AN ORDINANCE 65825

APPROVING A PURCHASE CONTRACT SUBJECT TO CONDITIONS CONTAINED THEREIN WITH ASSIGNMENTS OF TWO GROUND LEASE AGREEMENTS AND APPROVING A THEATER LEASE AGREEMENT SUBJECT TO CONDITIONS CONTAINED THEREIN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THOSE AGREEMENTS AND ANY AND ALL OTHER AGREEMENTS IN CONNECTION WITH THE MAJESTIC-BRADY PROJECT.

* * * * * * * *

WHEREAS, a public purpose is served and it is in the best interest of the public to (i) revitalize downtown San Antonio; (ii) provide affordable downtown rental housing and (iii) create two fully renovated theaters for the performing arts for the City; and

WHEREAS, the City is agreeable to purchasing the land under the Majestic Building, Majestic Theater, Brady Building, and Empire Theater located in N.C.B. 406 (original City Block 21) in downtown San Antonio, in order to accomodate the renovation of the improvements thereon in furtherance of the public purposes stated above; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

Section 1. The Purchase Contract between VIRGINIA VAN STEENBERG, as TRUSTEE AND/OR ASSIGNS for the MAJESTIC LAND CORPORATION, a to-be-formed Texas Business Corporation, as Seller, and the CITY OF SAN ANTONIO, as Buyer, is hereby approved subject to the conditions set forth in said Contract.

Section 2. The City Manager or Assistant City Manager is hereby authorized to execute the following legal documents, at the time specified below, in connection with said purchase:

(1) Upon the effective date of this Ordinance, which shall be ten (10) days from the date set forth below, the Purchase Contract, a copy of which is attached hereto as Exhibit "A".

(2) Upon closing of the sale under the above-referenced Purchase Contract, the Assignment of Ground Lease - Majestic Building and Brady Building, with a subsequent Amendment to Ground Lease in substantially the same form as the copies of the Assignment and Amendment which are attached hereto as Exhibits "B-1" and "B-2".

(3) Upon closing of the sale under the above-referenced Purchase Contract, the Assignment of Ground Lease - Majestic Theater and Empire Theater, with a subsequent Amendment to Ground Lease, in substantially the same form as the copies of the Assignment and Amendment which are attached hereto as Exhibit "C-1" and "C-2".

(4) Upon closing of the sale under the above-referenced Purchase Contract, the Theater Lease, between THEATER DEVELOPMENT COMPANY, as Lessor, and the CITY OF SAN ANTONIO, as Lessee, in substantially the same form as the copy of the Theater Lease which is attached hereto as Exhibit "D".

Section 3. The City Manager or Assistant City Manager is hereby authorized to execute any and all legal documents, which, in the opinion and upon review of the City Attorney, is or are deemed necessary for the City to execute in order to facilitate financing by the MAJESTIC DEVELOPMENT COMPANY, or the THEATER DEVELOPMENT COMPANY or their respective lenders and in support of the documents referred to in paragraphs (1), (2), (3) and (4) above upon such terms, conditions and assurances as may be required and approved by the City Attorney.

Section 4. The purchase of land and renovation of improvements transactions contemplated by this Ordinance are conditioned upon the following:

(1) The CITY OF SAN ANTONIO funding being available from sale of certificates of obligation in the amount of $6,600,000.00.

(2) The MAJESTIC DEVELOPMENT COMPANY and the THEATER DEVELOPMENT COMPANY obtaining:

a. Financing to acquire and renovate the buildings.

b. Obtaining a construction contract with provision of performance bonding naming the City as an additional principal to assure completion of renovation construction as committed.

c. Agreement from the proposed operator of the theaters to the City's participation and use of said theaters.

PASSED AND APPROVED this 1st day of October, 1987.

Henry Cisneros
M A Y O R

ATTEST:

Norma S. Rodriguez
City Clerk

APPROVED AS TO FORM:

Tom Finlay
City Attorney

87-46

AVIATION	
BUDGET & RESEARCH	/
BUILDING INSPECTIONS	
BUILDING INSPECTIONS-HOUSE NUMBER	
CITY WATER BOARD	
CITY ATTORNEY	
COMMERCIAL RECORDER	
CONVENTION & VISITORS BUREAU	
CONVENTION FACILITIES	
ECONOMIC & EMPLOYMENT DEVELOPMENT	
EQUAL EMPLOYMENT OPPORTUNITY	
FINANCE DIRECTOR	/
ASSESSOR	
CONTROLLER	/
TREASURY DIVISION	/
GRANTS	
INTERNAL AUDIT	
RISK MANAGEMENT	/
FIRE DEPARTMENT	
HUMAN RESOURCES & SERVICES	
INFORMATION RESOURCES	
LIBRARY	
MARKET SQUARE	
METROPOLITAN HEALTH DISTRICT	
MUNICIPAL COURTS	
PARKS & RECREATION	
PERSONNEL	
PLANNING	
POLICE DEPARTMENT	
PUBLIC UTILITIES	
PUBLIC WORKS	
ENGINEERING	
CENTRAL MAPPING	
REAL ESTATE	/
TRAFFIC ENGINEERING	
PURCHASING & GENERAL SERVICES	
WASTEWATER MANAGEMENT	
ZONING ADMINISTRATION	
SPECIAL PROJECTS - CITY MANAGER	

DOWNTOWN INITIATIVES = 1

SET UP NEW FILE!

FILE "MAJESTIC-BRADY PROJECT" (NEW FILE)

ITEM NO. 40

MEETING OF THE CITY COUNCIL DATE: OCT 1 1987

MOTION BY: Dutmer SECONDED BY: Vera

ORD. NO. 65825 ZONING CASE

RESOL. PETITION

	ROLLCALL	AYES	NAYS
MARIA BERRIOZABAL PLACE 1		✓	
JOE WEBB PLACE 2		✓	
HELEN DUTMER PLACE 3		✓	
FRANK D. WING PLACE 4		absent	
WALTER MARTINEZ PLACE 5		✓	
BOB THOMPSON PLACE 6			X
YOLANDA VERA PLACE 7	—	✓	
NELSON WOLFF PLACE 8		✓	
WEIR LABATT PLACE 9		✓	
JAMES C. HASSLOCHER PLACE 10		absent	
HENRY G. CISNEROS PLACE 11 (MAYOR)		✓	

87-46

PURCHASE CONTRACT

STATE OF TEXAS §
§
COUNTY OF BEXAR §

THIS PURCHASE CONTRACT (hereinafter sometimes called "Contract") dated effective as of this 12th day of October, 1987, is entered into by and between the CITY OF SAN ANTONIO, a Texas municipal corporation, acting by and through its City Manager pursuant to Ordinance No. 65825 dated October 1, 1987, and VIRGINIA VAN STEENBERG, as TRUSTEE and/or ASSIGNS for the MAJESTIC LAND CORPORATION, and is as follows:

1. PARTIES: For and in consideration of the mutual covenants contained herein, VIRGINIA VAN STEENBERG, as TRUSTEE and/or ASSIGNS for the MAJESTIC LAND CORPORATION, a to-be-formed Texas Business Corporation, as "Seller" (hereafter "MLC") agrees to grant, sell and convey by General Warranty Deed to the CITY OF SAN ANTONIO, a Texas municipal corporation, as "Buyer", and Buyer (hereafter "CITY") agrees to purchase the property hereinafter described.

2. PROPERTY: The following real property ("Real Property"), located in San Antonio, Bexar County, Texas, is to be conveyed, being the:

(1) "Majestic" Property (consisting of the land only located under both the Majestic Building and the Majestic Theater) legally described as:

A 0.600-acre (26,138 square feet) tract of land out of Lots 3, 4, and 5, New City Block 406 (original City Block 21) San Antonio, Bexar County, Texas, being that tract of land effectively described in a Warranty Deed from Hoblitzelle Foundation to Majestic Music Hall, Inc., dated April 27, 1977, recorded in Volume 8071 at page 68 of the Deed Records of Bexar County, Texas, SAVE and EXCEPT the West 0.75 feet of Lot 3, said 0.600 acre tract being more particularly described by metes and bounds, as surveyed, as follows:

BEGINNING at a point in the North right-of-way line of College Street and in the East boundary line of that tract of land referred to as the "Second Tract" in a Warranty Deed from Hoblitzelle Foundation to Majestic Music Hall, Inc., dated April 27, 1977, and recorded in Volume 8071, at page 68 of the Deed Records of Bexar County, Texas, for the Southeast corner of this tract, said point being 0.10 foot inside the South wall and 0.29 foot inside the East wall of

EXHIBIT A

an existing building known as the Majestic Building, whence a point in the East face of the East wall of an existing building, 0.15 foot north of the Southeast corner of said building, the point of intersection of the North right-of-way line of College Street and the West right-of-way line of Navarro Street bears South 89 deg. 42' 47" East a distance of 175.17 feet and a drill hole in the concrete walk bears South 0 deg. 04' 03" East a distance of 1.00 foot;

THENCE, North 89 deg. 42' 47" West with the North right-of-way line of College Street a distance of 163.44 feet to a point in the face of the West wall of the Majestic Building, 0.19 foot North of the Southwest corner of said building, the Southeast corner of that tract of land conveyed to Harry Lee Carter by the Sheriff of Bexar County, Texas, by deed of record in Volume 4777 at page 346 of the Deed Records of Bexar County, Texas, for the Southwest corner of this tract, whence a drill hole set in a concrete walk at the point of intersection of the North right-of-way line of College Street and East right-of-way line of St. Mary's Street bears North 89 deg. 42' 47" West a distance of 112.55 feet and a drill hole set in a concrete walk bears South 0 deg. 08' 20" East a distance of 1.00 foot;

THENCE, North, 0 deg. 08' 20" West parallel to and 0.75 foot East of, measured at right angles, the West lot line of Lot 3 and the East lot line of Lot 2, New City Block 406, a distance of 159.38 feet to a point in the East face of the East wall of the "Little" Brady Building, 0.11 foot South of the outside face of the North wall of the "Little" Brady Building, the Northeast corner of that tract of land conveyed to Robert B. Green Memorial Hospital by Bexar County National Bank, Executor, on December 13, 1973, by deed of record in Volume 7261 at page 882 for the Northwest corner of this tract, whence a drill hole set in concrete bears North, 0. deg. 08' 20" West a distance of 1.00 foot;

Thence North 89 deg. 58' 00" East with the South right-of-way line of Houston Street, at 159.63 feet, a lead plug set in the South curb of Houston Street bears North 0 deg. 04' 03" East a distance of 15.30 feet, and continuing on the same course and by the same count, in all, a distance of 163.63 feet to a point lying 0.19 foot inside the North wall and 0.34 foot inside the East wall of the Majestic Building, the Northwest corner of that tract of land conveyed to Frank R. Prassel by George W. Oge on November 1, 1973, by deed of record in Volume 7251 at page 431 of the Deed Records of Bexar County, Texas, for the Northeast corner of this tract, whence a drill hole set in a concrete

walk bears North 0 deg. 04' 03" West a distance of 1.00 foot;

THENCE South, 0 deg. 04' 03" East with the East boundary line of that tract of land referred to as the "Second Tract" in said Warranty Deed from Hoblitzelle Foundation to Majestic Music Hall, Inc., a distance of 160.29 feet to the POINT OF BEGINNING.

Containing 0.600 acre (26,138 square feet) of land, more or less;

together with (i) any and all appurtenances belonging or appertaining thereto; (ii) any and all of MLC's interest in and to any and all mineral rights and interest thereto; (iii) any and all easements or rights-of-way affecting said property and any and all of MLC's rights to use same; (iv) any and all rights of ingress and egress to and from said property; and (v) any and all right, title and interest of MLC in and to any and all roads, streets and ways affecting or bounding said property; but excluding (i) any and all improvements located thereon; and (ii) any and all fixtures, equipment and other personal property (tangible or intangible) owned by MLC and located on or about or used in connection with the Majestic Property.

Further it is understood and agreed that the following encroachments exist within CITY rights-of-way, either in, on, over, under, or above public streets or sidewalks, to-wit:

Houston Street:

(1) Structural encroachment varying in width from 0.11 feet to 0.19 feet along the entire frontage of the real property on Houston Street; and

(2) Encroachment of inside basement wall, extending approximately 13.5 feet into the right-of-way of Houston Street; and

(3) Encroachment of awning cover walk, extending approximately 15.5 feet into the right-of-way of Houston Street;

College Street:

(1) Structural encroachment extending approximately 0.10 feet into the College Street right-of-way, along the entire frontage of the real property on College Street;

(2) Encroachment of overhead fire escape;

(3) Encroachment of inside basement wall, extending approximately 6.1 feet into the right-of-way of College Street; and

(4) Encroachment of canopy, extending into the right-of-way of College Street near the southeast corner of the real property.

AND the

(2) "Brady/Empire" Property (consisting of the land only located under both the Brady Building and the Empire Theater) legally described as:

A 0.354-acre parcel of land out of Arbitrary Lots 1 and 2, Block 21, New City Block 406, San Antonio, Texas, being the same property conveyed to Harry Lee Carter by mutual settlement and release instrument recorded in Volume 6135, Pages 707-709, Bexar County Deed Records; and being more particularly described as follows:

BEGINNING at a lead plug with tack set in concrete at the intersection of the south right-of-way of E. Houston Street with the east right-of-way line of N. St. Mary's Street, for the Northwest corner of this parcel;

THENCE North, 89 deg. 38' 35" East, along the south right-of-way line of E. Houston Street, a distance of 80.96 feet to a lead plug tack set in concrete for the Northeast corner of this parcel;

THENCE South, 00 deg. 00' 19" East, along the West wall of the three-story Brady Building, and extension thereof, a distance of 78.25 feet to a point on the outside face of the North wall of the Empire Theater Building, for a reentract corner of this parcel;

THENCE North, 89 deg. 49' 55" East, along said North wall, and extension thereof, a distance of 31.44 feet to a point for corner of this parcel;

THENCE South, 00 deg. 00' 19" East, a distance of 81.32 feet to a lead plug with tack set in concrete on the north right-of-way line of College Street, for the Southeast corner of this parcel;

THENCE South, 89 deg. 58' 35" West, along the north right-of-way line of College Street, a distance of 111.88 feet to a lead plug with tack set in concrete on the east right-of-way line of N. St. Mary's Street, for the Southwest corner of this parcel;

THENCE North, 00 deg. 11' 25" West, along the east right-of-way line of N. St. Mary's Street, a distance of 159.01 feet to the POINT OF BEGINNING, and containing 0.354 acre of land, more or less (approximately 15,420 square feet).

together with (i) any and all appurtenances belonging or appertaining thereto; (ii) any and all of MLC's interest in and to any and all mineral rights and interest thereto; (iii) any and all easements or rights-of-way affecting said property and any of MLC's rights to use same; (iv) any and all rights of ingress and egress to and from said property; and (v) any and all right, title and interest of MLC in and to any and all roads, streets and ways affecting or bounding said property; but excluding (i) any and all improvements located thereon and (ii) any and all fixtures, equipment or other personal property (tangible or intangible) owned by MLC and located on or about or used in connection with the Brady/Empire Property.

Further, it is understood and agreed that the following encroachments exist within CITY rights-of-way, either in, on, over, under, or above public streets or sidewalks, to-wit:

(1) Overlapping of stairs to basement and overhead fire escape on College Street, steps to basement and overhead awning to curb on N. St. Mary's Street and overhead awning to curb on E. Houston Street according to a Survey by W. F. Castella & Associates, Job No. 40044A, dated June 23, 1983.

(2) Overlapping of basement into Right-of-Way along North St. Mary's Street and East Houston Street and along the East property line, as shown on the survey.

(3) Open shaft to basement on South side of property, as shown on said 1983 survey.

The description of the Real Property and all encroachments shall be modified to reflect those descriptions in the surveys when obtained and approved.

It is understood and agreed that no improvements or fixtures are included in this sale.

3. SALES PRICE: Subject to approved financing and further subject to all other conditions set forth hereunder, CITY agrees to pay MLC the amount of SIX MILLION SIX HUNDRED THOUSAND AND NO/100 DOLLARS ($6,600,000.00) in cash at the time of closing of the sale.

4. TITLE POLICY: MLC will pay the expense of an Owner's Title Policy to be issued by Stewart Title Company in the amount of the Sales Price and dated as of closing, as agreed to by CITY. A Title Commitment shall be provided by MLC to CITY within thirty (30) days after the effective date of this Contract, but if for any reason the survey required hereunder is not completed by such time, then the Title Commitment shall be provided within thirty (30) days after completion of said survey. Notwithstanding the prior acceptance of this offer, if examination of title or any other source discloses any defects in said title which MLC fails or refuses to cure within thirty (30) days after CITY raises any objections, then CITY, in lieu of completing the purchase of said property, may so decline and this Purchase Contract shall be null and void and of no force and effect. CITY shall raise any objections to title within fifteen (15) days after receipt of the Title Commitment. Liens and taxes shall not be objections to title if they can be cured prior to or at the time of closing. The title policy shall insure CITY's title to be good and indefeasible subject only to (1) restrictive covenants affecting the Property, (2) any shortages in area, (3) taxes for the current and subsequent years and subsequent assessments for prior years due to a change in land usage or ownership, (4) existing building and zoning ordinances, (5) rights of parties in possession, (6) liens created by Buyer or assumed as security for the sale consideration, (7) utility easements common to the platted subdivision of which this Property is a part, (8) reservations or other exceptions permitted by the terms of this contract, (9) Ground Lease on "Theaters" as per paragraph 10, (10) Ground Lease on "Buildings" as per paragraph 10, (11) Theater Lease as per paragraph 10, (12) Assignment of all of MLC's interest in any Parking Contract as per paragraph 10, (13) Encroachments stated in paragraphs 2 (1) and 2 (2), and (14) Lease Agreement dated October 18, 1979, by and between the ESTATE OF HARRY LEE CARTER, Deceased, Lessor, and NEW YORK PIZZA AND ITALIAN RESTAURANT, INC., Lessee with the Lessor's interest therein to be assigned to MAJESTIC DEVELOPMENT COMPANY as Owner of the improvements. Exceptions permitted in the Deed and zoning ordinances shall not be valid objections to title.

5. SURVEYS:

A. Within thirty (30) days after the effective date of this Contract, MLC agrees to furnish CITY at no cost to CITY, on-ground survey(s) (herein collectively called the "Survey") of the Real Property prepared by a licensed engineer or licensed surveyor. The Survey shall include the location of all existing or proposed roadways and easements, and encroachments and rights-of-way whether visible or recorded. The Surveyor shall state that the Survey was made on the ground of the Real Property, describing the Real

Property by metes and bounds; that it is correct; that there are no visible discrepancies, conflicts, encroachments, overlapping of improvements, easements or rights-of-way whether except as shown on the plat; that the total area contained within the boundary lines of the Real Property is a specified number of square feet; and that the plat is a true, correct and accurate representation of the Real Property. The survey shall further divide and delineate the square footage into two separate tracts to be popularly known as:

a. The "Theater" tract - consisting of the land only situated under both the Majestic Theater and the Empire Theater collectively called Tract "A"

b. The "Building" tract - consisting of the land only situated under both the Majestic Building and the Brady Building collectively called Tract "B"

B. The Real Property description contained in the Warranty Deed shall follow the metes and bounds description of the Real Property reflected in the Survey(s).

6. CONDITION OF PREMISES: CITY has inspected the Real Property and accepts same in its present condition, subject to the renovation work to be done on the improvements, as set forth below.

7. ESCROW AGENT: Stewart Title Company shall act as escrow agent and the MLC, upon demand by the CITY, agrees to deliver a General Warranty Deed, duly executed, to the escrow agent at its San Antonio office and to surrender possession of the above described Real Property to the CITY not later than the date of closing. Each party agrees to pay its respective one-half (1/2) of the escrow fee charged by the title company.

8. CLOSING: Closing shall be held in the offices of Stewart Title Company, on or before December 15, 1987. Such closing may be extended upon mutual agreement of the parties hereto and is subject to all of the conditions specifically including both CITY and MLC financing conditions, set forth herein.

9. PRORATION: MLC will pay all taxes and other assessments on the hereinabove described property, including those assessed or to be assessed for the current year; provided that current taxes and other assessments, if any, are to be prorated as of the date of closing.

10. DOCUMENTS TO BE DELIVERED AT CLOSING: The following documents shall be delivered at closing:

A. Deed: CITY, without expenses to MLC, shall prepare a General Warranty Deed, which MLC agrees to execute, conveying the Real Property to CITY. The Deed shall convey to CITY good and indefeasible title, free and clear of all liens, restrictions, encumbrances and conditions subject to the following:

(1) Two (2) existing ground leases covering the Land herein: (a) one between Majestic Development Co., ("MDC") as Lessee and MLC as Lessor; and (b) one between Theater Development Company ("TDC") as Lessee and MLC as Lessor. Lessor's interest in both ground leases shall be fully assignable to the CITY herein, and

(2) Those permitted exceptions approved by CITY in accordance with paragraph "4", above.

B. Assignment of Ground Lease ("Theaters"): MLC agrees to deliver to CITY, at the time of closing, an assignment of Ground Lease assigning to City the interest of MLC as Lessor in a Ground Lease between MLC as Lessor with TDC as Lessee for lease of the land situated under both the Majestic Theater and the Empire Theater (Tract "A").

C. Assignment of Ground Lease ("Buildings"): MLC agrees to deliver to CITY, at the time of closing, an assignment of Ground Lease assigning to CITY the interest of MLC as Lessor in a certain existing Ground Lease between MLC as Lessor with MDC as Lessee for lease of the land situated under both the Majestic Building and the Brady Building (Tract "B").

D. Theater Lease: MLC will cause to be delivered to CITY, at the time of closing, a Theater Lease by and between THEATER DEVELOPMENT COMPANY as "Lessor" and the CITY OF SAN ANTONIO as "Lessee".

E. Assignment of Parking Contract: MLC agrees to deliver to CITY, at the time of closing, an Assignment of all of MLC's interest, if any, in a certain Parking Contract providing 220 long term reserved parking spaces in the Mid-City parking garage, San Antonio, Texas, being 110 parking spaces for the Majestic property and 110 spaces for the "Brady/Empire" property.

F. Title Policy: MLC agrees to deliver to CITY, at the time of closing, an Owner's Title Insurance Policy, insuring good and indefeasible title in the Real

Property subject to the aforesaid exceptions contained in the deed, as well as, the standard exceptions set forth herein, and in the form prescribed by the Texas State Board of Insurance.

11. ADDITIONAL CONDITIONS OF SALE: The obligations of CITY and MLC are further conditioned upon:

A. MDC securing and tendering to CITY, at least five (5) days prior to closing, evidence of approved loans, reflected by commitment letters providing sufficient funds in the amount of $6.0 million for the purpose of renovating the Majestic Building and the Brady Building improvements located on the land being conveyed hereunder, and TDC securing and tendering to CITY, at least five (5) days prior to closing, evidence of approved loans, reflected by commitment letters providing sufficient funds in the amount of (1) $3.2 million for the purposes of purchasing the Majestic Theater and the Empire Theater improvements, and (2) $5.3 million for the purpose of renovating the Majestic Theater and Empire Theater improvements located on said land.

B. MDC and TDC providing to CITY, at the time of closing, fully-executed construction contracts providing performance bonds and payment bonds from the contractor(s) showing the City of San Antonio as an additional principal on said bonds, each bond in an amount adequate to provide for the substantial completion of renovation of all building improvements and theater improvements called for herein.

C. This Contract contains the entire consideration for the sale and conveyance of the Real Property described herein, there being no other written or parol agreement with any officer or employee of the City or any other person.

D. Notwithstanding the prior acceptance of this offer, if examination of title or any other source discloses any defects in said title which in the opinion of the CITY cannot be cured in a reasonable time, then CITY, in lieu of completing the purchase of said property, may proceed to acquire the same by condemnation. MLC, as Seller herein, agrees, as an independent stipulation, to such condemnation upon payment of just compensation, which shall be the purchase price above stated, which price MLC hereby declares to be the fair market value of its interest in said property.

E. Assurance from CITY that no replatting or rezoning is necessary.

F. Evidence to be provided by MLC or other parties named herein of a good faith effort to start initiation of those steps necessary to secure approval of the Historic Review Board, Fine Arts Commission, Planning Commission, and any other boards and commissions necessary to effectuate renovation work on the improvements.

G. MLC providing to CITY a Theater Lease between THEATER DEVELOPMENT COMPANY, as Lessor, of the Majestic Theater and the Empire Theater improvements and City, as Lessee, for use of such improvements.

H. MLC providing to CITY an Assignment of all of MLC's interest, if any, in a certain Parking Contract providing 220 long term reserved parking spaces in the Mid-City Garage, San Antonio, Texas, being 110 parking spaces for the Majestic Property and 110 parking spaces for the Brady/Empire Property.

I. MLC agreeing to remove those certain encumbrances created by the Option Agreement by and between BRADY/EMPIRE LTD., as Optionor and SAN ANTONIO EMPIRE, INC., as Optionee, filed of record in Volume 3065, Pages 1621-1632, Official Public Records of Real Property of Bexar County, Texas.

J. CITY recognizes that MLC is not the current legal owner of fee simple title to the Real Property, and the obligations of CITY and MLC hereunder are conditioned upon MLC acquiring title to the Real Property simultaneously with or prior to the closing of the transaction contemplated by this Purchase Contract.

K. CITY's commitment to enter into this Contract shall be voidable, at CITY's option, in the event MLC, MDC or TDC fails to meet any of its material commitments, as determined by CITY in its reasonable discretion outlined herein.

L. In addition, CITY's commitment to enter into this contract shall be voidable at CITY's option, in the event of any of the following:

(1) MLC's insolvency and/or institution of bankruptcy proceedings;

(2) Appointment of receiver for MLC's assets;

(3) Assignment of MLC's assets for the benefit of their creditors.

If any of the above events happen to an individual of MLC and the result affects the obligations of MLC hereunder, then CITY may cancel this contract.

M. CITY may cancel this Contract if any actions to be taken herein violate federal law, state law, City or County ordinances or provisions of City Charter or City Code of the City of San Antonio, Texas, or any other statute, regulation, or administrative ruling, whether federal, state, county, or city in nature.

N. MLC recognizes that CITY's financial resources regarding such land purchase are limited to the certificates of obligation or other financing in the amount of $6.6 million (plus any accrued interest thereon).

12. SURVIVAL OF OBLIGATIONS: All agreements, conditions, duties and obligations of the parties herein, pertaining to the period of time following the Closing, shall survive the Closing and shall not be merged therein.

13. TIME OF THE ESSENCE: Time is of the essence in this Contract. Therefore, if any of the time deadlines called for herein are not met by the party responsible for meeting such deadlines, (hereafter "defaulting party"), then the non-defaulting party shall notify the defaulting party in writing and allow a period of thirty (30) days to cure such default. If the default is not cured within such 30-day period, then any benefits due or accruing to the defaulting party will be withheld by the non-defaulting party.

14. ASSIGNMENT: Except for an assignment by VIRGINIA VAN STEENBERG, as TRUSTEE and/or ASSIGNS to the MAJESTIC LAND CORPORATION, a to-be-formed Texas Business Corporation, which assignment is herein approved, assignment by MLC is prohibited, save and unless any potential assignee is approved by the San Antonio City Council prior to any assignment or unless such assignment is made to the holder of any mortgage as security for such mortgage. Any Assignee shall be required to recognize the rights of CITY hereunder and will agree to honor all duties and obligations of MLC hereunder. MLC shall notify CITY in writing immediately after any such assignment by providing a signed copy of the Assignment to CITY. MLC's Lender(s) shall be an acceptable assignee(s) to CITY, but notice to CITY is still required.

15. RELATIONSHIP OF PARTIES: CITY and MLC hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein shall be construed as making MLC and CITY joint venturers or partners.

16. MODIFICATIONS: This Contract cannot be changed or modified except by agreement in writing signed by both CITY and MLC.

17. APPROVALS AND CONSENTS: If any provision hereof requires the approval or consent of CITY or MLC to any act or omission, such approval or consent shall not be unreasonably withheld or delayed.

18. GOVERNING LAW: This Contract shall be governed by and construed and interpreted in accordance with the laws of the State of Texas.

19. NOTICES: Notices to CITY required or appropriate under this Contract shall be deemed sufficient if in writing and mailed, registered mail or certified mail, postage pre-paid, addressed to:

City Clerk, City of San Antonio
P. O. Box 9066
San Antonio, Texas 78285

or to such other address as may be designated from time to time in writing by the City Manager of CITY. Notices to MLC shall be deemed sufficient if in writing and mailed, registered or certified mail, postage pre-paid, addressed to:

Majestic Land Corporation
c/o Virginia Van Steenberg
Van Steenberg Enterprises, Inc.
P. O. Box 12566
San Antonio, Texas 78212

Notices shall be deemed to have been given and received when deposited in the United States Mail as described above. MLC and CITY may at any time, by giving ten (10) days' prior written notice to the other party hereto, designate any other address in substitution of the foregoing address to which notices shall be given.

20. SEVERABILITY: If any term, covenant, or condition of this Contract or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and each remaining term, covenant, or condition of this Contract shall be valid and shall be enforced to the fullest extent permitted by law.

AGREED to this 12th day of October, 1987.

SELLER:

Virginia Van Steenberg

VIRGINIA VAN STEENBERG, as
TRUSTEE and/or ASSIGNS for
MAJESTIC LAND CORPORATION,
a to-be-formed Texas Business
Corporation

BUYER:
CITY OF SAN ANTONIO:

BY: _____
Louis J. Fox, City Manager

AFS21ag:LJP
09-30-87

EXHIBIT-"A"

THIS LEASE IS SUBJECT TO ARBITRATION
UNDER THE TEXAS GENERAL ARBITRATION ACT,
TEXAS REVISED CIVIL STATUTES ARTICLE 224 ET. SEQ.

GROUND LEASE

BETWEEN

MAJESTIC LAND CORPORATION, AS LESSOR

AND

MAJESTIC DEVELOPMENT COMPANY, AS LESSEE

DATED AS OF OCTOBER ___, 1987

GROUND LEASE
MAJESTIC BUILDING AND BRADY BUILDING

This GROUND LEASE AGREEMENT, dated this _____ day of _____, 1987 (the "Agreement"), is entered into by between MAJESTIC LAND CORPORATION hereinafter "Lessor", and MAJESTIC DEVELOPMENT COMPANY, hereinafter "Lessee". The terms "Lessor" and "Lessee" shall include their successors and assigns wherever the context so requires or permits.

I.

EFFECTIVE DATE

This Lease shall become effective by all parties hereto upon the date of the party last signing, hereinafter the "effective date".

II.

DESCRIPTION OF PROPERTY

In consideration of the mutual covenants contained herein, Lessor hereby leases to the Lessee, and the Lessee hereby leases from the Lessor all of the surface and subsurface of the land more particularly described on Exhibit "A" attached hereto (the "Land") which Land shall not include any of the improvements situated upon or under such land, but shall include the following: all rights, privileges, easements, appurtenances, and immunities belonging to or in any way appertaining to the Land (but not Improvements), including, but not limited to, any and all easements, rights, encroachments on to City of San Antonio property located adjacent to the Land, title, and privileges of Lessor now or hereafter existing in, to, or under adjacent streets, sidewalks, alleys, party walls, and property contiguous to the Land and reversions which may hereafter accrue to Lessor as owner of the Land by reason of the closing of any street, sidewalk, or alley (the "Appurtenances"). The Land and Appurtenances shall hereinafter be referred to together as the "Premises."

The Premises shall be subject to a more definitive legal description as shall be obtained by the Lessee from an accurate boundary survey acceptable to Lessee, at Lessee's cost.

III.

USE

Lessee shall have the right to use and enjoy the Premises for any lawful purposes. In this connection, and without detracting from the foregoing, it is understood and agreed that the primary purposes for which the Premises have been leased are for use as offices, a performing arts theater or auditorium, housing, lodging, restaurant, retail, and the serving of alcoholic beverages for on or off premises consumption.

IV.

TERM

(a) The Lessee, its successors and assigns are to have and to hold the Premises for an original term which shall begin upon the effective date of this Lease Agreement and continue until that date which is twenty (25) years from the Commencement Date (as hereinafter defined). The parties agree upon demand of the other to execute a written Memorandum in recordable form expressing the commencement and termination dates of the term hereof, when such exact dates have been determined.

(b) Provided that the Lessee is not in default of its obligations under this Lease in any material manner, Lessee shall have the option of extending the term hereof for five (5) additional periods of five (5) years each, commencing at midnight on the date on which the original term or any extended term of this Lease terminates. The lease extensions shall be automatic so that unless the Lessee shall give to the Lessor notice that it does not intend to renew this Lease, which notice must be given not later than ninety (90) days prior to the expiration of the preceding term, the parties shall be deemed to have elected to extend the terms and conditions of this Lease for the next option term as herein set forth.

(c) For purposes of this Agreement, the term "Lease Year" shall refer to each successive twelve (12) month period of the term of this Lease, beginning with the Commencement Date of this Lease; provided, however, the first Lease Year of this Lease shall include the twelve (12) month period beginning with the Commencement Date of this Lease, plus that period of time beginning with the effective date of this Lease and ending upon the Commencement Date of this Lease.

(d) As used herein, the term "Commencement Date" shall mean the date (i) both Lessor and Lessee have executed this Agreement and (ii) the City of San Antonio has been assigned all of Lessor's right, title and interset in this Lease and agrees to assume this Lease.

V.

RENT

(a) Beginning with the Commencement Date of this Lease, Lessee covenants and agrees to pay Lessor a Monthly Rental Payment for each month during the Term of this Lease in that amount which is equal to thirty-three and 33/100 per cent (33.33%) of the "Net Profits" (as hereinafter defined) collected and earned during such month from the operations of those improvements (the "Improvements") owned by Lessee and located upon the Premises. The Monthly Rental Payment shall be paid to Lessor on that date which is the fifteenth (15th) day of the month following the month for which said payment is due. For purposes of this Agreement, the term "Net Profits" shall mean all gross receipts ("Gross Receipts") collected and earned by Lessee from the operations of the Improvements during each month excluding deposits and prepaid rents less the sum of (i) all costs or expenses which are paid or accrued during such month, as determined by generally accepted accounting principles consistently applied, and (ii) reasonable reserves for expenses or payments which are made less often than monthly (such as insurance, ad valorem taxes and other similar expenses) to the extent the expenses are not reflected in the accrued expenses set out in (i), above (such reserve to be determined by allocating such payments pro rata over the time period to which it applies) all according to generally accepted accounting principles, consistently applied; (iii) any and all payments made to reduce the principal of any mortgage or other debt owed by Lessee in connection with the acquisition, renovation, maintenance repair or operation of the Improvements (or a reasonable reserve for such payments to the extent that the payment is to be made less often than monthly, such reserve to be determined by allocating such payments pro rata over the time period to which it applies.); and (iv) any and all "Cumulative Losses" (as herein defined) which have been incurred by Lessee Items (i) through (v) shall collectively be hereinafter referred to as the "Expenses". For the purpose of this section, the term "Cumulative Losses" shall be that amount by which all Expenses during the term of this Lease have exceeded the Gross Revenue during the term of the Lease; but only to the extent that such sum is not funded by funds borrowed by the Lessee.

(b) If Lessee fails to pay Lessor, when due, any of the Monthly Rental Payments, then beginning with the second such delinquent Monthly Rental Payment for any Lease Year, and continuing thereafter for each subsequent payment which is not paid when due during such Lease Year, Lessee will pay to Lessor, upon demand, a late charge equal to three percent (3%) of the past due Monthly Rental Payment, if any. Failure of Lessee to pay such late charges, upon Lessor's written demand, shall be an event of default hereunder. Provisions for such late charge shall be in addition to all other rights and remedies available to Lessor hereunder or at law or in equity, and shall not be construed as liquidated damages or as limiting Lessor's remedies otherwise provided hereunder, in any manner.

(c) Lessee shall maintain a permanent, accurate set of books and records which sets forth the "Net Profits" relating to the Improvements owned by Lessee and situated upon the Premises. Such permanent record shall be retained and preserved for at least three (3) years after the Monthly Rental Payment period to which they relate. All such records shall be open to inspection and audit by Lessor and its agents at all reasonable times during normal business hours. Annually, on or before ninety (90) days after the end of each Lease Year, Lessee shall deliver to Lessor, at the place where rent is payable, a complete statement (the "Net Profits Report") of the Net Profits relating to the Improvements situated upon the Premises for the prior Lease Year. In the event Lessor is not satisfied with the Net Profits Report, Lessor shall have the right to conduct a special audit of the Net Profits Report carried out by an independent certified public accountant acting in the capacity of an auditor (the "Auditor") selected by Lessor and Lessee. Any such request shall be made by providing written notice to Lessee at least thirty (30) days prior to the date scheduled for such audit. In the event Lessor and Lessee are not able to agree upon an auditor within thirty (30) days following Lessor's written request for such audit, Lessee shall select an auditor, Lessor shall select an auditor and the two auditors selected shall select a third auditor who shall carry out the audit. In the event the Net Profits Report is found to be incorrect to the extent of more than five percent (5%) over the figure submitted by Lessee, Lessee shall pay for such audit, otherwise the cost of such audit shall be paid by Lessor. Lessor's right to examine Lessee's books and records shall be available to Lessor only for a period of three (3) years after the Monthly Rental Payment period to which they relate. If such audit shall show a deficiency in the required Monthly Rental Payments for the period covered, the amount thereof shall be paid promptly by Lessee. If such audit shall show that

Monthly Rental Payments have been overpaid, the excess shall be refunded promptly to Lessee.

VI.

TAXES

In addition to the rent specified in Article V, above, Lessee shall pay and discharge, when due, all taxes, general and special assessments, and other charges of every description which are levied or assessed, against the Improvements. If, for tax purposes, the Premises, and Improvements are assessed as a whole, the Lessor shall use its best efforts to cause the Improvements to be separately assessed and taxed. If Lessor cannot cause the Improvements to be separately assessed and taxed, such taxes and assessments shall be equitably allocated. Lessor shall pay or cause to be paid all other taxes assessed against the Premises. Lessor shall be responsible for all taxes, general and special assessments and other charges of every description levied or assessed against the Premises, if any.

In the event any taxes or other impositions may be payable in installments, Lessee shall have the right to pay the same as such installments fall due. Lessee shall pay all such taxes, charges and assessments directly to the public officer charged with their collection before they become delinquent and shall, upon written request of Lessor, deliver to Lessor a copy of the receipt for such payment. If Lessee fails to pay any such tax, charge or assessment within the allotted time period, Lessor may give Lessee written notice of such default; if Lessee fails to make such payment within five (5) days after receipt of such notice, Lessor may pay the items specified in the notice. Lessee covenants to reimburse Lessor, upon demand, for any amount so expended or paid by Lessor, with interest thereon at the highest legal rate per annum from the date of such payment by Lessor until reimbursement by Lessee.

All of the above notwithstanding, the Lessee shall have the right, at its own cost and expense, to initiate and prosecute any proceedings permitted by law for the purpose of obtaining an abatement of or otherwise contesting the validity or amount of taxes assessed to or levied upon the Improvements and, if required by law, the Lessee may take such action in the name of the Lessor, provided, however, that the Lessee shall fully indemnify and save Lessor harmless from all loss, cost, damage and expense incurred by or to be incurred by the Lessor as a result thereof, and further provided that Lessee shall, at Lessor's request, escrow or post a bond for the full amount of the tax claimed

pending such proceeding. Any tax being subject to a valid contest, in accordance with the terms of this Agreement, shall in no event be deemed to be due and payable.

VII.

UTILITIES

Lessee shall pay or cause to be paid all charges for water, heat, gas, electricity, sewer, telephone, cable television and all other utilities and hook-ups for such utilities used in connection with the operations of the Premises during the term of this Lease, as and when such utility payments are due and payable. The above notwithstanding, Lessee shall have the right, at its cost and expense, to initiate and prosecute any proceeding permitted by law or equity for the purpose of obtaining an abatement of or otherwise testing the validity or amount of utility payments which are due and owing by Lessee in connection with its operation of the Premises. Any utility payment being subject to a valid contest, in accordance with the terms of this Agreement, shall in no event be deemed to be due and payable.

VIII.

INSURANCE AND INDEMNIFICATION

(a) Excluding sole negligence on the part of Lessor, its employees, agents or contractors, Lessee shall and will indemnify and save harmless only Lessor, its agents, officers, and employees, from and against any and all liability claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions, and causes of action of any and every kind and nature arising or growing out of or in any way connected with Lessee's use, occupancy, management, operation or control of the Premises. This obligation to indemnify shall include the retention of outside legal counsel and third-party investigation costs and all other reasonable costs, expenses, and liabilities from the first notice that any claim or demand has been made. It is expressly understood and agreed that Lessee is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that Lessor shall in no way be responsible therefor.

(b) Lessor shall not be liable for any damage to either persons or property sustained by Lessee, its employees, agents or contractors or other persons and caused

by any act or omission of subtenants, its employees, agents or contractors or any other occupants of the Premises.

(c) Lessee shall at all times including during the construction or renovation stage of Lessee's improvements located upon the Premises, maintain, with respect to the Premises and Lessee's Improvements located thereon, for the duration of this Lease and any extensions thereof, insurance issued by a company or companies qualified to do business in the State of Texas in the following types and amounts:

	TYPE	AMOUNT
(1)	Comprehensive General (Public) Liability--to include coverage for the following where the exposure exists: (A) Premises/Operations (B) Independent Contracts (C) Products/Completed Operations (D) Personal Injury (E) Contractual Liability (F) Explosion, collapse and underground property damage (G) Elevator	Combined Single Limit for Bodily Injury and Property Damage: $1,000,000
(2)	Property Insurance--for physical damage to the property of Lessee including Improvements and betterments to the Premises.	Coverage for a minimum of 80% of the replacement cost of the Improvements.
(3)	Worker's Compensation and Employer's Liability	Statutory - $100,000 each accident
(4)	Comprehensive Automobile Liability--to include coverage for: (A) Owned/Leased Automobiles (B) Non-owned Automobiles (C) Hired Automobiles	Bodily Injury: $100,000 per person, $300,00 per occurrence; or Property Damage: $100,000 per occurrence; or Combined Single Limit for Bodily Injury and Property Damage: $300,000

(5)	Builder's Risk Insurance Coverage for a minimum of 80% of all risks of physical loss during the term of the construction contract and until a certificate of occupancy is issued for such work.	Lessee shall procure and maintain in full force and effect during the reconstruction phase of the Improvements adequare builder's risk insurance coverage for a minimum of 80% of the replacement cost of Improvments.

(d) Lessee agrees that with respect to the above required insurances, Lessor shall:

(i) Be made as an additional insured, as its interest may exist, save and except for worker's compensation and Employer's liability coverage.

(ii) Be provided with sixty (60) days advance notice, in writing, of cancellation or material change in coverage. If any insurance policy provides that the insurer will give such notice, then Lessee shall not be obligated to do so with respect to such policy.

(iii) Be provided with Certificate of Insurance evidencing the above required insurances at the time the policies are required to be obtained and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies.

Said notices and Certificate of Insurance shall be provided to Landlord at the place for notice set out herein.

(e) Lessor shall review Lessee's required insurance as stated herein at the time of renewal of the said policies and/or at the time of a material change and Lessor reserves the right to require reasonable additional limits and/or coverages. Lessee agrees to comply with any such request by Lessor.

(f) If any blanket general insurance policy of Lessee complies with these requirements, such insurance shall fulfill the requirements set forth herein subject to approval of the appointed risk manager of Lessor, which approval shall be exercised in a reasonable manner. At the request of Lessee, any leasehold mortgage may be named as an insured or an additional insured on any policies as its interest may appear.

IX.

REPRESENTATIONS AND WARRANTIES OF LANDLORD AS TO TITLE

(a) Lessor covenants and warrants that Lessor is seized of fee simple title to the Premises, free, clear and unencumbered, except for those encumbrances set out on Exhibit "B" attached hereto. Lessor covenants that so long as Lessee fulfills the conditions and covenants required of it to be performed, Lessee will have peaceful and quiet possession thereof. Lessor further covenants and warrants that it has good right, full power and lawful authority to make this Lease for the full term and any extensions thereof. In the event that the Premises are not free, clear and unencumbered, other than as set out in Exhibit "B" attached hereto, or become burdened through no act or neglect of the Lessee, or in the event of a breach of either of these covenants whether intentional or otherwise. Lessee shall have the right and the option of cancelling this Lease if such burden or encumbrance is not removed by Lessor within sixty (60) days after receipt of notice from Lessee, thereby being released of all of the several covenants herein contained as of the date that notice of the exercise of such option is given to the Lessor.

(b) During the term of this Lease Lessor shall promptly disclose to Lessee any material fact or development of which Lessor has notice which could adversely effect Lessee's operations on the Premises.

(c) Lessor and Lessee understand and agree that Lessee is the fee simple owner of all of the Improvements (modification and additions thereto) located upon the Premises and that such Improvements shall remain the Improvements of Lessee during the term of this Lease, in accordance with the terms of this Lease.

X.

IMPROVEMENTS AND ALTERATIONS

(a) During the term of this Agreement, Lessee shall have the right to alter, renovate or improve the Premises and, from time to time, to construct a new building and improvements and subsequent additions and alterations to the existing Improvements upon the Premises as may be desirable, provided that the same are performed in accordance with the Construction Standards set out below. All of such Improvements, alterations and additions thereto shall be and remain the property of the Lessee during the term of this Lease and any extensions thereof. Lessee may not remove any such Improvements, alterations or additions thereto upon the termination of this Lease and after the expiration of such Term all Improvements, alterations, additions and abandoned furniture, fixtures and equipment (as determined below), shall be

deemed to have been abandoned, and title shall become vested in the Lessor, or its successors in interest to its leasehold estate subject to the obligations of Lessee relating to such Improvements in force at the expiration of the term of this Lease. The above notwithstanding, Lessee may remove any of its furniture, fixtures and equipment (other than signage) located in or about the Improvements, alterations or additions at any time during the term of this Lease and for sixty (60) days thereafter, provided Lessee has not been notified by Lessor of any material items of default under the terms of this Lease.

(b) Any and all Improvements existing or constructed on the Premises by or for Lessee shall be constructed, and any and all alteration, renovation, repair, or other work with regard thereto shall be performed, in all material respects, in accordance with the following "Construction Standards":

(i) all such construction or other work shall be performed in a good and workmanlike manner, substantially in accordance with the plans and specifications therefore, in accordance with good industry practice for the type of work in question;

(ii) all such construction or work shall be done in compliance with all applicable building codes, ordinances, and other laws or regulations of governmental authorities having jurisdiction;

(iii) no such construction or work shall be commenced until there shall have been first obtained licenses, permits, and authorizations required by all governmental authorities having jurisdiction; and

(c) At any time and from time to time during the term of this Lease, Lessee may, at its sole cost and expense, construct such improvements or alterations, renovations and, repairs upon the Premises, as Lessee may deem necessary, provided that the same is performed in accordance with the Construction Standards. At all time during the term of this Lease, Lessee shall keep and maintain, or cause to be kept and maintained, all Improvements situated upon the Premises in a good state of appearance and repair, reasonable wear and tear excepted.

XI.

LIENS

The Lessor and Lessee covenant each with the other not to permit any lien to be filed against the Premises, or any Improvements located on the Premises or Lessee's leasehold interest in the Premises, on account of nonpayment or dispute with respect to labor or materials furnished in connection with

construction or any subsequent repairs, modifications or additions thereto, nor shall the parties permit any final judgment, lien or attachment to lie against the Premises for any other reason. Should any lien of any nature be filed against the Lessor's interest in the Premises, or against any Improvements located upon the Premises or against the Lessee's leasehold interest in the Premises, the Lessee shall within thirty (30) days following such filing cause such lien to be removed by substitution of collateral or otherwise. The above notwithstanding, Lessee shall have the right, at its own cost and expense, to initiate and prosecute any proceeding permitted by law for the purpose of obtaining an abatement or otherwise contesting the validity or amount of account relating to the non-payment or dispute of labor or material costs furnished in connection with the construction or subsequent repairs, modifications or judgments thereto provided no such lien remains of record filed against the Land.

XII.

LEASEHOLD MORTGAGE

In the event that Lessee shall pledge its leasehold estate as security for an indebtedness in any form whatsoever (this pledge hereinafter referred to as a "mortgage"), and if the holder of the indebtedness secured by the leasehold estate (hereinafter "mortgagee") notifies the Lessor of the execution of such mortgage, and the name and place for service of notices upon such mortgagee, then and in such event, Lessor hereby agrees for the benefit of Lessee and such mortgagee from time to time:

(a) That Lessor will give to any such mortgagee simultaneously with service on Lessee a duplicate of any and all notices or demands given by Lessor to Lessee and no such notice to Lessee shall be effective unless a copy is so serviced upon the mortgagee.

(b) In the event of any default by Lessee hereunder, or under the terms of the mortgage, such mortgagee shall have the privilege of performing any of Lessee's covenants or of curing any defaults by Lessee or of exercising any election, option or privilege conferred upon Lessee by the terms of this Lease.

(c) Lessor shall not terminate this Lease or Lessee's right of possession for any default of Lessee if, within a period of thirty (30) days after the expiration of the period of time within which Lessee might cure such default, such default is cured or caused to be cured by such mortgagee or, if within a period of thirty (30) days after the expiration of the period of time within which Lessee might commence to eliminate the cause of such default, such mortgagee commences to eliminate the cause of

such default and proceeds therewith diligently and with reasonable dispatch.

(d) No liability for the payment of rental or the performance of any of Lessee's covenants and agreements hereunder shall attach to or be imposed upon any mortgagee while not in possession of the Premises, unless such mortgagee has undertaken to cure a default by Lessee or has undertaken to commence to eliminate the cause of any such default.

(e) The execution and delivery of a leasehold mortgage by Lessee, deed of trust and a conditional assignment of this Lease by Lessee, as collateral security therefor shall not be deemed a Lease assignment for any other purpose.

XIII.

DEFAULT

(a) In the event that the Lessee shall fail to pay the Monthly Rental Payments when due or shall fail to materially perform any of its other obligations under this Lease (after notice of such default or breach shall have been given as hereinbelow provided), the Lessor may, at its option, elect either:

(i) To terminate this Lease in which event Lessee shall immediately surrender the Premises to Lessor, and if Lessee fails to do so, Lessor may, without prejudice to any other remedy which he may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Lessee and any other person who may be occupying said Premises or any part thereof.

(ii) To enter upon and take possession of the Premises, alter locks and other security devices at the Premises, and expel or remove Lessee and any other person who may be occupying said Premises or any part thereof, and, if Lessor so elects, relet the Premises on such terms as are reasonable and as Lessor may deem advisable and receive the rent therefor; Lessee agrees to pay to Lessor on demand any deficiency that may arise by reason of such reletting.

(iii) Such election shall be made by written notice to the Lessee at any time on or before the doing of any act or the commencement of any proceedings to recover possession of the Premises by reason of the default or breach then existing and shall be final. If the Lessor shall elect to terminate this Lease, all rights and obligations whatsoever of the Lessee and of its successors and assigns, so far as the same may relate to the unexpired portion of the term hereof shall cease, and within ten

(10) days after receipt by the Lessee of notice of election by the Lessor to terminate this Lease, the parties shall, by an instrument in writing in form for recording, cancel this Lease and the unexpired portion of the term hereof and the Lessee shall surrender and deliver up to the Lessor the entire Premises, together with all Improvements and additions, except trade fixtures, signage, trade marks and other personal property, and, upon any default by the Lessee in so doing, the Lessor shall have the right forthwith to re-enter the Premises either by summary proceeding or otherwise.

(b) In the event Lessor elects to re-enter or take possession of the Premises after Lessee's default, Lessee hereby waives notice of such re-entry or repossession and of Lessor's intent to re-enter or retake possession. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or provided by law, nor shall pursuit of any other such remedy constitute a forfeiture or waiver of any rent due to Lessor hereunder or of any damages occurring to Lessor by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Lessor to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. The loss or damage which Lessor may suffer by reason of termination of this lease or the deficiency arising by reason of any reletting by Lessor as above provided, shall include the expense of repossession.

(c) Rightful exercise by Lessor of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises by Lessee, whether by agreement or by operation of law, it being understood that such surrender can be affected only by the written agreement of Lessor and Lessee. No such alteration of security devises and no removal or other exercise of dominion by Lessor over the property of Lessee or others at the Premises shall be deemed unauthorized or constitute a conversion, Lessee hereby consenting, after any event of default, to the aforesaid exercise of dominion over Lessee's property within the Premises.

(d) Lessee agrees that any re-entry by Lessor may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings or without the necessity for any legal proceedings, as Lessor may elect, and Lessor shall not be liable in trespass or otherwise.

(e) In the event that Lessor elects to repossess the Premises without terminating the Lease, the Lessee shall be liable for and shall pay to Lessor all rent and other indebtedness accrued to the date of such repossession, plus rent required to be paid by Lessee to Lessor during the remainder of

the Lease term until the date of expiration of the term as provided for herein, diminished by any net sums thereafter received by Lessor through reletting the Premises during said period (after deducting expenses incurred by Lessor as provided for herein). In no event shall Lessee be entitled to any excess of any rent obtained by reletting over and above the rent herein reserved. Lessor shall use its best efforts to attempt to relet the Premises.

(f) In case of any event of default, Lessee shall also be liable for and shall pay to Lessor, in addition to any sum provided to be paid above; broker's fees incurred by Lessor in connection with reletting the whole or any part of the Premises; the cost of removing and storing Lessee's or other occupant's property; and all reasonably expenses incurred by Lessor in enforcing Lessor's remedies, including reasonably attorney's fees.

(g) If Lessee shall fail to make any payment or cure any default hereunder within the time herein provided, Lessor, without being under any obligation to do so and without thereby waiving such default, may make such payment and/or remedy such other default for the account of Lessee (and enter the Premises for such purpose), and thereupon Lessee shall be obligated to, and hereby agrees to pay Lessor, upon demand, all costs, expenses and disbursements (including reasonably attorney's fees) incurred by Lessor in taking such remedial action.

Neither bankruptcy, insolvency, nor the appointment of a receiver or trustee shall affect this Lease so long as the obligations of the Lessee are being performed by the Lessee or successors in interest.

No default or breach of covenant hereunder shall be deemed to have occurred on the part of the Lessee until thirty (30) days after written notice of such default or breach shall have been given to the Lessee, and the Lessee within such time shall have failed to remedy such default or breach. If any default by the Lessee, except payment of the rent, cannot reasonably be cured within thirty (30) days after notice, then the Lessee shall have additional time as may be reasonably necessary, provided Lessee has commenced to cure such default within thirty (30) days after notice thereof.

XIV.

CONDEMNATION

(a) If at any time during the term of this Lease or any extension thereof, the entire Premises or, in the judgment of Lessee, such a substantial portion thereof as would render the

balance of the Premises not suitable for the use to which the Premises was being utilized immediately prior thereto by the Lessee, shall be taken or appropriated by any competent authority for public or quasi-public use, Lessee may, at its option, terminate this Lease upon the date that possession is surrendered to the condemning authority, at which time all rights and obligations between the parties shall cease and rents and other charges apportioned. The taking of (i) Lessee's rights of ingress and egress from public right-of-ways, unless comparable access can be made available, or (ii) Lessee's right to maintain its Improvements on the Premises in accordance with the terms of this Lease shall be considered such a substantial taking as would render the use of the Premises not suitable for Lessee's use. Notwithstanding any provision of this Lease that the Improvements may be or shall become the property of the Lessor at the expiration of the full term hereof, the loss of (i) all or a portion of the Improvements paid for by the Lessee, (ii) Lessee's leasehold estate, and such additional relief as may be provided by law shall be the basis of Lessee's damages against the condemning authority if a separate claim thereof is allowable under applicable law, or shall be the basis of Lessee's claim to a portion of the total award as damages if only one award is made.

(b) In the event of a permanent partial taking or appropriation not resulting in a termination of this Lease, the Lessee shall be entitled to a reduction of rent during the unexpired portion of the term of this Lease, in such amount as shall be just and equitable. For purposes of determining what amount shall be just and equitable Lessor and Lessee shall attempt to arrive at a mutual agreement as to this sum, provided, however, in the event Lessor and Lessee are unable to reach an agreement as to this sum within sixty (60) days from the date notice of the taking is provided the dispute shall be submitted for resolve to the court exercising jurisdiction of condemnation proceedings, in Bexar County, in accordance with the provisions of paragraph (e) below. During that period of time beginning with the date of the permanent partial taking and ending on the date the dispute is resolved in accordance with paragraph (e), below, rental shall be adjusted by reducing the Monthly Rental Payments by that percentage which is determined by dividing the number of square feet within the Premises which is subject to the "taking" by the total number of square feet within the Premises and multiply 33-1/3% by such amount. The Net Profits percentage shall thereafter be reduced by such sum for purposes of computing all future Monthly Rental Payments. In the event this reduction in rental is just and equitable and fully compensates Lessee for its loss, the Lessee shall waive any claim for damage to or loss of its leasehold Improvements, and all of such award shall be payable to the Lessor, who shall use so much thereof as may be necessary to restore the Improvements located on the Premises as

nearly as possible to its original condition if the loss of such Improvements were made the basis for all or a portion of such award. Lessee shall have the option to perform such restoration, provided the whole of such award or such portion thereof as may be necessary to accomplish the restoration is made available to Lessee. In the event the reduction in rental is not just and equitable and does not fully compensate Lessee for its loss (i) rental shall be adjusted to that amount which is determined to be just and equitable in accordance with Section (e), below, effective as of the date of such determination, and (ii) in addition to such rental reduction Lessee shall have the option to have so much of the condemnation award as shall be necessary make up any overpayments in rent for the time of the taking to the date of the determination as well as to restore the Premises, including its Improvements, as nearly as possible to its original condition.

(c) If the taking of the whole of the Premises or such portion thereof or any access to the Premises as would render the use of the Premises, in Lessee's sole opinion, not suitable for Lessee's use as set forth above shall be taken for a period of one (1) year or less, the term of this Lease shall be tolled and, all rent and other charges payable to Lessor shall abate from the time possession of the Premises is surrendered to the taking authority and shall recommence when possession is restored to the Lessee. The basis for Lessee's damages against the condemning authority, if allowable, or against the total award shall be as suffered by Lessee for the interruption of Lessee's business and such additional relief as may be provided by law. If such taking should extend beyond one (1) year, the taking shall, for the purposes of this Lease and at the option of Lessee, be considered permanent with the basis of Lessee's damages computed as a total permanent taking.

(d) If less than the whole of the Premises or less than such portion thereof as would render the use of the Premises not suitable for Lessee's purposes as aforesaid is taken, Lessee shall be entitled to a reduction of rental as is just and equitable, upon such date as possession is surrendered to the taking authority and continuing until possession is restored to the Lessee. In consideration of such reduction of rental, Lessee shall waive all rights to any portion of the award as may be payable to the Lessor.

(e) Should the Lessor and Lessee be unable to agree as to the division of any singular award or the amount of any reduction of rents and other charges, such dispute shall (i) be submitted to arbitration between the parties, which arbitration shall be binding upon both parties, or (ii) be submitted for resolution to a court of competent jurisdiction which normally hears condemnation matters, each party bearing its respective costs for

such determination and such final determination by the court shall be deemed just and equitable.

XV.

NON-DISTURBANCE AND ATTORNMENT

(a) Lessor, within forty-five (45) days from final execution of this Lease, will obtain from the current holder of every mortgage or deed of trust upon the Premises, or real property upon which the Premises are located, an agreement in recordable form reasonably acceptable to Lessee wherein the mortgagee or holders of deeds of trust agree not to disturb the possession of Lessee, its sub-lessees, or the mortgagee of the leasehold estate so long as the Lessee, sub-lessee or any such mortgagee is not in default under the terms hereof. In the event any such mortgages are refinanced, any new financial institution shall, contemporaneously with the refinancing of the mortgage, execute a similar agreement in recordable form reasonably acceptable to Lessee wherein such mortgagee or holder of the deed of trust agrees not to disturb the possession of Lessee, Lessee's sub-lessee's, or Lessee's mortgagee of its leasehold estate, so long as the Lessee or any such mortgagee is not in default under the terms hereof.

(b) Lessor agrees not to further mortgage or encumber the fee or its leasehold estate from the date of execution of this Lease to the date of recording of a Memorandum of Lease; provided, however, after the date such Memorandum of Lease is executed, the Lessor may further mortgage or encumber the fee or its leasehold estate so long as the additional mortgage or encumbrance is subordinate to Lessee's rights under the terms of this Lease.

XVI.

ASSIGNMENT OR TRANSFER BY LESSOR OR LESSEE

No assignment or transfer of this Lease by the Lessor shall be binding on the Lessee unless the assignee or transferee shall assume and agree to be bound by the terms of this Lease and until notice of assignment or transfer together with an executed copy of such transfer instrument or assignment is received by the Lessee.

Except in the ordinary course of business, no assignment shall be made by Lessee of its rights under the terms of this Lease without the prior written approval of Lessor, which approval shall not be unreasonably withheld; provided, however, in the event Lessee requests the transfer of this Lease to a person who has a net worth equal to or greater than Lessee's net

worth, as of the date of the execution date of this Lease, and such new Lessee executes a written assumption agreement assuming all of Lessee's obligations hereunder, Lessor shall authorize such assignment, and a withholding by the Lessor of approval of such assignment shall be deemed to be unreasonable. In the event the Lessee assigns its interest in its Lease to a person who has a net worth equal to or greater than the Lessee as of the date of the request for such assignment, in accordance with the above provisions, the Lessee shall be released from its liability under the terms of this Lease.

The above notwithstanding, Lessee shall be entitled to sub-lease all or any part of the Premises, in connection with Lessee's lease of its Improvements located upon the Premises without the prior written consent of Lessor provided such sub-lease is carried out in connection with the rental of the Improvements in the ordinary course of Lessee's business. As a condition precedent to Tenant's sub-letting, Lessee agrees to furnish to Lessor and any mortgagee, upon request, an executed copy of each such sub-lease at the time the written instrument is executed.

XVII.

RECIPROCAL OBLIGATIONS

Whenever the Lessee or Lessor shall breach or fail to perform any of the covenants or provisions of this Lease, and such failure or breach shall cause either party to incur any damages or expenses whatsoever, such damages or expenses so incurred, with legal interest, and including penalties, costs and reasonable attorneys' fees, are to be paid by the person who is responsible for causing such damages.

XVIII.

SIGNAGE

Lessee shall have the right, and at Lessee's sole cost and expense, to erect signage on the Premises as may be deemed necessary by Lessee provided such signs comply with all City ordinances.

XIX.

NOTICES

All notices to the Lessee shall be addressed to the Lessee at its business offices at 205 N. Presa, San Antonio, Texas 78205 or at such other address as the Lessee shall designate in

writing. All notices to the Lessor shall be addressed to the Lessor at 205 N. Presa, San Antonio, Texas 78205, or at such other address as the Lessor shall designate in writing. Notwithstanding any provisions in this Lease to the contrary concerning modifications, a change in address may be effected by a registered or certified letter sent by either party to the other. Any notices to be given hereunder shall be given by placing the notice in the United States mail, certified or registered, properly stamped and addressed to the addresses shown herein or such other addresses as the respective parties may direct in writing to the other, or by personal delivery to such address, and such notice shall be deemed received upon placing in the mails, upon the next business day following delivery to Federal Express (or a similar "overnight" delivery service) or upon such personal delivery. All payments to the Lessor under the terms of this Lease shall be made at the address designated for notices to the Lessor.

XX.

REAL ESTATE COMMISSIONS

Neither Lessor or Lessee have entered into any commission agreements relating to this lease of the Premises.

XXI.

NONDISCRIMINATION, EMPLOYMENT AND WAGES

(a) Any discrimination by Lessee or its agents or employees on account of race, color, sex, age, religion, national origin or handicap, in employment practices or admission to the Premises, is prohibited.

(b) Lessee shall pay wages in accordance with applicable federal and state statutes to persons employed in its operations hereunder.

XXII.

LAWFUL OPERATION

Lessee agrees not to use the Premises or any Improvements situated upon said Premises, or any part thereof, for any use or purpose in violation of any valid and applicable law, regulation, or ordinance of the United States, the State of Texas, or the City of San Antonio, or other lawful authority having jurisdiction over the Premises; provided, however, that there shall be no violation by Lessee of this provision unless and until Lessor has notified Lessee in writing specifying the

alleged violation and until there has been a final adjudication that the specified use is in violation of the law, regulation, or ordinance specified in such written notice, and that such specified law, regulation, or ordinance is valid and applicable to the Premises, and until Lessee has had a reasonable time after such final adjudication to cure the specified violation.

XXIII.

RIGHT OF ENTRY AND INSPECTION

Lessee shall permit Lessor or Lessor's agents, representatives, or employees to enter on the Premises, at reasonable times and with prior notice to Lessee, for the purpose of inspection, to determine whether Lessee is in compliance with the terms of this lease, for purposes of maintaining, repairing, or altering the Premises, or for the purpose of showing the Premises to prospective lessees, purchasers, mortgagees, or beneficiaries under trust deeds.

XXIV.

MISCELLANEOUS

(a) Neither the Lessor nor the Lessee nor any of their agents have made any statement, promises or agreements verbally or in writing in conflict with terms of this Lease. Any and all representations by either of the parties or their agents made during the negotiations prior to execution of this Lease and which representations are not contained in the provisions hereof shall not be binding upon either of the parties hereto. It is further agreed that this Lease contains the entire agreement between the parties, and no rights are to be conferred upon the Lessor or Lessee until this Lease has been executed by both parties hereto.

(b) All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this agreement or any paragraph or clause herein may require, the same as if such words had been fully and properly written in the number and gender.

(c) The Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute one and the same instrument.

(d) The Lessor and Lessee are not and shall not be considered either joint venturers or partners and neither shall have power to bind or obligate the other except as set forth herein.

(e) In the event Lessee continues to occupy the Premises after the last day of the term hereby created, or after the last day of any extensions thereof, and the Lessor elects to accept rent thereafter, a tenancy from month to month only shall be created.

(f) Any legal proceedings initiated by reason of an alleged breach of this Lease by either the Lessee or the Lessor must be commenced within one (1) year from the date that such alleged breach occurred.

(g) If any provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances are other than those to which it is held invalid or unenforceable, shall not be affected thereby.

(h) No modification, alteration or amendment of this Lease shall be binding unless in writing and executed by the parties hereto, their heirs, successors or assigns.

(i) Any reference in this Lease to "the date hereof", the "effective date of this Lease" or "the date of this Lease" or any similar referral shall refer to the date that both Lessor and Lessee execute this Lease

(j) The head notes to the sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way confine, limit or proscribe the scope or intent of any section of this Agreement, nor in any way affect this Agreement.

IN WITNESS WHEREOF, the Lessor has hereunto caused this Agreement to be executed and sealed this _____ day of _____, 1987.

MAJESTIC LAND CORPORATION

By: _____
Name: _____
Title: _____

LESSOR

IN WITNESS WHEREOF, the Lessee has hereunto caused this Agreement to be executed and sealed this _____ day of _____, 1987.

MAJESTIC DEVELOPMENT COMPANY

By:_____
Name:_____
Title:_____

LESSEE

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, personally appeared _____, to me well known and known to me to be the individual described in and who executed the foregoing instrument as President of MAJESTIC LAND CORPORATION, and acknowledged to and before me that she executed such instrument as such President of said corporation and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this _____ day of _____, 1987.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, personally appeared _____, to me well known and known to me to be the individual described in and who executed the foregoing instrument as _____ of MAJESTIC DEVELOPMENT COMPANY, and acknowledged to and before me that he executed such instrument as such _____, and that said instrument is the free act and deed of said company.

WITNESS my hand and official seal this _____ day of _____, 1987.

_____
Notary Public, State of Texas

FZR15cd:ka
09/30/87-3

EXHIBIT B-1

ASSIGNMENT OF GROUND LEASE
MAJESTIC BUILDING AND BRADY BUILDING

This Assignment is made and entered into as of the ____ day of _____, 1987, by and between MAJESTIC LAND CORPORATION, a Texas corporation ("Assignor"), THE CITY OF SAN ANTONIO, a Municipal corporation in the State of Texas, ("Assignee"), acting by and through its City Manager, pursuant to Ordinance No. _____ dated the ____ day of October, 1987, hereinafter referred to as the "Ordinance", and MAJESTIC DEVELOPMENT COMPANY ("Lessee").

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor, Assignee and Lessee recite, agree and act as follows:

RECITALS:

1. Lease. Assignor, as Lessor, has entered into a certain ground lease ("Lease") dated _____ with MAJESTIC DEVELOPMENT COMPANY, as Lessee, for certain premises ("Premises") located in San Antonio, Bexar County, Texas, and more particularly described in the Lease which is attached hereto as Exhibit "A" and made a part hereof for all purposes.

2. Lessor's Interest. Assignor is the present owner of all right, title and interest of the Lessor under the Lease.

3. Assignment. Assignor desires to convey and assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in and to the Lease, and all of the rights, benefits and privileges thereunder.

EXHIBIT B-1

4. Consent. Lessee desires to give its consent to the assignment of Lessor's interest in the Lease.

AGREEMENTS AND ACTS:

1. Conveyance and Assignment. Assignor does hereby grant, bargain, sell, convey, assign, transfer, set over and deliver to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Lease, including without limitation, all of the rights, powers, estates and privileges of Assignor in, to and under the Lease and rent to accrue thereunder, and all rights of reversion and all of the rights and benefits of every description whatsoever belonging to or accruing to the benefit of the Lessor under the Lease.

2. Warranty. Assignor hereby warrants that Assignor is the owner of the entire Lessor's interest in and to the Lease, subject to all terms, conditions, reservations and limitations set forth in the Lease.

3. Exceptions. This Assignment is made free and clear of all encumbrances, except the matters ("Exceptions") set forth in Exhibit "B" attached hereto and made a part hereof for all purposes, subject to which Exceptions Assignee takes and accepts the Lease.

4. Assumption. Assignor shall not be responsible to the Lessee under the Lease for the discharge or performance of any duties or obligations to be performed or discharged by the Lessor thereunder as of and after the date hereof. Except as otherwise herein provided, by its execution hereof, Assignee hereby assumes

and agrees to perform all of the terms, covenants and conditions of the Lease on the part of the Lessor therein required to be performed, arising from and after the date hereof, and releases Assignor from all liability for such obligations.

5. Consent. Lessee hereby consents to the Assignment of Assignor's interest as Lessor under the Lease to Assignee and Assignee's assumption of Assignor's obligations thereunder, and Lessee agrees to look solely to Assignee for the performance of all of Lessor's obligations under the Lease from and after the date hereof and Lessee releases Assignor from all liability for such obligations.

6. Disclaimer of Warranties. The above notwithstanding, so long as Assignee or any City agency, commission or board is the owner of Lessor's interest under the Lease, Lessor's covenant and warranty ("Covenant") under Article IX(a) "that Lessor is seized of fee simple title to the Premises" will not be in effect and Assignee will not be liable for the breach of the Covenant and the parties hereto release Assignee from all claims or liability relating to the Covenant.

7. Successors and Assigns. All of the covenants, terms and conditions set forth herein shall be binding upon and shall

inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

Executed as of the ____ day of _____, 1987.

ASSIGNOR:

MAJESTIC LAND CORPORATION

By: _____
Name: _____
Title: _____

ASSIGNEE:

THE CITY OF SAN ANTONIO

By: _____
Name: _____
City Manager

LESSEE:

MAJESTIC DEVELOPMENT COMPANY

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as _____ for MAJESTIC LAND CORPORATION.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____, City Manager for THE CITY OF SAN ANTONIO, a Texas municipal corporation, on behalf of said corporation.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as _____ for MAJESTIC DEVELOPMENT COMPANY.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

AFS20as:pa
10/01/87-2

EXHIBIT B -2

AMENDMENT TO GROUND LEASE
MAJESTIC BUILDING AND EMPIRE BUILDING

This Amendment to Ground Lease ("Amendment") dated effective as of this ____ day of _____, 1987, is entered into by and between the CITY OF SAN ANTONIO ("CITY"), a Texas Municipal Corporation, acting by and through its City Manager pursuant to Ordinance No. _____, dated October 1, 1987, and MAJESTIC DEVELOPMENT COMPANY ("MDC") in accordance with the following provisions and covenants:

For good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, including but not limited to the mutual covenants set forth below, CITY and MDC recite, agree and act as follows:

1. Lease. MDC, as Lessee, entered into a Ground Lease ("Lease"), as Lessee with Majestic Land Corporation ("MLC"), as Lessor dated the 9th day of October, 1987, a copy of which Lease is attached hereto as Exhibit "A".

2. Assignment. By Assignment of Ground Lease dated as of _____, 1987, CITY assumed MLC's obligations as Lessor under the Lease as set out therein.

3. Amendment. CITY as Lessor and MDC as Lessee desire to amend the Lease and hereby amend the Lease as follows:

A. CITY and MDC amend the Lease to include the following three (3) new articles:

XXV.

Nondiscrimination, Employment and Wages

a. Any discrimination by Lessee or its agents or employees on account of race, color, sex, age, religion, national origin or handicap, in employment practices or in admission to the Premises, is prohibited.

b. Lessee shall pay wages in accordance with applicable Federal and State Statutes to persons employed in its operations hereunder.

XXVI.

Conflict of Interest

Lessee acknowledges that it is informed that Texas law prohibits contracts between the City of San Antonio and its

"officers" and "employees", and that the prohibition extends to an officer or an employee of city agencies such as city-owned utilities and certain city boards and commissions, and to contracts with any partnership, corporation or other organization in which the officer or employee has an interest. Lessee certifies (and any Assignment of this Lease to the City of San Antonio or any of such city agencies is made in reliance thereon) that neither it nor any person having an interest in the Lease by, through or under Lessee is an officer or employee of the City of San Antonio or any of its agencies.

B. CITY and MDC further amend the Lease to provide that for so long as CITY or any CITY agency, commission or board is the owner of Lessor's interest under the Lease, Lessor's covenant and warranty ("Covenant") under Article IX(a) of said Lease "that Lessor is seized of fee simple title to the Premises" will not be in effect and CITY will not be liable for the breach of such Covenant and the parties hereto release CITY from all claims or liability relating to the Covenant.

Executed as of the ____ day of _____, 1987.

LESSOR:

THE CITY OF SAN ANTONIO

By:_____
Name:_____
City Manager

LESSEE:

MAJESTIC DEVELOPMENT COMPANY

By:_____
Name:_____
Title:_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as City Manager for THE CITY OF SAN ANTONIO.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as _____ for MAJESTIC DEVELOPMENT COMPANY.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

AFS20av:pa

EXHIBIT C -1

ASSIGNMENT OF GROUND LEASE
MAJESTIC THEATER AND EMPIRE THEATER

This Assignment is made and entered into as of the ____ day of _____, 1987, by and between MAJESTIC LAND CORPORATION, a Texas corporation ("Assignor"), THE CITY OF SAN ANTONIO, a Municipal corporation in the State of Texas, ("Assignee"), acting by and through its City Manager, pursuant to Ordinance No. _____ dated the ____ day of October, 1987, hereinafter referred to as the "Ordinance", and THEATER DEVELOPMENT COMPANY ("Lessee").

For good and valuable consideration, the receipt and sufficiency which are hereby acknowledged, Assignor, Assignee and Lessee recite, agree and act as follows:

RECITALS:

1. Lease. Assignor, as Lessor, has entered into a certain ground lease ("Lease") dated _____ with THEATER DEVELOPMENT COMPANY, as Lessee, for certain premises ("Premises") located in San Antonio, Bexar County, Texas, and more particularly described in the Lease which is attached hereto as Exhibit "A" and made a part hereof for all purposes.

2. Lessor's Interest. Assignor is the present owner of all right, title and interest of the Lessor under the Lease.

3. Assignment. Assignor desires to convey and assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in and to the Lease, and all of the rights, benefits and privileges thereunder.

4. Consent. Lessee desires to give its consent to the assignment of Lessor's interest in the Lease.

AGREEMENTS AND ACTS:

1. Conveyance and Assignment. Assignor does hereby grant, bargain, sell, convey, assign, transfer, set over and deliver to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Lease, including without limitation, all of the rights, powers, estates and privileges of Assignor in, to and under the Lease and rent to accrue thereunder, and all rights of reversion and all of the rights and benefits of every description whatsoever belonging to or accruing to the benefit of the Lessor under the Lease.

2. Warranty. Assignor hereby warrants that Assignor is the owner of the entire Lessor's interest in and to the Lease, subject to all terms, conditions, reservations and limitations set forth in the Lease.

3. Exceptions. This Assignment is made free and clear of all encumbrances, except the matters ("Exceptions") set forth in Exhibit "B" attached hereto and made a part hereof for all purposes, subject to which Exceptions Assignee takes and accepts the Lease.

4. Assumption. Assignor shall not be responsible to the Lessee under the Lease for the discharge or performance of any duties or obligations to be performed or discharged by the Lessor thereunder as of and after the date hereof. Except as otherwise herein provided, by its execution hereof, Assignee hereby assumes

and agrees to perform all of the terms, covenants and conditions of the Lease on the part of the Lessor therein required to be performed, arising from and after the date hereof, and releases Assignor from all liability for such obligations.

5. Consent. Lessee hereby consents to the Assignment of Assignor's interest as Lessor under the Lease to Assignee and Assignee's assumption of Assignor's obligations thereunder, and Lessee agrees to look solely to Assignee for the performance of all of Lessor's obligations under the Lease from and after the date hereof and Lessee releases Assignor from all liability for such obligations.

6. Disclaimer of Warranties. The above notwithstanding, so long as Assignee or any City agency or board is the owner of Lessor's interest under the Lease, Lessor's covenant and warranty ("Covenant") under Article IX(a) "that Lessor is seized of fee simple title to the Premises" will not be in effect and Assignee will not be liable for the breach of the Covenant and the parties hereto release Assignee from all claims or liability relating to the Covenant.

7. Successors and Assigns. All of the covenants, terms and conditions set forth herein shall be binding upon and shall

inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

Executed as of the ____ day of _____, 1987.

ASSIGNOR:

MAJESTIC LAND CORPORATION

By:_____
Name:_____
Title:_____

ASSIGNEE:

THE CITY OF SAN ANTONIO

By:_____
Name:_____
City Manager

LESSEE:

THEATER DEVELOPMENT COMPANY

By:_____
Name:_____
Title:_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as _____ for MAJESTIC LAND CORPORATION.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____, City Manager for THE CITY OF SAN ANTONIO, a Texas municipal corporation, on behalf of said corporation.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as _____ for THEATER DEVELOPMENT COMPANY.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

AFS20aw:pa
10/01/87-1

EXHIBIT C -2

AMENDMENT TO GROUND LEASE
THEATER

This Amendment to Ground Lease ("Amendment") dated effective as of this ____ day of _____, 1987, is entered into by and between the CITY OF SAN ANTONIO ("CITY"), a Texas Municipal Corporation, acting by and through its CITY Manager pursuant to Ordinance No. _____, dated October 1, 1987, and THEATER DEVELOPMENT COMPANY ("TDC") in accordance with the following provisions and covenants:

For good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, including but not limited to the mutual covenant set forth below, CITY and TDC recite, agree and act as follows:

1. Lease. TDC, as Lessee, entered into a Ground Lease ("Lease") with Majestic Land Corporation ("MLC") as Lessor dated the _____ day of October, 1987, a copy of which Lease is attached hereto as Exhibit "A".

2. Assignment. By Assignment of Ground Lease dated as of _____, 1987, CITY assumed MLC's obligations as Lessor under the Lease as set out therein.

3. Amendment. CITY as Lessor and TDC, as Lessee, desire to amend the Lease and hereby amend the Lease as follows:

A. CITY and TDC amend the Lease to include the following three (3) new articles:

XXV.

Nondiscrimination, Employment and Wages

a. Any discrimination by Lessee or its agents or employees on account of race, color, sex, age, religion, national origin or handicap, in employment practices or in admission to the Premises, is prohibited.

b. Lessee shall pay wages in accordance with applicable Federal and State Statutes to persons employed in its operations hereunder.

XXVI.

Conflict of Interest

Lessee acknowledges that it is informed that Texas law prohibits contracts between the CITY of San Antonio and its

"officers" and "employees", and that the prohibition extends to an officer or an employee of city agencies such as city-owned utilities and certain city boards and commissions, and to contracts with any partnership, corporation or other organization in which the officer or employee has an interest. Lessee certifies (and any Assignment of this Lease to the City of San Antonio or any of such city agencies is made in reliance thereon) that neither it nor any person having an interest in the Lease by, through or under Lessee is an officer or employee of the City of San Antonio or any of its agencies.

XVII

Assignment of Parking Rights

The CITY hereby assigns to and agrees to transfer to TDC, upon execution of this Assignment all of the CITY's interest, if any, in providing 220 long-term reserved parking spaces in the Mid-City parking garage, San Antonio, Texas, being 110 parking spaces for the "Majestic" Property and 110 spaces for the "Brady/Empire" Property.

B. CITY and TDC further amend the Lease to provide that for so long as CITY or any CITY agency, commission or board is the owner of Lessor's interest under the Lease, Lessor's covenant and warranty ("Covenant") under Article IX(a) of said Lease "that Lessor is seized of fee simple title to the Premises" will not be in effect and CITY will not be liable for the breach of such Covenant and the parties hereto release CITY from all claims or liability relating to the Covenant.

Executed as of the ____ day of _____, 1987.

LESSOR:
THE CITY OF SAN ANTONIO

By:_____
Name:_____
City Manager

LESSEE:
THEATER DEVELOPMENT COMPANY

By:_____
Name:_____
Title:_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as City Manager for THE CITY OF SAN ANTONIO.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on this ____ day of _____, 1987, by _____ as _____ for THEATER DEVELOPMENT CORPORATION.

_____
Notary Public in and for
The State of Texas

My Commission Expires:

_____

Notary's Name Typed or Printed:

_____

AFS20au:pa

EXHIBIT-"D"

THIS LEASE IS SUBJECT TO ARBITRATION
UNDER THE TEXAS GENERAL ARBITRATION ACT,
TEXAS REVISED CIVIL STATUTES ARTICLE 224 ET. SEQ.

THEATER LEASE

BETWEEN

THEATER DEVELOPMENT COMPANY, AS LESSOR

AND

THE CITY OF SAN ANTONIO, AS LESSEE

DATED AS OF OCTOBER ___, 1987

THEATER LEASE
EMPIRE AND MAJESTIC

This THEATER LEASE AGREEMENT, dated this _____ day of _____, 1987 (the "Agreement"), is entered into by and between THEATER DEVELOPMENT COMPANY hereinafter "Lessor", and the CITY OF SAN ANTONIO, a municipal corporation in the State of Texas, hereinafter "Lessee", acting by and through its City Manager, pursuant to Ordinance No. _____, dated October 1, 1987, hereinafter referred to as the "Ordinance". The terms "Lessor" and "Lessee" shall include their agents, successors and assigns wherever the context so requires or permits.

I.

EFFECTIVE DATE

This Lease shall become effective by all parties hereto upon the date of the party last signing, hereinafter the "effective date".

II.

DESCRIPTION OF PROPERTY

In consideration of the mutual covenants contained herein, Lessor hereby leases to the Lessee, and the Lessee hereby leases from the Lessor the use of those improvements (hereinafter referred to as the "Improvements") situated upon (i) all of the real property (the "Theater Tract") more particularly described in Exhibit "A" attached hereto, and (ii) a portion of the real property (the "Building Tract") more particularly described on Exhibit "B" attached hereto, (collectively sometimes hereinafter referred to as the "Tracts") subject to any rights which are reserved to Lessor relating to use of the Improvements, relating to those areas within the Improvements which constitute (A) the Box Seats (as described in Article XVI, below, (B) concession areas as are reasonably defined by Lessor, from time to time, as established by Lessor in its reasonable discretion exercised in accordance with the Rules for USE OF THE PREMISES as described herein, and (C) office space, designated by Lessor for its use, in that amount reasonably necessary to provide Lessor's services required in accordance with the terms of this Lease. The Improvements to be leased hereunder are more particularly described on Exhibit "C" attached hereto. The Improvements are commonly known as the Majestic Theater and the Empire Theater. The Improvements together with the leasehold rights to be situated upon the Theater Tract and Building Tract shall hereinafter be referred to collectively as the "Premises"; however, in no event shall the Premises include the Tracts or any

Fee interests in such Tracts but shall only include Lessee's leasehold interest in such Tracts.

The Premises shall be subject to a more definitive legal description as shall be obtained by the Lessor from an accurate boundary survey acceptable to Lessor, at Lessor's cost.

Lessor and Lessee agree that Lessor may subject all or any portion of the Premises to a condominium regime or regimes, and Lessee will execute any and all documents and take such further actions as Lessor determines to be reasonably necessary to (i) modify this Lease so that the description of the Premises reflects the applicable property description as being within and subject to the condominium regime or (ii) otherwise impose the condominium regime on all or any portion of the Premises and/or other properties located adjacent to the Premises.

III.

USE

Lessee shall have the right to use and enjoy the Premises for a performing arts theater or auditorium and related uses.

IV.

TERM

(a) The Term of this Lease shall begin upon the effective date of this Lease Agreement and continue until that date which is twenty-five (25) years from the Commencement Date (as hereinafter defined); however, the Lessee is to have and to hold the Premises only for certain periods of time known as Bookings (as defined below) during the Term of this Lease. The parties agree upon demand of either party hereto to execute a written Memorandum in a form substantially similar to the form attached hereto as Exhibit "D" expressing the commencement and termination dates of the term hereof, when such exact dates have been determined.

(b) Either Lessee or Lessor shall have the right to extend the Term hereof for one (1) additional period of five (5) years, commencing at midnight on the date on which the original term of this Lease terminates. This lease extension shall be automatic so that unless both Lessor and Lessee provide each other with notice of their intention not to renew this Lease, which notice must be given not later than one hundred eighty (180) days prior to the expiration of the original term of this Lease, the parties hereto shall be deemed to have elected to extend the terms and conditions of this Lease for an additional five (5) year period

as herein set forth. Any reference in this Lease to "Term" shall also apply to any renewal period hereunder.

(c) Provided that the Lessee is not in default of its obligations under this Lease in any material manner, Lessee shall have the option of extending the term hereof for four (4) additional periods of five (5) years each, commencing at midnight on the date on which the first extended term of this Lease terminates (as set out in paragraph (b), above). The lease extensions under this paragraph shall be automatic so that unless Lessee shall give to Lessor notice that it does not intend to renew this Lease, which notice must be given not later than one hundred eighty (180) days prior to the expiration of the preceding term, the party shall be deemed to have elected to extend the terms and conditions of this Lease for the next option term as herein set forth. Any reference in this Lease to "Term" shall also apply to any renewal period hereunder.

(d) For purposes of this Agreement, the term "Lease Year" shall refer to each successive twelve (12) month period of the term of this Lease, beginning with the first Monday in September following the Commencement Date of this Lease; provided, however, the first Lease Year of this Lease shall include (i) that period of time beginning with the effective date of this Lease and ending upon the first Monday in September following the Commencement Date of this Lease and (ii) the twelve (12) month period beginning with the first Monday in September following the Commencement Date of this Lease.

(e) As used herein, the term "Commencement Date" shall mean the date on which both the Majestic Theater and Empire Theater have been placed in service by Lessor. The parties hereto shall execute a memorandum in a form substantially similar to the form attached hereto as Exhibit "E" evidencing the Commencement Date of this Lease. Within thirty (30) days following the Commencement Date Lessee shall execute an Acceptance of Lease Form in a form substantially similar to the form attached hereto as Exhibit "F".

(f) Lessee's lease of the Premises is a non-exclusive lease of the Premises. Following the Commencement Date of the Lease, Lessee shall be entitled to use the Premises only during those Bookings (as herein defined) which have been reserved by Lessee in accordance with the terms of this Lease. During the Term of this Lease, Lessor shall be entitled to use the Premises itself, lease the Premises to another lessee, or reserve the right to use or lease the Premises so long as any such use or lease is not on a Booking reserved to Lessee.

(g) For purposes of this Agreement, a "Booking" shall be that period of time which a person shall use the Premises, or any

part thereof, and which shall commence at 8:00 a.m., on any day during the Term of the Lease, and end at 1:00 a.m. on the following day, or any portion thereof actually reserved by a party hereto.

(h) During the Term of the Lease the Lessee shall have exclusive possession of the Premises subject to Lessor's rights reserved under this Lease, only during those times reserved in accordance with the following procedure:

1. Lessee will be entitled to use (A) the Majestic Theater for up to one hundred fifteen (115) Bookings per Lease Year (at least fifteen (15) of which must be during the months of July and August), and (B) the Empire Theater for up to eighty-five (85) Bookings per Lease Year (at least fifteen (15) of which must be during the months of July and August), in accordance with the selection procedures set out below.

2. Except as otherwise set out herein: in the case of the Majestic Theater at least eighteen (18) months prior to the first day of each Primary Season during the Term of this Lease (the "Selection Date"), representatives of the Lessor and Lessee will meet to determine the Bookings for that Primary Season. For purposes of this Agreement "Primary Season" shall mean that period which begins on the first Monday in the month of September and ends on the forty-second (42nd) Sunday following such date. The selection process for each Lease Year shall be as follows:

   (i) The Lessee's representatives will choose four (4) weeks (each beginning on Monday and ending the following Sunday) for the Primary Season within each Lease Year.

   (ii) Lessor will than select three (3) weeks in such Primary Season during which it wishes to reserve Bookings.

   (iii) The Lessee and Lessor will then repeat steps "(i)" and "(ii)", above, selecting from the remaining weeks falling within such Primary Season until all of the weeks falling within such Primary Season have been selected. Once selected these weeks shall be known as the "Reserved Weeks".

   (iv) At least nine (9) months prior to the first day of such Primary Season Lessee shall designate which Booking dates within its Reserved Weeks which dates shall be reserved for Lessee's use (which

Booking dates shall be up to, but not exceeding 100 dates) for the Majestic Theater. Booking dates situated within Lessee's Reserved Weeks which are not reserved within nine (9) months prior to the beginning of such Primary Season shall become open dates available to Lessor for its own use or lease to third parties. In the event Lessee does not reserve 100 Booking dates during the Primary Season, as set out above, Lessee shall be entitled to select other Booking dates not otherwise reserved, on a space available basis according to the scheduling procedures of Lessor as determined by Lessor in its sole and absolute discretion until such time as Lessee has selected up to 100 Bookings out of the Primary Season. In the event Lessee reserves a Booking date within the Primary Season in accordance with this Paragraph (iv), and Lessee fails to use such Booking date, or cancels such Booking date without the consent of Lessor, Lessee shall forfeit such Booking and shall not be entitled to select other Booking dates to replace such Booking unless Lessor or another Lessee agree to exchange dates.

(v) Except as otherwise provided herein, in addition to the Booking dates Lessee may reserve in connection with the procedure set out above, Lessee shall be entitled to reserve during any period of a Lease Year other than the Primary Season (the "Secondary Season"), up to fifteen (15) additional Booking dates, plus one additional Booking date for each Booking date less than 100 that Lessee has reserved during the Primary Season (the "Additional Bookings"). All such Additional Bookings may be reserved by Lessee at any time from those dates not otherwise reserved, on a space available basis according to the scheduling procedures of Lessor, as determined by Lessor at its sole and absolute basis.

(vi) Except as otherwise provided herein, either Lessor or Lessee may pre-reserve, on a space available basis Bookings for any Lease Year prior to the Selection Date for such Lease Year for performances which are required to be reserved in advance of the Selection Date for a specific performance or specific event, provided, however, in no event shall Lessor or Lessee reserve more than nine (9) weeks out of any such Lease Year prior to the Selection Date for any Lease Year. In the event Bookings are reserved in advance of

the Selection Date for a particular Lease Year the party who has pre-reserved the Booking dates shall be deemed to have selected (A) the Reserved Week during which one or more Bookings have been selected and (B) the Bookings so selected, for the purpose of administering the procedure set out above. In this regard, any such Reserved Week or any such Booking reserved for theatrical purposes or for symphony use shall be deemed selected by such party out of the first choices available to the party who made such pre-reservation. In all other cases such Reserved Weeks, or Bookings, shall be considered selected by such party out of the last choices available to such party who made such pre-reservation.

3. Except as otherwise set out herein: in the case of the Empire Theater at least eighteen (18) months prior to the first day of each Primary Season during the Term of this Lease (the "Selection Date"), representatives of the Lessor and Lessee will meet to determine the Bookings for that Primary Season. For purposes of this Agreement "Primary Season" shall mean that period which begins on the first Monday in the month of September and ends on the forty-second (42nd) Sunday following such date. The selection process for each Lease Year shall be as follows:

   (i) The Lessee's representatives will choose three (3) weeks (each beginning on Monday and ending the following Sunday) for the Primary Season within each Lease Year.

   (ii) Lessor will than select four (4) weeks in such Primary Season during which it wishes to reserve Bookings.

   (iii) The Lessee and Lessor will then repeat steps "(i)" and "(ii)", above, selecting from the remaining weeks falling within such Primary Season until all of the weeks falling within the Primary Season have been selected. Once selected these weeks shall be known as the "Reserved Weeks".

   (iv) At least nine (9) months prior to the first day of such Primary Season Lessee shall designate which Booking dates within its Reserved Weeks which dates shall be reserved for Lessee's use (which Booking dates shall be up to, but not exceeding 70 dates) for the Empire Theater. Booking dates situated within Lessee's Reserved Weeks which are

not reserved within nine (9) months prior to the beginning of such Primary Season shall become open dates available to Lessor for its own use or lease to third parties. In the event Lessee does not reserve 70 Booking dates during the Primary Season, as set out above, Lessee shall be entitled to select other Booking dates not otherwise reserved, on a space available basis according to the scheduling procedures of Lessor as determined by Lessor in its sole and absolute discretion until such time as Lessee has selected up to 70 Bookings out of the Primary Season. In the event Lessee reserves a Booking date within the Primary Season in accordance with this Paragraph (iv), and Lessee fails to use such Booking date, or cancels such Booking date without the consent of Lessor, Lessee shall forfeit such Booking and shall not be entitled to select other Booking dates to replace such Booking unless Lessor or another Lessee agree to exchange dates.

(v) Except as otherwise provided herein, in addition to the Booking dates Lessee may reserve in connection with the procedure set out above, Lessee shall be entitled to reserve during any period of a Lease Year other than the Primary Season (the "Secondary Season"), up to fifteen (15) additional Booking dates, plus one additional Booking date for each Booking date less than 70 that Lessee has reserved during the Primary Season (the "Additional Bookings"). All such Additional Bookings may be reserved by Lessee at any time from those dates not otherwise reserved, on a space available basis according to the scheduling procedures of Lessor, as determined by Lessor at its sole and absolute basis.

(vi) Except as otherwise provided herein, either Lessor or Lessee may pre-reserve, on a space available basis Bookings for any Lease Year prior to the Selection Date for such Lease Year for performances which are required to be reserved in advance of the Selection Date for a specific performance or specific event, provided, however, in no event shall Lessor or Lessee reserve more than nine (9) weeks out of any such Lease Year prior to the Selection Date for any Lease Year. In the event Bookings are reserved in advance of the Selection Date for a particular Lease Year the party who has pre-reserved the Booking dates shall be deemed to have selected (A) the Reserved Week

during which one or more Bookings have been selected and (B) the Bookings so selected, for the purpose of administering the procedure set out above. In this regard, any such Reserved Week or any such Booking reserved for theatrical purposes or for symphony use shall be deemed selected by such party out of the first choices available to the party who made such pre-reservation. In all other cases such Reserved Weeks, or Bookings, shall be considered selected by such party out of the last choices available to such party who made such pre-reservation.

4. Within thirty (30) days following the Selection Date Lessor shall prepare and deliver to Lessee a copy of a calendar for the Lease Year for which the selection of Reserved Weeks has occurred which shall reflect all of those weeks reserved out of the Primary Season for the Lessor and Lessee. Additionally, within thirty (30) days following the date on which Lessor and Lessee select their Booking dates for a Lease Year, Lessor shall prepare and deliver to Lessee a copy of a calendar for the Lease Year for which the selection of Booking dates has occurred, which shall reflect all of the Booking dates reserved to Lessee (within the Primary Season or Secondary Season.)

5. The first Lease Year may include (i) one Primary Season and a portion of a Primary Season, and/or (ii) one Secondary Season and a portion of a Secondary Season. For the purpose of establishing the Bookings for the first Lease Year of this Lease Lessor and Lessee shall meet to determine the Reserved Weeks and Bookings for such Lease Year within sixty (60) days following the date Lessor provides Lessee with written notice of the anticipated Commencement Date of this Lease. In the event that the first Lease Year includes more than one Primary Season and/or Secondary Season (i) for the twelve (12) month period beginning with the first Monday of September following the Commencement Date of this Agreement Lessee shall be entitled to the number of Reserved Weeks and Booking dates for each Lease Year, as set out in the above-referenced procedure, and (ii) Lessee shall be entitled to the number of Reserved Weeks and Booking dates for the remainder of such Lease Year (the "Short Season") which equal [A] as to Reserved Weeks and Booking dates within the Primary Season, that number of such items which is equal to the number originally allocated to Lessee during a twelve (12) month Lease Year multiplied by a fraction, the

numerator of which is the number of full weeks within the portion of the Primary Season which falls within the Short Season and the denominator of which is 42, and [B] as to Booking dates within the Secondary Season, that number of such Booking dates which is equal to the number originally allocated to Lessee during a twelve (12) month Lease Year multiplied by a fraction, the numerator of which is the number of full weeks within the portion of the Secondary Season which falls within the Short Season and the denominator of which is 10.

(i) Lessor reserves the right to control and operate, at its cost (a) valet parking and other parking facilities and (b) The right to sell or serve on, in, or about the Premises any alcoholic beverages, non-alcoholic beverages, food, souvenirs, or other merchandise or services or concessions of any sort, (the "Concessions") or Lessor may lease or license all or any portion of the Concession rights to any party or parties designated by Lessor, and no such Concessions shall be given away, served or distributed by Lessee without the written consent of Lessor. Lessee understands that Lessor has sole control of all concession rights as reserved in this Lease and that no food or beverage, with or without charge, samples or otherwise, may be served or distributed by Lessee without the written consent of Lessor; and Lessee will not allow any attendee or invitee to bring food, beverage or other concessions into the premises.

V.

RENT

Beginning with the Commencement Date of this Lease, Lessee covenants and agrees to pay Lessor Quarterly Rental Payments in the amount of One Hundred Thousand and No/100 Dollars ($100,000.00) in advance of the Commencement Date of this Lease and quarterly, on the first date of each such quarter thereafter during the Term of this Lease.

VI.

TAXES

Following the Commencement Date of this Lease, Lessee shall pay and discharge, when due thirty (30%) percent of the increase in all taxes, general and special assessments, and other charges of every description which are levied or assessed, against the Premises from and after such Commencement Date, over those charged or assessed for the first full tax year ("Base Year")

which includes the completely renovated Improvements in the assessed value of the Improvements computed without the benefit of any City tax abatement which might apply to such year. If, for tax purposes, the Theater Tract or Building Tract (hereinafter sometimes collectively referred to as the "Land"), and the Improvements are assessed as a whole, the Lessor and Lessee shall use their best efforts to cause the Improvements to be separately assessed and taxed. If Lessor and Lessee cannot cause the Improvements to be separately assessed and taxed, such taxes and assessments shall be allocated accordingly to the allocation set out on the combined tax assessors statement or if no such allocation has been made, such taxes shall be equitably allocated. Lessor shall pay or cause to be paid all other taxes affecting the Premises. Lessor shall be responsible for all taxes, general and special assessments and other charges of every description levied or assessed against the Premises, if any. Upon Lessor furnishing Lessee with a tax statement, Lessee shall reimburse Lessor for Lessee's share of such expense within three hundred seventy (370) days of the date that Lessor provides Lessee with written notice of Lessee's obligations under this paragraph, provided, however in no event shall reimbursement be due prior to the date such taxes are paid by Lessor and evidence of payment thereof delivered to Lessee. The above notwithstanding, Lessor shall have the right, at its cost and expense, to initiate and prosecute any proceeding permitted by law or equity for the purpose of obtaining an abatement or otherwise testing the validity of the amount of tax payments which are assessed against the Premises. In the event Lessor shall receive a refund from the taxing authorities all or any portion of which relates to tax expenditures passed through to Lessee in accordance with this Article, Lessor shall reimburse Lessee's portion of such refunded amounts.

VII.

UTILITIES

Except for Performance Charges and Expense Increases, as hereinafter set out, Lessor shall pay or cause to be paid all charges for water, heat, gas, electricity, sewer, telephone, cable television and all other utilities and hookups for such utilities used in connection with the operations of the Premises during the term of this Lease, as and when such utility payments are due and payable. The above notwithstanding, Lessor shall have the right, at its cost and expense, to initiate and prosecute any proceeding permitted by law or equity for the purpose of obtaining an abatement of or otherwise testing the validity or amount of utility payments.

VIII.

PERFORMANCE CHARGES AND EXPENSE INCREASES

(a) Lessee shall pay and discharge, when due, all expenses (the "Performance Expenses") separately contracted for and incurred by Lessee relating to, and incurred in connection with, Lessee's use of the Premises (or Lessee's subtenants use as the case may be), provided, however, such expenses shall not include any reserves or funds for obsolescence. All such expenses shall be paid within twenty-four (24) hours following the close of each Booking. The Rent set out in Article V, above, covers only the rental for the use of the Premises, and does not cover normal event costs such as stagehands, labor, event cleaning, box office labor, ticket commissions, event utility usage, catering, equipment cost or rentals, sound staging (other than use of the sound system integrated into the Premises), security services, additional services and other similar expense, all of which may, at Lessor's election, be provided by Lessor but shall be the sole cost and expense of Lessee, and provided further, if Lessor does not provide such services, Lessee shall provide such services at Lessee's sole cost and expense.

(b) Beginning one year after the Commencement Date of this Lease and continuing during the Term of this Lease, Lessee shall reimburse Lessor for that sum (the "Increased Expenses") which is equal to thirty percent (30%) of the amount by which the annual operating expenses for the Premises (that is, expenses relating to maintenance, repair, utilities, janitorial expense, etc. of the Premises for a Lease Year) exceed the sum of $427,500.00. The payment of those Increased Expenses shall be made by Lessee within three hundred seventy (370) days following the date on which Lessor provides Lessee with notice of Lessee's obligations to reimburse Lessor in accordance with the provisions of this subsection. Lessor shall, within ninety (90) days following each Lease Year provide Lessee with a detailed accounting of all annual operating expenses relating to the operation of the Premises. Lessor shall maintain a permanent, accurate set of books and records which set forth the operating expenses for the Premises. Such permanent record shall be retained and preserved for at least three (3) years after the date the report of such operating expenses are delivered to Lessee. All such records shall be open to inspection and audited by Lessee and its agents at all reasonable times during normal business hours. Lessee shall have the right to conduct a special audit of the operating expenses carried out by an independent certified public accountant acting in the capacity of an auditor (the "Auditor") selected by Lessor and Lessee. Any such request shall be made by providing written notice to Lessee at least thirty (30) days prior to the date scheduled for such audit. In the event Lessor and Lessee are not able to agree upon an Auditor within thirty

(30) days following Lesee's written request for such audit, Lessee shall select an Auditor, Lessor shall select an Auditor and the two Auditors selected shall select a third Auditor who shall carry out the audit. In the event the report of the operating expenses is found to have been overstated by more than five percent (5%) over the figures submitted by Lessor, Lessor shall pay for such audit, otherwise the cost of such audit shall be paid by Lessee. Lessee's right to examine Lessor's books and records relating to these operating expenses shall be available to Lessor only for a period of three (3) years after the date the report relating to such operating expenses has been delivered to Lessee. If such audit shall show a deficiency and overpayment made by Lessee related to the Increased Expenses, the amount thereof shall be reimbursed by Lessor to Lessee within thirty (30) days. If such audit shall show that the operating expenses have been understated, Lessee shall pay to Lessor its portion of any Increased Expenses recomputed based upon such audited operating expenses.

(c) In the event Lessee shall, at any time during the term of this Lease, believes that the expenses which have been incurred by Lessor and which makeup a part of the computation for purposes of determining the Increased Expenses are not reasonable and customary in accordance with the normal operating procedures of a similar performing arts center Lessee shall be entitled to submit the issue of whether such expenses are reasonable, and customary in accordance with the normal operating procedures of a similar performing arts center located in the State of Texas to arbitration in accordance with the Texas Arbitration Act. In the event the determination of the arbitration concludes that expenses were not reasonable and customary, Lessor shall pay for the cost of the arbitration and Lessee shall be entitled to its portion of reimbursement relating to such charges to the extent they have been found not to be reasonable or customary. In the event that the determination of the arbitration concludes that the expenses were reasonable and customary, Lessee shall pay for the cost of the arbitrator.

IX.

INSURANCE AND INDEMNIFICATION

(a) Excluding sole negligence on the part of Lessee, its employees, agents or contractors, Lessor shall and will indemnify and save harmless only Lessee, its agents, officers and employees, but not including sub-lessees, assignees or other such users, from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalities, suits, proceedings, actions and causes of action of any and every kind in nature arising or growing out of or in any way connected with Lessor's

use, occupany, management, operation or control of the Premises, but only to the extent such liability exceeds insurance proceeds available from Lessee, its sub-lessees or users. This obligation to indemnify shall include the retention of outside legal counsel and third-party investigation cost and all other reasonable costs, expenses, and liabilities from the first notice that any claim or demand has been made. It is expressly understood and agreed that Lessor is and shall be deemed to be an independent contractor and operator responsible to all parties for Lessor's negligent acts and ommissions.

(b) Lessor shall at all times, including during the construction or renovation stage of Lessee's Improvements located upon the Premises maintain, with respect to the Premises, for the duration of this Lease and any extensions thereof a hazard insurance policy providing coverage from loss due to fire, losses covered by "extended coverage," and vandalism and malicious mischief, covering Lessor's interest in the Premises in such amounts and providing for such coverage as Lessor deems appropriate. In the event Lessee, or its sub-lessees shall conduct any activity on or about the Premises which shall cause the insurance premiums on Lessor's policy to increase, Lessee shall reimburse Lessor upon demand for such increase in premium.

(c) Lessee shall at all times, following the Commencement Date maintain, with respect to Lessee's use of the Premises (i) insurance issued by a company or company's qualified to do business in the State of Texas in the following types and at least the following amounts, or (ii) provide Lessor with a certificate of self-insurance to reflect coverage of such amounts, or (iii) provide Lessor with a combination of such insurance coverage and evidence of self-insurance as will satisfy Lessor's requests for insurance coverage as set out below:

	TYPE	AMOUNT
(1)	Comprehensive General (Public) Liability--to include coverage for the following where the exposure exists:	Combined Single Limit for Bodily Injury, Death, and Property Damage: $500,000.00
	(A) Premises/Operations (B) Independent Contracts (C) Products/Completed Operations (D) Personal Injury (E) Contractual Liability (F) Elevator (G) Liquor Legal Liability	
(2)	Property Insurance--for	Coverage for a

	physical damage to the property of Lessee including improvements and betterments to the Premises.	minimum of 80% of the replacement cost of Lessee's Property.
(3)	Worker's Compensation and Employer's Liability	Statutory - $500,000.00 each accident
(4)	Comprehensive Automobile Liability--to include coverage for: (A) Owned/Leased Automobiles (B) Non-owned Automobiles (C) Hired Automobiles	At least $500,000.00 Combined Single Limit Bodily Injury, Death and Property Damage.

(d) Beginning one year after the Commencement Date of this Lease and continuing during the Term of the Lease, Lessee shall reimburse Lessor for that sum which is thirty percent (30%) of the amount by which the cost of Lessor's insurance policy for fire, extended coverage and liability coverage, exceeds the charges for such insurance for the first twelve month period following the Commencement Date. Such reimbursement shall be made by Lessee within three hundred seventy (370) days following the date on which Lessor has furnished Lessee with a statement showing the amount due by Lessee.

(e) Lessor shall review Lessee's required insurance as stated herein at the time of renewal of the said policies and/or at the time of a material change in usage and Lessee agrees to comply with any such written request by Lessor to modify coverage which shall include an explanation of such request for modification and as Lessee is allowed by law to so modify.

(f) If any blanket general insurance policy or evidence of self insurance coverage of Lessee complies with these requirements, such insurance shall fulfill the requirements set forth herein subject to approval of the appropriate risk manager of Lessee, which approval shall be exercised in a reasonable manner. Lessee shall provide Lessor and any of Lessor's leasehold mortgages with original policies naming Lessor and any of Lessor's leasehold mortgagees as an insured or an additional named insured on any policies required of Lessee hereunder as their respective interest(s) may appear. Lessee will require its sub-lessees and assignees to obtain the following insurance coverage and have Lessor and any of Lessor's leasehold mortgagees named as an insured or an additional named insured on all such policies:

(i) for any agency board or commission of the City of San Antonio or other governmental entity protected by the Tort Claims Act of the State of Texas, the Types of coverage set forth under (c) above in amounts equal to the maximum limit of liability of such governmental body under the Tort Claims Act;

(ii) for any non-proft organization, the Types and amounts of coverage set forth under (c) above modified to provide coverage in the amount of $1,000,000.00 combined single limit for the liability coverage described as Types (1) and (4), above;

(iii) for any other sub-lessee or assignee, the Types and Amounts of coverage set forth under (c) above modified to provide coverage in the amount of $5,000,000.00 combined single limit for the liability coverage described as Types (1) and (4), above.

(f) If the Improvements should be destroyed or damaged by fire or other insured risk, the extent of such damage is less than twenty-five (25%) percent of the replacement cost of the Improvements and such damage was not caused by any act or omission of Lessee, then Lessor shall proceed with reasonable diligence to restore the Improvements. If the costs of restoration would exceed the proceeds from insurance, or such costs exceeds 25% of the replacement cost of the Improvements or such restoration would require more than one hundred eighty (180) days after the occurrence of the casualty, then Lessor may elect to terminate this Lease within sixty (60) days. In the event the Lease is not terminated, Lessor will proceed with restoration of the Improvements. During any period of time that Lessor is restoring the Improvements this Lease shall continue in full force and effect and Lessor will make such repairs within a reasonable time. Rent shall abate proportionately during the period and to the extent the Improvements are unfit for use by Lessee and not actually used by Lessee in the ordinary conduct of its business.

X.

IMPROVEMENTS AND ALTERATIONS

During the term of this Agreement, Lessee shall not alter, renovate or improve the Premises and shall return the Premises to Lessor at the end of each Booking in at least as good and clean a condition as when received prior to such Booking.

XI.

PRESERVATION FUND

Lessee shall cause to be collected and shall cause to be remitted to Lessor a fee (the "Preservation Fee") on each ticket issued to an admittee which ticket (i) has a purchase price in excess of $3.00 (including sales tax charge, if any), and (ii) is for any event held at the Premises during the Term of this Lease, in which Lessee, Lessee's sub-lessees or assigns, is occupying the Premises. The Preservation Fee shall initially be fifty cents ($.50) per ticket but may be changed from time to time by Lessor upon written notice to Lessee; provided, however, in no event shall the Preservation Fee be an amount per ticket greater than an amount equal to fifty cents ($.50) increased by the increase (but no decrease) in the Consumer Price Index from the Commencement Date to the date of such Preservation Fee increase. At such time as the Preservation Fee is increased above the initial amount of fifty cents ($.50) per ticket, the initial price of the tickets to which this fee will be applicable (that is; tickets with a purchase price of $3.00 or more) shall be increased (but in no event decreased) by the increase in the Consumer Price Index from the Commencement Date to the date of the increase in the Preservation Fee.

The Consumer Price Index as used herein and elsewhere in this Lease shall mean the National Consumer Price Index U.S. City Average for all items for all Urban Customers (1967 equals 100) published by the Bureau of Labor Statistice of the U. S. Department of Labor. If such price index should in the future be compiled upon a different basis, a proper adjustment will be made therein, for the purposes of this paragraph, to reflect the change in the cost of living that has occurred since the date of execution of this Lease based upon the 1967 average of 100. If at the time of any such computation the United States Department of Labor should no longer compile and publish such price indexes, the index for "All Items" compiled and published by any other branch or department of the Federal government shall be used for the purpose of this paragraph, and if no such index is compiled and published by any branch or department of the Federal government, the statistics reflecting cost of livng increases as compiled by any institution or organization or individual generally recognized as an authority by financial and insurance institutions shall be used as a basis for such adjustments.

XII.

LIENS

The Lessor and Lessee covenant each with the other not to permit any lien to be filed against the Premises, or any

Improvements located on the Premises or Lessee's leasehold interest in the Premises, on account of nonpayment or dispute with respect to labor or materials furnished in connection with construction or any subsequent repairs, modifications or additions thereto, nor shall the parties permit any final judgment, lien or attachment to lie against the Premises for any other reason. Should any lien of any nature be filed against (i) the Premises, (ii) any Improvements located upon the Premises or (iii) the Lessee's leasehold interest in the Premises, the party from whose fault or alleged debt such lien arises shall within thirty (30) days after filing cause such lien to be removed or shall commence to diligently pursue the removal of such lien within such thirty (30) day period and in any event remove such lien within six (6) months from the date of its filing. Lessee shall have the right, at its own cost and expense, to initiate and prosecute any proceeding permitted by law for the purpose of obtaining an abatement or otherwise contesting the validity or amount of account relating to the non-payment or dispute of labor or material costs furnished in connection with the construction or subsequent repairs, modifications or judgments thereto.

XIII.

LEASEHOLD MORTGAGE

In the event that Lessor shall pledge, hypothecate, mortgage, or assign all or part of its interest in the Premises as security for an indebtedness in any form whatsoever (this pledge hereinafter referred to as a "mortgage"), and if the holder of the indebtedness secured by such interest in the Premises (hereinafter "mortgagee") notifies the Lessee of the execution of such mortgage, and the name and place for service of notices upon such mortgagee, then and in such event, Lessee hereby agrees for the benefit of Lessor and such mortgagee from time to time:

(a) That Lessee will give to any such mortgagee simultaneously with service on Lessor a duplicate of any and all notices or demands given by Lessee to Lessor and no such notice to Lessor shall be effective unless a copy is so served upon the mortgagee.

(b) In the event of any default by Lessor hereunder, or under the terms of the mortgage, such mortgagee shall have the privilege of performing any of Lessor's covenants or of curing any defaults by Lessor or of exercising any election, option or privilege conferred upon Lessee by the terms of this Lease.

(c) Lessee shall not terminate this Lease for any default of Lessor if, within a period of thirty (30) days after the expiration of the period of time within which Lessor might cure

such default, such default is cured or caused to be cured by such mortgagee or, if within a period of thirty (30) days after the expiration of the period of time within which Lessor might commence to eliminate the cause of such default, such mortgagee commences to eliminate the cause of such default and proceeds therewith diligently and with reasonable dispatch.

(d) No liability for any payment hereunder or the performance of any of Lessor's covenants and agreements hereunder shall attach to or be imposed upon any mortgagee while not in possession of the Premises, unless such mortgagee has undertaken to cure a default by Lessor or has undertaken to commence to eliminate the cause of any such default.

(e) The execution, delivery or filing of record of a leasehold mortgage, or deed of trust, financing statement or a conditional assignment of this Lease by Lessor, as collateral security therefor shall not be deemed a Lease assignment for any other purpose.

(f) Subject to the Non-Disturbance and Attornment language set out below, Lessee will execute such instruments as Lessor may request from time to time to subordinate Lessee's interest in the Premises to any indebtedness incurred and/or mortgage executed by Lessor relating to the Premises.

XIV.

DEFAULT

(a) If Lessee (1) fails to pay the Quarterly Rental Payment or fails to perform any of its other monetary obligations under this Lease within ten (10) days after Lessor has furnished written notice of the breach of any such obligation to Lessee or (2) fails to cure or commence to cure and diligently pursue the completion of the cure of a non-monetary breach within thirty (30) days after Lessor has furnished Lessee written notice of such non-performance, then Lessor may take any of the following actions:

1. To terminate this Lease in which event Lessee shall immediately surrender the Premises to Lessor, and if Lessee fails to do so, Lessor may, without prejudice to any other remedy which he may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Lessee and any other person who may be occupying said Premises or any part thereof.

2. To enter upon and take possession of the Premises, alter locks and other security devices at the Premises,

and expel or remove Lessee and any other person who may be occupying said Premises or any part thereof, and, if Lessor so elects, relet the Premises on such terms as are reasonable and as Lessor may deem advisable and receive the rent therefor; Lessee agrees to pay to Lessor on demand any deficiency that may arise by reason of such reletting.

3. Such election shall be made by written notice to the Lessee at any time on or before the doing of any act or the commencement of any proceedings to recover possession of the Premises by reason of the default or breach then existing and shall be final. If the Lessor shall elect to terminate this Lease, all rights and obligations whatsoever of the Lessee and of its successors and assigns, so far as the same may relate to the unexpired portion of the term hereof shall cease, and within ten (10) days after receipt by the Lessee of notice of election by the Lessor to terminate this Lease, the parties shall, by an instrument in writing in form for recording, cancel this Lease and the unexpired portion of the term hereof and the Lessee shall surrender and deliver up to the Lessor the entire Premises, together with all Improvements and additions, except trade fixtures, signage, trade marks and other personal property, and, upon any default by the Lessee in so doing, the Lessor shall have the right forthwith to re-enter the Premises either by summary proceeding or otherwise.

(b) In the event Lessor elects to re-enter or take possession of the Premises after Lessee's default, Lessee hereby waives notice of such re-entry or repossession and of Lessor's intent to re-enter or retake possession. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or provided by law, nor shall pursuit of any other such remedy constitute a forfeiture or waiver of any rent due to Lessor hereunder or of any damages occurring to Lessor by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Lessor to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. The loss or damage which Lessor may suffer by reason of termination of this lease or the deficiency arising by reason of any reletting by Lessor as above provided, shall include the expense of repossession.

(c) Rightful exercise by Lessor of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of Lessee's surrender of the Premises, whether by oral agreement or by operation of law. No such alteration of

security devises and no removal or other exercise of dominion by Lessor over the property of Lessee or others at the Premises shall be deemed unauthorized or constitute a conversion, Lessee hereby consenting, after any event of default, to the aforesaid exercise of dominion over Lessee's non-exempt property within the Premises.

(d) Lessee agrees that any re-entry by Lessor may be pursuant to judgment obtained in forcible detainer proceedings or other legal proceedings or without the necessity for any legal proceedings, as Lessor may elect, and Lessor shall not be liable in trespass or otherwise.

(e) In the event that Lessor elects to repossess the Premises without terminating the Lease, the Lessee shall be liable for and shall pay to Lessor all rent and other indebtedness accrued to the date of such repossession, plus rent required to be paid by Lessee to Lessor during the remainder of the Lease term until the date of expiration of the term as provided for herein, diminished by any net sums thereafter received by Lessor through reletting the Premises during such period (after deducting expenses incurred by Lessor as provided for herein). In no event shall Lessee be entitled to any excess of any rent obtained by reletting over and above the rent herein reserved. Lessor shall use its best efforts to attempt to relet the Premises.

(f) In case of any event of default, Lessee shall also be liable for and shall pay to Lessor, in addition to any sum provided to be paid above, all reasonable expenses incurred by Lessor in connection with reletting the whole or any part of the Premises or by Lessor in enforcing Lessor's remedies.

(g) If Lessee shall fail to make any payment or cure any default hereunder within the time herein provided, Lessor, without being under any obligation to do so and without thereby waiving such default, may make such payment and/or remedy such other default for the account of Lessee (and enter the Premises for such purpose), and thereupon Lessee shall be obligated to, and hereby agrees to pay Lessor, upon demand, as though such sums are additional rent hereunder, all costs, expenses and disbursements (including reasonable attorney's fees) incurred by Lessor in taking such remedial action.

(h) If Lessor (1) fails to pay to perform any of its monetary obligations under this Lease within ten (10) days after Lessee has furnished written notice of such breach to Lessor or (2) fails to cure or commence to cure and diligently pursue the completion of the cure of a non-monetary breach within thirty (30) days after Lessee has furnished Lessor written notice of

such non-performance, then such failure shall be an event of default by Lessor under this Lease.

(i) Neither bankruptcy, insolvency, nor the appointment of a receiver or trustee shall affect this Lease so long as the obligations of the Lessee are being performed by the Lessee or successors in interest.

XV.

CONDEMNATION

(a) If at any time during the term of this Lease or any extension thereof, the entire Premises or, in the judgment of Lessee, such a substantial portion thereof as would render the balance of the Premises not suitable for the use to which the Premises was being utilized immediately prior thereto by the Lessee, shall be taken or appropriated by any competent authority for public or quasi-public use, Lessee may, at its option, terminate this Lease upon the date that possession is surrendered to the condemning authority, at which time all rights and obligations between the parties shall cease and rents and other charges apportioned. The taking of (i) Lessee's rights of ingress and egress from public right-of-ways, unless comparable access can be made available, or (ii) Lessee's right to maintain its Improvements on the Premises in accordance with the terms of this Lease shall be considered such a substantial taking as would render the use of the Premises not suitable for Lessee's use. Notwithstanding any provision of this Lease that the Improvements may be or shall become the property of the Lessor at the expiration of the full term hereof, the loss of (i) all or a portion of the Improvements paid for by the Lessee, (ii) Lessee's leasehold estate, and such additional relief as may be provided by law shall be the basis of Lessee's damages against the condemning authority if a separate claim thereof is allowable under applicable law, or shall be the basis of Lessee's claim to a portion of the total award as damages if only one award is made.

(b) In the event of a permanent partial taking or appropriation not resulting in a termination of this Lease, the Lessee shall be entitled to a reduction of rent during the unexpired portion of the term of this Lease, in such amount as shall be just and equitable. For purposes of determining what amount shall be just and equitable Lessor and Lessee shall attempt to arrive at a mutual agreement as to this sum, provided, however, in the event Lessor and Lessee are unable to reach an agreement as to this sum within sixty (60) days from the date notice of the taking is provided the dispute shall be submitted for resolve to the court exercising jurisdiction of condemnation proceedings, in Bexar County, in accordance with the provisions of paragraph (e)

below. During that period of time beginning with the date of the permanent partial taking and ending on the date the dispute is resolved in accordance with paragraph (e), below, rental shall be adjusted by reducing the Monthly Rental Payments by that amount which is determined by dividing the number of square feet within the Premises which is subject to the "taking" by the total number of square feet within the Premises and multiply that percentage by the Monthly Rental Payment. In the event this reduction in rental is just and equitable and fully compensates Lessee for its loss, the Lessee shall waive any claim for damage to or loss of its leasehold Improvements, and all of such award shall be payable to the Lessor, who shall use so much thereof as may be necessary to restore the Improvements located on the Premises as nearly as possible to its original condition if the loss of such Improvements were made the basis for all or a portion of such award. Lessee shall have the option to perform such restoration, provided the whole of such award or such portion thereof as may be necessary to accomplish the restoration is made available to Lessee. In the event the reduction in rental is not just and equitable and does not fully compensate Lessee for its loss (i) rental shall be adjusted to that amount which is determined to be just and equitable in accordance with Section (e), below, effective as of the date of such determination, and (ii) in addition to such rental reduction Lessee shall have the option to have so much of the condemnation award as shall be necessary make up any overpayments in rent for the time of the taking to the date of the determination as well as to restore the Premises, including its Improvements, as nearly as possible to its original condition.

(c) If the taking of the whole of the Premises or such portion thereof or any access to the Premises as would render the use of the Premises, in Lessee's sole opinion, not suitable for Lessee's use as set forth above shall be taken for a period of one (1) year or less, the term of this Lease shall be tolled and, all rent and other charges payable to Lessor shall abate from the time possession of the Premises is surrendered to the taking authority and shall recommence when possession is restored to the Lessee. The basis for Lessee's damages against the condemning authority, if allowable, or against the total award shall be as suffered by Lessee for the interruption of Lessee's business and such additional relief as may be provided by law. If such taking should extend beyond one (1) year, the taking shall, for the purposes of this Lease and at the option of Lessee, be considered permanent with the basis of Lessee's damages computed as a total permanent taking.

(d) If less than the whole of the Premises or less than such portion thereof as would render the use of the Premises not suitable for Lessee's purposes as aforesaid is taken, Lessee shall be entitled to a reduction of rental as is just and

equitable, upon such date as possession is surrendered to the taking authority and continuing until possession is restored to the Lessee. In consideration of such reduction of rental, Lessee shall waive all rights to any portion of the award as may be payable to the Lessor.

(e) Should the Lessor and Lessee be unable to agree as to the division of any singular award or the amount of any reduction of rents and other charges, such dispute shall (i) be submitted to arbitration between the parties, which arbitration shall be binding upon both parties, or (ii) be submitted for resolve to a court of competent jurisdiction normally hearing condemnation cases, each party bearing its respective costs for such determination and such final determination by the arbitration or court, as the case may be, shall be deemed just and equitable.

XVI.

BOX SEAT SALES

(a) There shall be located within the Majestic Theater and Empire Theater box seats (the "Box Seats"), which Box Seats are more particularly described on Box Seat Schedule 1 and 2 attached hereto. Lessor shall sell the rights to use these Box Seats within each such Theater on an annual basis. Owners of Box Seats shall (i) be issued proper Box Seat identification for the rights acquired, and (ii) be entitled to attend, at no admission charge or Preservation Fee charge to such person, all performances within the Theater in which the Box Seat is located which are open to the general public. Lessee and all of its sub-tenants shall admit, at no admission charge or Preservation Fee charge, all holders of Box Seat admission identification to all performances which are open to the general public, and persons holding the admission identification for such Box Seat shall be the only persons entitled to use the Box Seat area identified for their use.

(b) In the event that the Symphony Society of San Antonio or that symphony organization which is the primary symphony for the City of San Antonio (the "Symphony") agrees to use the Majestic Theater and/or the Empire Theater for at least two-thirds (2/3rds) of its performances for that period of time for which Box Seats have been sold, Lessor shall remit to the Symphony the first Fifty Thousand and No/100 Dollars ($50,000.00) (the "Symphony's Base Box Seat Revenues") collected by Lessor in connection with the sales of such Box Seats <u>after</u> Lessor has collected in revenues that sum which is equal to Two Hundred Thousand and No/100 Dollars ($200,000.00) plus all of Lessor's cost which are solely attributable to the sales, marketing and operations of the Box Seats (the "Lessor's Base Box Seat Revenues"), which expenses shall include only those expenses

which relate solely to the sales, marketing and operations of the Box Seats and, within the Theater Industry, are customarily allocable to box seat sales (such as; parking costs, exlusive limousine service, complimentary food and beverages).

(c) In the event revenues from the sale of Box Seats collected by Lessor exceeded the sum of Lessor's Base Box Seat Revenue and the Symphony's Base Box Seat Revenues (the "Excess Box Seat Revenues") Lessor shall remit to the Symphony that sum which is twenty percent (20%) of such Excess Box Seat Revenues. All sums to be remitted to the Symphony shall be remitted as soon as practical after Lessor has determined its gross receipts and expenses relating to such Box Seat sales. Lessor shall use due diligence to determine its gross receipts and expenses relating to such Box Seat sales as soon as practical.

(d) In the event that the Symphony does not use the Majestic Theater and/or Empire Theater for at least eighty percent (80%) of its performances (excluding performances held in public schools for the public school system and performances which are held out side of Bexar County) for that period of time for which Box Seats have been sold, all revenues collected by Lessor in connection with such Box Seat sales shall be retained by Lessor.

XVII.

NON-DISTURBANCE AND ATTORNMENT

Lessor shall obtain from the current holder of every mortgage or deed of trust upon the Premises, or real property upon which the Premises are located, an agreement in recordable form reasonably acceptable to Lessee wherein the mortgagee or holders of deeds of trust agree not to disturb the possession of Lessee or the mortgagee of the Lessee's leasehold estate so long as the Lessee or any such mortgagee is not in default under the terms hereof. In the event any such mortgages are refinanced, Lessor shall obtain from any new financial institution, contemporaneously with the refinancing of the mortgage, a similar agreement in recordable form reasonably acceptable to Lessee wherein such mortgagee or holder of the deed of trust agrees not to disturb the possession of Lessee or Lessee's mortgagee of its leasehold estate, so long as the Lessee or any such mortgagee is not in default under the terms hereof.

XVIII.

ASSIGNMENT OR TRANSFER BY LESSOR OR LESSEE

Lessor may assign or transfer its interest in this Lease; however, no assignment or transfer of this Lease by the Lessor shall be binding on the Lessee unless the assignee or transferee of Lessor shall assume and agree to be bound by the terms of this Lease.

No assignment shall be made by Lessee of its rights under the terms of this Lease without the prior written approval of Lessor which approval shall not be unreasonably withheld, provided, however, during the Booking dates, Lessee shall be entitled to sub-lease all or any part of the Premises, in connection with Lessee's lease of its Improvements located upon the Premises without the prior written consent of Lessor provided such sub-lease is carried out in connection with the rental of the Improvements in the ordinary course of Lessee's intended use of the Premises. As a condition precedent to Lessee's sub-letting, Lessee agrees to furnish to Lessor and any mortgagee, upon request, an executed copy of each such sub-lease at the time the written instrument is executed.

The above notwithstanding, Lessee shall not be entitled to sub-lease all or any portion of this Lease or its Bookings under this Lease to any person or entity other than those (i) set out on Exhibit "G" attached hereto, or (ii) any performing art groups which receives more than thirty-three and one-third percent (33.33%) of its funding (that is; not the total operating budget, but only funds received from third parties not in exchange for service or product) from Lessee.

XIX.

RIGHT OF FIRST REFUSAL

During the Term of this Lease, if Lessor receives from an unrelated third party a bona fide written offer ("Offer") to purchase all, but not less than all, of the Premises from Lessor, and if Lessor elects to sell the Premises in accordance with such Offer, then Lessor shall promptly deliver to Lessee a copy of the Offer, and shall thereafter promptly disclose all pertinent information with regard to the Offer which the Lessee may reasonably request.

If the Lessee desires to purchase the Premises upon the same terms and conditions as those set forth in the Offer, it shall promptly give written notification thereof ("Notification") to the Lessor. In order to elect to purchase the Premises, Lessee

must furnish the Notification within thirty (30) days after Lessor has furnished Lessee with notice of the Offer.

In the event that Lessee fails to give the Notification of its intent to purchase the Premises within thirty (30) days after Lessor has furnished Lessee with a copy of the terms and conditions of the Offer, the Lessee will be conclusively presumed to have elected not to purchase the Premises pursuant to the terms hereof and, accordingly, the Lessee will cooperate with the sale to the third party pursuant to the Offer.

In the event Lessee elects to purchase the Premises, then the purchase price must be paid on the same terms and conditions as are set out in the Offer.

In the event that Lessee elects to purchase the Premises, the Closing shall be on or before that date which is the later of (i) thirty (30) days after Lessee has furnished the Notification of the election to purchase the Premises to Lessor or (ii) the date set out for Closing under the terms of the Offer.

XX.

NOTICES

All notices to the Lessor shall be addressed to Lessor at its business offices at 205 N. Presa, San Antonio, Texas 78205 or at such other address as the Lessor shall designate in writing. All notices to the Lessee shall be addressed to the Lessee at City of San Antonio, Office of the City Clerk, P.O. Box 9066, San Antonio, Texas 78285, Attn: City Manager, (and shall reference the Ordinance Number set out above), or at such other address as the Lessee shall designate in writing. Notwithstanding any provisions in this Lease to the contrary concerning modifications, a change in address may be effected by a registered or certified letter sent by either party to the other. Any notices to be given hereunder shall be given by placing the notice in the United States mail, certified or registered, properly stamped and addressed to the addresses shown herein or such other addresses as the respective parties may direct in writing to the other, or by personal delivery to such address, and such notice shall be deemed received upon placing in the mails, upon the next business day following delivery to Federal Express (or a similar "overnight" delivery service) or upon such personal delivery. All payments to the Lessor under the terms of this Lease shall be made at the address designated for notices to the Lessor.

XXI.

REAL ESTATE COMMISSIONS

Neither Lessor or Lessee have entered into any commission agreements relating to this lease of the Premises.

XXII.

NON-DISCRIMINATION

(a) Any discrimination by Lessee or its agents or employees on account of race, color, sex, age, religion, national origin or handicap, in employment practices or in admission to the Premises, is prohibited.

(b) Lessee shall pay wages in accordance with applicable federal and state statutes to persons employed in its operations hereunder.

XXIII.

LAWFUL OPERATION

Lessee agrees not to use the Premises or any Improvements situated upon said Premises, or any part thereof, for any use or purpose in violation of any valid and applicable law, regulation, or ordinance of the United States, the State of Texas, or the City of San Antonio, or other lawful authority having jurisdiction over the Premises; provided, however, that there shall be no violation by Lessee of this provision unless and until Lessor has notified Lessee in writing specifying the alleged violation and until there has been a final adjudication that the specified use is in violation of the law, regulation, or ordinance specified in such written notice, and that such specified law, regulation, or ordinance is valid and applicable to the Premises, and until Lessee has had a reasonable time after such final adjudication to cure the specified violation.

XXIV.

RULES FOR USE

Lessee will use and occupy the Premises in accordance with reasonable rules and regulations consistent with theatre operations in Texas, provided in writing by Lessor upon notice to Lessee. The initial rules and regulations governing Lessee's use of the Premises are attached hereto as Exhibit "H" and made a part hereof for all purposes.

XXV.

HOLDOVER

Except as otherwise provided herein, Lessee shall not holdover beyond any Term or renewal Term hereunder or beyond the expiration of a Booking as defined herein. Lessee may holdover (the "Authorized Holdover") for the period of 1:00 a.m. to 8:00 a.m. following a Booking date used by Lessee provided the Lessor has not leased the Booking for the date following Lessee's Booking date to a user who will require the use or possession of the Premises during such period, and Lessee shall pay all expenses incurred by Lessor relating to such Authorized Holdover. If Lessee holdsover (other than by an Authorized Holdover) beyond the date of a Booking, such holdover shall be a default hereunder and in addition to any remedies set forth in this Lease, Lessor may pursue its full legal and equitable rights including injunctive relief to immediately remove Lessee and its property from the Premises, and recovery of any expenses, costs of lost revenues and other similar losses which Lessor may incur due to such holdover. Except for authorized holdovers, Lessee shall also be liable for holdover rent for holding over beyond a Booking date; such holdover rent shall be equal to the then prevailing rate for the Premises as quoted to third parties by Lessor for Bookings.

XXVI.

CONFLICT OF INTEREST

Lessor acknowledges that it is informed that Texas prohibits contracts between the City of San Antonio and its "officers" and "employees", and that the prohibition extends to an officer and employee of agencies of the City of San Antonio such as City-owned utilities and certain boards of the City of San Antonio and commissions of the City of San Antonio, and to contract with any partnership, corporation or other organizations in which officers or employees have an interest. Lessor certifies (and this Lease is made in reliance thereon) that neither it nor any person having an interest in this Lease is an officer or employee of the City of San Antonio or any of its agencies.

XXVII.

MISCELLANEOUS

(a) Neither the Lessor nor the Lessee nor any of their agents have made any statement, promises or agreements verbally or in writing in conflict with terms of this Lease. Any and all representations by either of the parties or their agents made

during the negotiations prior to execution of this Lease and which representations are not contained in the provisions hereof shall not be binding upon either of the parties hereto. It is further agreed that this Lease contains the entire agreement between the parties, and no rights are to be conferred upon the Lessor or Lessee until this Lease has been executed by both parties hereto.

(b) All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this agreement or any paragraph or clause herein may require, the same as if such words had been fully and properly written in the number and gender.

(c) The Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute one and the same instrument.

(d) The Lessor and Lessee are not and shall not be considered either joint venturers or partners and neither shall have power to bind or obligate the other.

(e) In the event Lessee continues to occupy the Premises after the last day of the term hereby created, or after the last day of any extensions thereof, and the Lessor elects to accept rent thereafter, a tenancy from month to month only shall be created.

(f) Any legal proceedings initiated by reason of an alleged breach of this Lease by either the Lessee or the Lessor must be commenced within two (2) years from the date that such alleged breach occurred.

(g) If any provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances are other than those to which it is held invalid or unenforceable, shall not be affected thereby.

(h) No modification, alteration or amendment of this Lease shall be binding unless in writing and executed by the parties hereto, their heirs, successors or assigns.

(i) Any reference in this Lease to "the date hereof", the "effective date of this Lease" or "the date of this Lease" or any similar referral shall refer to the date that both Lessor and Lessee execute this Lease

(j) The head notes to the sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way confine, limit or proscribe the scope or intent of any section of this Agreement, nor in any way affect this Agreement.

(k) This Lease shall be binding upon and shall accrue to the benefit of Lessor, its successors and assigns, and Lessee, its successors, heirs, executors and assigns; however, this clause does not constitute a consent by Lessor to any assignment by Lessee. The words "hereof", "herein", "hereunder", "hereinafter" and the like refer to this entire instrument and not solely to the specific paragraph where they appear.

(l) In any circumstances where Lessor is permitted to enter upon the Premises during the Term, whether to cure any default by Lessee, perform any repairs, replacements or maintenance or for any reason permitted hereunder or by law, no such entry shall constitute an eviction or disturbance of Lessee's use and possession of the Premises or render Lessor liable for damage for loss of business or otherwise or entitle Lessee to be relieved from any of its obligations hereunder or grant Lessee any right of offset, recoupment or other remedy.

(m) In all instances where either Lessor or Lessee is required to pay any amount or perform any obligation at a particular time, it is understood that time is of the essence.

(n) Nothing in this Lease shall ever entitle Lessor to charge or collect or shall Lessee be obligated to pay interest in excess of the highest rate allowed by the laws of the United States of America or the State of Texas. It shall be deemed an error if any excess amount be collected and such excess shall be refunded.

(o) The obligation of Lessee to pay rent and other sums provided under this Lease and the obligation to perform Lessee's other covenants and duties under this Lease constitute independent, unconditional obligations to be performed at all times provided for under this Lease. Lessee waives and relinquishes all rights which Lessee might have to claim any nature of lien against or withhold, or deduct from or offset against any rent or other sum provided under this Lease to be paid Lessor by Lessee.

(p) Under no circumstances whatsoever shall Lessor ever be liable under this Lease for consequential or special damages. The term "Lessor" shall mean only the current owner of the Premises, and should owner transfer such interest, the duties, covenants and obligations of Lessor shall also be transferred to each new owner during the Lease Term. Each new owner shall be

deemed to have assumed and agreed to perform all covenants and obligations of Lessor under this Lease.

(q) No check or payment made by Lessee or received by Lessor in any amount less than the amount stipulated in this Lease shall be deemed other than a partial tender or partial payment and no endorsement, statement or other representation by Lessee or any other action by Lessee in tendering such payment shall be binding upon Lessor or be deemed full payment or an accord and satisfaction, and Lessor may accept and deposit any such check or payment without prejudice to Lessor's right to recover the balance of such amount or to pursue any other remedy granted Lessor under this Lease or by law or equity.

(r) This License shall be construed under and in accordance with the laws of the State of Texas, Home Rule Charter and the Ordinances of the City of San Antonio, State of Texas and all obligations of the parties created hereunder are performable in San Antonio, Texas County, Texas.

(s) The parties hereto understand that Lessor may contract with a theater management company to operate the Majestic Theater and Empire Theater on behalf of Lessor. Upon nodification of such appointment by Lessor, Lessee shall accept the nodified theater management company as the agent for Lessor in carrying out the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the Lessor has hereunto caused this Agreement to be executed this _____ day of _____, 1987.

THEATER DEVELOPMENT COMPANY

By:_____
Name:_____
Title:_____

LESSOR

IN WITNESS WHEREOF, the Lessee has hereunto caused this Agreement to be executed this _____ day of _____, 1987.

CITY OF SAN ANTONIO

By:_____
Name:_____
Title:_____

LESSEE

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, personally appeared _____ , to me well known and known to me to be the individual described in and who executed the foregoing instrument as President of THEATER DEVELOPMENT COMPANY, and acknowledged to and before me that he/she executed such instrument as such President of said corporation and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this _____ day of _____, 1987.

_____
Notary Public, State of Texas

S E A L

My Commission Expires:_____

_____
Printed Name of the Notary

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, personally appeared _____, to me well known and known to me to be the individual described in and who executed the foregoing instrument as _____ of THE CITY OF SAN ANTONIO, a municipal corporation of the State of Texas, and acknowledged to and before me that he/she executed such instrument as the free act and deed of the City of San Antonio.

WITNESS my hand and official seal this _____ day of _____, 1987.

_____
Notary Public, State of Texas

S E A L

My Commission Expires:_____

_____
Printed Name of the Notary

FZR16at:pa
10/01/87-2

EXHIBIT "A"

PROPERTY DESCRIPTION FOR
THE THEATER TRACT

EXHIBIT "B"

PROPERTY DESCRIPTION FOR
THE BUILDING TRACT

EXHIBIT "C"

The theater space contained within two (2) theaters located in downtown San Antonio, Texas which are more commonly known as the Majestic Theater and Empire Theater, and are more particularly described on Schedule 1, hereto.

EXHIBIT "D"

MEMORANDUM OF LEASE

This memorandum of Lease is made this _____ day of _____, by and between THEATER DEVELOPMENT COMPANY as "Lessor" and the CITY OF SAN ANTONIO, a municipal corporation in the State of Texas, as "Lessee".

W I T N E S S E T H:

XXVIII.

The Lessor, as Lessor, and the Lessee, as Lessee, have this day entered into a Theater Lease ("Lease") for the use of certain premises ("Premises") commonly known as the Majestic and Empire Theaters in San Antonio, Bexar County, Texas, more particularly described in Exhibit "A" attached hereto.

XXIX.

The Lease sets forth the above names and addresses of the parties thereto.

XXX.

The term of the Lease is 25 years commencing on the commencement date set forth in the Lease and ending 25 years thereafter.

XXXI.

The Lease provides for 5 successive renewal terms of five years each.

V.

The Lease provides for a right of first refusal to the Lessee, under terms and conditions more particularly set out in the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Lease to be duly executed as of the day and year first written above.

LESSOR:

THEATER DEVELOPMENT COMPANY

By: _____

_____

LESSEE:

CITY OF SAN ANTONIO

By: _____

Title: _____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on the ____ day of _____, 1987 by _____, as _____ for _____.

_____
Notary Public in and for
The State of Texas

My Commission Expires:
_____

Notary's Name Typed or Printed:
_____

STATE OF TEXAS §
§
COUNTY OF BEXAR §

This instrument was acknowledged before me on the ____ day of _____, 1987 by _____, as _____ for City of San Antonio.

_____
Notary Public in and for
The State of Texas

My Commission Expires:
_____

Notary's Name Typed or Printed:
_____

IN WITNESS WHEREOF, the Lessee has hereunto caused this Agreement to be executed and sealed this _____ day of _____, 1987.

CITY OF SAN ANTONIO

By: _____
Name: _____
Title: _____

LESSEE

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, personally appeared _____, to me well known and known to me to be the individual described in and who executed the foregoing instrument as President of THEATER DEVELOPMENT COMPANY, and acknowledged to and before me that he/she executed such instrument as such President of said corporation and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this _____ day of _____, 1987.

_____
Notary Public, State of Texas

S E A L

My Commission Expires: _____

_____
Printed Name of the Notary

EXHIBIT "F"

ACCEPTANCE OF PREMISES MEMORANDUM

This Memorandum is to establish the date of acceptance by Lessee of the Premises executed on the _____ day of _____, 1987, between THEATER DEVELOPMENT COMPANY, as Lessor, and the CITY OF SAN ANTONIO, a Texas Municipal Corporation, as Lessee.

Lessor and Lessee hereby agree that:

1. Except for those items shown on the attached "punch list", which Lessor will remedy as soon as practical, Lessor has substantially completed the construction and renovation on the Premises.

2. The Premises herein described are tenantable, the Lessor has no further obligation for construction on the above Premises (except as specified above), and Lessor acknowledges that the Premises is satisfactory in all respects.

3. The Acceptance Date of the Premises is hereby agreed to be the _____ day of _____, 19____.

All other terms and conditions of the Lease are hereby ratified and acknowledged to be unchanged.

Agreed and Executed this _____ day of _____, 1987.

Lessor	Lessee
By:_____	By:_____
Title:_____	Title:_____

EXHIBIT "G"

The Lessee may sublet the Premises for Booking(s) to one or more of the following non-profit organizations or successors thereof (as determined by Lessor and Lessee):

Alamo City Theatre Inc.
Ballet Folklorico De Navarro
Ballet Folklorico De San Antonio
Bexar Opera Workshop
Carver Community Center-Jazz
Center for Peace through Culture
Centro Cultural Aztlan-Chicano Cultural Arts
Compania De Arte Espanol-Dance
DanceArt/San Antonio, Inc.
Danz America De S.A., Inc.
Ethnic Dance Academy
Guadalupe Cultural Arts Center-Theater
Incarnate Word College-Ballet Programs
Opera Guild of San Antonio
Opera Theatre of S.A.
Orchestra San Antonio
Philippine Performing Arts
San Antonio Choral Society
San Antonio Brass
San Antonio Performing Arts Association
Symphony Society of San Antonio
Texas Bach Choir
Texas Ballet Concerto
The Urban 15 Group
Twenty-Fourth St. Experiment
Youth Orchestra of S.A.

EXHIBIT "H"

RULES FOR USE OF PREMISES

1. PERSONNEL AND SERVICES. Lessee shall be required to contract with the Lessor for sufficient qualified personnel as may be required for the proper use and occupancy of the Premises including, but not limited to, ticket sellers, ticket takers, ushers, registration personnel, security guards, paramedics, spotlight operators, sound system technicians, plumbers, electricians, and any other personnel necessary for the handling of freight, decorations, scenery, or other property. Lessor agrees that each person contracted for by Lessee to provide services in the Premises will at all times maintain a neat, clean appearance and conduct himself/herself in a polite and professional manner.

2. CONTROL OF BUILDING. In furnishing space and for purposes of building management, Lessor does not relinquish the right to control the management thereof, and to enforce all necessary and proper rules for the management and operation of the same, and the employees and representatives of Lessor may enter the Premises at any time and on any occasion for such purposes.

3. REMOVAL. All goods, equipment, scenery, staging, and other property brought into the Premises during a Booking shall be removed from the Premises by Lessee on or before the expiration of that Booking. In the event that the above stated area is not vacated by the Lessee on the date above named, then Lessor is hereby authorized to remove, at Lessor's option, from the Premises and to store at the expense of Lessee, all goods, wares, merchandise and property of any and all kinds and description which may be then located within the Premises and Lessor shall not be liable for any damages or loss to such goods, wares, merchandise or other property which may be sustained, either by reason of such removal or the place to which it may be removed, and the Lessor is hereby expressly released and indemnified from any and all claims for damages of whatever kind or nature including attorney's fees and court costs.

4. REMOVAL OF INSTALLATIONS AND PROPERTY. In the event platforms, stagings or other structures are erected by Lessee in any portion of the building, the expense of such erection and removal shall be paid by Lessee, and all damage to said building or furnishings, caused by the erection or removal of such platform or stagings shall be paid by Lessee. Lessee shall vacate the Premises prior to the expiration of each Booking and shall clean and restore the Premises to the condition they were

in immediately prior to the Booking, reasonable wear and tear excepted.

5. ALTERATIONS. Lessee will not cause or permit any nails or any other things to be driven into any portion of the Premises, nor cause or permit any changes, alterations, repairs, painting or staining of any part of the Premises or furnishings or the equipment thereof, nor do, nor permit to be done anything which will damage or change the finish or appearance of Premises or the furnishings thereof. TAPE AND OTHER ADHESIVE MATERIALS WILL NOT BE APPLIED TO WALLS OR OTHER SURFACES OF THE PREMISES WITHOUT THE PRIOR APPROVAL OF LESSOR OR LESSOR'S MANAGER. Lessee will pay the costs of repairing any damage which may be done to the Premises or any of the fixtures, furniture or furnishings thereof by any act caused during a Booking of Lessee. The Lessor shall determine whether any damage has been done, the amount of the damage, and the reasonable cost of repairing it, and whether it is one for which Lessee is to be held responsible, under the terms of this Agreement.

6. SEATING CAPACITY. In no event shall ticket distribution or attendance to a performance, activity, meeting, dinner, concert, entertainment, exhibition or other event be in excess of the designated area capacity as determined by the fire marshall.

7. AISLES AND ALL ACCESS CLEAR. Lessee will permit no chairs, movable seats or other obstructions to be or remain in the entrances, exits or passageways, and will keep same clear at all times. No portion of the sidewalk, entries, passage, vestibules, halls, elevators, or ways of access to public utilities of said building shall be obstructed by Lessee or used for any purpose other than for ingress and egress to and from the Premises. The doors, skylights, stairways or openings that reflect or admit light into any place in the building, including hallways, corridors and passageways shall not be obstructed by Lessee without prior written approval of Lessor.

8. RESPONSIBILITY FOR DAMAGE. If the Premises, or any portion of said building, during the Term, shall be damaged by the act, default or negligence of Lessee, or of Lessee's agents, or employees, patrons, guests, or any person admitted to the Premises by Lessee, its successors or assigns, Lessee will pay to the Lessor, upon demand, such sum as shall be reasonably necessary to restore the Premises to their present condition. Lessee hereby assumes full responsibility for the character, acts and conduct of all persons admitted to the Premises.

9. SECURITY PERSONNEL. Lessor will provide and Lessee will pay for sufficient security personnel to maintain order and

protect persons and property the sufficiency and type of security personnel to meet the approval of the Lessor.

10. LESSOR'S REPRESENTATIVE. A representative of Lessor may remain on the Premises during the term hereof and until performers and the public have left the Premises.

11. TAXES. Lessee shall pay all taxes, if any, on tickets, admissions, food, beverages, and/or merchandise sold at the Premises during the Term hereof, and any license fees and taxes lawfully levied against it during the term hereof.

12. Lessee agrees to assume full responsibility for complying with the Federal Copyright Law of 1978 (17 U.S.C. 101, et seq.) and any Regulations issued thereunder including, but not limited to, the assumption of any and all responsibilities for paying royalties which are due for the use of copyrighted works in Lessee's performances or exhibitions to the copyright owner, or representative of said copyright owner, and City as Lessee will require its sub-lessees and assignees to defend, indemnify and hold harmless Lessor, its officers, directors, employees, and agents, for any claims, losses, expenses or damages growing out of Lessee's infringement or violation of the Copyright Law and/or Regulations. Lessee shall deliver copies of licenses from copyright owners covering copyrighted material to be performed, to the Lessor three days before each Booking Date.

13. Lessee shall not do, nor suffer to be done, anything on the Premises, during the term of this Lease, in violation of the laws of the United States and the State of Texas, and all applicable ordinances of the City of San Antonio. Further, Lessee shall obey all rules and requirements of the police and fire departments of the City. The Lessee agrees that every employer or agent connected with the purpose for which said building is rented shall abide by, conform to and comply with all and any such rules, laws or ordinances. If the attention of Lessee is called to any such violation, Lessee will immediately desist from and correct such violations.

14. Lessee hereby agrees that no activity, performance, meeting, dinner, concert, exhibition, entertainment or other event shall be given or held to take place in the Premises herein described which is potentially dangerous to the public or which is illegal, indecent, obscene, or immoral.

15. Lessor shall have the sole right to collect and have custody of articles left in the building by persons attending any

performance, meeting, dinner, concernt, exhibition, entertainment or other event given or held on the Premises.

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CITY OF SAN ANTONIO

Interdepartment Correspondence Sheet

AGENDA ITEM NO. 40

TO: Mayor and City Council

FROM: Frank Perry, Director, Department of Downtown Initiatives

COPIES TO: File

SUBJECT: MAJESTIC/BRADY LAND PURCHASE ORDINANCE

Date September 29, 1987

SUMMARY AND RECOMMENDATION

This ordinance approves a Purchase Contract whereby the City acquires approximately 0.954 acres of land under the Majestic and Brady Buildings with two assignments of Ground Leases, subject to conditions contained in the ordinance and in the Purchase Contract. In accordance with the attached outline the ordinance also approves a Theater Lease Agreement subject to conditions contained in the ordinance and in the Theater Lease Agreement. The ordinance authorizes the City Manager to execute the Purchase Contract, both Assignments of Ground Leases and the Theaters Lease Agreement and instructs the City Manager to initiate the process of obtaining bond financing for the purchase of the property.

POLICY ISSUES

The ordinance authorizing the Purchase Contract, Assignments of Ground Leases and Theater Lease Agreement provides that approval of the Contract, Assignments and Agreement is conditioned upon the following:

1. City of San Antonio Capital funding being available from sale of certificates of obligation.

2. Developers obtaining:

   a. Financing to acquire and renovate the buildings.
   b. Obtaining a construction contract with provision of Performance Bonding naming the City as an additional principal to assure completion of renovation construction as committed.
   c. Agreement from the proposed operator of the theaters to the City's participation and use of the Theaters.

FINANCIAL CONSIDERATIONS

The City in "B" Session discussions on September 24, 1987, instructed that this ordinance be brought to City Council for ordinance consideration on October 1,

1987, with supporting evidence of the City's capacity to pay debt service on $6.6 million required to purchase the land. The analysis of the City's debt service capacity is provided in a separate report.

Frank Perry, Director
Department of Downtown Initiatives

APPROVED:

Louis J. Fox
City Manager

MAJESTIC - BRADY - EMPIRE DEVELOPMENT

PARTIES	COMPRISED OF	ROLE IN TRANSACTION
Majestic Development Company ("M.D.C.")	- Fairmount Development Company - MAUC Industries, Inc. - Neighborhood Housing Services	- Acquire and redevelop Majestic Building and Brady Building into 100,000 sq. ft. of affordable residential rental space; 25,000 sq. ft. of retail/restaurant space; and 25,000 sq. ft. of office space, at a cost of $6,000,000. Lease land from the City for 1/3 of the net profits from operations of the buildings.
Theater Development Company ("T.D.C.")	- San Antonio Performing Arts District Foundation - Neighborhood Housing Services	- Acquire and refurbish the 2,500 seat Majestic Theater and the 900 seat Empire Theater at a cost of $8,500,000. Lease the land under the theaters from the City for $1.00 per year.
City of San Antonio ("City")	- Itself	- Purchase land under Majestic and Empire Theaters and Majestic and Brady Buildings (approximately 42,042 sq. ft.) for $6,600,000 subject to a ground lease for the land under the theaters to "T.D.C" for 25 years (plus options) at $1.00 per year and subject to a ground lease for the land under the buildings to "M.D.C." for 25 years (plus options) for 1/3 of the net profits from operations of the buildings. - Lease 115 bookings per year in the Majestic Theater and 85 bookings per year in the Empire Theater, a total of 200 bookings per year, for 25 years (plus options) for $400,000 per year plus the City's pro rata share of increases in operating expenses, ad valorem taxes (theater structures only), and multi-peril insurance that occur after the first full year of operation.
Pace Arts Center Enterprises ("P.A.C.E.")	- Its Stockholders	- Lease remaining bookings each year (those not leased by the City) in the Majestic and Empire Theaters for 25 years (plus options) for: $250,000 of base rent; a percentage rent equal to thirty-five (35%) percent of profits; all operating expenses for the two theater performing arts district up to the amount they are projected to be during the base year; and P.A.C.E.'s pro rata share of all increases in operating expenses, ad valorem taxes (theater structures only), and multi-peril insurance that occur after the first full year of operation. - Manage the two-theater Performing Arts District.