



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jane Light

**SUBJECT: APPROVAL OF
AGREEMENT WITH
TEMPUS PUBLISHING GROUP**

DATE: February 25, 2004

Approved

Date

Council District: City-Wide
SNI: N/A

RECOMMENDATION

Adoption of a Resolution authorizing the City Manager to negotiate and execute a contract between the City of San Jose and Tempus Publishing Group, dba Arcadia Publishing, for the creation and publication of an historical work, provisionally entitled: "*The Images of America Series: Historic Downtown San Jose, California*"; and approving the use of any profits from the sale of the book for Library purposes.

BACKGROUND

Arcadia Publishing specializes in local history titles and is publishing a series of works in their Images of America Series, featuring reproductions of photographs and accompanying text. The company approached the California Room staff at the Main Library about a volume on San Jose. The staff was interested in finding a vehicle to feature our collection while educating the public on the fascinating history of San Jose. The prospect of having a publication available that could be distributed throughout our library system, as well as being available to other libraries and interested readers, was most attractive. Our staff provides the text and copies of non-copyrighted photographs and Tempus Publishing Group assumes responsibility for publication, marketing, and distribution. If enough copies are sold to reach a profit, the City would receive a per volume royalty, which could be returned to the Library and applied to local history needs.

ANALYSIS

This Agreement allows for the creation, publication, and distribution of a valuable resource for local history. Library staff has already researched possible photographs that would form an instructive history of Downtown San Jose. Staff would benefit in having a needed resource that can circulate throughout the community for school reports and for those interested in the history of their city. Other libraries would benefit by having a resource to better answer questions they receive on the history of San Jose. This area is in great need of printed histories, which this volume would help fill. There is a short turnaround in providing the information which current staffing levels will be able to accommodate.

Arcadia Publishing has a standard agreement for this type of local history work, which has the following business terms:

- A royalty of 8% of net amounts received by the Publisher for the book is paid to the City. For purposes of computing royalties, "net amounts" means all amounts received by Arcadia for the sale of copies of the book, less shipping costs, sales taxes, and other expenses (such as returns) remitted to the Publisher by the purchaser.
- The Publisher retains certain ancillary rights, such as for anthologies or digests, or sound broadcasting rights. The City is entitled to 50% of net amounts received for any ancillary rights.
- The City delivers text and photographs, and guarantees that it has the right to use such materials without infringing copyright laws. Arcadia publishes the work in a pre-determined format, and prices and markets the book. Copies of other similar local histories have cost \$19.99 per book.

The agreement has been modified at the City's request to include standard provisions pertaining to compliance with the Gift Ordinance and the Revolving Door Ordinance, as well as other technical changes.

PUBLIC OUTREACH

N/A

COORDINATION

The contract and memo have been coordinated with the City Attorney and Finance Departments.

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CEQA

Not a project.

Jane Light
Library Director, Library Department