



Legislation Details (With Text)

File #: CB 120484 **Version:** 1 **Name:** CB 120484
Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk

On agenda: 1/24/2023
Final Action: 1/30/2023 **Ord. No.** Ord 126754

Title: AN ORDINANCE authorizing the Director of Finance and Administrative Services to execute a fifth amendment to the Lease and Concession Agreement between The City of Seattle and BH Music Center for Benaroya Hall.

Sponsors: Andrew Lewis

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Attachments: 1. Att A - Fifth Amendment to Lease and Concession Agreement v2, 2. Att A - Fifth Amendment to Lease and Concession Agreement, 3. Summary and Fiscal Note, 4. Summary Att A - Map of Facility, 5. Amendment 1, 6. Amendment 2, 7. Amendment 3, 8. Central Staff Memo, 9. Presentation, 10. Signed Ordinance 126754, 11. Affidavit of Publication

Date	Ver.	Action By	Action	Result
1/30/2023	1	City Clerk	attested by City Clerk	
1/30/2023	1	Mayor	returned	
1/30/2023	1	Mayor	Signed	
1/26/2023	1	City Clerk	submitted for Mayor's signature	
1/24/2023	1	City Council	passed	Pass
1/18/2023	1	Public Assets and Homelessness Committee	pass as amended	Pass
12/13/2022	1	City Council	referred	
11/17/2022	1	Council President's Office	sent for review	
11/16/2022	1	City Clerk	sent for review	
11/16/2022	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE authorizing the Director of Finance and Administrative Services to execute a fifth amendment to the Lease and Concession Agreement between The City of Seattle and BH Music Center for Benaroya Hall.

WHEREAS, pursuant to Ordinance 117855, the City and the Seattle Symphony Orchestra (“Symphony”)

executed a Master Agreement in October 1995, which agreement was amended pursuant to Ordinance

118112 in June 1996 (the “Amended Master Agreement”). The Amended Master Agreement provided for the City to develop and construct a new Downtown concert hall for primary use by the Symphony (“Benaroya Hall”) and detailed the terms under which the parties would cooperate to finance and construct the new facility. In September 1996, the Symphony, with the City’s approval, assigned its interests under the Amended Master Agreement and the related Design and Construction Agreements to the BH Music Center (“BHMC”); and

WHEREAS, in September 1997, the City and BHMC executed a Lease and Concession Agreement (the “Lease”), pursuant to which the City leased Benaroya Hall to BHMC; and

WHEREAS, pursuant to the Amended Master Agreement and the Lease, the City issued bonds to pay for a portion of the cost of acquiring and constructing Benaroya Hall (“Concert Hall Bonds”), and BHMC agreed to repay the costs of that financing through its concession payments under the Lease; and

WHEREAS, in 2004, The City of Seattle refinanced the Concert Hall Bonds in order to realize a lower interest rate; and

WHEREAS, in November 2007, the City Council passed Ordinance 122555, which authorized a second amendment to the Lease with a modified concession payment schedule to reflect the City’s lower borrowing costs achieved through refinancing the Concert Hall Bonds; and

WHEREAS, in November 2012, the City Council passed Ordinance 124029, authorizing a third amendment to the Lease to modify the concession payment to create a constant payment amount to match the term of the lease of Benaroya Hall to BHMC; and

WHEREAS, in April 2014, consistent with the authority under Ordinance 124341, the City and BHMC entered a fourth amendment to the Lease to change the concession payment schedule to provide for repayment of the new bonds; and

WHEREAS, on March 3, 2020, former Mayor Durkan issued a Mayoral Proclamation of Civil Emergency resulting from the COVID-19 pandemic (the “Pandemic”); and

WHEREAS, the Pandemic resulted in a series of public health orders that prevented BHMC’s use of Benaroya Hall for extended periods and the Pandemic caused other unprecedented adverse impacts on BHMC’s operations and finances; and

WHEREAS, as authorized by Executive Orders issued during the civil emergency, BHMC, as a non-profit arts and cultural organization, received deferral and abatement of certain concession payments; and

WHEREAS, the City and BHMC now desire to amend the Lease to memorialize concession payment deferrals and abatements; and

WHEREAS, the City and BHMC also desire to make amendments to the Lease to better preserve and maintain Benaroya Hall by increasing BHMC’s required contributions to capital improvements and to require rent in the form of public benefits; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of Finance and Administrative Services, or the Director’s designee, is authorized to sign and execute the Fifth Amendment to the Lease and Concession Agreement between The City of Seattle and BHMC, substantially in the form attached as Exhibit A to this ordinance.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2022, and signed by me in open session in authentication of its passage this _____ day of _____, 2022.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2022.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2022.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)

Attachments:

Attachment A - Fifth Amendment to Lease and Concession Agreement