

RESOLUTION NO. 73418

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE THIRD AMENDMENT TO THE OPERATION AND MAINTENANCE AGREEMENT WITH MEXICAN HERITAGE CORPORATION TO ADVANCE OPERATION AND MAINTENANCE PAYMENTS FOR FISCAL YEAR 2006-2007 AND TO NEGOTIATE AND EXECUTE THE THIRD AMENDMENT TO THE LOAN AGREEMENT WITH MEXICAN HERITAGE CORPORATION TO RESTRUCTURE THE REPAYMENT OF THE LOAN

WHEREAS, the City of San José (“City”) and the Mexican Heritage Corporation (“MHC”) entered into an Operation and Maintenance Agreement (“O&M Agreement”) in March 1996, which agreement was amended to provide annual funding of \$413,783 in monthly payments of \$34,481.91, subject to annual appropriation by the City Council, for the Mexican Heritage Plaza (“MHP”); and

WHEREAS, MHP opened in September 1999 and is recognized as a community cultural asset, which was made possible by an initial investment in the facility of approximately \$33,000,000 by the San José Redevelopment Agency; and

WHEREAS, City and MHC entered into a Loan Agreement (“Loan Agreement”) in July 2000, whereby the City made a \$650,000 zero-interest loan to MHC to be repaid at the rate of \$50,000 per year in monthly payments of \$4,166.66, which agreement was amended to provide a credit for use of the MHP by City for Neighborhood Development Center (“NDC”) activities up to \$17,280 per fiscal year not to exceed \$1,440 per month; and

WHEREAS, the City desires to negotiate and execute a Third Amendment to the Operation and Maintenance Agreement with MHC to advance the remaining Operation and Maintenance payments due to MHC for October through May of Fiscal Year 2006-2007, totaling \$275,855.28; and

WHEREAS, the City desires to negotiate and execute a Third Amendment to the Loan Agreement with MHC to allow the City to deduct MHC's monthly loan repayment amounts from the advanced Operation and Maintenance payments for October through May of Fiscal Year 2006-07, and to deduct from MHC's June 2007 loan repayment amount, City's payment for use of the NDC Area located at the Mexican Heritage Plaza, at the rate of \$1,440.00 per month, to make corresponding amendments to the Promissory Note, and to authorize the payment to MHC by City for City's use of the NDC Area in the event City's use exceeds MHC's June 2007 loan repayment amount;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of San José that the City Manager is authorized:

1. To negotiate and execute a Third Amendment to the Operation and Maintenance Agreement entered into between the City of San José ("City") and Mexican Heritage Corporation ("MHC") on March 7, 1996 to advance the remaining Operation and Maintenance payments due to MHC for October through May of Fiscal Year 2006-2007, totaling \$275,855.28; and
2. To negotiate and execute a Third Amendment to the Loan Agreement entered into between the City and MHC on July 17, 2000 to allow the City to deduct MHC's monthly loan repayment amounts from the advanced Operation and Maintenance payments for October through May of Fiscal Year 2006-2007 and to deduct from MHC's June 2007 loan repayment amount, City's payment for use of the NDC Area, at the rate of \$1,440 per month, to make corresponding amendments to the Promissory Note, and to authorize the payment to MHC by City for City's use of the NDC Area in the event City's use exceeds MHC's June 2007 loan repayment amount.

ADOPTED this 19th day of September, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS; GONZALES

NOES: NONE

ABSENT: YEAGER

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk