

INGRESS AND EGRESS EASEMENT

THIS INGRESS AND EGRESS EASEMENT (this “Grant”) is made this ____ day of _____, 2023 (the “Effective Date”), by **Music Hall Center for the Performing Arts, Inc.**, a Michigan nonprofit corporation with an address of 350 Madison Avenue, Detroit, Michigan 48226 (“Grantor”), to and for the benefit of certain real property currently owned by **the City of Detroit Downtown Development Authority**, a Michigan public body corporate with an address of 500 Griswold, Suite 2200, Detroit, Michigan 48226 (“DDA”), **La Casa Properties, LLC**, a Michigan limited liability company with an address of 1502 Randolph Street, Detroit, Michigan 48226 (“La Casa”), **Paradise Valley Real Estate Holdings, LLC**, a Michigan limited liability company with an address of 1452 Randolph Street, Suite 400 (“Paradise Valley”), Detroit, Michigan 48226, **Detroit Hospitality DST**, a Delaware _____ with an address of 2901 Butterfield Rd., Oak Brook, Illinois 60523 (“Detroit Hospitality”), **Robert C. Pozen Revocable Trust**, with an address of 3100 6th Avenue, #503, San Diego, California 92103 (“Pozen”, and together with DDA, La Casa, Paradise Valley, Detroit Hospitality and Pozen and their respective successors, “Grantees”, each of the foregoing individually being referred to as “Grantee”).

RECITALS:

A. Grantor is the owner of certain real property located in the City of Detroit, County of Wayne, State of Michigan, which property is described on Exhibit A attached hereto and incorporated herein (the “Grantor Parcel”).

B. Grantor plans to commence the development and construction of a building on the portion of Grantor’s Parcel commonly known as 300 Madison Avenue (the “Development”), which is anticipated to take approximately three (3) years to complete.

C. The Grantor Parcel includes land that was previously part of a public alley that was vacated by the City of Detroit, which land is described on Exhibit B attached hereto and incorporated herein (the “Easement Area”).

D. Each Grantee owns land adjacent to the portion of the alley that remains open to the public and located immediately to the south of the Easement Parcel, such public alley being more particularly described on Exhibit C attached hereto and incorporated herein (the “Public Alley”).

E. In connection with Grantor’s petition to vacate the portion of the public alley formerly located within the Easement Area, Grantor has agreed to grant to each Grantee, for the

benefit of the Benefitted Parcels (as defined below), a perpetual, non-exclusive easement over the Easement Area for the purposes and on the terms and conditions set forth herein.

NOW THEREFORE, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor agrees as follows:

1. Grant of Easement - DDA. Effective as of the date of the later to occur of (i) the issuance of a final certificate of occupancy for the Development and (ii) the third (3rd) anniversary of the date of the issuance of the construction permit for the Development (the “Development Date”), Grantor hereby grants to DDA for the benefit of the land described on Exhibit D attached hereto and incorporated herein (the “DDA Parcel”), a perpetual non-exclusive easement and right of way over and across the Easement Area for the purpose of providing vehicular ingress and egress to and from the Public Alley and Madison Street during the hours of 4:00 a.m. to 12:00 p.m., Detroit time, seven (7) days a week (the “Access Period”) for commercial purposes, including, but not limited to, refuse removal, and commercial deliveries, excluding heavy duty construction vehicles and machinery, and for non-commercial purposes for residential tenants, limited to moving and furniture and equipment delivery (the “Permitted Use”), and for no other purpose.

2. Grant of Easement - La Casa. Effective as of the Development Date, Grantor hereby grants to La Casa for the benefit of the land described on Exhibit E attached hereto and incorporated herein (the “La Casa Parcel”), a perpetual non-exclusive easement and right of way over and across the Easement Area during the Access Period for the Permitted Use, and for no other purpose.

3. Grant of Easement – Paradise Valley. Effective as of the Development Date, Grantor hereby grants to Paradise Valley for the benefit of the land described on Exhibit F attached hereto and incorporated herein (the “Paradise Valley Parcel”), a perpetual non-exclusive easement and right of way over and across the Easement Area during the Access Period for the Permitted Use, and for no other purpose.

4. Grant of Easement - Detroit Hospitality. Effective as of the Development Date, Grantor hereby grants to Detroit Hospitality for the benefit of the land described on Exhibit G attached hereto and incorporated herein (the “Detroit Hospitality Parcel”), a perpetual non-exclusive easement and right of way over and across the Easement Area during the Access Period for the Permitted Use, and for no other purpose.

5. Grant of Easement - Pozen. Effective as of the Development Date, Grantor hereby grants to Pozen for the benefit of the land described on Exhibit H attached hereto and incorporated herein (the “Pozen Parcel”), a perpetual non-exclusive easement and right of way over and across the Easement Area during the Access Period for the Permitted Use, and for no other purpose.

6. Off-Hours Access. From and after the Development Date, Grantor shall use commercially reasonable efforts to accommodate requests by any Grantee to use the Easement Area for the Permitted Use outside of the hours stipulated Access Period when reasonably practicable, provided that such request is made at least two (2) business days prior to the time of the requested period of use.

7. Maintenance and Repair. Grantor shall, at its sole cost and expense, be responsible for the maintenance, repair and replacement of the Easement Area, and, from and after the Development Date, shall keep the same in good condition and repair, inclusive of snow and ice removal. Without limiting the generality of the foregoing, Easement Area shall at all times be constructed and maintained in a manner to support the Permitted Use, including but not limited to standard load capacity and height and width requirements of commercial and refuse removal vehicles; provided, however, that Grantor shall not be required to provide load capacity, height or width in excess of that existing on the Effective Date.

8. Temporary Closures. Notwithstanding any other provision of this Grant, Grantor may, from time to time, close access to the Easement Area; provided, however, that, after the Development Date, unless expressly consented to in writing by the owners of a majority of the Benefitted Parcels, (i) closures required for the purpose of constructing improvements or performing maintenance or repairs on the Easement Area, the Grantor Parcel and the structures or other improvements thereon shall be for periods no more than thirty (30) days unless such improvement, maintenance or repair cannot reasonably be completed within thirty (30) days, and in such event, the closure may continue for the period reasonably required for such improvement or until the expiration date of any permit issued for the performance of such improvement, maintenance or repair so long as Grantor or its successor or assign is diligently prosecuting such work to completion, and (ii) closures for other purposes shall be for periods of no more than ten (10) business days. Grantor shall provide advance written notice of at least five (5) business days to Grantees of any such closure advising of the anticipated duration of the closure, except advance notice shall not be required in the event of an emergency. From and after the Development Date, at any Grantee's request and where reasonably practicable, for the duration of any temporary closure expected to continue for longer than five (5) business days, Grantor shall permit such Grantee ingress and egress across the portion of the Grantor Parcel depicted on Exhibit I attached hereto and incorporated herein (the "East to West Driveway") to and from the Public Alley and Randolph Street for the Permitted Use only; provided, however, that nothing set forth herein shall be deemed to grant any Grantee an easement or other interest in the East to West Driveway. For purposes of determining whether the owners of a majority of the DDA Parcel, the La Casa Parcel, the Paradise Valley Parcel, the Detroit Hospitality Parcel and the Pozen Parcel (each a "Benefitted Parcel") have granted any consent required under this paragraph, (i) if any Benefitted Parcel is converted to a condominium, such consent may only be given by the condominium association for such Parcel and not the individual co-owners, (ii) if any Benefitted Parcel is owned by a co-operative corporation, such consent may only be given by the co-operative corporation and not the individual co-operative shareholders, (iii) if any Benefitted Parcel is owned by persons or entities holding title as joint tenants, tenants in common or other multiple or joint ownership structure, such owners shall appoint one representative to exercise such consent, and (iv) the DDA Parcel shall be deemed to comprise one Benefitted Parcel so long as all of the parcels comprising the DDA Parcel are under the direct or indirect ownership or control of the same person or entity.

9. Indemnity. To the extent permitted by law, each Grantee, by its use (or its contractors', invitees', or licensees' use) of the Easement Area, agrees to and shall defend, indemnify and save harmless Grantor, its affiliated companies and their respective officers, directors, shareholders, agents and employees (collectively "Grantor Indemnified Parties"), from and against any and all liability or claim thereof (including but not limited to actual attorneys' fees and costs) whether for injury to persons, including death, or damage to property, which may be imposed upon, incurred by or asserted against the Grantor Indemnified Party allegedly or actually

arising as a direct result of any activity by such Grantee, its employees, agents, contractors, licensees or invitees in, on, or about the Easement Area; provided, however, that such indemnity shall not apply to liabilities or claims to the extent such liabilities or claims arise from Grantor's actions or omissions, including, without limitation, Grantor's failure to comply with any of the terms or conditions of this Grant.

10. Duration; Covenants Run with the Land. The terms and conditions set forth in this Grant shall be perpetual. This Grant and the rights and burdens created hereby are intended to and shall run with the land, and shall be binding upon and inure to the benefit of the present and future owners of the Easement Parcel, the Benefitted Parcels and their respective, successors and assigns.

11. Amendment; Termination. No termination, amendment or waiver of any of the provisions of this Grant shall be effective unless in writing, signed by Grantor and the owner of any Benefitted Parcel affected by such termination, amendment or waiver. Any written waiver shall only be applicable to the specific instance which it relates and shall not be deemed to be a continuing and permanent waiver unless so specifically stated.

12. Severability. The provisions of this instrument are severable. If any section, paragraph, sentence or provision hereof shall be determined to be invalid or unenforceable, it shall not affect the validity of any remaining provisions herein and all remaining provisions shall be given full force and effect separately from the invalid or unenforceable section, paragraph, sentence or provision, as the case may be.

13. Captions. The captions in the paragraph headings contained in this Grant are for convenient reference only and in no way define, describe, extend or limit the scope or intent of this Grant, nor the intent of any provision hereof.

14. Notices. All notices or other communications required or permitted to be given under this Grant shall be in writing and shall be deemed given to a party when (a) delivered by hand, (b) one business day after being sent by a nationally recognized overnight courier service for next day delivery (costs prepaid), (d) received by the addressee, if sent by registered US mail; or (e) sent by email, in each case to the address of such Grantor or Grantee set forth in the preamble to this Grant or to such other address as a party may designate in writing from time to time delivered in accordance with the provisions of this paragraph.

[Signatures on Following Page]

IN WITNESS WHEREOF, the undersigned have caused its signature to be placed on the day and year first above written.

Music Hall Center for the Performing Arts, Inc.,
a Michigan nonprofit corporation

By: _____
Vincent C. Paul
Its: President

STATE OF MICHIGAN }
 }ss.
COUNTY OF WAYNE }

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Vincent C. Paul, the President of Music Hall Center for the Performing Arts, Inc. a Michigan non-profit corporation, who appeared before me and who is personally known to me or has produced sufficient evidence that he is the individual described in and who executed the foregoing instrument.

_____, Notary Public
_____, County, Michigan
My commission expires: _____
Acting in Wayne County

DRAFTED BY AND WHEN

RECORDED RETURN TO:

Geaneen M. Arends, Esq.
Butzel Long
150 West Jefferson, Suite 150
Detroit, MI 48226
313-225-7000

This instrument is exempt from transfer tax pursuant to MCL 207.505(a) and MCL 207.526(a).

EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR PARCEL

EXHIBIT B

LEGAL DESCRIPTION OF EASEMENT AREA

EXHIBIT C

LEGAL DESCRIPTION OF PUBLIC ALLEY

EXHIBIT D

LEGAL DESCRIPTION OF DECG PARCEL

EXHIBIT E

LEGAL DESCRIPTION OF LA CASA PARCEL

EXHIBIT F

LEGAL DESCRIPTION OF PARADISE VALLEY PARCEL

EXHIBIT G

LEGAL DESCRIPTION OF DETROIT HOSPITALITY PARCEL

EXHIBIT H

LEGAL DESCRIPTION OF POZEN PARCEL

EXHIBIT I
EAST TO WEST DRIVEWAY