CITY COUNCIL SPECIAL MEETING AND STUDY SESSION NOTICE & AGENDA
Tuesday, November 15, 2011
5:00 PM
CITY COUNCIL CHAMBER

MUNICIPAL OFFICE COMPLEX
8401 W. MONROE STREET
PEORIA, AZ 85345

CITY COUNCIL:

Mayor
Bob Barrett

Mesquite District
Cathy Carlat, Vice Mayor

Acacia District
Tony Rivero

Ironwood District
Dave Pearson

Palo Verde District
Ron Aames

Pine District
Carlo Leone

Willow District
Joan Evans

City Manager
Carl Swenson

CONVENE:
ROLL CALL:

FINAL CALL TO SUBMIT SPEAKER REQUEST FORMS:

CONSENT AGENDA

CONSENT AGENDA: All items listed with "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

CONSENT – New Business:

1C Authorization to Hold an Executive Session

Pursuant to A.R.S. § 38-431.03: Discussion and possible action to authorize the holding of an Executive Session for the purpose of:

a) Discussion with Legal Counsel for legal advice pertaining to the City's position on a proposed Economic Development Incentive and Investment Agreement pursuant to the City's Economic Development Incentive and Investment Policy (EDIIP) with Maxwell Technologies to establish a commercial business operation at 8644 W. Ludlow Drive. (Pursuant to A.R.S. § 38-431.03(A)(4));

b) Discussion with legal counsel for legal advice on legal issues pertaining to the claim Jane Doe X, et al., pursuant to A.R.S. § 38-431.03(A)(3); and

c) Discussion and possible action to authorize the holding of an Executive Session for the purpose of discussion or consideration of assignment, appointment, promotion, or salaries of a public officer or appointee pertaining to the evaluation process and performance reviews of the Municipal Judge and City Attorney (pursuant to A.R.S. § 38-431.03(A)(1)). **(Note: The Executive Session on this item will be held immediately following the Vistancia Community Facilities District Board Meeting.)**

STUDY SESSION AGENDA

Subjects for Discussion Only:

1. Electronic Billboard Sign Civic Engagement Plan
2. Political Signs Zoning Ordinance Amendment
3. Theater Works

CALL TO THE PUBLIC: (NON-AGENDA ITEMS)

If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

ADJOURNMENT

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

Accommodations for Individuals with Disabilities. *Alternative format materials, sign language interpretation, assistive listening devices or interpretation in languages other than English are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Room 150, Peoria, Arizona 85345 (623)773-7340, TDD (623)773-7221, or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request.*

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

SS #1

Date Prepared: November 8, 2011 **Council Meeting Date: November 15, 2011**

TO: **Carl Swenson, City Manager**

FROM: **Scott Whyte, Economic Development Services Director**

THROUGH: **Susan J. Daluddung, Deputy City Manager**

SUBJECT: **Electronic Billboard Sign Civic Engagement Plan**

Purpose:

This is a request for the City Council to consider a specific civic engagement process for the potential placement of electronic billboard signs along Loop 101 in the City of Peoria.

Background/Summary:

On August 23, 2011, staff presented to the City Council a concept for the future growth of the Entertainment District, including identity creation, signage, pedestrian orientation, and place making improvements. Also, staff and Osage West, LLC provided an update on the proposed mixed-use, entertainment project on the front parking lot of the Sports Complex property. As part of the presentation on the proposed redevelopment project, the need for parking garages was discussed along with a potential revenue source to pay for the anticipated debt service for the parking garages coming from revenue resulting from the placement of five (5) digital billboard signs along Loop 101.

As the City's existing sign ordinance does not allow for digital billboards, a robust civic engagement process is needed to assess citizen and business reactions and concerns about potential digital signs in general and specific placements along the Loop 101 Freeway. Staff is proposing the following as its civic engagement process for this initiative:

- Discussion and review of the proposed civic engagement process at the 11/9/11 Sustainable Development Sub-Committee meeting;
- Discussion and review of the proposed civic engagement process and economic development purpose of the proposed billboard signs at the 11/10/11 Economic Development Advisory Board (EDAB) meeting;
- Discussion and review of specific proposed billboard placements, as discussed at the August 23, 2011 Council Study Session, and impacts of such placements along Loop 101 with HOA's and citizens in impacted neighborhoods. This meeting is scheduled for November 16, 2011 from 6pm-8pm at Rio Vista;

- Discussion and review of such at a future Planning Commission Study Session;
- Discussion and review of such during a public meeting to be held in each Council District, targeting the month of January 2012;
- Discussion and review of all input received and a draft sign ordinance amendment at a future Sustainable Development Sub-Committee meeting;
- Discussion and review of all input received and a draft sign ordinance amendment at a future Council Study Session meeting.

Previous Actions:

The proposed civic engagement process was considered by the Sustainable Development Sub-Committee at its 11/9/11 meeting, and 11/10/11 EDAB meeting.

Options:

A: Direct staff to implement the proposed civic engagement process.

B: Direct staff to implement a modified civic engagement process, and provide staff with such modifications as needed.

Staff's Recommendation:

Direct staff to implement the proposed civic engagement process.

Fiscal Analysis:

There is no fiscal impact to the City associated with the study session presentation or resulting civic engagement process.

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

SS #2

Date Prepared: November 2, 2011 **Council Meeting Date: November 15, 2011**

TO: **Carl Swenson, City Manager**

FROM: **Chris M. Jacques, AICP, Planning & Community Development Director**

THROUGH: **Susan J. Daluddung, AICP, Deputy City Manager**

SUBJECT: **Political Signs Zoning Ordinance Text Amendment (Case TA11-0006) STUDY SESSION**

Purpose:

This is a request for City Council to consider a proposed amendment to Article 14-34 of the Zoning Ordinance ("Signs") regarding political signs. The amendment is intended to update regulations to comply with recent changes in State Law (HB 2500).

Background/Summary:

This is a City-initiated amendment to Article 14-34 ("Signs") of the Zoning Ordinance to update regulations regarding Political Signs in order to comply with changes in State Law. House Bill 2500, passed by the State Legislature and signed by Governor Brewer in April, amended Section 16-1019 of the Arizona Revised Statutes (A.R.S.) relating to political signs. The key consequence of this legislation is that cities, towns, and counties are not permitted to remove Political Signs that are located within the public-right-of-way (ROW) as long as the signs meet certain criteria such as maximum size and height and are not placed in locations that are "hazardous to public safety."

The City's Sign Code (Article 14-34 of the Zoning Ordinance) currently prohibits nearly all signs, including Political Signs, from being placed in the public ROW or on City property. The proposed changes will conform to the updated A.R.S. regulations, allowing political signs in the City-owned ROW as required, and still strive to promote public safety by identifying those areas where such signs are prohibited in order to prevent hazardous situations.

Additionally, House Bill 2500 does allow for the creation of exclusionary zones for tourism purposes, where the City can restrict the placement of political signs in the ROW. The proposed amendment adds language referring to such a zone, so that if the City wishes to create such a zone in the future, the Sign Code will already support it.

Finally, minor housekeeping changes are also proposed to Article 14-34 in order to replace references to a non-existent City staff position (e.g. "Building Safety Director") with more general references.

Previous Actions:

Sustainable Development Subcommittee (11/2/11)
The proposed amendment was presented to the Sustainable Development Subcommittee on November 2, 2011. As part of the discussion, staff identified several potential policy items for specific consideration. The items are referenced and outlined below:

- **Sign-Free Zones:** HB2500 permits the City to establish up to two (2) Political Sign free zones (within the ROW). Collectively, the areas cannot exceed 3 square miles and must be areas that contain a predominance of "commercial tourism, resort and hotel uses." The Subcommittee opined that the Sports Complex District (~ 1 square mile) was an appropriate political-sign free area based on the criteria, and that staff should pursue designation as such.
- **Sign Area:** HB2500 permits Political Signs in the ROW provided that they not exceed 16 square feet in residential districts and 32 square feet in non-residential districts. Currently, the Sign Code allows Political Signs on private property in *any* zoning district provided they not exceed 32 square feet in area. To minimize potential confusion and promote visual aesthetics, staff proposed that signs in residential districts (ROW + private property) be limited to 16 square feet and signs in non-residential districts (ROW + private property) be limited to 32 square feet. The Subcommittee concurred with the staff proposal.
- **Prohibit on structures owned by the City:** The current Sign Code prohibits political signs on structures, buildings and traffic control devices owned by the City. The new law maintains the ability of the city to prohibit Political Signs on City structures. The Subcommittee opined that the current prohibition was appropriate.
- **Sign Placement:** Currently, the Sign Code does not specify a maximum period of time for placing Political Signs prior to a vote or proposition. HB2500 specifies that the City must allow Political Signs in the ROW at least 60 days prior to the vote. This was discussed by the Subcommittee. Although support was voiced for a maximum period of time prior to a vote, there was *not* consensus in terms of what that period should be.

Options:

A: Direct staff to forward the Zoning Ordinance Amendment to the Planning & Zoning Commission as proposed by staff; or

B: Direct staff to forward the Zoning Ordinance Amendment to the Planning & Zoning Commission with specified modifications; or

C: Remand the Zoning Ordinance Amendment back to the Sustainable Development Subcommittee for renewed consideration based on policy matters of concern.

Staff's Recommendation:

Receive the presentation materials and provide staff with direction on the proposed Zoning Ordinance Amendment relating to Political Signs.

Fiscal Analysis:

There is no fiscal impact to the City with the Study Session presentation.

Narrative:

Upon receiving a directive from the City Council to move forward, this Zoning Text Amendment would be revised as warranted and moved to the Planning & Zoning Commission for a recommendation. The recommendation would then be forwarded to a future City Council meeting for final action.

Exhibit(s):

Exhibit A:	Proposed changes to Article 14-34 (deletions/additions shown as ~~strike~~/underscore)
Exhibit B:	House Bill 2500 (Conference engrossed)
Exhibit C:	Matrix illustrating main elements

Contact Name and Number: Melissa Sigmund, Planner, (623) 773-7603

EXHIBIT A

Proposed changes to Article 14-34 Signs

(Amended by Ord. Nos. 2011-01, 2011-XX)

14-34-8 SIGN TYPES AND REQUIREMENTS

A. Permitted Signs. The following signs are permitted, subject to the criteria listed under each sign:

7. Construction Sign. A sign which identifies the parties included in an "in-process" construction project.

   a. Such signs shall only be displayed on the actual construction site;

   b. Such sign shall not exceed eight (8) feet in height nor thirty-two (32) square feet in area;

   c. All such signs shall be removed prior to the issuance of a Certificate of Occupancy for the site;

   d. All construction signs shall be constructed and installed to standards defined by the Department~~Building Safety Director~~.

   e. No sign permit required, but such signs shall be constructed to standards required for a permanent sign as described by the Arizona Sign Association.

29. Political Signs. (Ord. No. 2011-XX) A temporary sign used to support or oppose a candidate for public office or support or oppose a ballot measure. ~~advertise the candidacy of an individual, ballot proposition/issue, or to encourage citizens to vote~~. Such signs shall be permitted within all zoning districts. (Ord. No. 97-40)

   a. Except in any designated commercial tourism, commercial resort, and hotel sign-free zones, such signs may be located within the public right of way, but shall not be located where hazardous to public safety, ~~within the public right-of-way,~~ within a required visibility triangle, or on City property or buildings. (Ord. No. 04-02)

   b. Such signs shall be located on property with the owner's permission. It shall be presumed the property owner has given permission unless the property owner notifies the city otherwise; (Ord. No. 04-02)

   c. Such signs shall be installed no sooner than sixty (60) days prior to a primary election. For candidates not advancing to the general election, such signs shall be removed within fifteen (15) days after the primary election. For

candidates advancing to the general election, such signs shall be removed within fifteen (15) days following the general election. ~~removed within ten (10) days following the voting day of the election to which they refer. Signs for successful primary election candidates, eligible for the general election, may remain after the primary election;~~

d. Such signs shall not be placed on or affixed to any ~~utility pole,~~ traffic control device or safety barrier;

e. Such signs shall not exceed eight (8) feet in height, nor shall they exceed sixteen (16) square feet in area when located in a residential zoning district or thirty-two (32) square feet in area when located in any non-residential zoning district. ~~Such signs shall not exceed thirty-two (32) square feet in area or eight (8') feet in height;~~

f. Such signs shall contain the name and telephone number of the candidate or campaign committee contact person. The person, party or parties responsible for the erection or distribution of any such signs shall be jointly and severally liable for the removal of such signs;

g. Such signs which are deemed to be unsafe, defective or which create an immediate hazard to persons or property or are not in compliance with the provisions of this section shall be declared to be a public nuisance and shall be subject to ~~immediate~~ removal by the City in accordance with state statutes.~~;~~ (Ord. No. 04-02, Ord. No. 2012-XX)

h. No sign permit required.

14-34-17 PERMIT APPLICATION AND EXPIRATION

A. To obtain a permit the applicant shall file an application with the Department ~~Building Safety Director~~ on a form furnished by the City. The application shall contain the location by street and number and name of the proposed sign contractor, with address, state license, city tax number and phone number. All applications shall be accompanied by the written consent of the owners, lessee, agent or trustee in charge of the property on which the sign is proposed.

B. Every permit issued by the City ~~Building Safety Director~~ under the provisions of this code shall expire by limitation and become null and void, if the work authorized by such permit is not completed within one hundred eighty (180) days from the date of issuance of such permit. Before such work can be allowed, a new permit shall be first obtained, and the fee therefore shall be one-half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work.

C. The City ~~Building Safety Director~~ may, in writing, suspend, or revoke a permit issued under provisions of this Section whenever the permit is issued on the basis of a material omission or misstatement of fact, or in violation of any ordinance or any provisions of this Article.

D. No permit for a sign issued by the City shall be deemed to constitute permission or authorization to maintain a public or private nuisance nor shall any permit issued hereunder constitute a defense in an action to abate a nuisance.

E. The City ~~Building Safety Director~~ may issue use permits for the display of temporary on-site signs, upon a written form prescribing the terms and conditions of such display specified in this Code. Said form must be signed by the Planning and Zoning Director or designated agent.

F. Sign permits for new or additional signs shall not be issued for a specified user if such user displays unlawful signs. Sign permits for new or additional signs shall not be issued for a specified user if such user displays nonconforming signs, provided the area of the nonconforming signs exceeds the total maximum allowable sign area for a particular user or center. If the nonconforming signs do not exceed the total maximum sign area for a particular user or center, then a sign permit may be issued for a new sign subject to the provisions of this Article 14-34. A sign permit may be issued to a specific user providing the terms thereof specify modification or removal of nonconforming signs, as provided above, resulting in conformity with the provisions of this Article 14-34.

G. Signs for which a permit has been issued shall not be erected, installed, maintained, or displayed except in complete conformance with all terms, requirements, and stipulations specified by the approved plans and permit.

14-34-18 PERMIT FEES

A. Before issuing any sign permit required by this Article, the Planning and Zoning Department shall collect an application fee in an amount as provided in this code, together with all fees required by the Uniform Building Code as adopted by the City of Peoria. (Ord. No. 91-12)

B. In addition to the above fees, electrical wiring fees shall be required as specified by the City Code ~~Building Safety Director~~. (Ord. No. 91-12)

C. An owner of a nonconforming sign which has been removed or brought into conformance shall not be required to pay a permit fee in order to obtain a permit for a replacement sign.

D. Work for which a permit is required by this Article shall not be commenced before an application has been filed and a permit issued. Where work is commenced without an application being filed and a permit issued, the fees provided in this section shall be charged. However, the payment of such fees shall not relieve any person(s) from complying fully with the requirements of this Article in the execution of the work or from any penalties provided in this code. (Ord. No. 91-12)

14-34-19 REQUIREMENT OF PLANS

Copies of plans and specifications~~, the number to be determined by the Building Safety Director~~, shall be submitted with the application for each sign in excess of four (4)

square feet in size that requires a permit. ~~regulated by this Article 14-34~~. One copy shall be returned to the applicant at the time the permit is granted. Such plans shall show complete details about the size of the sign, the method of attachment or support, locations and materials to be used and the name, address, and profession of the person designing plans and specifications of such sign. Plans for supports for any sign subject to excessive stresses as determined by the City ~~Building Safety Director~~ shall be accompanied by structural surfaces and other members of an existing building to which the sign is to be attached so that the City ~~Building Safety Director~~ may certify that the supports or other surfaces are in good condition and are adequately strong to support the load, including the proposed sign.

14-34-20 REVOCATION OF PERMITS

The City ~~Building Safety Director~~ shall have the authority to revoke any permit which has been granted when it is ~~he has~~ determined that the sign authorized by the permit has been constructed or is being maintained in violation of the permit.

A. Notice of the City's ~~Building Safety Director's~~ decision to revoke a sign permit shall be served upon the holder of the permit (a) by delivering personally a copy of the notice to the holder of the permit, or to one of its officers, or (b) by leaving a copy of the notice with any person in charge of the premises, or (c) in the event that no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of another copy of the notice to the last known post office address of the holder of the permit.

B. The holder of the permit may appeal to the Board of Adjustment the decision ~~of the Building Safety Director~~ to revoke the permit. This appeal must be made within twenty-one (21) days from the date when the notice was served.

C. If no appeal has been made by the end of the twenty-one (21) day appeal period, then the permit is revoked and the sign is illegal. The City ~~Building Safety Director~~ then shall initiate the procedure for the removal of the illegal sign.

14-34-21 REMOVAL OF SIGNS

Except as otherwise provided in this ordinance, the City ~~Building Safety Director~~ is hereby authorized to require removal of any illegal sign as defined by this ordinance.

A. Before bringing an action to require removal of any illegal sign, ~~the Building Safety Director shall give written notice to~~ the owner of the sign or the owner of the premises on which sign is located shall be provided with written notice. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violations charged; such notice shall specify what repairs, if any, will make such an installation conform to the requirements of this ordinance, and specify that the sign must be removed or made to conform with the provisions of this Article 14-34 within the notice period provided below. Service of notice shall be made as prescribed in Section 14-34-20A of this Article 14-34.

1. Notice Period.

   a. The notice period for permanent signs shall be ten (10) days.

   b. The notice period for temporary signs shall be forty-eight (48) hours.

2. Re-erection of any sign or substantially similar sign on the same premises after a non-compliance notice has been issued shall be deemed a continuance of the original violation.

B. If the owner or lessee of the premises upon which the sign is located has not demonstrated to the satisfaction of the City ~~Building Safety Director~~ that his sign has been removed or brought into compliance with the provisions of this Article 14-34 by the end of the notice period, then the City Building Official or designee ~~Building Safety Director~~ shall certify the violations to the City Attorney for prosecution.

C. Removal.

1. The City ~~Building Safety Director~~ is authorized to cause the removal of any sign adjudged to be illegal by a court of competent jurisdiction if the court so orders. All the actual cost and expense of any such removal by the City ~~Building Safety Director~~ shall be borne by the owner of such sign installation and the owner of the premises on which located; each of them shall be jointly and severally liable therefore, and an action for recovery thereof may be brought by the City Attorney upon proper certification thereof to him by the City ~~Building Safety Director.~~

2. The City ~~Building Safety Director~~ may cause the removal of unauthorized advertising signs from the public right-of-way or public property. Such signs may be impounded as evidence, or disposed of as abandoned property unless claimed by the owner within thirty (30) days. Such signs shall be deemed a nuisance and subject to removal without notice.

14-34-22 EMERGENCY REMOVAL OR REPAIR

A. The City Building Official ~~Building Safety Director~~ is hereby authorized to cause the immediate removal or repair of any sign or signs found to be unsafe or defective to the extent that it creates an immediate and emergency hazard to persons or property.

B. If the City Building Official ~~Building Safety Director~~ has determined that an immediate emergency hazard to persons or property exists, then actual notice to the property owner or lessee shall not be required. However, the City Building Official ~~Building Safety Director~~ shall be required to make a reasonable effort to notify the property owner or lessee that the unsafe or defective sign must be removed or repaired immediately.

C. All the actual cost and expense of any such removal or repair by the City ~~Building Safety Director~~ shall be borne by the owner of such sign or by the owner of the premises on which located; each of them shall be jointly and severally liable

therefore, and an action for recovery thereof may be brought by the City Attorney upon proper certification thereof to him by the City Building Official or designee. ~~Building Safety Director.~~

14-34-23 ENFORCEMENT

~~A. The Building Safety Director is charged with the lawful enforcement of this Article 14-34. He/she shall appoint and may remove, according to law, all subordinate officials and assistants necessary to the enforcement of this ordinance. All such subordinate officials, assistants, clerks, and employees shall be subject to such rules and regulations as shall be prescribed from time to time by said Director.~~

A. ~~B~~. It shall be the duty of the City Building Official ~~Building Safety Director~~ to enforce all regulations covered by this Article 14-34.

B.~~C~~. The City Building Official ~~Building Safety Director~~, or his/her authorized representative, shall have the authority to enter any building, structure, or premises or any part thereof, at any reasonable time for the purpose of performing his official duties under this Article 14-34. Refused entry, he shall enter only with a court order, except in emergency situations.

C.~~D.~~ It shall be and is hereby declared to be unlawful for any person to willfully interfere with, hinder, or obstruct the City Building Official ~~Safety Director~~, or his/her authorized representative, in the lawful enforcement of the provisions of this Article 14-34.

D.~~E.~~ It shall be the duty of the Police Department of the City to assist the Building Safety Director, or his/her authorized representative in the lawful enforcement of the provisions of this Article 14-34.

14-34-24 INSPECTIONS

Unless waived by the City Building Official ~~Safety Director~~ all signs for which a permit is required shall be subject to the following inspections:

A. Footing inspection on all free standing signs.

B. Electrical inspection on all illuminated signs.

C. An inspection of braces, anchors, supports and connections and wall signs.

D. Site inspection to insure the sign has been constructed according to approved application and valid sign permit.

14-34-25 INSPECTION MARKINGS

Reserved

~~A. Permanent Signs. All permanent signs regulated by this Article 14-34 shall be marked with the inspector's name and the person or firm erecting such sign, the date of installation, and the permit number. This marking shall be permanently placed on the exterior surface of the sign in a location where the information will be readily visible, legible and accessible for inspection after installation and erection.~~

~~B. Temporary signs shall be marked by a sticker furnished by the City.~~

14-34-26 SIGN MAINTENANCE

A. Any signage that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.

B. Any damaged sign or sign base shall be repaired within sixty (60) days of notice to repair, issued by the City ~~Building Safety Director~~.

C. Any metal pole covers and sign cabinets shall be kept free of rust and rust stains.

D. Any internally-illuminated sign cabinets or sign panels which have been damaged shall remain un-illuminated until repaired.

E. Any signage which has been damaged to such extent that they may pose a hazard to passersby, as determined by the City ~~Building Safety Director~~, shall be repaired or removed as directed ~~by the Building Safety Director, subject to Section 14-34-12~~.

F. Failure to comply with these sign maintenance requirements shall constitute a violation of the Peoria Zoning Code.

14-34-27 DESIGN AND CONSTRUCTION SPECIFICATIONS

All signs shall be designed and constructed according to the specifications of the City's adopted Uniform Building Code and Electrical Code and equivalent to the standards of the Arizona Sign Association ~~as administered by the Building Safety Director~~.

14-34-29 LOCATION REQUIREMENTS

A. Obstruction of Exits. No sign shall obstruct any door, window or fire escape of any building.

B. Traffic Hazards. No sign shall be erected in such a way to interfere with or to confuse traffic, to present any traffic hazard, or to obstruct the vision of motorists.

~~The Building Safety Director may require that the sign be placed in a different location or that the sign be set back in order to comply with this requirement.~~

C. Construction over Public Property. No person, firm, or corporation shall erect or cause to be erected any sign which projects over any public sidewalk, street, alley or public place, except as specified in Section 14-34-8 A.25.j. of this Article 14-34 or as may otherwise be provided in this Ordinance. (Ord. No. 03-01)

Conference Engrossed

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2500

AN ACT

AMENDING SECTION 16-1019, ARIZONA REVISED STATUTES; RELATING TO POLITICAL SIGNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-1019, Arizona Revised Statutes, is amended to read:

16-1019. Political signs; tampering; classification

A. It is a class 2 misdemeanor for any person to knowingly remove, alter, deface or cover any political sign of any candidate for public office for the period commencing forty-five days ~~prior to~~ BEFORE a primary election and ending seven days after the general election.

B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to the removal, alteration, defacing or covering of a political sign by the candidate or the authorized agent of the candidate in support of whose election the sign was placed, ~~or~~ by the owner or authorized agent of the owner of private property on which such signs are placed with or without permission of the owner~~,~~ or placed in violation of state law~~,~~ or county, city or town ordinance or regulation.

C. NOTWITHSTANDING ANY OTHER STATUTE, ORDINANCE OR REGULATION, A CITY, TOWN OR COUNTY OF THIS STATE SHALL NOT REMOVE, ALTER, DEFACE OR COVER ANY POLITICAL SIGN IF THE FOLLOWING CONDITIONS ARE MET:

1. THE SIGN IS PLACED IN A PUBLIC RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY THAT JURISDICTION.

2. THE SIGN SUPPORTS OR OPPOSES A CANDIDATE FOR PUBLIC OFFICE OR IT SUPPORTS OR OPPOSES A BALLOT MEASURE.

3. THE SIGN IS NOT PLACED IN A LOCATION THAT IS HAZARDOUS TO PUBLIC SAFETY, OBSTRUCTS CLEAR VISION IN THE AREA OR INTERFERES WITH THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE SECTIONS 12101 THROUGH 12213 AND 47 UNITED STATES CODE SECTIONS 225 AND 611).

4. THE SIGN HAS A MAXIMUM AREA OF SIXTEEN SQUARE FEET, IF THE SIGN IS LOCATED IN AN AREA ZONED FOR RESIDENTIAL USE, OR A MAXIMUM AREA OF THIRTY-TWO SQUARE FEET IF THE SIGN IS LOCATED IN ANY OTHER AREA.

5. THE SIGN CONTAINS THE NAME AND TELEPHONE NUMBER OF THE CANDIDATE OR CAMPAIGN COMMITTEE CONTACT PERSON.

D. IF THE CITY, TOWN OR COUNTY DEEMS THAT THE PLACEMENT OF A POLITICAL SIGN CONSTITUTES AN EMERGENCY, THE JURISDICTION MAY IMMEDIATELY RELOCATE THE SIGN. THE JURISDICTION SHALL NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT PLACED THE SIGN WITHIN TWENTY-FOUR HOURS AFTER THE RELOCATION. IF A SIGN IS PLACED IN VIOLATION OF SUBSECTION C AND THE PLACEMENT IS NOT DEEMED TO CONSTITUTE AN EMERGENCY, THE CITY, TOWN OR COUNTY MAY NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT PLACED THE SIGN OF THE VIOLATION. IF THE SIGN REMAINS IN VIOLATION AT LEAST TWENTY-FOUR HOURS AFTER THE JURISDICTION NOTIFIED THE CANDIDATE OR CAMPAIGN COMMITTEE, THE JURISDICTION MAY REMOVE THE SIGN. THE JURISDICTION SHALL CONTACT THE CANDIDATE OR CAMPAIGN COMMITTEE CONTACT AND SHALL RETAIN THE SIGN FOR AT LEAST TEN BUSINESS DAYS TO ALLOW THE CANDIDATE OR CAMPAIGN COMMITTEE TO RETRIEVE THE SIGN WITHOUT PENALTY.

E. A CITY, TOWN OR COUNTY EMPLOYEE ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S EMPLOYMENT IS NOT LIABLE FOR AN INJURY CAUSED BY THE FAILURE TO REMOVE A SIGN PURSUANT TO SUBSECTION D UNLESS THE EMPLOYEE INTENDED TO CAUSE INJURY OR WAS GROSSLY NEGLIGENT.

F. SUBSECTION C DOES NOT APPLY TO COMMERCIAL TOURISM, COMMERCIAL RESORT AND HOTEL SIGN FREE ZONES AS THOSE ZONES ARE DESIGNATED BY MUNICIPALITIES. THE TOTAL AREA OF THOSE ZONES SHALL NOT BE LARGER THAN THREE SQUARE MILES, AND EACH ZONE SHALL BE IDENTIFIED AS A SPECIFIC CONTIGUOUS AREA WHERE, BY RESOLUTION OF THE MUNICIPAL GOVERNING BODY, THE MUNICIPALITY HAS DETERMINED THAT BASED ON A PREDOMINANCE OF COMMERCIAL TOURISM, RESORT AND HOTEL USES WITHIN THE ZONE THE PLACEMENT OF POLITICAL SIGNS WITHIN THE RIGHTS-OF-WAY IN THE ZONE WILL DETRACT FROM THE SCENIC AND AESTHETIC APPEAL OF THE AREA WITHIN THE ZONE AND DETER ITS APPEAL TO TOURISTS. NOT MORE THAN TWO ZONES MAY BE IDENTIFIED WITHIN A MUNICIPALITY.

G. A CITY, TOWN OR COUNTY MAY PROHIBIT THE INSTALLATION OF A SIGN ON ANY STRUCTURE OWNED BY THE JURISDICTION.

H. SUBSECTION C APPLIES ONLY DURING THE PERIOD COMMENCING SIXTY DAYS BEFORE A PRIMARY ELECTION AND ENDING FIFTEEN DAYS AFTER THE GENERAL ELECTION, EXCEPT THAT FOR A SIGN FOR A CANDIDATE IN A PRIMARY ELECTION WHO DOES NOT ADVANCE TO THE GENERAL ELECTION, THE PERIOD ENDS FIFTEEN DAYS AFTER THE PRIMARY ELECTION.

I. THIS SECTION DOES NOT APPLY TO STATE HIGHWAYS OR ROUTES, OR OVERPASSES OVER THOSE STATE HIGHWAYS OR ROUTES.

Political Signs Zoning Text Amendment

(Case TA 11-0006)

VARIABLE	EXISTING STANDARDS	A.R.S. 16-1019	PROPOSED
GENERAL LOCATION	All Zoning Districts	Not Addressed	All Zoning Districts
LOCATION EXCEPTIONS	A. Not permitted in public ROW B. Not permitted within 'Visibility' triangles C. Not permitted on City property or buildings D. Not permitted on utility pole or traffic device E. Allowed on private property with permission	A. Permitted in public ROW owned or controlled by City B. Location cannot be hazardous to safety (visibility, ADA) C. City may prohibit sign on any structure owned by City D. City may identify up to 2 'Sign-Free' Zones (≤3 Sq. Miles) E. Does not apply to State Highways, routes or overpasses	A. Permitted in public ROW B. Not permitted within 'visibility' triangle or on sidewalks C. Not permitted on City property or buildings D. Not permitted on traffic control device E. Allowed on private property with permission
SIGN AREA	<32 square feet	A. Maximum 16 sq.ft. in Residential Zones B. Maximum 32 sq.ft. in other areas	A. Maximum 16 sq.ft. in Residential Zones B. Maximum 32 sq.ft. in Non-Residential Zones
SIGN HEIGHT	8 Foot Max Height	Not Addressed	8 Foot Max Height
SIGN CONTENT	Not Addressed	Must contain contact name/number	Must contain contact name and number
PERMIT REQUIRED	No	Not Addressed	No
SIGN PLACEMENT BEFORE VOTE	Period Not addressed	May be permitted (in ROW) at least 60 days before vote	Installed no sooner than 60 days before vote
SIGN REMOVAL AFTER VOTE	A. Within 10 days following vote referenced B. Successful primary signs may remain	A. Within 15 days if not advance beyond primary B. Within 15 days of final vote	A. Within 15 days if not advance beyond primary B. Within 15 days of final vote

EXHIBIT C

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

SS #3

Date Prepared: October 24, 2011 **Council Meeting Date: November 15, 2011**

TO: **Carl Swenson, City Manager**

FROM: **Jeff Tyne, Community Services Director**

THROUGH: **Susan J. Daluddung, Deputy City Manager**

SUBJECT: **Current Operating Agreement with Theater Works**

Purpose:
To recommend that an outside consultant be hired to analyze the current contract with Theater Works.

Background/Summary:

In 2005 the City of Peoria entered into a 20-year lease agreement with Theater Works as tenant for the Peoria Center for the Performing Arts. In the six years since the signing of the document, both parties have identified possible improvements to the existing lease, and have expressed interest in evaluating potential amendments. Moreover, the economic environment of the past few years has placed financial strain on the tenant organization.

The City of Peoria and Theater Works have maintained a constructive relationship over the last decade, which has afforded Peoria residents access to quality theater programming. Yet, for a partnership to remain vibrant and relevant, periodic evaluation is necessary.

With this in mind, staff believes both parties would benefit from a detailed evaluation of the current lease arrangement. This could include a review of best practices from comparable community theaters, an analysis of financial conditions, and consideration of viable alternatives to the operating lease.

Given the unique circumstances and complexity of the issue, the expertise for such a project is not readily available with existing City staff. As a result, staff recommends hiring an outside consultant to work with the City and Theater Works to create an agreement that more accurately meets the challenges of a changed economic environment.

As the City continues to redevelop its old town area, the Center for Performing Arts will have a stronger presence in down town Peoria. Ultimately the outcome of such a study will better prepare the City to maximize programming and uses of this community asset.

Previous Actions:

City Council approved the initial lease agreement November of 2005. No changes to the agreement have been made since this date.

Options:

A: Undertake no revisions to the existing lease agreement with Theater Works

B: Direct staff to review existing lease agreement for potential amendments.

C: Hire an outside theater consultant to evaluate the existing lease, inventory current practices, and develop recommendations for amendments.

Staff's Recommendation:

Staff requests hiring an outside consultant to evaluate and make recommendations for a new lease agreement.

Fiscal Analysis:

This request will require a budget adjustment in the amount of $25,000 from General Fund Reserves account to the Arts Commission operating budget.

Narrative:

Exhibit(s):

Exhibit 1: Lease Agreement

Exhibit 2:

Contact Name and Number:

7003

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

20060337137,03/13/2006 01:16,031361-3-1-1--,N

ELECTRONIC RECORDING

WHEN RECORDED RETURN TO:
OFFICE OF THE CITY ATTORNEY
8401 W. Monroe, Suite 340
Peoria, Arizona 85345

MEMORANDUM OF LEASE

This is a Memorandum of that certain Improved Property Lease dated the 28th calendar day of November 2005, wherein the City of Peoria, Arizona, an Arizona municipal corporation ("Peoria"), demised and leased to The Theater Works, an Arizona non-profit corporation ("Theater Works"), the real property described on ***Exhibit "A"*** attached to this Lease for a term of twenty (20) years.

The offices of Peoria and Theater Works are as follows:

Peoria: City of Peoria, Arizona
8401 W. Monroe St.
Peoria, Arizona 85345

Theater Works: The Theater Works
10484 W. Thunderbird Rd.
Sun City, AZ 85351
Attention: Nita Davis, President

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Lease effective as of the 28th calendar day of November 2005.

City of Peoria, Arizona, an Arizona municipal corporation

By: _____
Terrence L. Ellis, City Manager

The Theater Works, an Arizona non-profit corporation

By: _____
Nita Davis, President
3/13/06

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Memorandum of Lease was acknowledged before me this 21st calendar day of November 2005, by Terrence L. Ellis, City Manager for the City of Peoria, Arizona, an Arizona municipal corporation.

MY COMMISSION EXPIRES:

OFFICIAL SEAL
BARBARA A. DERUITER
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires Jan. 24, 2007

_____
Notary Public

SCANNED

L CON 11805 A

H:\My Documents\Community Theater Project\Lease Agreement (June 2005)\Theater Works Lease v 11.DOC

OFFICIAL FILE

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Memorandum of Lease was acknowledged before me this 13th calendar day of ~~November 2005,~~ March, 2006 by Nita Davis, the President of The Theater Works, an Arizona non-profit corporation, which she was at the time when she executed this Memorandum of Lease.

MY COMMISSION EXPIRES:

Dorothy Ann Gabbard
Notary Public

OFFICIAL SEAL
DOROTHY ANN GABBARD
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires May 19, 2006

ATTEST:

Mary Jo Kief, City Clerk

CITY OF PEORIA

APPROVED AS TO FORM:

NOV 20 2005

Stephen M. Kemp, City Attorney

L CON 11805 A

H:\My Documents\Community Theater Project\Lease Agreement (June 2005)\Theater Works Lease v 11.DOC

EXHIBIT A

IS ON FILE IN THE

CITY OF PEORIA

CITY CLERK'S OFFICE

Exhibit "A"
Memorandum of Lease Legal Description

PARCEL NO. 1:

A parcel of land lying in the Southeast quarter of the Southeast quarter of Section 22, Township 3 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa county, Arizona, described as follows

BEGINNING at the Southeast corner of the above said Section 22, thence West (assumed bearing) 411.13 feet along the South line of said Section 22 to a point on the West right of way line of Olive Street, as described in Docket 7141, page 363, records of the Maricopa County Recorder and the TRUE POINT OF BEGINNING for the herein described parcel of land, thence West 210.09 feet along the said South line of Section 22 to a point on the Easterly right of way line of 84th Avenue (Peach Street) as described in Docket 7752, pages 520 and 521, records of Maricopa County Recorder;
thence in a Northerly direction along the Easterly right of way line of said 84th Avenue and the arc of a curve, concave right, having a central angle of 16 degrees 58 minutes 33 seconds and a radius of 342.71 feet, distance of 101.54 feet to the Northerly end of said curve concave right;
thence continuing along the Easterly right of way line of said 84th Avenue and a curve concave left, having a central angle of 14 degrees 07 minutes 51 seconds and a radius of 392.71 feet, a distance of 96.85 feet to the Northerly end of said curve concave left;
thence continuing in a Northeasterly direction along a curve, concave right, having a central angle of 80 degrees 45 minutes 00 seconds and a radius of 23.52 feet, a distance of 33.15 feet to the Easterly end of said curve concave right and a point on the Southerly right of way line of Peoria Avenue as described in Docket 7141, page 363, records of the Maricopa County Recorder;
thence North 89 degrees 59 minutes 26 seconds East, 113.25 feet along said Southerly right of way line of Peoria Avenue to a point;
thence along a curve, concave right, having a central angle of 90 degrees 45 minutes 37 seconds and a radius of 44.00 feet, a distance of 69.70 feet to a point on the West right of way line of Olive Street, as described in Docket 7141, page 363, records of Maricopa County Recorder,
thence South 0 degrees 45 minutes 03 seconds West, 170.41 feet to the TRUE POINT OF BEGINNING;

PARCEL NO. 2

Lots Eight (8), Nine (9), and Ten (10), Block Sixteen (16), AMENDED PLAT OF PEORIA TOWNSITE, a subdivision recorded in the Maricopa County Recorder's Office in Book 3 of Maps, at page 62 thereof;

PARCEL NO. 3:

Lots Eleven (11) and Twelve (12), Block Sixteen (16), AMENDED PLAT OF PEORIA TOWNSITE, a subdivision recorded in the Maricopa County Recorder's Office in Book 3 of Maps, at page 62 thereof;

L CON 11805 A

7003

IMPROVED PROPERTY LEASE

This Improved Property Lease (the "Lease") is made as of the 28th calendar day of November 2005, by and between the City of Peoria, Arizona, an Arizona charter municipality ("Peoria"), and The Theater Works, an Arizona non-profit corporation ("Theater Works").

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L CON 11805

1. Theater Property.

For good and valuable consideration – the receipt and sufficiency of which is hereby acknowledged – and subject to the promises, terms and conditions contained in this Lease, Peoria hereby leases the Theater Property to Theater Works.

1.1 Definition.

The "Theater Property" consists of that certain parcel of real property situated within the City of Peoria, Arizona commonly known as 8355 West Peoria Avenue consisting of approximately 0.92 acres at the SWC of Peoria Avenue and 83rd Drive, as further identified at *Exhibit "A"* attached to this Lease and incorporated by this reference; together with all improvements to it.

1.2 Condition.

Theater Works acknowledges and covenants to Peoria that it has made a complete investigation of the real property included within the Theater Property, the surface and sub-surface conditions of it, the present and proposed uses of it, and agrees to accept all the same "as is." Theater Works further agrees that, except as expressly provided in this Lease, no representation or warranty, expressed or implied, in fact or by law, has been made by Peoria or anyone else, as to any matter, fact, condition, prospect or anything else of any kind or nature.

1.3 Quiet Possession.

If Theater Works performs all covenants of this Lease to be performed by Theater Works, then Theater Works will have quiet possession of the Theater Property, without hindrance or ejection by any person lawfully claiming by, through, or under Peoria. This right to quiet possession is subject, however, to the provisions of this Lease and to the provisions of any: (a) covenants, conditions and restrictions of record as of the date of this Lease; and (b) any mortgage or other lien of record which this Lease is or may be subordinated, so long as Theater Works is provided reasonable assurance that its rights hereunder will not be disturbed so long as Theater Works is not in default.

1.4 Unsubordinated Improved Property Lease.

This is an unsubordinated Improved Property Lease. Peoria is not and will not be obligated to subordinate its rights and ownership interest in the real or personal property included within the Theater Property to any loan or money encumbrance that Theater Works might place against Theater Works' leasehold interest.

1.5 Net Lease.

As long as the City of Peoria remains the lessor, it is the intention of the parties to this Lease that this Lease is a net lease and that Peoria will receive the rents reserved in this Lease and all sums which will or may become payable hereunder by Theater Works free from all taxes, charges, expenses, damages and deductions of every kind or sort whatsoever and that Theater Works will (and

expressly agrees to) pay all such sums which, except for the execution and delivery of this Lease, would have been chargeable against the Theater Property and payable by Peoria. Theater Works, however, will not be under any obligation to pay any principal or interest on any mortgage or mortgages which may be placed by Peoria on the real property included within the Theater Property, nor will Theater Works be under any obligation to pay any income taxes which may become payable by Peoria by reason of the income derived hereunder, nor will this Lease be subordinated to any such Peoria's mortgage.

2. Use of the Theater Property.

2.1 Allowed Uses.

The Allowed Uses are theatrical performances, rehearsals, dramatic classes, fund raisers, special events related to the foregoing, and subletting of the Theater Property in accordance with the terms of this Lease for the Allowed Uses. Theater Works may generate revenue from such Allowed Uses, including silent auctions. Theater Works may serve alcohol within the Theater Property, but only in its own name and with its own license, liability, and specific insurance. Alternatively, Theater Works may not offer alcoholic beverages for sale in its own name, but may contract with a properly licensed contractor having the same insurance as required below.

2.1.1 Terms.

Theater Works must use the Theater Property solely for the Allowed Uses and not for any other purpose without the prior written consent of Peoria. Theater Works must not use or permit the Theater Property to be used in violation of the laws, ordinances, regulations and requirements of the United States of America, the State of Arizona, the County of Maricopa, the City of Peoria, Arizona or any subdivision or department of it or any other authority or agency having jurisdiction over the Theater Property. If the zoning for the Theater Property is inconsistent with the Allowed Uses and Peoria cannot obtain the consistent zoning, then this Lease is void as of the date that the City Council refuses the zoning change. Theater Works agrees, at its sole expense, to comply with and conform to all requirements of any governmental entity having jurisdiction over the Theater Property, throughout the entire term, including any applicable extensions, of this Lease. Use of the Theater Property in violation of the terms hereof will cause Theater Works to be in default hereunder; however, Theater Works will have the right to cure said default pursuant to the provisions of this Lease.

2.1.2 Limits.

Theater Works must not use the Demised Premise to operate an adult movie theatre, an adult live cabaret or any other form of adult use as that term is defined in Chapter 11 of the Peoria City Code (1992) and must not permit performances containing specified sexual activities or specified anatomical areas as those terms are defined in Chapter 11 of the Peoria City Code (1992). Theater Works must not: bring dangerous, wild, large, or domestic avian (fowl) animals into the Theater Property; use the Theater Property for a rummage sale; or use

the Theater Property for any activity inconsistent with the public perception that the Theater Property is a public facility owned by the City of Peoria, AZ.

2.2 Construction of Buildings and Improvements.

2.2.1 Construction Obligation.

Peoria will generally provide a facility useful for the Allowed Uses. Peoria is not responsible to provide any movable and non-fixed equipment, for the Required Improvements, or for any improvement not contained within this Lease. Theater Works hereby covenants and agrees to cause to be constructed and installed all of the following construction obligations (collectively, the "Required Improvements"). Theater Works must complete all such construction in compliance with all local, state, and federal law (including, e.g., design review and open space requirements).

2.2.1.1. Improvements to the Black Box theater, including, *e.g.*, lighting structure and seating.

2.2.1.2. Classroom and concession area improvements to the extent that they are not provided by Peoria in Peoria's sole discretion.

2.2.2 Peoria's Representative.

Any subsequent construction or any additions or alterations which affect the exterior of any buildings, structures or improvements included within the Theater Property will be subject to the prior written approval of Peoria, through its designated representative, the City Manager or his designee ("Peoria's Representative"), which will include, but not be limited to, approval by Peoria's Representative of such conformity and compliance of all site plans, grading, landscaping and building materials.

2.2.3 Alterations.

Theater Works must not make alterations and additions to any buildings, structures or improvements included within the Theater Property.

2.2.4 Licenses.

Theater Works, or its designated contractors, subcontractors and employees, must perform the construction and installation on the Theater Property in a good and workmanlike manner and in all respects in accordance with all applicable legal requirements, permits or approvals, as the case may be.

2.3 Operating Covenant.

2.3.1 Continuous Operation.

Theater Works covenants and agrees that during the term of this Lease, it will continuously and without interruption, operate and conduct within the Theater Property, the business which it is permitted to operate and conduct under the provisions of this Lease, except while the Theater Property are untenable by reason of fire, other casualty, or by eminent domain ("Operating Covenant"). Theater Works must fully utilize the Theater Property for its business and must at

all times, whenever the building is in use by Theater Works for its intended purpose, have available to the Theater Property competent personnel and trade fixtures to service and supply the ordinary demands and requirements of its customers, to the level of availability which conforms to commercially reasonable management practices for comparable facilities. Without restricting the foregoing, in the event that Theater Works produces fewer than two shows or presents performances for which tickets have been purchased at market value fewer than 30 times in any year, such reduction of operations is deemed to be a breach of the Operating Covenant.

2.3.2 Theater Works Financial and Use Reporting.

Theater Works must provide Peoria with monthly financial statements and copies of minutes from monthly board meetings within ten days after such board meetings. Theater Works must provide Peoria an annual financial report within 90 days following the close of Theater Works' fiscal year, including at least an income statement, a statement of cash flow, and a balance sheet. On an annual basis Theater Works must provide Peoria with a report of the use of the Theater Property, including at least a description of any subtenants, number of days of use described by category and indexed to user, number of tickets sold, number of tickets distributed without cost, number of patrons served, and amount of money raised independent of operations. All of the preceding statements and reports must be provided in a form acceptable to the Chief Financial Officer of Peoria, and must be independently and formally audited only if required in writing by the Chief Financial Officer of Peoria. The form of such reports will be determined by agreement of the parties prior to Theater Works occupancy of the Theater Property.

2.3.3 Theater Works Communication.

Theater Works must meet with Peoria's Representative each month (or quarter, at Peoria's Representative's discretion) at a mutually agreeable time to discuss Theater Works' financial status, budget, project plans, and related issues.

2.3.4 Theater Works Board Membership.

At the time of Lease execution, Theater Works will appoint (at the first board meeting of the Theater Works thereafter) the City Manager or his designee as an ex officio (non-voting) member of the Theater Works' governing board, who must also be appointed as an ex officio (non-voting) member of the executive committee when the executive committee meets to consider agenda items relating to the budget, finances or agenda items relating to the hiring, termination, or salary setting of the executive director.

2.4 Custodial Services.

Theater Works will provide custodial services to the Theater Property at the same standard as custodial services are rendered at Peoria City Hall. Theater Works may contract with and compensate Peoria for exterior window cleaning and carpet cleaning.

2.5 Peoria Use of the Theater Property.

Peoria may have full use of the Demised Facilities for up to twelve days per calendar year at no charge. Peoria will coordinate such non-charged use of the Theater Property with Theater Works, and in no case will Theater Works be required to cancel a performance for which tickets have been advertised or sold.

3. Term.

3.1 Effective Date.

The "Effective Date" means the date that the last of either Peoria or Theater Works sign this Lease.

3.2 Term.

This Lease will terminate on the date 20 years after the Effective Date.

4. Lease Charges.

4.1 Rent.

Theater Works will pay $1 per annum as rent of the Theater Property ("Rent").

4.2 Ticket Surcharge.

On an annual basis at the beginning of each fiscal year, Peoria will determine the rate to be charged on each ticket (or the sale of any right to attend a performance or other use of the Theater Property, other than a sublease) as a "Ticket Surcharge" in addition to the rate charged for the ticket by Theater Works or subtenant. The Ticket Surcharge will be collected by Theater Works at the time of any ticket sale and immediately remitted to Peoria: Peoria will segregate such funds and use such funds only for the repair, replacement of systems and fixtures, and maintenance of the Theater Property. As of the Effective Date, the Ticket Surcharge is $1 per ticket.

4.3 Additional Charges.

All taxes, including the City transaction privilege tax, assessments, insurance premiums, charges, costs and expenses which Theater Works assumes, agrees or is obligated by law to pay hereunder, together with all interest and penalties that may accrue in the event of Theater Works' failure to pay the same as provided in this Lease, and all other damages, costs and expenses which Peoria may suffer or incur, and any and all other sums which may become due, by reason of any default of Theater Works or failure on Theater Works' part to comply with the agreements, terms, covenants and conditions of this Lease on Theater Works' part to be performed, are "Additional Charges" and, in the event of their nonpayment, Peoria will have, with respect to the Additional Charges, all rights and remedies provided by this Lease and available in law or equity in the event of nonpayment of Rent.

4.4 Default Rate.

In the event of Default, Rent will be equal to the then-prevailing market rate for comparable facilities. All Rent, Ticket Surcharge, and Additional Charges due Peoria will accrue interest at 1.25% per month from their due date until paid.

4.5 Taxes, Assessments and Utilities.

4.5.1 Theater Works' Obligation.

It is the intention of the parties to this Lease that, insofar as the same may be lawfully done, Peoria will be free from all costs, expenses, obligations and all such taxes, assessments and all such other governmental impositions and charges, and that this Lease will yield net to Peoria not less than the Rent reserved hereunder, throughout the term of this Lease. Among other taxes, the Government Property Lease Excise Tax (the "GPLET") is due pursuant to A.R.S. Title 42 Chapter 6 Article 5 (A.R.S. §§ 42-6201 *et seq.*). Failure by the Theater Works to pay the GPLET after notice and an opportunity to cure is an event of default that could result in divesting the Theater Works of any interest in or right of occupancy of the Theater Property. Theater Works must pay and discharge, as and when the same becomes due and payable without penalty, all real estate, personal property, business, transaction privilege, occupation and occupational license taxes, assessments (but not assessments for any presently existing public improvements or benefits); and all other governmental taxes, impositions and charges of every kind and nature, general or special, unforeseen or foreseen, whether similar or dissimilar to any of the foregoing, which at any time during the term of the Lease is or becomes due and payable by Peoria or Theater Works and which is levied, assessed or imposed:

4.5.1.1 Upon, with respect to, may be, or may become liens upon, the Theater Property, or any portion of it or any interest of Peoria or Theater Works there or under this Lease;

4.5.1.2 Upon or with respect to the possession, operation, management, maintenance, alteration, repair, rebuilding, use or occupancy of the Theater Property, or any portion of it; and

4.5.1.3 Upon this transaction or any document to which Theater Works is a party or is bound, creating or transferring an interest or an estate in the Theater Property, under or by virtue of any present or future law, statute, charter, ordinance, regulation, or other requirement of any governmental authority.

4.5.2 Limitation.

Notwithstanding the foregoing, Theater Works' obligation to pay real estate taxes on the Theater Property, and any improvements located on it, is limited to the real estate taxes owed as long as the City of Peoria, Arizona remains the owner of the Theater Property. Should a sale of the Theater Property result in any increase in real estate taxes from that which may otherwise be owed if the City of Peoria, Arizona remained the owner, such increase in real estate taxes will be

paid by the successor lessor, or Theater Works may deduct such additional taxes paid by Theater Works from the Rent payments provided in this Lease.

4.5.3 Certification.

Theater Works, upon Peoria's written request, must furnish to Peoria, within 20 calendar days thereafter, proof of the payment of any taxes, impositions or charges which Theater Works and not Peoria has the obligation to pay under these provisions.

4.5.4 Utilities.

Theater Works is solely responsible for, and must pay the cost of all utility services consumed by Theater Works on the Theater Property (including, *e.g.*, installation and set-up costs).

4.5.5 Payment of Costs and Expenses.

Whenever, in this Lease, anything is to be done or performed by Theater Works or Peoria, unless otherwise expressly provided to the contrary, it must be done or performed at the sole cost and expense of Theater Works.

5. Preservation of the Property.

5.1 Maintenance and Repairs.

5.1.1 Theater Works Maintenance.

Except as provided in ***§ 5.1.2***, Theater Works at all times during the term of the Lease must keep and maintain in good order and repair and in a clean and sanitary condition the real property, buildings, structures and improvements included within the Theater Property, and all equipment and appurtenances, both interior and exterior, structural and non-structural, ordinary or extraordinary, howsoever the necessity or desirability of repairs may occur. All repairs, replacements and renewals must be made promptly and be equal in quality and class to the original work. Theater Works waives any right created by any legal requirement (now or hereafter in force) to make repairs to the Theater Property at Peoria's expense, it being understood that Peoria must in no event be required to make any alterations, improvements or repairs during the Term. Theater Works must maintain special systems associated with mechanical support of productions on a mandated maintenance schedule, and Theater Works must promptly repair all such special systems.

5.1.2 Peoria Maintenance.

Peoria (at its sole expense, except for damage caused resulting from Theater Works' conduct) at all times during the Term must keep and maintain in good order and repair the following portions of buildings, structures and improvements included within the Theater Property: all landscaped areas; any parking lot or driveway; the exterior painted surfaces; the HVAC, fire protection systems, roof, exterior structural walls, and foundation.

5.1.3 Dumpsters.

Theater Works must provide and maintain trash dumpsters, with covers on them, about the Theater Property in which to place any trash, and cause such trash to be removed as often as is required to maintain a sanitary condition. Theater Works (and any subtenants) is (are) obligated to utilize City of Peoria commercial solid waste services at rates established by the City Council, for so long as the City is willing to continue to provide such services.

5.2 Regulatory Requirements.

5.2.1 Theater Works Obligation.

Theater Works must promptly observe and comply with all present and future laws, ordinances, requirements, rules and regulations of all governmental authorities having or claiming jurisdiction over the Theater Property or any part of it and (upon receiving written notice of the terms of it) of all insurance companies writing policies covering the Theater Property or any part of it. Without limiting the generality of the foregoing, Theater Works must also procure each and every permit, license, certificate or other authorization required in connection with the lawful and proper use of the Theater Property or required in connection with any building, structure or improvement now or hereafter erected on it. Notwithstanding the foregoing, nothing contained in this Lease may be deemed to grant either Peoria or Theater Works the right to alter the terms of the Lease without the express written consent of both parties.

5.2.2 Hazardous Materials.

Theater Works covenants and agrees not to use, generate, release, manage, treat, manufacture, store, or dispose of, on, under or about, or transport to or from (any of the foregoing hereinafter described as "Use") the Theater Property any Hazardous Materials (other than De Minimis Amounts). Theater Works further covenants and agrees to pay all costs and expenses associated with enforcement, removal, remedial or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to use of any Hazardous Materials in any amount by Theater Works, its employees, agents, invitees, subtenants, licensees, assignees or contractors. For purposes of this Lease:

5.2.2.1 "Hazardous Materials" includes but is not be limited to asbestos, urea formaldehyde, polychlorinated biphenyls, oil, petroleum products, pesticides, radioactive materials, hazardous wastes, toxic substances and any other related or dangerous, toxic or hazardous chemical, material or substance defined as hazardous or regulated or as a pollutant or contaminant in, or the Use of or exposure to which is prohibited, limited, governed or regulated by, any Hazardous Materials Laws;

5.2.2.2 "De Minimis Amounts" means, with respect to any given level of Hazardous Materials, that such level or quantity of Hazardous Materials in any form or combination of form (a) does not constitute a violation of any Hazardous Materials Laws and (b) is customarily employed in, or associated with, suburban office projects in Maricopa County, Arizona; and

5.2.2.3 "Hazardous Materials Laws" means any federal, state, county, municipal, local or other statute, law, ordinance or regulation now or hereafter enacted which may relate to or deal with the protection of human health or the environment, including but not be limited to the Comprehensive Environment Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. Section 2601 *et seq.*; Ariz. Rev. Stat. Ann., Title 49 (the "Arizona Environmental Quality Act of 1986"); and any rules, regulations or guidelines adopted or promulgated pursuant to any of the foregoing as they may be amended or replaced from time to time.

5.2.3 Cooperation.

Peoria agrees to join in the execution of any instruments which may reasonably be required in order for Theater Works to procure the issuance of any licenses, occupational permits or other government approvals required by Theater Works in its use, occupancy or construction of the Theater Property. Theater Works must indemnify and save Peoria harmless from any expense or loss whatsoever occasioned by Peoria's presence as a party to any such instrument, application or permit.

5.3 Liens.

5.3.1 No Liens.

Theater Works has no authority to do any act or make any contract that may create or be the basis for any lien, mortgage or other encumbrance upon any interest of Peoria in the real property included within the Theater Property, provided however that Theater Works is not prohibited from entering into any contracts in Theater Works' capacity as a Theater Works, rather than as the title holder of, said real property. Should Theater Works cause any construction, alterations, rebuildings, restorations, replacements, changes, additions, improvements or repairs to be made on the Theater Property, or cause any labor to be performed or material to be furnished for the Theater Property, neither Peoria nor the real property included within the Theater Property may under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished, and Theater Works will be solely and wholly responsible to contractors, laborers and materialmen performing such labor and furnishing such material.

5.3.2 Release.

If, because of any error, act, or omission (or alleged error, act or omission) of either Theater Works or Peoria, any mechanics', materialmen's or other lien, charge or order for the payment of money is filed or recorded against the real property included within the Theater Property or against Peoria (whether or not such lien, charge or order is valid or enforceable as such), Theater Works or Peoria, as the case may be, must, at its own expense, either cause the same to

be discharged of record pursuant to A.R.S. § 33-1004, or otherwise cause such discharge or provide reasonable security against same, within 30 calendar days after either has received from the other a written notice requesting such discharge.

5.4 Property and Public Liability Insurance.

Theater Works must at all times, throughout the term of this Lease, keep the Theater Property insured against perils. Theater Works must ensure that all insurance policies in effect for the Theater Property name the City of Peoria as an additional insured.

5.4.1 General.

The insurance policies required by this section must be written by insurance companies with an A.M. Best's Key Rating Guide of A- or better, authorized to do business in the State of Arizona, and must be written on an occurrence basis or in a form satisfactory to Peoria.

5.4.1.1 As often as any such policy expires or otherwise terminates, renewal or additional policies must be procured and maintained by Theater Works and its contractor(s) to provide uninterrupted coverage. Theater Works agrees and must cause its contractor(s) to agree to provide Peoria with certificates of insurance evidencing such insurance policies providing coverage for the Theater Property upon Peoria's request.

5.4.1.2 Certificates of insurance evidencing all of the coverages required in this section must be delivered to Peoria prior to the start of construction of any buildings, structures or improvements on or in the Theater Property and renewal certificates of insurance must be delivered to Peoria at least 30 calendar days prior to the expiration dates of the respective policies. Such certificates must also provide that Peoria will receive written notice at least ten calendar days prior to any cancellation, non-renewal or reduction in coverage. Peoria reserves the right to require Theater Works to furnish proof, satisfactory to Peoria, that any and all insurance policies for the Theater Property remain in full force and effect.

5.4.1.3 At Theater Works' election, the insurance required hereby may be provided under a blanket policy.

5.4.1.4 In the event of loss or destruction under any such policy or policies, Theater Works must promptly proceed with the repair and restoration of the damaged or destroyed buildings, structures or improvements in accordance with and subject to the provisions hereof. The insurance proceeds must be paid to Peoria for application to such repair and restoration. In the event that such insurance proceeds are insufficient to pay fully the cost of completion of such repair or restoration, Theater Works must provide Peoria reasonable assurances of the availability of sufficient funds to complete before any such repair and restoration are commenced so that it appears to the reasonable satisfaction of Peoria that the amount of insurance money must at all times be sufficient to pay for the completion of said repairs or restoration free and clear of liens. Upon the

completion of said repair or restoration, free and clear of all liens, any surplus of insurance monies must be paid to Theater Works, provided that Theater Works is not then in default under this Lease. In the event that this Lease has been terminated for any default of Theater Works under any of the terms and provisions contained in this Lease, all insurance proceeds and all claims against insurers are and will become the absolute property of Peoria.

5.4.2 Tenant Insurance.

Theater Works, during the entire term of this Lease, must provide, secure, pay for and maintain all of the following insurance coverage, indemnification and waivers as set forth immediately below.

5.4.2.1 Statutory workers' compensation insurance, in an amount required by the State of Arizona and any and all applicable insurance required by any employee benefit acts or other statutes as will protect Theater Works' employees from any and all liability under the aforementioned acts and statutes for work performed at the Theater Property.

5.4.2.2 Commercial general liability insurance in an amount not less than $1,000,000 combined single limit per occurrence and not less than $3,000,000 general aggregate, including but not limited to coverage for explosion, collapse, and underground work as well as contractual liability coverage and including Peoria as an additional insured on a primary non-contributory basis with respect to any other insurance available to Peoria. If Theater Works permits the sale of alcoholic beverages on the Theater Property, then during any period that Theater Works offers alcoholic beverages for sale on the Theater Property, Theater Works must obtain a liquor liability endorsement to said commercial general liability policy in an amount not less than $1,000,000 combined single limit per occurrence and not less than $3,000,000 general aggregate. Alternatively, Theater Works may not offer alcoholic beverages for sale in its own name, but may contract with a properly licensed contractor having the same insurance as required above.

5.4.2.3 Theater Works (including also anyone holding under Theater Works and any and all subtenants and other occupants of the Theater Property), as the case may be, must: (a) provide waivers of liability in favor of Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees releasing the same from any and all liability for any and all bodily injury, personal injury and loss of or damage to property (including also any and all loss of use resulting there from); (b) require any and all insurers for the Theater Property to name Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees as Additional Insureds in all insurance policies required hereunder; and, (c) require that Theater Works (including also anyone holding under Theater Works and any and all subtenants and other occupants of the Theater Property) and all insurers providing policies of insurance hereunder waive their rights of subrogation against Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees. The above-referenced waivers of liability and subrogation does not

apply to Peoria's gloss negligence or intentional acts but said waivers of liability and subrogation are applicable to any negligence imputed to Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees by operation of law as a result of the action or non-action of Theater Works (including anyone holding under Theater Works and any and all subtenants and other occupants of the Theater Property) and their respective insurers for work performed on, or services provided to, the Theater Property.

5.4.2.4 Should Theater Works utilize any steam or pressure boilers, or other similar apparatus on the Theater Property, Theater Works must maintain boiler and machinery coverage, to include explosion insurance, with respect to any steam or pressure boilers and similar apparatus located on the Theater Property in an amount not less than $1,000,000 combined single limit per occurrence and not less than $3,000,000 general aggregate and insurance against such other hazards and in such amounts as Peoria may reasonably require for its protection.

5.5 Indemnification.

5.5.1 Theater Works Obligation.

Theater Works must protect, indemnify and hold Peoria, its agents, representatives, officers, directors, elected and appointed officials and employees harmless from and against all liabilities, obligations, claims, suits, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) imposed upon or asserted against Peoria, its agents, representatives, officers, directors, elected or appointed officials, and employees, by reason of: (a) any use, nonuse or condition of the Theater Property or any part of it; (b) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the Theater Property or any part of it; (c) any failure on the part of Theater Works to perform or comply with any of the terms of this Lease; (d) performance of any labor or services or the furnishing of any materials or other property with respect to the Theater Property or any part of it; or (e) any failure on the part of Theater Works to comply with any of the matters set forth in this Lease, including but not limited to any failure by Theater Works to clean up any Hazardous Materials.

5.5.1.1 Duty to Defend. In the event Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees should be made a defendant in any action, suit or proceeding brought by reason of any such occurrence, Theater Works must at its own expense resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Theater Works and reasonably approved by Peoria. Except for the gross negligence of Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees if any such action, suit or proceeding should result in a final judgment against Peoria, Theater Works must promptly satisfy and discharge such judgment or must cause such judgment to be promptly satisfied and discharged. The obligations of

Theater Works under this section arising by reason of any such occurrence taking place while this Lease is in effect will survive any termination or other form of cancellation of this Lease.

5.5.1.2 Continuing Duty to Defend. Notwithstanding the terms and conditions contained in this Lease, Theater Works is required to protect, defend, indemnify, satisfy or hold harmless Peoria, its agents, representatives, officers, directors, elected and appointed official, and employees in the event negligence is imputed by operation of law against Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees as a result of the actions or non-action of Theater Works, its agents, servants, employees, directors, representatives, officials, customers, vendors, guests, licensees or invitees on the Theater Property.

5.5.2 Peoria Obligation.

Except for any responsibility alleged or allocated to Peoria by reason of its failure to enforce the terms of this Lease, Peoria must protect, indemnify and hold Theater Works harmless from and against all liabilities, obligations, claims, suits, damages, penalties, causes of action, costs and expenses imposed upon or asserted against Theater Works by reason of the gross negligence of Peoria, its agents, representatives, officers, directors, elected and appointed officials, or employees.

5.5.2.1 Duty to Defend. In the event Theater Works should be made a defendant in any action, suit or proceeding brought by reason of Peoria's, its agents', representatives', officers', directors', elected and appointed officials', and employees' gross negligence, Peoria must at its own expense resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Peoria. Except to the extent of Theater Works' negligence, if any such action, suit or proceeding should result in a final judgment against Theater Works, Peoria must promptly satisfy and discharge such judgment or must cause such judgment to be promptly satisfied and discharged. The obligations of Peoria under this section arising by reason of any such occurrence taking place while this Lease is in effect will survive any termination or other form of cancellation of this Lease.

5.5.2.2 Limitation. Notwithstanding the obligations imposed upon Peoria, Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees are not be required to protect, defend, indemnify, satisfy any judgment or hold Theater Works harmless for any gross negligence imputed against Peoria, its agents, representatives, officers, directors, elected and appointed officials, and employees by operation of law as a result of the action or non-action of Theater Works, its agents, servants, employees, directors, representatives, officials, customers, vendors, guests, licensees or invitees on the Theater Property.

5.6 Damage or Destruction.

5.6.1 Notice.

In the event of damage to or destruction of any of the buildings, structures, improvements, furniture, fixtures, or equipment included within the Theater Property by fire or other casualty, Theater Works must give Peoria immediate notice of it and must at its own expense and whether or not the insurance proceeds are sufficient for the purpose, promptly commence and thereafter diligently pursue completion of the repair, restoration or rebuilding of the same so that upon completion of such repairs, restoration or rebuilding, the value and rental value of the buildings, structures, improvements, furniture, fixtures, or equipment must be substantially equal to the value and rental value of it immediately prior to the occurrence of such fire or other casualty.

5.6.2 Termination.

Notwithstanding anything to the contrary contained in this Lease, if the buildings, structures or improvements included within the Theater Property should be the subject of any proposed or contemplated eminent domain proceeding, or rendered untenable by fire or other casualty during the last five years of the Lease to the extent of a loss of 50% or more of the replacement cost of said buildings, structures or improvements, Theater Works may, at Theater Works' option, terminate this Lease; provided, however, that Theater Works must pay over to Peoria all casualty insurance or eminent domain proceeds received or receivable by reason of the destruction of said buildings, structures or improvements. Theater Works' option to terminate must be evidenced by a written notice given to Peoria within 60 calendar days after the occurrence of such damage or destruction.

5.7 Key Acts.

5.7.1 Memorandum for Recording.

Within ten calendar days after the Effective Date of the Lease, Peoria and Theater Works must execute and cause to be placed of record with the Maricopa County Recorder's Office, and any other public or private official, a memorandum in recordable form evidencing the existence of this Lease substantially in the form attached to this Lease as ***Exhibit "B"***.

5.7.2 Estoppel Certificate.

Peoria or Theater Works, as the case may be, will execute, acknowledge and deliver to the other within 15 calendar days following request therefor, a certificate certifying (a) that this Lease is unmodified and in full force (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications), and (b) the dates, if any, to which Rent, Additional Charges and other sums payable hereunder have been paid, and (c) that no notice has been received by Theater Works of any default which has not been cured, except as to defaults specified in said certificate. Either party's failure to deliver such certificate within the time permitted hereby is conclusive upon such party that this Lease is in full force and affect, except to the extent any modification has been represented by the requesting party, and that there are no

uncured defaults in such party's performance, and that not more than one month's rent has been paid in advance.

5.7.3 Operating Reserve.

As of the Effective Date and until the first adjustment, the Operating Reserve will be $25,000, and thereafter must be maintained at a level equal to 10% of the previous year's operating budget renewed and adjusted on an annual basis on July 1st.

6. Changes in Leasehold Control.

6.1 Parties Bound.

This Lease is binding upon and inure to the benefit of and be enforceable by the parties to this Lease, their personal representatives, their respective successors in office and permitted assigns of the parties to this Lease for the entire term of this Lease.

6.2 Assignment and Subletting.

6.2.1 Consent Required.

Theater Works must not transfer or assign this Lease or any interest in this Lease or sublet the Theater Property or any portion of it without first obtaining the written consent of Peoria, which will not be unreasonably withheld. Rent from subtenants is revenue to the Theater Works: however, the Ticket Surcharge must be collected and remitted to Peoria for any performances by any subtenant. Any attempted transfer, assignment or subletting, including any involuntary transfers or assignments by operation of law without such written consent is void and confer no rights upon any third person, and at the option of Peoria, will cause a termination of this Lease, in which event said third person will occupy the Theater Property as a Theater Works at sufferance. No such prohibited transfer, assignment or subletting will relieve Theater Works of its liability for the full performance of all of the terms, agreements, covenants and conditions of this Lease. Consent by Peoria to any transfer, assignment or subletting does not operate as a waiver of this section as to any future transfer, assignment or subletting, and this section applies to any transferee, assignee or subtenant.

6.2.2 Rates of Subtenant Rent.

Theater Works will rent the main theater and black box theater to Peoria organizations at preferential rates, and must allow such organizations to become subtenants subject to the same criteria used by Theater Works when evaluating any other subtenant. Peoria reserves the right to establish preferential rates for Peoria organizations wishing to rent the main stage or black box theaters.

6.2.3 Technical Requirements.

Each transfer, assignment, and subletting to which there has been consent, or to which no such consent is required, must be by an instrument in writing in a form satisfactory to Peoria, and must be executed by the transferor, assignor or sublessor; and the transferee, assignee, or subtenant must agree in writing, for

the benefit of Peoria, to assume, be bound by, and to perform the terms, covenants and conditions of this Lease to be done, kept and performed by Theater Works. One executed copy of such written instrument must be delivered to Peoria. A consent to any transfer, assignment or subletting does not constitute a waiver or discharge of the provisions of this section with respect to a subsequent transfer, assignment or subletting from becoming effective. The acceptance of Rent or Additional Charges from any other person must not be deemed to be a waiver of any of the provisions of this Lease or consent to the transfer, assignment or subletting of the Theater Property.

6.2.4 Costs.

Theater Works agrees to reimburse Peoria for Peoria's reasonable costs (including but not limited to attorneys' fees and expenses) in conjunction with the processing of any request for consent under this section.

6.3 Assignment of Rents, Income and Profits.

Theater Works hereby absolutely and irrevocably assigns to Peoria all rents, income and profits accruing to Theater Works from use or subletting of all or a portion of the Theater Property and the buildings, structures or improvements on it, together with the right to collect and receive the same; provided, that so long as Theater Works is not in default hereunder, Theater Works will have the right to collect and retain such rents, income and profits. Peoria must apply to Rent and other monies due hereunder the net amount (after deducting all costs and expenses incident to the collection of it and the operation and maintenance, including repairs, of the Theater Property) of any rents, income and profits so collected and received by it.

6.4 Conveyance by Peoria.

6.4.1 Effect.

In the event that Peoria (or any successor lessor) may intend to list or market for sale, or may otherwise intend to sell, convey or dispose of the real property included within the Theater Property, Theater Works must be given prompt written notice of such intent with respect to the real property included within the Theater Property.

6.4.2 Definition.

The word "Peoria" includes not only the original lessor but also any person or entity hereafter acquiring Peoria's interest in this Lease.

7. Defaults by Theater Works.

7.1 Events.

Each of the following occurrences is an event of default hereunder:

7.1.1 If Theater Works fails to pay any Rent, Additional Charges, or Ticket Surcharge or any sum due hereunder promptly when due and such failure continues for ten calendar days after notice of it in writing to Theater Works.

7.1.2 If default is made by Theater Works in any of the other covenants, agreements, conditions or undertakings in this Lease to be kept, observed and performed by Theater Works and such default continues for 30 calendar days after notice of it in writing to Theater Works.

7.1.3 If Theater Works voluntarily files any petition, or have an involuntary petition filed on its behalf, under any chapter or section of the Federal Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing, or files an answer admitting insolvency or inability to pay its debts; provided however, that Theater Works will not remain in default if Theater Works continues to pay all Rent, Ticket Surcharge, and Additional Charges and comply with all other terms and conditions of the Lease.

7.1.4 If a trustee or receiver is appointed for Theater Works or for a major portion of its property or for any portion of the Theater Property.

7.1.5 If any court has taken jurisdiction of a major portion of the property of Theater Works or any potion of the Theater Property in any involuntary proceeding for dissolution, liquidation or winding up of Theater Works and such jurisdiction is not relinquished or vacated within 60 calendar days.

7.1.6 If Theater Works makes an assignment for the benefit of its creditors.

7.2 Right of Reentry.

Upon the occurrence of any default that is not cured within the applicable cure period, and at any time after the expiration of the applicable cure period, Peoria has the right, at its election, to reenter the Theater Property and the buildings, structures and improvements then situated on it, or any part of it, and to expel, remove and put out Theater Works and all persons occupying or upon the same under Theater Works, using such force as may be necessary in so doing, and again to possess the premises and enjoy the same as in their former estate and to take full possession of and control over the Demises Premises and the buildings, structures and improvements on it and to have, hold and enjoy the same and to receive all rental income of and from the same. No reentry by Peoria may be deemed an acceptance of a surrender of this Lease, nor will it absolve or discharge Theater Works from any liability under this Lease. Upon such reentry, all rights of Theater Works to occupy or possess the Theater Property cease and terminate.

7.3 Right to Terminate.

Upon the occurrence of any default and at any time thereafter, Peoria has the right, at its election, with or without reentry, to give written notice to Theater Works stating that this Lease and the real property hereby demised will terminate on the date specified by such notice, and upon the date specified in such notice this Lease and the real property hereby demised and all rights of Theater Works hereunder terminates. Upon such termination, Theater Works must quit and peacefully surrender to Peoria the Theater Property and the buildings, structures and improvements then situated on it.

7.4 Right to Relet.

At any time and from time to time after such reentry, Peoria may relet the Theater Property and the buildings, structures and improvements on it, or any part of it, in the name of Peoria or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this Lease), and on such conditions (which may include concessions or free rental) as Peoria, in its reasonable discretion, may determine and may collect and receive the rental therefor. However, in no event is Peoria under any obligation to relet the Theater Property and the buildings, structures and improvements on it, or any part of it, and Peoria is in no way responsible or liable for any failure to relet or for any failure to collect any rental due upon any such reletting, nor may Peoria's failure to mitigate its damage in a commercially reasonable manner discharge Theater Works from liability for the damages that could be alleged to have been mitigated. Even though it may relet the Theater Property, Peoria has the right thereafter to terminate this Lease and all of the rights of Theater Works in or to the Theater Property.

7.5 Damages.

In addition to any Default Rent, Theater Works must pay damages resulting from Theater Works' Default to Peoria monthly on the 1st calendar day of each month, and Peoria is entitled to recover from Theater Works monthly, as the same arises. Theater Works is liable for such damages on a monthly basis, whether or not in any prior month or months the net proceeds described below have exceeded the Rent, Ticket Surcharge, and Additional Charges described below. Unless Peoria has notified Theater Works in writing that it has elected to terminate this Lease, no such reentry or action in lawful detainer or otherwise to obtain possession of the Theater Property relieves Theater Works of its liability and obligations under this Lease; and all such liability and obligations survive any such reentry. In the event of any such reentry, whether or not the Theater Property and the buildings, structures and improvements on it, or any part of it, has been relet, Theater Works must pay to Peoria the entire Rent and all other Additional Charges required to be paid by Theater Works up to the time of such reentry under this Lease, and thereafter Theater Works, until the end of what would have been the term of this Lease in the absence of such reentry, is liable to Peoria and must pay to Peoria, as and for liquidated and agreed damages for Theater Works' default:

7.5.1 The amount of Rent, Ticket Surcharge, and Additional Charges which would be payable under this Lease by Theater Works if this Lease were still in effect, less

7.5.2 The net proceeds of any reletting, after deducting all of Peoria's reasonable expenses in connection with such reletting, including without limitation all reasonable repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation for such reletting.

7.6 Other Rights.

In the event of any breach by Theater Works of any of the terms, covenants or agreements contained in this Lease, Peoria has, in addition to any specific remedies provided in this Lease, the right to invoke any right or remedy allowed by law or in equity or by statute or otherwise, including the right to enjoin such breach.

7.7 Rights Cumulative.

Each right and remedy of Peoria provided for in this Lease is cumulative and in addition to every other right or remedy provided for in this Lease now or hereafter existing at law or in equity or by statute or otherwise; and the exercise or beginning of the exercise by Peoria of any one or more of such rights or remedies does not preclude the simultaneous or later exercise by Peoria of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

7.8 Subtenant Breach.

Any violation of any covenant or provision of this Lease, whether by act or omission, by any subtenant or any other persons occupying any portion of the Theater Property or any buildings, structures or improvements on it under the rights of Theater Works must be deemed a violation of such provision by Theater Works and a default under this Lease. Any such violation must not be deemed to be a default hereunder if and so long as Theater Works in good faith and at its own expense takes and diligently pursues any and all steps it is entitled to take and which steps if completed will cure said default.

7.9 Incurable Default.

If in any one period of twelve consecutive months, Theater Works has been in default in the payment of Rent or Additional Charges in this Lease more than three times and Peoria, because of such defaults, has served upon Theater Works within said twelve month period three or more notices, then the 4th default must be deemed to be an incurable default and Peoria will be entitled to immediate possession of the Theater Property.

7.10 Diligent Commencement.

Notwithstanding any other provision, Peoria agrees that if the default complained of, other than for the payment of monies, is of such a nature that the same cannot be rectified or cured within the 30 calendar day period for rectification or curing as specified in the written notice relating to it, then such default will be deemed to be rectified or cured if Theater Works, within such period of 30 calendar days, has commenced the rectification and curing of it and continues thereafter with all due diligence to effect such rectification and curing and does so complete the same with the use of such diligence as stated previously in this Lease..

7.11 Disputes.

Notwithstanding any other provision, any dispute by Theater Works, during the time that the City of Peoria remains Peoria, regarding a default under this Lease or Peoria's Representative's failure to provide approval as may be required in this Lease, must be submitted in writing to Peoria's Representative within ten business calendar days of Peoria's written notification to Theater Works of the event giving rise to the default under this Lease. After receipt of such written notice of dispute from Theater Works, Peoria must schedule a formal or informal hearing to allow Theater Works the opportunity to explain the nature of the dispute and seek resolution. If Peoria's Representative, after the hearing with Theater Works, issues a decision upholding the default, Theater Works may, within five business calendar days after receipt of the written decision by Theater Works, file a written appeal of the decision to the Mayor and City Council for the City of Peoria. If however, Theater Works fails to give Peoria's Representative written notice of the disputed default within the required time frame or fail to file a written appeal of the decision of Peoria's Representative to the Mayor and City Council within the required time frame, the default is deemed admitted by Theater Works.

7.12 Right to Cure Theater Works' Defaults.

Except with respect to Theater Works' failure to operate its business, in the event Theater Works is in default of this Lease, which default remains uncured during any applicable cure period provided in this Lease, Peoria may at any time, without further notice, cure such breach for the account and at the expense of Theater Works. If Peoria at any time, by reason of such breach, is compelled to pay or elects to pay any sum of money or to do any act that will require the payment of any sum of money, or is compelled to incur any expense, including reasonable attorneys' fees, in instituting, prosecuting or defending any actions or proceedings to enforce Peoria's rights under this Lease or otherwise, the sum or sums so paid by Peoria, with all interest, costs and damages, is deemed to be Additional Charges and is due from Theater Works to Peoria on the first calendar day of the month following the incurring of such expenses or the payment of such sums (which will, pursuant to the above, be no sooner than 31 days after the default).

7.13 Delay of Performance.

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the control of the party obligated to perform, excuses the performance by such party for a period equal to any such prevention, delay or stoppage, except the obligations imposed with regard to rental and other monies to be paid by Theater Works pursuant to this Lease.

8. Miscellaneous.

8.1 Corporate Status of Theater Works. Theater Works covenants that it is a valid and existing non-profit corporation under the laws of the State of Arizona, that it is duly qualified and licensed to do business in the State of Arizona and in the City of Peoria, AZ, that it is Internal Revenue Code § 501(c)(3) qualified, and that it has full right and authority to enter into this Lease.

8.2 Theater Works' Statutory Rights. In the event of any termination of the Term of this Lease (or any repossession of the Theater Property), Theater Works, so far as permitted by law, waives any notice of reentry with or without the institution of legal proceedings to that end.

8.3 Waiver of Performance. No failure by Peoria or Theater Works to insist upon the strict performance of any term or condition hereof or to exercise any right, power or remedy consequent upon a breach of it and no submission by Theater Works or acceptance by Peoria of full or partial Rent or Additional Charges during the continuance of any such breach constitutes a waiver of any such breach or of any such term. No waiver of any breach affects or alters this Lease, which will continue in full force and effect, nor the respective rights of Peoria or Theater Works with respect to any other then existing or subsequent breach.

8.4 Remedies Cumulative. Each right, power and remedy provided for in this Lease or now or hereafter existing at law, in equity or otherwise is cumulative and concurrent and is in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law, in equity or otherwise; and the exercise or beginning of the exercise of any one or more of the rights, powers or remedies provided in this Lease do not preclude the simultaneous or later exercise of any or all such other rights, powers or remedies.

8.5 Attorneys Fees. In the event Peoria should bring suit for possession of the Theater Property, for the recovery of any sum due hereunder, or for any other relief against Theater Works, declaratory or otherwise, arising out of a breach of any term or condition of this Lease, or in the event Theater Works should bring any action for any relief against Peoria, declaratory or otherwise, arising out of this Lease, the prevailing party is entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, which is deemed to have accrued on the commencement of such action and is enforceable whether or not such action is prosecuted to judgment.

8.6 Notices. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be deemed to have been given within three calendar days after the same has been mailed by registered or certified mail, postage prepaid, or within two calendar days after delivery by a nationally recognized overnight courier service (e.g., UPS, Federal Express) or personally delivered to the respective party, at the address shown below:

To Theater Works:	The Theater Works 10484 W. Thunderbird Rd. Sun City, AZ 85351 Attention: Executive Director
With a copy to:	Mark J. A. Hughes, Esq. 13281 N. 71st Dr. Peoria, AZ 85381
To Peoria:	City Manager City of Peoria, AZ 8401 W. Monroe St. Peoria, Arizona 85345
With a Copy to:	City Attorney City of Peoria, AZ 8401 W. Monroe St. Peoria, Arizona 85345

or at such other address as either party may from time to time designate in writing to the other.

8.7 Time of Essence. Time is declared to be of the essence of this Lease.

8.8 Section Headings; References; Interpretation. The section headings contained in this Lease are for purposes of convenience and reference only and do not limit, describe or define the meaning, scope or intent of any of the terms or provisions hereof. All grammatical usage in this Lease is deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require. If the last calendar day of any time period stated in this Lease may fall on a Saturday, Sunday or legal holiday in the State of Arizona, then the duration of such time period is extended to the next succeeding calendar day which is not a Saturday, Sunday or legal holiday in the State of Arizona.

8.9 Severability. If any provision of this Lease is declared void, unenforceable or against public policy, such provision is deemed stricken and severed from this Lease, with the remainder of the Lease remain in full force and effect.

8.10 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Lease must be exercised only to the extent that the exercise of it does not violate any applicable law and are intended to be limited to the extent necessary so that they do not render this Lease invalid or unenforceable under any applicable law. If any term or condition of this Lease is held to be invalid, illegal or unenforceable or against public policy, such provision is deemed stricken from this Lease and the validity of the other terms of this Lease are in no way affected thereby and this Lease, absent the stricken provision, will otherwise remain in full force and effect.

8.11 Governing Law and Choice of Forum. This Lease is governed by and construed in accordance with the substantive laws of the State of Arizona without

giving effect to the principles of conflict of laws. Any action brought to interpret, enforce or construe any provision of this Lease is commenced and maintained in the Superior Court of Maricopa County, Arizona (or, as may be appropriate, in the Justice Courts of Maricopa County or in the United States District Court for the District of Arizona if, and only if, the Maricopa County Superior Court lacks or declines jurisdiction over such action).

8.12 Brokers or Agents. Theater Works represents and warrants to Peoria that Theater Works has had no dealings or discussions with any broker or agent (licensed or otherwise) In connection with this Lease and Theater Works covenants to pay, hold harmless and indemnify Peoria from and against any and all losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out of or in connection with any breach of this representation and warranty.

8.13 Consent or Approval. Except as otherwise expressly provided in this Lease, any consent or approval required in this Lease must not be unreasonably withheld or delayed. The requesting party is entitled to seek specific performance at law and has such other remedies as are reserved to it under the Lease, but in no event will Peoria or Theater Works be responsible for damages to anyone for such failure to give consent or approval.

8.14 Relationship. This is an Improved Property Lease. This Lease must not be construed as creating a joint venture, partnership or any other cooperative or joint arrangement between Peoria and Theater Works, and it is construed strictly in accordance with its terms and conditions. Nothing contained in this Lease is intended to confer a benefit upon any third parties.

8.15 Further Instruments and Documents. Peoria and Theater Works must, upon request from the other, promptly acknowledge and deliver to the other any and all further documents, instruments or assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Lease.

8.16 Intended Agreement. This Lease is the result of arms-length negotiations between parties of roughly equivalent bargaining power and expresses the complete, actual and intended agreement of the parties. This Lease must not be construed for or against either party as a result of its participation, or the participation of its counsel, in the preparation or drafting of this Lease or of any exhibits or documents prepared to carry out the intent of this Lease.

8.17 Integration Clause; No Oral Modification. This Lease represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Lease (including, e.g., the Memorandum of Understanding) are hereby revoked and superseded by this Lease. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth in this Lease, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Lease. This Lease may not be changed,

modified or rescinded, except as provided for in this Lease, absent a written agreement signed by Peoria and Theater Works. Any attempt at oral modification of this Lease is void and of no effect.

8.18 Conflict of Interest. This Lease is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 relating to conflicts of interest.

8.19 Audit. Notwithstanding anything contained in ***§ 1.3*** or elsewhere in this Lease, Peoria may enter the Theater Property at any time to inspect the facilities to ensure compliance with this Lease. At any time during normal business hours of Theater Works, Peoria may review those records of Theater Works that evidence compliance with this Lease. Theater Works will promptly comply with any such request for records.

8.20 Peoria Financing. Notwithstanding any other provision of this Lease, Theater Works agrees that Peoria may enter into any agreement (including without limitation an agreement affecting Peoria's real property rights in the Theater Property) with a public financing agency for the purpose of improving the Theater Property. Theater Works further agrees that this Lease and the rights and remedies provided hereby may become subject to the terms of such an agreement, and Theater Works agrees that it will not object to any such agreement.

IN WITNESS WHEREOF, the parties have executed this Lease on the date listed below.

City of Peoria, Arizona, an Arizona charter municipality (Peoria)

By: _____
Terrence L. Ellis
City Manager

The Theater Works, an Arizona non-profit corporation (Theater Works)

By: _____
Nita Davis
President

APPROVED AS TO FORM:
By: _____ NOV 20 2005
City Attorney

ATTEST:
By: _____
City Clerk

CITY OF PEORIA

Exhibit "A"
Legal Description

PARCEL NO. 1:

A parcel of land lying in the Southeast quarter of the Southeast quarter of Section 22, Township 3 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa county, Arizona, described as follows:

BEGINNING at the Southeast corner of the above said Section 22, thence West (assumed bearing) 411.13 feet along the South line of said Section 22 to a point on the West right of way line of Olive Street, as described in Docket 7141, page 363, records of the Maricopa County Recorder and the TRUE POINT OF BEGINNING for the herein described parcel of land;
thence West 210.09 feet along the said South line of Section 22 to a point on the Easterly right of way line of 84th Avenue (Peach Street) as described in Docket 7752, pages 520 and 521, records of Maricopa County Recorder;
thence in a Northerly direction along the Easterly right of way line of said 84th Avenue and the arc of a curve, concave right, having a central angle of 16 degrees 58 minutes 33 seconds and a radius of 342.71 feet, distance of 101.54 feet to the Northerly end of said curve concave right;
thence continuing along the Easterly right of way line of said 84th Avenue and a curve concave left, having a central angle of 14 degrees 07 minutes 51 seconds and a radius of 392.71 feet, a distance of 96.85 feet to the Northerly end of said curve concave left;
thence continuing in a Northeasterly direction along a curve, concave right, having a central angle of 80 degrees 45 minutes 00 seconds and a radius of 23.52 feet, a distance of 33.15 feet to the Easterly end of said curve concave right and a point on the Southerly right of way line of Peoria Avenue as described in Docket 7141, page 363, records of the Maricopa County Recorder;
thence North 89 degrees 59 minutes 26 seconds East, 113.25 feet along said Southerly right of way line of Peoria Avenue to a point;
thence along a curve, concave right, having a central angle of 90 degrees 45 minutes 37 seconds and a radius of 44.00 feet, a distance of 69.70 feet to a point on the West right of way line of Olive Street, as described in Docket 7141, page 363, records of Maricopa County Recorder;
thence South 0 degrees 45 minutes 03 seconds West 170.41 feet to the TRUE POINT OF BEGINNING;

PARCEL NO. 2:

Lots Eight (8), Nine (9), and Ten (10), Block Sixteen (16), AMENDED PLAT OF PEORIA TOWNSITE, a subdivision recorded in the Maricopa County Recorder's Office in Book 3 of Maps, at page 62 thereof;

PARCEL NO. 3:

Lots Eleven (11) and Twelve (12), Block Sixteen (16), AMENDED PLAT OF PEORIA TOWNSITE, a subdivision recorded in the Maricopa County Recorder's Office in Book 3 of Maps, at page 62 thereof;

L CON 11805

Exhibit "B"
Memorandum of Lease

L CON 11805

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

20060337137,03/13/2006 01:16,031361-3-1-1--,N

ELECTRONIC RECORDING

WHEN RECORDED RETURN TO:
OFFICE OF THE CITY ATTORNEY
8401 W. Monroe, Suite 340
Peoria, Arizona 85345

MEMORANDUM OF LEASE

This is a Memorandum of that certain Improved Property Lease dated the 28th calendar day of November 2005, wherein the City of Peoria, Arizona, an Arizona municipal corporation ("Peoria"), demised and leased to The Theater Works, an Arizona non-profit corporation ("Theater Works"), the real property described on ***Exhibit "A"*** attached to this Lease for a term of twenty (20) years.

The offices of Peoria and Theater Works are as follows:

Peoria: City of Peoria, Arizona
8401 W. Monroe St.
Peoria, Arizona 85345

Theater Works: The Theater Works
10484 W. Thunderbird Rd.
Sun City, AZ 85351
Attention: Nita Davis, President

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Lease effective as of the 28th calendar day of November 2005.

City of Peoria, Arizona, an Arizona municipal corporation

By: _____
Terrence L. Ellis, City Manager

The Theater Works, an Arizona non-profit corporation

By: _____
Nita Davis, President

3/13/06

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Memorandum of Lease was acknowledged before me this 21st calendar day of November 2005, by Terrence L. Ellis, City Manager for the City of Peoria, Arizona, an Arizona municipal corporation.

MY COMMISSION EXPIRES:

OFFICIAL SEAL
BARBARA A. DERUITER
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires Jan. 24, 2007

_____
Notary Public

L CON 11805 A

H:\My Documents\Community Theater Project\Lease Agreement (June 2005)\Theater Works Lease v 11.DOC

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Memorandum of Lease was acknowledged before me this 13th calendar day of ~~November 2005,~~ March, 2006 by Nita Davis, the President of The Theater Works, an Arizona non-profit corporation, which she was at the time when she executed this Memorandum of Lease.

MY COMMISSION EXPIRES:

Dorothy Ann Gabbard
Notary Public

OFFICIAL SEAL
DOROTHY ANN GABBARD
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires May 19, 2006

ATTEST:

Mary Jo Kief, City Clerk

CITY OF PEORIA

APPROVED AS TO FORM:

NOV 20 2005

Stephen M. Kemp, City Attorney

L CON 11805 A

Exhibit "A"
Memorandum of Lease Legal Description

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thence continuing along the Easterly right of way line of said 84th Avenue and a curve concave left, having a central angle of 14 degrees 07 minutes 51 seconds and a radius of 392.71 feet, a distance of 96.85 feet to the Northerly end of said curve concave left;
thence continuing in a Northeasterly direction along a curve, concave right, having a central angle of 80 degrees 45 minutes 00 seconds and a radius of 23.52 feet, a distance of 33.15 feet to the Easterly end of said curve concave right and a point on the Southerly right of way line of Peoria Avenue as described in Docket 7141, page 363, records of the Maricopa County Recorder;
thence North 89 degrees 59 minutes 26 seconds East, 113.25 feet along said Southerly right of way line of Peoria Avenue to a point;
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