

**METROPOLITAN EXPOSITION-RECREATION COMMISSION
RESOLUTION NO. 97-50**

Authorizing the third amendment to the Broadway Series Agreement dated March 15, 1994 between the Metropolitan Exposition-Recreation Commission and Dan Bean Presents, Inc. regarding the requirements for season ticket sales proceeds.

Whereas, a prior amendment to the Broadway Series Agreement provided the commission with ongoing security of the ticket sales monies, and also provided more autonomy to Dan Bean Presents in regard to those monies for the 1995-96 season; and

Whereas, the terms of the amendment to the Broadway Series Agreement regarding security of ticket sales monies were extended to the 1996-97 season on April 4, 1996; and

Whereas, the original term of the Broadway Series Agreement has been extended by one year until June 30, 1998; and

Whereas, both parties wish to amend the terms of the Broadway Series Agreement ticket sales provisions for the 1997-98 season;

BE IT THEREFORE RESOLVED that the Metropolitan Exposition-Recreation Commission authorizes the General Manager to execute the attached Exhibit "A", Third Amendment to Broadway Series Agreement.

Passed by the Commission on September 10, 1997.


Chair


Secretary/Treasurer

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

By: 
Kathleen A. Pool, Senior Assistant Counsel

MERC STAFF REPORT

Agenda Item/Issue: Third Amendment to Broadway Series Agreement

Resolution No. 97-50

Date: September 10, 1997

Presented by: Faye Brown
Mark B. Williams

Background and Analysis: The original term of the Broadway Series Agreement (the Agreement) between MERC and Dan Bean Presents, Inc. dated March 15, 1994 was extended by the Commission for one year until June 30, 1998. The Agreement's original language contains stringent requirements regarding ticket sales, use of ticket sale proceeds and sharing of interest earnings. These requirements were established in 1994 based on the fact that the Broadway Series was a new endeavor and there had been a failure of a similar series in the recent past.

In light of the fact that one successful Broadway Series season had been completed and the requirements contained in the Agreement regarding ticket sales were fairly strict, Dan Bean Presents Inc. requested changes to the Agreement. On January 10, 1996, the Commission approved the First Amendment to the Broadway Series Agreement to make the terms regarding the 1995/1996 season ticket sales and interest sharing less stringent. These terms were extended to the 1996/97 season on April 4, 1996 by the MERC General Manager, as the Commission's designee.

Now that the 1996/1997 season is complete, Dan Bean has requested that the terms of the First Amendment be extended to the 1997/1998 season. Staff recommends the following changes for the 1997/1998 season:

1. Under the original Agreement, control of the season ticket sales was accomplished through the use of an Oregon Bank account maintained by the Commission. The Commission could obtain these monies upon default of Dan Bean Presents, Inc. Further, the Agreement restricted the use of ticket proceeds monies by Dan Bean Presents, Inc. prior to settlement of season shows.

Consistent with the First Amendment, the proposed amendment maintains a level of security for the Commission over the ticket sales monies, yet allows Dan Bean Presents, Inc. more autonomy in the use of those proceeds. This is accomplished by allowing season ticket proceeds to be deposited with Dan Bean Presents, Inc. However, \$300,000 which represents approximately two season shows' worth of season ticket sales, will be required to be maintained by Mr. Bean's banker in a liquid security. Further this \$300,000 will be accessible by the commission without Mr. Bean's approval or signature if default of the Series should occur. This \$300,000 would decline to \$150,000 upon settlement of the 4th show in the 5 show series, and then decline to \$0 after settlement of the final show.

2. The original Agreement stipulated that the commission shall receive 50% of the interest earnings from the ticket sales proceeds. In order to remain whole in this regard, and to simplify the record keeping , the proposed amendment sets a guaranteed amount of \$11,300 to be paid to the Commission in equal increments when each show is settled throughout the season.

Fiscal Impact: The proposed amendment to the Musical Theatre Agreement will have a negative impact, in the amount of \$2,700 in terms of actual interest received this season versus the 1996/1997 season due to interest rates and projected ticket sales. There will be some staff time/cost savings achieved through reduced record keeping and procedures.

Recommendation: Staff recommends that the Commission approve the Third Amendment to the Broadway Series Agreement regarding ticket sales proceeds.

THIRD AMENDMENT TO BROADWAY SERIES AGREEMENT

WHEREAS, the Metropolitan Exposition-Recreation Commission ("Commission," "Metro ERC," or "MERC") and Dan Bean Presents, Inc. ("Presenter"), collectively know as, "the Parties," entered into a Broadway Series Agreement dated March 15, 1994; and,

WHEREAS, Section 26(c) of the Broadway Series Agreement provides that it can only be amended by a written document executed by the Parties; and,

WHEREAS, the Parties wish to amend the Broadway Series Agreement so as to provide for a more efficient method of handling funds associated with the Broadway Series Agreement;

NOW, THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. Section 5(d) of the Broadway Series Agreement is amended to read as follows:

d. Ticketing: Presenter has selected Ticketmaster Oregon as the official ticketing service to be used for the sales of subscriptions and single tickets for all Shows. All proceeds from single ticket sales shall be handled pursuant to the Commission's standard policies and procedures for ticket sales, which are incorporated herein by reference. Commission shall notify Presenter in writing in the event of any changes in said procedures. For the 1997-1998 Series, all proceeds from full or "mini" season subscription ticket sales shall be maintained and controlled by the Presenter, provided that all of the following shall apply:

(i) Three hundred thousand dollars (\$300,000.00) shall be maintained by the Presenter's bank in a liquid investment trust held in Commission's favor, in a manner and from acceptable to Commission.

(ii) Withdrawals from said trust shall require the approval and signatures of both Presenter and Commission, provided, however, that Commission shall have access to said trust without Presenter's approval or signature in the event that Commission or its designee(s) determine that Presenter is in default of this Agreement. Withdrawals from said trust shall be made only for the purpose of payment of deposits and other expenses necessary for presentation of the Broadway Show Subscription Series, unless Commission exercises its right of access in the event of a determination of default by Presenter, in which case Commission may apply said funds towards any of Presenter's obligations under this Agreement.

(iii) After settlement of the fourth show in the five 1997-1998 Series, the trust amount shall decrease to one hundred fifty thousand dollars (\$150,000.00); upon settlement of the final show, the trust amount shall decrease to zero dollars (\$0.00).

(iv) Any full season or "mini" season subscription ticket sales proceeds above the three hundred thousand dollars (\$300,000.00) threshold shall be invested prudently by Presenter, and shall be used by Presenter solely and exclusively for the purpose of payment of deposits and other expenses necessary for presentation of the Broadway Show Subscription Series. Presenter shall, at Commission's reasonable request, provide information to the Commission concerning the investment and distribution of any funds invested directly by Presenter.

(v) In lieu of Commission's share of interest proceeds as provided for in the Broadway Series Agreement prior to this Amendment, Presenter shall pay to Commission the sum of eleven thousand three hundred dollars (\$11,300.00) per year, to be paid evenly at each remaining show settlement.

Presenter and Commission shall execute any further forms or documents necessary to effectuate the terms herein.

2. The terms of this Amendment shall apply to the 1997-1998 series only, provided, however, the Commission or its designee shall have the option to extend the terms of this Amendment to cover any subsequent season(s) of the Broadway Series Agreement.
3. All other terms and conditions of the Broadway Series Agreement shall continue in full force and effect.
4. Except as specifically provided herein and in the Broadway Series Agreement, this document, together with the Broadway Series Agreement, 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 or the Broadway Series Agreement has been or is relied upon by any party. No modification or amendment of this document or the Broadway Series Agreement shall be in force or effect unless in writing executed by all Parties hereto.

DAN BEAN PRESENTS, INC.

By: 

By: 

Daniel N. Bean, President

METROPOLITAN EXPOSITION-
RECREATION COMMISSION

By: 

Alice Norris, Chair

By: 

George E. Bell, Secretary-Treasurer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

By: 

Kathleen Pool

Senior Assistant Counsel

FIRST AMENDMENT TO BROADWAY SERIES AGREEMENT

WHEREAS, the Metropolitan Exposition-Recreation Commission ("Commission," "Metro ERC," or "MERC") and Dan Bean Presents, Inc. ("Presenter"), collectively known as, "the Parties," entered into a Broadway Series Agreement dated March 15, 1994; and,

WHEREAS, Section 26(c) of the Broadway Series Agreement provides that it can only be amended by a written document executed by the Parties; and,

WHEREAS, the Parties wish to amend the Broadway Series Agreement so as to provide for a more efficient method of handling funds associated with the Broadway Series Agreement,

NOW, THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. Section 5(d) of the Broadway Series Agreement is amended to read as follows:

d. **Ticketing:** Presenter has selected Ticketmaster Oregon as the official ticketing service to be used for the sales of subscriptions and single tickets for all shows. All proceeds from single ticket sales shall be handled pursuant to the Commission's standard policies and procedures for ticket sales, which are incorporated herein by reference. Commission shall notify Presenter in writing in the event of any changes in said procedures. For the 1995-96 Series, all proceeds from full or "mini" season subscription ticket sales shall be maintained and controlled by the Presenter, provided that all of the following shall apply:

(i) Five hundred thousand dollars (\$500,000.00) shall be maintained by the Presenter's bank in a liquid investment trust held in Commission's favor, in a manner and form acceptable to Commission.

(ii) Withdrawals from said trust shall require the approval and signatures of both Presenter and Commission, provided, however, that Commission shall have access to said trust without Presenter's approval or signature in the event that Commission or its designee(s) determine that Presenter is in default of this Agreement. Withdrawals from said trust shall be made only for the purpose of payment of deposits and other expenses necessary for presentation of the Broadway Show Subscription Series, unless Commission exercises its right of access in the event of a determination of default by Presenter, in which case Commission may apply said funds towards any of Presenter's obligations under this Agreement.

(iii) After settlement of the fourth show in the five 1995-96 Series, the trust amount shall decrease to two hundred fifty thousand dollars (\$250,000.00); upon settlement of the final show, the trust amount shall decrease to zero dollars (\$0.00).

(iv) Any full season or "mini" season subscription ticket sales proceeds above the five hundred thousand dollar (\$500,000.00) threshold shall be invested prudently by Presenter, and shall be used by Presenter solely and exclusively for the purpose of payment of deposits and other expenses necessary for presentation of the Broadway Show Subscription Series.

Presenter shall, at Commission's reasonable request, provide information to Commission concerning the investment and distribution of any funds invested directly by Presenter.

(v) In lieu of Commission's share of interest proceeds as provided for in the Broadway Series Agreement prior to this Amendment, Presenter shall pay to Commission the sum of \$14,000.00 per year, to be paid evenly at each remaining show settlement.


Presenter and Commission shall execute any further forms or documents necessary to effectuate the terms herein.

2. The terms of this Amendment shall apply to the 1995-96 series only, provided, however, that Commission or its designee shall have the option to extend the terms of this Amendment to cover any subsequent season(s) of the Broadway Series Agreement.

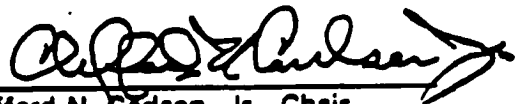
3. All other terms and conditions of the Broadway Series Agreement shall continue in full force and effect.

4. Except as specifically provided herein and in the Broadway Series Agreement, this document, together with the Broadway Series Agreement, 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 or the Broadway Series Agreement has been or is relied upon by any party. No modification or amendment of this document or the Broadway Series Agreement shall be in force or effect unless in writing executed by all Parties hereto.

DAN BEAN PRESENTS, INC.

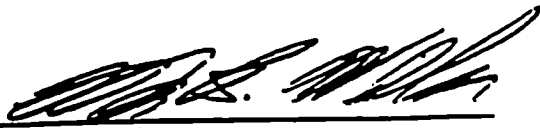
By: _____
By: 
Daniel N. Bean, President

METROPOLITAN EXPOSITION-
RECREATION COMMISSION

By: 
Clifford N. Carlsen, Jr., Chair

By: 
Alice Norris, Secretary-Treasurer

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

By: 
Mark B. Williams
Senior Assistant Counsel

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TEL 503 731 7600 | FAX 503 731 7670



METROPOLITAN EXPOSITION-RECREATION COMMISSION

July 31, 1997

Mr. Dan Bean
Dan Bean Presents
100 West Harrison
North Tower, Suite 520
Seattle, Washington 98119

Dear Dan:

This letter is written to extend the terms contained in the First Amendment to the Broadway Series Agreement to the 1997-1998 season.

As a designee of the Metro E-R- Commission, I am hereby granting extension of the First Amendment of the Broadway Series Agreement to the 1997-1998 Broadway Theatre season, presented by Dan Bean Presents, with the following clarifications:

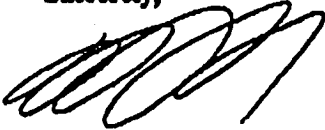
- 1) The requirement that \$500,000 be maintained by the Presenter's bank in a liquid investment trust held in Commission's favor ("trust account"), applies to the first \$500,000 of ticket sales for the 1997-1998 season.
- 2) The current procedure whereby Ticketmaster remits season ticket sales monies to the Metro E-R Commission will continue for the 1997-1998 season. The Commission will deposit these monies in the trust account. Any monies received over \$500,000 will be remitted to Dan Bean Presents or deposited directly in an account designated by Dan Bean Presents, whichever option is chosen by the Presenter.
- 3) Section 5(d)(iii) is amended to read as follows:
 - (iii) After settlement of the fifth show in the six 1997-1998 series, the trust amount shall decrease to two hundred fifty thousand dollars (\$250,000.00); upon settlement of the final show, the trust amount shall decrease to zero dollars (\$0.00).

July 31, 1997
Mr. Dan Bean
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If you concur with the terms of this amendment as outlined above, please indicate with your signature below.

We look forward to continued success in this next season. Please contact me or Faye Brown (our new Director of Fiscal Operations) if you have any questions.

Sincerely,



Mark B. Williams, General Manager

enclosure: First Amendment to Broadway Series Agreement

cc: Harriet Sherburne
Faye Brown

I concur with the terms of the amendment.

Dan Bean Presents, Inc.

By: 

Dan Bean, President

Date: 
