

Resolution No. 95-1717

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

FIRST AMENDMENT TO USE AGREEMENT
FOR THE MORTON H. MEYERSON SYMPHONY CENTER

This FIRST AMENDMENT TO USE AGREEMENT FOR THE MORTON H. MEYERSON SYMPHONY CENTER (this "Amendment") is executed as of the 20~~th~~ day of July 1995 by the CITY OF DALLAS, a Texas municipal corporation (the "City"), and the DALLAS SYMPHONY ASSOCIATION, INC., a Texas nonprofit corporation (the "Association").

WITNESSETH:

WHEREAS, the City and the Association entered into the Use Agreement for the Morton H. Meyerson Symphony Center dated as of September 18, 1985 (the "Agreement"); and

WHEREAS, the City and the Association desire to amend the Agreement in certain respects;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Association do hereby agree as follows:

1. Section 5(b)(3) is hereby amended so that the last sentence thereof will read in its entirety as follows:

"Neither the boutique nor the sales kiosks shall be sublet to any other party without the prior written approval of the Director of Event Services and Cultural Affairs or his designee ('Director')."

2. Section 6 is amended to delete paragraph (f) in its entirety.

3. Section 7 is hereby amended to read in its entirety as follows:

"SECTION 7. RENTAL

For and in consideration of the Association providing a full season of programming on an annual basis for the term of this Agreement, and in recognition of the Association's \$43,000,000 capital gift to the City for the construction of the symphony center, the total rent payable to the City by the Association for its use of the symphony center during the initial term and any renewal term of this

Agreement shall be \$1.00 per year payable on or before January 2 of each such year. Attached as Exhibit C to this Agreement is a description of the services and performances to be provided by the Association which constitute a "full season of programming" as that term is used in this section. The Association and the City, acting by and through the Director, may from time to time amend Exhibit C to effect the purpose and intent of this section."

4. Section 12 is hereby amended so that the first two sentences thereof will read in their entirety as follows:

"The Association agrees to acknowledge the City for its support of the symphony center and the Association in all appropriate printed materials. This acknowledgement shall be substantially in the following form: 'This (facility, project, program, performance) is supported, in part, by the City of Dallas.'"

5. Section 13(a) is hereby amended so the first paragraph thereof will read in its entirety as follows:

"(a) Before the date of beneficial occupancy of the symphony center, the Association shall procure, pay for, and maintain the following insurance written by companies licensed in the State of Texas or meeting the surplus lines requirements of Texas law and acceptable to the City. The insurance shall be evidenced by delivery of executed certificates of insurance and certified copies of the policies to Assistant Director, Risk Management, 1500 Marilla 1CN, Dallas, Texas 75201 and the City Manager. The insurance requirements shall remain in effect throughout the term of this Agreement. After consultation with the Association, the City reserves the right to modify the kinds of coverages and deductibles required and increase minimum limits of liability of the coverages whenever in its discretion it becomes necessary."

6. Section 13(a)(1) is hereby amended so that the second sentence thereof will read in its entirety as follows:

"This requirement may be waived or modified by the City if the Association should become a qualified self-insurer under the laws of the State of Texas."

7. Section 13(b)(2) is hereby amended to read in its entirety as follows:

"Each policy must require that 60 days before the cancellation, non-renewal, or any material change in coverage, a notice thereof shall be given to the City by certified mail to: Assistant Director, Risk Management, 1500 Marilla 1CN, Dallas, Texas 75201, and City Attorney, City of Dallas, City Hall, 1500 Marilla Street, Dallas, Texas 75201."

8. Section 15(a) is hereby amended so that the last sentence thereof will read in its entirety as follows:

"However, with the exception of temporary alterations, improvements or additions in the stage area, the Association shall secure prior approval of the Director and the Director of Public Works and Transportation of the City for any

alteration, improvement or addition to the symphony center, and such approval will not be unreasonably withheld."

9. Section 19 is hereby amended so that the first two sentences thereof will read in their entirety as follows:

"The Association shall have its financial statements audited on an annual basis by an independent auditing firm of certified public accountants and shall submit a copy of the auditor's report for the preceding fiscal year to the Director. The City reserves the right to require a special audit of the Association's books and records at any time either by City personnel or by an outside independent auditor, if such action is determined necessary by the Director."

10. Section 20 is hereby amended to read in its entirety as follows:

"SECTION 20. RESOLUTION OF CONFLICTS

If a conflict arises regarding operational procedures, payment of fees or scheduling, the Director and the Association President or his designee shall resolve the differences. If no resolution is reached within a reasonable time, the matter shall be referred to the City Manager, who shall decide the matter within 30 days. If the decision of City Manager is unacceptable to the Association, it may within 30 days of the decision, appeal the matter to the City Council. All parties in the resolution of conflicts shall act in good faith in seeking a reasonable resolution."

11. Section 22 is hereby amended to change the addresses for notification as follows:

"If intended for the City, to:

Director, Event Services and Cultural Affairs
City of Dallas
650 South Griffin
Dallas, Texas 75201

If intended for the Association, to:

Dallas Symphony Association, Inc.
Morton H. Meyerson Symphony Center
2301 Flora Street, Suite 300
Dallas, Texas 75201-2497
Attention: President"

12. Section 23 is hereby amended to read in its entirety as follows:

"SECTION 23. APPROVALS

(a) Whenever in this Agreement the approval of the City is

required for any purpose, the Association shall file the appropriate documents with the Director with notice of the action proposed to be taken, and the Director agrees to notify the Association of his approval or disapproval within 60 days of the filing thereof.

(b) Approval shall be by the City Council where required by the City Charter."

13. Section 34 is hereby amended to read in its entirety as follows:

"SECTION 34. ORGAN

(a) Gift of Organ. Effective upon passage of the City Council Resolution approving this Amendment, the Association hereby donates to the City, and the City hereby accepts from the Association, the Herman W. and Amelia H. Lay Family Concert Organ (the 'Organ') which the Association had designed and built for, and installed in, the symphony center at a cost of approximately \$2,300,000 that was funded through private donations to the Association.

(b) Lease of Organ. The City hereby leases the Organ to the Association, and the Association hereby leases the Organ from the City, for the term of this Agreement and upon the terms and conditions set forth herein. The Association agrees to pay as rent, 10% of the gross revenues generated from the sublease of the Organ by the Association to third parties for non-Association events.

(c) Priority User and Primary Lessee. The Association is considered the priority user and primary lessee of the Organ. The Association shall have the right to use the Organ at all times when it has use of the concert hall of the symphony center pursuant to the terms of this Agreement, it being agreed by the City and the Association that the Association's right to use the symphony center shall encompass and include the right to use the Organ.

(d) Maintenance and Repair of Organ. The Association shall be responsible at its cost for routine day-to-day maintenance of the Organ, including the periodic tuning thereof (the 'Routine Maintenance'). Except for the Routine Maintenance, the City (at its cost) shall at all times maintain the Organ in good working order, condition and repair.

(e) Curator. The Association shall employ or appoint a curator (the 'Curator') for the Organ whose duties shall include (i) the maintenance of the Organ log; (ii) the supervision of the Routine Maintenance and all other maintenance and repair of the Organ; (iii) the supervision of the tuning of the Organ; and (iv) the qualification of potential users of the Organ.

(f) Insurance. In addition to the insurance required by Section 13(f) and to the extent reasonably obtainable, the City shall procure and maintain an insurance policy covering loss or damage to the Organ by theft, fire and other extended coverage perils for the full replacement cost thereof, which policy shall name the Association as an additional named insured. In the event the Organ should be damaged or destroyed by fire, casualty or any other extended coverage peril, the City

shall, utilizing the proceeds of insurance (subject to any limitations imposed by applicable law), proceed with reasonable promptness to restore, repair, replace and rebuild the Organ as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

(g) Use of Organ by Others. Upon request by the City, the Association agrees to sublease the Organ to others or otherwise allow its use by others during periods when it is not in use by the Association, subject to and upon the following terms and conditions:

(i) All potential users of the Organ must submit an application to the Association and the City on a form acceptable to the Association and the City.

(ii) All users shall pay a fee (the 'User Fee') and a damage deposit (the 'Damage Deposit') directly to the Association for the use of the Organ. The amount of the User Fee and the Damage Deposit shall be established by the Association from time to time. Each user's Damage Deposit shall be used to cover the cost of repairs for damage to the Organ occurring during its period of use; provided, however, in no event shall the liability of the user for damage to the Organ be limited to the amount of the Damage Deposit. The balance of the Damage Deposit not used to pay for repairs shall be returned to the user at the conclusion of the use period. Upon receipt of the User Fee and the Damage Deposit, the Association shall prepare the Organ for use. The Association shall provide only a single tuning of the Organ for any performance or recording rental. Should any additional tunings be required, the user shall pay an additional charge to the Association which will be based upon the cost to the Association of engaging a third party to accomplish the tuning.

(iii) Each potential user must demonstrate to the satisfaction of the Association and the City that such user is qualified to use the Organ. In general, only those who meet one or more of the following standards will be deemed to qualify: [1] membership in the American Guild of Organists, [2] graduation from a school of music where the user's primary activity was organ study and performance, [3] substantial experience and demonstration of competency as an organist and [4] reputation as an acclaimed organist. In the event of any dispute concerning the qualifications of any potential user of the Organ, such dispute shall be resolved by a committee (the "Qualifications Committee") comprised of the Curator, a member of the Orchestra Operations Department of the Association and one representative of the City employed in a senior administrative position at the symphony center. The decision of the Qualifications Committee shall be final.

(iv) All uses of the music chamber and the Organ for rehearsal and performance shall be arranged for between the parties wishing to use or rent the symphony center and the City and shall conform to the standard hours of rental usage as established by the City.

(v) In connection with all usages of the Organ, any and all promotional material, including print and electronic media advertising as well as house program books, must include a reference to the Organ by its proper name, such name being the 'Herman W. and Amelia H. Lay Family Concert Organ'.

(h) Access to Organ. A set of keys to control access to the Organ shall be held by each of the Association and the City. No keys shall be given to any other party. The Association shall be the exclusive tour conductor of the Organ works. Without limitation of the foregoing, a user of the Organ (other than the Association) shall not conduct tours or permit any person other than the qualified organist into the Organ works."

14. The Agreement is hereby amended by adding new Section 35, which will read in its entirety as follows:

"SECTION 35. DONOR RECOGNITION.

(a) Naming of Components. The Association may request the City to name in perpetuity a room, facility, fixture, area or other component of the symphony center after a natural person, family, corporation, foundation or other entity (the 'Recognized Party') designated by a donor contributing at least \$50,000 to the Association or such other threshold contribution as the Association and the City may from time to time reasonably determine to be appropriate. Any such contribution may be used either for the construction or enhancement of the symphony center itself or for such other purpose as the Association may reasonably determine to be appropriate.

(b) Procedure with Respect to Naming Components. The Association will provide the Director with written notice to request (i) naming any component of the symphony center or (ii) renaming any such component to change the name of the Recognized Party. The Director/Cultural Affairs Commission will thereafter consider such request within 30 days of its receipt of such notice. After the Director/Cultural Affairs Commission has acted upon such request, it will allow 60 days to elapse for any public comments and thereafter promptly forward such request, together with the recommendation of the Director/Cultural Affairs Commission, to the City Council for consideration. The approval of the City to the naming or renaming of a component in the symphony center shall not be unreasonably withheld.

(c) Wall of Honor. The Association may recognize in perpetuity on the Wall of Honor (as herein defined) in the symphony center a Recognized Party designated by a donor contributing at least \$250,000 to the Association or such other threshold contribution as the Association and the City may from time to time mutually determine to be appropriate. The Wall of Honor consists of the limestone walls adjacent to the staircase leading from the lower lobby and garage to the ground floor lobby of the symphony center outside the principal entrance to the concert hall. The names of Recognized Parties shall be added to the Wall of Honor through carving their names in the limestone wall. Contributions recognized on the Wall of Honor need not relate to the construction or enhancement of the symphony center itself.

(d) Crystal Plaques. The Association may recognize on crystal (glass) plaques, in those areas of the Meyerson where they are currently located or such other areas as the Association and the City may mutually agree, for such periods of time as the Association and the City reasonably determine to be appropriate,

Recognized Parties designated by the respective donors contributing cash or services to the Association at such threshold level as the Association and the City may from time to time reasonably determine to be appropriate. Any such contribution of cash or services need not relate to the construction or enhancement of the symphony center itself.

(e) Procedure with Respect to the Wall of Honor and Plaques. The Association will provide the Director, for his approval, prior written notice of the Association's request (i) to add the name of a Recognized Party to the Wall of Honor; (ii) to change or remove the name of a Recognized Party on the Wall of Honor; or (iii) to install a new crystal plaque. The Director will not unreasonably withhold his consent to any such request by the Association. The Director will use his best efforts to respond to such request within two weeks of his receipt of such notice, but in any event such response shall be within 30 days of the Director's receipt of such notice. No consent of the City shall be required with respect to (i) changes in, or replacements of, existing crystal plaques or (ii) any recognition through a plaque or other form of recognition or acknowledgment of a donor's contribution located within that space in the symphony center exclusively occupied by the Association as designated in Exhibit B to this Agreement. The Association will, however, provide the City with prior written notice of contemplated changes in, or replacements of, existing crystal plaques.

(f) Costs. The Association shall be responsible for the payment of any out-of-pocket fees and expenses of third parties directly relating to the recognition of donors making contributions to the Association and incurred by the Association in connection with the naming of components in the symphony center, the carving and related repairs on the Wall of Honor and the manufacture and installation of crystal plaques. Except as set forth in the immediately preceding sentence, each party hereto shall bear its own costs and expenses in connection with all matters relating to donor recognition.

(g) Documentation. The Association will promptly provide the City with reasonable supporting documentation at such time as the Association submits its written notice to the City requesting that the City consent to the Association recognizing contributions in the symphony center through a named component, wall carving or plaque.

(h) Mutual Cooperation. The Association and the City will mutually cooperate with each other in the future in determining other appropriate forms of recognition in the symphony center for future donors to the Association."

15. The Agreement is hereby amended by adding new Section 36, which will read in its entirety as follows:

"SECTION 36. BROADCAST CENTER

(a) Subject to the provisions of Sections 15., 16. and 17. hereof, the Association may design, construct and install improvements to the symphony center to accommodate the equipment and fixtures necessary to enhance the broadcast, transmission, production and recording of performances at the symphony

center. All such improvements shall be referred to herein as 'Broadcast Improvements.'

(b) Use of Broadcast Improvements. The City hereby leases the Broadcast Improvements to the Association, and the Association hereby leases the Broadcast Improvements from the City, for the term of this Agreement and upon the terms and conditions set forth in this Agreement. The Association agrees to pay as rent, twenty percent (20%) of all revenues (exclusive of sales taxes actually paid and operating expenses actually paid) generated from the sublease of the Broadcast Improvements to third parties for non-Association events or activities.

(c) Priority User and Primary Lessee. The Association is considered the priority user and primary lessee of the Broadcast Improvements. The Association shall have the right to use the Broadcast Improvements at all times when it has use of the concert hall of the symphony center pursuant to the terms of this Agreement, it being agreed by the City and the Association that the Association's right to use the symphony center shall encompass and include the right to use the Broadcast Improvements.

(d) Maintenance and Repair of Broadcast Improvements. The Association shall be responsible for all costs related to the maintenance of the Broadcast Improvements, and shall at all times maintain the Broadcast Improvements in good working order, condition and repair.

(e) Broadcast Improvements Operator. The Association at its cost shall employ or appoint the personnel necessary to operate and maintain the Broadcast Improvements.

(f) Use of Broadcast Improvements by Others. The Association is hereby granted the right to sublease the Broadcast Improvements to others. The Association may require a reasonable deposit and charge a fee for the sublease that is at least adequate to cover the Association's costs to provide and maintain the Broadcast Improvements. The terms, conditions and charges to sublease the Broadcast Improvements shall be subject to the reasonable approval of the Director.

(g) Scheduling. The schedule for the use of the Broadcast Improvements by third parties or for non-Association events shall be coordinated with, and subject to the reasonable approval of the manager of the symphony center."

16. The Agreement is hereby amended by adding new Section 37, which will read in its entirety as follows:

"SECTION 37. CHORAL REHEARSAL SUITE

(a) Design and Construction. Subject to the provisions of Sections 15, 16 and 17 hereof, the Association may design and construct, in the area depicted in the attached Exhibit D, a Choral Rehearsal Suite ('Suite').

(b) Use Policy. The symphony center manager and the Director of

Orchestra Operations of the Association shall establish a policy governing the use and scheduling of the Suite, which policy recognizes that the Association has primary use of the Suite. The policy governing the use and scheduling of the Suite may be modified from time to time by mutual agreement of the symphony center manager and the Director of Orchestra Operations."

17. The Agreement is hereby amended by adding new Section 38, which will read in its entirety as follows:

"SECTION 38. ELECTION NOT TO BID ON PRIVATIZATION OF SYMPHONY CENTER

The Association will not submit a bid in connection with the request for bids to be issued by the City in June 1995 on the proposed privatization of the symphony center. The inclusion of this Section 38 in the Agreement shall not in any manner preclude the Association from submitting a bid on any subsequent request for bids by the City on the privatization of the symphony center."

18. All other terms, provisions, conditions, and obligations of the Agreement between the City and the Association shall remain in full force and effect, and the Agreement and this First Amendment shall be construed together as a single contractual agreement.

EXECUTED as of the date first set forth above.

APPROVED AS TO FORM:
SAM A. LINDSAY, City Attorney

CITY OF DALLAS
JOHN WARE, City Manager

BY: *Sam A. Lindsay*
Assistant City Attorney

BY: *John Ware*
Assistant City Manager

ATTEST:

DALLAS SYMPHONY ASSOCIATION,
INC.

David E. Morrison
Association Secretary

BY: *Eugene Bonelli*
Eugene Bonelli, President

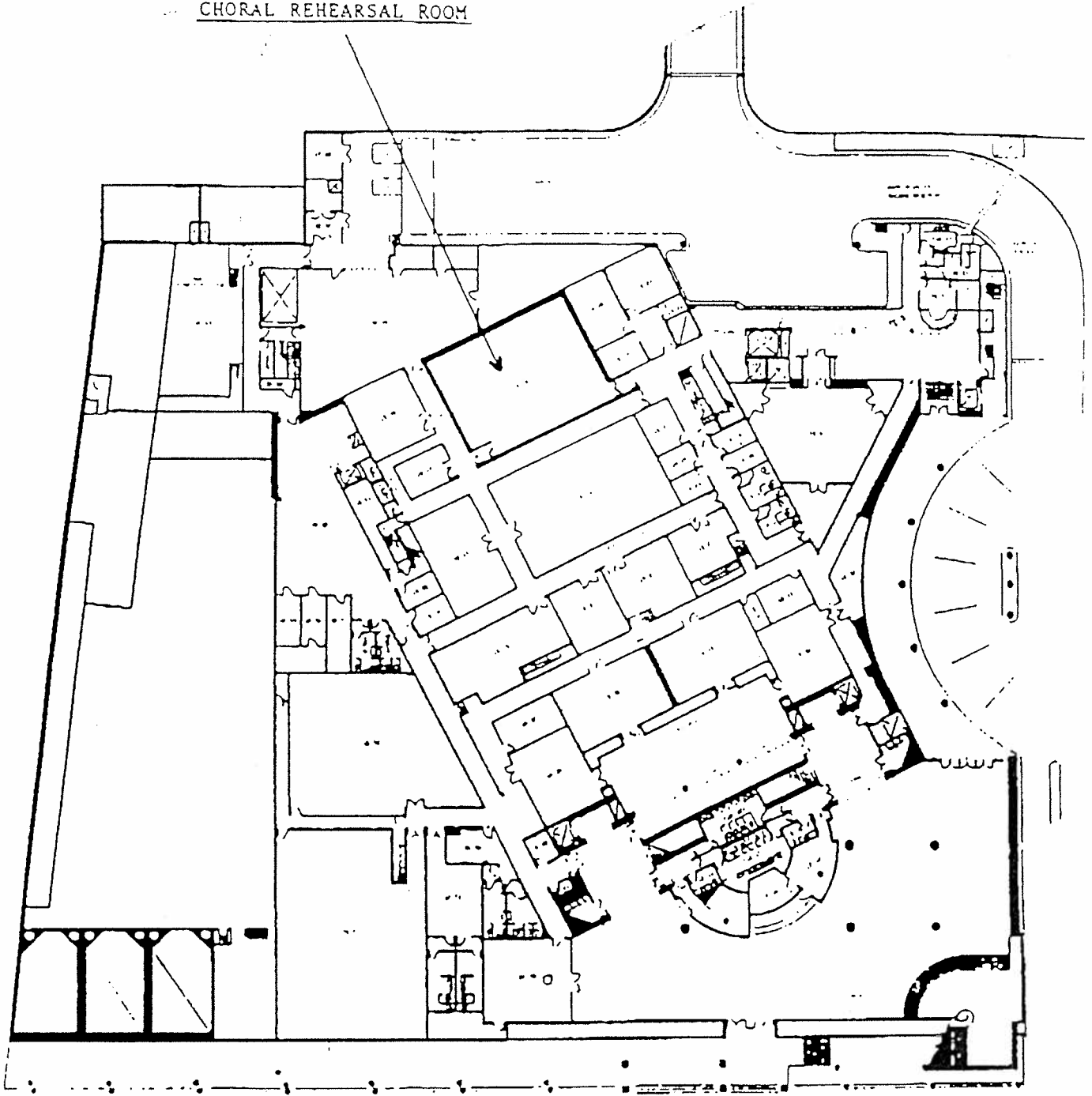
EXHIBIT C

The full season of programming to be provided by the Association shall include the following:

1. Concerts at the symphony center
2. Youth concerts
3. Access Dallas
4. Festival concerts, including ethnic/minority functions
5. Educational programs

FIRST BASEMENT

CHORAL REHEARSAL ROOM



MORTON H. MEYERSON SYMPHONY CENTER
DALLAS, TX

1ST BASEMENT LEVEL

EXHIBIT D - Page One of Two

Exhibit D Choral Rehearsal Room

From: J.W.A. on
11.6.92



SENT BY: CENTEX-BATESON

111-6-92 1:54PM

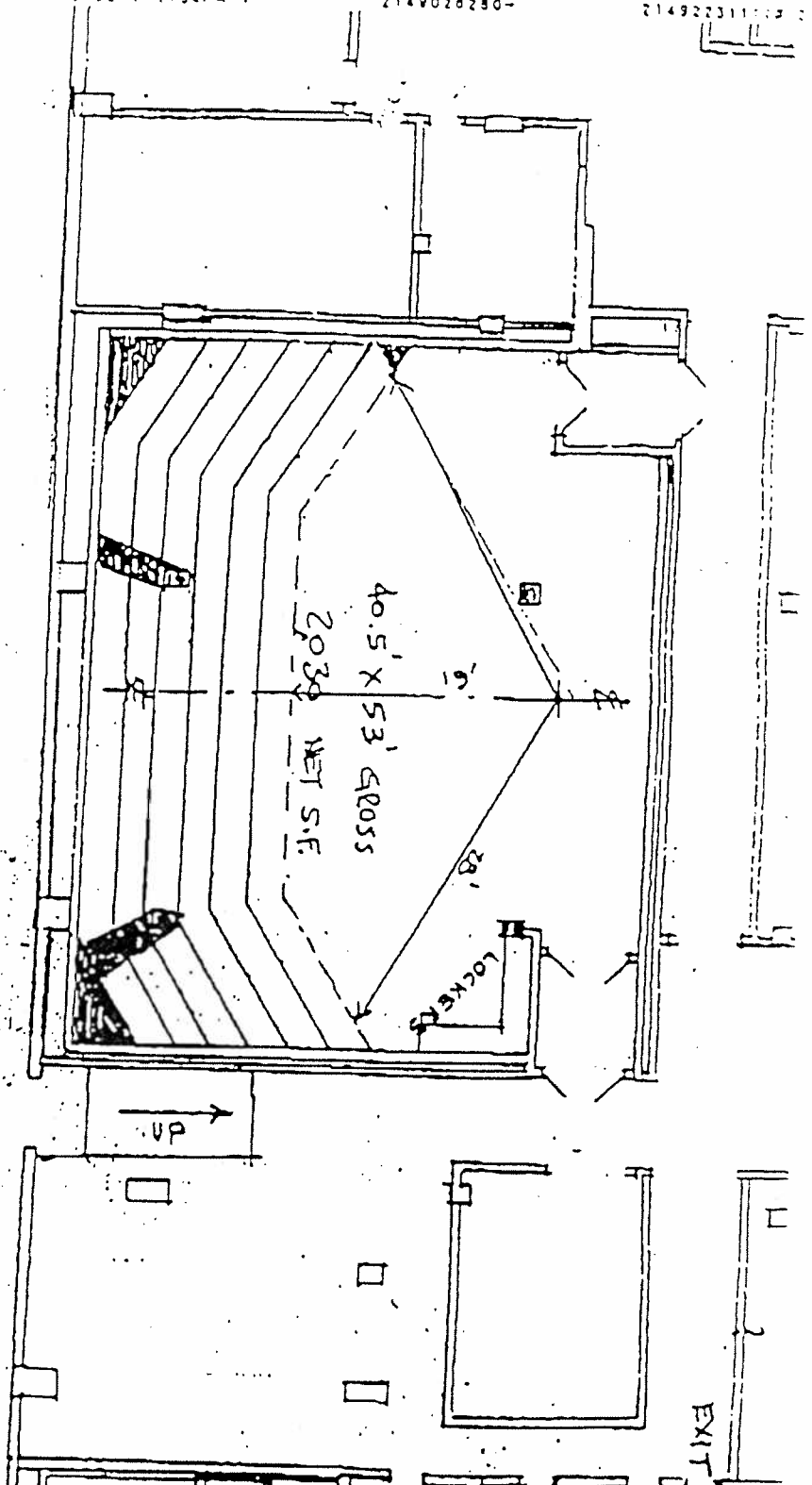
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PROPOSED MEYERSON S.C.
CHORAL WARM-UP AREA

D.W. Gault
D.H. Stupp

(± 125 spaces)



COUNCIL CHAMBER

May 10, 1995

WHEREAS, on September 18, 1985 (85-3068), the City Council authorized a long term Use Agreement with the DSA which stated the terms and conditions under which the Association would utilize and occupy the Morton H. Meyerson Symphony Center ("MSC"), as well as the City's responsibilities for the operation and management of the MSC; and

WHEREAS, the City and DSA desire to amend the Use Agreement to effectuate the intent of the parties with respect to equalizing the annual direct support to DSA with the rental fees and parking fees charged to DSA, and for the further purpose of administrative efficiency in this regard; and

WHEREAS, the parties desire to amend the Use Agreement to formalize use and operation procedure for the Lay Family organ, including a commission payment to the City for use of the organ by non-DSA user organizations; and

WHEREAS, the parties desire to amend the Use Agreement to establish and formalize the donor recognition procedures used by the DSA/City staff for placement of identification markers in the Meyerson Symphony Center; and

WHEREAS, the parties desire to amend the Use Agreement to provide for the Symphony Center Manager and the Director of Orchestra Operations to establish a policy governing the use and scheduling of the Choral Rehearsal Suite, subject to modification from time to time by mutual agreement of the Symphony Center Manager and the Director of the Orchestra Operations of the Association; and


WHEREAS, the parties desire to amend the Use Agreement to provide for DSA to design, construct and install improvements to the MSC to accommodate the equipment and fixtures necessary to enhance the broadcast, transmission, production and recording of performances in the Center; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City Manager is authorized to negotiate with the DSA an amendment to the long term Use Agreement with the Dallas Symphony Association which would address the following issues:

- A. nominal annual rental in exchange for the DSA providing a full season of annual programming in the MSC;
- B. operational procedures for the Lay Family organ;

APPROVED


HEAD OF DEPARTMENT

APPROVED

DIRECTOR OF FINANCE

APPROVED

CITY MANAGER

COUNCIL CHAMBER

May 10, 1995

- C. donor recognition and marker identification procedures;
- D. Choral Rehearsal Suite use and scheduling procedures;
- E. design, construction, and installation of performance, broadcast, transmission, production, and recording improvements; and
- F. other operational revisions resulting from the City's prior departmental reorganizations.

SECTION 2. That the City Manager is authorized to execute the First Amendment to the Use Agreement following approval as to form by the City Attorney.

SECTION 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED _____

HEAD OF DEPARTMENT

APPROVED _____

DIRECTOR OF FINANCE

APPROVED _____

CITY MANAGER

COUNCIL CHAMBER
October 26, 1994

943855

RECEIVED

WHEREAS, prior to the opening of the ^{1991 NOV 14 AN 9 39} Horton H. Meyerson Symphony Center in 1989, while located in the Fair Park Music Hall, the Dallas Symphony Association entered into an agreement with the City to build the Meyerson through a (40/60) public-private partnership. The 30-year use agreement recognized the Symphony Association as the primary tenant. The City's intention was to provide funding equal to the sum of the rent for the performance hall, office space and staff parking; and

WHEREAS, a significant component of the public/private partnership between the City and the DSA, more than \$1.5 million is expended through various community outreach programs each year. Further, as evidence of the ongoing public/private partnership, the City of Dallas has made additional capital investments of \$1,082,418 and the DSA has made \$4,479,000 in capital improvements to the Meyerson Symphony Center subsequent to its opening in 1989. These capital improvements have accrued to the benefit of all Meyerson Symphony Center users; and

WHEREAS, the differing positions at the DSA and the City have resulted in the two years of non-payment of the cultural services contracts for the FY 1992-93 and FY 1993-94. The DSA's position is the annual funding from the City should at least be equal to the fees attributable to the DSA's utilization of the Symphony Center as set forth in the City/DSA use agreement. The City's position has been that if the City is unable to fund at a level reflective of DSA facility utilization, the City will re-evaluate the DSA fees to take into consideration the reduced funding, but does not guarantee adjustments; and

<u>YEAS</u>	<u>UTILIZATION</u>	<u>APPROVED</u>	<u>VARIANCE</u>
92/93	\$585,456	\$481,266	(\$104,190)
93/94	\$580,107	\$431,951	(\$148,756)

In recognition of the original intent of the public/private partnership agreement and acknowledgement of the continuing partnership relationship as evidenced by capital and programming contributions of both parties, it was the recommendation of the Arts/Education Committee that the City's reimbursement to the DSA for facility utilization and DSA payment to the City for rentals would be equal for fiscal years 1992-93 and 1993-94.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the fees for the utilization of the Horton H. Meyerson Symphony Center by the Dallas Symphony Association for performance hall rental fees, office space rental and staff parking for the period from October 1, 1992 through September 30, 1993 shall be \$481,266.

APPROVED _____
HEAD OF DEPARTMENT

8/M 753-230-000

Post-It™ brand fax transmittal memo 7071 # of pages 2

To <u>Steven Lett</u>	From <u>M. Honore</u>
Co.	Co.
Dept.	Phone #
Fax #	Fax #

ITY MANAGER

COUNCIL CHAMBER
OCTOBER 26, 1994

943855

SECTION 2. That the fees for the utilization of the Horton H. Meyerson Symphony Center by the Dallas Symphony Association for performance hall rental fees, office space rental and staff parking for the period from October 1, 1993 through September 30, 1994 ; that the City Controller be and is hereby authorized to make payments up to and not to exceed \$431,951 from Fund 001, Agency OCA, Org 4848 Object 3511, Vendor number 956329, OCAADMIN001 as voucher is processed by the Office of Cultural Affairs.

SECTION 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.


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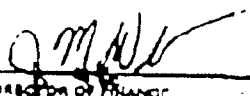
APPROVED BY
CITY COUNCIL

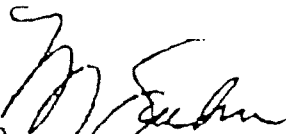
OCT 26 1994



City Secretary

APPROVED 
HEAD OF DEPARTMENT

APPROVED 
DIRECTOR OF FINANCE

APPROVED 
CITY MANAGER

CATEGORY: MISCELLANEOUS

AGENDA: May 10, 1995

DEPARTMENT: Event Facilities/
Cultural Affairs

CITY SERVICE AREA: All

CMO: Mary Suhm x5306

COUNCIL DISTRICTS: All

SUBJECT

Authorize the first amendment to the long term Use Agreement with the Dallas Symphony Association, Inc.

BACKGROUND

On September 18, 1985 (85-3068), the City Council authorized a long term Use Agreement with the Dallas Symphony Association, Inc. (DSA) which established the terms and conditions under which the Association would utilize and occupy the Morton H. Meyerson Symphony Center (MSC), as well as the City's responsibilities for the operation and management of the Center.

The City/DSA Use Agreement sets forth the City's Intention of providing funding to the DSA in an amount equal to the DSA facility rental. During the FY 1994-95 budget preparation process, City staff recommended to the City Council a strategy to clarify the funding arrangement identified in the Use Agreement.

Following several months of negotiation between City staff and representatives of the DSA an agreement has been reached to amend the Use Agreement. Staff is recommending modification to the rental section to reflect the intention of providing MSC use by DSA for a nominal rental, including nominal parking fees. In exchange, the DSA will provide, each year, a full season of programming (Identified in Exhibit C of amendment) in the MSC, without annual City funding.

This amendment also formalizes the use and operation of the Lay Family Organ, including a commission payment to the City for the use of the organ by non-DSA user organizations. The donor recognition procedures that have been in use for the past five years is now formalized in this amendment. Further, the use procedures for the Choral Rehearsal Suite and proposed Broadcast Center, including rental commissions payable to the City, are also addressed in this amendment.

RECOMMENDATION

City Council approval is recommended.

PRIOR ACTION/REVIEW COUNCIL, BOARDS, COMMISSIONS

March 16, 1985 (Cultural Affairs Commission)

April 4, 1995 (Arts and Education Committee)

April 12, 1995 (Deferred from City Council agenda by Councilman Luna)

ETHNIC COMPOSITION

	<u>African American</u>	<u>White</u>	<u>Hispanic</u>	<u>Asian</u>
STAFF	5	137	4	3
BOARD	9	80	8	0

Memorandum

*CB
Kyo → out of hand
frank & 607
TO Margaret*



CITY OF DALLAS

DATE July 27, 1995

TO Bob Sloan
City Secretary

SUBJECT First Amendment to Use Agreement for the Morton H. Meyerson
Symphony Center

In accordance with Resolution No. 95-1717, approved by the City Council on May 10, 1995, respectively, enclosed please find a fully-executed First Amendment to Use Agreement for the Morton H. Meyerson Symphony Center. Should you have any questions about this filing, please call.

Janis Everhart
Janis Everhart
Assistant City Attorney

- cc: Charles Bierfeld, First Assistant City Attorney
- Jesus Toscano, Jr., Administrative Assistant City Attorney
- Mary Suhm, Assistant City Manager
- Frank Poe, Director, Event Facilities and Cultural Affairs ✓



CITY OF DALLAS

Hand Delivered

July 27, 1995

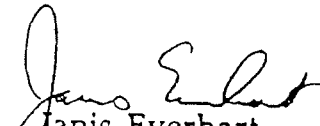
Mr. Dave Morrison
Thompson & Knight
1700 Pacific Avenue, Suite 3300
Dallas, Texas 75201

Re: Meyerson Symphony Center
First Amendment - Use Agreement

Dear Dave:

Enclosed please find two (2) originals of the First Amendment to Use Agreement for the Morton H. Meyerson Symphony Center which have been fully executed by the City of Dallas. The other originals and/or their copies have been distributed among the City departments involved in the management and operation of the Morton H. Meyerson Symphony Center. Should you have any questions, please call.

Very truly yours,



Janis Everhart
Assistant City Attorney

Enclosures

cc: Charles Bierfeld, First Assistant City Attorney
Jesus Toscano, Jr., Administrative Assistant City Attorney
Mary Suhm, Assistant City Manager
Frank Poe, Director, Event Facilities and Cultural Affairs