

SUMMARY and FISCAL NOTE*

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|--------------------|-----------------------------|---------------------------|
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** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE relating to the Seattle Center Department; authorizing the Seattle Center Director to execute the Third Amendment to the Facility Use and Occupancy Agreement between The City of Seattle and the Seattle Repertory Theater.

Summary and background of the Legislation:

The Seattle Repertory Theater (SRT), founded in 1963 under the leadership of Bagley Wright, is one of the oldest resident organizations on the Seattle Center campus. They have been giving joy, inspiring laughter, and providing gist for discussion at Seattle Center for 57 years. SRT's first home was the Seattle Center Playhouse, a performance space built for the 1962 Seattle World's Fair.

In 1977, Seattle voters approved a \$19 million Seattle Center bond issue, which included \$4.8 million for a new theater home for SRT. Following years of planning and fundraising, ground was broken on the new theater in 1981, and the new Bagley Wright Theatre (named due to ten anonymous private donations in honor of Bagley Wright) opened in October 1983. The final cost was \$10 million, with the City providing \$5.6 million in bond proceeds and SRT providing the remaining \$4.4 million. The design included a smaller, second stage auditorium, but funding was only available for the main theater.

The Bagley Wright Theatre was the first new facility constructed on the Seattle Center campus since the 1962 World's Fair, and the first public/private partnership undertaken by Seattle Center. SRT was the first arts group to make such a substantial contribution to a Seattle Center facility. In 1981, authorized by Ordinance 109853, SRT and the City executed a Licensing Agreement covering 26 years, from the 1983-4 season through the 2008-9 season, with the agreement expiring May 31, 2009. SRT's license fee was calculated to equal approximately 25% of operating costs, in consideration of their capital contribution to the project. SRT was a tenant in the building and the City was responsible for all operating and maintenance costs, including utilities, janitorial services, theatrical systems, and all other building systems.

By the mid-1990's, by which time three other major arts organizations chose to locate at Seattle Center and make significant capital investments (Intiman Theatre, Pacific Northwest Ballet, and Seattle Children's Theatre) the standards for financial terms had changed. In these later three cases, the arts organizations had exclusive use (with a specified number of days available to the City) and were responsible for the internal systems and the regular maintenance and operating expenses of the facilities.

When SRT was ready to construct a smaller, second stage addition in 1996, the financial terms for this new space reflected this new standard. In May 1996, the City Council passed Ordinance 118109 authorizing a Premises Use and Occupancy Agreement and a Construction Agreement with SRT. The 1996 agreement wrapped the second stage addition (which became known as the Leo Kreielsheimer Theatre) and the Bagley Wright Theatre (BWT) into one agreement, superseding the 1981 agreement, and extending the term for the BWT from 2009 to 2026.

For the Leo Kreielsheimer (“Leo K”) Theatre, SRT covered 100% of the construction costs and was responsible for all operating and maintenance costs, and for theatrical and other internal building systems. The City was responsible for the building shell. The 1996 agreement was structured to transition the BWT to a similar financial structure. Over time, by June 1, 2009, SRT assumed full responsibility for operating costs and internal systems of the BWT, consistent with the structure of the more recent agreements between Seattle Center and resident arts organizations.

To achieve this transition from the 1981 agreement, the 1996 agreement specified that the City and SRT each make annual contributions into separate funds for replacement and renovation of internal building systems (primarily theatrical systems) of the Bagley Wright Theatre. Annual funding levels were established to pay for anticipated internal maintenance, repair and replacement needs through 2009 and to generate a sufficient balance for SRT to assume full responsibility for internal systems after May 31, 2009, the expiration date of the original 1981 agreement. As of June 1, 2009, the City’s financial obligation for the maintenance, repair, and replacement of internal systems at the BWT ended, and the City’s responsibility for the entire facility (both theaters) is limited to external systems, structures and finishes.

The 1996 agreement also specified that after May 31, 2009, the rent for the BWT reduced to \$1.00 per month, provided SRT made an investment of \$1 million in capital renovations and improvements of the BWT by September 1, 2010 and provided certain free use days for the City.

In August 2005, the 1996 Agreement was amended to correct and modify the process for calculation of cooling costs and change the Consumer Price index used to calculate annual adjustments to the rent. This was a purely administrative amendment and did not require City Council approval.

As was true with nearly all arts organizations, the severe economic downturn that began in 2008 had a major impact on SRT. In April 2009, SRT implemented significant reductions in their operations, including layoffs, furloughs, and reductions in the number of performances. Given their severe financial difficulties, SRT was unable to make the \$1 million capital investment in the BWT by September 1, 2010 and was not able to take on the full operating costs of the facility as scheduled. Subsequently, Seattle Center and SRT negotiated a five-year interim agreement, for the period of June 1, 2009 through June 30, 2014, giving SRT time to make a financial recovery and work its way back to being able to meet the intent of the 1996 agreement.

The interim agreement, authorized by Ordinance 123767 and approved on November 2011 in the 2nd Amendment to the 1996 Agreement, required SRT to continue paying rent and making deposits into their fund, the SRT Replacement Trust Fund (the “Fund”), for replacement,

maintenance, and repair of the BWT building systems (primarily theatrical systems) and modified the payment plan for SRT's investment of \$1 million in capital renovations. The planned annual deposits were "stair-stepped" back to the full level of scheduled deposit by year five of the interim agreement and the deadline for the full \$1 million capital investment was extended from 2010 to 2015 with the value of the investment adjusted by CPI to preserve the value of the contribution.

SRT has made the payments required by the interim agreement and operation of the theatre continues under the terms of the 1996 Agreement.

COVID-19 has created economic challenges for SRT. But as they note, creativity cultivates resilience and they are focused on brighter days ahead. SRT has reduced staff and operating expenses and cancelled their 2020/21 performance schedule. They have continued working offstage and online, providing online programs and youth acting classes.

SRT, like the rest of the Seattle arts community, faces severe economic challenges as they will be unable to hold in person performances until the Governor's restrictions regarding public gathering are lifted, and the public is once again comfortable attending performances.

To address the challenges caused by the pandemic, this proposed third amendment to the 1996 Agreement would remove the obligation for SRT to make their 2019 (\$170,571) and 2020 (\$174,836) fiscal year contributions to the Fund and also allow them to use the Fund for operating expenses through June 30, 2022, or such later date as may be agreed upon between SRT and the Seattle Center Director. SRT would be required to maintain a minimum balance of \$160,000 in the Fund. The Fund, which is owned and managed by SRT, and per the 1996 Agreement was to have been used solely for replacement, maintenance, and repair purposes of the Bagley Wright Theatre, currently has a balance of approximately \$860,000. The amendment also requires SRT to reimburse the Fund for any funds used for operating purposes, but if SRT is financially unable to do so, to reimburse an amount mutually agreed upon by SRT and the Seattle Center Director. In addition, if upon expiration of the 1996 Agreement, there is a new use agreement with SRT, then the new agreement would include a schedule of maintenance contributions by SRT taking into consideration the amount of unreimbursed withdrawals from the Fund.

While preparing the third amendment, it was discovered that SRT's name was incorrectly stated in the 1996 Agreement as "Seattle Repertory Theatre"; however, pursuant to SRT's Articles of Incorporation which were filed with the Washington Secretary of State on June 14, 1963, the legal name of SRT is "Seattle Repertory Theater". Additionally, SRT has undergone a rebranding effort and is now primarily known by the name "Seattle Rep" or "The Rep". Accordingly, all references to "Seattle Repertory Theatre", "Seattle Repertory Theater", "Seattle Rep" and "The Rep" in the 1996 Agreement and in all amendments to the 1996 Agreement are references to SRT.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes X No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes X No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
No

Is there financial cost or other impacts of *not* implementing the legislation?

There are no immediate costs to the City of Seattle of not implementing the legislation, but there would be impacts to SRT which would need to find alternative funding sources to address the financial impacts of COVID-19.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?
No

b. Is a public hearing required for this legislation?
No

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?
No

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No

e. Does this legislation affect a piece of property?
No

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

This legislation indirectly impacts vulnerable or historically disadvantaged communities. SRT, whose vision is theater at the heart of public life, is committed to the elevation of each and every voice. They are committed to and have amplified the voices of artists and activists who have long been engaged in the fight for justice. If one of the results of the

pandemic is the loss of SRT, then vulnerable and disadvantaged communities will have lost a champion working to ensure their voices are heard.

- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**
N/A

List attachments/exhibits below: