

AGENDA ITEM NO. **62**

**CITY OF SAN ANTONIO**  
**DEPARTMENT OF ASSET MANAGEMENT**  
**INTERDEPARTMENTAL CORRESPONDENCE**

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**TO:** Mayor and City Council

**FROM:** Rebecca Waldman, Director, Department of Asset Management

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Erik J. Walsh, File

**RE:** Amends and Restates Funding Agreement - Ordinance No. January 27, 2000.

**DATE:** December 18, 2003

**SUMMARY AND RECOMMENDATIONS**

This ordinance authorizes the execution of an Amended and Restated Funding Agreement passed and approved by City Council Ordinance No. 91178, on January 27, 2000, to reflect the proposed changes to Guadalupe Cultural Arts Center's original intent from construction of an Arts Education Center on Guadalupe Street to a two-phased project plan that includes 1) the renovation of a facility at 701 S. Brazos, and 2) the construction of a second facility contiguous to the Guadalupe Theater, and it further amends the document for clarification.

Staff recommends the approval of this Ordinance.

**BACKGROUND INFORMATION**

General Obligation bond funds totaling \$1.5 million were provided in the 1994 and 1999 bond elections for Guadalupe Cultural Arts Center (GCAC) to develop an educational center on land to be acquired by GCAC at the northeast corner of Guadalupe and Brazos Streets across the street from the Guadalupe Theater, which GCAC leases from the City of San Antonio. In January 2000, a Funding Agreement for this \$1.5 million was executed by GCAC and the City, providing up to \$45,000 for a master plan and the remainder to be provided to GCAC to match funds raised by GCAC for this project.

GCAC has been unable to acquire all of the land needed for this project and therefore modified their project plan earlier this year to include two facilities to meet the space needs of the educational center, to be called the School of Latino Arts and Culture Campus. The visual arts component will be housed in an existing building located at 701 S. Brazos, one block north of the Guadalupe Theater. This building was purchased by GCAC earlier this year and will be renovated to accommodate the intended use. The performing arts component will be housed in a building to be built by GCAC on City-owned land contiguous to the Guadalupe Theater.

This proposed action amends the 2000 Funding Agreement to reflect this change in the project plan.

The funding agreement contains the following provisions:

- The \$1.5 million in 1994/1999 bond funds, less the amount spent to date on the Master Plan (\$43,405)
- Dollars to be provided to GCAC to match funds raised and received by GCAC for this project. Funds will be provided to pay for design/construction costs and to pay off the first lien on the visual arts facility. To date, GCAC has raised \$635,000 for this project.
- Construction on the visual arts component must be completed by July 31, 2005; and the performing arts component by December 31, 2010.

GCAC is required to operate both facilities for the public purpose of providing arts and cultural educational courses. In addition, as the visual arts facility is owned by GCAC and subject to a purchase money, or first lien, GCAC will execute a memorandum outlining second lien rights for the City through the term of the bonds in 2020, and the City has the option to cure the first lien in the event of a default.

The original planned educational facility was estimated in 1998 to cost \$2.5 million excluding land acquisition costs. This Funding Agreement provides a maximum of \$1.5 million to match funds raised and received by GCAC. The estimated cost for the visual arts component is \$1.1 million and costs for the performing arts component have not yet been projected. A direct comparison of the costs for the initial plan as compared to the modified plan is difficult given the differences. For example, the initial plan cost did not include land acquisition costs, only provided for the visual arts component, and the estimated costs are based on 1998 figures. The modified plan provides two facilities, both visual and performing arts functions, and the visual arts facility provides a generous amount of parking space that can enhance the use of the theater as well as both educational facilities. An additional benefit to the modified plan is that the visual arts facility utilizes a building in this area that has been vacant for a number of years. In addition, there is a tenant with a long-term lease occupying a portion of this facility and this lease provides a revenue stream for GCAC.

### **POLICY ANALYSIS**

The City of San Antonio requires that a Funding Agreement be developed when City funds are authorized for a project. This action requests approval of modifications to the existing Funding Agreement to reflect a change in project scope.

### **FISCAL IMPACT**

This action has no fiscal impact as no new funding is requested. The Funding Agreement provides for the \$1.5 million in GO bond funds, less the \$43,405 spent for the Master Plan, or a balance of \$1,456,595. These funds will be provided to GCAC to match funds raised and received to pay for design and construction costs associated with this project.

### **SUPPLEMENTARY COMMENTS**

Discretionary Contracts Disclosure form is attached.

## **COORDINATION**

This item has been coordinated with the following departments: Finance, City Attorney's Office, and the City Architect's Office of the Public Works Department.



Rebecca Waldman, Director



Erik J. Walsh, Assistant to the City Manager

Approved:



Terry M. Brechtel  
City Manager

ATTACHMENT "C"  
City of San Antonio  
**Discretionary Contracts Disclosure\***

*For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2  
Attach additional sheets if space provided is not sufficient.  
State "Not Applicable" for questions that do not apply.*

*\* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.*

**Disclosure of Parties, Owners, and Closely Related Persons**

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the Code of Ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract:

NONE
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(2) the identity of any **business entity**<sup>1</sup> that would be a party to the discretionary contract:

NONE
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and the name of:

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

NONE
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and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

NONE
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<sup>1</sup> A *business entity* means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law.

- (3) the identity of any *lobbyist* or *public relations firm* employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

NONE

#### Political Contributions

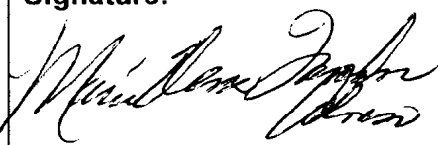
Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *current* or *former member* of City Council, any *candidate* for City Council, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount:	Date of Contribution:
Roger Flores	\$150.00	02/28/03
David Carpenter	140.00	04/2001
Ed Garza	150.00	09/2002

#### Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question<sup>2</sup> as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

N/A

<b>Signature:</b> 	<b>Title:</b> Executive Director  <b>Company:</b> Guadalupe Cultural Arts Center	<b>Date:</b>  7/24/03
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<sup>2</sup> For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.