

AGREEMENT

Among

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE

and

PERFORMING ARTS CENTER AUTHORITY

and

ALBERNI, CABALLERO & FIERMAN, LLP

**FOR AUDIT SERVICES OF THE PERFORMING ARTS CENTER AUTHORITY'S
RECORDS FOR A FIVE-YEAR TERM FOR
FISCAL YEARS 2016 THROUGH 2020**

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**FOR AUDIT SERVICES OF THE PERFORMING ARTS CENTER AUTHORITY'S
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FISCAL YEARS 2016 THROUGH 2020**

This is an Agreement among BROWARD COUNTY, a political subdivision of the state of Florida ("COUNTY"), and CITY OF FORT LAUDERDALE, a municipal corporation of the state of Florida ("CITY"), and PERFORMING ARTS CENTER AUTHORITY, an independent special district and a public body, politic, and corporate in Broward County, State of Florida ("PACA"), and ALBERNI, CABALLERO & FIERMAN, LLP, a Florida Limited Liability Partnership, registered, authorized, certified, and licensed to do business in the state of Florida as Certified Public Accountants and Consultants ("AUDITOR").

The COUNTY, CITY, and PACA are collectively referred to as "PUBLIC AGENCIES." The PUBLIC AGENCIES and AUDITOR are collectively referred to as the "Parties."

RECITAL

The COUNTY and CITY acknowledge that Chapter 2005-335, Laws of Florida (herein "PACA's Special Act"), requires that the respective commissions of the COUNTY and CITY retain, employ, and compensate independent certified public accountants to audit PACA's records or books of account at least once yearly and at such other times as either commission deems necessary.

In accordance with the auditor selection procedures in Section 218.391, Florida Statutes, PACA established an audit committee that includes the COUNTY's Auditor and the CITY's Auditor to evaluate Requests for Proposal to auditors, and to make a recommendation to PACA's Board.

PACA's Board has evaluated the recommendation of the auditor selection committee and selected AUDITOR as the most highly qualified firm to perform the required auditing services and recommends the selection of the same to the COUNTY and CITY.

The Parties desire to enter into this Agreement for the AUDITOR to perform auditing services for PACA.

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the Parties agree as follows:

ARTICLE 1 - OBLIGATIONS FOR SELECTION AND COMPENSATION OF PACA'S AUDITOR

- 1.1 Subject to PACA's Special Act, as may be amended from time to time, and the termination provisions herein, the COUNTY and CITY acknowledge that their respective commissions are required to retain, employ, and compensate independent certified public accountants to audit the records or books of account of PACA for PACA's Fiscal Years 2016 through 2020. The PUBLIC AGENCIES acknowledge that PACA conducted the auditor selection process for PACA's auditor for Fiscal Years 2016 through 2020, and PACA represents that such selection was done in accordance with the auditor selection procedures in Section 218.391, Florida Statutes. The PUBLIC AGENCIES acknowledge that the County Auditor, as the COUNTY's representative, and the CITY's auditor were voting members on PACA's Audit Selection Committee for the selection of PACA's AUDITOR. The PUBLIC AGENCIES agree that PACA is responsible for the selection process for PACA's auditor for Fiscal Year 2016 through Fiscal Year 2020.
- 1.2 PACA has selected AUDITOR as its independent certified public accountant and the COUNTY and the CITY will each pay one-half of the compensation for each Fiscal Year's audit, subject to the provisions herein and subject to changes in PACA's Special Act.

ARTICLE 2 - DEFINITIONS AND IDENTIFICATIONS

- 2.1 Auditor. AUDITOR is the firm of Alberni, Caballero & Fierman, LLP (including all individuals performing services for the firm), comprised of Certified Public Accountants licensed to do business in the state of Florida which has been selected by PACA, COUNTY (including its County Auditor) and CITY (including its City Auditor) through PACA's audit selection process to provide auditing services. AUDITOR represents that all required licenses are active and shall remain active throughout the term of this Agreement.

- 2.2 Auditor's Report on Examination of Financial Statements ("Audit Report"). The Audit Report is a written report on the examination of PACA's financial books and records prepared by AUDITOR in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in "Government Auditing Standards" issued by the Comptroller General of the United States.
- 2.3 Board. PACA's governing board.
- 2.4 Financial Audit. The Financial Audit ("Financial Audit") is an examination of documents, records, reports, systems of internal control, accounting and financial procedures, and other evidence to ascertain whether financial transactions have been properly recorded and whether the financial statements prepared from the accounts present fairly, in all material respects, the financial position of PACA, as of the end of each Fiscal Year's period being audited and the results of its operations and cash flow for the Fiscal Year then ended to determine if they are in conformity with accounting principles generally accepted in the United States of America.
- The Financial Audit is also an examination of PACA's financial statements in order for the AUDITOR to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether PACA's operations are properly conducted in accordance with legal and regulatory requirements. The Financial Audit shall be conducted in accordance with generally accepted auditing standards and government auditing standards.
- 2.5 Financial Statements. Financial Statements ("Financial Statements") are PACA's statement of net assets, statement of revenues and expenses, statements of changes in cash position, and other statements presenting financial data, including accompanying notes, derived from the accounting records.
- 2.6 Fiscal Year. The term "Fiscal Year" ("Fiscal Year" or "FY") is the period commencing October 1 of each year and ending September 30 of the following year. The first Fiscal Year for the services required under this Agreement is "Fiscal Year 2016" which is the one-year period ending September 30, 2016.
- 2.7 Management Letter of Comments and Recommendations. This is a separate letter ("Management Letter") required to be provided by AUDITOR to the PUBLIC AGENCIES containing comments by AUDITOR concerning compliance or noncompliance of a material nature with statutory, regulatory, bond covenant, and control requirements based upon a review of the system of internal accounting controls and other findings and as further described in applicable auditor rules revised from time to time, including those rules mentioned in Exhibit A.
- 2.8 PACA's Special Act. This is PACA's governing act contained in its Special Act, Chapter 2005-335, Laws of Florida, as amended from time to time.

- 2.9 Special Auditing Services. These are the services related to performing a Financial Audit as in described in Article 2 and Exhibit A. The AUDITOR's special auditing services shall include the examination and audit of related financial records along with the issuance of a separate AUDITOR's opinion(s) for any special audit(s) (up to a maximum of four (4) special audits for each fiscal year and any additional special audit required by PACA as described in Article 8 and Exhibit A).

ARTICLE 3 - SCOPE OF SERVICES

- 3.1 AUDITOR shall perform all work identified in this Agreement including without limitation Exhibit A. The Scope of Services set forth in this Agreement is a description of AUDITOR's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by AUDITOR impractical, illogical, or unconscionable.
- 3.2 AUDITOR's performance of additional services is subject to Article 8, the "Amendments" section in Article 12, and Exhibit A.

ARTICLE 4 - TERM AND TIME FOR PERFORMANCE

4.1 Term.

4.1.1 The term of this Agreement shall begin on the date it is fully executed by all Parties and shall end on February 28, 2021 ("Initial Term"), subject to earlier termination as described herein. If the term extends beyond a single fiscal year, the continuation of this Agreement beyond the end of any fiscal year shall be subject to the availability of funds from the COUNTY and the CITY in accordance with Chapter 129 and Chapter 166, Florida Statutes, respectively.

4.1.2 All duties, obligations, and responsibilities required of AUDITOR shall be completed within the mandated time. Time is of the essence in AUDITOR's performance of the duties, obligations, and responsibilities required herein, including any stated time deadlines in Exhibit A.

4.2 Time for Performance.

The AUDITOR shall comply with all additional time requirements set forth herein, including those required in Exhibit A.

ARTICLE 5 - AUDITOR RESPONSIBILITIES

The AUDITOR's responsibilities also include adhering to auditing standards, maintaining the required professional standard of care, and other responsibilities as more fully described in Exhibit A.

ARTICLE 6 - SPECIAL AUDITS

AUDITOR may be required to perform certain special audits as detailed in Exhibit A, subject to the provisions in Article 7 below, and any applicable provisions in Exhibit B.

ARTICLE 7 - COMPENSATION AND METHOD OF BILLING AND PAYMENT

The lump sum compensation for the agreed services for each Fiscal Year's audit, the fee rates for additional services (including any special audits exceeding the allowable four (4) special audits), and the method of billings and payments shall be in accordance with Exhibit B, "Schedule of Payments and Billings."

ARTICLE 8 - ADDITIONAL SERVICES AND CHANGES IN SCOPE OF WORK

AUDITOR may determine that additional work is necessary due to AUDITOR's performance of each Fiscal Year's audit as described in Exhibit A. Additionally, PACA, COUNTY, and the CITY have the option to issue a written request for additional work to the Parties' representatives identified in the "Notices" section in Article 12 subject to execution of a written amendment in accordance with the "Amendments" section in Article 12, as applicable, and subject to the additional services' provisions in Exhibit A.

ARTICLE 9 - TERMINATION

- 9.1 This Agreement may be terminated for cause by any of the Parties upon three (3) calendar days' prior written notice by the party that elected to terminate if the party in breach has not corrected the breach within seven (7) calendar days after written notice from the aggrieved party identifying the breach. Termination for cause by PACA may be by PACA's Board or its President/CEO. Termination for cause by COUNTY may be by COUNTY's Board of County Commissioners or its County Administrator. Termination for cause by the CITY may be by the City Commission or the City Manager.

After PACA first obtains the prior written approval of the COUNTY's Chief Financial Officer and the CITY's Finance Director, the Agreement may be terminated for convenience by action of PACA's Board upon not less than fourteen (14) calendar days' prior written notice by PACA's President/CEO to the AUDITOR in accordance with the "Notices" section in Article 12 with a required simultaneous copy of such notice to the COUNTY and the CITY. This Agreement may also be terminated by PACA's President/CEO upon such notice as PACA's President/CEO deems appropriate under the circumstances and in the event PACA's President/CEO determines that termination is necessary to protect the public health, safety, or welfare. In such event, PACA's President/CEO shall, within two (2) business days or as soon as practicable whichever is earlier, send written notice to all remaining Parties in accordance with the "Notices" section in

Article 12. In the event of any termination as provided in this paragraph, the COUNTY's Chief Financial Officer, the CITY's Finance Director, and PACA's President/CEO shall meet as soon as practicable to mutually consider obtaining a replacement for PACA's AUDITOR subject to the requirements of PACA's Special Act at such time.

The COUNTY (through its Board or its CFO) or the CITY (through its City Commission or City Manager) may terminate the Agreement for convenience at any time by providing written notice to the other Parties informing them of the effective date of such termination which shall be at least fourteen (14) calendar days after the giving of notice. In the event of such termination, the COUNTY and the CITY respectively shall be obligated to pay PACA for services already performed by the AUDITOR on any pending audit. In the event of any termination (for convenience, cause or other stated reasons), the PUBLIC AGENCIES shall cooperate with each other to expeditiously obtain a replacement auditor for PACA subject to PACA's Special Act as applicable at the time of such termination.

Additionally, if subsequent amendments to PACA's Special Act result in the COUNTY and the CITY no longer being responsible for payment of PACA's annual audit, and, if either COUNTY (through its Contract Administrator after consultation with the Office of the County Attorney) and CITY (through its City Manager after consultation with the City Attorney's Office) determine that the COUNTY and the CITY respectively have no further responsibility for payment, then, COUNTY (through its Contract Administrator) and CITY (through its City Manager) respectively may provide written notice of termination for convenience to all remaining Parties which shall be effective immediately.

- 9.2 This Agreement may be terminated for cause by any of the PUBLIC AGENCIES for reasons including, but not limited to, AUDITOR's failure to provide the required Financial Audit(s) within the required time, failure to submit the required Audit Report to the Auditor General within the required time, repeated (whether negligent or intentional) submissions for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives in this Agreement. The Agreement may also be terminated for cause if AUDITOR is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if AUDITOR provides a false certification submitted pursuant to Section 287.135, Florida Statutes.
- 9.3 Notice of termination shall be provided in accordance with the "Notices" section in Article 12 except that notice of termination by PACA's President/CEO, which PACA's President/CEO deems necessary to protect the public health, safety, or welfare, may be verbal notice which shall be promptly confirmed in writing in accordance with the "Notices" section.
- 9.4 In the event this Agreement is terminated for convenience by any of the PUBLIC AGENCIES, AUDITOR shall be paid by PACA for any services performed through

the effective date of termination. Upon being notified of any of the PUBLIC AGENCIES' election to terminate, AUDITOR shall refrain from performing further services or incurring additional expenses. Under no circumstances shall PACA make payment for services which have not been performed or expenses which have not been incurred if allowed. AUDITOR acknowledges and agrees that it has received good, valuable and sufficient consideration from the PUBLIC AGENCIES, the receipt and adequacy of which are acknowledged by the AUDITOR, for PACA's right to terminate for convenience.

- 9.5 In the event of expiration or early termination of this Agreement, any compensation payable by PACA to AUDITOR shall be withheld until all documents are provided by AUDITOR to PACA pursuant to the "Rights in Documents and Works" section in Article 12.
- 9.6 In the event AUDITOR abandons this Agreement or causes it to be terminated, AUDITOR shall indemnify COUNTY, CITY, and PACA against any loss pertaining to this termination in accordance with the provisions in Article 10, "Indemnification and Governmental Immunity."
- 9.7 The Parties acknowledge that other termination provisions are included in Article 12, including the Equal Employment Opportunity, Public Entity Crime Act, Assignment and Performance, and Contingency Fee sections.

ARTICLE 10 - INDEMNIFICATION AND GOVERNMENTAL IMMUNITY

10.1 Indemnification by Auditor.

AUDITOR shall at all times hereafter indemnify, hold harmless and defend the PUBLIC AGENCIES and all of the PUBLIC AGENCIES' current and former officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless or negligent act or omission of AUDITOR, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, AUDITOR shall, upon written notice from the Indemnified Party, defend each Indemnified Party against each such Claim by counsel satisfactory to the applicable Indemnified Party or, at the applicable Indemnified Party's option through its representative in the "Notices" section in Article 12 or such Indemnified Party's attorney, pay for an attorney selected by the Indemnified Party's Attorney to defend the Indemnified Party. All the obligations in Section 10.1 shall survive the expiration or earlier termination of this Agreement.

As to any claim by PACA against AUDITOR or collectively involving all the PUBLIC AGENCIES against the AUDITOR, to the extent considered necessary by PACA (through its President/CEO and PACA's Attorney) after first obtaining the prior

written recommendations from the COUNTY's Finance Director and CITY's Finance Director, any sums due AUDITOR under this Agreement may be retained by PACA until all of PACA's or all of the PUBLIC AGENCIES' claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by PACA or any of the remaining PUBLIC AGENCIES.

As to any claim by the COUNTY against AUDITOR not included in the second paragraph above or any COUNTY's claim against PACA, to the extent considered necessary by COUNTY (through its County Attorney and COUNTY's Chief Financial Officer), any sums due to PACA under this Agreement for reimbursement payments to AUDITOR may be retained by COUNTY until all of COUNTY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by COUNTY or CITY.

As to any claim by the CITY against AUDITOR not included in the second paragraph above or any CITY's claim against PACA, to the extent considered necessary by CITY (through its City Attorney and CITY's Finance Director), any sums due to PACA under this Agreement for reimbursement payments to AUDITOR may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by CITY or COUNTY.

10.2 Governmental Immunity.

PACA represents to COUNTY and CITY that PACA is a state agency or political subdivision as described in Section 768.28, Florida Statutes. PACA agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

ARTICLE 11 - INSURANCE

11.1 Auditor's Insurance.

11.1.1 AUDITOR shall maintain, at its sole expense and at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum insurance coverage designated in Exhibit C in accordance with the terms and conditions stated in this article.

11.1.2 Such policies shall be issued by companies authorized to do business in the State of Florida, with a minimum AM Best financial rating of A-. Coverage shall be provided on forms no more restrictive than the latest edition of the applicable form filed by the Insurance Services Office. AUDITOR shall name "Performing Arts Center Authority, "Broward County," and "City of Fort Lauderdale" as additional insureds under the primary and non-contributory Commercial General Liability policy, Business Automobile Liability policy, and any Excess Liability policy. The official title of the

Certificate Holders are the Performing Arts Center Authority, Broward County, and the City of Fort Lauderdale. This official title shall be used in all insurance documentation.

11.1.3 Within ten (10) days of complete execution of the Agreement, AUDITOR shall provide to PACA proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements, Declaration pages, or insurance policies evidencing all insurance required by this Article. AUDITOR shall provide a certified copy of any policies required by the Article upon request by PACA. Coverage is not to cease and is to remain in force until PACA determines all performance required of AUDITOR is completed. For Professional Liability Insurance, coverage shall remain in force for two (2) years after the completion of all Services unless a different time period is set forth in Exhibit C. PACA shall be notified of any restriction or cancellation of coverage within thirty (30) days. If any of the insurance coverage expires prior to the completion of the services, proof of insurance renewal shall be provided to PACA upon expiration.

11.1.4 If AUDITOR uses a Subcontractor, AUDITOR shall require that each Subcontractor name the Performing Arts Center Authority, Broward County, and the City of Fort Lauderdale as additional insureds under the Subcontractor's Commercial General Liability, Business Automobile Liability, and Excess/Umbrella policies.

11.2 PACA's Insurance.

11.2.1 PACA is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and agrees to furnish the COUNTY and the CITY, upon complete execution of this Agreement, with written verification of liability protection in accordance with state of Florida's laws. Additionally, if PACA elects to purchase any additional liability coverage, including excess liability coverage, PACA shall name "Broward County" and the "City of Fort Lauderdale" as additional named insureds on the certificate.

11.2.2 If PACA hires subcontractor(s) to perform the services under this Agreement, PACA shall require its subcontractor(s) to endorse the "Performing Arts Center Authority," "Broward County," and the "City of Fort Lauderdale" as additional insureds on any general liability and excess liability policies.

ARTICLE 12 - MISCELLANEOUS

12.1 Rights in Documents and Works.

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of PACA, and, if a copyright is claimed, AUDITOR grants to PACA a non-exclusive

license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by AUDITOR, whether finished or unfinished, shall become the property of PACA and shall be delivered by AUDITOR to PACA's President/CEO within seven (7) calendar days of termination of this Agreement. Any compensation due to AUDITOR shall be withheld until all documents are received as provided herein. AUDITOR shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

12.2 Public Records.

The PUBLIC AGENCIES are subject to Chapter 119, Florida Statutes. To the extent AUDITOR is a contractor acting on behalf of such PUBLIC AGENCIES pursuant to Section 119.0701, Florida Statutes, AUDITOR shall:

- 12.2.1 Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by the PUBLIC AGENCIES were the PUBLIC AGENCIES performing the services under this Agreement;
- 12.2.2 Provide the public with access to such public records on the same terms and conditions that the PUBLIC AGENCIES would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- 12.2.3 Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- 12.2.4 Meet all requirements for retaining public records as PUBLIC AGENCIES and transfer to PACA on behalf of the PUBLIC AGENCIES, at no cost, all public records in possession of AUDITOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to PACA in a format that is compatible with the information technology systems of PACA.

The failure of AUDITOR to comply with the provisions set forth in this section shall constitute a default and breach of this Agreement, and PACA shall enforce the default in accordance with the provisions set forth in Article 9. AUDITOR shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

12.3 Audit Right and Retention of Records.

12.3.1 General Terms.

The PUBLIC AGENCIES shall have the right to audit the books, records, and accounts of AUDITOR and its Subcontractors that are related to this Agreement. AUDITOR and its Subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of AUDITOR and its Subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, AUDITOR or its Subcontractor, as applicable, shall make same available at no cost to PACA in written form.

AUDITOR and its Subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by the PUBLIC AGENCIES, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. The PUBLIC AGENCIES' audits and inspections pursuant to this section may be performed by any of the PUBLIC AGENCIES' representative (including any outside representative engaged by any of the PUBLIC AGENCIES). Each of the PUBLIC AGENCIES reserves the right to conduct such audit or review at AUDITOR's place of business, if deemed appropriate by any of the PUBLIC AGENCIES, with seventy-two (72) hours' advance notice. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for PACA's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to PACA of any nature by AUDITOR in excess of five percent (5%) of the total contract billings reviewed by PACA, the reasonable actual cost of PACA's or any of the PUBLIC AGENCIES' audit shall be reimbursed to PACA by AUDITOR in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of PACA's or any of the other PUBLIC AGENCIES' findings to AUDITOR. AUDITOR shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

12.3.2 Auditor's Records.

For a period of three (3) years after completion of any work provided for herein, and subject to a longer period as provided in this section herein, AUDITOR shall make its work papers, records, and other evidence and documents relating to such work available for inspection and copying by the COUNTY, CITY, and PACA, and by the auditor retained by the COUNTY, CITY, or PACA, who succeeds AUDITOR, to the extent necessary to support the balance set forth in the most recent financial statements of PACA on which AUDITOR reported under this Agreement. Any records determined by the COUNTY, CITY, or PACA, through each respective attorney, to be subject to disclosure under applicable Florida public records

law, as amended from time to time, shall be made available to the COUNTY, CITY, PACA, the successor Certified Public Accountant (CPA) firm(s), and to the general public as requested subject to payment of applicable costs. Any copying done shall be at the expense of the party copying such records. Other requests for access to such documents will be considered by AUDITOR, but AUDITOR has no obligation to grant them, unless required by law.

COUNTY, CITY, and PACA shall have the right to audit the books, records, and accounts of AUDITOR that are related to this Agreement. AUDITOR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement.

AUDITOR shall preserve and make available, at reasonable times for examination and audit by COUNTY, CITY, or PACA, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after expiration or earlier termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the COUNTY, CITY, and PACA to be applicable to AUDITOR's records, AUDITOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by AUDITOR. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for PACA's disallowance and recovery of any payment upon such entry.

12.3.3 PACA's Records.

COUNTY and CITY shall have the right to audit the books, records, and accounts of PACA that are related to this Agreement. PACA shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement.

PACA shall preserve and make available, at reasonable times for examination and audit by COUNTY and CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after the expiration or termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books,

records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY or CITY to be applicable to PACA's records, PACA shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by PACA. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's or CITY's disallowance and recovery of any payment upon such entry.

12.4 Equal Employment Opportunity ("EEO").

No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. AUDITOR shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure by AUDITOR to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit PACA to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

AUDITOR shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. AUDITOR shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY and CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, AUDITOR shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

By execution of this Agreement, AUDITOR represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes). PACA, COUNTY, and CITY hereby materially rely on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle PACA to terminate this Agreement by written notice from its President/CEO and recover from AUDITOR all monies paid by PACA, COUNTY, and CITY pursuant to this Agreement, and may result in debarment from PACA's competitive procurement activities.

12.5 Public Entity Crimes Act.

AUDITOR represents that is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, AUDITOR further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes,

and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether AUDITOR has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, AUDITOR shall have the right to immediately terminate this Agreement and recover all sums paid to AUDITOR under this Agreement.

12.6 Subconsultants.

AUDITOR has represented that it will not utilize any subconsultants to perform the services required under this Agreement, except as specifically authorized according to this section herein. All Parties agree that the written approval of PACA's Contract Administrator shall be required for the use of such subconsultant(s), whose approval may be withheld in the sole discretion of PACA's Contract Administrator.

12.7 Assignment and Performance.

Except for subcontracting approved in writing by PACA's President/CEO or Board following execution of this Agreement or by any subsequent written amendment by the Parties, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by AUDITOR without the prior written consent of PACA. If AUDITOR violates this provision, PACA shall have the right to immediately terminate this Agreement. AUDITOR represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. AUDITOR agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

12.8 AUDITOR's Staff.

AUDITOR will provide the key staff identified in its proposal for the services related to this Agreement as long as said key staff are in AUDITOR's employment.

AUDITOR will obtain prior written approval of PACA's President/CEO or his or her authorized representative (such as the Chief Financial Officer) to change key staff. AUDITOR shall provide the mentioned representative with such information as necessary to determine the suitability of proposed new key staff. PACA's President/CEO will be reasonable in evaluating key staff qualifications although final approval is subject to his or her sole discretion.

If PACA's President/CEO desires to request removal of any of AUDITOR's staff, he or she shall first meet with AUDITOR and provide reasonable justification for said removal.

12.9 Representative of PACA and AUDITOR.

12.9.1 The Parties recognize that questions will arise in the day-to-day conduct of the Parties relating to the Financial Audit or relating to this Agreement. PACA's President/CEO is designated as the representative of PACA or the Contract Administrator through whom all communications shall be addressed pertaining to the day-to-day conduct of the Financial Audit or this Agreement. This representative may, from time-to-time, designate one or more of his or her staff to perform all or part of the functions required under this Agreement and shall advise AUDITOR in writing of such staff.

12.9.2 AUDITOR shall inform PACA in writing of AUDITOR's representative to whom matters shall be addressed involving the conduct of the Financial Audit and this Agreement.

12.10 All Prior Agreements.

This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

12.11 Notices.

In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this section.

For COUNTY:

Broward County, Finance and Administrative Services Department
Attn: Director/CFO, Finance and Administrative Services Department
Governmental Center, Room 513
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
E-mail address: finance@broward.org
With simultaneous e-mail copy: sfarmer@broward.org

With a copy to:

Broward County, County Auditor's Office
Attn: County Auditor
Government Center, Room 520
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
E-mail address: elukic@broward.org

With simultaneous e-mail copy: bsmithallen@broward.org

For PACA:

Performing Arts Center Authority
Attn: CFO/Vice President of Finance
Broward Center for the Performing Arts
201 Southwest 5th Avenue
Fort Lauderdale, Florida 33312
E-mail address: tweeks@browardcenter.org
With simultaneous e-mail copy: kshanley@browardcenter.org

For CITY:

City of Fort Lauderdale
Attn: Director of Finance
City Hall
100 North Andrews Avenue
Fort Lauderdale, FL 33301
E-mail address: kbuffington@fortlauderdale.gov

For AUDITOR:

Alberni, Caballero & Fierman, LLP
Attn: Andrew Fierman
4649 Ponce de Leon Blvd., Suite 404
Coral Gables, Florida 33146
E-mail address: andrew@acf-cpa.com
With simultaneous e-mail copy: nestor@acf-cpa.com

12.12 Truth-In-Negotiation Certificate.

AUDITOR's compensation under this Agreement is based upon representations supplied to PACA by AUDITOR, and AUDITOR certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. PACA shall be entitled to recover any damages it incurs to the extent such representation is untrue.

12.13 Interpretation.

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the

section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

12.14 Drug-Free Workplace.

It is a requirement of PACA that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance. Execution of this Agreement by AUDITOR shall serve as AUDITOR's required certification that it has a drug-free workplace program in accordance with Section 287.087, Florida Statutes, and that it will maintain such drug-free workplace program for the full term of this Agreement.

12.15 Independent Contractor.

AUDITOR is an independent contractor under this Agreement. In providing services under this Agreement, neither AUDITOR nor its or agents shall act as officers, employees, or agents of COUNTY, CITY, and PACA. AUDITOR shall not have the right to bind COUNTY, CITY, and PACA to any obligation not expressly undertaken by the Parties under this Agreement.

12.16 Third Party Beneficiaries.

Neither AUDITOR, COUNTY, CITY nor PACA intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against any of them based upon this Agreement.

12.17 Conflicts.

Neither AUDITOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with AUDITOR's loyal and conscientious exercise of judgment related to its performance under this Agreement. None of its officers or employees shall, during the term of this Agreement, serve as an expert witness against any of the PUBLIC AGENCIES in any legal or administrative proceeding in which he, she, or AUDITOR is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of any of the PUBLIC AGENCIES or in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude AUDITOR or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event AUDITOR is permitted to utilize subcontractors to perform any services required by this Agreement, AUDITOR shall require such subcontractors, by

written contract, to comply with the provisions of this section to the same extent as AUDITOR.

12.18 Contingency Fee.

AUDITOR represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for AUDITOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If PACA learns that this

representation is false, PACA, through its Board or its President/CEO, shall have the right to terminate this Agreement without any further liability to AUDITOR. Alternatively, if such representation is false, PACA at its sole discretion, may deduct from the compensation due AUDITOR under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

12.19 Materiality and Waiver of Breach.

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. PACA's or any of the other PUBLIC AGENCIES' failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

12.20 Compliance with Laws.

AUDITOR shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

12.21 Severability.

In the event this Agreement is found to be unenforceable by a court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

12.22 Joint Preparation.

This Agreement has been jointly prepared by the COUNTY, CITY, PACA, and AUDITOR and shall not be construed more strictly against any party.

12.23 Priority of Provisions.

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced or incorporated herein and any provision of Articles 1 through 12 of this Agreement, the provisions contained in Articles 1 through 12 shall prevail and be given effect.

12.24 Law, Jurisdiction, Venue, Waiver of Jury Trial.

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with the Agreement shall be in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, AUDITOR, COUNTY, CITY, AND PACA HEREBY EXPRESSLY WAIVE ANY RIGHTS ANY PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

12.25 Copies of Reports.

AUDITOR agrees to separately furnish the COUNTY, CITY, and PACA the number of copies requested by PACA's Contract Administrator of both the Auditor's Report, and the Management Letter described in Articles 3 and 4 of this Agreement.

12.26 Incorporation by Reference.

Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

12.27 Representation of Authority.

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

12.28 Amendments.

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Parties or others delegated authority or otherwise authorized to execute same on their behalf. The COUNTY (through its Board or County Administrator) and the CITY (through its

City Commission or City Manager) may approve and execute amendments on behalf of their respective entities.

12.29 Counterparts and Multiple Originals.

This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)

AGREEMENT AMONG BROWARD COUNTY, CITY OF FORT LAUDERDALE, PERFORMING ARTS CENTER AUTHORITY, AND ALBERNI, CABALLERO & FIERMAN, LLP, PROVIDING FOR AUDIT SERVICES FOR THE PERFORMING ARTS CENTER AUTHORITY'S RECORDS FOR A FIVE-YEAR TERM FOR FISCAL YEARS 2016 THROUGH 2020

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20____; the CITY OF FORT LAUDERDALE, signing by and through its Mayor-Commissioner, duly authorized to execute same; PERFORMING ARTS CENTER AUTHORITY, signing by and through its Chair or Vice Chair, duly authorized to execute same; and AUDITOR, ALBERNI, CABALLERO & FIERMAN, LLP, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the Board
of County Commissioners of
Broward County, Florida

By _____
Mayor
____ day _____, 2016

Approved as to insurance
Requirements by Risk
Management Division

Approved as to form by:
Office of County Attorney
Broward County, Florida
Joni Armstrong Coffey, County Attorney
Governmental Center, Suite 423
115 South Andrew Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

Authorized Signature (Date)

Print name

By _____
Andrea S. Froome (Date)
Senior Assistant County Attorney

By _____
Mark A. Journey (Date)
Assistant County Attorney

ASF:dp
05/10/16
2016-05-10 PACA Auditor 2016-2020.A01
#16-158.08

AGREEMENT AMONG BROWARD COUNTY, CITY OF FORT LAUDERDALE,
PERFORMING ARTS CENTER AUTHORITY, AND ALBERNI, CABALLERO & FIERMAN,
LLP, PROVIDING FOR AUDIT SERVICES FOR THE PERFORMING ARTS CENTER
AUTHORITY'S RECORDS FOR A FIVE-YEAR TERM FOR FISCAL YEARS 2016
THROUGH 2020

CITY

CITY OF FORT LAUDERDALE

By _____
Mayor-Commissioner

ATTEST:

_____ day of _____, 2016

City Clerk

City Manager

_____ day of _____, 2016

APPROVED AS TO FORM FOR
CITY:

By: _____
City Attorney

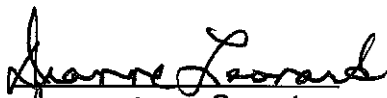
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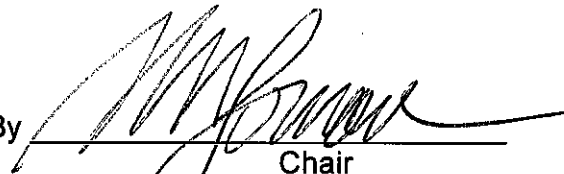
AGREEMENT AMONG BROWARD COUNTY, CITY OF FORT LAUDERDALE,
PERFORMING ARTS CENTER AUTHORITY, AND ALBERNI, CABALLERO & FIERMAN,
LLP, PROVIDING FOR AUDIT SERVICES FOR THE PERFORMING ARTS CENTER
AUTHORITY'S RECORDS FOR A FIVE-YEAR TERM FOR FISCAL YEARS 2016
THROUGH 2020

PACA

PERFORMING ARTS CENTER AUTHORITY

ATTEST:


Assistant Secretary

By 
Chair
2 day June, 2016

(SEAL)

AGREEMENT AMONG BROWARD COUNTY, CITY OF FORT LAUDERDALE,
PERFORMING ARTS CENTER AUTHORITY, AND ALBERNI, CABALLERO & FIERMAN,
LLP, PROVIDING FOR AUDIT SERVICES FOR THE PERFORMING ARTS CENTER
AUTHORITY'S RECORDS FOR A FIVE-YEAR TERM FOR FISCAL YEARS 2016
THROUGH 2020

AUDITOR

WITNESSES:

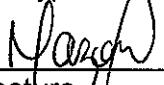
ALBERNI, CABALLERO & FIERMAN, LLP



Signature

Maria D. Bustamante

Print/Type Name



Signature

Gladys Wazon

Print/Type Name

By 

Authorized Signature

Andrew Fierman - Partner

Print/type name and title of
Authorized signature above

31 day of May, 2016

ATTEST:

By _____
Authorized Signature

Print/type name and title of authorized
signature above

(SEAL)

EXHIBIT A - SCOPE OF SERVICES

FOR AGREEMENT AMONG BROWARD COUNTY, CITY OF FORT LAUDERDALE, PERFORMING ARTS CENTER AUTHORITY, AND ALBERNI, CABALLERO & FIERMAN, LLP, PROVIDING FOR AUDIT SERVICES FOR THE PERFORMING ARTS CENTER AUTHORITY'S RECORDS FOR A FIVE-YEAR TERM FOR FISCAL YEARS 2016 THROUGH 2020

I. Financial Audit and Special Audits.

- A. AUDITOR shall conduct a Financial Audit with the objective to provide a written opinion on the Financial Statements. AUDITOR shall ensure that the Audit Report is completed in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in "Government Auditing Standards" issued by the Comptroller General of the United States. AUDITOR shall ensure that the Financial Audit, the Audit Report, and the Management Letter meet the requirements of all applicable Florida Statutes, as amended from time to time, the Rules of the Auditor General, Chapter 10.550, as may be revised from time to time, and any other applicable laws. If PACA's Contract Administrator determines necessary in his or her sole discretion, AUDITOR shall assist in the preparation of the Financial Statements without any additional compensation.
- B. AUDITOR's examination of PACA's financial records shall be made in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits for the form and conduct of all local governmental entity audits contained in "Government Auditing Standards" issued by the Comptroller General of the United States and Rules of the Auditor General, Chapter 10.550, as revised from time to time.
- C. In conjunction with the publication or issuance by AUDITOR of the Financial Statements of PACA by January 30 or within one hundred twenty (120) calendar days after the close of PACA's Fiscal Year on September 30, whichever is later, AUDITOR shall submit to the PUBLIC AGENCIES a Management Letter for improvement of PACA's accounting systems, accounting procedures, and financial management, including internal control(s).
- D. AUDITOR shall complete the Financial Audit, the draft written report(s), and then submit them to the PUBLIC AGENCIES by January 22 or within one hundred ten (110) calendar days after the close of PACA's Fiscal Year on September 30, whichever is later. The final report(s) shall be issued by January 30 or within one hundred twenty (120) calendar days after the close of PACA's Fiscal Year on September 30, whichever is later.

- E. AUDITOR shall provide all required services to perform a thorough Financial Audit as described in Article 2 and Exhibit A. Such services shall include, without limitation, the examination and audit of related financial records along with the issuance of a separate Auditor's opinion for any required special audit as described in Exhibit A herein.

PACA (through its President/CEO and Chief Financial Officer) shall determine whether special audit(s) are required by grant agreement(s) with the County, State, other grant(s) or other agreement(s) and, thereafter, provide written notice to the AUDITOR by the end of each Fiscal Year. The maximum of four (4) special audits shall be performed by AUDITOR's staff without additional compensation or an increase in the lump sum fee stated for the applicable Fiscal Year. The fee for any required special audit(s) in excess of each respective Fiscal Year's allowable maximum amounts of four (4) special audits will be negotiated between PACA and AUDITOR based on a written proposal submitted by AUDITOR before any services are commenced by AUDITOR for such additional special audits subject to the provisions in Article 8, "Additional Services and Changes in Scope of Work" and the "Amendments" section in Article 12. PACA will be solely responsible for all additional fees and expenses for the additional special audits as more fully outlined in Exhibit B, subject to a prior written amendment for such audits.

- F. PACA shall be solely responsible for submitting the annual filing of the Financial Audit along with copies of the audited financial statements to the State of Florida's Auditor General's Office.

II. Audit Report.

- A. AUDITOR shall complete all audit services and provide the draft Audit Report to the PUBLIC AGENCIES by January 22 or within one hundred ten (110) calendar days after the close of PACA's Fiscal Year on September 30 of each year, whichever is later.
- B. As part of the Audit Report, AUDITOR shall prepare and submit a separate Management Letter to the PUBLIC AGENCIES containing comments by AUDITOR concerning the compliance or noncompliance of a material nature with statutory, regulatory, bond covenant, and accounting control requirements based upon AUDITOR's review of the system of internal accounting controls and such other findings as may affect compliance.
- (a) At the conclusion of the audit field work, AUDITOR shall discuss with PACA's President/CEO all of the proposed comments which may appear in the Audit Report. If PACA's President/CEO is not available to discuss the AUDITOR's comments within ten (10) calendar days of request from

AUDITOR, their required discussion will be automatically waived if a draft of the proposed comments is delivered in writing to PACA's President/CEO's office by January 10 or within one hundred ten (110) calendar days after the close of PACA's applicable Fiscal Year on September 30, whichever is later. PACA's President/CEO through his or her authorized designee (such as PACA's Chief Financial Officer) shall respond to AUDITOR's proposed comments in writing no later than fourteen (14) calendar days following receipt.

- (b) AUDITOR shall ensure that the Management Letter contains PACA's responses to AUDITOR's comments and suggestions prior to the release of the draft document to the COUNTY and CITY. PACA will cooperate in providing the responses within the required time to the AUDITOR.

III. Availability of Records.

AUDITOR acknowledges that all books, records, and funds of PACA may not be made available to the AUDITOR at the same time. It is contemplated that all books, records, and funds audited separately and reported separately will be completed and the Audit Report furnished within the required time, subject to the requirements immediately below. The Audit Report for all books, records, and funds shall be completed, issued, and furnished to the PUBLIC AGENCIES no later than January 30, 2017, for the Fiscal Year 2016 audit and by January 30 of each subsequent calendar year for each successive Fiscal Year(s) audit(s).

IV. Extension of Time for Financial Audit and Audit Report

AUDITOR acknowledges that the purpose of the deadline date of January 30 for the AUDITOR's submission of the Audit Report is to ensure that the Audit Report is meaningful to the PUBLIC AGENCIES and also to provide them with written notice concerning any matters raised or revealed by the Financial Audit. The Parties acknowledge that issues arising in the Audit Report may require more time for the respective Parties to respond to, and correct, beyond the required January 30 date. The PUBLIC AGENCIES acknowledge that certain provisions must be made for situations during the audit where time extensions will be requested in writing by the AUDITOR in order to resolve problems that may be revealed in any particular fund or account. If AUDITOR determines that January 30 is not sufficient time for completion of the Audit Report, AUDITOR shall immediately (and no later than January 20) provide written notification to the PUBLIC AGENCIES and shall request that PACA approve additional time for completion of the Audit Report. In the written request, AUDITOR shall state in detail the specific facts to support the request and the reasons why additional time is needed to complete the Audit Report. Whether a time extension will be granted is solely in the discretion of the officers or

representatives of the PUBLIC AGENCIES mentioned in the "Notices" section in Article 12. Any approved extension or denial of the extension will be provided in writing by PACA (through its President/CEO or Chief Financial Officer).

V. Auditor's Additional Responsibilities.

A. Audit Standards.

Unless higher standards are contained elsewhere in this Agreement or required by applicable laws or rules, as amended from time to time, AUDITOR shall ensure that each audit is conducted in conformity with audit standards contained in the publication: "Government Auditing Standards," as promulgated by the Comptroller General of the United States; "Industry Audit Guide, Audits for State and Local Governmental Units" by the American Institute of Certified Public Accountants (AICPA), and AICPA's standards and procedures. Requirements of federal and state agreements and statutory audit requirements shall be complied with as applicable and may be amended from time to time. The audit review specifically excludes the review of economy and efficiency of operations and program results.

B. Cooperation.

Where applicable, AUDITOR, in the capacity as PACA's Auditor, shall coordinate work and cooperate with the Auditor General of the state of Florida, and with any and all consulting firms under contract with PACA unless notified otherwise in writing by PACA's Chief Financial Officer.

C. Irregularities.

If AUDITOR encounters any irregularities by PACA or other unforeseeable conditions which might necessitate the extension of the auditing work beyond the scope of normal auditing procedures and beyond the agreed time deadlines, AUDITOR shall advise the PUBLIC AGENCIES in writing of the circumstances and simultaneously request an extension from the PUBLIC AGENCIES. If AUDITOR determines that the request for an extension might also result in additional fees being incurred, then, AUDITOR shall also include a request to negotiate additional fees with an estimation of the approximate fee increase that will be required for the additional services. AUDITOR shall submit any request for an extension or a request for additional fees in writing to the PUBLIC AGENCIES which shall contain a detailed explanation of the unforeseen conditions or irregularities, and the reasons the additional fees are necessary. If AUDITOR determines irregularities are discovered and found to exist, an extension of time, as provided for in Article 4, may be

requested in writing by AUDITOR to PACA. Any such extension of time shall be in the sole discretion of authorized representatives as shown in the "Notices" section in Article 12 of the PUBLIC AGENCIES. Any such extension shall be provided in writing through PACA's Contract Administrator requesting an amendment to this Agreement for a mutually agreeable increase in the total fees to AUDITOR before additional costs are incurred by AUDITOR.

D. Illegal Acts.

The Parties acknowledge that illegal acts may be discovered by AUDITOR during the audit, including the Financial Audit and preparation of the Audit Report. The Parties acknowledge that the Audit Report cannot be relied upon to ensure the discovery of illegal acts, nor is the audit primarily or specifically designed to disclose misuse of funds (such as embezzlements) and other illegal acts which may be discovered and result from the audit. AUDITOR shall immediately disclose in writing the discovery of all illegal acts to the PUBLIC AGENCIES. If AUDITOR determines that significant additional work is necessitated due to any illegal acts, AUDITOR may submit a written request to the PUBLIC AGENCIES requesting further negotiations and a written amendment providing for additional fees for the additional work being performed before AUDITOR incurs any additional expenses or fees. AUDITOR's request shall contain a detailed explanation and justification of the reasons why the additional fees are necessary. In the event AUDITOR discovers any illegal act(s), AUDITOR may also include in the written request to the PUBLIC AGENCIES a request for an extension of time, as provided for in Exhibit A. Any approval of any requested extension of time shall be in the sole discretion of the authorized representatives of the PUBLIC AGENCIES. Any approved extension shall be provided in writing through PACA's Contract Administrator, after obtaining the prior written approval of the authorized representatives of COUNTY and CITY as shown in the "Notices" section in Article 12.

E. Standard of Care.

In the performance of the audit (including Financial Audit and Audit Report), AUDITOR shall be bound by, and shall make the examinations in accordance with, generally accepted auditing standards and governmental auditing standards as issued by the Comptroller General of the United States.

F. Auditor Familiarity With All Applicable Laws.

AUDITOR shall be familiar with, and shall comply with, the provisions of any and all applicable federal, state, county, local government, municipality, orders, statutes, ordinances, charters, bond covenants,

administrative codes, rules, and regulations (as amended from time to time) and all other applicable auditing requirements which may pertain to the required work, including specifically those requirements which pertain to conflicts of interest and employment discrimination as stated in Article 12.

VI. Special Audits.

As part of each Fiscal Year's work, PACA requires AUDITOR (as its auditor) to complete a separate audit of the expenditures which are made by PACA against PACA's capital projects committed to, and funded by, any grant(s), grant agreements, or other agreement(s) that may require a special audit (or a special report).

If required by such grants, grant agreements or agreements, AUDITOR shall ensure that the required separate audit shall result in a separate certified letter to PACA with copies to the COUNTY and CITY. AUDITOR shall include in such letter a certified opinion of AUDITOR concerning whether the reported expenditures were made in accordance with any such grants(s) or agreement(s).

The AUDITOR shall include in the Financial Statements all required disclosures concerning whether the amount of funds were expended in accordance with the terms and conditions of the grant(s) or agreement(s), whether any funds are due back to the granting or contracting entity(ies), and an opinion that the funds received by PACA have been expended pursuant to the grant(s) or agreement(s) for each Fiscal Year's audit respectively.

VII. Additional Services and Changes in Scope of Work.

PACA, through its Contract Administrator, may request changes in writing that can increase, decrease, or otherwise modify the Scope of Services. Such changes shall be negotiated and approved in a written amendment, executed by the Parties' authorized representatives, including as provided in the "Amendments" section in Article 12 with the same formality and of equal dignity prior to any deviation from the terms herein. Any other requested changes from AUDITOR or any of the PUBLIC AGENCIES shall be initiated by a written request to the representatives identified in the "Notices" section in Article 12 and shall be subject to the requirements in Article 8.

PACA and AUDITOR acknowledge that a written amendment is required prior to commencement of any extra work by the AUDITOR, such as any additional special audit(s) over the maximum allowable amount of four (4) special audits for each Fiscal Year as stated in Article 2 and Exhibit A.

It is PACA's sole responsibility to obtain the written amendment for all additional services prior to issuing a written notice to proceed from PACA's President/CEO for the AUDITOR to commence such additional work. If PACA is unable to, or does not, obtain the prior approval and execution by written amendment prior to providing written authorization from PACA's President/CEO to the AUDITOR to commence the provisions of additional services as stated in Article 8 and Exhibit A, PACA shall be solely obligated to make any and all payments due to AUDITOR related to such additional services unless otherwise

modified by subsequent written amendment which shall be subject to the approval in the sole discretion of the COUNTY's and the CITY's authorized representatives who are duly authorized under the "Amendments" section in Article 12. PACA shall be solely responsible for paying AUDITOR for all special audits above the maximum four (4) allowable special audits each Fiscal Year, subject to any applicable provisions in Exhibit A and Exhibit B.

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EXHIBIT B - SCHEDULE OF PAYMENTS AND BILLINGS

FOR AGREEMENT AMONG BROWARD COUNTY, CITY OF FORT LAUDERDALE, PERFORMING ARTS CENTER AUTHORITY, AND ALBERNI, CABALLERO & FIERMAN, LLP, PROVIDING FOR AUDIT SERVICES FOR THE PERFORMING ARTS CENTER AUTHORITY'S RECORDS FOR A FIVE-YEAR TERM FOR FISCAL YEARS 2016 THROUGH 2020

The following provisions shall govern the compensation and method of billings and payments unless specifically provided herein.

A. Lump Sum Fee For Initial Period For Fiscal Year 2016.

PACA will pay AUDITOR the lump sum fee ("Lump Sum Fee") as shown below for auditing services relating to initial Fiscal Year 2016 for the one-year period ending September 30, 2016. This fee includes all expenses, fees, and reimbursables except as otherwise provided for additional services. AUDITOR shall not be paid any separate reimbursable expenses for the work or for additional services unless specifically approved in writing by PACA, subject to applicable Florida's laws as to certain expenses.

FY 2016	Lump Sum: Thirty-Five Thousand Dollars (\$35,000.00)
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B. Maximum Fee for Fiscal Years 2017 Through 2020.

Subject to the terminations provisions herein and subject to the availability of funds from the COUNTY and the CITY in accordance with Chapter 129 and Chapter 166, Florida Statutes respectively, the Lump Sum Fee shall be payable to AUDITOR as follows:

FY 2017	Lump Sum: Thirty-Five Thousand Eight Hundred Seventy-Five Dollars (\$35,875.00)
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FY 2018	Lump Sum: Thirty-Six Thousand Seven Hundred Seventy-Two Dollars (\$36,772.00)
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FY 2019	Lump Sum: Thirty-Seven Thousand Six Hundred Ninety-One Dollars (\$37,691.00)
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FY 2020	Lump Sum: Thirty-Eight Thousand Six Hundred Thirty-Three Dollars (\$38,633.00)
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C. Fee Rates for Additional Services.

If PACA requests additional services that are not within the scope of the work being performed, AUDITOR shall first obtain the prior written approval of PACA as stated in Article 8, prior to commencing to perform any services. AUDITOR shall use the fee rates to determine the additional compensation required to complete additional services and the scope of work as stated in Article 8. AUDITOR shall utilize the fee rates for additional services as shown below:

Hourly rates by classification of AUDITOR's employees or subconsultants for additional services are as follows:

<u>Audit</u>	
<u>Employee Classification</u>	<u>Hourly Rate</u>
Partner	\$175.00
Director or Manager	\$140.00
Supervisory Staff	\$ 80.00
Staff	\$ 60.00
Administrative Staff	\$ 25.00

D. Method of Billing and Payment - General Terms.

AUDITOR may submit an invoice for compensation, on the form invoice provided by PACA's Contract Administrator, to AUDITOR prior to or at the time of AUDITOR's execution which PACA's Contract Administrator may revise from time to time as necessary. AUDITOR shall not submit such invoice more than once on a monthly basis and only after the services for which the invoice is submitted have been completed. All invoices shall be submitted with supporting documentation.

E. Method of Billing and Payment - Lump Sum Fee.

AUDITOR's invoice and supporting documentation for the Lump Sum Fee shall designate the nature of the services performed. Each invoice shall show the proportion of the maximum contract amount for the applicable Fiscal Year that has been expended through the previous billings. AUDITOR shall ensure that invoices are submitted in sufficient detail to demonstrate compliance with the terms of the Agreement.

After seventy percent (70%) of the maximum contract amount for each Fiscal Year for the maximum Lump Sum Fee has been paid by PACA to AUDITOR, the remaining thirty percent (30%) for such Fiscal Year's Lump Sum Fee will be paid by PACA as follows: Ten percent (10%) of the maximum contract amount ten (10) business days after delivery of the final draft Audit Report to PACA and twenty percent (20%) until ten (10) business days after the adoption of the final Audit Report by PACA's Board.

AUDITOR's invoice and supporting documentation for additional services shall designate the nature of the services performed (for example, whether it is grants, grants agreements, or findings of illegal acts necessitating the additional services) and shall also show a summary of fees and expenses with accrual of the total amounts paid for additional services.

AUDITOR shall provide a separate invoice with supporting documents to PACA for all special audits above the allotted four (4) special audits.

AUDITOR may submit invoices for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires or is otherwise terminated.

Invoices shall designate the nature of the services performed and, as applicable, the personnel, hours, tasks, or other detail as requested by the Contract Administrator. AUDITOR shall submit with each invoice a Certification of Payments to Subcontractors and Suppliers using the form provided by PACA. The certification shall be accompanied by a copy of the notification sent to each Subcontractor and supplier listed on the form, explaining the good cause why payment has not been made.

Any invoice by AUDITOR shall be in the amount set forth in this Exhibit B for the applicable services, minus any agreed upon retainage as stated in this Exhibit B. Retainage amounts shall only be by invoice upon completion of all services under the Agreement, unless otherwise stated in this Exhibit B. PACA, COUNTY, and CITY may negotiate retainages for any additional services at the time of any written amendment

Payment shall be made only for work actually performed and completed pursuant to this Agreement, as set forth in Exhibit B, which amount shall be accepted by AUDITOR as full compensation for all such work. AUDITOR acknowledges that the amounts set forth herein are the maximum amounts payable and constitute a limitation upon any obligation to compensate AUDITOR for its work under this

Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon AUDITOR's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, AUDITOR shall not be reimbursed for any expenses it incurs under this Agreement.

F. Payments by PACA.

Subject to PACA's Chief Financial Officer's review and approval of the submitted invoices, PACA will pay each invoice within thirty (30) calendar days of receipt, subject to the requirements herein.

PACA will make approved payments to AUDITOR at the AUDITOR's address shown in the "Notices" section in Article 12.

PACA is in receipt of AUDITOR's federal identification number.

Except as required for special audits exceeding the included four (4) special audits, as stated below and any additional services requested solely by PACA under any written amendment, the amounts paid by PACA to AUDITOR are subject to receipt of subsequent reimbursement payments from COUNTY and the CITY payable to PACA as stated in this Exhibit B. Such amounts include the required Financial Audit (including Audit Report and Management Letter) and the up to four (4) special audits included in each Fiscal Year audit's Lump Sum Fee.

For any additional special audit exceeding the four (4) special audits, the AUDITOR will submit a separate invoice to PACA as stated above.

PACA shall be solely responsible for paying such invoices without any reimbursements or payments from COUNTY or CITY as stated below.

G. Payments by COUNTY and CITY.

Subject to receipt of invoice from PACA as required herein, the COUNTY and the CITY will make subsequent reimbursement payments to PACA at the address stated in the "Notices" section in Article 12.

COUNTY and CITY are in receipt of PACA's federal identification number.

Subject to changes in PACA's Special Act, as amended from time to time, and subject to receipt from PACA of the amount due for the upcoming each Fiscal Year following Fiscal Year 2016, COUNTY and CITY will each pay one-half of the compensation for AUDITOR directly to PACA at its address in the "Notices" section in Article 12. PACA will solely be responsible for making reimbursement payments

to AUDITOR from the funds required to be paid by COUNTY and CITY for each Fiscal Year subject to termination.

PACA will submit an invoice to the COUNTY and the CITY for each respective one-half of the annual payments within thirty (30) calendar days following the receipt and payment of the final invoice from AUDITOR for audit services delivered, and the COUNTY and the CITY shall reimburse PACA within thirty (30) days after receipt of invoice. The amounts stated on such invoice shall not include any amounts for services requested only by PACA as additional services using the rates in Exhibit B and shall not include fees for excess special audits over the four (4) allowed each Fiscal Year.

COUNTY shall pay PACA within thirty (30) calendar days of receipt of AUDITOR's proper invoice, as required by the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator.

The COUNTY's and CITY's payment obligation herein is subject to changes in PACA's Special Act and subject to termination herein.

H. Payments for Additional Services.

AUDITOR shall be reimbursed according to the fees, including subconsultant fees if any, set forth in Exhibit B, herein for any additional services contemplated by Article 8 herein using the fee rates provided in paragraph C of this Exhibit.

I. Reimbursables. For reimbursement of any travel costs or travel-related expenses permitted under this Agreement by any subsequent amendment, AUDITOR agrees to adhere to Section 112.061, Florida Statutes, except to the extent, if any, that Exhibit B expressly provides to the contrary. The PUBLIC AGENCIES shall not be liable for any such expenses that have not been approved in advance, in writing, by the Contract Administrator.

J. Subcontractors. AUDITOR shall invoice all Subcontractor fees, whether paid on a "lump sum" or other basis, to COUNTY with no markup. All Subcontractor fees shall be billed in the actual amount paid by AUDITOR.

AUDITOR shall pay its Subcontractors within fifteen (15) days following receipt of payment from PACA for such subcontracted work or supplies. AUDITOR agrees that if it withholds an amount as retainage from Subcontractors or suppliers, it will release such retainage and pay same within fifteen (15) days following receipt of payment of retained amounts from PACA. Failure to pay a Subcontractor in

accordance with this subsection shall be a material breach of this Agreement, unless AUDITOR demonstrates that such failure to pay results from a bona fide dispute with the Subcontractor.

K. Withholding of Payments.

Notwithstanding any provision of this Agreement to the contrary, any of the PUBLIC AGENCIES may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work by AUDITOR which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure of AUDITOR to comply with this Agreement. The amount withheld shall not be subject to payment of interest by any of the PUBLIC AGENCIES.

Payment may be withheld by PACA, COUNTY, and CITY for failure of AUDITOR to comply with a term, condition, or requirement of this Agreement.

Notwithstanding any provision of this Agreement to the contrary, the COUNTY and the CITY may withhold, in whole or in part, payment from PACA to the extent necessary to protect itself from loss on account of inadequate or defective work by PACA which has not been remedied or resolved in a manner satisfactory to the COUNTY's and CITY's representatives shown in the "Notices" section or failure of PACA to comply with this Agreement. The amount withheld shall not be subject to payment of interest by the COUNTY or the CITY.

Payment may be withheld by COUNTY and CITY for failure of PACA to comply with a term, condition, or requirement of this Agreement.

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EXHIBIT C
Insurance Requirement

The following coverage is deemed the minimum insurance required for this project. The selected firm must be prepared to provide proof of insurance commensurate with or in excess of this requirement. Any deviation is subject to the approval of Risk Management.

TYPE OF INSURANCE	Limits on Liability		
		Each Occurrence	Aggregate
GENERAL LIABILITY - Broad form <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury	Bodily Injury		
	Property Damage		
	Bodily Injury and Property Damage Combined	\$ 1 mil	\$ 1 mil
	Personal Injury		
AUTO LIABILITY <input type="checkbox"/> Comprehensive Form <input type="checkbox"/> Owned <input type="checkbox"/> Hired <input type="checkbox"/> Non-owned <input type="checkbox"/> Any Auto If applicable	Bodily Injury (each person)		
	Bodily Injury (each accident)		
	Property Damage		
	Bodily Injury and Property Damage Combined	\$	
EXCESS LIABILITY <input type="checkbox"/> Umbrella Form <input type="checkbox"/> Other than Umbrella Form	Bodily Injury and Property Damage Combined		
<input checked="" type="checkbox"/> WORKER'S COMPENSATION	(each accident)	STATUTORY	
<input checked="" type="checkbox"/> EMPLOYER'S LIABILITY		\$500 k/accident	
<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY	Claims-made form w/ Extended Reporting Period of Deductible not to exceed: \$		\$1 mil
<input type="checkbox"/> PROPERTY COVERAGE /BUILDER'S RISK "ALL RISK" WITH WIND AND FLOOD Coverage must remain in force until written final acceptance by County.	Maximum Deductible: DED for WIND or WIND & FLOOD not to exceed 5% of completed value CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		Completed Value
<input type="checkbox"/> Installation floater is <i>recommended</i> and if not provided, then Artist is fully responsible for the installation until written acceptance by County.	Maximum Deductible:		
	CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		Completed Value
Description of Operations/Locations/Vehicles "Broward County," "City Fort Lauderdale" and "Performing Arts Center Authority" must be certificate holders and endorsed as an additional insureds for general liability, excess liability.			

NOTE: Workers' Compensation: U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water

CANCELLATION: Thirty (30) days written notice of cancellation is required to the Certificate Holder:

