

FIRST AMENDMENT TO COMPREHENSIVE AGREEMENT

THIS FIRST AMENDMENT TO COMPREHENSIVE AGREEMENT (this "Amendment") is made in accordance with the Public-Private Education Facilities and Infrastructure Act of 2002 ("PPEA"), Va. Code §56-575.1, et. seq., and is entered into as of the 23rd day of December, 2008, by and among the **CITY OF RICHMOND, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the "City"), **VIRGINIA PERFORMING ARTS FOUNDATION**, a Virginia non-stock corporation t/a **CENTERSTAGE FOUNDATION** (the "Foundation"), **RICHMOND PERFORMING ARTS CENTER L.L.P.**, a Virginia limited liability limited partnership (the "LLLP") and **RPAC, INC.**, a Virginia corporation ("RPAC").

Recitals

The City, the Foundation and RPAC entered into that certain Comprehensive Agreement dated September 14, 2007, as approved by the City Council of the City pursuant to Ordinance No. 2007-235-201, adopted September 10, 2007 (the "Comprehensive Agreement") with respect to the ownership, construction, restoration, development and management of certain performing arts facilities located in the City of Richmond, as more particularly set forth in the Comprehensive Agreement. By the terms of the Comprehensive Agreement, the parties acknowledged that the financing of the Project (as defined in the Comprehensive Agreement) depended in substantial part on the availability, earning, acquisition, sale and syndication of certain federal and state historic tax credits, new market credits, and other tax credits (as defined in the Comprehensive Agreement, the "Tax Credits"), and therefore agreed to modify the Comprehensive Agreement to allow and facilitate the acquisition, earning, sale and syndication of the Tax Credits.

The parties to this Amendment now desire to make certain changes to the Comprehensive Agreement to allow and facilitate the acquisition, earning, sale and syndication of the Tax Credits and to otherwise amend the Comprehensive Agreement as set forth herein.

As required by Va. Code § 56-575.16(5), the City Council of the City of Richmond, Virginia has approved, and authorized the City to enter into, this Amendment by Ordinance No. 2008-267-255, adopted October 27, 2008.

Amendment

NOW, THEREFORE, for and in consideration of the mutual promises, conditions and covenants herein set forth, the parties agree as follows:

1. **Defined Terms.** All capitalized terms used and not defined herein shall have the meanings assigned to those terms in the Comprehensive Agreement.

2. **RPAC.** RPAC hereby joins as a party to the Comprehensive Agreement with the consent of the other parties, and any reference in the Comprehensive Agreement to the "parties" or similar reference shall include RPAC. RPAC hereby assumes all duties and obligations of the LLLP as set forth in the Comprehensive Agreement respecting Dorothy Pauley Square, and the LLLP is hereby released from all obligations respecting Dorothy Pauley Square. RPAC intends to admit Richmond Performing Arts Tenant LLC (the "Master Subtenant") into the LLLP as investor limited partner, with RPAC being the general partner of the LLLP. RPAC's notice address pursuant to Section 25 of the Comprehensive Agreement shall be the same as the LLLP's notice address.

3. **Dorothy Pauley Square.** Except as specifically set forth herein to the contrary, each reference to "the LLLP" in the Comprehensive Agreement, including, without limitation, in Sections 2(c), 2(d), 2(e), 2(i), 3, 5, 6, 7, 8, 10, 11, 12, 13(b), 13(c), 13(d), 15(a), 15(e)(2), 16, 19, 20, 21, 22, 24, 26, 27, 28, 33, 34, 35, 35.1, and 35.2, shall mean the LLLP with respect to the Carpenter Theatre and RPAC with respect to Dorothy Pauley Square, it being the intent hereof that all obligations under the Comprehensive Agreement with respect to Dorothy Pauley Square previously allocated to the LLLP shall be obligations of RPAC and not the LLLP, and that all obligations of the LLLP respecting the Carpenter Theatre shall remain obligations of the LLLP.

4. **Payments.** The third sentence of Section 13(a) of the Comprehensive Agreement is amended to replace the word "LLL" with the word "Foundation" and to add the following to the end of the sentence " , and the Foundation shall advance such payments of the City Contribution to the LLLP." Each of Sections 2(b) and 15.1 is amended to delete the words "to the LLLP."

5. **City Lease.** The City Lease to be entered into between the City and the LLLP pursuant to Section 4(b) may be modified from the form attached as Exhibit D to the Comprehensive Agreement to be in the form approved by the City pursuant to Article VII, Section 9 of the Constitution of Virginia and Chapter 21 of Title 15.2 of the Va. Code.

6. **Carpenter Theatre Management Agreement.** The first sentence of Section 15(a) of the Comprehensive Agreement is hereby deleted in its entirety and replaced with the following:

Prior to the date on which a certificate of occupancy is issued for the Carpenter Theatre, but in no event later than October 1, 2009, the LLLP shall enter into a master sublease with a master subtenant (the "Master Subtenant"), which Master Subtenant will enter into a management agreement with RPAC to manage the Carpenter Theatre. Each of RPAC, the LLLP and the Master Subtenant is a private entity under the PPEA. Notwithstanding anything in this Agreement to the contrary, the LLLP and the Master Subtenant, as private, profit making entities pursuant to applicable tax law, shall be entitled to the rights set forth in Virginia Code §56-575.8 in connection with their ownership, management, use and operation of the Carpenter Theatre, pursuant to appropriate operating

policies and procedures respecting their operation of the Carpenter Theatre as a performing arts center and for uses compatible therewith.

7. **Termination.** A new Section 21(c) is hereby added to the Comprehensive Agreement as follows:

“(c) *Termination of City Lease.* Notwithstanding the foregoing, no termination of this Agreement shall act as a termination of the City Lease. The terms and conditions of the City Lease shall govern the remedies of the parties thereto with respect to the City Lease in the event of a default under this Comprehensive Agreement.”

8. **RPAC Agreement.** The second WHEREAS clause of Exhibit K is hereby deleted in its entirety and replaced with the following:

WHEREAS, the execution of this Agreement by the Parties is a material inducement to the City's agreement to execute a Comprehensive Agreement with VAPAF and Richmond Performing Arts Center L.L.P.;
and

9. **Ratification.** All terms, covenants, and conditions of the Comprehensive Agreement, as modified by this Amendment, are hereby affirmed, agreed upon and ratified, and all representations in the Comprehensive Agreement, as modified hereby, are made, by the parties as of the date hereof. In the event of any inconsistency between the terms of the Comprehensive Agreement and the terms of this Amendment, the terms of this Amendment shall control.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Comprehensive Agreement as of the day and year first above written.

VIRGINIA PERFORMING ARTS FOUNDATION,
a Virginia non-stock corporation t/a Centerstage
Foundation

By: [Signature]
Name: ROBERT MOONEY
Title: VICE CHAIRMAN

Date: 12-23-08

**RICHMOND PERFORMING ARTS CENTER,
L.L.L.P.,** a Virginia limited liability limited partnership

By: RPAC, INC., a Virginia corporation and its general
partner

By: [Signature]
Name: DAVID B. C. ROBINSON
Title: Actg Chief Financial Officer

Date: 12.23.08

RPAC, INC., a Virginia corporation

By: [Signature]
Name: DAVID B. C. ROBINSON
Title: Actg Chief Financial Officer

Date: 12-23-08

THE CITY OF RICHMOND,
a municipal corporation of the Commonwealth of Virginia

Approved As to Form

By: _____
City Attorney

By: _____
Name: _____
Its: _____

Date: _____

Doc#1749068

IN WITNESS WHEREOF, the parties have executed this First Amendment to Comprehensive Agreement as of the day and year first above written.

VIRGINIA PERFORMING ARTS FOUNDATION,
a Virginia non-stock corporation t/a Centerstage
Foundation

By: _____

Name: _____

Title: _____

Date: _____

**RICHMOND PERFORMING ARTS CENTER,
L.L.L.P.,** a Virginia limited liability limited partnership

By: RPAC, INC., a Virginia corporation and its general
partner

By: _____

Name: _____

Title: _____

Date: _____

RPAC, INC., a Virginia corporation

By: _____

Name: _____

Title: _____

Date: _____

THE CITY OF RICHMOND,
a municipal corporation of the Commonwealth of Virginia

By:  _____

Name: Chris Beschler

Its: Acting Chief Admin Officer

Approved As to Form

By:  _____
Assistant City Attorney II

Date: December 29, 2008

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