENTS TO THE MUSEUM ENTRANCES, GARDENS AND THE MUSEUM CAFÉ AND (B) AMEND THE LEASE TO ALLOW TENANT TO PURSUE THE IMPROVEMENTS

This Ordinance authorizes amendment of Ordinance No. 13709 C.M.S., which authorized a thirty year lease between the City of Oakland and the Oakland Museum of California of two buildings and improvements on City property located at 1000 Oak Street and 450 Lancaster Street to (a) extend the lease under the same terms and conditions for a period of twenty years until June 30, 2061 to facilitate funding for extensive improvements to the museum entrances, gardens and the museum café and (b) amend the lease to allow the tenant to pursue the improvements.

This Ordinance authorizes the City Administrator or her designee sign the Amendment, and makes associated findings with respect to the California Environmental Quality Act and other matters.

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ORDINANCE NO. _____ C.M.S.

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WHEREAS, the Oakland Museum of California, a California nonprofit public benefit corporation ("OMCA"), operates the Oakland Museum of California ("Museum"), and provides important and compelling information and events for the public in the City of Oakland; and

WHEREAS, the Museum is comprised of two City-owned properties located at 1000 Oak Street ("Museum Campus") and 450 Lancaster Street ("Museum Collection Center"), in the City of Oakland, California; and

WHEREAS, Ordinance No. 13079 C.M.S. authorized the City of Oakland, in 2011, to enter into a thirty-year Lease Agreement ("Lease") with the Oakland Museum of California Foundation ("Foundation") of the Museum, which expires on June 30, 2041; and

WHEREAS, the Foundation assigned its interest in the Lease to OMCA pursuant to an Assignment of Lease effective as of July 1, 2012; and

WHEREAS, OMCA is engaged in a fundraising campaign to implement an \$18 million Museum Campus improvement project that will include improved accessibility to the Museum through entrances at 10th and 12th Streets, replanting of the gardens, improvements to the Museum café, and a stronger connection to Lake Merritt (collectively, the "Improvements"); and

WHEREAS, the majority of the funding for the Improvements will be funded through private fundraising, and OMCA desires to use New Market Tax Credits ("NMTCs") to fund the balance; and

WHEREAS, OMCA has been advised that it must have a thirty-year investment in the Museum in order to qualify for NMTCs, and has requested a twenty-year extension of the term of the Original Lease to facilitate funding through NMTCs; and

~~**WHEREAS**, Section 18.2 of the Lease contemplated the reincorporation of the Foundation as OMCA and an assignment of the Foundation's assets and liabilities to OMCA when the nonprofit status of OMCA was confirmed and that Landlord, Foundation and OMCA would execute an Assignment of Lease binding OMCA to all the terms of the Lease (the "Lease Assignment"); and~~

~~**WHEREAS**, the Lease Assignment has not yet been executed; and~~

WHEREAS, OMCA desires a longer term to enable it to pursue various funding and grant opportunities, including NMTCs, to strengthen the financial sustainability, public access, and future of the Museum; and

~~**WHEREAS**, the requirements of the California Environmental Quality Act ("CEQA") are [TBD]; and~~

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Administrator or her designee, is hereby authorized to (a) negotiate and execute an amendment to the Lease that (i) extends the term of the Lease ("Term") for an additional twenty years so that the Lease will expire on June 30, 2061; and (ii) authorizes OMCA to pursue implementation of the Improvements, with substantially the same terms and conditions as the existing Lease, except any terms or conditions that would create or cause the City to have additional financial obligations or burdens; and (b) condition the amendments to the Lease on execution of the Lease Assignment.

SECTION 2. The City Administrator or her designee, is hereby authorized to take all necessary actions to negotiate and complete the extension of the Term and any amendments, modifications and extensions thereto, consistent with the intent of this Ordinance. The City Administrator shall return to the City Council for approval of terms that create or cause the City to have additional financial obligations or burdens.

SECTION 3. The City Council independently reviewed and considered this environmental determination, and the Council hereby finds and determines [TBD], based on the City's review of the Historic Evaluation Report and the Statement of Impacts, that the actions authorized by this Ordinance are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301 (existing facilities).

15331 (historical resource rehabilitation), and 15183 (consistency with community plan, general plan, or zoning), and that none of the exceptions to the categorical exemptions apply..

SECTION 4. The ~~Lease Assignment and Term~~ extension documentation shall be approved as to form and legality by the City Attorney's Office and a copy shall be filed with the Office of the City Clerk.

SECTION 5. This Ordinance shall become effective immediately on the final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after the final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

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ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
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