

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 30 2016</b>
<b>FROM:</b>	<b>KATE GRAHAM DIRECTOR, COMMUNITY AND ECONOMIC INNOVATION</b>
<b>SUBJECT:</b>	<b>GRAND THEATRE MULTI-YEAR OPERATING AGREEMENT</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Director, Community and Economic Innovation, the by-law attached hereto as Appendix A, **BE INTRODUCED** at the Municipal Council meeting to be held on April 5, 2016:

- (a) to approve a three -year (2016 – 2018) operating agreement for \$500,000 annually with the Grand Theatre; and,
- (b) to authorize the Mayor and Clerk to sign the Agreement for 2016 to 2018, attached as Schedule A to the by-law.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- CAIP Policy approved, Council (June 2000)
- CAIP Policy Update, Creative City Committee (February 9, 2009)
- Strategic Funding Framework for Council Directed Funding to Non-profit Organizations, Council (May 23, 2012)
- Council Resolution noting the IEPC suggestion that a written annual reporting to the IEPC of the Grand’s programs and financial updates would be adequate (June 25, 2013)
- City of London CAIP Category #1 Policy amendment, Council (December 18, 2013)
- Community Arts Investment Program (CAIP) Policy and Funding Amendment, Council (October 27, 2015)

<b>BACKGROUND</b>
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Council at its meeting on October 27, 2015 resolved that:

*“The Director of Community and Economic Innovation **BE DIRECTED** to develop a three-year (2016 – 2018) operating agreement for \$500,000 annually with the Grand Theatre for approval by Municipal Council at the beginning of 2016, noting that this organization currently receives an annual grant of \$500,000 from CAIP Category 1 and signs an annual City of London Operating Agreement, which will expire March 19, 2016.”*

As per the above noted Council Resolution, this report recommends the execution of a three year (2016 – 2018) operating agreement for \$500,000 annually with the Grand Theatre, attached as Schedule A of Appendix A to this report. The source of funding for the Grand Theatre Operating Agreement is through the Culture Office budget, which has been approved by Council as part of its multi-year budget process.

The Grand Theatre is a leader in furthering the implementation of the City's 2015-2019 Strategic Plan and London's Cultural Prosperity Plan. Its continued success is a vital part of culture in London and delivering on the strategic objectives identified for the culture sector.

The Grand Theatre is an incorporated non-profit organization with its own Board of Directors and manages its operations independent of the City of London. The Grand Theatre is one of only 13 Category A theatres in all of Canada. It owns the Grand Theatre lands and an 839 seat theatre building. Throughout each year the Grand Theatre puts on approximately seven productions with 185 performances. The Grand Theatre continues to provide great value to the community as London's only professional theatre. Many municipalities across Canada own and operate their own theatres. The City of London does not have the internal expertise to deliver this service and therefore, is fortunate to rely on the professional expertise of the board and leadership team at the Grand Theatre to provide this service in the community.

Over the last fifteen years, the Grand Theatre has received stable funding support through the Community Arts Investment Program (CAIP Category 1). CAIP Category 1 provided operating funding support to incorporated, not-for-profit arts organizations that have a board of directors, operating revenues in excess of \$1,000,000 and an operating season of no less than five months duration. The Grand Theatre was the only organization eligible to apply to CAIP Category 1 in 2015 and there is a significant difference between annual operating revenues of the Grand Theatre (over \$5 million) and all other arts organizations funded by CAIP Category 2.

In October 2015 Council approved the elimination of the CAIP Category 1 granting program and annual funding of \$500,000 to the Grand Theatre be continued through a multi-year (2016 – 2018) operational agreement.

## **THE PROPOSED GRAND THEATRE MULTI-YEAR OPERATING AGREEMENT**

The Grand Theatre's most recent annual Strategic Funding Framework (SFF) Agreement expires March 19, 2016. The new multi-year operating agreement (for years 2016, 2017 and 2018), attached as Schedule A to the by-law, is recommended to start on April 5, 2016 and continue the same funding of \$500,000 per year to this organization until April 5, 2019.

This proposed Grand Theatre agreement is modeled from the previous SSF agreement and includes the following significant additions/modifications:

### *9. Informing the Public of the City's contribution*

- (b) The Recipient shall acknowledge the support of the City in all its primary marketing and promotional materials.*

### *10. Termination Where Default*

*10.2 The following constitute events of default, the proof of which to the contrary lies upon the Recipient:*

- (a) the Recipient becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute from time to time being enforced relating to bankrupt or insolvent debtors;*
- (b) an order is made or resolution passed for winding up or for the dissolution of the Recipient or it is dissolved;*
- (c) the Recipient ceases actual bona fide operation for a period of thirty (30) days;*
- (d) the Recipient has knowingly submitted false or misleading information to the City;*
- (e) the Recipient is in breach of the performance of, or compliance with, any term, condition or obligation on its part to be observed or performed under this Agreement;*

- (f) *the Recipient refuses or neglects to comply with any reasonable requirement from the City Representative which he or she is entitled to stipulate under this Agreement;*
- (g) *the Recipient assigns or transfers or attempts to assign or transfer this Agreement; or*
- (h) *the Recipient ceases to be a non-share capital, non-profit corporation accorded charitable status by the Canada Revenue Agency.*

*10.3 If an event of default occurs, all of the grant funds paid in the calendar year in which the default occurs and any grant funds advanced thereafter shall be deemed to be a loan and all such funds shall be immediately due and payable in full upon the written demand of the City Representative. The City reserves the right to demand interest on any amount owing by the Recipient at the then current rate charged by the City on accounts receivable.*

*10.4 If an event of default occurs, the City may, at any time, take one or more of the following actions in addition to any other remedy that may be available to it:*

- (a) *provide the Recipient with an opportunity to remedy the event of default;*
- (b) *terminate this Agreement at any time, including immediately, upon the City Representative giving written notice to the Recipient.*

*10.5 If under section 10.5 the City has provided the Recipient with an opportunity to remedy the event of default and the Recipient does not remedy the event of default within the time specified by the City in the notice, the City may in its sole discretion extend the notice period or terminate this Agreement.*

*10.6 Where the City has terminated this Agreement, the City shall have no further responsibility or liability under this Agreement and any termination by the City shall be without compensation, penalty or liability on the part of the City, and shall be without prejudice to any of the City's legal or equitable rights or remedies.*

*10.7 The Recipient acknowledges and agrees that the provisions in this Part 10 are for the sole benefit of the City and may be waived in whole or in part by the City Representative at any time.*

## **Schedule A – Operating Activity**

### **The Funded Activity**

#### The Funded Activity Description

*Operating financial assistance to the Recipient to be used solely by the Recipient for the purposes of its objects as set out in its Articles of Incorporation.*

#### Reporting

The Grand Theatre will continue to provide the Manager of Culture with the following Reports:

*Mid-Year Report (for April – August 31) due September 30 to include:*

- *Outcome Reporting – mid-year report highlighting April 1 to August 31 outcomes. Outcome reporting shall include the Grand Theatre's previous performance season's cultural initiatives to implement London's Cultural Prosperity Plan.*
- *Financial Reporting – Mid-year financial monitoring through review of an un-audited financial statement to June 30; and*

*Annual Report for Previous Performance Season, Audited Financial Statement and First Quarter Monitoring Report – due November 30 to include:*

- *Audited Financial Statement - to be signed by the authorized Recipient's auditor.*
- *First Quarter Financial Monitoring Report - includes July, August and September revenue and expenditure statement to be signed by the Recipient Board Chair or Treasurer of the Board and authorized employee of the Recipient; and*

*Second Quarter Financial Monitoring Report – due February 28 to include:*

- *Financial Reporting – 2<sup>nd</sup> quarter financial monitoring includes October, November and December revenue and expenditure statement; to be signed by the Recipient Board Chair or Treasurer of the Board and authorized employee of the Recipient; and*

*Third Quarter Financial Monitoring Report – due May 30 to include:*

- *Financial Reporting – 3<sup>rd</sup> quarter financial monitoring includes January, February and March revenue and expenditure statement; to be signed by the Recipient Board Chair or Treasurer of the Board and authorized employee of the Recipient.*

The dates of receipt of the quarterly payments have been adjusted slightly to reflect the operation of the Grand Theatre, noting that its year end is completed by June 30<sup>th</sup> of each year. The Annual Report for the previous performance season has been requested to be received at the same time as the Audited Financial Statement.

#### The Grand Theatre Cultural Initiatives Report

As part of its mid-year report, the Grand Theatre will provide the Culture Office with a report related to the Grand Theatre's previous performance season's cultural initiatives to implement London's Cultural Prosperity Plan. This is intended to provide some of the following information and measurements that previously were contained in the Grand Theatre's Community Arts Investment Program Category 1 application such as:

- Percentage of ticket sales from subscriptions;
- Planned and actual attendance;
- Number of permanent paid staff;
- Number of volunteers;
- Total expenditures within the City of London;
- Accumulated surplus;
- Projected surplus;
- Union contract renewal dates;
- Funding received from other levels of government;
- Endowment fund analysis;
- Community outreach initiatives; and,
- Copy of the current Grand Theatre Strategic Plan.

#### **Schedule B**

#### **Financial Provisions**

#### Disbursement of Grants

The Disbursement of the grant funding for years 2016, 2017, and 2018 will remain the same as the previous Strategic Funding Framework Grant Agreement:

*The following portions of the grant will be paid upon the following triggering events occurring:*

- (i) *the sum of \$250,000 will be paid by the City to the Recipient within thirty (30) days of execution of this agreement;*

- (ii) the sum of \$125,000 will be paid by the City to the Recipient within thirty (30) days of receipt of the Mid-year Report satisfactory to the City;
- (iii) the sum of \$125,000 will be paid by the City to the Recipient within thirty (30) days of receipt of the audited financial statement due in November to the satisfaction of the City.

Eligible Expenditures

Eligible Expenditures include the Recipient’s operating expenditures, including, but not limited to, operating expenditures in the following categories:

- i) Production
- ii) Administration
- iii) Marketing
- iv) Development and Special Projects
- v) Operations
- vi) Box Office and Systems

The operating expenditures will be listed as part of this Agreement, but will be provided as part of the annual audited financial statements and quarterly monitoring reports.

**Benefits of the Grand Theatre Agreement to the City**

The Grand Theatre makes a significant contribution to the economy of London and the stability of the organization is vital to London’s culture and economy. The Grand Theatre is London's only professional theatre and requires this level of multi-year funding to enable it to continue to provide top quality programming. This funding provides stability for performances, the revenues from which can fluctuate significantly from year to year. During the 2014/15 season, 85% of the Grand Theatre’s total annual revenues were generated from patrons with only 15% of total annual revenue from government. Stable, predicable government funding can be a critical piece to ensuring the organization’s stability from season to season.

As per the above noted Council Resolution, the Administration requests Council approve the execution of the three -year (2016 – 2018) operating agreement for \$500,000 annually with the Grand Theatre, attached as Schedule A of Appendix A to this report.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
<b>ROBIN ARMISTEAD MANAGER OF CULTURE</b>	<b>KATE GRAHAM DIRECTOR, COMMUNITY AND ECONOMIC INNOVATION</b>

cc: Grand Theatre