



SCHEDULE T CONTRACT SUMMARY TRANSMITTAL *

FOR USE BY ALL CITY AGENCIES AND DEPARTMENTS FOR PROCUREMENT CONSTRUCTION AND PROFESSIONAL SERVICES CONTRACTS

1 Agency CAO Administration Department Administration 02111

2 Project Name OMCF Operations Agreement Project Amount \$43,000,000.00

Budget / Funding**1010 Fund # 02111 Account # 54912 Project # 0000000 Program # IP03

4 Project Manager / Responsible Employee Name Sabrina Landreth

Title Budget Director Phone 238 4936 email slandreth@oaklandnet.com

5 Supervisor / Direct Report or Alternate Employee Contact

Name Deanna Santana Phone 510 238 3302 email djsantana@oaklandnet.com

6 Consultant / Contractor Name Oakland Museum of California Foundation address 1000 Oak St, Oakland CA 3400 Phone 510 238 7372 email lfogarty@museumca.org

7 Type of Contract (Mark X) Professional Service X Construction Commodities Technology

8 Statement of Contract Goal / Purpose Management and operations of the Oakland Museum

9 Actual or Estimated Notice To Proceed (NTP) Date July 1, 2011 Estimated Completion Date June 30, 2021

10 Resolution Number 83442 Resolution Date 06/28/11

11 Location of the Contract Documents City Administrator's Office

THIS PORTION MUST BE COMPLETED BY THE AGENCY / DEPARTMENT AND/OR THE PROJECT MANAGER

Insert language below regarding the evaluation of performance and/or audit requirements. For example: This contract is subject to an independent audit initiated by the City of Oakland and/or this contract will be evaluated quarterly according to the deliverables defined below. Please attach separate sheets if required.

Performance, Inspection, Fiscal Reporting and Audit Requirements	
Performance Evaluation	
Inspection Requirement	
Fiscal Reporting Requirement	
Audit Requirement	

Deliverables	Date Due	Completion Date	Responsible Source (Prime Sub Supplier Other)	Performance
1				
2				
3				

City Representative <u>Debbie Comeau</u> (Please Print)	Date <u>7/28/11</u>
City Representative Signature <u>[Signature]</u>	
City Clerk <u>Nai Pham</u> (Please Print)	Date <u>7/28/11</u>
City Clerk Signature <u>[Signature]</u>	

* Must be attached to the signed Contract / Agreement and the First and Final (last) Payment Requests

** Multiple Funding Sources Complete Additional Funding Section on Page 2

CONTRACT SUMMARY TRANSMITTAL PROCEDURE

Note This Contract Summary Transmittal form must be completed and attached to the signed Contract / Agreement

Note Agency / Department - Project Managers are responsible and must ensure
Contract Compliance and Employment Services performed the following

- 1) Compliance Analysis
- 2) Equal Benefits Determination
- 3) Living Wage Determination

Note Before submission of a Contract

Schedule M (Part A and B) must be submitted to the City Attorney's Office for written approval

- 1) Consultant / Contractor must complete Schedule M – Part A
- 2) The City Agency / Department must complete Schedule M - Part B

Note A photocopy of the completed Contract Summary Transmittal form must be attached to the first and final payment request

- 1) Photocopy the front and back of the completed Contract Summary Transmittal form
- 2) Photocopy must be attached to the back-up documentation on the first payment request and on the final payment request that is submitted to the Finance and Management Agency / Accounts Payable Section

Contract Transmittal Procedure	Date Received	Received Initials	Date Returned	Returned Initials
Contract Send to the City Attorney's Office for First Review				
Contract Send to the Consultant / Contractor				
Contract Send to the City Attorney's Office for Final Signature				
Contract Send to the Agency / Department Fiscal Services to Encumber Funds				
Contract Send to the Finance and Management Agency / Purchasing Division ***				
Contract Send to the Agency / Department for Director's Signature				
Contract Send to City Administrator's Office for Approval (for contracts over \$15 000)				
Contract Send to City Clerk's Office	7/28/11	WP	—	—

* All Contracts are sent to the Finance and Management Agency / Purchasing Division to ensure the required Funds are encumbered
Funds that are not encumbered may result in a delayed payment to the Consultant and/or Contractor

Additional Funding Section

Fund Number	Organization Number	Account Number	Project Number	Program Number

**GRANT AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND
THE OAKLAND MUSEUM OF CALIFORNIA FOUNDATION**

Whereas the City wishes to provide funding to the Museum Foundation for a period of time to support Museum Foundation operations with respect to the Oakland Museum of California

Now therefore the parties to this Agreement covenant as follows

1 Parties and Effective Date

This Grant Agreement ("Agreement") is made and entered into as July 1, 2011 between the City of Oakland, a municipal corporation, ("City"), One Frank H Ogawa Plaza, Oakland, California 94612, and The Oakland Museum of California Foundation ("Foundation")

2 Purpose of the Grant - Continued Care and Conservation of the City's Collections of Art and Artifacts Housed at the Oakland Museum of California and associated facilities ("Museum" and "Collections")

The City and Foundation agree that as of the commencement date of this Agreement, the Foundation (or its successor organization) shall care for, conserve, steward, research and provide scholarly and interpretive expertise in support of the Museum's Collections of close to 2 million artworks, artifacts and natural science specimens related to California's cultural and natural history

The Foundation agrees to carry out the program activities specified in Exhibit A, Oakland Museum Program Activities, attached to this Agreement and incorporated herein by reference. All activities required will be performed by the Foundation according to the standards of the American Association of Museums. The City and Foundation agree to abide by and comply with the standards of the American Association of Museums, including regulations concerning all accessions and all deaccessions

The Foundation hereby designates the Executive Director of the Foundation to be responsible for communications with the City for the duration of this Agreement

3 Term of Grant, Options to Renew

- a The Parties have entered into a Lease Agreement ("Lease") regarding the Premises (as defined in the Lease) of the Museum as of the date of this Agreement, which Lease is intended to be read with this Grant Agreement ("Agreement"). Foundation's program activities shall begin on the commencement date as specified in the Lease. This Agreement shall continue for a term of ten (10) years from the commencement date and expire June 30, 2021, and shall continue only if the Foundation exercises any options. If the parties fail to negotiate a new agreement, regardless of term, this Agreement shall terminate and shall be cause for the Lease Agreement to terminate simultaneously

- b The Foundation shall have two consecutive options to renew this Agreement, each option for ten (10) years on the same terms and conditions, unless different terms are negotiated by the parties, until the termination of the Lease Agreement, currently set as June 30, 2041, provided it gives City written notice to exercise such option at least ninety (90) days prior to the then expiration date of the Agreement. If the Foundation elects to exercise this option, this Agreement shall be amended to specify the agreed disbursement payments and new termination date of the Agreement. If the parties fail to negotiate a new agreement, regardless of term, the current Agreement shall terminate and shall be cause for the Lease Agreement to terminate simultaneously.

4 Funding and Method of Disbursement of Payments, Annual Report of Activities Performed

Funds will be disbursed to the Foundation as set forth in Exhibit A and below, in the annual amount of Five Million Dollars (\$5,000,000.00), subject to adjustment as provided herein. Each disbursement payment shall be made in advance on the commencement date and on each July 1 thereafter. See Exhibit A attached hereto and incorporated herein and the table below for schedule of declining annual City funding.

City Fiscal Year	City Funding \$MM	Foundation Funding \$MM	Total Museum Budget \$MM
11 – 12	\$5.0	\$9.0	\$14
12 – 13	\$5.0	\$9.3	\$14.3
13 – 14	\$5.0	\$9.8	\$14.8
14 – 15	\$4.8	\$10.5	\$15.3
15 – 16	\$4.6	\$11.2	\$15.8
16 – 17	\$4.4	\$12.0	\$16.4
17 – 18	\$4.2	\$12.7	\$16.9
18 – 19	\$3.7	\$13.9	\$17.6
19 – 20	\$3.2	\$15.0	\$18.2
20 – 21	\$3.0	\$16.0	\$19

Foundation shall provide to City, or, at City's election, to the Life Enrichment Committee, an annual report regarding the program activities carried out during the preceding fiscal year for the duration of this Agreement.

5 Proprietary of Confidential Information of the City

Foundation understands and agrees that, in the performance of the program activities under this Agreement or in contemplation thereof, Foundation may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Foundation agrees that all information disclosed by the City to Foundation shall be held in confidence and used only in carrying out program activities required by this Agreement. Foundation shall exercise the same standard of care to

protect such information as a reasonably prudent person would use to protect its own proprietary data

7 Copyright

Foundation shall own any and all copyrights that may be created by Foundation or its employees in the works created and performance of the program activities pursuant to this Agreement, and the City shall have no right or interest, and disclaims any right or interest, in any such copyright or the proceeds from any sale or distribution thereof. Any existing copyrights owned by City shall continue to be owned by City.

8 Audit

Foundation shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received from the City under this Agreement, and (b) full and complete documentation of its performance of the program activities under this Agreement.

Foundation shall (a) permit the City to have access to those records for the purpose of making an audit, examination or review of financial and performance data pertaining to this Agreement, and (b) maintain such records for a period of four years following the last fiscal year during which the City disbursed funds to Foundation under this Agreement.

In addition to the above, Foundation agrees to comply with all audit, inspection, recordkeeping and fiscal reporting requirements incorporated by reference.

9 Agents/Brokers

Foundation warrants that Foundation has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Foundation working solely for Foundation, to solicit or secure this Agreement, and that Foundation has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from this Agreement.

10 Assignment

Foundation has informed City that it is anticipating reincorporating prior to the commencement date, with the successor not-for-profit corporation continuing to fulfill the obligations of Foundation under this Agreement. Upon such reincorporation, Foundation and City shall execute an Assignment of Grant Agreement binding the new corporation to all the terms and conditions of this Agreement. Other than as stated above, Foundation shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall

be void Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer

11 Publicity

Foundation shall be solely responsible for any and all publicity for Museum, its events and exhibits That publicity shall include but not be limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles Foundation's responsibilities for publicity shall exist during the term of this Agreement and, as may be agreed at the time between Foundation and City, up to one year thereafter

12 Title of Property, Care of City of Oakland Property

Title to property, real and personal, acquired by the Foundation with City funds, when any item of such property exceeds the cost of \$25,000, shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records Foundation acknowledges it is responsible for the protection, maintenance and preservation of all such property currently in existence and any newly acquired property held in custody for the City during the term of the Agreement The Foundation shall, upon termination of this Agreement, deliver to the City all of such property and documents evidencing title to same In the case of material damage or loss of, or stolen items or equipment, the Foundation shall immediately notify the Police Department, attempt to obtain a written police report and, in the case of any material loss, notify the City in accordance with "Notice" section of this Agreement

Foundation shall provide to the City Auditor all property-related audit and other reports required under this Agreement

Prior to the disposition or sale of real or personal property, if material to the activities that are to be provided pursuant to this Agreement, has a value in excess of \$25,000 and is acquired with City funds, Foundation shall obtain approval by the City Council and City Administrator in accord with the requirements for disposal or sale of City's real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2 04, Chapter 2 04 120 Surplus supplies and equipment – Disposal or Destruction

13 Insurance

Unless a written waiver is obtained from the City's Risk Manager, Foundation must obtain and maintain the insurance as required in Schedule Q and additionally as required in the Lease Section 9 4 and 9 5 during the term of this Agreement City shall continue to provide adequate insurance coverage for the Collections City shall continue to provide insurance for the City's collections for the Museum for the duration of the term of this Agreement

14 Indemnification

a Notwithstanding any other provision of this Agreement, Foundation shall indemnify and hold harmless (and at City's request,) defend City, and each of its respective

Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnatee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any

- (i) Breach of Foundation's obligations, representations or warranties under this Agreement,
 - (ii) Act or failure to act in the course of performance of the program or any other activities by Foundation at the Museum, including, without limitation, those program activities described in this Agreement,
 - (iii) Negligent or willful acts or omissions in the course of performance of the program or other activities by Foundation at the Museum, including, without limitation, those program activities described in this Agreement,
 - (iv) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Foundation,
 - (v) Unauthorized use or disclosure by Foundation of Confidential Information as provided in Section 6 above, and
 - (vi) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights of any third party
- b For purposes of the preceding Subsections (i) through (vi), the term "Foundation" includes Foundation, its officers, directors, employees, representatives, agents, servants, sub-consultants and subcontractors
 - c City shall give Foundation prompt written notice of any such claim of loss or damage and shall cooperate with Foundation, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests
 - d Notwithstanding the foregoing, City shall have the right, if Foundation fails or refuses to defend City with counsel reasonably acceptable to City, to engage its own counsel for the purposes of participating in the defense. In no event shall Foundation agree to the settlement of any claim described herein without the prior written consent of City
 - e Foundation acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any action or claim which potentially falls within this indemnification provision, which obligation shall arise at the time any action or claim is tendered to Foundation by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnatee. Notwithstanding anything to the contrary contained herein, Foundation's liability under

this Agreement shall not apply to any action or claim arising from the negligence or willful misconduct of an Indemnitee

- f All of Foundation's obligations under this Section 15 are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement
- g The indemnity set forth in this Section 15 shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. City's liability under this Agreement shall be limited to payment of Foundation in accordance with the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable

15 Right to Offset Claims for Money

All claims for grant funds due or to become due from City shall be subject to deduction or offset by City, as appropriate, from any monies due to Foundation by reason of any claim or counterclaim arising out of 1) this Agreement, or 11) any other transaction with Foundation

16 Termination on Notice

The City may terminate this Agreement if Foundation is in breach in any material respect with the activities to be provided hereunder, and the breach has not been cured by Foundation within thirty (30) calendar days after receipt of written notice of breach from City. Termination shall become effective on City giving thirty (30) calendar days' written notice of termination to Foundation. Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on the date specified in Section 3 hereof

17 Conflict of Interest

a Foundation

The following protections against conflict of interest will be upheld

- 1 Foundation certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom
- 11 Foundation certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or activities covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter
- 111 Foundation shall immediately notify the City of any real or possible conflict of interest between activities performed for the City and for other clients served by Foundation
- 1V Foundation warrants and represents, to the best of its present knowledge, that no City public official or employee of City who has been involved in the

making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq , pertaining to conflicts of interest in public contracting Foundation shall exercise due diligence to ensure that no such official will receive such an interest

- v Foundation further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Foundation to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Foundation or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year Foundation agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest Foundation's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq)
- vi Foundation understands that in some cases Foundation or persons associated with Foundation may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act Foundation further understands that, as a public officer or official, Foundation or persons associated with Foundation may be disqualified from future City contracts to the extent that Foundation is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement
- vii Foundation shall incorporate or cause to be incorporated into all material subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein

b No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

c Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Foundation understands and agrees that, if the City reasonably determines that Foundation has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may, upon 30 days prior written notice to Foundation, 1) suspend payments under this Agreement or terminate this Agreement or 2) require reimbursement by Foundation to City of amounts amounts disbursed in violation of this Section 18 of this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Foundation is responsible for the conflict of interest situation. If the City elects to suspend payments under this Agreement, Foundation, on 30 days prior written notice to City, may elect to terminate this Agreement.

18 Non-Discrimination/Equal Employment Practices

Foundation shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Foundation agrees as follows:

- a Foundation and Foundation's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b Foundation and Foundation's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Foundation that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c Foundation shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.

- d If applicable, Foundation will send to each labor union or representative of workers with whom Foundation has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Foundation's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment

19 Local and Small Local Business Enterprise Program (L/SLBE)

- a *Requirement* - There is a twenty percent (20%) minimum participation requirement for all contracts of \$50,000 or more. Foundation shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local business participation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant(s) or a small local certified firm may meet the twenty percent requirement. A business must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent requirement.
- b *Good Faith Effort* - In light of the twenty percent requirement, good faith effort documentation is not necessary.
- c *Incentives* - Upon satisfying the twenty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to fifty percent participation of the total contract dollars attributable to local certified firms.
- d *Banking* - The City will allow banking of credits for L/SLBE participation that exceeds fifty percent (50%) on a City funded project and will allow consultants to accumulate credits for hiring certified local businesses and certified small local businesses on non-city funded projects within a year of the City funded project. Banked credits will count toward achieving a bid discount or preference points (up to 2%) on a City contract. The ability of firms to bank credits or hours on non-City projects will not be retroactive. Consultants will have one year to apply credits. A certificate validating banked credits must be issued by the City prior to the submittal or bid date.
- e *The Exit Report and Affidavit (ERA)* - This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the **Schedule F, Exit Report and Affidavit** for, and have it executed by, each L/SLBE sub consultant and submitted to the City Administrator's Office of Contract Compliance & Employment Services along with a *copy* of the final progress payment application.
- f *Joint Venture and Mentor Protege Agreements* - If a prime contractor or prime consultant is able to develop a Joint Venture or "Mentor-Protege" relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protege relationships, the Agreement must be submitted for approval to Contract Compliance and Employment Services prior to the project bid date for construction, and by proposal due

date for professional services contracts Joint Venture Applications and elements of City approved Mentor Protege relation are available upon request

- g Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing **Schedule D, Ownership, Ethnicity, and Gender Questionnaire**, and **Schedule E, Project Consultant Team**, attached and incorporated herein and made a part of this Agreement
- h All affirmative action efforts of Contractor are subject to tracking by the City This information or data shall be used for statistical purposes only All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question
- i In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability
- j In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community

20 Living Wage Ordinance

Since the grant amount of this Agreement is greater than \$100,000 annually, Foundation must comply with the Oakland Living Wage Ordinance The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of city financial assistance recipients ("CFARs") (Ord 12050 § 1, 1998) The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, Foundation must provide the following to its employees who perform activities services in connection with this Agreement

- a Minimum compensation – Each such employee shall be paid an initial **hourly wage rate of \$11 15 with health benefits or \$12 82 without health benefits** These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U S Department of Labor **Effective July 1 of each year, rates will be adjusted up**

according to the Consumer Price Index (CPI) Contractor shall pay adjusted wage rates

- b Health benefits – Such full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$2 67 per hour Foundation shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance
- c Compensated days off – Such employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave Employees shall accrue one compensated day off per month of full time employment Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year
- d To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees There are several websites and other sources available to assist you Web sites include but are not limited to (1) [http //www irs gov](http://www.irs.gov) for current EIC guidelines as prescribed by the Internal Revenue Service
- e Foundation shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements Such notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information
- f Foundation shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement
- g Reporting – Foundation shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees Foundation shall provide a copy of the list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period Failure to provide the list within ten (10) days after receipt of written notice that the list is more than five days overdue may result in liquidated damages of five hundred dollars (\$500 00) for each day that the list thereafter remains outstanding Foundation shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period

- h Foundation shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Foundation shall include the above-referenced sections in its subcontracts. Copies of the subcontracts shall be submitted to the Office of the City Administrator, Contract Compliance & Employment Services Division promptly upon request thereof.

21 Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2 232 010 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City contractors (consultants) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees (Ord 12394 (part), 2001).

The following entities are subject to the Equal Benefits Ordinance. Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city, and Entities which enter into a "property contract" pursuant to Section 2 32 020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a contractor's operations that occur (1) within the city, (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city, and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1, Equal Benefits-Declaration of Nondiscrimination**

22 City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3 12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Foundation must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**

23 Nuclear Free Zone Disclosure

Foundation represents, pursuant to **Schedule P**, Nuclear Free Zone Disclosure Form, that Foundation is in compliance with the City of Oakland's restrictions on doing business with entities considered nuclear weapons makers. Prior to execution of this agreement, Foundation shall complete **Schedule P**, attached hereto

24 Dispute Disclosure

Entities are required to disclose pending disputes with the City of Oakland or Redevelopment Agency when they are involved in submitting bids, proposals or applications for a City or Agency contract or transaction involving

- purchase of products, construction, non-professional or professional services,
- contracts with concessionaires, facility or program operators or managers,
- contracts with project developers, including Disposition and Development Agreements, Lease Disposition and Development Agreements and other participation agreements
- loans and grants, or
- acquisition, sale, lease or other conveyance of real property, excluding licenses for rights of entry or use of city facilities for a term less than thirty (30) consecutive calendar days

Disclosure is required (1) for competitive solicitations, at the time bids, proposals or applications are due for any of the above-described contracts or transactions, and (2) for contracts or transactions that do not involve competitive processes, at the commencement of negotiations when bids, proposals or applications are solicited by or submitted to the City

The disclosure requirement also applies to pending disputes on other City and Agency contracts or projects that (1) have resulted in a claim or lawsuit against the City of Oakland or Redevelopment Agency, (2) could result in a new claim or new lawsuit against the City of Oakland or Redevelopment Agency, or (3) could result in a cross-complaint or any other action to make the City of Oakland or Redevelopment Agency a party to an existing lawsuit. Claim includes, but is not limited to, a pending administrative claim or a claim or demand for additional compensation

Entities that are required to disclose the information include (1) any principal owner or partner, (2) any business entity with principal owners or partners that are owners or partners in a business entity, or (3) any affiliate of such a business entity, that is involved in a pending dispute against the City of Oakland or Oakland Redevelopment Agency

For price-base awards, the City may determine that an entity's bid is non-responsive or non-responsible if the entity fails to timely disclose pending disputes

For bids or proposals for a professional service contract or other qualification-based awards, the City may determine in its sole discretion not to consider the entity's submission. The City may elect to terminate contracts with entities that failed to timely disclose pending disputes and/or initiate debarment proceedings against such entities. **Schedule K** must be completed and attached to this contract

25 Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government

26 Business Tax Certificate

Foundation shall obtain and provide proof of a valid City business tax certificate if appropriate. Such certificate must remain valid for the duration of this Agreement

27 Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is i) approved by resolution of the City Council, ii) approved for form and legality by the Office of the City Attorney, and iii) signed by the City Administrator or his or her designee

28 Governing Law

This Agreement shall be governed by the laws of the State of California

29 Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U S certified or registered postage, addressed to recipient as follows

City of Oakland
City Administrator
1 Frank H. Ogawa Plaza
Oakland, CA 94612-2033

The Oakland Museum of California Foundation
1000 Oak Street
Oakland, CA 94607-4892

Tel (510) 238-3404
Attn Executive Director

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective

30 Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of activities by Foundation for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those activities. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

31 Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

32 Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

33 Time of the Essence

Time is of the essence in the performance of this Agreement.

34 Commencement and Completion

It shall be the responsibility of the Foundation to coordinate and schedule the program activities funded hereunder so that commencement and completion take place in accordance with the provisions of this Agreement.

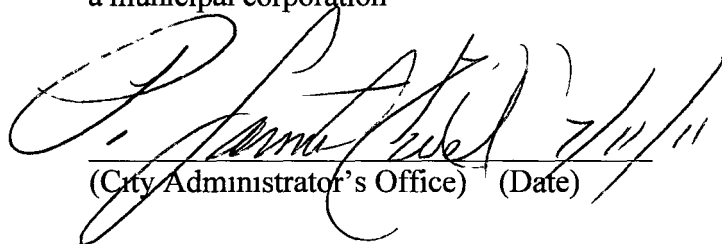
35 Approval

If the terms of this Agreement are acceptable to Foundation and the City, each party should sign and date below

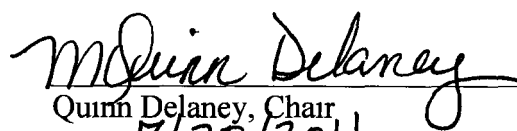
36 Inconsistency

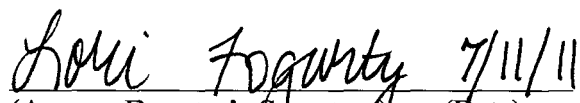
If there is any inconsistency between the main agreement and the attachments/exhibits, the text of the main agreement shall prevail

City of Oakland,
a municipal corporation

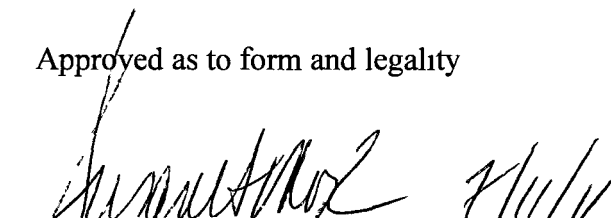

(City Administrator's Office) (Date) 7/11/11

The Oakland Museum of California
Foundation, a California nfp corporation


Quinn Delaney, Chair
Date 7/20/2011


(Agency Director's Signature) (Date) 7/11/11

Approved as to form and legality


(City Attorney's Office Signature) (Date) 7/11/11

Resolution Number

Accounting Number

Schedule Q

INSURANCE REQUIREMENTS

a General Liability, Automobile, Workers' Compensation and Professional Liability

Foundation shall procure, prior to commencement of service, and keep in force for the term of this contract, at Foundation's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City, provided, however, that any such insurance required to be carried by the City under the Lease Agreement shall remain the responsibility of the City. If requested, Foundation shall provide the City with copies of all insurance policies. The insurance shall at a minimum include

- 1 **Commercial General Liability insurance**, shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, Bodily Injury, Broad Form Property Damage, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)] If such CGL insurance contains a general aggregate limit, it shall apply separately to this agreement
 - A Coverage afforded on behalf of the City shall be primary insurance and any other insurance available to the City under any other policies shall be excess insurance (over the insurance required by this Agreement)
 - B Limits of liability Foundation shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location [project]
 - C If the policy is a "claim made" type policy, the following should be included as endorsements
 - 1) The retroactive date shall be the effective date of this Agreement or a prior date
 - 2) The extended reporting or discovery period shall not be less than thirty-six (36) months
- 11 **Automobile Liability Insurance** Foundation shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. In the event the Foundation does not own vehicles, but utilized non-owned and hired vehicles, evidence of such coverage is

acceptable with a signed statement from Foundation stating that only non-owned and hired vehicles are used in the course of the contract

- 111 **Worker's Compensation insurance** as required by the laws of the State of California Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000 The Foundation certifies that it is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code The Foundation shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code

- 1V **Professional Liability/errors and omissions insurance** in the amount of \$1,000,000 00

b Terms, Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions

- 1 Insured Status (Additional Insured) Foundation shall provide insured status using ISO endorsement CG 20 10 or its equivalent naming the City of Oakland, its Councilmembers, directors, officers, agents and employees as insureds in its Comprehensive Commercial General Liability policy If Foundation submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on a CG 20 10 (or equivalent) A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT, and
- 11 Cancellation Notice 30-day prior written notice of termination or material change in coverage and 10-day prior written notice of cancellation for non-payment,
- 111 Cross-liability coverage as provided under standard ISO forms' separation of insureds clause, and
- 1V Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement, and
- v Insurer shall carry any insurance from an admitted company with a Best Rating of A VII or better

c Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Foundation, such insurance in the name of Foundation as is required pursuant to this Agreement, and may deduct the cost of

taking out and maintaining such insurance from any sums which may be found or become due to Foundation under this Agreement

d Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement

e Proof of Insurance

Foundation will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Foundation's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award

f Subcontractors

Should the Foundation subcontract out the work required under this agreement, it shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Foundation may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Foundation shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements

g Deductibles and Self-Insured Retentions

Any deductible or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers, or the Foundation shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses

h Waiver of Subrogation

Foundation waives all rights against the City of Oakland and its Councilmembers, officers, directors and employees for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above

i Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice

EXHIBIT A

GRANT-FUNDED PROGRAM ACTIVITIES

With a history that dates back 100 years to OMCA's predecessor organizations – the Oakland Public Museum, the Oakland Art Gallery, and the Snow Museum of Natural History, all civic institutions founded by the City of Oakland – the Oakland Museum of California ("Museum") has an extraordinary tradition as a cultural institution that has been created, nurtured, and supported by the City and its residents for many decades. The Museum's collections are the most complete resource on California's natural, artistic, and social history anywhere in the State and is held in public trust by the City of Oakland as one of the City's most valuable assets for the public good.

The Foundation's program activities include the following:

Collection Care

- Oversee acquisition, cataloguing, storage, research, and care for Museum collection of art, history, and natural sciences collections
- Make collections available through exhibitions, loans to other institutions, and on-line presentation
- Undertake preservation, security and conservation efforts for collections (cleaning, restoration treatment, using technology to protect, preventative maintenance, etc.)
- Present and interpret collections through exhibitions and public programs
- Ensure that collection care policies and practices adhere to the standards of an accredited museum by the American Association of Museums. (The Museum has a full range of collection-related policies that were submitted for its AAM accreditation and are maintained and adhered to on an ongoing basis: Accession and Deaccession Policies, Collection Planning, Conservation, Loans, Facility Reporting, etc.)

Programming

- Present a balanced and diverse schedule of public programs including temporary and long-term exhibitions, educational programs, public events, temporary exhibitions collection installations, school programs, family programs, adult public programs, community programs, Web and on-line programs, etc. On-site and off-site programs as the Museum develops and installs exhibitions at off-site facilities and locations. Off-site education programs in schools, libraries, etc.
- Ensure accessible hours of operation. Currently, the Museum is open 11 am to 5 pm Wednesday, Thursday, Saturday and Sunday and 11 am to 9 pm on Friday. The Museum is free to the public for no less than one day of each month.
- Oversee all on-site visitor services including admissions, volunteer gallery guides, and volunteer ambassadors.
- Coordinate with Museum volunteer groups on development and presentation of programs for the public.

- Oversee all on-site Museum events including Museum donor, member, and public events and facility rentals by external clients

Educational Programs

- Programming for school children and accessibility for Oakland schools

Charges and Fees

- The Foundation/Museum sets prices for all activities including admission, membership, facility rental, program fees, etc Also charge modest fees for rights and reproduction, loans, etc

Administration

- Oversee preparation of Museum and Foundation annual operating budget Responsible for all annual operating costs for the Museum consistent with applicable provisions in the Lease
- Produce CIP budget for major facility repairs to the City during its annual budget cycle Oversee all aspects of Museum payroll, accounts payable and receivable, grant administration
- Oversee insurance, tax-filing, etc (This is separate from the collections insurance or general liability insurance that the City will maintain)
- Oversee bank accounts and banking relationships
- Oversee stewardship and investment of the Foundation's endowment
- Oversee the Museum's information technology infrastructure including data, internet, phone system, and all proprietary systems such as finance, development, collections management system, in-gallery media, ticketing, security and surveillance, etc

Marketing

- Undertake all marketing and communication initiatives for and regarding the Museum, its collections and programs through press, advertising, promotions, collateral, social media and the Web, publications, etc

Development and Membership

- Undertake all fundraising activities for the Museum including membership, individual and institutional fundraising, and donor relations and stewardship for operating, programmatic, and capital campaigns

Museum Store, Restaurant, and Parking Lot

- Oversee operation or concession of Museum Store, Restaurant and Garage

Facility Operation

- Foundation maintains adequate security measures, including but not limited to, alarms, surveillance cameras, sensors and any new technology available in the future
- Oversee any major renovation projects for the Museum facility, including Measure G projects

City Grant Disbursal Payments to Foundation

City Fiscal Year	City Funding \$MM	Foundation Funding \$MM	Total Museum Budget \$MM
11 – 12	\$5 0	\$9 0	\$14
12 – 13	\$5 0	\$9 3	\$14 3
13 – 14	\$5 0	\$9 8	\$14 8
14 – 15	\$4 8	\$10 5	\$15 3
15 – 16	\$4 6	\$11 2	\$15 8
16 – 17	\$4 4	\$12 0	\$16 4
17 – 18	\$4 2	\$12 7	\$16 9
18 – 19	\$3 7	\$13 9	\$17 6
19 – 20	\$3 2	\$15 0	\$18 2
20 – 21	\$3 0	\$16 0	\$19

EXHIBIT A-1

FINANCES AND REPORTING REQUIREMENTS

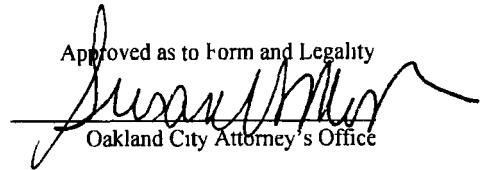
The Foundation will submit to the City of Oakland reports as follows

- Annual report provided to Foundation members and donors to include the annual audit and an overview of the activities during the fiscal year,
- Annual report to the City Life Enrichment Committee on activities including exhibitions, educational programs, loans, acquisitions and deaccessions as well as any plans for facility improvements, renovations, or capital expenditures

To the extent not provided in the reports noted above, the Foundation will submit to the City of Oakland reports on the Museum's financial condition as follows

- 1 Bi-annual report on the expenditure of the funds paid through the Grant Agreement on collection care, stewardship, presentation, interpretation, and programming as well as supporting activities including administration, marketing, development, and visitor services (to be submitted by January 31 for the period July 1 – December 31 and by July 31 for the period January 1 – June 30),
- 2 Annual submittal of Foundation audit of financial results performed by an independent auditor that includes a review of Foundation assets and liabilities,
- 3 Annual submittal of Foundation operating budget by June 15 for the fiscal year beginning July 1 reflecting projected annual revenue and expenditures as well as beginning and year-end balance sheets and cash flow projections,
- 4 Annual submittal of Foundation final operating expenses by December 31 for the fiscal year preceding (ending the prior June 30) that reflects actual revenue and expenditures,
- 5 Annual submittal of Foundation balance sheet as of end of the preceding fiscal year by October 1 for each fiscal year,
- 6 Annual report to the City Life Enrichment Committee on Museum activities including, loans, acquisitions and deaccessions as well as any plans for facility improvements, renovations, or capital expenditures,

- 7 Annual report by July 30 on funds available in the restricted account for Museum acquisitions and highlighting any activity from the previous year (ie interest earned, funds used for acquisitions, donated fund, funds secured through deaccession)


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No 83442 C M S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A TEN YEAR GRANT AGREEMENT WITH THE OAKLAND MUSEUM OF CALIFORNIA FOUNDATION TO SUPPORT THE MUSEUM ACTIVITIES OF THE FOUNDATION 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, WITH AN INITIAL CITY ANNUAL GRANT DISBURSEMENT OF FIVE MILLION DOLLARS (\$5,000,000 00) ON JULY 1, 2011 THAT DECLINES ANNUALLY TO \$3 MILLION OVER THE TEN-YEAR PERIOD, FOR A TOTAL GRANT OF FORTY THREE MILLION DOLLARS (\$43,000,000 00)

WHEREAS, the Oakland Museum of California, located at 1000 Oak Street, Oakland California, is owned by and in the custodial care of the City of Oakland, and

WHEREAS, since its founding more than forty years ago and with a history dating back one hundred years, the Oakland Museum of California ("Museum") has been a public institution, owned by the City of Oakland ("City") and committed to a broad civic mission serving local, statewide and national audiences, and

WHEREAS, the Museum's landmark facility was constructed through a public bond measure in the 1960s and is currently being renovated through a \$63 million capital campaign, funded in part through a \$23.6 million parcel tax measure that has been supported by Oakland voters, and

WHEREAS, the Oakland Museum of California Foundation ("Foundation") is a California 501(c)(3) non-profit corporation dedicated to raising and generating funds for the Museum's exhibitions, education programs, marketing efforts, earned revenue enterprises and other Museum services, and is currently providing more than 55% of the Museum's annual operating budget and employing more than 55% of the Museum's staff, and

WHEREAS, the City and the Foundation have jointly operated the Museum in a public/private partnership as formalized in October 2006 through a Management & Operations Agreement that will expire in 2011, and

WHEREAS, the growth and development of the Museum through its major renovation project have made it a more complex organization requiring additional funding and staff, and

WHEREAS, the City's serious financial challenges demand that it focus on core services to determine what services it is able to continue, and what operations are better performed by another entity, and

WHEREAS, the City has determined that it will cease operating and managing the Museum and will continue to own the Museum facilities and collection and lease the facilities at 1000 Oak Street and 450 Lancaster Street to the Foundation in order to ensure the Museum's long-term viability and sustainability, and

WHEREAS, the City wishes to providing long-term funding to the Foundation to support the Foundation in carrying out 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 negotiate and execute a Grant Agreement with the Foundation for a period of ten (10) years that sets forth the terms under which the Foundation will care for, conserve, steward, research and provide scholarly and interpretive expertise in support of the Museum's collection of close to two million art works, artifacts, and natural science specimens related to California's cultural and environmental history for the annual disbursement amounts set forth in Exhibit A, Grant Disbursement Schedule, attached hereto and incorporated, totaling forty three million dollars (\$43,000,000 00) over the ten (10) year grant period, and be it

FURTHER RESOLVED That all program activities carried out by the Foundation will be in accordance with the standards of the American Association of Museums, and that the City and Foundation agree to abide by and comply with the standards of the American Association of Museums on all regulations concerning accessions to and deaccessions from the collection, and be it

FURTHER RESOLVED That the City will disburse an annual grant payment on July 1 of each year commencing 2011 through and including 2020 to support Museum program activities, with an amount of five million dollars (\$5,000,000 00) in Fiscal Year 2012 which declines to three million dollars (\$3,000,000 00) per year over the ten-year term of the Grant agreement in accord with the grant disbursement schedule in Exhibit A, and be it

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

FURTHER RESOLVED That the City has requested that the Foundation place all City employees currently working at the Museum at the Museum and the City will make every effort to place City employees not hired at the Museum in City positions or other employment, 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

IN COUNCIL OAKLAND CALIFORNIA JUN 28 2011 2011

PASSED BY THE FOLLOWING VOTE

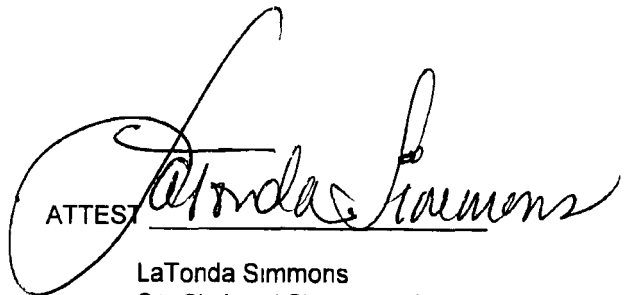
AYES - BROOKS, BRUNNER DE LA FUENTE KAPLAN, KERNIGHAN NADEL SCHAAF and
PRESIDENT REID ~ 8

NOES 0

ABSENT - 0

ABSTENTION - 0

ATTEST



LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland California

EXHIBIT A—Schedule of Grant Disbursals

Year	City Funding \$MM	Foundation Funding \$MM	Total Museum Budget \$MM
1	\$5 0	\$9 0	\$14
2	\$5 0	\$9 3	\$14 3
3	\$5 0	\$9 8	\$14 8
4	\$4 8	\$10 5	\$15 3
5	\$4 6	\$11 2	\$15 8
6	\$4 4	\$12 0	\$16 4
7	\$4 2	\$12 7	\$16 9
8	\$3 7	\$13 9	\$17 6
9	\$3 2	\$15 0	\$18 2
10	\$3 0	\$16 0	\$19