



SUPPLEMENTAL

COUNCIL AGENDA: 09-25-07
ITEM: 2.3

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Paul Krutko

SUBJECT: SEE BELOW

DATE: September 18, 2007

Approved

Ray Wines

Date

9/19/07

COUNCIL DISTRICT: City-Wide

SUPPLEMENTAL MEMO

**SUBJECT: APPROVAL OF A THIRD AMENDMENT TO A GRANT AGREEMENT
WITH SAN JOSE STAGE COMPANY**

REASON FOR SUPPLEMENTAL MEMO

After this item was placed on the City Council agenda, further discussion between City staff and the San Jose Stage Company (SJSC) resulted in a resolution of certain issues, leading to a modification of the proposed terms of the Amended Agreement. This supplemental memorandum clarifies the understanding that has been reached by the parties to the Amended Agreement. In addition, the Budget Reference on the original City Council memorandum has been corrected.

BACKGROUND

On September 11, 2007, a meeting was held between staff from the City Manager's Office and the Office of Cultural Affairs, and San Jose Stage Company representatives. Discussion included clarification by all parties of the issues that led to the originally-proposed terms of the Third Amendment. This discussion resolved certain issues and resulted in agreement on new terms for the Third Amendment. Accordingly, staff has revised the terms of the Third Amendment to reflect the outcome of the negotiations.

ANALYSIS

During the original three-year term of this agreement, SJSC met or exceeded its obligation to produce a specified amount of live theater of particular genres for presentation to the public in San Jose. However, SJSC missed a number of reporting requirements and had not submitted required audited annual financial statements.

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In the course of the meeting on September 11, staff and SJSC representatives were able to clarify the circumstances surrounding the missed deadlines and audited annual financial statements, and reached a mutually satisfactory approach to addressing those circumstances in the Third Amendment, which provides for a more measured approach while meeting the needs of all parties:

1. The Third Amendment changes the annual financial statement requirements so that the financial statements for FY 2004-2005 and FY 2005-2006 must be reviewed by an independent Certified Public Accountant, instead of audited. The requirement for an audited financial statement resumes with the FY 2006-2007 financial statement.
2. The Third Amendment establishes new deadlines for the submission of reviewed financial statements for FY 2004-2005 and FY 2005-2006, and affirms the deadlines for submission of the FY 2006-2007 and FY 2007-2008 audited financial statements. It also extends the deadline for SJSC to submit its internal end-of-year report for FY 2007-2008.
3. The Third Amendment stipulates that grant disbursements, which are made as quarterly advances, will change to monthly reimbursements of documented expenses if SJSC is not able to meet the new deadlines established in the Third Amendment.

Finally, the revised Third Amendment no longer removes SJSC's option to request a one-year extension of the Agreement for FY 2008-2009.

BUDGET REFERENCE

The Budget Reference has been corrected and is indicated below:

Fund No.	Appn No.	Appn Name	RC No.	Total Appn	Amt. For Contracts*	2007-2008 Proposed Operating Budget	Last Budget Action
001	3348	San Jose Stage Company	009557	\$69,977	\$69,977	Page IX-9	N/A

* Total over four years is \$284,105.


PAUL KRUTKO
Chief Development Officer

For questions please contact Lawrence Thoo, Arts Program Director, 277-5144 x28.