

CITY OF SEATTLE
ORDINANCE 127166
COUNCIL BILL 120918

AN ORDINANCE relating to the Seattle Center Glass and Gardens Exhibition Lease; authorizing the Seattle Center Director to execute an amendment to the lease agreement between Center Art LLC and The City of Seattle to provide the tenant additional options to extend the lease term; and adjusting rent and other lease provisions.

WHEREAS, The City of Seattle and Center Art LLC entered into a lease agreement dated June 13, 2011 leasing certain premises at Seattle Center to Center Art LLC (“Center Art”) for the Seattle Center Glass and Gardens Exhibition (the “Lease”); and

WHEREAS, the Lease has been beneficial to both The City of Seattle and Center Art, fostering cultural enrichment and economic benefits for the community; and

WHEREAS, both parties have mutually agreed on the need to amend the Lease to provide Center Art additional options to extend its term, adjust the rent structures, and outline reinvestment commitments to ensure the continued success and sustainability of the exhibition and the Seattle Center areas that support the exhibition; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Seattle Center Director is authorized to execute, for and on behalf of The City of Seattle, the Amendment to the Seattle Center Glass and Gardens Exhibition Lease substantially in the form attached to this ordinance as Attachment 1.

Section 2. This ordinance shall take effect as provided by Seattle Municipal Code
Sections 1.04.020 and 1.04.070.

Passed by the City Council the 17th day of December, 2024,
and signed by me in open session in authentication of its passage this 17th day of
December, 2024.



President _____ of the City Council

☒ Approved / ☐ returned unsigned / ☐ vetoed this 19th day of December, 2024.



Bruce A. Harrell, Mayor

Filed by me this 19th day of December, 2024.



Scheereen Dedman, City Clerk

(Seal)

Attachments:

Attachment 1 – Amendment to Seattle Center Glass and Gardens Exhibition Lease

AMENDMENT TO SEATTLE CENTER GLASS AND GARDENS EXHIBITION LEASE

THIS AMENDMENT TO SEATTLE CENTER GLASS AND GARDENS EXHIBITION LEASE (the “**Amendment**”) effective as of _____, 2024 (the “**Amendment Effective Date**”), is by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington (“**City**” or “**Landlord**”), and CENTER ART LLC, a Washington limited liability company (“**Center Art**” or “**Tenant**”). Capitalized terms used but not defined herein shall have the meanings given to them in the Lease.

RECITALS

A. Landlord and Tenant are parties to that certain Seattle Center Glass and Gardens Exhibition Lease dated as of June 13, 2011 (the “**Original Lease**”).

B. The Initial Term of the Lease was for a period of sixty months beginning on April 1, 2012.

C. The Original Lease provides Center Art the option to extend the Lease Term for up to five (5) additional successive terms of five years each (each an “**Extended Term**”).

D. As of the Amendment Effective Date, Center Art has exercised two options with the current Extended Term ending on March 31, 2027, and with an outside Lease Term ending March 31, 2042.

E. The City and Center Art mutually desire to provide Center Art with additional extension options and to provide for additional support for maintenance and improvements to the Premises and surrounding areas of Seattle Center.

The City and Center Art mutually agree to amend the Lease as set forth herein.

AGREEMENT

In consideration of the mutual covenants herein, the City and Center Art hereby amend the Lease as follows:

1. Option for Extended Ten-Year Terms. A new Section 3.3 is added to the Lease as follows:

3.3 Additional Extended Terms. Provided that Center Art exercises its option for each of the five-year Extended Terms under Section 3.2, Center Art shall have the option to further extend the Term of the Lease for three additional successive terms of ten (10) years each (each an “**Extended Ten-Year Term**”). Center Art must exercise the option to each Extended Ten-Year Term by providing the Director written notice of Center Art’s

intention no earlier than eighteen months and no later than twelve months prior to the expiration of the then-current Term. All terms and conditions of this Lease shall apply to any Extended Ten-Year Term, except: (1) the Retail Building shall be excluded from the Premises, and (2) the Base Rent and Additional Rent shall be calculated as described in Sections 4.3, 4.4 and 4.7. Whenever the word "Term" is used in this Lease it shall be deemed to include the Initial Term and any exercised Extended Term and exercised Extended Ten-Year Term.

2. Base Rent. Section 4.3 is amended by adding a new paragraph at the end as follows:

At the commencement of each Extended Ten-Year Term, the annual Base Rent shall be fair market value Base Rent determined as provided in this paragraph. The 'fair market value Base Rent' shall take into consideration rent paid by comparable museums, gardens, art, and cultural attractions in comparable civic centers or locations in comparable cities. Along with its written notice exercising an option to an Extended Ten-Year Term, Center Art shall provide its proposed fair market value Base Rent. The Director shall have thirty (30) days to respond in writing and shall either (i) accept Center Art's proposed fair market value Base Rent or (ii) reject Center Art's proposal and provide the City's statement of fair market value Base Rent. If the Director accepts Center Art's proposed fair market value Base Rent, then Center Art's proposed fair market value Base Rent shall be the annual Base Rent. If the Director does not respond in writing within such 30-day period and the Director fails to respond in writing within five (5) business days after receipt of a second written notice from Center Art, then Center Art's proposed fair market value Base Rent shall be the annual Base Rent. If the Director responds in writing within such 30-day period and proposes a different Base Rent, Center Art shall respond in writing within thirty (30) days and either (i) accept the Director's determination or (ii) request a meeting with the Director to negotiate the amount of fair market value Base Rent, in which case each Party shall share in writing the basis for its determination of fair market value Base Rent. If Center Art accepts the Director's proposed fair market value Base Rent, then the Director's proposed fair market value Base Rent shall be the annual Base Rent. If Center Art does not respond in writing within such 30-day period and Center Art fails to respond in writing within five (5) business days after receipt of a second written notice from the Director, then the Director's proposed fair market value Base Rent shall be the annual Base Rent. If the Parties are unable to agree upon the amount of fair market value Base Rent by 180 days before the first day of the applicable Extended Ten-Year Term, then either Party may send written notice to the other Party (the "**Arbitration Commencement Notice**") that fair market value Base Rent shall be determined by arbitration in accordance with the following terms (the "**Arbitration Commencement Date**"). The arbitration will be conducted by three independent MAI appraisers (each an "**Arbitrator**" and

together the “**Arbitrators**”) each with not less than ten (10) years’ experience ending on the Arbitration Commencement Date in the leasing of comparable Premises. Tenant will select one Arbitrator, Landlord will select one Arbitrator, and the two Arbitrators so chosen will select the third Arbitrator. If the two Arbitrators chosen by the parties cannot agree on a third Arbitrator within ten (10) days after the date the second Arbitrator has been appointed, the third Arbitrator will be appointed by the geographically closest office of the American Arbitration Association upon the application of either Party. Each Party shall select its Arbitrator within ten (10) business days after it sent or received, as applicable, the Arbitration Commencement Notice. If either Party fails to select its Arbitrator within such ten (10) business day period, the other Party timely selects its Arbitrator, and the Party fails to select its Arbitrator within five (5) business days after receipt of a second Arbitration Commencement Notice from the other Party, then the Arbitrator selected by the other Party shall be the sole Arbitrator for determining the fair market value Base Rent. Within thirty (30) days after the selection of the third Arbitrator (or if only one Arbitrator is to render the decision as provided above, within thirty (30) days after the last day of the above-referenced fifteen (15) business day period), the Arbitrator(s) shall determine the fair market value Base Rent. If more than one Arbitrator has been appointed, the decision of a majority of the Arbitrators shall control. If a majority of the Arbitrators do not agree within the stipulated time period, then each Arbitrator shall in writing render his or her separate determination as to the fair market value Base Rent within five (5) business days after the expiration of the thirty (30) day period. In such case, the three determinations shall be averaged to determine the fair market value Base Rent; however, if the lowest determination of fair market value Base Rent or the highest determination fair market value Base Rent is ten percent (10%) lower or higher, as applicable, than the middle determination fair market value Base Rent, then the low determination for fair market value Base Rent and/or the high determination fair market value Base Rent, as applicable, shall be disregarded and the remaining determinations of fair market value Base Rent shall be averaged in order to establish the fair market value Base Rent. Both Parties may submit any information to the Arbitrators for their consideration, with copies to the other Party. The Arbitrators shall have the right to consult experts and competent authorities for factual information or evidence pertaining to the determination of the fair market value Base Rent. The Arbitrators shall render their decision and award in writing with counterpart copies to each Party. The Arbitrators shall have no power to modify the provisions of this Lease. The determination of the Arbitrators shall be final and binding upon Landlord and Tenant. The cost of the Arbitration (i.e., the charges and fees of the Arbitrators but not the parties’ own costs such as attorneys’ fees and expert fees) shall be shared equally by Landlord and Tenant. If the fair market value Base Rent determined by arbitration is higher than Center Art’s originally proposed annual Base Rent, Center Art may, in its sole

discretion, void and terminate the applicable Extended-Ten Year option by providing written notice to the City within thirty (30) days of Center Art's receipt of the decision of the arbitration, with the effective date of the termination being the last day of the then-current Term. If the Lease is not terminated, the fair market value Base Rent as determined by agreement of the Parties or by arbitration, as applicable, shall be the annual Base Rent and thereafter, beginning on the first anniversary of the first day of the applicable Extended Ten-Year Term, and thereafter annually for the duration of the Lease Term, the annual Base Rent payable in the upcoming Lease Year shall be adjusted by the inflation adjustment in Section 4.7 of this Lease based on the percentage change in the CPI from the first day of the applicable Extended Ten-Year Term through the last day of the Lease Year prior to the Lease Year being adjusted; provided, during any Extended Ten-Year Term the inflation adjustment shall not result in the Base Rent being less than the Base Rent in effect on the first day of such Extended Ten-Year Term.

3. Additional Rent. Section 4.4 is amended by adding a new paragraph at the end as follows:

In consideration of this Amendment, in addition to the Additional Rent based on net sales of Chihuly Fine Art, commencing on the Amendment Effective Date, Center Art shall pay the City one percent (1%) of Center Art's gross revenue from ticketed paid admissions to the Premises ("Annual Percentage Rent"). The Annual Percentage Rent shall be payable annually in arrears beginning on the first anniversary of the Amendment Effective Date. Center Art shall submit the report described in Section 10.1.2 along with the annual payment of the Percentage Rent. As used in this Lease, references to "Additional Rent" shall include the Percentage Rent.

4. Cap on CPI Adjustment for Extended 10-Year Terms. Beginning on the Amendment Effective Date, a new Section 4.7 is added to the Lease as follows:

4.7 CPI Adjustments to Base Rent for Extended 10-Year Terms. Beginning on the first anniversary of the first day of each Extended Ten-Year Term, and thereafter annually on the first day of each subsequent Lease Year, the Base Rent during the applicable Extended Ten-Year Term shall be adjusted upward only by an amount equal to the total percentage change that occurred in CPI (as defined in Section 4.5) between the first day of the applicable Extended Ten-Year Term through the last day of the immediately preceding Lease Year. City shall notify Center Art in writing at least one (1) month prior to the first payment of adjusted Base Rent of the estimated adjusted Base Rent amount. If the estimated CPI adjustment is less than the actual CPI adjustment, upon notice from City, Center Art shall include any additional amount of Base Rent owing in the next monthly installment of Base Rent. If the estimated CPI adjustment exceeds the

actual CPI adjustment, upon notice from City, Center Art may apply any excess to the next monthly installment of Base Rent. By way of illustration only, if Base Rent for the first Extended Ten-Year Term is \$1,000,000, the CPI is 100.0 on the first day of the first Extended Ten-Year Term and is 105.5 on the last day of the first Lease Year in the first Extended Ten-Year Term, the annual Base Rent for the subsequent Lease Year shall be \$1,055,000 (\$1,000,000 multiplied by 1.055). Notwithstanding anything to the contrary set forth in this Section 4.7, the CPI increase to Base Rent shall be capped at four percent (4%) annually and the aggregate CPI increases in Base Rent applicable to each 5-year period during each Extended 10-Years Terms shall be capped at a twenty percent (20%) non-compounded increase. If the actual CPI increase in any given 5-year period is less than twenty percent (20%), the unused portion of the cap may be carried forward and added to the cap for the subsequent 5-year period. For example, if the CPI increase is 10% over the first 5-year period during an Extended 10-Year Terms, the remaining 10% may be added to the cap for second 5-year period, allowing for a potential increase of up to 30% during the second 5-year period. By way of illustration, if Base Rent for the first year of an Extended Ten-Year Term is \$1,000,000, the annual Base Rent for the first five years of such Extended Ten-Year Term shall not exceed \$1,200,000 (\$1,000,000 multiplied by 1.20) and the annual Base Rent for the second five years of such Extended Ten-Year Term shall not exceed \$1,400,000 (\$1,000,000 multiplied by 1.40). If during the Lease Term there is a change in the index base or other modification to the CPI index, the parties shall apply whatever conversion factor establishes the true percentage change in the CPI during the relevant time period.

5. Capital Reinvestment. Beginning on Amendment Effective Date, a new Section 15.4 is added to the Lease as follows:

15.4 Capital Reinvestment.

- A. Center Art agrees to establish a Capital Improvement Fund (CIF) funded by Center Art with minimum annual contributions and improvements as described in Exhibit A. The CIF will be utilized for capital improvements and enhancements to the Premises and surrounding areas. The CIF will be divided into Center Art-Directed Investments and City-Directed Investments, as specified in Exhibit A. Center Art shall pay the City the City-Directed Investment amount outlined on Exhibit A quarterly, in advance, due on or before the fifteenth (15th) day of each calendar quarter, with the first payment due by January 15, 2025. Center Art shall invest the Center Art-Directed Investments as described in Subsection 15.4.C. The CIF payments shall be prorated during any partial Lease Year.
- B. CIF-funded improvements are not intended to in any way limit or modify the Center Art's routine and major maintenance obligations

under Section 15.3 or replace or modify either Party's other obligations under this Lease; provided, subject to the limitations under Subsection 15.4.C, Center Art will receive credit against the required contributions to the Center-Art Directed Investments for all amounts expended or reimbursed by Center Art with respect major or capital repairs, replacements, improvements, and enhancements to the Premises, Project Improvement Area and/or the Public Use Areas even if Center Art was required to undertake or pay for the same under the Lease (including, but not limited to, structural repairs, installation of pavement and other surface area improvements, fixtures, lighting, landscaping, and other modifications, upgrades, and improvements necessary to maintain or enhance the condition and functionality of the Premises and improve the surrounding campus experience).

- C. Each Party shall prepare a five-year CIF summary outlining the plan and budget for proposed improvements to be made utilizing their respective CIF funds (each a "Five-Year CIF Summary"). Each Party shall submit its initial Five-Year CIF Summary to the other Party for review and, thereafter, a new or updated Five-Year CIF Summary every five (5) years thereafter. In the event of changed circumstances, each Party has the right at any time to submit a revised Five-Year CIF Summary. For each calendar year during the Term, Center Art shall invest the full amount of the Center Art-Directed investment in the Premises annually, provided Center Art may roll over the Center Art-Directed Investments in a given year for up to two consecutive years, in which case the total amount invested by Center Art over any two-year rollover period must meet or exceed the total minimum Center Art-Directed investment requirement for those years combined. Following completion of the Center-Art Directed improvements, Center-Art shall provide the City a report demonstrating compliance with the required investment on Exhibit A. If Center Art invests or contributes more than the full amount of the Center Art-Directed Investment required to be invested in any given year, the excess amount shall be credited against Center Art's obligation to make the Center Art-Directed Investments in following calendar year or years; provided only \$500,000 of any excess amount may be credited after the final year of the Five-Year Extended Term or the final year of the first two Extended Ten-Year Terms in which the excess amount was invested or contributed by Center Art; and provided further that any excess amounts that remain uncredited as of the expiration of the Lease are not refundable. If for any reason the Lease is terminated due to Center Art default, any amount of Center Art-Directed investment that has not been expended in the year of termination (including any prior rollover period) shall be immediately due and payable to the City.

- D. All improvements to the Premises are subject to the City's approval under Section 14.4 and shall comply with Seattle Center Construction Site Standards, local building codes, and regulations.

6. Reporting.

- A. The reference to "Lease Year" in Section 10.1.1 is changed to "calendar year."
- B. Two new sentences are added to the end of Section 10.1.2 as follows:

Along with the annual payment of Annual Percentage Rent, Center Art shall submit to the Director a written statement, certified by an authorized officer of Center Art, the following information: (i) the total number of tickets sold in each price category during the prior twelve month period, (ii) the total amount of sales revenue collected in each ticket price category during the prior twelve month period, and (iii) any other information reasonably required by the Director to demonstrate the calculation of the Annual Percentage Rent remitted. The audit provisions in Section 10.2 that apply to Net Sales of Chihuly Fine Art shall apply equally to the Annual Percentage Rent, the calculation of Annual Percentage Rent, and the CIF Center Art-Directed investments.

7. Definitions.

- A. The definition of "**Lease Year**" in Section 4.5 is clarified to acknowledge that the Rent Commencement Date was April 1, 2012, and "Lease Year" means a twelve-month period beginning April 1st and ending March 31st of each year during the Term, as extended.
- B. Any other capitalized term that is not otherwise defined in this Amendment shall have the meaning provided in the Original Lease. From the Amendment Effective Date, all references to the "Lease" shall mean the Original Lease as amended by this Amendment.

8. Force and Effect. Except as specifically amended herein, all other provisions of the Lease shall remain in full force and effect and are hereby affirmed and ratified. To the extent of any inconsistencies or contradictions between the terms and conditions of the Original Lease and this Amendment, the terms and conditions in this Amendment shall control. Copies of originals, including copies of originals delivered by facsimile, PDF or other electronic means shall have the same effect as original counterparts.

[Remainder of page intentionally left blank]

[Signatures to follow]

IN WITNESS WHEREOF, the parties have executed this Amendment on the respective date set beneath their signatures below, but this Amendment shall be deemed to be effective on the Amendment Effective Date.

LANDLORD:

THE CITY OF SEATTLE, a municipal
corporation of the State of Washington

By: _____
Its: _____

TENANT:

CENTER ART LLC, a Washington limited liability
company

By: Special Event Management LLC, a
Washington limited liability company
Its: Manager

By: _____
Its: Authorized Representative

[Acknowledgments follow]

LANDLORD ACKNOWLEDGMENT

STATE OF WASHINGTON		ss.
COUNTY OF KING		

I certify that Marshall Foster personally appeared before me and signed this instrument, and on oath stated that he was authorized to execute the instrument as the Seattle Center Director and acknowledged the instrument, and acknowledged said instrument to be the free and voluntary act and deed of The City of Seattle for the uses and purposes therein mentioned, and on oath, stated that he was authorized to execute said instrument for and on behalf of The City of Seattle.

Dated this ____ day of _____, 2024.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,
residing at _____

My appointment expires _____

TENANT ACKNOWLEDGMENT

STATE OF WASHINGTON

ss.

COUNTY OF KING

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged the said instrument as an authorized representative of Special Event Management LLC, the manager of Center Art LLC, a Washington limited liability company to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2024.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,
residing at _____

My appointment expires _____

EXHIBIT A

Minimum Annual Contributions and Division Between Center Art-Directed Investments and City-Directed Investments

Fixed Capital Reinvestment				
Center Art LLC (Center Glass and Garden) commits to reinvest specified amounts into capital improvements annually, enhancing the exhibition and surrounding areas. The reinvestment pool includes both Center Glass and Garden Directed investments and Seattle Center Directed investments.				
Reinvestment Pool (Capital Contribution)				
Year	Minimum Reinvestment Pool	Center Glass and Garden Directed	Seattle Center Directed (Paid to City)	Seattle Center Directed %
2025	\$600,000	\$150,000	\$450,000	75%
2026	\$1,700,000	\$425,000	\$1,275,000	75%
2027	\$1,700,000	\$425,000	\$1,275,000	75%
2028	\$500,000	\$250,000	\$250,000	50%
2029	\$500,000	\$250,000	\$250,000	50%
2030	\$500,000	\$250,000	\$250,000	50%
2031	\$500,000	\$250,000	\$250,000	50%
2032	\$500,000	\$250,000	\$250,000	50%
2033	\$500,000	\$250,000	\$250,000	50%
2034	\$500,000	\$250,000	\$250,000	50%
2035	\$500,000	\$250,000	\$250,000	50%
2036	\$500,000	\$250,000	\$250,000	50%
2037	\$500,000	\$250,000	\$250,000	50%
2038	\$350,000	\$175,000	\$175,000	50%
2039	\$350,000	\$175,000	\$175,000	50%
2040	\$350,000	\$175,000	\$175,000	50%
2041	\$350,000	\$175,000	\$175,000	50%
2042	\$350,000	\$175,000	\$175,000	50%
2043	\$400,000	\$200,000	\$200,000	50%
2044	\$400,000	\$200,000	\$200,000	50%
2045	\$400,000	\$200,000	\$200,000	50%
2046	\$400,000	\$200,000	\$200,000	50%
2047	\$400,000	\$200,000	\$200,000	50%
2048	\$400,000	\$200,000	\$200,000	50%
2049	\$400,000	\$200,000	\$200,000	50%
2050	\$400,000	\$200,000	\$200,000	50%
2051	\$400,000	\$200,000	\$200,000	50%
2052	\$400,000	\$200,000	\$200,000	50%
2053	\$400,000	\$200,000	\$200,000	50%

Att 1 - Amendment to Seattle Center Glass and Gardens Exhibition Lease
V1

2054	\$400,000	\$200,000	\$200,000	50%
2055	\$400,000	\$200,000	\$200,000	50%
2056	\$400,000	\$200,000	\$200,000	50%
2057	\$400,000	\$200,000	\$200,000	50%
2058	\$400,000	\$200,000	\$200,000	50%
2059	\$400,000	\$200,000	\$200,000	50%
2060	\$400,000	\$200,000	\$200,000	50%
2061	\$400,000	\$200,000	\$200,000	50%
2062	\$400,000	\$200,000	\$200,000	50%
2063	\$300,000	\$150,000	\$150,000	50%
2064	\$300,000	\$150,000	\$150,000	50%
2065	\$300,000	\$150,000	\$150,000	50%
2066	\$300,000	\$150,000	\$150,000	50%
2067	\$300,000	\$150,000	\$150,000	50%
2068	\$150,000	\$-	\$150,000	100%
2069	\$150,000	\$-	\$150,000	100%
2070	\$150,000	\$-	\$150,000	100%
2071	\$150,000	\$-	\$150,000	100%
2072	\$150,000	\$-	\$150,000	100%
Totals	\$21,000,000	\$9,125,000	\$11,875,000	