



# Memorandum

**TO:** HONORABLE MAYOR AND CITY  
CITY COUNCIL

**FROM:** Paul Krutko

**SUBJECT: RECOMMENDATIONS FOR THE ARTS  
STABILIZATION LOAN FUND**

**DATE:** September 18, 2007

Approved

*Ray Warner*

Date

*9/19/07*

**COUNCIL DISTRICT:** City-Wide

## **RECOMMENDATION**

1. Approval of the Arts Commission's recommended Arts Stabilization Loan Fund Guidelines, with a modification to Section 2.i. as follows:

"If, after considering the analyses, assessments and staff recommendations, the Arts Commission should reach a different conclusion than staff, it may choose to make alternative recommendations, which will also be presented to City Council with the staff's recommendation."

2. Approval of the staff recommendation that the Flexible Fund be established with \$200,000 of the uncommitted portion of the \$4,000,000 Arts Stabilization Loan Fund, in addition to the incoming line of credit interest payments and general investment earnings.
3. Direct the City Manager to implement the Arts Stabilization Loan Fund Guidelines, as revised.

## **OUTCOME**

Approval of the Arts Commission's recommendations will provide guidance about use of the Arts Stabilization Loan Fund. Approval of the staff recommendation regarding the Flexible Fund will provide the means for the City to identify and help avert potential financial crises among local arts organizations through "early warning systems" and assistance to improve the financial management capacity of potentially troubled arts organizations.

## **BACKGROUND**

On August 27, 2007, the Community and Economic Development Committee (CEDC) approved the Arts Commission's proposed Arts Stabilization Loan Fund Guidelines ("Guidelines") *as modified by the Offices of Economic Development and Cultural Affairs*. The CEDC requested that the memorandum be cross-referenced (Attachment 1) and the item was placed on the City Council's September 11, 2007 agenda. Staff requested a deferral of the item to allow time to clarify with the Arts Commission the staff modifications that had been made to the Commission's proposed Guidelines.

Subsequent to the CEDC action, the Arts Commission's Executive Committee and City staff reviewed and discussed the staff modifications to the Guidelines. The Executive Committee determined that there may have been some misunderstanding of the Commission's intent in crafting the Guidelines; authorized the Commission Chair to develop a clarifying statement to City Council; encouraged that the originally proposed Guidelines, with a minor change for clarification, be approved by City Council; requested that the first staff recommendation regarding the role of the Arts Commission be withdrawn; and indicated its support for the second staff recommendation regarding the Flexible Fund.

## **ANALYSIS**

When the Arts Commission developed the proposed Guidelines at the request of City Council, it did not intend to inhibit, delay or obstruct the process or the recommendations of the Administration regarding extension of a line of credit to an applicant. The Commission's intent was to partner with City staff in the review of evaluative reports, and, if time allowed, review Administration recommendations and either indicate its support or include an alternative recommendation, along with the Administration's recommendation, to City Council or a Council Committee.

Although it was not the Commission's intent, the language in Section 2.i. of the proposed Guidelines could suggest that any recommendation by the City Administration regarding a Fund applicant must receive the approval of the Commission before the recommendation could be forwarded to City Council or a Council Committee. This interpretation led to staff's first modification to the Commission's Guidelines – a recommendation *that the Commission have an "inform and review" mode of involvement, rather than the "review and support or make alternative recommendation" role recommended by the Arts Commission.*

Arts Commission Chair Sharon Gustafson has submitted a statement on behalf of the Arts Commission (Attachment 2) recommending that the last sentence in the Guidelines Section 2.i. be revised to read,

"If, after considering the analyses, assessments and staff recommendations, the Arts Commission should reach a different conclusion than staff, it may choose to

make alternative recommendations, which will also be presented to City Council with the staff's report recommendation."

**Staff Analysis**

If Section 2.i. is revised as outlined above, City staff has determined that the Commission's proposed Guidelines, taken in their entirety, would not delay, obstruct or inhibit the review process, nor impede the Administration's ability to fully exercise its responsibilities, including forwarding its recommendations to City Council or a Council Committee in a timely manner.

The Executive Committee indicated to City staff that it fully supports the second staff modification to the Arts Commission's Guidelines – *that the Council consider funding creation of the Flexible Fund with \$200,000 of the uncommitted portion of the \$4 million Arts Stabilization Loan Fund, along with the incoming line of credit interest payments and general investment earnings.*

  
PAUL KRUTKO  
Chief Development Officer

For questions please contact Irene Ray, Division Manager Cultural Affairs, at 277-5144 x13.

Attachments:

1. CEDC Memo 08.27.07
2. Arts Commission Statement submitted by Chair Sharon Gustafson

# ATTACHMENT 1

CED CMTE: 08-27-07

ITEM: 4.1.h.



## Memorandum

**TO:** COMMUNITY & ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Paul Krutko

**SUBJECT:** See below

**DATE:** August 9, 2007

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: RECOMMENDATIONS FOR THE ARTS STABILIZATION LOAN FUND**

### RECOMMENDATION

Recommend City Council approval of the recommendations of the Arts Commission regarding the Arts Stabilization Loan Fund, as attached and as modified by the Offices of Economic Development and Cultural Affairs, and direct the City Manager to implement the revised Arts Commission recommendations.

### OUTCOME

Approval of the Arts Commission's recommendations will provide guidance about use of the Arts Stabilization Loan Fund. Approval will provide means for the City to identify and help avert potential financial crises among local arts organizations through "early warning systems" and assistance to improve the financial management capacity of potentially troubled arts organizations.

### BACKGROUND

On October 17, 2006, the City Council approved two measures that promised potentially significant impact on the arts sector in San Jose. The Council authorized a \$2 million, limited-term line of credit for San Jose Repertory Theatre (SJRT) to assist the organization with a financial crisis that threatened SJRT's continued existence, and it authorized the establishment of a \$4 million "arts stabilization fund" to finance the line of credit and potential City responses to future crises among arts organizations. On October 31, the Council approved a \$1 million, limited-term line of credit for American Musical Theater of San Jose (AMT), drawing on the new Arts Stabilization Loan Fund.

The Council requested that the Arts Commission develop and recommend guidelines and/or policies for the new Arts Stabilization Loan Fund. Subsequently, the Commission assigned the task of developing guidelines and policies to its Program Committee, which began to discuss the issue with Office of Cultural Affairs (OCA) staff at its regularly scheduled meetings beginning in November 2006.

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The committee and staff identified major issues. Representatives of interested arts organizations, as well as Eduardo Luna, the Deputy City Auditor who led the team that had investigated and reported on the financial status of SJRT and AMT, were invited to offer their perspectives on the handling of the two financial crises and on potential directions for the City to consider with respect to future organizations. These presentations and discussions, involving representatives of small, mid-sized and large organizations, took place during publicly noticed monthly committee meetings.

In addition, staff conducted extended discussions with key members of the arts community, including the executive directors of AMT, SJRT, San Jose Stage Company, San Jose Institute of Contemporary Art, San Jose Taiko, MACLA (Movimiento de Arte y Cultura Latino Americana), and Teatro Vision. Deputy City Auditor Luna joined with OCA staff in many of these discussions.

An outline of ideas and proposals grew out of these discussions. It was first presented to the Program Committee in March 2007. The outline was then developed into a set of recommendations, which was reviewed, amended and approved by the committee in April. The recommendations were approved by the Arts Commission at its regular meeting on May 9 and are attached to this memo.

## ANALYSIS

The Arts Commission viewed its assignment as recommending policies and guidelines for the Arts Stabilization Loan Fund as it exists, which it took to include earnings on the original \$4 million appropriated for the Fund. The Commission recommends different treatment for the original Fund appropriation than for earnings from the Fund.

The Commission's recommendations for the Arts Stabilization Loan Fund reflect a strong belief, reinforced by all parties who offered input in the development process, that the City could better serve the public interest as well as the local arts sector by helping arts organizations become effective fiscal managers in order to prevent fiscal crisis, rather than by bailing out organizations already deep in crisis. Consequently, the Commission recommends the adoption and implementation of a policy that the Arts Stabilization Loan Fund's earnings from interest and investment be retained with the Fund and used to enable the development and delivery of assistance in various forms to organizations when they are in the earliest stages of financial difficulty, rather than when they are near collapse.

The Commission's recommendations reflect three principal influences: 1) the actions that the City Manager's Office (CMO) and City Council took in reaching decisions to extend lines of credit to SJRT and AMT; 2) encouragement from arts leaders and key City staff to approach the Arts Stabilization Loan Fund as an opportunity to prevent financial crisis, rather than as a means solely to try to rescue arts organizations already deep in crisis; and 3) the concern of members of the Commission that the City had missed the opportunity for valuable input in the SJRT and AMT crises when it did not seek recommendations from the Commission.

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The bulk of the Commission's recommendations attempt to articulate and codify various steps that the CMO and the City Auditor took before finalizing recommendations to the Council. The Commission believed that the kind of diligence that the City exercised in reaching its decision to extend lines of credit to SJRT and AMT was appropriate and necessary, as were the terms and conditions on the lines of credit and their management. Recognizing that the kind of investigation and analysis that needs to be conducted is complex and technical in nature, the Commission does not recommend its own involvement in this part of the process but rather that they be carried out by professionals, either qualified City staff (e.g., City Auditor) or qualified consultants.

### **Arts Stabilization Fund - Summary of Recommendations**

The Commission refers to the original \$4 million as the "Permanent Fund," and the accumulating earnings on the \$4 million as the "Flexible Fund."

#### Permanent Fund

For the original \$4 million appropriation, the Commission makes the following recommendations:

- Keep the \$4 million as a rotating fund and not allow it to be fully spent down. This will serve to allow the Fund to serve as a permanent asset for the community.
  
- Use the \$4 million for two purposes:
  - On rare occasions, extending a carefully managed limited-term line of credit to an organization in such difficult financial straits that its continued existence is called into question; and
  - On an ongoing basis from interest and earnings generated, providing preventative and early-intervention services for arts organizations that may be headed towards significant financial difficulty (Flexible Fund).

The majority of recommendations focus on the Permanent Fund. The recommendations recognize the need for significant expertise when addressing financial management issues of organizations in deep financial difficulty. They propose that the kind of due diligence that the City exercised with respect to the SJRT crisis serve as the benchmark for the approach the City should take if a future occurrence arises. They suggest that extending crisis assistance should be an extraordinary action of the City, not a routine one, which should be preceded by careful investigation and consideration of all the circumstances, including whether the organization has a realistic chance of successfully repairing itself for the long term. Finally, they describe the way in which the Commission should be kept informed and involved in such circumstances.

#### Flexible Fund

The Commission recommends that the bulk of resources in the Flexible Fund be used in ways to improved the financial management capacity of arts organizations and provide pre-crisis assistance. It recommends that OCA staff be directed to develop appropriate methods for providing this

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preventative assistance within the coming fiscal year. Last, the Commission recommends that the Flexible Fund not be regarded as a revolving fund, and that unspent funds should accumulate from year to year.

### **Staff Analysis and Recommendation**

Staff has two concerns with the Arts Commission recommendations:

1. The role of the Arts Commission in formally approving/opposing staff team recommendations about organizations in crisis before the staff recommendation goes to Council (page 3, section i).
2. The ability to implement the Flexible Fund solely with investment earning from the uncommitted Stabilization Fund allocation and interest earnings from the Stabilization Fund lines of credit.

The Arts Commission recommends the following roles for itself in the process: a) to receive prompt notification of a request for crisis assistance; b) to receive reports of investigation and analysis; and c) to review and support staff recommendations prior to the Council or to offer alternative recommendations of its own.

Staff views the recent experience with the Mexican Heritage Corporation/Plaza as an effective model of Arts Commission involvement in crisis situations. In this case, a representative of the Arts Commission has been involved in the staff team and in all communications and deliberations concerning the situation. This Commissioner has invested a significant amount of time becoming knowledgeable about the situation and has provided general progress updates regularly to the Arts Commission. While the Arts Commission will be briefed on the eventual staff team recommendation by the involved Arts Commissioner, and receive supporting documentation when it is available to Council and the public, the Arts Commission as a whole will not formally approve the staff team recommendation prior to the City Manager's Office forwarding the recommendation to Council.

*Staff recommends that Council support the process of having an Arts Commissioner involved on any staff team dealing with a crisis, but that the Arts Commission as a body have an "inform and review" mode of involvement, rather than the "review and support/make alternative recommendation" role recommended by the Arts Commission.* The reasons for this are a) the added time, b) the added burden on the arts organization of having to participate in two public reviews of their situation, and c) the ability of Arts Commissioners as a whole to have enough detailed knowledge of a complex situation to make a well-informed, specific recommendation.

*Staff is also concerned that the recommendation about creating the Flexible Fund solely with investment earnings from uncommitted funds and interest earnings from lines of credit could make it more challenging to achieve the goals of the recommendation.* At an estimated rate of 4.5 percent per annum, earnings would have to accumulate for up to two years after approval of the Arts

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Commission's recommendation before there would be sufficient funds to offer the kinds of assistance envisioned in the recommendation.

*Staff recommends that the Council consider funding creation of the Flexible Fund with part of the uncommitted portion of the \$4 million Arts Stabilization Loan Fund (currently \$1 million is uncommitted), along with the incoming line-of-credit interest payments and general investment earnings. This would enable funds to be available within this fiscal year to begin offering the pre-crisis financial management assistance. Staff recommends that \$200,000 be used to establish the Flexible Fund.*

The Flexible Fund purpose for which the Commission recommends that earnings be used reflects the views of local arts leaders and is consistent with the results of an informal OCA survey of arts funders nationwide. This view is that resources generally are better spent on improving management capacity in arts organizations than on trying to rescue them from deep financial crisis.

A recent report commissioned by The James Irvine Foundation, *Critical Issues Facing the Arts in California: A Working Paper from The James Irvine Foundation*, found that the health and well-being of the arts throughout the state will be challenged by a number of factors for the foreseeable future. A number of local arts organizations showing early signs of financial distress would benefit from the kinds of assistance enabled by the proposed Flexible Fund.

Facilitating good financial management among arts grantees helps to protect the City's annual multi-million-dollar investment in assuring public access to substantial opportunities for creative cultural expression and education. Identifying and dedicating a revenue source for the Flexible Fund assures continuity in the City's early-intervention capacity. The retention and pooling of monies in the Fund from year to year offers the City both the ability to respond to individual signs of distress in a timely manner and the ability to plan for and implement projects aimed at sector-wide financial management capacity improvement. Continuous improvement in arts organizations fiscal management will be much more difficult to achieve if resources could only be secured in the annual budget process—at a relatively small annual cost.

The Commission did acknowledge that a reasonable use of the earnings is to defray the City's cost of managing the lines of credit. To that end, it recommends that up to 15 percent of earnings that go into the Flexible Fund may be used to defray the City's cost of managing any Arts Stabilization Loan Fund lines of credit.

Staff supports the Commission's decision not to make detailed recommendations for the Flexible Fund at this time. Identifying and addressing the causes of poor financial management capacity is a complex undertaking requiring appropriate expertise and experience. If Council approves the Commission's recommendations, staff will consult with other arts funders as well as technical assistance organizations such as the Nonprofit Finance Fund and the Northern California Community Loan Fund, to develop specific recommendations for implementation of the proposed Flexible Fund. Staff will consult with other major arts funders in the region, such as the Hewlett, Irvine and Packard Foundations and Arts Council Silicon Valley, to investigate the feasibility of

developing a coordinated multi-agency approach to improving financial management capacity among local arts organizations.

### **EVALUATION AND FOLLOW-UP**

Since the Permanent Fund is largely earmarked for the next five years with the existing lines of credit, staff recommends that an analysis of the effectiveness of the Permanent Fund and Flexible Fund be assessed as part of the annual budget process for 2011-2012.

### **PUBLIC OUTREACH/INTEREST**

- 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)**

The Arts Commission developed its recommendations over the course of monthly, publicly noticed regular and special meetings of one of its subcommittees, as well as of the Commission as a whole, from November 2006 through May 9, 2007. Notices of and agendas for these meetings were posted at the OCA offices, at City Hall and on the OCA Web site, and e-mailed to an arts mailing list of approximately 200 addresses.

### **COORDINATION**

The development of these recommendations was coordinated with the City Attorney's Office, the City Auditor's Office, the Budget Office, and the Finance Department.

### **FISCAL/POLICY ALIGNMENT**

The Arts Commission's recommendations are aligned with the City's economic development vision of a "Creative Community that pioneers innovation within and across technology and business, culture and society."

The recommendations are aligned with Economic Strategy Initiative #4: Evolve and position Downtown San Jose as a unique creative and cultural center of Silicon Valley.

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**COST SUMMARY/IMPLICATIONS**

The Arts Commission's recommendations have no immediate fiscal impact. However, the recommendations call for directing future revenues — interest and investment earnings on the \$4 million Arts Stabilization Loan Fund — for the purpose of improving financial management capacity of arts organizations and preventing financial crises among organizations.. Such future revenues would then not be available for other City purposes.



PAUL KRUTKO  
Chief Development Officer

For questions please contact Lawrence Thoo, Arts Program Director, at 277-5144 x28.

Attachment

**ARTS STABILIZATION LOAN FUND RECOMMENDATIONS**  
Adopted by the Arts Commission May 9, 2007

**Arts Stabilization Fund**

Established in October 2006 as part of a multi-faceted effort to assist San Jose Repertory Theatre in its efforts to recover from a crisis that threatened its continued existence and subsequently used to assist American Musical Theatre of San Jose from its own fiscal crisis, the Arts Stabilization Fund offers the City a significant opportunity not only to assist, when appropriate, arts organizations in life-threatening financial crises, but also to avoid the need for crisis intervention and crisis management in the future by investing now in the improvement of financial management capacity in the arts sector and, therefore, promote long-term financial stability in the field.

The recommendations presented here speak specifically to the Arts Stabilization Fund. However, the Arts Commission believes averting and avoiding financial crises in the future requires significant progress towards financial stability in the field, and that will require the coordination of these recommended efforts with appropriate revisions in the City's present arts grant programs, especially the Operating Grants and Organization Development Grants. The Arts Commission and City staff will take up that challenge in the fiscal year ahead.

**Recommendations**

The Arts Commission recommends that the City Council:

1. Authorize and establish the Arts Stabilization Fund as a standing fund, in two parts:
  - a. A **Permanent Fund**, comprised of the original \$4 million appropriation approved by City Council on October 17, 2006; and
  - b. A **Flexible Fund**, comprised of interest on loans and general investment earnings from the Permanent Fund.
2. **Permanent Fund:** Adopt a policy that establishes a revolving loan program called the Permanent Fund, serving as capital for emergency lines of credit, but not for term loans or other uses that put the fund at substantial risk of permanent depletion, e.g., grants. Lines of credit from the Permanent Fund must be charged interest, and must have limited terms and a requirement that payments are kept current. The interest rate on lines of credit must be reasonable, e.g., equivalent to the average rate of return on the City's general investments. Lines of credit from the Permanent Fund must be repaid in full.

- a. When the City receives an application or formal request for a line of credit from the Permanent Fund, Office of Cultural Affairs (OCA) staff must notify the Arts Commission chair promptly. It shall be the decision of the chair whether to convene a special meeting to notify the Arts Commission. If the City's initial point of receipt for the application or request is other than the OCA, the receiving staff should notify the OCA promptly.
- b. Applications for a line of credit should be considered only if the organization can demonstrate that it is in dire straits and has already exhausted all regular avenues of assistance from funders, including foundations and the City. The Arts Stabilization Fund is not intended to serve as a routine substitute for organizations having their own cash reserves.
- c. Relying either on appropriate staff or qualified independent consultants, the City should subject applications for a line of credit to careful professional analysis, including a comprehensive and in-depth assessment of the organization's financial status and history, and of the circumstances that led to its seeking a line of credit from the Arts Stabilization Fund.
- d. The City should also conduct a careful and expert assessment of the organization's willingness and ability to correct those conditions that led to its seeking assistance in the form of a line of credit. Depending on the specific circumstances, the City should determine whether a comprehensive organizational assessment is needed.
- e. In order for a line of credit to be extended to an organization, the City must be satisfied that the organization realistically can and will manage the line of credit responsibly and make good on its debt obligations to the City. The City must also have a high degree of confidence, based on the evaluations and conclusions of professional analyses such as those described in sections c. and d. above, that the organization is capable of correcting itself in a manner that minimizes the risk of a recurrence of the circumstances that led it to seek emergency assistance, and that access to an appropriate line of credit will, in fact, provide the organization the opportunity it needs to right itself for the long term.
- f. In order to conduct the necessary due diligence, the City should rely on resources of the Finance Department, the City Auditor, the Office of Cultural Affairs, and the City Manager. It may also engage qualified outside consultants to conduct the necessary analyses and assessments in lieu of City or City Auditor staff.
- g. Staff will provide the Arts Commission with reports of completed analyses and assessments. Such reports will then be public documents.
- h. In so far as is possible, the City should work in cooperation with other funders, such as foundations, to address organizations in crisis, rather than

go it alone. This may include collaborating on analyses and assessments, and developing appropriate courses of action.

- i. City staff will consult with and seek the support of the Arts Commission for its recommendations to City Council with respect to extending a line of credit to the organization. If, after considering the analyses, assessments and staff recommendations, the Arts Commission should reach a different conclusion than staff, it may choose to make alternative recommendations, which will also be presented to City Council with the staff's report.
  - j. In an instance when time is of the essence, staff may forward its recommendations without first seeking an endorsement from the Arts Commission. However, the Arts Commission shall be provided with the staff report at the same time that it is made available to the Council and if, after considering the staff's recommendations, the Arts Commission should reach a different conclusion than staff, it may choose to make alternative recommendations, which will also be presented to Council.
  - k. If staff recommends extending a line of credit to an organization, the recommendation should be appropriate to its size—small, mid-sized or large—and the scale of its problems. The recommendation must include clear benchmarks by which the City and the organization can measure compliance and progress. The identification or development of such benchmarks must be coordinated with appropriate staff in the Finance Department.
  - l. Benchmarks must include a cash-on-hand threshold and cash reserve targets that are appropriate for the organization's size and the circumstances. For example, a widely accepted cash reserve standard for stability is the equivalent of four average months of the organization's expenditures, i.e., one-third of its annual expenditures.
  - m. There would not be a grace period for repayments on the line of credit. When an organization has cash on hand that is above the benchmark threshold at the end of any month, it shall repay to the City whatever it has withdrawn on the line of credit up to the cash-on-hand benchmark threshold. Even if it does not realize sufficient cash on hand to put it above the benchmark threshold, the organization must begin to pay accumulated interest on the line of credit by the end of the first year, at least once a year, and principal by the end of the fifth year, or sooner if the terms agreed between the City and the organization provide for a shorter period.
3. **Flexible Fund:** Adopt a policy that all earnings on the value of the Permanent Fund, whether as interest on lines of credit or through the City's normal investment activities, must be accounted for and remain with the Arts Stabilization Fund as a Flexible Fund.

- a. The Flexible Fund is not a revolving fund, and may be disbursed for two purposes: 1) to fund activities, such as hiring consultants and conducting trainings, intended to improve financial management among arts organizations and support addressing financial management challenges before they become crises, and 2) to help defray costs associated with the management of lines of credit extended through the Arts Stabilization Fund. The latter is limited to not more than 15 percent of Arts Stabilization Fund earnings in any given year.
- b. The Flexible Fund shall be a rolling fund, in which the accumulated value of the Flexible Fund not disbursed in any fiscal year is carried over into the succeeding fiscal year and added to the value of new earnings from the Permanent Fund. If, in order to accomplish this, it is necessary to establish the Flexible Fund as a separate standing fund, rather than as a second part of the Arts Stabilization Loan Fund, as described in section 1.b. above, then Council should authorize the establishment of the Flexible Fund as a separate standing fund.
- c. The OCA shall develop within the 2007-2008 fiscal year, with input from and the support of the Arts Commission, specific initiatives and programs, supported by the Flexible Fund, to meet the mission stated above, namely, to improve financial management among arts organizations in San Jose and support the addressing of financial management challenges before they become crises. Such initiatives and programs may be specific to individual organizations or arts sector-wide.
- c. The OCA shall develop more detailed Stabilization Fund guidelines, application materials and documentation following approval of these recommendations.

## ATTACHMENT 2

TO: Honorable Mayor Chuck Reed and Members of the City Council

FROM: Sharon Gustafson Chair, Arts Commission of San Jose

SUBJECT: Recommendations for the Arts Stabilization Loan Fund

DATE: September 7, 2007

The Arts Commission of San Jose encourages Council acceptance of the recommendations for the Guidelines for the Arts Stabilization Loan Fund. At the request of City Council, the Arts Commission developed these recommendations for the management of the Fund. We believe these proposed guidelines are consistent with the intent of the Fund as well as outline a process for equitable management of this most important emergency resource for the Arts community of San Jose.

When the guidelines were presented to the Community and Economic Development Committee for review and approval on August 27, 2007, it was apparent that there was some confusion regarding certain provisions of the proposed guidelines. Accordingly, this memo will clarify the Commission's intent and recommend language which will address any possible misinterpretation of that intent.

The recommended guidelines for management of the **Permanent Fund (2 i.)** explicitly outline the role of the Arts Commission in the review and analysis of any request made by an Arts organization. It is **not** the intent of the Commission to inhibit, delay or obstruct in any way the process or recommendations of staff. Rather, it is the intent simply to ensure that the Arts Commission is a **partner** with staff in the evaluation of applications. Therefore, the last word in Section **2i** should be changed to "recommendation" rather than "report".

It is important to note that the Arts Commission appreciates the Council's initial directive to develop these guidelines. The Arts Commission is extremely sensitive to its role as advisor to the Council on matters involving the Arts community in San Jose, especially those concerning the financial health and effectiveness of the organizations within that community. We believe that in directing the Commission to develop guidelines for the Arts Stabilization Fund, including both its management and its financial soundness, the Council has recognized and endorsed this role.

Nonetheless, in forwarding the Guidelines to the CEDC for review, staff has expressed concern that the language as originally written suggests that the Commission could, if it wished, obstruct or at best delay the process of forwarding staff recommendations for action to the Council. As stated above, this is absolutely not the intent. Indeed section **2j** clearly states that in a situation in which timeliness is particularly critical, the process of forwarding staff recommendation to the Council can proceed without first receiving Commission endorsement.

Further, in its memo to the CEDC, staff expressed concern that the guidelines as originally written presumes the Commission has sufficient expertise to offer “well-informed, specific recommendation(s)”. We agree that we do not have the expertise necessary to fully analyze Arts-related situations which may come before the Council and we concur that this expertise is critically important. However, the Commission does have the expertise necessary to consider staff recommendations and offer endorsements or where indicated, thoughtful alternative recommendations.

Finally, we are pleased that staff recommends Council endorse the current model of Arts Commission involvement in crisis situation in which a member of the Arts Commission is included in staff teams which are established to evaluate a crisis situation. This underscores the value of Staff-Commission **partnership** in addressing these most difficult circumstances in a timely manner. However, the Commission does not believe that this model should replace the process as stated in the guidelines which are submitted for your approval. Rather, it is a **critically important addition** to the process as outlined in the document.

It is the Commission’s hope that the health and well-being of the Arts Community in San Jose will continue to improve so that the Arts Stabilization fund will be an infrequently-used emergency resource. Toward that end the **Flexible Fund** policies were developed as a way of enabling staff to identify potential problems on the “far horizon” and offer appropriate intervention. The partnership the Arts Commission enjoys with the staff of the Office of Cultural Affairs is a positive one; we believe that the Arts Stabilization Guidelines as developed by the Arts Commission and clarified in this memo will ensure that relationship will be an effective one in the future.

Respectfully,

Sharon Gustafson  
Chairwoman, Arts Commission of San Jose