



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Kay Winer

SUBJECT: MEXICAN HERITAGE
CORPORATION AMENDMENTS
TO EXISTING AGREEMENTS

DATE: May 10, 2007

Approved

Date

5/10/07

COUNCIL DISTRICT: #5

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to negotiate and execute:

1. The Fourth Amendment to the Loan Agreement entered into by the City and the Mexican Heritage Corporation (MHC) to defer repayment of MHC's loan for 12 months, to revise the repayment schedule accordingly, to make corresponding amendments to the Promissory Note, and to revise the Loan Agreement to incorporate the recommendations in the City Auditor's Report.
2. The Fifth Amendment to the Operation and Maintenance (O & M) Agreement entered into by the City and MHC to require MHC to provide additional monthly financial reports to the City for the remainder of the term of the Agreement.

OUTCOME

The above recommendations implement direction received at the Rules and Open Government Committee meeting held on May 2, 2007. At this meeting Council accepted staff's recommendations for a workplan that provides short and long term strategies to address MHC's operation of the Mexican Heritage Plaza (MHP).

ANALYSIS

1. Short-Term Recommendations

On April 17, 2007, Council approved an appropriation of up to \$175,000 to provide sufficient funds to MHC to continue operations through June 30 based on figures provided by MHC.

Starting July 1, 2007 under the Operations and Maintenance Agreement with the City, MHC will begin to draw funds for operations and maintenance from its annual subsidy of \$413,783 in monthly payments of \$34,481.91. This should be adequate to fund the organization as MHC also collects revenues related to the operations of the facility. Additionally, revenues from the Mariachi Festival will be available to MHC by the last quarter of the calendar year. In order to maximize the cash available to MHC, staff recommends that, pending final Council decisions on the Mexican Heritage Corporation audit, the \$50,000 that is typically "taken off the top" to repay the City loan of \$650,000 be deferred.

2. Longer-Term Options

Staff recommends contracting with outside expert consultants to develop longer term-options in two specific areas:

Conduct an assessment of Mexican Heritage Plaza to determine the highest and best uses and to involve the community in this process.

The Mexican Heritage Plaza was developed without the benefit of a comprehensive plan and evolved to a 55,000 square foot facility that has served the community in a variety of ways. The Mexican Heritage Plaza is at a critical juncture after more than seven years of operation. The results of the audit present a unique opportunity to assess the facility and to explore highest and best uses on an ongoing basis, both from an economic standpoint, as well as meeting community needs.

The consultant hired for this purpose must demonstrate a solid understanding of the unique arts and cultural needs within the community, as well as alternative and compatible community use options that can be fulfilled at the MHP. The analysis will include a comparison and benchmarking with other cultural and arts institutions such as: Mexican National Museum, Chicago; National Hispanic Cultural Center, Albuquerque; Oakland Museum of California, Oakland; Yerba Buena Center, San Francisco, MECA (Multicultural Education and Counseling Through the Arts), Houston; and others that will be identified by the consultant.

Conduct an assessment of the current organizational capacity of the Mexican Heritage Corporation

Concurrent with the above efforts related to the MHP, staff recommends that consultant efforts be undertaken to focus on the non-profit MHC to determine its programmatic, administrative and financial capacity. MHC's current business plan will be fully evaluated and strategies developed

to strengthen its organizational capabilities for earned and contributed income, including naming rights. 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 MHP in the long term. Additionally, it is envisioned that the consultant's findings and recommendations will facilitate MHC's efforts to grow as a non-profit cultural arts organization.

Integrate Results and Conclusions of Both Consultant Studies

The two consultant studies are proposed to be prepared simultaneously and be conducted by two separate consultants, each highly specialized in the areas described above. Steps are currently being taken to identify potential consultant candidates and to develop scopes of services for the two efforts commencing in June and concluding by the end of September. Staff anticipates the City and the Redevelopment Agency will fund the consultant studies jointly.

Once the studies have been completed, the results will be presented to the Council. The consultant's recommendations for highest and best uses for the facility may be consistent with the current programming of the facility or there may be proposals for potential types of programs and services that may expand the vision of the Plaza. With the completion of an organizational assessment of MHC, the Corporation will be in an improved position to carry out a strategic plan. Should an expanded vision of the Plaza materialize, the organization can determine if it has the interest in and capacity to serve as the operator of the facility or if it chooses to be a major tenant in the facility.

Community Involvement a Key Element in Both Studies

Community participation will be an important element in both consultant studies, involving a wide variety of stakeholders including but not limited to:

- Mexican Heritage Corporation's current and past Board and staff;
- Resident Art Partner (RAP) organizations;
- Neighborhood Action Committees (NAC's) with Mayfair, Gateway East and KONA represented;
- MACSA;
- GI Forum;
- MACLA;
- Neighborhood Development Center;
- Local foundations, including the Hispanic Foundation, Community Foundation, Packard Foundation and the Castellano Family Foundation;
- Alum Rock and Story and King Road Business Associations;
- Hispanic Chamber of Commerce;
- Arts Commission; other arts and cultural organizations both large and small.

PUBLIC OUTREACH/INTEREST

Public outreach has occurred by the participation of the Arts Commission with this topic reported and discussed at their monthly meetings. The RAPs have been involved during the audit process and have participated in public meetings while also submitting written information for consideration. The local news media has reported on this item including front-page stories.

- 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

The City Attorney's Office, the Budget Office, the Auditor's Office, the RDA and the Office of Economic Development, including Office of Cultural Affairs, have participated in the discussions related to the recommendations in this memorandum. In addition a representative of the Arts Commission has participated in the staff efforts to develop recommendations. MHC was also present at the Rules Committee on May 2 when direction was given.

FISCAL/POLICY ALIGNMENT

Amending the Loan Agreement to defer repayment of MHC's loan for 12 months will provide MHC with some financial relief and support during the period the consultant studies of both the MHP and MHC occur with time for Council to consider and take action regarding the findings. Providing funding to conduct a consultant led assessment of both MHP and MHC will allow informed decision-making as the City moves forward to determine the highest and best uses of the MHP that meet community need and to determine what level of funding support is needed to achieve these uses.

Supporting both MHP and MHC aligns two (2) of the San José Economic Development Strategies, a "Creative Community: item 4. Evolve and Position Downtown as a Unique and Cultural Center of Silicon Valley, and the World's most Livable Big City; and item 12. Encourage Sporting Teams, Events, and Facilities, Professional as well as Amateur." While not in the immediate downtown, MHP is linked by producing major components of the Mariachi Festival and programming with the other cultural institutions in the downtown. Supporting this

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effort encourages the growth of one of San José's major cultural institutions as it continues professionally, while also acknowledging the RAPs and other stakeholders that use MHP.

COST SUMMARY/IMPLICATIONS

Funding in an estimated amount of \$100,000 for two consultant studies will be required. It is anticipated that funding will be shared between the City and the RDA. Additionally, \$100,000 is proposed for providing marketing support to the Mariachi Festival in FY 2007-08 to be shared equally between the City and the RDA.

BUDGET REFERENCE

Not applicable.

CEQA

Not a project.



KAY WINER

Chief Deputy City Manager

For questions please contact Kay Winer, Chief Deputy City Manager, at (408) 535-8130.