

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (the "Declaration") is made this 2 day of Oct 2023, by **Performing Arts Center Authority** (hereinafter referred to as the "Lessee"), an independent special district, in favor of the **City of Fort Lauderdale**, a municipal corporation of the State of Florida (hereinafter referred to as the "City").

PREAMBLE

WHEREAS, the Lessee entered into a lease with the City for the real property located at 707 NE 8th Street, Fort Lauderdale, Florida 33304; and commonly referred to as the Parker Playhouse (herein after referred to as the "Parker"); and legally described (Folio No. 504202320010) in Exhibit "A" attached hereto.

WHEREAS, construction for the Parker was completed on or around December 1966, and the interior areas represent a certain style of construction reminiscent of the Classical Modern Style.

WHEREAS, the Parker has undergone significant rehabilitation that was completed in 2022 that has maintained historical elements within the interior of the building.

WHEREAS, the Lessee desires to make a voluntary and binding commitment to insure that the interior of Parker shall be preserved and maintained in its current form, as described below and as shown in photographs in Exhibit "B" attached hereto.

NOW THEREFORE, the Lessee voluntarily and knowingly covenants and agrees that the Parker shall be subject to the following declarations and restrictions, which shall be deemed covenants running with, touching and concerning the land and binding upon the Lessee, its heirs, successors and/or assigns as follows:

Section 1. The recitals are true and correct and hereby incorporated as if fully set forth herein.

Section 2. The Lessee and the City hereby makes the following voluntary declarations running with and touching the land regarding the Parker:

- (a) Modifications, alterations or any changes to interior features of the Parker outlined in subsection (b) below shall require review and comment by the City Commission of the City of Fort Lauderdale using definitions and criteria consistent with Section 47-24.11 of the City's Unified Land Development Regulations.
- (b) It is the intent of the City that the interior areas, as described within this subsection, of the Parker shall be preserved, protected and maintained in perpetuity in its current form. The Lessee shall take all reasonable steps and actions, including without limitation, budgeting appropriate funds, to maintain the historical nature and aspects of the interior areas of the Parker. The interior areas of the Parker are unique and important to the culture and history of the City of Fort Lauderdale. Any modification,

alteration or change to the interior areas of the Parker, as described within this subsection, shall require review and comment by the City Commission using definitions and criteria consistent with Section 47-24.11 of the City's Unified Land Development Regulations. These interior areas include the portion of the original façade as visible from the interior lobby, decorative painted and coffered ceilings in the side lobbies, the proscenium, and general seating arrangement and size of seats within the theater.

- (c) All work as defined in subsections (a) and (b) above on the Parker shall be done in accordance with the United States of America Secretary of the Interior's Standards for Rehabilitation and the City of Fort Lauderdale Historic Preservation Design Guidelines. Modifications, alterations or any changes to the interior of the Parker as outlined in subsection (b) above shall be subject to the jurisdiction of the Historic Preservation Board of the City of Fort Lauderdale.
- (d) The requirements in this Declaration of Restrictive Covenants shall be binding upon the City and the Lessee.

Section 3. Interior Area Descriptions. Descriptions provided of interior features are to be used in addition to definitions within Section 47-24.11 of the City's Unified Land Development Regulations.

- (a) Original Façade. A portion of the original façade is located within interior of the main lobby and is visible within this space.
- (b) Decorative Painted Ceilings. The decorative painted ceilings located at the southeast and southwest corners of the side lobbies.
- (c) Coffered Ceilings. Square coffered ceilings located in the east and west side lobbies.
- (d) Proscenium. The decorative opening in the wall that separates the stage from the auditorium and provides the arch that frames the opening.
- (e) Theater Seating. General seating arrangement and size of seats within the theater auditorium space.

Section 4. **Effective Date.** This Declaration shall become effective upon recordation in the Public Records of Broward County, Florida, and shall continue in effect in perpetuity. This instrument shall constitute a covenant running with the land of the Parker. These restrictions shall be a limitation upon all present and future owners, tenants, subtenants, licensees, concessionaires, and any and all other parties claiming by, through or under the foregoing parties of the Parker and shall be for the public welfare, as part of the preservation of this building.

Section 5. **Modification, Amendment, Release.** This instrument may only be modified, amended, or released as to the Parker, or any portion thereof, by a written instrument executed by the City Manager of the City and with legal form approved by the City Attorney.

Section 6. **Inspection and Enforcement.** This Declaration may be enforced by any means provided by law. The City is a beneficiary of this Declaration. An enforcement action may be brought by the City by action in law or in equity, including, without limitation, an injunction or

specific performance, against any party or person violating or attempting to violate any covenants, conditions or restrictions of this Declaration, either to restrain violations, compel compliance or recover damages. However, the goal is to preserve the appearance of the interior of the Parker and damages will not be a sufficient remedy in most instances. The prevailing party in the action or suit shall be entitled to recover cost and reasonable attorney's fees, including at the appellate level.

Section 7. Severability. Invalidation of any of these covenants by judgment of court shall not affect any of the other provisions of the Declaration, which shall remain in full effect.

Section 8. Recording. This Declaration shall be filed of record among the Public Records of Broward County, Florida, at the City's expense within (10) days of execution by the City and Lessee.

Section 9. Miscellaneous Provisions. This Declaration shall be construed and enforced according to the Laws of the State of Florida. Venue in any proceeding between the parties shall lie in Broward County, Florida. Each party waives any defense, whether asserted by motion or pleading, that the aforementioned courts are an improper or inconvenient venue. Moreover, the parties' consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction. The parties irrevocably waive any rights to a jury trial. Title and paragraph headings are for convenient reference and are not part of this Agreement. No waiver or breach of any provision of this Declaration shall constitute a waiver of any provision of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing. Except for the Ground Lease, this Declaration constitutes the sole and entire agreement between the parties hereto as to the matter herein. No modification or amendment hereto shall be valid unless in writing and executed according to Section 4 herein.

[Signature Pages to Follow]

Signed, witnessed, executed and acknowledged on this 7th day of sept, 2023.

WITNESSES

Jennifer A. Watter
Print Name: Jennifer A. Watter

Matthew McNeil
Print Name: Matthew McNeil

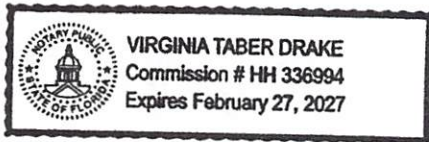
Performing Arts Center Authority, an independent special district organized under the laws of the State of Florida

By: Barbara Stern
Name: Barbara Stern
Title: Chair

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 7th day of sept, 2023, by Barbra Stern as Board Chair of Performing Arts Center Authority, an independent special district organized under the laws of the State of Florida. He/She is personally known to me or physical presence has produced physical presence, as identification, and did take an oath.



Virginia Drake
Notary Public State of Florida at Large

Virginia Drake
Print Name
My Commission Expires: 02/27/2023

WITNESSES

[Signature]
Print Name: Scott Wyman

[Signature]
Print Name: Donna Weiss

CITY OF FORT LAUDERDALE

By: [Signature]
Dean J. Trantalis, Mayor

By: [Signature]
Greg Chavarria, City Manager

ATTEST:

By: [Signature]
David R. Soloman, City Clerk



APPROVED AS TO FORM AND
CORRECTNESS:

D'Wayne Spence, Interim City Attorney

By: [Signature]
Lynn Solomon, Assistant City Attorney

EXHIBIT "A"

Legal Description – The Parker Playhouse

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

EXHIBIT "B"

Photographs



Figure 1: Main Lobby (Section 4(a)) with Original Facade

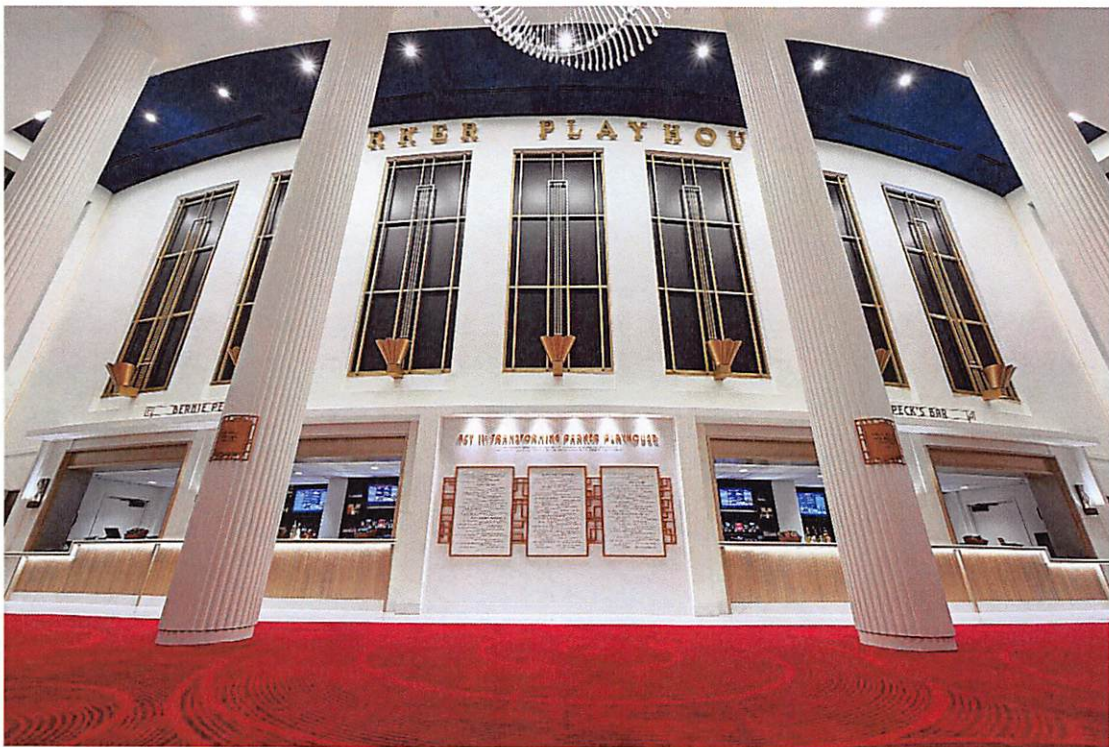


Figure 2: Main Lobby (Section 4(a)) with Original Facade in Lobby with Original Facade

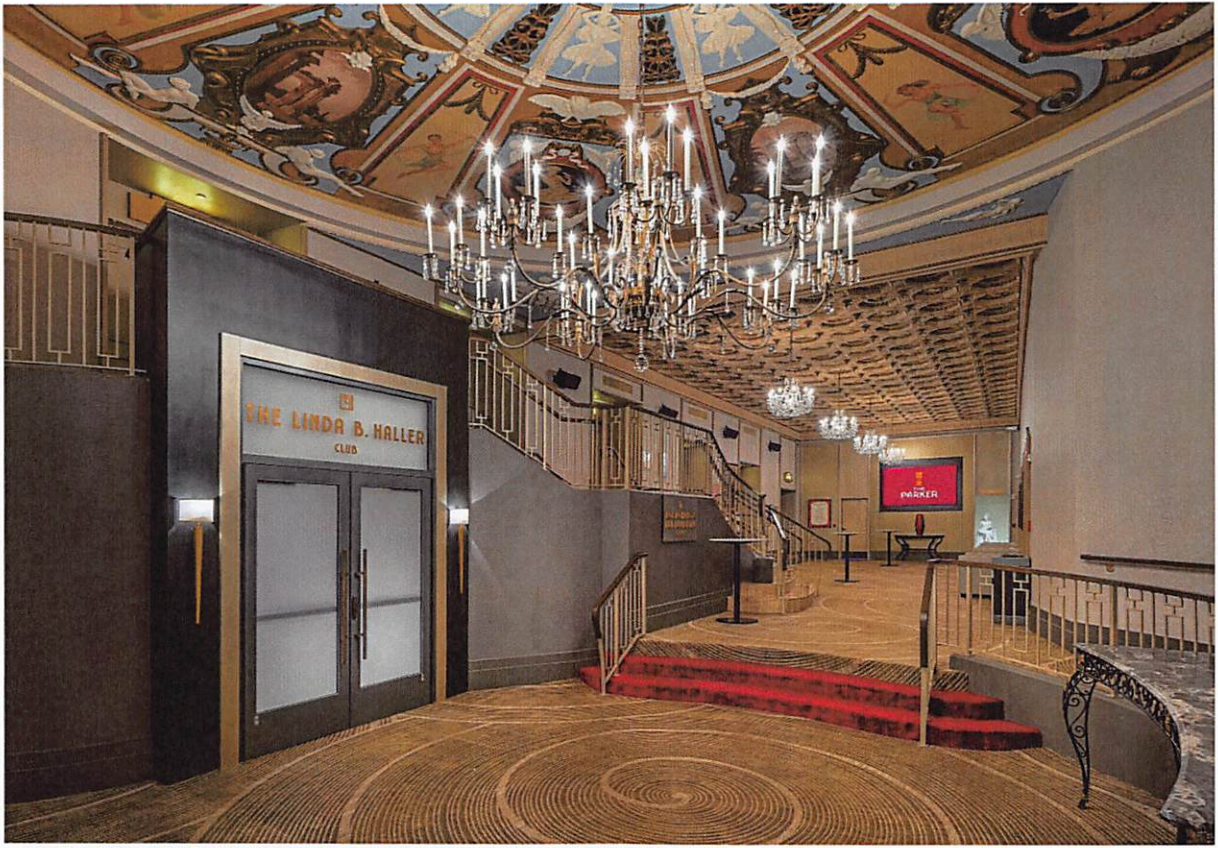


Figure 3: East Lobby showing Decorative Painted Ceilings (Section 4(b)) and Coffered Ceilings (Section 4 (c))



Figure 4: East Lobby showing Decorative Painted Ceilings (Section 4(b)) and Coffered Ceilings (Section 4 (c))



Figure 5: Proscenium (Section 4(d)) and Theater Seating (Section 4(e)) in Lillian S. Wells Hall



Figure 6: Proscenium (Section 4(d)) and Theater Seating (Section 4(e)) in Lillian S. Wells Hall
Figure 4: Theater Seating in Lillian S. Wells Hall



Figure 7: Theater Seating (Section 4(e)) in Lillian S. Wells Hall

- KCM M-1** 23-0840 Motion Approving Event Agreements and Related Road Closures for Vegan Block Party: Fall Festival, 2023 Halloween Block Party (Victoria Park Residential), Day of the Dead Celebration and Boardroom Bar 10th Anniversary Car Show - (Commission Districts 1 and 2)
- APPROVED**
- Yea:** 5 - Commissioner Glassman, Vice Mayor Beasley-Pittman, Commissioner Sturman, Commissioner Herbst and Mayor Trantalis
- KCM M-2** 23-0889 Motion Approving an Event Agreement, Related Road Closures and Request for Music Exemption for Halloween on Second Street - (Commission District 2)
- APPROVED**
- Yea:** 5 - Commissioner Glassman, Vice Mayor Beasley-Pittman, Commissioner Sturman, Commissioner Herbst and Mayor Trantalis
- SCW M-3** 23-0784 Motion Approving and Authorizing the Execution of a Revocable License with Publix Super Markets, INC. for Temporary Right-of-Way Closures on NE 33rd Avenue in Association with the Publix Development Located at 2985 N. Ocean Boulevard - (Commission District 2)
- REMOVED FROM AGENDA**
- LS M-4** 23-0802 Motion Approving the Execution of a Declaration of Restrictive Covenants for the Protection of Interior Features of The Parker Located at 707 NE 8th Street - (Commission District 2)
- APPROVED**
- Yea:** 5 - Commissioner Glassman, Vice Mayor Beasley-Pittman, Commissioner Sturman, Commissioner Herbst and Mayor Trantalis
- LS M-5** 23-0821 Motion Approving the Acceptance of Property located at 515 NW 15th Avenue from the Fort Lauderdale Community Redevelopment Agency, to the City of Fort Lauderdale - (Commission District 3)
- APPROVED**
- Yea:** 5 - Commissioner Glassman, Vice Mayor Beasley-Pittman, Commissioner Sturman, Commissioner Herbst and Mayor Trantalis



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

23-0802

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Greg Chavarria, City Manager

DATE: September 19, 2023

TITLE: Motion Approving the Execution of a Declaration of Restrictive Covenants
for the Protection of Interior Features of The Parker Located at 707 NE 8th
Street - **(Commission District 2)**

Recommendation

Staff recommends that the City Commission consider a motion authorizing the execution of a Declaration of Restrictive Covenants for the protection of interior features at The Parker located at 707 NE 8th Street.

Background

Located in Holiday Park, the Parker (formerly the Parker Playhouse), has recently undergone a full renovation with a new addition. On February 25, 2022, the City Commission received Commission Memorandum Number 22-021, provided as Exhibit 1, that stated, due to the multiple changes that have occurred and particularly with the addition onto the front façade, the architectural integrity of the Parker has been lost and the building is no longer eligible for historic designation. While select elements of the original building were retained on the interior of the structure, the totality of the surviving original materials and original design intent is not sufficient to warrant historic designation of the interior.

Although historic designation is not an option, this building has made a significant contribution to the Fort Lauderdale community with the support of its benefactor, Dr. Louis W. Parker, the performances held at the site throughout the years, and its unique interior elements from the original building that are visible today.

In recognition of the significance of these interior features, a voluntary Declaration of Restrictive Covenants is proposed to be placed on the property to assist in the protection of specific elements outlined within the declaration from being lost or modified in the future. If adopted, any interior alterations of the features identified at the Parker shall require review and comment by the Fort Lauderdale City Commission. The Declaration of Restrictive Covenants has been prepared in coordination with representatives of the Performing Arts Center Authority (PACA) whose board has also voted to approve this document. The Declaration of Restrictive Covenants is provided as Exhibit 2.

The motion authorizes the proper City officials to countersign the Declaration.

Resource Impact

There is no fiscal impact to the City associated with this action.

Strategic Connections

This item supports the Advance Fort Lauderdale 2040 Comprehensive Plan specifically advancing:

- The Neighborhood Enhancement Focus Area
- The Historic Preservation Element
- Goal 2: Provide educational and incentive opportunities to further the City's historic preservation goals.
- Objective HP 2.2: Educational Tools. Educate the public about archaeological and historic preservation programs.
- Policy HP 2.2.2: Support, as financially feasible, cultural and heritage tourism through education to make the City a heritage tourism destination.
- Policy HP 2.2.2a: Support, as financially feasible, efforts in establishing marketing and education methods that highlight the cultural and historical heritage of Fort Lauderdale.

Attachments

Exhibit 1 – Commission Memorandum Number 22-021

Exhibit 2 – Declaration of Restrictive Covenants

Prepared by: Trisha Logan, AICP, Development Services Department

Department Director: Christopher Cooper, AICP, Development Services



**COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM**

1L

Today's Date:

DOCUMENT TITLE: Dec. of Restrictive Covenants – Parker Playhouse – 707 NE 8th Street

COMM. MTG. DATE: 9/19/2023 **CAM #:** 23-0802 **ITEM #:** M-4 **CAM attached:** YES NO

Routing Origin: CAO **Router Name/Ext:** Sonia X5598 **Action Summary attached:** YES NO

CIP FUNDED: YES NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) Dept: CAO **Router Name/Ext:** Sonias X5598 **# of originals routed:** 1 **Date to CAO:** _____

2) City Attorney's Office: Documents to be signed/routed? YES NO # of originals attached: 1

Is attached Granicus document Final? YES NO Approved as to Form: YES NO

Date to CCO: _____ Lynn Solomon
Attorney's Name

[Signature]
Initials

3) City Clerk's Office: # of originals: 1 **Routed to:** Donna V. / Aimee L. / CMO **Date:** 09/26/23

4) City Manager's Office: **CMO LOG #:** SEP 49 Document received from: _____

Assigned to: GREG CHAVARRIA SUSAN GRANT
ANTHONY FAJARDO GREG CHAVARRIA as CRA Executive Director

APPROVED FOR G. CHAVARRIA'S SIGNATURE N/A FOR G. CHAVARRIA TO SIGN

PER ACM: S. Grant (Initial/Date) PER ACM: A. Fajardo (Initial/Date)

PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward _____ originals to Mayor CCO **Date:** 9/27/23

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) **Date:** _____

6) City Clerk: Scan original and forwards 1 originals to: Sonia S. /CAO/ 5598

*** Please provide a scan of completely executed document to ssierra@fortlauderdale.gov

Attach _____ certified Reso # _____ YES NO

Original Route form to Sonias X5598