

MEXICAN RESTAURANTS INC  
Form 10-K/A  
April 13, 2006

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

**FORM 10-K/A**  
**(Amendment No. 1)**

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 [FEE REQUIRED]

**For the Fiscal Year Ended January 1, 2006**

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 [NO FEE REQUIRED]

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

**Commission file number: 0-28234**

**MEXICAN RESTAURANTS, INC.**

(Exact name of registrant as specified in its charter)

**Texas**

(State or other jurisdiction of  
incorporation or organization)

**76-0493269**

(IRS Employer Identification Number)

**1135 Edgebrook, Houston, Texas**  
(Address of Principal Executive Offices)

**77034-1899**  
(Zip Code)

Registrant's telephone number, including area code: **713-943-7574**

Securities registered pursuant to Section 12(b) of the Act:  
**None**

Securities registered pursuant to Section 12(g) of the Act:  
**Common Stock, \$.01 par value**

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes  No

The aggregate market value of the Registrant's Common Stock held by non-affiliates of the Registrant, based on the sale trade price of the Common Stock as reported by the Nasdaq Small Cap Market on July 3, 2005, the last business day of the Registrant's most recently completed second quarter, was \$14,026,756. For purposes of this computation, all officers, directors and 10% beneficial owners of the registrant are deemed to be affiliates. Such determination should not be deemed an admission that such officers, directors or 10% beneficial owners are, in fact, affiliates of the Registrant.

Number of shares outstanding of the Registrant's Common Stock, as of March 28, 2006: 3,356,977 shares of Common Stock, par value \$.01.

AMENDMENT NO. 1 EXPLANATORY NOTE

We are filing Amendment No. 1 (this “Amendment”) to the Mexican Restaurants, Inc. Annual Report on Form 10-K for the year ended January 1, 2006 (the “2005 Form 10-K”), which was originally filed on March 30, 2006, to amend Part IV, Item 15 of the Mexican Restaurants, Inc.’s 2005 Form 10-K for the sole purpose of amending and restating (i) Exhibit 23.1, Consent of UHY Mann Frankfort Stein & Lipp CPAs, LLP (“UHY”) and (ii) Exhibit 23.2, Consent of KPMG LLP (“KPMG”).

Exhibit 23.1 to the Mexican Restaurants, Inc.’s 2005 Form 10-K inadvertently contained UHY’s report with respect to Mexican Restaurants, Inc.’s financial statements for its 2005 fiscal year, and Exhibit 23.2 to the Mexican Restaurants, Inc.’s 2005 Form 10-K inadvertently contained KPMG’s report with respect to the consolidated balance sheet of Mexican Restaurants, Inc. and subsidiaries as of January 2, 2005, and the related consolidated statements of operations, stockholders’ equity and cash flows for the each of the years in the two-year period ended January 2, 2005. Revised Exhibits 23.1 and 23.2 now include the executed consents of the respective independent registered public accounting firms.

No other revisions or amendments have been made to Part IV, Item 15 or to any other portion of the Mexican Restaurants, Inc.’s 2005 Form 10-K. This Amendment does not reflect events occurring after March 30, 2006, the date of the original filing of the Mexican Restaurants, Inc.’s 2005 Form 10-K, or modify or update those disclosures that may have been affected by subsequent events. In addition, currently-dated certifications from the Mexican Restaurants, Inc.’s Chief Executive Officer and Chief Financial Officer have been included as exhibits to this Amendment.

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## PART IV

### ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this Report:

1. Financial Statements:

The Financial Statements are listed in the index to Consolidated Financial Statements on page F-1 of this Report.

2. The following exhibits are filed as part of this report. The exhibits designated with a cross are management contracts and compensatory plans and arrangements required to be filed as exhibits to this report.

3. Exhibits:

3.1 Articles of Incorporation of the Company, as amended (incorporated by reference to the corresponding Exhibit number of the Company's Form 8-K filed on May 25, 1999 with the Securities and Exchange Commission).

‡3.2 Bylaws of the Company.

‡4.1 Specimen of Certificate of Common Stock of the Company.

4.2 Articles of Incorporation of the Company (see 3.1 above).

‡4.3 Bylaws of the Company (see 3.2 above).

‡10.1 Employment Agreement by and between the Company and Louis P. Neeb dated February 28, 1996.

10.2 Indemnity Agreement by and between the Company and Louis P. Neeb dated as of April 10, 1996 (incorporated by reference to Exhibit 10.4 of the Company's Form S-1 Registration Statement filed under the Securities Act of 1933, dated April 24, 1996, with the Securities and Exchange Commission (Registration Number 333-1678) (the "1996 Form S-1")).

10.3 Indemnity Agreement by and between the Company and Larry N. Forehand dated as of April 10, 1996 (incorporated by reference to Exhibit 10.5 of the 1996 Form S-1).

10.4 Indemnity Agreement by and between the Company and John C. Textor dated as of April 10, 1996 (incorporated by reference to Exhibit 10.6 of the 1996 Form S-1).

10.5 Indemnity Agreement by and between the Company and Michael D. Domec dated as of April 10, 1996 (incorporated by reference to Exhibit 10.8 of the 1996 Form S-1).

10.6 Indemnity Agreement by and between the Company and J. J. Fitzsimmons dated as of April 10, 1996 (incorporated by reference to Exhibit 10.10 of the 1996 Form S-1).

10.7 Indemnity Agreement by and between the Company and Richard E. Rivera dated as of April 10, 1996 (incorporated by reference to Exhibit 10.11 of the 1996 Form S-1).

10.8 Corrected Warrant Agreement by and between the Company and Louis P. Neeb dated as of February 26, 1996 (incorporated by reference to Exhibit 10.12 of the 1996 Form S-1).

10.9

Corrected Warrant Agreement by and between the Company and Tex-Mex Partners, L.C. dated as of February 26, 1996 (incorporated by reference to Exhibit 10.13 of the 1996 Form S-1).

10.10 Form of the Company's Multi-Unit Development Agreement (incorporated by reference to Exhibit 10.14 of the 1996 Form S-1).

10.11 Form of the Company's Franchise Agreement (incorporated by reference to Exhibit 10.15 of the 1996 Form S-1).

†10.12 1996 Long Term Incentive Plan (incorporated by reference to Exhibit 10.16 of the 1996 Form S-1).

†10.13 Mexican Restaurants, Inc. 2005 Long Term Incentive Plan (incorporated by reference to Exhibit 99.1 of the 2005 Form S8 filed December 1, 2005).

†10.14 Stock Option Plan for Non-Employee Directors (incorporated by reference to Exhibit 10.17 of the 1996 Form S-1).

10.15 Corrected Warrant Agreement by and between Larry N. Forehand and Louis P. Neeb dated as of February 26, 1996 (incorporated by reference to Exhibit 10.31 of the 1996 Form S-1).

10.16 Corrected Warrant Agreement by and between Larry N. Forehand and Tex-Mex Partners, L.C. dated as of February 26, 1996 (incorporated by reference to Exhibit 10.32 of the 1996 Form S-1).

10.17 Corrected Warrant Agreement by and between Larry N. Forehand and Patrick A. Morris dated as of February 26, 1996 (incorporated by reference to Exhibit 10.33 of the 1996 Form S-1).

10.18 Corrected Warrant Agreement by and between Larry N. Forehand and Stacy M. Riffe dated as of February 26, 1996 (incorporated by reference to Exhibit 10.34 of the 1996 Form S-1).

10.19 Indemnification letter agreement by Larry N. Forehand dated April 10, 1996 (incorporated by reference to Exhibit 10.35 of the 1996 Form S-1).

†10.20 1996 Manager's Stock Option Plan (incorporated by reference to Exhibit 99.2 of the Company's Form S-8 Registration Statement filed under the Securities Act of 1933, dated February 24, 1997 filed with the Securities and Exchange Commission).

†10.22 Employment Agreement by and between the Company and Andrew J. Dennard dated May 20, 1997 (incorporated by reference to Exhibit 10.45 of the Company's Form 10-K Annual Report filed on March 30, 1998 with the Securities and Exchange Commission).

10.23 Fleet Revolving Credit and Term Loan Agreement between Mexican Restaurants, Inc., as the Borrower, and Fleet National Bank, as the Bank, for \$10,000,000 dated June 29, 2001 and as amended on January 7, 2004 and April 1, 2005 (incorporated by reference to Exhibit 10.22 of the Company's Form 10-K Annual Report filed on April, 2005 with the Securities and Exchange Commission).

#10.24 Amendment No. 2 to Amended and Restated Revolving Credit and Term Loan Agreement dated November 15, 2005 (effective June 30, 2005) between Mexican Restaurants, Inc., as the Borrower, and Bank of America, as the Bank, for \$10,000,000 dated June 29, 2001 and as amended on January 7, 2004 and April 1, 2005.

#†10.25 Performance Unit Agreement by and between Mexican Restaurants, Inc. and Andrew Dennard dated August 16, 2005.

#†10.26 Performance Unit Agreement by and between Mexican Restaurants, Inc. and Curt Glowacki dated August 16, 2005.

#†10.27

Performance Unit Agreement by and between Mexican Restaurants, Inc. and Louis P. Neeb dated August 16, 2005.

#†10.28 Performance Unit Agreement by and between Mexican Restaurants, Inc. and Dennis Vegas dated August 16, 2005.

21.1 List of subsidiaries of the Company (incorporated by reference to Exhibit 22.1 of the Company's Form S-1 Registration Statement Under the Securities Act of 1933, dated April 24, 1996, filed by the Company with the Securities and Exchange Commission).

\*23.1 Consent of UHY MANN FRANKFORT STEIN & LIPP CPAs, LLP, Independent Registered Public Accounting Firm.

\*23.2 Consent of KPMG, LLP, Independent Registered Public Accounting Firm.

#24.1 Power of Attorney (included on the signature page to this Form 10-K).

\*31.1 Certification filed pursuant to Rule 13a-14(a) or Rule 15d-14(a).

\*31.2 Certification filed pursuant to Rule 13a-14(a) or Rule 15d-14(a).

\*\*32.1 Certification of Chief Executive Officer furnished pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\*\*32.2 Certification of Chief Financial Officer furnished pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\*Filed herewith.

\*\*Furnished herewith.

‡Incorporated by reference to corresponding Exhibit number of the Company's Form S-1 Registration Statement under the Securities Act of 1933, dated April 24, 1996, with the Securities and Exchange Commission (Registration number 333-1678) (the "1996 Form S-1").

†Management contract or compensatory plan or arrangement.

#Previously filed as an exhibit to the Company's 2005 Form 10-K.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on April 12, 2006.

MEXICAN RESTAURANTS,  
INC.

*By: /s/ Louis P. Neeb*  
Louis P. Neeb,  
Chairman of the Board of  
Directors

