



# Financial Performance and Budget Committee

*City of Arts & Innovation*

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**TO: FINANCIAL PERFORMANCE AND BUDGET COMMITTEE MEMBERS** **DATE: JANUARY 8, 2021**

**FROM: CITY MANAGER'S OFFICE** **WARD: 1**

**SUBJECT: MANAGEMENT AGREEMENT FOR THE CHEECH MARIN CENTER FOR CHICANO ART AND CULTURE WITH THE RIVERSIDE ART MUSEUM FOR AN INITIAL TERM OF 25 YEARS**

**ISSUE:**

Consider the Management Agreement for the Cheech Marin Center for Chicano Art and Culture with the Riverside Art Museum for an initial term of 25 years.

**RECOMMENDATIONS:**

That the Financial Performance and Budget Committee recommend that the City Council:

1. Approve the Management Agreement for the Cheech Marin Center for Chicano Art and Culture with the Riverside Art Museum for an initial term of 25 years with an automatic renewal of two additional five-year term; and
2. Authorize the City Manager, or his designee, to execute the Management Agreement with the Riverside Art Museum, including making minor and non-substantive changes and the two additional five-year renewals.

**BUDGET ENGAGEMENT COMMISSION RECOMMENDATION:**

On December 17, 2020, the Budget Engagement Commission (BEC), by a vote of 8 ayes and 6 noes, with 1 absence, recommended the City Council approve the Management Agreement for the Cheech Marin Center for Chicano Art and Culture with the Riverside Art Museum (RAM) for an initial term of 25 years with an automatic renewal of two additional five-year terms. The discussion on this report was largely focused on the desire to amend or further refine certain provisions of the Management Agreement, and not opposition to the project. The BEC provided comments related to the following provisions of the Management Agreement:

- The 25-year term of the Management Agreement and the automatic renewal for two additional terms of five years each.
- The official 'meet and confer' between the City and RAM at the end of the first ten years to discuss operation of the Center and the Management Agreement.

- Additional offsets (i.e. a portion of merchandise sales and concessions) to further underwrite the maintenance and operation of the Center, in addition to the Facility Fee.
- Further clarify the force majeure provisions to allow for a reduction to the management fee proportional to the activities allowed under such a circumstance.
- Include explicit language for consideration of a termination for convenience.
- Acknowledge the agreement (art) between RAM and Mr. Marin as part of the Management Agreement.
- Amend Attachment 2 (Expenditure and Revenue Estimates) to include ongoing utility and landscape expenses as outlined in the Management Agreement.

Following the BEC meeting, City and Riverside Art Museum staff met to discuss additional revisions to the Management Agreement in order to be responsive to the comments expressed. It is our collective intent to have a revised Management Agreement for City Council consideration. City staff will provide a verbal report out of any progress made at the Committee meeting.

### **BACKGROUND:**

Cheech Marin is a well-known comic actor who grew up and still lives in Southern California. Over the past 30-35 years, he has accumulated what is widely believed to be the world's largest collection of Chicano art pieces – over 700 works of art. However, it would be a mistake to regard Mr. Marin merely as a major Chicano art collector; more importantly, he is a passionate advocate for this emerging genre of American art. Mr. Marin has shared various parts of his extensive collection for specific exhibitions with dozens of museums around the nation. His purpose: to promote Chicano artists and to validate Chicano art and culture as a legitimate and vital creative reflection of the American experience.

On February 2, 2017, Cheech Marin and the Riverside Art Museum (RAM) collaborated to open an exhibition called “Papel Chicano Dos: Works on Paper.” The opening night of this show, which featured a small portion of Cheech Marin's collection, had the largest crowd RAM has seen for an exhibit's opening night. Following the opening night, the museum experienced attendance triple the average for a RAM exhibit. Over the previous decade RAM has become much more active in promoting the role of art and culture in many of Riverside's historically underserved communities.

The threefold increase in attendance at RAM for the Cheech Marin show; the City's desire for an appropriate cultural reuse of the Main Library; and Cheech Marin's long held desire to find a permanent home for his historically significant Chicano art collection; together with the fact that more than half of Riverside's population is of Chicano/Latino heritage, prompted City staff to approach RAM and Cheech Marin with a proposal to establish The Cheech Marin Center for Chicano Art and Culture (The Cheech).

On May 16, 2017, the City Council approved a Memorandum of Understanding (MOU) among the City of Riverside (City), Richard “Cheech” Marin (Cheech Marin), and the Riverside Art Museum (RAM) to complete a feasibility analysis of the Main Library building located at 3581 Mission Inn Avenue to repurpose the facility into a public center for the Cheech Marin Center for Chicano Art, Culture and Industry project (The Cheech). The staff report and MOU established the following:

- Created a \$3 million fundraising campaign to pay for the conversion of the Main Library into The Cheech, as the City was not obligated to pay for any of the costs of the conversion.
- Ownership of the building would remain with the City; there would be no lease to RAM.
- Contemplated a long-term management agreement through which the City would contract RAM to operate all aspects of The Cheech. Staff estimated the total annual expenditure for the operation of The Cheech would range between \$750,000 and \$925,000.
- Established a facility fee charge for adults and kids that would defray the City's expenditures on The Cheech.
- Retained the services of consultants and worked to create a facility assessment, determine art center programming, complete conceptual plans, and develop conceptual cost estimates for the future renovation of the Main Library to The Cheech. After several site visits and facility assessments, City staff, RAM and Cheech Marin determined the facility met the location, spatial accessibility and layout requirements for the new Cheech Center.

On June 30, 2017, the Purchasing Division of the Finance Department issued a Request for Qualifications No. 1728 (RFQ) seeking professional architectural design services from experienced firms for the development of Phase 1 conceptual plans and drawings for The Cheech. A Screening and Selection Committee (Committee) was formed to evaluate and score all responsive Statements of Qualifications based on the evaluation criteria set forth in the RFQ. Following interviews, the Committee determined Page and Turnbull to be the most qualified firm. Page and Turnbull's design team includes WHY, a highly experienced and recognized company that designs art centers and museum exhibits.

On October 24, 2017, the City Council approved a Professional Consultant Services Agreement (PCSA) with Page and Turnbull for Phase 1 architectural and art center conceptual design services for The Cheech. Page and Turnbull, City staff and RAM worked diligently to complete the Phase 1 facility analysis, determine art center programming, complete conceptual designs, and finalize preliminary cost estimates for The Cheech. In an effort to obtain broad community feedback, Page and Turnbull held three community/visioning workshops on November 28 and December 15, 2017, and February 1, 2018. At the February 1<sup>st</sup> meeting, Page and Turnbull presented preliminary conceptual plans to the RAM board members. The conceptual designs received majority approval, with minor overall questions and comments from meeting attendees. Public feedback has been integrated into the final conceptual ideas presented herein to the City Council.

On March 13, 2018 the City Council received an update on The Cheech, approved conceptual designs for the project and adopted a resolution authorizing the submittal of a \$1 million grant application to the California Natural Resources Agency (CNRA). Although the \$1 million allocation was set aside specifically for this project – through a state budget allocation secured by Assemblymember Jose Medina – the City was still required to submit an application for funding and enter into a grant agreement with the CNRA.

On October 16, 2018, the City Council received an update on The Cheech, authorized the submittal of a second grant application to the CNRA in the amount of \$9.7 million (for a total revised grant amount of \$10.7 million), approved the first amendment to the PCSA with Page & Turnbull for additional design services, and approved the Second MOU between the City, Cheech Marin and RAM. The submittal of a second grant application to the CNRA was required to reflect the second state budget allocation of \$9.7 million secured by Assemblymember Jose Medina. The Second MOU outlined the next steps and parameters for the continued fundraising efforts by

the City, Cheech Marin and RAM, as well as identified a forthcoming Renovation Agreement and Management Agreement for operation of The Cheech.

Pursuant to the terms of the Grant Agreement with the CNRA, the City has until December 31, 2021 to complete the project. The Grant Agreement notes that an extension may be requested in advance and be considered by the State, at its sole discretion, in the event of circumstances beyond the control of the City, however the project will need to be completed no later than May 1, 2024.

On February 12, 2020, the Community Services and Youth Committee received an update from RAM on The Cheech and outlined critical next steps to realize a successful opening.

In May 2020, after the City Departments completed their plan check process, Page and Turnbull finalized the construction plans and specifications to bid the project. The project timeline was estimated to take approximately 10 months to complete.

**DISCUSSION:**

*Management Agreement*

With a planned opening in late 2021, The Cheech will explore Chicano culture from the barrio to the bay, cholos to Cesar Chavez, and pre-Columbian to modern murals. As Cheech says, it will be the “center of Chicano art, not only for paintings, but sculpture, photography, and video arts.” The Cheech will occupy the building currently occupied by the Main Library, once the New Main Library’s construction has been completed. The Cheech is an ideal adaptive reuse of this 61,420-square-foot mid-century building with the transformation from library to art center preserving many of its historic aspects.

Consistent with what was contemplated in May 2017, City and RAM staff have worked diligently to develop the proposed Management Agreement for The Cheech and, within the context of the Fiscal Impact discussion below, the Management Agreement reflects the minimum resources specified by RAM to successfully operate The Cheech. The Management Agreement outlines the various components associated with operation of this facility, detailing the term, roles, responsibilities, and compensation; provisions for termination are also included. Key terms of the Management Agreement are identified in the table below.

<b>Key Terms of the Management Agreement with RAM</b>	
Site and Building	<ul style="list-style-type: none"> <li>• The City will retain ownership of the entire site, including the building and plaza in the front.</li> <li>• The parking lot adjacent to the building will remain open to the public with 14 parking spaces to be reserved for RAM use.</li> <li>• The City will work with RAM to establish a process to facilitate use of the plaza for events.</li> </ul>
Financial Sustainability	<ul style="list-style-type: none"> <li>• The City and RAM agree to actively work towards making The Cheech financially independent and self-sustaining beyond the initial term of the agreement.</li> </ul>

<b>Key Terms of the Management Agreement with RAM</b>	
Term	<ul style="list-style-type: none"> <li>• The initial term of the Management Agreement will commence upon delivery of the premises after renovation and continue for a period of 25 years thereafter.</li> <li>• The City and RAM will meet in good faith to discuss the continued operation of the Center and this Agreement at the end of the first 10 years.</li> <li>• The City and RAM may also meet during the initial 10-year period to discuss the revenues and expenditures of the Center’s operations or any event that could potentially have an adverse financial impact on the Center.</li> <li>• Following the initial term, as long as neither the City or RAM are in default of the Agreement, this Agreement shall automatically renew for two additional terms of five years each unless the City or RAM provides the other party with prior written notice at least 12 months prior to the end of the initial term or renewal term.</li> </ul>
Management Fee	<ul style="list-style-type: none"> <li>• The City shall pay to RAM a Management Fee of \$800,000.</li> <li>• For Years two through 10, the Management Fee shall increase each year on the anniversary date by \$25,000.</li> <li>• Beginning in year 10, the City and RAM shall meet to discuss and/or renegotiate the Management Fee for the remainder of the Term.</li> </ul>
Facility Fee	<ul style="list-style-type: none"> <li>• RAM shall impose a Facility Fee to be added to the price of all paid admissions to the Center, and for Facility Rental Events at the Premises in order to help underwrite the future maintenance and operation of the Premises.</li> <li>• The minimum Facility Fee for single admission is \$3.00 for adults and \$1.00 for children 13 and under and seniors over 65 years.</li> <li>• For Facility Rental Events, RAM shall pay the City \$1 for every participant.</li> <li>• The Facility Fee shall increase annually by 5%</li> </ul>
Utilities	<ul style="list-style-type: none"> <li>• The City shall be solely responsible for and shall pay for all utilities for the Premises, estimated at \$120,000 per year (based on the current usage of the existing Main Library building).</li> </ul>
Website and Marketing	<ul style="list-style-type: none"> <li>• RAM shall retain ownership of the Premises website domain and shall have the obligation to maintain and upkeep its contents. RAM will integrate programs, exhibition, and additional information about the Center into its existing website.</li> <li>• The City retains all ownership and copywrite of the image of the exterior of the Premise and the Plaza Area.</li> <li>• The Parties understand and acknowledge that the City logo or other City insignia will be utilized in the marketing of the Center when appropriate.</li> </ul>

<b>Key Terms of the Management Agreement with RAM</b>	
Maintenance	<ul style="list-style-type: none"> <li>• RAM shall maintain and keep in good order, condition, and repair the Center and fixtures, furniture, furnishings, and equipment situated on or used in connection with the Center.</li> <li>• The City shall maintain and perform landscape maintenance of the plaza area.</li> <li>• RAM shall be responsible for the performance of work, and to pay for, the cost of maintenance and repair for non-structural interior fixtures, signs, displays, equipment, machinery, appliances, appurtenances, improvements, alterations, and systems required for the Center.</li> <li>• RAM shall be also be responsible for janitorial services.</li> <li>• The City shall be responsible for the performance of any work, and to pay for, any maintenance and repairs related to the plumbing system, the electrical system, the wiring and conduits, the roof, the elevators, windows and doors, any exterior fixtures including permanent signage and the heating and air conditioning systems, structural foundation, and structural parts of the exterior walls.</li> </ul>
Records and Annual Audit	<ul style="list-style-type: none"> <li>• RAM shall provide to the City, within 45 days after the first six-month period, a mid-year report of accounts in accordance with generally accepted accounting principles and certified by RAM as true and correct, in the form acceptable to the City.</li> <li>• RAM shall provide to the City, within 120 days after the end of the fiscal year, a Final Annual Report of accounts in accordance with generally accepted accounting principles and certified by RAM as true and correct in the form acceptable to the City.</li> <li>• RAM shall be responsible for and shall pay for any additional audit, accounting or legal costs incurred by either Party due to additional investigation warranted because of fraud, theft or gross negligence on the part of RAM.</li> </ul>
Annual Budget	<ul style="list-style-type: none"> <li>• RAM will submit to the City a Proposed Annual Budget no later than September 1<sup>st</sup> of each year. RAM acknowledges that the City is on a two-year budget and RAM will submit a two-year budget consistent with the City’s procedures. The Proposed Annual Budget will cover the operations of the Premises for the period of September 1<sup>st</sup> through August 31<sup>st</sup> for the following two (2) year period. The Proposed Annual Budget will be approved by RAM Board of Trustees and will outline how the Management Fee will be used</li> </ul>

*Riverside 2025 Strategic Plan*

The Riverside 2025 Strategic Plan was approved by the City Council in October 2020 and details a five-year effort to set priorities and guide the policy direction of the City. The priorities identified in the strategic plan include: developing arts, culture and recreation opportunities; enhancing community well-being; providing economic opportunity; environmental stewardship; infrastructure, mobility and connectivity; and, maintaining a high-performing government. The Riverside 2025 Strategic Plan is crucial to the ongoing priority-based budgeting process the city is currently implementing which seeks to allocate financial resources in accordance with the strategic plan.

The Cheech advances the Arts, Culture and Recreation, and Economic Opportunity priorities of the Riverside 2025 Strategic Plan as is noted below.

<b>Riverside 2025 Strategic Plan</b>	
<b>Priority:</b> Arts, Culture and Recreation – Provide diverse community experiences and personal enrichment opportunities for people of all ages.	
<b>Goal:</b>	1.1. Strengthen Riverside's portfolio of arts, culture, recreation and lifelong learning programs and amenities through expanded community partnerships, shared use opportunities, and fund development.
	1.2. Facilitate equitable access to arts, culture and recreational service offerings and facilities.
<b>Priority:</b> Economic Opportunity - Champion a thriving, enduring economy that provides opportunity for all	
<b>Goal:</b>	3.1. Facilitate partnerships and programs to develop, attract and retain innovative business sectors.
<b>Cross-Cutting Threads</b>	
<b>Community Trust</b>	Riverside is transparent and makes decisions based on sound policy, inclusive community engagement, involvement of City Boards and Commissions, and timely and reliable information. Activities and actions by the City serve the public interest, benefit the City's diverse populations, and result in greater public good.
	Discussions related to the development of The Cheech have been undertaken through the lens of the community. The community's response to the initial show at RAM and the desire for the cultural reuse of the Main Library, situated in the heart of the historic arts corridor and next to the Mission Inn, the City has sought to capture its essence in a manner that advances Riverside as the City of Arts and Innovation. Equally important, the community has been engaged throughout this process, evidenced through the input provided at two visioning workshops, and further reflected through investment resulting from the fundraising effort launched by RAM. Since 2017, City and RAM staff have worked to provide updates on the progress of this project as certain milestones have been achieved. Further, it is contemplated that this report will be considered by the City's Budget Engagement Commission, Financial Performance and Budget Committee, and the City Council.
<b>Equity</b>	Riverside is supportive of the City's racial, ethnic, religious, sexual orientation, identity, and other attributes of diversity and is committed to advancing the fairness of treatment, recognition of rights, and equitable distribution of services to ensure every member of the community has equal access to share in the benefits of community progress.
	The Cheech will explore Chicano culture from the barrio to the bay, cholos to Cesar Chavez, and pre-Columbian to modern murals. Art is sometimes characterized as a reflection of society and its values. Mr. Marin's purpose is to promote Chicano artists and to validate Chicano art and culture as a legitimate and vital creative reflection of the American experience. With more than half of the population being of Chicano/Latino heritage, The Cheech provides an opportunity to connect the community – locally and regionally – on a different level by enriching and celebrating its diversity through an arts center unlike anything found anywhere.

<p><b>Fiscal Responsibility</b></p>	<p>Riverside is a prudent steward of public funds and ensures responsible management of the City's financial resources while providing quality public services to all.</p> <p>As is noted in further detail below, consideration of the Management Agreement will need to be viewed in the context of the City's overall priorities in order to balance the needs of subsidized projects with City resource availability and overall financial health. The maintenance expenses associated with the Management Agreement are estimated to be partially offset through the collection of a Facility Fee assessed on single admissions (\$3.00 for adults; \$1.00 for children 13 and over and seniors over 65 years) and facility rental events (\$1.00 for every participant). Attachment 2 provides expenditure and revenue estimates based on the anticipated attendance of 100,000 individuals per year. This impact does not account for the direct, indirect or cumulative economic impact The Cheech could have on the surrounding area or City.</p>
<p><b>Innovation</b></p>	<p>Riverside is inventive and timely in meeting the community's changing needs and prepares for the future through collaborative partnerships and adaptive processes.</p> <p>Over the past 30-35 years, Mr. Marin has accumulated what is widely believed to be the world's largest collection of Chicano art pieces – over 700 works of art. According to a recent article in ARTnews, Mr. Marin was identified as one of the world's top 200 collectors, highlighting an exhibition of works (<i>Chicano Visions: American Painters on the Verge</i>) that toured 12 cities from 2001 to 2007. The Cheech would be the only one of its kind and serve as a draw to the wider Southern California region, reinforcing Riverside as a destination for art enthusiasts. From the onset, the City has worked in a collaborative partnership with RAM and Mr. Marin to bring this project to fruition, launching several fundraising initiatives and advocating for support from the State, making The Cheech synonymous with Riverside and RAM.</p>
<p><b>Sustainability and Resiliency</b></p>	<p>Riverside is committed to meeting the needs of the present without compromising the needs of the future and ensuring the City's capacity to persevere, adapt and grow during good and difficult times alike.</p> <p>The Cheech will occupy the building currently occupied by the Main Library, once the New Main Library's construction has been completed. The Cheech ensures an appropriate cultural reuse of the Main Library building, complimenting the historical and cultural buildings and uses in the immediate surrounding area, which will be renovated consistent with state codes, improve its energy efficiency, and contribute to a more walkable downtown.</p>

Other Actions for Consideration

The City and RAM will also enter into a Renovation Contribution Agreement. The Renovation Contribution Agreement provides the mechanism by which the City will be reimbursed by RAM for certain costs associated with the renovations to the current Main Library building; the reimbursements would be funded through the funds raised in support of this project. City and RAM staff have worked collaboratively throughout the design process to arrive at the proposed design elements of the project, in line with the available funding. RAM funds will support the



inclusion of museum quality improvements consistent with the needs of the facility and the expectations of the donors of this project.

To facilitate renovation of the existing Main Library into the Cheech Marin Center for Chicano Art and Culture, the City will need to award the bid for the renovation. On June 15, 2020, the City's Purchasing Division (Finance Department) posted Bid No. 7764 seeking bids from potential bidders for the work. The City received 14 highly competitive construction bids. Staff anticipates issuing a Construction Notice to Proceed in January 2021.

### Construction of New Main Library

At the time of this report, construction completion of the new Main Library was 95% complete. It is anticipated the new Main Library be completed in late 2020 allowing Main Library staff to relocate into the new location by the end of 2020 through the first part of 2021. After library staff is relocated to the new Main Library, construction work will start at the existing main library facility for the new Cheech Art Center.

### **FISCAL IMPACT:**

Pursuant to Section 3.1 of the Management Agreement, the management fee owed to RAM for operating The Cheech is \$800,000 to commence upon delivery of the premises after renovation. Following the first year, in years two through 10, the Management Fee will be increased by \$25,000 per year. Maintenance and operation expenses will be offset through collection of a Facility Fee assessed on single admissions (\$3.00 for adults; \$1.00 for children 13 and over and seniors over 65 years) and facility rental events (\$1.00 for every participant); Attachment 2 provides expenditure and revenue estimates based on the anticipated attendance of 100,000 individuals per year. Additionally, the City will be responsible for the utilities of the Premises which are estimated at \$120,000. All expenses related to the Cheech will need to be included in future City budgets. Lastly, per RAM and its consultant John Husing, the estimated annual economic impact to the City of Riverside of The Cheech is \$22 million, and the estimated 10-year economic impact is \$317 million.

The City, like many government agencies, will continue to face mounting pressures due to the lasting impacts of COVID-19 on businesses and the psyche of people. While unaudited Fiscal Year 2019/2020 analyses indicate General Fund revenue results will be nearly in line with original (pre-COVID-19) projections, the City realized significant expenditure impacts resulting from the General Fund subsidy of the Convention Center (Convention Center, Riverside Sports Commission, and Riverside Convention and Visitors Bureau) and Entertainment Fund (Live Nation operations of the Fox and Riverside Municipal Auditorium) totaling \$13.1 million, inclusive of the debt service (\$6.7 million) for each facility. Structural deficits in the General Fund existed prior to COVID-19 (i.e., expenses are outpacing revenues) and will continue to hamper the City's ability to produce balanced budgets without significant reduction to expenses and/or services in order to achieve desired results. Additionally, the City faces another challenge resulting from a recent court ruling on the City's electric rate structure that will adversely impact General Fund revenue in future years. While it is not yet clear exactly how much revenue will be lost, the impact to the City's General Fund is anticipated to be significant such that any additional expenditures, such as this, will need to be viewed in the context of the City's overall priorities in order to balance the needs of subsidized projects with City resource availability and overall financial health.

Certified as to

availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer

Approved by: Al Zelinka, FAICP, City Manager

Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

1. Draft Management Agreement
2. Management Agreement Expenditure and Revenue Estimates
3. Riverside Art Museum Proposed Budget for The Cheech
4. Presentation