

**FIRST AMENDMENT TO MANAGEMENT AGREEMENT**

**THIS FIRST AMENDMENT TO MANAGEMENT AGREEMENT (“First Amendment”)** is effective as of the 1st day of June, 2020 (“Effective Date”), by and between the CITY OF TACOMA, a municipal corporation of the State of Washington (hereinafter called the “City”) and TACOMA ARTS LIVE, f/k/a BROADWAY CENTER FOR THE PERFORMING ARTS (hereinafter called the “Manager”). City and Manager are collectively referred to as “Parties.”

**WHEREAS** effective July 1<sup>st</sup>, 2016, City and Manager entered into a Performing Arts Facilities Management Agreement (“Agreement”) which terminates December 31, 2020, and

**WHEREAS**, the Parties wish to document and acknowledge that subsequent to the execution of the Agreement, Manager changed its name from BROADWAY CENTER FOR THE PERFORMING ARTS to TACOMA ARTS LIVE, but did not otherwise change its UBI #600 507 150, or its registration with the Washington Secretary of State as a continuing existing non-profit Washington corporation, and

**WHEREAS**, Due to the Governor’s Orders during the COVID-19 emergency Manager was unable to provide many management services. The City ceased paying Management fees to Manager effective June 1, 2020, and the Parties have subsequently modified City and Manager’s respective responsibilities for managing the Premises to those feasible during the COVID-19 emergency, as outlined in this Agreement. Manager and City desire to modify the existing Management Fee and the respective obligations of the Parties as a result of State-imposed COVID 19 restrictions; and

**WHEREAS** City and Manager desire to amend the Agreement to: modify the monthly management fee; extend the term of the Agreement; modify or clarify the respective obligations and rights of the Manager and City; and address issues arising because of COVID-19;

**NOW, THEREFORE**, in consideration of the mutual promises and obligations hereinafter set forth, the Parties agree as follows:

1. **Modified Term**. Section 10.1 of the Agreement is amended to extend the last day of the term from December 31, 2020 to June 30, 2021 (“Revised Term”).

2. **Modified Management Fees**. Section 7.2 of the Agreement is amended to modify the Management Fee as follows:

2.1. June 1, 2020 to December 31, 2020: a management fee in the total amount \$35000, equaling \$5,000 per month, with amounts due from June 1, 2020 through December 31, 2020 due and payable to Manager within 10 days of mutual execution of this Agreement.

2.2. January 1, 2021 to June 30, 2021: a base Management Fee in the total amount of \$75,000, equaling of \$12,500 per month, payable to Manager on a monthly basis, with the Management Fee due on the 1<sup>st</sup> of each month.

2.3 Notwithstanding the provisions of Sections 2.1, and 2.2, if between January 1, 2021 and June 30, 2021, the Governor of Washington State declares Pierce County is no longer subject to COVID-19 restrictions on normal operation of the City owned theaters, upon resumption of normal operations, Manager will resume all responsibilities under the Agreement, and the City will resume payment of the full Management Fee.

3. Retention of Other Revenue. In addition to Management Fees set forth in Section 2 of this Amendment, Manager will additionally be entitled to retain other earned revenue as defined in the Agreement.

4. Modified Manager Obligations. Article 4 of the Agreement is amended to revise Manager's obligations as follows:

4.1 As of the Effective Date through the expiration of this Amendment or implementation of Section 2.3 (whichever occurs sooner), and as a result of the reduced Management Fee identified in Section 2.1 and Section 2.2, Manager is relieved of the following obligations, which City shall assume: a) payment of all utilities; b) payment of all mechanical or fire suppression contracts or obligations; c) payment of all janitorial, COVID safety/PPE, and maintenance contracts or obligations; d) on-call services for any emergency calls relating to the Premises; processing, filing or otherwise addressing any "Historic Tax Credit" obligations; and replacement of Manager-owned equipment, including production equipment.

4.2 As of January 1, 2021 through expiration of this Amendment or implementation of Section 2.3 (whichever occurs sooner), Manager's obligations will include and will be limited to the following, which justify the modified Management Fee set forth in Section 2.2: a) hold dates and contract shows, including an assignment clause in the event of a management change, through the end of 2021 for all users, and through the 2021-2022 season for Resident Arts Organizations (RAOs) including TAL, subject to the City's prior approval through the Tacoma Venues and Events Department ("TVE"). The City will also review for prior approval any modified performance contract templates including provisions relating to COVID liabilities, but otherwise Manager will maintain the same form as existing City-approved contracts; b) marketing services for all users via website, marquees, and other traditionally employed marketing forums; c) providing "front of house" volunteer management and staffing of sufficient support for events occurring at the Premises; d) providing an IATSE stage crew to staff and support events occurring at the Premises; e) providing management to advance and support events occurring at the Premises; e) providing finance staff to close, report and distribute earnings for events occurring at the Premises; f) providing box officer services for all users of the Premises; g) and providing staff to support the City in any transfer of management services to a new manager upon selection of new manager.

5. Use of Office Space. As additional consideration for TAL's agreement to reduce the Management Fee as set forth in this Amendment, the City shall allow Manager to continue to occupy and use those portions of the Premises Manager is presently occupying and using for office space through July 31, 2021.

6. Recognition of COVID Restrictions. City and Manager agree that they will use their best efforts in complying with applicable state and county requirements and guidelines relating to COVID restrictions, provided that the City will not restrict access to the offices used by Manager within the Premises while the Agreement and this Amendment is in place, and provided further that City and Manager are complying with applicable state and county requirements and guidelines relating to COVID restrictions.

7. RFP Procedure. The City will conduct an open, fair, and transparent process for soliciting a Request for Proposal for management of the Premises to which Manager may be a respondent, and allow for timing needed for potential transfer of duties following expiration of

the Revised Term. City further agrees that it will include no less than three RAO representatives on any review and recommendation body established to solicitate and review RFPs.

8. Recognition of Name Change. City and Manager hereby acknowledge Manager's name change and substitute Tacoma Arts Live for Broadway Center for the Performing Arts as the Manager's name in the Agreement. To the extent the Agreement contains any provisions prohibiting any name change, the Parties waive all such provisions for the purpose of this Amendment.

9. Notices. Upon the Effective Date of this First Amendment, Notices required by the Agreement shall be sent to:

To: City of Tacoma  
Tacoma Venues & Events  
Attention: Director  
1500 Commerce St  
Tacoma, WA 98402

And To: City Attorney  
747 Market St, Rm 1120  
Tacoma, WA 98402

To: Tacoma Arts Live  
Attn: Executive Director  
901 Broadway  
Tacoma, WA 98402

With Copy To: Davies Pearson, P.C.  
Attention: Brian M. King  
920 Fawcett Ave.  
Post Office Box 1657  
Tacoma, WA 98401

10. Capitalized Terms. All capitalized terms not otherwise defined in this Amendment shall have the meaning set forth in the Agreement.

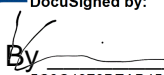
11. Conflicting Terms. Except as expressly amended by this Amendment, the Agreement remains in effect and unchanged in its entirety. All other terms of the Agreement, together with all exhibits, are hereby ratified and shall remain in full force and effect, unaltered by this Amendment. In the event of any conflict between the terms of the Agreement and this Amendment, this Amendment shall control.

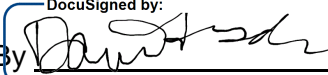
12. Effective Date. Should this Amendment be executed after the Effective Date noted above, all terms and conditions herein shall operate retroactively to Effective Date.

**IN WITNESS WHEREOF**, the Parties hereto have accepted and executed this Amendment, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable. The undersigned Manager representative and City representative or representatives, by signature below, represents and warrants she/he is duly authorized to execute this legally binding Amendment for and on behalf of Manager.

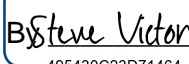
**CITY OF TACOMA**

**TACOMA ARTS LIVE**

DocuSigned by:  
By   
5C9C4970BEAB454...  
Tacoma Venues and Events Director

DocuSigned by:  
By   
CB398703898B4CC...  
Title \_\_\_\_\_

Approved as to form:

DocuSigned by:  
By   
495430C23D71464...  
Deputy City Attorney