

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 11-20

**For the Purpose of Approving the Terms of the Fourth Amendment and Delegating Authority to the General Manager for the Broadway Series Agreement.**

WHEREAS, the Portland Opera Association and Key Brand Theatrical Group Inc., an Oregon joint venture ("Presenter") have presented Broadway Theatre at the Portland Center for the Performing Arts ("PCPA") pursuant to the 1997 Broadway Series Agreement and various amendments to this agreement (collectively referred to as the "Broadway Series Agreement"); and

WHEREAS, on December 13, 2006, MERC authorized an extension of the Broadway Series Agreement through the 2015-2016 season but agreed that certain fees and charges would be negotiated at a later date; and

WHEREAS, the parties have agreed upon the User Fees, House Package and Family Show rates through the 2015-2016 season;

WHEREAS, PCPA staff recommends that the Metropolitan Exposition Recreation Commission approve the terms of the Fourth Amendment;

WHEREAS, Section 5(d)(1) of the Broadway Series Agreement requires a Letter of Credit as security from Presenter to protect MERC from certain situations that might arise but Presenter has requested that MERC consider other types of security under this provision.


**BE IT THEREFORE RESOLVED AS FOLLOWS:**


1. The Metropolitan Exposition Recreation Commission approves the terms and conditions of the Fourth Amendment to the Broadway Series Agreement in substantially the form attached hereto as Exhibit "A"; and
2. The Metropolitan Exposition Recreation Commission authorizes the General Manager to execute the Fourth Amendment to the Broadway Series Agreement on behalf of the Commission, in substantially the form attached hereto as Exhibit "A"; and
3. The Metropolitan Exposition Recreation Commission hereby delegates the authority under Section 5(d)(1) of the Broadway Series Agreement to the General Manager to determine the type of acceptable security under this section.

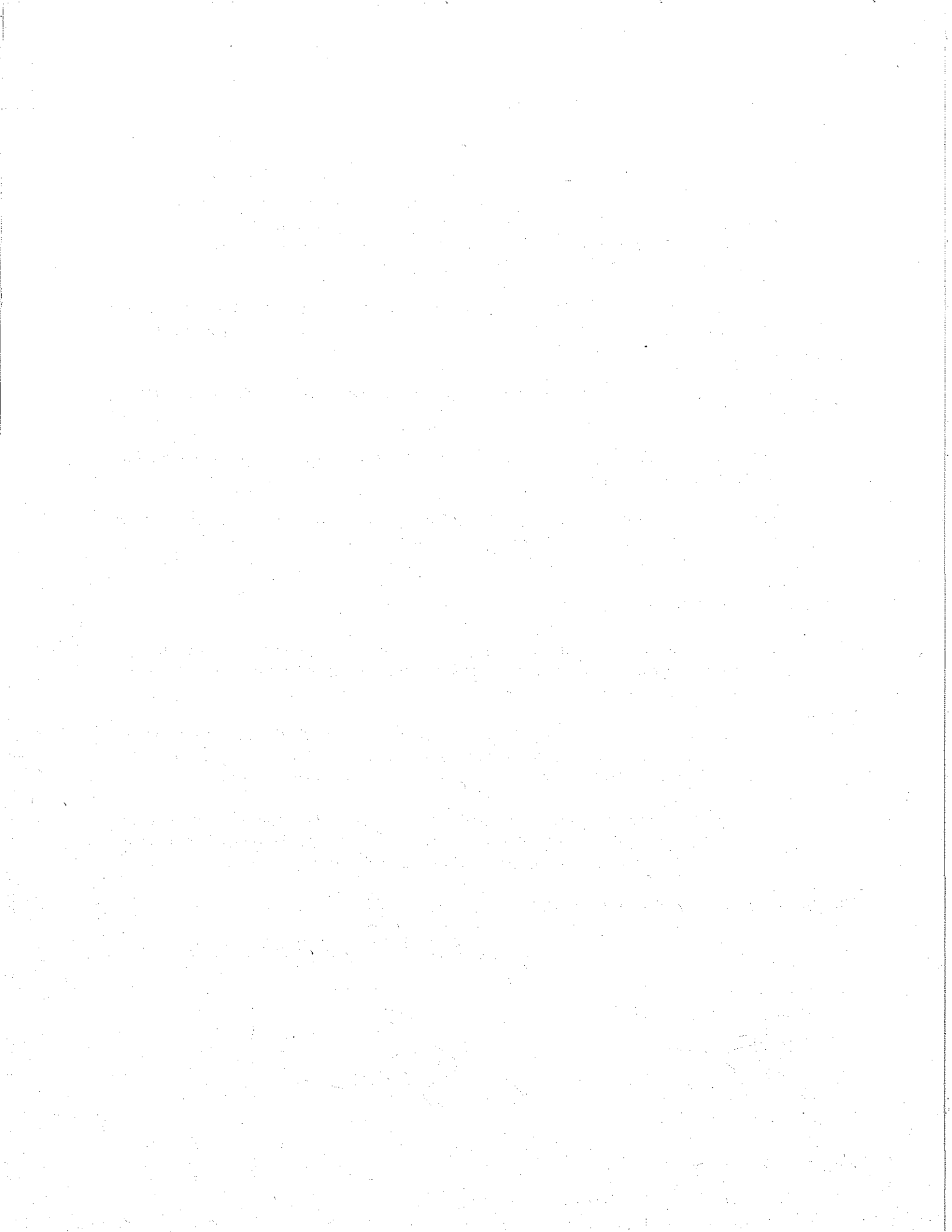
Passed by the Commission on August 3, 2011.

  
Chair

Approved as to Form:  
Alison Kean Campbell, Acting Metro  
Attorney

By:   
Nathan A. Schwartz Sykes  
Senior Attorney

  
Secretary-Treasurer



**FOURTH AMENDMENT TO  
BROADWAY SERIES AGREEMENT**

This Fourth Amendment is made and entered into by and between the Metropolitan Exposition Recreation Commission (hereinafter "MERC") and Portland Opera Association and Key Brand Theatrical Group Inc., a joint venture, (hereinafter "Presenter") including all parent companies, members, affiliates, subsidiaries, successors and assigns. MERC and Presenter will be collectively referred to as "the Parties."

**RECITALS**

1. MERC is an appointed commission of Metro, a municipal corporation.
2. Presenter is an Oregon joint venture.
3. The parties have entered into a Broadway Series Agreement, the First Amendment to the Broadway Series Agreement, the Second Amendment to the Broadway Series Agreement and the Third Amendment to the Broadway Series Agreement (hereinafter collectively referred to as "the Agreement").
4. In the Second Amendment the parties agreed that the User Fees, House Package and Family Show rates would be determined for years 2011-2016 of the Agreement at a later date.
5. The parties have agreed to the User Fees, House Package and Family Show rates for years 2011-2016.

NOW, THEREFORE, in consideration of the mutual covenants of the Parties hereto, and upon the express terms and conditions hereinafter set forth, it is agreed by and between them as follows:

**1.**

The parties hereby agree that the User Fees, House Package and Family Show rates shall be increased as provided in Exhibit A-1 and Exhibit A-2 to this Fourth Amendment. All other terms and conditions of the Agreement shall remain the same.

**2.**

**AMENDMENT DOCUMENTS**

The Amendment documents together form the Agreement between MERC and the Presenter. All determination of the precedence of, discrepancy in, or conflicts regarding the Amendment documents shall be in accord with the following order, with the highest precedence item at the top:

- a. This Fourth Amendment to Broadway Series Agreement.

- b. The Third Amendment to Broadway Series Agreement.
- c. The Second Amendment to Broadway Series Agreement.
- d. The First Amendment to Broadway Series Agreement.
- e. The Broadway Series Agreement.
- f. The standard PCPA Limited License Agreement.
- g. Amendment to the Commission's policies and procedures which are in effect as of the date hereof, a copy of which is attached, or are enacted subsequent to the date of this Amendment.

**PRESENTER**

**METROPOLITAN EXPOSITION RECREATION  
COMMISSION**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Portland Opera Association

Name: \_\_\_\_\_

MERC

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Key Brand Theatrical Group, Inc.

Date: \_\_\_\_\_

EXHIBIT A-1 TO FOURTH AMENDMENT

FOR BROADWAY SHOWS AT KELLER AUDITORIUM AND ARLENE SCHNITZER CONCERT HALL

		BASE RENT: HIGH SEASON SEPTEMBER - MAY	BASE RENT: LOW SEASON JUNE-AUGUST	% RENT = 1.5% > \$600K CAPPED @	USER FEE	HOUSE PACKAGE	DARK TIME RENT
2008-2009	< \$600K	\$ 25,260.00	\$ 21,480.00				
	\$600K-\$800K	\$ 27,550.00	\$ 23,410.00	\$ 37,500.00	\$ 3.25	\$ 18,950.00	\$ 12,630.00
	> \$800K	\$ 31,000.00	\$ 26,340.00				
2009-2010	< \$600K	\$ 26,020.00	\$ 22,120.00				
	\$600K-\$800K	\$ 28,380.00	\$ 24,110.00	\$ 37,500.00	\$ 3.25	\$ 19,520.00	\$ 13,010.00
	> \$800K	\$ 31,930.00	\$ 27,130.00				
2010-2011	< \$600K	\$ 26,800.00	\$ 22,780.00				
	\$600K-\$800K	\$ 29,230.00	\$ 24,830.00	\$ 37,500.00	3.50/3.25	\$ 20,110.00	\$ 13,400.00
	> \$800K	\$ 32,890.00	\$ 27,940.00				
				% RENT = 1.5% > \$850K CAPPED @			
2011-2012	< \$650K	\$ 27,600.00	\$ 23,460.00				
	\$650K-\$850K	\$ 30,110.00	\$ 25,670.00	\$ 40,000.00	3.50/3.75*	\$ 20,713.00	\$ 13,800.00
	> \$850K	\$ 33,880.00	\$ 28,780.00				
2012-2013	< \$650K	\$ 28,430.00	\$ 24,160.00				
	\$650K-\$850K	\$ 31,010.00	\$ 26,340.00	\$ 40,000.00	\$ 3.75	\$ 21,542.00	\$ 14,210.00
	> \$850K	\$ 34,900.00	\$ 29,640.00				
2013-2014	< \$650K	\$ 29,280.00	\$ 24,880.00				
	\$650K-\$850K	\$ 31,940.00	\$ 27,130.00	\$ 40,000.00	\$ 4.00	\$ 22,188.00	\$ 14,640.00
	> \$850K	\$ 35,950.00	\$ 30,530.00				
2014-2015	< \$650K	\$ 30,160.00	\$ 25,630.00				
	\$650K-\$850K	\$ 32,900.00	\$ 27,940.00	\$ 42,500.00	\$ 4.00	\$ 22,554.00	\$ 15,080.00
	> \$850K	\$ 37,030.00	\$ 31,450.00				
2015-2016	< \$650K	\$ 31,060.00	\$ 26,400.00				
	\$650K-\$850K	\$ 33,890.00	\$ 28,780.00	\$ 42,500.00	\$ 4.00	\$ 23,538.00	\$ 15,530.00
	> \$850K	\$ 38,140.00	\$ 32,390.00				

Reduction of 5% of Base Rent to apply to all weeks for weeks presented in excess of eight (8). (Excludes family shows and shows held in Newmark Theater)

Base Rents, Percentage Rents, Rent Caps and House Packages are prorated by eighths for weeks containing fewer than or more than eight performances. Percentage rent is due in addition to base rent. Gross is defined as gross box office receipts less user fee. Dark-Time rates are pro-rated by sevenths.

House package to include cleaning, equipment rental, front of house staff (ushers and ticket takers), house sound and lighting equipment, all permanently attached stage equipment, security, utilities, follow-spot rental, washer/dryer

\* User fee of 3.75 in 2011-2012 is on subscription tickets only.

**Miscellaneous**

One full page in the show program for every show presented will be made available for use by PCPA. Presenter will make a "best effort" to place this page in the first half of the program.

Bottled water will be allowed in the seating area for all performances; additional food and beverage as mutually agreed upon.

The letter of credit requirement will remain the same as the requirement in the original agreement.

Exhibit A-2 to Fourth Amendment

FAMILY SHOWS

		RENT	HOUSE PACKAGE	TICKET PRICE	USER FEE	LOAD-IN/REH DAY
2008-2009	1 PERF DAY	\$ 3,240.00	1P \$ 2,200.00	< \$20	\$ 1.25	
	2 PERF DAY	\$ 4,640.00	2P \$ 4,400.00	\$20-\$25	\$ 1.50	\$ 2,320.00
	3 PERF DAY	\$ 6,730.00	3P \$ 6,600.00	\$25-\$30	\$ 1.75	
				>\$30 & CAP	\$ 2.00	
2009-2010	1 PERF DAY	\$ 3,340.00	1P \$ 2,270.00	< \$25	\$ 1.50	
	2 PERF DAY	\$ 4,780.00	2P \$ 4,540.00	\$25-\$30	\$ 1.75	\$ 2,390.00
	3 PERF DAY	\$ 6,930.00	3P \$ 6,810.00	\$30-\$35	\$ 2.00	
				>\$35 & CAP	\$ 2.25	
2010-2011	1 PERF DAY	\$ 3,440.00	1P \$ 2,340.00	< \$25	\$ 1.50	
	2 PERF DAY	\$ 4,920.00	2P \$ 4,680.00	\$25-\$30	\$ 1.75	\$ 2,460.00
	3 PERF DAY	\$ 7,140.00	3P \$ 7,020.00	\$30-\$35	\$ 2.00	
				>\$35 & CAP	\$ 2.25	
2011-2012	1 PERF DAY	\$ 3,540.00	1P \$ 2,410.00	< \$25	\$ 1.50	
	2 PERF DAY	\$ 5,070.00	2P \$ 4,820.00	\$25-\$30	\$ 1.75	\$ 2,530.00
	3 PERF DAY	\$ 7,350.00	3P \$ 7,230.00	\$30-\$35	\$ 2.00	
				>\$35 & CAP	\$ 2.25	
2012-2013	1 PERF DAY	\$ 3,650.00	1P \$ 2,482.00	< \$25	\$ 1.75	
	2 PERF DAY	\$ 5,220.00	2P \$ 4,965.00	\$25-\$30	\$ 2.00	\$ 2,610.00
	3 PERF DAY	\$ 7,570.00	3P \$ 7,447.00	\$30-\$35	\$ 2.25	
				>\$35 & CAP	\$ 2.50	
2013-2014	1 PERF DAY	\$ 3,760.00	1P \$ 2,557.00	< \$25	\$ 1.75	
	2 PERF DAY	\$ 5,380.00	2P \$ 5,114.00	\$25-\$30	\$ 2.00	\$ 2,690.00
	3 PERF DAY	\$ 7,800.00	3P \$ 7,670.00	\$30-\$35	\$ 2.25	
				>\$35 & CAP	\$ 2.50	
2014-2015	1 PERF DAY	\$ 3,870.00	1P \$ 2,633.00	< \$25	\$ 2.00	
	2 PERF DAY	\$ 5,540.00	2P \$ 5,267.00	\$25-\$35	\$ 2.00	\$ 2,770.00
	3 PERF DAY	\$ 8,030.00	3P \$ 7,900.00	\$35-\$40	\$ 2.25	
				>\$40 & CAP	\$ 2.50	
2015-2016	1 PERF DAY	\$ 3,990.00	1P \$ 2,712.00	< \$25	\$ 2.00	
	2 PERF DAY	\$ 5,710.00	2P \$ 5,425.00	\$25-\$35	\$ 2.00	\$ 2,850.00
	3 PERF DAY	\$ 8,270.00	3P \$ 8,137.00	\$35-\$40	\$ 2.25	
				>\$40 & CAP	\$ 2.50	