

FACILITIES RENTAL AGREEMENT

This Facilities Rental Agreement ("Agreement"), is entered into December 3, 2019, by and between the City of Yakima, Washington, a Municipal Corporation with its principal office at 129 North Second Street, Yakima, Washington 98901 ("Lessee") and The Seasons Music Festival, located at 101 North Naches Avenue, Yakima, Washington 98901 ("Lessor"). The parties hereto, intending to be legally bound, and in consideration of the mutual covenants hereinafter contained, agree as follows:

1. Grant.

Lessor, on the dates and times set forth herein, and subject to the terms and conditions of this Agreement, hereby grants to Lessee a license to use The Seasons Performance Hall Facility, equipment (tables and chairs), Wi-Fi and limited storage ("Facility") for the Community Diversion Program ("Event") to be held on the second and fourth Tuesdays of each month beginning January of 2020 and through December 2020.

2. Date/Times of Permitted Use.

Access to the Facility for the Event will commence at 8:00 AM on the date of the Event and will end at 3:00 PM.

3. Monthly Rent.

Lessee shall pay to Lessor the sum of \$750.00 a month for the use by Lessee of the Facility, not to exceed a total of \$9,000.00 for the year of 2020. The Lessor shall invoice the Lessee at the provided contact address for the installment of rent, and the Lessee shall pay the invoice within 20 days of receipt, unless the agreement is terminated as provided in paragraph 8.

4. Insurance.

Lessee agrees that it shall, at its sole cost and expense, procure and maintain a policy of commercial general liability insurance (including contractual liability) in an amount not less than \$1,000,000.00 per occurrence, \$3,000,000.00 in the annual aggregate. Such insurance policies shall be carried with companies licensed to do business in the state, reasonably satisfactory to Lessor and shall be non-cancelable and not subject to material change except after thirty (30) days written notice to Lessor. Lessee shall deliver to Lessor duly executed certificates of insurance upon request. Lessor shall not at any time be liable for damage or injury to persons or property in or upon the Facility.

5. Indemnification.

- A. The Lessee agrees to defend, indemnify, and hold harmless the lessor, its officials, officers, employees and agents from any and all suits, judgments, actions, claims, demands, damages, and costs and expenses, including reasonable attorneys' fees, which result or arise out of the sole negligent acts or omissions, if any, of the Lessee, its officials, officers, employees or agents. Lessee hereby releases Lessor from any and all liability or responsibility to Lessee or anyone claiming through or under Lessee by way of subrogation or otherwise for any loss or damage to equipment or property of Lessee covered by any insurance then in force.
- B. The Lessee agrees to defend, indemnify, and hold harmless the City of Yakima, its officials, officers, employees and agents from any and all suits, judgments, actions, claims, demands, damages, and costs and expenses, including reasonable attorneys' fees, which result or arise out of the sole negligent acts or omissions, if any, of the Lessee, its officials, officers, employees or agents.
- C. If any suits, judgments, actions, claims or demands arise out of or in connection with the negligent acts and/or omissions of both the Lessee and the Lessor or their officials, officers, employees or agents pursuant to this Agreement, each party shall be liable for its proportionate share of negligence for any resulting suits, judgments, actions, claims, demands, damages, and costs and expenses, including reasonable attorneys' fees.
- D. The terms of the section shall survive any expiration or termination of this Agreement.
- E. Nothing contained in this Section or this Agreement shall be construed to create a liability or a right of indemnification in any third party.

6. "As-Is" Condition.

Lessee agrees to accept the Facility in its "as-is" condition "with all faults".

7. Assignment and Sublicensing.

Lessee shall not assign any interest in this License Agreement or otherwise transfer or sublicense the Facility or any part thereof or permit the use of the Facility to any party other than Lessee.

8. Cancellation and Termination.

- A. Lessee or Lessor may cancel this Agreement at any time by providing 60 days written notice of intent to terminate the agreement. Lessee will have access to the facility and be responsible for the rental fees during the 60 day period following notice of cancellation. Lessee shall be entitled to remove any City of Yakima equipment or personal affects in storage for the purpose of operating the Community Diversion Program.

B. Lessor may terminate this Agreement based upon any one or more of the following events:

1. Failure of Lessee to pay the Rental Fee or any other charges due hereunder when the same is due.
2. Lessee fails to perform any of its covenants hereunder. In any of the aforesaid events, and in addition to any and all rights and remedies available to Lessor by law or in equity, Lessor may, with or without further notice, forthwith terminate this Agreement and expel and remove Lessee, or any other person or persons in occupancy from the Facility, together with their goods and chattels, using such force as may be necessary in the judgment of Lessor or its agents in so doing, without evidence of notice or resort to legal process or becoming liable for any loss of damage which may be occasioned thereby, and repossess and enjoy said Facility, and in addition to any other remedy it may have, Lessor may recover from Lessee all damages it may incur by reason of such breach by Lessee.

9. Interference.

Lessee shall use the Facility in a manner which shall not cause interference with the use or occupancy of the other portions of the Building by Lessor or others in any way. Lessee's use hereunder will be done in such a manner so as not to interfere with or impose any additional expense upon Lessor in maintaining the Building.

10. Restoration.

If any damage occurs to the Facility, or if any repairs or replacements needs to be made to the Facility as a result of Lessee's exercise of its rights under this License, Lessee shall pay Lessor for any such damage, repairs, or replacements upon demand by Lessor.

11. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any legal actions, claims or demands shall be handled in a court of competent jurisdiction within the State of Washington.

12. Contact Information

City of Yakima
Attn. Cynthia Martinez
200 S. Third Street
Yakima, WA 98901

Seasons Performance Hall
Attn. Pat Strosahl
101 North Naches Avenue
Yakima, WA 98901

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF YAKIMA

Lessee

THE SEASONS MUSIC FESTIVAL

Lessor

By: _____
Alex Meyerhoff, Interim City Manager
City of Yakima

By: _____
Pat Strosahl, Director
Seasons Performance Hall

Date: _____

Date: _____

ATTEST:

Sonya Claar Tee, City Clerk

City Contract No. _____

Resolution No. _____