

**STATE OF NORTH CAROLINA  
COUNTY OF DURHAM**

**AMENDMENT #1 TO AGREEMENT FOR MANAGEMENT SERVICES**

This Amendment is executed as of the \_\_\_\_\_ of \_\_\_\_\_, 2013, by and between the City of Durham, a N. C. municipal corporation (“City”) and the Carolina Theatre of Durham, Inc. (“Carolina”).

1. The parties entered into an Agreement for management services provided by the Carolina to the City dated July 1, 2008 (“Agreement”). For valuable consideration, the parties have agreed to enter into this first amendment.
2. Article I Definition of Terms Section 1.1 Definition of Routine Repairs and Maintenance is amended to delete the followings: “Such Routine Repairs and Maintenance shall not exceed \$5000 in aggregate during the Fiscal Year.”
3. Article II Section 2.2.6 (e) of the Agreement is deleted in its entirety.
4. Insert new Section 2.2.8 as follows:

**“2.2.8 City Repairs and Replacement.** City agrees to be responsible for warranties from recent renovations in 2011, and further agrees to be responsible for building roof and envelope, HVAC systems integrity and warranty, and electrical systems and warranty. Repairs required as a result of building envelope, HVAC or electrical systems failures shall be the responsibility of City. Routine maintenance of these systems shall be the responsibility of the Carolina.”

5. Section 2.4.5 is deleted in its entirety and replaced as with the followings:

“The Carolina may increase the restoration fees on all tickets sold on live performances or on film presentations up to a total amount not exceeding \$2.00 per ticket for fiscal year FY 2013-2014. Should Carolina desire to increase the restoration fees, Carolina shall obtain written consent from the City Manager or the City Manager’s designee.”

6. Section 2.4.6 is deleted in its entirety.
7. Section 2.4.7 is deleted in its entirety and replaced as with the followings:

“Restoration fees collected shall accrue as revenue to the Carolina, and such revenue shall not be shared with the City.”

8. Insert at the end of Article III, Section 3.1:

“The term of this agreement shall be extended, and the extended term shall run from **July 1, 2013 through June 30, 2014.**”

9. Article IV Section 4.1 Basic Management Fee is deleted in its entirety and replaced as with

the followings:

“**4.1 Basic Management Fee.** Carolina shall receive a Basic Management Fee of **\$614,520** for the extended term of July 1, 2013 through June 30, 2014. The Basic Management Fee shall be paid to the Carolina in accordance with the payment schedule below:

- (a) 50% of the Basic Management Fee to be paid by July 15, 2013
- (b) 25% of the Basic Management Fee to be paid by January 1, 2014, and the remaining Basic Management Fee to be paid by April 1, 2014.”

10. Article V, Section 5.1.1 is deleted in its entirety and replaced as with the followings:

“Section 5.1.1 Carolina shall provide all custodial and Routine Repairs and Maintenance services without limitation to maintain the Theatre and FF&E in good repair and condition and in conformity with all requirements, and shall make or cause to be made Routine Repairs and Maintenance. The cost of such Routine Repairs and Maintenance shall be borne solely by Carolina.”

11. Delete Section 5.2 in its entirety and replace as follows:

“The cost of systems integrity and warranty repairs for building envelope, HVAC and electrical systems provided for in Section 2.2.8 shall be borne by City.”

12. Section 5.3 **Minor Emergency Repairs** is deleted in its entirety.

13. Insert new section 5.3 as follows:

“**Preventive Maintenance Plan.** City has developed a Preventive Maintenance Plan (PMP) and will provide this plan to be a guide for routine maintenance activities for the Carolina.”

Except as amended herein, the terms and conditions of the Agreement are reaffirmed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed and sealed this Amendment as of the date first written above.

**ATTEST:**

**CITY OF DURHAM**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Manager

**ATTEST:**

**CAROLINA THEATRE OF DURHAM, INC.**

\_\_\_\_\_  
Secretary  
(SEAL)

By: \_\_\_\_\_  
President

State of North Carolina

ACKNOWLEDGMENT BY NON PROFIT CORPORATION

County of \_\_\_\_\_

I, a notary public in and for the aforesaid county and state, certify that \_\_\_\_\_ personally appeared before me this day and stated that he or she is \_\_\_\_\_ Secretary of Carolina Theatre of Durham, Inc., a nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing contract or agreement with the City of Durham was signed in its name by its \_\_\_\_\_ President, whose name is \_\_\_\_\_, sealed with its corporate seal, and attested by him/herself as its said Secretary or Assistant Secretary. This the \_\_\_\_\_ day of \_\_\_\_\_ 2013.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public