



# Memorandum

**TO: HONORABLE MAYOR AND  
CITY COUNCIL**

**FROM Kay Winer**

**SUBJECT: AGREEMENT WITH OPERA  
SAN JOSÉ FOR USE OF  
CALIFORNIA THEATRE**

**DATE 08 1-04**

Approved

Date

8-11-04

## **REASON FOR ADDENDUM**

Opera San José is scheduled to move in to the California on August 18, 2004. Therefore, Council approval of the Facility Use Agreement between the City and Opera San José is necessary to formalize all details of the use of the California Theatre by the Opera.

## **RECOMMENDATION**

Adoption of a resolution authorizing the City Manager to execute a Facility Use Agreement with Opera San José for the use of the California Theatre for a period of ten (10) years, at an amount paid to the City of ten thousand dollars (\$10,000) per production, with up to four (4) productions for the first four (4) years and up to five (5) productions for the next six (6) years.

## **BACKGROUND**

On October 15, 1998, the San Jose Redevelopment Agency Board (Agency) approved funding for the rehabilitation and expansion of the California Theatre, formerly known as the Fox Theatre, located at 345 South First Street. The intention of the renovation of the theatre was to both make it usable for Opera San José and other large stage productions and to preserve the original use of the building for the presentation of classic films. In December 1998 the Agency adopted a resolution approving a Memorandum of Understanding (MOU) with Opera San José for the use of the theatre. The MOU acknowledged that Opera San José would be the priority user of the California Theatre, and that a use agreement would be developed by the City to describe in detail the terms and conditions of the use. The Agency detailed the funding grants from the Packard Humanities Institute (PHI) along with the plans for the design to allow for the installation of pipe organs. In December 2000, the Agency estimated the project costs to be \$64.9 million and accepted additional grants from the PHI bringing their contributions towards the project to \$20,000,000.

The Agency owns the theatre and is now in the final stages of the renovation of the project. The MOU specifies that one year after the Transfer of Possession, which is currently August 18, the Agency will transfer ownership of the theatre to the City of San José.

The California Theatre is one of the facilities to be managed by Team San José (TSJ) as part of their agreement for the management of the Convention Center and Cultural Facilities as approved by City Council in June 2004. While TSJ will have the responsibility and authority to enter into facility use agreements for the purpose of booking these facilities, the understandings developed with Opera San José detailed a ten (10) year agreement at a facility use fee of ten thousand dollars (\$10,000) per production, which is below the anticipated booking rate to be established for the theatre. These details require the City of San José to enter into an agreement with Opera San José and then to delegate the responsibility to TSJ as the operator.

## **ANALYSIS**

The opening of the California Theatre and the first production by Opera San José have been a long anticipated event and will bring economic as well as cultural benefits to the community and the downtown area. Opera San José, TSJ and the City have reviewed the terms and conditions detailed in the Facility Use Agreement and are in agreement. The Facility Use Agreement is detailed and addresses an inclusive set of requirements that will allow all parties to fully comprehend the relationships, requirements and responsibilities.

Key provisions of the agreement include

- Up to four (4) productions per year in seasons 2004-05, 2005-06, 2006-07, and 2007-08, and with up to five (5) productions per year in seasons 2008-09, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14.

A per production fee of ten thousand dollars (\$10,000) will be charged.

Opera San José is to be the priority user for the theatre with priority dates during the year. Specifics regarding fees and charges, move-in days, move-out days, event days, rehearsal days, dark days, trash removal, utilities, equipment, compliance with laws and regulations, insurance requirements, public safety, catering and concession services, pyrotechnic permits, animals, condition of and damages to the facility, deliveries and storage, seating and facility capacity, signs and banners are all detailed.

## **PUBLIC OUTREACH**

Public outreach has been addressed through the City's communications with Opera San José Team San José and the periodic updates to the San José Arts Commission regarding the California Theatre project and Opera San José.

HONORABLE MAYOR AD CITY COUNCIL  
August 11, 2004  
Subject: Agreement with Opera San José for  
Use of California Theatre  
Page 3

**COORDINATION**

This report has been coordinated with the City Attorney's Office, the San José Redevelopment Agency, and Team San Jose.

*Kay Winer*

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