



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kay Winer
Larry Lisenbee

SUBJECT: SEE BELOW

DATE: April 5, 2007

Approved _____ Date 4/5/07

COUNCIL DISTRICT: #5

SUBJECT: APPROVAL OF FISCAL ACTIONS FOR THE MEXICAN HERITAGE CORPORATION

RECOMMENDATION

- (a) Approval to amend the agreement with Mexican Heritage Corporation to provide one-time funding in an amount not to exceed \$175,000.
- (b) Adoption of the following appropriation ordinance amendments in the General Fund:
 - (1) Establish a City-Wide appropriation to the City Manager's Office for Mexican Heritage Corporation in the amount of \$175,000.
 - (2) Reduce the General Fund Contingency Reserve by \$175,000.

OUTCOME

Approval of the recommendation will allow Mexican Heritage Corporation to continue to operate the Mexican Heritage Plaza through June 30, 2007.

BACKGROUND

The audit of the Mexican Heritage Corporation (MHC) was presented to the Rules Committee on April 4, 2007. The purpose of the audit was to review the MHC's ability to operate and maintain the Mexican Heritage Plaza.

One of the major conclusions of the audit is that the MHC does not have sufficient funds to continue operation to June 30, which is the end of the fiscal year. The Rules Committee directed staff to identify a funding source to allow the MHC to continue operations for the next 3 to 6 months while short and long-term strategies are explored and brought back to the Rules Committee in late April or early May and then to the City Council for action.

ANALYSIS

The cash flow analysis prepared by the City Auditor using financial data from MHC for the period through June 30, 2007 shows a shortfall of almost \$175,000. Without an infusion of operating funds, MHC has stated that it will cease operations by the end of April. Beginning on July 1, MHC will receive the annual operating and maintenance grant of \$413,783, which will provide the organization with funds to continue operations.

Staff recommends an appropriation of up to \$175,000 from the contingency reserve to cover the shortfall for the remainder of the fiscal year. Although there is \$1 million remaining in the Arts Stabilization Fund, this source is not recommended for this purpose. The intent of the Arts Stabilization Fund is that it be a revolving fund. Any use of these funds should be for loans or lines of credit. Prior use of the Arts Stabilization Fund has been a \$2 million, 10 year revolving line of credit for the San José Repertory Theatre (REP) and a \$1 million, 5 year revolving line of credit for the American Musical Theatre of San José (AMT). When funds are paid back to the City, the Arts Stabilization Fund is replenished and available to other organizations. Due to the fact that MHC is not in the financial position to repay the \$175,000, it is recommended that this amount be funded from the Contingency Reserve of the General Fund.

The Rules Committee, at its meeting on April 4, 2007, directed staff to analyze the short and long-term recommendations contained in the audit, those contained in Councilmember Campos' memorandum of April 3, 2007 (copy attached), to apply criteria consistent with those used in evaluating the REP and AMT and to evaluate the draft business plan submitted by MHC in March 2007. Staff was further directed to ensure adequate public outreach and stakeholder input. Staff will bring back a report on options with timelines to the Rules Committee in late April or early May.

PUBLIC OUTREACH/INTEREST

The purpose of this section is to describe discussions that have occurred with the public, stakeholders, community groups and/or other governmental agencies. Staff will be asked to use the following checklist to determine if items are to be considered items of "Significant Public Interest", thus requiring additional notification per the matrix below. Please note the outreach that was done.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

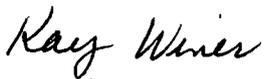
This memorandum has been coordinated with the City Attorney's Office and the City Auditor's Office.

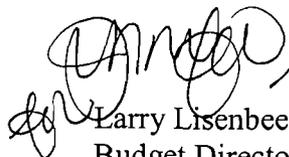
BUDGET REFERENCE

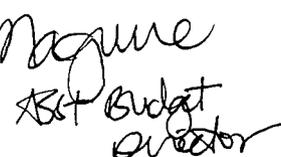
Fund #	Appn #	Appn. Name	Total Appn	Adopted Budget Page	Last Budget Action (Date, Ord. No.)
001	7901	Contingency Reserve	28,039,462	IX-27	10/17/06, 27888

CEQA

Not a project


Kay Winer
Chief Deputy City Manager


Larry Lisenbee
Budget Director


Bob Maguire
Asst Budget Director

For questions please contact Kay Winer, Chief Deputy City Manager at 535-8130.



Memorandum

**TO: Rules and Open Government
Committee**

FROM: Councilmember Campos

SUBJECT: Mexican Heritage Plaza

DATE: April 3, 2007

Approved:

Date: 4-3-2007

RECOMMENDATION:

1. Request the Rules and Open Government Committee to schedule a time certain discussion regarding the Mexican Heritage Plaza to allow for greater public participation.
2. Request that Staff return to the City Council with recommendations for the following:
 - a. Request City Manager explore revising the current Operations and Maintenance Agreement between the City and the Mexican Heritage Corporation to provide for the following:
 1. Revise the O&M agreement to provide that MHC shall submit monthly reports to the City Manager, in a manner and format to be determined by the City.
 2. Use of the Arts Stabilization Fund to assist MHP in meeting its current financial obligations;
 3. Restructure the current loan from the City to MHC to be characterized as a grant;
 - b. Request the City Manager to explore obtaining expert advice or consultants to assist MHC to license the naming rights of the venue and to increase earned revenue opportunities in facilities event rentals and ticketed entertainment programming.
 - c. Request the City Manager to assist MHC to explore expanding the use of operating partners.
 - d. Request the City Manager convene a group of outside experts in theatre management, arts management and fund development, and Latino marketing, to review the MHC business plan.
 - e. Request the City Manager work with MHC management and Board in the following areas:
 1. Achieving realistic revenue goals
 2. Board recruitment
 3. Community engagement
 - f. Request City Manager to explore amending the agreement with MHC regarding the Neighborhood Development Center at the Mexican Heritage Plaza to ensure cost recovery.

- g. Request the City Attorney to review the ability to use tax increment revenue from the Alum Rock Redevelopment area to support the operations and facilities costs of the Mexican Heritage Plaza.

BACKGROUND

The current Operation and Maintenance (O&M) agreement between the Mexican Heritage Corporation (MHC) and the City of San José is outdated and unsustainable. Executed in 1996, the O&M agreement outlines the terms for which the Mexican Heritage Corporation (MHC) would operate the City-owned Mexican Heritage Plaza. Since the Plaza opened in 1999, MHC has faced significant financial challenges operating the \$35 million, 55,000 square-foot facility.

In 2004, MHC commenced an extensive financial and management reorganization which included the hire of an experienced senior entertainment industry executive with expertise in non-profit and arts management. Additionally, MHC scaled back programming and embarked on a quiet period. By the end of FY 2005-06 MHC was able to report a modest operating surplus, a newly revamped programming model, and a visual and performing arts season that resulted in critical acclaim and record revenues. Despite MHC's recent efforts, it still faces significant financial challenges. On June 6, 2006, MHC made a formal request to the City of San José to amend its O&M agreement in order to create a more sustainable business and financial model. In December 2006, the City Council requested an audit of the Plaza and MHC.

MHC faces a continued challenge to its financial stability and its capacity to operate the Plaza due to inherent defects in the operating structure originally agreed to by the City and MHC. Without additional changes to this unsustainable model, MHC will not be able to continue its present operations. As a result, the following recommendations are necessary in order to assist MHC through the year and create a successful business model:

- ***Request City Manager explore revising the current Operations and Maintenance Agreement between the City and the Mexican Heritage Corporation.*** Allowing the City Manager to work with MHC to determine the appropriate terms and use of the Arts Stabilization Fund would help MHC meet its current financial obligations. Additionally, restructuring MHC's loan into a grant would eliminate MHC's long standing debt and improve the organization's ability to solicit contributions. Finally, monthly financial reports would hold MHC accountable and provide greater City oversight.
- ***Request the City Manager to explore obtaining expert advice or consultants to assist MHC to license the naming rights of the venue and to increase earned revenue opportunities in facilities event rentals and ticketed entertainment programming.*** The City and MHC must explore new and innovative ways to increase promotions and revenue at the Mexican Heritage Plaza. Allowing for naming rights is just one of the ways this could occur.
- ***Request the City Manager to assist MHC to explore expanding the use of operating partners.*** Allowing MHC to explore partnerships with organizations like Team San José could lower overhead costs and provide new opportunity for bookings and revenue.
- ***Request the City Manager convene a group of outside experts in theatre management, arts management and fund development, and Latino marketing, to review the MHC***

business plan. The City Auditor indicated the need to do an in-depth organizational and structural assessment of the MHP. In addition to a consultant, an advisory group of experts in theatre management, arts management and fund development, and Latino marketing should review the MHC business plan.

- ***Request the City Manager work with MHC management and Board in the following areas:***
 - ***Achieving realistic revenue goals***
 - ***Board recruitment***
 - ***Community engagement***

Recommendations pertaining to these items can be included in MHC's business plan.

- ***Request City Manager to explore amending the agreement with MHC regarding the Neighborhood Development Center at the Mexican Heritage Plaza to ensure cost recovery.*** A satellite Neighborhood Development Center at the Mexican Heritage Plaza provides opportunities for community engagement, as well as much needed meeting space for nearby neighborhood groups. However, allowing this use should not be a financial burden to MHC.
- ***Request the City Attorney to review the ability to use tax increment revenue from the Alum Rock Redevelopment area to support the operations and facilities costs of the Mexican Heritage Plaza.*** The Mexican Heritage Plaza is located in the Alum Rock Neighborhood Business District and Redevelopment Agency project area. The Redevelopment Agency Board can use this information to determine if it is appropriate to use tax increment revenue to support the Plaza.

cc: Honorable Mayor and City Council
Mexican Heritage Corporation Board of Directors

MEXICAN HERITAGE PLAZA CONCEPTS FOR CITY AND RDA SUPPORT AND ASSISTANCE

Expanded notes from City/RDA meeting of April 2, 2007.

Premise:

The Mexican Heritage Plaza (MHP) is at a critical juncture in its history and, as such, the timing provides a unique opportunity to re-conceptualize the model for operations of the MHP. The facility requires a planning phase that could involve the Mexican Heritage Corporation (MHC) continuing to operate the facility with additional financial support from the City or increased City participation in the daily maintenance, oversight, and activities scheduled or offered by City programs.

Assumptions Regarding Current Uses:

Previously established facility use commitments will be honored, and the facility will be available for continued arts scheduling by Mexican Heritage Corporation, and the Resident Arts Partners (RAPs) that include Teatro Vision, Los Lupenos, and San José Multi-Cultural Artist Guild.

Planning Efforts:

City and RDA agree to fund a consultant to propose best uses and/or new scenarios for effective use of the Plaza and to incorporate community desire and needs for the on-going use of the facility. Consultant must demonstrate a solid understanding of the unique arts and cultural needs within the community as well as alternative community use options that can be fulfilled at the MHP. (Estimated costs and timeline shown at end of document.)

In addition, it is recommended that concurrent with the above efforts related to the MHP facility; that additional consultant efforts be undertaken to focus on the non-profit Mexican Heritage Corporation (MHC) to determine their programmatic and administrative capacity. This effort, in addition to the recently completed audit by the City Auditor, will provide an in-depth, comprehensive assessment of MHC's ability to operate and maintain the Plaza. End results of this effort could help determine what role MHC could play in the re-conceptualization of the possible scenarios for MHP. (Estimated costs and timeline shown at end of document.)

Opportunities for City Support:

City, through the General Services Department (GSD), can provide expertise to utilize the annual O & M related funding of \$413,783 to provide all maintenance including grounds and facilities, preventative, emergency repairs, unit replacement, custodial services and payment of utilities effective July 1, 2007.

City, through GSD, can provide event coordination services to maintain a facility use master calendar and to honor and serve all activities committed to date and to book additional requests.

Potential Opportunities to Explore as Interim Uses During Planning Efforts and As Possible Long-term Uses (to provide security and public access):

- Space for Neighborhood Development Center (NDC) and Strong Neighborhood Initiative (SNI) activities;
- Space for Work to Future related activities;
- PRNS to consider after-school and Youth arts and culture programming related opportunities;

MHC Mariachi Support Opportunity for City and RDA Funding:

Consideration should be given to support MHC with marketing funds up to \$100,000 shared from City and RDA for the FY 2007-08 events. City and RDA provided funds in same amount for marketing support for 2006-07.

ESTIMATED COSTS AND TIMELINE FOR CONSULTANT SERVICES

NOTE: Request for Qualifications (RFQ) should be designed so that one consultant or consultant team could manage the efforts to propose best uses and/or new scenarios for effective use of the Plaza AND further analysis of MHC programmatic and administrative capacity.

Task 1. Consultant to propose best uses and/or new scenarios for effective use of the Plaza and to incorporate community desire and needs for the on-going use of the facility. Consultant must demonstrate a solid understanding of the unique arts and cultural needs within the community as well as alternative community use options that can be fulfilled at the MHP.

Task 2. Consultant efforts to focus on the non-profit Mexican Heritage Corporation (MHC) to determine their programmatic and administrative capacity. This effort, in addition to the recently completed audit by the City Auditor, will provide an in-depth, comprehensive understanding on MHC's ability to operate and maintain the Plaza. End results of this effort could help determine what role MHC could play in the re-conceptualization of the possible scenarios for MHP.

Steps:

1. City, RDA and Arts Commission liaison jointly prepare a scope of services detailing the task and timeline including benchmarks for participation of key stakeholders and community.
2. City and RDA estimate and identify funds needed.
3. City and RDA develop and release a Request for Qualifications (RFQ) to solicit interested consultant candidates.
4. City, RDA and Arts Commission liaison review RFQ's and recommend selection of consultant candidate.

5. City and RDA execute agreement with selected consultant.
6. Consultant conducts study and reports back to City and RDA as required in addition to presentation of findings at Arts Commission, community meetings etc.
7. Based on input to consultant findings and response from various bodies, final recommendations and reports prepared.
8. Final recommendations and reports presented to City Council and/or Council Committee for action. Presentation to include consultant plus City and RDA staff.

Estimated Cost:

Task 1. An estimated consultant fee including any expenses of \$25,000 to \$50,000.

Task 2. An estimated consultant fee including any expenses of \$25,000 to \$50,000;

or,

\$50,000 to \$100,000 for both consultant related Tasks 1 and 2.

Estimated Timeline:

- Steps 1 through 4 up to two (2) months pending staff resources assigned. (April-May)
- Steps 4 through 7 up to three (3) months pending consultant availability, schedule and input plus any timing needed due to compliance with public meeting schedules. (May-June-July)
- Step 8 up to two (2) months with a 30-day period planned for public notice and comment; could be finalized for City Council/RDA Board for a September review. (August-September)

Mexican Heritage Corporation
\$175k Budget
April 07 - June 07 (2.5 months)

Item Description					BUDGET
Personnel	FTE	Hrly Rate	Salaries	Fringe Ben.	Personnel Cost
Executive Director	1.0	72	31,250	4,268	35,518
Facilities Operations Manager	1.0	29	12,766	7,312	20,078
Facilities Rental Manager	1.0	20	8,584	2,850	11,434
Executive Assistant/Receptionist	1.0	24	10,417	1,927	12,344
Accounting Assistant	0.5	22	4,688	1,090	5,778
Custodian	1.5	18	11,915	6,097	18,012
Total Personnel Cost			79,620	23,544	103,164
Accounting Fee	MACSA at 4,500 per mo x 2.5 months			11,250	
Website Maintenance				813	
Professional Fees					12,063
Office Supplies				1,200	
Postage, Messenger and Delivery				900	
Office Operating Expenses					2,100
PG&E	\$11,000 per month			27,500	
Water Utility	\$1,500 per month			3,750	
Garbage Disposal	\$275 per month			825	
Service Agreements					
Air-con and heater	} \$5,500 per month				
Elevator					
Landscaping					
Fire Alarm/Fire and Safety					
Pest Control					
Phone Lines/Comcast					
Custodial Supplies/Minor Building Repairs	\$1,800 per month			4,500	
Occupancy Expense					50,325
Copier Lease and Usage	\$2,856 per month			7,140	
Postage Meter	\$250 per quarter			208	
Equipment Lease and Usage					7,348
 TOTAL BUDGET					 175,000