

METROPOLITAN EXPOSITION-RECREATION COMMISSION

RESOLUTION NO. 95-5

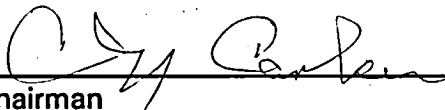
Authorizing the General Manager to execute an Agreement with Portland Center Stage.


The Metropolitan Exposition-Recreation Commission finds:

1. That in 1988 the Oregon Shakespeare Festival Association was recruited by the City of Portland to be a resident theatre company in the Intermediate Theatre of PCPA, and entered into a three-year agreement for occupancy office and workshop space in the New Theatre Building, in addition to usage of the Intermediate Theatre for the production of an annual season of plays.
2. That in August, 1991, the Commission found it to be critically important to the success of the PCPA and in the best interest of the Portland community that OSF-Portland continue in residency, and a second three-year agreement was approved.
3. That in July, 1994, the OSF-Portland group was transformed into an independent corporation identified as Portland Center Stage, with the intended purpose of continuing as a resident company of the Intermediate Theatre, presenting an annual season of plays to the Portland community.
4. That the Commission confirms that it is important and in the best interest of the Portland community that Portland Center Stage continue in residency and that an agreement has been negotiated for the terms and conditions for three years ending June 30, 1997.
5. That the Commission has the authority to enter into such an agreement.


BE IT THEREFORE RESOLVED that the Commission approves the agreement attached hereto as Exhibit A, and authorizes the General Manager to execute that document.

Passed by the Commission on February 8, 1995.


Chairman


Secretary/Treasurer

Approved As to Form:
Daniel B. Cooper, General Counsel

By: 
Mark B. Williams
Senior Assistant Counsel

**AGREEMENT FOR USE OF THE
INTERMEDIATE THEATRE OF THE
PORTLAND CENTER FOR THE PERFORMING ARTS**

This agreement ("Agreement") is made by and between Portland Center Stage ("PCS") and the Metropolitan Exposition-Recreation Commission ("MERC") of METRO. This Agreement recognizes PCS as both an arts organization using the Intermediate Theatre of the Portland Center for the Performing Arts for its stage performances, and as a tenant whose business and support functions are housed at the New Theatre Building. In consideration of the mutual obligations described below, the parties agree as follows:

1. RELATIONSHIP OF THE PARTIES

MERC and PCS have entered into this Agreement for the purpose of establishing an independent contractor relationship between MERC and PCS (hereinafter collectively referred to as "the Parties"). This Agreement is not, nor should it be construed as, a lease or an agreement in the nature of a lease. Both parties are tax exempt entities and have no responsibility for payment of real property taxes. PCS shall nevertheless hold MERC harmless if the nature of PCS' use of any of the Commission's facilities results in any part of the Commission's facilities becoming subject to real property or other taxation under Oregon law. No covenant of quiet enjoyment shall be implied in this Agreement. Any right of use conferred on PCS shall not be exclusive. It is further understood and agreed by and between the Parties that nothing herein shall constitute or be construed to be an employment, partnership, joint venture, or joint employer relationship between MERC, its successors or assigns on the one part, and PCS, its successors or assigns on the other part. MERC may assign this Agreement to its successor(s) in interest and, if assigned, shall be binding on such successor(s) in interest. If management of the New Theatre Building is transferred from MERC to another entity, that entity shall adopt and be bound by this Agreement.

2. SEASONS OF PLAYS

- A. PCS will produce a twenty-six week season of plays during the period from October 1, 1994 through April 30, 1995 (the "first season"). During the period from October 1, 1995 through April 30, 1996 (the "second season") and during the period from October 1, 1996 through April 30, 1997 (the "third season"), PCS will produce a season of plays of not less than twenty-five (25) weeks or more than thirty (30) weeks. PCS will commit to the specific period of the Second Season by December 1, 1994, and of the Third Season by December 1, 1995. PCS also guarantees that the amount of user fee paid for the expansion weeks to be no less than the amount of user fee for the average week for the 1994-95 First Season, and shall pay any additional user fee due to MERC upon receipt of an invoice. Prior to the Preview for the first show each season, there will be nine days of uninterrupted set-up. At the conclusion of each season, there will be two days of uninterrupted strike.
- B. During season, the Sunday between each production will be made available to other permittees. On such occasions, MERC may request that PCS remove the special stage masking and rake. MERC will give PCS at least six weeks notice if it is necessary for these items to be removed. MERC will pay the entire cost of removal and re-installation of the stage masking and rake. MERC may pass on a portion or all of this cost to the lessee or organization using the facility on these Sundays between each production.
- C. At least nine months prior to commencement of each season, PCS will provide MERC with a schedule of set up dates, closing dates, dark days, and all other available scheduling information related to its use of the Intermediate Theatre for the upcoming season. PCS will also provide MERC with timely notice of any changes in this information that occur during the term of the Agreement.

3. USE OF THE INTERMEDIATE THEATRE

- A. Except as noted in Paragraph 2 above and subsections B, C and D below, PCS will have full and exclusive use of the stage area of the Intermediate Theatre from the day of load-in for the first production each season until the second day following the final performance of each season.
- B. MERC shall have the right to occupy the stage area of the Intermediate Theatre for the purpose of maintenance, cleaning, making repairs, and other normal and customary activities that do not interfere with the PCS's use of this area.

- C. Each play produced by PCS shall end on a Saturday so that the Intermediate Theatre will be available on the following Sunday for other events or performing arts organizations. Under these circumstances, PCS shall not be required to remove the special stage masking and rake unless so requested by MERC. MERC will contact PCS six weeks prior to the close of a production if it wishes to use the Sunday between productions. The conditions as stated in Subsection 2A shall apply.

- D. MERC shall have the right to rent the Intermediate Theatre to other parties on dark Mondays and daytime hours of performance days throughout the season, provided that the stage set-up utilized shall not interfere with PCS's sets. For example, lecterns or tables may be placed on the stage for other events. PCS shall not be charged any rent for the Intermediate Theatre on dark Mondays when the theatre is rented to other parties. Cost of moving sets and materials will be the responsibility of MERC. MERC shall provide 6 weeks' notice to PCS of MERC's intent to use, or to lease or rent to another entity, the Intermediate Theatre during dark days or non-PCS performance times each season.

4. OFFICE, STORAGE AND WORKSHOP SPACE

- A. Subject to the exceptions contained in subsections B and C below, and effective July 1, 1994 PCS will have full and exclusive use of the office, storage and workshop spaces specified below for the time periods and rental rates specified herein. The location of the office and workshop spaces are more specifically described in the floor diagram attached hereto as Exhibit "A". Rent for the below-described spaces shall be due and payable in advance on the first day of each month. PCS shall give MERC thirty days written notice if PCS will not use a space for the full number of months stated in the below outlined occupancy schedule and MERC shall, in turn, eliminate PCS rent for such space(s) for any such periods, on a monthly basis only:
 - 1. Office space (Room 628), Fifth Floor containing 1798 square feet. PCS shall have use of this space for twelve months per year. PCS shall pay a monthly rental of \$1540.00 in the first year of the contract; \$1588.00 in the second year of the contract; and, \$1648.00 in the third year of the contract for the use of this space, in accordance with the schedule attached hereto as Exhibit "B".

 - 2. Costume workshop (Room 515) Fourth Floor, containing 320 square feet. PCS shall have the use of this space for a period of twelve months per year. PCS shall pay a monthly rental of \$144.00 in the first year of the contract; \$149.00 in the second year of the contract; \$155.00 in the third

year of the contract for the use of this space, in accordance with the schedule attached hereto as Exhibit "B".

3. Design studio (Room 517) Fourth Floor, containing 808 square feet. PCS shall have use of this space from October 1 through April 30 of each year. PCS shall pay a monthly rental rate of \$ 364.00 in the first year of the contract; \$377.00 in the second year of the contract; and, \$391.00 in the third year of the contract for use of this space, in accordance with the schedule attached hereto as Exhibit "B".
4. Production manager/stage manager office (Room 519), containing 306 square feet. PCS shall have use of this space for a period of twelve months per year. PCS shall pay a monthly rental of \$ 138.00 in the first year of the contract; \$143.00 in the second year of the contract; \$148.00 in the third year of the contract for the use of this space, in accordance with the schedule attached hereto as Exhibit "B".
5. Canteen/toilet (Rooms 518/516), containing 58 square feet. PCS shall have use of this space from October 1 through April 30 of each year. The PCS shall pay a monthly rental rate of \$26.00 in the first year of the contract; \$27.00 in the second year of the contract; and, \$28.00 in the third year of the contract for use of this space, in accordance with schedule attached hereto as Exhibit "B".
6. Rehearsal hall/lobby (Rooms 502/522), containing 4,322 square feet. PCS shall have the use of this space from September 1 through April 30 each season unless PCS's rental of this space is canceled pursuant to subsection C below. PCS shall pay a monthly rental of \$ 371.00 in the first year of the contract; \$382.00 in the second year of the contract; and, \$396.00 in the third year of the contract for use of this space, in accordance with the schedule attached hereto as Exhibit "B". In the rehearsal area, PCS has provided temporary space heaters, lighting and floor coverings which have been approved by MERC. MERC shall be responsible for any and all other temporary improvements to the New Theatre Building, including those to the rehearsal hall, consistent with applicable state and local safety codes and regulations and, all permanent improvements to the New Theatre Building. PCS will take whatever measures are reasonably necessary to ensure that noise from its rehearsals does not interfere with performances in the Winningstad Theatre. If a noise problem arises that is caused by PCS rehearsals, the PCPA Director will first hold discussions between the affected PCPA tenants or users to identify a mutually acceptable solution to the problem. If no such solution is identified, the PCPA Director may restrict PCS's use of the rehearsal

area when performances or dress rehearsals are in progress in the Winningstad Theatre. MERC agrees to negotiate a fair and reasonable adjustment of PCS's rental rate for this space if MERC imposes restrictions on its use by PCS.

7. Ticket Manager's Office, (Room 119) containing 147 square feet. PCS shall have use of this space for twelve months per year. PCS shall pay a monthly rental rate of \$126.00 in the first year of the contract; \$130.00 in the second year; and, \$147.00 in the third year of the contract for use of this space, in accordance with schedule attached hereto as Exhibit "B".
 8. Basement Storage (Room B48) containing 436 square feet. PCS shall have the use of this space for twelve months per year. PCS shall pay a monthly rental of \$158.00 in the first year of the contract; \$162.00 in the second year of the contract; \$169.00 in the third year of the contract for use of this space, in accordance with the schedule attached hereto as Exhibit "B".
- B. MERC shall have the right to enter into the above-described areas for purposes of maintenance, cleaning, repairs, and other ordinary and customary purposes, but not to interfere with PCS operations.
 - C. MERC reserves the right to cancel PCS's rental of the rehearsal area, on prior written notice of 120 days or at the end of the season, whichever comes last, if MERC becomes financially able to complete the construction of this space. If MERC exercises this option, PCS will receive a prorated refund on any previously paid rental for the rehearsal area. MERC will promptly notify PCS about any financially viable proposal to complete the construction of the rehearsal space. PCS agrees to hold such information in confidence until such time as instructed otherwise by the PCPA Director or until such information is made public.
 - D. PCS shall be responsible for securing all rented areas, and shall not hold MERC responsible for any loss or damages to PCS property or PCS personnel's personal property located in such areas. PCS shall be responsible for maintaining any personal property insurance needed for PCS property located in MERC facilities. Bicycles used as personal transportation by PCS personnel may be stored daily in the rehearsal hall, but only if such storage complies with all fire and safety code rules and regulations. PCS personnel shall take care in transporting bicycles through public, finished areas of the buildings.

5. STAGE LABOR

- A. PCS will reimburse MERC for stage labor services consistent with MERC policy and labor agreements in effect. PCS will specify the hour and duration of the stage labor call, in conjunction with the PCPA Technical Services Department. Overtime labor required by PCS each season, including any work in excess of 8 hours per person per day or 40 hours per person per week, or any other overtime or premium pay required by federal or state law and/or the terms of the MERC's agreement with the union involved, will be paid for at the required rates by PCS. MERC will keep PCS informed of the progress of any negotiations regarding stage labor rates and working conditions, and allow participation in discussion, when appropriate.
- B. All stage labor calls and schedules related to PCS's use of the Intermediate Theatre will be made by the PCPA Operations/Technical Services Department. Prior to making such calls or schedules, the PCPA Operations/Technical Services Department will consult with PCS to determine how such calls and schedules can be made to minimize overtime labor and other costs.
- C. Consistent with past practice, no MERC stage labor calls will be required, provided the fly, lighting, or sound systems are not used by PCS on such occasions:
1. When PCS requests access to the stage and has determined in consultation with PCPA Operations/Technical Services Department that stage sets, props, lights, or other production equipment or facilities require maintenance, repair, replacement or removal to shop facilities.
 2. When PCS requests access to the stage for on-site purposes, including but not limited to production staff conference and ad hoc tours.
- D. Consistent with past practice, when lighting instruments are being focused by PCS electricians (aka "focus calls"), the only MERC stage labor department heads scheduled to work such focus calls will be fly and electrical department heads.
- E. Unless otherwise provided for in this paragraph, during PCS pick-up or understudy rehearsals, only one MERC stage labor department head will be scheduled to work. If the PCPA Operations/Technical Services Manager and PCS Production Manager agree that technical requirements demand additional personnel work such rehearsals, additional MERC stage labor personnel will be scheduled to work.

6. ATTACHMENTS TO STAGE FLOOR

MERC will allow PCS to attach scenery pieces to the theatre stage floor in a reasonable manner, as agreed to by MERC and PCS.

7. USER FEES

The standard user fees charged to patrons of the PCPA by MERC will be paid on all tickets sold for PCS productions, whether subscription or single event ticket sales. MERC shall be provided by PCS with a box office report for each performance detailing all ticket sales and disposition of user fees collected by PCS on its ticket sales, and shall have the right to review PCS records as necessary to confirm the collection and disposition of such user fees. MERC shall make decisions on changes in User Fee by July 1 of each year, with such changes to be effective one year later on July 1 of the appropriate fiscal year.

8. BOX OFFICE ASSISTANCE

The PCS Subscriptions Manager will be permitted to work in the PCPA box office to assist with specific ticket problems and other related ticketing activities.

9. BOX OFFICE SERVICE CHARGE

PCS will pay a 5 percent commission on all tickets sold at the PCPA box office in the New Theatre Building to cover the cost of MERC labor. The 5 percent commission shall also apply to subscription ticket exchanges handled by PCPA box office once single ticket sales begin. Tickets sold at MERC outlets will carry a convenience charge subject to rates in effect at the time of the sale of the tickets. MERC will not make any changes in the standard box office and ticket outlet service charges without full discussion with PCS at least three months prior to the beginning of PCS's next season at the Intermediate Theatre.

10. TOURS

PCS may conduct ad hoc tours of PCPA with the prior approval of PCPA's Director. At least three hours' prior notice of such tours is required to be given by PCS to PCPA.

11. ADVERTISING OF PCS PRODUCTIONS

MERC will advertise PCS productions in its public information efforts.

- A. PCS productions will be included in any calendar produced by one of MERC's authorized ticketing contractors, if those productions are sold through that agent's system.
- B. PCS productions will be included on the electronic reader board of the New Theatre Building, in accordance with established PCPA procedures for use of the equipment.
- C. MERC will make available to PCS year-round one PCPA display case facing on Broadway. MERC shall have the option of changing the location of the display case facing Broadway that is assigned to PCS for use. No change of the display case facing Broadway to be used by PCS shall be made without PCPA staff first conferring with PCS staff about which display case will be assigned to PCS.
- D. MERC shall make its best efforts to carry out this section, but shall not be deemed in material breach of contract for any casual or inadvertent failure to comply with subsections 10A, 10B, or 10C.
- E. In each season of this Agreement, PCS may hang two banners from the permanent banner display brackets located on the Broadway facade of the New Theatre Building. One banner will be the company identity banner and may include either the PCS name or the PCS logo, or both. The second banner will be a banner with the name and dates of performance of the play being performed or that will be next be performed by PCS. These banners will change during the season. All banners will include the location of the performances-Intermediate Theatre, Portland Center for the Performing Arts. PCS will provide the banners and pay the costs of their installation and removal. PCPA and PCS agree to work together to determine whether a more cost effective rigging system is available for hanging the building banners. A decision about changing the rigging will be made by the PCPA Director by April 30, 1995. PCS will provide liability and property damage insurance and will defend, hold harmless and indemnify MERC from any liability resulting from the installation and display of the banners. All banners are subject to approval by the PCPA Director and by the City of Portland's Bureau of Buildings. The banner display schedule for the first season is as stated in Exhibit D.

12. RENTAL FOR THE INTERMEDIATE THEATRE

The rental for use of the Intermediate Theatre will be Non-Profit Resident Company (or Principal Tenant) Rate as established by MERC, provided that PCS is in compliance with rental policies for Resident Company (or Principal Tenant) status. Rental Rates for each season are as follows:

	94-95	95-96	96-97
Performance Evening	\$ 160	\$ 175	\$ 185
Matinee	90	105	110
Dark Days	85	95	100
Load-in/out	85	95	100

13. UTILITIES

MERC will provide all normal and standard utilities used by PCS, the cost of such utilities to be included in the rental rates specified in Section 3 above.

14. MISCELLANEOUS PROVISIONS

PCS will be bound by all terms and conditions in the standard PCPA Permit, a copy of which is attached and incorporated, herein by reference as Exhibit C, and the standard rental, operational, stage labor, admissions and box office policies applicable to the PCPA. MERC reserves the right to make changes in said standard permit and policies from time to time, provided, however, that where a conflict with this Agreement exists, the terms of this Agreement shall govern, including the following:

- A. PCS agrees to pay the MERC 20 percent of the gross proceeds from sale of merchandise only for events that it may book in and that are not part of PCS's regular producing season.
- B. PCS shall not be required to have an intermission for any play in its season, provided that the play is written or directed in a way which PCS determines would make an intermission inappropriate. Scheduled intermission shall be a minimum 20 minutes duration. If a play is to be presented without an intermission, the PCS shall give the MERC fourteen days notice prior to the play's opening night that no intermission will be provided. In such event, no buy-out payments as required by the Standard Permit Agreement will be paid.
- C. PCS will have the right to place display cases in the lobbies New Theatre Building for promotion of membership or for any other purpose that is consistent

with the PCS's objectives. The size, location and appearance of the display cases shall be approved in advance by the Director.

- D. Prior to opening night of each season, PCS will pay a rental deposit of \$10,000. MERC will hold the rental deposit for the duration of the season. The rental deposit will be returned, less any appropriate adjustments, at the settlement of the last show of the season.
- E. Prior to commencement of each season, MERC will provide PCS with the schedule of extra charges, box office policies and procedures, etc., that may be applicable for that season. MERC will give PCS at least thirty days written notice prior to changing the schedule of extra charges for subsequent seasons. MERC will notify PCS of any changes in labor contracts as soon as possible after they have been determined through the collective bargaining process. MERC will keep PCS informed about the progress of any negotiations regarding PCPA labor charges, rates, or working conditions and allow participation in selected labor negotiations, when appropriate.
- F. Box office receipts attributable to PCS performances will be held by MERC until settlement with PCS. There shall be a settlement between MERC and PCS at the end of each week of each season.
- G. Once PCS has announced its season in the New Theatre Building MERC will not permit in either the Intermediate or Winningstad Theatres any other productions of those plays until ninety days after PCS season is concluded.
- H. PCS management will have full and absolute control over when the audience enters the auditorium and when the show starts, except that MERC (through the PCPA House Manager) can exercise crowd control authority in the event of security, medical or public safety emergencies. MERC shall retain supervisory control over its employees and volunteers working PCS events. MERC will notify PCS in advance of any temporary or permanent security changes.
- I. MERC will be responsible for cleaning all facilities occupied or used by PCS in the PCPA accordance with the standard cleaning practices of the PCPA.
 - 1. General Cleaning Consistent with past practice, MERC will be responsible for general cleaning of all facilities operated by the PCS in the New Theatre Building, in accordance with the standard cleaning practices of the PCPA. "General cleaning" shall include cleaning of dressing rooms, actors assembly areas and offices. Such general cleaning shall be deemed to be included in the rental charges paid by PCS, and shall not be billed separately.

2. Stage Area Cleaning Consistent with past practice, "Stage Area Cleaning" shall include final stage clean up following the close of each production, pre-performance stage cleaning, and removal of sets. "Stage Area Cleaning" performed by MERC stage labor and shall be a reimbursable charge. MERC shall bill PCS for any MERC labor required for stage area cleaning pursuant to Section 5 of this Agreement. PCS shall be responsible for restoring the Intermediate Theatre's house hanging and lighting plot at the end of the season, unless requested not to do so by MERC.

- J. MERC will not have the right to object to PCS poster or sign, or require its removal, unless removal is required for other permittees' use of the space.
- K. PCS shall have the right to run water, electricity and gas to the stage for use in individual productions, as long as such installations and usage comply with all applicable codes and regulations. MERC will be given two weeks notice prior to such usage.
- L. MERC shall provide stage door access on Broadway during normal business hours 8:00am to 5:00pm, Monday through Friday. Any other stage door labor required for PCS activities not covered above shall be charged back to PCS at the applicable hourly rate. The PCPA Operations/Technical Services Manager shall consult with PCS to determine scheduling of stage door labor to minimize overtime labor and other costs. Such regular rate stage door labor costs shall be split between PCS and the user group using the Winningstad Theatre when events are scheduled in both theatres.
- M. MERC hereby grants PCS an exception from the Commission Box Office Policy to allow PCS to sell both subscription and single tickets to its events on the Prologue Ticket System, subject at all times to the following conditions and requirements:
 - 1. PCS shall provide an allotment of tickets to be sold through one of MERC's approved automated ticketing contractors. The allotment shall be in all price ranges, provide an excellent selection of available seats, and be available at least 45 days prior to the first performance of the first show of the season.
 - 2. In order to maximize the sale of single tickets, PCS shall advertise MERC facilities, outlets and phone room of one of MERC's approved automated ticketing contractors to ensure that tickets are available to the widest public and at the normal outlets for tickets to MERC facilities.

3. PCS will submit any necessary box office audits required by MERC to monitor ticket sales, user fees, and related information.
4. PCS shall develop with the Director and Ticket Manager of the Portland Center for the Performing Arts operations for the night of show sales, how allocations will be handled, complaint resolution, if any, and any other details required to operate Prologue and to provide quality customer service.
5. MERC shall have the right to withdraw PCS's exception from Commission Box Office Policies in the event that PCS fails to comply with any of the conditions and requirements stated herein.

15. TERM

The term of this Agreement shall be for three years commencing July 1, 1994.

16. ENTIRE AGREEMENT

Except as specifically provided herein, this document contains the complete and exclusive agreement between the Parties, supersedes all prior written or oral discussions or agreements, and is intended to be a final expression of the Parties' agreement. No promise, representation or covenant not included in this document has been or is relied upon by any party. No modification or amendment of this Agreement shall be in force or effect unless in writing executed by all Parties hereto.

17. EARLY TERMINATION

PCS and MERC recognize that a successful residency in the New Theatre Building is possible only if both parties have a mutual desire to be associated. In the event of severe adverse economic conditions, either party may withdraw from this Agreement by giving the other party six months prior notice in writing.

18. COMPLIANCE WITH LAWS

In connection with their activities under this Agreement, both parties shall comply with all applicable federal, state, and local laws and regulations.

19. INDEMNIFICATION AND LIABILITY INSURANCE

- A. Indemnification PCS shall defend, indemnify, and hold the City of Portland, the Metropolitan Exposition-Recreation Commission, Metro, their agents, elected and appointed officials, and employees (the Indemnities) harmless from any and all claims, demands, damages, actions, losses and expenses, including attorneys' fees and court costs, arising out of or in any way connected with the fact of the Agreement, PCS' performance of this Agreement, or any event which was presented or which was supposed to be presented pursuant to this Agreement. In the event that PCS refuse or fails to defend as required herein, the Indemnities may, at their sole option, settle or defend any claims, and may maintain an action in any court of competent jurisdiction against PCS for the full costs of any settlement, judgment, or defense, including all expenses and attorneys' fees.
- B. Insurance. PCS shall, at its sole cost and expense, procure and maintain through the term of this Agreement the following insurance requirements:
1. Comprehensive General Liability with the Board Form Comprehensive General Liability endorsement providing coverage against claims for bodily injury or death and property damage occurring in or upon or resulting from the facilities licensed hereunder, such insurance to offer immediate protection to the limit of not less than \$1,000,000, and such insurance shall include Blanket Contractual Liability coverage which insures contractual liability under the indemnification of MERC and METRO by PCS.
 2. Any Comprehensive General Liability policy required by this Agreement shall name as additional insured: the City of Portland, Metropolitan Exposition-Recreation Commission, METRO and the members, officers, directors, agents and employees of each entity.
 3. PCS shall maintain with respect to each such policy or agreement evidence of such insurance endorsements as may be required by MERC and shall at all times deliver and maintain with the MERC a certificate with respect to such insurance in a form acceptable to MERC.
 4. PCS agrees to provide all required certificates of insurance to the PCPA Director within 30 days of the first performance date of each show presented pursuant to this Agreement. Failure to do so shall constitute immediate breach of this Agreement by PCS. It is agreed in that event that MERC, at its sole option, may terminate this Agreement after it provides PCS with written notice of such breach and PCS is given 10 days to cure by providing the requested certificates of insurance. Thereafter,

if PCS fails to cure MERC may exercise any or all options available to it pursuant to this Agreement.

5. The Parties agree that the specified coverage of limits of insurance in no way limit the liability of the PCS. PCS shall obtain the written agreement on the part of each insurance company to notify MERC at least thirty (30) days prior to cancellation or non-renewal of any such insurance.
6. Should PCS fail to provide and maintain adequate Liability Insurance by the date required in this Agreement, MERC may, at its option, provide adequate coverage under its Special Events policy and/or invoke any or all of its rights under this Agreement. PCS shall be invoiced for the cost of any coverage provided by MERC.

C. Waiver of Subrogation Each party hereto hereby waives any and every claim which arises or may arise in its favor and against the other party hereto during the terms of this Agreement or any extension or renewal thereof for any loss of or damage to any of its property, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies to the extent that such loss or damage is recovered under said insurance policies. Said waivers shall be in addition to, and not in derogation of, any other waiver or release contained in this Agreement with respect to any loss or damage to property of the Parties hereto. Inasmuch as the waiver will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), PCS is advised to give each insurance company written notice of the terms of such waiver, and to have insurance policies properly endorsed, if necessary.

20. WORKERS' COMPENSATION INSURANCE

- A. PCS shall obtain Workers' Compensation insurance coverage for all of its workers, employees and contractors either as a carrier-insured employer or a self-insured employer, as provided by Chapter 656 of the Oregon Revised Statutes, before occupancy of the PCPA by PCS. A certification of insurance, or copy thereof, shall be attached to this Agreement as Exhibit "C" and shall be incorporated herein and made a term and part of this Agreement. PCS further agrees to maintain Workers' Compensation insurance coverage for the duration of this Agreement.
- B. In the event PCS's Workers' Compensation insurance coverage is due to expire during the term of this Agreement, PCS agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by

Chapter 656 of the Oregon Revised Statutes, before its expiration, and PCS agrees to provide MERC such further certification of Workers' Compensation insurance as renewals of said insurance occur.

21. SUBCONTRACTING

The following PCS activities under this Agreement shall not be subcontracted, in whole or in part, without the written approval of MERC:

- A. Performance of plays in the Intermediate Theatre;
- B. Any other activity involved in the productions of plays in the Intermediate Theatre that entails alteration or modification of the building or any of its systems.

Other PCS activities relating to the production of plays in the Intermediate Theatre, excluding the activities enumerated in subsections A and B above, can be subcontracted to other parties, if consistent with any limitations contained in collective bargaining agreements, without the written consent of MERC. PCS shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of PCS as specified in this Agreement. Notwithstanding MERC approval of subcontractor, PCS shall remain obligated for full performance hereunder, and to PCS hereunder. PCS agrees that if subcontractors are employed in the performance of this Agreement, PCS and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

22. ASSIGNMENT

PCS shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of MERC.

23. BREACH OF AGREEMENT

- A. PCS shall be in default of this Agreement if PCS fails to pay any amount due under the Agreement or any other written agreement between PCS and MERC, breaches any provisions of this Agreement or any other written agreement between PCS and MERC, including payment of fees and maintenance of required insurance in strict accordance with this Agreement, violates any MERC rule or policy or should dissolve or cease doing business as a going concern or become insolvent or bankrupt. Upon such default by PCS, MERC may have one or more

of the following remedies, in its sole discretion:

1. Declare the entire amount of the balance due per the terms of the Agreement or any license agreement issued pursuant to this Agreement payable.
 2. Reenter any licensed area(s) without being liable for damage therefore and relet the licensed area(s) or any portion thereof, or operate the same for the balance of the Agreement's term, receive sums due and apply them first to any expenses of making MERC whole and, second, to any expenses incurred for reentering the premises and reletting any licensed area(s).
 3. Terminate the Agreement by giving PCS written notice of such termination, which shall not excuse breaches of the Agreement which have already occurred, and may re-enter the licensed area(s) as in 2. above.
 4. Pursue any other remedies available to MERC either at law or equity. No single or partial exercise of a right or remedy shall preclude any other or further exercise of a right or remedy.
 5. MERC shall have the right, without resorting to any legal action, to withhold from any and all sums, receipts or deposits which may be in the possession of MERC for or on behalf of PCS, such sums as are necessary, in MERC's sole opinion, to apply to any claims MERC may have against PCS, or to protect MERC against any loss, damage, or claim which may result from PCS' performance or failure to perform under this Agreement.
 6. MERC may, at its sole option, also terminate any other contract(s) with PCS.
- C. MERC or PCS shall breach this Agreement if it fails to perform any substantial obligation under this Agreement.
- D. Neither MERC nor PCS shall have breached this Agreement by reason of any failure to perform a substantial obligation under this Agreement if the failure arises out of causes beyond its control and without its fault or negligence. Such causes may include, without limitation, acts of God or the public enemy, acts of the federal, state or local governments, fires, floods and strikes. Should either MERC or PCS fail to perform because of a clause described in this subsection, MERC and PCS shall make a mutually acceptable revision in the obligations specified in this Agreement.

24. ARBITRATION

- A. Any dispute under this Agreement which is not settled by mutual agreement of MERC and PCS within 60 days of notification in writing by either party shall be submitted to an arbitration panel. The panel shall be composed of three persons, one of whom shall be appointed by PCS, one of whom shall be appointed by MERC, and one of whom shall be appointed by the two arbitrators appointed by MERC and PCS. In the event the two cannot agree on the third arbitrator, then the third shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrators shall be selected within 30 days of the expiration of the 60-day period. The arbitration shall be conducted in Portland, Oregon, shall be governed by the rules of the Arbitration Service of Portland and shall be as speedy as is reasonably possible. The arbitrators shall render their decision within 45 days of their first meeting with MERC and PCS. In so far as MERC and PCS legally may do so, they shall be bound by the decision of the panel.
- B. Notwithstanding any dispute under this Agreement, whether before or during arbitration, PCS and MERC shall continue to perform their respective obligations pending resolution of the dispute.

25. NOTICE

Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to MERC: Metropolitan Exposition-Recreation Commission
Attn: General Manager
P.O. Box 2746
Portland, Oregon 97208

Copy to: Portland Center for the Performing Arts
Attn: PCPA Director
1111 SW Broadway
Portland, Oregon 97205

Copy to: Metro
Attn: General Counsel
600 N.E. Grand Avenue
Portland, Oregon 97232

If To PCS: Portland Center Stage
Attn: Managing Director
P.O. Box 9008
Portland, Oregon 97207

26. PCS' ASSUMPTION OF RESPONSIBILITY

PCS expressly assumes full responsibility for all persons connected with PCS' use of the PCPA, including all its employees, agents, members, invitees and contractors.

27. TIME IS OF THE ESSENCE

Time is of the essence to this Agreement.

28. HEADINGS

The headings used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the extent of any provision thereof.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not intended to benefit any individual, corporation, or other legal entity other than MERC, PCS, and the Indemnities. This Agreement shall not be deemed to vest any rights in, nor shall it be deemed to be enforceable by, any other parties in any proceeding whatsoever.

30. PARKING

Parking is not available at PCPA, other than whatever on-street or independent garage parking may be available from time to time. MERC makes absolutely no guarantees or representations as to the availability or continued availability of on-street or independent garage parking.

31. POWERS RESERVED TO MERC

In the event of a dispute between PCS and MERC the decision of MERC and/or its designee(s) concerning the operation or management of the PCPA shall be final and binding on both Parties. By way of illustration and not as a limitation, the reserved powers of MERC include:

- A. The final determination of all policies and procedures relative to the operation and management of PCPA.
- B. Sole discretion to cancel, terminate or interrupt any event, and cause the patrons to be dismissed during any event. MERC shall not be liable to PCS or any third parties for any loss or cost occasioned by any such determination or action by the General Manager, the PCPA Director, or their designee (s) taken in good faith for the benefit or protection of MERC, the public generally, or the PCPA.
- C. The power to have access to any areas of the PCPA at any time.
- D. The power to terminate or suspend this Agreement for acts of default by PCS as provided herein.
- E. The power to change, modify, or increase MERC's User Fee, Rent Schedule, Labor and other changes etc., in conformance with this agreement and Paragraphs 7 and 12 above.
- F. MERC may, at its discretion, audit PCS' compliance with this Agreement on an annual basis or more frequently as appears necessary to MERC or its designee(s).

32. ACCOUNTING

PCS shall, with respect to all business done under this Agreement, keep true and accurate accounting records, books, and data, which shall among other things show all gross revenues derived from any sources, and shall establish and maintain accounting procedures that are acceptable to MERC its designee(s). MERC and its designee(s) shall have the right at all reasonable times during normal business hours to inspect all books of accounts and ledgers of PCS related to this Agreement, and the right to make or cause to be made audits of these accounts. Further, MERC reserves the right, and PCS agrees to allow its systems, hardware and programs pertaining to this Agreement or business done pursuant to this Agreement to be inspected by MERC or its designee(s), at any reasonable time.

33. TAXES AND FEES

PCS agrees to pay promptly all sales, use, excise and any other taxes required by any governmental authority and shall obtain at its own expense all permits and licenses required by law in connection with its use of the PCPA.

34. CONDITION OF FACILITY

- A. It is understood and agreed that MERC provides the authorized areas of PCPA to PCS "as is", and that PCS will make, at its own expense, all changes, alterations, installations and decorations therein that are previously agreed to by MERC, and that PCS will restore, at its own expense, PCPA to the same condition in which it existed prior to any alterations made therein. PCS shall be responsible for any costs to repair or replace property at PCPA damaged or lost during the term of this Agreement. Ordinary wear and tear is excepted.
- B. With respect to the Intermediate Theatre, PCS shall not be responsible for payment of rent, user fees, or any other PCPA charges for performances that are canceled because of failure of one or more than one of the following house systems: lighting, sound, other electrical systems, and mechanical. PCS shall consult with PCPA Operations/Technical Services Manager, for a joint determination whether a performance is to be canceled. The parties agree that, in the event of a cancellation, non-payment of rent and user fees shall be PCS' sole and exclusive remedy against MERC, and that MERC shall not be liable for any other damages.
- C. MERC shall maintain all facilities, equipment, and systems of the Intermediate Theatre and New Theatre Building of PCPA in good and safe working order during the term of this Agreement.

35. NON-DISCRIMINATION

PCS agrees not to discriminate against any employee or applicant for employment because of race, creed, ancestry, sexual orientation, disability, color, sex, marital status, age, religion or national origin, and further agrees not to discriminate for the same aforementioned reasons against any person or persons in connection with admission, services, or privileges offered to or enjoyed by the general public.

36. USE OF NON-LICENSED AREAS

MERC will have the right to use or permit the use of any portion of PCPA not granted to PCS under this Agreement to any person, firm or entity. This right shall be subject to MERC's prudent business judgement.

37. HAZARDOUS SUBSTANCES

PCS, its officers, employees and agents, and any performers, customers, invitees or other participants in the event(s) covered by the Agreement are prohibited from bringing any hazardous substance into PCPA or onto MERC property. As used in this paragraph, "hazardous substance" has the meaning given that term in ORS. 465.200. If any governmental authority or other third party demands that a cleanup plan be prepared and that a cleanup be undertaken because of any release of hazardous substances that occurs as a result of PCS' use of PCPA or entry on MERC property, PCS shall, at PCS' expense, prepare and submit the required plan and all related bonds and other financial assurances, and PCS shall carry out all such cleanup plans. PCS agrees to indemnify METRO, MERC, the City of Portland and their respective members, officers, directors, agents, elected and appointed officials, or employees against any claims, costs and expenses of any kind, whether direct or indirect, incurred voluntarily or pursuant to any state or federal law, statute, regulation or order, for the clean up, extraction, detoxification or neutralization of any release of any hazardous substance associated with or arising from the Presenter's use of the Authorized Areas or entry on MERC property. As used in this paragraph, "release" has the meaning given that term in ORS 465.200 PCS's obligations under this paragraph survive termination or expiration of the Agreement.

38. SEVERABILITY

If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the illegal or unenforceable provision shall be stricken.

39. NON-WAIVER

MERC and PCS shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach may be of the same nature as that waived.

DATED this 20th day of March, 1995.

PORTLAND CENTER STAGE

By: Elizabeth Huddle
Producing Artistic Director

METROPOLITAN
EXPOSITION-RECREATION COMMISSION

By: [Signature]
Chair

By: [Signature]
Secretary-Treasurer

APPROVED AS TO FORM:
Daniel B. Cooper, General Counsel

[Signature]
Mark B. Williams
Senior Assistant Counsel

1/32 = 1 (111111)

Portland Center for the Performing Arts

The City of Portland

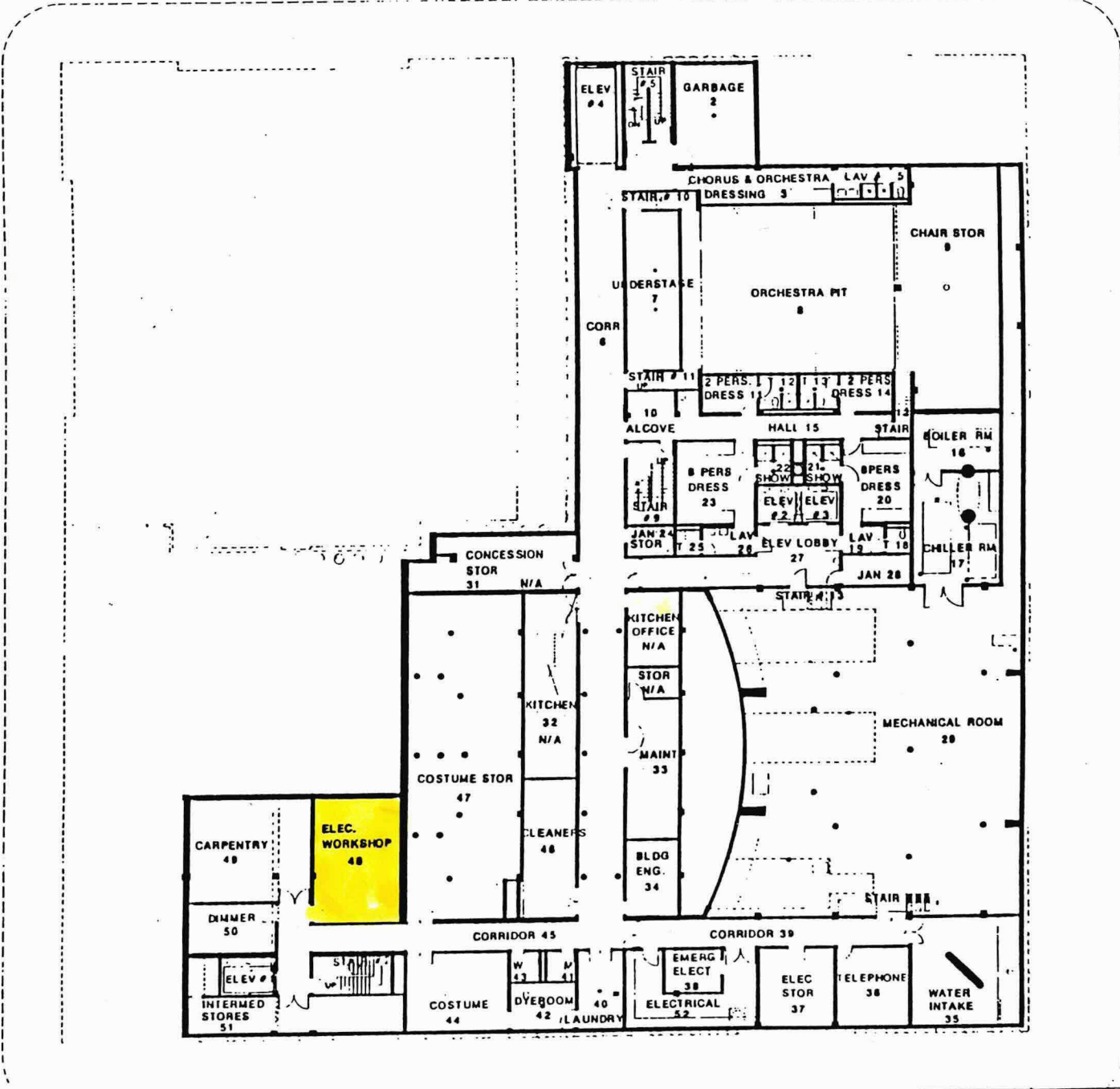
Department of Public Works
Division of Planning
1111 1st Ave. S.W.
Portland, OR 97204

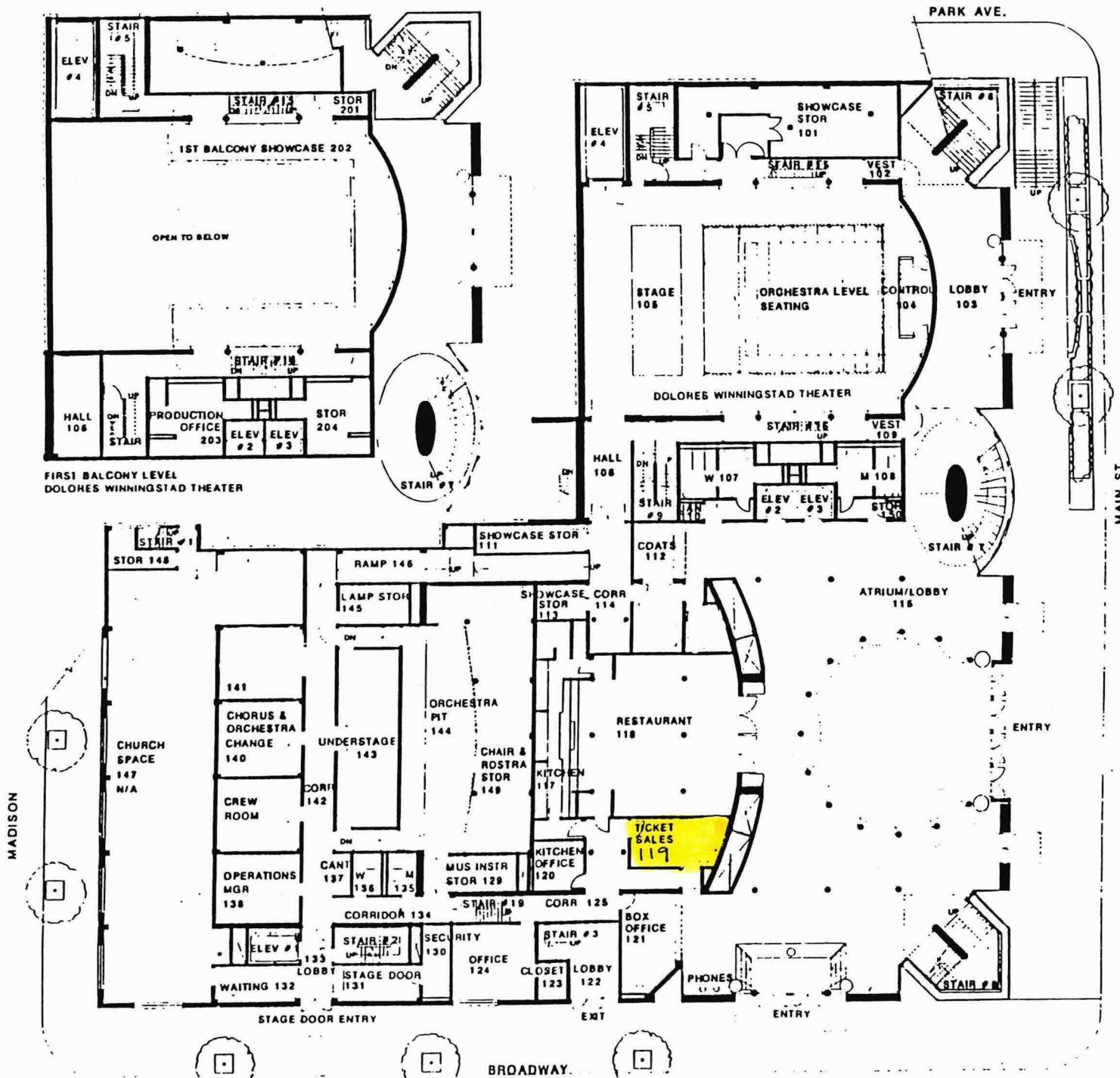
Project Name: Portland Center for the Performing Arts
Project Number: 11111111
Drawing Title: Floor Plan - Basement Level
Drawing Number: 4.2
Scale: 1/32" = 1'-0"

NEW THEATRE BUILDING

FLOOR PLAN
BASEMENT LEVEL

4.2





Portland Center for the Performing Arts

The City of Portland

Portland Center for the Performing Arts
1000 Broadway, Portland, OR 97208
503.462.1000

Architect

1000 Broadway, Portland, OR 97208
503.462.1000

Contractor

1000 Broadway, Portland, OR 97208
503.462.1000

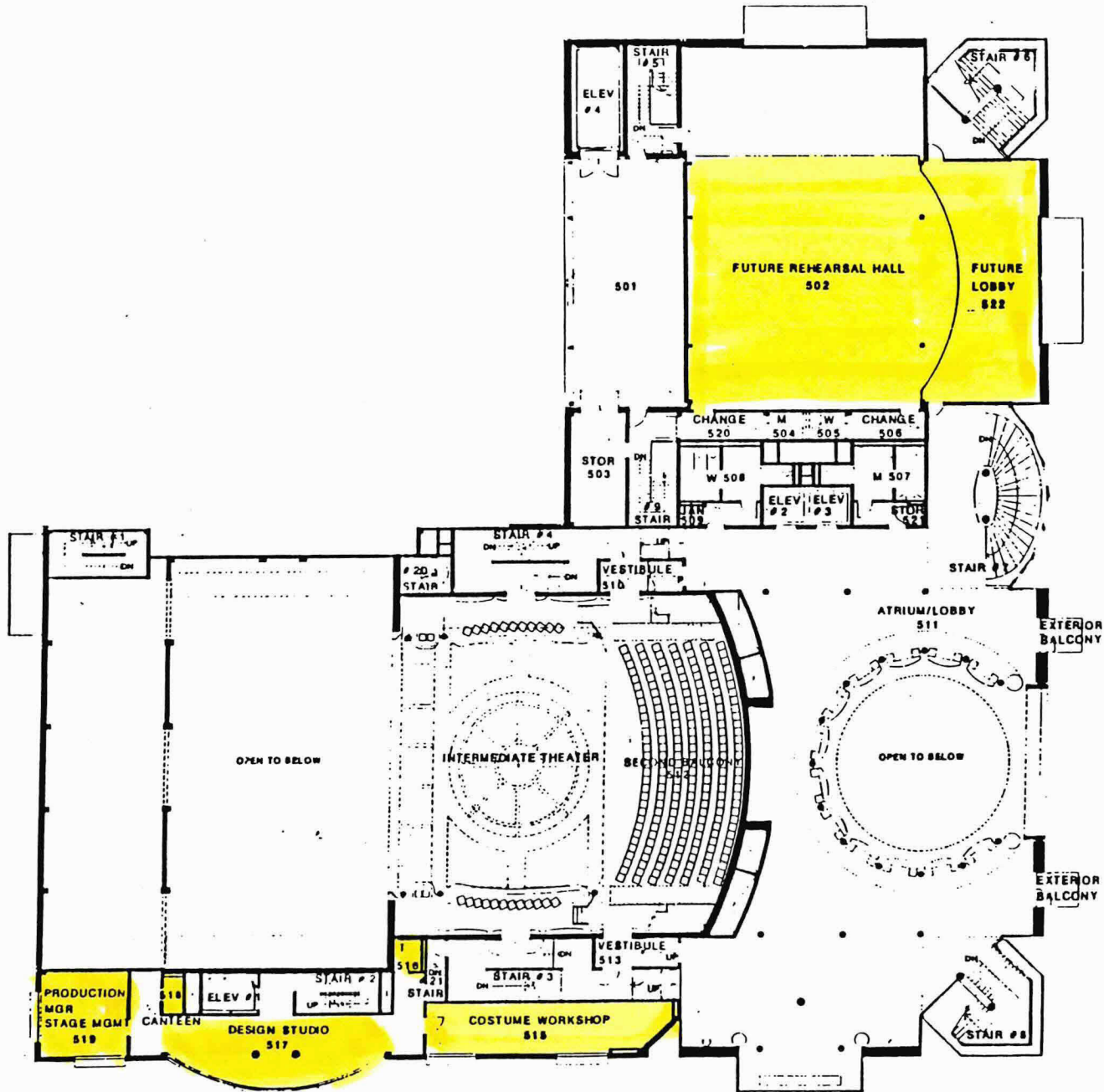
Interior Designer

1000 Broadway, Portland, OR 97208
503.462.1000

NEW THEATRE BUILDING

FLOOR PLAN
FIRST LEVEL
STAGE DOOR, MAIN ST & BROADWAY ENTRIES

Scale
Drawing No. 4.3



Portland Center for the Performing Arts

The City of Portland

Portland Center for the Performing Arts
1000 NE Oregon Street
Portland, Oregon 97232

Architect

Skidmore, OWINGS & Merrill
Architects
1111 15th Street, N.W.
Seattle, WA 98107

Contractor

Portland Center for the Performing Arts
1000 NE Oregon Street
Portland, Oregon 97232

Scale

1/4" = 1'-0"

1/8" = 1'-0"

1/16" = 1'-0"

1/32" = 1'-0"

1/64" = 1'-0"

1/128" = 1'-0"

1/256" = 1'-0"

1/512" = 1'-0"

1/1024" = 1'-0"

1/2048" = 1'-0"

1/4096" = 1'-0"

1/8192" = 1'-0"

1/16384" = 1'-0"

1/32768" = 1'-0"

1/65536" = 1'-0"

1/131072" = 1'-0"

1/262144" = 1'-0"

1/524288" = 1'-0"

1/1048576" = 1'-0"

1/2097152" = 1'-0"

1/4194304" = 1'-0"

1/8388608" = 1'-0"

1/16777216" = 1'-0"

1/33554432" = 1'-0"

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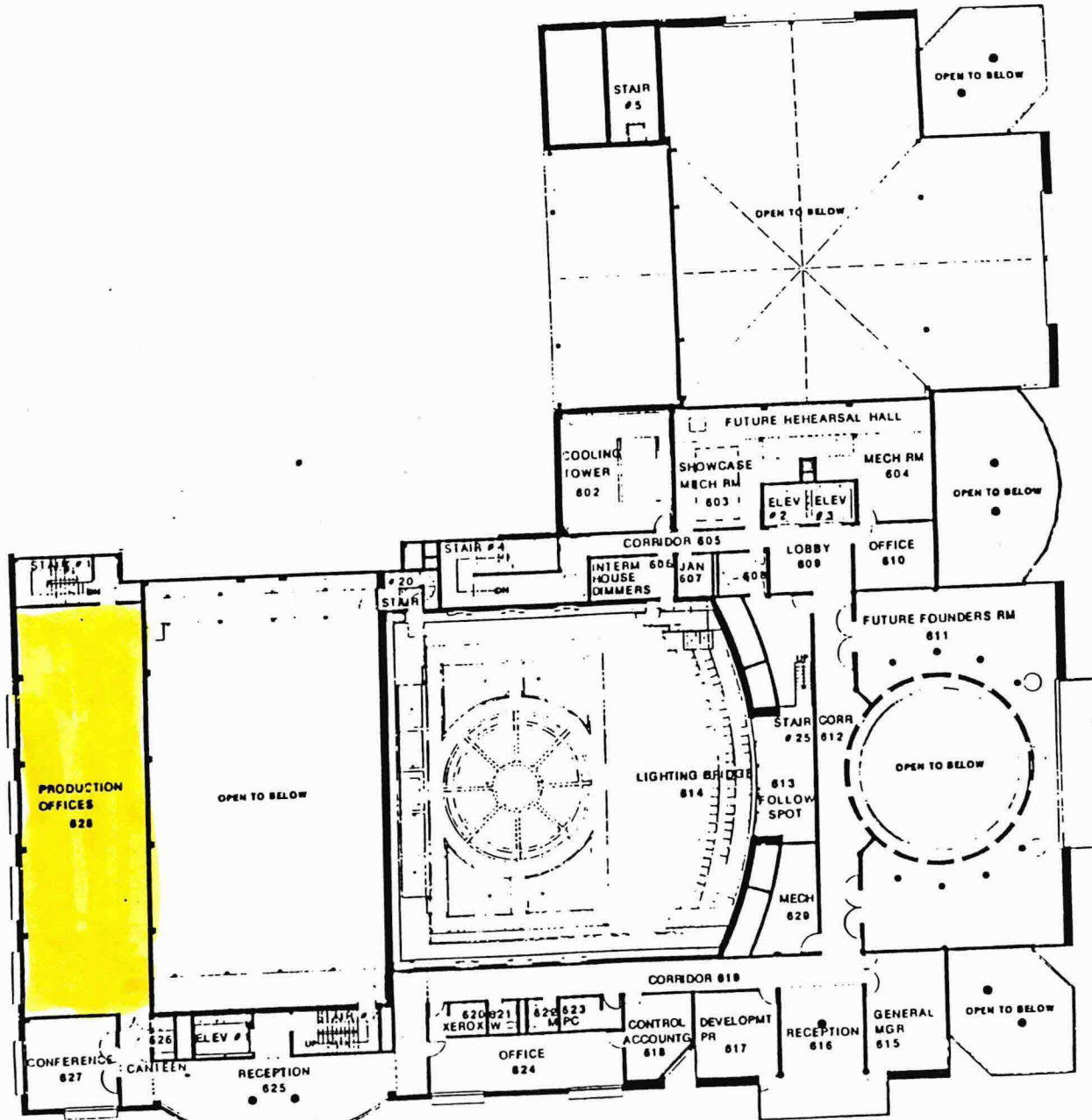
NEW THEATRE BUILDING

FLOOR PLAN
FOURTH LEVEL
SECOND BALCONY -
INTERMEDIATE THEATER

Unit

Scale

Drawing No. 4.9



**Portland Center
for the
Performing Arts**

The City of Portland
 Executive Director
 Board of Directors
 Board of Trustees
 Board of Advisors
 Board of Sponsors
 Board of Friends
 Board of Members
 Board of Volunteers
 Board of Staff
 Board of Trustees
 Board of Advisors
 Board of Sponsors
 Board of Friends
 Board of Members
 Board of Volunteers
 Board of Staff

NEW THEATRE BUILDING
 FLOOR PLAN
 FIFTH LEVEL
 ADMINISTRATION OFFICE
 4 10

EXHIBIT "B"

To the Agreement Between Portland Center Stage and Portland Center for the Performing Arts

July 1, 1994 - June 30, 1995:

Room	<u>Per Square Feet</u>	<u>Square Feet</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>	<u>Contract Rent</u>
628	1,798	\$10.28	\$18,483	\$1,540	\$18,483.00
515	320	5.40	1,728	144	1,728.00
517	808	5.40	4,363	364 *	2,548.00
519	306	5.40	1,652	138	1,652.00
516/518	58	5.40	313	26 *	182.00
502/522	4,322	1.03	4,452	371 *	2,597.00
119	147	10.28	1,511	126	1,511.00
B48	<u>436</u>	4.35	1,897	158	<u>1,897.00</u>
	8,195				\$30,598.00

* Rented September 1 through April 30.

July 1, 1995 through June 30, 1996

Room	<u>Per Square Feet</u>	<u>Square Feet</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>	<u>Contract Rent</u>
628	1,798	\$10.60	\$19,059	\$1,588	\$19,059.00
515	320	5.60	1,792	149	1,792.00
517	808	5.60	4,525	377 *	2,640.00
519	306	5.60	1,714	143	1,714.00
516/518	58	5.60	325	27 *	189.00
502/522	4,322	1.06	4,581	382 *	2,672.00
119	147	10.60	1,558	130	1,558.00
B48	<u>436</u>	4.45	1,940	162	<u>1,940.00</u>
	8,195				\$31,584.00

* Rented September 1 through April 30.

EXHIBIT "B"

**To the Agreement Between
Portland Center Stage
and
Portland Center for the Performing Arts**

July 1, 1996 - June 30, 1997:

Room	<u>Per Square Feet</u>	<u>Square Feet</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>	<u>Contract Rent</u>
628	1,798	11.00	\$19,778	\$1,648	\$19,778.00
515	320	5.80	1,856	155	1,856.00
517	808	5.80	4,686	391 *	2,737.00
519	306	5.80	1,775	148	1,775.00
516/518	58	5.80	336	28 *	196.00
502/522	4,322	1.10	4,754	396 *	2,773.00
119	147	11.00	1,764	147	1,764.00
B48	<u>436</u>	4.65	2,027	169	<u>2,027.00</u>
	8,195				\$32,906.00

* Rented September 1 through April 30.

EXHIBIT "C"

PORTLAND CENTER FOR THE PERFORMING ARTS
LIMITED LICENSE AGREEMENT

This Limited License Agreement is made and entered into by and between the Metropolitan Exposition-Recreation Commission, governing body for the Portland Center for the Performing Arts (PCPA), hereinafter referred to as "Commission," whose address is 1111 S. W. Broadway, Portland, OR 97205, and ____, hereinafter referred to as "Licensee," who is identified as follows:

WITNESSETH:

WHEREAS, Commission operates and maintains the PCPA; and

WHEREAS, Licensee desires to use space in said PCPA;

NOW, THEREFORE, and in consideration of the following promises, covenants and conditions, the parties hereto agree as follows:

1. Dates and Permitted Use of the Facilities. Commission grants Licensee non-assignable permission to use the following PCPA venue(s) at the rate(s) described in paragraph 2 below for the following event:

a. Beginning and Ending:

NOTE: Additional time for load-ins/rehearsals/performances may be granted at the discretion of the PCPA Director. Should additional time be granted, Licensee agrees to pay all associated costs.

b. Venue(s)/Areas:

NOTE: Commission reserves the right to control all Lobby and Common Areas and will permit Licensee to use those areas of the Lobby and Common Areas as Commission in its discretion deems appropriate for the event.

c. Event:

NOTE: Licensee may not use these areas for any other event or purpose.

2. Terms. Licensee agrees to furnish everything necessary to said performance(s) not specifically agreed to be furnished by Commission and agrees to pay to Commission, for the use of the specified PCPA venue(s)/areas as follows:

a. License Fee (rent):

b. Other Fees and Charges. In addition to the license fee, Licensee shall pay to the Commission the cost of handling stage wardrobe, scenery, supplies or equipment and the cost of providing admissions control functions. Licensee shall pay to the Commission the cost of such personnel which shall include but not be limited to stagehands, ushers, ticket-takers, door attendants, admissions control supervisor(s), stage door security and peer group security, medical technicians, etc. Only employees under the direct control and supervision of the Commission shall be engaged in admissions control functions. Determination of the necessity of required personnel shall be solely the responsibility of the PCPA Director. Charges for personnel employed or supplied by the Commission shall be on gross wages plus applicable overhead and benefits consistent with Commission policy and labor agreements in effect as of event date.

c. Deposits Schedule. Licensee shall pay a non-refundable advance deposit towards the license fee in the amount of ___ with this Limited License Agreement. Licensee shall pay the balance of the deposit, if applicable, as follows: _____. Checks shall be made payable to PORTLAND CENTER FOR THE PERFORMING ARTS.

d. Collection of Facility Charges. All other fees and charges for the use of the PCPA facility shall be paid upon demand. A deposit to cover such other charges, in addition to the license fee deposit referred to in paragraph 2(c), above, shall be paid in such amount, at such time, and in such form as determined by the PCPA Director. In no event shall access to the facility for load-in or set-up purposes occur unless such deposit(s) are made. Interest will be charged at the rate of 1.5 percent per month on any outstanding balance after 30 days. Any box office receipts in the possession of Commission may be retained and applied to the payment of any license fee or other charges; Licensee waives all rights to that portion of the box office receipts necessary to pay said license fee and other charges. In the event an invoice is outstanding, the PCPA Director is authorized to apply and withhold excess box office receipts from any other scheduled event by the same Licensee toward the outstanding debt.

e. Failure to make advance deposits as outlined herein shall constitute immediate breach of this Limited License Agreement by Licensee. In the event of such failure to make advance payments as required, it is agreed that the Commission may, at its sole discretion, cancel this event and retain all deposits received, apply such amounts to the amounts due and owing to Commission pursuant to paragraph 14, and Commission shall have any and all remedies available to it as outlined in paragraph 14.

f. The Commission will credit deposits paid against the costs of the event at the time the Commission prepares an invoice for the event. Licensee shall pay other event or service costs and the balance of the facility rental charge, if any, immediately on receipt of the Commission invoice. Interest will be assessed and paid at 1.5 percent per month on all balances due after thirty (30) days from the date of the billing.

3. Nature of Agreement. This is a Limited License Agreement. It is not, nor should it be construed as, a lease or an agreement in the nature of a lease. No covenant of quiet enjoyment shall be implied in this Limited License Agreement. Any right of use conferred on Licensee shall not be exclusive, but shall be always subject to the Commission's right of entry and control. In the event that any governmental authority of competent jurisdiction determines that Presenter has a leasehold interest in PCPA or any part hereof, Presenter shall be responsible for payment of any property or other taxes which may result. It is further understood and agreed by and between the parties that nothing herein shall constitute or be construed to be an employment, partnership, joint venture, or joint employer relationship between the Commission, its successors or assigns on the one part, and the Licensee, its successors or assigns on the other part. It is further agreed that the Licensee shall provide its own Workers' Compensation insurance, if required by law. Licensee shall, subject to the terms and provisions of this Limited License Agreement, have complete and independent control and discretion over the operation of the event contemplated by this Limited License Agreement.

4. Effective Date. This Limited License Agreement, when executed by Licensee and returned to Commission, shall constitute an offer subject to Commission's acceptance or rejection. This Limited License Agreement shall become effective only when fully executed by both Licensee and by the Commission. Prior to full execution, this Limited License Agreement shall be null and void in all respects.

5. Parking. Parking is not available at PCPA, other than whatever on-street or commercial parking may be available from time to time. Commission makes absolutely no guarantees or representations as to the availability or continued availability of on-street or commercial parking.

6. Insurance. Licensee shall, at its sole cost and expense, procure and maintain through the term of this Limited License Agreement the following insurance requirements:

a. Comprehensive General Liability with the Broad Form Comprehensive General Liability endorsement providing coverage against claims for bodily injury or death and property damage occurring in or upon or resulting from the facilities licensed hereunder, such insurance to offer immediate protection to the limit of not less than \$500,000 and such insurance shall include Blanket Contractual Liability coverage which insures contractual liability under the indemnification of the Commission and Metro by Licensee as set forth below;

b. Any Comprehensive General Liability insurance policy required by this Limited License Agreement shall name as additional insured: the City of Portland, Metropolitan Exposition-Recreation Commission, Metro, and the members, officers, directors, agents and employees of each entity;

c. Licensee shall maintain with respect to each such policy or agreement evidence of such insurance endorsements as may be required by the Commission and shall at all times deliver and maintain with the Commission a certificate with respect to such insurance in a form acceptable to the Commission;

d. Licensee agrees to provide all required certificates of insurance to the PCPA Director at least fifteen (15) days prior to the time of occupancy. Failure to do so shall constitute immediate breach of this Limited License Agreement by Licensee. It is agreed in that event that Commission, at its sole option, may terminate this Limited License Agreement and/or exercise any or all options in paragraph 14;

e. The parties agree that the specified coverage of limits of insurance in no way limit the liability of the Licensee. Licensee shall obtain the written agreement on the part of each insurance company to notify Commission prior to cancellation or non-renewal of any such insurance; and

f. Should Licensee fail to provide and maintain adequate Liability Insurance by the date listed in paragraph b. above, at its option, the Commission may provide adequate coverage under its Special Events policy and/or invoke any or all of its rights under paragraph 14. Licensee shall be invoiced for the cost of any coverage provided by Commission.

7. Indemnification. Licensee shall defend, indemnify, and hold the City of Portland, the Metropolitan Exposition-Recreation Commission, Metro, their agents, elected and appointed officials, and employees, (the Indemnitees) harmless from any and all claims, demands, damages, actions, losses and expenses, including attorneys' fees, arising out of or in any way connected with Licensee's performance of this Limited License Agreement or the event which is the subject of this Limited License Agreement. In the event that Licensee refuses or fails to defend as required herein, the Indemnitees may, at their sole option, settle or defend any claims, and Licensee shall, upon demand, pay to Commission the full costs of any settlement, judgment, or defense, including all expenses and attorneys' fees.

8. Waiver of Subrogation. Each party hereto hereby waives any and every claim which arises or may arise in its favor and against the other party hereto during the terms of this license or any extension or renewal thereof for any loss of or damage to any of its property, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies to the extent that such loss or damage is recovered under said insurance policies. Said waivers shall be in addition to, and not in derogation of, any other waiver or release contained in this Limited License Agreement with respect to any loss or damage to property of the parties hereto. Inasmuch as the waiver will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), Licensee is advised to give each insurance company written notice of the terms of such waiver, and to have insurance policies properly endorsed, if necessary.

9. Taxes and Fees. Licensee agrees to pay promptly all sales, use, excise and any other taxes required by any governmental authority and shall obtain at its own expense all permits and licenses required by law in connection with its use of the facility.

10. Defacement of Facility. Licensee shall not injure or in any manner deface premises and shall not cause or allow the premises to be injured or defaced, nor shall Licensee drive or allow to be driven any nail, hook, tack or screw in any part of the facility; nor shall Licensee make or allow any alteration of any kind to be made in the facility. If, during the term of this Limited License Agreement, the premises or any portion of the building or grounds are damaged by the act, default or negligence of Licensee or its agents, employees, patrons or any other person or persons admitted to the premises by Licensee or by any person or persons coming on the premises as a result of the activities conducted on the premises by Licensee, Licensee shall pay to the Commission, upon demand, such sum as shall be necessary to restore the premises to their original condition. Without limiting the foregoing, Licensee shall pay to the Commission upon demand such sum as shall be necessary to restore all glass broken on the premises during the term of this Limited License Agreement with the sole exception of glass broken solely by the negligence or wrongdoing of the Commission and its officers, agents and employees. Licensee hereby assumes full responsibility for the character, acts and conduct of all persons admitted to the facility during the period of this Limited License Agreement with the knowledge or consent of Licensee or its agents or employees or any person acting on behalf of Licensee. In the event that the attraction presented at this event encourages patrons to cause harm or injury to other patrons, or to the facility, Licensee shall be deemed to have breached this Limited License Agreement.

11. Non-Discrimination. Licensee agrees not to unlawfully discriminate against any employee or applicant for employment because of race, creed, ancestry, sexual orientation, disability, color, sex, marital status, age, religion or national origin, and further agrees not to discriminate for the same aforementioned reasons against any person or persons in connection with admission, services, or privileges offered to or enjoyed by the general public.

12. Force Majeure. If the premises or any part of the facility is destroyed or damaged by fire or any other cause, or if any other casualty or unforeseen occurrence renders the fulfillment of this Limited License Agreement by Commission impossible or impracticable, then this Limited License Agreement shall be terminated and the Licensee shall be liable for fees, charges for support personnel and services, additional utility charges which have accrued only as of the time of termination. All other fees paid by Licensee shall be returned by Commission, provided, however, if such impossibility of performance shall be due to the act or omission of Licensee, its agents, employees, members, or invitees, then Licensee shall be liable for all fees charged hereunder as well as any and all accrued charges in addition to such other damages as may result from such acts or omissions. Licensee hereby waives any claim for damages or compensation from Commission on account of termination pursuant to this paragraph.

13. Non-Exclusive Use. Commission shall have the right to use or permit the use of any portion of the Facility not granted to Licensee under this Limited License Agreement to any person, firm or entity regardless of the nature of the use of such other space. This right shall be subject to Commission's prudent business judgment.

14. Default by Licensee and Commission Remedies. Licensee shall be in default of this Limited License Agreement if Licensee fails to pay any amounts due under the License terms, breaches any provisions of this Limited License Agreement or any other written agreement between Licensee and Commission including payment of fees and maintenance of required insurance in strict accordance with this Limited License Agreement, violates any applicable laws or ordinances during its use of the Facility, violates any Commission rules or policies, or should dissolve or cease doing business as a going concern or become insolvent or bankrupt. Upon such default by Licensee, the Commission may have one or more of the following remedies, in its sole discretion:

a. Declare the entire amount of the balance due per the terms of the Limited License Agreement payable.

b. Re-enter the licensed area(s) without being liable for damage therefore and relet the licensed area(s) or any portion thereof, or operate the same for the balance of the Limited License Agreement period, receive sums due and apply them first to any expenses of making the Commission whole and, second, to any expenses incurred for re-entering the premises and reletting the licensed area(s).

c. Terminate the Limited License Agreement by giving the Licensee written notice of such termination, which shall not excuse breaches of the Limited License Agreement which have already occurred, and may re-enter the licensed area(s) as in b. above.

d. Pursue any other remedies available to the Commission. No single or partial exercise of a right or remedy shall preclude any other or further exercise of a right or remedy.

e. Commission shall have the right, without resorting to any legal action, to withhold from any and all sums, receipts or deposits which may be in the possession of the Commission for or on behalf of Licensee, such sums as are necessary, in Commission's sole opinion, to apply to any claims Commission may have against Licensee, or to protect Commission against any loss, damage, or claim which may result from Licensee's performance or failure to perform under this Limited License Agreement.

f. Commission may, at its sole option, also terminate any other contract(s) with Licensee.

15. Assignment. Licensee may not assign this Limited License Agreement or any interest therein or permit the use of the Authorized Areas or any part thereof without the prior written approval of the Commission. Any attempted assignment without such written prior approval shall be null and void.

16. Hazardous Substances. Licensee, its officers, employees and agents, and any exhibitors, customers or other participants in the event(s) covered by the Limited License Agreement are prohibited from bringing any hazardous substance into the Authorized Areas or onto Commission property and are prohibited from allowing any hazardous substance to be brought into the Authorized Areas or onto Commission property. As used in this paragraph, "hazardous substance" has the meaning given that term in ORS 465.200(9). If any governmental authority or other third party demands that a cleanup plan be prepared and that a cleanup be undertaken because of any release of hazardous substances that occurs as a result of Licensee's use of the Authorized Areas or entry on Commission property, Licensee shall, at Licensee's expense, prepare and submit the required plan and all related bonds and other financial assurances, and Licensee shall carry out all such cleanup plans. Licensee agrees to indemnify Metro, Metropolitan Exposition-Recreation Commission, the City of Portland and their respective members, officers, directors, agents, elected and appointed officials, and the employees against any claims, costs and expenses of any kind, whether direct or indirect, incurred voluntarily or pursuant to any state or federal law, statute, regulation or order, for the clean up, extraction, detoxification or neutralization of any release of any hazardous substance associated with

or arising from the Licensee's use of the Authorized Areas or entry on Commission property. As used in this paragraph, "release" has the meaning given that term in ORS 465.200(14). Licensee's obligations under this paragraph survive termination or expiration of the Limited License Agreement.

17. Commission Policies. Any applicable policies adopted by the Commission are hereby incorporated into this Limited License Agreement by reference. Commission reserves the right to change such policies from time to time.

18. Arbitration. Any controversy or claim arising out of or relating in any way to this Agreement or the breach or alleged breach thereof, including but not limited to claims sounding in tort, shall be settled by binding arbitration in Portland, Oregon under ORS Chapter 36; provided, however, that the requirements, (including but not limited to notice requirements) limitations, and exclusions of the Oregon Tort Claims Act, ORS 30.260 et. seq shall apply in any arbitration of claims falling under the purview of that Act. The parties shall mutually agree on a single arbitrator, and, if they cannot agree, then an arbitrator shall be appointed by the Presiding Judge of the Circuit Court of the State of Oregon, County of Multnomah. The award may include the costs of arbitration, but shall not include attorney fees. The award may be entered in any Court, state or federal, having jurisdiction thereof.

19. Severability. If any provision of this Limited License Agreement or any policies which have been incorporated into the Limited License Agreement by reference, shall be declared invalid or unenforceable, the remainder of the provisions shall continue in force and effect to the fullest extent permitted by law.

20. Waiver. The failure by the Commission to insist upon strict and prompt performance of the terms and conditions of this Limited License Agreement shall not constitute a waiver of the Commission's right to strictly enforce such terms and conditions thereafter. No waiver by the Commission of any default shall operate as a waiver of any other default on a future occasion or the same default. No delay or omission by the Commission in exercising any right or remedy shall operate as a waiver thereof, and no single or partial exercise of a right or remedy shall preclude any other or further exercise thereof, or the exercise of any other right or remedy.

21. Delivery of Notices. Any notice, request, demand, instruction, or any other communications to be given to any party hereunder shall be in writing, sent by registered or certified mail as follows:

To Commission: in care of the Commission's official at the Facility, Attention PCPA Director.

To Licensee: at the address provided in the Limited License Agreement or at any of the offices designated in writing and provided to the PCPA Director during the term of the Limited License Agreement.

22. Licensee's Assumption of Responsibility. The Licensee expressly assumes full responsibility for all persons connected with Licensee's use of the Facility, including all its employees, agents, members, invitees and contractors.

23. Addenda and Attachments. Any addendum, statement of policy, requirements and/or operational items attached hereto are made a part of this Limited License Agreement as if copied in full herein.

24. Time is of the Essence. Time is of the essence to this Limited License Agreement.

25. Entire Agreement. Except as specifically provided herein, this document contains the complete and exclusive agreement between the parties, and is intended to be a final expression of their agreement. No promise, representation or covenant not included in this document has been or is relied upon by any party. No modification or amendment of this Limited License Agreement shall be in force or effect unless in writing executed by all parties hereto.

26. Headings. The headings used in this Limited License Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Limited License Agreement nor the extent of any provision thereof.

27. Powers Reserved to Commission. In providing space to Licensee, Commission retains the right to control the management of the PCPA and/or enforce all necessary and proper rules for the management and operation of the PCPA; the PCPA Director may enter all of the premises at any time and on any occasion. The Commission reserves the right through its PCPA Director and its other representatives to eject any objectionable person(s) from the facility and, upon the exercise of this authority through its PCPA Director, its agents or the police, the Licensee waives any and all claims for damages against the Commission, its officers, agents and employees. Unless otherwise specified in writing, Commission shall have the right to schedule other similar events both before and after the date of this Limited License Agreement without notice to Licensee. In the event of a dispute as to the meaning or interpretation of this Limited License Agreement, Commission policies or the operation of the PCPA, the decision of the Commission shall be final and binding on the parties. By way of illustration and not limitation, the reserved powers of the Commission including the following:

- a. The final determination of all policies and procedures relative to the operation and management of the PCPA.
- b. Sole discretion to cancel, terminate, or interrupt any event, and cause the patrons to be dismissed. The Commission shall not be liable to Licensee for any loss or cost occasioned by any such determination or action by the Commission taken in good faith for the benefit or protection of the Commission, the public generally, or the PCPA.
- c. The power to have access to any area of the PCPA at any time.
- d. The power to terminate or suspend this Limited License Agreement for acts of default by Licensee as stated in accordance with paragraph 14.

28. No Third Party Beneficiaries. This Limited License Agreement is not intended to benefit any individual, corporation, or other legal entity other than Commission, Licensee, and the Indemnitees. This Limited License Agreement shall not be deemed to vest any rights in, nor shall it be deemed to be enforceable by, any other parties in any proceeding whatsoever.

29. Request for Assurances. Commission in its sole discretion shall have the right at any time to request that Licensee provide assurances acceptable to Commission that it is able and willing to comply with all provisions of this Limited License Agreement, including but not limited to requiring Licensee to provide documentation that it has the right to present the event for which this license has been issued, and/or provide proof of Licensee's financial ability to comply with all provisions of this Limited License Agreement. Commission, at its sole discretion, may treat any failure by Licensee to provide assurances requested by Commission as a default, and shall have any and all remedies specified in paragraph 14.

30. Ticketing/Box Office Facilities. Box Office charges and policies shall be governed by adopted Commission Box Office Policies and Charges in effect on the date of complete execution of this Limited License Agreement. Licensee acknowledges that said policies include a requirement that Licensee use one of Commission's authorized ticketing agencies, and that Commission is entitled to certain fees pursuant to its agreement(s) with its authorized ticketing agencies. This Limited License Agreement shall also be subject to the terms and conditions of Commission's automated ticketing

services agreement. Licensee shall be informed of any fees charged by Commission. The Commission may also charge and collect a service charge per ticket from the public for all tickets sold at the Commission's Box Office whether sold by phone, mail order or over-the-counter. In addition, all ticket orders may be subject to a per order handling charge. Only employees under the direct control and supervision of the Commission shall be permitted use of Commission Box Office facilities. All advertising for public events in the PCPA shall indicate that tickets are on sale at the Commission's Box Office facilities in a manner and form acceptable to the Commission. All ticket sales by Licensee shall be subject to Commission Box Office policies, and all sales shall be through Commission approved ticket outlets/agencies, except as specifically provided for herein.

31. User's Fee. A user's fee per ticket shall be imposed on all paid admissions or tickets sold for all events at the PCPA as follows:

Tickets priced \$10.00 and under	\$.50 User Fee
Tickets priced \$10.01 to \$22.00	\$1.00 User Fee
Tickets priced \$22.01 and above	\$1.50 User Fee

The user's fee shall be the sole property of the Commission, shall be retained by the Commission in total, and shall not constitute payment by Licensee for any license fees or other charges due pursuant to this Limited License Agreement. The user's fee shall apply to all sold tickets or paid admissions, whether for cash or on credit and regardless of who shall sell the ticket. The user's fees shall not apply to unsold tickets, or to complimentary or free admission tickets, provided that any complimentary or free admission tickets have been issued in strict conformance with this Limited License Agreement. In any advertising for any event in which the ticket or admission prices is stated, Licensee or those acting on behalf of Licensee shall include as part of the total ticket price the amount of the user's fee. Advertising for sale of tickets must identify "All tickets subject to additional over-the-counter or telephone Convenience Charges." Licensee shall account to the PCPA Director on reporting forms provided by Commission and shall settle for the amount owing for the user's fee after each performance or upon demand by the PCPA Director.

32. a. Wheelchair Locations. In accordance with the American with Disabilities Act, Public Law 101-336, the facility ticket office shall control tickets designated by the Commission as wheelchair locations. Said wheelchair location tickets shall be sold at the lowest priced ticket per seating level that the wheelchair is located if venue has wheelchair locations available on all levels or location tickets shall be sold at a mid-range price as determined by the Commission if wheelchair locations are limited to one seating level. Wheelchair ticket locations will be held for wheelchair patrons until the seating level sells out for venues with wheelchair availabilities on all levels or until the event sells out if wheelchair locations are limited to one seating level. Sale of said wheelchair tickets shall be limited to wheelchair patrons and one (1) escort per patron, unless otherwise required by applicable law. In the event the wheelchair location tickets are not sold in advance, said wheelchair location tickets will be sold by the facility ticket office over-the-counter at the same price as tickets in the same general location on the day of the event. All proceeds realized from the sale of said tickets will be accounted for on the settlement sheet in the usual manner; the usual ticket office fee(s) for services will be applied.

b. Hearing Impaired Locations for Signed Performances. In accordance with the Americans with Disabilities Act, Public Law 101-336, the facility ticket office shall control tickets designated by the Commission as hearing impaired locations. Said hearing impaired location tickets shall be sold at a mid-range price as determined by the Commission. Sale of hearing impaired location tickets shall be limited to hearing impaired patrons and one(1) escort per patron, unless otherwise required by applicable law. In the event there has been no request up to 48 hours prior to event date for a single performance event or one performance during a multi-performance run to be signed, said hearing impaired location tickets will be sold by the facility ticket office over-the-counter at the same price as tickets in the same general location on the day of the event. All proceeds realized from the sale of said tickets will be accounted for on the settlement sheet in the usual manner; the usual ticket office fee(s) will be applied.

c. Signed Performances. In accordance with the Americans with Disabilities Act, Public Law 101-336, the Licensee will provide and pay for services rendered for a signer to sign for the hearing impaired if such request is made up to 48 hours prior to event day. The facility will determine the general location of the signer, based on the seating location holds, and shall be the final authority regarding all necessary staging requirements including lighting or risers.

d. Assistive Listening System. In accordance with the Americans with Disabilities Act, Public Law 101-336, the Licensee will provide a line feed, when applicable, to the facility's assistive listening system.

33. Refund of Ticket Revenue. Commission retains the right to make determination of ticket refunds in keeping with formal or informal facility policy and retaining public good faith. This shall include but is not limited to seats blocked by equipment when exchange to comparable locations is not possible, failure of projections equipment, failure of act to show or to be on stage with reasonable time by schedule provided by Licensee.

34. Intermissions. Licensee agrees that for all programs lasting one hour and fifteen minutes or more, excepting religious services or other engagements specifically excluded, an intermission of not less than twenty (20) minutes shall be held, subject to modification by the PCPA Director when necessary to meet unusual conditions. For programs in Civic Auditorium or Arlene Schnitzer Concert Hall, Licensee shall pay a \$250 fee for any missed intermissions.

35. Souvenirs. Neither the Licensee nor Licensee's exhibitors nor any other person shall sell or give away any item(s) in the facility without prior written consent of the Commission. Licensee shall pay to the Commission in addition to other fees and charges herein provided twenty (20) percent of the gross proceeds from any such authorized sales. Commission reserves all rights not specifically granted to Licensee to sell or give away any item(s). The content of any programs or other written material to be sold or given away by Licensee shall be subject to prior approval of the PCPA Director.

36. Commission's Access to Events. The Commission retains the right to draw four (4) tickets per performance without charge during the Licensee's use of the MERC facility.

37. Handling Funds. In the handling, controlling, and keeping of receipts and funds, whether received through the Box Office or otherwise, Commission acts for the accommodation of Licensee, and as to such receipts and funds, the Commission, its officers, agents and employees shall be responsible only for gross neglect or bad faith.

38. Seating Capacity. Licensee shall not admit to said premises a larger number of persons than can safely and freely move about in said areas. Under no circumstances shall paid admissions, sold tickets or free tickets be issued beyond the stated seating capacity without the prior written consent of the PCPA Director, and the PCPA Director's decision in this regard shall be final. Licensee will permit no chairs or moveable seats to be or remain in any passageway and will keep all passageways clear at all times; no portion of the sidewalks, ground, entries, passages, vestibules, halls elevators, abutting streets or ways of access to public utilities of said building shall be obstructed by Licensee or used for any purpose other than for ingress to and egress from the facility.

39. Official Caterer. The Commission may license and/or contract with one or more catering services to serve as authorized facility caterer(s). All food and beverage service catered both backstage and in public lobby spaces must be ordered through a Commission-authorized facility caterer.

40. Copyrights. Licensee represents and warrants that all copyrighted music, plays, or other theatrical performances will be performed or produced with the express permission from the copyright owner. Licensee represents and warrants that any and all obligations under the copyright license shall be performed or completed by Licensee. Licensee shall defend, indemnify, and hold the City of Portland, the Metropolitan Exposition-Recreation Commission, Metro, their agents, elected and appointed officials, and employees, (the Indemnitees), harmless from any and all claims, demands,

damages, actions, losses and expenses, including attorneys' fees, that may arise out of or are related to a copyright license agreement or copyright infringement lawsuit or both or any representation or warranty made herein. In the event that Licensee refuses or fails to defend as required herein, the Indemnitees may, at their sole option, settle or defend any claims, and may maintain an action in any court of competent jurisdiction against Licensee for the full costs of any settlement, judgment, or defense, including all expenses and attorneys' fees.

41. Law Observance. All agents and employees connected with Licensee's use of the facility shall abide by, conform to and comply with all laws of the United States and the State of Oregon and all ordinances of the City of Portland, Oregon, Metro, and the rules and regulations of the facility for the government and management of the facility, together with all rules and regulations of the Bureau of Fire and Bureau of Police of the City of Portland. If Licensee's attention is called to any violation by Licensee or any of its agents or employees or by anybody admitted to the facility by Licensee, Licensee shall immediately stop such violation and take necessary steps to prevent further violation.

42. Vacating Premises. In the event Licensee fails to vacate the premises in accordance with this Limited License Agreement, the Commission is hereby authorized to move from said building at the expense of Licensee goods, wares, merchandise and property of any and all kinds and description which may be then occupying the portion of said building on which the term of license has expired and the Commission, its officers, agents and employees shall not be liable for any damages or loss to said goods, wares, merchandise or other property which may be sustained either by reason of such removal or the place to which it may be removed and the Commission, its officers, agents and employees are hereby expressly released from any and all claims for damages of whatever kind or nature. For such additional period beyond the term of this Limited License Agreement as any effects of Licensee remain in the building, the Commission shall be entitled to charge the sum per day as provided in this Limited License Agreement as payment to be made for the time for move-in and move-out.

43. Sign and Posters. Licensee will not post or exhibit nor allow to be posted or exhibited signs, advertisements, show bills, lithographs, posters or cards of any description inside or in front of or on any part of said building except in regular locations provided by the Commission therefor and will use, post or exhibit only such signs, advertisements, show bills, lithographs, posters or cards upon said billboard as are related to the performance or exhibit to be given in the premises and for such period of time as designated by the Commission. Licensee shall remove forthwith all signs, advertisements, show bills, lithographs, posters or cards of any description upon vacating the premises or when objected to by the PCPA Director. Licensee further agrees not to allow any advertising media, in advertising the event for which Licensee is granted this license, to imply that the Commission is sponsoring such event.

44. Temporary Power Installations. Temporary power installations may be made only upon prior approval of the PCPA Director. All Licensee's electrical equipment shall be properly wired and shall comply with applicable laws, rules and regulations. Temporary power installations may be subject to a City of Portland Permit and Inspection Fee. The amount of the fee will depend upon the amount of power needed and the number of installations. All permit/inspection fees and any additional equipment required to insure that the installation complies with all code requirements will be charged to Licensee at the applicable rates.

45. Water. The Commission shall furnish water by means of the appliances installed for ordinary toilet or janitorial purposes but for no other purpose unless otherwise specifically provided in this Limited License Agreement. Water closets and water apparatus will not be used for any purpose other than for which they are intended and no sweepings, rubbish, rags, paper or other substances shall be thrown in them. The Commission shall charge Licensee for all damage resulting to water closets and water apparatus on account of misuse of any nature or character.

46. Responsibility for Property in Building. Commission assumes no responsibility whatever for any property placed in said building; the Commission, its officers, agents and employees are hereby expressly relieved and discharged from any and all liability for any loss, injury or damages to persons or property that may be sustained by reason of occupancy of said building, grounds or any part thereof under this Limited License Agreement.

47. Security Services. All security services including peer group security desired by Licensee shall be arranged for by special agreement with the Commission and shall be paid for by Licensee. The Commission shall have the right to determine the number and type of security personnel required during the events covered by this Limited License Agreement and the Licensee shall bear all expenses incurred in providing such personnel.

48. Radio and Television. Licensee shall have the exclusive right to negotiate and enter into agreements for the granting of radio and television rights in connection with the staging of any performance or event under the terms of this license, providing prior written consent is obtained from the Commission.

49. Lost Articles. The Commission shall have the sole right to collect and have custody of articles left in the building by persons attending any performance, exhibition or entertainment given or held in the facility and Licensee or any person in Licensee's employ shall not collect nor interfere with the collection of custody of such articles.

50. Discretionary Matters. Any decision affecting any matter not herein expressly provided for shall rest solely within the discretion of the PCPA Director.

51. Care of Facilities. Licensee shall keep said premises clean and generally cared for during the term of the license except as provided by the regular custodial force employed by the Commission. Further, Licensee agrees that only decorators, custodians, or contractors approved, employed or contracted by the Commission shall be utilized.

52. Re-Entry by Commission. If the premises or any part thereof shall become vacant during the same term, the Commission or its representative may re-enter same either by force or otherwise without being liable for any prosecution therefor and may, at its own option, re-rent said premises as the agent of Licensee and receive the rent therefor, applying the same first to payment of such expenses as may be incurred in re-entering and re-renting said premises and then to the payment of the rent due by the presents; the surplus, if any, shall be paid to Licensee and Licensee covenants and agrees to pay to the Commission on demand the balance remaining, if any, of the rental herein agreed to be paid after deducting the net rental resulting from such re-entering; but nothing herein contained shall be construed as imposing any obligation of the Commission to re-rent or attempt to re-rent said premises or in any way affecting the obligation of Licensee to pay the full amount of said rental in case said premises are not so re-rented.

53. Sound Location Holds and Control. In cases where the Licensee is providing a sound system the facility will determine placement of speakers and mixing console and shall be the final authority regarding sound mix and levels. The facility ticket office shall hold seat locations designated as sound location holds. Said sound location tickets that are not utilized will be sold by the facility ticket office over-the-counter at the same price as tickets in the same general location on the day of the event.

54. Pyrotechnics/Special Effects Permits and Fees. Pyrotechnics and other special effects such as torches, flash pots, other limited smoke effects and small explosions all require prior approval of the PCPA Director and require permits from both the City of Portland Fire Prevention Division and the Office of State Fire Marshal. Licensee will inform the PCPA Director if the attraction being contracted has any pyrotechnics or special effects that may require a permit and if required, all permit fees will be charged to the Licensee at the applicable rates.

55. Other Special Conditions.

METROPOLITAN EXPOSITION-
RECREATION COMMISSION

By: Harriet Sherburne
Harriet Sherburne

Title: PCPA Director

Date: February 9, 1995

LICENSEE

Elizabeth Huddell

Title: Producing Artistic Director

Date: March 20, 1995



METRO

Mark B. Williams
Tele: (503) 797-1531
FAX (503) 797-1792

March 3, 1995

Martha Sloca Richards
Managing Director
Portland Center Stage
1111 S.W. Broadway
Portland, OR 97205

Robert Van Brocklin, Vice Chair
Board of Directors
Portland Center Stage
1111 S.W. Broadway
Portland, OR 97205

Re: Portland Center Stage Contract 1994-1997

Dear Martha and Robert:

Your letter of February 27, 1995, accurately states the intent of the agreement with respect to the User Fee and Rental Rates.

With respect to "all other charges," your letter correctly states that MERC may change "all other charges and fees in accordance with the specific terms of the proposed agreement;" it is MERC's intention to follow the terms of the agreement insofar as they affect "all other charges." For example, the agreement at Section 5(A) requires PCA to reimburse MERC "for stage labor services consistent with MERC policy and labor agreements in effect," including overtime costs.

The only other provision of the Agreement discussing "other charges" is Section 14(E), which requires, among other things, that MERC give PCS 30 days written notice prior to changing "the schedule of extra charges" for subsequent seasons.

With this clarification, your letter of February 27, 1995 is an accurate interpretation of the meaning of the Agreement.

Sincerely,

Mark B. Williams,
Senior Assistant Counsel

gl2072

cc: Patrick LaCrosse
Harriet Sherburne

EXHIBIT "D"

Company Banners: October 1994 to May 1995

Production Banners:

(Play Name)	(Display Dates)
o Arms and The Man	October 22, 1994 to November 19, 1994
o Absurd Person Singular	November 28, 1994 to December 31, 1994
o Measure For Measure	January 7, 1995 to February 4, 1995
o Some Who'll Watch Over Me	February 11, 1995 to March 11, 1995
o Division Street	March 18, 1995 to April 15, 1995