

**MOORPARK CITY COUNCIL
AS SUCCESSOR AGENCY OF THE
REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK
AGENDA REPORT**

TO: Honorable City Council

FROM: Steven Kueny, City Manager 

PREPARED BY: Hugh R. Riley, Assistant City Manager 

DATE: May 24, 2012 (Successor Agency Meeting of 6/6/12)

SUBJECT: Consider Proposal from the Moorpark Foundation for the Arts to Lease and Assume Operating Control of the High Street Arts Center on July 1, 2012

BACKGROUND

The Redevelopment Agency of the City of Moorpark (Agency) acquired the High Street Arts Center at 45 High Street ("HSAC") on August 1, 2005, in an effort to preserve a venue for live performances in the downtown. On August 3, 2011 the Agency transferred ownership of the HSAC to the City of Moorpark (City). The Agency has provided an operating subsidy to the Arts Center for the past six years. This year the Agency will have spent an estimated \$60,000 excluding direct and indirect costs for City staff. On February 1, 2012 the State of California eliminated Redevelopment Agencies and responsibility for Agency assets fell to the City of Moorpark as the Successor Agency to the Redevelopment Agency. City Staff believes the City has the right to maintain ownership of the property at 45 High Street as well as the supporting properties at 33 High Street and at 782 Moorpark Avenue in accordance with Health and Safety Code 34181(a). This lease proposal is predicated on that assertion. An escape clause will be included in the lease giving both parties sufficient notice in the event this is not the result. The City Council acted on this item on May 16, 2012 but it is more appropriate for the Successor Agency to take this action. The City Council's Consent Calendar for June 6, 2012 contains an item to rescind their May 16, 2012 action. In addition, on June 6, the City Council will consider a separate operating agreement between the City and the Foundation with the same terms and conditions to effectuate the proposed \$25,000 payment subject to final language approval by the City Manager and the City Attorney.

DISCUSSION

The City Manager has requested the Moorpark Foundation for the Arts (Foundation) to submit a proposal to provide management services for the HSAC. The Foundation was established in September 2009 by the City of Moorpark and the Foundation has since

become independent of the City both administratively and financially. The purpose of the Foundation is to support and promote the growth and enjoyment of the performing and visual arts in the City of Moorpark. The Foundation is continuously seeking and securing funding through private donations, private and public grants, and other available sources to provide financial support to the High Street Arts Center, to reduce the required financial contribution from the City of Moorpark. The Foundation also makes financial assistance available to diverse groups and individuals within our community, encouraging access and participation in the visual and performing arts. The Foundation proposes to lease the High Street Arts Center from the City of Moorpark and to assume the operating responsibility for the center and the Theatrical Season beginning July 1, 2012. The following are the primary elements of the proposal:

1. **LEASE** – The FOUNDATION will lease the building at 45 High Street (Premises) for a period of three years beginning July 1, 2012 for a dollar (\$1.00) per year. Other terms of the lease to include:
 - Mutual option to renew lease for an additional three years.
 - Foundation to pay all facility operating, utilities, and day to day maintenance costs including janitorial and related supplies.
 - City to provide major maintenance, repairs and insurance for the building during the term of the lease. Estimated annual routine maintenance expense is \$15,000. and annual insurance premiums of approximately \$6,700.
 - To the greatest extent possible, all productions, presentations, exhibitions, and motion pictures shall be suitable for general audiences of all ages. In no event shall the Foundation permit the exhibition of adult type motion pictures that are rated “NC-17”, “X”, “XX”, or “XXX” or higher, as such ratings are now or hereafter in effect, or similarly rated under any other rating system. Motion pictures that are not rated may be allowed after preview by the Foundation for confirmation that the motion picture does not fall within the ratings referenced above. This restriction is essentially the same as contained in the current High Street Arts Center management agreement.

2. **INSURANCE** – According to the City’s Joint Powers Insurance Authority, the City currently holds general casualty insurance coverage on the HSAC for an annual premium of approximately \$300 and earthquake coverage with an annual premium of approximately \$6,400 based on the building’s estimated value of \$1,581,051. The premises are also covered for general liability through the JPIA at no additional cost to the City. This coverage would be maintained. The Foundation maintains liability coverage for its activities and will upgrade the coverage to include the HSAC.

3. **FACILITY USE** - Foundation to continue lease of First Floor, 33 High Street at current rental rate (\$600.00 per month) until the end of the current lease for auditions, dressing rooms (for larger casts), and required handicapped parking. Also Foundation will continue use of warehouse building at 782 Moorpark Avenue (Old Fire Station) at no cost for set construction, scenery and costume

storage. Foundation may have use of Apricot Room at Community Center for up to three days for each of five productions and based on availability for performer auditions at no cost provided no City personnel are required to be available for such use.

4. **CITY PAYMENT**– For services rendered, the CITY will pay the Foundation each year for three years from the General Fund \$25,000 for expenses related to the operation of the Arts Center. The Foundation shall provide an annual financial report to the City. If the Foundation is able to pay all expenses necessary to operate the HSAC the \$25,000 payment may be reduced or eliminated.
5. **THEATRICAL SEASON**- The FOUNDATION shall produce a minimum of five (5), main stage productions during each season and a summer youth musical Theater program. The Foundation will continue to present diversified programming including music and film. Certain events and performances will be co-sponsored by the City to allow continued use of electronic message boards, advertising in the City's Quarterly Magazine, inserts in solid waste collection bills, notices on the Government Access Channel and a link from the City's website.
6. **OPERATING REVENUE** – The FOUNDATION shall retain all revenues from the operation of the Arts Center Theatrical Season, rentals and special events including all box office revenues, season ticket sale, and concession beginning with the 2012-2013 Season. The Foundation will reimburse the City for costs incurred through June 30, 2012 that apply to productions after July 1, 2012 such as deposits for royalties and musical scores. Since the Foundation will pay the staffing costs for the 2012 Musical Theater Summer Camp, the City shall pay the Foundation for Camp tuition received after City/Successor staffing costs are deducted.
7. **CITY EVENTS** – The Foundation will make the Arts Center available at no cost to the CITY for up to eight special community events each year which may include the "Moorpark Has Talent" Show, Entertainment at the Annual Arts Festival, entertainment during Country Days, Library events and other activities as they may arise such as City-hosted regional training events.
8. **THEATER EQUIPMENT** – Theater Equipment currently owned by the City including lighting instruments and control equipment, sound equipment, speakers, rigging, concession stand other equipment shall be included in the lease and maintained by the Foundation.
9. **COSTUME INVENTORY** - Over the last seven years, the costume, prop and scenery inventory for the Arts Center has been acquired by donation, purchase, and trade with other theaters. Since these items are actually City/Successor Agency property, all items must be accounted for and inventoried periodically in spite of the fact that it has very little value other than for the specific wardrobe and set design needs of Arts Center productions. Ownership of the costume property inventory would eliminate the need for this burdensome reporting. It is

proposed that a value for the costume inventory will be determined and, declared as surplus and sold to the Foundation.

10. **ARTS CENTER STAFFING** – The FOUNDATION shall contract for the services of the Arts Center General Manager and provide for any other staffing necessary to operate the Arts Center at no cost to the City/Successor AGENCY.
11. **PRIVATE RENTALS** – The Foundation shall continue to make the HSAC available for private rentals based on availability without discriminating on the basis race, color, creed, or natural origin. Such rentals shall adhere to the same standards required of the Foundation.
12. **HSAC MARQUEE** – The theater marquee shall be used only to display advertising messages for events to be held at the HSAC including private rentals and co-productions. The Foundation will comply with the City's sign ordinance for temporary signs and banners.

ADVANTAGES TO THE CITY

The elimination of the City's Redevelopment Agency requires the Arts Center Operations to be paid by the General Fund. Leasing the Arts Center to the Foundation would save the City approximately \$ 100,000 in costs to the General Fund; eliminate staff time for administration and janitorial services; reduce day-to-day credit card use; and eliminate the need to maintain accounting for the theatrical costume inventory.

Reduce City Net Contribution- Since the initial season of operation of the Arts Center, the City of Moorpark provided the following net* contribution:

- 2006-2007 \$ 242,273 (Included Capital Expense)
- 2007-2008 \$ 150,299
- 2008-2009 \$ 112,727
- 2009-2010 \$ 110,160
- 2010-2011 \$ 61,600
- 2011-2012 \$ 51,227 (Estimated \$60,000 for full F.Y.)

**Expenditures less revenue from box office, concession and rentals excluding staffing costs.*

Reduce burden on administrative staff- Generally the City provides direct staff support to HSAC of approximately 41 FTE hours per week or approximately \$144,000 annually for various positions including the City Manager, Assistant City Manager, Information Services, Finance staff and Recreation Division Staff. These costs have not historically been included in the Arts Center Budget but will represent a significant savings since these staff hours would be devoted to other tasks.

Credit Card Expense- The operating requirements for the Arts Center create the need for numerous expeditious purchases and most vendors such as theatrical equipment sales and rental companies, theatrical publishing companies, and

costume houses will not bill the city for purchases but require cash or credit card purchases.

Costume Inventory- Over the last seven years, the costume, prop and scenery inventory for the Arts Center has been acquired by donation, purchase, and trade with other theaters. Since these items are actually City/Successor Agency property, all items must be accounted for and inventoried periodically in spite of the fact that it has very little value other than for the specific wardrobe and set design needs of Arts Center productions. Ownership of the costume property inventory would eliminate the need for this burdensome reporting.

ADVANTAGES TO THE ARTS CENTER

A significant advantage to the Arts Center would be greatly improved efficiency of operations in the following areas:

Procurement- Presently no direct means of procurement exists for theater production and operational needs. Set materials, costume expenses, concession supplies, among other needs, are purchased and receipts are submitted for reimbursement. This process, and its necessary documentation, is extremely time-consuming for the General Manager and City Staff. Independent operations under Foundation for the Arts means the general manager will have debit cards and the ability to write checks that as an independent contractor to the City of Moorpark he currently does not. Materials and supplies can be purchased directly rather than paid for privately and then reimbursed.

Concessions- Currently both concession revenue and costs must be divided between HSAC (non-alcohol) and MFA (alcohol) sales. This separation requires two sets of records and reports. This once again draws away man hours from the business of growing the theater. A single operating model would simplify this process.

Inventory- Accounting for theater inventory to a degree appropriate for public funding has been an ongoing challenge. In set building much of the materials are more perishable than continuing assets. Costumes are often bought second hand or repurposed. Apart from their production value they have little market worth. While important to manage and monitor in the aggregate, the value of the individual item is not worth the cost of time to track.

Also, significant savings are realized by not purchasing costume, prop and set pieces to begin with. Local theaters lend each other items with great regularity. The process saves time, money and storage space. However, from time to time some small items can go missing or become damaged. This is problematic with public

funding and accounting. For an independent organization though, the total cost savings outweighs the occasional minor loss many times over.

Diversity of Programing- Teaming up with new entertainment offerings can be simplified creating the opportunity for greater program possibilities. Current contract requirements for co-productions can have a discouraging effect. Under independent management new ideas could see more opportunity for presentation through simplified agreements.

This proposal enables the theater to continue to make a creative contribution to the community without having to rely on the city to pick up a big check to do so.

FISCAL IMPACT The Lease arrangement would limit the City's Annual General Fund Expense to \$25,000 for the Community Services Grant and approximately \$15,000 for general building maintenance and approximately \$6,700 for insurance. Due to the age of the Arts Center Building, there may be a need for more significant expenditures for items such as roof repair, major plumbing repairs and repairs to the building's heating and air conditioning systems. Depending on the final disposition of the buildings at 33 High Street, the City/Successor Agency would continue to receive \$7,200 per year in rent revenue from the Foundation for a net annual expense to the City of \$39,500.

STAFF RECOMMENDATION Authorize City Manager to negotiate and sign a three-year lease and operating agreement for the High Street Arts Center with the Moorpark Foundation for the Arts effective July 1, 2012 consistent with the terms and conditions in this report and subject to final language approval by the City Manager and City Attorney and subject to City Council budget appropriation.