

RESOLUTION NO. 73774

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FOURTH AMENDMENT TO THE LOAN AGREEMENT WITH MEXICAN HERITAGE CORPORATION TO DEFER PAYMENT OF THE LOAN FOR 12 MONTHS AND TO RESTRUCTURE THE REPAYMENT OF THE LOAN, AND TO MAKE CORRESPONDING AMENDMENTS TO THE PROMISSORY NOTE; AND TO NEGOTIATE AND EXECUTE THE FIFTH AMENDMENT TO THE OPERATION AND MAINTENANCE AGREEMENT WITH MEXICAN HERITAGE CORPORATION TO REQUIRE ADDITIONAL MONTHLY FINANCIAL REPORTS

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 which agreement has been subsequently amended; 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 has been subsequently amended; and

WHEREAS, the City desires to negotiate and execute a Fourth Amendment to the Loan Agreement with 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 incorporate the recommendations in the City Auditor's report;
and

WHEREAS, the City also desires to negotiate and execute a Fifth Amendment to the O & M Agreement to require MHC to provide additional monthly financial reports to the City during the remainder of the term of the amended Agreement;

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 Fourth Amendment to the Loan Agreement entered into between the City and MHC on July 17, 2000 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 incorporate the recommendations in the City Auditor's report.
2. To negotiate and execute a Fifth Amendment to the Operation and Maintenance Agreement entered into between the City and MHC on March 7, 1996 to require MHC to provide additional monthly financial reports to the City for the remainder of the term of the Operation and Maintenance Agreement.

ADOPTED this 22nd day of May, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CONSTANT, LICCARDO, NGUYEN,
OLIVERIO, PYLE, WILLIAMS, CORTESE

NOES: NONE

ABSENT: REED

DISQUALIFIED: NONE

VACANT: DISTRICT 4

DAVID D. CORTESE
Vice Mayor

ATTEST:

LEE PRICE, MMC
City Clerk