



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** March 13, 2019

Approved

Date

3-13-19

**SUBJECT: AGREEMENT REGARDING SAN JOSE UNIFIED SCHOOL DISTRICT  
USE OF CITY OWNED THEATERS**

## RECOMMENDATION

Approve an Agreement with San Jose Unified School District to provide for the use of certain City owned theaters by the School District for student performances for an aggregate maximum of ten days per year for a period of fifteen years from July 1, 2019 through June 30, 2035, at no rent and subject to applicable service fees charged by Team San Jose as operator of the theaters.

## OUTCOME

The City will commit to providing San Jose Unified School District (the School District) up to ten days of rent free use of City owned theaters for student performances, annually through Fiscal Year 2034-2035. As consideration for this Agreement, SJUSD will sign the Compensation Agreement outlining terms for transfer of the California Theater to the City from the Successor Agency to the San Jose Redevelopment Agency (Successor Agency).

## BACKGROUND

When the State of California terminated redevelopment agencies in 2011 (effective February 1, 2012), the State developed very specific legislation for how cities and counties must sell or otherwise dispose of properties owned by former redevelopment agencies. Under these regulations, properties must be disposed of according to an Oversight Board and State Department of Finance-approved "Long Range Property Management Plan" (Plan). The Plan approved in 2014 for the Successor Agency identified that the California Theater was to be transferred to the City at no cost. The approved process requires the City of San Jose and the Successor Agency to enter into a "Compensation Agreement" with all the Taxing Entities to approve the transfer of the property from the Successor Agency to the City of San Jose. As of

April 2016. The Compensation Agreement was executed by 13 of the 14 taxing entities, all except the San Jose Unified School District.

The Administration has been engaged with the Deputy District Superintendent Stephen McMahon regarding the District's interest in having rent-free access to city theaters for a limited number of student performances each year. An Agreement has been reached, and the District will sign the Compensation Agreement in a timely manner subsequent to Council approval of the Use Agreement.

### **ANALYSIS**

The proposed Agreement with the School District is posted with the Council agenda, and was developed with input from the City Administration, City Attorney, and Team San Jose.

The Agreement provides that the City will provide the District with up to a total of ten days each year of rent-free use of the California Theater and other theaters managed by Team San Jose or its successor for student performances. These other theaters currently include the Montgomery Theater, the Center for Performing Arts, and The City National Civic. The District will be responsible for all other standard service fees besides the facility rent. The District's use of the theaters will be subject to Team San Jose's standard booking process and standard conditions of use. Subject to the City's annual budget process, the City will pay the standard rental fee to Team San Jose for the School District's use of the theaters.

The Agreement will take effect on July 1, 2019 and run through June 20, 2035, which is the approximate time when all SARA financial obligations will be paid.

### **EVALUATION AND FOLLOW-UP**

Following adoption of the Agreement, the City Manager will monitor ongoing implementation with Team San Jose. After SJUSD signs the Compensation Agreement, the California Theater will be transferred to the City pursuant to the terms of the Compensation Agreement for continuation of operations as a City-owned cultural facility. A clarification to the definition of the Convention Center City Free Use allocation to explicitly reference District events will be incorporated into a revised Management Agreement with Team San Jose that will be scheduled for City Council approval later this year.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the March 26, 2019 City Council Meeting.

### **COORDINATION**

This item has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and Team San Jose.

### **COST SUMMARY/IMPLICATIONS**

The City's cost for the rental fee will be paid from the Convention Center City Free Use appropriation in the Convention and Cultural Affairs Fund. Per the existing management agreement with Team San Jose, the City can allocate funding to pay for the use of convention and cultural facilities managed by Team San Jose "for meetings, seminars, conferences or receptions..." and to "support activities and events that align with the City's economic development goals." With an annual allocation of \$275,000, this funding generally supports a limited number of City sponsored meetings and events each year. It is anticipated that District use will not substantially impact this allocation, though it will be monitored on an annual basis to determine if future adjustments are needed.

### **BUDGET REFERENCE**

| Fund # | Appn # | Appn. Name                      | Total Appn | Contract Amount | 2018-2019 Adopted Operating Budget Page | Last Budget Action (Date, Ord. No.) |
|--------|--------|---------------------------------|------------|-----------------|---|-------------------------------------|
| 536    | 3743   | Convention Center City Free Use | \$275,000  | N/A             | X-28                                    | 06/19/18, 30124                     |

### **COMMISSION RECOMMENDATION/INPUT**

There is no commission action associated with this item.

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**Subject: SJUSD Resolution**

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**CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no changes to the physical environment.

/s/

KIM WALESH

Deputy City Manager

Director of Economic Development

For questions, please contact Kim Walesh, Deputy City Manager, at (408) 535-8177.