

TAX REGULATORY AGREEMENT

THIS TAX REGULATORY AGREEMENT, dated as of December 1, 2019 (the "Agreement"), is made by and among the PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY (the "Issuer") and STI INSTITUTIONAL & GOVERNMENT, INC. (the "Lender"), in connection with the issuance by the Issuer of its

\$ 13,000,000

**PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY
CAPITAL IMPROVEMENT REVENUE NOTE
SERIES 2019
(the "Note")**

pursuant to a resolution adopted by the Issuer on December 5, 2019 (the "Resolution"), and a Loan Agreement, dated as of December 1, 2019 (the "Loan Agreement"), by and between the Issuer and the Lender.

In order to ensure compliance in all respects with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (collectively, the "Code"), the Issuer and the Lender hereby agree as follows:

ARTICLE I - Definitions

1.1 Definitions. Unless the context otherwise requires, words and terms defined in the Code and the Loan Agreement, as from time to time amended, shall have the meanings set forth therein and the following words and terms as used herein shall have the following meanings:

"Note Year" shall mean the one-year period beginning on **December 1** of each year except that the first Note Year shall begin on the date hereof and end on the close of business on November 30, 2020, and the last Note Year will end on the date of payment of the Note in full.

"Gross Proceeds" shall mean (a) the amounts received on the sale of the Note, less pre-issuance accrued interest, and amounts received from the investment of such amounts or earnings thereon; (b) amounts treated as sinking fund proceeds of the issue, and/or amounts reasonably expected to be used to pay principal or interest on the Note; (c) securities or obligations pledged as security for the payment of debt service on the Note by the Issuer, or by an entity or unit of which the Issuer is a part; and (d) other amounts received as a result of investing the amounts described above with respect to an issue. Amounts in the Restricted Collateral Account and the accounts related to the Note therein are the only funds pledged to or expected to be used to pay principal or interest on the Note.

"Non-Purpose Investment" shall mean any security, evidence of indebtedness (other than an evidence of indebtedness described in Section 103(a) of the Code), annuity contract or other investment type property acquired with Gross Proceeds and which is not acquired to carry out the governmental purpose of the Note (e.g., evidences of indebtedness acquired with Gross Proceeds that are invested temporarily until needed for the governmental purpose of the Note, that are to be used to discharge a prior issue, or that are invested in a reasonably required reserve or replacement fund).

"Rebate Requirement" shall mean the excess of the amounts earned on all Non-Purpose Investments over the amount that would have been earned if such Non-Purpose Investments were invested at a rate equal to the Yield on the Note, plus any income attributable to such excess, computed in accordance with Section 148(f) of the Code and the regulations thereunder.

"Yield" shall mean that yield which when used in computing the present worth of all payments of principal and interest to be paid on the Note or Non-Purpose Investments produces an amount equal to the purchase price thereof. Based on the purchase price of the Note equal to the initial offering price to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of each maturity of the Note was sold, the yield of the Note is ____%..

ARTICLE II - REBATE REQUIREMENTS

2.1 Rebate Fund. The Issuer has established, or will establish if and when necessary, the Rebate Fund, which Rebate Fund is separate and apart from any other fund established and maintained under the Loan Agreement. The Issuer shall deposit into the Rebate Fund from the other funds designated by the Issuer and from amounts received from the Issuer, amounts determined by the Issuer to be necessary to comply with the requirements of Section 148(f) of the Code to enable the Issuer to pay to the United States of America the Rebate Requirement. Any income attributable to a Non-Purpose Investment held in the Rebate Fund shall be retained therein and credited to the Rebate Fund. Notwithstanding anything to the contrary herein, the Issuer shall not be required to deposit funds into the Rebate Fund or to make rebate payments to the United States to the extent that the Note qualifies for an exception to the Rebate Requirement.

2.2 Records and Accounts. (a) The Issuer shall maintain copies of the bank statements for the Restricted Collateral Account that are provided by the Collateral Agent. The Issuer shall obtain or maintain such other information which is necessary to enable the Issuer to perform the calculations required hereunder.

(b) Reserved.

(c) The Issuer shall retain the books of record and accounts of the Note until six (6) years after the retirement of the Note.

2.3 Rebate Calculations and Instructions. Within forty-five (45) days after the end of each fifth Note Year and within forty-five (45) days after the repayment or retirement of the Note, the Issuer shall calculate the Rebate Requirement and submit the following written instructions to, and deposit the following amounts with, the Lender:

(a) A written certification of the most recent calculation of the Rebate Requirement.

(b) An opinion of nationally recognized bond counsel or a firm that is expert in making such calculations that the calculations reflected therein have been made in accordance with the requirements of Section 148 of the Code and the regulations thereunder.

(c) An amount equal to the Rebate Requirement less the future value of all payments previously made to the United States and any balance in the Rebate Fund, for such Note Year for deposit to the Rebate Fund, or directions to the Lender to deposit such amount into the Rebate Fund from monies held in the Restricted Collateral Account and available for such purpose.

(d) If the Rebate Requirement less the future value of all previous payments made to the United States is less than the amount held in the Rebate Fund, an instruction to the Lender to transfer from the Rebate Fund an amount equal to such excess to the Issuer.

(e) For the fifth Note Year and each succeeding fifth Note Year thereafter, written instructions to the Lender to remit at least ninety percent (90%) of the Rebate Requirement, less the future value of all previous payments made to the United States on or before sixty (60) days following the applicable fifth Note Year.

(f) Upon the repayment or retirement of the Note, written instructions to the Lender to remit one hundred percent (100%) of the Rebate Requirement, less the future value of all previous payments made, to the United States on or before sixty (60) days after the repayment or retirement of the Note.

(g) Any form or forms required to be submitted with such remittance (including, without limitation, Internal Revenue Service Form 8038-T), such form or forms to be fully completed by the Issuer.

(h) Written instructions to the Lender to mail each payment to the Internal Revenue Service Center, Ogden, UT 84201, together with a copy of the Internal Revenue Service Form 8038-T summarizing the determination of the Rebate Requirement.

ARTICLE III - PROHIBITED PAYMENTS AND INVESTMENTS

3.1 Prohibited Payments and Investments. The Issuer will not enter into any transaction to reduce the Yield on the investment of Gross Proceeds of the Note in such a manner that the amount to be rebated to

the United States pursuant hereto is less than it would have been had the transaction been at arm's length and the Yield on the Note not been relevant to either party.

3.2 Investments. (a) The Issuer will not enter into any investment contract to invest Gross Proceeds unless such investment contract meets the requirements set forth in Section 1.148-5(d)(6)(iii) of the Code.

(b) The Issuer will not use Gross Proceeds to purchase a certificate of deposit that is not actively traded in an active secondary market if the certificate of deposit has a fixed interest rate, a fixed principal payment schedule, a fixed maturity, and a substantial penalty for early withdrawal unless: (i) the yield on the certificate of deposit is not less than the yield on reasonably comparable direct obligations of the United States; and (ii) the yield on the certificate of deposit is not less than the highest yield that is published or posted by the provider to be currently available from the provider on comparable certificates of deposits offered to the public.

ARTICLE IV - COVENANTS

4.1 Further Assurance. The Issuer and the Lender covenant and agree that they shall, at the expense of the Issuer, take all necessary steps to comply with their respective requirements under this Agreement and to modify this Agreement as necessary to conform with rulings, regulations, or legislation promulgated after the date hereof in order to ensure that interest on the Note is excluded from gross income for federal income tax purposes under Section 103(a) of the Code; provided, however, that such compliance is not required if the Lender or the Issuer obtains an opinion of nationally recognized bond counsel that either (a) compliance with such requirement is not required to maintain the exclusion from gross income for federal income tax purposes of interest on the Note, or (b) compliance with some other requirement in lieu of such requirement will meet the requirements of Section 148 of the Code, in which case compliance with the other requirement specified in such opinion shall constitute compliance with such requirement.

4.2 Noncompliance. Each of the Issuer and the Lender covenant and agree that if, for any reason, any of its obligations under this Agreement are not complied with, the Issuer or the Lender, as applicable, at the expense of the Lender only to the extent such noncompliance is directly caused by the Lender and otherwise at the expense of the Issuer, shall take all necessary and desirable steps to correct such noncompliance within a reasonable period of time after the discovery of such noncompliance or the date on which such noncompliance should have been discovered with the exercise of reasonable diligence. The Lender shall not have any duty or responsibility to independently verify any of the Issuer's calculations or instructions with respect to the payment of the amounts due and owing to the United States under this Agreement and shall be fully protected in relying solely upon the written instructions of the Issuer in this regard. Under no circumstances whatsoever shall the Lender be liable to the Issuer, any Holder or any other person for any loss of tax-exempt status of the Note, or any claims, demands, damages, liabilities, losses, costs or expenses resulting therefrom or in any way connected therewith, so long as the Lender acts only in accordance with the written instructions of the Issuer as provided in this Agreement.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of December 1, 2019.

PERFORMING ARTS CENTER AUTHORITY, BROWARD
COUNTY

By: _____

Robert B. Lochrie III , Chair

STI INSTITUTIONAL & GOVERNMENT, INC.

By: _____

Name, Title:

ADA AND ENVIRONMENTAL COMPLIANCE AGREEMENT

ADA AND ENVIRONMENTAL COMPLIANCE AGREEMENT (this “**Agreement**”) made as of the 1st day of December, 2019, by PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY, a Florida independent special district, having its principal place of business at 201 SW Fifth Avenue, Fort Lauderdale, Florida 33312 (the “**Borrower**”) in favor of STI INSTITUTIONAL & GOVERNMENT, INC., a Delaware corporation, having an office at 515 East Las Olas Avenue, 7th Floor, Fort Lauderdale, FL 33301 (the “**Lender**”).

RECITALS :

WHEREAS, Borrower operates the facility known as the Parker Playhouse, located at 708 NE 8th Street, Fort Lauderdale, Florida 33304, and legally described on Exhibit “A” attached hereto and made a part hereof (the “**Theater Property**”); and

WHEREAS, Borrower has applied to Lender for a fixed rate, non revolving loan (the “**Loan**”) in the maximum amount of Thirteen Million (\$13,000,000.00), for the purpose of renovating the Theatre Property, infrastructure replacement and drying in the shell of the new construction component (the “**Phase I Improvements**”) and constructing and equipping an addition to the building currently located on the Theater Property (the “**Phase II Improvements**”); and

WHEREAS, the Loan shall be evidenced by the Borrower’s Capital Improvement Revenue Note, Series 2019 (the “**Note**”); and

WHEREAS, pursuant to a Loan Agreement between the Borrower and the Lender dated the date hereof (the “**Loan Agreement**”), the Borrower will also pledge and assign to the Lender, as security for the Loan, certain revenues and contract rights as more specifically set forth herein; and

WHEREAS, Lender requires as a condition to purchasing the Note that Borrower shall have executed and delivered this Agreement as security for Borrower’s obligations under the Loan Documents (as defined in the Loan Agreement); and

WHEREAS, capitalized terms not otherwise defined herein shall have the meaning set forth in the Loan Agreement; and

WHEREAS, the Lender is unwilling to purchase the Note unless Borrower agrees to provide the representations, warranties, covenants and other matters described in this Agreement for the benefit of the Lender; and

WHEREAS, Borrower is entering into this Agreement to induce the Lender to purchase the Note.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby represents, warrants, covenants and agrees for the benefit of the Lender as follows:

1. Representations And Warranties.

Borrower hereby represents and warrants to Lender that except as otherwise disclosed by that certain Phase I environmental report entitled prepared by _____ dated _____, in respect of the Property delivered to Borrower (referred to below as the “**Environmental Report**”), a true and complete copy of which has been provided by Borrower to Lender, (a) there are no Hazardous Substances (as defined below) or underground storage tanks in, on, or under the Theater Property, except those that are both (i) in compliance with all Environmental Laws (as defined below) and for which all required permits pursuant to any applicable Environmental Law have been issued and all such permits, if any, are in full force and effect, and (ii) fully disclosed to Lender in writing pursuant to the Environmental Report; (b) there are no past, present or threatened Releases (as defined below) of Hazardous Substances at, in, on, under, above or from the Theater Property which have not been fully remediated in accordance with all applicable Environmental Laws; (c) there is no threat of any Release of Hazardous Substances migrating to the Property; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Theater Property which has not been fully remediated in accordance with all applicable Environmental Laws; (e) Borrower has not received any written or oral notice or other communication from any Person (including but not limited to a governmental entity) relating to Hazardous Substances or Remediation (as defined below) thereof, or possible liability of any Person pursuant to any Environmental Law, other environmental conditions in connection with the Theater Property, assessments relating to damage to any “natural resource” (as defined in CERCLA (as hereafter defined)), or any actual or potential administrative or judicial proceedings in connection with any of the foregoing; and (f) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to conditions at, in, on, under, above or from the Theater Property that is known to Borrower and that is contained in files and records of Borrower, including but not limited to any reports relating to Hazardous Substances in, on, under or from the Theater Property and/or to the environmental condition of the Theater Property. Borrower has never applied for and been denied environmental impairment liability insurance coverage relating to the Theater Property. Borrower has provided to Lender a copy of all such environmental insurance policies, and all applications (whether denied, accepted or pending), related to Borrower or the Theater Property. At Lender's request, Borrower shall cause Lender to be named as an additional insured on any such policy currently or hereafter in effect.

2. Covenants.

(a) Borrower covenants and agrees that: (i) all uses and operations on or of the Theater Property, whether by Borrower or any other Person, including any tenant or other user of any portion of the Theater Property, shall be in compliance with all Environmental Laws and permits issued pursuant thereto; (ii) there shall be no Releases of Hazardous Substances at, in, on, under, above or from the Theater Property; (iii) there shall be no Hazardous Substances at, in, on, under, above or emanating from the Theater Property or affecting any natural resources, except those that are both (A) in compliance with all Environmental Laws and with permits required thereunder issued pursuant thereto and (B) fully disclosed to Lender in writing; (iv) Borrower shall keep the Theater Property free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or

any other Person (the “**Environmental Liens**”); (v) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Paragraph 3 of this Agreement, including but not limited to providing all relevant information and making knowledgeable Persons available for interviews; (vi) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Theater Property, pursuant to any reasonable written request of Lender (including but not limited to sampling, testing and analysis of soil, water, air, building materials, and other materials and substances whether solid, liquid or gas), and share with Lender the reports and other results thereof, and Lender shall be entitled to rely on such reports and other results thereof; (vii) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (A) effectuate Remediation of any condition (including but not limited to a Release of a Hazardous Substance) at, in, on, under, above or from the Theater Property; (B) comply with any Environmental Law; (C) comply with any directive from any governmental authority; and (D) take any other reasonable action necessary or appropriate for the safety, welfare and protection of human health or the environment (including any natural resources); (viii) Borrower shall not do or allow any tenant or other user of the Theater Property to do any act that materially increases the dangers to human health or the environment (including any natural resources), poses an unreasonable risk of harm to any Person (whether on or off the Theater Property), impairs or may impair the value of the Theater Property, is contrary to any requirement of any insurer, constitutes a public or private nuisance, constitutes waste, or violates any covenant, condition, agreement or easement applicable to the Theater Property; (ix) Borrower shall immediately notify Lender in writing of (A) any presence or Releases or threatened Releases of Hazardous Substances at, in, on, under, above, from or migrating towards the Theater Property; (B) any non-compliance with any Environmental Laws related in any way to the Theater Property; (C) any actual or potential Environmental Lien; (D) any required or proposed Remediation of environmental conditions relating to the Theater Property; and (E) any written or oral notice or other communication of which any Borrower becomes aware from any source whatsoever (including but not limited to a governmental entity) relating in any way to Hazardous Substances or Remediation thereof, possible liability of any Person pursuant to any Environmental Law, other environmental conditions in connection with the Theater Property, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Agreement; and (x) will enroll in and will remain enrolled in or will cause any tenant or other user of the Theater Property to enroll in and remain enrolled in, the Florida Petroleum Liability Insurance and Restoration Program, if applicable, in connection with any and all storage tanks at any time located on the Property.

(b) Borrower covenants and agrees that: (i) the Theater Property shall at all times comply with all requirements of the ADA, (ii) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (A) effectuate compliance with the ADA and (B) comply with any directive from any governmental authority relating to ADA compliance and (iii) Borrower shall immediately notify Lender in writing of (A) any non compliance with the ADA related in any way to the Theater Property and (B) any written or oral notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a governmental entity) relating in any way to the ADA or compliance therewith, possible liability of any Person pursuant to the ADA, or any actual or

potential administrative or judicial proceedings in connection with anything referred to in this Agreement.

3. Lender Rights/Cooperation and Access.

(a) In the event the Lender has a reasonable basis to believe that an environmental hazard exists at, in, on, under, above or emanating from the Theater Property that endangers or reasonably may be expected to endanger any tenants or other occupants of the Theater Property or their guests or the general public or any natural resource or materially and adversely affects the value of the Theater Property, then upon reasonable notice from the Lender, Borrower shall, at Borrower's cost and expense, promptly cause an engineer or consultant reasonably satisfactory to the Lender to conduct an environmental assessment or audit (the scope of which shall be determined in the sole and absolute discretion of the Lender exercising commercially reasonable judgment) and take any samples of soil, groundwater or other water, air, or building materials or any other invasive testing reasonably requested by Lender and promptly deliver the results of any such assessment, audit, sampling or other testing; provided, however, if such results are not delivered to the Lender within a reasonable period or if the Lender has a reasonable basis to believe that an environmental hazard exists at, in, on, under, above or emanating from the Theater Property that, in the reasonable judgment of the Lender, endangers any tenant or other occupant of the Theater Property or their guests or the general public or any natural resources or may materially and adversely affect the value of the Theater Property, upon reasonable notice to Borrower, the Lender and any other Person designated by the Lender, including but not limited to any receiver, any representative of a governmental entity, and any environmental consultant, shall have the right, but not the obligation, to enter upon the Theater Property at all reasonable times to assess any and all aspects of the environmental condition of the Theater Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in the sole and absolute discretion of the Lender exercising commercially reasonable judgment) and taking samples of soil, groundwater or other water, air, or building materials, and reasonably conducting other invasive testing. Borrower shall cooperate with and provide the Lender and any Person designated by the Lender with access to the Theater Property in connection with the exercise by the Lender of its rights under this Agreement.

(b) In the event the Lender has a reasonable basis to believe that the Theater Property is not in compliance with the ADA, upon reasonable notice from the Lender, Borrower shall, at Borrower's expense, promptly cause an engineer or consultant reasonably satisfactory to the Lender to conduct any ADA assessment reasonably required by Lender (the scope of which shall be determined in the sole and absolute discretion of the Lender exercising commercially reasonable judgment) and promptly deliver the results of any such assessment to the Lender. Borrower shall cooperate with and provide the Lender and any Person designated by the Lender with access to the Theater Property to determine if the Theater Property is in compliance with the ADA.

4. Definitions. As used in this Agreement, the following terms shall have the following meanings:

“**ADA**” means the Americans with Disabilities Act of 1990, and all state and local laws, statutes and ordinances related thereto, including, without limitation, the Florida Americans With Disabilities Accessibility Implementation Act (Florida Statutes, Sections 553.501, et. seq.), as amended and supplemented from time to time together with all rules and regulations now or hereafter promulgated thereunder.

“**Environmental Law**” means any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, relating to the safety, welfare or protection of human health or the environment or any natural resource, relating to Hazardous Substances, relating to liability for or costs of other actual or threatened danger to safety, welfare or protection of human health or the environment or any natural resource and includes, but is not limited to, the following statutes, as amended, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (as amended, including, without limitation, the Superfund Amendments and Reauthorization Act of 1986, “**CERCLA**”), 42 U.S.C. §9601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act. The term “**Environmental Law**” also includes, but is not limited to, any present and future federal, state and local laws, statutes ordinances, rules, regulations and the like, as well as common law conditioning transfer of property upon a negative declaration or other approval of a governmental authority of the environmental condition of the Theater Property; requiring notification or disclosure of Releases of Hazardous Substances or other environmental condition of the Theater Property to any governmental authority or other Person, whether or not in connection with transfer of title to or interest in property; imposing conditions or requirements in connection with permits or other authorization for lawful activity; relating to nuisance, trespass or other causes of action related to the Theater Property; and relating to wrongful death, personal injury, or property or other damage in connection with any physical condition or use of the Theater Property.

“**Hazardous Substances**” means any and all substances (whether solid, liquid or gas) defined, listed, or otherwise classified as pollutants, toxic or hazardous substances, materials, wastes, pollutants or contaminants or words of similar meaning or regulatory effect under any present or future Environmental Laws or that may have a negative impact on human health, welfare or safety, the environment or any natural resources, including but not limited to, petroleum and petroleum products, asbestos and asbestos-containing materials, polychlorinated biphenyls, lead, Lead Based Paint, radon, radioactive materials, Mold, flammables and explosives, infectious substances or any other substances or materials now or hereafter regulated by any Environmental Law, but excluding substances of kinds and in amounts ordinarily and customarily used or stored in similar properties for the purposes of cleaning or other maintenance or operations and otherwise in compliance with all Environmental Laws.

“Legal Action” means any claim, counterclaim, action, suit or proceeding, whether administrative or judicial in nature.

“Lead Based Paint” means any paint, stain or similar product or surface coating that contains more than 1.0 milligram of lead per square centimeter and/or 0.5% of lead by weight.

“Mold” means any fungi that reproduces through the release of spores or the splitting of cells or other means, including but not limited to, mold, mildew, fungi, fungal spores, hyphae, fragments and metabolites such as mycotoxins and microbial volatile organic compounds.

“Release” with respect to any Hazardous Substance includes but is not limited to any release, deposit, discharge, emission, leaking, leaching, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Substances.

“Remediation” includes but is not limited to any response, remedial, removal, or corrective action; any activity to clean up, detoxify, decontaminate, contain or otherwise remediate any Hazardous Substance; any actions to prevent, cure or mitigate any Release of any Hazardous Substance; any action to comply with any Environmental Laws or with any permits issued pursuant thereto; any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis, or evaluation relating to any Hazardous Substances or to anything referred to herein.

5. Unimpaired Liability. The liability of Borrower under this Agreement shall in no way be limited or impaired by, and Borrower hereby consents to and agrees to be bound by, any amendment or modification of the provisions of the Note, the Loan Agreement or any other Loan Document to or with Lender by Borrower or any Person who succeeds Borrower or any Person as owner of the Theater Property. In addition, the liability of Borrower under this Agreement shall in no way be limited or impaired by (i) any extensions of time for performance by Borrower required by the Note, the Loan Agreement or any of the other Loan Documents, (ii) any sale or transfer of all or part of the Theater Property, (iii) any exculpatory provision in the Note, the Loan Agreement or any of the other Loan Documents limiting Lender’s recourse to any other security for the Note, or limiting Lender’s rights to a deficiency judgment against Borrower or any Obligor, (iv) the accuracy or inaccuracy of the representations and warranties made by any Borrower under the Note, the Loan Agreement or any of the other Loan Documents or herein, (v) the release of Borrower or any other Person from performance or observance of any of the agreements, covenants, terms or condition contained in any of the other Loan Documents whether by operation of law, Lender’s voluntary act, or otherwise, (vi) the release or substitution in whole or in part of any security for the Note, or (vii) Lender’s failure to perfect, protect, secure or insure any security interest or lien given as security for the Note; and, in any such case, whether with or without notice to Borrower and with or without consideration.

6. Remedies. Upon the occurrence and during the continuation of an Event of Default, Lender may, at its option, in addition to all other remedies provided for hereunder and

under the other Loan Documents, or at law, take such action as Lender determines in its sole discretion to be necessary to ensure compliance by the Borrower with the provisions of this Agreement. The exercise of any rights under this Agreement by Lender shall not cure or waive any Default or Event of Default, or invalidate any act done pursuant hereto or pursuant to the other Loan Documents, but shall be cumulative of all other rights and remedies under this Assignment and the other Loan Documents. Borrower hereby agrees to defend, indemnify and hold Lender harmless from and against any and all liability, loss, damage or expense which Lender may or might incur under or by reason of this Agreement, any action taken by Lender hereunder, including litigation costs, attorneys' fees, engineers' fees, environmental consultants' fees, and investigation costs, but not losses incurred by Lender solely by reason of Lender's own willful misconduct or gross negligence.

7. Actions against Third Parties. Borrower shall take any and all reasonable actions, including institution of legal action against third parties, necessary or appropriate to obtain reimbursement, payment or compensation from such Persons responsible for the presence of any Hazardous Substances at, in, on, under, above or in the vicinity of the Theater Property and any remediation, disposal or clean up in connection therewith or otherwise obligated by law to pay any costs and expenses in connection with same.

8. Borrower's Representations and Warranties. Borrower represents and warrants to Lender that:

(a) It has the full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; the execution, delivery and performance of this Agreement by Borrower has been duly and validly authorized; and all requisite action has been taken by Borrower to make this Agreement valid and binding upon Borrower, enforceable in accordance with its terms;

(b) Its execution of, and compliance with, this Agreement will not result in the breach of any term or provision of the Act, or other governing instrument of Borrower or result in the breach of any term or provision of, or conflict with or constitute a default under, or result in the acceleration of any obligation under, any agreement, indenture or loan or credit agreement or other instrument to which Borrower or the Theater Property is subject, or result in the violation of any law, rule, regulation, order, judgment or decree to which Borrower or the Theater Property is subject;

(c) There is no action, suit, proceeding or investigation pending or, to the best of Borrower's knowledge, threatened against it which, either in any one instance or in the aggregate, may result in any material adverse change in the business, operations, financial condition, properties or assets of Borrower, or in any material impairment of the right or ability of Borrower to carry on its business substantially as now conducted, or in any material liability on the part of Borrower, or which would draw into question the validity of this Agreement or of any action taken or to be taken in connection with the obligations of Borrower contemplated herein, or which would be likely to impair materially the ability of Borrower to perform under the terms of this Agreement;

(d) It does not believe, nor does it have any reason or cause to believe, that it cannot perform each and every covenant contained in this Agreement;

(e) To the best of Borrower's knowledge, no approval, authorization, order, license or consent of, or registration or filing with, any governmental authority or other person, and no approval, authorization or consent of any other party is required in connection with this Agreement which has not been obtained; and

(f) This Agreement constitutes a valid, legal and binding obligation of Borrower, enforceable against it in accordance with the terms hereof.

9. No Waiver. No delay by the Lender in exercising any right, power or privilege under this Agreement shall operate as a waiver of any such privilege, power or right.

10. Notice of Legal Actions. Each party hereto shall, within five (5) business days of receipt thereof, give written notice to the other party hereto of (i) any notice, advice or other communication from any governmental entity or any source whatsoever with respect to Hazardous Substances or the ADA on, from or affecting the Theater Property, and (ii) any legal action brought against such party or related to the Theater Property, with respect to which Borrower may have obligations under this Agreement. Such notice shall comply with the provisions of Section 12 hereof.

11. Termination. At such time as the Note is fully paid and performed, this Agreement and all of Lender's right, title and interest hereunder shall terminate.

12. Notices. All notices or other communications hereunder shall be in writing and shall be given in accordance with Section 9 of the Loan Agreement.

13. No Oral Change. This Agreement, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought..

14. Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. Governing Law. This Agreement shall be governed, construed, applied and enforced in accordance with the laws of the State of Florida (without giving effect to the State of Florida's principles of conflicts of law) and the applicable laws of the United States of America.

16. Captions. All captions or headings preceding the text of separate paragraphs of this Agreement are solely for reference purposes and shall not affect the interpretation or effect of the text.

17. Duplicate Originals, Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original.

18. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

19. Miscellaneous. Wherever pursuant to this Agreement (i) Lender exercises any right given to it to approve or disapprove, (ii) any arrangement or term is to be satisfactory to Lender, or (iii) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole and absolute discretion of Lender and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein. Wherever pursuant to this Agreement it is provided that Borrower shall pay any costs and expenses, such costs and expenses shall include, but not be limited to, reasonable legal fees and disbursements of Lender.

20. Successors and Assigns. This Agreement shall inure to the benefit of Lender and its successors and assigns, and shall bind Borrower and its successors and permitted assigns.

21. WAIVER OF JURY TRIAL. BORROWER, AND BY ITS ACCEPTANCE HEREOF, LENDER, EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION HERewith. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. BORROWER AND LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by Borrower and is effective as of the day and year first above written.

BORROWER:

PERFORMING ARTS CENTER AUTHORITY,
BROWARD COUNTY

By:_____

Name:_____

Title:_____

[SEAL]

ATTEST:

By:_____

Name:_____

Title:_____

SCHEDULE A

LEGAL DESCRIPTION

Theater Property

Tract "A," THEATRE CENTER, according to the Plat thereof as recorded at Plat Book 63, Page 5 of the Public Records of Broward County, Florida; said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

And including the license granted in the Lease to the Borrower to exclusive use of the property directly east of and contiguous to the above-described parcel for patron parking of 600 cars, for a period starting two hours before each event and ending two hours after each event, as more particularly described in the Lease.

COLLATERAL ASSIGNMENT OF GOVERNMENT SUPPORT AGREEMENTS AND REVENUES

This Collateral Assignment of Government Support Agreements and Revenues (the “Assignment”) is made as of the 1st day of December, 2019 by **Performing Arts Center Authority, Broward County**, a Florida independent special district (the “Assignor”), having its principal place of business at 201 SW 5th Avenue, Fort Lauderdale, FL 33312, in favor of **STI Institutional & Government, Inc.**, a Delaware corporation (the “Lender”).

RECITALS

WHEREAS, Borrower operates the facility known as the Parker Playhouse, located at 708 NE 8th Street, Fort Lauderdale, Florida 33304, and legally described on Exhibit “A” attached hereto and made a part hereof (the “Theater Property”); and

WHEREAS, Lender is making a loan to the Assignor in the maximum principal amount of \$13,000,000.00 (the “Loan”) pursuant to a Loan Agreement dated on even date herewith (the “Loan Agreement”) between Assignor and Lender, which Loan is being made to finance the “Phase I Improvements” and the “Phase II Improvements” (both as defined in the Loan Agreement) (collectively, the “Improvements”), on certain property operated by Assignor (the “Theater Property”) located in Broward County, State of Florida, which Loan is further evidenced by a promissory note in the amount of \$13,000,000 (the “Note”), dated December __, 2019; and

WHEREAS, Borrower and the Broward Performing Arts Foundation, Inc. (the “Foundation”) are conducting a capital campaign (the “Capital Campaign”) to raise funds for the Improvements (the “Projects”) and other related costs associated with the Projects, and the proceeds of the Capital Campaign are to be used to repay the Loan; and

WHEREAS, the Borrower has also entered into a number of agreements with other governmental entities that provide financial support and/or revenues to the Borrower; and

WHEREAS, the Borrower has agreed to assign its rights in such agreements to the extent not prohibited by the terms thereof, and to pledge the proceeds received by the Borrower pursuant to such agreements in order to further secure the repayment of the Loan and the performance of the “Obligations” (as this and other capitalized terms used herein and not otherwise defined are defined in the Loan Agreement); and

NOW, THEREFORE, for the better securing of the payment and performance of the Obligations and other good and valuable considerations paid to the Assignor, the receipt and sufficiency of which are hereby conclusively acknowledged:

1. Assignment. The Assignor hereby assigns, grants, bargains, conveys, transfers and pledges to Lender:

(a) All of Assignor’s right, interest and title in the agreements listed in Exhibit “A” hereto, but only to the extent such assignment is not prohibited by the terms thereof (all such

agreements being hereinafter collectively referred to as the “Government Support Agreements”) and all parties to such Government Support Agreements other than the Borrower being hereinafter collectively referred to as the “Government Support Providers”);

(b) All receipts, revenues, issues, accounts and profits now due or which may become due or to which Assignor may now or hereafter become entitled or may demand or claim, arising or issuing from or out of the Government Support Agreements, including but not limited to: damages following default, together with any and all rights and claims of any kind which Assignor may have against any Government Support Provider (all such receipts, revenues, issues, accounts and profits described in this paragraph being collectively “Government Support Revenues”);

(c) All other funds paid to Assignor by a Government Support Provider pursuant to a Government Support Agreements, whether paid in a lump sum or installments.

2. Obligations Secured. This Assignment pledges the Government Support Agreements (but only to the extent such assignment is not prohibited by the terms thereof) and the Government Support Revenues to the repayment of all obligations of Assignor now or hereafter evidenced by or existing under the Loan Documents and Assignor's performance of the terms and conditions of this Assignment, including without limitation the Note and the Obligations.

3. Grant to Assignor in Absence of Event of Default. This Assignment is a present, absolute and executed assignment of the Government Support Agreements and the Government Support Revenues. Nevertheless, as long as no Event of Default (as described in Section 7 hereof) has occurred and is continuing, Assignor is hereby permitted to collect all of the Government Support Revenues. Assignor shall apply the Government Support Revenues in the manner and for the purposes required by the Loan Agreement, and to the extent required by the Loan Agreement, shall be deposited into the Restricted Collateral Account and shall be used only as permitted in the Loan Agreement.

4. Representations and Warranties. Assignor represents and warrants to Lender that:

(a) Assignor has duly performed all terms, covenants, conditions and warranties of the Government Support Agreements on Assignor's part to be performed, and has received no notice of its having defaulted under any of the Government Support Agreements;

(b) The Government Support Agreements are valid, enforceable against the Government Support Providers, unmodified (except as disclosed therein) and in full force and effect;

(c) Assignor has not previously sold, assigned, transferred, mortgaged or pledged any of the Government Support Revenues or Government Support Agreements, whether now due or hereafter to become due, except to Lender;

(d) No payment of any of the Government Support Revenues has been waived, discounted, set off, or otherwise discharged or compromised;

(e) To Assignor's knowledge, no Government Support Provider is in material default of any of the terms of any Government Support Agreement to which it is a party.

5. Affirmative Covenants. Assignor agrees with Lender as follows:

(a) To duly observe and perform all agreements, conditions and warranties of the Government Support Agreements on the part of Assignor to be observed and performed, and to give prompt notice to Lender of (i) any failure on the part of Assignor to observe or perform them, or (ii) any notification of default or failure to comply received by Assignor;

(b) To enforce or secure (as appropriate) the performance of each and every condition and agreement in the Government Support Agreements to be performed by any Government Support Provider;

(c) To give Lender written notice of any material default by any Government Support Provider under any Government Support Agreement to which it is a party;

(d) To appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Government Support Agreements or the obligations, duties, or liabilities of Assignor or any Government Support Provider, and upon request by Lender, to do so in the name and behalf of Lender but at the expense of Assignor;

(e) To pay all costs and expenses of Lender, including reasonable attorneys' fees, in any action or proceeding in which Lender appears related hereto; and

(f) To deliver to Lender executed copies of any waiver, modification or amendment to any of the Government Support Agreements, and to execute and deliver to Lender, upon Lender's demand and at any time or times, any and all assignments and other instruments sufficient, or that Lender may reasonably consider advisable, for subjecting those amendments to the Government Support Agreements to this Assignment and for otherwise carrying out the purposes and intent of this Assignment (provided that nothing herein shall be construed to require any additional documentation to bring such Government Support Agreements, as amended, within the purview of this Assignment).

6. Negative Covenants. Assignor further agrees with Lender as follows:

(a) Without Lender's prior written consent, not to pledge, transfer, assign or otherwise encumber or assign future payments of the Government Support Revenues;

(b) Without Lender's prior written consent, not to sell, transfer or encumber any of its rights, title or interest in, to or under any of the Government Support Agreements or the Government Support Revenues (except to Lender).

(c) Without Lender's prior written reasonable consent, not to terminate, amend, modify or waive any provision of any Government Support Agreement.

7. Events of Default; Remedies on Default. Any failure of the Assignor to comply with the provisions of this Agreement and any Event of Default under the Loan Agreement shall be

considered an “Event of Default” hereunder. Upon and at any time after the occurrence of an Event of Default Lender shall have, at its option, the right, power and authority to exercise and enforce any or all of the following rights and remedies:

(a) To terminate the permission granted to Assignor to collect as aforesaid the Government Support Revenues, and then and thereafter, to demand, collect, receive, sue for, attach and levy the Government Support Revenues, to give proper receipts, and acquittances therefor, and after deducting all necessary and proper costs and expenses of collection (including reasonable attorneys' fees) as determined by Lender, to apply the net proceeds thereof, together with any funds of Assignor deposited with Lender, to all or any of the Obligations in such order as Lender determines;

(b) Without regard to the adequacy of the security, with or without any action or proceedings, through any person or by any agent, or by a receiver to be appointed by court, to make, modify, cancel, accept cancellation or enforce the rights of Borrower under any Government Support Agreements now in effect or hereafter in effect; and otherwise to do any act or incur any costs or expense as Lender deems proper to protect the security hereof, as fully and to the same extent as Assignor could do, and in any such event to apply the Government Support Revenues so collected to payment of the Obligations, in such order as Lender may determine, including the payment of reasonable attorneys' fees; provided, however, that the acceptance by Lender of this Assignment, with all of the rights, powers, privileges and authority so created, shall not at any time or in any event obligate Lender to appear in or defend any action or proceeding relating to the Government Support Agreements or to the Projects, or to take any action hereunder, or to expend any money, incur any expenses or perform or discharge any obligation, duty or liability under the Government Support Agreements, or to assume any obligation or responsibility for any Government Support Revenues delivered to Assignor by any Government Support Provider and not assigned, whether delivered to Lender or not; and provided further that the collection of the Government Support Revenues and application as aforesaid shall not cure or waive any Event of Default, waive, modify or affect any notice of default under the Loan Documents or invalidate any act done pursuant to such notice, and the right to exercise such right or remedy, once exercised, shall continue, notwithstanding that the collection and application of Government Support Revenues Proceeds may have cured the Event of Default giving rise to the right or remedy. If Lender shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent Event of Default.

(c) The term “reasonable attorney's fees” as used in this Assignment shall include, but not be limited to, reasonable attorneys' fees incurred in any and all judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such proceedings arise before or after entry of a final judgment.

8. Direction to Providers. After and during the continuance of any Event of Default, Lender may, at its option, notify any Government Support Providers of the existence of this Assignment. Upon and during the continuance of an Event of Default, with respect to those Government Support Agreements that can be assigned, Assignor hereby specifically authorizes, instructs and directs the applicable Government Support Providers to pay all Government Support Revenues to Lender upon receipt of demand from Lender to so pay them and Assignor hereby agrees that

each such Government Support Provider may rely upon such written demand from Lender to so pay the Government Support Revenues without any inquiry into whether there exists an Event of Default under the other Loan Documents or whether Lender is otherwise entitled to the Government Support Revenues. Assignor hereby waives any right, claim or demand which Assignor may now or hereafter have against any Government Support Provider by reason of such payment of Government Support Revenues to Lender, and any such payment shall discharge such Government Support Provider's obligation to make such payment to Assignor.

9. Appointment of Receiver. Lender, at any time after an Event of Default, shall be entitled to apply for the appointment of a receiver of the Government Support Revenues, and shall be entitled to the appointment of such receiver as a matter of right, without consideration of the value of the other security for the Obligations or of the solvency of any person or other entity liable for payment of the Obligations.

10. Hold Harmless. Assignor hereby agrees to defend, indemnify and hold Lender harmless from and against any and all liability, loss, damage or expense which Lender may or might incur under or by reason of this Assignment, any action taken by Lender hereunder, or any claims or demands whatsoever which may be asserted against Lender arising out of the Government Support Agreements, including, but without limitation, any claim by any Government Support Provider of credit for the Government Support Revenues paid to and received by Assignor but not delivered to Lender. Should Lender incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorneys' fees) with interest thereon at the Default Rate shall be payable by Assignor immediately without demand and shall be secured hereby. In no event shall Lender have any obligation to return any Government Support Revenues delivered to Lender.

11. No Waiver. The failure of Lender to avail itself of any terms, agreements and conditions of this Assignment for any period of time or at any time or times, shall not be construed or deemed to be a waiver of any such right, and nothing contained herein, nor anything done or omitted to be done by Lender pursuant hereto, shall be deemed a waiver by Lender of any of its rights and remedies under the laws of the State of Florida. The right of Lender to collect the Government Support Revenues and to enforce any other security therefor may be exercised by Lender, either prior to, simultaneously with, or subsequent to any action taken hereunder.

12. Partial Invalidity. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

13. Notice. All notices or other communications hereunder shall be in writing and shall be given in accordance with Section 9 of the Loan Agreement.

14. Binding Effect. The term "Assignor" shall be construed, to include the heirs, executors, administrators, legal or personal representatives, successors and assigns of each person or entity included within that term; and all the covenants and agreements of Assignor shall extend to and be binding upon all those persons and shall inure to the benefit of Lender, its successors and

assigns. All obligations of Assignor hereunder shall be the joint and several obligations of each person or entity included within that term.

15. Modifications of Loan Documents. This Assignment secures, in addition to the Loan Documents themselves, all extensions, renewals, consolidations and modifications thereof and all substitutions and replacements therefor. Whenever used elsewhere herein, the term the “Loan Documents” includes all extensions, modifications, renewals and consolidations of the Loan Documents and all substitutions and replacements

16. Survival of Indemnities. Assignor's liability under any indemnity or hold harmless agreement contained herein shall survive the release or satisfaction hereof and repayment of the Obligations.

17. Captions. All captions or headings preceding the text of separate paragraphs of this Assignment are solely for reference purposes and shall not affect the interpretation or effect of the text.

18. Duplicate Originals, Counterparts. This Assignment may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original.

19. Applicable Law. This Assignment shall be governed, construed, applied and enforced in accordance with the laws of the State of Florida (without giving effect to the State of Florida's principles of conflicts of law) and the applicable laws of the United States of America.

20. Successors and Assigns. This Assignment shall inure to the benefit of Lender and its successors and assigns, and shall bind Borrower and its successors and permitted assigns.

LENDER AND ASSIGNOR HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS ASSIGNMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER MAKING THE LOAN AS AFORESAID. FURTHER, ASSIGNOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF LENDER, NOR LENDER'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LENDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Collateral Assignment of Government Support Agreements and Revenues was executed and delivered as of the date set forth above.

ASSIGNOR:

PERFORMING ARTS CENTER
AUTHORITY, BROWARD COUNTY

By:_____

Name:_____

Title:_____

[SEAL]

ATTEST:

By:_____

Name:_____

Title:_____

EXHIBIT “A”

LIST OF GOVERNMENT SUPPORT AGREEMENTS

(a) Grant Agreement between the City of Fort Lauderdale and the Assignor For Capital Grant Funding For Fiscal Years 2017 through 2027 (agreement assignable per Section 10.8 thereof)

(b) Agreement between Broward County and the Assignor for Grant Program Funds for Broward Center for Performing Arts Capital Replacement Renewal Plan (agreement not assignable per Section 11.7)

(c) Operations Agreement Arts and Science District Parking Facility among the Downtown Development Authority of the City of Fort Lauderdale, the Assignor, the City of Fort Lauderdale and the Discovery Center, Inc. n/k/a Museum of Discovery and Science, Inc., dated November 11, 1989, as amended by Amendment to Escrow Agreement, Construction Agreement and Operations Agreement – Arts and Science District Parking Facility, dated July 10, 1991, and Second Amendment to Operations Agreement Relating to Arts and Science District Parking Facility effective retroactively to October 1, 2002 (agreement not assignable per Section 7.5 thereof).

(d) The Tri-party Grant Agreement among Broward County, the City of Fort Lauderdale and the Assignor For Grant Funding for Authority’s Operation for Fiscal Year 2020 (agreement not assignable per Article VII thereof).

COLLATERAL AGENT AGREEMENT

THIS COLLATERAL AGREEMENT (the "Agreement") is entered into and effective this ____ day of December, 2019, by and among SunTrust Bank, Escrow Services ("Collateral Agent"), STI Institutional & Government, Inc. ("Lender"), the Performing Arts Center Authority, Broward County ("Borrower") and Broward Performing Arts Foundation, Inc. ("Foundation") (collectively the "Parties");

WHEREAS, Lender and Borrower have entered into a Loan Agreement dated on even date herewith (the "Loan Agreement") providing for a Loan (as this and other capitalized terms used herein and not otherwise defined are defined in the Loan Agreement) to Borrower for the purposes of funding the Project Costs, and

WHEREAS, Borrower and Foundation have undertaken a Capital Campaign to fund the Project and have designated certain pledges and grants as Eligible Pledges for the purpose of providing for the Project Costs and the repayment of the Loan; and

WHEREAS, Borrower is also a party to a Tri-Party Grant Agreement, and Operations Agreement and the Government Support Agreements (collectively, the "Support Agreements"), and the moneys received by Borrower pursuant to those agreements are also pledged to secure the repayment of the Loan;

WHEREAS, Borrower and Foundation have agreed to deposit the certain of the proceeds of the Eligible Pledges and certain of the moneys received by the Borrower under the Support Agreements into the Restricted Collateral Account to be held by Collateral Agent as an account (the "Escrow Account") to be held and invested by the Collateral Agent in accordance with this Agreement.

NOW, THEREFORE, in consideration of the premises herein, the parties hereto agree as follows:

I. Terms and Conditions

1.1. Borrower, Foundation and Lender hereby appoint SunTrust Bank, Escrow Services as their Collateral Agent and SunTrust Bank, Escrow Services hereby accepts its duties as provided herein.

1.2 To the extent and in the manner provided by the Loan Agreement, Borrower and Foundation shall remit to the Collateral Agent to be held by the Collateral Agent and invested as provided in this Agreement (a) receipts of Eligible Pledges and (b) the moneys the Borrower receives under the Support Agreements.

1.3. Within two business days of receipt of written instructions, signed by an authorized representative of each of the Borrower and the Lender (a list of whom are provided in Exhibit A), the Collateral Agent shall disburse funds as provided in such written instructions, but only to the extent that funds are collected and available.

II. Provisions as to Collateral Agent

2.1. This Agreement expressly and exclusively sets forth the duties of Collateral Agent with respect to any and all matters pertinent hereto and no implied duties or obligations shall be read into this Agreement against Collateral Agent.

2.2. Collateral Agent acts hereunder as a depository only, and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of the subject

matter of the Collateral Agreement or any part thereof, or of any person executing or depositing such subject matter.

2.3. This Agreement constitutes the entire agreement between the Collateral Agent and the other parties hereto in connection with the subject matter of this Escrow Account, and no other agreement entered into between the parties, or any of them, shall be considered as adopted or binding, in whole or in part, upon the Collateral Agent notwithstanding that any such other agreement may be deposited with Collateral Agent or the Collateral Agent may have knowledge thereof.

2.4. Collateral Agent shall in no way be responsible for nor shall it be its duty to notify any party hereto or any other party interested in this Agreement of any payment required or maturity occurring under this Agreement or under the terms of any instrument deposited therewith unless such notice is explicitly provided for in Collateral Agreement.

2.5. Collateral Agent shall be protected in acting upon any written notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other paper or document which Collateral Agent in good faith believes to be genuine and what it purports, to be, including, but not limited to, items directing investment or non-investment of funds, items requesting or authorizing release, disbursement or retainage of the subject matter of Collateral Agreement and items amending the terms of the Collateral Agreement.

2.6. Collateral Agent may consult with legal counsel in the event of any dispute or question as to the construction of any of the provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the advice of such counsel.

2.7. In the event of any disagreement between any of the parties to this Agreement, or between any of them and any other party, resulting in adverse claims or demands being made in connection with the matters covered by this Agreement, or in the event that Collateral Agent, in good faith, be in doubt as to what action it should take hereunder, Collateral Agent may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, Collateral Agent shall not be or become liable in any way or to any party for its failure or refusal to act, and Collateral Agent shall be entitled to continue to refrain from acting until (i) the rights of all interested parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been adjudged and all doubt resolved by agreement among all of the interested parties, and Collateral Agent shall have been notified thereof in writing signed by all such parties. Notwithstanding the preceding, Collateral Agent may in its discretion obey the order, judgment, decree or levy of any court, whether with or without jurisdiction, or of an agency of the United States or any political subdivision thereof, or of any agency of the State of Florida or of any political subdivision thereof, and Collateral Agent is hereby authorized in its sole discretion, to comply with and obey any such orders, judgments, decrees or levies. The rights of Collateral Agent under this sub-paragraph are cumulative of all other rights which it may have by law or otherwise.

2.8. Collateral Agent shall be indemnified and held harmless from anything which it may do or refrain from doing in connection herewith, or for any claims, demands or losses, or for any damages made or suffered by any party to this Agreement, excepting such as may arise through or be caused by Collateral Agent's willful misconduct or gross negligence.

2.9. In the event that any controversy should arise among the parties with respect to the Collateral Agreement or should the Collateral Agent resign and the parties fail to select another

Collateral Agent to act in its stead, the Collateral Agent shall have the right to institute a bill of interpleader in any court of competent jurisdiction to determine the rights of the parties.

III. Compensation of Collateral Agent

3.1. Collateral Agent shall be entitled to reasonable compensation as well as reimbursement for its reasonable costs and expenses incurred in connection with the performance by it of services under this Agreement (including reasonable fees and expenses of Collateral Agent's counsel). Each of the undersigned parties, with the exception of Collateral Agent, hereby jointly and severally bind and obligate themselves to pay to Collateral Agent the compensation and reimbursement to which it is entitled and further agree that Collateral Agent shall have a lien on the assets of the Escrow Account for payment of its fees and expense from the assets of the Escrow Account if they are not otherwise paid and without judicial action to foreclose the said lien. Collateral Agent's fee is as provided in Exhibit B to this Agreement.

IV. Miscellaneous

4.1. Collateral Agent shall make no disbursement, investment or other use of funds until and unless it has collected funds. Collateral Agent shall not be liable for collection items until the proceeds of the same in actual cash have been received or the Federal Reserve has given Collateral Agent credit for the funds.

4.2. Funds shall be invested as directed by Borrower, who hereby directs the Collateral Agent to initially invest in the SunTrust Bank Escrow NOW Deposit Account for Municipal and Not-for-Profit Clients as indicated on Exhibit C hereto. The investments made under this Agreement are to be made by the Collateral Agent, as directed, and the Collateral Agent shall not be liable to any party for any loss incurred in connection with any such investment. The Collateral Agent shall make its best effort to invest funds on a timely basis upon receipt of such funds. However, the Collateral Agent shall not be liable for compensation to any party related to funds which are held uninvested or funds which are not invested timely.

4.3 The Collateral Agent shall provide monthly reports of transactions and holdings to the Lender and Borrower as of the end of each month, at the address provided by them. Except for Form 1099's, the Collateral Agent shall not be responsible for providing any IRS tax reporting or any other tax reporting related to this Agreement.

4.4. Any notice, request for consent, report, or any other communication required or permitted in this Agreement shall be in writing and shall be deemed to have been given **when** personally delivered to the party specified, or by telecopy transmission, or by email, or by a national overnight courier service, or when placed in the United States mail (return receipt requested) (with postage and other fees prepaid) as follows:

TO COLLATERAL AGENT: SunTrust Bank
Attn: Nickida Dooley
919 E. Main Street, 5th Floor
Richmond, VA 23219
Fax: (804) 782-7855
Telephone: (804) 225-7141
Email: nickida.dooley@suntrust.com

TO BORROWER: Performing Arts Center Authority, Broward County
201 SW Fifth Avenue
Fort Lauderdale, FL 33312
Attention: Chief Financial Officer
Fax: 954-468-2549
Telephone: 954-765-5835
Email: tweeks@browardcenter.org

TO FOUNDATION: Broward Performing Arts Foundation, Inc.
201 SW Fifth Avenue
Fort Lauderdale, FL 33312
Attention: Lisa Kitei, President
Fax: 954-468-2680
Telephone: 954-468-3297
Email: lkitei@browardcenter.org

TO LENDER: STI Institutional & Government, Inc.
Mail Code FL- Ft. Lauderdale-2013
515 E. Las Olas Blvd. 7th Floor
Fort Lauderdale, FL 33301
Fax: (954) 765-7240
Telephone: (954) 765-7445
Email: david.ross@suntrust.com

Any party may unilaterally designate a different address by giving notice of each change in the manner specified above to each other party.

4.5. This Agreement is being made in and is intended to be construed according to the laws of the State of Florida. It shall inure to and be binding upon the parties hereto and their respective successors, heirs and assigns. All representations, covenants, and indemnifications contained in this Agreement shall survive the termination of this Agreement.

4.6. The terms of this Agreement may be altered, amended, modified or revoked only by an instrument in writing signed by all the parties hereto.

4.7. If any provision of this Agreement shall be held or deemed to be or shall in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

4.8. The Collateral Agent may resign at any time from its obligations under this Agreement by providing written notice to the parties hereto. Such resignation shall be effective not later than thirty (30) days after such written notice has been given. The Collateral Agent shall have no responsibility for the appointment of a successor Collateral Agent. Unless otherwise provided in this Agreement, final termination of this Agreement shall occur on the maturity date of the Note.

4.9. All titles and headings in this Agreement are intended solely for convenience of reference and shall in no way limit or otherwise affect the interpretation of any of the provisions hereof.

4.10. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the date and year first above written.

BORROWER:

PERFORMING ARTS CENTER AUTHORITY,
BROWARD COUNTY

By:_____

Name:_____

Title:_____

[SEAL]

ATTEST:

By:_____

Name:_____

Title:_____

FOUNDATION:

BROWARD PERFORMING ARTS
FOUNDATION, INC.

By:_____

Name:_____

Title:_____

LENDER:

STI INSTITUTIONAL & GOVERNMENT, INC.

By:_____

Name:_____

Title:_____

COLLATERAL AGENT:

SUNTRUST BANK, ESCROW SERVICES

By:_____

Name:_____

Title:_____

EXHIBIT A

Certificate of Incumbency
(List of Authorized Representatives)

Client Name: _____

As an Authorized Officer of the above referenced entity, I hereby certify that the each person listed below is an authorized signor for such entity, and that the title and signature appearing beside each name is true and correct.

<u>Name</u>	<u>Title</u>	<u>Signature</u>	<u>Contact Number</u>

IN WITNESS WHEREOF, this certificate has been executed by a duly authorized officer by:

By: _____ Date: _____
Title: _____

EXHIBIT B

Schedule of Fees

Acceptance/Legal Review Fee: **waived** – one time only and payable at the time of the bank's attorney review of the escrow agreement

The Legal Review Fee includes review of all related documents and accepting the appointment of Escrow Agent on behalf of SunTrust Bank. The fee also includes setting up the required account(s) and accounting records, document filing, and coordinating the receipt of funds/assets for deposit to the Escrow Account. This is a one-time fee payable upon execution of the Escrow Agreement. As soon as SunTrust Bank's outside counsel begins to review the escrow agreement, the legal review fee is subject to payment regardless if the parties decide to appoint a different escrow agent or a decision is made that the escrow agreement is not needed.

Administration Fee: *\$4,000– payable at the time of signing the escrow agreement and on the anniversary date thereafter, if applicable. Lender agrees to pay the Administration Fee for the initial twelve (12) month period.

The Administration Fee includes providing routine and standard services of an Escrow Agent. The fee includes administering the escrow account, performing investment transactions, processing cash transactions (including wires and check processing), disbursing funds in accordance with the Agreement (note any pricing considerations below), and providing trust account statements to applicable parties for a twelve (12) month period. If the account remains open beyond the twelve (12) month term, the parties will be invoiced each year on the anniversary date of the execution of the Escrow Agreement. Additional fees will be billed for processing claim notices and/or objections. Extraordinary expenses, including legal counsel fees, will be billed as out-of-pocket. The Administration Fee is due upon execution of the Escrow Agreement.

Out-of-Pocket Expenses: **At Cost**

Out-of-pocket expenses such as, but not limited to, postage, courier, overnight mail, insurance, money wire transfer, long distance telephone charges, facsimile, stationery, travel, legal (out-of-pocket to counsel) or accounting, will be billed at cost.

***Note: This fee schedule is based on the assumption that the escrowed funds will be invested in the SunTrust Bank Escrow NOW Deposit Account for Municipal and Not-for-Profit Clients.**

SunTrust Bank
Jon Fox
407.237.5240
jon.fox@suntrust.com

EXHIBIT C

To: SunTrust Bank

I direct and authorize you to invest all temporary cash and the portion of my account(s) that is appropriate to maintain in cash or cash equivalents in a SunTrust Bank deposit option or Federated Funds money market fund, as follows:

Check One:

- | | |
|---|--|
| <input type="checkbox"/> SunTrust Institutional Money Market Deposit Option | <input type="checkbox"/> SunTrust Non-Interest Deposit Option |
| <input type="checkbox"/> Federated Prime Obligations Fund (POIXX) | <input type="checkbox"/> Federated Tax Free Obligations Fund (TBIXX) |
| <input checked="" type="checkbox"/> Other: <u>SunTrust Bank Escrow NOW Deposit Account for Municipal and Not-for-Profit Clients</u> | |

I acknowledge and consent that:

1. I understand that investments in the SunTrust Institutional Money Market Deposit Option and SunTrust Bank Escrow NOW Deposit Account for Municipal and Not-for-Profit Clients and SunTrust Non-Interest Deposit Option are insured, subject to the applicable rules and regulations of the Federal Deposit Insurance Corporation (the "**FDIC**"), in the standard FDIC insurance amount of \$250,000, including principal and accrued interest. The Parties understand that deposits in the SunTrust Institutional Money Market Deposit Option, SunTrust Bank Escrow NOW Deposit Account for Municipal and Not-for-Profit Clients and SunTrust Non-Interest Deposit Option are not secured. Further, I understand that the SunTrust Institutional Money Market Deposit Option has **monthly withdrawal/disbursement restrictions of a maximum of 6 per month** and that should the maximum be reached in any one calendar month, the funds will be moved to a SunTrust Bank Non-Interest Deposit Option until the beginning of the following month unless an alternate investment vehicle is selected for this purpose.

Alternate Investment Vehicle: _____

2. I may view prospectuses and other Federated fund materials, including fee information, at http://www.federatedinvestors.com/sc?link=products&templ=moneyMarketSearch&ut=unregistered_webuser
3. SunTrust Bank may receive compensation in exchange for services ("fees for services") that it provides to various Federated money market mutual funds. These fees for services shall be in addition to, and will not reduce, SunTrust Bank's compensation. Such fees for services will not be paid directly by your account, but will be paid to SunTrust Bank by Federated. The fees for services are subject to change without notice.
4. I understand no transaction charge will be imposed on the account(s) listed below with respect to that portion of the account(s) invested in Federated Funds;
5. **I understand that investment funds, except for the SunTrust Deposit options, are not bank deposits and are not obligations of, or insured, endorsed or guaranteed by any SunTrust Bank or their affiliates, the Federal Deposit Insurance Corporation, the Federal Reserve Board or any other government agency. I further understand that investment in any mutual fund involves some investment risk, including the possible loss of principal.**
6. I have full power to direct and authorize investments in account(s) identified below.

This direction and authorization shall continue in effect until revoked by written instruction delivered to the Bank. Until a replacement fund is provided to the Bank all funds will be held in cash.

Date:			
Account Name and Number:			
X		X	
Name (printed or typed)		Signature	

LOAN AGREEMENT

This Loan Agreement (the “Agreement”) made as of the 1st day of December, 2019, by and between the **Performing Arts Center Authority, Broward County**, a Florida independent special district, having its principal place of business at 201 SW Fifth Avenue, Fort Lauderdale, Florida 33312 (“Borrower”), and **STI Institutional & Government, Inc.**, a Delaware corporation, having an office at 515 East Las Olas Avenue, 7th Floor, Fort Lauderdale, FL 33301 (the “Lender”).

WITNESSETH:

WHEREAS, Borrower operates the facility known as the Parker Playhouse, located at 708 NE 8th Street, Fort Lauderdale, Florida 33304, and legally described on Exhibit “A” attached hereto and made a part hereof (the “Theater Property”); and

WHEREAS, Borrower has applied to Lender for a fixed rate, non revolving loan (the “Loan”) in the maximum amount of Thirteen Million (\$13,000,000.00), for the purpose of renovating the Theatre Property, infrastructure replacement and drying in the shell of the new construction component (the “Phase I Improvements”) and constructing and equipping an addition to the building currently located on the Theater Property (the “Phase II Improvements”); and

WHEREAS, pursuant to a commitment letter (the “Commitment Letter”) dated August 30, 2019, Lender has agreed to make the Loans to Borrower upon certain terms and conditions as set forth therein; and

WHEREAS, it is intended by the parties that the interest on the Loan be excluded from the gross income of the holders thereof from time to time for federal income tax purposes; and

WHEREAS, the Loan shall be evidenced by the Borrower’s Capital Improvement Revenue Note, Series 2019 (the “Note”); and

WHEREAS, Borrower and Broward Performing Arts Foundation, Inc. (the “Foundation”) are conducting a capital campaign (the “Capital Campaign”) to raise funds for the construction of the Phase I Improvements and the Phase II Improvements (collectively, the “Parker Playhouse Renovations and Improvements” or the “Projects”) and other related costs associated with the Projects, and the proceeds of the Capital Campaign are to be used for the Projects, including the repayment of the Note; and

WHEREAS, in order to further secure the repayment of the Loans and the performance of the obligations of Borrower in connection with the Loans, the Borrower will pledge and assign to the Lender the pledges made and to be made to the Borrower with respect to the Capital Campaign and the proceeds of such pledges; and

WHEREAS, Borrower will additionally cause its affiliate the Foundation to pledge and assign to the Lender the pledges made and to be made to the Foundation with respect to the Capital Campaign and the proceeds of such pledges; and

WHEREAS, the Borrower will also pledge and assign to the Lender, as security for the Loans, certain other revenues and contract rights as more specifically set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, agreements and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. **Recitals and Definitions.** The foregoing recitals are hereby incorporated into this Agreement, and the parties covenant and agree with each other that the representations set forth herein are true and correct. As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

(a) **Act:** Chapter 2005-335, Laws of Florida, as amended, Chapter 159, Florida Statutes, and the Resolution.

(b) **ADA and Environmental Indemnity Agreement:** The ADA and Environmental Indemnity Agreement dated the date hereof, from the Borrower to the Lender, as the same may be amended or supplemented from time to time.

(c) **Advance or Advances:** Each payment of proceeds of the Note or of funds drawn from the Restricted Collateral Account for the Payment of Project Costs approved by the Lender at the request of the Borrower.

(d) **Agreement:** This Loan Agreement, together with any modifications, extensions, renewals or substitutions heretofore made from time to time hereafter.

(e) **Architect:** Wilson Butler Architects, Inc., or such other architect as may be selected by the Borrower with the consent of the Lender.

(f) **Assignment of Contract, Licenses and Permits:** The Collateral Assignment of Contract, Licenses and Permits dated the date hereof, from the Borrower to the Lender, as the same may be amended or supplemented from time to time.

(g) **Assignment of Government Support Agreements:** The Collateral Assignment of Government Support Agreements and Revenues dated the date hereof, from the Borrower to the Lender, as the same may be amended or supplemented from time to time.

(h) **Assignment of Pledges (Borrower):** The Collateral Assignment of Pledges dated the date hereof, from the Borrower to the Lender, assigning the pledges made and to be made to the Borrower with respect to the Capital Campaign and pledging the proceeds of such pledges to secure the Note, as the same may be amended or supplemented from time to time.

(i) **Assignment of Pledges (Foundation):** The Collateral Assignment of Pledges dated the date hereof, from the Foundation to the Lender, assigning the pledges made and to be made to the Foundation with respect to the Capital Campaign and pledging the proceeds of such pledges to secure the Note, as the same may be amended or supplemented from time to time.

(j) **Business Day:** A day on which the Lender is open for business and on which dealings in U.S. dollar deposits are carried on in the London Inter-Bank Market.

(k) **Capital Campaign:** The Borrower's capital campaign to raise funds for the construction of the Projects and other related costs associated with the Projects.

(l) **Closing Date:** The first date on which the proceeds of the Note are available to Borrower for the Projects pursuant to the terms of this Agreement.

(m) **Collateral Agent Agreement:** The Collateral Agent Agreement between SunTrust Bank, Escrow Services, as Collateral Agent, Lender, Foundation and Borrower dated the Closing Date, substantially in the form of Exhibit "E" of this Agreement.

(n) **Compliance Borrowing Formula:** The formula set forth in Section 2(a) hereof.

(o) **Construction Contract:** The Construction Contract or Contracts between Borrower and General Contractor for the construction of the Phase I Improvements and the Phase II Improvements, respectively.

(p) **Construction Period:** A period of time commencing on the date hereof and terminating on the date of completion of the Improvements not to exceed twenty four (24) months from the date hereof, except as the same may be extended pursuant to the provisions of paragraph 3 of Exhibit "D" of this Agreement.

(q) **Default:** Any event which, with the lapse of time, the giving of notice, or both, would become an Event of Default.

(r) **Default Rate:** An annual interest rate equal to the Prime Rate plus five percent (5%).

(s) **Disaster:** The declaration by the President of the United States of a state of emergency in the geographic area including the Borrower as a result of a natural disaster.

(t) **Dollars or \$:** Dollars in lawful currency of the United States of America.

(u) **Eligible Pledges:** Signed pledges to contribute to the Capital Campaign and grants for the Projects identified by the Borrower from time to time, to be used for Project Costs and payment of the Loan, in form and substance satisfactory to the Lender; provided however that, (i) in the event of a material adverse change affecting an Eligible Pledge Lender

may notify Borrower that it is no longer an Eligible Pledge, in the sole and reasonable discretion of the Lender on a case by case basis, and (ii) a Pledge that is more than sixty (60) days past due shall no longer be treated as an Eligible Pledge (unless waived by the Lender in its sole and reasonable discretion upon written request of the Borrower on a case by case basis).

(v) **ERISA:** The Employee Retirement Income Security Act of 1974, as the same may from time to time be amended, and the regulations promulgated and rulings issued thereunder.

(w) **Estimated Parking Garage Revenues:** For the purpose of calculating the Compliance Borrowing Formula, this is defined as 80% of the average of the Net Revenues of the last five completed historical Fiscal Years of assignable Parking Garage Revenues until maturity of the Loan after deducting the amount needed for compliance for the Series 2013A Note and the Series 2013B Note, beginning with Fiscal Year 2020 (i.e. the period between 10/1/17-9/30/18). For example, if 80% of the historical five year average was \$700,000 through Fiscal Year 2018 and there are nine (9) full Fiscal Years remaining on the Loans, the inclusion into the Compliance Borrowing Formula would be \$6,300,000 (\$700,000 x 9 years). At each Fiscal Year, this amount will be adjusted based on the last five completed Fiscal Years as well as the time period remaining until maturity of the Loans, prorated for the months remaining until maturity in the last Fiscal Year of the Loans. Inclusion of the Estimated Parking Garage Revenues into the Compliance Borrowing Formula is subject to the parking garage being a fully functional going concern and the identified agreements which are the source of the Estimated Parking Garage Revenues remaining in place and active.

(x) **Event of Default:** Has the meaning assigned to that term in Section 8 hereof.

(y) **FEMA:** The Federal Emergency Management Agency.

(z) **FEMA Proceeds:** All amounts received by the Borrower from FEMA for payment or reimbursement for expenditures for extraordinary, nonrecurring items the Borrower desires or needs to undertake subsequent to and as a result of a Disaster, and costs related thereto.

(aa) **Fiscal Year:** The annual fiscal year of Borrower ending as of September 30 of each year.

(bb) **Foundation:** Broward Performing Arts Foundation, Inc., a Florida not for profit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(cc) **GAAP:** Accounting principles and practices generally accepted in the United States applicable to government entities, applied on a consistent basis with the financial statements referred to herein, and shall be determined both as to classification of items and amounts in accordance therewith. All subsidiaries shall be consolidated to the fullest extent permitted by such principles and practices, and any accounting terms, financial covenants and

financial statements referred to herein shall be determined and prepared on the basis of such consolidation.

(dd) **General Contractor:** RCC-GULF, A FLORIDA JOINT VENTURE LLC, a Florida limited liability company, or such other general contractor as may be selected by the Borrower with the consent of the Lender.

(ee) **Government Support:** Revenues entitled to be received by the Borrower pursuant to the Government Support Agreements that are not more than sixty (60) days past due (unless waived by the Lender in its sole and reasonable discretion upon written request of the Borrower on a case by case basis).

(ff) **Government Support Agreements:** Collectively, (i) the Grant Agreement between the City of Fort Lauderdale and the Borrower For Capital Grant Funding For Fiscal Years 2017 through 2027 (the "City Agreement"), and (ii) the Agreement between Broward County and the Borrower for Grant Program Funds for Broward Center for Performing Arts Capital Replacement Renewal Plan (the "County Agreement"), in each case as the same shall be amended or supplemented from time to time.

(gg) **Improvements:** The improvements to be constructed by the General Contractor pursuant to the Construction Contract. The Improvements shall consist of two phases: (a) the Phase I Improvements and (b) the Phase II Improvements.

(hh) **Indebtedness:** For any Person, (a) all liabilities for borrowed money or for the deferred purchase price of any property (other than accounts payable to trade creditors under customary trade credit terms) or services for which the Person is liable as principal, (b) all liabilities (excluding unaccrued finance charges) secured by a lien on property owned or being purchased by the Person, whether or not such liability shall have been assumed by the Person, (c) all capitalized lease obligations (excluding unaccrued finance charges) of the Person, (d) any arrangement (commonly described as a sale and leaseback transaction) with any financial institution or other Lender or investor providing for the leasing to the Person of property which at the time has been or is to be sold or transferred by the Person to the Lender or investor, or which has been or is being acquired from another Person by the Lender or investor for the purpose of leasing the property to the Person, and (e) all obligations of partnerships or joint ventures in respect of which the Person is primarily or secondarily liable as a partner or joint venturer or otherwise (provided that in any event for purposes of determining the amount of the Indebtedness, the full amount of such obligations, without giving effect to the contingent liability or contributions of other participants in the partnership or joint venture, shall be included).

(ii) **Lease:** The Lease Agreement for the lease of the Theatre Property, with an effective date of February 1, 2018, between the City of Fort Lauderdale, as Lessor, and the Borrower, as Lessee.

(jj) **Lien:** A pledge, lien, security interest or other charge or encumbrance or any segregation of assets or revenues or other preferential arrangement (whether or not constituting a security interest) whether voluntary or involuntary, whether granted by

agreement, statute, or otherwise, with respect to any present or future assets, including fixtures, revenues or rights to the receipt of income of the Person referred to in the context in which the term is used.

(kk) **Loan:** The up to \$13,000,000 loan evidenced by this Agreement and the Note.

(ll) **Loan Documents:** This Agreement, the Note, the Assignment of Pledges (PACA), the Assignment of Pledges (Foundation), the Collateral Agent Agreement, the Assignment of Contract, Licenses and Permits, the Assignment of Government Support Agreements, the ADA and Environmental Indemnity Agreement, and all other documents, statements and opinions executed and delivered in conjunction herewith or therewith all of which are incorporated herein by reference, and any modifications, renewals, replacements and substitutions therefor made from time to time hereafter.

(mm) **Major Subcontracts and Major Subcontractors:** The subcontractors and subcontracts for the Projects deemed by Lender to be the most significant, in Lender's sole discretion.

(nn) **Note:** The Borrower's Capital Improvement Revenue Note, Series 2019 dated December __, 2019 in the form attached as Exhibit "B" hereto, in the amount not to exceed \$13,000,000.00 and any modifications, renewals, replacements and substitutions therefor made from time to time hereafter.

(oo) **Obligations:** Collectively:

(i) all present and future Indebtedness, obligations and liabilities of the Borrower to the Lender arising pursuant to this Agreement, regardless of whether such Indebtedness, obligations and liabilities are direct, indirect, fixed, contingent, joint, several, or joint and several;

(ii) all present and future Indebtedness, obligations and liabilities of the Borrower to the Lender arising pursuant to or evidenced by the Note, and all interest accruing thereon, and reasonable attorneys' fees and costs (including those for appellate proceedings) incurred in the enforcement or collection thereof;

(iii) all present and future obligations of Borrower under any swap agreement related to the Note;

(iv) all reasonable costs incurred by the Lender to obtain, preserve, perfect and enforce the liens and security interest securing payment of such Indebtedness, liabilities and obligations, and to maintain, preserve and collect the property in which the Lender has been granted a Lien to secure payment of the Loan, or any part thereof, including but not limited to, taxes, assessments, insurance premiums, repairs, reasonable attorneys' fees and legal expenses, rent storage charges, advertising costs, brokerage fees and expenses of sale;

(v) all present and future Indebtedness, obligations and liabilities of the Borrower evidenced by or arising pursuant to any of the other Loan Documents; and

(vi) all renewals, extensions and modifications of the Indebtedness referred to in the foregoing clauses, or any part thereof.

(pp) **Obligor:** Borrower and any other Person at any time liable to the Lender with respect to any of the Obligations.

(qq) **Operating Expenses:** For any period of time, the expenses, paid or accrued, of the operation, maintenance and repair of the Theater Property for such period, as calculated in accordance with generally accepted accounting principles applicable to governmental entities. "Operating Expenses" shall not include allowances for depreciation, amortization or other similar non cash expenses, except to the extent expressly herein provided.

(rr) **Operations Agreement:** The Operations Agreement Arts and Science District Parking Facility among the Downtown Development Authority of the City of Fort Lauderdale, the Assignor, the City of Fort Lauderdale and the Discovery Center, Inc. n/k/a Museum of Discovery and Science, Inc., dated November 11, 1989, as amended by Amendment to Escrow Agreement, Construction Agreement and Operations Agreement – Arts and Science District Parking Facility, dated July 10, 1991, and Second Amendment to Operations Agreement Relating to Arts and Science District Parking Facility effective retroactively to October 1, 2002, as the same shall be amended or supplemented from time to time.

(ss) **Outside Auditors:** Any firm of independent certified public accountants of recognized standing selected by the Borrower. Borrower's present Outside Auditors are Caballero Fierman Llerena & Garcia LLP and they are acceptable to the Lender as of the date of this Agreement.

(tt) **Parking Garage Revenues:** The net parking revenues received by the Borrower, whether pursuant to the Tri-Party Grant Agreement, the Operations Agreement or otherwise.

(uu) **PBGC:** The Pension Benefit Guaranty Corporation, and any successor to all or any of the Pension Benefit Guaranty Corporation's functions under ERISA.

(vv) **Person:** Any natural person, corporation, unincorporated organization, trust, joint-stock company, joint venture, association, company, partnership or government, or any agency or political subdivision of any government.

(ww) **Phase I Improvements:** The renovation to the existing Theater Property currently under construction, infrastructure replacement and drying in the shell of the new construction component as more particularly described in the Construction Contract for Phase I.

(xx) **Phase II Improvements:** The construction and equipping of an addition to the building currently located on the Theatre Property; as more particularly described in the Construction Contract to be entered into for Phase II.

(yy) **Plan:** Any employee benefit plan which is subject to the provisions of Title IV of ERISA, or subject to the minimum funding standards under Section 412 of the Code, and which is maintained in whole or in part for employees of the Borrower or any of its subsidiaries.

(zz) **Plans and Specifications:** The plans, specifications and architectural drawings for the Improvements.

(aaa) **Prime Rate:** The per annum rate which SunTrust Bank announces from time to time to be its prime rate, as in effect from time to time. The SunTrust Bank prime rate is a reference or benchmark rate, is purely discretionary and does not necessarily represent the lowest or best rate charged to borrowing customers. The Lender and SunTrust Bank may make commercial loans or other loans at rates of interest at, above or below the SunTrust Bank prime rate. Each change in the Prime Rate shall be effective from and including the date such change is announced as being effective.

(bbb) **Projects:** The construction by Borrower of the Improvements.

(ccc) **Project Budget:** The schedule of Project Costs and sources and use of funds for the Projects attached as Exhibit "C".

(ddd) **Project Costs:** The total cost to complete the Improvements per the Project Budget.

(eee) **Resolution:** The resolution of the Borrower adopted _____, 2019, authorizing the Borrower to enter into this Agreement and to issue the Note, as amended or supplemented from time to time.

(fff) **Restricted Collateral Account:** The account or accounts established with SunTrust Bank pursuant to Section 2(e) hereof and the Collateral Agent Agreement.

(ggg) **Revenues:** For any period of time, all fees, rentals, charges or other income received by the Borrower from the operation of the Theater Property for such period, as calculated in accordance with generally accepted accounting principles applicable to governmental entities.

(hhh) **Series 2013A Note:** The Borrower's Capital Improvement Revenue Note, Series 2013A dated February 28, 2019, currently outstanding in the principal amount of \$_____, and any modifications, renewals, replacements and substitutions therefor made from time to time hereafter.

(iii) **Series 2013B Note:** The Borrower's Capital Improvement Revenue Note, Series 2013B dated February 28, 2019, currently outstanding in the principal amount of \$_____, and any modifications, renewals, replacements and substitutions therefor made from time to time hereafter.

(jjj) **Theater Property:** The parcel of property operated by Borrower and legally described in Exhibit "A."

(kkk) **Tri-Party Grant Agreement:** The Tri-party Grant Agreement among Broward County, the City of Fort Lauderdale and the Borrower For Grant Funding for Authority's Operation for Fiscal Year 2020, as the same shall be amended or supplemented from time to time.

2. The Loan.

(a) Funding. Subject to the terms and conditions hereof, Lender shall loan to Borrower (a) the principal amount of not to exceed Thirteen Million Dollars (\$13,000,000.00) for funding the Project Costs, said loan to be evidenced by the Note; provided, however, that the Lender shall have no obligation to make any Advances on the Note in excess of the sum of the following (the "Compliance Borrowing Formula"): The excess of the sum of [(a) 90% of Eligible Pledges due, (b) Government Support due, (c) Unspent proceeds of Pledges and Government Support, (d) 50% of Borrower's unencumbered and unrestricted liquid assets after deducting the amount required to maintain breakeven coverage for the Series 2013A Note and the Series 2013B note (excluding the Parking Garage Revenues); and (e) Estimated Parking Garage Revenues for the remaining term of the Loan] over the sum of [(f) remaining cost to complete the Projects as reasonably estimated by the Lender based on the Project Budget (including interest reserve and the five year impact of the construction of the Projects on the Borrower's annual budget) and (g) the outstanding principal balance on the Note]. The Compliance Borrowing Formula shall be calculated both with and without reliance on the Estimated Parking Garage Revenues. At no time during the term of the Loan will there be a deficit in the Compliance Borrowing Formula when including the Estimated Parking Garage Revenues. A certificate evidencing the Compliance Borrowing Formula shall be provided monthly during construction period and quarterly thereafter within twenty (20) Business Days of month or quarter-end as applicable.

(b) Security. The Borrower pledges to the Lender as security for the repayment of the Notes (a) the Eligible Pledges, (b) the Borrower's interest in the Government Support Agreements (subject to any restrictions contained in such agreements), (c) the Borrower's interest in the Tri-Party Grant Agreement and the Operations Agreement (subject to any restrictions contained in such agreements), (d) the revenues received by the Borrower from all of the foregoing, (e) the Restricted Collateral Account and any other account into which such revenues are deposited. Such pledge may be further evidenced and secured by the other Loan Documents and such other documents deemed reasonably necessary by the Lender. Lender acknowledges that the Act does not permit the Borrower to grant Lender a Lien on Borrower's assets such as inventory, general intangibles, equipment and proceeds thereof. However, in the event the Act is amended to permit the Borrower to grant Liens, Borrower hereby grants Lender, to the fullest extent permitted by said amendment, a blanket Lien on all of Borrower's assets, including without limitation accounts receivable, inventory, general intangibles, equipment and all proceeds thereof (but not including revenues in addition to those specifically pledged herein).

(c) Eligible Pledges. Borrower shall provide Lender with a list of pledges in the Capital Campaign which are to be used for payment of Project Costs and debt service on the Loan, being the Eligible Pledges, together with a copy of the written pledge or grant agreement and a statement as to (i) the amount, if any, of the pledge not included as part of the

Eligible Pledges, (ii) the amount of the Eligible Pledge previously paid, (iii) the balance of the Eligible Pledge due and (iv) a statement as to any Eligible Pledges that are more than 60 days past due. The initial list of Eligible Pledges shall be provided to Lender prior to the date of this Agreement in form, substance and detail acceptable to Lender. Borrower may modify the list of Eligible Pledges by notice in writing to Lender from time to time together with a copy of the pledge agreements related to any new Eligible Pledges and the information identified above.

(d) Payment Terms. The Loan shall be payable on the terms set forth in the Note. Final payment of all outstanding principal plus any accrued and unpaid interest and any other amounts owed, shall be due and payable on the maturity date of the Note. Prepayments may be made in whole or in part as provided in the Note.

(e) Restricted Collateral Account; Other Accounts. The Borrower shall establish a restricted account or accounts (such accounts being referred to collectively as the “Restricted Collateral Account”) with SunTrust Bank pursuant to the Collateral Agent Agreement. The Restricted Collateral Account shall be assigned as collateral for the Loan and held for the payment of Project Costs and principal and interest on the Loan when due. All proceeds of the Eligible Pledges and Government Support shall be deposited by Borrower to the Restricted Collateral Account upon receipt. Additionally, to the extent required by Section 2(g) hereof, the Parking Garage Revenues shall be deposited by Borrower to the Restricted Collateral Account upon receipt. The Borrower may apply monies in the Restricted Collateral Account to the payment of Project Costs pursuant to the provisions of this Agreement and to principal and interest on the Note when due and to the prepayment of principal on the Note at any time upon written direction as set forth in the Collateral Agent Agreement. The Borrower may also deposit cash to the Restricted Collateral Account.

(f) Parking Garage Revenues. Should there be any reliance during this period on the Estimated Parking Garage Revenues to meet the Compliance Borrowing Formula, the Borrower will begin depositing all Parking Garage Revenues into the Restricted Collateral Account. During this period, if the Borrower provides evidence acceptable to Lender that additional Eligible Pledges or Government Support show that there is no longer a deficit without reliance on the Estimated Parking Garage Revenues, then said remittance of Parking Garage Revenues will no longer be required.

(g) FEMA and Insurance Proceeds. As soon as practicable after the occurrence of a Disaster (but in no event more than six (6) months from such occurrence), the Borrower shall apply for such FEMA Proceeds as the Borrower believes it is eligible for, and shall provide evidence of such application to the Lender. Lender shall cooperate in applying for FEMA Proceeds and/or filing insurance claims from casualty losses to the Theater Property and the Improvements, subject to Borrower’s cooperation with Lender in obtaining for Lender the benefits of FEMA Proceeds and/or insurance proceeds lawfully or equitably payable to the Borrower in connection therewith. Said FEMA Proceeds and insurance proceeds from claims may be used by the Borrower for the repair, restoration or reconstruction of the Theatre Property and/or the Improvements so long as no Event of Default exists and the use of such FEMA Proceeds and insurance proceeds will not result in the occurrence of an Event of Default. If the Borrower shall fail to fully comply with the requirements of this subparagraph,

then the Borrower shall apply all FEMA Proceeds and insurance proceeds it receives to the repayment of the Notes within thirty (30) days of the Borrower's receipt thereof, and pledges the FEMA Proceeds and insurance proceeds for such purpose.

(h) Auto-Debit. Payments due to the Lender with respect to the Notes shall be automatically debited by SunTrust Bank when due from the Restricted Collateral Account or other depository account designated by the Borrower and maintained at SunTrust Bank.

(i) Lender Fee. At Closing, Borrower shall pay Lender a non-refundable fee in the amount of \$13,000.00.

(j) Issuance of the Note. Subject and pursuant to the provisions of the Resolution, the Borrower shall deliver the Note to the Lender. The Note shall be in substantially the form attached as Exhibit "B" to this Agreement. The Note shall be in registered form, shall be payable in lawful money of the United States of America, and the principal thereof, interest thereon and any other payments thereunder shall be payable by check, wire, draft or bank transfer to the Holder at such address as may be provided in writing by such Holder to the Chief Finance Officer of the Borrower. So long as the Note shall remain outstanding, the Chief Finance Officer of the Borrower shall maintain and keep books for the registration and transfer of the Note. The Lender will take physical delivery of the Note and the Note will not be issued or reissued in book entry form.

(k) Description of Note. The Note shall be numbered R-1 (and upward, in case of replacement or transfer), shall be issued in one (1) typewritten certificate, shall be dated the Closing Date and shall mature on December __, 2028. The Lender shall make Advances to the Borrower on the Note from time to time from the Closing Date through [____], up to the maximum principal amount of \$13,000,000, subject to compliance with the provisions hereof. The Note shall bear interest at a fixed rate equal to __%, and subject to adjustment as provided in the Note. Accrued interest on the Note shall be payable quarterly, based on the amount advanced by the Lender from time to time pursuant to this Agreement, as more particularly provided in the Note. Amounts advanced and repaid by the Borrower cannot be reborrowed. A schedule for the repayment of the principal of the Note shall be prepared by the Lender in writing at the end of the Construction Period based upon the estimated Pledges, Government Support and Parking Garage Revenues, and appended to the Note. Provided, that the final maturity date of the Note shall be not later than December __, 2028. Interest on the Note shall be calculated on the basis of a 360 day year and the actual number of days elapsed and will be paid in arrears.

(l) Execution of Note. The Note shall be executed in the name of the Borrower by the manual signature of the Chair or Vice Chair of the Borrower, the seal of the Borrower shall be imprinted, reproduced or lithographed on the Note, and the Note shall be attested to by the manual signature of the Secretary or any Assistant Secretary or Member of the Borrower. If any officer whose signature appears on the Note ceases to hold office before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes. In addition, the Note may bear the signature of, or may be signed by, such persons as at the actual time of execution of such Note shall be the proper officers to sign the Note

although at the date of the Note or the date of delivery thereof such persons may not have been such officers.

(m) Note Mutilated, Destroyed, Stolen or Lost. If the Note is mutilated, destroyed, stolen or lost, the Borrower may, in its discretion (i) deliver a duplicate replacement Note, or (ii) pay a Note that has matured or is about to mature. A mutilated Note shall be surrendered to and canceled by the Chief Finance Officer of the Borrower or his or her duly authorized agent before the Borrower delivers a replacement Note or makes a payment thereon. The Holder must furnish the Borrower or its agent proof of ownership of any destroyed, stolen or lost Note; comply with any reasonable conditions the Borrower or its agent may prescribe; and pay the Borrower's or its agent's reasonable expenses before the Borrower issues a replacement Note. Any such duplicate Note shall constitute an original contractual obligation on the part of the Borrower whether or not the destroyed, stolen, or lost Note be at any time found by anyone, and such duplicate Note shall be entitled to equal and proportionate benefits and rights as to lien on, and source of and security for payment from, the funds pledged to the payment of the Note so mutilated, destroyed, stolen or lost. Any destroyed, stolen or lost Note shall not be entitled to any rights or benefits as to the source of security for payment from, the funds pledged to the payment of the Note if a duplicate Note has been issued by the Borrower.

3. Loan Advances.

(a) Monies for the payment of Project Costs shall be paid from either funds held in the Restricted Collateral Account or from proceeds of the Note. Borrower shall submit a Requisition in the form attached to Exhibit "D" hereto for each draw for Project Costs.

(b) The initial disbursement for Project Costs shall be made for the closing costs and expenses for the Note. The balance of the monies for Project Costs shall be paid for the cost categories for which funds have been allocated as specified in the Project Budget, and in accordance with the provisions of this Agreement, including Exhibit "D" hereto, the terms of which are incorporated herein in their entirety by reference. Provided, that no disbursements other than for the closing costs and expenses for the Note shall be permitted until the Lender has received and accepted the Project Budget, which the Borrower acknowledges may be post closing. Borrower may request amendments to the Project Budget from time to time in writing accompanied by such information as the Lender may request. In the event that Lender approves such changes the Project Budget shall be amended. The aggregate amount of the Advances will not exceed the total of sums actually paid or incurred by Borrower for each of the cost categories specified in Exhibit "C" hereof, and shall not exceed the total of all sums allocated to such cost categories.

(c) Subject to the approval of the Lender, the Borrower may designate in the Project Budget and Project Costs (and any amendments thereto) certain items to be purchased directly by the Borrower for the purposes of minimizing sales tax expenses or for other purposes ("Direct Owner Purchases"). The Borrower shall include and itemize these items in each Requisition and shall provide documentation and support for these items in substantially the same manner as provided for expenditures under the Construction Contract.

4. Representations and Warranties. To induce the Lender to make the Loan to the Borrower, the Borrower hereby represents and warrants that:

(a) Pursuant to the Act, the Borrower is duly created and established, organized, validly existing and in good standing as a Florida independent special district.

(b) The Borrower has the power to own its properties, carry on its business as now conducted and enter into and perform under this Agreement.

(c) The execution, delivery and performance of this Agreement and the other Loan Documents and the borrowing thereunder have been duly authorized by the Resolution and do not require the consent, license or other authorization of any other person or entity.

(d) The execution, delivery and performance of this Agreement and the other Loan Documents will not result in breach or default under the Act, the Resolution or any other agreement or contract to which either the Borrower or the Foundation is a party or by which any of their properties are bound and will not result in the creation or imposition of any lien or encumbrance on any assets of the Borrower or the Foundation other than as contemplated in the Loan Documents.

(e) This Agreement and the other Loan Documents to which the Borrower is a party constitute valid and legally binding obligations of the Borrower, enforceable in accordance with their respective terms, except as the enforcement of remedies may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or similar laws from time to time in effect.

(f) There is no material litigation or governmental proceeding pending or to the knowledge of the Borrower threatened against the Borrower, the Foundation, or any Obligor or any of the properties thereof, which, if adversely determined, would have a material adverse affect on the ability of the Borrower or any Obligor to pay and perform the Obligations or of the Foundation to perform its obligations under any Loan Document.

(g) The financial statements of Borrower for the fiscal year ending on the Fiscal Year End immediately prior to the date of this Agreement, certified by the Borrower's Outside Auditors, have been prepared in accordance with GAAP applicable to government entities, fairly present the financial condition and results of operations of the Borrower as the date thereof and reflect all known liabilities of the Borrower, absolute or contingent.

(h) The Borrower has good title to all its assets, free of all Liens, encumbrances and restrictions, excepting such assets described in the Firm Term Master Loan Purchase Agreement with SunTrust Leasing Corporation dated as of December 5, 2007.

(i) The Government Support Agreements are each in full force and effect and have not been amended or modified as of the date hereof **[(except for the proposed agreement between the Borrower and Broward County, which has not been entered into as of the date hereof)].**

(j) The Tri-Party Grant Agreement and the Operations Agreement are each in full force and effect and have not been further amended or modified as of the date hereof.

(k) No event has occurred which to the knowledge of the Borrower would (or with notice or the lapse of time, or both, would) constitute a breach, default or violation of any law, regulation, order or agreement applicable to the Borrower or the Foundation.

(l) With respect to any employee benefit Plan of Borrower or any subsidiary:

(i) None of the Plans or the trusts created thereunder has engaged in a prohibited transaction which could subject any such Plan or trust to a material tax or penalty on prohibited transactions imposed under Code Section 4975 or ERISA.

(ii) None of the Plans or the trusts created thereunder has been terminated; nor has any such Plan incurred any liability to the PBGC, other than for required insurance premiums which have been paid when due, or incurred any accumulated funding deficiency; nor has there been any reportable event, or other event or condition, which presents a risk of termination of any such Plan by the PBGC.

(iii) The present value of all accrued benefits under the Plans did not, as of the most recent valuation date, exceed the then current value of the assets of Plans allocable to such accrued benefits.

(iv) Neither the Borrower nor any of its subsidiaries is or has been a party to and does not have any employees who are covered by any multi-employer pension or benefit plan.

(v) As used in this Section, the terms "accumulated funding deficiency", "reportable event" and "accrued benefits" shall have the respective meanings assigned to them in ERISA, and the term "prohibited transaction" shall have the meaning assigned to it in Section 4975 of the Internal Revenue Code of 1986, as amended and ERISA.

5. Conditions Precedent. On or before the Closing Date:

(a) Borrower shall furnish, or cause to be furnished, to the Lender the following:

(i) The executed Loan Documents and the Lease.

(ii) A certified copy of the Resolution

(iii) The Articles of Incorporation of the Foundation certified as of a recent date by the Secretary of State of the State of Florida.

(iv) The certificate of the Secretary of State of Florida with respect to the good standing of the Foundation in the State of Florida.

- (v) A copy of the Foundation's Section 501(c)(3) determination letter.
- (vi) The Certificate of the Borrower with respect to (i) the Resolution and any other resolutions of the Borrower with respect to the transactions contemplated by this Agreement, and (ii) the incumbency and specimen signatures of the officers of the Borrower executing this Agreement, the Notes and the other Loan Documents.
- (vii) The Certificate of the Foundation respect to (i) Articles of Incorporation of the Foundation, (ii) the By Laws of the Foundation, including a copy as an exhibit to the Certificate, (iii) the resolutions of the Foundation with respect to the Loan Documents and other agreements contemplated by this Agreement to which the Foundation is a party, and (iv) the incumbency and specimen signatures of the officers of the Foundation executing the Loan Documents and other agreements contemplated by this Agreement to which the Foundation is a party.
- (viii) The Project Budget for both the Phase I Improvements and the Phase II Improvements.
- (ix) Certificates of casualty, liability and other insurance in form and substance satisfactory to the Lender, demonstrating that the Borrower has in force the insurance required by Section 6(b) hereof.
- (x) Opinion of counsel to the Borrower and the Foundation, respectively in form and substance acceptable to Lender.
- (xi) Opinion of "Bond Counsel" to the effect that the interest on the Note will be excluded from the gross income of the holder thereof for federal income tax purposes, in form and substance acceptable to the Lender.
- (xii) List of Eligible Pledges with durations and conditions satisfactory to Lender.
- (xiii) Proof of all pledge contracts and grants in hand at time of closing.
- (xiv) Certificates of the Borrower and the Foundation as to certain tax matters.
- (xv) Directions to Lender.
- (xvi) Notice of Sale per Section 218.385, Fla. Stat.
- (xvii) Public Meeting Certificate of the Borrower.
- (xviii) Certificate re Borrower Members.
- (xix) Florida Division of Bond Finance Form BF2003/2004.
- (xx) IRS Form 8038-G.

(xxi) Such other documents and instruments as may be required by Lender or its legal counsel, including without limitation the documents requested in the closing index.

(b) Borrower's representations and warranties made to Lender prior hereto and concurrently herewith shall continue to be true.

(c) No material adverse change in the financial condition or business of the Borrower or with respect to the Projects or the Project Costs shall have occurred.

(d) Borrower shall have paid all costs, fees, expenses and premiums imposed on it pursuant to the terms of this Agreement and other Loan Documents, including without limitation the commitment fee for the Loan and reimbursement of the Lender's fees and costs.

(e) Borrower shall have established with SunTrust Bank a construction operating account and the Restricted Collateral Account.

(f) Borrower shall have satisfied the following construction related requirements:

(i) Entered into a guaranteed maximum price Construction Contract with the General Contractor for the Phase I Improvements, acceptable to the Lender.

(ii) Lender shall have received a true and complete copy of the Plans and Specifications for the Phase I Improvements and any revisions thereto stamped with all approvals of all applicable governmental authorities and signed by Borrower and the General Contractor, prepared in accordance with Lender's requirements, hereinafter identified and incorporated by reference, as prepared by the Architect and certified by him under seal.

(iii) A true and correct copy of the Agreement with Architect and written consent of the Architect who prepared the Plans and Specifications, and shop drawings prepared incidental thereto, for Lender to use such Plans and Specifications and shop drawings to complete the Improvements in the event Lender exercises its right to complete the Improvements, without cost to Lender, in form and substance satisfactory to Lender.

(iv) A true and correct copy of the General Contract and an agreement signed by the General Contractor satisfactory to Lender (i) agreeing to continue performance upon the request of Lender on behalf of Lender in the event of a default with respect to the Loan, (ii) providing that the Plans and Specifications will not be materially modified, extra work done, or materials changed without the prior written consent of Lender, which consent shall not be unreasonably withheld, (iii) agreeing that its contract with the Borrower will not be terminated or modified without the prior notice to the Lender and reasonable opportunity to cure by the Lender, (iv) consenting to the collateral assignment to Lender of its contract with Borrower, and (v) containing such other reasonable terms as Lender may require.

(v) Dual Obligatee Payment and Performance Bonds from the Contractor to the Borrower and the Lender.

(vi) Certification by Architect that the Plans and Specifications fully comply with requirements of the American with Disabilities Act of 1990 (ADA).

(vii) Upon request of the Lender, evidence shall have been furnished, acceptable to Lender, that the Theater Property has water, sewer, electrical and telephone service adequate for the contemplated use of the Theater Property after the completion of the Improvements.

(viii) Upon request of the Lender, evidence that all necessary building and development permits for the Projects have been issued, and not revoked, and can be utilized for the Improvements as designated in accordance with the Plans and Specifications (except that as to those permits that have not been obtained, that the Borrower is entitled to said permits upon payment of the requisite fees), together with evidence that the Projects are in compliance with all applicable zoning and other regulatory laws and that the Improvements may be lawfully occupied and used for the purposes for which they have been designed.

(ix) The Loan shall be “in balance” as that term is hereinafter defined in Paragraph 11 of Exhibit “D”.

(g) Lender shall furnish, or cause to be furnished, to the Borrower the following:

(i) The executed Loan Documents to which it is a party.

(ii) The Certificate of the Lender with respect to (i) Articles of Incorporation of the Lender, (ii) the by laws and or resolutions of the Lender evidencing the authority of the individuals executing the Loan Documents and other agreements contemplated by this Agreement to which the Lender is a party, and (iv) the incumbency and specimen signatures of the officers of the Lender executing the Loan Documents and other agreements contemplated by this Agreement to which the Lender is a party.

(iii) The Certificate of the Lender as to certain tax matters;

(iv) The Certificate of the Lender as to certain investment matters;

(v) Lender Receipt

(vi) Lender Disclosure per F.S. 218.385

(vii) Opinion of counsel to the Lender in form and substance acceptable to Borrower.

(viii) Such other documents and instruments as may be required by Lender or its legal counsel, including without limitation the documents requested in the closing index.

(h) SunTrust Bank, N.A. (the “Collateral Agent”) shall furnish, or cause to be furnished, to the Borrower the following:

(i) The executed Loan Documents to which it is a party.

(ii) The Certificate of the Collateral Agent with respect to (i) Articles of Incorporation of the Collateral Agent, (ii) the by laws and or resolutions of the Collateral Agent evidencing the authority of the individuals executing the Loan Documents and other agreements contemplated by this Agreement to which the Collateral Agent is a party, and (iv) the incumbency and specimen signatures of the officers of the Collateral Agent executing the Loan Documents and other agreements contemplated by this Agreement to which the Collateral Agent is a party.

(iii) Opinion of counsel to the Collateral Agent in form and substance acceptable to Borrower.

(iv) Such other documents and instruments as may be required by Lender or its legal counsel, including without limitation the documents requested in the closing index.

6. Affirmative Covenants. The Borrower hereby covenants and agrees that from the date hereof and until the later of the payment in full of the principal and interest on the Note it will, and will cause each of its subsidiaries to, unless the Lender shall otherwise consent in writing:

(a) Maintain its corporate existence, pay all its Indebtedness and taxes when due,

(b) Maintain commercially reasonable insurance for casualty, liability and other insurance in form and substance satisfactory to the Lender.

(1) Without limiting the generality of the foregoing, Borrower shall provide or cause to be provided the insurance coverages set forth in Exhibit "F" hereto.

(2) Any insurance required under the Loan Documents shall be issued by a carrier, satisfactory to Lender, which carrier shall have a rating of "A-", or better, according to the most recent listing of Best's Rating Guide. Each policy shall name Lender as beneficiary or certificate holder and shall provide that the insurer must give Lender notice of any claims made or paid under said policy and not less than thirty (30) days' prior written notice of any material change in the policy or coverage afforded thereby, or intention to cancel, terminate or not renew any such policy. In the event that the Theater Property is determined to be located in a flood hazard area, then Lender shall be furnished, at Borrower's expense, with a certificate of insurance on the Theater Property and Improvements for loss due to flood, and such other hazards for which coverage is available. Notwithstanding anything in Exhibit F to the contrary, the windstorm coverage shall be in an amount not less than fifty percent (50%) of the principal amount of the Note from time to time outstanding, and shall be effective no later than the date of completion of the Improvements, the end of the Construction Period, or the expiration of the Builder's Risk Insurance required by the preceding subparagraph, whichever is the first to occur. Notwithstanding the foregoing sentence, the Borrower shall not be required to provide windstorm coverage if the Borrower receives and provides to Lender, on or before April 30 of each year, a written opinion from a consultant reasonably acceptable to the Lender to the effect

that the Borrower would be eligible for FEMA Public Assistance (“PA”) funding in amounts adequate to restore or rebuild damaged structures after a catastrophic wind event (a “Windstorm Disaster”). If a Windstorm Disaster occurs, the Borrower shall take all actions necessary to continue to be eligible for FEMA PA funding, including but not limited to obtaining and maintaining in effect windstorm insurance in such amount and by such time (but in no event later than 120 days from completion of the restoration or rebuilding of damaged structures after a Windstorm Disaster) as required by 42 U.S.C. Section 515a(b) and FEMA Recovery Policy RP 9530.1 (or any successor legislation or policy) for the Borrower to continue to be eligible for FEMA PA funding in amounts adequate, when combined with such windstorm insurance, to restore or rebuild damaged structures after a subsequent Windstorm Disaster. The Borrower shall advise the Lender if federal law or policy or the interpretation thereof has changed in a manner that adversely affects the Borrower’s eligibility for FEMA PA funding in such amounts. In such event, or if, in the Lender’s sole opinion, federal law or policy or the interpretation thereof has changed such that the Lender is in doubt as to whether the Borrower remains eligible for FEMA PA funding in such amounts, the Borrower shall provide an updated written opinion addressing the Borrower’s eligibility for FEMA PA Funding.

(c) Provide the following financial information to Lender:

(i) Within one hundred fifty (150) days after the end of each Fiscal Year audited financial statements (with clean opinion) of Borrower for each such Fiscal Year in a form reasonably satisfactory to the Lender prepared by the Outside Auditors.

(ii) Cause the Foundation to provide, within one hundred fifty (150) days after the end of each of the Foundation’s Fiscal Year audited financial statements (with clean opinion) of Foundation for each such Fiscal Year in a form reasonably satisfactory to the Lender prepared by the Outside Auditors.

(iii) Within thirty (30) days of adoption, the Borrower’s annual budget for each Fiscal Year.

(iv) Within sixty (60) days of the end of each calendar quarter, quarterly interim financial statements of Borrower in form, substance and detail reasonably acceptable to Lender.

(v) Within twenty (20) Business Days of the end of each calendar quarter, Project cash flow statements in form and substance, acceptable to the Lender.

(vi) Within twenty (20) Business Days of the end of each calendar month during the Construction Period, and within twenty (20) Business Days of the end of each calendar quarter thereafter, Eligible Pledge and Government Support aging schedules, which report shall be in form, substance and detail reasonably acceptable to Lender. As part of each report required by this sub paragraph, the Borrower shall provide a certificate evidencing compliance with the Compliance Borrowing Formula, which certificate shall be in form, substance and detail reasonably acceptable to Lender.

(vii) Furnish to the Lender such other information as the Lender may reasonably request, and permit the Lender’s representatives to visit the Borrower’s place of

business, talk with the Borrower's officers and independent accountants and inspect the Borrower's books and records.

(d) Borrower shall at all times maintain its primary operating accounts with SunTrust Bank and shall maintain a depository banking relationship with SunTrust Bank.

(e) Borrower shall keep the Government Support Agreements, the Tri-Party Grant Agreement, the Operations Agreement and the Lease in full force and effect.

(f) Borrower agrees to furnish to Lender copies of all notices, claims or demands given by Borrower to or received by Borrower from Broward County or the City of Fort Lauderdale, promptly upon the giving or receipt of such notice, the nature of which is material to the rights or obligations of Borrower hereunder or under any other Loan Document or the Government Support Agreements, the Tri-Party Grant Agreement, the Operations Agreement or the Lease.

(g) Borrower shall furnish or cause to be furnished to Lender copies of all notices, claims or demands given by Borrower to or received by Borrower (i) from the General Contractor or other contractors, any subcontractor or material supplier and related to the construction of the Improvements, promptly upon the giving or receipt of such notice, the nature of which is material to the performance of Borrower hereunder, the performance of Borrower or the General Contractor under the Construction Contract, or the construction of the Improvements, (ii) relating to any building or development license or permit, which could have a material adverse effect on the performance of Borrower hereunder.

(h) After the Construction Period, the Borrower's Revenues in each Fiscal Year, shall cover its Operating Expenses 1.00X, both as shown in the Borrower's annual audited financial statements for such Fiscal Year. For the purpose of this covenant, interest expense incurred that is unrelated to the Note shall be included in Operating Expenses. Depreciation expense and amortization expense shall be excluded from Operating Expenses. Furthermore, (1) the Revenues and Operating Expenses utilized in this covenant shall exclude those Revenues and Operating Expenses related to the Capital Campaign and the Projects, including estimated additional Operating Expenses related to the Capital Campaign and estimated lost Revenues as a result of the Projects and (2) should the Parking Garage Revenues be diverted into the Restricted Collateral Account per Section (2)(f) hereof, then they will be deducted from Revenues in the calculation of this covenant.

(i) It is the intention of the Borrower and all parties under its control that the interest on the Note be and remain excluded from gross income for federal income tax purposes and to this end the Borrower hereby represents to and covenants with the Lender and the subsequent holders of the Note that it will comply with the requirements applicable to it contained in Section 103 and Part IV of Subchapter B of Chapter 1 of the Internal Revenue Code of 1986, as amended, to the extent necessary to preserve the exclusion of the interest on the Note issued hereunder from gross income for federal income tax purposes.

(j) Borrower shall pay all costs of Lender, including reasonable attorneys' fees, in any action or proceeding in which Lender appears related to the Assignment of Pledges

(Foundation), and shall pay all costs incurred by the Foundation's appearing in and defending any action or proceeding arising under, occurring out of, or in any manner connected with the Pledge Contracts described in the Assignment of Pledges (Foundation) or the obligations, duties, or liabilities of the Foundation or any Contributor (as defined in the Assignment of Pledges (Foundation)) thereunder, whether in the name and behalf of Lender or otherwise.

7. Negative Covenants. The Borrower hereby covenants and agrees that from the date hereof and until the later of the payment in full of the principal and interest on the Note, it will not, without the prior written consent of the Lender:

(a) Incur or permit to exist any Indebtedness for borrowed money or for the deferred purchase price of property (including any capitalized lease) in excess of \$500,000.00 in the aggregate, except for (i) the Notes, (ii) the Series 2013A Note, (iii) the Series 2013B Note, and (iv) any other Indebtedness to the Lender.

(b) Incur, create, assume or permit to exist any pledge, lien or encumbrance on any of its property now owned or hereafter acquired except for (i) statutory liens for taxes, and (ii) liens incurred in the ordinary course of business (other than liens securing the borrowing of money or the deferred purchase price of property).

(c) Guarantee or otherwise become responsible, directly or indirectly, for obligations of others except for the endorsement of negotiable instruments for collection in the normal course of business.

(d) Sell, lease, transfer or otherwise dispose of all or a substantial part of its assets now owned or hereafter acquired to any Person, except in the ordinary course of business.

(e) Consolidate with or merge into any other Person or permit any other Person to merge into it.

(f) Make any loan or advance to any subsidiary not in the ordinary course of business.

(g) Encumber the Theater Property and/or Improvements with any mortgage or lien of any nature whatsoever without Lender's prior written consent, which consent may be withheld at Lender's sole discretion.

(h) Enter into or consent to any amendment of the Government Support Agreements, the Tri-Party Grant Agreement, the Operations Agreement or the Lease without the prior written consent of Lender, which consent shall not be unreasonably withheld.

8. Events of Default. Any of the following events shall constitute an "Event of Default" under this Agreement:

(a) Any representation or warranty made by the Borrower or the Foundation in connection with this Agreement or any of the Loan Documents shall prove to be false or misleading in any material respect;

(b) Failure to make any payment on the Note when the same shall become due and payable and such failure shall continue beyond ten (10) days after written notice that such sums are due.

(c) An Event of Default as defined in any other Loan Document or the Lease shall occur and continue beyond any applicable grace period in any Loan Document or the Lease or any representation of Borrower made herein or in any other Loan Document is or becomes materially incorrect, untrue or breached and shall remain materially untrue beyond any applicable grace period in any Loan Document.

(d) Borrower shall fail to complete construction of the Projects within twenty four (24) months from the date hereof.

(e) Borrower, in the reasonable opinion of Lender, shall fail to prosecute the construction of the Improvements diligently, or Borrower shall fail to comply with the conditions precedent for additional Advances, or, after materials, fixtures or articles used in the construction of the Improvements purchased by or for Borrower are incorporated into the Improvements or paid for by advance of funds hereunder, the ownership thereof fails thereupon to vest in Borrower.

(f) Borrower shall fail to perform any other covenant or term or condition of any Loan Document, including this Agreement, and such failure shall continue for fifteen (15) days after written notice to Borrower; provided however that if such default shall be reasonably curable and delay in the cure thereof does not have a material adverse effect on the construction and operation the Projects, the Borrower's compliance with the Compliance Borrowing Formula or the payment of the Obligations, then the cure period may extended for up to ninety (90) days after such written notice with the consent of the Lender.

(g) The Borrower or the Foundation shall file a voluntary petition under any of the provisions of the Federal Bankruptcy Code, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, wage earner's plan, assignment for the benefit of creditors, receivership, dissolution or similar relief under any present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, or shall make, seek or consent to or acquiesce in any assignment for the benefit of creditors, or the appointment of any trustee, receiver or liquidator of the Borrower, or all or any part of the properties of the Borrower; or within ninety (90) business days after commencement of any proceeding against the Borrower seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief or similar relief under any present or future provision of the Federal Bankruptcy Code of any other present or future federal, state or other statute or law, such proceeding shall not have been dismissed, or stayed on appeal; or within ninety (90) business days after the appointment, without the consent of acquiescence of the Borrower, or any trustee, receiver, or liquidator of the Borrower, or of all or any portion of the Theater Property or Improvements, and such appointment shall not have been vacated or stayed on appeal or otherwise, or within ninety (90) business days after the expiration of any such stay, such appointment shall not have been vacated.

(h) Borrower shall, without Lender's prior approval in writing, undertake or contract for work on the Improvements materially outside of or beyond the scope of the Plans and Specifications during the Construction Period. Construction of exhibits inside the Improvements is not considered work on the Improvements for purposes of this paragraph.

(i) Borrower shall, without Lender's prior approval in writing, apply any Advance or any portion thereof to any work other than the specific work for which the Advance was allocated, or shall utilize any labor or materials for a work other than the specific work for which such labor or material were allocated in the documentation provided to Lender.

(j) A sale, transfer, conveyance, pledge or encumbrance of the Theater Property shall occur or the placement of any junior financing thereon or any part or portion thereof or ownership interest therein without the prior written consent of Lender.

(k) Final judgment for the payment of money in excess of \$100,000.00 and, which has a material adverse effect on the ability of the Borrower to conduct business or to pay and perform its obligations hereunder.

(l) Default with respect to any other indebtedness of Borrower to the Lender or SunTrust Bank.

(m) Default with respect to or for borrowed money in excess of \$100,000 if the effect is to accelerate such indebtedness or permit the holder thereof to cause such indebtedness to become due prior to its stated maturity and such indebtedness shall not be paid when due.

(n) A termination event has occurred; or a trustee shall be appointed to administer any Plan or Plans under Section 4042 of ERISA; or the PBGC shall institute proceedings to terminate, or to have a trustee appointed to administer, any Plan or Plans, and the proceeding shall not be dismissed within 30 days; or a voluntary notice of intent to terminate is filed under Section 4041 of ERISA which would, in the opinion of the Lender, have a material adverse effect on the financial condition of the Borrower; or, with respect to any Plan as to which the Borrower may have any liability, there shall exist a deficiency in the Plan assets available to satisfy the benefits guaranteeable under ERISA with respect to the Plan which is material to the financial condition of the Borrower; and (1) steps are undertaken to terminate the Plan or (2) the Plan is terminated or (3) any reportable event which presents a material risk of termination with respect to the Plan shall occur.

Then, and in every case, Lender may cease making advances on the Note, may cease to make further disbursements from the Restricted Collateral Account, and, if Borrower shall have failed to cure such default within any applicable cure period as may hereinabove be provided, or within thirty (30) days after written notice if no applicable cure period is provided above, may:

(i) Declare immediately due and payable, with interest, all monies advanced hereunder and accordingly accelerate payment of the Note, and, at Lender's option, take any other action permitted thereby or by law, notwithstanding anything contrary in the terms of payment stated therein; provided that upon the occurrence of an Event of Default described in Section 8(i) hereof, such acceleration shall automatically occur;

(ii) Take all actions deemed reasonably necessary or appropriate by it to enforce the rights of Borrower under the Construction Contracts, or other agreements relating to the construction of the Improvements; and enter upon the Theater Property and take possession thereof as permitted by law, together with the Improvements constructed or being constructed thereon, all books, records, files, correspondence and other material of Borrower related to the Projects, the Plans and Specifications, shop drawings, and all materials, supplies, tools, equipment and construction facilities and appliances located thereon or stored off-site in connection with the Projects; and proceed, either in the name of Lender or in the name of Borrower (as the latter's attorney-in-fact, which authority is hereby granted by Borrower, and is coupled with an interest and is irrevocable by Borrower, as Lender shall elect, to complete or cause to be completed the Improvements (or any portion thereof) at the cost and expense of Borrower. If Lender elects to so complete or cause the Improvements (or any portion thereof) to be completed, it may do so according to the terms of this Agreement, including the Plans and Specifications or according to such changes, alterations, or modifications in and to the Improvements as Lender shall deem expedient or necessary, and Lender may enforce or cancel all contracts which, in Lender's sole opinion, Lender may deem advisable, and Borrower shall be liable under this Agreement and under the Note and the Loan Documents to pay Lender any amount or amounts expended by Lender for such performance, together with any costs, charges, or expenses incident thereto or otherwise incurred or expended by Lender on behalf of Borrower in connection with the completion of the Improvements (or any portion thereof) and the amounts so expended shall bear interest at the Default Rate and shall be considered part of the debt evidenced by the Note and secured by the other Loan Documents. A statement of such expenditures, verified by the affidavit of an officer of Lender, shall be prima facie evidence of the amounts so expended and of the propriety of the necessity or expediency for such expenditure, and the burden of proving to the contrary shall be upon Borrower. Lender shall have the right to apply any funds agreed to be advanced hereunder to bring about the completion of the Improvements and to pay the costs thereof, and if such monies so agreed to be advanced are insufficient, Borrower agrees to deliver and pay to Lender such sums of money as Lender may from time to time demand for the purpose of completing the Improvements or of paying any liability, charge or expense which may have been incurred or assumed by Lender under or in connection with the performance of this Agreement. Lender shall have no liability to Borrower or others for actions taken or not taken by Lender pursuant to this paragraph unless Lender shall be grossly negligent in the performance or non-performance of Lender's obligations under this Agreement;

(iii) The remedies herein provided for shall be in addition to and not in substitution for the rights and remedies which would otherwise be vested in Lender in law or equity or under the Note or any other Loan Document, all of which rights and remedies are specifically reserved by Lender, and the failure by Lender to exercise the remedies herein provided shall not preclude the resort to any other remedy or remedies, nor shall the exercise of the remedies herein provides prevent the subsequent or concurrent resort to any other remedy or remedies which by law or equity or under any Loan Document shall be vested in Lender for the recovery of damages or otherwise in the event of a breach of any of the undertakings of Borrower hereunder. No delay or omission by Lender in exercising any right or remedy accruing upon the happening of an Event of Default shall impair any such right or remedy or shall be construed as a waiver of any such default; and every right and remedy hereby conferred upon Lender may be exercised from time to time and as often as shall be deemed expedient by Lender.

No waiver of any Event of Default, right or remedy shall extend to or affect any other Event of Default, right or remedy or any other provision of this Agreement or other Loan Document, and Lender shall have the right thereafter to insist upon strict performance by Borrower.

9. Notices. All notices required or allowed to be given hereunder shall be delivered by hand or sent by Certified Mail, Return Receipt Requested, or by e-mail, or by a national overnight courier service, as follows:

TO BORROWER: Performing Arts Center Authority, Broward County
201 SW Fifth Avenue
Fort Lauderdale, FL 33312
Attention: Timothy Weeks, Chief Financial Officer
E-mail: tweeks@browardcenter.org

TO LENDER: STI Institutional & Government, Inc.
515 E. Las Olas Boulevard, 7th Floor
Fort Lauderdale, FL 33301
Attention: David K. Ross, Senior Vice President
E-mail: david.ross@suntrust.com

Provided, that additional or other addresses for the giving of notices may be hereafter designated by the giving of written notice thereof to the other party. Such notices shall be deemed given when deposited in the U.S. Mail, postage prepaid, addressed as herein provided, when delivered, in the case of hand delivery or overnight delivery, or when sent, in the case of e-mail. Copies of any telefax notice shall also be sent by Certified U.S. Mail.

10. Indemnification. Borrower agrees to protect, indemnify, defend and save harmless Lender and its directors, officers, agents and employees from and against any and all liability, expense or damage of any kind or nature, including any claims from brokers or finders for fees or commissions regarding placement of the Loan, and from any suits, claims, or demands, including reasonable legal fees and expenses, on account of any matter or thing or action or failure to act of Lender, whether in suit or not, arising out of this Agreement or in connection herewith, unless said suit, claim or damage is caused by willful malfeasance or gross negligence of Lender. This obligation shall survive the completion of the Improvements, the closing of the Loan, and the repayment thereof.

11. Books and Records. Borrower shall keep books and records reflecting its financial condition including, but not limited to, the construction of the Improvements in accordance with generally accepted accounting principles consistently applied. Lender shall have the right, from time to time at all times during normal business hours after not less than 24 hours notice, to examine such books, records and accounts at the offices of the Borrower or other entity maintaining such books, records and accounts and to make such copies or extracts thereof as the Lender shall desire.

12. Lender Not Partner of Borrower. Notwithstanding anything to the contrary herein contained or implied, Lender, by this Agreement or by any action pursuant hereto, shall not be deemed a partner of or joint venturer with Borrower, and Borrower hereby indemnifies and

agrees to hold Lender harmless (including the payment of reasonable attorneys' fees) from any and all claims or damages resulting from such a construction of the parties' relationship.

13. Costs and Attorneys' Fees. All costs, including reasonable attorneys' fees, paid or incurred by Lender in the enforcement or defense of this Agreement, shall be paid by Borrower. ("Attorneys' fees" shall include fees for the attorneys' services whether outside or within judicial proceedings, including appellate proceedings and Bankruptcy Court proceedings.)

14. Entire Agreement. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. This Agreement, the Note and the other Loan Documents contain the entire agreement between the parties hereto and there are no promises, agreements, conditions, undertakings, warranties and representations, whether written or oral, express or implied, between the parties hereto other than as set forth herein or entered into in writing between the parties concurrently herewith. It is expressly understood and agreed that the parties hereto intend this Agreement to be an integration of all prior promises, agreements, conditions, undertakings, warranties and representations between the parties hereto.

15. Correction of Mistakes. Borrower hereby consents and agrees that in the event this Agreement or any of the other Loan Documents misstate or inaccurately reflect the true and correct terms and provisions of this Agreement or the Note and said misstatement or inaccuracy is due to mutual mistake on the part of Lender and Borrower or clerical error, then in such event Borrower shall, upon request of Lender and in order to correct such misstatement or inaccuracy, execute such new documents as Lender may deem necessary to remedy said inaccuracy or mistake. Borrower agrees to execute all such other and further documents as may or shall be necessary, as determined solely by Lender, in order to give effect to the documents executed and so as to confirm the transaction. Borrower agrees to comply with the requirements of Lender pursuant to this paragraph within ten (10) days after written notice.

16. Assignment by Lender. The rights and obligations of Lender or any part thereof under this Agreement, the Loan pursuant thereto, the Notes, and all other Loan Documents may be assigned by Lender to (a) any affiliate, subsidiary or related party to the Lender or (b) an accredited investor or institutional lender, and in the event of any such assignment, Lender shall comply with all applicable securities laws. In such event, Borrower agrees to attorn to such assignee and to execute such modifications thereto or other documentation as may be required to facilitate such assignment, providing such modifications do not in any way add to or alter the obligations of Borrower or Lender. In addition, the Lender may sell participation interests in the Notes and in this Agreement and the other Loan Documents at such times and in such amounts as Lender may determine in its sole discretion.

17. Time. Time is of the essence as to all matters provided for in this Agreement. In the event of any inconsistency between the applicable time periods or dates contained in this Agreement and those contained in any other Loan Document entered into between Borrower and Lender concurrently herewith, the time periods and dates set forth herein shall control.

18. Members of Borrower Not Liable. All covenants, stipulations, obligations and agreements of the Borrower contained in this Agreement and the Notes shall be covenants, stipulations, obligations and agreements of the Borrower to the full extent authorized by the Act

and provided by the Constitution and laws of the State of Florida. No covenant, stipulation, obligation or agreement contained in this Agreement or the Note shall be a covenant, stipulation, obligation or agreement of any present or future member, agent, officer or employee of the Borrower or the governing body of the Borrower in his or her individual capacity, and neither the members or officers of the governing body of the Borrower nor any official executing the Note shall be liable personally on the Note or shall be subject to any personal liability or accountability by reason of the issuance or the execution of the Note by the Borrower or such members thereof.

19. No Third Party Beneficiaries. Except as herein otherwise expressly provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and a subsequent holder of the Note issued hereunder, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto and the holder from time to time of the Note issued hereunder.

20. Lawful Rate of Interest. Nothing herein contained or elsewhere in the Notes or any other Loan Document is intended to or shall create an obligation for Borrower to pay interest or a charge in the nature of interest for the Loan or the use of any money advanced by Lender in excess of the maximum amount or rate permitted by applicable law, as amended from time to time, and any such amount so paid shall be immediately credited in reduction of the outstanding principal balance of the Loan, or if repaid in full, then repaid to Borrower by Lender.

21. Governing Law. The terms and conditions of this Agreement shall be governed by the laws of the State of Florida.

22. Additional Instruments. From time to time Borrower will execute and deliver to Lender such additional instruments as Lender may reasonably request to effectuate the purposes of this Agreement and to assure Lender as secured party of the security interests referred to herein.

23. Priority of Agreement. In the event of any conflict or ambiguity between the terms of this Agreement and the terms of the Note or any other Loan Document, the terms of first the Note and second this Agreement shall prevail.

24. Publicity. The Borrower consents to the Lender's placing a sign on the Theater Property, at the cost and expense of Lender, indicating the financing by Lender, provided, however, such sign shall comply with all restrictions affecting the Theater Property and shall in no way interfere with Borrower's construction of the Improvements. Borrower also agrees to allow Lender to advertise the making of this Loan in various publications.

25. WAIVER OF JURY TRIAL. IN THE EVENT THAT ANY ACTION, SUIT OR OTHER PROCEEDING IS BROUGHT AGAINST BORROWER BY OR ON BEHALF OF LENDER TO ENFORCE THE OBSERVANCE OR PERFORMANCE OF ANY OF THE PROVISIONS OF THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, THE COLLECTION OF ANY AMOUNTS OWING THEREUNDER, BORROWER HEREBY

IRREVOCABLY (i) CONSENTS TO THE EXERCISE OF JURISDICTION OVER BORROWER IN THE FLORIDA STATE COURTS LOCATED IN BROWARD COUNTY, FLORIDA, (ii) WAIVES ANY OBJECTION IT MIGHT NOW OR HEREAFTER HAVE TO OBJECT TO THE VENUE OF ANY SUCH PROCEEDING IN ANY COURT DESCRIBED IN CLAUSE (i) ABOVE, AND (iii) WAIVES ANY RIGHT WHICH IT MIGHT NOW OR HEREAFTER HAVE TO JURY TRIAL IN ANY SUCH PROCEEDING.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned has caused this Loan Agreement to be executed and delivered the year and day first aforementioned.

BORROWER:

PERFORMING ARTS CENTER AUTHORITY,
BROWARD COUNTY

By:_____

Name:_____

Title:_____

[SEAL]

ATTEST:

By:_____

Name:_____

Title:_____

LENDER:

STI INSTITUTIONAL & GOVERNMENT, INC.

By:_____

Name:_____

Title:_____

EXHIBIT "A"

Theater Property

Tract "A," THEATRE CENTER, according to the Plat thereof as recorded at Plat Book 63, Page 5 of the Public Records of Broward County, Florida; said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

And including the license granted in the Lease to the Borrower to exclusive use of the property directly east of and contiguous to the above-described parcel (the Parking Lot) for patron parking of 600 cars (the "License"), for a period starting two hours before each event and ending two hours after each event, as more particularly described in the Lease.

EXHIBIT “B”

Form of Note

EXHIBIT “C”

**SUNTRUST BANK
REAL ESTATE LENDING DEPARTMENT
SOURCE AND USE OF PROCEEDS**

EXHIBIT D

ADVANCES

1. Conditions Precedent to Additional Advances. As conditions precedent to the approval of Advances, Borrower shall be in compliance with all terms of this Agreement. Any waiver of any condition precedent for any prior Advance shall not be deemed to be a waiver of that condition precedent for any additional Advances. In addition, the following conditions precedent thereto shall have been fulfilled and satisfactory evidence of same shall have been furnished to Lender:

(a) The Loan shall be "in balance" as that term is defined in Paragraph 11 of this Exhibit "D".

(b) No Event of Default or event which with notice or passage of time could become an Event of Default shall exist under any Loan Document.

(c) No litigation or claim or threatened liability shall have been asserted against Borrower, which in Lender's reasonable judgment, materially impairs, or is likely to materially impair, Borrower's ability to complete the Projects or Borrower's ability to use the Theater Property for the purposes herein contemplated.

(d) All building permits and governmental approvals for construction of the Improvements remain in full effect.

(e) If the Theater Property is in a flood hazard zone Lender shall receive a certificate of flood insurance acceptable to Lender after completion of the foundation.

(f) Such other matters as Lender or Lender's counsel shall reasonably require.

(g) Any waiver of these conditions precedent prior to the time for their fulfillment must be in writing and signed by an authorized officer of Lender and any waiver which may be granted shall not be deemed a waiver of anything but such as is stated in such written waiver and shall under no circumstances be deemed or construed to be a subsequent waiver.

2. Requests and Certificates for Payment.

(a) At the time Borrower requests each Advance, there shall be delivered to Lender a requisition therefor (a "Requisition") of Borrower in the form attached to this Exhibit "D" completed in form satisfactory to Lender. Each such Requisition shall specify the total amount of the Advance to be approved, the amount of the Advance to be paid from the Restricted Collateral Account and/or the amount to be paid from an Advance on the Note, the amount to be paid from other sources (if applicable), the percentage of construction completed, and the date such percentage was completed. Each Requisition shall be subject to the approval of the Lender, but approval of such Requisition or the payment thereof shall not constitute an approval or

acceptance of the work or materials, nor be binding upon Lender, nor shall such approval give rise to any Lender's liability or responsibility as to (i) the quality of the work, the quantity or stage of completion of the work, or the sufficiency of materials or labor being supplied; and (ii) any errors, omissions, inconsistencies or other defects of any nature in the Plans or Specifications. Each such Requisition shall be accompanied by A certificate, signed by either (a) the General Contractor (in the form of an A-I-A Application for Payment) certifying that the work for which payment is requested under the Construction Contract has been completed in accordance with the Plans and Specifications, or (b) the Borrower certifying that the work for which payment is requested as a Direct Owner Purchase has been completed in accordance with the Plans and Specifications, together with in either case a certificate signed by Borrower and/or the General Contractor (as applicable) certifying that said work has been fully paid for or will be fully paid for with the proceeds of the Advance

(b) Lender shall have the right to apply any funds which it agrees to advance hereunder, including funds on deposit in the Restricted Collateral Account, to bring about the completion of the Improvements or in the event of a failure by Borrower to make a required payment within ten (10) days after written notice of such failure, then to the payment of any taxes, special assessments or any other charges related to the Improvements, or any interest on the Loan, or any premium on any insurance policy affecting the Theater Property or the Improvements, and if such funds so agreed to be advanced are insufficient, Borrower agrees to deliver and pay to Lender, such sum or sums of money as Lender may demand from time to time for the purpose of completing the Improvements or of paying any of the aforesaid charges, or any other charge or expense which may have been incurred or assumed by Lender under or in performance of this Agreement. In making disbursements, Lender shall draw first upon such additional deposits made by Borrower until such funds have been exhausted, and then upon the Loan.

(c) Lender may withhold approving or making any Advance upon the commencement of any litigation or administrative proceeding challenging, or attempting to restrict, the right of Borrower to construct the Improvements and operate the Theater Property and Improvements for their intended use unless and until such proceeding is dismissed and not subject to appeal.

3. Construction of Improvements.

(a) Borrower agrees to cause each phase of the Improvements to be constructed upon the Theater Property and to have the same completed and ready for use, including all approaches, services, utilities and other improvements in connection therewith, in substantial accordance with the Plans and Specifications, and this Agreement on or before the end of the Construction Period. In the event that circumstances beyond the control of Borrower require an extension of the Construction Period Borrower may request an extension of time from Lender and Lender may consent to such extension in its sole and absolute discretion, provided however that no such extension of the Construction Period shall affect the date on which payments of principal shall commence on the Notes.

(b) No change shall be made in the Construction Contract or in the Plans and Specifications and no “extras” will be ordered creating a change order that increases the cost of the Project by more than \$100,000 for an individual change order or \$100,000 in the aggregate, unless Borrower demonstrates to Lender’s reasonable satisfaction that the change or “extras” will not result in Borrower failing to be in compliance with the Compliance Borrowing Formula. Borrower shall provide Lender with a copy of every change order to the Construction Contract when made, regardless of the amount.

4. Time and Manner of Construction. Once construction has commenced, Borrower shall cause such construction to be carried on continuously, and to be completed in a satisfactory manner, and the Final Certificate of Occupancy for all of the Improvements or equivalents issued on or before the end of the Construction Period. Borrower and General Contractor shall comply with all laws, ordinances, and applicable rules and requirements of public authorities applying to and affecting the construction work and shall give the proper authorities all requisite notices relative to such work and cause to be obtained all necessary licenses and permits with respect thereto without cost or expense to Lender. In the event any necessary license or permit is threatened or revoked or subjected to attack by action before any court or other governmental agency having jurisdiction, Lender may refuse to make further Advances hereunder until such license or permit is reinstated or such action before any court or other governmental agency having jurisdiction is terminated. If any such permit or license is revoked and not reinstated within sixty (60) days from its revocation, it shall be deemed an Event of Default. Borrower shall also cause any construction to be carried out in accordance with the requirements of the Lease.

5. Materials for Construction. All materials delivered upon the Theater Property for the purpose of being used in the construction of the Improvements shall be subject, as against Borrower and all parties acting or claiming under it, to the rights, conditions and covenants to which the Theater Property and the Improvements are subject under this Agreement. Nothing herein contained shall be construed to make Lender responsible for any loss, damage or injury to such materials, nor for payment for the same. During performance by or for Borrower of anything agreed by Borrower to be done hereunder, Borrower shall not make or cause to be made any contract for materials or equipment of any kind or nature to be incorporated in or to become a part of the Improvements if title to such materials or equipment is reserved under a conditional sales contract or otherwise, or is subject to a security interest in favor of a third person or firm.

6. Inspection. Borrower shall provide proper facilities at all times for inspection of the Theater Property and Improvements by Lender, and shall afford full and free access to the Theater Property and the Improvements and all plans, drawings and records thereof, to such persons whose identity will be designated by Lender and may from time to time be changed in writing by Lender. Any such inspection shall be solely for the benefit of Lender, and Borrower shall not be entitled to claim any loss or damage as a result either of such inspections or the failure to make the same.

7. Disbursement of Advances. Subject to all of the terms, conditions and provisions of this Agreement, the Advances shall be approved as follows:

(a) Lender shall not be obligated to approve an Advance for construction costs during construction more than the value of the work completed or percentage of the work in place less the retainage. Lender may at all times withhold further disbursements of any allocated funds at any time when, on the basis of its own analysis, the Loan is not in balance as the term "loan in balance" is hereinafter defined in Paragraph 11 of this Exhibit "D", or when any tax, lien, obligation or imposition is due and owing but unpaid by Borrower and such tax obligation or other imposition has become a lien on the Theater Property.

(b) Lender may, at its option, make all advances to the account of Borrower maintained with SunTrust Bank.

8. RESERVED.

9. Time of Advances. Advances will be made not more often than once in each calendar month as construction progresses upon written request from Borrower and the General Contractor given, together with delivery of all supporting affidavits of the General Contractor and other documents and data as Lender may reasonably require in accordance with this Agreement, at least ten (10) days prior to the date on which the Advance is requested. All requests shall be submitted on Lender's form to Lender; provided that Lender shall have no liability for not making payments with such ten (10) days.

10. Total Project Costs-Borrower's Obligations to Pay Costs in Excess of Loan Amount. Borrower agrees and acknowledges that it is not intended, nor has Lender agreed, to loan Borrower the proceeds of the Note hereunder except in the amounts and on the terms stated herein and that, under no circumstances, has Lender agreed to make Borrower a loan hereunder that will necessarily be adequate to pay for all costs incurred by Borrower in connection with construction of the Improvements and completion of the Project. The Borrower is required to provide its own funds, including proceeds of the Capital Campaign, equal to the difference between Project Cost and the proceeds advanced by the Lender. Borrower shall be additionally responsible to pay and fund out-of-pocket all cost overruns and Project "shortfall", any change order resulting in an overall cost increase in the Project Costs, and any other deficiencies in the cost of completing the Improvements. Borrower and Lender each recognize that certain known and anticipated costs and work on the Projects are not included in the allocation of the proceeds of the Note, as set forth in more detail in Exhibit "C" hereto. Borrower has represented to Lender that it intends to pay and hereby covenants with Lender that it will promptly and fully pay for all such costs incurred in connection with the Improvements, and further covenants and agrees with Lender that it will promptly and fully pay for any other unknown and unanticipated costs in connection with the Improvements in excess of the proceeds of the Note from its own funds, without borrowing by way of secondary financing involving any mortgage or other lien affecting the collateral for the Note.

Borrower recognizes and agrees that, because the proceeds of the Note may not be adequate to pay for all costs and expenses incurred by Borrower in connection with construction of the Improvements, Lender is entitled to assurance, and has required that at all times prior to the final disbursement under the Note and final completion of the Improvements it be assured, that the undisbursed proceeds of the Note shall, in Lender's reasonable opinion, be sufficient to pay for all remaining costs for the items allocated in the Project Budget (in total) and for any costs in connection with the Projects not now known or anticipated, free and clear of all lien claims, and, that it be assured that, in Lender's reasonable opinion, Borrower has adequate funds available on deposit with Lender ready to be utilized to pay for the then estimated cost of such items as are reflected in the Project Budget which exceed the undisbursed balance of the Note free and clear of any and all lien claims. Borrower recognizes that, unless Lender has such assurances at any and all times during the course of the Loan and prior to the final disbursement of the proceeds of the Notes, Lender will not be required to make and Borrower shall not be entitled to request any disbursement under the Loan.

11. "In Balance" Requirement. The concept "Loan In Balance" is hereby defined as meaning that at any and all times prior to the final disbursement of the proceeds of the Note, the Borrower must be in compliance with the Compliance Borrowing Formula.

If, for any reason, Lender shall determine that, in its reasonable opinion, the Loans are not "in balance", Lender shall have no further obligation to make advances on the Note, unless Borrower shall, within five (5) business days after the date of written notice by Lender, provide adequate assurance to the Lender that such additional funds as Lender may require in order to place the Loan "in balance" as determined by Lender are available. Borrower's failure to comply with such written notice shall be an Event of Default. Any such funds as Borrower shall make available or deposit with SunTrust Bank shall be disbursed by Lender in the manner hereinabove provided for advances of proceeds of the Note toward the costs of completing the Improvements and the Projects, and such funds of Borrower will be utilized prior to any further utilization of proceeds of the Note. There shall be no advances by Lender of proceeds of the Note until all funds required to bring the Loans "in balance" have been disbursed to pay for the Improvements and the Loans are "in balance."

12. Immunity. Lender's commitment to make Advances hereunder shall at no time be subject or liable to attachment or levy at the suit of any creditor of Borrower or any agent, contractor, subcontractor or supplier of Borrower. All rights of the General Contractor, other contractors or suppliers and subcontractors, laborers and material suppliers shall be and are subordinate and inferior to Lender's interest under the terms of this Agreement. Lender shall not be liable to third parties such as the General Contractor, other contractors or subcontractors, laborers, or material suppliers or others for services, labor or materials employed upon, furnished or delivered to the Theater Property or the Improvements, and further as to such third parties Lender shall be under no obligation to adhere to the requirements herein imposed as conditions for the disbursement of proceeds of the Notes which are expressly intended to be for the sole and exclusive benefit of Lender and Borrower.

EXHIBIT F

INSURANCE REQUIREMENTS

PERMANENT HAZARD INSURANCE SUNTRUST BANK MINIMUM STANDARDS

The following are minimum standards to evidence permanent hazard insurance to be submitted to **STI Institutional & Government, Inc., its successors and assigns, as their interests may appear**, in connection with the documentation of commercial loans:

- Preferred insurance evidence is a copy of the full policy; also acceptable is an ACORD 28 certificate (Evidence of Commercial Property Insurance);
- Insurance written on a completed value Special Cause of Loss form;
- Windstorm coverage included, or issued as a separate policy;

- Borrower, *Performing Arts Center Authority, Broward County*, as first named insured, with borrower address;
- Street address of the subject property, with improvements described correctly;

- Minimum amount of coverage equal to the lesser of (a) replacement cost (not including land cost) or (b) loan amount;
- Except for windstorm, a deductible of not more than \$250,000; for windstorm, a deductible of not more than greater of \$250,000 or 10% of the value of the loss.

- Policy number clearly shown;
- Effective date and expiration date of the policy showing a minimum term of one year;
- **STI Institutional & Government, Inc., its successors and assigns, as their interests may appear**, designated as
 - Lender Loss Payee,
 - Certificate Holder when an insurance certificate is provided to the Bank as evidence of insurance;
- Policy must obligate the insurance carrier to provide SunTrust notice of cancellation or material change;
- Insurance carrier should have A.M. Best Company financial strength rating of at least "A-", "Excellent";
- Agent signature if certificate or policy (receipt of electronic copy acceptable);
- Bank address for new, renewal and replacement policies, declarations pages or certificates is:

STI Institutional & Government, Inc., ISAOA, ATIMA
Mail Code FL-Fort Lauderdale-1073
515 E. Las Olas Boulevard 7th Floor
Fort Lauderdale, FL 33301

GENERAL LIABILITY INSURANCE – GENERAL CONTRACTOR SUNTRUST BANK MINIMUM STANDARDS

The following are minimum standards to evidence general contractor general liability insurance to be submitted to SunTrust Bank in connection with the documentation of commercial loans:

- Insurance evidence must be (1) original policy, or (2) ACORD 25 certificate.
- Minimum coverage amounts of:
 - ☒ \$1,000,000. per occurrence and \$2,000,000 aggregate OR other limits as determined by SunTrust.
- Evidence of workman's compensation insurance per statute.
- Contractor named as "Insured."
- Borrower, *Performing Arts Center Authority, Broward County*, named as Additional Insured."
- **STI Institutional & Government, Inc., its successors and assigns, as their interests may appear**, named as Additional Insured.
- The location of the subject property, and improvements described correctly (some general liability insurance evidence for residential builders will be received showing that the policy covers all builder project locations instead of the specific project location, which is acceptable);
- Policy number clearly shown;
- Effective date and expiration date of the insurance showing a minimum policy term of one year;
- Policy must obligate the insurance carrier to provide SunTrust notice of cancellation or material change.
- Insurance carrier should have A.M. Best's financial strength rating of at least "A-", "Excellent."
- Agent signature if certificate or policy (receipt of electronic copy acceptable).
- Certificate holder address for new, renewal and replacement policies, declarations pages or certificates shown as (1) borrower, or, (2) if development or construction loan is assigned to Real Estate Construction Administration, then the certificate holder address is the assigned RECAD office:

STI Institutional & Government, Inc., ISAOA, ATIMA
Mail Code FL-Miami-1038
Attn: Brian Wagner
777 Brickell Avenue, 3rd Floor
Miami, FL 33131

BUILDERS RISK INSURANCE SUNTRUST BANK MINIMUM STANDARDS

The following are minimum standards to evidence builder's risk insurance to be submitted to **STI Institutional & Government, Inc., its successors and assigns, as their interests may appear**, in connection with the documentation of commercial loans:

- Preferred insurance evidence is a copy of the full policy; also acceptable is an ACORD 28 certificate (Evidence of Commercial Property Insurance);
- Insurance written on a non-reporting Special Cause of Loss form (a separate completed value Commercial Property Policy is required if the completed structures, including spec homes and models, are not covered under the builder's risk policy;
- Windstorm coverage included, or issued as a separate policy;
- Name and address of the insured;
 - Borrower, *Performing Arts Center Authority, Broward County*, named as first named insured if borrower provides coverage;
 - Contractor named as first named insured if contractor supplies coverage, with borrower listed as "Additional Insured".
- Street address of the subject property, with improvements described correctly;
- Minimum amount of coverage equal to the greater of (a) total development cost (defined as all project costs – land, soft cost, hard cost) excluding land cost, or (b) loan amount;
- Except for windstorm, a deductible of not more than \$50,000 for loan amounts up to \$2.5MM and not more than \$100,000 for loan amounts greater than \$2.5MM; for windstorm, a deductible of not more than the greater of \$250,000 or 5% of the total insured values at risk.
- Policy number clearly shown;
- Effective date and expiration date of the policy showing a minimum term of one year;
- **STI Institutional & Government, Inc., its successors and assigns, as their interests may appear**, designated as
 - Lender Loss Payee;
 - Certificate Holder when an insurance certificate is provided to the Bank as evidence of insurance;
- Policy must obligate the insurance carrier to provide SunTrust notice of cancellation or material change;
- Insurance carrier should have A.M. Best Company financial strength rating of at least "A", "Excellent";
- Agent signature if certificate or policy (receipt of electronic copy acceptable);
- Bank address for new, renewal and replacement policies, declarations pages or certificates is:

STI Institutional & Government, Inc., ISAOA, ATIMA
Mail Code FL-Miami-1038
Attn: Brian Wagner
777 Brickell Avenue, 3rd Floor
Miami, FL 33131

GENERAL LIABILITY INSURANCE – OWNER SUNTRUST BANK MINIMUM STANDARDS

The following are minimum standards to evidence owner general liability insurance to be submitted to SunTrust Bank in connection with the documentation of commercial loans:

- Insurance evidence must be (1) original policy, or (2) ACORD 25 certificate.
- Minimum coverage amounts of:
 - ☒ \$1,000,000. per occurrence and \$2,000,000 aggregate OR other limits as determined by SunTrust
- Evidence of excess/umbrella coverage as required by SunTrust;
- Evidence of workman's compensation insurance per statute.
- Borrower, *Performing Arts Center Authority, Broward County*, named as first named insured with borrower address
- The location of the subject property, and improvements described correctly (some general liability insurance evidence for residential builders will be received showing that the policy covers all builder project locations instead of the specific project location, which is acceptable);
- Policy number clearly shown;
- Effective date and expiration date of the insurance showing a minimum policy term of one year;
- **STI Institutional & Government, Inc., its successors and assigns, as their interests may appear**, designated in the policy or on the certificate as: Additional Insured;
- Policy must obligate the insurance carrier to provide SunTrust notice of cancellation or material change.
- Insurance carrier should have A.M. Best's financial strength rating of at least "A-", "Excellent."
- Agent signature if Certificate or Policy (receipt of electronic copy acceptable).
- Bank address for new, renewal and replacement policies, declarations pages or certificates (Certificate holder) will be the address of the SunTrust Relationship Manager.

STI Institutional & Government, Inc., ISAOA, ATIMA
Mail Code FL-Fort Lauderdale-1073
515 E. Las Olas Boulevard 7th Floor
Fort Lauderdale, FL 33301

PERFORMING ARTS CENTER AUTHORITY

Motion to approve the resolution authorizing the issuance of the Authority's Capital Improvement Revenue Notes, Series 2019, and related form documents.

Staff Comment:

On September 5, 2019 the Authority approved the key terms and conditions of a Financing Proposal Letter from STI Institutional & Government, Inc. (SunTrust Bank) for the Parker Playhouse Capital Project. Those key terms included a facility amount not to exceed \$13,000,000, a maturity date of nine (9) years from closing, an interest rate to be set three (3) business days prior to closing based on the then current Intercontinental Exchange (ICE) Index plus 1.79% discounted at an 81% Tax Exempt Factor, an origination fee of 0.10% on the facility amount, and a draw period of twenty-four (24) months from closing.

The attached Resolution authorizes the issuance of the Authority's Capital Improvement Revenue Notes, Series 2019, and related form documents, including a Loan Agreement, Collateral Agent Agreement, Compliance Agreement, Assignment Agreements and other documents and the performance of obligations thereunder. The Resolution authorizes the negotiated private sale of the 2019 Notes to STI Institutional & Government, Inc. and delegates the authorized representative to fix the final terms and conditions of the 2019 Notes and Note documents.

The Authority's Bond Counsel for this transaction is Garry W. Johnson.

REGISTERED
No. R- 1

REGISTERED
Not to exceed \$13,000,000

UNITED STATES OF AMERICA
STATE OF FLORIDA
PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY
CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2019

Interest Rate:

_____ %

Maturity Date:

December __, 2028

Dated Date:

December __, 2019

INITIAL HOLDER:

STI INSTITUTIONAL & GOVERNMENT, INC.

MAXIMUM PRINCIPAL AMOUNT:

THIRTEEN MILLION AND
00/100 DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that the Performing Arts Center Authority, Broward County, a Florida independent special district (hereinafter called the "Borrower"), for value received, hereby promises to pay to the Holder identified above, or to registered assigns or legal representatives, but solely from the revenues hereinafter mentioned, on the dates hereinafter provided, the Principal Amount identified above, and to pay, solely from such revenues, interest on the Principal Amount remaining unpaid from time to time, at the interest rate per annum identified above, until the entire Principal Amount has been repaid. Principal of and interest on this Note will be paid by bank wire, check, draft or bank transfer delivered to the Holder at his address as it appears on the registration books of the Borrower at the close of business on the fifth Business Day (as defined in the hereinafter described Loan Agreement), next preceding each interest payment date (the "Record Date").

Interest on this Note shall be calculated on the basis of a 360 day year and the actual number of days elapsed and will be paid in arrears.

Payments of accrued interest hereon, based on the amount advanced by the hereinafter described Lender from time to time pursuant to the Loan Agreement will be due on the last day of each March, June, September and December, beginning March 31, 2020, with a final payment of interest due on the Maturity Date. Payments of principal of the Note will be due in accordance with the schedule set forth on Schedule I. Schedule I shall be prepared by the Lender in writing at the end of the Construction Period (as defined in the Loan Agreement) in accordance with Section 2(l) of the Loan Agreement, and appended hereto. Amounts advanced by the Lender and repaid by the Borrower may not be reborrowed.

Each date when principal and/or interest on the Note is due is a "Payment Date." If any Payment Date is not a Business Day, the payment otherwise due on such Payment Date shall be due on the next succeeding Business Day, but interest shall continue to accrue until the date such interest is actually received by the Holder.

Upon the occurrence of an Event of Default, the Holder may declare the entire outstanding balance due hereon to be immediately due and payable, and in any such acceleration the Borrower shall also be obligated to pay all costs of collection and enforcement thereof, including such fees as may be incurred on appeal or incurred in any bankruptcy or insolvency proceeding.

This Note is issued in the aggregate principal amount not to exceed \$13,000,000 to finance the Parker Playhouse Renovations and Additions, as described in the Loan Agreement, pursuant to the authority of and in full compliance with the Constitution and laws of the State of Florida, including particularly Chapter 2005-335, Laws of Florida, as amended, Chapter 159, Florida Statutes, and a resolution adopted by the governing body of the Borrower on _____, 2019 (collectively, the “Act”), and a Loan Agreement between the Borrower and STI Institutional & Government, Inc. (the “Lender”), dated as of December 1, 2019 (the “Loan Agreement”).

The Note and the interest hereon are payable from certain pledged revenues and other special funds of the Borrower, as more particularly described in the Loan Agreement. Reference is hereby made to the Loan Agreement for the provisions, among others, relating to the terms and security for the Note, the custody and application of the proceeds of the Note, the rights and remedies of the Holders of the Note and the limitations thereon, and the extent of and limitations on the Borrower’s rights, duties and obligations, to all of which provisions the Holder hereof for itself and its successors in interest assents by acceptance of this Note. All terms used herein in capitalized form, unless otherwise defined herein, shall have the meanings ascribed thereto in the Loan Agreement.

IN ACCORDANCE WITH THE ACT, THE BORROWER IS NOT OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST ON THIS NOTE EXCEPT FROM THE REVENUES AND OTHER SPECIAL FUNDS PROVIDED FOR IN THE LOAN AGREEMENT, AND THE FAITH AND CREDIT OF THE BORROWER ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS NOTE.

Definitions. – The terms defined below shall have the following meanings when used in this Note.

"Business Day" shall mean a day on which the Lender and the Borrower are open for business and on which dealings in U.S. dollar deposits are carried on in the London Inter-Bank Market.

"Change in Law" means the occurrence, after the date of this Note, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directives (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank

Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directive thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Lender for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or, pursuant to the accord commonly referred to as "Basel III" or the United States or foreign regulatory authorities, shall in each case be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"Default Rate" shall mean the lesser of (i) the sum of the Prime Rate plus 5% per annum, or (ii) the maximum lawful rate.

"Event of Taxability" means (i) a Change in Law that changes the ability of the Holder to exclude all or a portion of the interest on the Note from its gross income for Federal income tax purposes, or (ii) a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on all or a portion of this Note is or was includable in the gross income of the Holder for Federal income tax purposes; provided, that no such decree, judgment, or action will be considered final for this purpose, however, unless the Borrower has been given written notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Holder, and until the conclusion of any appellate review, if sought.

Such an Event of Taxability shall mean and shall be deemed to have occurred on the first to occur of the following:

(a) on the effective date of any change of law that that changes the ability of the Holder to exclude all or a portion of the interest on the Note from its gross income for Federal income tax purposes;

(b) on that date when the Borrower files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(c) on the date when the Holder or any prior Holder notifies the Borrower that it has received a written opinion by an attorney or firm of attorneys of recognized standing on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within 180 days after receipt by the Borrower of such notification from such Holder or any prior Holder, the Borrower shall deliver to each Holder and prior Holder (A) a ruling or determination letter issued to or on behalf of the Borrower by the Director or any District Director of Internal Revenue (or any other governmental official exercising the same or a substantially similar function from time to time) or (B) a written opinion by an attorney or firm of attorneys of recognized standing on the subject of tax-exempt municipal finance to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(d) on the date when the Borrower shall be advised in writing by the Director

or any District Director of Internal Revenue (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the Borrower, or upon any review or audit of the Borrower or upon any other ground whatsoever, an Event of Taxability shall have occurred;

(e) on that date when the Borrower shall receive notice from the Holder or prior Holder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Holder or any prior Holder the interest on the Note paid to such Holder or prior Holder due to the occurrence of an Event of Taxability; provided, however, that no Event of Taxability shall occur under clauses (c) or (d) above unless the Borrower has been afforded the opportunity, at its respective expense, to contest any such assessment; and provided further that no Event of Taxability shall occur until such contest, if made, has been finally determined; and provided further that upon demand from any Holder or any prior Holder, the Borrower shall reimburse such Holder or prior Holder for any payments such Holder (or any prior Holder) shall be obligated to make as a result of the Determination of Taxability during any such contest; or

(f) on the date when the Borrower shall be advised in writing of a final decree or judgment from a court constituting an Event of Taxability shall have occurred

“Governmental Authority” shall mean the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Interest Rate” shall mean a per annum rate equal to (a) _____%, multiplied, prior to the occurrence of an Event of Taxability, by (b) the Margin Rate Factor, and after an Event of Taxability shall mean the Taxable Rate. Notwithstanding the foregoing, however, after, and during the continuance of, an Event of Default, “Interest Rate” shall mean the Default Rate.

“Margin Rate Factor” shall mean the fraction the numerator of which is equal to one (1) minus the Maximum Federal Corporate Tax Rate on the date of calculation and the denominator of which is 0.79. The Margin Rate Factor shall be 0.79/0.79 or 1.0 so long as the Maximum Federal Corporate Tax Rate shall be 21%, and thereafter shall increase or decrease from time to time effective as of the effective date of any decrease or increase in the Maximum Federal Corporate Tax Rate.

“Maximum Federal Corporate Tax Rate” shall mean the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, determined without regard to tax rate or tax benefit make-up provisions such as the last two sentences of Section 11(b)(1) of the Code, as in effect from time to time (or, if as a result of a change in the Code the rate of income taxation imposed on corporations shall not be applicable to the Holder, the

maximum statutory rate of federal income taxation which could apply to the Holder). The Maximum Federal Corporate Tax Rate on the date of this Note is 21%.

“Prime Rate” shall mean the per annum rate which the Lender’s affiliate SunTrust Bank announces from time to time to be its prime rate, as in effect from time to time. The prime rate is a reference or benchmark rate, is purely discretionary and does not necessarily represent the lowest or best rate charged to borrowing customers. The Lender’s affiliate SunTrust Bank may make commercial loans or other loans at rates of interest at, above or below the prime rate. Each change in the prime rate shall be effective from and including the date such change is announced as being effective.

“Taxable Period” shall mean the period of time between (a) the date that interest on the Note is deemed to be includable in the gross income of the owner thereof for federal income tax purposes as a result of an Event of Taxability, and (b) the date of the Event of Taxability and after which the Note bears interest at the Taxable Rate.

“Taxable Rate” shall mean the interest rate per annum that shall provide the Lender with the same after tax yield that the Lender would have otherwise received had the Event of Taxability not occurred, taking into account the increased taxable income of the Lender as a result of such Event of Taxability, but in no event in excess of ____% per annum. The Lender shall provide the Borrower with a written statement explaining the calculation of the Taxable Rate, which statement shall, in the absence of manifest error, be conclusive and binding on the Borrower.

Additional Provisions

Interest. The Borrower shall pay interest upon the unpaid principal balance of the Note at the Interest Rate, subject to adjustment as provided herein.

Event of Taxability. Except as provided herein, upon the occurrence of an Event of Taxability and for as long as the Note remains outstanding, the Interest Rate on the Note shall be converted to the Taxable Rate and this adjustment shall survive payment on this Note until such time as the federal statute of limitations under which the interest on the this Note could be declared taxable under the Code shall have expired. In addition, upon an Event of Taxability, the Borrower shall pay to the Holder (or prior Holder, if applicable) (i) an additional amount equal to the difference between (A) the amount of interest actually paid on the Note during the Taxable Period and (B) the amount of interest that would have been paid during the Taxable Period had the Note borne interest at the Taxable Rate, and (ii) an amount equal to any interest, penalties and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Holder (or prior Holder, if applicable) as a result of the Event of Taxability.

A certificate of the Holder as to any such additional amount or amounts, in the absence of manifest error, shall be final and conclusive. In determining such amount, the Holder may use any reasonable averaging and attribution methods.

Capital Adequacy. If, after the date of this Note, the Lender shall have reasonably determined that a Change in Law shall have occurred that has or would have the effect of reducing the rate of return on the Lender's capital, on the Note or otherwise, as a consequence of its ownership of the Note to a level below that which the Lender could have achieved but for such adoption, change or compliance (taking into consideration the Lender's policies with respect to capital adequacy) by an amount deemed by the Lender to be material, then from time to time, promptly upon demand by the Lender, the Borrower hereby agrees to pay the Lender such additional amount or amounts as will compensate the Lender for such reduction. The Borrower shall pay to the Lender such additional amount or amounts as will compensate the Lender for such reduction, provided that at such time the Lender shall generally be assessing such amounts on a non-discriminatory basis against borrowers having loans similar to the loan evidenced by the Note. A certificate of the Lender claiming compensation under this subsection and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive absent manifest error. In determining any such amount, the Lender may use any reasonable averaging and attribution methods. The Lender shall notify the Borrower in writing of any adjustments pursuant to this paragraph.

Notwithstanding the foregoing, in no event shall the interest rate payable on the Note in any year exceed the maximum rate permitted by law.

Prepayments. This Note may be pre-paid in whole or in part on any Business Day subject to the terms hereof and upon at least two Business Days' prior written notice to the Lender specifying the amount of prepayment. The Borrower shall, at the time of any prepayment, whether optional or at any other time this Note is paid earlier than its scheduled maturity, pay to the Lender the interest accrued to the date of prepayment on the principal amount being prepaid plus an additional fee or redemption premium equal to the present value of the difference between (1) the amount that would have been realized by the Lender on the prepaid amount for the remaining term of the loan at the ICE Benchmark Administration ("IBA") rate for fixed-rate payers in U.S. Dollar interest rate swaps for a term corresponding to the term of the Note, interpolated to the nearest month, if necessary, that was in effect three Business Days prior to the issuance date of this Note, and (2) the amount that would be realized by the Lender by reinvesting such prepaid funds for the remaining term of the loan at the IBA Index for rates for fixed-rate payers in U.S. Dollar interest rate swaps, interpolated to the nearest month, that was in effect three Business Days prior to the loan repayment date; both discounted at the same interest rate utilized in determining the applicable amount in (2). Should the present value have no value or a negative value, the Borrower may prepay with no additional fee or redemption premium. Should the IBA no longer release rates for fixed-rate payers in U.S. Dollar interest rate swaps, the Lender may substitute the IBA Index for rates for fixed-payers in U.S. Dollar interest rate swaps with another similar index as determined by SunTrust Bank (or affiliate thereof). The Lender shall provide the Borrower with a written statement explaining the calculation of the premium due, which statement shall, in absence of manifest error, be conclusive and binding. The application of such fee or prepayment premium is not intended to, and shall not be deemed to be, an increase in the Interest Rate. Any partial prepayment shall be applied as determined by the Lender in its sole discretion.

This Note shall be and have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of the State of Florida, subject to the provisions for registration of transfer contained herein and in the Loan Agreement.

It is further agreed between the Borrower and the Holder of this Note that the Note and the indebtedness evidenced hereby shall not constitute a lien upon any real or tangible personal property of the Borrower. Neither the members of the governing body of the Borrower nor any person executing the Note shall be liable personally on the Note by reason of its issuance.

This Note may be assigned as provided in the Loan Agreement by the Holder of this Note, or any assignee or successor-in-interest thereto. Such assignment shall only be effective, and the Borrower obligated to pay such assignee, upon delivery to the Chief Financial Officer of the Borrower at the address set forth below of a written instrument or instruments of assignment in the form provided herein, duly executed by the Holder of this Note or by his attorney-in-fact or legal representative, containing written instructions as to the details of assignment of this Note, along with the social security number or federal employer identification number of such assignee. In all cases of an assignment of this Note the Borrower shall at the earliest practical time in accordance with the provisions of the Resolution enter the change of ownership in the registration books; provided, however, the written notice of assignment must be received by the Chief Financial Officer of the Borrower no later than the close of business on the fifth Business Day prior to a Payment Date in order to carry the right to receive the interest and principal payment due on such Payment Date. The Borrower may conclusively rely on the authenticity of any Form of Assignment delivered to it in accordance with this paragraph and accompanied by the original of the Note to which it relates.

Any payment or notice required to be given to the Holder hereunder shall be given to the Holder at 515 East Las Olas Avenue, 7th Floor, Fort Lauderdale, FL 33301, Attention: Institutional & Government Banking, or such other address or addresses as the Holder shall provide the Borrower in writing. In the event of an assignment of this Note, any payment or notice required to be given to the Holder hereunder shall be given to the Holder at the address or addresses shown on the Form of Assignment hereto, or such other address or addresses as the Holder shall provide the Borrower in writing. Any notice required to be given to the Borrower hereunder shall be given to the Chief Financial Officer of the Borrower at 201 SW Fifth Avenue, Fort Lauderdale, Florida 33312 or such other address or addresses as the Borrower shall provide the Holder in writing.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen, and to be performed precedent to and in the issuance of this Note exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable hereto, and that the issuance of the Note does not violate any constitutional or statutory limitation or provision.

THE HOLDER, BY ITS ACCEPTANCE OF THIS NOTE, AND THE BORROWER, BY ITS ACCEPTANCE OF THE PROCEEDS OF THE NOTE, VOLUNTARILY AND

INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE LOAN AGREEMENT, THE RESOLUTION OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OR DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

IN WITNESS WHEREOF, the Performing Arts Center Authority, Broward County, has issued this Note and has caused the same to be executed by the manual signature of its Chair, and attested by the manual signature of its Assistant Secretary and its corporate seal or a facsimile thereof to be affixed or reproduced hereon, all as of the ____ day of December, 2019.

PERFORMING ARTS CENTER AUTHORITY,
BROWARD COUNTY

(SEAL)

Chair

ATTEST:

Assistant Secretary

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Note in the books kept by the Borrower for the registration thereof, with full power of substitution in the premises.

Dated: _____

SOCIAL SECURITY NUMBER OR
FEDERAL IDENTIFICATION NUMBER
OF ASSIGNEE

NOTICE: The signature of this assignment must correspond with the name as it appears upon the within Note in every particular, without enlargement or alteration or any change whatever.

[Form of Abbreviations]

The following abbreviations, when used in the inscription on the face of the within Note, shall be construed as though they were written out in full according to the applicable laws or regulations.

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with the right of survivorship and not as tenants in common

UNIFORM TRANS MIN ACT - _____ Custodian for _____ (Cust.) (Minor) under
Uniform Transfers to Minors Act of _____ .
(State)

Additional abbreviations may also be used
though not in the above list.

SCHEDULE “I”
PRINCIPAL REPAYMENT SCHEDULE
(to be provided post closing)

RESOLUTION NO. 2019-____

A RESOLUTION OF THE MEMBERS OF THE PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY (THE "AUTHORITY") MAKING CERTAIN FINDINGS; AUTHORIZING THE ISSUANCE OF THE AUTHORITY'S CAPITAL IMPROVEMENT REVENUE NOTES, SERIES 2019 IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$13,000,000 TO PAY OR REIMBURSE ALL OR A PORTION OF THE COSTS OF THE RENOVATION AND EXPANSION OF THE PARKER PLAYHOUSEPLAYHOUSE BY THE AUTHORITY AND TO PAY CERTAIN COSTS OF ISSUANCE OF THE 2019 NOTES; AUTHORIZING THE EXECUTION, DELIVERY AND/OR USE OF A LOAN AGREEMENT, COLLATERAL AGENT AGREEMENT, COMPLIANCE AGREEMENT, ASSIGNMENT AGREEMENTS AND OTHER DOCUMENTS AND THE PERFORMANCE OF OBLIGATIONS THEREUNDER; AUTHORIZING THE NEGOTIATED PRIVATE SALE OF THE 2019 NOTES TO STI INSTITUTIONAL & GOVERNMENT, INC. AND DELEGATING TO THE AUTHORIZED REPRESENTATIVE TO FIX THE FINAL TERMS AND CONDITIONS OF THE 2019 NOTES AND NOTE DOCUMENTS SUBJECT TO CERTAIN PARAMETERS; AUTHORIZING FURTHER ACTS ON BEHALF OF THE AUTHORITY IN CONNECTION WITH THE 2019 NOTES; PROVIDING FOR SEVERABILITY; DECLARING FLORIDA LAW AS THE GOVERNING LAW IN CONNECTION WITH THE ISSUANCE OF THE 2019 NOTES; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED by the Members (the "Members") of the Performing Arts Center Authority, Broward County (the "Authority"):

1. FINDINGS. The Members find, determine and declare that:

(a) The Authority is an independent special district and a public body, politic and corporate in Broward County duly organized and existing under the laws of the State of Florida and the Authority is authorized pursuant to the Laws of Florida, Chapter 2005-335, Florida Statutes, Chapter 159 and other applicable Florida laws (collectively, the "Act") to issue its Capital Improvement Revenue Notes, payable solely from revenues derived by the Authority from different sources, for the purpose of providing funds to pay all or any part of the costs of equipping, furnishing and constructing "facilities" as defined in the Act;

(b) "Facilities" are defined in Laws of Florida, Chapter 2005-335, Section 3 to include "facilities or sites for holding any type of cultural, tourism or promotional event, or civic, recreational or similar event or activity, and includes property, auditoriums, theaters, music halls, buildings, structures, utilities, parks, parking areas, roadways, and all other facilities and properties reasonably necessary or desirable to carry out the purposes of this act;"

The Authority presently leases and operates the Parker Playhouse (the "Playhouse"), situated and located at 707 NE 8th Street, Fort Lauderdale, Florida 33304, and the Authority intends to construct, equip and furnish the Playhouse Capital Replacement & Renewal Project, which includes site preparation, design, construction, remodeling, replacement and enlargement of the Playhouse (the "2019 Project");

(c) The Authority intends to issue its Capital Improvement Revenue Notes, Series 2019 (the "2019 Notes") in one or more series in an aggregate principal amount not to exceed \$13,000,000 issued pursuant to this Resolution (the "Note Resolution"), and the proceeds of the 2019 Notes shall be applied by the Authority pursuant to a Loan Agreement (the "Loan Agreement") between the Authority and STI INSTITUTIONAL & GOVERNMENT, INC. ("STING") to (a) pay or reimburse to the Authority 2019 Project costs; and (b) pay certain expenses incurred in connection with the issuance of the 2019 Notes; and

(d) Due to the character of the 2019 Notes, timing, size and complexity of the transactions related to the 2019 Notes, the present volatility of the municipal bond market and the uncertainty inherent

in a competitive bidding process, it is in the Authority's best interest to sell the 2019 Notes by negotiated private sale.

2. AUTHORIZATION OF 2019 NOTES; DESIGNATION.

- (a) The Authority is hereby authorized to issue, execute and deliver to STING the 2019 Notes in an aggregate principal amount not to exceed \$13,000,000, the proceeds of which shall be applied by the Authority to (a) pay or reimburse the cost of the 2019 Project to be acquired, constructed and equipped by the Authority; and (b) pay certain expenses incurred in connection with the issuance of the 2019 Notes; and
- (b) The 2019 Notes shall be issued in one series in the aggregate principal amount not to exceed \$13,000,000 and designated "THE PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY CAPITAL IMPROVEMENT REVENUE NOTES, SERIES 2019"
- (c) For the purposes of any limitation contained herein on the aggregate principal amount of 2019 Notes, the principal amount thereof shall be the initial principal amount on the date of issuance thereof. The 2019 Notes shall be serial bonds or terms bonds dated on such date or dates, shall bear interest payable on each date therefor, at such fixed or variable rates (not exceeding the maximum rate permitted by law), shall be numbered and shall mature, subject to prior redemption (both optional and sinking fund redemptions), on such maturity dates (not to exceed fifty (50) years from their date of issue), and shall contain all other details, terms, forms and provisions as are set forth in the Loan Agreement (hereinafter defined).
- (d) The Chair, any Member or the Authority's Chief Executive Officer, Secretary or Assistant Secretary (as applicable, the "Authorized Representative") is authorized to execute and attest, on behalf of the Authority, the 2019 Notes in the forms and containing the terms described herein and as set forth in the Loan Agreement and sold or issued as set forth in this Resolution, with such Authorized Representative's execution of the 2019 Notes conclusive evidence of such person's approval of the forms and terms of the 2019 Notes.
- (e) The 2019 Notes and the premium, if any, and the interest thereon shall (a) not be deemed to constitute a debt, liability or obligation of any authority or any county or of the State of Florida, or of any political subdivision thereof, including, without limitation, the Authority, and (b) be payable solely from the revenues and receipts described in the Note Documents (hereinafter defined) and received by the Authority, in each case as specifically set forth in the Note Documents. Neither the faith and credit nor any taxing power of any authority or any county or of the State of Florida, or of any political subdivision thereof, including, without limitation, the Authority, is pledged to the payment of the principal of, or premium, if any, or interest on the 2019 Notes.

3. NOTE DOCUMENTS INCLUDING NOTES, LOAN AGREEMENT, COLLATERAL AGENT AGREEMENT, COMPLIANCE AGREEMENT, ASSIGNMENT AGREEMENTS AND OTHER DOCUMENTS.

In connection with the issuance of the 2019 Notes and the financing of the 2019 Project by the Authority from the proceeds of the 2019 Notes, the Members hereby authorize and approve the execution and delivery and/or use, as the case may be, of the following instruments, each in substantially the form presented to the meeting of the Authority at which this Resolution is adopted in the form negotiated and approved as set forth herein, with such insertions, filling in of blanks, changes or deletions as are approved by an Authorized Representative, with the execution or the acceptance thereof by an Authorized Representative being conclusive evidence of the Authority's approval of the final form of such documents with such insertions, filling in of blanks, changes or deletions (collectively, the "Note Documents"):

- (a) Note No. 2019-1, Series 2019 (the "2019 Note").
- (b) The Loan Agreement between the Authority and STING (the "Loan Agreement").
- (c) The Collateral Agent Agreement among the Authority, the Foundation, Truist Bank and STING (the "Collateral Agent Agreement").

- (d) The ADA & Environmental Compliance Agreement from the Authority to STING (the "Compliance Agreement").
- (e) The Assignment Agreements from the Authority to STING (the "Authority Assignment Agreements").
- (f) The Tax Regulatory Agreement between the Authority and STING (the "Tax Regulatory Agreement").
- (g) The Collateral Assignment of Pledges (Foundation) from the Broward Performing Arts Center Foundation, Inc. (the "Foundation") to STING (the "Foundation Assignment Agreement").
- (h) Such other instruments, certificates, opinions and other matters as the Authorized Representative deems necessary or desirable in connection with these transactions.

In addition, the Authority is authorized and directed to comply with, and satisfy each of the conditions to the issuance of the 2019 Notes, including, without limitation, those conditions contained in the Note Documents. The proceeds of the 2019 Notes shall be applied as set forth in the Loan Agreement.

4. NEGOTIATED PRIVATE SALE OF THE 2019 NOTES; AWARD.

The negotiated private sale of the 2019 Notes to STING is hereby authorized pursuant to Section 218.385, Florida Statute. The Authorized Representative of the Authority is hereby authorized to award the 2019 Notes to STING pursuant to the Loan Agreement, subject to the following conditions:

- (a) The final maturity date on any of the 2019 Notes shall not be later than December 31, 2028.
- (b) The true interest cost, taking into account and including the cost of the fixed rate 2019A Note shall not exceed 4.50% per annum.
- (c) The 2019 Notes may be subject to mandatory sinking fund redemption and may be subject to mandatory and/or optional purchase prior to maturity.
- (d) The 2019 Notes may be subject to optional redemption on or after their date of issuance, at prices determined by the Authorized Representatives, plus accrued interest.
- (e) The Authority shall have received a disclosure statement from STING, setting forth certain information required by Section 218.385, Florida Statute, as amended, and STING shall have complied with Section 287.133, Florida Statute.
- (f) The Authority shall have received an investment certificate from STING, setting forth certain information regarding the purchase of the 2019 Notes by STING.
- (g) The sale and issuance of the 2019 Notes shall take place on or before December 31, 2019.
- (h) Such other conditions as shall be deemed necessary by the Authorized Representative in consultation with Garry W. Johnson, P.A. ("Note Counsel").

5. OTHER.

- (a) *Further Acts.* The Members, Authorized Representatives, employees, agents and persons otherwise acting on behalf of the Authority are hereby authorized to do all acts and things required of them by this Resolution for the full, punctual and complete performance of all the terms, covenants and agreements contained in the 2019 Notes and this Resolution. The Authorized Representative is hereby authorized and directed to execute and deliver the 2019 Notes and the Note Documents to which the Authority is a party, and to do and perform such other acts on behalf of Authority, as may be necessary or desirable and appropriate to carry out the provisions and complete the transactions contemplated by this Resolution and the Note Documents.
- (b) *Severability.* In case any one or more of the provisions of this Resolution, of any Note Document or of any 2019 Note shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Resolution, such Note Document or such 2019 Note, as the case may be, and they shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

- (c) *Florida Law.* The 2019 Notes will be issued, this Resolution is adopted, and the Note Documents shall be negotiated and drafted with the intent that the laws of the State of Florida shall govern their construction, except as otherwise expressly noted therein.
- (d) *Definitions.* Capitalized terms used but not defined herein have the meanings assigned to such terms in the Loan Agreement, unless the context in which such terms are used require a different meaning.
- (e) *Effective Date.* This Resolution shall take effect immediately upon its adoption. This Resolution may be signed in one or more counterparts, each of which shall be originals of this Resolution, but all such counterparts shall form but one and the same Resolution.

PASSED AND ADOPTED this 5th day of December, 2019.

ATTEST:

ROBERT B. LOCHRIE, III, CHAIR

GIULIANNA LANNERT, ASSISTANT SECRETARY

I hereby certify that I have approved the form and correctness of this Resolution.

GARRY W. JOHNSON, P.A.,
as legal counsel to the Authority

By: _____
GARRY W. JOHNSON
FOR THE FIRM

COLLATERAL ASSIGNMENT OF CONTRACTS, LICENSES AND PERMITS

THIS COLLATERAL ASSIGNMENT OF CONTRACTS, LICENSES AND PERMITS (this “**Assignment**”) is made as of the 1st day of December, 2019, by PERFORMING ARTS CENTER AUTHORITY, BROWARD COUNTY, a Florida independent special district, having its principal place of business at 201 SW Fifth Avenue, Fort Lauderdale, Florida 33312 (the “**Borrower**”), to STI INSTITUTIONAL & GOVERNMENT, INC., a Delaware corporation, having an office at 515 East Las Olas Avenue, 7th Floor, Fort Lauderdale, FL 33301 (the “**Lender**”).

R E C I T A L S :

WHEREAS, Borrower operates the facility known as the Parker Playhouse, located at 708 NE 8th Street, Fort Lauderdale, Florida 33304, and legally described on Exhibit “A” attached hereto and made a part hereof (the “**Theater Property**”); and

WHEREAS, Borrower has applied to Lender for a fixed rate, non revolving loan (the “**Loan**”) in the maximum amount of Thirteen Million (\$13,000,000.00), for the purpose of renovating the Theatre Property, infrastructure replacement and drying in the shell of the new construction component (the “**Phase I Improvements**”) and constructing and equipping an addition to the building currently located on the Theater Property (the “**Phase II Improvements**”); and

WHEREAS, the Loan shall be evidenced by the Borrower’s Capital Improvement Revenue Note, Series 2019 (the “**Note**”); and

WHEREAS, pursuant to a Loan Agreement between the Borrower and the Lender dated the date hereof (the “**Loan Agreement**”), the Borrower will also pledge and assign to the Lender, as security for the Loan, certain revenues and contract rights as more specifically set forth herein; and

WHEREAS, Lender requires as a condition to purchasing the Note that Borrower shall have executed and delivered this Assignment as security for Borrower’s obligations under the Loan Documents (as defined in the Loan Agreement).

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Defined Terms. Capitalized terms used in this Assignment and not otherwise defined shall have the respective meanings assigned to them in the Loan Agreement.

Collateral Assignment. As additional security for the full and timely payment of the Note and the performance and observance of the “**Obligations**” (as defined in the Loan Agreement), Borrower hereby assigns, transfers and pledges to Lender all of Borrower’s right, title and interest in, to and under all (i) permits, licenses, franchises, compliances, certificates,

consents and approvals (including, without limitation, all approvals of any governmental authorities), (ii) general intangibles, (iii) agreements (including, without limitation, each interest rate protection agreement, if any) and contracts, including, without limitation, contractor agreements, subcontractor agreements, agreements with architects, engineers, surveyors and project managers, service contracts, and management and/or leasing agreements, (iv) payment and performance bonds, (v) impact fee credits, sewer connection fee credits, utility rights, and all development and concurrency rights and privileges, (vi) all building materials intended to be incorporated into the Projects, whether stored on the Theater Property or elsewhere, (vii) plans, specifications and drawings, (viii) insurance policies, warranties, guaranties, and indemnities, (ix) appraisals, engineering, environmental, soils, insurance and other reports and studies, (x) tenant lists, books, records, correspondence, files and advertising materials, and other documents, now or hereafter obtained, produced or entered into, as the case may be, in any way pertaining to the construction, use, occupancy, possession, management, maintenance, ownership, or otherwise in respect of the Projects and/or the Theater Property, as the same may be amended, supplemented, restated, extended, replaced, supplemented or otherwise modified from time to time, and including any of the foregoing whether now existing or hereafter entered into or otherwise in effect with respect to the Projects and/or the Theater Property (collectively, the “**Contracts, Licenses and Permits**”), including, without limitation, the specific Contracts, Licenses and Permits listed on Schedule 1 annexed hereto, together with all cash and non-cash proceeds of any of the foregoing and all claims of Borrower with respect thereto and together with all right, title and interest of Borrower in and to any and all extensions and renewals of any of the foregoing (together with the Contracts, Licenses and Permits, collectively, the “**Assigned Property**”).

1. Representations and Warranties. Borrower represents and warrants that:

(a) Borrower has the right to assign the Contracts, Licenses and Permits listed on Schedule 1 annexed hereto in accordance with the terms of this Assignment, without the obligation to obtain the consent thereto of any Person, other than Persons whose consents have been obtained in writing and delivered to Lender;

(b) no other Person has any right, title or interest in Borrower’s interests in the Assigned Property or any part thereof;

(c) the Contracts, Licenses and Permits listed on Schedule 1 annexed hereto (as the same may be updated from time to time pursuant to Section 4(f) below) are in full force and effect and have not been modified, amended or assigned other than pursuant to this Assignment;

(d) neither Borrower nor any other party to the any Contracts, Licenses and Permits (each, an “**Other Contract Party**”) is in default under any of the terms, covenants or provisions of the Contracts, Licenses and Permits and Borrower knows of no event which, but for the passage of time or the giving of notice or both, would constitute an event of default under the Contracts, Licenses and Permits by Borrower or any such Other Contract Party;

(e) neither Borrower nor any Other Contract Party has commenced any action or given or received any notice for the purpose of terminating any Contracts, Licenses and Permits; and

(f) all sums due and payable as of the date hereof to any Other Contract Party under the related Contracts, Licenses and Permits have been paid in full.

2. Covenants of Borrower. Borrower covenants and agrees as follows:

(a) Except to the extent otherwise permitted in the Loan Agreement, Borrower will at all times comply and cause substantial compliance with all of its covenants, obligations and agreements, if any, under the Contracts, Licenses and Permits (including, the obligation to pay all sums due thereunder) to which it is a party and, subject to the terms and conditions of the other Loan Documents, will use all reasonable efforts to secure or enforce all of its rights under the Contracts, Licenses and Permits to which it is a party.

(b) Except to the extent otherwise permitted in the Loan Agreement, Borrower shall not, other than in the ordinary course of business, surrender, terminate (other than a termination in connection with a default beyond applicable time periods by a third party under the applicable Contract, License and Permit), cancel, modify, amend, enter into any agreement in substitution for, or consent to the assignment of any Contract, License and Permit without Lender's prior written consent; provided, however, Lender shall not unreasonably withhold its consent for immaterial modifications or amendments to any such Contract, Licenses and Permits.

(c) Borrower shall abide by, perform and discharge in all material respects all obligations, covenants, agreements, and conditions to be performed by Borrower, or any of them, under all material Contracts, Licenses and Permits as if this Assignment had not been made.

(d) Borrower shall give prompt notice to Lender of any default notice issued by any governmental authority or any other party with respect to any of the Contracts, Licenses and Permits together with an accurate and complete copy of any such notice.

(e) Borrower shall exercise all reasonable efforts to enforce or secure the performance of each and every material obligation, covenant, condition, and agreement to be performed by the licensor, grantor or other contracting party under all such Contracts, Licenses and Permits.

(f) Borrower shall deliver to Lender from time to time an updated Schedule 1 so that the same is a current and complete list as of the time in question of all material Contracts, Licenses and Permits then in existence and deliver the same to Lender together with each Borrower's Requisition for an Advance under the Loan Agreement.

3. Limitations on Assignment. Although it is the intention of the parties that this Assignment shall be a present assignment, it is agreed that so long as no Event of Default shall have occurred and be continuing, subject to the provisions of Section 2 hereof and any other restrictions set forth in the Loan Documents, Borrower shall have the exclusive right to exercise all rights in, to and under the Contracts, Licenses and Permits, and Lender shall not have

any right to exercise such rights hereunder. Upon the occurrence and during the continuation of an Event of Default, Lender shall be entitled, at Lender's option, to exercise all rights in, to and under any or all of the Contracts, Licenses and Permits, whether or not Lender shall take possession of any part of the Theater Property and/or Improvements. The foregoing assignment shall be fully operative without any further action on the part of either party.

4. Remedies. Upon the occurrence and during the continuation of an Event of Default, Lender may, at its option, in addition to all other remedies provided for hereunder and under the other Loan Documents, or at law, exercise from time to time any rights and remedies available to Lender under applicable law in respect of the Contracts, Licenses and Permits and without regard for the adequacy of security for the Note, either in person or by Lender with or without bringing any action or proceeding, or by a receiver to be appointed by a court, exercise all rights of Borrower under the Contracts, Licenses and Permits and do any acts which Lender deems proper to protect the security hereof, and upon the occurrence and during the continuance of such event, Borrower shall neither have nor exercise any further rights under the Contracts, Licenses and Permits. The exercise of any rights under this Assignment by Lender shall not cure or waive any Default or Event of Default, or invalidate any act done pursuant hereto or pursuant to the other Loan Documents, but shall be cumulative of all other rights and remedies under this Assignment and the other Loan Documents.

5. Performance Upon Notice. Borrower hereby irrevocably directs the governmental authority having jurisdiction over the Theater Property as a party to or the issuer of any Contracts, Licenses or Permits or any Contract Party, upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and that an Event of Default exists and is continuing, to recognize Lender as the "contracting party," "licensee," "indemnatee" or "permittee", as the case may be, under the Contracts, Licenses and Permits for any and all purposes as fully as it would recognize or accept the performance of Borrower thereunder, except that Lender shall not be liable for any acts or omissions or defaults occurring or arising prior to such notice from Lender of an Event of Default, and to act in accordance with any and all instructions given by Lender with respect to such Contracts, Licenses and Permits. Borrower hereby authorizes and directs any Other Contract Party, to continue performance of such parties' respective covenants and obligations under their respective Contracts, Licenses and Permits upon Lender's request therefor, and to continue so to do until otherwise notified by Lender. Nothing contained in this Assignment shall obligate Lender to perform any of Borrower's covenants or obligations under the Contracts, Licenses and Permits or otherwise impose any obligations on Lender with respect thereto, until such time as Lender gives notice of an Event of Default and makes a request for continued performance in accordance with this Section 5.

6. Termination. At such time as the Note is fully paid and performed, this Assignment and all of Lender's right, title and interest hereunder with respect to the Contracts, Licenses and Permits shall terminate.

7. Notices. All notices or other communications hereunder shall be in writing and shall be given in accordance with Section 9 of the Loan Agreement.

8. No Oral Change. This Assignment, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or

failure to act on the part of Borrower or Lender or any Other Contract Party, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

9. Partial Invalidity. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

10. Governing Law. This Assignment shall be governed, construed, applied and enforced in accordance with the laws of the State of Florida (without giving effect to the State of Florida's principles of conflicts of law) and the applicable laws of the United States of America.

11. Captions. All captions or headings preceding the text of separate paragraphs of this Assignment are solely for reference purposes and shall not affect the interpretation or effect of the text.

12. Duplicate Originals, Counterparts. This Assignment may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original.

13. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

14. Miscellaneous. (a) Wherever pursuant to this Assignment (i) Lender exercises any right given to it to approve or disapprove, (ii) any arrangement or term is to be satisfactory to Lender, or (iii) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole and absolute discretion of Lender and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein.

(b) Wherever pursuant to this Assignment it is provided that Borrower shall pay any costs and expenses, such costs and expenses shall include, but not be limited to, reasonable legal fees and disbursements of Lender.

15. Successors and Assigns. This Assignment shall inure to the benefit of Lender and its successors and assigns, and shall bind Borrower and its successors and permitted assigns.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the undersigned has executed this Assignment as of the day and year first written above.

BORROWER:

PERFORMING ARTS CENTER AUTHORITY,
BROWARD COUNTY

By:_____

Name:_____

Title:_____

[SEAL]

ATTEST:

By:_____

Name:_____

Title:_____

EXHIBIT A

DESCRIPTION OF PROPERTY

Theater Property

Tract "A," THEATRE CENTER, according to the Plat thereof as recorded at Plat Book 63, Page 5 of the Public Records of Broward County, Florida; said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

And including the license granted in the Lease to the Borrower to exclusive use of the property directly east of and contiguous to the above-described parcel for patron parking of 600 cars, for a period starting two hours before each event and ending two hours after each event, as more particularly described in the Lease.

SCHEDULE 1

LIST OF EXISTING CONTRACTS

1. Plans and Specifications
2. Construction Contract
3. Architect's Agreement
4. Building Permits