

**MEMORANDUM OF UNDERSTANDING (MOU)**  
**BETWEEN**  
**THE COUNTY OF ALBANY AND SMG – OPERATING AND MANAGEMENT AGREEMENT OF**  
**THE TIMES UNION CENTER**

This agreement is made on this <sup>th</sup> day of July 2019, by and between the **County of Albany** having its office at 112 State Street, Albany, New York 12207 (hereinafter the “County”) and **SMG**, with its mailing address of 701 Market Street, 4<sup>th</sup> Floor, Philadelphia, Pennsylvania, 19106, the County and SMG are collectively referred to as the (“Parties”).

**WHEREAS**, the County is the owner of a civic center located at 51 South Pearl Street, Albany, NY and presently identified as the “Times Union Center” (hereinafter the “Arena”); and

**WHEREAS**, the Arena is currently being operated and managed by SMG under an Operating and Management Contract that expires on December 31, 2020; and

**WHEREAS**, the Parties are desirous of entering into a new Operating and Management Agreement for the Arena which will extend SMG’s management services at the Arena; and

**WHEREAS**, the Parties recognize and acknowledge that the interests of the County require a booking and management policy which takes account of service and events to generate substantial direct revenues for the Arena, and fosters an atmosphere to increase attendance and contribute economic and civic benefits in the form of increased revenues and general economic stimulation;

Therefore, it is agreed by the parties signing below that the following are newly negotiated terms to the Arena’s Operating Agreement. All other terms and conditions from the previous Operating and Management Agreement will remain the same.

1. The term of the Agreement will be Six (6) years to commence on January 1, 2020 through December 31, 2025.
2. If mutually agreeable to the Parties, an extension of six (6) years will commence on January 1, 2026 through December 31, 2031. The County will permit SMG to exercise the renewal clause by July 15, 2024 to prevent potential disruption of contractual agreements with event producers.
3. The SMG Incentive Compensation for Net Operating Income (hereinafter “NOI”) will be paid according to the current Operating and Management Agreement.
4. SMG will provide the County with \$35,000 annually during the term of the Operating and Management Agreement into the Promotion Fund.
5. The County reserves the right to replace the General Manager upon 120 written notice to SMG.
6. The County and SMG will negotiate separately an Operating Agreement for the continued management of the TU Center Parking Garage and the surface parking lot located at 208 Washington Avenue, Albany, NY. Within this agreement will be the addition of the Clerk of the Works position.
7. The Revenue Sharing Agreement is as follows:
  - The first 1 million NOI
    - o Albany County receives 72%
    - o SMG receives 28%
  - Between 1 million and 1.5 million NOI
    - o Albany County receives 70%

- o SMG receives 30%
- Above 1.5 million
  - o Albany County receives 65%
  - o SMG receives 35%

SMG Representative  
Robert Belber, General Manager

Date

Albany County Representative  
Philip Calderone, Deputy County Executive

Date

STATE OF NEW YORK        )  
COUNTY OF ALBANY        ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, personally appeared Philip Calderone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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NOTARY PUBLIC