

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

December 17, 2019

FROM

MELISSA RUSSO, Director, County Museum

SUBJECT

Revenue Agreement with Bank of America for Museums on Us Program

RECOMMENDATION(S)

Approve Revenue **Agreement No. 19-819** with Bank of America in consideration for County Museum's participation in the Museums on Us program in the amount of \$4,000 for the period of January 1, 2020 through December 31, 2020.

(Presenter: Melissa Russo, Director, 798-8608)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). The County Museum (Museum) will receive \$4,000 from Bank of America in consideration for the Museum's participation in the Museums on Us program. These funds will be used to offset the cost of free museum admissions offered to Bank of America and Merrill Lynch cardholders. The San Bernardino County Museum Association has agreed to reimburse any free museum admissions exceeding \$4,000. Adequate appropriation and revenue have been included in the Museum's 2019-20 budget, and will be included in the 2020-21 recommended budget.

BACKGROUND INFORMATION

Approval of this action will authorize the San Bernardino County Museum to receive \$4,000 from Bank of America in consideration for the Museum's participation in the Bank of America Museums on Us program offering free admission to Bank of America and Merrill Lynch cardholders on the first full weekend (Saturday and Sunday) of each month. The program rules provide for free admission to cardholders only, not to additional guests or family members. Qualifying dates during the contract period 2020 are as follows:

Qualifying Dates: Museums on Us Program
January 4 - 5, 2020
February 1 - 2, 2020
March 7 - 8, 2020
April 4 - 5, 2020
May 2 - 3, 2020
June 6 - 7, 2020

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July 4 - 5, 2020
August 1 - 2, 2020
September 5 - 6, 2020
October 3 - 4, 2020
November 7 - 8, 2020
December 5 - 6, 2020

The Museums on Us program launched nationally in 2000 and is a benefit to Bank of America cardholders across the United States. Bank of America partners with an array of prominent cultural institutions in the United States including museums, science centers, botanical gardens and aquariums. Participating museums benefit in several ways including a cash stipend, extensive marketing and promotion of the program within and outside of the Inland Empire market, increased paid admissions and relationship building with the philanthropy arm of Bank of America, which is one of the largest donors to museums in California and across the United States. Approximately 200 museums currently participate in the program. This will be the fourth year that San Bernardino County Museum has been invited to participate.

Promotion of the program features a Museums on Us website, which lists the partner museums, emails and mail to cardholders, and social media prior to each month's Museums on Us weekend through Facebook and Twitter reminders. In Fiscal Year 2017-18 the Museum had 865 free admissions through this program, and in Fiscal Year 2018-19 there were 1,045 free admissions.

The 2020 Museums on Us Agreement contains the following non-negotiable non-standard terms and conditions.

1. There is a mutual indemnity provision in section G.a. The parties agree to indemnify each other for claims, damages etc., arising out of a party's own breach of the agreement, acts or omissions of a party or infringement of intellectual party.
2. In section G.b the parties grant each other the right to use each other's name, logo, etc., for purposes of promoting the Museums on Us program. Per section G.c. any such use must receive advance approval.
3. The applicable governing law is North Carolina and venue is in the state of North Carolina.

The potential impact of these non-standard provisions are as follows:

1. The County does not typically offer indemnity to non-governmental entities, as it may result in a waiver of sovereign immunity. To illustrate, if a third party suffers damages, it may not be able to sue the County because of applicable immunities. It would be able to sue Bank of America, a nongovernmental entity, and the County would be obligated to defend Bank of America if those damages were caused by the County's breach, acts or omissions etc.
2. County policy 03-02 provides that the County logo or seal may only be used by a non-County entity with approval of the Chief Executive Officer on behalf of the Board of Supervisors.

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3. Should there be a dispute regarding the 2020 Museums on Us Agreement, it would be litigated in the State of North Carolina, according to the laws of North Carolina.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by County Counsel Katherine Hardy, Deputy County Counsel, 387-5437) on November 22, 2019; Finance (Elias, Finance Analyst, 387-5402) on November 22, 2019; County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on December 2, 2019.

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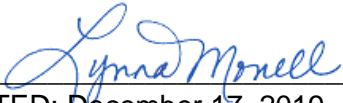
Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Josie Gonzales

Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: December 17, 2019



cc: Museum- Russo w/agree
Contractor- C/O Museum w/agree
File- w/agree
la 12/18/2019