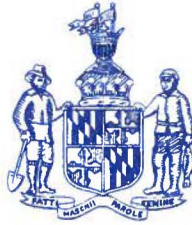


MARYLAND STADIUM AUTHORITY

MARTIN O'MALLEY
GOVERNOR



MEMBERS

JOHN MORTON III
CHAIRMAN

LEONARD J. ATTMAN
JOSEPH C. BRYCE
WELDON H. LATHAM
KALIOPE PARTHEMOS
MANERVA W. RIDDICK
RICHARD T. STEWART

MICHAEL J. FRENZ
EXECUTIVE DIRECTOR

THE WAREHOUSE AT CAMDEN YARDS
333 WEST CAMDEN STREET, SUITE 500
BALTIMORE, MARYLAND 21201-2435
(410) 333-1560 FAX (410) 333-1888

November 30, 2011

The Honorable Edward J. Kasemeyer, Chair and
Senate Budget & Taxation Committee Members
3 West Miller Senate Building
11 Bladen Street
Annapolis, MD 21401

The Honorable Norman H. Conway, Chair and
Appropriations Committee Members
121 House Office Building
6 Bladen Street
Annapolis, MD 21401

**RE: Joint Chairman's Report 2011 Session, p. 12
Hippodrome Performing Arts Center Funding Shortfall**

Dear Chairman Kasemeyer, Chairman Conway and Committee Members:

Please find enclosed the Maryland Stadium Authority's response to the Information Request in the 2011 Joint Chairman's Report on a long-term funding plan for the Hippodrome Performing Arts Center.

If any questions, please do not hesitate to give me a call. Thank you for your continued support.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'M. J. Frenz', is written over a horizontal line.

Michael J. Frenz
Executive Director

Enclosure

Hippodrome Restructuring





Problem



Theater renovation completed in 2003 at cost of \$63.3 million. MSA oversaw design and construction, and issued bonds, \$16.5 million of which was used for construction.

Debt service of approximately \$1.8 million projected \$800 thousand from a \$2 ticket surcharge and \$880 thousand to \$1 million to be paid from State of Maryland general funds.

Annual ticket revenue has reached \$800 thousand once.

FY 2005 \$636,172

FY 2006 \$805,132

FY 2007 \$545,264

FY 2008 \$493,608

FY 2009 \$391,234

FY 2010 \$353,078

Currently, MSA is funding difference between sum of ticket surcharge proceeds and State appropriation, and debt service amount. Total funding shortfall to date is \$1.9 million.



Problem



Hippodrome Theater

Reasons for underperformance:

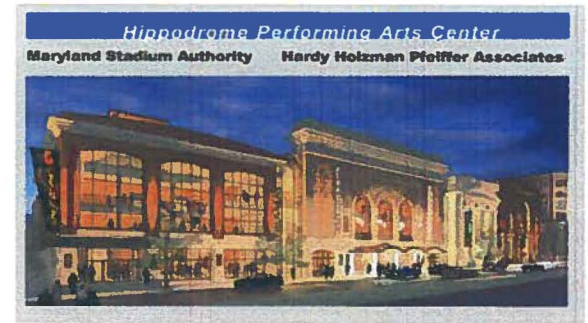
- Utility expenses are double that of comparable venues making it difficult to compete for shows.
- This is because construction budget constraints led to steam and chilled water capital equipment being funded by providers and financed through monthly charges paid by theater operator.
- Ticket sales have declined due to stalled West side development and recession.

MSA has had ongoing discussions with operator to discuss alternatives, including:

- MSA assuming utility capital charges in exchange for ticket surcharge guarantee.
- Explored option of building a central plant but faced with too many obstacles
- Extending operating agreement and ticket surcharge.
- Refinancing and extending bonds to reduce annual debt service.
- Seeking contributions from Hippodrome Foundation, City of Baltimore, and surrounding Counties.



Problem

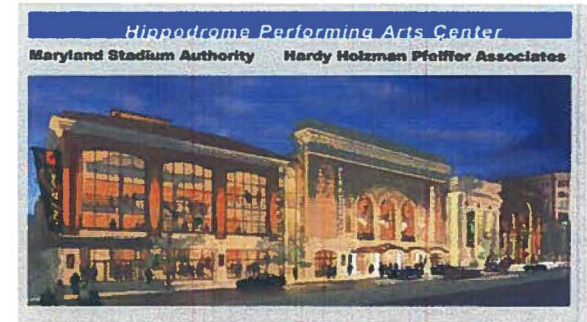


Why do anything?

- Regardless of theater operating performance, **State of Maryland is solely responsible** for debt service. (12 years x approximately \$1.8 million = \$22.4 million)
- If operator, to minimize losses, drastically reduces number of shows, ticket surcharge revenue will decline and State obligation will increase as fiscal benefit declines further.
- MSA assuming capacity/demand charges will allow operator to be more competitive and increase economic activity and taxes associated with theater operation.
- If theater closes, Baltimore will lose important cultural resource and West Side development will be further hampered.
- City administration has indicated renewed efforts to restart West Side development.
- If operator leaves, difficult to find successor.



Problem



What was done?

- MSA met with the operator of the theater to get a better understanding of the issue. MSA review the following:
 - Utility bills
 - Performance budgets
 - Understanding of the operator's annual loss
- MSA met with the Hippodrome Foundation to see what commitment they could make to help resolve the issue.
- MSA had several conversations with the City of Baltimore. The City was not in the position to make any financial commitment. City has hire a position that is dedicated to the redevelopment of the west side. MSA met with the individual that was hired to understand his mission on the redevelopment of the west side.
- MSA reached out to surrounding counties that have utilized the theater as a potential funding option.
- MSA met with DLS and discussed the issue



Solution



1. **MSA** pays utility capacity and demand charges of **\$250,000/year**.
2. **Operator** agrees to annual **ticket surcharge guarantee** at $220,000 \times \$2 = \underline{\$440,000}$.
3. **Operator** agrees to pay an additional \$0.25 per ticket for every ticket sold in excess of 350,000.
4. **Operator** agrees to extend the theater operating agreement for five additional years.
5. **MSA will refinance** and potentially extend **bonds** by 5 years to **reduce** annual **debt service** to approximately **\$1.47** million from **\$1.80** million.
6. Theater operating agreement and ticket surcharge will be extended to coincide with bond maturity.
7. **Hippodrome Foundation** will pay **\$500 thousand** for equipment amortization.
8. **Baltimore City** has hired a Westside Coordinator to promote Westside development and has agreed to additional police presence during Hippodrome events.



Outcome

<u>CASH FLOW</u>	FY2010	Do Nothing - FY2013	Restructure/ Refinance – FY2013
<u>Sources</u>			
Ticket Surcharge – MSA	\$353,078	\$280,000	\$440,000
Taxes – State	1,206,000	1,038,000	1,286,000
Total to MSA /State	\$1,559,078	\$1,318,000	\$1,726,000
<u>Uses</u>			
Debt Service – MSA/State	\$1,791,973	\$1,820,398	\$1,472,417
Utilities - MSA	-	-	250,000
Total from MSA/State	\$1,791,973	\$1,820,398	\$1,722,417
NET to/(from) MSA/State	(\$232,895)	(\$502,398)	\$3,583



Outcome



- Remaining appropriation shortfall improves by approximately \$2.8 million. (-\$7.0 million to -\$4.2 million).
- NPV improves by \$2.0 million. (-\$5.1 million to -\$3.1 million).
- Allows for continued or improving economic benefits to City and State from theater operation.
- Includes \$500 thousand financial contribution from Foundation.
- Includes ticket sale “floor” from operator that is aggressive but that will allow them to compete for shows and an additional benefit of \$0.25 per ticket on sales over 350,000 if the restructuring is overly successful.



Final Agreement

**HIPPODROME UTILITIES CAPITAL COST REIMBURSEMENT
AND MINIMUM TICKET SALES AGREEMENT**

THIS HIPPODROME UTILITIES CAPITAL COST REIMBURSEMENT AND MINIMUM TICKET SALES AGREEMENT (this "Agreement") is executed as of this 1st day of August, 2011, but intended to be effective between the parties as of July 1, 2011 in accordance with Section 10 below, by and between the MARYLAND STADIUM AUTHORITY, a body politic and corporate and an instrumentality of the State of Maryland (the "Authority"), and TMG HIPPODROME, LLC, a Delaware limited liability company ("Operator").

Recitals

WHEREAS, pursuant to the terms of the Maryland Stadium Authority Act (Md. Code, Econ. Dev. §§10-601 *et seq.*) (the "Act"), the Authority acquired and developed the Hippodrome Performing Arts Facility (as defined in the Act); and

WHEREAS, to finance the acquisition and development of the Hippodrome Performing Arts Facility, the Authority issued certain taxable bonds known as the Maryland Stadium Authority Hippodrome Performing Arts Center Taxable Lease Revenue Bonds Series 2002 (the "Series 2002 Bonds"); and

WHEREAS, to enhance the credit rating of the Series 2002 Bonds, in connection with the issuance thereof, the Authority leased the Hippodrome Performing Arts Facility (the "Facility") to the State of Maryland (the "Lease") and subleased back the same immediately thereafter (the "Sublease"); and

WHEREAS, the Authority thereafter sub-subleased the Hippodrome Performing Arts Facility to Hippodrome Performing Arts Center, LLC, a Maryland limited liability company (the "LLC Owner"), said entity being the "Authority affiliate," as such term is defined in the Act, for purposes of the development and operation of the Hippodrome Performing Arts Facility (such document being the "Subsublease"); and

WHEREAS, the LLC Owner sub-sub-subleased the Hippodrome Performing Arts Facility to Hippodrome Foundation, Inc., a Maryland corporation (under its former name of The Baltimore Center for the Performing Arts, Inc.) (the "Foundation") (such document being the "Subsubsublease"); and

WHEREAS, the Foundation and Operator entered into that certain Operating Agreement dated as of June 19, 2002, as amended by that certain First Amendment to Operating Agreement dated as of December 31, 2009 (collectively, the "Facility Operating Agreement"); and

WHEREAS, to provide chilled water service to the Hippodrome Performing Arts Facility, the LLC Owner entered into that certain Chilled Water Service Agreement, dated as of April 17, 2003, by and between the LLC Owner and District Chilled Water General Partnership,

a Maryland general partnership, doing business as "Comfort Link" (the "**Chilled Water Agreement**"), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, to provide steam service to the Hippodrome Performing Arts Facility, the LLC Owner entered into that certain Steam Service Contract, dated as of November 12, 2003, by and between the LLC Owner and Trigen-Baltimore Energy Corporation (the "**Steam Agreement**"), a copy of which is attached hereto as **Exhibit B**; and

WHEREAS, Operator assumed the obligations under the Chilled Water Agreement and the Steam Agreement in accordance with the terms of the Facility Operating Agreement; and

WHEREAS, certain capacity and connection charges that, in the usual course, would have been paid for out of the Authority's capital budget for the redevelopment of the Hippodrome Performing Arts Facility were instead amortized and are currently being paid by Operator on a monthly basis in accordance with the terms of the Chilled Water Agreement and the Steam Agreement (such charges herein collectively referred to as the "**Utilities Capital Cost Charges**"); and

WHEREAS, such Utilities Capital CostCharges have proven to be an undue burden on the competitiveness of the Hippodrome Performing Arts Facility in comparison to other similar facilities; and

WHEREAS, the Authority is willing to mitigate the obligations of Operator for the Utilities Capital CostCharges in exchange for Operator's agreement to pay certain amounts to the Authority if annual ticket sales at the Hippodrome Performing Arts Facility do not meet certain minimum requirements;

NOW, THEREFORE, in consideration of the foregoing and the premises and mutual covenants set forth hereunder, the parties agree as follows:

1. **Minimum Ticket Sales Guaranty.** If ticket sales in any calendar year (including this calendar year 2011) total less than two hundred twenty thousand (220,000) tickets sold (the number between 220,000 and actual sales being the "**Ticket Sales Deficit**"), Operator shall pay to the Authority a payment equal to two dollars (\$2.00) times the Ticket Sales Deficit; provided, however, that Operator may reduce the Ticket Sales Deficit for a given year by the number of tickets in excess of two hundred twenty thousand (220,000) tickets sold in each of the preceding two (2) calendar years, but only to the extent such number of tickets in excess of two hundred twenty thousand (220,000) have not previously been applied to reduce a Ticket Sales Deficit. Any such payment for a calendar year shall be paid by Operator to the Authority on or before March 31 of the following calendar year.

2. **Additional Payment.** If applicable, Operator shall pay to the Authority the sum of twenty-five cents (\$0.25) per ticket for each ticket sold in excess of three hundred fifty thousand (350,000) in any calendar year (including this calendar year 2011). Any such payment for a calendar year shall be paid by Operator to the Authority on or before March 31 of the following calendar year. Any such payment shall be in addition to the two dollar (\$2.00) surcharge due and payable on each ticket sold in accordance with § 10-641(g)(3) of the Act.

3. **Utilities Capital Cost Reimbursement.** To mitigate the obligations of Operator under the Chilled Water Agreement and the Steam Agreement from and after July 1, 2011, the Authority shall pay to Operator the amount of two hundred fifty thousand dollars (\$250,000) per annum, payable in equal monthly installments of twenty thousand eight hundred thirty-three and 33/100 dollars (\$20,833.33). Such payments shall be made in immediately available funds by the Authority to Operator by the fifth (5th) day of each calendar month, without demand therefor by Operator, provided that Operator has delivered to the Authority, on or before the last day of the preceding calendar month, evidence, in form and content reasonably satisfactory to the Authority, that all amounts due and payable under the Chilled Water Agreement and the Steam Agreement on or before the twenty-fifth (25th) day of the preceding calendar month were paid in full.

4. **Termination.** This Agreement shall terminate automatically on the date of expiration or earlier termination of the Facility Operating Agreement (the "**Termination Date**"). Neither party shall incur further liabilities under this Agreement on or after the Termination Date. Amounts payable pursuant to Section 3 shall be prorated based upon the Termination Date. For purposes of Sections 1 and 2 of this Agreement, the number of tickets required to activate either obligation shall be prorated based on the number of days elapsed in the calendar year through and including the day prior to the Termination Date divided by the actual number of days in such calendar year, and whether such prorated obligations are activated shall then be determined by the actual number of tickets sold in such calendar year through and including the day prior to the Termination Date.

5. **Recognition by Authority of Agreements.** Pursuant to a First Amendment to Subsublease Agreement of even date herewith, the Authority has agreed that if the Lease and Sublease expire prior to the expiration of the term of the Subsublease (as amended), then the Authority's subleasehold estate in the Facility shall merge into the Authority's fee simple estate in the Facility and the Subsublease shall continue as a lease out of the Authority's fee simple estate. The Authority further agrees that if the foregoing shall occur, the Authority shall recognize this Agreement, subject to the termination provisions of Section 4 above.

6. **Permitted Assignment.** This Agreement, and Operator's rights and obligations hereunder, may not be assigned by Operator except in conjunction with an assignment or transfer of the Facility Operating Agreement by Operator that is permitted under the terms of Section 15.1 and, if applicable, Section 17.6, of the Facility Operating Agreement.

7. **Headings.** Headings in this Agreement are for convenience only and shall not be used as an interpretive aid.

8. **Execution in Counterparts.** This Agreement may be executed in counterparts, and all counterparts when taken together shall constitute one and the same document.

9. **Entire Agreement.** This Agreement (including the exhibits attached hereto) represents the entire agreement between the Authority and Operator regarding the specific subject matter contained in this Agreement, but nothing herein shall be deemed to amend the terms and conditions of any existing agreement not explicitly amended hereby.

10. **Effectiveness of this Agreement.** This Agreement shall become effective as between the parties as of July 1, 2011 when and only when all of the following conditions precedent have been satisfied:

- (a) The last signatory has executed it;
- (b) The Authority and the LLC Owner have executed that certain First Amendment to Subsublease Agreement extending the term of the Subsublease by an additional five (5) years and the only condition precedent to the effectiveness thereof is the effectiveness of this Agreement;
- (c) The LLC Owner and the Foundation have executed that certain First Amendment to Subsubsublease Agreement extending the term of the Subsubsublease by an additional five (5) years and the only condition precedent to the effectiveness thereof is the effectiveness of this Agreement; and
- (d) Operator and the Foundation have executed that certain Second Amendment to Operating Agreement extending the term of the Facility Operating Agreement by an additional five (5) years, the LLC Owner has consented thereto, and the only condition precedent to the effectiveness thereof is the effectiveness of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above, but to become effective as set forth in Section 10 hereof.

THE AUTHORITY:

MARYLAND STADIUM AUTHORITY,
a body politic and corporate and an
instrumentality of the State of Maryland

By:


Michael J. Frenz,
Executive Director

OPERATOR:

TMG HIPPODROME, LLC,
a Delaware limited liability company

By: Key Brand Theatrical Group, Inc.,
its sole member

By:



Seth Popper
Secretary

v.5