

LEASE AGREEMENT
BETWEEN THE
CITY OF SAINT PAUL, PARKS AND RECREATION
AND
MINNESOTA JEWISH THEATRE COMPANY

THIS AGREEMENT, dated this 24th day of September, 2010, is entered into by and between the City of Saint Paul, Minnesota, a municipal corporation organized and existing under the laws of the State of Minnesota, hereinafter referred to as "CITY", and Minnesota Jewish Theatre Company, hereinafter referred to as "MJTC."

WITNESSETH:

WHEREAS, the CITY is the owner of certain real property known as Hillcrest Recreation Center, ("Hillcrest") located at 1978 Ford Parkway, Saint Paul, MN 55116; and

WHEREAS, MJTC is committed to enriching the lives of individuals of all religions, races and cultural groups by producing plays and musicals which will educate about and facilitate reflection about Jewish history and culture and promote increased positive relations amongst people of all backgrounds ; and

WHEREAS, Hillcrest has a theater space that MJTC has deemed suitable for its productions and which the City is willing to provide to MJTC for limited and specific periods of time; and,

WHEREAS, both parties wish to enter into an agreement for the use of the Hillcrest Theater space by MJTC which meets both parties needs and expectations,

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, parties agree as follows:

1. TERM

- A. The term of this agreement shall be for one (1) production year, commencing upon the date of execution of this Agreement and ending on June 30, 2011.
- B. MJTC may exercise an option for up to two additional one year extensions. Parties agree that in the event of an extension of the lease term, that the basic rent shall increase to \$1,100.00 per week plus actual staff costs for use of the facility outside of regular recreation center hours. Any changes in staff costs, insurance requirements, building hours and production dates must be mutually agreed to by both parties.
- C. Parties shall meet at least sixty days prior to the end of the lease term to discuss the

terms for an extension to the lease term, and to agree on all of the terms.

- D. The agreed upon lease terms shall cover no more than four (4) production periods. Each period shall be no more than four (4) weeks. The dates will be agreed upon by MJTC and CITY staff. Proposed production dates are to be submitted to the CITY as far in advance as possible, on or about June 1 for the upcoming production season. One set of dates will occur between mid-September and mid-November; one between mid-November and the end of December, one between mid-January and the end of March; and one between mid-April and mid-May.

2. BASIC RENT

- A. The basic rent during the initial year of the contract will be \$892 per week. Parties agree that in subsequent years two and three, the basic rent shall be \$1100 per week.

3. ADDITIONAL RENT

- A. In addition to basic rent, MJTC shall pay the City actual staff costs for use of the facility during hours that are outside of regular recreation center hours. During the initial term of this contract, the staff costs will be billed at \$20 per hour. The City is not obligated to set recreation center hours to accommodate use by MJTC.

4. USE OF SITE.

- A. The leased space shall include: Hillcrest Community Room (theater) and attached backstage area (during all rehearsals and performances) and the adjacent classroom (during technical rehearsals and performances).
- B. MJTC shall use and occupy the designated leased spaces for the following purpose: theater performances along with the necessary rehearsals and technical work that may include scenery building, lighting hanging and focusing, sound equipment set up, costume and props set up, and other tasks associated with theater performances, and for no other purpose without the written consent of the CITY.
- C. CITY recreation programs may be provided in the adjacent classroom during a production period, if parties determine that such use is not an interference with the scheduled technical rehearsals and performances. Programs may take place in the community room if the parties determine that such use is not an interference with MJTC performances or production work.

5. PAYMENT.

- A. Basic rent shall be paid for each production period by the first business day following the conclusion of such production period.
- B. Staff costs which are incurred by MJTC for use of the facility outside of regular recreation center hours shall be billed to MJTC following each production session, with payment due January 31 for fall and holiday productions, and June 30 for winter and spring productions.

6. ALTERATIONS. MJTC will not make any alterations to the leased premises without the written consent of the CITY, where such consent will not to be reasonably withheld. If MJTC desires to make any such alterations, an accurate description of the project shall first be submitted to the CITY in writing and such alterations shall be done at the expense of MJTC. Certain improvement requests may require that the leased premises be returned to its original state. MJTC agrees that any alterations shall be done in a workmanlike manner and in conformance with all applicable laws, regulations and building codes, that the structural integrity of any and all building systems will not be impaired and that no liens will be attached to the premises by reason thereof. No work shall proceed without a written agreement in place between the City and MJTC specific to that project.

7. REPRESENTATIVES. The CITY'S representative for this agreement will be the Recreation Services Manager or his/her designee. The MJTC representative for the purposes of this agreement will be the Executive Director, or her designee. Correspondence regarding the Agreement should be sent to:

Hillcrest Recreation Center
1978 Ford Parkway
Saint Paul, MN 55116
Attn: Joe Loots

MN Jewish Theatre Company
P.O. Box 16155
Saint Paul, MN 55116
Attn: Barbara Brooks

8. INDEMNIFICATION. MJTC agrees to indemnify, defend, save and hold harmless, the CITY and all its agents, officers and employees thereof from all claims, demands, actions, judgments, suits or causes of action of any nature or character, arising out of MJTC's use of the premises except to the extent that such claims arise out of the CITY'S failure to maintain the premises in accordance with this agreement. MJTC shall provide the CITY with notice of any injuries, claims, or suits submitted to them within thirty (30) days of receipt of such notice, claim or suit.

9. INSURANCE. MJTC will provide the following insurance during the term of the agreement:

- a) MJTC shall be responsible for the self-insurance of, or for the acquisition of Commercial Property insurance on its own personal property.

- b) Comprehensive general liability insurance including blanket contractual liability coverage and personal injury liability coverage with a combined single limit of not less than \$2,000,000 aggregate, or \$1,000,000 per occurrence. Such insurance shall 1) Name the City of Saint Paul as "additional insured" 2) be primary with respect to the CITY'S liability insurance or self-insurance and 3) not exclude explosion, collapse, or underground property damage.
- c) Worker's Compensation insurance with not less than the statutory minimum limits, and employer's liability insurance with minimum limits of at least \$100,000 per person, \$100,000 per accident and \$500,000 per disease.
- d) MJTC shall supply to the CITY current insurance certificates for policies required in this agreement. The certificates shall certify whether or not the agent has errors and omissions insurance coverage.
- e) Nothing in this agreement shall constitute a waiver by the CITY of any statutory limits or exceptions on liability.
- f) MJTC shall place insurance with responsible insurance companies authorized and licensed to do business in the State of Minnesota and approved by the CITY, and shall deliver copies of the policies to the CITY on or before the date of the full execution of this agreement if required. The policies shall be endorsed to indicate that the insurer cannot cancel or change the insurance without first giving the CITY 30 day's written notice.
- g) Waiver of Subrogation. The CITY waives its right of subrogation for damage to the premises, contents therein, loss of income, up to the amount of insurance proceeds collected. MJTC waives its right of subrogation for damage to the premises, contents therein, loss of income, up to the amount of respective insurance proceeds collected. The parties shall notify their respective insurance companies, in writing, of the provisions of this paragraph, and if either cannot waive its subrogation rights, shall immediately notify the other party, in writing.

10. NON-DISCRIMINATION: MJTC agrees not to discriminate against any employee or participant wishing to participate in its programs or any person wishing to attend a production because of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance and will take affirmative steps to ensure that participants are treated without the same during their participation in programs or attendance at a production.

11. RIGHT OF ENTRY At all times during the term of this lease, the CITY retains ownership of the premises and shall have the right, by itself, its agents and employees, to enter into and upon the leased premises during reasonable business hours or, in the event of an emergency, at any time for any legitimate purpose.

12. MAINTENANCE and REPAIRS. The City shall, at its own cost and expense, be responsible for the general repairs and routine upkeep of the leased premises necessary to keep the leased premises in good condition and in compliance with all applicable fire, health, building and other life-safety codes. MJTC shall at its own expense, be responsible for repairs related to damage caused by its agents, employees, or invitees.

13. COMPLIANCE WITH LAWS The leased property described herein may be used for only the purposes stated herein. It is the sole and exclusive responsibility of MJTC in the use of the property to comply with all laws, rules regulations or ordinances imposed by any jurisdiction affecting the use to which the property is proposed to be put. Inability or failure by MJTC to comply with any said laws, rules, regulations or ordinances will not relieve MJTC of the obligation to pay the rental provided herein.

14. TERMINATION.

- A. Either party may terminate this agreement for cause by giving written notice to the other party thirty (30) days prior to cancellation or termination with a statement detailing the alleged breach of the agreement. Upon termination by the CITY, MJTC shall be permitted to complete any production run that had begun prior to the notice of termination.
- B. At the termination of this agreement the premises shall be surrendered peacefully and returned to the CITY in the same condition as received, reasonable wear and tear notwithstanding.

15. DEFAULT of PAYMENT MJTC agrees that, should it default on any payment owing and due to be paid to the CITY, as provided in this Agreement, including but not limited to basic rent and additional rent, then the remaining unpaid balance shall, at the option of the CITY, become immediately due. MJTC further agrees that the CITY may, at its option and without notice to MJTC, enter judgment against MJTC in Ramsey County District Court for the amount of the unpaid balance. And MJTC does hereby confess judgment in the amount of the unpaid balance due upon default, and does authorize the CITY to enter judgment as provided above.

16. NOTICES. Any notice or demand to be given under this Agreement shall be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed as follows:

MJTC
MN Jewish Theatre Company
P.O. Box 16155
Saint Paul, MN 55116
Attn: Barbara Brooks

CITY
Hillcrest Recreation Center
1978 Ford Parkway
Saint Paul, MN 55116
Attn: Joe Loots

17. AMENDMENTS. No amendments to this Agreement shall be effective without being reduced to writing and executed by both parties.

18. ASSIGNMENT. The CITY and MJTC each binds itself and its successors, legal representatives, and assigns of such other party, with respect to all covenants of this Agreement; and neither the CITY nor MJTC will assign or transfer their interest in this Agreement without the written consent of the other.

19. WAIVER. Any fault of a party to assert any right under this Agreement shall not constitute a waiver or a termination of that right, this Agreement, or any of this Agreement's provisions.

20. ENTIRE AGREEMENT. It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.

IN WITNESS WHEREOF, the parties have set their hands the date first written above.

FOR MJTC:

FOR CITY OF SAINT PAUL:

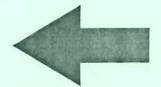
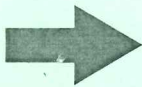
Barbale Jones
Minnesota Jewish Theatre Company
Producing Artistic Director

Kelley Town for M.H.
Director of Parks and Recreation

[Signature]
Director of Financial Services

Approved as to form:

[Signature]
City Attorney



Department/Office/Council:
PR - Parks and Recreation

Date Initiated:
30 SEP 2010

Green Sheet NO: 3118502

Contact Person & Phone: Susie Odegard 266-6416 Must Be on Council Agenda by (Date): Doc. Type: OTHER AGREEMENT/CONTRACT E-Document Required: N Document Contact: Contact Phone:	Assign Number For Routing Order	<u>Department</u>	<u>Sent To Person</u>	<u>Initial/Date</u>	
		0	Parks and Recreation		
		1	Parks and Recreation	Department Director	JK 9/30
		2	City Attorney	City Attorney	
		3	Financial Services	Director	
		4	HREEO - Contract & Analysis Se	Contract & Analysis Servic	
		5	Parks and Recreation	Yolanda Thomas	10-25-10
6					
7					

Total # of Signature Pages 4 (Clip All Locations for Signature)

Action Requested:
Secure signatures needed to execute a one-year agreement between the City of Saint Paul and the Minnesota Jewish Theatre Company for the operation of a professional theater program at Hillcrest Recreation Center.

Recommendations: Approve (A) or Reject (R):

_____ Planning Commission

_____ CIB Committee

_____ Civil Service Commission

A STAFF

Personal Service Contracts Must Answer the Following Questions:

- Has this person/firm ever worked under a contract for this department?
Yes No
- Has this person/firm ever been a city employee?
Yes No
- Does this person/firm possess a skill not normally possessed by any current city employee?
Yes No

Explain all yes answers on separate sheet and attach to green sheet.

Initiating Problem, Issues, Opportunity (Who, What, When, Where, Why):
The current lease agreement with the Minnesota Jewish Theatre Company for the use of space at Hillcrest has expired and a new lease must be executed.

Advantages If Approved:
The MJTC will continue to provide a theater experience at a reasonable cost to attendees in a recreation space suitable for these types of performances. The City of Saint Paul will realize revenue from its theater space and attract visitors who may not otherwise attend programs at Hillcrest.

Disadvantages If Approved:
None

Disadvantages If Not Approved:
The MJTC will not be able to complete its production schedule which has already been advertised to the community.

Total Amount of Transaction: \$18,000.00

Funding Source: 391

Cost/Revenue Budgeted: Y

Activity Number: 391-23181

Financial Information: This is a revenue item, not an expense item. Rent and reimbursement for staff beyond normal operating hours is deposited into the 391-23181 account and helps support other activities in the SW Area.

RECEIVED
OCT 01 2010
CITY ATTORNEY