

APPROVED  
09-21-2016

BOARD OF RECREATION  
& PARK COMMISSIONERS

**BOARD REPORT**

NO. 16-198

DATE September 21, 2016

C.D. 4

**BOARD OF RECREATION AND PARK COMMISSIONERS**

**SUBJECT: GRIFFITH PARK – GREEK THEATRE – AMENDED CONTRACT WITH SMG FOR OVERSIGHT MANAGEMENT TO EXERCISE FIRST OPTION TO EXTEND AND AMEND CONTRACT TERMS; AMENDMENT TO THE USER AGREEMENT, BOOKING AND TICKET POLICIES AND EVENT VOLUME INCENTIVE PROGRAM**

AP Diaz	_____	*V. Israel	_____
R. Barajas	_____	K. Regan	_____
H. Fujita	_____	N. Williams	_____

  
\_\_\_\_\_  
General Manager

Approved  \_\_\_\_\_ Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_  
As Amended \_\_\_\_\_

RECOMMENDATIONS

1. Approve a proposed Amended Contract No.3534, between the Department of Recreation and Parks (RAP) and SMG for Oversight Management of the Greek Theatre's Open Venue Model, subject to the approval of the Mayor and the City Attorney as to form;
2. ~~Approve amendments to the User Agreement, Booking and Ticket Policies, and Event Volume Incentive Program;~~
3. Authorize the Department to make any necessary technical changes consistent with the intent of these actions to implement these policies; and
4. Authorize the General Managers or his designee to execute the Amended Contract substantially in the form attached (Attachment 1).

SUMMARY

The historic Greek Theatre is located at 2700 North Vermont Avenue in Griffith Park. The 5,901 capacity outdoor venue is among the City's most cherished public sites, the Theatre stands as one of the Nation's iconic and recognized outdoor entertainment venues. On April 15, 2015, the Board of Recreation and Park Commissioners (Board) approved the Operation and Management of the Greek Theatre as an Open Venue Model (Report No. 15-082).

On September 22, 2015, the Board approved the Contract for Oversight Management of the Greek Theatre Open Venue Model (CON-M15-001) to SMG for the Greek Theatre's 2016 season. Contract No. 3534 between RAP and SMG was executed on November 2, 2016 for one (1) year with two (2) one-year extension options. Staff is recommending to exercise the first option to extend the contract with SMG with minor amendments for a period of one year consistent with the approved September 22, 2015 Board Report 15-212 which recommended the Department

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operate the Greek Theatre as an open venue for a minimum of two (2) years to evaluate and analyze projected increased annual revenues.

On June 18, 2016, the Board approved the Open Venue Operating Policies & Procedures – Booking Policy, Venue Rental Application, User Agreement and Commercial Promoter Incentive Program under Board Report No. 15-139. SMG has implemented the policies of the User Agreement and Booking Policy and has recommended minor adjustments and additions to better streamline bookings and create uniform, industry standard practices and procedures at the venue.

### *Schedule*

The 2016 schedule includes seventy-one (71) concert events, seven (7) community events and two (2) film shoots.

All concerts have performed well, promoters and audiences have expressed their appreciation of the physical improvements to the venue. When launching the season, RAP and SMG worked diligently to create a new website domain, weekly email newsletter database and social media handles. These methods of communicating with public started 10 months ago and already have 57,628 email subscribers, 10, 886 Facebook Fans, 6,884 Instagram and 1,259 Twitter Followers.

### *Surveys*

Patrons have the opportunity to voluntarily fill out post show surveys. Patrons give high marks for venue cleanliness, staff responsiveness and the overall customer service experience at each event. Survey responses also demonstrate patron comments on the desire for additional snack food items offered which continue to be addressed by our concessionaire, Premier Food & Beverage. It is also common to receive comments on parking rates. The current rates range from \$10.00 per vehicle in the shuttle lot to \$25-\$40 around the venue. There is also an available option to park in the quick park area directly in front of the theatre for \$75. In addition discounts are given pre-purchased parking available on the Greek Theatre's website. The fee structure is such to encourage off-site parking and use of the shuttle service.

### *Parking & Shuttle*

As of mid-September and after hosting forty-nine (49) events with attendance over 224,000 the average number of cars parking offsite per night at the pony ride parking lot is 247 with total patron shuttle ridership of 25,500. Saturday evenings seem to create the most traffic challenges due to the popularity with the Griffith Observatory. SP Plus Parking manager, DOT representatives, Griffith Park Services team members, LAPD and SMG staff meet prior to each concert to address parking and safety plans. This pre-show meeting ensures all team members are in sync with the parking/traffic operations for both the Greek Theatre and Griffith Observatory. Department staff are very encouraged with shuttle, parking and traffic operations to date and feel there has been a positive reaction by the local residents. However, we recognize the need to continue to improve these operations and increase ridership in our shuttle program.

### *Neighborhood Relations*

Neighborhood relations are positive with the monthly GTAC meetings and community coffee hour gatherings. SMG and the Greek Theatre Community Liaison team communicate with the adjacent

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residents on upcoming events and are always available on event nights to quickly address issues or concerns.

In addition, SMG neighborhood staff members are assigned and positioned in the neighborhood to assist residents for such things as accessing their driveways, controlling traffic, picking up trash and assisting event patrons with a quiet exit of the park. Electronic message boards are also stationed along Vermont Canyon to remind patrons to be sensitive to the neighborhood and to keep their noise level low as they exit the park.

We have created a strong, open dialogue with the local residents and are committed to continuing and improving that dialogue to best ensure their voice is heard and issues resolved very quickly.

### *Box Office*

The Box Office is open to the public on event days and on Saturdays from 10am – 6pm for patrons interested in purchasing tickets in person. Patrons still have the option in purchasing tickets on line or over the phone through the two (2) ticketing systems. (Ticketmaster and AXS).

### *Capital Investments*

The capital investments at the Greek Theatre have included refurbishments of the dressing rooms, upgrades to the fire life safety systems, the sound, lighting, marquees, signage, plaza upgrades and wifi service are visible to everyone which have been an overwhelming success via the public's reaction and comments. A detailed accounting and description will be included in the Department's year-end report.

### **Contract Amendments**

To improve performance, the following clarifications and revisions are recommended to Contract No. 3534:

- Clarified language under sponsorships to allow for barter of equipment or services as long as it reduces the venues capital or operating expenses.
- Clarified language in Section 11 to add an additional account for a total of three (3) bank accounts (operations, deposits and box office) established annually by the City with SMG having Power of Attorney to operate the venue.
- Removed cash flow retentions from SMG's monthly closing statement in Section 11. Now that a steady stream of revenue is established, the retentions from payments to the Department are no longer necessary going forward.
- Clarified language under SMG's responsibilities for them to establish and maintain a telephone hotline to accommodate public feedback and develop a log to monitor response times and respond to calls within 24 to 48 hours.

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### **User Agreement Amendments**

- The Greek Theatre has a Hard Curfew of 11pm, additional labor fees will be applied for events whose duration time exceed three and one half hours from scheduled event time as indicated on ticket.,
- For the 2017 Season, the House Flat Rate will be \$28,000, an increase of \$3,000 from the 2016 House Flat Rate to accommodate the increase in security costs, as metal detectors and additional staff will be on site for each concert event.
- Promoters with less than four (4) shows for the current season shall furnish a Security deposit of \$10,000.00 (cashier's check only) to SMG for each show. Beginning with the fifth (5<sup>th</sup>) booking, promoters must provide a letter of credit.
- There will now be a confetti cleaning charge of \$1,500.
- More strict sound level requirements and penalties. During the performance, SMG will work in conjunction with the User to monitor sound levels. In the event, sound levels exceed 95dBA, the USER will be fined after one minute of sound levels at 95dBA and monetary penalties shall apply as set forth below. If additional violations occur, monetary penalties shall apply as set forth below:

First Offense: Shall be a Five Thousand Dollar (\$5,000.00) fine.

Second Offense: Shall be a Seven Thousand Five Hundred Dollar (\$7,500.00) fine.

Subsequent Offenses: Shall be Ten Thousand Dollars (\$10,000.00) per violation.

However, should sound levels exceed 100dBA at any time, there will be no warnings to lower the sound and an immediate fine of \$10,000 will be assessed to the USER and for any subsequent violations that also exceed 100dBA.

### **Booking Policy Amendments:**

- User agreement submission via email to the Greek Theatre General Manager or in person to administrative office Monday- Friday between the hours of 9am to 5pm (excluding City of Los Angeles observed Holidays). Challenges delivered after these set hours (either in person or by email) will not start until the next business day. Challenges start once both deposit and signed User Agreement have been received.
- SMG shall use the Greek Theatre logo in all advertising controlled by or done on behalf of the USER relating to an event, including but not limited to, television, internet, newspaper, magazine, and outdoor advertising. Onsite activation and/or signage, sampling, giveaways are not permitted inside the seating area of the Greek Theatre.

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### **Ticket Policy Amendments**

- Premium seating programs 200 seats from 150 seats, shall be placed on hold prior to any sales being conducted, and shall be held until the option is exercised or released, even if the USER is placing the holds and managing the inventory. Revised premium seating chart is attached.

### **Event Volume Incentive Program Amendments (Formerly Promoter Incentive)**

A promoter or event organizer must bring a minimum of twenty (20) events to the Venue in the qualifying period to be eligible to receive a rebate(s). In the event of a co-promotional event, a qualified rebate will be paid only to the promoter or show organizers listed on the User Agreement.

Rebates will accrue starting with the first event in the qualifying period, but will not be earned and payable until the twentieth event occurs during the period. The accrued amount for the first twenty events will be calculated at the conclusion of the twentieth event, and all rebates which will be paid thirty (30) days after the conclusion of the season.

The volume incentive is based on attendance figures per show and incorporates both paid and complimentary tickets. For each scanned, paid ticket a rebate of \$1.25 per ticket will be applied and fifty cents (\$0.50) for each scanned complimentary ticket.

The volume incentive program only applies to commercial events and is not applicable to events booked under the Community Rental Rates.

This is the only form of commercial incentive program recognized by the Venue. The Venue will review the incentive program requirements on an annual basis and retains the right to modify the incentive program at any time, subject to rights under an existing contract.

### **CONCLUSION**

The Department recommends approval to the amendments and exercising the first option to extend SMG's contract, and inclusion of the amended User Agreement, Booking and Ticket Policy and Event Volume Incentive Program to assist SMG in implementing and managing the Department's Open Venue Model in the oversight and management of the Greek Theatre with clarifications.

Department staff looks forward to submitting to the Board and City Council, a final financial analysis and operations report for the 2016 season in November, 2016. It is our intent at that time to make a recommendation on the proposed long term plan for operations of the Greek Theatre.

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### FISCAL IMPACT STATEMENT

Through July, 2016 the Department has received and reconciled \$1.9 million in net revenue. The 10 year historical seasonal average of net revenue to the Department from 2006-2015 was \$1,562,453.00 with the highest year's (2014) total season revenue at \$1,977,314.00.

The Department is very encouraged with the revenue to date noting that we have yet to realize the revenue from the three (3) remaining months of the season which will only further increase our totals for the 2016 season. A final financial accounting of all revenue and expenses will be submitted to the Board following conclusion of the 2016 season. The revenue to date further supports our recommendation for extending SMG's contract for an additional year.

This Report was prepared by Anthony-Paul (AP) Diaz, Executive Officer and Chief of Staff.

#### List of Attachments:

Attachment 1: Proposed Amended Greek Theatre Agreement for Oversight Management and Implementation of Open Venue Operations, Booking and Event Coordination

Attachment 2: User Agreement

Attachment 3: 2017 Event Volume Incentive Program

AMENDED  
GREEK THEATRE  
AGREEMENT  
FOR OVERSIGHT MANAGEMENT  
AND  
IMPLEMENTATION  
OF  
OPEN VENUE  
OPERATIONS, BOOKING  
AND EVENT COORDINATION

Between

THE CITY OF LOS ANGELES DEPARTMENT OF  
RECREATION AND PARKS

And

SMG

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THE GREEK THEATRE

AMENDED AGREEMENT FOR OVERSIGHT MANAGEMENT AND IMPLEMENTATION OF  
OPEN VENUE OPERATIONS, BOOKING AND EVENT COORDINATION

**THIS AGREEMENT** is made and entered in this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter referred to as CITY), acting by and through the Department of Recreation and Parks ("DEPARTMENT"), and SMG ("SMG").

**WHEREAS**, DEPARTMENT seeks to hire a venue management company to oversee management operations of the Greek Theatre's Open Venue Model; and

**WHEREAS**, DEPARTMENT, finds, in accordance with Charter Section 1022, that it is necessary, feasible and economical to secure these services by contract as it lacks sufficient and necessary personnel to undertake these specialized professional services; and

**WHEREAS**, DEPARTMENT finds, pursuant to Charter Section 371 (e) (10), and Los Angeles Administrative Code Section 10.15(a)(10), that the use of competitive bidding would be undesirable, impractical or otherwise excused by the common law and the Charter because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the Department for oversight of the Greek Theatre's Open Venue Model; and

**WHEREAS**, DEPARTMENT finds it is necessary to utilize a standard request for proposals process and to evaluate proposals received based upon the criteria included in a Request for Proposals (RFP); and

**WHEREAS**, DEPARTMENT advertised for proposals for Oversight Management of the Greek Theatre's Open Venue Model; and

**WHEREAS**, DEPARTMENT received and evaluated two proposals from venue management companies; and

**WHEREAS**, SMG scored the highest-ranking among both proposers, and selected to conduct oversight management of the Greek Theatre's Open Venue Model in accordance with the terms and conditions of this AGREEMENT; and

**WHEREAS**, SMG desires to enter into such AGREEMENT to assist DEPARTMENT in providing the public with premium, high-quality patron and community experience and services at the Greek Theatre.

**NOW THEREFORE**, in consideration of the terms, covenants and conditions hereinafter to be kept and performed by the respective parties, it is agreed as follows:

**SECTION 1. DEFINITIONS**

For the purpose of this AGREEMENT, the following words and phrases are defined and shall be construed as hereinafter set forth:

- ADDITIONAL PARKING SITES:** Parking areas as shown on the map attached as Exhibit D.
- ADMINISTRATIVE COSTS:** SMG'S general and administrative costs for operating the FACILITY, which are further described on Exhibit L,
- AGREEMENT:** This Operational AGREEMENT consisting of thirty- six (36) pages and Exhibits (A thru Q) attached thereto.
- ANNUAL FIXED FEE:** The total annual compensation to SMG as specified in Section 8.
- BOARD:** Board of Recreation and Park Commissioners.
- CITY:** CITY's cost to equip the FACILITY with furnishings, fixtures and equipment sufficient to allow operation of the FACILITY for its intended purposes as provided in Section SW, except for the SMG'S equipment and furnishings covered in SMG'S ADMINISTRATIVE COSTS.
- CITY FF&E COSTS:** CITY's cost to equip the FACILITY with furnishings, fixtures and equipment sufficient to allow operation of the FACILITY for its intended purposes as provided in Section SW, except for the SMG'S equipment and furnishings covered in SMG'S ADMINISTRATIVE COSTS
- CITY'S OPERATING EXPENSES:** Shall consist of: (i) UTILITY, MAINTENANCE AND REPAIR COSTS, (ii) REIMBURSABLE EXPENSES, (iii) EVENT SERVICES AND STAFFING COSTS, (iv) TRANSITION EXPENSES, (v) CITY'S FF&E COSTS and (vi) the ANNUAL FIXED FEE. CITY'S OPERATING EXPENSES shall be calculated in compliance with this AGREEMENT, Generally Accepted Accounting Principles (GAAP), City Controller's policies and procedures, the City Charter and the LAAC.
- CONCERT SEASON:** April 15 through October 31
- SMG OFFICE COSTS:** SMG's costs to satisfy SMG's obligation to provide SMG'S OFFICE FURNITURE AND EQUIPMENT pursuant to Section 5W hereof.
- DEPARTMENT:** The Department of Recreation and Parks, acting through the Board of Recreation and Park Commissioners.
- EFFECTIVE DATE:** The date first written above.

**EVENT SERVICES AND STAFFING COSTS:**

Any and all expenses incurred, or payments made by SMG, in connection with the staffing, operation and production of events at the PREMISES, except for expenses included in SMG'S ANNUAL FIXED FEE.

**FACILITY:**

GREEK THEATRE, located at 2700 N. Vermont Avenue, Griffith Park, Los Angeles, California 90027

**GENERAL MANAGER:**

The SMG employee designated as the Greek Theatre Manager to oversee, operate and manage the venue.

**LAAC:**

Los Angeles Administrative Code

**LAMC:**

Los Angeles Municipal Code

**MANAGEMENT STAFFING COSTS:**

All costs related to providing personnel for the following positions: Greek Theatre Manager, Operations/Event Manager, Box Office Manager, Finance Manager, Executive Assistant/Booking Coordinator, Marketing Manager, Patron Services Supervisor, and Receptionist.

**OPEN VENUE MODEL:**

The FACILITY operating model, as defined by the BOARD's approved policies and procedures attached as Exhibits E, F and G

**PREMISES:**

The geographical area, as defined in SECTION 3 of this AGREEMENT, including the FACILITY

**PREMIUM SEATING REVENUE:**

All gross revenue from the sale of all premium seating programs including, but not limited to: 1) Box Seats, 2) Personal Seat Licenses, and 3) VIP seats, or other similar programs where license fees are charged in connection with seating programs created by the SMG at the FACILITY.

**REIMBURSABLE EXPENSE:**

A purchase, lease or operating expense paid by SMG on behalf of DEPARTMENT, including but not limited to website hosting and maintenance costs, parking management, sound system and video equipment and other related expenses, lighting system and any other equipment other than equipment procured as a part of SMG'S OFFICE FURNITURE AND EQUIPMENT

TERM:	As defined in Section 4.
TRANSITION EXPENSE:	An expense incurred by SMG prior to the commencement TERM in connection with SMG'S preparation to transition and perform the services hereunder.
UTILITY MAINTENANCE AND REPAIR COSTS:	The CITY's costs for utilities (excluding telephone and internet hosting charges, which will be paid by SMG) and for maintenance and repair as provided in Sections 5 AA and 5X, respectively but excluding SMG'S OFFICE COSTS.

## **SECTION 2. RIGHTS AND RESPONSIBILITIES**

The CITY hereby grants to SMG, subject to all of the terms and conditions of this AGREEMENT, the right to provide operational oversight and coordinated management of the Greek Theatre and to act as the DEPARTMENT's agent working with and under the direction of the Department's staff with respect to the day to day operations of the venue.

SMG shall manage and operate the FACILITY on a year-round basis per applicable CITY and DEPARTMENT codes, rules, regulations, ordinances, and laws regarding levels of noise and public/private access.

SMG shall be required to submit copies of all sponsorship AGREEMENTS that relate to and/or affect the Greek Theatre, including in-kind, barter and cash sponsorships, throughout the term of the AGREEMENT (see SECTION 7 "Sponsorships, Box Seats and Premium Seating Sales," for details).

SMG, in conjunction with DEPARTMENT, shall participate and organize at the DEPARTMENT'S request certain community oriented operations and FACILITY related services such as traffic and parking control, neighborhood security and crowd control measures, and post-event, surrounding neighborhood clean-ups, community meetings and other duties described below.

SMG shall collect all fees for FACILITY services, maintain DEPARTMENT-approved accounting records for the FACILITY, pay for and obtain all licenses, permits and insurance (Insurance Requirements and Instructions, Exhibit B) (excluding insurance for CITY'S personal property and/or business interruption) necessary for the operations granted, and perform or supervise SMG and subcontractor employees in the performance of all other tasks related to the operations granted.

CITY reserves the right to develop or improve the PREMISES as needed, without interference or hindrance; however the CITY shall consider and request SMG's views and operational perspectives.

### **SECTION 3. PREMISES**

The PREMISES (hereinafter referred to as PREMISES) to be authorized for use by SMG shall only include:

- Theatre building and the surrounding hillside including the fencing:
  - Theatre building shall include the main theatre structure; all areas, structures, and FACILITY facilities in the North Wing, South Wing, North Concourse, South Concourse, and Front Concourse; Box Office; seating areas; light booth; immediate exterior walls, fencing and public access areas fronting North Vermont Avenue.
- VIP parking lot and the adjacent valley West of theatre.

SMG shall not use or permit the FACILITY PREMISES to be used, in whole or in part, for any other purpose other than as set forth in this AGREEMENT except with prior, written consent of DEPARTMENT, nor allow any use in violation of any present or future laws, ordinances, rules and regulations relating to sanitation or the public health, safety or welfare of operations at and use of the FACILITY PREMISES. SMG hereby expressly agrees at all times during the term of this AGREEMENT, to maintain, use and operate the FACILITY PREMISES in a safe, clean, wholesome and sanitary condition, and in compliance with any and all present and future laws, ordinances and rules and regulations relating to public health, safety or welfare and DEPARTMENT standards.

In addition to the PREMISES, CITY shall provide SMG with ADDITIONAL PARKING SITES as shown on the map attached as Exhibit D, i.e. Boy Scout Road, and such other parking areas as may be designated by the parties for use only during show days, or other Facility use days. These additional areas may not be used for purposes other than to park vehicles of show patrons, employees of SMG and subcontractor employees and licensees at the FACILITY, unless otherwise approved in advance by the DEPARTMENT. The CITY shall retain responsibility for the maintenance of these parking areas.

CITY undertakes and agrees to deliver to SMG the PREMISES described in Exhibit C in as-is condition.

### **SECTION 4. TERM OF AGREEMENT**

The term of the AGREEMENT was executed and commenced on November 2, 2015 and shall be for one (1) year, with two (2) one (1) year extension options, exercisable at the sole discretion of the DEPARTMENT, along with approval of the Board of Recreation and Park Commissioners. To exercise the first of two (2) one (1) year renewal options as provided in Board Report No. 15-212, the new term of AGREEMENT will commence on November 2, 2016 through November 2, 2017.

Neither City, nor any BOARD member, officer, or employee thereof shall be liable to SMG in excess of the then-applicable FIXED ANNUAL FEE and CITY'S OPERATING EXPENSES because of any action taken to revoke, decline to exercise an option or disapprove a renewal of the AGREEMENT.

## **SECTION 5. SERVICES TO BE PROVIDED AND OPERATING RESPONSIBILITIES**

SMG shall, at all times, provide the following services and comply with the following conditions:

- A. Implementation and enforcement of the DEPARTMENT'S Open Venue Model in compliance with all DEPARTMENT policies and procedures:
1. SMG will provide operational oversight management at the Greek Theatre.
  2. SMG will be responsible for coordinating and collaborating with promoters, agents, and interested parties to facilitate approximately 70 concerts and/or community events during the CONCERT SEASON.
  3. SMG agrees to use its Venue Management Software, at no additional cost to DEPARTMENT, to manage, book and coordinate the execution of all events. SMG further agrees to manage the Challenge Process within the Venue Management Software. SMG will provide DEPARTMENT access to all information and databases related to the FACILITY, including access and log-in information and passwords related to the highest available internet connections. All data captured within the Venue Management Software belongs to the DEPARTMENT and shall be provided to DEPARTMENT upon request.
  4. SMG will manage and provide all as-needed event services staffing required for each event or concert including, but not limited to, ushers, ticket-takers, security, event cleaning, parking attendants, shuttles, neighborhood event staffing and box office staff. SMG may use its own staff or subcontract for the event services staffing
  5. Event Management Staffing Plans: SMG must submit Event Services Staffing Plans to the DEPARTMENT for written approval ninety (90) days prior to the start of the CONCERT SEASON. The Event Services Staffing Plans must include appropriate staffing levels for all aspects of the PREMISES and the surrounding neighborhood, including:
    - a. A traffic control plan to manage traffic must be submitted that includes input from the community, DEPARTMENT and Department of Transportation.
    - b. A neighborhood security plan must be submitted and shall address crowd control outside the PREMISES, including excessive noise, illegal merchandise vending, ticket scalping, alcohol/drug use and littering on residential properties in the surrounding area impacted by FACILITY. The neighborhood security plan, at minimum, shall:
      - Provide sufficient off-duty uniformed police officers and neighborhood event staff at key locations outside Griffith Park during all shows. This includes non- police neighborhood walking patrols.
      - Provide consistent post-show clean up in the neighborhood area impacted by the FACILITY after all events.

- Provide other related services directly related to traffic control, neighborhood security, and clean up in areas immediately impacted by FACILITY.

**6. Parking and Shuttles**

SMG will manage all parking operations including a shuttle program to transport customers from off-site DEPARTMENT parking lots, transportation hubs or other leased parking areas. SMG shall obtain the DEPARTMENT'S prior written approval before commencing contract negotiations or executing such contracts for any leased parking areas. Lease payments for approved parking areas are a REIMBURSABLE EXPENSE. SMG shall staff these operations with SMG's employees or may subcontract one or both operations.

**7. Box Office Operations**

SMG shall manage and staff the Greek Theatre Box Office. There will be no exclusive rights to a particular ticketing vendor at the Greek Theatre. A promoter, agent or other FACILITY user shall have the option to designate and select the ticketing vendor for their respective events, provided that such ticketing vendor meets all of the minimum requirements of the DEPARTMENT.

8. SMG shall coordinate with the Los Angeles Fire and Police Departments on all scheduled events regarding Fire, EMS and security services required for public protection.
9. SMG will at all times be responsible for maintaining public and concert staff ingress and egress to the FACILITY.
10. SMG will manage the VIP areas within the FACILITY and the VIP Parking.
11. SMG will be responsible for enforcing the DEPARTMENT'S established acceptable sound level requirements in the User Agreement (Exhibit E).

**B. Fiscal Responsibilities**

SMG shall act as the DEPARTMENTS fiscal agent for the OPEN VENUE MODEL SMG will collect all fees associated with FACILITY operations, excluding food and beverage and merchandise sales, and will ensure proper accounting for all monies collected and any interest earned.

1. SMG shall ensure promoters and agents submit the required advance deposits, and any other fees for their events by the timelines established in the Booking Policy (Exhibit F) and the User Agreement.
2. SMG shall accept challenge request checks and process the challenge in compliance with the DEPARTMENTS User Agreement.
3. SMG shall complete end of show settlement at the end of each show and will ensure monies for the show are properly distributed to all parties. SMG shall submit the end of show settlement statement to DEPARTMENT within two (2) business days of settlement.

4. SMG shall manage and administer the DEPARTMENT'S Promoter's Commercial Incentive Program Policy (Exhibit G).
  - a. Payment to promoters or agents achieving incentive will be made from the Greek Theatre bank account at the end of the season (SECTION 12).
- C. SMG will oversee the Greek Theatre's contracted food and beverage concessionaire and will include such concessionaire's financial sales data in all financial reports.
- D. SMG shall be accessible to the surrounding community to address questions and concerns and to collaborate on all aspects of FACILITY operations in conjunction with DEPARTMENT'S designated Community Liaison.
- E. **Website and Social Media**

SMG will coordinate with the DEPARTMENT'S website vendor to maintain current event and promotional content on the website. including but not limited to updating concert calendar, promotional opportunities, venue information, ticketing, parking and shuttle services and food and beverage selections. SMG will coordinate resolution of any potential issues with the website vendor. SMG will coordinate and manage all social media apps for the Greek Theatre including, but not limited to Twitter, Facebook, Instagram or other designated SMG social media outlets. SMG shall provide and refuse designated City staff with access to the Venue highest available Wi-Fi access, including log in information and passwords.
- F. **Operating Budget**

SMG will prepare an annual FACILITY operating budget, monthly financial reports, annual branding campaign, outreach programs, and pro-forma for the length of the AGREEMENT, including the monthly financial statement reports identified in Proposal Page 46 (Exhibit H). In addition, SMG will submit audited financials on an annual basis. DEPARTMENT may request additional reports to assist DEPARTMENT with managing the FACILITY. SMG will cooperate with DEPARTMENT to provide the requested reports. The reports may be changed from time to time to include additional information as required by the DEPARTMENT.
- G. **International Alliance of Theatrical Stage Employees and American Federation of Musicians Agreements**

SMG shall use the existing union contracts to develop and hold an agreement with the International Alliance of Theatrical Stage Employees (IATSE) Local 33 (Stage Technicians Union) and 857 (Treasurers and Ticket Sellers Union) and develop and hold contracts with IATSE Local 706 (Make-up Artists and Hair Stylists Guild), Local 768 (Theatrical Wardrobe Union) and the American Federation of Musicians, Local 47 (AFM Local47). SMG will coordinate the reasonable use of FACILITY to IATSE for job training opportunities at IATSE's cost. There will be no FACILITY rental fee charged to IATSE for this use.
- H. **Community Cultural Events**

SMG shall use reasonable efforts to raise funds to offset the FACILITY rental fees and the production costs of three (3) identified annual community cultural events to assist



local organizations to put on performances. SMG will not be responsible for any shortfalls. Should a shortfall occur, SMG shall collect the appropriate fees in compliance with DEPARTMENT policies.

**I. Filming**

It is the policy of the CITY to facilitate the use of CITY properties as film locations when appropriate. DEPARTMENT has established a Park Film Office to coordinate the use of park property for film production purposes. All fees for use of park property by film production companies shall be established and collected in accordance with CITY and DEPARTMENT policies. SMG shall charge any fees for film production conducted at FACILITY as provided in the User Agreement and for filming on the PREMISES on non-event days, such uses and fees subject to DEPARTMENT approval.

J. SMG will work with private entities to book the FACILITY for private events throughout the year. The DEPARTMENT must authorize all non-concert season events.

**K. Customer Satisfaction Surveys**

SMG shall be responsible to ensure Customer Satisfaction Surveys are conducted after every event. The Customer Satisfaction Survey measures the quality of service being delivered to patrons, which rates service in five (5) separate categories. SMG will provide summary reports to the DEPARTMENT on June 15, September 15 and November 15 for all events held in the previous period. The DEPARTMENT shall be consulted regarding survey questions and reserves the right to suggest additional questions as necessary to assist in the evaluation of community satisfaction. Surveys may be carried out in the form of e-mail messaging QR codes, website link, or other methods as may be determined by SMG.

**L. Community Engagement**

1. SMG agrees to organize, host, maintain, oversee and arrange a regular monthly community meeting to accommodate neighborhood associations and community groups at times when convenient for the public to such meetings. Should SMG fail to host community meeting for two (2) consecutive months, such failure will be considered a material breach and may result in termination of AGREEMENT.

2. SMG shall work in conjunction with the DEPARTMENT's assigned community liaison(s) and work collaboratively to address all issues related to community engagement and outreach.

3. SMG will establish and maintain a telephone 'hotline' to accommodate public feedback and develop a log to monitor response times and respond to calls within 24 to 48 hours.

**M. Greek Theatre Advisory Committee**

SMG agrees to organize, host, maintain, oversee and arrange the DEPARTMENTS Greek Theatre Advisory Committee (GTAC), which shall act solely in an advisory capacity to the DEPARTMENT in specific matters relating to the operation of the FACILITY. GTAC may make recommendations to the DEPARTMENT regarding programs related to theatre

operations, maintenance, food concessions, merchandising, traffic control, security, and community relations, and will work with SMG in establishing community involvement and cultural development. SMG shall staff, host and coordinate a monthly meeting with GTAC to keep the community engaged, informed and to resolve quality of life issues associated with the VENUE. However, operation of the FACILITY is the contractual obligation of the SMG and GTAC is to remain an advisory arm of the DEPARTMENT representing community interests related to the Greek Theatre.

**N. Citywide Outreach**

SMG shall coordinate and cooperate with DEPARTMENT to develop strategies to outreach to at risk youth to provide enrichment opportunities including, but not limited to, job training, workshops, tours, educational concerts or attending concerts/events.

**O. Cleanliness**

SMG shall ensure the VENUE and PREMISES are always maintained in a safe and clean condition and will work in conjunction with the DEPARTMENT to keep the PREMISES, including the theatre building, parking lots, surrounding community and the surrounding hillside, including fencing, clean, uncluttered, and sanitary at all times. SMG shall work in conjunction with the DEPARTMENT to keep the VIP Parking Lot, the adjacent valley (west of the Theatre) and the surrounding area impacted by the FACILITY, clean, uncluttered and sanitary after all events, or other use by SMG. SMG shall work in conjunction with the DEPARTMENT and/or custodial subcontractors to provide all necessary janitorial services to maintain PREMISES, restrooms and public areas according to CITY standards. SMG agrees to respond and correct any instruction of the DEPARTMENT immediately or to provide a written response within twenty-four (24) hours of necessary corrective action.

SMG shall not permit any offensive or refuse matter, nor any substance constituting an unnecessary, unreasonable, or unlawful fire hazard, nor any material detrimental to the public health, to remain thereon, and SMG shall prevent any such matter or material from being or accumulating upon said PREMISES.

SMG, at its own expense, shall see that all garbage or refuse is collected from the offices, as often as necessary and in no case less than twice a week, and disposed of in the main dumpster. This expense is included in the ANNUAL FIXED FEE. SMG will incur the cost of all garbage pick-ups from the main dumpster for the PREMISES during the term of this AGREEMENT.

**P. Conduct**

SMG and its representatives, agents, servants, and employees shall at all times conduct its business in a quiet and orderly manner to the satisfaction of the DEPARTMENT.

**Q. Disorderly Persons**

SMG shall use its best efforts to permit no intoxicated person or persons, profane or indecent language, or boisterous or loud conduct in or about the PREMISES and will call upon the aid of peace officers to assist in maintaining peaceful conditions. SMG shall not

knowingly allow the use or possession of illegal drugs, narcotics, or controlled substances on the PREMISES.

## **R. Personnel**

1. SMG shall develop a protocol, subject to the DEPARTMENTS approval, for the engagement of any employee or subcontractor. SMG'S protocol shall comply with all applicable CITY, STATE, and/or Federal labor laws.

### **2. Qualified Personnel**

SMG will, in the operation of the FACILITY, employ or permit the employment of only such personnel as will assure a high standard of service to the public and cooperation with the CITY. All personnel will be trained in accordance with SMG'S submitted training plan prior to starting work at the premises. All such personnel, while on or about the PREMISES, shall be neat in appearance and directed to be courteous at all times and shall be appropriately attired in conjunction with agreed upon appearance standards attached, with badges or other suitable means of identification. SMG shall prohibit persons employed by SMG, while on or about the PREMISES, to be under the influence of illegal drugs, narcotics, other controlled substances or alcohol, or use inappropriate language, or engage in otherwise inappropriate conduct for a work environment. In the event an employee is not satisfactory, the DEPARTMENT may direct SMG to remove that person from the PREMISES or from employment at the Greek Theatre. The SMG will create an employee handbook that will delineate these requirements to be signed by all employees.

### **3. GENERAL MANAGER of the Greek Theatre:**

SMG shall appoint, subject to written approval by the DEPARTMENT, a GENERAL MANAGER of SMG'S operations at the FACILITY.

The GENERAL MANAGER must be a qualified and experienced manager or supervisor of operations, vested with full power and authority to accept service of all notices provided for herein and regarding operation of the FACILITY, including the quality and prices of goods and services, and the appearance, conduct, and demeanor of SMG'S agents, servants, and employees. The GENERAL MANAGER shall be available during regular business hours, including show times and, at all times during that person's absence, a responsible subordinate shall be in charge and available. The authority of the GENERAL MANAGER includes, but is not limited to, the ability to: hire, fire, and schedule personnel; order merchandise and materials; oversee inventory control and tracking; implement a marketing plan; maintain accounting records; book parties and events; oversee operations; train employees (to include such areas as customer service); and have ultimate on-site decision-making responsibility, as delegated and under the ultimate discretion of the DEPARTMENT.

The GENERAL MANAGER shall devote the greater part of their working time and attention to the operation of the FACILITY and shall promote, increase and develop

the business. During the days and hours established for the operation of the subject FACILITY, the GENERAL MANAGER'S personal attention shall not be directed toward the operation of any other business activity.

**4. Approval of Personnel**

The DEPARTMENT shall have the right to approve or disapprove any employees of SMG or hired to work, in any capacity at the Greek Theatre.

**S. Diversion of Business**

SMG shall not divert, cause, allow, or permit to be diverted any business from the PREMISES and shall take all reasonable measures, to develop, maintain, and increase the business conducted by it under the AGREEMENT.

**T. Equipment and Furnishings**

Office Space at the FACILITY (but not office equipment and furniture) will be provided to SMG by CITY at no cost to SMG. SMG shall provide, maintain and repair office furniture and equipment necessary to operate the administrative offices located at the facility ("SMG'S OFFICE FURNITURE AND EQUIPMENT"). SMG shall pay all SMG'S OFFICE FURNITURE AND EQUIPMENT costs with no reimbursement from the CITY. SMG'S office furniture and equipment shall remain the personal property of SMG. The DEPARTMENT reserves the right to approve or disapprove any office equipment and/or furnishing provided at the Greek Theatre.

Except for SMG'S OFFICE FURNITURE AND EQUIPMENT AND ADMINISTRATIVE COSTS, equipment, furnishings, and expendables required to operate the PREMISES shall be a CITY obligation to provide, obtain or reimburse SMG for the provision of any property (all such property being referred to herein as "CITY'S FF&E"). CITY may request SMG to purchase and install the same on its behalf and, in such case, the expense of doing so shall be a REIMBURSABLE EXPENSE. SMG shall deliver an inventory of all equipment with designation of ownership at the beginning of each calendar year and for each year of the term of the AGREEMENT thereafter. The inventory report shall include updated equipment lists as well as equipment status, length of remaining useful life, and explanations of any reduction in inventory. If, upon termination of the AGREEMENT, the DEPARTMENT does not renew said AGREEMENT, SMG shall have the right to remove its SMG'S OFFICE FURNITURE AND EQUIPMENT, but not improvements, from the PREMISES and shall be allowed a period of thirty (30) calendar days to complete such removal. If not removed within that period, said equipment, furnishings and expendables shall become the property of the DEPARTMENT.

**U. Maintenance of Equipment**

SMG shall, at all times and at its expense, keep and maintain SMG'S OFFICE FURNITURE AND EQUIPMENT, in good repair and in a clean, sanitary, and orderly condition and appearance. As between SMG and the CITY, CITY will be responsible for maintenance and repair of the PREMISES, the FACILITY, ADDITIONAL PARKING SITES and all CITY FF&E, which the CITY shall maintain and repair in a manner to support a premium, high-quality operation. CITY may request SMG to maintain and repair the PREMISES, FACILITY AND CITY'S FF&E on its behalf and, in such case; the expense

of doing so shall be a REIMBURSABLE EXPENSE. The CITY reserves the right to conduct inspections of the FACILITY and make additional requirements to the maintenance of equipment at any time or to approve or disapprove the placement of any property located on any location on or within the PREMISES.

No equipment provided by CITY shall be removed or replaced by SMG without the prior written consent of the DEPARTMENT.

**V. Permits and Licenses**

SMG shall obtain at its sole expense any and all permits, approvals, and licenses that may be required in connection with the operation of the FACILITY including, but not limited to: tax permits, business licenses, health permits, police, fire and Building and Safety permits. All permits, approvals and licenses shall be posted in the appropriate areas on a year-round basis

**W. Signs and Advertisements**

SMG shall not erect, construct, or place any signs, banners, ads, or displays of any kind whatsoever upon any portion of CITY property without the prior written approval from the DEPARTMENT, who reserves the right and who may require the removal or refurbishment of any previously approved sign.

SMG shall not permit vendors to display wares inside or outside the building or on said property unless written permission is secured from the DEPARTMENT in advance of installation, and such permission shall be subject to revocation at any time but shall not be unreasonably withheld, unless signage is part of a concessionaire or approved artist merchandise. The type of sign or advertisement and the duration of display shall be approved in advance and in writing by the DEPARTMENT.

At the FACILITY, a sign maybe posted in a non-public place stating that the FACILITY is operated under an AGREEMENT issued by CITY through the Department of Recreation and Parks.

**X. Utilities**

The DEPARTMENT shall pay for utility charges associated with the PREMISES, FACILITY and ADDITIONAL PARKING SITES, with the exception of telephone, internet and trash pick-up. Charges for telephone, internet and trash pick-up shall be paid by SMG and are included in SMG'S ADMINISTRATIVE COSTS regardless of whether such utility services are furnished by CITY or by other utility service providers. The telephone number shall be placed in the FACILITY'S name and shall not be transferable to any other location. SMG will comply with all water and energy saving policies and produce a monthly report on achieving improvements in water and energy usage.

Except to the extent of CITY's fault, including failure to maintain and repair as provided in this AGREEMENT, SMG hereby expressly waives all claims for compensation, or for any diminution or abatement of the revenue-sharing payment provided for herein, for any and all loss or damage sustained by reason of any defect, deficiency, or impairment of the water, heating, or air conditioning systems, electrical apparatus, or wires furnished

to the PREMISES which may occur from time to time and from any cause or from any loss resulting from water, earthquake, wind, civil commotion, or riot; and SMG hereby expressly releases and discharges CITY and its officers, employees, and agents from any and all demands, claims, actions, and causes of action arising from any of the aforesaid causes.

In all instances of damage to any utility service line, CITY shall be responsible for the cost of repairs and any and all damages occasioned thereby, except to the extent that such damage is caused by the negligence of SMG or its employees.

SMG shall use best efforts to assure that water and energy are utilized by SMG in the most efficient manner possible, and SMG expressly agrees to comply with all CITY water and energy conservation programs.

SMG shall reimburse the DEPARTMENT if the DEPARTMENT pays any telephone, internet or trash pick-up charges.

**Y. Safety**

SMG will prepare a safety plan with specific training programs for all employees. SMG will designate a safety officer to report on safety statistics including employee and patron injuries on a monthly basis. SMG will review all workers compensation claims that arise from premises.

SMG shall correct violations of safety practices immediately and shall cooperate fully with CITY in the investigation of accidents occurring on the PREMISES. SMG agrees to respond and correct any instruction of the DEPARTMENT immediately or to provide a written response within twenty-four (24) hours of necessary corrective action. In the event of injury to an employee, staff person, manager, patron or customer, SMG shall summon medical attention as soon as reasonably possible thereafter. SMG shall keep internal documentation of the incident and shall submit to the DEPARTMENT a CITY Form General No. 87 "Non-Employee Accident or Illness Report" (Exhibit I) within forty-eight (48) hours of the incident, two (2) copies of all Accident/incident reports shall be sent to address identified in SECTION 237 NOTICES.

If SMG fails to correct hazardous conditions which have led or, in the reasonable opinion of the DEPARTMENT, could lead to injury, the DEPARTMENT may at its option, and in addition to all other remedies (including termination of this AGREEMENT) which may be available to it, take the necessary action to remedy that condition and recover the cost thereof, including administrative overhead, to be paid by SMG to CITY as set forth in SEC. AA; provided that SMG shall not be responsible for such hazardous conditions to the extent caused by CITY or which are otherwise an obligation of the CITY.

**Z. Security**

SMG shall be responsible for the security of the interior PREMISES. SMG will designate a security director to report on security statistics on a monthly basis. SMG may install equipment, which will assist in protecting the PREMISES from theft, burglary, or vandalism. Any such equipment must be purchased, installed, and maintained by SMG

and shall be a REIMBURSABLE EXPENSE. SMG shall obtain the DEPARTMENT'S prior written approval for the expenditure. Security personnel shall remain on duty while guests and artists are on the PREMISES.

#### **AA.Sponsorships**

As noted in SECTION 2, SMG shall provide copies of all sponsorship agreements that relate to and/or affect the Greek Theatre, including the fair market value for any in-kind, barter and cash sponsorships, to the DEPARTMENT.

SMG shall comply with all CITY rules, procedures and sign regulations, including the DEPARTMENT'S Sponsorship Recognition Policy, Procedures and Guidelines for Recognizing Organizations and Individuals who Contribute to and/or Support City of Los Angeles Parks and Programs, (Exhibit J) and the Naming Policy, Procedures and Guidelines for Parks and Recreational Facilities, (Exhibit K). Sponsorships shall be approved by the CITY, who reserves the right to approve or disapprove any sponsorship. The following sponsorship categories are prohibited: firearms products, tobacco products including e-cigarettes, gaming. Sponsorships, which assign Naming Rights to sponsor, shall comply with the DEPARTMENT'S Naming Policy and are subject to prior written approval of the DEPARTMENT. The DEPARTMENT reserves the right to decline recommended sponsorship partners, but unless such sponsorship is otherwise prohibited under this paragraph, the potential revenue from such declined sponsorship shall be counted towards the Annual Minimum Guarantee in Section 7A.

The CITY reserves the right to conduct an audit/review of sponsorships obtained by the SMG and collect a percentage on any in-kind/donated or additional sponsorship or support that was not submitted to the DEPARTMENT and which should have been included in the calculation of the Annual Minimum Guarantee

The CITY further reserves the right to solicit, obtain and enact any sponsorship opportunity at the Greek Theatre.

#### **SECTION 6. SPONSORSHIPS, BOX SEATS AND PREMIUM SEATING SALES**

SMG shall comply with the DEPARTMENT'S Sponsorship Recognition Policy, Procedures and Guidelines for Recognizing Organizations and Individuals who contribute and Support City of Los Angeles Parks and Programs (Exhibit J) and Naming Policy, Procedures and Guidelines for Parks and Recreation Facilities (Exhibit K).

SMG shall pay to the DEPARTMENT 75% of all sponsorship revenue, less fulfillment costs and 75% of all premium seating revenue. Should the DEPARTMENT approve barter, SMG would receive the full value of the City approved estimated barter value towards SMG's minimum performance guarantee on a dollar for dollar basis and would be credited 25% of that value as part of their revenue share. Any approved barter must reduce the CITY's OPERATING EXPENSES not covered by SMG's annual fixed fee. The CITY shall be owner of any and all bartered equipment.

SMG agrees to pay all costs associated with marketing, selling and generating SPONSORSHIP AND PREMIUM SEATING REVENUE out of its twenty-five percent (25%) share of such revenue (e.g. salespersons' base compensation, sales commissions and fulfillment costs) and CITY shall simply receive its seventy-five percent (75%) share with no obligation to pay any of such costs not otherwise approved as fulfillment costs .

The CITY reserves the right to secure, obtain and provide it owns sponsorship opportunities and venue partnerships. Any CITY obtained sponsorships or partnerships shall not be shared on any percentage split with SMG.

**SECTION 7. SMG PERFORMANCE GUARANTEE**

The CITY reserves the right to impose a financial penalty in the event the SMG does not meet the agreed-upon benchmarks, deliverables and standards for the FACILITY as described below. Failure to achieve the applicable benchmarks as set forth in the two (2) performance categories below shall result in SMG remitting to the DEPARTMENT a portion of its Two Hundred Thousand Dollars (\$200,000.00) annual SMG profit, in proportion to the percentage amounts established for each performance category ("Performance Penalty") as follows:

- I. Shuttle Transportation Increase (25%): There shall be an increase in the total number of automobiles parked offsite during each season of operation as provided below. The Annual Shuttle Transportation Benchmark is defined as the total number of automobiles parked offsite. In the event SMG fails to achieve an increase in offsite automobile parking, then CITY may elect to impose a Performance Penalty of up to Fifty Thousand Dollars (\$50,000.00), based on the percentage by which SMG failed to meet the applicable Annual Shuttle Transportation Benchmark.

Example: For an actual increase of twelve percent (12%) compared to an Annual Shuttle Transportation Benchmark of fifteen (15%) (i.e., twenty percent (20%) below Benchmark), the penalty would be Ten Thousand Dollars (\$10,000.00) (i.e., twenty percent (20%) of Fifty Thousand Dollars (\$50,000)).

The Annual Shuttle Transportation Benchmark shall be as follows:

Contract Year	Annual Shuttle Transportation Benchmark
2016 Season	15% over 2015 Season Actual
2017 Season	17% over 2015 Season Actual
2018 Season	20% over 2015 Season Actual

- II. Combined Annual Sponsorships and Premium Seating Revenue (75%): Failure of SMG to remit a certain minimum annual revenue share to the DEPARTMENT of SPONSORSHIP REVENUE (only excluding fair market of all City approved estimated barter value and fulfillment costs and PREMIUM SEATING REVENUE during each year of the AGREEMENT as described below shall result in a SMG Performance Penalty of up to One Hundred Fifty Thousand Dollars (\$150,000.00) for each year of the AGREEMENT to be applied on a dollar- for-dollar basis against any shortfall. to the extent



the actual amounts remitted to the DEPARTMENT fall below the Annual Minimum Guarantee as follows:

Contract Year	Annual Minimum Guarantee
2016 Season	\$800,000.00
2017 Season	\$825,000.00
2018 Season	\$850,000.00

### **SECTION 8. ANNUAL FIXED FEE**

An ANNUAL FIXED FEE shall be paid by CITY to SMG for the services provided by SMG in AGREEMENT. The ANNUAL FIXED FEE shall consist of the three (3) following components:

- A. Greek Theatre Management Team and all operations expense, including but not limited to payroll taxes, insurance, employee benefits, bonds and any other employee related expenses;
- B. General and Administrative Expense (Exhibit L, Proposal Pages 74-75); and
- C. SMG'S Fee.

The Greek Theatre Management Team shall consist of the following eight (8) position classifications. Each of the following positions shall at all times be filled and maintained to perform the services required in this AGREEMENT. Failure to maintain these positions will be considered a material breach and may result in deductions of the Greek Theatre Management Team expense to SMG and/or termination of AGREEMENT.

Greek Theatre Manager, Operations/Event Manager, Box Office Manager, Finance Manager, Executive Assistant/Booking Coordinator, Marketing Manager, Patron Services Supervisor, Receptionist. Subject to reasonable modification at discretion of SMG with approval by DEPARTMENT, provided however it shall not create any variance to the MANAGEMENT STAFFING REQUIREMENTS and COSTS. The CITY reserves the right to approve or disapprove or have removed any employee of SMG or of THE VENUE from working that the Greek Theatre and SMG agrees to comply and remove any SMG or contracted employee from employment at the VENUE or its PREMISES.

The ANNUAL FIXED FEE for the first year of the AGREEMENT was not to exceed One Million Four Hundred Eighty-Six Thousand One Hundred Fifty Dollars (\$1,486,150.00), consisting of the following:

- 1. Greek Theatre Management Team and all operations expense, including but not limited to payroll taxes, insurance, employee benefits, bonds and any other employee related expenses- \$800,800.00;
- 2. General and Administrative Expense - \$485,350.00; and

### 3. SMG'S Fee \$200,000.00

The ANNUAL FIXED FEE in the second year of the AGREEMENT shall not exceed One Million Four Hundred Ninety Thousand One Hundred Thirty-Five Dollars (\$1,490,135.00). If there is a third year of the AGREEMENT, the ANNUAL FIXED FEE shall not exceed One Million Five Hundred Thirty-Four Thousand Eight Hundred Thirty-Nine Dollars (\$1,534,839.00).

## **SECTION 9. REIMBURSABLE EXPENSES**

SMG will procure services at the FACILITY on behalf of the DEPARTMENT. SMG will submit qualified vendors for the equipment or service and will recommend the specific vendor to the DEPARTMENT. SMG must obtain the DEPARTMENT'S prior written approval for the expenditure. SMG will be reimbursed for the service costs by providing DEPARTMENT the appropriate documentation to support the request for reimbursement. REIMBURSABLE EXPENSES will be included in the Monthly Event Closing Statement for reimbursement.

## **SECTION 10. EVENT SERVICES STAFFING EXPENSES**

SMG shall ensure each event is staffed in accordance with the approved Event Services Staffing Plan. Each event will include the following position classifications and have the following services performed:

Usher, ticket takers, security, parking attendants, box office personnel, neighborhood event staffing, administration, hospitality, Los Angeles Police Department officers (off duty or on duty uniformed), Department of Transportation officers, Los Angeles Fire Department Emergency Medical Technicians, Offsite Parking Shuttles, ADA Shuttles, traffic control and equipment

For the 2017 CONCERT SEASON, rates billed for EVENT SERVICES AND STAFFING COSTS for the applicable cost category are provided for in Exhibit M. The EVENT SERVICES AND STAFFING COSTS for subsequent CONCERT SEASONS must be submitted to the DEPARTMENT for approval. Any proposed adjustments to said rates at any time subsequent to each pre-CONCERT SEASON submittal shall require approval from the DEPARTMENT.

SMG shall submit the appropriate documentation with the Monthly Event Closing Statement for reimbursement of actual expenditures.

## **SECTION 11. ACCOUNTING, RECORDS AND ADDITIONAL FEES**

### **A. Bank Accounts**

THREE (3) OPERATING ACCOUNTS: On or before November 2 of each year CITY will open three (3) new bank accounts, operations, deposits and box office. RAP must be owner of all three (3) bank accounts and DEPARTMENT will give SMG Power of Attorney to sign checks, in addition reconciliation annually and close out cost of payment must be completed by December 31 of each contract year.

1. SMG shall establish a separate and distinct interest bearing bank account for the DEPARTMENT'S Greek Theatre OPEN VENUE MODEL operations. Any funds derived from FACILITY operations shall be deposited into that bank account. All accrued interest from this account belongs to the DEPARTMENT.
2. PROMOTER AND/OR AGENT

- i. SMG will receive deposits (or letters of credit as permissible under Exhibit E- User Agreement) for incidental charges from promoters and agents as required by the User Agreement in the normal course of business. CITY shall establish a separate and distinct interest bearing bank account to deposit such funds from promoters and agents. SMG shall be responsible for accurately maintaining records of each promoter or agent deposit and the associated accrued interest so that the proper monies are refunded to promoter or agent at the end of the event or at the end of the concert season.

### 3. BOX OFFICE/ADVANCE TICKET SALES ACCOUNT

- i. SMG will receive ticket proceeds for events via the ticketing agents as well as through box office operations. CITY shall establish a separate and distinct bank account for SMG to deposit ticket proceeds and will only access these funds as necessary at event settlement in order to distribute funds to promoter and venue.
- ii. .  
Previous year's accounts must be reconciled by December 31 each year to satisfaction of the DEPARTMENT, and final payments and close outs are paid to the CITY.

## B. Monthly Event Closing Statement

SMG shall submit a monthly event closing statement to the DEPARTMENT for review and approval within twenty-five (25) calendar days after the end of the month. The monthly event closing statement shall be accompanied by a Monthly Remittance Advice Form (Exhibit N), clearly identifying: (i) all revenues recognized for that month at the facility including, without limitation, event revenue, sponsorship and premium seating revenue and any miscellaneous revenue generated from operations at the FACILITY ("monthly operating revenue") and (ii) all expenses incurred in that month including, without limitation, city's operating expenses applicable to such period along with outstanding amounts of city's operating expenses due for prior periods, SMG's share of sponsorship and premium seating revenue and any miscellaneous expenses incurred in connection with the operation of the FACILITY ("monthly operating expenses"). SMG shall include with such statement detail of monthly operating revenue and expenses including a line item event profit and loss statement for each event presented during the period and supporting documentation for CITY's operating expenses in a form acceptable to DEPARTMENT.

SMG will include a statement for each of the three (3) bank accounts established for the FACILITY as described in SECTION 11.A above. The statement shall clearly identify the cash position for each account.

1. SMG must pay each eligible promoter the Event Volume Incentive dollar amount (with prior approval by the DEPARTMENT) by December 1<sup>st</sup> after conclusion of the current concert season.

SMG will include a check payable to the DEPARTMENT for any MONTHLY Operating Revenue exceeding the MONTHLY OPERATING EXPENSE, by December 31, annually.

**C. Late Payment Fees**

Failure of SMG to pay any of the revenue-sharing payments or any other fees, charges, or payments within ten (10) days following notice of such failure to pay is a material breach of the AGREEMENT for which CITY may terminate same or take such other legal action as it deems necessary.

Without waiving any rights available at law, in equity or under the AGREEMENT, in the event of late or delinquent payments by SMG, the latter recognizes that CITY will incur certain expenses as a result thereof, the amount of which is difficult to ascertain. Therefore, in addition to monies owing, SMG agrees to pay the CITY a late fee set forth below to compensate CITY for all expenses and/or damages and loss resulting from said late or delinquent payments.

The charges for late or delinquent payments shall be One Thousand Dollars (\$1,000.00) for each month late plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly, on the balance of the unpaid amount. Payments shall be considered past due if postmarked after the fifteenth (15th) day of the month in which payment is due. The DEPARTMENT reserves the right to increase any and all administrative fees at the time of exercising each option to renew the AGREEMENT.

The acceptance of late revenue-sharing payment by CITY shall not be deemed as a waiver of any other breach by SMG of any term or condition of this AGREEMENT other than the failure of SMG to timely make the particular revenue-sharing payment so accepted.

**D. Annual Accounting Adjustment**

No later than November 25th of each year, OPERATOR shall prepare and submit to CITY a statement showing the total gross receipts for the last AGREEMENT year by category and the revenue-share paid for the year. If the sums paid by SMG during said period total less than the annual minimum revenue-sharing guarantee, as noted in SECTION 7, SMG shall remit to the CITY the under payment amount with the annual statement postmarked no later than November 25th.

- E. If CITY pays any sum or incurs any obligations or expense which SMG has agreed to pay or reimburse CITY for, or if CITY is required or elects to pay any sum or to incur any obligations or expense by reason of the failure, neglect, or refusal of SMG to perform or fulfill any one or more of the conditions, covenants, or agreements contained in the AGREEMENT, or as a result of an act or omission of SMG contrary to said conditions, covenants, and agreements, SMG agrees to pay to CITY the sum so paid or the expense so incurred, including all interest, costs (including CITY'S 15% administrative overhead cost), damages, and penalties. This amount shall be added to the revenue-sharing payment thereafter due hereunder, and each and every part of the same shall be and become additional revenue-sharing payment, recoverable by CITY in the same manner and with like remedies as if it were originally a part of the basic revenue-sharing payment set forth in SECTION 6 hereof. The DEPARTMENT reserves the right to increase any and all administrative fees at the time of exercising each option to renew the AGREEMENT.

- F. The charges for any late or delinquent payments shall be One Thousand Dollars (\$1,000.00) for each month late plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly, on the balance of the unpaid amount. The DEPARTMENT reserves the right to increase any and all administrative fees at the time of exercising each option to renew the AGREEMENT.
- G. For all purposes under this Section, and in any suit, action, or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum by CITY for any work done or material furnished shall be prima facie evidence against SMG that the amount of such payment was necessary and reasonable. Should CITY elect to use its own personnel in making any repairs, replacements, and/or alterations chargeable to SMG, and charge SMG with the cost of same, receipts and timesheets will be used to establish the charges, which shall be presumed to be reasonable in absence of contrary proof submitted by SMG.

## **SECTION 12. MAINTENANCE OF PREMISES**

- A. The DEPARTMENT will be responsible for the maintenance of PREMISES, except custodial maintenance services covered under Event Services. During all periods that the PREMISES are used or are under the control of the SMG for the uses, purposes, and occupancy aforesaid, SMG shall work in conjunction with DEPARTMENT to coordinate all necessary damage/maintenance repairs, including general exterior appearance of all equipment and facilities and regular graffiti removal, to the satisfaction of the DEPARTMENT and in keeping with other first class, high-quality venues. The cause of said maintenance, cleaning and repairs may result from normal wear and tear, as well as vandalism.

Building maintenance which includes all building components including but not limited to structural, mechanical and electrical for the FACILITY will be provided by the DEPARTMENT unless the SMG is specifically requested by the DEPARTMENT to perform a replacement or repair. Should a request be made and a mutually agreed upon scope and cost be reached, said cost will be paid to SMG by CITY as a REIMBURSABLE EXPENSE.

The DEPARTMENT will provide grounds maintenance which includes tree trimming, mowing, weeding and landscaping.

### **B. Property Damage and Theft Reporting**

SMG shall complete and submit to the DEPARTMENT a "Special Occurrence and Loss Report," in the event that the PREMISES and/or CITY-owned property is damaged or destroyed, in whole or in part, from any cause whatsoever, and in the event of theft, burglary, or other crime committed on the PREMISES. The DEPARTMENT shall provide blank forms for this purpose

### **C. Damage or Destruction to Premises**

#### **a. Partial Damage**

If all or a portion of the PREMISES are partially damaged by fire, explosion, flooding inundation, floods, the elements, public enemy, or other casualty, but not rendered uninhabitable, the same will be repaired with due diligence by CITY at its own cost and expense, subject to the limitations as hereinafter provided; if said damage is caused by the negligent acts or omissions of SMG, its agents, officers, or employees, SMG shall be responsible for reimbursing CITY for the cost and expense incurred in making such repairs.

#### **b. Extensive Damage**

If the damages as described above in "Partial Damage" are so extensive as to render the PREMISES or a portion thereof uninhabitable, but are capable of being repaired within a reasonable time not to exceed sixty (60) days, the same shall be repaired with due diligence by CITY at its own cost and expense and a negotiated portion of the fees and charges payable hereunder shall abate from the time of such damage until such time as the PREMISES are fully restored and certified by DEPARTMENT as again ready for use; provided, however, that if such damage is caused by the negligent acts or omissions of SMG, its agents, officers, or employees, said fees and charges will not abate and SMG shall be responsible for the cost and expenses incurred in making such repairs.

#### **c. Complete Destruction**

In the event all or a substantial portion of the PREMISES are completely destroyed by fire, explosion, the elements, public enemy, or other casualty, or are so damaged that they are uninhabitable and cannot be replaced except after more than sixty (60) days, CITY shall be under no obligation to repair, replace or reconstruct said PREMISES, and an appropriate portion of the fees and charges payable hereunder shall abate as of the time of such damage or destruction and shall henceforth cease until such time as the said PREMISES are fully restored. If within four (4) months after the time of such damage or destruction said PREMISES have not been repaired or reconstructed, SMG may terminate this AGREEMENT in its entirety as of the date of such damage or destruction. Notwithstanding the foregoing, if the said PREMISES, or a substantial portion thereof, are completely destroyed as a result of the negligent acts or omissions of SMG, its agents, officers, or employees, said fees and charges shall not abate and CITY may, in its discretion, require SMG to repair and reconstruct the same within twelve (12) months of such destruction and SMG shall be responsible for reimbursing CITY for the cost and expenses incurred in making such repairs.

#### **d. Limits of CITY'S Obligation Defined**

In the application of the foregoing provisions, CITY may, but shall not be obligated to, repair or reconstruct the PREMISES. If CITY chooses to do so, CITY'S obligation shall also be limited to repair or reconstruction of the PREMISES to the same extent and of equal quality as obtained by SMG at the commencement of its operations hereunder. Redecoration and replacement of furniture, equipment and supplies included within SMG'S office furniture and equipment costs shall be the

responsibility of SMG and any such redecoration and refurbishing/re-equipping shall be equivalent in quality to that originally installed.

**D. Pest Control**

CITY shall perform and pay for pest control in or on structures or areas maintained by CITY. SMG shall take all reasonable measures to reduce the proliferation of pests, including maintaining the PREMISES in clean condition. DEPARTMENT may direct SMG to take additional measures to abate pests, which are an immediate threat to public health or safety.

**SECTION 13. PROHIBITED ACTS**

SMG shall not:

1. Use the PREMISES to conduct any other businesses operations of SMG not related to the Greek Theatre;
2. Do or allow to be done anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof on the PREMISES or elsewhere on the FACILITY, nor do or permit to be done anything which may interfere with free access and passage in the PREMISES or the public areas adjacent thereto, or in the streets or sidewalks adjoining the PREMISES, or hinder police, fire fighting or other emergency personnel in the discharge of their duties;
3. Interfere with the public's enjoyment and use of the FACILITY or use the PREMISES for any purpose which is not essential to the FACILITY operations;
4. Rent, sell, lease or offer any space for storing of any articles whatsoever within or on the PREMISES other than specified herein, without the prior written approval of the DEPARTMENT;
5. Overload any floor or roof in the PREMISES;
6. Place any additional lock of any kind upon any window or interior or exterior door in the PREMISES, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the PREMISES, nor refuse, upon the expiration or sooner termination of the AGREEMENT, to surrender to DEPARTMENT any and all keys to the interior or exterior doors on the PREMISES, whether said keys were furnished to or otherwise procured by SMG, and in the event of the loss of any keys furnished by DEPARTMENT, SMG shall pay CITY, on demand, the cost for replacement thereof;
7. Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase (except in connection with increased or changed usage) the rate of any insurance policy required under the AGREEMENT, or carried by CITY, covering the PREMISES, or the buildings in which the same are located or which, in the opinion of DEPARTMENT, may constitute a hazardous condition that will increase the

risks normally attendant upon the operations contemplated under the AGREEMENT, provided, however, that nothing contained herein shall preclude SMG from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;

8. Use, create, store or allow any hazardous materials as defined in Title 26, Division 19.1, Section 19-2510 of the California Code of Regulations, or those which meet the criteria of the above Code, as well as any other substance which poses a hazard to health and environment, provided, however, that nothing contained herein shall preclude SMG from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary except that all hazardous materials must be stored and used in compliance with all City, State and Federal rules, regulations, ordinances and laws;
9. Permit undue loitering on or about the PREMISES;
10. Use the PREMISES in any manner that will constitute waste;
11. Use or allow the PREMISES to be used for, any improper, immoral, or unlawful purposes
12. Install or allow the installation of video games, or vending machines including but not limited to Automated Teller Machines (ATMs) without the prior written approval of the DEPARTMENT.
13. Permit gambling on the PREMISES or install or operate or permit to be installed or operated thereon, any device which is illegal; or use the PREMISES or permit it to be used for any illegal business or purpose.
14. Permit smoking in the audience seating area and any other interior areas of the theatre building or FACILITY PREMISES, with the exception of designated dressing rooms in conformance with AB13 California Smoke-Free Workplace Law. Any exceptions to this policy will require the prior written approval of the DEPARTMENT.

#### **SECTION 14. NUMBER OF ORIGINALS**

The number of original texts of this AGREEMENT shall be equal to the number of parties hereto, one text being retained by each party

#### **SECTION 15. RATIFICATION LANGUAGE**

Due to the need for the SMG'S services to be provided continuously on an ongoing basis, the SMG may have provided services prior to the execution of this AGREEMENT. To the extent that said services were performed in accordance with the terms and conditions of this AGREEMENT, those services are hereby ratified.



## **SECTION 16. PERFORMANCE DEPOSIT**

- A. SMG shall provide the DEPARTMENT a sum equal to Five Hundred Thousand Dollars (\$500,000.00) for the term of the AGREEMENT.
- B. **Form of Deposit**  
SMG'S Deposit shall be in the following form:
  - 1. A cashier's check drawn on any recognized local bank, which cashier's check is payable to the order of the City of Los Angeles.
- C. **Agreement of Deposit and Indemnity**  
SMG unconditionally agrees that in the event of any material default of this AGREEMENT by SMG and consequent termination by CITY, CITY shall have full power and authority to use the deposit in whole or in part to indemnify CITY. All deposits of cash or checks must be immediately so deposited by the DEPARTMENT.
- D. **Maintenance of Deposit**  
CITY shall hold SMG'S deposit in an interest-bearing account during the entire term of the AGREEMENT.
- E. **Return of Deposit to SMG**  
Said Deposit, together with accumulated interest, shall be returned to SMG and any rights assigned to Deposit shall be surrendered by CITY in writing, after the expiration or earlier termination of the AGREEMENT and the later of (i) any exit audits and inspections performed in conjunction with the AGREEMENT, or (ii) ninety (90) days thereafter. The CITY reserves the right to deduct from the Deposit, any amounts up to and including the full amount of the Deposit as stated herein, owed to the CITY by SMG as shown by any exit audits performed by CITY, or as compensation to CITY for material breach by SMG of this AGREEMENT. SMG shall have the right to challenge the accuracy of such audit and/or the propriety of any claim by CITY against the funds, and in the event that the parties fail to reach AGREEMENT concerning the disposition of the funds, may institute appropriate dispute resolution or legal proceedings.

## **SECTION 17. TAXES, PERMITS AND LICENSES**

- A. SMG shall obtain and maintain any and all approvals, permits, or licenses that may be required in connection with the operation of the FACILITY including, but not limited to, tax permits, business licenses, health permits, building permits, police and fire permits, etc.
- B. SMG shall pay all applicable CITY, STATE and Federal taxes associated with SMG'S business activities in performance of the services required in AGREEMENT.
- C. During the entire term of the AGREEMENT, the SMG must hold a current Los Angeles Business Tax Registration Certificate (BTRC) as required by the CITY'S Business Tax Ordinance (LAMC Article 1, Chapter 2, Sections 21.00 et. seq.)

## **SECTION 18. ASSIGNMENT, SUBLEASE, BANKRUPTCY INDIRECT TRANSFERS RESULT IN CITY'S RIGHT TO TERMINATE**

SMG shall not under-let or sub-let the subject PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor assign the AGREEMENT nor transfer, assign or in any manner convey any of the rights or privileges

herein granted without the prior written consent of CITY. Neither the AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any attempted assignment, mortgaging, hypothecation, or encumbering of the FACILITY rights or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to the AGREEMENT or right of use of the whole or any portion of the PREMISES upon any such purported assignee, mortgagee, encumbrance, pledgee or other lien holder, successor or purchaser.

SMG may not, without prior written permission of the CITY:

- A. Assign or otherwise alienate *any* of its rights hereunder, including the right to payment, except that the parties acknowledge that the foregoing does not preclude the assignment by SMG of its rights to receive fees hereunder to its lender(s) as collateral security for SMG's obligations under any credit facilities provided to it by such lender(s), provided that such collateral assignment shall not in any event cover SMG's rights to manage, promote or operate the Facility hereunder.
- B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

## **SECTION 19. BUSINESS RECORDS**

- A. SMG shall maintain for three (3) years after termination, all of its books, ledgers, journals, and accounts wherein are kept all entries reflecting the gross receipts received or billed by it from the business transacted pursuant to the AGREEMENT. Such books, ledgers, journals, accounts, and records shall be available for inspection and examination by DEPARTMENT, or a duly authorized representative, during ordinary business hours at any time during the term of this AGREEMENT and for at least three (3) years thereafter.

### **B. Employee Fidelity Bonds**

At the DEPARTMENT'S discretion, adequate employee fidelity bonds may be required to be maintained by SMG covering all its employees who handle money.

### **C. Cash and Record Handling Requirements**

If requested by DEPARTMENT, SMG shall prepare a description of its cash handling and sales recording systems and equipment to be used for operation of the FACILITY, which shall be submitted to DEPARTMENT for approval.

SMG shall be required to maintain a method of accounting in compliance with Generally Accepted Accounting Principles of the FACILITY, which shall correctly and accurately reflect the gross receipts and disbursements received or made by SMG from the operation of the FACILITY. The method of accounting, including bank accounts, established for the FACILITY shall be separate from the accounting systems used for any other business operated by SMG or for recording SMG'S personal financial affairs. Such method shall include the keeping of the following documents:

1. Regular books of accounting such as general ledgers.

2. Journals including supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
3. State and Federal income tax returns and sales tax returns and checks and other documents proving payment of sums shown.
4. Receipt vouchers shall be retained in order for daily sales to be identified. Reconciliations required per event.
5. Any other accounting records that CITY, in its sole discretion, deems necessary for proper reporting of receipts.

**D. Method of Recording Gross Receipts**

Gross receipts will be recorded through the Point of Sale system in order to establish the daily receipts records and reconciliation per event with the exception of onsite parking for which ticket vouchers are retained.

**E. Annual Statement of Gross Receipts and Expenses**

SMG shall transmit certified financial statements for the FACILITY operations, prepared in a form and by a Certified Public Accounting firm acceptable to the DEPARTMENT, on or before January 15th for the foregoing AGREEMENT year during the term of the AGREEMENT. Notwithstanding the expiration of the AGREEMENT on November 1, 2016, the certified financial statements provisions shall survive the expiration of the AGREEMENT and the final certified financial statements shall be filed on or prior to January 15th of the calendar year after the expiration of the AGREEMENT. To the extent required by law, the certified financial statements shall set forth an expense account entitled "Compensation to Officers" or an account having some similar title. The amount shown opposite this item shall include all salaries or other compensation paid to officers of the SMG'S corporation, directors, shareholders, any individual owning stock indirectly and other persons employed by SMG to manage the operations or supervise SMG'S employees and members of their respective families where such payment is for services derived from the FACILITY operations by SMG. These salaries or other compensation shall not be indicated in any other expense category.

The annual certified financial statements shall include an attachment containing the following information for each show of the preceding season:

- All actual revenue, categorized by source (i.e. gate, parking, etc.)
- Paid attendance and total attendance

Failure to provide the certified financial statements described above, within the prescribed time allowed, shall be cause for the DEPARTMENT to call for an immediate audit of the FACILITY operations. SMG shall be charged for the full cost of labor, mileage, and materials expended in the investigation and preparation of the audit, plus 30 percent (30%) of said costs for administrative overhead.

All records obtained or created in connection with CITY'S inspections of record or audits, will be or become subject to public inspection and production as public records, except to the extent that certain records or information are not required by law to be disclosed.

All documents, books and accounting records shall be open for inspection and reinsertion at any reasonable time during the term of the AGREEMENT, and for a reasonable period, not to exceed one year, thereafter. In addition, CITY may from time to time conduct an audit and re-audit of the books and businesses conducted by SMG and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross sales made by SMG to CITY shall be found to be less than the amount of gross sales disclosed by such audit and observation, SMG shall pay CITY within 30 days after billing any additional rentals disclosed by such audit. If discrepancy exceeds two percent (2%) and no reasonable explanation is given for such discrepancy, SMG shall also pay the cost of the audit.

## **SECTION 20. REGULATIONS, INSPECTION, AND DIRECTIVES**

### **A. Constitutional and Other Limits on SMG's Rights to Exclusivity**

Notwithstanding exclusivity granted to SMG by the terms of this AGREEMENT, the CITY in its discretion may require SMG, without any reduction in rent or other valuable consideration to SMG, to accommodate the rights of persons to access and engage in expressive activities, as guaranteed by the first amendment to the United States constitution, the California constitution, and other laws, as these laws are interpreted by the City. Expressive activities include, but are not limited to, protesting, picketing, proselytizing, soliciting, begging, and vending of certain expressive, message-bearing items.

### **B. Conformance with Laws:**

- a. Any and all applicable rules, regulations, orders, and restrictions which are now in force or which may be hereafter adopted by CITY with respect to the operation of the FACILITY;
- b. Any and all orders, directions or conditions issued, given, or imposed by DEPARTMENT with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas, or public areas adjacent to the PREMISES;
- c. Any and all applicable laws, ordinances, statutes, rules, regulations or orders, including the LAMC, LAAC, the Charter of the City of Los Angeles, and of any governmental authority, federal, state or municipal, lawfully exercising authority over the SMG'S operations; and,
- d. Any and all applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons.

### **C. Permissions**

Any permission required by the AGREEMENT shall be secured in writing by SMG from CITY or the DEPARTMENT and any errors or omissions therefrom shall not relieve SMG of its obligations to faithfully perform the conditions therein. SMG shall immediately comply with any written request or order submitted to it by CITY or the DEPARTMENT.

#### **D. Right of Inspection and Access to Venue**

CITY and the DEPARTMENT, their authorized representatives, agents and employees shall possess and maintain the right to enter upon the PREMISES at any and all times. Said access and/or inspections may be made at any time by persons identified to SMG as CITY employees, or CITY authorized persons. Inspections may be made for the purpose set forth below, however, the enumerations below shall not be construed to limit CITY'S right of inspection for any purpose incidental to the rights of CITY:

1. To determine if SMG is complying with the terms and conditions of the AGREEMENT.
2. To observe transactions between the SMG and patrons in order to evaluate the quality and quantities of services provided or items sold or dispensed, the courtesy extended to and method of dealing with the public, the performance and caliber of SMG'S employees, subcontractor employees and the methods for recording receipts.

The information gathered on these inspections may be used to evaluate SMG to provide a basis for an action by CITY for the termination, renewal or denial of extensions to the AGREEMENT or for any other appropriate action.

#### **E. Control of Premises**

CITY shall at all times retain and possess absolute and full access to the PREMISES and all its appurtenances during the term of the AGREEMENT and may make such changes and alterations therein, and in the grounds surrounding same, as may be determined by said CITY. Such determination shall not be unreasonable and shall take into account the business considerations presented by SMG.

#### **F. Business Inclusion Program**

SMG agrees and obligates itself to utilize the services of Minority, Women, Small, Emerging, Disabled Veteran and Other Business Enterprise firms on a level so designated in its proposal, Schedule a (Exhibit O). SMG certifies that it has complied with Executive Directive No. 14 regarding the Outreach Program. SMG shall not change any of these designated sub consultants and subcontractors, nor shall SMG reduce their level of effort, without prior written approval of the CITY, provided that such approval shall not be unreasonably withheld.

During the term of the AGREEMENT, SMG must submit the MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile, Schedule 8 (Exhibit P) when submitting the Monthly Event Closing Statement. Upon completion of the project, a summary of these records shall be prepared on the "Final Subcontracting Report" form, Schedule C (Exhibit Q) and certified correct by the SMG or its authorized representative. The completed Schedule C shall be furnished to the DEPARTMENT within fifteen (15) working days after completion of the AGREEMENT.

## **G. First Source Hiring Ordinance**

Unless otherwise exempt in accordance with the provisions of this Ordinance, this AGREEMENT is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the LAAC, as amended from time to time.

1. SMG shall, prior to the execution of the contract, provide to the Designated Administrative Agency (DAA) a list of anticipated employment opportunities that SMG estimates it will need to fill in order to perform the services under the AGREEMENT. The Department of Public Works, Bureau of Contract Administration is the DAA.
2. SMG further pledges that it will, during the term of the AGREEMENT:
  - a. At least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Economic and Workforce Development Department of Los Angeles (EWDD), which will refer individuals for interview;
  - b. Interview qualified individuals referred by EWDD; and
  - c. Prior to filling any employment opportunity, the SMG shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the SMG interviewed and the reasons why referred individuals were not hired
3. Any Subcontract entered into by the SMG relating to this AGREEMENT, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.
4. SMG shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the LAAC the DAA has determined that the SMG intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's SMG Evaluation, required under LAAC Section 10.39 et seq., and must be documented in each of the SMG's subsequent SMG Responsibility Questionnaires submitted under LAAC Section 10.40 et seq. This measure does not limit the CITY'S authority to act under this article.

Under the provisions of Section 10.44.8 of the LAAC, the Awarding Authority shall, under appropriate circumstances, terminate this AGREEMENT and otherwise pursue legal remedies that may be available if the DAA determines that the subject SMG has violated provisions of the FSHO.

## **H. CEC Form 50**

Certain contractors agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if those contractors qualify as a lobbying entity under Los Angeles Municipal Code 48.02. CEC Form 50 attached as Exhibit R. Responses submitted without a completed CEC Form 50,

by proposers that qualify as a lobbying entity under Los Angeles Municipal Code 48.02 shall be deemed nonresponsive.

**Bidder Contributions** -City Charter Sections 470(c) (12) Persons who submit a response to this solicitation (bidders) are subject to Charter section 470(c) (12) and related ordinances. As a result, bidders may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit the response until either the contract is approved or, for successful bidders, 12 months after the contract is signed. The bidder's principals and subcontractors performing \$100,000.00 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

**I. CEC Form 55**

CEC Form 55 requires bidders to identify their principals, their subcontractors performing \$100,000.00 or more in work on the contract, and the principals of those subcontractors. Bidders must also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Responses submitted without a completed CEC Form 55 shall be deemed nonresponsive. Bidders who fail to comply with City law may be subject to penalties termination of contract, and debarment. Additional information regarding restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.

**SECTION 21. SURRENDER OF POSSESSION**

SMG agrees to yield and deliver possession of the PREMISES to CITY on the date of the expiration or earlier termination of the AGREEMENT promptly, peaceably, quietly, and in as good order and condition as the same now are or may be hereafter improved by SMG or CITY.

No agreement of surrender or to accept a surrender shall be valid unless and until the same is in writing and signed by the duly authorized representatives of CITY and SMG. Neither the doing nor omission of any act or thing by any of the officers, agents or employees of CITY shall be deemed an acceptance of a surrender of the PREMISES utilized by SMG under the AGREEMENT.

**SECTION 22. NOTICES**

**A. To CITY:**

Unless otherwise stated in the AGREEMENT, written notices to CITY hereunder shall be addressed to:

Department of Recreation and Parks  
Attention: Partnership and Revenue Branch/Concessions Unit  
P. O. Box 86610  
Los Angeles, California 90086-0610

All such notices may either be delivered personally or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

CITY shall provide SMG with written notice of any address change within thirty (30) days of the occurrence of said change.

**B. To SMG:**

The execution of any notice to SMG by DEPARTMENT shall be as effective for SMG as if it were executed by BOARD, or by Resolution or Order of said BOARD.

All such notices may either be delivered personally to the SMG or to any officer or responsible employee of SMG or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

Written notices to SMG shall be addressed to SMG as follows:

SMG  
300 Conshohocken State Rd., Suite 770  
West Conshohocken, PA 19428  
Attn: President

And

SMG  
300 Conshohocken State Rd., Suite 770  
West Conshohocken, PA 19428  
Attn: Counsel

With a copy to (which shall not constitute notice):

SMG  
Attention: GREEK THEATRE MANAGER  
2700 North Vermont Avenue  
Los Angeles, CA 90027

SMG shall provide CITY with written notice of any address change within thirty (30) calendar days of the occurrence of said address change.



## SECTION 23. INCORPORATION OF DOCUMENTS

This AGREEMENT and incorporated documents represent the entire integrated AGREEMENT of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following Exhibits are to be attached to and made part of this AGREEMENT by reference:

- A. Standard Provisions for City Contracts (Rev. 3/09), excluding PSC-34
- B. Insurance Requirements and Instructions
- C. Premises Map
- D. Additional Parking Lots
- E. User Agreement, Revised February 2, 2016, Re-revised September 21, 2016
- F. Event Volume Incentive Program, Established June 18, 2015, Revised September 21, 2016
- G. Proposer's Financial Reports, Proposal Page 46
- H. Form General No. 87 "Non-Employee Accident or Illness Report
- I. Sponsorship Recognition Policy, Procedures and Guidelines for Recognizing Organizations and Individuals who Contribute to and/or Support City of Los Angeles Park and Programs
- J. Naming Policy, Procedures and Guidelines for Parks and Recreational Facilities
- K. Proposer's General and Administrative Expense, Proposal Page 74-75
- L. 2017 Event Services and Staffing Costs.
- M. Monthly Remittance Advice Form
- N. Schedule A, MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors Information Form
- O. MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile, Schedule B
- P. Final Subcontracting Report form, Schedule C
- Q. CEC Form 50

In the event of any inconsistency between any of the provisions of this AGREEMENT and/or exhibits attached hereto, the inconsistency shall be resolved by giving precedence in the following order: 1) This AGREEMENT exclusive of attachments, 2) Exhibit A, 3) Exhibit B, 4) Exhibit C, 5) Exhibit D, 6) Exhibit E, 7) Exhibit F, 8) Exhibit G, 9) Exhibit H, 10) Exhibit I, 11) Exhibit J, 12) Exhibit K, 13) Exhibit L, 14) Exhibit M, 15) Exhibit N, 16) Exhibit O, 17) Exhibit P, 18) Exhibit Q, and 19) Exhibit R.

(Signature Page to Follow)

**IN WITNESS WHEREOF, THE CITY OF LOS ANGELES has caused this AMENDED AGREEMENT to be executed on its behalf by its duly authorized General Manager of the Department of Recreation and Parks, and SMG has executed the same as of the day and year herein below written.**

**THE CITY OF LOS ANGELES, a municipal corporation, acting by and through the Department of Recreation and Parks**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

MICHAEL A. SHULL  
General Manager

SMG

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Stefan Fauble  
Deputy City Attorney

Business Tax Registration Certificate Number: \_\_\_\_\_

Internal Revenue Service Taxpayer Identification Number: \_\_\_\_\_

AGREEMENT Number: \_\_\_\_\_

**CITY OF LOS ANGELES  
DEPARTMENT OF RECREATION AND PARKS  
Greek Theatre  
User Agreement**

This User Agreement No. \_\_\_\_ is made and entered into this day \_\_\_\_ of \_\_20\_\_ by and between SMG, a Pennsylvania General Partnership ("SMG"), as agent for the City of Los Angeles ("City"), a municipal corporation, acting through its Department of Recreation and Parks ("Department") and **[INSERT USER NAME AND ADDRESS]** (hereinafter referred to as the "User").

**WITNESSETH:**

**SECTION 1. Permitted Premises and Term**

1. For and in consideration of the mutual agreements contained herein and subject to its stated terms and conditions, SMG hereby grants a Right of Entry and leases to the User, the Greek Theatre, located at 2700 North Vermont Ave. in Griffith Park, Los Angeles, The leased premises shall consist of the theatre stage house, the spectator seating area, available dressing rooms, production offices, green room/hospitality room, and such other areas permitted by SMG for the sole purpose of presenting the event ("Premises"), expressly excepting any rights to all parking lots, except for the allotted parking spaces provided in Section 3 of this Agreement.

**SECTION 2. Event Information and Term**

The User shall have the right to occupy and use the venue for **[INSERT HEADLINER ARTIST or SHOW NAME]**, (the "Event") on **INSERT DATES AND TIME** and no other, and the tenancy shall not be assigned or sublet.

Access to the PREMISES shall be granted at **[time]** a.m. (Load-In) on **[day and date]**. The Event shall commence at **[time]** p.m. and conclude at approximately \_\_\_\_p.m. Door opening time is agreed to be Ninety Minutes before scheduled show time indicated on ticket. Load-out of the Event shall commence immediately after the conclusion of the Event and be completed no later than 2:00am the day following the Event.

**SECTION 3. Rental Rates**

- a. For each performance, the rental rate shall be either eleven percent (11%) of the gross gate receipts (less applicable taxes and facility fee) or the minimum rental rate of Twenty-Five Thousand Dollars (\$25,000.00), whichever is greater. In no event shall the maximum rental rate for each performance exceed Thirty-Five Thousand Dollars (\$35,000.00). Should the same artist have multiple performances on the same day, the rental rate for each subsequent performance on the same day shall be at a flat rate of Fifteen Thousand Dollars (\$15,000.00)

per subsequent performance. The advance deposit for this engagement is Twenty-Five Thousand Dollars (\$25,000.00).

- b. Rental rate includes a total of twenty-five (25) parking passes for USER or show vehicles
- c. Each additional parking space is Twenty-Five Dollars (\$25.00).
- d. Move-in and move-out dates must be arranged with SMG, and will be subject to availability of the premises and conditioned upon the User paying all costs as stated in the below table. If a definite booking of a rehearsal date or move-in or move-out date is authorized before or after the performance date, the User shall pay Two Thousand Five Hundred Dollars (\$2,500.00) for each such reserved date in addition to all applicable costs. \* In no case shall the load in for any performance be authorized to begin prior to 7:00 AM.

e. Rental Rate Table:

Venue	Capacity	Commercial Rental Rate (Those events promoted and/or sponsored by a commercial group organization)		Community Rental Rate (Those events which are promoted and/or sponsored by a Civic, Educational, Religious or Charitable group registered as a non-profit 501c3 status)		Load-In/Out Rate
		(A) Admission Charged Minimum vs %	(B) No Admission Charged Minimum	(C) Admission Charged Minimum vs %	(D) No Admission Charged	
Greek Theatre	5,901	\$25,000 11%	\$35,000	\$7,500 8%	\$5,000	\$2,500
		Rental fee is Gross Ticket Receipts (less applicable taxes and facility fee)				

**SECTION 4. Fees**

All fees due to SMG must be remitted to:

**SMG GREEK THEATRE  
2700 VERMONT AVENUE  
Los Angeles, CA 90027  
Attn: Becky Colwell**

**A. Commercial Rental Rate, with Admission Charged (A):**

1. In addition to the rental rates in the table above, the User agrees to reimburse SMG for any and all labor utilized for this event at a House Flat Rate of Twenty-Eight Thousand Dollars (\$28,000.00). The House Flat Rate includes labor costs

for ushers, ticket takers, security, cleaning, police, emergency medical services, box office staff and leasing costs associated with the house sound, lighting and video. The House Flat Rate expressly excludes the costs of stagehands and production related personnel, which must be provided through the existing contracts with the International Alliance of Theatrical Stage Employees (IATSE) Local 33 (Stage Technicians Union), Local 706 (Make-up Artists and Hair Stylists Guild), Local 768 (Theatrical Wardrobe Union), and Local 47 (Musicians Union). The House Flat Rate also expressly excludes the costs of private security employed for personal protection of artists or not related to public safety, special medical services requested for the artist only, advertising, ASCAP/BMI/SESAC, insurance, catering, runners, transportation, sign language interpreters (if requested), pyro/fire watch expenses (if any), Confetti cleaning expenses (\$1,500) and other USER/artist requested expenses.

2. The House Flat Rate covers the event with doors opening ninety (90) minutes prior to the advertised Event time and the performance ending no later than 10:30PM. The Greek Theatre has a hard curfew of 11:00pm. Additional labor fees will be charged at a rate of \$2,750 per one-half hour or portion thereof for events who's duration time exceed three and one half hours from the scheduled event time as indicated on ticket . User will be responsible for any staffing costs associated with any load-in/load-out days and rehearsals.
3. The User shall provide SMG, at least ten (10) days prior to holding an event, a full and detailed Event and production advance, and such other information required by SMG concerning the booked event. SMG shall determine the final minimum number of, and use of, ushers, ticket takers, security, cleaning, police, emergency medical services and box office staff for those employed to handle and govern the conduct of all in attendance at the User's event.
4. The User also shall pay to SMG, on demand, any other and further sums which may become due to SMG on account of special facilities, equipment, material, or extra services furnished or to be furnished by SMG at the request of the User, or necessitated by the User's occupancy of the premises, the compensation for which is not included in the rent or rents specified above. The User shall pay the guaranteed minimum rental on signing this User Agreement. Should the User fail to satisfy and pay any debts, accounts, and amounts owing and due SMG under the terms of this User Agreement, then the SMG may apply the proceeds of the security deposit.
5. The User agrees to promptly pay any and all Municipal, State, or Federal taxes, permit or license fees of whatever nature applicable to this occupancy and to take out all permits and licenses required for occupancy, and further agrees to furnish SMG, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment or possession of any such taxes, fees or permits. Appropriate records shall be maintained and made available upon request by SMG.

6. A Five Dollar (\$5.00) Facility Maintenance Fee must be added to the price of each ticket sold.
7. Any complimentary tickets set aside by the User and for the User's use shall be marked as such. Any tickets not marked accordingly will be counted as "sold" and Facility Maintenance Fee ("FMF") will be collected. For additional Greek Theatre Ticketing policy requirements please see policy attached in Exhibit A.

### **B. Commercial, with no admission charged and Community Rental Rates**

1. In addition to the policies and rental rates listed above, the User agrees to pay SMG for any and all labor costs for ushers, ticket takers, security, cleaning, police, emergency medical services, box office staff and leasing costs associated with the house sound, lighting and video systems, stagehands and production related personnel. These costs will be determined on an event by event basis. In addition, USER shall be responsible for the costs of private security employed for personal protection of artists or not related to public safety, medical services required for the artist only, advertising, ASCAP/BMI/SESAC, insurance, catering, runners, transportation, sign language interpreters (if requested), pyro/fire watch expenses (if any), confetti cleaning expenses (\$1,500) and other USER/artist requested expenses
2. The User also shall pay to SMG, on demand, any other and further sums which may become due to SMG on account of special facilities, equipment, material, or extra services furnished or to be furnished by SMG at the request of the User, or necessitated by the User's occupancy of the premises, the compensation for which is not included in the rent or rents specified above. The User shall pay the guaranteed minimum rental on signing this User Agreement. Should the User fail to satisfy and pay any debts, accounts, and amounts owing and due SMG under the terms of this User Agreement, then SMG may apply the proceeds of the security deposit.
3. The User agrees to promptly pay any and all Municipal, State, or Federal taxes, permit or license fees of whatever nature applicable to this occupancy and to take out all permits and licenses required for occupancy), and further agrees to furnish SMG, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment or possession of any such taxes, fees or permits. Appropriate records shall be maintained and made available upon request by SMG. .

### **SECTION 5. Security Deposit**

Security Deposit for promoters with less than four (4) shows for the current season shall furnish a \$10,000.00 per show cashier check only, security deposit to SMG for each show. Beginning with fifth (5<sup>th</sup>) booking, promoters must provide letter of credit.

## **SECTION 6. Rules & Regulations**

It is understood and agreed that SMG hereby reserves the right to control and manage the Greek Theatre and to enforce all necessary and proper established rules for its management and operation and for its authorized representatives to enter any portion of the Greek Theatre and on any occasion, provided that SMG and its agents shall not unnecessarily disturb the privacy of the artists in areas and circumstances where the artists have a reasonable expectation of privacy. SMG also reserves the right, but not the duty, to safely and reasonably have any objectionable person or persons removed from the premises and the User hereby waives any and all claims for damages against or any and all of their officers, agents or employees resulting from the exercise of this authority. SMG reserves the right to manage and control all parking facilities on the Greek Theatre property or leased by SMG at all events held at the Greek Theatre. Notwithstanding the foregoing, SMG will make such parking facilities available to event patrons during the User's event (at such prices determined by the Department).

The standard door opening at the Greek Theatre shall be ninety minutes prior to the advertised start time of the show; this may be adjusted as necessary with advance notice by the User to SMG but may be subject to additional fees.

Performances must end no later than 10:30 PM, unless prior written permission has been granted by SMG. In no case, however shall a performance extend past 11:00 PM. SMG reserves the right to cut power, and assess a penalty of One Thousand Dollars (\$1,000.00) per minute for the first five (5) minutes past 11:00pm. A penalty of Five Thousand Dollars (\$5,000.00) per minute will be assessed thereafter.

SMG shall be the sole provider of conversion labor, ticket takers, ushers, ticket sellers, peer security, police, medical), cleaning personnel, receptionist, maintenance/ operations staff, engineers, event coordinator, and local stagehand labor. SMG, using reasonable discretion, shall have final say as to the minimum number of personnel required based on the nature of the Event and the anticipated attendance.

Special stage effects involving pyrotechnic displays (including fireworks and flash powders) are prohibited except by a special fee and a City permit from the Fire Prevention Bureau. If a pyrotechnic display is required, arrangements must be made through the Los Angeles Fire Department at the User's expense.

The User shall use and occupy the venue in a safe and careful manner and shall comply with all applicable Municipal, State, and Federal laws, rules and regulations pertaining to the City of Los Angeles, the Department of Recreation and Parks and all other rules and regulations prescribed by the Fire and Police Departments and other governmental authorities as may be in force and effect during the tenancy. The User shall not use said premises or any part thereof for the possession, storage, or sale of liquor (except with the permission of SMG, and according to law), for any unlawful or improper purpose or in any

manner so as to injure persons or property in, on, or near the premises. User shall not do any act or permit or allow, any act to be done during the term of this User Agreement which will in any way mark, deface, alter or injure any part of the Greek Theatre.

All portions of the sidewalks, entrances, passages, vestibules, halls, and all ways of access to public utilities on the Premises shall be kept unobstructed by the User and shall not be used for any purpose other than ingress or egress to and from the premises. The doors, stairways, or openings into any place in the structure, including, hallways, corridors, and passageways, also house lighting attachments, shall in no way be obstructed by the User.

SMG will be responsible for traffic control working in conjunction with the City's Department of Transportation (DOT).

SMG assumes no responsibility whatsoever, for any property placed in said premises, and SMG is hereby expressly released and discharged from any and all liabilities for any loss, injury or damages to person or property that may be sustained by reason of the occupancy of said premises under this User Agreement. All watchmen or other protective service desired by the User must be arranged for by special agreement with SMG with due diligence taken for the receipt, handling, care or custody of any property shipped or otherwise delivered to the Greek Theatre, either prior to, during, or subsequent to the User's occupancy. SMG and its officers, agents, and employees shall act solely for the accommodation of the User and neither SMG nor its officers, agents, or employees shall be liable for any loss, damage, or injury to such property.

SMG shall have the sole right to collect and have custody of all articles left on the premises by persons attending any function held on the premises. Any property left on the premises by User shall, after a period of thirty (30) days from the last day of tenancy hereunder, be deemed abandoned and at SMG's sole option, become the property of SMG, without further notice.

In the event any portion of the Greek Theatre is not vacated at the end of the term of this rental, then SMG shall be and is hereby authorized to remove articles from the venue, at the expense of the User. SMG shall not be liable for any damage to or loss of such goods, wares, merchandise or property sustained either during the removal or storage of by SMG and it and its agents, employees and officials are hereby expressly released from any and all claims for such loss or damage. SMG will notify the User of any equipment or articles inadvertently left by the User and provide the User with a reasonable opportunity to remove same prior to removal or disposal by SMG. Upon termination of this Agreement, the User will deliver back to SMG the venue in as good condition and repair as it was received and in conformance with the Department's guidelines. Should the User fail to return the venue in as good condition and repair as it was received, any necessary and reasonable amounts owed and due SMG under the terms of this User Agreement may be subtracted from the User's security deposit.



Notwithstanding exclusivity granted to User by the terms of this Agreement, the City in its discretion may require User, without any reduction in rent or other valuable consideration to User, to accommodate the rights of persons to access and engage in expressive activities, as guaranteed by the first amendment to the United States constitution, the California constitution, and other laws, as these laws are interpreted by the City. Expressive activities include, but are not limited to, protesting, picketing, proselytizing, soliciting, begging, and vending of certain expressive, message-bearing items in appropriately legal areas which are not disruptive to the Event, intrusive of the User's exclusivity or which impede commercial operations of the venue.

ADA – Americans with Disability Act Requirements:

The parties recognize that the City is subject to the provisions of Title II of the Americans with Disabilities Act ("ADA") and that the User is subject to the provisions of Title III of the ADA (including all revised regulations dated September 15, 2010 and effective March 15, 2011). Concerning compliance with the ADA and all regulations thereunder, the City is responsible for the permanent building access requirements; such as wheelchair ramps, elevators, restrooms, doors and walkways. The User is responsible for the non-permanent accessibility standards and requirements, such as, but not limited to, seating accessibility, ticketing, ticket pricing, sign language interpreters, signage and all other auxiliary aids and services customarily provided by the User. The User shall comply with the ADA and all regulations thereunder.

Tickets for unsold accessible seating may be released for sale to individuals without disabilities: 1. When all non-accessible tickets (excluding luxury boxes, club boxes, or suites) have been sold; 2. When all non-accessible tickets in a designated seating area have been sold and the tickets for accessible seating are being released in the same designated area; or 3. When all non-accessible tickets in a designated price category have been sold and the tickets for accessible seating are being released within the same designated price category. User represents that it has viewed or otherwise apprised itself that such access to the premises and common areas and accepts such access, common areas and other conditions of the premises as adequate for User's responsibilities under the ADA. The User shall be responsible for ensuring that the space rented by City to User complies and continues to comply in all respects with the ADA, including accessibility, usability and configuration insofar as the User modifies, rearranges or sets up in the facility in order to accommodate the performance produced by the User. The User shall be responsible for any violations of the ADA that arise from User's reconfiguration of the seating areas or modification of other portions of the premises in order to accommodate User's engagement. The User shall be responsible for providing and paying for auxiliary aids and services that are ancillary to its production and for ensuring that the policies, practices and procedures it applies in its production are in compliance with the ADA.

## **SECTION 7. Ticketing Agent and Tickets**

The User will adhere to the Greek Theatre Ticketing Policy as established by Department (Exhibit A). The User shall not sell, allow, or cause to be sold or issued, admission tickets in excess of the seating capacity of, or admit a larger number of persons to the area than can be lawfully and safely seated or moved about, with the final decision vested by SMG.

## **SECTION 8. Broadcasting & Advertising Rights**

This Agreement includes rights to broadcast from the Greek Theatre. Broadcast is defined as the "the dissemination of video, film or radio content via electronic means including but not limited to high definition, standard and cable television, radio, web casting, web streaming, down loads, and/or other forms of digital transmission, digital broadcast or digital distribution effectuated by means of the internet in all forms of television media now and hereafter known SMG shall retain all television, film, radio and/or recording rights to any Events which take place in or at the Facility. Licensee may purchase such rights from SMG for a broadcast and/or recording fee ("**Broadcast Fee**") of \$15,000. plus applicable stagehand costs.

This User Agreement does not include any advertising rights pertaining to the venue in favor of the User. SMG retains all rights to sell or lease advertising on the premises, and to determine whether any incidental display of products, logos, etc., may conflict with the Department's rights. SMG shall not permit any display on the premises of an objectionable nature, in the sole and absolute discretion of SMG

SMG further reserves the right to make or record any photographs, audio or video at the venue for its own personal use or for the customary advertising and publicity, subject to any applicable required approval(s) from the performing artist.

Except for announcement of upcoming concerts at the Greek Theatre, or events in which the User is promoting or advertising for artists performing at the event, the User shall not distribute fliers, brochures, petitions, surveys or literature of any kind nor sell or cause to be sold or sampled pamphlets, novelties, curios, souvenirs, or similar items at or in the Greek Theatre, except upon written permission of SMG.

USER shall use the Greek Theatre logo in all advertising controlled by or done on behalf of USER relating to an Event, including, but not limited to, television, internet, newspaper, magazine, and outdoor advertising. USER's right to use the Greek Theatre Logo shall be limited to the specific, express purpose set forth in the foregoing sentence and/or as otherwise authorized by SMG in writing prior to the use thereof. In connection with USER's use of the Greek Theatre Logo as permitted in this section, USER shall use only the form of the Greek Theatre as provided by SMG to USER in any artwork or other depiction thereof.

## **SECTION 9. Sound, Video & Lighting**

SMG will provide house sound, video displays and basic lighting systems originating at the front house mix position in the venue. The User is required to use the house audience public address/sound reinforcement system for the event but may provide alternative and/or additional-stage sound monitors and consoles, video displays and lighting systems required for the event. A comprehensive Greek Theatre Technical Package can be found at [www.lagreektheatre.com](http://www.lagreektheatre.com)

During the performance, SMG will work in conjunction with the USER to monitor sound levels. At no time shall sound levels exceed 95dbA. Should sound levels exceed 95dBA, for (1) minute, the User will be given a warning to immediately lower the sound to 95dBA. Should USER fail to lower the sound to 95dbA or should additional violations occur, monetary penalties will be assessed as follows:

First Offense: Shall be a Five Thousand Dollar (\$5,000.00) fine.

Second Offense: Shall be a Seven Thousand Five Hundred Dollar (\$7,500.00) fine.

Subsequent Offenses: Shall be Ten Thousand Dollars (\$10,000.00) per violation.

However, should sound levels exceed 100dBA at any time, there will be no warnings to lower the sound and an immediate fine of \$10,000 will be assessed to the USER and for any subsequent violations that also exceed 100dBA.

A sound monitoring data report showing sound readings each minute shall be generated at the conclusion of each performance. At the conclusion of the show the sound monitoring data report will be provided to document all violations of the sound level limit that occurred during the performance. If any violations occurred, the above penalties shall apply and shall be paid by USER as part of the Event settlement, or otherwise deducted from the USER's security deposit.

## **SECTION 10. Food and Beverage**

The User shall not sell or cause to be sold items of food or drink at or in the Greek Theatre, without written permission. Food and beverage sales are in the exclusive rights of the Department's Food and Beverage Concessionaire. SMG must approve any and all sampling requests, with such approval not to be unreasonably withheld if they are made at the request of artist's tour sponsors. The User may opt to bring in a caterer to perform backstage artist and stagehand duties with no additional buy-out fee.

## **SECTION 11. Artists Merchandise Sales**

With regard to Event merchandise sales, Department's Food and Beverage Concessionaire (Concessionaire) shall handle sales on behalf of the Event/artists. USER agree to a merchandise split of 80% (Event) AND 20%(Concessionaire), 90% (Event)/10% (Concessionaire) on recorded media, after the deduction of all applicable



**IN WITNESS WHEREOF, THE CITY OF LOS ANGELES** has caused this User Agreement to be executed on its behalf by its duly authorized Department of Recreation and Parks, and User has executed the same as of the day and year herein below written.

**SMG, as agent for THE CITY OF LOS ANGELES**, a municipal corporation, acting by and through its Department of Recreation and Parks:

**BY:** \_\_\_\_\_  
**General Manager or Designee**

**DATE:** \_\_\_\_\_

**[INSERT USER NAME]**

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

Signature

**BTRC:** \_\_\_\_\_

**APPROVED AS TO FORM:**  
**MICHAEL N. FEUER, City Attorney**

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**STREFAN FAUBLE**

### Greek Theatre Ticketing Policy – 2017 Season

Per the User Agreement, promoters/producers (hereafter referred to as “Users”) retain the right to select a preferred ticketing company for any performance. Any selected ticketing company can request to make their system available for selection by the User provided they meet the following, but not limited requirements:

1. **Infrastructure and Equipment** - ticketing company shall incur all costs for the installation and utilization of their ticketing system including wiring/cabling, telecommunication jacks/ports, ticket sales computer terminals, ticket printers, ticket stock, access control (scanners, antennas), and storage of said items when not in use.
2. **Training** – ticketing company shall provide initial and ongoing training, at no cost, to the Greek Theatre box office staff for proper utilization of the system to service the USERS and the public.
3. **On-site support** – ticketing company shall provide technical and operational support during events upon reasonable request of the Greek Theatre Operator (“Operator”). Ticketing company will also maintain phone and e mail support.
4. **Agreement** - after executing a User Agreement, User must identify its preferred ticketing company from among the Greek Theatre’s existing providers and enter into a Ticketing agreement with Operator.
5. **Ticketing Operations** - Ticketing operations will be conducted by the Operator in accordance with the Ticketing Agreement and the User will receive all financial and informational benefits associated with that agreement.

However, if the User already has an existing agreement of its own with the selected ticketing company, the USER shall not be required to execute a Ticketing Agreement, but shall receive the following benefits and required to provide:

- A. User shall be able to use their ticket convenience charge schedule.
- B. User will directly receive all ticket royalties in accordance with their agreement.
- C. User will receive ticket purchaser data and provide same to Operator.
- D. User will receive credit for the ticket sales volume of the event.
- E. User may request and will be granted advances on advance ticket sales (up to the amount in excess of estimated venue expenses). Said advances will be returned to Operator within twenty four (24) hours of any notice of a cancelled performance.

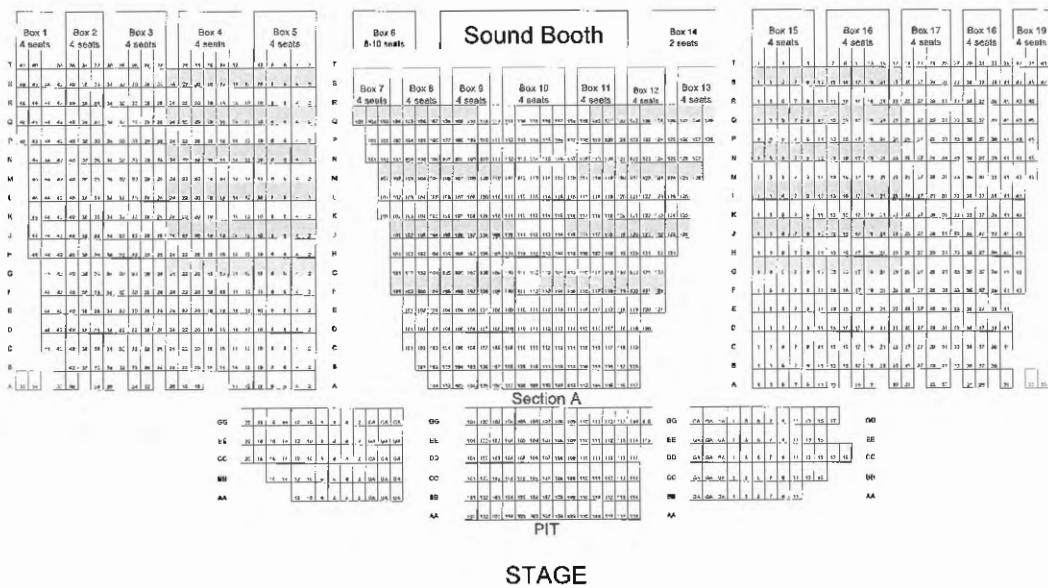
F. User shall retain the right to to build their event, place holds, and otherwise manage the ticketing inventory, subject to compliance with the venues' stipulations below

6. **Stipulations** -Regardless of which ticketing agreement or ticketing company is used, the following venue ticketing stipulations will apply:

- A. Advance ticket sales monies will be sent by the ticketing company on a weekly basis to Operator.
- B. A \$5.00 Facility Fee will be included in the sales price of every ticket sold, as per the USER agreement
- C. No convenience or other service charge will apply to tickets purchased in advance of event day at the Greek Theatre box office.
- D. Credit card fees from box office sales will be assessed to the buyer on the sale of each ticket
- E. Operator shall determine the hours of operation of the Greek Theatre Box Office for public sales.
- F. Operator shall manage and approve the on-sale schedule for all events, to coordinate the management of on-sale traffic and minimize conflicts between similar event types or genres.
- G. Greek Theatre box seats shall not be included in the ticket manifest of the event, and Operator shall retain all revenues associated with the box seats.
- H. Seating locations for the Greek Theatre Premium Seating Programs (200 seats) shall be placed on hold prior to any sales being conducted, and shall be held until the option is exercised or released, even if the USER is placing the holds and managing the inventory. Option to purchase tickets will expire prior to each show's general on-sale date for the public. These seats will be manifested and confirmation of holds must be provided to Operator before show goes on-sale. Please see venue Premium Seating map below.
- I. User will set aside and provide Operator with Thirty (30) tickets for each event, at no charge to venue. The location of said venue comps shall be mutually agreed upon within 7 days after the on-sale.
- J. Operator shall be permitted to place venue holds, for purchase, subsequent to show and premium program holds being placed and prior to public sale,

in quantities and locations comparable to industry standards for venue holds. Please see venue Premium Seating Program hold map attached.

- K. User shall also bear financial responsibility for any chargebacks related to the event.
- L. Operator shall have access to view and validate all ticket sales activity.
- M. Operator reserves the right to amend this ticketing policy at any time in its sole discretion.





**City of Los Angeles**  
**Department of Recreation and Parks**  
**General Booking Policy for the Greek Theatre**

## **RESERVATIONS**

Filling out and returning the venue rental application will ensure your reservation is placed in date receipt order on the master calendar of events and programs for the Greek Theatre ("Venue Calendar"). Venue rental applications can only be submitted by email at [booking@lagreektheatre.com](mailto:booking@lagreektheatre.com)

### **A. Reserving and Holding Dates on the Venue Calendar**

To place a hold on the Venue Calendar, an applicant must provide the headlining act name and date of performance to be placed in the first available hold position. Should an applicant wish to change the headlining act name, and there is (are) additional date holder(s) behind you, then the applicant's hold will be released and will be placed in the last hold position along with the new headlining act's name.

### **B. Challenge Policy**

An applicant in the first hold position cannot be challenged if the minimum rent deposit has been received (see rental rates below for appropriate minimum rent deposit amount). An applicant who has not paid the minimum rent deposit may be subject to the following challenge policy.

Prior to signing the User Agreement, any applicant behind the first hold position may issue a "challenge" to the first date holder's position. The challenger will be required to submit a certified check or a company check made payable to: SMG Greek Theatre, or electronically transfer funds to SMG Greek Theatre in the amount of Twenty-Five Thousand Dollars (\$25,000.00) for the challenge fee. The challenged holder may meet the "challenge" within forty-eight (48) business hours by providing a matching certified check or company check payable to: **SMG Greek Theatre** or electronically transfer funds to SMG Greek Theatre, in the amount of Twenty-Five Thousand Dollars (\$25,000.00) and executing the User Agreement. If the challenge is met, the challenger fee will be returned to the challenger. User Agreements may be submitted via email to the Greek Theatre General Manager or in person at the Greek Theatre Administrative Office Monday – Friday between the hours of 9am-5pm (excluding City of Los Angeles observed Holidays). Challenges delivered after these set hours (either in person or by email) will not start until the next business day.

Challenge starts once both deposit and signed User Agreement have been received.

If the challenged applicant fails to meet the challenge, the applicant's position will be immediately surrendered and the successful challenger will become the confirmed act. The challenge fee will be applied to the event (rent and incidental expenses) and is not

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Department of Recreation and Parks  
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refundable nor is it transferable to any other event or date. Contracted dates with appropriate fees paid cannot be challenged.

*Please note: The act associated with this challenge MUST be the headliner on this date. Should the act not become the headliner, the date may be lost.*

### **MULTIPLE DATE PERFORMANCES**

Users may reserve multiple days on the calendar for one artist by providing a deposit of Twenty-Five Thousand Dollars (\$25,000.00) per performance day. Once desired dates are confirmed, User may elect to put one event day on-sale to the general public to determine consumer ticket demand. If after a period of 10 days from initial event on-sale date, User determines that additional dates for artist are no longer necessary, the additional dates will be returned to the Greek booking calendar for other Users to access. The deposit of \$25,000.00 for the released date(s) may be applied to another date in same calendar year for User.

### **RENT/DEPOSITS AND FEES**

To issue a User Agreement, the advance or minimum rent is due. All funds must be paid by a certified check or a company made payable to: SMG Greek Theatre or electronically transferred to SMG Greek Theatre. *Please Note: Multiple Dates require the minimum rent per day.*

Venue Capacity	Commercial Rental Rate (Those events promoted and/or sponsored by a commercial group organization)			Community Rental Rate (Those events which are promoted and/or sponsored by a Civic, Educational, Religious or Charitable group registered as a non-profit 501c3 status)			Load-In/Out Rate
	Admission Charged Minimum	No Admission Charged vs %	No Admission Charged Minimum	Admission Charged Minimum	No Admission Charged vs %	No Admission Charged Minimum	
5,901	\$25,000	11%	\$35,000	\$7,500	8%	\$5,000	\$2,500
	Rental fee is Gross Ticket Receipts (less applicable taxes and facility fee)						

### **CANCELLATION**

If the promoter or artist wishes to cancel a contracted event, the advance deposit is forfeited and will not be returned to the promoter. In addition the promoter will be responsible for any venue incurred costs associated with the cancelled event.

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## **SELECTED VENUE RULES AND REGULATIONS**

User is responsible for all event related labor expenses as defined in the User Agreement. Event Load-in shall not occur prior to 7:00 AM. Performances must end no later than 10:30 PM, unless prior written permission has been granted by SMG but in no case shall a performance extend past 11:00 PM. Events whose duration time exceed three and one half hours from the scheduled event time as indicated on ticket will be subject to additional expenses. See User Agreement for fees. SMG reserves the right to cut power to any performance past 11:00 PM. Should the performance for whatever reason fail to end at the agreed upon ending time, a penalty of One Thousand Dollars (\$1,000.00) per minute for the first five (5) minutes past the ending time will be assessed. A penalty of Five Thousand Dollars (\$5,000.00) per minute will be assessed thereafter.

## **INSURANCE**

Insurance is required. Instructions and Information on Complying with City Insurance Requirements, Exhibit B, is provided for your insurance agent or broker's use. The City of Los Angeles requires specific language for the policy, a copy will be provided in the User Agreement at the time of contracting.

## **TICKETING**

Event on-sales must be communicated to SMG prior to events being announced or tickets going on sale to the general public. Information provided to SMG must include ticket prices, ticket purchase link and any age restrictions. Ticket sales must not take place before the advance deposit is received and the User Agreement has been executed. See Greek Theatre Ticketing Policy, Exhibit A of the User Agreement.

## **ADVERTISING**

Advertising must not take place before the advance deposit is received and the User Agreement has been executed. The Greek Theatre logo must be included in all marketing efforts utilized by User to promote their event. USER shall use the Greek Theatre logo in all advertising controlled by or done on behalf of USER relating to an Event, including, but not limited to, television, internet, newspaper, magazine, and outdoor advertising. USER's right to use the Greek Theatre Logo shall be limited to the specific, express purpose set forth in the foregoing sentence and/or as otherwise authorized by SMG in writing prior to the use thereof. In connection with USER's use of the Greek Theatre Logo as permitted in this section, USER shall use only the form of the Greek Theatre as provided by SMG to USER in any artwork or other depiction thereof.

**City of Los Angeles  
Department of Recreation and Parks  
General Booking Policy for the Greek Theatre**

**SPONSORSHIP/HOSPITALITY**

Greek Theatre management retains the right to display logos, branding, slides, and/or videos of their sponsor partners throughout the venue and on any video screens prior to performances, during intermission and after performances.

On-site exposure and activation of artists/tour sponsors and/or USER sponsors must be presented to Greek Theatre management for approval, and any expense of said activations shall be borne by USER or the applicable sponsor. This approval includes, but is not limited to, placement of signage, location and size of activation spaces, inflatables, product displays, sampling, or giveaways, etc. Onsite activation and/or signage, sampling, giveaways are not permitted inside the seating area of the Greek Theatre. In no event shall approval of said sponsors infringe upon, diminish, or violate the rights and entitlements of Greek Theatre sponsors in at the venue, including all hospitality areas, including, but not limited to The Redwood Deck and its adjacent hospitality room, or any other designated-hospitality areas for which access is permitted and controlled by Greek Theatre management. USERS may request access to these spaces for their guests. Requests may be granted based on availability, and USER may be charged a per person access fees for each access granted.

USERS are permitted use of the under stage catering rooms and dressing rooms for the hospitality of their sponsors, VIPs, and guests. USERS are permitted to provide their own catering for these spaces, or may select the Greek Theatre Concessionaire for their catering needs. Any and all alcohol provided by USER or any caterer other than the Greek Theatre Concessionaire will not be permitted to leave the aforementioned spaces in this paragraph.

**2017 EVENT VOLUME INCENTIVE PROGRAM**

The Greek Theatre (Venue) appreciates the continued programming support of our Venue. In an effort to incentivize and encourage a robust and diverse set of seasonal event bookings, the Venue will provide a rebate to promoters based on the parameters listed below:

1. **Qualifications:** A promoter or event organizer must bring a minimum of twenty (20) events to the Venue in the qualifying period to be eligible to receive a rebate(s). In the event of a co-promotional event, a qualified rebate will be paid only to the promoter or show organizers listed on the User Agreement.
2. **Payment terms:** Rebates will accrue starting with the first event in the qualifying period, but will not be earned and payable until the twentieth event occurs during the period. The accrued amount for the first twenty events will be calculated at the conclusion of the twentieth event, and all rebates which will be paid thirty (30) days after the conclusion of the season.

3.

**Rules:**

- A. The volume incentive is based on attendance figures per show and incorporates both paid and complimentary tickets. For each scanned, paid ticket a rebate of \$1.25 per ticket will be applied and .50 for each scanned complimentary ticket.
- B. The volume incentive program only applies to commercial events and is not applicable to events booked under the Community Rental Rates.
- C. All other rental terms as defined by the Venue apply including the terms in the standard User Agreement.
- D. This is the only form of commercial incentive program recognized by the Venue. The Venue will review the incentive program requirements on an annual basis and retains the right to modify the incentive program at any time, subject to rights under an existing contract.

**Examples:**

EVENT VOLUME INCENTIVE EXAMPLES	PRESENTED CONCERTS	PAID ATTENDANCE	PAID ATTENDANCE \$1,25 REBATE	COMP ATTENDANCE	COMP ATTENDANCE .50 REBATE	TOTAL INCENTIVE
PROMOTER	21	88,200	\$110,250.00	10,500	\$5,250.00	\$115,500.00
PROMOTER	34	142,800	\$178,500.00	17,000	\$8,500.00	\$187,000.00