



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Welsh
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: October 18, 2011

Approved

Date

11/2/11

COUNCIL DISTRICT: 3

SUBJECT: LEASE AGREEMENT BETWEEN THE CITY OF SAN JOSE AND CIRQUE DU SOLEIL AMERICA, INC. FOR A 2012 TOURING SHOW IN SAN JOSE AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE GENERAL FUND FOR CIRQUE DU SOLEIL LEASE AGREEMENT

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager:
- (1) To execute a lease agreement with Cirque du Soleil for the purpose of leasing portions of the City's "E" Parking Lot (Taylor, San Pedro, and Mission Streets) to Cirque du Soleil from January 30, 2012 to April 27, 2012 for rental consideration to the City in the amount of \$100,000; and
 - (2) To negotiate and execute a Parking Space License Agreement with the County of Santa Clara for approximately 300 parking spaces in the "C" Lot and "Half Circle Parking Lot" at the former Civic Center site for a license fee amount of \$30,000 and sharing of parking revenues generated at the County facilities for the Cirque du Soleil event to be negotiated by the City Manager.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Establish a City-Wide appropriation to the Office of Economic Development for Cirque du Soleil in the amount of \$186,000; and
 - (2) Increase the estimate for Other Revenue by \$186,000.

OUTCOME

Approval of the lease agreement with Cirque du Soleil will result in a six and one-half-week, 59-performance presentation of an internationally acclaimed Cirque du Soleil show, "TOTEM." An

estimated 127,000 residents and visitors will enjoy a unique cultural and entertainment opportunity close to Downtown, Japantown and public transportation. The City traffic and parking management plan will minimize the event's impact on residents and businesses. The Department of Transportation will negotiate a Property Use Agreement with the County of Santa Clara for the use of parking facilities at Old City Hall. The lease payment and City parking revenues from attendee parking at the "C" Parking Lot at Old City Hall are expected to offset City costs.

BACKGROUND

Cirque du Soleil has presented biennial touring shows in San José since 1990. After locating in various Downtown parking lots, subsequent construction projects resulted in the lack of a central Downtown space sufficient to accommodate Cirque du Soleil's size requirements. Since 2006, the City's "E" Parking Lot (bounded by Mission, San Pedro and Taylor Streets) has been used by Cirque du Soleil for its touring shows, including "Corteo," "Kooza" and "OVO."

For its 2010 tour show, a Lease Agreement was entered into between the City and Cirque du Soleil for the use of the lot along with a five-year Conditional Use Permit CPA05-015-02 that was issued by Planning, Building and Code Enforcement for the 2010 show as well as future use of the site. Community outreach was conducted with the Vendome neighborhood, the County of Santa Clara and adjacent businesses. Alternative parking was developed to meet the needs of Police Department staff.

For each performance, parking signage and traffic control officers were provided. Special signage directed traffic away from adjacent residential streets and the Vendome neighborhood. Additionally, Cirque du Soleil management developed a promotional program with the Valley Transportation Authority to encourage Cirque du Soleil patrons to use Light Rail.

In late 2010, Cirque du Soleil indicated its interest in returning to San José in 2012 to the "E" Parking Lot. Preliminary staff meetings with the San José Police Department, the Department of Transportation and the County of Santa Clara were held to address site parking changes and ensure sufficient arrangements could be made for public and staff parking.

In 2010, the City and Cirque du Soleil shared responsibility for site preparation/restoration. However, Cirque du Soleil's \$95,000 lease payment to the City offset the City's costs for its share of site work and for traffic control, the Conditional Use Permit fee and related outreach, and rental of spaces in the County Parking Garage. In addition, the City activated the "C" Parking Lot for attendee parking, with the resulting \$137,397 in parking revenues covering the City's costs for development and implementation of the Traffic Parking and Management Plan (which included signage, equipment, and restriping Mission Street), Department of Transportation staff charges and parking concession costs. Therefore, the 2010 Cirque du Soleil lease payment and parking revenues resulted in \$72,877 net General Fund revenue to the City.

ANALYSIS

For the upcoming 2012 Cirque du Soleil production of "TOTEM," the City and Cirque du Soleil are once again sharing responsibility for site preparation and restoration. The lease requires the City to complete its site preparation work prior to January 30, 2012, the first day of Cirque du Soleil's site occupation period.

The proposed Lease Agreement has been updated to: 1) memorialize the City's right to sell unused VIP parking spaces to attendees when those spaces are not being used by Cirque du Soleil's VIP guests for weekday evening shows and all weekend shows. VIP parking will not be provided for weekday matinee shows; and 2) to increase the lease payment by \$5,000 to \$100,000.

In July 2011, the City transferred ownership of the Old City Hall site and adjacent parking lots to the County of Santa Clara. Subsequently, City staff approached the County of Santa Clara for the lease of the C-lot and Half Circle Lot for attendee parking for the upcoming Cirque du Soleil production. Preliminary discussions have been held with County staff and it is anticipated a Property Use Agreement will be executed for the required parking spaces for evening and weekend performance periods. Costs related to the Property Use Agreement along with access limitations to these parking facilities will reduce the parking revenues generated as compared to previous parking revenues generated during Cirque du Soleil productions in 2008 and 2010. The conservatively estimated gross parking revenue from the proposed use of the parking spaces is \$86,000.

With the conservatively estimated parking revenue of \$86,000 and the lease payment from the Cirque de Soleil, it is estimated that the City will receive \$186,000 in revenue. This estimated amount will be sufficient to offset the City's production costs currently estimated at \$186,000.

The City will also benefit from sales tax revenues, estimated at \$170,000, and economic activity generated by the event. The Office of Economic Development has estimated the potential economic impact of Cirque du Soleil's 2012 San José production to be \$20,000,000 using the methodology developed for the "*Analysis of the Economic and Fiscal Impact of Cultural and Sporting Events in San Jose*" (Economic Impact Tool), which was accepted by Council on April 10, 2007. This conservative methodology measures only the impact of visitors from outside of San José attending Cirque du Soleil, excluding any economic impact provided by San José residents attending the performances.

The Office of Cultural Affairs (OCA) is leading the City team responsible for ensuring a safe, well-planned Cirque du Soleil in 2012. Staff contacted representatives of the County of Santa Clara to review the experiences of the 2010 event, in order to fine-tune the Traffic Parking and Management Plan for 2012. Parking impacts for Police Department staff have been coordinated with that department. It has been resolved that the same arrangements will be made to accommodate Police Department parking as were made in 2010, including leasing a portion of the County Garage at a cost of approximately \$46,000.

In accordance with Conditional Use Permit CPA05-015-02, all residents within 500 feet of the event site will be notified of the event and a community meeting is scheduled for December 1, 2011, with community members to refine the parking and traffic management plan and address any issues. In addition, staff will work with Council District 3 to identify and resolve any neighborhood issues.

EVALUATION AND FOLLOW-UP

Staff will evaluate the impacts of the event on traffic, adjacent neighborhoods and businesses, and will finalize net revenue and refine the economic impact analysis.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

Although this item does not meet the criteria above, this memorandum will be posted on the City's website as part of the agenda for the November 15, 2011, City Council meeting.

Consistent with the requirements of the existing Conditional Use Permit, a Community Meeting will be held on December 1, 2011, at 6:30 p.m. to refine the parking/traffic management plan and address any issues.

COORDINATION

This item has been coordinated with Planning, Building and Code Enforcement, the City Attorney's Office, and the Department of Transportation. The Lease Agreement has been coordinated with the City Attorney's Office and Risk Management.

FISCAL/POLICY ALIGNMENT

The presentation of Cirque du Soleil's unique new production, "TOTEM," is aligned with the City's Economic Development Strategy, which envisions San José as the "World's Most Livable Big City, with diverse and distinctive qualities of life." Drawing over 2,000 attendees for each of the 59 performances, Cirque du Soleil has proven to drive economic impact as well as support Economic Development Strategy Initiative #12: "Develop a Distinctive Set of Sports, Arts, and Entertainment Offerings Aligned with San José's Diverse, Growing Population."

This agreement with Cirque du Soleil also aligns with *Cultural Connection: San José's Cultural Plan for 2011-2020*. Fostering destination quality events in San Jose is a strategic goal of this cultural policy, as supporting events such as Cirque du Soleil will reinforce San José's distinct cultural identity, enhance economic development and increase tourism revenues.

COST SUMMARY/IMPLICATIONS

The total cost of the 2012 Cirque du Soleil production of "TOTEM" is estimated at an amount not to exceed \$186,000, including contingency. City staff conservatively projects \$86,000 in parking revenues and \$100,000 in rent revenue from Cirque du Soleil to offset City production costs.

Anticipated costs include the City's cost for the event's traffic control, the County Garage lease and the City's share of site preparation and restoration costs.

Site preparation costs including markings, signals, signs, pavement maintenance, parking operation and installation and removal of fences (Transportation and Public Works)	\$103,000
County Garage lease and related costs	\$ 49,000
Traffic Control costs (Police Department)	\$ 26,000
Contingency Reserve	\$ 8,000
Total Costs	<u>\$186,000</u>

The City will also benefit from the estimated \$20,000,000 in economic activity generated by the event, which includes \$170,000 in estimated sales tax revenues.

BUDGET REFERENCE

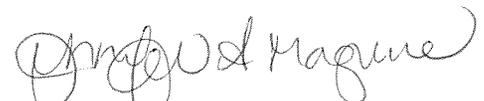
The table below identifies the funds and appropriation proposed to fund the contract recommended as part of this memo.

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	2011-2012 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)*
001	TBD	Cirque du Soleil	TBD	\$186,000	Not to exceed \$100,000	N/A	N/A

CEQA

Exempt, File No. CPA05-015-02.

/s/
KIM WALES
Director of Economic Development
Chief Strategist


JENNIFER A. MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the General Fund in the Fiscal Year 2011-2012 moneys in excess of those heretofore appropriated there from, said excess being at least \$186,000.


JENNIFER A. MAGUIRE
Budget Director

For questions, please contact Tammy Turnipseed, Events Director, at (408) 793-4343.